

SCOTTISH PARLIAMENTARY PENSIONS ACT 2009

EXPLANATORY NOTES

COMMENTARY ON SECTIONS

Part A The Pension Fund

36. Part B of the 1999 pensions order established the Fund for the purposes of the scheme set out in that order. The Fund is part of the Scottish Parliamentary Pension Scheme as defined in section 4 of the Act and governed in accordance with the rules of the scheme as set out in Schedule 1 to the Act. Most sums payable under and received by the scheme are paid out of and into the Fund (with the exception of AVC contributions).
37. Under the 1999 pensions order, the Fund is vested in and administered by the SPCB (as set out in Schedule 1 to the order). Contributions are made to it by participants and from the SPCB paying scheme sponsor or “employer”¹ contributions from the Scottish Consolidated Fund.

Rule 2: The Pension Fund

38. Rule 2 defines “the Pension Fund”, as the Scottish Parliamentary Contributory Pension Fund; which is the Fund established by article B1 of the 1999 pensions order.

Rule 3: Payments to and from Fund

39. Rule 3 makes provision for payments to be made out of and into the Pension Fund. This rule provides the general authority for such payments to be made but is supplemented by provisions relating to AVCs in paragraph 19 of Schedule 3. The scheme is a funded scheme. That is, over the course of its lifetime, the amount paid into the Pension Fund by way of contributions from the scheme members and the SPCB as the ‘employer’ or scheme sponsor, together with investment returns, is intended to be sufficient to meet all payments due from the scheme.
40. Rule 3(1)(a) provides that all pensions and lump sums payable from the scheme will be made from the Pension Fund. Generally, these are pensions to former MSPs or to the surviving partner or any children of the MSP and lump sum amounts on retirement or death (all as set out in the rules).
41. Rule 3(1)(b) enables the Fund trustees to make other payments which are payable by them under the scheme from the Pension Fund. For example, administration costs of the trustees in running the scheme and authorised payments to be made insofar as these fall within the rules in Part B of Schedule 1 to the Act. It also covers payments such as transfers of sums of money out of the Pension Fund under Part N; pension sharing arrangements under Part P; taxes under Part R; and any other payments to be made under the scheme.

¹ Despite MSPs’ status as office-holders rather than employees, some references are made in these notes to “employer” or “employee” where the terms are more illustrative for referring to pension schemes.

*These notes relate to the Scottish Parliamentary Pensions Act
2009 (asp 1) which received Royal Assent on 25 February 2009*

42. Rule 3(2) provides that the Fund trustees must pay all sums that they receive under the scheme into the Pension Fund. This includes all scheme member contributions (see Part D of schedule 1) and any investment returns.
43. By virtue of paragraph 19(2) of Schedule 3, rule 3 does not apply to benefits payable and contributions received under the Additional Voluntary Contribution (AVC) scheme. The AVC scheme was established under the 1999 pensions order (Part R and schedule 6) and provides for additional pension taken in the form of an annuity purchased with the accrued sum at retirement.
44. The AVC scheme established under the 1999 pensions order will continue to have effect and any agreed AVC contracts continue to operate. However, no individual may become a contributor, and no transfers may be made to the AVC scheme, after new rules day. Schedule 3 also vests rights and functions etc in the Fund trustees from the SPCB (paragraph 19(1)(a)) (see paragraphs 544-554). It will be for the Fund trustees to decide how to manage the existing contractual payments from the AVC contributors to the AVC provider.