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Scottish Parliamentary Pensions Act 2009, Part B. (See end of Document for details)

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## SCHEDULE 1 SCOTTISH PARLIAMENTARY PENSION SCHEME

### PART B

#### FUND TRUSTEES

##### *Fund trustees*

- 4 The “Fund trustees” are the individuals appointed under and holding office in accordance with this Part.

##### *Functions*

- 5 The Fund trustees' principal function is to administer the Pension Fund, and to manage and apply its assets, in accordance with the scheme.

##### *Number of trustees*

- 6 There are to be at least 3 but no more than 6 Fund trustees.

##### *Eligibility*

- 7 A person who is prevented by the Pensions Act 1995 (c. 26), or by any other enactment or rule of law, from being a pension scheme trustee is barred from being a Fund trustee.

##### *Appointment of Fund trustees*

- 8 (1) The Scottish Parliament may resolve to appoint as a Fund trustee any individual nominated by the SPCB as suitable to hold that office.
- (2) The SPCB must, when deciding who to nominate—
- (a) do its best to ensure that the Fund trustees include a participating member and a scheme pensioner, and
  - (b) have regard to any recommendation by the incumbent Fund trustees.
- (3) A Fund trustee appointment has immediate effect (unless the Scottish Parliament resolves otherwise).
- (4) The Court of Session may appoint a Fund trustee only on an application under section 19(2) of the Trusts (Scotland) Act 1921 (c. 58).
- (5) The Fund trustees do not have power to assume new trustees.

##### *Remuneration, allowances and expenses*

- 9 (1) A Fund trustee may be remunerated, or receive allowances, from the Pension Fund for acting as a Fund trustee only if the following conditions are met—

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*Condition 1*

The Fund trustee is not a scheme member (or a pension credit member).

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<i>Condition 2</i>	The other Fund trustees (if any), before appointment, recommend to the SPCB that the Fund trustee be remunerated or entitled to allowances.
<i>Condition 3</i>	The SPCB's nomination to the Scottish Parliament specifies that remuneration or allowances are to be paid.

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- (2) Expenses properly incurred by the Fund trustees in connection with the performance of their functions are to be paid from the Pension Fund.

#### *Resignation*

- 10 (1) A Fund trustee may resign by giving notice of resignation to—
- (a) the Presiding Officer, and
  - (b) the other Fund trustees.
- (2) A resignation has effect immediately on the notice of resignation being given.
- (3) This rule does not apply where there is a sole trustee.

#### *Removal*

- 11 (1) A Fund trustee is removed from office only if—
- (a) the Scottish Parliament resolves to end the Fund trustee's tenure,
  - (b) the Fund trustee becomes barred from being a Fund trustee (see rule 7), or
  - (c) the Fund trustee's tenure ends under rule 12.
- (2) A Parliamentary resolution passed on a division for the purposes of this rule has effect only if voted for by at least two-thirds of the voting MSPs.

#### *Change of status*

- 12 (1) This rule applies—
- (a) where a Fund trustee who was a participating member when appointed becomes a deferred pensioner or a scheme pensioner,
  - (b) where a Fund trustee who was a deferred pensioner when appointed—
    - (i) becomes a participating member or a scheme pensioner, or
    - (ii) has his or her rights to receive scheme benefits extinguished under rule 80, and
  - (c) where a Fund trustee who was a scheme pensioner when appointed becomes an MSP or the holder of a pensionable office.
- (2) Where this rule applies—
- (a) the Fund trustee must give notice of change of circumstance to—
    - (i) the Presiding Officer, and
    - (ii) the other Fund trustees, and
  - (b) the Fund trustee's tenure ends 6 months after the change of circumstance occurs (unless the Scottish Parliament resolves otherwise).

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### *Member-nominated trustees*

<sup>F1</sup>13 .....

#### **Textual Amendments**

- F1** Sch. 1 rule 13 omitted (11.2.2011) by virtue of [The Scottish Parliamentary Pensions Act 2009 \(Modifications to the Scottish Parliamentary Pensions Scheme\) Resolution 2011 \(S.S.I. 2011/244\)](#), Annex para. 1

### *Procedure*

- 14 The Fund trustees may regulate their own procedure (in so far as not regulated by the scheme).

### *Quorum*

- 15 A meeting of the Fund trustees is quorate if—
- (a) 3 or more Fund trustees are present, or
  - (b) where fewer than 3 Fund trustees hold office, if both trustees are (or the sole trustee is) present.

### *Staff and advisers*

- 16 The Fund trustees may—
- (a) employ staff on such terms as they think fit,
  - (b) seek advice from any person.

### *Fund management*

- 17 The Fund trustees must monitor the performance of any fund manager they appoint.

### *Indemnity insurance*

- 18 The Fund trustees may obtain insurance designed to indemnify them against any personal liability arising in connection with the performance (or purported performance) of their functions.

### *Delegation*

- 19 (1) The Fund trustees may authorise any person (including one or more of themselves) to perform, or to authorise others to perform, any of their functions to the extent authorised.
- (2) An authorisation does not affect the Fund trustees' responsibility for delegated functions or their ability to perform those functions themselves.

### *Validity of acts*

- 20 (1) A decision, authorisation or other act of the Fund trustees is not invalidated—
- (a) by any change to the individuals (or to the status or eligibility of individuals) holding office as Fund trustees,

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- (b) by any defect in the nomination or appointment of a Fund trustee, or
  - (c) by the fact that it is done when fewer than 3 Fund trustees held office.
- (2) The Fund trustees are free to vary or revoke any previous decision or authorisation (but such a variation or revocation may reduce the scheme benefits to which any individual is entitled only if made in accordance with any other scheme rule).

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