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SCOTTISH STATUTORY INSTRUMENTS

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**2011 No. 244**

**SCOTTISH PARLIAMENT**

**The Scottish Parliamentary Pensions Act 2009 (Modifications to the Scottish Parliamentary Pensions Scheme) Resolution 2011**

*Made - - - - 10th February 2011*

*Coming into force in accordance with paragraph (a)*

That the Scottish Parliament—

- (a) in exercise of the powers conferred by section 3 of the Scottish Parliamentary Pensions Act 2009 ([asp 1](#)) (the “2009 Act”) determines that with effect from the day after the day this resolution is made the Scottish Parliamentary Pension Scheme (within the meaning of section 4 of the 2009 Act) is modified in accordance with Annex 1 to this resolution; and
- (b) notes that the Parliamentary corporation has, in accordance with Rule 8.11A.5 of the Parliament’s Standing Orders, consulted with relevant individuals whose interests may be affected by the modifications.

**ANNEX**

**MODIFICATIONS TO SCOTTISH PARLIAMENTARY PENSION SCHEME**

1. Rule 13 (member-nominated trustees) of schedule 1 to the 2009 Act is omitted.
2. In rule 49 (deferred pensioner’s ill-health pension) of schedule 1 to the 2009 Act, for “4 and 5” substitute “5 and 6”.
3. In rule 85 (buying added years by instalments) of Schedule 1 to the 2009 Act, in subparagraph (2) for “irrevocable” substitute “revocable by the member giving notice to the Fund trustees”.
4. After rule 85, insert—

**“Revocation of accepted application**

**85A.—**(1) This rule applies—

- (a) where an MSP member buying added years by monthly instalments revokes the application before paying the last instalment; and

(b) where an office-holder member (who is not an MSP) buying added years by monthly instalments revokes the application before paying the last instalment.

(2) Where this rule applies no more instalments are payable and the individual's reckonable service as an MSP or, as the case may be, office-holder is increased by a number of added years calculated as follows—

$$A \times \frac{B}{C}$$

where—

“A” is the number of added years the individual applied to buy,

“B” is the period (in days) in respect of which instalments have been paid, and

“C” is the period (in days) for which instalments would have been paid had the individual remained in the scheme continuously and not revoked the application.”.

5. In paragraph 18 (added years) of schedule 3 to the 2009 Act—

(a) in sub-paragraph (2)(a), after “effect” insert “, subject to the modifications in sub-paragraph (2A),”; and

(b) after sub-paragraph (2) insert—

(a) “(2A) in paragraph 3 of Schedule 5 to the 1999 scheme rules for “irrevocable on and from the date when the Parliamentary corporation accepts it” substitute “revocable by the member giving notice in writing to the Fund trustees”, and

(b) after paragraph 3, insert—

“**3A.** Where a participating member buying added years by periodical contributions revokes the application before paying the last instalment—

(a) no more instalments are payable; and

(b) the Fund trustees must calculate the number of added years in respect of which the periodical contributions have been paid as follows—

$$A \times \frac{B}{C}$$

where—

“A” is the number of added years the individual applied to buy;

“B” is the period (in days) in respect of which instalments have been paid; and

“C” is the period (in days) for which instalments would have been paid in accordance with paragraph 4(a) had the individual not revoked the application.””

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## EXPLANATORY NOTE

*(This note is not part of the Resolution)*

The Scottish Parliamentary Pensions Act 2009 ([asp 1](#)) (the Act) continues the Scottish Parliamentary Pension Scheme (the Pensions Scheme) established by the Scotland Act 1998 (Transitory and Transitional Provisions) (Scottish Parliamentary Pensions Scheme) Order 1999 ([S.I. 1999/1082](#)) (the Order), and transfers the responsibilities of the Scottish Parliamentary Corporate Body under the Order for the Scottish Parliamentary Contributory Pensions Fund to the Fund Trustees (the Trustees) (section 1). Schedule 1 to the Act contains the Pensions Scheme rules. Schedule 3 to the Act makes transitional and savings provisions.

### Amendment 1

Rule 13 (member nominated trustees) overrode rule 6 (number of trustees) if it was necessary to exceed that number to give effect to section 241 of the Pensions Act 2004 ([c.35](#)). Section 241(1) requires that a minimum (one third) of the trustees must be member nominated. However, section 241(8)(c) provides that section 241 does not apply to a prescribed pension scheme. The Pensions Scheme is prescribed for those purposes by the Occupational Pension Schemes (Scottish Parliamentary Pensions Act 2009) Regulations 2009 ([S.I. 2009/1906](#)) and rule 13 is redundant with effect from 1st September 2009.

### Amendment 2

A simple drafting error in rule 49 is rectified.

### Amendment 3

Rule 85(2) provides that an accepted application for the purchase of additional years is irrevocable. The amendment enables Pensions Scheme members to elect to revoke such an application.

### Amendment 4

Rule 85A is inserted, providing a calculation of a Pensions Scheme member's entitlement to additional years upon such an election.

### Amendment 5

Amendment 5 makes similar provisions in the Order in respect of added years by amending paragraph 18 of schedule 3 (transitional provisions and savings) to the Act, modifying paragraph 3 of Schedule 5 to the Order.