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

SCOTTISH PARLIAMENTARY PENSIONS ACT 2009

EXPLANATORY NOTES

COMMENTARY ON SECTIONS

Part G Retirement Lump Sums

Rule 45: Commuting trivial amounts

176. Rule 45 makes provision for a small pension to be commuted and paid as a one-off tax-free lump sum. The Finance Act 2004 allows a trivial commutation to be paid where the level of pension does not exceed 1% of the Lifetime Allowance. For the current year 2008/09 this equates to a pension of £825 per annum. Payment of such a sum can be paid only when the individual is between ages 60 and 75.

177. Rule 45(1) makes provision for the Fund trustees to pay on application a one-off lump sum instead of a pension provided it would qualify to be a trivial commutation lump sum as defined in the Finance Act 2004.

178. Rule 45(2) and (3) set out how the value of the lump sum is to be calculated. Pension benefits not in payment are described in the Finance Act 2004 as "uncrystallised benefits". Under rule 45(2), the Fund trustees determine the value of the individual's uncrystallised benefits which are being commuted. This is done in accordance with section 212 of the Finance Act 2004 (which sets out a basic formula relating to the value of the pension benefit). Under Rule 45(3), the scheme actuary must either certify the valuation or provide guidance and tables under which the valuation is made.

179. Rule 45(4) makes clear that the payment of a one-off lump sum extinguishes all pension rights, including those of others such as surviving partners and eligible children.