

SCOTTISH PARLIAMENTARY PENSIONS ACT 2009

EXPLANATORY NOTES

COMMENTARY ON SECTIONS

Part I Ill-Health

Rule 50: Amount of serious ill-health pension

207. Rule 50 sets out how the amount of serious ill-health pension payable is calculated. Separate calculations are made depending upon whether the individual is an MSP (rule 50(1)) or an office-holder only (rule 50(2)).
208. An uplift in benefits is payable under this rule, applied to the portion of salary attributable to that of an MSP. For MSPs who also have reckonable service as an office-holder, that service is not enhanced but the accrued pension becomes payable immediately (without reduction) along with the enhanced MSP portion of pension.
209. Part F of Schedule 1 (Pensions) provides for the calculation of the MSP pension and office-holder pensions together, making the annual scheme pension payable at the normal scheme retirement age of 65. (See rules 37 – 41 and paragraphs 141-165). Part F is applied to an individual entitled to a serious ill-health pension, subject to the modifications in rule 50(1).
210. Rule 50(1)(a) requires that the individual applying for a serious ill-health pension is treated as if they were age 65 on the “relevant day”. Rule 50(3) defines “relevant day” as being the day on which the individual resigned or otherwise stopped being an MSP or office-holder.
211. Rule 50(1)(b) increases the reckonable service as an MSP of an individual who is entitled to a serious ill-health pension. The increase is on the basis that the MSP would have remained an MSP until their 65th birthday and is equal to the period between the relevant date and the date of the MSP’s 65th birthday. For example, for an MSP who falls ill aged 50, the increase in reckonable service would be 15 years (to age 65).
212. Rule 50(1)(c) applies if the individual is a dual mandate MSP in the relevant period (see rule 94 and paragraph 400). In such circumstances the individual’s salary will have been reduced under section 82(2) of the 1998 Act. To ensure that the pension payable is related to that reduction in salary, the increase in the period of reckonable service under rule 50(1)(b) is reduced by the same proportion. For example, if the salary reduction is two-thirds, a dual mandate MSP who falls ill aged 50 will have the increase in reckonable service calculated under rule 50(1)(b) of 15 years (to age 65) reduced by two-thirds to 5 years. The reduced reckonable service is applied to the basic MSP salary.
213. Rule 50(1)(d) provides that the rate of scheme member contributions for the increased period of reckonable service under rule 50(1)(b) is that which applies on the relevant day. For example, if on the relevant day the individual is making higher rate scheme

*These notes relate to the Scottish Parliamentary Pensions Act
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member contributions that rate will be used to calculate the increased reckonable service under rule 50(1)(b) is applied.

214. Rule 50(1)(e) makes clear that the enhancement of reckonable service under rule 50(1)(b) does not apply to reckonable service as an office-holder. The amount of serious ill-health pension payable in respect of office-holder service, if any, will be based upon the amount of reckonable service accrued to the relevant day. That pension will be payable immediately, without any reduction for early payment, in addition to the MSP ill-health pension.
215. Rule 50(2) makes provision in relation to those who only have reckonable service as an office-holder (the current Lord Advocate and Solicitor General for Scotland are not MSPs). Rule 50(2)(a) makes similar provision for them to that made for MSPs under rule 50(1)(a) (paragraph 212).
216. Rule 50(2)(b) provides a formula to calculate the increase to the amount of pension payable. The period of enhancement of reckonable service applying to those who only have reckonable service as an office-holder is calculated in identical manner to that for an MSP (see paragraph 213), but the salary that is applied is restricted to the annual salary payable to an MSP on the relevant day. To take the earlier example, if an office-holder only falls ill aged 50, the increase in reckonable service would be 15 years (to age 65), with the salary used in the calculations being the salary payable to an MSP on the relevant day. As in the case of an MSP, the rate of accrual is linked to the scheme member contributions at the relevant day (see paragraph 215).