

# **SCOTTISH PARLIAMENTARY PENSIONS ACT 2009**

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## **EXPLANATORY NOTES**

### **COMMENTARY ON SECTIONS**

#### **Part J Surviving Partners and Children**

##### **Rule 57: Partner**

240. Rule 57 provides the definition of a qualifying partner. Under rule 57(1) the deceased's partner may be a spouse, civil partner or a person who qualifies under rule 57(2) as an "unmarried partner".
241. For an unmarried partner to qualify for a partner's pension rule 57(2) determines that the deceased must have notified the Fund trustees in writing of their unmarried partner at least six months immediately before their death. The trustees must also be satisfied based on the evidence they have received that:
- (i) The deceased had lived together with their unmarried partner as if husband and wife or civil partners for a period of at least 2 years before the death. The reference to living together as husband and wife or as civil partners mirrors the relationship test in section 25 of the Family Law (Scotland) Act 2006;
  - (ii) the parties were in an exclusive relationship and neither the deceased or their unmarried partner had lived with any other person in such a relationship or with a spouse or civil partner during the 2 year period;
  - (iii) during the 2 year period the unmarried partner was financially dependant on the deceased or they were mutually financially dependant – to meet a requirement of the Finance Act 2004 at Schedule 28 (paragraph 15(3)); and
  - (iv) Immediately before the deceased's death the deceased and their unmarried partner must not have been prevented by law from marrying or becoming civil partners. As such both parties must not have been the spouse or civil partner of any person and neither party should have been prevented by law from marrying or becoming civil partners because of their age, mental capacity, relationship or other legal restriction.