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 J Surviving Partners and Children

Rule 61: Partner's trivial lump sum

252. Rule 61 provides an option, instead of periodic instalments, for certain partner's pensions to be commuted and paid as a partner's trivial lump sum known as a "trivial commutation lump sum death benefit".[1] It is a one off tax-free lump sum paid instead of a monthly pension. Under the Finance Act 2004 a trivial lump sum cannot be paid in respect of a deceased person who was aged 75 or over,[2] and the amount paid must not exceed 1% of the Lifetime Allowance. For the year 2008/09, this equates to a pension of £825 per annum.

253. Rule 61(1) makes provision for a partner's trivial lump sum requiring that:

- the partner applies in writing to the trustees for a trivial lump sum instead of an annual pension;
- no payment has been made to the partner in respect of a partner's pension or a death in service lump sum;
- the partner is not entitled to a 5 year guarantee pension under rule 69; and
- the trustees be satisfied that the trivial lump sum payment would be a trivial commutation lump sum death benefit under Schedule 29 to the Finance Act 2004.

254. Under subparagraph (2), the Fund trustees determine the amount of the partner's trivial lump sum. Rule 61(3) determines that the amount must be certified by the scheme actuary or calculated in accordance with guidance and tables provided by the scheme actuary.

255. Rule 61(4) makes clear that payment of a one off trivial lump sum extinguishes the partner's rights to all other benefits under the scheme in respect of the deceased.

Chapter 3 Children's pensions

256. Chapter 3 sets out the rules covering eligibility for and payment of children's pensions.

---

1 Defined in paragraph 20 of Schedule 29 to the Finance Act 2004
2 Schedule 29 to the Finance Act 2004