

SCOTTISH PARLIAMENTARY PENSIONS ACT 2009

EXPLANATORY NOTES

COMMENTARY ON SECTIONS

Part J Surviving Partners and Children

Rule 63: Eligible children

259. Rule 63 sets out the definition of a child. Under rule 63(1), a child includes an adopted child and a stepchild (providing that when the deceased died the stepchild was financially dependant on the deceased or dependant on the deceased due to physical or mental impairment).
260. Rule 63(2) sets out conditions, one of which must be met for a child to be an “eligible child” at any given time. One of the conditions must always apply although it need not always be the same one.

Condition 1 requires the child to be born and under aged 17.

Condition 2 is directed at older children aged over 17 but under 23 and includes a financial dependency test. It is primarily directed at those in continuing education but could apply in other circumstances. The child must have been financially dependent on the deceased on death or under age 17. To continue to qualify, the Fund trustees must be satisfied that any child would have been financially dependent on the deceased had they survived.

Condition 3 applies to any child who, because of physical or mental impairment, was dependant on the deceased when they died. To qualify for ongoing payments, the Fund trustees must remain satisfied that the dependency would have continued had the deceased survived.