

SCOTTISH PARLIAMENTARY PENSIONS ACT 2009

EXPLANATORY NOTES

COMMENTARY ON SECTIONS

Part K Lump Sum Death Benefits

Rule 65: Death in service lump sum

270. Rule 65 provides that the Fund trustees may pay a tax-free lump sum on the death of any participating member. (“participating member” is defined in rule 109(1) as an individual who is an MSP member or an office-holder member (or both)). The sum is payable to the deceased’s nominee (see rule 66 and paragraphs 274-276) or, if there is no nominee, to the deceased’s personal representatives. For a person dying domiciled in Scotland, this will be the deceased’s executors.
271. The sum is payable provided that the Fund trustees are satisfied that it would be a “defined benefits lump sum death benefit” for the purposes of the Finance Act 2004.¹ A lump sum death benefit qualifies as a defined benefits lump sum death benefit where a participating member is under 75 years, the benefit arrangement is specified in the scheme rules and payment is made within two years of the Fund trustees being aware of the date of death. In addition, the death benefit must not be in respect of a trivial commutation, or relate to pension protection or winding up benefits.
272. Rule 65(2) sets the amount of the lump sum as the greater of four times the participating member’s annual salary at the time of death or a refund of the contributions paid by that member with compound interest added at 4% per annum (see rule 109(3)). Salary is defined in rule 109(1) and consists of the amount paid under the 1998 Act to an MSP and/or the amount being paid to the office-holder for holding a particular office, taking account of deductions where the participating member is a dual mandate MSP.

¹ Finance Act c.12 Schedule 29 Part 2, paragraphs 13, 14, 20 and 21