

SCOTTISH PARLIAMENTARY PENSIONS ACT 2009

EXPLANATORY NOTES

COMMENTARY ON SECTIONS

Part O Added Years

Rule 89: Limitations on buying added years

357. The amount of pension benefits that can be accrued as a participating member are restricted to the amount of the MSP “annual MSP pension cap” (see rule 38(2)) or “annual office-holder pension cap” (see rule 39(4)) as appropriate. Rule 89 places limitations on the buying of added years to prevent reckonable service increased under this Part from exceeding the scheme maximums.
358. Rule 89 also places similar restrictions in situations where an Annual or Lifetime Allowance would arise because the relevant limits would be exceeded by the proposed purchase of added years. Finally, the rule also places an upper restriction of 20% of salary payments on the amount of contribution any participating member may make in a single tax year.
359. Under rule 89(1)(a), the Fund trustees must reject an application to buy added years if the MSPs length of service enhanced by the proposed added years would take the MSPs entitlements over the limit of the annual MSP pension cap. Similarly, under rule 89(1)(b), an application must be rejected if an office-holder’s length of service enhanced by the proposed added years would take the office-holder’s entitlements over the limit of the annual office-holder pension cap.
360. The pension caps are specified in rules 38(2) and 39(4) (see paragraphs 150-155) as two-thirds of the final salary. The amount of the pensionable service required to exceed the cap will depend on whether pension is being accrued at the lower or higher contribution rate (1/50th or 1/40th) per annum (or a combination of both). Where the amount of pensionable service exceeds the cap, the pension is restricted to the two-thirds limit.
361. Rule 89(2) specifies how “anticipated reckonable service” is calculated. Reckonable service is dealt with under Part E.
362. Rule 89(2)(a) defines “anticipated reckonable service” as the service an MSP would obtain if they continued in post, making scheme member contributions at their existing rate. Under (2)(a)(i), the continuation in post is taken to be until the final instalment payment for the added years is made. Under rule 89(2)(a)(ii), when purchasing added years by a lump sum, the continuation in post is taken to be until the date of the next ordinary general election.
363. Rule 89(2)(b) makes identical rules to rule 89(2)(a) in relation to office-holder members, except that the Fund trustees are given an additional discretion to determine the end date when payment is by a lump sum. That date could be earlier or later than the next ordinary general election depending upon the circumstances at the time.

*These notes relate to the Scottish Parliamentary Pensions Act
2009 (asp 1) which received Royal Assent on 25 February 2009*

364. Rule 89(3) requires the Fund trustees to reject an application if specified limits would be breached. The first two limits at rule 89(3)(a) and (b) relate to the Annual or Lifetime Allowance. The third limit at rule 89(3)(c) restricts the total amount of scheme member contributions in a tax year to a maximum of 20% of salary payments. That limit includes scheme member contributions and amounts paid for added years.
365. In making a decision under rule 89, the Fund trustees may seek advice from appropriate professional sources such as the scheme actuary using powers at rule 16.