

SCOTTISH PARLIAMENTARY PENSIONS ACT 2009

EXPLANATORY NOTES

COMMENTARY ON SECTIONS

Schedule 3 transitional Provisions and Savings

Paragraph 18: Added years

538. Paragraph 18 makes transitional provisions covering ongoing purchase by MSP members of added years, and where applications to purchase have been accepted but the lump sum payment is not yet made at new rules day.
539. Subparagraph 18(1) sets out the circumstances when the paragraph applies. It specifies at (1)(a) that the provisions apply to an individual who is already making contributions by instalments on new rules day under Part Q and Schedule 5 of the 1999 pensions order. At (1)(b) the paragraph is also applied to an individual who has had an application to buy added years by lump sum accepted by the SPCB but has not yet made the payment (six months is allowed for payment following acceptance of the application).
540. When the situations in subparagraph (1) apply, subparagraph (2)(a) specifies that the rules applying to the purchases are to continue to be those at Part Q and Schedule 5 of the 1999 pensions order notwithstanding the terms of article A2(3) of the 1999 pensions order. That article provides that the 1999 pensions order ceases to apply when the provisions of the Act come into effect. The conditions that were understood and agreed by the MSP at the outset are continued.
541. Under paragraph 6(3) of Schedule 3 (see paragraphs 502-504) no part of added years covered by this paragraph are included as forming part of an individual's "aggregate period of reckonable service" as a participating member under the 1999 scheme rules on new rules day. Subparagraphs 17(2)(b) and (c) make provision for the period purchased by added years covered by paragraph 17 to be added to the individual's reckonable service under Part E of Schedule 1 of the new rules after all sums are fully paid. Subparagraph (18)(2)(c) determines that the reckonable service purchased will be treated as being accrued at the lower contribution rate of 6% of salary.
542. When rule 89(3)(c)(ii) applies, the Fund trustees must reject an application to buy added years. That applies when the total of the amount of scheme member contributions to be made by an applicant to purchase added years in any tax year would exceed 20% of the salary payments to be made to the applicant in that year. Subparagraph 18(3) applies to scheme member contributions made as additional voluntary contributions (AVC's) under paragraph 4 of Schedule 6 of the 1999 scheme rules during the tax year in which the new scheme rules come into effect. The sub-paragraph ensures that any such AVC contributions are included when calculating whether the 20% limit under rule 89(3)(c)(ii) is being breached.