

SCOTTISH PARLIAMENTARY PENSIONS ACT 2009

EXPLANATORY NOTES

COMMENTARY ON SECTIONS

Part B Fund Trustees

Rule 12: Change of status

69. Under rule 8(2), the SPCB must do its best to ensure that there is at least one participating member or scheme pensioner included in the Fund trustees. Fund trustees may therefore be appointed partly because of their status as a scheme member or scheme pensioner. Any change in status affects the balance of trustees as does changing status from deferred to scheme member or scheme pensioner. Rule 12 makes provision for any change in status to be notified to the Presiding Officer and other Fund trustees and for the affected Fund trustee's tenure to come to an end unless the Parliament resolves otherwise. This allows consideration to be given to the change in balance of the composition of the Fund trustees.
70. Rule 12(1) sets out the changes of status of Fund trustees which require to be notified. Rule 12(1)(a) covers a participating member leaving the scheme by opting out or by leaving or losing office under age 65 and becoming a deferred pensioner or, if over 65 or taking early retirement, a scheme pensioner. In addition, any participating member approaching age 75 will, by virtue of the operation of the new rules, convert to a deferred or scheme pensioner. Rule 12(1)(b) applies where a deferred pensioner becomes a participating member on re-election or becomes a scheme pensioner at age 65. It also applies where the deferred pensioner opts to transfer their benefits to another pension scheme and all rights to all scheme benefits are extinguished by virtue of a payment being made to another pension scheme under rule 80. Rule 12(1)(c) applies where a scheme pensioner becomes an MSP or the holder of a qualifying office and has their pension suspended under rule 41.
71. There is no obligation to give prior notice in anticipation of a change in status. However, when a change set out in rule 12(1) takes place, the Fund trustee concerned must, under rule 12(2)(a), give notice to that effect to the other Fund trustees and the Presiding Officer. Under rule 12(2)(b) their tenure of office ceases six months after their status changes unless the Parliament resolves otherwise.