

SCOTTISH PARLIAMENTARY PENSIONS ACT 2009

EXPLANATORY NOTES

COMMENTARY ON SECTIONS

Part C Participating Members

Rule 22: Office-holder members

92. Rule 22 makes provision for the membership of the pension scheme of pensionable office-holders. On reaching age 75, serving office-holders can no longer be “participating members” and cease to make contributions. Their pension rights are frozen in that they do not accrue further reckonable service and their pension becomes payable only when they cease to be either an MSP or hold a pensionable office (see Part F). Other rights in relation to commutation for a lump sum and death benefits are covered at Parts G and K.
93. Rule 22(1) provides that every individual aged under 75 holding a pensionable office is a participating member of the pension scheme as an “office-holder member”, unless the individual opts out (see rule 24 for the office-holder opt-out).
94. The pensionable offices, which are defined in rule 22(2), are that of Presiding Officer, deputy Presiding Officer, one of the Scottish Ministers (this includes the First Minister, Ministers appointed under section 47 of the 1998 Act, the Lord Advocate and the Solicitor General for Scotland) or junior Scottish Ministers (appointed under section 49 of the 1998 Act). Section 44 of the 1998 Act makes provision for the composition of the Scottish Executive and for the members of the Scottish Executive to be referred to collectively as the “Scottish Ministers”.
95. Altered pension arrangements are made for First Ministers and Presiding Officers. The previous separate pension entitlement granted to them under Part S of the 1999 pensions order is not repeated in the Act for future holders of such offices. However, existing and former First Ministers and Presiding Officers continue to qualify under the separate arrangements (see paragraph 21 of Schedule 3). Therefore, corresponding transitional provision is made in paragraph 3 of Schedule 3 to exclude such individuals from also being office-holder members in the funded scheme. See paragraph 492.