

SCOTTISH PARLIAMENTARY PENSIONS ACT 2009

EXPLANATORY NOTES

COMMENTARY ON SECTIONS

Part C Participating Members

Rule 23: MSP opt-out

96. Rule 23 permits any participating member to opt-out of the scheme as a participant by notification in writing (see rule 108) to the Fund trustees.
97. This rule further provides that an MSP who is an office-holder member may opt-out of the pension scheme as an office-holder member while remaining in it as an MSP member but not vice versa. This is because the office-holder pension is an addition to the MSP pension and not a separate pension in itself.
98. Members may opt out of the scheme at any time but where they opt out within three months of first being elected as an MSP, rule 23(2) provides refund provisions. Such members will be treated as never having been scheme members either as MSPs or office-holders and any contributions paid by the member will be refunded.
99. Where an MSP chooses to opt out within three months of an election and has previously accrued pension rights under the scheme, no refund of contributions can be made. The new period of scheme membership to the date of their opting out will be added to their earlier period. Such members are excluded by the terms of the Finance Act 2004 from receiving a refund of contributions and rule 23(2) therefore refers to “first being elected”.
100. Rule 23(3) applies to members who opt out of participating membership more than three months after being elected or re-elected. Upon receiving notice of the MSP opt-out, the Fund trustees will determine a date for the termination of the MSP membership to the scheme. That date is to be as soon as is practically possible, which is likely to be the end of the period covered by the payment of the last contribution deducted from the MSPs salary.