
STATUTORY INSTRUMENTS

1999 No. 1082

**The Scotland Act 1998 (Transitory and Transitional Provisions)
(Scottish Parliamentary Pension Scheme) Order 1999**

PART C

MEMBERSHIP

Membership for members of the Parliament

C1. Any person serving as a member of the Parliament shall be a participating member in the Scheme unless he has exercised an option under article C3.

Membership for office holders

C2.—(1) An office holder who—

- (a) has not at any time held the office of First Minister;
- (b) has not exercised an option under article C4; and
- (c) is either—
 - (i) a participating member; or
 - (ii) being either the Lord Advocate or Solicitor General for Scotland, not a member of the Parliament,

shall be a participating office holder in the Scheme in respect of any period of tenure of a qualifying office.

(2) In this Order “period of tenure of a qualifying office” means any continuous period for which a person is—

- (a) the holder of one and the same qualifying office; or
- (b) the holder successively of two or more qualifying offices in respect of which the same salary is payable.

(3) In this Order “qualifying office” means any of the following offices—

- (a) any member of the Scottish Executive, except the First Minister;
- (b) any of the Junior Scottish Ministers;
- (c) Deputy Presiding Officer;
- (d) Leader of a Non-Executive Party;
- (e) Chief Business Manager of a qualifying party;

and “office holder” means the holder of a qualifying office.

(4) For the purposes of paragraph (3)—

“Chief Business Manager” means, in relation to a qualifying party, the member of the Parliament from time to time nominated as such for the purposes of this Order by the Leader of that party;

“Leader” means, in relation to a qualifying party, the member of the Parliament who is for the time being the leader in the Parliament of that party;

“Non-Executive Party” means a qualifying party, other than any such party with which any member of the Parliament who is also a member of the Scottish Executive or a junior Scottish Minister is connected;

“qualifying party” means a registered party with which at least 10 members of the parliament are connected.

Right to opt out for members of the Parliament

C3.—(1) A participating member may exercise an option in writing under this article not to be a participant in the Scheme.

(2) Subject to paragraph (3), the effective opt-out date in respect of a member is whatever date the Parliamentary corporation shall determine to be the earliest practicable date after that on which it receives from him written notice of the exercise of the option.

(3) If the Parliamentary corporation receives the written notice not more than three months after the date of the election at which the person was elected for the first time to membership of the Parliament, the effective opt-out date is the date of that election and any contributions deducted from him under article D1 since that election shall be repaid to him.

(4) A member of the Parliament who has exercised his right under paragraph (1) to opt out of the Scheme is referred to in this Order as “an opted-out member”.

Right to opt out for office holders

C4.—(1) An office holder who is a participating member or who is not a member of the Parliament may exercise an option in writing under this article not to be a participating office holder in the Scheme.

(2) Subject to paragraph (3), the effective opt-out date in respect of an office holder is whatever date the Parliamentary corporation shall determine to be the earliest practicable date after that on which it receives from him written notice of the exercise of the option.

(3) If the Parliamentary corporation receives the written notice not more than 12 months after the date of commencement of a period of tenure of a qualifying office, the effective opt-out date is the date on which that period of tenure commenced and any contributions deducted under article D1 from his office holder’s salary in respect of that period of tenure shall be repaid to him.

(4) An office holder who has exercised an option under paragraph (1) not to be a participating office holder or who has exercised the option under article C3(1) is referred to in this Order as “an opted-out office holder”.

Right to opt in for members of the Parliament

C5. An opted-out member may apply to rejoin the Scheme as a participating member as from the date of any election at which he was elected to membership of the Parliament (“the effective opt-in date”) by giving notice in writing to the Parliamentary corporation within a period of three months beginning with the effective opt-in date:

Provided that—

- (a) he pays to the Parliamentary corporation within 28 days of its acceptance of his application, or within such longer period as it may determine, the sum certified by it as being the amount which would have been deducted from his member's salary under article D1 between the effective opt-in date and the first date thereafter when a deduction from that salary under article D1 is made; and
- (b) at the effective opt-in date, at least three months had elapsed since he was last elected to membership of the Parliament.

Right to opt in for office holders

C6. An opted-out office holder who is either—

- (a) a participating member; or
- (b) not a member of the Parliament,

may apply to rejoin the Scheme as a participating office holder as from the date of commencement of a new period of tenure of a qualifying office (“the effective opt-in date”) by giving notice in writing to the Parliamentary corporation within a period of 12 months beginning with the effective opt-in date provided that he pays to the Parliamentary corporation within 28 days of its acceptance of his application, or within such longer period as it may determine, the sum certified by the Parliamentary corporation as being the amount which would have been deducted from his office holder's salary under article D1 between the effective opt-in date and the first date thereafter when a deduction from that salary under article D1 is made.