

# SCOTTISH PARLIAMENTARY PENSIONS ACT 2009

---

## EXPLANATORY NOTES

### COMMENTARY ON SECTIONS

#### *Schedule 2 grants Payable on Leaving Office*

#### *Paragraph 4: Office-holder resettlement grant*

476. [Paragraph 4](#) provides for an office-holder resettlement grant. An office-holder's resettlement grant is payable to office-holders when they stop being an office-holder. The grant is similar to the MSP resettlement grant and is designed to help bridge the gap while the office-holder adjusts to a lower income or re-establishes commercial or voluntary interests which may have had to be relinquished to avoid any conflict of interest whilst in office.
477. [Paragraph 4\(1\)](#) requires that the SPCB pays the grant, and that it must be paid when an office-holder ceases to hold pensionable office and has not held another pensionable office within 90 days of leaving office. The office-holder does not have to apply for the grant.
478. The pensionable offices (defined in rule 22(2) of Schedule 1) are that of Presiding Officer, deputy Presiding Officer, one of the Scottish Ministers (this includes the First Minister, Deputy First Minister, the Lord Advocate and the Solicitor General) or a junior Scottish Minister.
479. [Paragraph 4\(2\)](#) sets out how the office-holder grant is calculated. The amount of grant to be paid to holders of the offices of Presiding Officer and First Minister is calculated in a different manner to those of all other office-holders.
480. [Paragraph 4\(2\)\(a\)](#) determines the amount of grant payable to the First Minister and Presiding Officer. It is calculated in a similar manner to the MSP resettlement and ill-health retirement grant. The amount of grant payable is based on the additional annual salary for holding that post and the length of service as an office-holder. The grant equates to one month of salary for each complete year of service, subject to a minimum amount of 50% and a maximum amount of 100%. The formula at paragraph 4(2)(a) calculates the amount of grant.
481. Other office-holders receive a lump sum equal to 25% of the office-holder salary. The MSP salary is not included in the calculation which is based on the salary for the specified post.<sup>1</sup>
482. [Paragraph 4\(3\)\(a\)](#) prevents the payment of the grant to the office-holder's personal representatives in the event of death in service while holding that office. It also prevents payment of the grant to the office-holder's personal representatives if the office-holder dies within 90 days of leaving that office.

---

<sup>1</sup> See definition of salary in rule 109 of Schedule 1

483. Paragraph 4(3)(b) prevents payment of the office-holder resettlement grant to the individuals who hold the posts of Presiding Officer and First Minister when these provisions come into force or to any former holders of these posts. Individuals who qualify for the Presiding Officer and First Minister pension (as set out in the 1999 pensions order) will not be entitled to the payment of this grant.

### **Treatment of grants for tax purposes**

484. As the schedule is provision for the payments of grants in accordance with section 81(3) of the 1998 Act, section 291 of the [Income Tax \(Earnings and Pensions\) Act 2003 \(c.1\)](#) (“the 2003 Act”) applies. In relation to MSP and office-holder resettlement grants, this means they are not treated as earnings for tax purposes. They are classed as termination payments and, under Chapter 3 of Part 6 of the 2003 Act, the first £30,000 is exempt from income tax. In the event that a grant is made in excess of £30,000, any amount over and above the first £30,000 is taxed as earned income. In relation to ill-health retirement grants, section 406 of the 2003 Act prevents these grants from being treated as earnings, with the payment being wholly exempt from income tax. There is no tax threshold.