

*Status: Point in time view as at 01/09/2009.*

*Changes to legislation: There are currently no known outstanding effects for the Scottish Parliamentary Pensions Act 2009, Part N. (See end of Document for details)*

## SCHEDULE 1 SCOTTISH PARLIAMENTARY PENSION SCHEME

### PART N

#### TRANSFERS

#### CHAPTER 1

##### TRANSFERS OUT

###### *Statement of entitlement*

- 74 (1) An individual's “transferable sum” is the amount of cash equivalent set out in a statement of entitlement which the Fund trustees provide to the individual under section 93A of the Pension Schemes Act 1993 (c. 48) (but see rules 76 to 78 which provide for enhancement and reduction of transferable sums).
- (2) That section applies for the purposes of the scheme in relation to an individual who—
- (a) is aged 64 or over, and
  - (b) stopped being a participating member no longer than 6 months ago,
- in the same way as it applies in relation to an individual aged under 64.

###### *Transfers to other pension schemes*

- 75 An individual's transferable sum must be transferred from the Pension Fund if the following conditions are met—

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| <i>Condition 1</i> | The individual— <ul style="list-style-type: none"><li>(a) has been but is no longer a participating member, and</li><li>(b) is not a scheme pensioner.</li></ul>  |
| <i>Condition 2</i> | The individual has total reckonable service of at least 3 months.   |
| <i>Condition 3</i> | The Fund trustees have given the individual a statement of entitlement in pursuance of section 93A of the Pension Schemes Act 1993 (c. 48).   |
| <i>Condition 4</i> | The individual gives the Fund trustees notice (a “transfer-out notice”)— <ul style="list-style-type: none"><li>(a) specifying the way in which the transferable sum is to be transferred, and</li><li>(b) setting out any other information which the Fund trustees may reasonably require in relation to the transfer.</li></ul> |

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| <i>Condition 5</i> | The transfer-out notice is given before the later of—<br>(a) the day falling 6 months after the individual stopped being a participating member, and<br>(b) the individual's 64th birthday. |
| <i>Condition 6</i> | The transfer-out notice is given within 3 months of the guarantee date relating to the statement of entitlement (see section 93A(2) of the Pension Schemes Act 1993 (c. 48)).               |
| <i>Condition 7</i> | The way in which the transferable sum is to be transferred is permitted by section 95(2) of the Pension Schemes Act 1993 (c. 48).   |
| <i>Condition 8</i> | The transfer—<br>(a) would be a recognised transfer for the purposes of section 169 of the Finance Act 2004 (c. 12), and<br>(b) is not prohibited by any other enactment.                   |

*Enhancement of transferable sum*

- 76 (1) A transferable sum of less than amount A is to be increased to amount A.
- (2) Amount A, in relation to an individual, means the total of—
- (a) the individual's scheme member contributions,
  - (b) any transfer-in sums paid into the Pension Fund in relation to the individual, and
  - (c) any instalments or lump sums paid by the individual to buy added years.

*Reduction of transferable sum*

- 77 Where section 96(2) of the Pension Schemes Act 1993 (c. 48) applies in relation to a transfer under rule 75, the Fund trustees may reduce the transferable sum by an amount equal to the proportion of that sum which represents the individual's accrued rights—
- (a) to a guaranteed minimum pension, or
  - (b) attributable to service in contracted-out employment (within the meaning of section 8 of the Pension Schemes Act 1993 (c. 48)).

*Transfer payment*

- 78 (1) Where rule 75 requires a transfer to be made, the transferable sum is to be paid from the Pension Fund in the way specified in the transfer-out notice by no later than—
- (a) the individual's 65th birthday, or
  - (b) if later, the day falling 6 months after the transfer notice was given.

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- (2) If payment is made later than 6 months after the guarantee date relating to the statement of entitlement by reference to which the transferable sum was determined, the transferable sum is to be increased by—
- (a) the amount, if any, by which it falls short of what the transferable sum would have been if the guarantee date had been the date of payment, or
  - (b) if greater, the amount of interest on the transferable sum calculated on a daily basis over the period from the guarantee date to the date of payment (calculated at an annual rate of 1% above the Bank of England base rate).

*Time limits*

- 79 The Fund trustees may extend any time limit set out in this Chapter in relation to a particular transfer if they think it reasonable to do so.

*Extinction of scheme benefits*

- 80 A transfer under rule 75 extinguishes the rights of all persons to receive scheme benefits in respect of the individual (other than any accrued rights in respect of which the transferable sum was reduced under rule 77).

**CHAPTER 2**

TRANSFERS IN

*Transfer in*

- 81 A sum (a “transfer-in sum”) may be paid from another pension scheme into the Pension Fund in relation to a participating member if the following conditions are met—

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| <i>Condition 1</i> | The participating member gives the Fund trustees notice (a “transfer-in notice”) specifying— <ul style="list-style-type: none"><li>(a) the amount of the transfer-in sum, and</li><li>(b) the pension scheme which is to make the payment.</li></ul>   |
| <i>Condition 2</i> | The transfer-in notice is given before the participating member's 64th birthday.   |
| <i>Condition 3</i> | The participating member has at least 3 months total reckonable service.   |
| <i>Condition 4</i> | The pension scheme which is to make the payment is— <ul style="list-style-type: none"><li>(a) registered for the purposes of Part 4 of the Finance Act 2004 (c. 12) (see section 150 of that Act), or</li><li>(b) a qualifying recognised overseas pension scheme for the purposes</li></ul> |

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|                    | of that Part (see section 169 of that Act).   |
| <i>Condition 5</i> | The transfer-in sum is the amount, if any, which requires to be applied in relation to any entitlement to a guaranteed minimum pension arising in respect of the transfer-in sum. |
| <i>Condition 6</i> | The transfer is not prohibited by rule 83.  |
| <i>Condition 7</i> | Any condition imposed by the Fund trustees in relation to the transfer is met to their satisfaction.  |

*Effect of transfer in*

- 82 (1) The reckonable service of any participating member in respect of whom a transfer-in sum is paid into the Pension Fund is to be increased as follows—
- (a) where the participating member is an MSP member, the participating member's reckonable service as an MSP is to be increased by an amount determined by the Fund trustees,
  - (b) where the participating member is an office-holder member but not an MSP—
    - (i) the participating member's reckonable service as an office-holder is to be increased by an amount determined by the Fund trustees, and
    - (ii) that increase is, for the purposes of rule 39(3), to be attributed to the period in office being served when the transfer-in sum is paid.
- (2) The increased period of reckonable service is, for the purposes of rule 38(1) or, as the case may be, 39(3), to be treated as a period during which higher rate scheme member contributions were made.
- (3) The Fund trustees must determine the amount by which a participating member's reckonable service is to be so increased—
- (a) as at the date on which the transfer-in sum is paid into the Fund, and
  - (b) in accordance with guidance and tables prepared by the scheme actuary.

*Limitation on transfers in*

- 83 (1) A transfer-in sum is not to be paid if the Fund trustees consider that the corresponding increase in reckonable service, when taken with the participating member's anticipated reckonable service, would (but for rule 38(2) or 39(4)) entitle the participating member to—
- (a) an annual MSP pension of more than the individual's annual MSP pension cap, or
  - (b) an annual office-holder pension of more than the individual's annual office-holder pension cap.
- (2) An applicant's “anticipated reckonable service” is the reckonable service as an MSP or, as the case may be, office-holder which the participating member would obtain if he or she—

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- (a) continued as an MSP member (and continued making scheme member contributions at the same rate) until the next ordinary general election day, or (as the case may be)
- (b) continued to hold the same office and to be an office-holder member (and continued making scheme member contributions at the same rate) until the next ordinary general election day (or such other day as the Fund trustees may determine).

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