# SCHEDULE 1
## SCOTTISH PARLIAMENTARY PENSION SCHEME

### PART J

SURVIVING PARTNERS AND CHILDREN

### CHAPTER 1

SCHEME PENSION ENTITLEMENT

*Meaning of "scheme pension entitlement"*

56 (1) References in this Part to a deceased individual's "scheme pension entitlement" are to be construed in accordance with this rule.

(2) The "scheme pension entitlement" of an individual who died while being a participating member—
  (a) where if the individual died when aged 65 or over, is the annual amount of scheme pension which would have been payable to the deceased if he or she had not been an MSP or the holder of a pensionable office on the day on which he or she died,
  (b) where if the individual died when aged under 65, is the annual amount of scheme pension which would have been payable to the deceased if he or she had become entitled to (and had been paid) a serious ill-health pension on the day on which he or she died.

(3) The "scheme pension entitlement" of an individual who died while being a deferred pensioner—
  (a) where if the individual died when aged 65 or over, is the annual amount of scheme pension which would have been payable to the deceased if he or she had not been an MSP or the holder of a pensionable office on the day on which he or she died,
  (b) where if the individual died when aged under 65, is the annual amount of scheme pension which would have been payable to the deceased if he or she had been aged 65 on the day on which he or she died.

(4) The "scheme pension entitlement" of an individual who died while being a scheme pensioner—
  (a) where the deceased received a retirement lump sum, is the annual amount of scheme pension which would have been payable to the deceased immediately before he or she died had the pension not been reduced under rule 43(2),
  (b) where the deceased did not receive a retirement lump sum, is the annual amount of scheme pension being paid to the deceased immediately before he or she died.

(5) The "scheme pension entitlement" of a deceased individual whose entitlement to scheme benefits was extinguished by rule 55(3) before he or she died is the annual amount of scheme pension which would have been payable to the deceased if—
  (a) the ill-health lump sum had not been paid to the deceased,

(b) the deceased had stopped being a participating member on the day on which the ill-health lump sum was paid,

(c) the deceased had become entitled to a scheme pension on that day, and

(d) where that day was before the deceased's 65th birthday—

(i) the deceased had been entitled to a serious ill-health pension from that day (see rule 47), and

(ii) the deceased's scheme pension had been enhanced and paid accordingly (see rule 50).

(6) Where an individual dies when his or her pension payments are suspended under rule 41—

(a) the deceased individual is to be treated for the purposes of this rule as a scheme pensioner (regardless of whether also a participating member at that time), and

(b) the suspension is to be treated as having been lifted immediately before the individual died.

(7) A deceased individual who was a scheme pensioner when he or she died only because of rule 44(2) is to be treated for the purposes of this rule as having been a deferred pensioner at that time.

## CHAPTER 2

### PARTNER'S PENSION ETC.

*Partner*

57 (1) "Partner", in relation to any deceased individual, means—

(a) the individual's spouse or civil partner, or

(b) where no such person survives the deceased, any individual falling within this rule.

(2) An individual falls within rule 57(1)(b) if—

(a) the deceased nominated the individual as his or her partner by giving notice to the Fund trustees at least 6 months before death, and

(b) the Fund trustees are satisfied—

(i) that the individual and the deceased lived together as if they were husband and wife or, as the case may be, civil partners for the period of 2 years which immediately preceded the deceased's death,

(ii) that neither the individual nor the deceased lived with any other person in such a relationship (or with a spouse or civil partner) during that period,

(iii) that, during that period—

(A) the individual was financially dependant on the deceased, or

(B) the individual's financial relationship with the deceased was one of mutual dependence, and

(iv) that the individual and the deceased were not, immediately before the deceased died, prevented by law from either marrying or becoming civil partners.

*Partner's pension*

58 (1) A pension (a "partner's pension") is to be paid to a surviving partner of any scheme member who dies.

(2) The annual partner's pension so payable is 5/8ths of the deceased's scheme pension entitlement.

*Enhancement of initial partner's pension*

59 (1) This rule applies where amount A is less than amount B for any part of the 3 month period following the death of a participating member or a scheme pensioner.

(2) Amount A is the total of—

(a) the amount of partner's pension to be paid to the surviving partner for the 3 month period (or the relevant part of it), and

(b) the amount of children's pension to be paid to the surviving partner for the 3 month period (or the relevant part of it) on condition that the partner applies it for the benefit of an eligible child.

(3) Amount B is—

(a) where the deceased was a participating member, the amount of the salary payments which would have been paid for the 3 month period (or the relevant part of it) if the deceased had lived and had continued to be paid the same salary, or

(b) where the deceased was a scheme pensioner, the amount of scheme pension which would have been payable for the 3 month period (or the relevant part of it) if the deceased had lived.

(4) Where this rule applies, the partner's pension is to be increased by the difference between amount A and amount B.

(5) An individual who dies while being both—

(a) a participating member, and

(b) a scheme pensioner whose pension payments are suspended under rule 41,

is to be treated for the purposes of this rule as a participating member.

*Duration of partner's pension*

60 (1) A partner's pension is payable from the day after the day on which the deceased partner died.

(2) Pension payments need not begin unless the individual entitled to them has given the Fund trustees—

(a) notice of that entitlement, and

(b) such information as they may reasonably require—

(i) about the surviving partner's entitlement to any other pension,

(ii) to calculate their liability for a lifetime allowance charge or any other tax,

(iii) to make the payments.

This rule does not affect the date from which a partner's pension is payable.

(3) Pension payments are to continue for the rest of the surviving partner's life.

(4) Pension payments are to be made monthly in arrears (or in such other instalments of no longer than one year as the Fund trustees may determine).

*Partner's trivial lump sum*

61 (1) The Fund trustees may pay a lump sum (a "partner's trivial lump sum") to an individual who is entitled to a partner's pension if the following conditions are met—

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|---|---|
| *Condition 1* | The individual applies to the Fund trustees for payment of a partner's trivial lump sum instead of a partner's pension. |
| *Condition 2* | No payment relating to the deceased has been made to the individual by way of—<br>(a) a partner's pension, or<br>(b) a death in service lump sum. |
| *Condition 3* | The individual is not entitled to receive pension payments under rule 69. |
| *Condition 4* | The Fund trustees are satisfied that, if paid, the partner's trivial lump sum would be a "trivial commutation lump sum death benefit" for the purposes of Part 2 of Schedule 29 to the Finance Act 2004 (c. 12). |

(2) The amount of a partner's trivial lump sum is to be an amount equal to the value of the individual's scheme benefits (as determined by the Fund trustees).

(3) Such a determination must be—

(a) certified by the scheme actuary, or

(b) made in accordance with guidance or tables prepared by the scheme actuary.

(4) Payment of a partner's trivial lump sum extinguishes all the individual's rights to receive scheme benefits in respect of the deceased.

## CHAPTER 3

### CHILDREN'S PENSIONS

*Children's pensions*

62 (1) A pension (a "children's pension") is to be paid in respect of any period during which there are eligible children of any scheme member who dies.

(2) The annual children's pension so payable is—

(a) when a partner's pension is also payable, amount A,

(b) when no partner's pension is payable, amount B.

(3) Amount A is—

(a) where there is one eligible child, 1/4 of the deceased's scheme pension entitlement,

(b) where there are two or more eligible children, 3/8ths of deceased's scheme pension entitlement.

(4) Amount B is—

(a) where there is one eligible child entitled to receive the pension, 5/16ths of the deceased's scheme pension entitlement,

(b) where there are two or more eligible children entitled to receive the pension, 5/8ths of deceased's scheme pension entitlement.

*Eligible children*

63 (1) A "child", in relation to a deceased individual, includes—

(a) an adopted child, and

(b) a stepchild who, when the deceased died, was—

(i) financially dependant on the deceased, or

(ii) dependant on the deceased because of physical or mental impairment.

(2) A deceased's child is an "eligible child" for any period starting on or after the date of the deceased's death during which any of the following conditions are met—

| | |
|---|---|
| *Condition 1* | The child is born and aged 17 or under. |
| *Condition 2* | The child—<br>(a) is aged over 17 but under 23,<br>(b) was, when the deceased died—<br>(i) financially dependant on the deceased, or<br>(ii) aged 17 or under, and<br>(c) would, in the opinion of the Fund trustees, be financially dependant on the deceased had the deceased survived. |
| *Condition 3* | The child—<br>(a) was dependant on the deceased because of physical or mental impairment when he or she died, and<br>(b) would, in the opinion of the Fund trustees, still be so dependant had the deceased survived. |

*Payment of children's pension*

64 (1) A children's pension is payable—

(a) from the start of the first period in respect of which rule 62(1) requires it to be paid, and

(b) during the rest of that period (and any subsequent period in respect of which that rule requires it to be paid).

(2) It is for the Fund trustees to decide to who a children's pension (or any part of it) is to be paid.

(3) Where a children's pension (or any part of it) is paid to a person other than the eligible children in respect of whom it is paid (the "intended beneficiaries"), the recipient must—

(a) apply such proportion of the amount paid as the Fund trustees may direct for the benefit of each intended beneficiary, or

(b) where no direction is made, apply the amount paid (without discretion) for the benefit of the intended beneficiaries.

(4) If the recipient does not so apply a pensions payment (or any part of it), the Fund trustees may—

(a) recover the misappropriated amount from the recipient, and

(b) take such action as they think fit in order to ensure that any recovered amount is applied for the benefit of the intended beneficiary.

For example, the Fund trustees may deduct an amount equal to the misappropriated amount from any future amount to be paid to the recipient under the scheme.

(5) The Fund trustees may withhold payment of a children's pension (or any part of it) if they are not satisfied that arrangements are in place to ensure that it will be applied for the benefit of the intended beneficiary.

Any withheld amounts are to be paid as soon as the Fund trustees are satisfied that such arrangements are in place.

(6) Pension payments need not begin unless the Fund trustees have received—

(a) notice of an eligible child's entitlement, and

(b) such information as they may reasonably require—

(i) about the eligible child's entitlement to any other pension,

(ii) to calculate their liability for a lifetime allowance charge or any other tax,

(iii) to make the payments.

This rule does not affect the date from which a children's pension is payable.

(7) Pension payments are to be made monthly in arrears (or in other instalments of no longer than one year as the Fund trustees may determine).