
DRAFT STATUTORY INSTRUMENTS

2006 No.

The Employment Equality (Age) Regulations 2006

PART 4

GENERAL EXCEPTIONS FROM PARTS 2 AND 3

Exception for provision of enhanced redundancy payments to employees

- 33.**—(1) Nothing in Part 2 or 3 shall render it unlawful for an employer—
- (a) to give a qualifying employee an enhanced redundancy payment which is less in amount than the enhanced redundancy payment which he gives to another such employee if both amounts are calculated in the same way;
 - (b) to give enhanced redundancy payments only to those who are qualifying employees by virtue of sub-paragraph (a) or (c)(i) of the definition of qualifying employee below.
- (2) In this regulation—
- “the appropriate amount”, “a redundancy payment” and “a week’s pay” have the same meaning as they have in section 162 of the 1996 Act⁽¹⁾;
- “enhanced redundancy payment” means a payment of an amount calculated in accordance with paragraph (3) or (4);
- “qualifying employee” means—
- (a) an employee who is entitled to a redundancy payment by virtue of section 135 of the 1996 Act;
 - (b) an employee who would have been so entitled but for the operation of section 155 of that Act;
 - (c) an employee who agrees to the termination of his employment in circumstances where, had he been dismissed—
 - (i) he would have been a qualifying employee by virtue of sub-paragraph (a) of this definition; or
 - (ii) he would have been a qualifying employee by virtue of sub-paragraph (b).
- (3) For an amount to be calculated in accordance with this paragraph it must be calculated in accordance with section 162(1) to (3) of the 1996 Act.
- (4) For an amount to be calculated in accordance with this paragraph—
- (a) it must be calculated as in paragraph (3);
 - (b) however, in making that calculation, the employer may do one or both of the following things—

(1) Subsections (4), (5) and (8) of section 162 of the 1996 Act have been repealed by regulation 49 of, and paragraph 32 of Schedule 8 to, these Regulations. Subsection (6) was amended by the Employment Rights (Dispute Resolution) Act 1998 (c. 8), section 1(2)(a). Subsection (7) was repealed by the Employment Relations Act 1999 (c. 26), sections 9 and 44 and Schedule 4, Part 3, paragraphs 5 and 30.

- (i) he may treat a week's pay as not being subject to a maximum amount or as being subject to a maximum amount above the amount laid down in section 227 of the 1996 Act⁽²⁾;
 - (ii) he may multiply the appropriate amount allowed for each year of employment by a figure of more than one;
 - (c) having made the calculation as in paragraph (3) (whether or not in making that calculation he has done anything mentioned in sub-paragraph (b)) the employer may increase the amount thus calculated by multiplying it by a figure of more than one.
- (5) For the purposes of paragraphs (3) and (4), the reference to "the relevant date" in section 162(1)(a) of the 1996 Act is to be read, in the case of a qualifying employee who agrees to the termination of his employment, as a reference to the date on which that termination takes effect.

(2) The amount laid down in section 227 may be increased or decreased by Order made by the Secretary of State under section 34 of the Employment Relations Act 1999. The amount laid down in section 227 is currently £290: see [S.I. 2005/3352](#).