Social Security Pensions Act 1975

1975 CHAPTER 60

PART III

CONTRACTING-OUT

Requirements for contracting-out

34 Annual rate of earner's pension

(1) The requirements mentioned in section 33(1)(a) above are as follows.

(2) Subject to the provisions of this section, the rules of the scheme must provide for the annual rate of the earner's pension to be not less than 1 ¼ cent, of either—

(a) his average annual salary in the whole period of his service in contracted-out employment by reference to the scheme; or

(b) his final salary,

multiplied by the number of his years of such service or by such number of those years as will produce an annual rate equal to not less than half the salary on which it is calculated.

(3) Where it is a condition of the scheme that the earner shall complete a specified minimum period of service before qualifying for requisite benefits in excess of guaranteed minimum pensions, the scheme's rules need not provide as in subsection (2) above for an earner whose service is terminated before completion of that minimum period.

(4) The earner's pension need not be in accordance with subsection (2) above in case of his service in the relevant employment being terminated before he attains the scheme's normal pension age and when—

(a) he has completed in that employment less than five years' qualifying service for the purposes of Schedule 16 to the Social Security Act 1973 (preservation); or

(b) he is under the age of 26 on termination of that employment.

(5) Where the scheme provides for the annual rate of the pension to be calculated by reference to the earner's average annual salary—

(a) the method of computing average annual salary must be approved by the Occupational Pensions Board ; and

(b) the scheme must provide that earnings for any period falling within any tax year shall, for the purposes of the calculation, be treated as increased by the same percentage as that prescribed for the increase of earnings factors for that year.

(6) In subsection (5)(b) above, " prescribed " means prescribed by any order or orders coming into force under section 21 above before the earner attains whatever is the scheme's normal pension age or (if earlier) his service in the relevant employment is terminated.

(7) Where the scheme provides for the annual rate of the pension to be calculated by reference to the earner's final salary—

(a) the method of ascertaining final salary ; and

(b) the scheme's provisions for calculating the rate of pension by reference to it,

must be approved by the Board.

(8) In deciding whether or not to give their approval under subsection (7)(b) above the Board shall have regard to any aspects of the scheme which appear to them to be relevant, but in particular to the interval (if any) between the end of the period by reference to which final salary is to be determined and the scheme's normal pension age and to what provision (if any) is made for revaluing the salary during any such interval.

(9) Subject to the foregoing provisions, the scheme may provide—

(a) for excluding earnings of any kind from the salary by reference to which the annual rate of the earner's pension is to be calculated ; and

(b) for excluding any amount of earnings of the kind that are to constitute that salary except so much (if any) as would, if expressed as a weekly rate, exceed one and a half times the lower earnings limit but would not exceed the upper earnings limit;

and if the salary is to include the amount of earnings up to one and a half times the lower earnings limit the scheme may provide for reducing the rate of pension to what it would have been if that amount had been excluded.

(10) In subsection (9) above references to the lower and upper earnings limits, in relation to any earnings, are references to those limits as in force when the earnings are paid.

(11) The scheme may, with the approval of the Occupational Pensions Board, provide for a lower percentage than that specified in subsection (2) above; but the Board shall not approve any such provision unless they are satisfied that it will not result in the benefits of the scheme, taken as a whole, being less favourable to the earner than would otherwise have been the case; and in deciding whether or not to give their approval the Board shall have regard to—

(a) whether any lump sum payments are provided in addition to the pension ;

(b) the extent, if any, to which earnings of any kind or amount are excluded from the salary by reference to which the pension is to be calculated; and

(c) any other features of the scheme that appear to the Board to be relevant.