

Regulation 33 allows the employer to either follow the statutory scheme, or to amend it by raising or removing the maximum amount of a week's pay, so that a higher amount of pay is used in the calculation; or to multiply up the appropriate amounts used for each age band in the statutory scheme; or both. Having done this, the employer may multiply the total amount by a figure of more than one, whether he has followed the statutory scheme or amended it as described above.

If the employer chooses to amend the scheme as described above, he must make the same adjustments to each of the three age bands. He must, for example, apply any increased weekly limit to all three bands, or multiply the appropriate amounts by the same factor for each of the three bands. An employer may of course make different adjustments to the bands if he chooses, but would have to objectively justify this if challenged.

The exemption also allows an employer to make a redundancy payment to an employee who has taken voluntary redundancy, and an employee with less than two years continuous employment. In such cases, where no statutory redundancy payment is required, an employer may make a payment equivalent to the statutory minimum payment, or if they so wish an enhanced payment as above.