



PRIME MINISTER/MINISTER OF GENERAL AFFAIRS OF SINT MAARTEN

Minister-President / Minister van Algemene Zaken van Sint Maarten

Postal address:
Government of Sint Maarten

Prime Minister/Ministry of General Affairs
Government Administration Building
P.O. Box 943
Philipsburg
Sint Maarten

Telefoon:
+1 (721) 542 6085

Fax:
+1 (721) 542 4172

Email:
PMCabinet@sintmaartengov.org

Aan: Aan de Staten van Sint Maarten
T.a.v.: De voorzitter
mevrouw Sarah Wescot-Williams
Wilhelminastraat 1
Philipsburg Sint Maarten
Datum: Philipsburg, April 8, 2019 **8376/18 E**
Onderwerp: Antwoorden op vragen gesteld in de OV van 8 maart 2019
Bijlage(n): 3

STATEN VAN SINT MAARTEN

gek. 09 APR 2019

olgnr. **15/840/18-19**

Geachte mevrouw Wescot-Williams,

Hierbij wordt aan de Staten aangeboden de antwoorden op de vragen van de Statenleden, gesteld tijdens de openbare behandeling van het ontwerp van Landsverordening herziening pensioen overheidsdienaren op 8 maart 2019.

Ook ontvangt u hierbij de volgende bijlagen (attachments) die behoren bij enkele antwoorden:

Attachment I: Presentation Staten March 8, 2019;

Attachment II: Example 1: A young participant with a low salary and short term in service;

Attachment III: Example 5: A young participant with a high salary and short term in service (pension-age at 63 years).

Hoogachtend,



Minister-President / Minister van Algemene Zaken
Leona Romeo-Marlin

Antwoorden op vragen van de Statenleden, gesteld tijdens de openbare behandeling van het ontwerp van Landsverordening herziening pensioen overheidsdienaren op 8 maart 2019.

MP Marcelina

1. In 1998, the court ruled, by the implementation of the franchise and the change from the old scheme to the new scheme, that pensioners who were in service before 1998 could maintain their status in the old scheme. This ruling was based on “eigendomsrecht” from the pensioners. Has the proposed implementation taken this ruling and “eigendomsrecht” into account?

Paragraph 7, pages 15 and 16 of the explanatory memorandum (Memorie van Toelichting) of the draft law, is dedicated to this subject. According to our legal advisors, the changes proposed in this draft National Ordinance are within the Law and do respect the property right (eigendomsrecht).

2. What does this shift from “eindloon” to middle loon mean for the individual civil servants in their total pension?

In the meeting of Parliament on March 8, 2019, a presentation was given showing the effects of the change from “eindloon” to “middelloon” with different examples (See Attachment I).

3. Is the Government going to save money or is APS going to save money?

Government is saving money in the future due to lower premiums for the employer. The financial position of APS improves, due to the fact that employees will retire at a higher age.

4. The premium is going to go from 25% - 18%, the 8% is going to stay the same; the government is paying now 10% is this in the advantage of government or APS?

Government is paying the total premium of 25%. It gets about 6% back from the employee's through deduction from their paycheck (8% of their salary minus the franchise results in 6% average). The effect of reduction of the total premium to 18% is an advantage for the employer, not APS.

The new premium of 18% is in the advantage of all the affiliated employers. The reduction of premium payments does not lead to an advantage for APS. The affordability of the pension scheme is related to the increase of the pension age and the introduction of the average pay scheme. The premium of 18% is one of the variables of the total formula for the pension reform.

5. If we consider the issue concerning “eigendomsrecht”, how many civil servants are right now in the “oude regeling”?

Based on our database there are 380 persons registered under the “oude regeling”.

6. Is there a possibility for teachers to choose if they want to partake in the new pension scheme?

No, this choice is not in the Law. It is mandatory for all teachers working in Public Education or in the subsidized schools. This is already the case since 1998.

MP Bryson

1. It is worrisome that a socio-macro analysis has not been done to see the effects on the population before changing the law. It should be part of the explanatory memorandum.

This question was answered already in the Central Committee. The reason no such impact study was done is threefold:

- a) It is not required. Government is acting here as employer. This pension scheme is about one of the benefits regulated by law into the legal position of civil servants. It is not the pension for the general public, so it is not SER that needs to be consulted but GOA. By law, Government need to have an agreement with GOA. Government has complied with this legal obligation.
 - b) It would not have made any difference. Seeing the urgent need to reform this pension scheme, the changes needed to come about, regardless of the results of any socio-economic impact study. Government must have an agreement with GOA.
 - c) The impact is limited. On average about 80 civil servants will reach pension age (62) each year. Moving that age to 65 now, with a possibility to retire as of 62, will have as maximum result that for a period of three years these jobs will not become vacant. After that time it will continue again at the same rate. For the people holding those jobs it means they have the opportunity to work longer (have an income) and accrue a higher pension for when they do retire.
2. Is it the intention to match the 2% accrual percentage to inflation? What is the correlation between the 2% and the inflation rate?

There is no direct correlation with the inflation rate but there should be a direct correlation between the indexation and the rise in the costs of living in a country.

The pension reform is based on a total formula, which includes the elements as premiums, longevity, costs, affordability, return on investments and the type of pension scheme. The balance of these factors results in a sustainable

and affordable pension scheme. The accrual percentage of 2% is part of the pension scheme, which is one of the basic elements for the accrual of pension.

3. Will the pensions be adjusted according to the inflation rate?

The COLA is calculated based on different factors including the inflation rate of the country. The pension is adjusted based on the COLA that is approved by Government.

Depending on the coverage ratio of the fund, the pensions can be indexed accordingly. This indexation can vary depending on the coverage ratio of the fund.

4. Can the calculations be done without the AOV?

Yes, the adjusted calculations have been attached (**See attachment II and III**).

5. Many civil servants think their last salary is what they will receive at pensionable age. What are the effects if a civil servant has a low salary for many years and gets an increase in his salary just before going with pension in the current scheme?

For participants that were registered after 01-01-1998 the calculation of the pension is based on the average of the salaries of the two (2) years before the year a participant goes on pension. If the increase is in the year the participant goes on pension it will have no effect on the pension. If the increase of the salary is in the two (2) years before the year the participant goes with pension it will increase the pension.

For the participants that were registered to the pension fund before 01-01-1998 and that are still in the transitional arrangement (overgangsregeling), the increase in salary will increase the pension.

6. There is an issue with preliminary salary scale (aanloopschaal), it is discriminatory, and people stay too long in this particular scale. This will affect their pension, robbing them of building up their pension. What is the legal basis for the preliminary salary scale, what are the exact guidelines? Is this not a form of discrimination for younger, less experienced civil servants?

The legal basis for these preliminary salary scales is article 3 of the Remuneration policy (Bezoldigingsbesluit ambtenaren). While the general rule is that one would get the salary scale that is attached to the job description via the job classification system (functional scale), article 3 creates an exception. Government can deviate from this rule to a maximum of 2 scales lower if the expectation is that the candidate will not be able to fulfill the position in full due to the lack of experience. One can remain only 2 years in a preliminary salary scale. Therefore, the total period in preliminary salary scales cannot be longer than 4 year. Once the candidate gets a positive appraisal, he is promoted to the functional scale. If however after the

maximum period a 'needs improvement' appraisal is given, the conclusion is that the candidate is unsuited for the position.

Government generally find this a useful tool. For many positions several years of experience in a similar position is a requirement. The general rule is not to hire candidates that do not meet all criteria. This tool however creates the possibility to give candidates that do not meet yet the criteria fully, the opportunity to prove themselves instead of not being hired.

7. What is being done now for young people and the difficulty getting into the civil service considering the pensionable age will increase to 65 years?

The Labor office of VSA has several training programs running geared toward increasing the employability of young people on Sint Maarten. Also the departments of Youth affairs, Study Finance and Student Support Services of the Ministry of OCJS, undertake several activities providing support, guidance and advice to young people. All geared to create the best possible fit between study and employment possibilities.

MP Doran

1. What is the new deadline for introduction of the new law?

We have not set a new deadline. Parliament needs to handle it first, after that the Ombudsman has 6 weeks to review it. The last change proposed by letter of amendment (nota van wijziging) now states the law will take effect on a date to be determine by National decree (sec).

2. What are government plans for civil servants in heavy jobs that can encounter health issues? Will they also go to the pensionable age of 65 years?

Government intends to come to a comprehensive policy regarding all facets pertaining to professional health. This will include schooling to take up less demanding functions at a certain age. The unions already accepted the invitation to start working on this.

3. Are there updated figures received from other Ministries with the number of persons that asked to stay on after pension age?

In general, there are very few such requests. We suspect people are aware of governments policy on this and they do not bother.

MP Irion

1. Has government come to a final payment arrangement with APS?

APS is in discussion with Government to come to a final payment arrangement. APS and Government hope to have this finalized soon.

2. If a civil servant receives a retroactive payment in salary, will it be adjusted in the accrued pension?

Yes, the accrued pension will be adjusted accordingly.

MP Richardson

1. When do we expect to return the pension age to a lower age from 65 to 62 or 61?

This is not a realistic probability. As mentioned in previous questions and answers, people live longer. We do not expect the pension age to decrease.

2. Do we see ourselves managing this fund that well that we have so much money that we do not have an issue lowering the pension age?

A pension scheme depends on many factors: premium, longevity, costs, affordability, return on investments and the type of pension scheme. The balance of these factors results in a sustainable and affordable pension scheme. APS is instituted by law and must adhere to the standards of the Corporate Governance code, which also includes the principles of integrity and transparency. Therefore, the institution must ensure proper management of the fund at all times.

3. Is there not an investment opportunity whereby the fund can be sustainable and not have to increase the pensionable age to 65 years?

An investment can have a positive effect in the sense that the fund is in a better financial status and thus for a longer period sustainable. The reality is that investments can fluctuate. Pension funds make conservative investments. Therefore, an investment that is deemed good for a private investor might not fit in the risk profile of a pension fund. A pension fund cannot only rely on investments for sustainability. The pension reform is also based on other elements (of a formula) such as premiums, longevity, costs, affordability and the pension scheme.

4. Is the debt of GOVSXM to APS the reason for raising the pension age?

The debt of GOVSXM to APS is not the reason for raising the pension age. The pension reform is based on a total formula, which includes the elements as premiums, longevity, costs, affordability, return on investments and the type of pension scheme. The balance of these factors results in a sustainable and affordable pension scheme. The current pension scheme based on the "eindloon" is no longer affordable.

MP Emmanuel

1. APS due diligence was not done right. Parent company Condotte was in financial trouble since 2017. INSO does not share in those monies. So therefore, are looking for a buyer. How can APS maintain that they have done their due diligence?

Every investment that APS contemplates must go through a stringent financial and legal due diligence process, which includes a risk analysis.

2. Who executed the due diligence by APS?

The due diligence was executed by APS.

3. Does APS still believe in the investment?

All investments that APS makes go through an internal stringent financial and legal due diligence process and are governed by legally binding agreements. These agreements include conditions that must be met before the financial closing and also during the entire tenure of the agreement.

With regard to SMMC, in the unfortunate case that a contractor cannot meet (a) condition(s) before financial closing, the agreement ensures that payments cannot be made until the condition(s) are met. In the worst-case scenario that a condition deemed important by Lenders cannot be met permanently, Lenders can decide to break the agreement with the contractor and move towards a retender to search for a new contractor.

4. Doesn't see any movement in Mary's Fancy? Can we get an update?

A development project has several phases. Construction is only one of the many phases of a development project. Prior to the construction phase, a development project goes through various pre-development phases, i.e. planning, design and engineering. It is during these, for the public eye, quiet phases that the preparations are made for the actual construction to take place. Currently architects of APS are finalizing the final specifications and drawings, which will be then used in the tender process /search for a contractor. The only concern at this point for APS is the timely receipt of permits.

5. How soon will APS be getting its investment back out of RFA?

The Rainforest Adventures corporate loan has a return on investment of 8% and is currently the second highest return on investment within the APS local portfolio. The loan will be fully repaid on June 30, 2030.

MP Peterson

1. How many years would APS be able to continue without the law being passed?

In order to know the exact years an Asset Liability Management (ALM) study would have to be conducted based on the current situation.

MP Wescott-Williams

1. Can some examples be provided from pension funds that became financially unstable because of not passing a change in the law (pension reform)?

Historically when pension schemes become unaffordable, a pension reform is unavoidable. On Aruba and Curaçao a pension reform was inevitable. In the Netherlands, many reforms have occurred over the years in order to strengthen their pension funds. The pension sector in the Dutch Caribbean and the Netherlands is regulated by regulators: the Central Bank of Aruba, the Central Bank of Curacao & Sint Maarten and the Nederlandsche Bank., Therefore it is not common for the financial situation of a pension fund to become severe without the regulator taking over. A good example are the recent events surrounding ENNIA.

In the Netherlands, the amount of pension funds decreased from 600 to approximately 200. Part of the reason for the decrease lays in the merging of funds by pooling resources, thus increasing the sustainability of the funds. Another reason for the decrease: the poor financial status of the funds and the increase in control mechanisms by DNB.

2. Why is GOVSXM paying 22% while the law says that it needs to be 25%? According to calculations that were presented a while back it should be 27% to cover the accrual of pension.

Since July 2018, the GOVSXM is paying 25% as required by the law, i.c. the Pension National Ordinance public servants (Pensioenlandsverordening Overheidsdienaren).

3. Are there any other options that were discarded that were not taken along with the currently proposed changes?

No, the different variables for the pension reform were discussed in the working group and taken along.

4. Have the unions had sessions with their members to share information and get feedback?

The WICSU/PSU has answered this with their letter dated November 30, 2018. Next to that, they recently held consultations with their membership.

5. Does APS have its complete administration in order after the transition from APNA?

Yes. APS has cleaned up the database since the conversion from APNA. It remains a continued process whereby the employers are reminded what is mandatory, according to the law. This is also considering the necessity for employers to inform and provide the fund with the necessary/mandatory documents in order to keep the database clean and accurate.

6. What about the persons that have no pension scheme and make low salaries?

If talking about workers in Governments service, they are all in the pension plan. If referring to the private sector in general, the Ministry of VSA is studying different scenarios on both mandatory and voluntary AOV-pension supplements.

7. Is it possible to establish a basic amount for AOV?

The Ministry of VSA has not concluded its research and has not yet taken a position on this subject.



De Minister-President / Minister van Algemene Zaken
Leona Romeo-Marlin



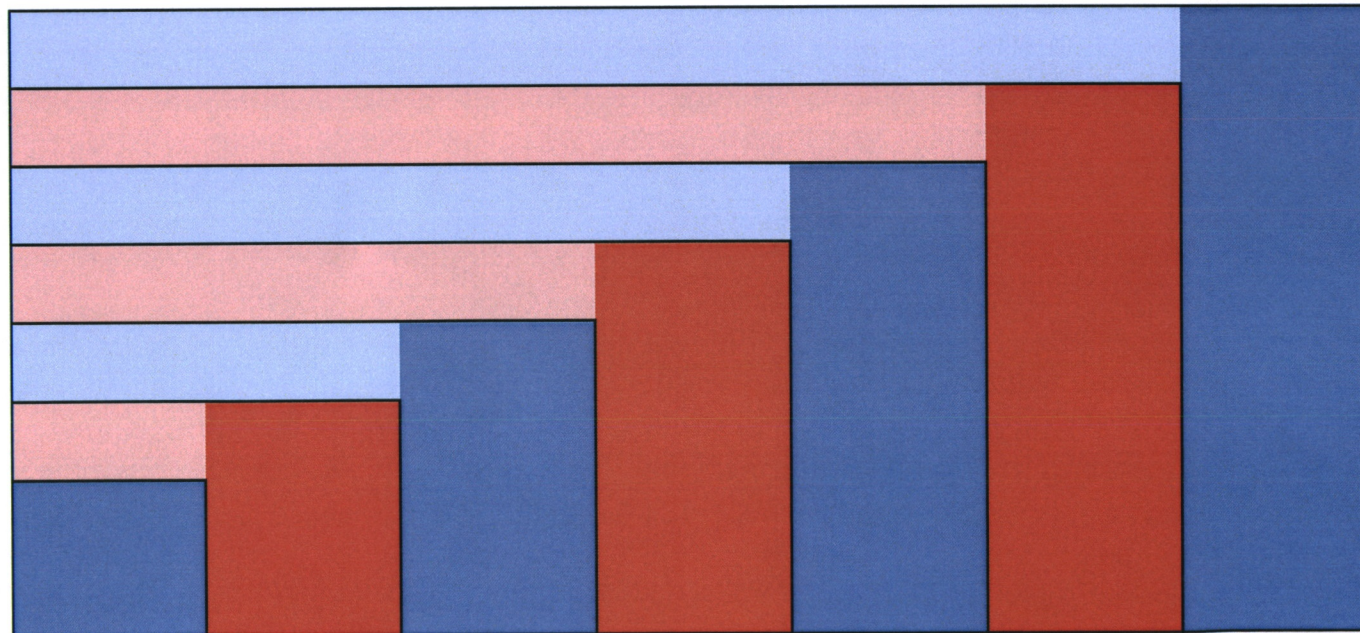
Final pay versus Average pay system

Openbare Vergadering van de Staten i.v.m. de wijziging van de Pensioenlandsverordening

Date: March 8th, 2019

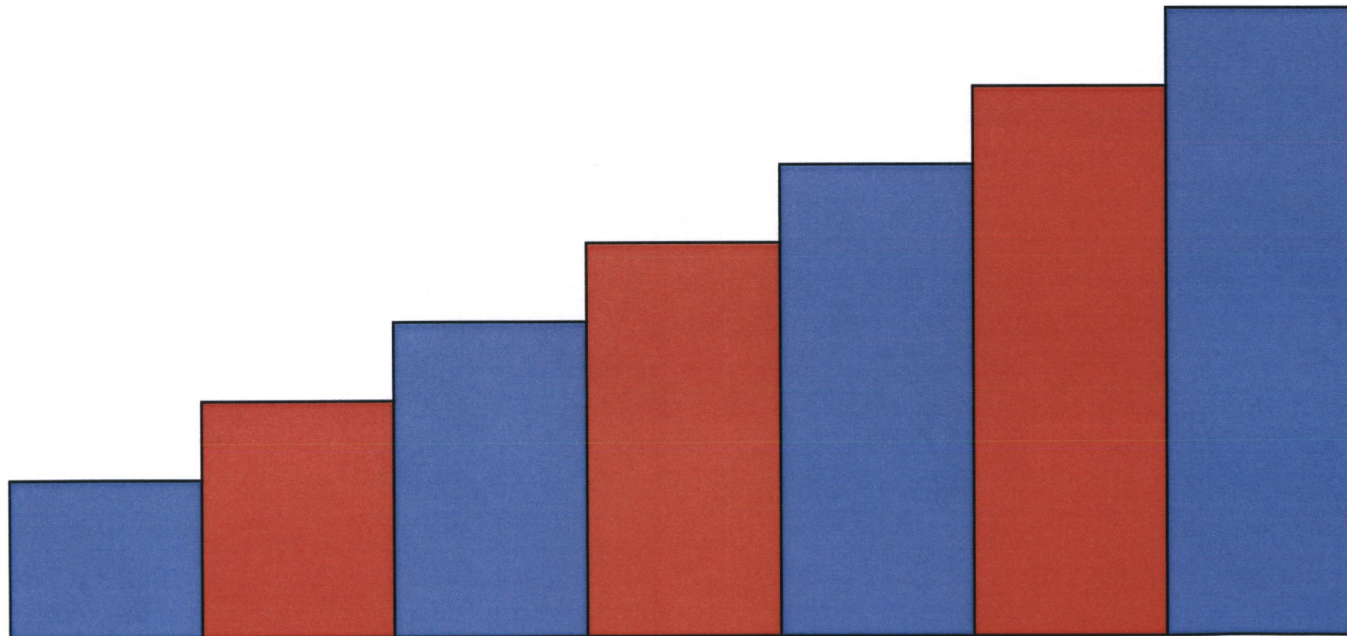
Final pay pension system:

- **Final salary** serves as starting point for the pension accrual
- Each year, the accrued pension is adapted to the most recent pension base as if this applied throughout the entire service career
- The costs of the system are high which makes it unsustainable
- In fact, there is automatic indexation until the retirement date



Average pay system:

- Salary of **each year** serves as starting point for the pension accrual
- The accrued pension is the sum of the annual accrual
- The pension is possibly increased with indexation



The calculation method of the old age pension:

If someone becomes a participant, the old age pension is calculated as:

Pension base * accrual percentage * service years * part-time percentage

- The pension base is calculated: salary (depending on scheme) – franchise
- If someone receives a salary increase, the pension is increased:
 - In the case of the final pay, the entire pension is recalculated with a higher salary: for all preceding years the pension accrual is calculated based on the new salary
 - In the case of the average pay, each year the accrual for the new salary is calculated for one service year

Examples of Final pay versus Average Pay:

Based on the following variables:

- 2% accrual of pension per year
- AOV of Naf 1,115.00 per month
- Final pay system pensionable age 62 years
- Average pay system pensionable age 65 years
- Flexibility to retire between 62 and 65 years
- Actuarial increase of 10% for the accrued pension

Example 5: A young participant with a high salary and short term in service (pension-age at 63 years)

Leeftijd	30								
Reeds verstreken deelnemersjaren	5								
Bruto loon per maand	6,500								
	Pensioen-leeftijd	Opbouw per jaar	Opgebouwd pensioen	Nog op te bouwen pensioen	Te bereiken pensioen APS	AOV	Totaal pensioen	In % salaris	
Huidige regeling	62	2.00%	491	3,141	3,631	1,115	4,746	73%	
Nieuwe regeling	65	2.00%	540	3,204	3,744	1,115	4,859	75%	
Nieuwe regeling	63	2.00%	540	3,204	3,295	1,115	4,410	68%	

Example 6: An older participant with a low salary and long term in service (pension-age at 63 years)

Leeftijd	55										
Reeds verstreken deelnemersjaren	30										
Bruto loon per maand	5,000										
	Pensioen-leeftijd	Opbouw per jaar	Opgebouwd pensioen	Nog op te bouwen pensioen	Te bereiken pensioen APS	Opgebouwd Duurte-toeslag	Nog op te bouwen Duurte-toeslag	Totale Duurte-toeslag	AOV	Totaal pensioen	In % salaris
Huidige regeling	62	2.50%/1.67%	2,273	114	2,386	1,227	86	1,314	1,115	4,815	96%
Nieuwe regeling	65	2.00%	2,500	312	2,812	1,227	0	1,227	1,115	5,155	103%
Nieuwe regeling	63	2.00%	2,500	312	2,475	1,227	0	1,080	1,115	4,670	93%

example 1: A young participant with a low salary and short term in service

Leeftijd	30
Reeds verstreken deelnemersjaren	5
Bruto loon per maand	3,500

	Pensioen-leeftijd	Opbouw per jaar	Opgebouwd pensioen	Nog op te bouwen pensioen	Totaal pensioen	In % salaris
Huidige regeling	62	2.00%	191	1,221	1,411	40%
Nieuwe regeling	65	2.00%	210	1,284	1,494	43%
Vershil					83	

example 2: A young participant with a high salary and short term in service

Leeftijd	30
Reeds verstreken deelnemersjaren	5
Bruto loon per maand	6,500

	Pensioen-leeftijd	Opbouw per jaar	Opgebouwd pensioen	Nog op te bouwen pensioen	Totaal pensioen	In % salaris
Huidige regeling	62	2.00%	491	3,141	3,631	56%
Nieuwe regeling	65	2.00%	540	3,204	3,744	58%
Vershil					113	

example 3: An older participant with a high salary and average term in service

Leeftijd	55
Reeds verstreken deelnemersjaren	15
Bruto loon per maand	8,500

	Pensioen-leeftijd	Opbouw per jaar	Opgebouwd pensioen	Nog op te bouwen pensioen	Totaal pensioen	In % salaris
Huidige regeling	62	2.00%	2,072	967	3,039	36%
Nieuwe regeling	65	2.00%	2,279	1,381	3,661	43%
Vershil					622	

example 4: An older participant with a low salary and long term in service

Leeftijd	55
Reeds verstreken deelnemersjaren	30
Bruto loon per maand	5,000

	Pensioen-leeftijd	Opbouw per jaar	Opgebouwd pensioen	Nog op te bouwen pensioen	Totale Duurte-toeslag	Totaal pensioen	In % salaris
Huidige regeling	62	2.50%/1.67%	2,273	114	1,314	3,700	74%
Nieuwe regeling	65	2.00%	2,500	312	1,227	4,040	81%
Vershil						340	

example 5: A young participant with a high salary and short term in service (pension-age at 63 years)

Leeftijd	30
Reeds verstreken deelnemersjaren	5
Bruto loon per maand	6,500

	Pensioen-leeftijd	Opbouw per jaar	Opgebouwd pensioen	Nog op te bouwen pensioen	Totaal pensioen	In % salaris
Huidige regeling	62	2.00%	491	3,141	3,631	56%
Nieuwe regeling	65	2.00%	540	3,204	3,744	58%
Nieuwe regeling	63	2.00%	540	3,204	3,294	51%

example 6: An older participant with a low salary and long term in service (pension-age at 63 years)

Leeftijd	55
Reeds verstreken deelnemersjaren	30
Bruto loon per maand	5,000

	Pensioen-leeftijd	Opbouw per jaar	Opgebouwd pensioen	Nog op te bouwen pensioen	Totale Duurte-toeslag	Totaal pensioen	In % salaris
Huidige regeling	62	2.50%/1.67%	2,273	114	1,314	3,700	74%
Nieuwe regeling	65	2.00%	2,500	312	1,227	4,040	81%
Nieuwe regeling	63	2.00%	2,500	312	1,227	3,555	71%