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(Acts whose publication is obligatory)

COUNCIL REGULATION (EEC, EURATOM, ECSC) No 2074/83

of 21 July 1983

amending the Staff Regulations of officials and the conditions of employment of other servants of the European Communities

THE COUNCIL OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing a single Council and a single Commission of the European Communities, and in particular Article 24 thereof,

Having regard to the proposal from the Commission, submitted after consulting the Staff Regulations Committee,

Having regard to the opinion of the European Parliament [1],

Having regard to the opinion of the Court of Justice,

Whereas Articles 2 and 3 of Council Regulation (EEC, Euratom, ECSC) No 259/68 [2], as last amended by Regulation (ECSC, EEC, Euratom) No 2023/83 [3], lay down the Staff Regulations of officials and the conditions of employment of other servants of the European Communities respectively; whereas it is for the Council, acting by a qualified majority on a proposal from the Commission and after consulting the other institutions concerned, to amend the Staff Regulations and the conditions of employment;

Whereas experience gained in applying the said Staff Regulations and the said conditions of employment has shown that the amendments set out in this Regulation should be made, it being understood that the other questions referred to in the Commission's proposal should remain open,

HAS ADOPTED THIS REGULATION:

Article 1

In Article 37 (1) of the Staff Regulations the words 'is one who' shall be replaced by the words 'is an established official who'.

Article 2

Article 37 (1) (b) of the Staff Regulations shall be replaced by the following:

'(b) has at his own request:

— been placed at the disposal of another of the institutions of the European Communities; or

— been placed at the disposal of an organization devoted to furthering the Community's interests and included on a list to be drawn up by agreement between the institutions of the Communities after consulting the Staff Regulations Committee.'

Article 3

The following shall be added to Article 39 (d) of the Staff Regulations:

'However, an official on secondment under the second indent of Article 37 (1) (b) who acquires pension rights in the body to which he is seconded shall cease to be affiliated to the pension scheme in his original institution for the duration of this secondment.

An official who becomes an invalid while on secondment within the meaning of Article 37 (1) (b), second indent, and the dependents of an official who dies during the same period, shall be entitled under these Staff Regulations to the invalidity or the survivor's pension less any amounts paid to them on the same grounds and for the same period by the body to whom the official was seconded.

This provision shall not result in the official or his dependants being entitled to a total pension higher than the maximum amount he would have received pursuant to these Staff Regulations.'

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(1) OJ No C 34, 11. 2. 1980, p. 41.
(2) OJ No L 56, 4. 3. 1968, p. 1.
(3) OJ No L 199, 22. 7. 1983, p. 3.

Article 4

Article 40 of the Staff Regulations shall be amended as follows :

1. In paragraph 1, the word 'established' shall be inserted before the word 'official' ;

2. The following subparagraph shall be added to paragraph 2 :

'If, however, an official applies for such leave in order to be able :

— to bring up a child who is under five years old and considered as a dependant of the official within the meaning of Article 2 (2) of Annex VII ; or

— to bring up a child considered to be a dependant of his within the meaning of Article 2 (2) of Annex VII and who suffers from a serious mental or physical handicap recognized by the medical officer of the institution and who requires constant care or supervision,

leave may be extended annually four times, provided that at the time of each extension one or other of the conditions referred to in the above two indents obtains.

If an official applies for such leave in order to be able to accompany his or her spouse, the latter also being an official or other servant of the Communities required in the course of his or her duties to establish his or her habitual residence at such a distance from the place of employment of the applicant official that the establishment of their conjugal home in such a place would inconvenience the applicant official in the performance of his or her duties, leave may be extended annually five times, provided that, at the time of each extension, the conditions which warranted the grant of the leave obtain. An official may benefit from the latter provision on the extension of leave only once in his or her career.' ;

3. At the end of the second subparagraph of paragraph 3 the words '... in Article 83 (2) and calculated by reference to his last basic salary' shall be replaced by '... in Article 83 (2) ; the contributions shall be calculated by reference to the basic salary for the official's grade and step.'

Article 5

Article 67 of the Staff Regulations shall be amended as follows :

1. Subparagraphs 1 (a) and (b) shall be replaced by the following :

'(a) household allowance ;

(b) dependent child allowances.' ;

2. The following paragraph shall be added :

'4. Where, by virtue of Articles 1, 2 and 3 of Annex VII, such family allowances are paid to a person other than the official, these allowances shall be paid in the currency of the country in which that person is resident, calculated where applicable on the basis of the exchange rates referred to in the second paragraph of Article 63. They shall be subject to the weighting for the country in question or, in the absence of such a weighting, a weighting of 100.

Paragraphs 2 and 3 shall apply where family allowances are paid to such a person.'

Article 6

Article 72 of the Staff Regulations shall be amended as follows :

1. Paragraph 1 shall be replaced by the following :

'1. An official, his spouse, where such spouse is not eligible for benefits of the same nature and of the same level by virtue of any other legal provision or regulations, his children and other dependants within the meaning of Article 2 of Annex VII are insured against sickness up to 80 % of the expenditure incurred subject to rules drawn up by agreement between the institutions of the Communities after consulting the Staff Regulations Committee. This rate shall be increased to 85 % for the following services : consultations and visits, surgical operations, hospitalization, pharmaceutical products, radiology, analyses, laboratory tests and prostheses on medical prescription with the exception of dental prostheses. It shall be increased to 100 % in cases of tuberculosis, poliomyelitis, cancer, mental illness and other illnesses recognized by the appointing authority as of comparable seriousness, and for early detection screening and in cases of confinement. However, reimbursement at 100 % shall not apply in the case of occupational disease or accident having given rise to the application of Article 73.

One-third of the contribution required to meet such insurance cover shall be charged to the official but so that the amount charged to him shall not exceed 2 % of his basic salary.' ;

2. The following paragraph shall be inserted :

'1b. Where the ex-spouse of an official, a child who ceases to be an official's dependant or a person who ceases to be treated as a dependent child within the meaning of Article 2 of Annex VII to the Staff Regulations can provide evidence that he or she cannot be covered by any other public scheme of sickness insurance, he or she may continue for a maximum of one year to be insured against sickness as provided for in paragraph 1, in his or her capacity as insured persons covered under that official's insurance ; this cover shall not give rise to the levy of a contribution. This one-year period shall commence on the date of the decree

absolute of divorce or of the loss of status of dependent child or of person treated as a dependent child.';

3. In the first subparagraph of paragraph 2 the words 'in the preceding paragraph' shall be replaced by the words 'in paragraph 1';

4. The first subparagraph in paragraph 4 shall be replaced by the following:

'Persons entitled to the foregoing benefits shall declare the amount of any reimbursements paid or which they can claim under any other sickness insurance scheme provided for by law or regulation for themselves or for persons covered by their insurance.'

Article 7

Article 75 of the Staff Regulations shall be replaced by the following:

'Article 75

In the event of the death of an official, an official's spouse or dependent child, or any other dependent person within the meaning of Article 2 of Annex VII who lived as part of the official's household, the institution shall reimburse the costs involved in transporting the body from the official's place of employment to his place of origin.

However, in the event of an official's death during a mission, the institution shall bear the costs involved in transporting the body from the place where death occurs to the official's place of origin.'

Article 8

The following paragraph shall be added to Article 80 of the Staff Regulations:

'Entitlement as provided for in the first, second and third paragraphs shall apply in the event of the death of a former official entitled to an allowance under Article 50 of the Staff Regulations, Article 5 of Regulation (EEC, Euratom, ECSC) No 259/68, Article 3 of Regulation (Euratom, ECSC, EEC) No 2530/72 or Article 3 of Regulation (ECSC, EEC Euratom) No 1543/73.'

Article 9

The second subparagraph of Article 82 (1) of the Staff Regulations shall be replaced by the following:

'They shall be weighted at the rate fixed for the country inside or outside the Communities where the recipient proves he has his residence.

If the recipient establishes his residence in a country for which no weighting has been fixed, the weighting of 100 shall be applied.

Pensions expressed in Belgian francs shall be paid in one of the currencies referred to in Article 45 of Annex VIII to the Staff Regulations in the manner provided for in the second paragraph of Article 63 of the Staff Regulations.'

Article 10

The following paragraph shall be added to Article 1 of Annex VII to the Staff Regulations:

'5. If the official is entitled to the household allowance only by virtue of paragraph 2 (b) and a person other than the official has by law or by an order of court or of the competent administrative authority been given custody of all his dependent children within the meaning of Articles 2 (2) and (3) below, the household allowance shall be paid to that other person in the name and on behalf of the official. This condition shall be deemed to be fulfilled in the case of dependent children who have reached their majority if such children have their normal residence with the other parent.

If, however, the official's children are in the care of several different persons, the household allowance shall be divided among them according to the number of children in their care.

If the person eligible by virtue of the foregoing to receive the household allowance paid in the official's name is also eligible to receive this allowance by reason of his or her own status as official or other member of staff, that person shall receive the higher of the two allowances only.'

Article 11

The following paragraph shall be added to Article 2 of Annex VII to the Staff Regulations:

'7. If custody of the dependent child within the meaning of paragraphs 2 and 3 has been entrusted by law or by an order of court or of the competent administrative authority to another person, the dependent child allowance shall be paid to that person in the name and on behalf of the official.'

Article 12

The following paragraph shall be added to Article 3 of Annex VII to the Staff Regulations:

'If custody of the child in respect of whom the education allowance is paid has been entrusted by law or by an order of court or of the competent administrative authority to another person, the education allowance shall be paid to that person in the name and on behalf of the official. In such case, the distance of at least 50 km referred to in

the preceding paragraph shall be calculated from the place of residence of the person having custody of the child.'

Article 13

Article 8 (4) of Annex VII to the Staff Regulations shall be amended as follows :

1. In the second sentence, after the words 'shall be entitled', the following words shall be inserted : 'for himself and, if he is entitled to receive the household allowance, for his spouse and other dependants within the meaning of Article 2.' ;

2. The following subparagraph shall be added :

'However if the spouse and the persons referred to in Article 2 (2) do not live with the official at his place of employment, they shall be entitled once in each calendar year, subject to the submission of supporting documents, to repayment of travel expenses from the place of origin to the place of employment or to repayment of travel expenses to another place not exceeding the cost of the former journey.'

Article 14

The following paragraph shall be added to Article 11 of Annex VIII to the Staff Regulations :

'3. Paragraph 2 shall also apply to an official who is reinstated after a period of secondment under the second indent of Article 37 (1) (b) of the Staff Regulations and to an official who is reinstated following expiry of a period of leave on personal grounds under Article 40 of the Staff Regulations.'

Article 15

The following Article shall be inserted in Annex VIII to the Staff Regulations :

'Article 17a

Subject to Article 1 (1) and Article 22, the widow of a former official who was removed from his post or whose service was terminated by virtue of Regulation (EEC, Euratom, ECSC) No 259/68, (Euratom, ECSC, EEC) No 2530/72 or (ECSC, EEC, Euratom) No 1543/73 and who died whilst in receipt of a monthly allowance under Article 50 of the Staff Regulations or under one of the abovementioned Regulations shall be entitled, provided that she had been married to him for at least one year when he left the service of an institution, to a widow's pension equal to 60 % of the retirement pension to which her husband would have been entitled if he had qualified, irrespective of length of service or of age, for such pension at the time of death.

The amount of the widow's pension provided for in the first paragraph shall not be less than the amount provided for in the second paragraph of Article 79 of the Staff Regulations. The amount of the widow's pension shall in no case, however, exceed the amount of the first payment of the retirement pension to which the former official would have been entitled assuming that, had he stayed alive and exhausted his rights to one or other of the abovementioned allowances, he would have been entitled to a retirement pension.

The duration of the marriage specified in the first paragraph shall not be taken into account if there are one or more children of a marriage contracted by the official before he left the service, provided that the widow maintains or has maintained such dependent children within the meaning of Article 2 (2) of Annex VII.

Nor shall the duration of the marriage be taken into account if the former official's death occurs in one of the circumstances described in the second paragraph of Article 17.'

Article 16

This Regulation shall enter into force on the day following its publication in the *Official Journal of the European Communities.*

However, Articles 10, 11 and 12 shall not enter into force until the first day of the seventh month following publication of this Regulation in the *Official Journal of the European Communities.*

This Regulation shall be binding in its entirety and directly applicable in all Member States.

Done at Brussels, 21 July 1983.

For the Council

The President

D. KOULOURIANOS