

# COMMISSION OF THE EUROPEAN COMMUNITIES

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PROPOSAL FOR A COUNCIL REGULATION (ECSC, EEC, EURATOM)  
AMENDING THE STAFF REGULATIONS OF OFFICIALS AND THE CONDITIONS  
OF EMPLOYMENT OF OTHER SERVANTS OF THE EUROPEAN COMMUNITIES

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(presented by the Commission to the Council)

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REVISION OF THE STAFF REGULATIONS OF OFFICIALS AND THE CONDITIONS OF  
EMPLOYMENT OF OTHER SERVANTS

EXPLANATORY MEMORANDUM

I. SUMMARY

On 2 May 1978 the Council completed the third round of revision of the Staff Regulations (OJ No L 119, 3 May 1978).

In the course of the Council's discussions on the third round, which lasted several years, it became clear that further amendments would have to be made, particularly in two fields - the pension scheme for officials and social security for temporary staff, especially research staff.

Priority should be given to a number of amendments in these two fields.

II. STAFF REGULATIONS - PENSION SCHEME

1. Background

In the early days of the Communities, the authors of the Staff Regulations and related texts felt that it was in the immediate interests of the new institutions to encourage highly-specialized officials, often recruited at a mature age for that reason, to remain at their posts after the age of 60.

Since Article 5 of Annex VIII to the Staff Regulations entitles officials to carry on working after the age of 60 in order to increase their pension rights, officials were encouraged not to retire at 60 although this is the normal retirement age for the scheme as a whole.

As the running-in period came to an end the institutions became increasingly able to train their own specialists. In addition to this, the average age of new recruits is nowadays much younger than before, which means that additional pension rights for years worked after the age of 60 are far less attractive to them and thereby lose much of their *raison d'être*. In the average case, moreover, it would be well to discontinue giving too much incentive to officials to carry on working after 60 when they have already devoted 25 to 30 years of their life to a particularly demanding job.

In an earlier (1969) proposal for revision of the Staff Regulations the Commission contemplated extending to the 55-60 age bracket the advantages already available from 60 to 65 under Article 5. The Council, which was more inclined to think that the present advantages should simply be abolished, did not follow the Commission's proposal.

The Commission considers that it is in the interests of the institutions to remove the disincentive to retirement before 65 created by the existing provisions, especially as this disincentive is liable to exacerbate the age structure problems that are known to exist.

## 2. Encouraging retirement at 60

(a) An adequate solution would be to consolidate the existing bonus (5% of the amount of pension rights acquired at the age of 60 for each year of service between 60 and 65) into a single bonus payable at the age of 60, and to require the official to retire at the age of 60 as a condition of eligibility for it. To add to the advantages of this arrangement it is proposed that half the "normal" pension rights the official would have acquired between 60 and 65, i.e. 5% of his last basic salary, be credited as well (Articles 16 and 17 of the draft) (see attached tables).

The proposal can be illustrated by the following example:

An official who has completed 20 years' service at the age of 60 would receive a pension equal to the following fraction of his basic salary:

40% (2% per year of service:  $20 \times 2 = 40$ )  
+ 10% (one-quarter ( $5 \times 5 = 25\%$ ) of 40%)  
+ 5% (1% for each year he would have served between 60 and 65)  
55% instead of the 40% payable under the present pension scheme.

(b) This incentive to retire at 60 would be supplemented by two measures enabling officials to retire at 60 with adequate pension rights even if they have not yet accumulated the maximum number of years of service. The two measures are:

- in return for an in-payment, years of service outside the Communities which could not be credited to the official by means of the transfer system under Article 11(2) of Annex VIII would be taken into account for the purposes of the pension scheme (Article 19 of the draft);
- Article 107 of the Staff Regulations and Article 102 of the old ECSC Staff Regulations would be amended so as to apply to officials aged 60 (Articles 13 and 14 of the draft).

## 3. Other amendments

The revision would entail further changes to the pension scheme, for example:

- the total net survivor's pension (widows and orphans) plus family allowances would not be allowed to exceed the net equivalent of the last salary, retirement (or invalidity) pension or grant on voluntary departure ("dégagement") or removal from post, plus family allowances, to which the official or former official would have been entitled (Article 8 of the draft);
- at Article 27 of Annex VIII the pension rights of divorced wives who have not remarried should not be allowed to exceed the amount of maintenance awarded to her by the court or settled by agreement between herself and her former husband. A passage to the same effect is also added to Article 28 (Articles 26 and 27 of the draft);
- a former member of temporary staff resuming active employment with the institution, but this time as an official, would also be entitled to take advantage of the possibilities offered by Article 4 of Annex VIII to the Staff Regulations whereby pension rights may be acquired in respect of his previous period of service (Article 15 of the draft);

- the widow of an official whose death occurred in one of the circumstances described in the second paragraph of Article 78 of the Staff Regulations will be entitled to the same benefits as the widow of an official who before his death was in receipt of the invalidity pension for one of the reasons described in the same paragraph (Article 6 of the draft);
- widows and orphans will be entitled to pension rights in certain circumstances other than those already provided for (Article 7 of the draft).

#### 4. Special measures where new Member States join the Community

Also included in the revision is a provision which allows officials who give up their posts between the ages of 50 and 60 to receive the pension to which they are entitled on retirement without the reduction laid down in Article 9 of Annex VIII to the Staff Regulations.

There can be no question of such a measure applying across the board. If the standard retirement age were brought down to 50 (or even 55) the actuarial factors underlying the pension scheme would be severely disrupted and this would, quite apart from other considerations, make the scheme considerably more expensive.

At this juncture, however, it might be possible to contemplate the future use of such a measure for a limited period of time in exceptional circumstances to free as many posts as possible for a specific purpose: the accession of a new Member State provides a typical example of such an occasion. The arrangement proposed in the draft (Article 18) was formulated with this type of situation in mind.

#### 5. Payment of allowances (Articles 41 and 50)

Part of the existing version of Articles 41 and 50 of the Staff Regulations should also be harmonized with the provision included in the special termination of service regulations (voluntary retirement); this concerns the weighting and currency for allowances paid where staff are retired in the interests of the service or placed on non-active status (Articles 1 and 2 of the draft).

#### 6. Transitional provisions

There will have to be transitional provisions governing the transfer of pension rights by officials who are too old to take advantage of the new possibilities and have only a short time left in which to effect the transfer (end of Article 19 of the draft). The same applies to the survivor's pension where, as a result of the new provisions, the pension cannot exceed the equivalent of the official's last net remuneration or his retirement pension or the maximum monthly allowance payable to former officials who left under the special arrangements of Regulations Nos 259/68, 2530/72 and 1543/73 (Article 54 of the draft).

### III. CONDITIONS OF EMPLOYMENT OF OTHER SERVANTS - TEMPORARY STAFF

#### 1. Social security cover

The Conditions of Employment of Other Servants laid down by the Council with effect from 1 January 1962 provide temporary Community staff with social security cover that was designed largely with the very short duration of their appointments in mind.

Now that more and more temporary staff are being taken on and that the status of temporary staff paid from the research appropriations was introduced at the end of 1976, the Commission has found itself recruiting large numbers of temporary staff for an indeterminate period, or for a maximum - but renewable - period of five years. This situation calls for a number of changes in the field of social security cover, including pension rights. Temporary staff within the meaning of Article 2(a) of the CEOS and those entitled under them should have a right to a pension. Their period of service (notably with JET or the EAC) may in fact be longer than ten years. (Articles 44, 45, 46 and 48 of the draft).

There should be some form of cover against the risk of unemployment, against which temporary staff whose contracts are cancelled have no protection (Article 41 of the draft).

The minimum length of time that a member of temporary staff must have worked to qualify for paid sick leave, and in excess of which paid sick leave may not be granted, is to be raised from one month to twelve months (Article 38 of the draft).

Sickness insurance cover, which currently extends for 60 days after the termination of service, will henceforth continue to apply for six months after the termination of service (as for officials), on condition that the insured is not covered under another scheme (Article 40 of the draft).

As they stand, the Conditions of Employment of Other Servants allow the persons entitled under a deceased member of temporary staff to receive both a survivor's pension and a severance grant. It is proposed that this loop-hole be closed by means of an amendment to Article 34 of the Conditions of Employment (Article 44 of the draft).

#### 2. Subrogation of rights

The Conditions of Employment make no provision for the rights of a member of temporary staff to vest in the Community, notably when his invalidity or death is caused by a third party.

It is therefore proposed that this lacuna be filled (Article 49 of the draft).

#### 3. Disciplinary measures

The rudimentary disciplinary provisions contained in Articles 49 and 50 of the Conditions of Employment of Other Servants were considered sufficient in 1962 (see the first sub-paragraph III(1) above).

The new generation of temporary staff on research contracts of quite long or even indeterminate duration calls for an elaborate disciplinary system comparable to that which applies to officials, covering procedure, the right to be heard and the disciplinary measures that may be imposed.