



SIXTH ITEM ON THE AGENDA

Amendments to the Staff Regulations**Amendments proposed by the Director-General**

1. In accordance with article 14.7 of the Staff Regulations: “Subject to the approval of the Governing Body, these Regulations may be amended, without prejudice to the acquired rights of officials, by the Director-General after consulting the Joint Negotiating Committee.”
2. Having consulted the Joint Negotiating Committee, the Director-General wishes to propose amendments ¹ to the Staff Regulations in the following three areas.

Provisions governing special leave

3. Article 7.7 of the Staff Regulations, as implemented by an administrative circular, establishes the conditions in which the Office may grant special leave without pay. Under existing provisions, officials on special leave are required to notify the Office at least two months prior to the expiration of the leave whether or not they intend to return to active service. Where the official does not comply with this obligation or fails to present him/herself for work at the assigned duty station at the end of the approved period of leave, without notifying the Office of his or her resignation, the Office is compelled to initiate a procedure to separate the official from the Office. This is a cumbersome, costly and ineffective process involving consultation of internal administrative bodies, possible payment of indemnities, and the reservation of resources for the official for as long as a final decision ¹ on termination has not been reached.
4. To the extent that special leave without pay is a privilege accorded to officials at their own request and mainly in their own interest, the Office proposes to place the responsibility on the official on special leave so that failure without any valid reason to take the steps necessary to notify the Office in a timely manner of the official’s intent to return to active service or the official’s failure to present him/herself at the assigned duty station and take up his or her duties at the end of the approved period of leave would result in automatic separation from service in a manner similar to resignation. If the official provides valid justification (for example, in the event of illness or *force majeure*), the Office could either

¹ Additional text appears underlined in bold, text proposed for suppression is struck out.

extend the official's special leave status for the requisite additional period or initiate termination under the relevant provision (discipline, reasons of health, etc.) subject to the applicable termination procedure and indemnities. This proposal is consistent with best practices in many national public administrations.

5. This could be effected by introducing a rather simple provision in Chapter XI of the Staff Regulations concerning cessation of service:

ARTICLE 11.2bis

Separation from service after special leave

1. Any official on special leave in accordance with article 7.7 may provide, during the period of leave authorized, timely notice in writing of intent not to return to duty at the expiry of the period of leave. Upon acceptance by the Director-General, such notice will result in separation from service.

2. Failure of an official on special leave in accordance with article 7.7 to report for duty on the foreseen date at the expiry of the period of leave authorized will, absent a duly-provided justification accepted by the Director-General, result in separation from service.

3. Upon separation from service under the provisions of the present article, payments due upon resignation under article 11.2 will be made to the official concerned.

Conflict prevention and resolution procedures

6. At its 289th Session (March 2004), the Governing Body approved a series of amendments to the Staff Regulations resulting from the renegotiation of the *Collective Agreement on Conflict Prevention and Resolution*.² The procedures approved have been progressively implemented in 2005. As the system has become operational, the need for a few minor adjustments has emerged, mainly with respect to procedural matters of a technical nature.
7. One of the features of the new system was the harmonization of all internal review bodies and time limits established in the Staff Regulations. However, it was not possible to harmonize all timelines and this has created confusion in connection with the procedure for the application of sanctions under article 12.2 of the Staff Regulations. Clarification is needed in particular as to the relationship between the eight-day time limit provided for an official to formulate observations and comments in response to a proposal of sanction under subsection 1 of article 12.2, and the one-month time limit established under article 12.2(2) for the official to refer the proposed sanction to the Joint Advisory Appeals Board (JAAB).
8. The one-month deadline was introduced in order to provide the same period of time for officials to refer any case to the JAAB, whether a general grievance, a proposed sanction or an appeal against a decision governed by a specific provision. The eight-day time limit for the formulation of observations on any proposed sanction serves a different purpose, namely to provide the Office with an opportunity to review any proposal of sanction if the observations of the official so warrant. If the Office reviews and modifies a proposal of sanction, the official would receive a new communication that would trigger new deadlines. However, if the proposal is not modified, the one-month time limit for the official to refer the matter to the JAAB would start running from the date of receipt of the initial communication. The proposed amendment below is intended to provide the necessary clarification regarding the review procedure.

² GB.289/PFA/18.

ARTICLE 12.2

Procedure for application of sanctions

1. Before the application of any sanction other than warning, a proposal to apply it, stating the reasons for which it is made, shall be communicated in duplicate to the official concerned. The official shall initial and return one copy of the proposal within eight days of its receipt, adding to it any observations the official may wish to make.
 2. Subject to the provisions of article 12.8 of the Staff Regulations, in the case of any sanction other than warning or reprimand the official shall have the right to refer the proposal, **together with any observations made in accordance with paragraph 1 above** to the Joint Advisory Appeals Board within one month from receipt of the proposal, said period to include the eight days referred to in paragraph 1 above. Reference to the Joint Advisory Appeals Board may **also** be waived with the agreement of the official concerned.
 3. The decision to apply a sanction shall be communicated in duplicate to the official concerned, who shall initial and return one copy. In the case of a warning, the official, if **he/she** so wishes, may add **his/her** observations.
9. A few further amendments are proposed below to the procedure of the JAAB established in Annex IV of the Staff Regulations. First, the proposed amended figures in paragraphs 1 and 5 are intended to reflect the actual need for copies of the written submissions in all cases submitted to the JAAB: one for the secretariat, one for the chairperson of the panel, one for each of the two members of the panel, one for the other party in the case, and one for the registrar of the JAAB. Similarly, the additional sentence in paragraph 5 is intended to reflect the principle of due process in accordance with which the JAAB secretariat communicates to the appellant/petitioner any written submission made by the Office.
10. The three proposed additional paragraphs to Annex IV (which will prompt the renumbering of subsequent paragraphs) are also a codification of existing practice concerning communications with the parties, the suspension of cases where both parties agree, and the possibility for the withdrawal of cases. They also provide a clarification as to the time when such suspension or withdrawal can be made and the means by which they need to be communicated.

ANNEX IV

Procedure of the Joint Advisory Appeals Board

1. Any case brought to the Joint Advisory Appeals Board shall be filed with its secretary by means of the form prescribed to that effect, in ~~four~~ **six** copies, in any of the three official languages of the Office. Any communication relating to the case addressed to the official shall be written in the language used by the official or in any other official language that s/he is able to understand. The official may appoint a representative, who shall be a former or serving staff member of the Office, the United Nations or a specialized agency, or a Staff Union representative, to act on her/his behalf during the procedure before the Board.

(...)

5. The Human Resources Development Department shall dispatch its comments on the case in ~~four~~ **six** copies to the secretary of the Board within one month of receipt of notice from the secretary. **The secretary shall communicate a copy of the comments of the Human Resource Development Department to the official or the official's representative.**

xx. Any written communication of the Board with one of the parties shall be copied by the Board's secretariat to the other party.

xx. At any time before the panel begins its deliberations in the case, the parties may agree to suspend, for a specified time, the consideration of the case by written notification addressed to the Board's secretariat. If no further action is taken by the official or the official's representative following the specified period of suspension, the Board may consider the matter withdrawn.

xx. The official or the official's representative may withdraw the case, with prejudice, at any time before notification of issuance of the report by the panel by submitting a written communication addressed to the Board's secretariat notifying it of the official's intent to withdraw the case.

Effective date of changes affecting entitlements related to family status

- 11.** Article 3.17 currently foresees that changes in family status affecting entitlements shall be applied from the first day of the month following the date of the change. This was in the interest of administrative efficiency, given that pro rata applications, which were frequently retroactive, were costly to implement and had to be processed manually. With the advent of IRIS, such problems are no longer of concern. It is therefore proposed to implement such changes as of the actual date of the change in family status. This amendment to the Staff Regulations would also align processing of statutory entitlements with the practices in place for SHIF coverage. The amended article would therefore read as follows:

ARTICLE 3.17

Effective date of application or suppression of entitlements arising from changes of family status

Changes in family status affecting entitlements under articles 3.1, 3.9, 3.10, 3.11, 3.12 and 3.13 of the Staff Regulations shall be taken into account in the application of these articles as from the ~~first day of the month following the~~ date of the change.

- 12.** *The Committee may wish to recommend to the Governing Body that it approve the amendments to the Staff Regulations contained in paragraphs 5, 8, 10 and 11 above.*

Geneva, 3 February 2006.

Point for decision: Paragraph 12.