



General Assembly

Distr.: General
11 July 2013

Original: English

Sixty-eighth session

Item 141 of the preliminary list*

Human resources management

Amendments to the Staff Regulations and Rules

Report of the Secretary-General

Summary

Consistent with staff regulations 12.1 and 12.3, the present report contains the full text of amendments to existing regulations that the Secretary-General proposes to implement as at 1 January 2014, as well as the new rules and amendments to existing rules that the Secretary-General either promulgated provisionally during 2013 or proposes to implement as at 1 January 2014. The report also provides the rationale for those amendments.

The Secretary-General recommends that the General Assembly approve the amendments to the Staff Regulations and that it take note of the amendments to the Staff Rules set out in the annexes to the present report.

* A/68/50.



1. Staff regulation 12.1 provides that the present Regulations may be supplemented or amended by the General Assembly, without prejudice to the acquired rights of staff members.
2. Staff regulation 12.3 provides that the full text of provisional staff rules and amendments shall be reported annually to the General Assembly.
3. Pursuant to staff regulation 12.4, the proposed amendments contained in the annexes to the present report will take effect on 1 January 2014. The proposed amendments to subparagraphs (f) and (g) of staff rule 7.6, which the Secretary-General promulgated provisionally in order to promptly implement the decision of the General Assembly contained in its resolution 67/254 on the standards of accommodation for air travel, would enter into full force and effect on 1 January 2014, subject to any modifications or deletions that may be directed by the General Assembly.

Regulations

4. In regulation 3.3, subparagraph (f) (i) has been amended to clarify the conditions under which the Organization reimburses staff members who are subject to national income taxation in respect of salaries and emoluments paid to them by the Organization.
5. Regulation 9.2 has been amended to reflect the decision of the General Assembly in its resolution 67/257 on the mandatory age of separation for staff members appointed on or after 1 January 2014.

Rules

6. In rule 1.2, Basic rights and obligations of staff, a new subparagraph (e) has been introduced to reflect the provisions of the Secretary-General's bulletin on special measures for protection from sexual exploitation and sexual abuse (ST/SGB/2003/13). The other paragraphs of this rule have been renumbered.
7. In rule 4.15, Senior Review Group and central review bodies, subparagraph (e) has been amended and a new subparagraph (f) has been introduced to reflect that the rules of procedures shall be published and amended by the Secretary-General, and subsequent subparagraphs have been renumbered. Subparagraph (g) has been amended to align its wording with the language used.
8. In rule 4.18, Reinstatement, subparagraph (a) has been amended to clarify that it is the Secretary-General who determines whether it would be in the interest of the Organization to reinstate a staff member.
9. In rule 5.3, Special leave, subparagraph (f) has been amended to account for situations in which the Secretary-General would, at his or her own initiative, place a staff member on special leave with partial pay or without pay if he or she considers such leave to be in the interest of the Organization, for example in the case of arrest or detention of a staff member.
10. In rule 6.2, Sick leave, a subparagraph (l) has been introduced to address the issue of who bears the financial responsibility for the cost of hiring an independent

practitioner or a medical board when reviewing a decision refusing to grant sick leave that has been challenged by a staff member.

11. In rule 6.3, Maternity and paternity leave, subparagraph (a) (i) has been amended to reflect the current practice whereby the pre-delivery leave period is normally granted for two weeks.

12. In rule 7.6, Mode, dates, route and standard of travel, subparagraphs (f) and (g) have been amended to reflect the decision of the General Assembly in its resolution 67/254 to modify the basis on which the standards of accommodation for air travel shall be determined.

13. In rule 9.9, Commutation of accrued annual leave, the cross-reference is amended to include staff rule 4.17 (c) in addition to staff rules 4.18 and 5.1 as the conditions of re-employment would have an impact on the potential commutation of accrued annual leave under the new appointment.

14. In rule 10.2, Disciplinary measures, subparagraph (b) (iii) has been amended to allow for administrative leave to be granted on partial pay, and a new subparagraph (c) has been introduced to clarify the existing requirement to give staff members an opportunity to provide comments prior to the imposition of a reprimand.

15. In rule 10.3, Due process in the disciplinary process, subparagraph (a) has been amended to clarify the process.

16. In rule 10.4, Administrative leave pending investigation and the disciplinary process, subparagraphs (a), (c) and (d) have been amended to clarify the conditions under which a staff member may be placed on administrative leave.

The Secretary-General recommends that the General Assembly approve the proposed amendments to the Staff Regulations and that it take note of the amendments to the Staff Rules set out in the annexes to the present report.

Annex I

Text of amendments to the Staff Regulations

Regulation 3.3

(f) Where a staff member is subject both to staff assessment under this plan and to national income taxation in respect of the salaries and emoluments paid to him or her by the United Nations, the Secretary-General is authorized to refund to him or her the amount of staff assessment collected from him or her provided that:

(i) The amount of such refund shall in no case exceed the amount of his or her income taxes paid and payable in respect of his or her United Nations income. **The amount of such refund shall not include tax credits applied to income taxes paid and payable in respect of his or her United Nations income;**

(ii) If the amount of such income taxes exceeds the amount of staff assessment, the Secretary-General may also pay to the staff member the amount of such excess;

(iii) Payments made in accordance with the provisions of the present regulation shall be charged to the Tax Equalization Fund;

(iv) A payment under the conditions prescribed in the three preceding subparagraphs is authorized in respect of dependency benefits and post adjustments, which are not subject to staff assessment but may be subject to national income taxation.

Regulation 9.2

Staff members shall not be retained in active service beyond the age of sixty years or, if appointed ~~on or after~~ **between 1 January 1990 and 31 December 2013**, beyond the age of 62 years **or, if appointed on or after 1 January 2014, beyond the age of 65 years**. The Secretary-General may, in the interest of the Organization, extend this age limit in exceptional cases.

Annex II

Text of amendments to the Staff Rules

Rule 1.2

Specific instances of prohibited conduct

(e) Sexual exploitation and abuse is prohibited. Sexual activity with children (persons under the age of 18) is prohibited regardless of the age of majority or age of consent locally, except where a staff member is legally married to a person under the age of 18 but over the age of majority or consent in their country of citizenship. Mistaken belief in the age of a child is not a defense. Exchange of money, employment, goods or services for sex, including sexual favors or other forms of humiliating, degrading or exploitative behavior, is prohibited. United Nations staff are obliged to create and maintain an environment that prevents sexual exploitation and sexual abuse.

(fe) Any form of discrimination or harassment, including sexual or gender harassment, as well as abuse in any form at the workplace or in connection with work, is prohibited.

(gf) Staff members shall not disrupt or otherwise interfere with any meeting or other official activity of the Organization, including activity in connection with the administration of justice system, nor shall staff members threaten, intimidate or otherwise engage in any conduct intended, directly or indirectly, to interfere with the ability of other staff members to discharge their official functions. Staff members shall not threaten, retaliate or attempt to retaliate against such individuals or against staff members exercising their rights and duties under the present Rules.

(hg) Staff members shall not intentionally misrepresent their functions, official title or the nature of their duties to Member States or to any entities or persons external to the United Nations.

(ih) Staff members shall not intentionally alter, destroy, falsify or misplace or render useless any official document, record or file entrusted to them by virtue of their functions, which document, record or file is intended to be kept as part of the records of the Organization.

(ji) Staff members shall not seek to influence Member States, principal or subsidiary organs of the United Nations or expert groups in order to obtain a change from a position or decision taken by the Secretary-General, including decisions relating to the financing of Secretariat programmes or units, or in order to secure support for improving their personal situation or the personal situation of other staff members or for blocking or reversing unfavourable decisions regarding their status or their colleagues' status.

(kj) Staff members shall neither offer nor promise any favour, gift, remuneration or any other personal benefit to another staff member or to any third party with a view to causing him or her to perform, fail to perform or delay the performance of any official act. Similarly, staff members shall neither seek nor accept any favour, gift, remuneration or any other personal benefit from another staff member or from any third party in exchange for performing, failing to perform or delaying the performance of any official act.

Rule 4.15**Central review bodies**

(e) Each central review body shall elect its own chair. ~~and establish and publish its rules of procedures.~~

(f) The rules of procedures shall be established and published by the Secretary-General.

(g) Executive heads of separately administered programmes, funds and subsidiary organs of the United Nations to whom the Secretary-General has delegated the authority to appoint, select and promote staff may establish advisory bodies to advise them in the case of staff members recruited specifically for service with those programmes, funds or subsidiary organs. The composition and functions of such advisory bodies shall be generally similar to those of the central review bodies established by the Secretary-General.

Functions of the central review bodies

(h) The central review bodies shall advise the Secretary-General on all appointments of one year or longer, except in the following cases:

- (i) Appointment of candidates having successfully passed a competitive examination, in accordance with staff rule 4.16;
- (ii) Appointment at the entry level or promotion within the General Service and related categories of candidates having successfully passed an entrance test or examination, under conditions defined by the Secretary-General.

~~(ih)~~ The central review bodies shall review the process for compliance with the pre-approved **evaluation selection** criteria and shall provide advice on the recommendations for the selection of candidates. Where such advice is not in line with that of the relevant manager, the Secretary-General shall give due consideration to the advice of the central review bodies and shall make the decision.

Rule 4.18**Reinstatement**

(a) A former staff member who held a fixed-term or continuing appointment and who is re-employed under a fixed-term or a continuing appointment within 12 months of separation from service may be reinstated, **if the Secretary-General considers that such reinstatement would be in the interest of the Organization.** ~~in accordance with conditions established by the Secretary-General.~~

Rule 5.3**Special leave**

(f) In exceptional cases, the Secretary-General may, at his or her initiative, place a staff member on special leave with full **or partial pay or without pay** if he or she considers such leave to be in the interest of the Organization;

Rule 6.2**Review of decisions relating to sick leave**

(l) The cost of an independent practitioner or a medical board mentioned in (j) and (k) above shall be borne by the Organization and by the staff member under conditions established by the Secretary-General.

Rule 6.3**Maternity and paternity leave**

(a) Subject to conditions established by the Secretary-General, a staff member shall be entitled to maternity leave for a total period of 16 weeks:

- (i) The pre-delivery leave shall commence **no earlier than** six weeks **and no later than two weeks** prior to the anticipated date of birth upon production of a certificate from a duly qualified medical practitioner or midwife indicating the anticipated date of birth. ~~The pre-delivery leave may be shortened to two weeks based on a certificate from a duly qualified medical practitioner or midwife indicating fitness to continue working.~~

Rule 7.6**Route of travel**

(f) The normal route for all official travel shall be the most ~~direct and~~ economical route **available, provided that the total additional time of the whole journey does not exceed the most direct route by four hours or more.** An alternative route may be approved when the Secretary-General determines that it is in the best interest of the United Nations.

Standard of travel

(g) For all official travel by air, staff members and their eligible family members shall be provided with economy class transportation in accordance with the most ~~direct and~~ economical route **available subject to paragraph (f) above.**

Rule 9.9**Commutation of accrued annual leave**

If, ~~upon~~ **on** separation from service, a staff member has accrued annual leave, he or she shall be paid a sum of money in commutation of the period of such accrued leave up to a maximum of 18 working days for staff holding a temporary appointment and up to a maximum of 60 working days for staff holding a fixed-term or continuing appointment in accordance with staff rules **4.17 (c)**, 4.18 and 5.1. The payment shall be calculated:

- (i) For staff in the Professional and higher categories, on the basis of the staff member's net base salary plus post adjustment;
- (ii) For staff in the Field Service category, on the basis of the staff member's net base salary plus post adjustment;
- (iii) For staff in the General Service and related categories, on the basis of the staff member's gross salary, including language allowance, if any, less staff assessment according to the schedule of rates set forth in staff regulation 3.3 (b) (iii) applied to the gross salary alone.

Rule 10.2**Disciplinary measures**

(b) Measures other than those listed under staff rule 10.2 (a) shall not be considered to be disciplinary measures within the meaning of the present rule. These include, but are not limited to, the following administrative measures:

- (i) Written or oral reprimand;
- (ii) Recovery of monies owed to the Organization;
- (iii) Administrative leave with **full or partial pay** or without pay pursuant to staff rule 10.4;

(c) **A staff member shall be provided with the opportunity to comment on the facts and circumstances prior to the issuance of a written or oral reprimand pursuant to (b) (i) above.**

Rule 10.3**Due process in the disciplinary process**

(a) The Secretary-General may initiate the disciplinary process where the findings of an investigation indicate that misconduct may have occurred. ~~In such cases No disciplinary measure or non-disciplinary measure except as provided under staff rule 10.2 (b) (iii),~~ may be imposed on a staff member following the completion of an investigation unless he or she has been notified, in writing, of the ~~charges~~ **formal allegations of misconduct** against him or her, and has been given the opportunity to respond to those ~~charges~~ **formal allegations**. The staff member shall also be informed of the right to seek the assistance of counsel in his or her defence through the Office of Staff Legal Assistance, or from outside counsel at his or her own expense.

Rule 10.4**Administrative leave pending investigation and the disciplinary process**

(a) A staff member may be placed on administrative leave, subject to conditions specified by the Secretary-General, at any time **after a report of misconduct and pending the initiation of an investigation. Administrative leave may continue throughout an investigation and** until the completion of the disciplinary process.

(b) A staff member placed on administrative leave pursuant to paragraph (a) above shall be given a written statement of the reason(s) for such leave and of its probable duration, which, so far as practicable, should not exceed three months.

(c) Administrative leave shall be with full pay ~~unless~~ **except when the Secretary-General decides that in other exceptional circumstances the Secretary-General decides exist that which warrant the placement of a staff member on administrative leave with partial pay or without pay. is warranted.**

(d) Placement on administrative leave shall be without prejudice to the rights of the staff member and shall not constitute a disciplinary measure. If administrative leave is without pay and either the allegations of misconduct are subsequently not sustained or it is subsequently found that the conduct at issue does not warrant dismissal **or separation**, any pay withheld shall be restored without delay.