

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

(Submitted by the Commission to the Council on 13 June 1979)

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,

Having regard to the opinion of the Court of Justice,

Whereas Articles 2 and 3 of Council Regulation (EEC, Euratom, ECSC) No 259/68 ⁽¹⁾, as last amended by Regulation (Euratom, ECSC, EEC) No 3085/78 ⁽²⁾, 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, in the light of experience gained in applying the said Staff Regulations and the said conditions of employment and of developments in the Member States, particularly in respect of pensions and social security, certain provisions thereof should be amended,

HAS ADOPTED THIS REGULATION:

CHAPTER 1

Amendments to the Staff Regulations of officials of the European Communities

Article 1

The fifth subparagraph of Article 41 (3) is replaced by the following subparagraphs:

'The official shall furnish such written proof as may be required and inform the institution of any facts liable to affect his entitlement.

The allowance and the total remuneration last received, as referred to in the fourth subparagraph, 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 for Belgium shall be applied.

The allowance shall be expressed in Belgian francs. It shall be paid in the currency of the country of residence of the recipient.

Allowances paid in a currency other than the Belgian franc shall be calculated at the exchange rates specified in the second paragraph of Article 63.'

Article 2

The fifth paragraph of Article 50 is replaced by the following:

'The provisions of the fifth to ninth subparagraphs of Article 41 (3) shall apply.'

Article 3

In Article 52 the phrase after the word 'retired' is replaced by the following:

- either automatically on the last day of the month in which he reaches the age of 65,
- or at his own request on the last day of the month in which he reaches the age of 60; if this request was submitted within six months of the official's 60th birthday, he shall be eligible for the increase referred to in Article 5 of Annex VIII,
- or at his own request on the last day of the month in respect of which the request was submitted where he is at least 60 years of age or

⁽¹⁾ OJ No L 56, 4. 3. 1968, p. 1.

⁽²⁾ OJ No L 369, 29. 12. 1978, p. 6.

where he is between 50 and 60 years of age and satisfies the requirements for immediate payment of a pension in accordance with Article 9 of Annex VIII.

The second sentence of the second paragraph of Article 48 shall apply by analogy.'

Article 4

In Article 53 the words following the phrase 'the provisions of Article 78 apply' are replaced by 'shall automatically be retired on the last day of the month in which the appointing authority recognizes his permanent incapacity to perform his duties.'

Article 5

Article 73 (4) is deleted.

Article 6

In Article 79:

1. In the first paragraph the words 'or of age' are inserted after 'irrespective of length of service'.
2. In the second paragraph the phrase 'with the exception of leave on personal grounds for the period during which, pursuant to Article 40 (3), no pension rights have been acquired' are deleted.
3. The following third paragraph is added:
'Nor shall this amount be less than 42% of the final basic salary received by the official where death is due to one of the circumstances set out in the second paragraph of Article 78.'

Article 7

In Article 80:

- in the second paragraph the words 'recipient of' are replaced by the words 'spouse in receipt of',
- in the fourth paragraph, the phrase 'or a former official entitled to a retirement pension or to an invalidity pension' is inserted after the phrase 'on an official' and the phrase 'not being an official of the Communities' is replaced by the phrase 'not being an official or a member of the temporary staff',
- the following fifth paragraph is added:

'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, and in the event of the death of a former official who left the service before reaching the age of 60 and requested that his retirement pension be deferred until the first day of the calendar month following that in which he reached the age of 60.'

Article 8

In Title V the following Article 81a is inserted after Article 81:

'Article 81a

1. Notwithstanding any other provisions, notably those concerning the minimum amounts payable to persons entitled to a survivor's pension, the total amount payable by way of survivor's pension plus family allowances less tax and other compulsory deductions to the widow and other entitled persons may not exceed the following:
 - (a) in the event of the death of an official having one of the administrative statuses set out in Article 35 of the Staff Regulations, the amount of the remuneration which the official would have received in his grade and step if he had still been in the service, less tax and other compulsory deductions, together with any allowances received by him in accordance with Section 3 of Annex VII;
 - (b) for the period following the date on which the official referred to at (a) above would have reached the age of 65, the amount of the retirement pension to which he would have been entitled thereafter, had he been alive, based on his grade and step at the time of death, plus the family allowances which he would have received, less tax and other compulsory deductions;
 - (c) in the event of the death of a former official entitled to a retirement pension or to an invalidity pension, the amount of the pension to which he would have been entitled, had he been alive, subject to the allowances and deductions set out at (b) above;
 - (d) in the event of the death of a former official who left the service before reaching the age of 60 and

requested that his retirement pension be deferred until the first day of the calendar month following that in which he reached the age of 60, the amount of the retirement pension to which he would have been entitled at the age of 60, had he been alive, subject to the allowances and deductions set out at (b) above;

(e) in the event of the death of an official or a former official entitled to an allowance under Article 41 or Article 50 of these 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, the amount of the allowance to which he would have been entitled, had he been alive, subject to the allowances and deductions set out at (b) above;

(f) for the period following the date on which the former official referred to at (e) above would have ceased to be entitled to the allowance, the amount of the retirement pension to which he would have been entitled on that date, had he been alive, subject to the allowances and deductions set out at (b) above.

2. For the purposes of paragraph 1, weightings shall be disregarded.

3. The maximum amount as defined in subparagraphs (a) to (f) above shall be apportioned among the persons entitled to survivor's pension in proportion to their respective entitlements, paragraph 1 being disregarded for this purpose.

The second, third and fourth subparagraphs of Article 82 (1) shall apply to the amounts thus apportioned.'

Article 9

The second subparagraph of Article 82 (1) is 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 for Belgium shall be applied.

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

Article 10

The following Chapter 5 and Article 85a are inserted after Article 85:

'CHAPTER 5

Subrogation in favour of the Communities

Article 85a

1. Where the death, accidental injury or sickness of a person covered by these Staff Regulations is caused by a third party, the Commission shall, in respect of the obligations incumbent upon them under the Staff Regulations consequent upon the event causing such death, injury or sickness, stand subrogated to the rights, including rights of action, of the victim or of those entitled under him against the third party.

2. The subrogation provided for by the foregoing paragraph shall extend *inter alia* to the following:

- continued payment of remuneration in accordance with Article 59 to the official during the period when he is temporarily unfit to work,
- payments effected in accordance with Article 70 following the death of an official or of a former official entitled to a pension,
- benefits paid under Articles 72 and 73 and their implementing rules, relating to insurance against sickness and accident,
- payment of the costs involved in transporting the body, as referred to in Article 75,
- supplementary family allowances paid in accordance with Article 67 (3) and with Article 2 (3) and (5) of Annex VII in respect of a dependent child suffering from serious illness, infirmity or handicap,
- invalidity pensions paid in the event of accident or sickness resulting in permanent invalidity preventing the official from performing his duties,
- survivor's pensions paid in the event of the death of an official or of a former official or the death of the spouse of an official or of a former official entitled to a pension, where the spouse is not an official,

- orphan's pensions paid regardless of age to the child of an official or former official prevented by serious illness, infirmity or handicap from earning a livelihood after the death of the person on whom he was dependent.

3. However, the Communities shall not be subrogated to rights of compensation in respect of purely personal damage such as non-material injury, damages for pain and suffering or compensation for disfigurement and loss of amenity over and above the allowance granted under Article 73. Under no circumstances shall subrogation be to the detriment of the official.'

Article 11

Article 105 is repealed.

Article 12

In the first and second indents of paragraph 2 and in paragraphs 4 to 6 of Article 107, '65' is replaced by '60'.

Article 13

The following Article 107a is inserted after Article 107:

'Article 107a

The provisions of Article 107, as in force until, shall continue to apply to officials covered by the said provisions who remain in service after the age of 60.'

Article 14

The final paragraph of Article 2 of Regulation (EEC, Euratom, ECSC) No 259/68, under which Articles 93 to 105 of the Staff Regulations of officials of the European Coal and Steel Community continue to apply, shall have effect as if it replaced the reference to 65 years of age in Article 102 (2) (b), (d), (e) and (f) of the said Staff Regulations by a reference to 60 years of age.

The said Article 102, as in force until, shall continue to apply to officials covered by it who remain in service after the age of 60.

Article 15

In Annex VIII, Article 4 is replaced by the following:

'Article 4

An official who having previously completed a period of activity in the service of one of the institutions either as an official or as a member of the temporary staff resumes active employment with a Community institution shall acquire further pension rights. He may request that, for the purpose of calculating his pension rights, the whole of this period of service as an official or a member of the temporary staff be taken into account, subject to his repaying any sums paid to him pursuant to Article 12 below or to Article 39 of the conditions of employment of other servants or received by him by way of retirement pension, plus compound interest at the rate of 3.5% per annum.

Where the official, being entitled to a retirement pension, does not repay the sums referred to in the preceding paragraph, a capital sum representing the actuarial equivalent of his retirement pension as at the date on which such pension ceased to be paid to him, plus compound interest at the rate of 3.5% per annum, shall be paid to him in the form of a deferred retirement pension payable at the age when he ceases to perform his duties.

Where an official, on terminating his service, is entitled to a severance grant, this grant shall be reduced by the amount of the payments made under Article 42 of the conditions of employment of other servants; where he is entitled to a retirement pension, his pension rights shall be reduced in proportion to the payments made under that Article.'

Article 16

Article 5 of Annex VIII is replaced by the following:

'Article 5

Notwithstanding the provisions of Article 2, an official who, having one of the administrative statuses set out in Article 35 of the Staff Regulations and having less than 35 years of pensionable service at the age of 60 has, at his own request, been permitted to retire in accordance with the second indent of Article 52 of the Staff Regulations, shall be entitled to an increase in pension equal to one quarter of the pension rights already accruing to him. He shall also be entitled to an increase in pension corresponding to two and a half years of pensionable service, but so that his total pension shall not exceed 70% of his final basic salary calculated in accordance with the second or third paragraph, whichever is applicable, of Article 77 of the Staff Regulations.'

Article 17

In Annex VIII the following Article 5a is inserted after Article 5:

'Article 5a

The provisions of Article 5 of Annex VIII, as in force up to, shall continue to apply:

- to an official who, having one of the administrative statuses set out in Article 35 of the Regulations on remains in service after the age of 60,
- to a former official entitled after the age of sixty 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.

However, in the case of the official referred to in the first indent, who, being aged over 60 on ... is at his own request granted a retirement pension before the age of 65, the increase in pension received pursuant to Article 5 of Annex VIII as in force up to shall be made up to one quarter of the amount of pension rights acquired by him at the age of 60.

The beneficiary shall also receive an increase corresponding to half the years of pensionable service which he would have acquired had he remained in service until the age of 65, excluding however any other increase provided for under the former provisions of Article 5 of Annex VIII, but so that his total pension shall not exceed 70% of his final basic salary calculated in accordance with the second or third paragraph, whichever is applicable, of Article 77 of the Staff Regulations.'

Article 18

In Article 9 of Annex VIII:

- in the first sentence the phrase 'or having left' is inserted after the word 'leaving',
- the following paragraph is added:

'The above coefficients shall not, however, be applied to the retirement pension granted at the official's own request, in accordance with rules to be adopted by agreement between the institutions, to an official having one of the administrative statuses set out in Article 35 of the Staff Regulations prior to his retirement

who, during the five years following the accession of a new Member State, provides proof that he is between the ages of 50 and 60. For the purposes of Articles 72 and 81 of the Staff Regulations, such official shall be deemed to have remained in the service of the Communities until the age of 60.'

Article 19

The following paragraph is added to Article 11 of Annex VIII:

'3. An official who, having exercised all the rights which he enjoys under paragraph 2, still cannot have a number of years of pensionable service credited to him which is equivalent to the number of working years in respect of which he has made the payment specified in paragraph 2, may request that the remaining years be taken into account.

An official who by reason of the nature of his employment prior to appointment as an official is not eligible for the procedure of paragraph 2 may, in so far as he is not already entitled to a pension in respect of the years during which he was so employed, request that those years be credited to him.

An official may take advantage of the facility offered in the two foregoing subparagraphs upon payment of the relevant sum by way of monthly deductions from his remunerations; these instalments may not exceed the rate laid down in Article 83 (2) of the Staff Regulations, for which purpose weightings shall be disregarded, and his total pension may not exceed the maximum retirement pension provided for in Article 77 of the Staff Regulations.

For every three years of monthly payments as specified above the official shall be credited with one year of pensionable service. For every fraction of three years he shall be credited with a corresponding fraction of one year of pensionable service. If the deductions are lower than the rate specified in the foregoing subparagraph, the period to be credited shall be reduced proportionately.

The procedure to be followed and the transitional measures whereby officials who are unable to make the necessary number of payments before retirement shall be able to transfer their pension rights shall be fixed by each institution. The number of years credited on this basis may not however exceed one third of the number of years spent in the service of the institutions.'

Article 20

The first paragraph of Article 14 of Annex VIII is replaced by the following:

'The right to receive payment of invalidity pension shall have effect from the first day of the calendar month following the official's retirement under Article 53 of the Staff Regulations.'

Article 21

In the first paragraph of Article 17 of Annex VIII the words 'or of age' are inserted after 'irrespective of length of service'.

Article 22

The following new Article 17a is inserted after Article 17 of Annex VIII:

'Article 17a

Subject to the provisions of 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 preceding 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 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 those children.

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 23

In Article 19 of Annex VIII the words 'subject to the provisions of Article 22 and' are inserted after 'shall be entitled'.

Article 24

In Article 20 of Annex VIII, the words 'Articles 18 and 19' are replaced by 'Articles 17a, 18, 18a and 19'.

Article 25

In the first paragraph of Article 23 of Annex VIII the word 'or' is inserted at the end of the second indent and the following third indent is added

'— where the official's death occurs in one of the circumstances described in the second paragraph of Article 78 of the Staff Regulations, half the invalidity pension to which the official would have been entitled if, had he not died, he would have suffered from total permanent invalidity'.

Article 26

Article 27 of Annex VIII is amended to read as follows:

'The divorced wife of an official or a former official shall be entitled on his death to a survivor's pension, as defined in this Chapter, provided that the Court which pronounced the decree of divorce did not find that the divorced wife was solely to blame.

The divorced wife must also prove on the death of her former husband that she is entitled to receive maintenance from her former husband in her own right by virtue of a court order or as a result of a settlement between herself and her former husband.

The survivor's pension may not, however, exceed the amount of such maintenance, the amount having being adjusted in the same way as the survivor's pension.

The divorced wife's entitlement shall cease if she remarries before her former husband dies. The provisions of Article 26 shall apply if she remarries after her former husband dies.'

Article 27

The first paragraph of Article 28 of Annex VIII is replaced by the following:

'Where the deceased official leaves more than one divorced wife entitled to survivor's pension or one or more divorced wives and a widow entitled to a

survivor's pension, that pension shall be divided in proportion to the duration of the marriages. The provisions of the second and third paragraphs of Article 27 shall apply.'

Article 28

In Article 30 of Annex VIII the words 'in active employment' are replaced by the words 'having one of the statuses listed in Article 35 of the Staff Regulations'; (the second amendment does not affect the English version).

Article 29

(This amendment does not affect the English version).

Article 30

The following new Article 31a is inserted after Article 31 of Annex VIII:

'Article 31a

The spouse or persons recognized as dependants of a former official within the meaning of Article 18a of Annex VIII, or of a former official entitled to an allowance either under Article 50 of the Staff Regulations or under Regulations (EEC, Euratom, ECSC) No 259/68 or (Euratom, ECSC, EEC) No 2530/72 or (ECSC, EEC, Euratom) No 1543/73 may, if the former official's whereabouts are unknown for more than one year, provisionally receive the survivor's pension to which they would be entitled under this Annex.'

Article 31

(This amendment does not affect the English version.)

Article 32

In Article 33 of Annex VIII:

- a reference to Article 31a is inserted between the references to Articles 31 and 32,
- the words 'or pensioner' are replaced by the words 'or former official'.

Article 33

1. The words 'or former official' are inserted after the word 'official' or the words 'or former official's' are

inserted after 'official's' (as the case may be) in the first subparagraph of Article 21 (1), the third paragraph of Article 22, the first and last paragraphs of Article 23, the first sentence of Article 24, Article 25, the second paragraph of Article 34, Article 42 and Article 46 of Annex VIII.

2. The words 'the official' are replaced by 'the former official' or the words 'the official's' are replaced by 'the former official's' (as the case may be) in the second and third paragraphs of Article 14, Articles 15 and 16, the second paragraph of Article 18 (a), the second indent of Article 23, and Articles 31 and 43 of Annex VIII.

Article 34

The last paragraph of Article 45 of Annex VIII is deleted.

Article 35

Article 47 of Annex VIII is deleted.

CHAPTER 2

Amendments to the conditions of employment of other servants of the Communities

Article 36

A second paragraph is added to Article 13, reading as follows:

'Article 33 of the Staff Regulations shall apply by analogy.'

Article 37

Article 15 is amended as follows:

1. The two former paragraphs are joined as paragraph 1.
2. The following new paragraph is added:
 - '2. Article 43 of the Staff Regulations, concerning reports, shall apply by analogy to servants within the meaning of Article 2 (a), (c) and (d).'

Article 38

In the second paragraph of Article 16, the words 'not less than one month' are replaced by 'not less than 12 months'.

Article 39

The last paragraph of Article 28 is replaced by the following:

'If a member of the temporary staff proves that he cannot obtain cover under any other public sickness insurance scheme, he may, on application made at

the latest within one month following the expiry of his contract, continue to benefit from the sickness cover provided for in the first paragraph of this Article, for a period of not more than six months after the expiry of his contract. The contributions provided for in Article 72 (1) of the Staff Regulations shall be based on his last basic salary and half thereof shall be charged to him.

The appointing authority may, after obtaining the advice of the institution's medical officer, decide that the one-month time limit within which the application must be made in accordance with the preceding paragraph shall not apply where the person concerned is suffering from a serious or protracted illness contracted during his employment, which he has reported to the institution before the end of the six-month period provided for in the preceding paragraph, on condition that the person concerned undergoes a medical examination arranged by the institution.'

Article 40

The following new Article 28a is inserted after Article 28:

'Article 28a

A former member of the temporary staff who after the expiry of his contract is eligible for unemployment benefit or who would be eligible if he were not suffering from incapacity for work shall be covered against sickness and maternity risks under the compulsory social security scheme of the country in which he establishes his residence as regards:

- the allowances provided for by that scheme in the event of incapacity for work,
- payments other than those allowances, provided for by the scheme in the event of sickness or maternity.

Where the former member of the temporary staff is entitled to the benefits referred to in the second indent of the foregoing paragraph, his dependants shall be entitled to the same benefits.

The control, payment and reimbursement procedures shall be similar to those described in the second sentence of Article 28b.'

Article 41

The following new Article 28b is inserted after Article 28a:

'Article 28b

A former member of the temporary staff shall be entitled to unemployment benefit under the

compulsory unemployment insurance scheme in the Community country in which he establishes his residence. He shall be subject to the control and payment procedures laid down by the scheme; the institution shall reimburse the scheme for the sum paid in benefits.'

Article 42

A further paragraph as follows is added to Article 32:

'The servant may appeal against this decision to the Invalidity Committee provided for in Article 9 (1) of the Staff Regulations.'

Article 43

Article 33 is amended as follows:

1. In the third subparagraph of paragraph 1, the words 'by 2% for each year of pensionable service with which he has been credited under Article 11 (2) and (3) of Annex VIII of the Staff Regulations and' are inserted after the words 'this rate shall be increased'.

2. The last subparagraph of paragraph 1 is replaced by the following:

'Persons entitled to an invalidity pension shall also be entitled to the family allowances provided for in Article 67 of the Staff Regulations, in accordance with Annex VIII of the Staff Regulations; household allowance shall be determined on the basis of the recipient's pension.'

3. Paragraph 4 is amended as follows:

- (a) The second subparagraph is replaced by the following:

'If a servant is not re-engaged by the Communities, he shall be entitled, at his own option:

- either to the severance grant provided for in Article 39 calculated on the basis of the actual length of service;
- or, where he is a servant within the meaning of Article 2 (a), (c) or (d) and has reached the age of at least 50 years, to a retirement pension in accordance with Chapter 3 of Title V of the Staff Regulations and Annex VIII to the Staff Regulations.'

- (b) The following third subparagraph is inserted:

'The time during which he received invalidity pension shall be included for the purpose of calculating his retirement pension, without payment by him of arrears of contributions.'

Article 44

Article 34 is amended as follows:

1. The last sentence of the first paragraph is deleted.

2. The second paragraph is deleted.
3. In the third paragraph, which now becomes the second, the words 'entitled to an invalidity pension or a former servant' are inserted after the words 'where a former servant', and the phrase '(c) or (d)' is replaced by the phrase '(a), (c) or (d)'.

4. The following paragraph is added:

'Where the whereabouts of a member of the temporary staff, or of a former member of temporary staff entitled to an invalidity or retirement pension, or of a former member of temporary staff who left the service before he reached the age of 60 and who has requested that his retirement pension be deferred until the first day of the calendar month following that in which he reaches the age of 60, are unknown for more than one year, the provisions of Chapters 5 and 6 of Annex VIII to the Staff Regulations dealing with provisional pensions shall apply by analogy to his spouse and to persons recognized as his dependants.'

Article 45

The first paragraph of Article 36 is amended to read as follows:

'The widow of a servant shall be entitled to a widow's pension in accordance with Chapter 4 of Annex VIII to the Staff Regulations. The pension shall be not less than 35% of the final basic monthly salary received by the servant, nor less than the minimum subsistence figure defined in Article 6 of Annex VIII to the Staff Regulations. Where a servant within the meaning of Article 2 (c) or (d) dies, the amount of the widow's pension shall be increased to 60 % of the retirement pension which the servant would have been paid if he had qualified, irrespective of length of service or age, for such pension at the time of his death.'

Article 46

Article 37 is amended as follows:

1. The following paragraph is inserted after the third paragraph:

'In the event of the death of a former member of the temporary staff within the meaning of Article 2 (a), (c) or (d) who left the service before reaching the age of 60 and requested that his retirement pension be deferred until the first day of the calendar month following that in which he reached the age of 60, children deemed to be his dependants in accordance

with Article 2 of Annex VII to the Staff Regulations shall be entitled to an orphan's pension on the same conditions as those set out in the foregoing paragraphs.'

2. In what was the fourth paragraph, the words 'or of a former member of the temporary staff entitled to a retirement or invalidity pension' are inserted after the second occurrence of the words 'of a member of the temporary staff'; the words 'on the latter' are replaced by 'on the surviving spouse'.

Article 47

The following new Article 38a is inserted after Article 38:

'Article 38a

Article 81a of the Staff Regulations, relating to ceilings and apportionment, shall apply by analogy.'

Article 48

Article 39 is amended as follows:

1. The first subparagraph of paragraph 1 is replaced by the following:

'On leaving the service a servant within the meaning of Article 2 (b) shall be entitled to a severance grant as provided in Article 12 of Annex VIII to the Staff Regulations.'

2. In paragraph 2 the phrase '(c) or (d)' is replaced by the phrase '(a), (c) or (d)'.
3. The following new paragraph 3 is inserted:

'3. A person who became entitled to a retirement pension at the age of 60 or thereafter shall be entitled to the family allowances provided for in Article 67 of the Staff Regulations in accordance with Annex VII to the Staff Regulations; the household allowance shall be calculated on the basis of the recipient's pension.'

Article 49

Chapter 6 is amended as follows:

1. — Section D is entitled as follows: '*Funding of the invalidity and life assurance scheme and of the pension scheme.*'
- Article 41 is to read as follows: 'As regards the funding of the social security scheme provided

for in Sections B and C, Article 83 of the Staff Regulations and Articles 36 and 38 of Annex VIII to the Staff Regulations shall apply by analogy.'

2. After Article 42 a new Section E is inserted, containing Article 43 which is amended to read as follows:

'Section E — Settlement of claims by temporary staff

Article 43

Articles 40, 41, 42, 43 and 44 of Annex VIII to the Staff Regulations shall apply by analogy.'

3. After Article 43 a new Section F is inserted, containing Article 44 which is amended to read as follows:

'Section F — Payment of benefits

Article 44

Article 82 of the Staff Regulations and Article 45 of Annex VIII to the Staff Regulations, concerning the payment of benefits, shall apply by analogy.

Any sums due from a member of the temporary staff to the Communities under this insurance scheme at the date when the benefits are payable shall be deducted from the amount of his benefit or from the benefits payable to those entitled under him in manner determined by the institution referred to in Article 45 of Annex VIII to the Staff Regulations. The deduction may be spread over a number of months.'

4. After Article 44, a new Section G entitled '*Subrogation in favour of the Communities*' is inserted containing the following new Article 44a:

'Article 44a

The provisions of Article 85a of the Staff Regulations, relating to subrogation in favour of the Communities shall apply by analogy.'

Article 50

Article 49 is amended as follows:

1. Paragraph 1 is replaced by the following:

'1. After the disciplinary procedure provided for in Annex IX to the Staff Regulations, which shall apply by analogy, has been followed, employment may be terminated without notice on disciplinary grounds in serious cases of intentional or negligent failure of temporary staff to comply with their obligations. A reasoned decision shall be taken by the authority referred to in the first paragraph of Article 6, after the servant concerned has been given an opportunity of submitting his defence.

Before his employment is terminated, a member of temporary staff may be suspended, in accordance with Article 88 of the Staff Regulations, which shall apply by analogy.'

2. In paragraph 2 the words 'In such cases' are replaced by the following: 'Where employment is terminated in accordance with paragraph 1.'

Article 51

Paragraph 2 of Article 50 is replaced by the following:

'2. In such cases the authority referred to in the first paragraph of Article 6 shall, after hearing the servant concerned, and after the disciplinary procedure provided for in Annex IX to the Staff Regulations, which shall apply by analogy, has been followed, declare that his employment is terminated.

Before his employment is terminated, a member of temporary staff may be suspended in accordance with Article 88 of the Staff Regulations, which shall apply by analogy.

The provisions of Article 49 (2) shall apply.'

Article 52

The following new Article 50a is inserted after Article 50:

'Article 50a

Without prejudice to Articles 49 and 50, any intentional or negligent failure by a member of the temporary staff or of a former member of the temporary staff to comply with his obligations under these Conditions of Employment shall render him liable to disciplinary action in accordance with Title VI of the Staff Regulations and where applicable Annex IX to the Staff Regulations, the provisions of which shall apply by analogy.'

Article 53

The following sentence is added to Article 59:

'Paid sick leave shall not, however, exceed the length of time, which must in any event be not less than one month, worked by a member of the auxiliary staff.'

CHAPTER 3

Transitional provisions

Article 54

1. A person entitled to a pension or allowance whose pecuniary entitlements are reduced by reason of this

Regulation shall receive an allowance, calculated monthly, equal to the difference between the net amounts received prior to the entry into force of this Regulation and the net amounts received pursuant to the new provisions.

For the purpose of calculating the net amounts received prior to the entry into force of this Regulation, the recipient shall be deemed to have been in the same circumstances as to dependants as apply at the time of calculation of the allowance.

For the purpose of calculating the net amounts referred to in the first and second paragraphs, weightings shall be disregarded. This allowance shall be weighted and paid in manner provided in Article 82 (1).

It shall cease to be payable not later than six years following the entry into force of this Regulation.

2. These provisions shall apply by analogy to temporary staff.

3. They shall also extend to persons entitled to a survivor's pension under Articles 27 and 28 of Annex VIII to the Staff Regulations.

4. An official aged 60 or over when this Regulation enters into force shall be given longer than the length of time specified in the new second indent of Article 52 of the Staff Regulations to submit a request for retirement.

CHAPTER 4

Final provisions

Article 55

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

However, Article 54 (3) shall take effect from 4 May 1978.

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