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*(Acts whose publication is obligatory)***COUNCIL REGULATION (ECSC, EEC, Euratom) No 2799/85****of 27 September 1985****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,

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 (ECSC, EEC, Euratom) No 1915/85 ⁽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, the amendments laid down in this Regulation should be made, it being understood that the other questions referred to in the Commission proposal should remain open,

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 shall be equal to 100.

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.'

⁽¹⁾ OJ No L 56, 4. 3. 1968, p. 1.⁽²⁾ OJ No L 180, 12. 7. 1985, p. 3.

Article 2

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

'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 respect of which the request was submitted where he is at least 60 years of age or 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 'or of age' is 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' is deleted.
3. The following third paragraph is added:

'This amount shall not 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

The following Article is inserted after Article 79:

'Article 79a

The provisions of Article 79 shall apply *mutatis mutandis* to the widower of an official or of a former official.'

Article 8

In Article 80:

- In the second paragraph 'recipient of' is replaced by 'spouse in receipt of'.
- The first sentence of the fourth paragraph is replaced by the following:

'Where the spouse, not being an official or member of the temporary staff, of an official or of a former official in receipt of a retirement pension or an invalidity pension dies, the children being dependent within the meaning of Article 2 of Annex VII on the surviving spouse shall be entitled to an orphan's pension in accordance with Article 21 of Annex VIII;'

- The following is added to the end of the fifth paragraph:

'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 sixty'.

Article 9

The following Article 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, the amount of the remuneration which the official would have received in the same grade and step if he had still been in the service, plus any family allowances received by him in that case and less tax and other compulsory deductions;
- (b) for the period following the date on which the official referred to in (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 the same grade and step at the time of death, plus any 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 referred to in (b);

- (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 referred to in (b);
- (e) in the event of the death of an official or a former official entitled, on the day of his death, to an allowance under Article 41 or 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, Article 3 of Regulation (ECSC, EEC, Euratom) No 1543/73, Article 2 of Regulation (ECSC, EEC, Euratom) No 2150/82 or Article 3 of Regulation (ECSC, EEC, Euratom) No 1679/85, the amount of the allowance to which he would have been entitled, had he been alive, subject to the allowances and deductions set out in (b);
- (f) for the period following the date on which the former official referred to in (e) 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 and satisfied the relevant age requirements for the grant of pension rights, subject to the allowances and deductions set out in (b).

2. For the purposes of paragraph 1, weightings shall be disregarded, which could affect the various amounts in question.

3. The maximum amount as defined in subparagraphs (a) to (f) above shall be apportioned among the persons entitled to a 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 10

The following chapter and Article are added 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 Communities 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 paragraph 1 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 nor a member of the temporary staff,
- orphan's pensions paid regardless of age to the child of an official or former official where that child is 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 for those headings under Article 73.

4. The provisions of paragraphs 1, 2 and 3 may not be a bar to direct action by the Communities.'

Article 11

Article 105 is repealed.

Article 12

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 the period of service as an official or a member of the temporary staff for which contributions have been paid be taken into account, subject to his repaying any sums paid to him pursuant to Article 12 of this Annex 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 first 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 13

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 14

In the first paragraph of Article 17 of Annex VIII, 'or of age' is added after 'irrespective of length of service'.

Article 15

In the first paragraph of Article 19 of Annex VIII, 'subject to the provisions of Article 22' is added after 'shall be entitled.'

Article 16

In Article 20 of Annex VIII, 'For the purpose of Articles 18 and 19' is replaced by 'For the purpose of Articles 17a, 18, 18a, and 19'.

Article 17

In Article 21 (1) of Annex VIII 'first, second and third paragraphs' is inserted after 'Article 80'.

Article 18

In Annex VIII, Article 23 is deleted.

Article 19

In Annex VIII, Article 27 is replaced by the following :

Article 27

The divorced wife of an official or a former official shall be entitled to a survivor's pension, as defined in this chapter, provided that, on the death of her former husband, she can justify entitlement on her own account to receive maintenance from him 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 maintenance paid at the time of her former husband's death, the amount having been adjusted in accordance with the procedure laid down in Article 82 of the Staff Regulations.

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 20

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 respective duration of the marriages. The provisions of the second and third paragraphs of Article 27 shall apply.'

Article 21

In Article 30 of Annex VIII :

- 'in active employment' is replaced by 'having one of the statuses listed in Article 35 of the Staff Regulations',
- the second amendment does not affect the English version.

Article 22

This amendment does not affect the English version.

Article 23

The following Article 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 259/58 or (Euratom, ECSC, EEC), No 2530/72 or (ECSC, EEC, Euratom) No 1543/73 or (ECSC, EEC, Euratom) No 2150/82 or (ECSC, EEC, Euratom) No 1679/85 may, if the former official's whereabouts are unknown for more than one year, provisionally receive a survivor's pension to which they would be entitled under this Annex.'

Article 24

This amendment does not affect the English version.

Article 25

In Article 33 of Annex VIII:

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

Article 26

1. The words 'or former official in receipt of a retirement or invalidity pension' are inserted after the word 'official' or the words 'or that of a former official in receipt of a retirement or invalidity pension' 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 sentence of the first paragraph of Article 24, Article 25, the second paragraph of Article 34, Article 42 and Article 46 of Annex VIII.
2. In Annex VIII:
 - 'the official' is replaced by 'the former official' in the second and third paragraphs of Article 14, Article 15 and Article 43,
 - 'the official' is replaced by 'the former official' in the third paragraph of Article 14 and the second paragraph of Article 18a,
 - 'where an official' is replaced by 'where a former official' in Article 16,
 - 'of an official' is replaced by 'of a former official' in Article 31.

Article 27

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

Article 28

Article 47 of Annex VIII is deleted.

CHAPTER 2

AMENDMENTS TO THE CONDITIONS OF EMPLOYMENT OF OTHER SERVANTS OF THE COMMUNITIES

Article 29

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

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

Article 30

In Article 15:

1. The two current paragraphs become paragraph 1.
2. The following paragraph is added:
 - '2. The provisions of 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 31

In Article 16, the second paragraph is replaced by the following:

'The paid sick leave provided for in Article 59 of the Staff Regulations shall not, however, exceed three months or the length of time worked by the

member of the temporary staff, where the latter is longer. The leave shall not extend beyond the term of his contract.'

Article 32

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 sickness insurance scheme provided for by law or regulation, 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, 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 and the six-month limit provided for in 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 33

The following Article is inserted after Article 28 :

Article 28a

1. A former member of the temporary staff who is unemployed when his service with an institution of the European Communities has been terminated :

- who is not in receipt of a retirement or invalidity pension from the European Communities,
- whose service is not terminated by resignation or by cancellation of the contract for disciplinary reasons,
- who has completed a minimum of six months' service,
- and who is resident in a Member State of the Communities,

shall be eligible for a monthly unemployment allowance under the conditions laid down below.

Where he is entitled to unemployment benefits under a national scheme, he shall be obliged to declare this to the institution to which he belonged, which shall immediately inform the Commission thereof. In such cases, the amount of those benefits will be deducted from the allowance paid under paragraph 3.

2. To be eligible for this unemployment allowance, a former member of the temporary staff shall :

- (a) be registered, at his own request, as seeking employment with the employment authorities of the Member State in which he establishes his residence ;

- (b) fulfil the obligations laid down by the law of that Member State for persons in receipt of unemployment benefits under that law ;

- (c) forward every month to the institution to which he belonged, which shall immediately forward it to the Commission, a certificate issued by the competent national employment authority stating whether or not he has fulfilled the obligations and conditions referred to in (a) and (b).

The allowance may be granted or maintained by the Community, even where the national obligations referred to under (b) have not been fulfilled, in cases of illness, accident, maternity, invalidity or a situation recognized as being similar or where the national authority, competent to meet those obligations, has given a dispensation.

The Commission shall, after obtaining the opinion of a Committee of experts, lay down such provisions as it deems necessary for applying this Article.

3. The unemployment allowance shall be fixed with reference to the basic salary reached by the former member of the temporary staff at the time of the termination of his service. This allowance shall be fixed at :

- 60 % of the basic salary for an initial period of 12 months,
- 45 % of the basic salary from the 13th till the 18th month,
- 30 % of the basic salary from the 19th till the 24th month.

The amounts thus calculated shall neither be less than Bfrs 30 000 nor more than Bfrs 60 000.

The lower and upper amounts referred to above may be examined annually by the Council, upon a proposal from the Commission.

4. The unemployment allowance shall be paid to the former member of the temporary staff for a maximum of 24 months from the date of termination of service. If, however, during that period the former member of the temporary staff ceases to fulfil the conditions laid down in paragraphs 1 and 2, payment of the unemployment allowance shall be suspended. Payment shall be resumed if before the expiry of that period the former member of the temporary staff again fulfils the said conditions and has not acquired the right to national unemployment benefit.

5. A former member of the temporary staff who is eligible for the unemployment allowance shall be entitled to the family allowances provided for in Article 67 of the Staff Regulations. The household allowance shall be calculated on the basis of the unemployment allowance under the conditions laid down in Article 1 of Annex VII to the Staff Regulations.

The person concerned shall be obliged to declare any allowances of the same kind paid from other sources to himself or to his spouse; such allowances shall be deducted from those to be paid on the basis of this Article.

A former member of the temporary staff who is eligible for the unemployment allowance shall be entitled, as provided for in Article 72 of the Staff Regulations, to insurance cover against sickness without having to make any contribution.

6. The weighting for the Member State in which a former member of the temporary staff proves that he is resident shall be applied to the unemployment allowance and the family allowances. The weighting applicable to the unemployment allowance shall always be the one resulting from the latest annual revision. These amounts shall be paid by the Commission in the currency of the country of residence; they shall be converted at the exchange rates provided for in the second paragraph of Article 63 of the Staff Regulations.

7. A member of the temporary staff shall contribute a third of the financing of the unemployment insurance scheme. That contribution shall be fixed at 0,4 % of the basic salary of the person concerned, not taking into account the weightings provided for in Article 64 of the Staff Regulations of officials. That contribution shall be deducted monthly from the salary of the person concerned and paid, together with the remaining two-thirds to be borne by the institution, into a Special Unemployment Fund. That Fund shall be common to the institutions and the latter shall pay their contributions to the Commission each month, no later than eight days after the payment of remunerations. All expenditure arising out of the application of this Article shall be authorized and paid by the Commission in accordance with the provisions of the Financial Regulation applicable to the general budget of the European Communities.

8. The unemployment allowances paid to a former member of the temporary staff who is unemployed shall be subject to Regulation (EEC, Euratom, ECSC) No 260/68 laying down the conditions and procedure for applying the tax for the benefit of the European Communities.

9. The national departments with responsibility for employment and unemployment, acting in accordance with their national legislation, and the Commission shall cooperate with each other in an effective manner in order to ensure that this Article is properly applied.

10. The detailed arrangements for applying this Article shall be the subject of rules laid down by

mutual agreement between the Institutions of the Communities, after obtaining the opinion of the Staff Regulations Committee, without prejudice to the provisions of the final subparagraph of paragraph 2.

11. One year after the introduction of this unemployment insurance scheme and every two years thereafter, the Commission shall submit a report on the financial situation of the scheme to the Council. Independently of this report, the Commission may submit to the Council proposals adjusting the contributions provided for in paragraph 7 if the application of the scheme so requires. The Council shall act on these proposals in accordance with the conditions laid down in the third subparagraph of paragraph 3.

Article 34

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 4 (1) of the Staff Regulations.'

Article 35

Article 33 is amended as follows :

1. In the third subparagraph of paragraph 1, 'by 2 % for each year of pensionable service with which he has been credited under Article 11 (2) and (3) of Annex VIII to the Staff Regulations and' shall be 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 VII to the Staff Regulations; household allowance shall be determined on the basis of the recipient's pension.'

3. In paragraph 4 :

(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, 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 36

In Article 34 :

1. The last sentence of the first paragraph is deleted.
2. The second paragraph is deleted.
3. In the third paragraph, 'in receipt of an invalidity pension or a former servant' is inserted after 'where a former servant', and '(c) or (d)' is replaced by '(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 in receipt of 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 37

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 (a), (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 of age, for such pension at the time of his death.'

The third paragraph is deleted.

Article 38

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 respectively in the foregoing paragraphs.'

2. In the fourth paragraph, 'or of a former member of the temporary staff in receipt of a retirement or invalidity pension' is inserted after the second occurrence of 'of a member of the temporary staff' ; 'on the latter' is replaced by 'on the surviving spouse', and 'the last paragraph of Article 80' is replaced by 'the fourth paragraph of Article 80'.

Article 39

The following Article is inserted after Article 38 :

Article 38a

The rules relating to ceilings and apportionment set out in Article 81a of the Staff Regulations shall apply by analogy.'

Article 40

Article 39 is amended as follows :

1. The first subparagraph of paragraph 1 is replaced by the following :
 - '1. On leaving the service a servant within the meaning of Article 2 (b) shall be entitled to a severance grant calculated in accordance with Article 12 of Annex VIII to the Staff Regulations.'
2. In paragraph 2, '(c) or (d)' is replaced by '(a), (c) or (d)'.
3. The following paragraph 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 allowance 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 41

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 shall read as follows: 'As regards the funding of the social security scheme provided for in section B and C, the provisions of Article 83 of the Staff Regulations and of Articles 36 and 38 of Annex VIII thereto shall apply by analogy.'

2. After Article 42 the following section is inserted, containing Article 43 which is amended to read as follows:

'Section E

SETTLEMENT OF CLAIMS BY TEMPORARY STAFF

Article 43

Articles 40 to 44 of Annex VIII to the Staff Regulations shall apply by analogy.'

3. After Article 43 the following section is inserted, containing Article 44 which is amended to read as follows:

'Section F

PAYMENT OF BENEFITS

Article 44

Articles 81a and 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 a manner to be 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, the following section and Article 44a are inserted:

'Section G

SUBROGATION IN FAVOUR OF THE COMMUNITIES

Article 44a

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

Article 42

In Article 49:

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, 'In such cases' is replaced by the following:

'Where employment is terminated in accordance with paragraph 1,'

Article 43

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 44

The following Article 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 45

The following sentence is inserted after the first sentence of Article 59:

'Paid sick leave shall not, however, exceed one month or the length of time worked by a member of the auxiliary staff, where the latter period is longer.'

CHAPTER 3

TRANSITIONAL PROVISIONS

Article 46

1. A person entitled to a pension or allowance whose pecuniary entitlements are reduced by reason of the adoption of this Regulation shall receive an allowance, calculated monthly, equal to the difference between the net amounts received by that person prior to the entry into force of this Regulation and the net amounts received by that person pursuant to the new provisions.

For the purpose of calculating the net amounts received by that person prior to the entry into force of this Regulation, the recipient shall be deemed to have been in the same circumstances with regard 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 subparagraphs, weightings shall be disregarded.

This allowance shall be weighted and paid in accordance with the conditions laid down in Article 82 (1) of the Staff Regulations.

2. These transitional provisions shall also apply to persons entitled to a survivor's pension under Annex VIII to the Staff Regulations as in force prior to these amendments.

3. These provisions shall apply by analogy to persons entitled under members of the temporary staff.

CHAPTER 4

FINAL PROVISIONS

Article 47

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

However, Article 46 (2) shall take effect from 4 May 1978, and Article 27 from 27 July 1983.

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

Done at Luxembourg, 27 September 1985.

For the Council
The President
R. STEICHEN