

**GENERAL IMPLEMENTING PROVISIONS CONCERNING
FAMILY ALLOWANCES (HOUSEHOLD, EDUCATION)
(ARTICLES 67 AND 68 OF THE STAFF REGULATIONS
AND ARTICLES 1, 2 AND 3 OF ANNEX VII THERETO)**

THE SECRETARY-GENERAL,

HAVING REGARD TO the Staff Regulations of Officials of the European Communities and the Conditions of employment of other servants of the European Communities laid down by Council Regulation (EEC, Euratom, ECSC) No 259/68¹, as last amended by Council Regulation (EC, Euratom) No 723/2004², and, in particular, to Articles 67 and 68 of the Staff Regulations of Officials and to Articles 1, 2 and 3 of Annex VII thereto, as well as to Articles 20, 21, 65 and 92 of the Conditions of employment of other servants,

HAVING REGARD TO Articles 5, 10, 11 and 12 of Council Regulation (EEC, Euratom, ECSC) No 2074/83³ amending the Staff Regulations of Officials of the European Communities and the Conditions of employment of other servants of those Communities which provide for the payment of family allowances to persons other than the official who have custody of one or more of the official's dependent children,

HAVING REGARD TO the Bureau decision of 29 March 2004 delegating to the Secretary-General powers in respect of all the issues which, in connection with the implementation of the Staff Regulations, involve technical provisions derived therefrom,

HAVING REGARD TO the Bureau decision of 3 May 2004 determining the appointing authorities,

HAVING REGARD TO the opinion of the Staff Regulations Committee of 26 March 2004,

HAVING consulted the Legal Service, the Staff Committee and the Committee on Equal Opportunities,

WHEREAS there are grounds for clarifying the application of Articles 67 and 68 of the Staff Regulations of Officials and of Articles 1, 2 and 3 of Annex VII thereto relating to the payment of family allowances with a view to facilitating the direct payment of such allowances to persons who have custody of one or more of the official's dependent children,

¹ OJ L 56, 4.3.1968.

² OJ L 124, 27.04.2004.

³ OJ L 203, 27.7.1983.

HAS ADOPTED

THE FOLLOWING GENERAL IMPLEMENTING PROVISIONS

Section 1 - Provisions common to all family allowances

Article 1

For the purposes of giving effect to the provisions of the Staff Regulations of Officials of the European Communities and of the Conditions of employment of other servants of those Communities, the terms:

- 'custody' and 'alternating custody' shall be interpreted in accordance with the national law under which custody was granted;
- 'person other than the official' shall mean any legal or natural person other than the official to whom the custody of one or more children has been granted by law or by an order of a court or of a competent administrative authority;
- 'residence' shall mean the place where the person having custody of the child can prove, by any means available, that he or she actually and habitually lives.

Article 2

An official in receipt of family allowances shall make a declaration stating whether or not he or she has custody of his or her children. If he or she receives family allowances for one or more children who have reached their majority, he or she shall indicate the marital status and place of residence of each of them.

An official who declares that he or she does not have custody of one or more of his or her children shall also specify in the same declaration his or her family situation, the place of residence of the children of whom he or she does not have custody, the names and addresses of the person or persons having custody of one or more of his or her children and the amounts of family allowances paid from other sources either to himself or herself, or to the person having custody of one or more children, or directly to the children themselves.

Supporting documents relating to custody arrangements must be attached to the declaration. Failure to do so may result in the payment of the family allowances being suspended.

Article 3

Payment of family allowances shall be made automatically in the name and on behalf of the official to a person other than the official who has custody of the child, in so far as that person can supply documentary evidence that he or she is entitled to direct payment of the family allowances.

If custody of one and the same child alternates between two or more persons, the family allowances shall be divided in proportion to the lengths of the periods of custody. Visits shall not be regarded as periods of custody.

Article 4

Family allowances shall be paid to a person other than the official irrespective of any obligation on the official to make maintenance payments.

If family allowances are paid to such a person who also receives maintenance payments, it shall be the responsibility of the official to take the requisite measures to ensure that due account is taken of the direct payment of family allowances to that person.

However, in making payments of family allowances to a person other than the official over a given period, the Institution shall take account of amounts which it is liable to pay or has paid to such a person under a national enforcement order relating to a payment obligation of the same kind.

Article 5

As provided for in Article 85 of the Staff Regulations of Officials, the institutions shall recover sums unduly paid to a person other than the official on behalf and in the name of the official.

Section 2 - Provisions relating to the household allowance

Article 6

The household allowance may be paid to a person other than the official only if the official does not have custody of any of his or her children. If custody of one and the same child alternates, payment of the household allowance shall be divided in proportion to the lengths of the periods of custody.

Article 7

If custody of an official's children is granted to more than one person, one or more of whom is entitled to the household allowance, the rule prohibiting aggregation set out in the third subparagraph of Article 1(5) of Annex VII to the Staff Regulations shall apply solely to the amount of the household allowance divided pro rata in accordance with the second subparagraph of that paragraph.

Section 3 - Education allowance

Article 8

For the purposes of giving effect to the third subparagraph of Article 3(1) of Annex VII to the Staff Regulations:

- the concept of 'place of employment' shall be replaced by the place of residence of the person who has custody of the child;
- the provisions concerning entitlement to the expatriation allowance, nationality and language set out in Article 3 of Annex VII to the Staff Regulations shall be taken to refer only to the official.

Article 9

If the custody of one or more children alternates, payment of the education allowance shall be divided pro rata between the official and the person or persons who have custody of the child or children. Visits shall not be regarded as periods of custody.

Article 10

If transport costs are borne directly by the Institution, the corresponding amounts shall be taken into account for the calculation of the maximum amounts referred to in Article 3 of Annex VII to the Staff Regulations.

Chapter 4 - Final provisions

Article 11

These provisions shall apply by analogy to members of the temporary and contract staff and, to the extent permitted by Article 65 of the Conditions of employment of other servants, to members of the auxiliary staff.

Article 12

These provisions repeal and replace the previous provisions and shall enter into force on 1 May 2004.

(s)Julian PRIESTLEY
18-5-2004