

**GENERAL IMPLEMENTING PROVISIONS RELATING TO PERSONS TREATED AS  
DEPENDENT CHILDREN**

**(ARTICLE 67 OF THE STAFF REGULATIONS AND ARTICLE 2(4)  
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 259/68<sup>1</sup>, as last amended by Council Regulation (EC, Euratom) No 723/2004<sup>2</sup>, and in particular Article 67 of the Staff Regulations of Officials and Article 2(4) 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** 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** in general, pursuant to Article 2(4) of Annex VII to the Staff Regulations, persons may be treated as dependent children only exceptionally and 'by special reasoned decision of the Appointing Authority'; whereas that authority therefore enjoys a power of assessment that is largely discretionary with regard to the facts and circumstances invoked in support of applications for persons to be treated as dependent children; whereas, however, bearing in mind the requirement of equal treatment of officials, certain objective criteria should be determined which are designed to ensure that that power of assessment is exercised in a uniform manner,

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<sup>1</sup> OJ L 56, 4.03.1968

<sup>2</sup> OJ L 124, 27.04.2004

**WHEREAS**

to that end, the elements should be defined that are to be taken into account with a view to assessing whether the maintenance of such persons constitutes heavy expenditure for the official,

**HAS ADOPTED**

**THE FOLLOWING GENERAL IMPLEMENTING PROVISIONS**

**Section 1 - General provisions**

**Article 1**

These general implementing provisions are designed to specify the conditions under which applications may be granted, pursuant to Article 2(4) of Annex VII to the Staff Regulations, for persons to be treated as dependent children.

Applications may be granted by the Appointing Authority in cases where all the conditions set out below are met.

**Section 2 - Provisions concerning the legal responsibility to maintain**

**Article 2**

The pecuniary responsibilities of officials with regard to their spouses or their ex-spouses shall not be covered by Article 2(4) of Annex VII to the Staff Regulations.

**Article 3**

1. Where factors exist creating a link to several systems of law, the law applicable shall be determined by the rules governing conflicts of laws applicable applied by the competent court.
2. The jurisdiction of the court shall be determined by the rules governing conflicts of jurisdictions, including, where appropriate, those defined by the relevant international conventions, in particular the amended Brussels Convention of 27 September 1968 concerning judicial competence and the enforcement of decisions in civil and commercial matters.
3. For the application of the provision set out in paragraph 1 above, it shall be assumed that officials are resident at their place of employment, unless evidence is furnished to the contrary.

## **Article 4**

It shall be the responsibility of the official concerned to establish, on the basis of supporting documents, the existence of the relevant legal responsibility to maintain, the resultant expenditure and the amount of the financial contribution actually made.

Applications may only be granted if the expenditure resulting from the legal responsibility to maintain is at least equal to the amount resulting from the granting of the application.

The appropriate services shall provide the official with all the relevant information on the scope of this chapter, with particular regard to the supporting documents to be submitted.

## **Section 3 - Provisions concerning the condition of heavy expenditure**

### **Article 5**

1. The cost of maintenance by the official of the person in respect of whom an application for treatment as a dependent child has been submitted shall be taken into account only for an amount corresponding to:
  - 40% of the basic monthly salary of an official in the first step of Grade 1<sup>1</sup>, where that person is a permanent member of the official's household,
  - 50% of that basic monthly salary where the person is not a permanent member of the official's household.

Those amounts shall be reduced by the net income of that person.

2. Where an official applies for several persons who are members of his household to be treated as dependent children, the cost of maintaining those persons shall be deemed to be:
  - for the first person, the amount of the cost referred to in paragraph 1,
  - for the second person, 25% of the basic salary referred to in paragraph 1, where that person is not a permanent member of the official's household, and 20% where that person is a permanent member of the household,
  - for any further person(s) involved, the amount of the dependent child allowance laid down in Article 2(1) of Annex VII to the Staff Regulations.

The total of these amounts shall be reduced by the net income of the persons to be treated as dependent children.

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<sup>1</sup> From 1 May 2004 to 30 April 2006: grade D\*1, first step

3. Where the person in respect of whom an application has been submitted for treatment as a dependent child is married, the net income of the couple shall be taken into account as if treatment as dependent children had been requested for both spouses.
4. An increase in the maintenance cost shall be taken into account where the person in respect of whom an application has been submitted for treatment as a dependent child occasions additional, regular and proven expenditure required by:
  - the remuneration, including, where appropriate, social security contributions, duly justified, of a carer whose presence is prescribed by a doctor in respect of that part of the remuneration which has not been covered by direct payment at national or Community level;
  - sickness insurance premiums paid on behalf of persons to be treated as dependent children;
  - medical expenses not reimbursed by a sickness insurance scheme in respect of that part exceeding, on a monthly average, 2% of the basic salary of an official in the first step of Grade 1<sup>1</sup>;
  - accommodation in a retirement home, exceeding 50% of the basic salary of an official in the first step of Grade 1<sup>1</sup>, up to a maximum amount of 20% of that salary.
5. With effect from the submission of an application for a third person to be treated as a dependent child, a maximum maintenance cost shall be determined. That cost shall be equal to the difference between the applicant's net salary, possibly increased by his other net income, and the basic salary of an official in the first step of Grade 1<sup>1</sup>, possibly increased by the household allowance and the dependent child(ren)'s allowance(s). If the amount thus obtained is lower than the maintenance cost as determined by the other provisions set out in Section 3, that amount shall serve as a reference figure for the establishment of heavy expenditure.

## **Article 6**

Where persons other than the official have legal responsibilities to maintain the person in respect of whom an application has been submitted for treatment as a dependent child, the cost taken into account in accordance with the provisions of Article 5 shall be reduced by the amount of the proportion of the maintenance of the person concerned to be borne by the other persons having legal responsibilities to maintain that person.

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<sup>1</sup> From 1 May 2004 to 30 April 2006: grade D\*1, first step

For the purposes of determining that amount, all persons having a legal responsibility to maintain the person in respect of whom an application has been submitted for treatment as a dependent child shall be presumed to participate in the maintenance cost laid down in Article 5 in proportion to their net income.

#### **Article 7**

Income of any description, including non-salary income, family allowances and other allowances and pensions, shall be deemed to be income of the person in respect of whom an application has been submitted for treatment as a dependent child and income of the persons having legal responsibilities to maintain that person.

The same shall apply to the rental value of a dwelling of which the person in respect of whom an application has been submitted for treatment as a dependent child is the owner or the usufructuary. That rental value shall be set at 12% of the basic salary of an official in the first step of Grade 1<sup>1</sup>.

The income to be taken into account shall be the net monthly income of the persons concerned, calculated by dividing their annual net income by twelve.

#### **Article 8**

The amounts provided for in the Staff Regulations and referred to in Articles 5 to 7, 9 and 12 of these general implementing provisions shall be weighted in accordance with the rates laid down respectively for the official's country of employment and the place of residence of the other persons concerned, pursuant to Article 3(5) of Annex XI to the Staff Regulations.

In cases where the income referred to in Articles 5 to 7, 9 and 12 of these general implementing provisions is not expressed in euro, it shall be converted into that currency at the rate in force on the day on which the entitlement is to take effect.

#### **Article 9**

Without prejudice to the provisions of Article 10, maintenance of the person in respect of whom an official submits an application for treatment as a dependent child shall be deemed to involve heavy expenditure when the amount of the cost of maintenance taken into consideration in accordance with the provisions of Article 5, less

- the amount of the contributions of other persons to that maintenance in accordance with the provisions of Article 6, and
- the entire amount of the official's other net income

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<sup>1</sup> From 1 May 2004 to 30 April 2006: grade D\*1, first step

exceeds 20% of the taxable amount of the remuneration of that official. Where an official already receives an allowance in respect of another person treated as a dependent child, that allowance shall not be taken into consideration for the calculation of the taxable amount.

The rate of that percentage shall be increased by 10 in respect of each of the other persons in respect of whom an official submits an application for treatment as a dependent child.

Where the official's remuneration is based on a reduced working time, the full salary shall be taken into account for the calculation of the taxable amount referred to above.

### **Article 10**

On an exceptional basis, the Appointing Authority may grant the application for treatment as a dependent child to an official when the amount of the maintenance cost, possibly reduced in accordance with the provisions of the previous article, is equal to or less than the percentage of the income defined in that article, on condition that the maintenance of that person entails particularly heavy expenditure for the official.

## **Section 4 - Provisions concerning the decision to grant an application**

### **Article 11**

1. The decision of the Appointing Authority shall be taken on the basis of a written application, accompanied by supporting documents concerning all the information which is to be taken into account under the terms of these general implementing provisions.
2. Where a decision is taken to grant the application, that decision shall take effect on the first day of the month during which the official submitted the application and the requisite supporting documents, and its validity shall expire one year later at the latest. A renewal of the decision may be requested.
3. Officials must notify any change occurring in the situation on the basis of which the decision to grant the application was taken.

Where, following a change of this nature, the conditions are no longer met for the decision to be maintained, the decision shall be revoked with effect from the first day of the month following the month during which the change occurred.

### **Article 12**

1. Once the Appointing Authority has granted the application, officials must furnish evidence that they are contributing regularly to the maintenance of the person treated as a dependent child for a monthly amount at least equal to the higher of the two amounts calculated as follows:

- 20% of the taxable amount of their salaries calculated on the basis of their entire basic salary, increased by their total net income from other sources. Allowances granted in respect of persons treated as dependent children shall not be taken into account for the calculation of the taxable amount
  - the additional amount received following the granting of the application, increased by 20%.
2. Where officials are granted applications to have several persons treated as dependent children, the rate of the percentage referred to in the first indent of the preceding paragraph shall be increased by 10 for each of those persons, with effect from the second such person.
  3. The evidence referred to in paragraph 1 shall not be required where the person treated as a dependent child is a permanent member of the official's household.

The relevant services may monitor by any appropriate means whether that condition is being met.

4. In the absence of evidence of the payment for all or part of the duration of validity of the decision, the effects of that decision shall be suspended for the periods involved, and any sums received by the official in respect of those periods shall be recovered by the Administration, pursuant to the provisions of Article 85 of the Staff Regulations of Officials.

## **Section 5 - Final provision**

### **Article 13**

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

(s)Julian PRIESTLEY  
18-5-2004

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(1) From 1 May 2004 to 30 April 2006: grade D\*1, first step