

NOTE TO THE MANAGEMENT BOARD

Adoption by analogy of implementing rules on part-time and opt-out rules on the maximum duration for the recourse to non-permanent staff

1. Background

Under Article 110 of the Staff Regulations ('SR'), EFSA lays down staff-related implementing rules ('IRs') according to one of the following modalities:

- adoption by analogy of Commission IRs (general principle);
- adoption of IRs based, when available, on Agency Model Decisions negotiated within the Standing Working Party ('SWP')¹, to ensure common implementation of the SR across all agencies;
- adoption of IRs derogating from Commission IRs in case EFSA requires IRs which are specifically adapted to its own reality;
- opt-out Commission IRs which are not relevant or suitable for staff management at EFSA.

The decision-making power remains with the Management Board, on the basis of proposals of the Executive Director and following consultation with the Staff Committee.

An overview of IRs adopted so far by EFSA is provided in the Annex to the present note.

2. Adoption by analogy - Commission Decision on part-time work

To regulate part-time work, EFSA applies by analogy Commission Decision C(2013)9046 of 16 December 2013. Main rules are as follows:

- EFSA staff members may work part-time in the form of working time reductions and consequent pro rata salary reductions. Different formulas are possible: 50%, 60%, 62.5%, 70%, 75%, 80% or 90% of normal working hours;
- following the 2013 Review of the Staff Regulations, a new option of working on 95% part-time basis with no pro rata reduction has been introduced only for cases of serious hardship to care for a dependent child;
- while for certain specific cases, (e.g. to care for a child, a serious ill or disabled relative) EFSA staff members have the right to work part-time, in all other cases, they are authorised to opt for this arrangement only if this is compatible in the interest of the service;
- part-time may also be authorised in the form of time credits (special part-time), consisting in the 'purchase' of days of leave, for a maximum of 42 days each year. According to the current framework, when applying for time credits, EFSA staff members have to specify the exact dates in which the days acquired will be used.

¹ The Standing Working Party is composed of agencies' and Commission (DG HR) representatives and its mission is to negotiate General Implementing rules to be applied within agencies. EFSA is represented by the European Medicines Agency (EMA).

On 12 January 2016, the Commission informed EFSA about the adoption, on 8 January 2016, of new Commission Decision C(2015)9720 concerning part-time work (enclosed).

The new framework introduces the following changes:

- an added option of working 95% part-time with pro-rata salary reduction (so far existing for cases of serious hardship to care dependent child only, and with no salary reduction);
- simplification on time credit requests (no longer need to indicate in advance the dates on which the days acquired will be used);
- upon service's request only, work schedule covering two consecutive weeks, with absence alternating with presence according to the percentage chosen;
- in case of half time parental/family leave, work schedule covering two consecutive weeks, alternating a full week at work with a full week of absence;
- withdrawal of part-time in case of serious/long duration illness only.

Following the assessment carried out by EFSA services and the positive opinion of the Staff Committee, it is proposed that the Management Board adopts by analogy Commission Decision C(2015)9720 concerning part-time work. A draft decision for this purpose is enclosed to the present note.

3. Opt out Commission Decision on the maximum duration for the recourse to non-permanent staff (based on Agency model Decision)

On 17 December 2013, the Commission informed EFSA that it adopted Decision C(2013)9028 of 16 December 2013 amending Commission Decision of 28 April 2004² on the maximum duration for the recourse to non-permanent staff in the Commission services.

Agencies differ from the Commission, particularly as regards the structure of their staff. The majority of temporary staff are those referred to in Article 2(f) of the CEOS to whom Commission Decision C(2013)9028 does not apply and to whom potentially contracts for indefinite duration can be granted. As regards contract staff, agencies employ only those referred to in Article 3(a) of the CEOS who do not fall under the scope of Commission Decision C(2013)9028.

Taking into account the way agencies operate, it is not appropriate to set a maximum duration of recourse to non-permanent staff, because such a rule could be detrimental to the functioning of agencies. Against this background, the Commission notified agencies with its agreement to the non-application of the concerned Commission Decision, providing a model decision for agencies to formalise such step³.

It is proposed that the Management Board avails itself of the agreement given by the Commission, adopting the draft Decision enclosed for this purpose, based on the above-mentioned Agency Model Decision.

² Commission Decision C(2004)1597/6 of 28 April 2004 on the maximum duration for the recourse to non-permanent staff in the Commission services, as amended by the Commission Decision C(2011)7071 of 5 October 2011.

³ Commission Decision C(2016)2421 of 26 May 2016 on giving agencies an ex ante agreement to the non-application of the Commission Decision on the maximum duration for the recourse to non-permanent staff in the Commission services.

4. Updates on the 'work programme'

Negotiations are on-going within the Standing Working Party ('SWP') and the Commission (for Agency Model Decisions and agencies opts-out) or directly with the Commission (for EFSA requests of derogations) on a number of fields. According to the information provided by the SWP/Commission, EFSA indicatively expects to be ready to adopt IRs according to the following programme:

Second half of 2016

- Agency Model Decisions on:
 - Promotion of officials
 - Reclassification of CA 3a
 - Reclassification of TA 2f
 - Working Time
 - Setting up of Staff Committee

First half of 2017

- Amended/new Commission IRs
 - Appraisal of middle management
 - Outside activities
- EFSA individual derogation
 - Types of posts and posts titles

Second half of 2017

- Agency Model Decisions on:
 - Administrative inquiries and Disciplinary proceedings
 - Temporary occupation of management positions (Article 7(2)SR)
 - Prevention of Harassment
 - Opt-out from IRs for Annex X of the SR (staff working in third countries delegations)
 - Learning and development

Uncertain timeline

- Engagement and use of contract staff
- Whistleblowing policy
- Middle management
- Adviser function

Annex:

Commission IRs adopted by analogy

- Commission Decision of 16.12.2013 laying down general provisions giving effect to Article 8 of Annex VII to the Staff Regulations C(2013) 8987;
- Commission Decision of 16.12.2013 repealing Commission Decision of 28.4.2004 adopting General implementing provisions on the early retirement of officials and temporary agents without reduction of pension rights (C(2004) 1588 final/5) C(2013) 9039;
- Commission Decision of 16.12.2013 laying down general implementing provisions concerning the criteria applicable to classification in step on appointment or engagement C(2013) 8970;
- Commission Decision of 16.12.2013 on general implementing provisions on granting the education allowance (Article 3 of Annex VII to the Staff Regulations) C(2013) 8971;
- Commission Decision of 16.12.2013 on leave C(2013) 9051;
- Commission Decision of 16.12.2013 on maternity leave and maternity pay for women whose maternity leave begins before the end of their contract (Articles 17 and 91 of CEOS) C(2013) 9020;
- Commission Decision of 16.12.2013 on Article 55a of the Staff Regulations and Annex IVa thereto concerning part-time work C(2013) 9046⁴;
- Commission Decision of 16.12.2013 laying down general implementing provisions to Article 7 (4) of Annex VII to the Staff Regulations on determining the place of origin C(2013) 8982;
- Commission Decision of 16.12.2013 on reimbursements due to officials assigned to non-member countries C(2013) 8990;
- Commission Decision C(2015)9151 of 17 December 2015 on the implementation of telework in Commission Departments;
- Commission Decision of 16.12.2013 on outside activities and assignments C(2013) 9037;
- Commission Decision of 16.12.2013 on General Implementing Provisions on removal expenses (Article 9 of Annex VII to the Staff Regulations) C(2013) 9040;
- Commission Decision of 16.12.2013 on rules for the implementation of housing policy in EU delegations C(2013) 8965,
- Commission Decision of 16.12.2013 on the living conditions allowance and the additional allowance referred to in Article 10 of Annex X to the Staff Regulations C(2013) 9032;
- Commission Decision of 16.12.2013 on home leave for officials, temporary agents and contract agents posted in third countries (second paragraph of Article 7 Annex V to the Staff Regulations) C(2013) 9035;
- Commission Decision of 16.12.2013 on management of rest leaves pursuant to Article 8 of Annex X to the Staff Regulations C(2013) 9027.

⁴ This will be replaced by Commission Decision C(2015)9720 concerning part-time work, once the Management Board adopts the draft decision enclosed to this note.

IRs adopted based on Model agency rules

- Decision of the MB laying down general implementing provisions on the procedure governing the engagement and use of temporary staff under (2)(f) of the CEOS
- Decision of the MB laying down general provisions for implementing Article 43 of the SR and implementing the first paragraph of Article 44 of the SR for officials and temporary staff⁵;
- Decision of the MB laying down general provisions for implementing Article 87 (1) of the CEOS and implementing the first paragraph of Article 44 of the SR.
- Decision of the MB on measures concerning leave on personal grounds for officials and unpaid leave for temporary and contract staff of the European Union⁶.

⁵ It replaces Commission Decision of 16.12.2013 laying down general provisions for implementing Article 43 of the Staff Regulations and implementing the first paragraph of Article 44 of the Staff Regulations C(2013) 8985, initially adopted by analogy by Decision of the Management Board of 26 June 2014 concerning the adoption of implementing provisions of the Staff Regulations by analogy (mb 26 06 14).

⁶ It replaces Commission Decision of 16.12.2013 on measures concerning leave on personal grounds for officials and unpaid leave for temporary and contract staff of the European Union C(2013) 9054, initially adopted by analogy by Decision of the Management Board of 26 June 2014 concerning the adoption of implementing provisions of the Staff Regulations by analogy (mb 26 06 14).