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Human resources management

Amendments to the Staff Regulations and Rules

Report of the Advisory Committee on Administrative and Budgetary Questions

I. Introduction

1. The Advisory Committee on Administrative and Budgetary Questions has considered the report of the Secretary-General on the amendments to the Staff Regulations and Rules (A/74/289)¹ (see also para. 2 (b) below). During its consideration of the report, the Committee met with representatives of the Secretary-General, who provided additional information and clarification, concluding with written responses received on 19 February 2020.

Background

2. The Advisory Committee recalls that, prior to the submission of his report (A/74/289) to the General Assembly at its seventy-fourth session, the Secretary-General had submitted two reports (A/73/378 and A/73/378/Add.1) on the amendments to the Staff Regulations and Rules to the Assembly at its seventy-third session, as follows:

(a) The first report (A/73/378), which was submitted pursuant to his reports on management reform and related General Assembly resolutions thereon,² reflected the outcome of a comprehensive review undertaken by the Secretariat of the complete set of the Staff Regulations and Rules, with a view to supporting the “simplified, streamlined and easy to understand and implement” regulatory framework for the management of financial and human resources. The proposed amendments included, inter alia, (i) adding subheadings for each regulation and introducing tables, where possible; (ii) eliminating, where appropriate, duplications between the Staff Regulations and the Staff Rules, as well as cross-references; (iii) modifying the text of the Staff Regulations and Rules to be gender-inclusive (see paras. 6 and 7 below);

¹ The report of the Secretary-General was reissued for technical reasons on 30 September 2019.

² See A/72/492 and A/72/492/Add.2, and General Assembly resolutions 72/266 A and 72/266 B.



and (iv) proposing substantive changes that, according to the Secretary-General, were within his authority (see [A/73/622](#), para. 2). The related observations and recommendations of the Committee were contained in its previous report ([A/73/622](#)). The Assembly subsequently deferred its consideration of the related reports to the first part of its resumed seventy-fourth session (decision 74/540).

(b) The second report ([A/73/378/Add.1](#)) was focused on a proposal that the Staff Regulations and Rules be amended to include “the principle of equitable distribution of the positions between men and women” among the criteria to be considered in the context of both staff selection and retention (regulation 4.3 and rules 9.6 and 13.1). Those changes are reflected in the amendments proposed for regulation 4.2 (b) and rules 9.6 (d) and 13.5 (d) in the third report ([A/74/289](#)). The Assembly is yet to consider the reports of the Secretary-General. The related observations and recommendations of the Committee are contained in paragraphs 8 to 11 below.

3. The report of the Secretary-General ([A/74/289](#)) is therefore his third report on the amendments to the Staff Regulations and Rules, submitted prior to decisions of the General Assembly on either of his two previous reports on the matter. It is indicated that the latest report contains the full text of the amendments to the Staff Regulations and Rules (compiling all of the proposals from the first and second reports ([A/73/378](#) and [A/73/378/Add.1](#))), as well as three new amendments (proposed regulation 1.2 (j) and rules 3.16 (c) and 7.5). Upon enquiry, the Advisory Committee was informed that, regardless of the fact that the full text of the amendments is contained in the third report, that report does not replace the two previous reports, and that furthermore, it contains additional editorial changes to the text of some of the amendments proposed in the those two reports, which were suggested by the Department for General Assembly and Conference Management in accordance with the United Nations Editorial Manual. Noting the lack of clarity concerning the presentation of the amendments contained in the three reports of the Secretary-General, the Committee raised its concern with the Secretariat and was subsequently provided with tables containing the following information: (a) the baseline text of the Staff Regulations and Rules ([ST/SGB/2018/1](#)); (b) the amendments proposed in each of the three reports of the Secretary-General ([A/73/378](#) and [A/73/378/Add.1](#), and [A/74/289](#)); and (c) explanations for each of the proposed changes. **The Advisory Committee notes with appreciation the efforts undertaken by the Secretary-General to review the complete set of the Staff Regulations and Rules. It notes nonetheless that the third report of the Secretary-General does not replace his first two reports on the amendments to the Staff Regulations and Rules.**

4. Of particular concern to the Advisory Committee are the “further explanations” provided in the third report the Secretary-General in response to those amendments and related observations that were highlighted by the Committee in its previous report ([A/73/622](#)), which is yet to be considered by the General Assembly (see [A/74/289](#), paras. 4 and 9–11). In addition, and as an illustration of a lack of clarity, the Committee notes that the further explanation provided for amendments to regulations 4.2 and 4.3 in paragraph 10 (a) of the report indicates that, aside from the merging of the two regulations, there is no amendment proposed to the current text of either regulation, which only reflects those amendments proposed in the first report of the Secretary-General. It is only in paragraph 13 (n), however, under amendments to the Staff Rules, that a reference is made to a substantive amendment to regulation 4.3, as proposed in his second report. **The Advisory Committee stresses that, pending the review of its previous report ([A/73/622](#)) by the General Assembly, the Secretary-General should have followed the established practice with respect to the comments and recommendations of the Committee submitted to the Assembly, and expects that this will not set a precedent for future consideration of the reports of the Committee.**

5. In the present report, the Advisory Committee provides a summary of issues of general and overlapping nature, in section II; its recommendations pertaining to the proposed amendments to the Staff Regulations, in section III; highlights the proposed changes to the Staff Rules, with its observations thereon, in section IV; and provides its views on other related issues, in section V below. Furthermore, the present report incorporates all of its observations and recommendations on the proposed amendments to the Staff Regulations and Rules, including those contained in its previous report (*ibid.*), and should therefore be reviewed as a consolidated report.

II. General and overlapping issues

Gender-inclusive language

6. The Secretary-General states that, throughout the articles of the Staff Regulations and the chapters of the Staff Rules, the text has been amended to be gender-inclusive and updated to be clearer and easier to understand (A/73/378, para. 6 and A/74/289, para. 9). Such amendments include the proposed deletion of “he or she”, “his or her” and “him or her”, and replacing “brother” and “sister” with “sibling”, “father” and “mother” and “husband and wife” with “parent” or “parents”, “maternity and paternity leave” with “parental leave” (see, for example, proposed amendments to regulation 1.1 (b), regulation 1.2 (c), (p) and (q), regulation 3.4 (a) (iii) c and 3.4 (c), rule 3.5 (b) (v), rule 4.7, regulation 6.2 and rule 6.3). **Given the complexity and sensitivity of the proposed amendments involving gender-inclusive language across the Staff Regulations and Rules, the Advisory Committee considers that those amendments are a policy matter for consideration and decision by the General Assembly (see also paras. 12 and 13 below).**

7. Furthermore, the Advisory Committee was informed, upon enquiry, that gender-inclusive editorial changes had been made in accordance with the guidelines on the use of gender-inclusive language in the six official languages of the United Nations published by the Department for General Assembly and Conference Management.³ Concerning the proposed change from “brothers and sisters” to “siblings” (see proposed regulation 3.4 (a) (iii) c and rule 3.5 (b) (v)), the Committee was informed, upon enquiry, that the direct translation of “brothers and sisters” would remain in the five official languages other than English. The Committee notes from the information provided to it that, as “brothers and sisters” would remain in the translation into the other five official languages, the proposed change to “siblings” would only be reflected in the English version of the proposed Staff Regulations and Rules. **The Advisory Committee therefore questions the value of the proposed amendment and is of the view that a consistent approach should be applied to all the official languages.**

Human resources policy issues

8. In its review of the first report of the Secretary-General on amendments to the Staff Regulation and Rules (A/73/378), the Advisory Committee stressed that the amendments involving significant changes to the relevant human resources management policies should have been presented in the reports of the Secretary-General on overall human resources policy and strategy (see A/73/622, para. 6). The Committee notes that substantive amendments involving policy changes were nevertheless proposed in the second and third reports of the Secretary-General (A/73/378/Add.1 and A/74/289). In particular, it is proposed that, in the proposed

³ Available at www.un.org/en/gender-inclusive-language/index.shtml.

regulation 4.2 (b) and rules 9.6 (d) and 13.5 (d) “the principle of equitable distribution of the positions between men and women” be added to the existing criteria to be considered in the context of staff selection, as well as in connection with the retention of staff in cases of abolition of posts or reduction in staff (see also [A/74/289](#), para. 12 (n)). The proposed amendments to current regulations 4.2 and 4.3 contain significant changes.⁴

9. The Secretary-General indicates that the proposed amendments support General Assembly resolution [3416 \(XXX\)](#) on the employment of women in the Secretariat, as well as subsequent resolutions ([A/73/378/Add.1](#)). **The Advisory Committee notes that the proposed addition of the “principle of equitable distribution of the positions between men and women” appears to be contradictory to and may cause misunderstanding of what is currently contained in regulation 4.3, where it is specified that “in accordance with the principles of the Charter, selection of staff members shall be made without distinction as to race, sex or religion”. The Committee considers that a reference to Article 8 of the Charter⁵ would be preferable to the selection of one of the many resolutions adopted by the General Assembly on this matter over the decades (see also paras. 23 and 24 below on other changes to regulations 4.2 and 4.3).** On a related matter, the Committee recalls its most recent report on the composition of the Secretariat, in which information was provided on the appointments to posts subject to geographical distribution, including on the percentage of women from developing and developed countries ([A/74/696](#), para. 13).

10. Moreover, the Advisory Committee was informed that, during the preparation of the report ([A/73/378/Add.1](#)), written consultations on the proposed amendments were exchanged on two occasions, in September and October 2018, in addition to consultations held through formal ad hoc Staff-Management Committee processes, including a Staff-Management Committee working group. However, as there was no agreement between staff and management, the Secretary-General made the final decision on the proposed amendments, in line with his authority as Chief Administrative Officer of the Organization.

11. **The Advisory Committee points out that the proposed regulation 4.2 (b) and rules 9.6 (d) and 13.5 (d) would significantly alter the current staff selection criteria, as well as the existing order of preference for staff retention specified in rule 9.6 (c), which would also result in financial implications. The Committee is of the view that, as a policy matter, the subject should have been discussed in the broader context of overall human resources management, in particular on matters relating to gender (see also [A/74/696](#), para. 9). The Committee stresses that such policy changes are subject to consideration and decision by the General Assembly.**

⁴ **Regulation 4.2**

Principles of selection

(a) The paramount consideration in the appointment, transfer or promotion of the staff shall be the necessity of securing the highest standards of efficiency, competence and integrity. Due regard shall be paid to the importance of recruiting the staff on as wide a geographical basis as possible;

Regulation 4.3

(b) In accordance with the principles of the Charter, selection of staff members shall be made without distinction as to race, sex or religion **and shall take into account the principle of equitable distribution of the positions between men and women in the United Nations**. So far as practicable, selection shall be made on a competitive basis ([A/74/289](#), annex I; the amendments are shown in boldface and strikethrough).

⁵ “The United Nations shall place no restrictions on the eligibility of men and women to participate in any capacity and under conditions of equality in its principal and subsidiary organs.”

Financial implications

12. The Secretary-General indicates that there are no programme budget implications resulting from the proposed amendments to the Staff Regulations and Rules (A/74/289, para. 5). However, he acknowledges that, as noted by the Advisory Committee in its report, some of the proposed amendments may have an impact on the level of expenditures (see A/73/622, para. 4 (a)).

13. The Advisory Committee notes that, in addition to proposed regulation 4.2 (b) and rules 9.6 (d) and 13.5 (d) (see para. 11 above), the proposed amendments to rule 3.10 (b), such as deleting the provision “from the beginning of the fourth month of service”, would lead to higher expenditures, as would the proposed rule 4.18 on “re-employment” (see paras. 37, 38, 41 and 42 below). Furthermore, other proposals that may also contain financial implications include proposed rule 3.7 (c) on rental subsidy and deductions (arising from the proposed change to rule 3.6 (b) (i) on post adjustment), which, according to the Secretary-General, would allow for staff who temporarily leave their families behind at the previous duty station to be paid the rental subsidy and related payments in connection with the residential security measures at the former duty station, regardless of the post adjustment at the new duty station. As to rule 3.9 (c) on the duration of the education grant, it is proposed that mandatory national service be added as an additional ground for allowing extension of the eligibility period for the education grant so that it does not penalize staff members whose dependants are required to do military service (see A/74/289, para. 13 (c) and (d)). **The Advisory Committee trusts that more information and clarification concerning the financial implications and/or higher expenditures that may arise from the proposed amendments will be provided to the General Assembly at the time of its consideration of the present report.**

Level of detail in the Staff Regulations and hierarchy of norms

14. The Advisory Committee notes that a hierarchy of norms refers to the order of importance in which a norm is considered within a legal system. For matters internal to the Organization, the hierarchy of norms in the United Nations has been set out in certain judgments of the Dispute Tribunal, as follows:⁶

- Charter of the United Nations
- Resolutions and decisions of the General Assembly
- Staff Regulations
- Staff Rules
- Secretary-General’s bulletins
- Administrative instructions

15. In this connection, the Advisory Committee has observed that some of the amendments to the Staff Regulations and Rules seem to reflect an inconsistent level of detail and the subordination of higher principles to lower principles, with respect to those set out in the United Nations hierarchy of norms. Examples include: the proposed moving of the detailed provisions on gifts, remuneration and favours, at present contained in rules 1.2 (o) and (p), to regulations 1.2 (n) and (o) (see A/73/622, para. 7); and the proposed moving of paragraphs 4 and 5 of annex I to the Staff Regulations to regulation 3.5 (i), (ii) and (iii) with respect to salary increments. The

⁶ Dag Hammarskjöld Library website, article on the hierarchy of norms in the United Nations legal order.

Committee further notes that, in the case of chapter III, the rules continue to retain a high level of detail, while the proposed amendments to chapter VII would state that the rules would be implemented under conditions to be established by the Secretary-General. Upon enquiry, the Committee was informed that “under conditions established by the Secretary-General” refers to administrative issuances promulgated to provide further detail and that, in defining these conditions, the Secretary-General is bound by the relevant resolutions adopted by the General Assembly on the matters under consideration. **The Advisory Committee is of the view that the revisions to the Staff Regulations and Rules should consistently respect the established hierarchy of norms of the United Nations, whereby the function of the Staff Regulations is to set broad policy and principles established in the Charter and by the General Assembly, while the Staff Rules should be uniform in the degree of detail provided so as to enable the operational provisions of the Regulations.**

III. Proposed amendments to the Staff Regulations

16. Proposed amendments to the Staff Regulations are contained in annex I to the report of the Secretary-General (A/74/289). The Secretary-General indicates that, while his third report (A/74/289) compiles all the amendments proposed in his first two reports (A/73/378 and A/73/378/Add.1), it should be reviewed together with the explanations for the amendments set out in his two earlier reports (A/74/289, para. 4). The observations of the Advisory Committee on the amendments relating to gender-inclusive language are contained in paragraphs 6 and 7 above.

Article I

Duties, obligations and privileges

17. The Secretary-General indicates that article I of the Staff Regulations and chapter I of the Staff Rules have been reorganized in order to ensure that the general principles are defined in the Regulations and the application of those principles further detailed in the Rules (A/73/378, para. 8). Annex I to the report of the Secretary-General (A/74/289) contains amendments to the proposed regulation 1.1 (b), regulations 1.2 (c), (g), (j), (k), (l), (m), (n), (o), (p), (q), (s) and (t) (i), (ii) and (iii) and to regulation 1.3 (b).

18. The Secretary-General proposes **new regulation 1.2 (j)** in order to include a provision on employment and accessibility for staff members with disabilities, since the inclusion of persons with disabilities is a right and an obligation in all areas of the Organization (ibid., para. 12 (a)). He indicates that the proposal complies with General Assembly resolution 73/273 and is based on the elements currently included in his bulletin on employment and accessibility for staff members with disabilities in the United Nations Secretariat (ST/SGB/2014/3). **The Advisory Committee welcomes the inclusion of the provision on employment and accessibility for staff members with disabilities in new regulation 1.2 (j).**

19. The Advisory Committee has the following reservations regarding the amendments proposed to article I of the Staff Regulations:

(a) **Regulation 1.1 (b)** on the status of staff: it is proposed that “written declaration” be replaced by “oath of office” so as to distinguish this fundamental act from all other administrative declarations that staff have to routinely make and sign during their service with the Organization. **The Advisory Committee, however, does not see merit in the proposal to change the current wording;**

(b) **Regulations 1.2 (n) and (o)** on honours, gifts or remuneration and **regulation 1.2 (s)** on outside employment and activities: it is proposed that rules 1.2 (p), (o) and (t) be moved to regulations 1.2 (n), (o) and (s) (see para. 15 above);

(c) **Regulation 1.3 (b)** on performance of staff: it is proposed that regulation 1.3 (b) be moved to regulation 5.1 (with a new subheading “Hours of work and official holidays”). **The Advisory Committee is of the view that the first sentence in regulation 1.3 (b), “the whole time of staff members shall be at the disposal of the Secretary-General for the performance of official functions”, is related to duties and obligations of staff rather than hours of work, and should, therefore, remain in article I.**

Article III

Salaries and related allowances (proposed amendment: “Salaries and allowances”)

20. The Secretary-General indicates that article III of the Staff Regulations and chapter III of the Staff Rules have been simplified and duplications have been removed (A/73/378, para. 10). As reflected in annex I to the report of the Secretary-General (A/74/289), amendments include, inter alia, a change to the heading of article III with new subheadings for each regulation; as well as in regulation 3.1 (b), regulation 3.2, regulation 3.3 (move regulation 3.3 (b) to (f) to a new annex II to the Staff Regulations), regulation 3.4 (merging current regulations 3.4, 3.5 and 3.6, with modifications), regulation 3.5 and regulation 3.6.

21. The Advisory Committee has the following reservations with respect to the amendments proposed to Staff Regulations in article III:

(a) **Regulations 3.1 (b)** on salaries and allowances **and 3.5 (i) (ii) (iii)** on salary increments: it is proposed that the text from paragraphs 2, 4 and 5 of annex I be moved to regulations 3.1 (b) and 3.5 (i), (ii) and (iii), respectively, with modifications to the language. **While the Advisory Committee has no objection to the proposed simplifications and removal of duplications in the regulations concerned, it is not convinced of the rationale for the proposed moving of text from annex I to the Regulations, for reasons concerning the level of detail in the Staff Regulations and the hierarchy of norms explained in paragraphs 14 and 15 above. The Committee recommends that paragraphs 2, 4 and 5, with the proposed modifications, remain in annex I.**

(b) **New regulation 3.6** on language allowance: the new regulation derives from paragraph 8 of annex I, with modifications including replacing the word “test” with “examination” in relation to proficiency in the use of two or more official languages. It was indicated to the Committee that the proposed change aims to be more accurate and harmonize the language used in the Staff Regulations and Rules. The Committee notes that the term “examination” is currently used under two rules, rule 4.16 on competitive examinations and rule 4.19 on medical examination, both of which relate to different contexts. **The Advisory Committee is therefore not convinced of the need to replace “test” with “examination”, nor the need to move the text from paragraph 8 of annex I to the regulation.**

Article IV

Appointment and promotion

22. The Advisory Committee requested the rationale for maintaining the word “promotion” in the heading of article IV, since there are no longer “promotions” but rather “selections” in the staff selection system applied in the Secretariat. The Committee was informed that, as the Staff Regulations and Rules apply to the Secretariat and the funds and programmes, all stakeholders’ views were carefully considered during consultations. Since discussions did not lead to any term that would

adequately describe the scope of the various selection policies of all entities involved, a decision was made to leave the term “promotion” in the heading of article IV as it provided the required flexibility for all entities concerned.

23. As reflected in annex I to the report of the Secretary-General (*ibid.*), amendments are proposed in all regulations of article IV. The substantive amendments in regulations 4.2 and 4.3 involving significant alteration to the relevant human resources management policies are discussed in paragraphs 8 to 11 above.

24. With respect to the amendments proposed to **regulations 4.1, 4.2 and 4.3** (see [A/73/622](#), para. 9):

(a) Concerning the addition of the subheadings, the Advisory Committee continues to consider that, contrary to the stated intention of improving the user-friendliness of the text, the proposed subheadings lack clarity and could be misleading;

(b) As to the proposal to amend regulations 4.1 and 4.3 to state that Article 101 of the Charter and paragraph 3 of the Article, respectively, are specifically “on the employment of staff”, the Committee stresses that that article of the Charter does not contain such a qualifier;

(c) With respect to the proposed merging of current regulations 4.2 and 4.3, with the new subheading: “Principles of selection”, the Committee again questions the merging of the two regulations, since current regulation 4.2 is a quotation from the Charter of the United Nations, while regulation 4.3 contains provisions that are stipulated “in accordance with the principles of the Charter”;

(d) The proposed addition of “the principle of equitable distribution of the positions between men and women” in proposed regulation 4.2 (b) is discussed in paragraphs 8 to 11 above.

25. While the Secretary-General indicates that the proposed additions of subheadings would clarify or make the text more user-friendly, in the view of the Advisory Committee, the insertion of the headings proposed under regulations 4.1, 4.2 and 4.3 may alter a reader’s understanding by stressing certain elements and introducing ambiguity in others (*ibid.*, para. 10). The Committee also recommends against the proposed merging of the text of current regulations 4.2 and 4.3.

Article V

Annual and special leave (proposed “Attendance and leave”)

26. The Secretary-General indicates that article V of the Staff Regulations has been reorganized to regroup all provisions relating to attendance and leave under a proposed new heading, “Attendance and leave” ([A/73/378](#), para. 12). In addition to the new heading for article V, it is proposed that subheadings be added for each of the regulations under article V, with other amendments proposed for regulations 5.1 to 5.4 (*ibid.*, para. 12 (a) and (b), and [A/74/289](#), annex I).

27. **Regulation 5.1** on “Hours of work and official holidays”: the proposed new regulation, with a subheading, reflects what is contained in current regulation 1.3 (b) and rule 1.4 (c), with modifications. As explained in paragraph 19 (c) above, the Advisory Committee is of the view that the first sentence in regulation 1.3 (b) should not be moved to regulation 5.1. **The Advisory Committee has no objection to the other amendments proposed for regulation 5.1.**

28. **Regulation 5.4** on “Special leave”: the Advisory Committee was informed that it is proposed that the reference to “in exceptional cases” be removed, as the grounds for granting such leave as contained in current rule 5.3 are not of an exceptional nature. Furthermore, the Committee was informed that, while the policy would remain the

same, the proposed removal would contribute to projecting the image of a modern work environment and be consistent with the Secretary-General's system-wide strategy for gender parity and his vision for the management reform with respect to creating an enabling and inclusive organizational culture and family-friendly work environment. The Committee has expressed the view that this change could risk broadening the scope for granting such leave and thereby lead to an increase in its frequency, with the possibility of additional financial implications (A/73/622, para. 6 (d)). **The Advisory Committee is therefore not convinced of the rationale for the proposed removal of "in exceptional cases" in the provisions for granting special leave. The Committee has no objection to the other amendments proposed for regulation 5.4.**

Article VI
Social security

Article VII
Travel and relocation expenses

Article VIII
Staff relations

Article IX
Separation from service

Article X
Disciplinary measures

Article XI
Appeals

29. The Secretary-General indicates that, in order to provide clarity and reader-friendliness, it is proposed that subheadings be added under **articles VI to XI**, as follows:

- (a) **Regulation 6.1** on "Participation in the United Nations Joint Staff Pension Fund" and **regulation 6.2** on "Other benefits";
- (b) **Regulation 7.1** on "Travel" and **regulation 7.2** on "Relocation";
- (c) **Regulation 8.1** on "Staff representative bodies and staff representatives" and **regulation 8.2** on "Joint staff-management machinery";
- (d) **Regulation 9.1** on "Resignation", **regulation 9.2** on "Mandatory age of separation", **regulation 9.3** on "Termination of appointment" and **regulation 9.4** on "Repatriation grant";
- (e) **Regulation 10.1** on "Disciplinary measures".

30. **The Advisory Committee has no objection to the proposed new subheadings under articles VI to XI and the proposed editorial changes contained therein, except those relating to gender-inclusive language, which are discussed in paragraphs 6 and 7 above.**

31. **Subject to its comments and recommendations in paragraphs 6, 7, 11, 13, 15, 19, 21, 25 and 28 above, the Advisory Committee recommends approval of the proposed amendments to the Staff Regulations. The proposed changes to the text of the Staff Rules drawing from the relevant regulations should be amended accordingly.**

IV. Observations on the proposed amendments to the Staff Rules

32. Annex II to the report of the Secretary-General (A/74/289) contains the proposed amendments to the Staff Rules. A summary of the substantive amendments to the Staff Rules is provided in paragraph 13 (a) to (n) of the report. In this section, the Advisory Committee highlights some of the amendments to the Staff Rules on which it has certain observations.

33. **Rule 1.2 (e)** under “Specific instances of prohibited conduct”, a proposal is made to delete, from the current text concerning the prohibition of sexual activity with children (persons under the age of 18) regardless of the age of majority or the age of consent locally,⁷ “except where a staff member is legally married to a person who is under the age of 18 but over the age of majority or consent in his or her country of citizenship”. The Secretary-General indicates that the details as to how this change would be implemented would be included in administrative issuances (*ibid.*, para. 13 (a)). The Advisory Committee was informed, upon enquiry, that when determining the personal status of staff members, as a general principle, the Organization will refer to the national laws of the country where the status or relationship has been established (see [ST/SGB/2004/13/Rev.1](#)). This approach, however, is not warranted when the status or relationship for which recognition is being sought violates a human right and/or contradicts a General Assembly resolution.

34. The Advisory Committee recalls that, in its resolution [73/153](#), entitled “Child, early and forced marriage”, the General Assembly, *inter alia*, called upon States to develop and implement measures at all levels to end child, early and forced marriage; urged States to enact, enforce and uphold laws and policies aimed at preventing and ending child, early and forced marriage; called upon States to enact, enforce and uphold laws concerning a minimum age of marriage, to monitor their application and to progressively amend laws with lower minimum ages of marriage and/or ages of majority to 18, taking into account the multifaceted and worldwide nature of the issue (*ibid.*, paras. 3–5 and 29). **The Advisory Committee recalls that the General Assembly has decided to consider the issue of child, early and forced marriage at its seventy-fifth session. The Committee is of the view that this is a policy matter for the Assembly.**

35. **Rule 1.2 (g)**, also under “Specific instances of prohibited conduct”, indicates that staff members shall not disrupt or otherwise interfere with any meeting or other official activity of the Organization, including activity in connection with the administration of justice system. The Secretary-General proposes to add the phrase “unless duly authorized”. The Advisory Committee was informed, upon enquiry, that the purpose of the proposal is to ensure that when a participating staff member is called out of a meeting or official activities by senior management, such “disruption” does not amount to misconduct. The Committee is of the view that the proposed addition does not seem appropriate, as no staff member should be authorized to disrupt meetings or other official activities. **The Advisory Committee reiterates that the proposed amendment is not fully justified and raises more questions than it resolves (A/73/622, para. 8 (a)).**

36. **Rule 3.7 (c)** on “Rental subsidy and deductions” states that “When staff members are assigned to a new duty station and they continue to receive the post adjustment of the previous duty station under the provisions of staff rule 3.6 (b) (i), they may claim the previous post adjustment and rental subsidy applicable to the previous duty station for up to six months...”. **As post adjustment is covered in rule 3.6, the Advisory Committee considers that the words “post adjustment and”**

⁷ See also articles 1 and 2 of the Convention on the Rights of the Child, adopted by the General Assembly in its resolution [44/25](#).

should be deleted from the proposed text in rule 3.7 (c) before “rental subsidy applicable to the previous duty station for up to six months”.

37. **Rule 3.10** on “Special post allowance” (proposed amendment “Temporary post allowance”): current rules 3.10 (b) and (c) specify the criteria for the payment of special post allowance to staff members serving in non-mission and mission settings, respectively, where staff in non-missions “may, in exceptional cases, be granted a non-pensionable special post allowance from the beginning of the fourth month of service at the higher level”, while staff in missions “may be paid immediately” upon assuming the higher duties (see also [A/74/289](#), para. 13 (e)). The Advisory Committee was informed, upon enquiry, that deleting the provision “from the beginning of the fourth month of service” in rule 3.10 (b) is a substantive amendment intended to harmonize the current application of inconsistent conditions established for field missions and non-missions (the former is compensated at the budgeted grade level from the first day of assuming duties, while the latter starting from the fourth month) and that the immediate payment of this allowance in field missions has been part of the Staff Rules since 1953.

38. The Advisory Committee has expressed its view that the proposed deletion of the provision “from the beginning of the fourth month of service” in rule 3.10 (b) would represent a meaningful departure from the current practice ([A/73/622](#), para. 6 (a)). In addition, the Committee questions the proposal to replace the current provision that such payments “may, in exceptional cases, be granted” with the proposed text that such payments “will be granted”. The Committee continues to be of the view that significant additional expenditure could be expected if the allowance were to be granted immediately upon the assumption of higher-level functions,⁸ and with the proposed general application instead of the current “in exceptional cases”. Furthermore, the Committee notes that the proposed deletion of the current reference to “non-pensionable” would change the nature of the allowance and could raise additional expenditure including in terms of pension contributions. The Committee has also questioned the proposal to rename the special post allowance, “Temporary post allowance” (ibid.). **The Advisory Committee is not convinced of the rationale for substantive amendments proposed to rule 3.10 on special post allowance and trusts that more clarification will be provided to the General Assembly at the time of its consideration of the present report.**

39. **Rule 4.4 (b)**: concerning National Professional Officers, it is proposed that wording be added to the effect that they “may be temporarily assigned outside of the country of their employment to a United Nations field mission for a maximum duration of three months or to any other duty station for a maximum duration of six months under conditions established by the Secretary-General” (see also [A/74/289](#), para. 13 (g)). The Advisory Committee notes that this is a substantive amendment proposed to implement the provisions of General Assembly resolution [72/255](#), in which the Assembly approved the guidelines for the use of the National Professional Officer category as recommended by the International Civil Service Commission, and invited the organizations of the United Nations common system to abide by existing rules and regulations regarding short-term duty assignments without involving a change of duty station (resolution [72/255](#), part I. A, paras. 1–3; [A/72/30](#), annex II). The Committee was informed that the proposed rule 4.4 (b) reflects the provisions in current rule 4.8 (a) and (b) on change of official duty station. **The Advisory Committee has no objection to the proposed amendments in rule 4.4 (b).**

40. **Rule 4.7** on “Family relationships”, one of the proposed amendments is to reintroduce a previously established practice of allowing the recruitment of a close

⁸ The Board of Auditors pointed out in its report on the United Nations for 2017 that, during the biennium 2016–2017, 2,468 temporary assignments involving a special post allowance were granted ([A/73/5 \(Vol. I\)](#), chap. II, para. 94).

family member in the event that no other equally well qualified person could be recruited, under rule 4.7 (a). The Secretary-General indicates that this policy applied from 1950 until 2011, when the possibility of hiring a family member within the same Organization was completely removed (see [A/74/289](#), para. 13 (h)). **The Advisory Committee does not consider that there is sufficient justification for reverting to a prior practice that was discontinued in 2011 and therefore recommends against the proposed amendment to rule 4.7 (a).**

41. **Rule 4.17** on “Reinstatement” and **rule 4.18** on “Re-employment”: it is indicated that the two rules on reinstatement and re-employment are amended in order to clarify what the two notions entail (*ibid.*, para. 13 (j)). The Advisory Committee was informed, upon enquiry, that the proposal is to revert to previous rule 104.3, which was in force until 1995, when the restitution of entitlements received upon separation was only required in case of reinstatement within 12 months, but was not required in case of re-employment. The specific amendments concerning re-employment are reflected in the proposed rule 4.18 (a) and (b) and the proposed deletion of the current rule 4.17 (c).

42. The Advisory Committee was further informed that, following the application of restitution to both reinstatement and re-employment after 1995, an additional amendment in the rule on re-employment introduced in 2010 states that “When a staff member is re-employed under the present rule, the service shall not be considered as continuous between the prior and new appointments”. The Secretariat is of the view that the restitution of entitlements received upon separation from prior appointments contradicts the idea that the new appointment fully applies “without regard to any period of former service” specified in the rule on re-employment. The Committee was also informed that the proposed amendments to the rule on re-employment would also allow for operational simplification. With respect to concerns about financial implications, the Committee was informed that, although there might be some potential cost resulting from non-recovery, the Secretariat is of the view that those would be offset by the decrease in working hours required to calculate and process restitutions of prior entitlements, which is labour- and time-intensive, especially when the staff members concerned were separated and reappointed several times during their careers. **The Advisory Committee is not convinced by the justification provided for the proposal to revert to the rule on re-employment in force before 1995. The Committee considers that the proposal would also have financial implications. The Committee trusts that more information will be provided to the General Assembly at the time of its consideration of the present report.**

43. **Rules 9.6 (d) and 13.5 (d)**, the proposed addition of “the principle of equitable distribution of the positions between men and women” in both rules is discussed in paragraphs 8 to 11 above.

44. **Rule 13.3 (b)** on “Dependency allowances”: the Advisory Committee notes that the term “disabled child” has not been replaced with “child with a disability” as in other relevant regulations and rules. The Committee was informed, upon enquiry, that the correct terminology is “child with a disability”, which is the term used throughout chapter III and the use of “disabled child” in chapter XIII is an oversight. It was also clarified to the Committee that, in accordance with section 5 of administrative instruction [ST/AI/2018/6](#), there is no upper age limit with respect to payments for a

child with a disability.⁹ **The Advisory Committee recommends that the correct terminology of “child with a disability” be used consistently throughout the Staff Regulations and Rules.**

45. **Subject to its comments and recommendations in paragraphs 31, 34 to 36, 38 to 40, 42 and 44 above and paragraph 48 below, the Advisory Committee recommends that the General Assembly take note of the proposed amendments to the Staff Rules.**

V. Other matters

Consultation with staff representatives

46. It is indicated that the proposed amendments to the Staff Regulations and Rules contained in annexes I and II to the report of the Secretary-General were developed as a result of consultations within the Secretariat, at Headquarters and in the field, as well as with other organizations within the United Nations system to which the Staff Regulations and Rules apply. As part of the process, consultations were also held with staff representatives, during which the full text of the proposed amendments to the Staff Regulations and Rules was reviewed in detail, article by article and chapter by chapter (A/74/289, paras. 7 and 8).

47. However, the Advisory Committee was informed by the United Nations Staff Union in New York that the consultation in question took place in 2018, prior to the submission of the amendments to the General Assembly at its seventy-third session (A/73/378 and A/73/378/Add.1). The Union had subsequently identified additional amendments in the third report of the Secretary-General, submitted at the seventy-fourth session, some of which were included without consultation or endorsement from the staff representatives. Upon enquiry, the Committee was informed by the Secretariat that for the preparation of A/74/289, written consultations on the additional proposed new amendments contained in that report were exchanged in June 2019 and further discussed during an ad hoc meeting of the Staff-Management Committee held in August 2019.

48. The Advisory Committee was informed that of particular concern to the staff unions are the following two rules:

(a) **Rule 4.13 (d)**, under “Fixed-term appointment”, the Committee was informed that the proposed addition, on which the staff unions were not consulted, “seems intended to limit the jurisdiction of the United Nations Dispute Tribunal to grant interim measures in all cases involving the renewal or conversion of appointments”, as article 10.2 of the statute of the Tribunal provides that the Tribunal

⁹ See ST/AI/2018/6, section 5 on special provisions, *Dependency status of a child with a disability*:

5.1 A child who is certified by the Medical Director or designated medical officer as physically or mentally incapacitated for substantial gainful employment, either permanently or for a period expected to be of long duration, shall be recognized as a dependent child, regardless of the conditions of school attendance otherwise required under section 3.1 (a), and may be recognized as a dependant after reaching age 18 or 21, provided it is established in accordance with section 3.1 (b) that the staff member provides main and continuing support for the child.

5.2 In order for the United Nations Joint Staff Pension Fund to determine the eligibility of a child to receive a child disability benefit under article 36 of the Fund’s Regulations, a staff member who is entitled to receive benefits from the Fund upon separation from service is required to ensure that the certification of the child as disabled under section 5.1 above is reported to the Fund in writing by the Office of Human Resources Management or the local personnel office.

may order an interim measure for temporary relief during the proceedings “except in cases of appointment, promotion or termination”;

(b) **Rule 11.2 (c)**, under “Management evaluation”: the staff unions suggest that the rule be amended to require “written” notification of the administrative decision in the first sentence, which currently reads: “A request for a management evaluation shall not be receivable by the Secretary-General unless it is sent within 60 calendar days from the date on which the staff member received notification of the administrative decision to be contested.” It was indicated to the Committee that since the removal of the wording “in writing” contained in former staff rule 111.2 (a) in 2009, current rule 11.2 (c) had engendered considerable confusion and that the unions had observed that the number of cases rejected over issues of receivability greatly increased under the new justice system, due in part to the uncertainty surrounding the starting date from which all other deadlines were derived. **The Advisory Committee is of the view that adding “written” before “notification of the administrative decision” would clarify the date of such a decision in the event of an appeal.**

Indefinite appointment

49. With respect to rule 13.2 (proposed rule 13.6) on “Indefinite appointment”, the Advisory Committee was provided with updated information that, as one of the types of temporary appointments under the former 100 series of the Staff Regulations and Rules introduced in 1954 until 30 June 2009 pursuant to General Assembly resolution [63/250](#), the Secretariat currently has staff members holding indefinite appointments, which reflects the transitional measure under rule 13.2 that staff members holding indefinite appointments as of 30 June 2009 retain the appointment until separation from the Organization.

Appendix A on pensionable remuneration for staff in the Professional and higher categories and salary scales and pensionable remuneration for staff in the Field Service category

50. The Advisory Committee notes that the report of the Secretary-General ([A/74/289](#)) does not include information on appendix A to the Staff Rules. The Committee requested but did not receive an updated appendix A, effective 1 January 2019, reflecting General Assembly resolution [73/273](#) in which the Assembly approved recommendations of the International Civil Service Commission. The Committee was informed, instead, that the most recent changes approved by the Assembly were reflected “automatically” in Umoja, and that an updated appendix A would be reflected in the issuance of a new Secretary-General’s bulletin containing the amended Staff Regulations and Rules. **The Advisory Committee is of the view that full information on the Staff Regulations and Rules should be provided in future reports of the Secretary-General, including all annexes and appendices.**

VI. Conclusion

51. Information on the actions requested of the General Assembly is contained in paragraphs 14 and 15 of the report of the Secretary-General ([A/74/289](#)). **Subject to its observations and recommendations in the present report, the Advisory Committee recommends that the General Assembly approve the amendments to the Staff Regulations and take note of the amendments to the Staff Rules.**