



**Report of the meetings of the Working
Group on the Staff Regulations and Staff
Rules of the ICO held on
22 November 2016 and 15 February 2017**

1. The Working Group on the Staff Regulations and Staff Rules of the ICO held its first meeting on 22 November 2016 and again on 15 February 2017 at the ICO's headquarters in London. The following Members were represented either in person or on the telephone: Brazil, Japan, Philippines, Switzerland and the United States. Other Members who had indicated an interest in participating in the Working Group, but who were unable to join the meeting, were: Democratic Republic of Congo, El Salvador, European Union, Honduras, Indonesia, Mexico and the Russian Federation.

Item 1: Adoption of the Agenda

2. The draft Agendas contained in documents WG-Rules 1/16 and WG-Rules 3/17 Rev. 1 were adopted.

Item 2: Chairman and Vice-Chairman

3. The Group elected Mr Conradin Rasi of Switzerland as Chairman and Mr Joaquim Pedro Penna of Brazil as Vice-Chairman.

Item 3: Draft Staff Regulations and Staff Rules

4. Members of the Group met on two occasions (22 November 2016 and 15 February 2017) and worked through the proposed changes that were presented by the Executive Director in document FA-133/16 Rev. 1. The Committee proceeded to work through each recommendation and as a consequence the agreed changes have been itemised in Annex I attached.

5. The revised Staff Regulations and Staff Rules as agreed by the Working Group and recommended to the Finance and Administration Committee are attached as Annex II.

Item 4: Other business

6. There was no other business.

Item 5: Date of the next meeting

7. It was decided that if required, the next meeting of the Group would be held at the ICO, 22 Berners Street, London during the week of the Council Session in March 2017.

DECISIONS ON THE NOTES ON THE DRAFT STAFF REGULATIONS AND STAFF RULES

The Working Group agreed the following changes to the draft Staff Regulations and Staff Rules and they have been integrated into the revised Staff Regulations and Staff Rules.

1. These material changes can be summarised as follows:
 - (a). **Regulation 1.8:** New Regulation concerning “whistleblowing”. See also Annex I.
Approved
 - (b). **Rule 101.2 § 1:** Additional day of leave to observe a national or religious day.
Approved
2. **Regulation 3.4:** Deletion of suggested new performance pay programme. The United States has suggested that this be linked to a new performance management system. It is intended that this will be inserted at a later date.
The Committee agreed Regulation 3.4 should be removed and that four elements should be considered when preparing a recognition programme:
 - i. Establishment of performance pay award program
 - ii. Training of management
 - iii. Implementation
 - iv. Payment
3. **Rule 103.4 § 3:** Amendment to allow staff members to have time off in lieu rather than pay for overtime.
Approved
4. **Rule 103.7 §3 (c):** Deletion of sub-paragraph (c) to allow internationally recruited staff to be entitled to an education grant in respect of a dependent child attending a university in the country of the duty station. Although there are no financial implications of this change at present, there could be material implications in the longer term, depending on recruitment practices. Education grant entitlements applicable in the United Kingdom can amount to a maximum of £19,398 per annum for tuition fees and £3,821 per annum in respect of boarding fees, although these entitlements will change in August 2017 in the light of UN regulations (see Annex V).
Approved

5. **Regulation 4.6:** Staff members may be required to undertake a drugs test from time to time, especially on appointment.

Approved

6. **Rule 104.10:** New sentence inserted to differentiate between fixed-term appointments and permanent appointments.

At the end of this period the staff member shall be granted a fixed-term appointment or be separated from the service. ~~Dismissal from the service prior to the probationary period ending shall be subject to the same notice periods and conditions as stated in Chapters 11 and 12."~~

Text suggested from the ICO staff. The first sentence was approved.

7. **Chapter 5:** The implementation of this Chapter is to be postponed following the comments from the United States concerning a new performance management system and new performance pay programme. This follows the suggested deletion of Regulation 3.4 (see above). It is intended that both be inserted at a later date, once they have been agreed. It is proposed that this Chapter is deleted at this stage.

Remove: see comments in Regulation 3.4

8. **Rule 105.2:** The United States has expressed concern about generous leave policies
Bereavement leave to be a separate rule. UN rules apply to all other Special leave
Adoption to be included under Maternity leave

9. **Rule 106.1:** Amendment to increase the Provident Fund contribution to 10% for the employee and to 20% for the Organization. This would cost the Organization circa £12,000 per annum.

Approved: include text to allow staff to have the option of 7.9% or 10% for employee and 15.8 or 20% Organization contribution respectively

10. **Rule 106.3:** Amendment to allow staff members to take paternity leave.

Approved

11. **Regulation 8.2:** The Committee felt the wording was too restrictive and binding or management and the revised text would be as follows: 'The Executive Director shall establish and maintain regular contact and communication with staff members and the joint administrative machinery. Staff members' participation in the joint administrative machinery shall be through the Staff Association.'

12. **Regulation 9.1 to become 9.2, 9.2 to become 9.3 and 9.3 to become 9.1**

- (a) **Rule 109.7:** The Executive Director agreed that a final appellate body should be appointed to hear staff grievances. Although the external bodies suggested by the United States are well equipped to hear such grievances, there is some doubt as to whether they are appropriate for an organization the size of the ICO: both the cost and the time involved can be considerable.

The Executive Director requested the Organization's solicitors to suggest an alternative mechanism. They suggested that it is common practice in the United Kingdom to appoint a senior member of the Bar to undertake such a task, provided they have sufficient experience in such matters.

A new Rule 109.7 § 2 was inserted: "The Executive Director shall consult the Organization's solicitors to supply the names of three Queen's Counsels (QC's), or senior members of the Bar, who have the necessary experience in matters of **international employment law, international U.N. organizations**, human resources issues, employment disputes or mediation in this field and who are willing to act on request. The staff member shall have the right to choose one of the three suggested lawyers as the expert."

Approved with the following inclusion in red above

Rule 109.7 § 7: The expert shall submit his/her ~~report~~ **decision** to the Executive Director and Chairperson of the Finance and Administration Committee ~~or the person appointed by the Chairperson of the Finance and Administration Committee~~, within four weeks after receiving all written submissions and hearing all oral statements concerning the issues before it. The expert may, however, extend this time limit in exceptional circumstances.

Amend the text as above

Rule 109.7 § 8: The ~~final decision shall be taken by the~~ Executive Director in consultation with the Chairperson of the Finance and Administration Committee **shall take action** ~~or the person appointed by the Chairperson of the Finance and Administration Committee~~, within twenty working days following receipt of the expert's ~~report~~ **decision** and shall be communicated to the staff member, together with a copy of the expert's ~~report~~ **decision**.

Amend the text as above

Rule 109.7 to be renumbered Rule 109.1 and then all other Rules to follow on from the new numbering i.e. Rule 109.1 would become 109.2, etc.

- (b) **Rule 109.6 § 10:** The staff member will be informed of their right to a further and final appeal under the auspices of the Organization which must be made in writing to the Executive Director and, **if the staff member agrees**, to the Staff Committee stating the grounds of appeal. This should be received within ten working days of the staff member's receipt of the decision following the Joint Disputes Appeals Board or in the case of no decision being received from the Executive Director, within ten working days of the staff member's receipt of the Board's report.

Amend text as above

- (c) **Rule 110.5 § 7:** Staff members requested that a retired staff member be able to either mediate or assist.

Rejected: The Committee did not agree with the ICO Staff comment, and that no one from outside the Organization would be allowed to mediate or assist

- (d) **Rule 110.10 § 3:** It is suggested that identical wording be inserted as a new Rule 110.10 § 3 to that contained in Rule 109.7 § 2 (see above).

Approved

13. **Regulation 11.4:** Amendment of the provision relating to the retirement age.

Approved with the following amendment: Staff members shall not be retained in the service of the Organization, **regardless of whether the staff member contributes to the state pension or not**, after the age at which they become eligible to receive their United Kingdom State Pension.

14. **Rule 111.9 (e):** Amendment to the Rule to compensate dependents of a staff member who dies while still in the employment of the Organization. It is difficult to quantify the financial implications to the Organization because it is a rare event. The maximum cost given current circumstances would be £94,000 at 30 September 2016.

Approved

15. **Rule 111.11:** New Rule to allow an internationally recruited staff member to be remunerated, according to the length of service, upon leaving the Organization to take another appointment in his/her home country. The additional cost in the event of the repatriation of all internationally recruited staff members, including the Executive Director, would be circa £160,000 at 30 September 2016.

Not agreed. Remove the entire Rule

16. **Rule 111.11:** Extension of the schedule relating to the termination indemnity. In the extreme event of the liquidation of the Organization, the additional cost of this amendment would amount to £175,000 at 30 September 2016.

Comment: The Working group preferred the current indemnity while the ICO Staff preferred the UN indemnity. It was agreed that the Finance & Administration Committee would discuss and propose their recommendation to the Council.

17. **Annex I:** New policy on “whistleblowing”.

1.1: Add a footnote as follows to clarify the meaning of the word “officials”: For the purposes of this Annex the term “officials” shall mean the Chair of the International Coffee Council, or the Chair of the Finance and Administration Committee.

3.1: To be revised as follows: Protection against retaliation will be extended to an individual who reports misconduct through internal mechanisms to the Chairperson of the Finance and Administration Committee or to the Chairperson of the Council, **Executive Director, Head of Division, or Members outside of the Organization.** It is the duty of the Organization to protect the confidentiality of the individual's identity and all communications through those channels to the maximum extent possible **and has to be actioned by that manager.**