

ORGANISATION EUROPEENNE POUR LA RECHERCHE NUCLEAIRE
CERN EUROPEAN ORGANIZATION FOR NUCLEAR RESEARCH

Action to be taken

Voting Procedure

For recommendation: Amendment to Art. S II 5.01 For approval: Amendment to Art. R II 5.01	FINANCE COMMITTEE 336 th Meeting 22 June 2011	2/3 Majority of all the Member States and at least 51% of the contributions of all the Member States
For approval: Amendment to Art. S II 5.01	COUNCIL 159 th Session 23 June 2011	2/3 Majority of all the Member States

**PROPOSED AMENDMENTS TO THE STAFF RULES AND REGULATIONS
RELATED TO EXCEPTIONAL CONTRACT EXTENSION BEYOND THE STATUTORY
RETIREMENT AGE FOR MEMBERS OF THE PERSONNEL APPOINTED BY THE
COUNCIL PURSUANT TO ARTICLE S II 1.01**

As agreed by the Council in March 2011, the Management hereby submits amendments to Articles S II 5.01 and R II 5.01 of the Staff Rules and Regulations to the Finance Committee for recommendation to the Council (S II 5.01) and for approval (R II 5.01), and thereafter to the Council for approval (S II 5.01). The new provisions will come into force on 1st July 2011.

Introduction

Under the current Staff Rules and Regulations, contracts of the members of the personnel expire automatically when the statutory retirement age (65 years) is reached. There is currently no provision for an exceptional contract extension beyond this statutory age.

As the current LHC operation as well as its programme for the immediate future require managerial stability and continuity in key positions, a draft proposal to amend the Staff Rules and Regulations to introduce a provision permitting an exceptional contract extension beyond the statutory retirement age was submitted by the Management to the Council at its March 2011 Session, in the form of a White Paper.

In accordance with this provision, the Council could decide, on the proposal of the Director-General, in exceptional circumstances and in the interests of the Organization, to extend the contract of a member of the personnel appointed by the Council pursuant to Article S II 1.01 beyond the statutory age limit, for a period within the mandate of the Director-General requesting the extension.

At its March Session, the Council took note of, and expressed support for, the draft proposals set out in the White Paper and invited the Management to prepare a formal proposal for amendment to the Staff Rules and Regulations, for submission to the Finance Committee and the Council in June 2011, via the statutory discussion and *concertation* process.

The Management hereby submits the proposed amendments to Articles S II 5.01 and R II 5.01 of the Staff Rules and Regulations to the Finance Committee for recommendation to the Council (S II 5.01) and for approval (R II 5.01), and thereafter to the Council for approval (S II 5.01). The new provisions will come into force on 1st July 2011.

CURRENT TEXT

- 28 -

<i>RULES</i>
Chapter II - Section 5
Articles S II 5.01 - 5.05
1 August 2009

CHAPTER II**CONDITIONS OF EMPLOYMENT AND ASSOCIATION****Section 5 - Termination of contract**

<i>Article N°</i>	<i>Applicable to</i>	
S II 5.01 Types of termination of contract	MP	<p>Contracts shall terminate on account of:</p> <ol style="list-style-type: none"> a) reaching the age limit; b) expiry of a contract of limited duration; c) death; d) recognition of total disability; e) resignation; f) mutual agreement; g) dismissal notified during the probation period; h) dismissal for reasons of unsatisfactory service; i) dismissal for disciplinary reasons; j) dismissal following a reduction of complement decided by the Council; k) dismissal owing to the suppression of a post; l) for associated members of personnel, the loss of adequate social cover and of a legal link with their home institution. m) for staff members appointed by the Council at the time of recruitment, the end of their term of office.
S II 5.02 Premature termination of contract of associated members of the personnel	MPA	<p>For associated members of the personnel, dismissal shall mean a decision to prematurely terminate the contract.</p>
S II 5.03 Dismissal owing to a reduction of complement or suppression of a post	Ts	<p>Staff members shall not be dismissed owing to a reduction of complement decided by the Council or the suppression of a post, unless the Director-General has ascertained that they cannot be assigned to another post within the Organization.</p>
S II 5.04 Dismissal of staff members appointed by the Council	Ts	<p>Staff members appointed by the Council may not be dismissed for reasons of unsatisfactory service, unless the Director-General has consulted a Board of three members appointed by the President of the Council. This Board shall give a hearing to the Director-General, the staff member concerned and any other person whose evidence it may consider useful. It shall submit its opinion to the President of the Council, who shall inform the Director-General thereof.</p>
S II 5.05 Contract termination conditions	MP	<p>The Regulations shall lay down the termination conditions, namely the period of notice and the procedure to be followed.</p>

PROPOSED TEXT

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RULES
Chapter II - Section 5
Articles S II 5.01 - 5.05
1 July 2011

CHAPTER II

CONDITIONS OF EMPLOYMENT AND ASSOCIATION

Section 5 - Termination of contract

<i>Article N°</i>	<i>Applicable to</i>
S II 5.01 Types of termination of contract	MP
S II 5.02 Premature termination of contract of associated members of the personnel	MPA
S II 5.03 Dismissal owing to a reduction of complement or suppression of a post	Ts
S II 5.04 Dismissal of staff members appointed by the Council	Ts
S II 5.05 Contract termination conditions	MP

Contracts shall terminate on account of:

- a) reaching the age limit, **or the end of the extension provided for in Article R II 5.01** ;
- b) expiry of a contract of limited duration;
- c) death;
- d) recognition of total disability;
- e) resignation;
- f) mutual agreement;
- g) dismissal notified during the probation period;
- h) dismissal for reasons of unsatisfactory service;
- i) dismissal for disciplinary reasons;
- j) dismissal following a reduction of complement decided by the Council;
- k) dismissal owing to the suppression of a post;
- l) for associated members of personnel, the loss of adequate social cover and of a legal link with their home institution.
- m) for staff members appointed by the Council at the time of recruitment, the end of their term of office.

For associated members of the personnel, dismissal shall mean a decision to prematurely terminate the contract.

Staff members shall not be dismissed owing to a reduction of complement decided by the Council or the suppression of a post, unless the Director-General has ascertained that they cannot be assigned to another post within the Organization.

Staff members appointed by the Council may not be dismissed for reasons of unsatisfactory service, unless the Director-General has consulted a Board of three members appointed by the President of the Council. This Board shall give a hearing to the Director-General, the staff member concerned and any other person whose evidence it may consider useful. It shall submit its opinion to the President of the Council, who shall inform the Director-General thereof.

The Regulations shall lay down the termination conditions, namely the period of notice and the procedure to be followed.

CURRENT TEXT

- 29 -

REGULATIONS
Chapter II - Section 5
Articles R II 5.01 - 5.08
1 August 2009

CHAPTER II**CONDITIONS OF EMPLOYMENT AND ASSOCIATION****Section 5 - Termination of contract**

<i>Article N°</i>	<i>Applicable to</i>	
R II 5.01 Age limit	Ts	The age limit shall be 65 years. The contract shall expire on the last day of the month in which the 65th birthday falls.
R II 5.02 Expiry of a limited-duration contract	Ts	A limited-duration contract shall expire at the end of the prescribed period. The Director-General may renew it or not, or extend it within the limits and conditions laid down in Article R II 1.17. He shall notify his decision at least six months prior to the expiry date of the contract if the duration of the contract so permits.
R II 5.03 Resignation	MP	Members of the personnel having decided to resign shall submit their resignation to the Director-General in writing. The resignation shall be subject to the periods of notice laid down in the Regulations and, except for the cases covered by Article R II 5.06 a), shall take effect on the last day of a month.
R II 5.04 Dismissal	MP	Members of the personnel shall be notified of their dismissal in a letter indicating the reasons as well as the date of contract termination, taking into consideration the periods of notice laid down in the Regulations.
R II 5.05 Periods of notice (employed members of the personnel)	MPE	<p>The following periods of notice shall apply in the event of termination of contract for recognition of total disability, resignation or dismissal:</p> <p>a) staff members:</p> <p>i) For those holding a limited-duration contract:</p> <ul style="list-style-type: none"> - one month during the probation period; - three months in other cases. <p>ii) For those holding an indefinite contract:</p> <ul style="list-style-type: none"> - six months plus one month per year of service from the seventh year of service (maximum 12 months) in the event of dismissal owing to a reduction of complement decided by the Council or the suppression of a post; - six months in other cases. <p>b) fellows: two months.</p> <p>c) apprentices: in compliance with local legislation and practice.</p>
R II 5.06 Periods of notice (associated members of the personnel)	MPA	<p>The following periods of notice shall apply for the resignation or dismissal of associated members of the personnel:</p> <p>a) for those holding a contract of less than four months: one week;</p> <p>b) for those holding a contract of four months or more: one month.</p>
R II 5.07 Reduction or suppression of the period of notice	MP	The periods of notice may either be reduced by mutual agreement, or reduced or suppressed by the Director-General in the event of dismissal for disciplinary reasons.
R II 5.08 Leave during the notice period	MP	The Director-General may require a member of the personnel to take special remunerated or paid leave during the period of notice.

PROPOSED TEXT

- 29 -

REGULATIONS
Chapter II - Section 5
Articles R II 5.01 - 5.08
1 July 2011

CHAPTER II

CONDITIONS OF EMPLOYMENT AND ASSOCIATION

Section 5 - Termination of contract

<i>Article N°</i>	<i>Applicable to</i>
R II 5.01 Age limit	Ts
R II 5.02 Expiry of a limited-duration contract	Ts
R II 5.03 Resignation	MP
R II 5.04 Dismissal	MP
R II 5.05 Periods of notice (employed members of the personnel)	MPE
R II 5.06 Periods of notice (associated members of the personnel)	MPA

The age limit shall be 65 years. Contracts shall expire on the last day of the month in which the 65th birthday falls.

Notwithstanding the foregoing, the Council may decide, on the proposal of the Director-General, in exceptional circumstances and in the interests of the Organization, to extend the contract of a member of the personnel appointed by the Council pursuant to Article S II 1.01 beyond the age limit, for a period within the mandate of the Director-General requesting the extension.

A limited-duration contract shall expire at the end of the prescribed period. The Director-General may renew it or not, or extend it within the limits and conditions laid down in Article R II 1.17. He shall notify his decision at least six months prior to the expiry date of the contract if the duration of the contract so permits.

Members of the personnel having decided to resign shall submit their resignation to the Director-General in writing. The resignation shall be subject to the periods of notice laid down in the Regulations and, except for the cases covered by Article R II 5.06 a), shall take effect on the last day of a month.

Members of the personnel shall be notified of their dismissal in a letter indicating the reasons as well as the date of contract termination, taking into consideration the periods of notice laid down in the Regulations.

The following periods of notice shall apply in the event of termination of contract for recognition of total disability, resignation or dismissal:

- a) staff members:
 - i) For those holding a limited-duration contract:
 - one month during the probation period;
 - three months in other cases.
 - ii) For those holding an indefinite contract:
 - six months plus one month per year of service from the seventh year of service (maximum 12 months) in the event of dismissal owing to a reduction of complement decided by the Council or the suppression of a post;
 - six months in other cases.
- b) fellows: two months.
- c) apprentices: in compliance with local legislation and practice.

The following periods of notice shall apply for the resignation or dismissal of associated members of the personnel:

- a) for those holding a contract of less than four months: one week;
- b) for those holding a contract of four months or more: one month.

<p>R II 5.07 Reduction or suppression of the period of notice</p> <p>R II 5.08 Leave during the notice period</p>	<p>MP</p> <p>MP</p>	<p>The periods of notice may either be reduced by mutual agreement, or reduced or suppressed by the Director-General in the event of dismissal for disciplinary reasons.</p> <p>The Director-General may require a member of the personnel to take special remunerated or paid leave during the period of notice.</p>
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