



ANNEX 9 to the Tender Specifications

Applicable legal rules

1. **Staff Regulations (SR) for Officials of the European Communities, the Conditions of Employment for other servants of the European Communities (CEOS); as well as any applicable implementing rules thereto**

http://ec.europa.eu/civil_service/docs/toc100_en.pdf

2. **Commission decision of 28 April 2004 introducing implementing provisions on absences as a result of sickness or accident (C(2004) 1597/11) - A.N. 92-2004 of 6 July 2004**

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Staff Regulations of officials of the European Communities and the Conditions of Employment of other servants of the European Communities (CEOS) laid down by Council Regulation (EEC, Euratom, ECSC) No 259/68¹, and in particular Articles 59 and 60 of the Staff Regulations and Articles 16, 59, 60 and 91 of the CEOS,

Whereas:

1. In order to ensure that practice remains transparent and consistent, the implementing provisions applicable to absences as a result of sickness or accident should be combined in a single document.
2. Provision should be made for the possibility of subsequently rapidly amending the Annex to this Decision as appropriate.
3. In this respect, it seems not expedient for such amendments to be referred every time to the Commission where they remain limited in scope,

HAS DECIDED AS FOLLOWS:

Article 1

The Annex to this Decision establishing implementing provisions for absences as a result of sickness or accident is hereby approved.

Article 2

The Commission shall empower the Director-General for Personnel and Administration to make all necessary limited amendments to the Annex to this Decision.

Article 3

This Decision shall enter into force on 1 May 2004.

Done at Brussels, 28.4.2004

¹ OJ L 56, 4.3.1968, p. 1. Regulation as last amended by Regulation (EC, Euratom) No 723/2004 (OJ L 124, 27.4.2004, p. 1).

ANNEX

IMPLEMENTING PROVISIONS REGARDING ABSENCES ON GROUNDS OF HEALTH OR ACCIDENT

ABBREVIATIONS USED

SNE	=	Seconded national expert
GECO	=	Leave Administrator in the Directorate General / department concerned
HRM	=	Human Resources Manager for the Directorate General/department concerned
JSIS	=	Joint Sickness Insurance Scheme of the European Communities
SIC CONGES	=	Joint Information System, present in every DG/department and designed to facilitate the administrative management of leave and absences

INTRODUCTION

These provisions governing absences on grounds of health or accident are aimed in particular at incorporating the amendments to the Staff Regulations applicable from 1 May 2004 and include new information designed to fill any gap in the existing rules.

On questions of leave as such (including maternity leave and the various forms of special leave), please refer to the complementary Commission Decision on the implementing provisions with regard to leave.

I. GENERAL

- Officials who provide sufficient evidence of incapacity to perform their duties because of sickness or accident are automatically entitled to sick leave.
- Similarly, members of the temporary staff/auxiliary staff/contract staff (within the meaning of the Conditions of Employment of Other Servants) who provide sufficient evidence of incapacity to perform their duties because of sickness or accident are entitled to sick leave.
- SNEs who provide sufficient evidence of incapacity to perform their duties because of sickness or accident are automatically entitled to sick leave; if the sick leave exceeds one month or the period already served (only the longer of the two periods is taken into account), payment of the SNE's daily allowances is automatically suspended; the period of sick leave may not extend beyond that of secondment; however, SNEs who are victims of a work related accidents during their period of secondment continue, until the end of the secondment, to receive their full daily allowances throughout the period of incapacity for work.
- This document applies only to the staff referred to above. Interim, service or contract staff under national law and other staff employed directly or otherwise by the Commission are governed by the national rules applicable at the place of work.

II. APPLICATION

Preamble: Officials, other servants and SNEs must, as soon as possible – in practice within the first few hours of absence and using every means at

their disposal, notify or have someone notify their line manager, giving precise details as to how they can be contacted and how long they are likely to be away from work.

The official or other servant or SNE must, before the supporting documents are sent, ensure that the latter bear their personnel number and, where applicable, their status (i.e. permanent official, member of the temporary staff or SNE) and are perfectly legible and complete.

II. a: ABSENCE NOT EXCEEDING THREE CALENDAR DAYS

Basic principle

- A medical certificate is not required for an absence on health grounds not exceeding three (3) calendar days.
- However, if absences on health grounds of up to three (3) calendar days not covered by a medical certificate add up to more than twelve (12) days during the preceding 12 month period, the official or other servant or SNE concerned must produce a medical certificate for any further absence – however short on health grounds as long as the total continues to exceed 12 days over a 12 month period. Absences will automatically be regarded as unjustified from the 13th day of absence on health grounds which is not covered by a medical certificate.
- An absence on grounds of health which is not covered by a medical certificate may not follow a period of sick leave which is.
- An absence on health grounds without a medical certificate may not immediately precede or follow a period of annual or special leave if the total absence, including the annual or special leave, exceeds three calendar days. The absence will in such cases be regarded as irregular (see III.E below).

Application

- Not having a medical certificate does not dispense officials/other servants/SNEs from having to notify their line manager at the earliest opportunity (see Preamble).

II. b: ABSENCE EXCEEDING THREE DAYS AND ALL ABSENCES COVERED BY A MEDICAL CERTIFICATE

Basic principle

- Officials, other servants and SNEs who are absent on health grounds for more than three (3) calendar days must be covered by a medical certificate stating clearly that they are unfit for work.
- The medical certificate must be legible and must include the following information:
 - the patient's name and first name,
 - where the patient is staying,
 - the foreseeable duration of the incapacity for work, specifying the start and end dates.
- The absence will not be treated as sick leave until the Medical Service has been in a position to establish the validity of the medical certificate (see III.E

below)

Application

- Officials, other servants and SNEs must send the original of the medical certificate direct to the Medical Service (i.e. not via their Directorate General/department). They must do so as soon as possible² after the first day of incapacity for work and in no case later than the fifth day of absence, the postmark serving as proof. Failing this, the absence will be regarded as unjustified, unless they were prevented from sending the certificate by circumstances beyond their control (proof of which will, where necessary be required). A certificate made out after they have returned to work may be rejected if the Medical Service is not in a position to establish/verify the medical situation.
- If an official, other servant or SNE is unable to transmit the certificate promptly to the Medical Service he or she must notify or have someone notify the latter and explain why.
- Sending the medical certificate does not dispense permanent officials, other servants or SNEs from having to notify their immediate superior at the earliest opportunity (see Preamble).

II. c: ACCIDENT

Basic principle

- In case of absence because of an accident the provisions of II. a and b. above shall apply, with any necessary changes.

Application

- Officials, other servants and SNEs who are absent because of an accident must, as soon as possible, notify or have someone notify their line manager, stating how long they expect to be off work. The line manager or the Joint Sickness Insurance Scheme, Welfare Service or Medical Service, as the case may be, will then instruct them on how to proceed.
- Auxiliary staff and SNEs should also contact the national social security scheme with which they are affiliated.

II. d: ABSENCE ON HEALTH GROUNDS WHILE ON ANNUAL LEAVE

Basic principle

- If, while on annual leave, officials or other servants or SNEs contract an illness which would have prevented them from performing their duties had they not been on leave, they may apply for the number of days of annual leave corresponding to the period of illness to be re-credited.
- The Medical Service must be in a position to carry out a medical examination, if it sees fit, and must therefore be informed as soon as possible, failing which it may not be possible to have the days of leave re-credited.

² If the document is sent by fax the original must follow at a later stage.

Application

- Except in cases of force majeure (the decision as to whether force majeure is involved rests with the Medical Service), officials, other servants and SNEs must contact the Medical Service at the onset of the illness and send in a copy of the medical certificate with the following information (where necessary by telephone or fax) within 48 hours at the latest:
 - surname, first name and personnel number,
 - starting and end dates of the illness,
 - the exact address of the place where they are staying during the illness and the means of contacting them (landline, mobile phone, fax, address, e mail, etc.),
 - exact name and address (plus the means of contacting) the doctor treating them;
- They must also send in the original medical certificate as soon as possible;
- Where the two conditions above are met, and providing the Medical Service declares the certificate valid, the days of leave will be re-credited in "SIC CONGÉS" by the leave administrator (GECO) on the basis of a list provided by the Medical Service;
- The Medical Service will not take into consideration, with a view to the possible re-crediting of annual leave, medical certificates issued or sent at a later date, i.e. after the reported end date of the period of illness or after the period of annual leave.

II. e: MEDICAL EXAMINATION

- Officials, other servants and SNEs on sick leave may at any time be required to undergo a medical examination arranged by the Commission. The purpose of such an examination is to ensure that the absence is justified and that the duration of the absence is in proportion to the nature of the illness. This examination will normally take place at the patient's home.
- The medical examinations are carried out by a doctor at the request of the Medical Service acting either on its own initiative or at the request of the official's HRM.
- Officials or other servants or SNEs required to undergo such a medical examination may be notified by letter, telephone or fax or by any other appropriate means. The notification will be sent, as appropriate, to their home address, leave address or the place where they have been authorised to spend their sick leave.
- If the official is unable to travel, he or she must notify the medical officer immediately. The inability to travel must at all events be mentioned in the medical certificate or in a detailed attestation from his or her doctor certifying that they are medically unfit to travel.
- If the examination cannot take place for reasons attributable to the person concerned, his or her absence will be regarded as unauthorised with effect from the date on which the examination was due to take place.
- If the medical officer concludes from the examination that the person concerned is fit to work, he or she shall immediately inform the official/other

servant/SNE in writing. The medical officer shall state in the document when the official/other servant/SNE is deemed to be fit to return to work. The medical officer of the Medical Service may request an additional expert medical examination.

- The Medical Service shall also inform the HRM of the Directorate General/department concerned.
- If the official/other servant/SNE (or a doctor acting on their behalf) considers the conclusions of the medical officer to be unjustified on medical grounds, they may within two working days submit to the Medical Service a request that the matter be referred to arbitration. Article 59 of the Staff Regulations sets out clearly the arbitration procedure. If the arbitration confirms the conclusions of the medical examination, the absence will be considered as unauthorised with effect from the date of the examination.

III. SPECIAL CASES

III. a: SICK LEAVE AWAY FROM THE PLACE OF EMPLOYMENT

Basic principle

- Officials or other servants or SNEs on sick leave who wish to spend this leave in a place other than their place of employment³, must ask permission from their appointing authority beforehand;
- The Appointing Authority shall base its decision on the opinion of the Medical Service;
- Where the Appointing Authority takes no decision or refuses to grant authorisation, the person concerned may not leave his or her place of employment, failing which the absence may be regarded as unauthorised. Failure to observe these rules may lead to disciplinary sanctions. The Appointing Authority may ask the Medical Service to request that the person concerned come for an examination to ascertain that they are present in the place of employment.

Application

- Wherever possible, a request to spend a period of sick leave at a place other than that of employment should be made by completing the special form entitled "Application for authorisation to be away from place of employment";
- The form must be submitted at least 10 working days before the intended departure date to the Medical Service, which will forward it, together with its opinion, to the HRM of the Directorate General/department of the person concerned. This period is necessary to allow the Medical Service to check, where appropriate, that there is no medical reason why the person concerned should not travel or, in particular, whether making the journey might aid the patient's recovery.
- The Appointing Authority will then inform the person concerned and the Medical Service of its decision. The authorisation, if any, shall be granted for a specified period.

³ Verification, if any, will take place at the address given by the official or other servant or SNE as his or her domicile.

III. b: TRAVEL OUTSIDE THE PLACE OF EMPLOYMENT FOR MEDICAL EXAMINATIONS OR MEDICAL TREATMENT⁴

Basic principle

- Official or member of the temporary staff: three days maximum.
- Auxiliary staff or SNE: there is no provision for special leave.
- Possibly travelling time in very exceptional circumstances.

Application

- The Appointing Authority may only grant special leave on the advice of the Medical Service to officials or temporary staff for a medical consultation, examination or a specific treatment of short duration away from the place of employment during Commission working days and hours;
- Special leave may not cover an absence for illness or hospitalisation;
- Special leave may be combined with annual leave but may not be granted during annual leave and may not, therefore, lead to part of the latter being re-credited;
- The Appointing Authority is not bound by the opinion of the Medical Service;
- Exceptional travelling time for a maximum of one day may be granted on the advice of the Medical Service if the distance, by rail, between the place of employment and the place in which the consultation/examination/treatment takes place is 200 km or more.

Conditions

- Officials/members of the temporary staff must, together with their application, submit an application to their Medical Service to spend time at a place other than that of employment using the form entitled "Application for authorisation to be away from place of employment";
- The Medical Service will, after delivering its opinion, forward the application, for a decision, to the Appointing Authority of the Directorate General/department of the person concerned;
- If the Appointing Authority approves the application, it will notify the person concerned, the Medical Service and the GECO, who will grant the special leave and any travelling time specified in the decision. If the application is rejected by the Appointing Authority the GECO shall notify the official/member of the temporary staff and shall set the entire absence, if any, against the annual leave entitlement;
- Travelling time and special leave will not be confirmed until the Medical Service has been able to inform the GECO that the medical examination has effectively taken place. It is therefore for the official/member of the temporary staff to transmit to the Medical Service a medical certificate regarding the consultation or treatment.

⁴ The Appointing Authority in Luxembourg will take account of the site's special situation. In particular, officials or other servants who consult a doctor established within a radius of 65 km are not required to apply for this type of special leave or apply for prior authorisation.

III. c: PART TIME WORKING ON MEDICAL GROUNDS

Basic principle

- For medical reasons, in particular the gradual reintegration into the working routine or to prevent risks to their health, officials or other servants or SNEs may be authorised to work part time under the arrangements for medical part time. In this way they will be able to work a portion of the normal day or week, depending on the Medical Service's decision.

Application

- The maximum period of part time working on medical grounds is three months;
- In exceptional circumstances, an extension may be granted for a maximum of three months by the Medical Service on the basis of a detailed medical report.
- If the person concerned wishes to take extended annual leave – 10 working days or more during a period of part time working on medical grounds, the latter will be suspended during the annual leave;
- At the end of the extended annual leave, the official/other servant/SNE may be asked to report to the Medical Service for a review of whether part time working on medical grounds is still justified;
- If the person concerned is authorised to work part time on medical grounds for a period during which he or she has already been authorised to work part time, the arrangements governing the latter shall be suspended for the duration of the part time work on medical grounds;
- Officials or other servants or SNEs working part time on medical grounds shall retain all their entitlements, in particular their entitlement to annual leave;
- Consequently, any days of annual leave taken count as whole days.

Conditions

Part-time work on medical grounds will be granted by the Medical Service either on its own initiative or following a request by the official or other servant.

If it is the official or other servant who requests part time working on medical grounds, he must ask the Medical Service⁵ for a medical examination and produce a reasoned attestation from the doctor treating him.

Part-time working on medical grounds may not commence until the Medical Service has given its approval.

Therefore:

- The request must be made in good time in order to allow the Medical Service to reach a decision (in particular where part time working on medical grounds follows a period of sick leave);
- Officials/other servants may not pre-empt the Medical Service's decision by

⁵ In Brussels the supervision sector (extension 56983/56984).

working part time ahead of such decision.

The Medical Service's decision shall stipulate the conditions governing part time working on medical grounds. Failing this, the person concerned may, in the case of half time work, choose whether to work mornings or afternoons, subject to the line manager's agreement. The Medical Service's decision shall be notified to the official/other servant/SNE and to the HRM.

In the event of a dispute the arbitration procedure⁶ shall be initiated, on the initiative of the Medical Service or the person concerned.

III. d: REQUIREMENT TO TAKE LEAVE ON HEALTH GROUNDS

Basic principle

Officials or other servants or SNEs may be ordered to take leave after examination by the Medical Service if their state of health so requires or if a member of their household is suffering from a contagious disease.

Application

- The decision to order someone to take leave shall be taken by the Appointing Authority on the basis of a reasoned opinion from the Medical Service. The decision may where appropriate specify that the person concerned should surrender his or her staff card.
- The decision on a return to work shall be taken by the Appointing Authority after consulting the Medical Service.
- Officials, other servants and SNEs may, if a member of their household is suffering from a contagious disease, be required to produce a certificate attesting non-contagiousness before resuming work. The certificate must be presented to the Medical Service, which will transmit its opinion to the Appointing Authority.
- In the event of a dispute, the arbitration procedure⁷ shall be initiated.

III. e: UNAUTHORISED ABSENCE

Basic principle

Except in case of sickness or accident, officials/other servants/SNEs may not be absent without prior permission from their line manager.

Application

- As stated at point II. APPLICATION – Preamble, it is for the line manager (or a person empowered by the latter) to record without delay any absence in SIC CONGÉS and inform the HRM of the Directorate General/department in the following cases:
 - if the official or a third party has not notified him on the first day of absence, giving a valid reason for the absence, or
 - if the absence is not covered by a medical certificate or by an authorised request for leave, or

⁶ As provided for by Article 59(1) of the Staff Regulations.

⁷ As provided for by Article 59(1) of the Staff Regulations.

- if the absence on grounds of sickness or accident has been duly established in advance by the Medical Service.
- The HRM, once informed by the line manager, shall check with the Medical Service if it has received a medical certificate or if it has been notified of the absence.
- If the Medical Service replies in the negative the HRM shall record the absence as “unauthorised”.
- Without prejudice to any disciplinary measures applicable, any duly recorded unauthorised absence shall be deducted from the annual leave of the person concerned.
- If the person concerned has used up his or her annual leave a deduction corresponding to the number of days’ leave will be made from their monthly salary on the basis of the following formula:

number of days’ absence X net monthly salary

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