

## **Guidelines to determine eligibility for spousal benefits under articles 34 and 35 of the UNJSPF Regulations (Rev.2)**

### **Background and underlying principles**

1. The issue of the determination of eligibility to receive spousal benefits under articles 34 and 35 of the Regulations of the United Nations Joint Staff Pension Fund (the “Fund”) has been a recurring item on the agenda of the United Nations Joint Staff Pension Board (the “Board”). To address potential uncertainty regarding the status of partners who may be recognized as spouses by the employing organizations under their Staff Regulations and Rules for the purposes of receiving certain employment benefits, but who may not be deemed eligible by the Fund to receive a spousal benefit from the Fund’s Regulations, at its 60<sup>th</sup> session in 2013 the Board requested that the then Chief Executive Officer/Secretary of the Board issue Guidelines as to how to implement the relevant articles of the Fund’s Regulations for pension benefit purposes. Guidelines were subsequently issued effective 1 April 2014, pursuant to which the Board extended the interpretation of marriage to unions/partnerships lawfully entered into and legally recognized by the authorities of the country of nationality of a participant as establishing a legal relationship of mutual dependence under the relevant national law and therefore having similar legal effects as marriage.
2. At its 62<sup>nd</sup> session in 2015, the Pension Board took note of the change in the United Nations policy with regard to determining the personal status of staff members for the purposes of employment benefits under United Nations Staff Regulations and Rules (ST/SGB/2004/13/Rev.1). A similar policy had been adopted by a majority of the Fund’s member organizations. At its 63<sup>rd</sup> session in 2016, the Board took account of the changes and requested that revised Guidelines be issued by the then Chief Executive Officer/Secretary of the Board. Guidelines were subsequently issued effective 1 September 2016, pursuant to which *the Pension Board extended the interpretation of marriage to unions/registered partnerships lawfully entered into and legally recognized by the competent authority of the location where the status was established as long as the union confers similar legal effects as marriage, specifically including pension rights.*
3. At its 75<sup>th</sup> session in 2023, the Board requested the Chief Executive of Pension Administration to update the Guidelines to provide for the retrospective recognition of certain marriages, as requested by the General Assembly in its resolution 77/258. The updates, which are in accordance with principles determined by the Board, are set out in paragraphs 15 to 21 below.
4. In all other respects, the guidance issued on 1 September 2016, pursuant to which the Pension Board extended the interpretation of marriage to unions/registered partnerships lawfully entered into and legally recognized by the competent authority of the location where the status was established as long as the union confers similar legal effects as marriage, specifically including pension rights, remains in force. As the Fund reviews individual cases, it maintains a list confirming the unions that have been confirmed to be equivalent to marriage, which is available for the information and guidance of participants and member organizations ([Annex](#)).

5. Moreover, the effective date of recognition of personal status for purposes of benefits under the Fund's Regulations continues to follow the effective day of change in national legislation as well as the actual date of celebration of the marriage/union following the revised national legislation. Except as provided hereunder, there is no retroactivity in recognizing the status of a union that may have been entered into prior to the change in legislation; if the legislation changes *after* the staff member's/participant's separation from service, a former participant is considered eligible to elect an annuity under article 35 *ter* of the Fund's Regulations.

6. As the nature of a spousal benefit under the Fund's Regulations is that of a survivor's benefit, the final determination of eligibility can only be done at the time of the death of the participant/retiree. Only the Chief Executive of Pension Administration, in accordance with article 7(b) of the Fund's Regulations, has the authority to determine the eligibility for pension benefit entitlements and to certify payments.

#### **Responsibility of the staff member/UNJSPF participant**

7. All staff members and UNJSPF participants are reminded to report their personal status at the time of their entry on duty, or of any subsequent changes thereof, as well as to provide the required evidence in support of the status to their employing organization. The Fund only recognizes information provided and in its records at the time of separation from service or death-in-service. Failure to accurately report the personal status and/or submit the required documentary evidence in support of the status may result in the ineligibility of the spouse or former spouse for UNJSPF spousal benefits.

8. Exceptionally, the Fund may, at the direct request of a participant that is made before separation from service or death-in-service, recognize a different personal status than the one reported by the employing organization, provided that such personal status is consistent with the Regulations of the Fund as interpreted by the Pension Board, i.e., is a recognized registered partnership or equivalent union and has been entered into before a competent authority under which the personal status has been established. Such requests are accepted only after the staff member/participant has approached the employing organization, which has declined to record and report the personal status on the basis of its human resources policy. Evidence of such refusal by the employing organization should be included in the participant's request to the Fund.

9. In any event, in view of the Fund's Administrative Rule B.3, the participant must inform and provide the required documentation to the Fund regarding the union/partnership before his/her separation from service/death-in-service. In all cases the participant shall provide the Fund with a copy of his/her partner's passport or other official ID that bears the owner's photograph and original signature.

#### **Responsibility of the UNJSPF member organization to report the status of the UNJSPF participants**

10. The Fund will be guided in its final determination of eligibility for survivors' benefits under articles 34 and 35 by the personal status reported by the employing organization prior to the participant's separation from service or death-in-service, provided that such determination has

been made within the definition of spouse as set forth in paragraph 2 above and verified pursuant to the relevant procedures established in paragraphs 13 and 14 below.

11. The member organizations should provide any required documentation to prove the registration of a union - and/or its dissolution - by a competent national authority of the location where the status was established as well as the verification of the legal status, as regards the pension rights conferred by such a union under the relevant law. All documents should be translated either into French or English, which are the working languages of the Fund.

12. Failure by a member organization to correctly report the personal status of a UNJSPF participant prior to his/her separation from or death in service that is attributable to the member organization shall result in additional actuarial costs to be paid by the member organization in accordance with UNJSPF Administrative Rule B.3(b).

### **Documentation and verification of status**

13. The verification process by the employing organization should include, but is not limited to:

- a. receipt of documentation from the staff member/UNJSPF participant issued by the competent authority in the location where the status was established attesting to the personal status claimed, clearly indicating the date on which the marriage/registered partnership, or equivalent union, has been recognized, which meets the requirements of the Pension Fund and that the documents provided are sufficient to establish such status;
- b. In case of dissolution of the union, formal documentation is required enable the Fund to establish the eligibility for a survivor's benefit under article 35 *bis* of the Regulations.

14. Before establishing any entitlements, the Pension Fund requires verification of the following:

- a. the participant's date of birth;
- b. the participant's marital/personal status by copy of a decree or other registration by the competent national authorities of the country where the status was established;
- c. the spouse(s)' date of birth;
- d. proof of divorce/dissolution, if applicable, by a copy of a divorce or dissolution decree, recognized by the authorities in the location where the status was established (act of equal legal standing for dissolution as was required for registration/recognition of the union);
- e. a copy of partner's passport or other official ID that bears the owner's photograph and original signature.

### **Retroactive recognition of marriages (available until 31 December 2024)**

15. The General Assembly, in resolution 77/258, requested the Board “*to provide, without prejudice to national law, the requisite framework for extension of the guidelines to allow retrospective recognition of beneficiaries arising from marriages, in cases where changes under national legislation occurred after the time of the former participants’ separation from service and they separated prior to the adoption of the revised guidelines in 2016*”.

16. Having regard to the foregoing, at its 75<sup>th</sup> session in July 2023 the Board decided that *the Fund will retrospectively recognize, for the purposes of payment of survivors’ benefits under articles 34 and 35 of the Fund’s Regulations, spouses whom the individual was in a relationship with at the time of separation from service and whom they subsequently married, provided that all of the following conditions are met:*

- a. The former participant separated from service no later than 31 August 2016;
- b. At the time of the former participant’s separation from service, the participant was reported to the Fund as single, but was in a relationship with their partner;
- c. At the time of the former participant’s separation from service, the participant could not legally marry their partner under the laws of the participant’s nationality;
- d. The laws of the former participant’s country of nationality were amended after the former participant’s separation from service, thereby permitting the former participant and their partner to marry; and
- e. The former participant and their partner married after the change in national law and such marriage was entered into no later than 31 December 2022. In accordance with the General Assembly resolution 77/258, only marriages will be accepted for this purpose; other types of unions (including common law unions, stable unions, etc.) will not be accepted, even if they are legally equivalent to marriage in the jurisdiction where they were entered into.

17. The existence of the relationship at the time of the former participant’s separation from service must be established to the satisfaction of the Chief Executive of Pension Administration through documentary evidence, which must normally include sworn affidavits from both spouses attesting to the existence of their relationship at the time of the former participant’s separation from service *and* at least two (2) of the following:

- a. Affidavits from family members/friends attesting to the existence of the relationship at the time of the former participant’s separation from service;
- b. Historical bank statements, loan documents or similar documentation showing a blending of finances prior to the former participant’s separation from service;

- c. Evidence of having maintained a shared household (mortgage statements; contracts of purchase and sale; bills/invoices) prior to the former participant's separation from service;
- d. Evidence of having jointly raised child(ren) prior to the former participant's separation from service;
- e. Documentary records on file with the Fund dating prior to the former participant's separation from service wherein the participant has named the spouse as a family member/beneficiary (e.g., Pens.A/2 form, UN P.2 form, personnel action).

18. It is the responsibility of the former participant/retiree to request the Fund to recognize their spouse as a prospective survivor under this framework. In the case of a deceased former participant, the surviving spouse may make the request to the Fund, provided that the conditions set out herein are met, save for the requirement to provide an affidavit from the former participant/retiree. ***In all cases the request must be made by 31 December 2024.***

19. In the event that a former participant whose spouse meets all of the foregoing criteria had previously elected to purchase an annuity under article 35 *ter* for that spouse, the purchase of the annuity shall be cancelled and the related deductions made from the retiree's benefit shall be reimbursed to the former participant.

20. It remains a requirement for payment of a benefit under articles 34 and 35 of the Fund's Regulations that the former participant and the spouse remain married until the former participant's death.

21. In the event that the parties were to divorce, there would not be an entitlement to a divorced surviving spouse's benefit under article 35 *bis* of the Regulations.