



THE PERMANENT REPRESENTATIVE  
OF AUSTRALIA  
TO THE UNITED NATIONS

17 October 2005

[Name withheld]

Office of Human Resources Management  
United Nations  
Headquarters  
New York NY 10017

Dear [Name withheld]

**Personal status for the purposes of United Nations entitlements**

I refer to the UN Secretary-General's staff bulletin ST/SGB/2004/13 of 24 September 2004, advising of the practice of the Organisation when determining the personal status of its staff members for the purpose of entitlements under the Staff Regulations and Rules. Since this staff bulletin was issued, I have received from the UN Secretariat several separate requests for advice on how the UN should treat a number of Australian nationals who assert that their relationships should be recognised for the purposes of UN staff entitlements.

Within Australia, marriage enjoys special status as the only legally recognised domestic partnership that can be contracted under Australian federal law. The Marriage Act 1961 defines marriage as the union of a man and a woman – to the exclusion of all others – voluntarily entered into for life. However, it should also be recognised that various Australian laws do confer differing degrees of status and consequence on a variety of domestic relationships, including de facto and same-sex relationships. Depending on the circumstances, this can involve the granting of particular benefits and entitlements. For example, under federal superannuation legislation, someone with an accepted 'interdependency relationship' with another person may nominate that other person to receive their pension benefits when they die. Under this legislation, two people have an interdependency relationship where:

- (a) they have a close personal relationship; and
- (b) they live together; and
- (c) one or each of them provides the other with financial support; and
- (d) one or each of them provides the other with domestic support and personal care.

With respect to Australian nationals employed by the United Nations, it is the view of the Australian Government that the responsibility for administering the relevant staff regulations and rules resides with their employer. This includes making any required determinations as to the personal status of individual employees.

The Australian Government places no impediment on the United Nations being able to accept that dependants of individual Australian national employees can extend beyond those contracted under marriage. Indeed, this is a common practice throughout Australian domestic workplaces, including among all Australian Government departments and agencies. The precise policies and procedures vary from employer to employer, recognising that the relevant circumstances and benefits involved also vary.

To assist the Secretariat in making its determinations, I have attached for your information an extract from the current administrative procedures and criteria applied within the Australian Department of Foreign Affairs and Trade regarding the determination of the personal status of its staff members for the purpose of entitlements on foreign postings. These guidelines may form an acceptable model for United Nations practices in determining the personal status of its staff members for the purpose of entitlements under the UN Staff Regulations and Rules.

I trust this is sufficient to enable you to make necessary determinations on all cases involving Australian nationals and that you will not need to consult the Australian Permanent Mission on individual applications.

Yours sincerely

[Name withheld]

*Excerpt from Australian Department of Foreign Affairs and Trade Administrative Circular P0265 of 22 May 2000.*

An officer may be accompanied by a partner at official expense only when the Department has formally recognised that the couple are living together in a de facto relationship. For this purpose, a de facto relationship may be deemed to exist where two people regardless of their gender, not being legally married, have a mutual commitment to living together on a genuine domestic basis, to the exclusion of all others. This mutual commitment is recognised by the couple meeting one of the following criteria:

I. Cohabitation for 3 years or more

Where a couple has lived together on a genuine domestic basis continuously for 3 years or more, the Department may take this to be prima facie evidence of the existence of a de facto relationship. The Department will require the officer and partner to lodge a statutory declaration to this effect. The Department may also request additional evidence as to the existence of the relationship.

II. Cohabitation for more than 12 months but less than 3 years

Where a couple has lived together on a genuine domestic basis continuously for more than 12 months but less than three years, the Department will require the officer and partner to lodge a statutory declaration to this effect. The Department will also require further evidence before it can recognise the existence of a de facto relationship. Such further evidence may include:

- whether there is a child of the relationship including a child accepted into the household whether or not a child of either of the partners;
- whether the couple has entered into domestic financial arrangements with each other including the existence of joint bank accounts, joint insurance, joint ownership of property and the existence of wills made in favour of the partner;
- whether the partners provide non-financial support and commitment to each other within the relationship. Examples of such support include caring for children, elderly or incapacitated relatives of the partner, caring for each other when sick or injured, the provision of domestic household services, engaging in joint travel, sporting, social or other activities.

The Department would expect the officer to produce relevant documentary evidence such as bank statements, statements from persons who know the couple, rental or land ownership agreements.

III. Non-cohabitation or Cohabitation for less than 12 months

Applications where a couple has lived together for less than 12 months or do not cohabit for personal or work related reasons will be considered on a case by case basis. Couples will need to provide substantial evidence as follows:

- statutory declarations by the couple giving details of the relationship, including the reasons for non-cohabitation where appropriate;
- documentary evidence of frequent communication and visits by partners in cases of non-cohabitation;

whether there is a child of the relationship, including a child accepted into the household whether or not a child of either of the partners;  
whether the couple has entered into domestic financial arrangements with each other, including the existence of joint bank accounts, joint insurance, joint ownership of property and the existence of wills made in favour of the partner;  
whether the partners provide non-financial support and commitment to each other within the relationship. Examples of such support include caring for children, elderly or incapacitated relatives of the partner, caring for each other when sick or injured, the provision of domestic household services, engaging in joint travel, sporting, social or other activities.

In all cases, the onus is on the officer to provide the evidence required.

These guidelines are not prescriptive. They do not guarantee official recognition, and additional proof may be required. It is also important to note that being separated but still married does not preclude recognition of a de facto relationship with another person.