



Administrative Instruction

Ref. ICC/AI/2016/006 Rev.1

Date: 3 May 2017

DEPENDENCY STATUS AND ALLOWANCES

The Registrar, with the agreement of the President and the Prosecutor, pursuant to section 3.2 of Presidential Directive ICC/PRES/D/G/2003/001 and for the purpose of implementing Staff Regulation 3.3 and Staff Rule 103.17, hereby promulgates the following:

Section 1

Scope

1.1 The present Administrative Instruction shall be applicable to all staff members of the Court, holding a fixed-term or short-term appointment.

Section 2

General Provisions

2.1 Staff members may be paid a dependency allowance with regard to their primary dependant(s) and/or with regard to one secondary dependant, in conformity with the United Nations common system standards and subject to the conditions specified in the Staff Rules and this Administrative Instruction.

Dependency status

2.2 Dependency status shall be recognised in accordance with the provisions of Staff Rule 103.17 which defines dependency for the purposes of Staff Regulations and Staff Rules, and in accordance with the provisions of this Administrative Instruction. It may be recognised in respect of:

- (a) A dependent spouse, as defined in Section 3;
- (b) A dependent child or children, and a child or children with a disability as defined in Section 4; and

- (c) A secondary dependant, as defined in Section 6.

Dependency allowances

2.3 The present Administrative Instruction defines the conditions under which dependency allowances may be paid in respect of recognised dependants.

Eligibility for dependency allowances

2.4 Eligible staff members holding a fixed-term or a short-term appointment shall be entitled to receive dependency allowances provided the conditions of this Administrative Instruction are met.

2.5 When a staff member is married to or in a legally recognised partnership with, or has a child or children with, another staff member of the Court or from another organisation that applies the United Nations common system, or similar system, only one may claim dependency allowances for dependent children emanating from that relationship. The recipient of dependency allowances shall be the spouse having the higher salary level, unless this staff member holds a short-term appointment. Either or both spouses may claim for a secondary dependant as defined in Section 6.1.

2.6 When a staff member is divorced or legally separated from another staff member, the determination of who will receive the dependency allowance for the child(ren) will be based on which of the staff members has legal custody of the child(ren). In case of shared legal custody, Section 2.5 shall apply.

Submission of applications for dependency allowances

2.7 Applications for dependency allowances shall be submitted using the appropriate form and shall be supported by satisfactory documentary evidence. Subsequently, certification of personal status for dependency allowances shall be made on a yearly basis in accordance with the procedures set out by the Human Resources Section.

Obligation to report changes

2.8 Staff members shall be responsible for reporting any change in the status of a dependant that may affect the payment of the respective dependency allowances.

2.9 Staff members shall immediately provide written notification to the Human Resources Section of any changes in the following factors that formed the basis for the eligibility of existing dependency allowances, namely:

- (a) their marital status or personal status, including conditions related to the recognition as a single parent;

- (b) the status of their dependants, including all annual gross earnings, school attendance and marital status of their dependants, as applicable.

Certification of dependency or personal status

2.10 The primary responsibility for self-certification rests with the staff member and not the Court. A staff member submitting a certification for dependency or personal status shall attest to understanding and meeting the requisite eligibility criteria. The staff member shall also attest to the accuracy of the information provided in his or her application for dependency allowances. Staff members are expected to understand the consequences of submitting unsubstantiated, incomplete or false information pursuant to Section 2.12.

Monitoring and compliance

2.11 The Human Resources Section will be responsible for conducting periodic monitoring and compliance exercises to verify, to the extent possible, the accuracy of the data and information provided by the staff member on his or her application for dependency allowances. As part of the monitoring process, the Court may review the requested documentation and verify the information in the application in any other relevant way, which may include contacting other individuals.

2.12 In addition to self-certification, staff members may be required to support their applications for dependency allowances with documentary evidence. Should such documentary evidence be requested, staff members will be required to submit the requested documentation or information within 30 calendar days of the initial request. Failure to provide the requested information or documentation within the applicable time frame or to report changes as detailed in Section 2.9 above, or falsification of the information or documentation provided, may result in one or more of the following:

- (a) Immediate termination of the dependency allowance(s), as applicable;
- (b) Recovery of dependency allowance(s) previously paid by the Court;
- (c) Any other administrative and/or disciplinary measures in accordance with Chapter X of the Staff Rules.

Section 3

Dependent Spouse

3.1 “Spouse” is a partner either by marriage recognised as valid under the law of the country of nationality of a staff member, or under the law of the host State, or by domestic partnership recognised as valid under the law of the country of his or her nationality or under the law of the host State.

3.2 A spouse shall be recognised as a “dependent spouse” when the following conditions are met:

(a) For staff members in the General Service category, the spouse's annual gross earnings, if any, do not exceed the lowest entry level of the General Service gross salary scale in force on 1 January of the year concerned for the duty station in the country of the spouse's place of work. In duty stations where more than one salary scale is in force, the most recently issued salary scale shall apply for determining the threshold amount;

(b) For staff members in the Professional and higher categories, the spouse's annual gross earnings, if any, do not exceed the higher of:

(i) The amount determined under Section 3.2(a); or

(ii) The gross salary for the lowest entry level in force on 1 January of the year concerned at the base of the salary system, i.e. G-2, step 1, for New York.

3.3 In cases where domestic law in a staff member's home country legally recognises more than one spouse, only one spouse shall be recognised for the purpose of dependency allowances.

3.4 The spouse of a staff member who is legally separated may be recognised as a dependent spouse only upon submission of satisfactory evidence of the provision of main and continuous financial support by the staff member that is equal to or exceeds the spouse allowance. The spouse's annual gross earnings, if any, shall not exceed the amounts determined under Sections 3.2(a) or 3.2(b), as applicable.

3.5 All earnings received, including but not limited to pension income, such as retirement and disability benefits, and earnings resulting from investments, shall be included in the computation of the annual gross earnings under Section 3.2.

Dependent spouse allowance for staff in the Professional and higher categories

3.6 Eligible staff members in the Professional and higher categories shall be paid a dependent spouse allowance equivalent to six (6) per cent of net remuneration (net base salary and post adjustment) with respect to a dependent spouse.

Dependent spouse allowance for staff in the General Service category

3.7 Eligible staff members in the General Service category shall be paid a dependent spouse allowance with respect to a dependent spouse when local conditions and/or the practices of comparator employers call for the establishment of such an allowance. The amount of this allowance, if any, shall be provided in the local salary scale applicable at the duty station.

Adjusted dependency allowance with respect to a spouse

3.8 An adjusted dependency allowance with respect to a spouse may be paid to staff members in the Professional and higher categories or in the General Service category, with or without dependent children, in cases where the spouse's annual gross earnings exceed the threshold established under Section 3.2 but does not exceed the sum of:

(a) The earnings limit set out in Section 3.2; and

(b) The amount of the dependent spouse allowance that would have been paid if the spouse's gross earnings would not exceed the limit set out in Section 3.2.

3.9 The adjusted dependency allowance shall be equal to the amount by which the sum of the earnings limits established under Section 3.2 plus the appropriate dependent spouse allowance exceeds the spouse's annual gross earnings.

Section 4

Dependent Children

4.1 In accordance with Staff Rule 103.17 (a)(iv), a natural child, a legally adopted child, or a stepchild, provided the stepchild resides with the staff member, shall be recognised as a dependent child when the following conditions are met:

- (a) The child is under eighteen (18) years of age, or, if in full-time attendance at school, university or a similar educational institution, under twenty-one (21) years of age; and
- (b) The staff member establishes that he or she provides main and continuous support to the child.. This shall be done by the staff member's submission of a certification of financial support by the staff member that is equal to or exceeds the amount of the dependent child allowance. Such certification must be supported by satisfactory documentary evidence, if a child:
 - (i) Does not reside with the staff member;
 - (ii) Is married; or
 - (iii) Is recognised as a dependant under the special conditions defined in Section 4.2 below.

4.2 Other children, who fulfil the age, school attendance and support requirements specified in Section 4.1, may be recognised as dependent children under Staff Rule 103.17(a)(iv) when all the following requirements are met:

- (a) Legal adoption is not possible because there is no statutory provision for adoption or any prescribed court procedure for formal recognition of customary or *de facto* adoption in the staff member's country of nationality or country of permanent residence;
- (b) The child resides with the staff member;
- (c) The staff member can be regarded as having established a parental relationship with the child;
- (d) The child is not a brother or sister to the staff member; and
- (e) The number of children for which dependency allowance are claimed under the present subsection does not exceed three.

4.3 The residency requirement shall be deemed fulfilled when a dependent child attends a boarding school or another educational institution under a similar arrangement.

Governmental or similar dependency allowance for children

4.4 Staff members shall declare any governmental or similar dependency allowance that they or their spouses, or any other person with whom a child resides, receive in respect of that dependent child. The amount of the benefit received shall be subtracted from the dependent child allowance payable by the Court on account of the dependent child or children. Receipt of a governmental or similar dependency allowance affects the amount of the dependency allowance only, not the dependency status of a child for other purposes under the Staff Regulations and Rules.

Dependent child allowance for staff members in the Professional and higher categories

4.5 Eligible staff members in the Professional and higher categories shall receive a dependent child allowance for each dependent child at a fixed amount approved by the United Nations General Assembly upon recommendation from the International Civil Service Commission.

4.6 Eligible staff members may be paid a single parent allowance or a transitional allowance with respect to the first child, *in lieu* of a dependent child allowance, as provided for in Section 5 below and in the Administrative Instruction ICC/AI/2016/007 Rev.1 ("*Transitional Measures for Implementation of the New Common System Compensation Package*").

Dependent child allowances for staff members in the General Service category

4.7 Eligible staff members in the General Service category shall receive a dependent child allowance in an amount and under terms based on local conditions and/or the practices of comparator employers, taking into account the floor formula established by the United Nations General Assembly. The amount and conditions of the allowance, which may limit payment to a maximum number of six children, shall be provided in the local salary scale applicable at the duty station.

4.8 *In lieu* of the dependent child allowance set forth in Section 4.7, staff members in the General Service category, who are single parents under the terms established by the Registrar in consultation with the Prosecutor, shall receive a dependency allowance in respect of the first dependent child, when local conditions and/or the practices of comparator employers call for the establishment of such an allowance. The amount of this allowance, if any, shall be provided in the local salary scale applicable at the duty station.

Dependency allowance with respect to a child or children with a disability

4.9 A child who is certified by the Medical Officer of the Court as physically or mentally incapacitated for substantial gainful employment, either permanently or for a period expected to be of long duration, shall be recognised as a dependent child, regardless of the conditions of school attendance otherwise required under Section 4.1(a) and may continue to be recognised as a dependant after reaching age eighteen (18) or twenty-one (21), provided it is established in accordance with Section 4.1(b) that the staff member provides main and continuing support for the child.

4.10 In order for the United Nations Joint Staff Pension Fund to determine the eligibility of a child to receive a child disability benefit under article 36 of the Fund's Regulations, a staff member who is entitled to receive benefits from the Fund upon separation from service is required to ensure that the certification of the child with a disability under Section 4.8 above is reported to the Fund in writing by the Human Resources Section.

4.11 Staff members in the Professional and higher categories shall receive for a dependent child with a disability, as described in Section 4.8, a dependency allowance equal to:

- (a) Double the amount of the dependent child allowance, if they are entitled to receive a dependent child allowance with respect to that child; or
- (b) An additional payment in the amount of the dependent child allowance, if they are paid a single parent allowance or a transitional allowance on account of that child.

4.12 Staff members in the General Service category shall receive for a dependent child with a disability, as described in Section 4.8, a dependency allowance equal to double the amount of the regular dependent child allowance payable at the duty station where the staff member is serving.

4.13 At duty stations where a higher rate of dependency allowance is paid to staff members in the General Service category in respect of the first dependent child, and the first dependent child has a disability, as described in Section 4.8, the staff member shall receive for that child:

- (a) The higher amount of the dependent child allowance payable for the first dependent child; and
- (b) An amount equivalent to the dependent child allowance payable in respect of children other than the first dependent child.

Governmental or similar dependency allowance for children with a disability

4.14 Staff members shall declare any governmental or similar dependency allowance that they or their spouses, or any other person with whom a child resides, receive in respect of that dependent child with a disability. The amount of the benefit received shall be subtracted from the dependent child allowance payable by the Court on account of the dependent child or children with a disability. Receipt of a governmental or similar dependency allowance affects the amount of the dependency allowance only, not the dependency status of a child for other purposes under the Staff Regulations and Rules.

Section 5

Single Parent Allowance

Single parent allowance for staff members in the Professional and higher categories

5.1 A staff member in the Professional and higher categories whose personal status, as recognised by the Court in accordance with the applicable legal framework, is single, is legally separated from a spouse, is divorced or is widowed, and who is not cohabiting with the other

custodial parent shall receive a single parent allowance in respect of a dependent child pursuant to Staff Rule 103.17 (a)(iv) and the criteria set out in Section 4 above.

5.2 A staff member who claims a single parent allowance and who receives financial support in respect of the dependent child must notify the Human Resources Section of the receipt of the financial support and certify that this financial support does not exceed the higher of:

- (a) The lowest entry level of the United Nations General Service gross salary scale in force on 1 January of the year concerned at the staff member's duty station. In duty stations where more than one salary scale is in force, the most recently issued salary scale shall apply for determining the threshold amount; and
- (b) The gross salary for the lowest entry level in force on 1 January of the year concerned at the base of the salary system, i.e. G-2, step 1, for New York.

5.3 When it is determined that a staff member in the Professional and higher categories meets the eligibility criteria of a single parent pursuant to Section 5.1, the single parent allowance, equivalent to six (6) per cent of net remuneration (net base salary and post adjustment), shall be paid in respect of the first dependent child, *in lieu* of the dependent child allowance.

Adjusted single parent allowance for staff members in the Professional and higher categories

5.4 An adjusted single parent allowance in respect of the dependent child may be paid to staff members recognised as single parents by the Court pursuant to Section 5.1 above when the financial support received in respect of the dependent child does not exceed the sum of:

- (a) The applicable amount established under Section 5.2; plus
- (b) The amount of the single parent allowance that would have been paid if the amount of the financial support did not exceed the limit set out in Section 5.2.

5.5 The adjusted single parent allowance shall be equal to the amount by which the sum of the financial support limit as set out in Section 5.2 plus the single parent allowance exceeds the amount of financial support received in respect of the dependent child.

Section 6

Secondary Dependant

6.1 "Secondary dependant" refers to the father, mother, brother or sister of a staff member, for whom the staff member provides one half or more of their financial support corresponding to at least twice the amount of the dependency allowance. Pension income, such as retirement and disability benefits, and earnings resulting solely from investments shall not be included in the computation of the overall financial support of a staff member's secondary dependant. If the secondary dependant is the staff member's brother or sister, he or she must fulfil the same age and school attendance requirements established for a dependent child set out in Section 4.1, unless the brother or sister is recognised as having a disability in accordance with Section 4.8.

6.2 Eligible staff members in the Professional and higher categories and in the General Service category may be paid a secondary dependency allowance for a secondary dependent subject to the following conditions:

- (a) The allowance is paid on account of only one secondary dependant;
- (b) The staff member is not paid a dependent spouse allowance.

6.3 Staff members in the General Service category shall receive a dependency allowance with respect to a secondary dependant when local conditions and/or the practices of comparator employers call for the establishment of such an allowance. The amount of the allowance, if any, shall be provided in the local salary scale applicable at the duty station.

Section 7

Review

7.1 The Court shall undertake a periodical review for each calendar year of the entitlements to dependency allowances. Staff members must duly cooperate with such review with a view to ensuring that the information is accurate and that satisfactory documentary evidence is available within the timeframes established for the review, pursuant to Sections 2.11 and 2.12 above.


Section 8

Final Provision

8.1 The Administrative Instruction ICC/AI/2016/006 (*"Dependency Status and Allowances"*) has been reviewed following the promulgation of the Administrative Instruction on Dependency status and dependency benefits by the United Nations Secretariat.

8.2 The present reviewed Administrative Instruction shall enter into force on 3 May 2017 and shall replace Administrative Instruction ICC/AI/2016/006 (*"Dependency Status and Allowances"*). It shall have retroactive effect as of 1 January 2017.

8.3 Administrative Instruction ICC/AI/2013/006 is hereby revoked.


Herman von Hebel
Registrar