



## Administrative Instruction – Instruction administrative

Ref. ICC/AI/2013/004

Date: 5 April 2013

### PROBATIONARY PERIOD AND PERFORMANCE APPRAISAL

The Registrar, in consultation with the Prosecutor, for the purpose of implementing Staff Regulation 4.5 (b) and Staff Rules 104.7 and 104.8, hereby promulgates the following:

#### Section 1

##### Purpose of probationary period

1.1 The purpose of the probationary period is to provide the Court with an opportunity to assess a staff member's performance and suitability for his or her work with the Court. During the probationary period the staff member's appointment is on a trial basis. At the end of the probationary period, the Registrar or Prosecutor, as appropriate, shall determine, in accordance with this Administrative Instruction, whether or not to confirm the appointment.

#### Section 2

##### Scope of application

2.1 This Administrative Instruction shall apply to all staff members of the Court holding a fixed-term appointment.

#### Section 3

##### Duration and applicability of probationary period

3.1 The probationary period shall be six months for staff members employed on a fixed-term appointment of one year or more. No probationary period is required for staff members on an

appointment with duration of less than twelve months, unless the letter of appointment stipulates otherwise.

3.2 The probationary period shall start from the commencement of the appointment.

## Section 4

### Performance appraisal during probation

4.1 The staff member's performance appraisal shall be conducted by his or her immediate supervisor and reviewed and confirmed by the reviewer<sup>1</sup>. If the immediate supervisor has not been supervising the staff member for the entire appraisal period in question, the staff member's performance appraisal and resulting recommendation shall be conducted jointly by the staff member's immediate supervisor and the reviewer following the procedures outlined in Section 8.

4.2 The performance appraisal of the staff member shall be reflected in a probationary period performance report (hereinafter referred to as "probationary performance report"). The probationary performance report is the record of the immediate supervisor's assessment of the ability of the staff member to perform his or her duties, as well as of his or her suitability to work with the Court. The standard form to be used for the probationary performance report is attached as an annex to this Administrative Instruction.

4.3 The immediate supervisor shall make a recommendation to the Registrar or Prosecutor, as appropriate, regarding the confirmation or non-confirmation of the appointment based on the probationary performance report.

4.4 The staff member shall have the right to submit his or her comments in writing to the immediate supervisor for inclusion in the performance report, on the performance appraisal and on the recommendation.

## Section 5

### Extension of probationary period

5.1 If the staff member's performance has been found to be unsatisfactory during the probationary period, but in the view of the immediate supervisor, the staff member has the potential to perform adequately if given more time in the job, the immediate supervisor may recommend the extension of the probationary period to the Registrar or Prosecutor, as appropriate. An extension of the probationary period may be granted by the Registrar or Prosecutor, as appropriate, no more than once for an additional period of up to six months before he or she takes a final decision on the confirmation of the appointment. Such an extension shall be granted in accordance with the procedures set out below, in Section 8.

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<sup>1</sup> The reviewer is the immediate supervisor's supervisor or equivalent. In certain situations, due to the organizational structure, a staff member may not have a reviewer of their performance appraisal. In such case, the responsibilities of the reviewer are not applicable.

5.2 In the event of extended authorized absence, a staff member's probationary period shall be adjusted to compensate for the period of absence. Requests for extensions shall be submitted by the supervisor to the Registrar or Prosecutor, as appropriate.

5.3 The staff member shall be notified in writing of the extension of his or her probationary period at least thirty days before the end of the probationary period.

## Section 6

### Confirmation of appointment

6.1 If the performance of the staff member during the probationary period is found to be satisfactory according to the probationary performance report the appointment shall be confirmed. The appointment of a staff member is automatically confirmed if he or she does not receive a non-confirmation notice.

## Section 7

### Non-confirmation

7.1 The appointment of a staff member, whose performance is found to be unsatisfactory according to the probationary performance report, will not be confirmed.

7.2 A staff member whose appointment is not to be confirmed shall be given no less than fifteen days' written notice before the expiration of the probationary period or its extension.

7.3 No termination indemnity shall be paid to a staff member whose contract is not confirmed upon the expiration of the probationary period.

7.4 This Administrative Instruction does not preclude the application of Staff Rule 110.7 regarding summary dismissal for serious misconduct.

## Section 8

### Procedures

8.1 The performance appraisal shall take place at least twice during the six months probationary period and at least one additional time in cases where the probationary period was extended. The first performance appraisal shall take place approximately two months after the commencement of the appointment and the final performance appraisal shall be completed no later than five weeks before the end of the probationary period, or extended probationary period.

8.2 During the probationary period, the immediate supervisor shall:

- (a) meet the staff member as soon as possible, and not later than one month after he or she commences duty, in order to establish the objectives against which performance will be

assessed during the probationary period. The objectives shall be established taking into account the duration of the probationary period;

- (b) discuss with the staff member his or her performance during the period in question;
- (c) ensure that the staff member receives appropriate on-the-job training and guidance on the implementation of his/her performance objectives;
- (d) inform in writing the reviewer, where applicable, of the performance of the staff member, at least twice during the probationary period for staff members with a probationary period of six months and at least one additional time in all cases where the probationary period has been extended;
- (e) indicate in writing to the staff member areas, if any, in which his or her performance is viewed as unsatisfactory, and, should this be the case, suggest ways and means of improving the staff member's performance;
- (f) make it clear in writing to the staff member whose performance is considered to be unsatisfactory, that this could lead to a recommendation for either the extension of the probationary period as provided for in paragraph 5.1, or for non-confirmation as provided for in paragraph 7.1;
- (g) complete the performance report and submit it to the reviewer, where applicable. Should the immediate supervisor be of the view that the performance of the staff member is unsatisfactory, after assessing the achievement of objectives during the first appraisal, he or she shall record in the probationary performance report the ways and means suggested for the improvement of the staff member's performance. After each performance appraisal, the immediate supervisor shall offer the staff member an opportunity to add his or her comments, and shall then submit the performance report, including any written comments that may have been added by the staff member, to the reviewer for signature;
- (h) submit his or her written recommendation regarding the confirmation of the staff member's appointment, the extension of the probationary period, or the non-confirmation of the appointment, with the approval of the reviewer, where applicable, to the Chief of Human Resources or his or her representative, at least five weeks before the end of the probationary period. A copy of any such written recommendation shall be provided to the staff member at the same time, by the immediate supervisor.

8.3 The staff member may submit his or her written comments on both the substance of any such recommendation and the application of the procedures set out in this Administrative Instruction to the Chief of Human Resources or his or her representative, within five working days after receiving the recommendation provided for in paragraph 8.2 (h) above.

8.4 The Chief of Human Resources or his or her representative shall forward the probationary performance report including the recommendations and the comments by the staff member, if any, to the Registrar or Prosecutor, as applicable, for final decision.

8.5 The Chief of Human Resources or his or her representative shall inform in writing the staff member of the final decision mentioned under the previous paragraph, at least fifteen days prior to the expiration of the probationary period or its extension.

## Section 9

### Relationship with Performance Appraisal System

9.1 Once the staff member's appointment is confirmed, the performance appraisal shall be done in line with the established performance appraisal system. The probationary performance report shall no longer be used.

9.2 The Administrative Instruction ICC/AI/2010/002 on the Performance Appraisal Rebuttals and Procedures does not apply during the probationary period.

## Section 10

### Final provisions

10.1 This Administrative Instruction shall enter into force on 5 April 2013.



Silvana Arbia  
Registrar