



**Administrative Instruction**

**Ref. ICC/AI/2016/006**

**Date: 30 December 2016**

**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;

- (c) A single parent as defined in Section 5; and
- (d) A secondary dependant, as defined in Section 6.

#### *Dependency allowances*

2.3 Dependency allowances may be paid in respect of recognised dependents and in respect of a single parent.

#### *Eligibility for dependency allowances*

2.4 Staff members holding a fixed-term or a short-term appointment shall be entitled to receive dependency allowances for those dependants whose dependency status has been recognised as well as when it is determined that they are a single parent, where applicable, 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.

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). When such staff members have joint custody, either of the two parents may claim the allowance(s).

#### *Submission of applications*

2.7 Applications for dependency allowances shall be submitted using the appropriate form and shall be supported by satisfactory documentary evidence.

#### *Obligation to report changes*

2.8 Staff members shall provide written notification to the Human Resources Section of any changes in their marital status or personal status or the status of their dependants, including the marital status of their dependent children.

#### *Certification of dependency or personal status*

2.9 The primary responsibility for certification rests with the staff member and not the Court. A staff member submitting a certification for dependency or personal status shall attest to meeting eligibility requirements and conditions for payment, including accuracy of the information provided in his or her application for dependency allowances, understanding of the eligibility requirements, understanding of the obligation to inform the Court of any changes in

his or her status, and understanding of the consequences of submitting unsubstantiated or false information pursuant to Section 2.12.

#### *Monitoring and compliance*

2.10 The Human Resources Section will be responsible for conducting periodic monitoring and compliance exercises of the applications of staff members for dependency allowances. This is done for the purpose of verifying the accuracy of information provided by the staff member on his or her application for a dependency allowance.

2.11 For the purposes of this monitoring and compliance exercise, the staff member may be requested to submit the required original documentation supporting the claim for dependency allowances. Staff members are obliged to provide the requested documentation within 30 calendar days following the request to do so. As part of the monitoring process, the Court may review the requested documentation and any other documents and verify the information in the application in any other relevant way.

2.12 Pursuant to Section 2.11, failure to present the required documentation upon request, failure to report changes (such as change in the spouse's level of earnings or change in the marital status of a dependent child) or any act of falsification of data, fabrication or counterfeiting of supporting documentation presented in connection with the dependency allowance application may result in one or more of the following:

- (a) Immediate termination of the dependent spouse, single parent or dependent child allowance;
- (b) Recovery of prior dependency benefits' payment;
- (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.
- (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 A staff member who is legally separated from his or her spouse may claim a dependency allowance upon submission of satisfactory evidence of financial support to the spouse.

3.5 All income received including pension income, such as retirement and disability benefits, and income resulting solely 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 Staff members in the Professional and higher categories shall be paid a dependent spouse allowance equivalent to six (6) per cent of net remuneration (base salary plus post adjustment) with respect to a dependent spouse.

*Dependent spouse allowance for staff in the General Service category*

3.7 Staff members in the General Service categories shall receive 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 are less than the sum of:

- (a) The threshold established under section 3.2; and
- (b) The amount of the dependent spouse allowance that would have been paid if the spouse's gross earnings had been under the threshold established under Section 3.2.

3.9 The adjusted dependency allowance shall be equal to the amount by which the sum of the earnings threshold 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, if the latter is residing 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 continuing support to the child, which is at least equal to the amount of the dependency allowance he or she would receive. Proof of main and continuing support shall normally be done by the staff member submitting a certification to that effect. 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 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 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 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 a 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.

*Dependent child allowance for staff 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.

4.6 A staff member may be paid a single parent allowance with respect to the first child, in lieu of a dependent child allowance, as provided for in Section 5 below.

*Dependent child allowance for staff 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.

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

4.8 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.

4.9 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.

4.10 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 on account of that child.

4.11 Staff members in the General Services 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.

4.12 At duty stations where a higher rate of dependency allowance is paid to General Service staff members in respect of the first dependent child, and the first dependent child has a disability, as described in Section 4.8, staff members 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*

4.13 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 a 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.

## Section 5

### Single Parent

5.1 A staff member in the Professional and higher categories shall be recognised as a single parent when the following requirements are met:

- (a) The staff member has a dependent child in accordance with Staff Rule 103.17(a)(iv) and the criteria set out in Section 4;
- (b) The staff member is not married or in receipt of a spouse allowance;
- (c) In respect of that dependent child, the staff member does not receive financial support from the child's other parent or step-parent equal to or more than six (6) per cent of his or her net remuneration (net base salary and post adjustment);
- (d) The staff member does not receive any child-care assistance from the child's other parent or step-parent:
  - (i) The other parent does not physically care for the child on a regular, part-time or *ad-hoc* basis;
  - (ii) The other parent does not pay for day-care, in-home care, or other provider of care in an amount equal to or more than six (6) per cent of the staff member's net remuneration (net base salary and post adjustment); and
- (e) The child does not reside with the other parent or step-parent on a full-time, part-time or *ad-hoc* basis including for regular or extended visits.

5.2 When it is determined that a staff member in the Professional and higher categories is a single parent in accordance with the provisions of the present Administrative Instruction, 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.

5.3 If a staff member, the child's other parent, or any other person with whom a child resides, receives a governmental or similar dependency allowance in respect of that child, the staff member shall report the total amount of the grant received in respect of that child. The amount of

the benefit received shall be subtracted from the single parent allowance payable by the Court on account of the first dependent child. Receipt of a governmental or similar dependency allowance affects the amount of the single parent allowance payable by the Court on account of the first dependent child only, not the dependency status of a child for other purposes under the Staff Rules or Regulations.

## 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, and in any case at least twice the amount of the dependency allowance. Pension income, such as retirement and disability benefits, and income 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 Staff members in the Professional and higher categories and in the General Service category may only receive an allowance for one secondary dependant. A staff member shall not be paid a secondary dependant’s allowance if he or she receives a dependent spouse allowance.

6.3 Staff members in the General Service 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 2.10 to 2.12 above.

## Section 8

### Final Provision

8.1 This Administrative Instruction shall enter into force on 1 January 2017.

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



8.3 This Administrative Instruction is subject to review in the course of January 2017 following the promulgation of the relevant administrative issuances by the United Nations Secretariat on dependency status and dependency benefits.

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Herman von Hebel  
Registrar