



**Annex to Administrative Instruction**

**Ref. ICC/AI/2016/003**

**Date: 30 December 2016**

**PROVISIONAL STAFF RULES AMENDED  
IN ORDER TO IMPLEMENT THE CHANGES TO THE  
UNITED NATIONS COMMON SYSTEM COMPENSATION PACKAGE**

### **Rule 103.3      Salary of staff members in the Professional and higher categories**

(a)      The salary of staff members in the Professional and higher categories shall comprise a base salary and a post adjustment.

#### **Base salary**

(b)      The salary scale for staff members in the Professional and higher categories shall set out the base salary for each grade and step, in conformity with the United Nations common system standards.

#### **Post adjustment**

(c)      The base salary of staff members in the Professional and higher categories at each duty station of the Court shall be adjusted by the relevant post adjustment multiplier in conformity with the United Nations common system standards.

(d)      While the salary of a staff member shall normally be subject to post adjustment for assignments of one year or more to a duty station, alternative arrangements may be made by the Registrar, in consultation with the Prosecutor, under the following circumstances:

(i)      A staff member who is assigned to a duty station with a lower post adjustment multiplier than the one applied at the duty station where he or she has been serving may continue to receive the previously applied post adjustment for a period of up to six months while members of his or her immediate family remain at the previous duty station;

(ii)     For staff members assigned to a duty station for less than one year, the Registrar, in consultation with the Prosecutor, shall establish guidelines determining when, in lieu of an appropriate subsistence allowance, to apply the post adjustment, and, if applicable, to pay a settling-in grant under staff rule 107.14 and the field incentives and allowances under staff rule 103.14.

#### **Rental subsidy**

(e)      At duty stations where the average rental cost is used in calculating the post adjustment index, staff members who have to rent housing accommodation at substantially higher market rates may be paid a supplement to the post adjustment in the form of a rental subsidy under conditions established by the Registrar, in consultation with the Prosecutor, in conformity with the United Nations common system standards.

**Rule 103.13: Language incentive for staff members in the Professional and higher categories**

[Deleted in its entirety]

**Rule 103.14 Field incentives and allowances**

**Mobility Incentive**

(a) A non-pensionable mobility incentive shall be paid to staff members in the Professional and higher categories or in the internationally-recruited General Service category, in accordance with the conditions established by the Registrar, in consultation with the Prosecutor, and in conformity with the United Nations common system standards.

**Hardship Allowance**

(b) A non-pensionable hardship allowance shall be paid to staff members in the Professional and higher categories or in the internationally-recruited General Services category, in accordance with the conditions established by the Registrar, in consultation with the Prosecutor, and in conformity with the United Nations common system.

**Non-family service allowance**

(c) A non-pensionable non-family service allowance shall be paid to those staff members in the Professional and higher categories or in the internationally-recruited General Services category who are appointed or reassigned to a non-family duty station, in accordance with the conditions established by the Registrar, in consultation with the Prosecutor, and in conformity with the United National common system standards.

**Rule 103.17: Dependency allowances**

**Definitions**

(a) For the purposes of this rule:

(i) "Primary dependant" is a dependent spouse and each dependent child;

(ii) "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;

(iii) "Dependent spouse" is a spouse whose occupational earnings, if any, do not exceed the lowest entry level of the General Service gross salary scales in force on 1 January of the

year concerned for the duty station in the country of the spouse's place of work. However, in the case of staff members in the Professional or higher categories, the spouse's earnings threshold shall not at any duty station be less than the equivalent of the lowest entry level at the base of the salary system, in conformity with the United Nations common system standards;

(iv) "Dependent child" is a staff member's natural child, a legally adopted child or a staff member's stepchild, if residing with the staff member, for whom the staff member provides main and continuing support. The dependent child shall be under eighteen years of age or, if the child is in full-time attendance at an educational institution, under twenty-one years of age.

(v) "Secondary dependant" is 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, provided that the brother or sister fulfils the same age and school attendance requirements established for a dependent child.

(vi) "Single parent" is a staff member that meets the following requirements:

- a. The staff member has a dependent child, in accordance with Staff Rule 103.17 (a)(iv);
- b. The staff member is not married or in receipt of a dependant 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 or 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.

### **General provisions**

(b) Staff members may be paid dependency allowances with regard to their primary dependants or with regard to one secondary dependant, in conformity with the United Nations common system standards and in accordance with the conditions established by the Registrar, in consultation with the Prosecutor.

(c) Applications for dependency allowances shall be submitted using the appropriate form and shall be supported by satisfactory documentary evidence. Staff members shall immediately report any change in status which may affect the payment of the dependency allowances.

#### **Dependent spouse allowance**

(d) The dependent spouse allowance shall be paid to staff members in the Professional and higher categories, and in the General Services category, with a dependent spouse, in accordance with the conditions established by the Registrar, in consultation with the Prosecutor

#### **Adjusted dependency allowance with respect to a spouse**

(e) 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 Staff Rule 103.17(a)(iii) but are less than the sum of:

- (i) the threshold established under Staff Rule 103.17(a)(iii); and
- (ii) 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 Staff Rule 103.17(a)(iii).

The adjusted dependency allowance with respect to a spouse 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.

#### **Single parent allowance**

(f) The single parent allowance shall be paid to staff members in the Professional and higher categories who meet the requirements set out in Staff Rule 103.17(a)(vi), in accordance with the conditions established by the Registrar, in consultation with the Prosecutor.

(g) A staff member in receipt of a single parent allowance for his or her first dependent child shall be entitled to receive the child allowance for other dependent children, subject to the conditions set out below.

#### **Dependent child allowance**

(h) The dependent child allowance shall be paid to staff members in the Professional and higher categories, and in the General Service category, for each dependent child, in accordance with the conditions established by the Registrar, in consultation with the Prosecutor.

(i) If a child is over eighteen years of age and is physically or mentally incapacitated to engage in substantial gainful employment, either permanently or for a long duration, the dependency requirements as to school attendance and age shall be waived.

(j) A staff member claiming a child as a dependant shall certify that he or she provides main and continuous support for such child. In order to meet the requirement under paragraph (c) to provide documentary evidence, this certificate shall be supported by additional documentary evidence satisfactory to the Registrar or the Prosecutor, as appropriate, if a child:

- (i) Does not reside with the staff member;
- (ii) Is married; or
- (iii) Is considered as a dependant under the special conditions referred to in paragraph (i).

(k) Staff members in the Professional and higher categories shall receive for a dependent child with a disability a dependency allowance equal to:

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

(l) Staff members in the General Service category shall receive for a dependent child with a disability a dependency allowance equal to double the amount of the dependent child allowance payable at the duty station where the staff member is serving.

(m) At duty stations where a higher rate of dependent child 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, staff members shall receive for that child:

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

(n) 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 or without disability). The dependent child allowance paid by the Court shall be adjusted accordingly.

### **Secondary dependant allowance**

(o) The secondary dependant allowance shall be paid to staff members in the Professional and higher categories, and in the General Service category, in accordance with the conditions established by the Registrar, in consultation with the Prosecutor.

(p) If the staff member's brother or sister over eighteen years of age is physically or mentally incapacitated to engage in substantial gainful employment, either permanently or for a long duration, the dependency requirements as to school attendance and age shall be waived.

(q) Staff members may only be paid one secondary dependant allowance. A staff member shall not be paid a secondary dependant allowance if he or she receives a dependent spouse allowance.

(r) Staff members in the General Service category shall receive a dependency allowance with respect to a secondary dependant when local conditions 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.

### **Rule 105.6: Home Leave**

#### **General provisions**

(a) Internationally recruited staff members, as well as their eligible family members, shall be entitled to visit their home country at the Court's expense (hereinafter referred to as "home leave"). Such leave is intended to permit staff members and their families to maintain or renew ties with their home country.

(b) An "eligible family member" is a spouse or dependent child, if any, of a staff member.

(c) A staff member shall be entitled to home leave once every twenty-four months of qualifying service, which is continuous service outside the staff member's home country, provided the conditions set out below are fulfilled:

- (i) The staff member's home country is a country other than that of his or her official duty station; or of his or her normal residence.

- (ii) The staff member's service is expected to continue at least six months beyond the date of his or her return from any proposed home leave and, in the case of the first home leave, at least six months beyond the date on which the staff member will have completed twenty-four months of qualifying service; and,
- (iii) In the case of home leave following return from a family visit under staff rule 107.7, normally not less than nine months of continuous service have elapsed since departure on the family visit.

Eligible staff members serving at designated duty stations may be granted home leave once every 12 months of qualifying service, which is continuous service outside the staff member's home country, in accordance with the conditions established by the Registrar, in consultation with the Prosecutor, and in conformity with the United Nations common system standards.

(d) The period of qualifying service shall begin on the date on which the staff member's eligibility is established under paragraphs (a) and (c).

(e) A staff member who resigns from the Court's service within six months of his or her return to work after home leave shall either reimburse the Court for all travel and other expenses associated with the home leave or forfeit his or her return travel cost entitlements.

#### **Timing and duration of home leave**

(f) A staff member's first home leave shall fall due in the year in which the staff member completes twenty four months of qualifying service.

(g) Home leave may be taken, subject to the exigencies of service, any time during the year in which it falls due. Notwithstanding the foregoing, home leave may be advanced or deferred as follows:

- (i) In exceptional circumstances other than in cases of a staff member's first home leave, the Registrar or the Prosecutor, as appropriate, may grant advanced home leave, provided that normally not less than twelve months of qualifying service have been completed or have elapsed since the date of return from the staff member's last home leave. The granting of such home leave shall not advance the staff member's next entitlement to home leave and shall remain subject to the conditions for the entitlement being subsequently met. If the conditions are not met, the staff member shall be required to reimburse the costs paid by the Court for the advanced travel.



- (ii) If a staff member delays taking his or her home leave beyond the calendar year in which it falls due, such delayed leave may be taken without altering the time of his or her next and succeeding home leave entitlements, provided that normally not less than twelve months of qualifying service elapse between the date of the staff member's return from the delayed home leave and the date of his or her next home leave departure.

(h) A staff member travelling on home leave shall be required to spend no less than seven days, exclusive of travel time, in his or her home country and may be required, upon his or her return from home leave, to furnish satisfactory evidence that this requirement has been fully met. Annual leave taken for the purpose of home leave shall be subject to the provisions of staff rule 105.2.

(i) Subject to the conditions specified in chapter VII of these Staff Rules, a staff member shall be entitled to claim, in respect of authorized travel on home leave, travel time and expenses for himself or herself and each eligible family member for the outward and return journeys between the official duty station and the place of home leave.

#### **Home country**

(j) The home country is normally the country of the staff member's nationality. In exceptional or compelling circumstances, the Registrar or the Prosecutor, as appropriate, may authorize:

- (i) A country other than the country of nationality as the home country for the purposes of this rule. A staff member requesting such authorization shall be required to satisfy the Registrar or the Prosecutor, as appropriate, that the staff member maintained normal residence in such other country for a prolonged period preceding his or her appointment, that the staff member continues to have close family and personal ties in that country, and that the staff member's taking home leave there would not be inconsistent with the purposes and intent of paragraph (a).
- (ii) Travel in a particular home leave year to a country other than the home country may take place, subject to conditions established by the Registrar or Prosecutor, as appropriate. In such cases, the travel expenses borne by the Court shall not exceed the cost of travel to the home country

#### **Place of home leave**

(k) The place of home leave of the staff member within his or her home country shall be, for the purposes of travel and transportation entitlements, the place to which the staff member had the closest residential ties during the period of his or her most recent residence in the home

country. In exceptional circumstances, a change in the place in the country of home leave may be authorized by the Registrar or the Prosecutor, as appropriate.

#### **Travel of eligible family members**

(l) Travel of eligible family members shall be required to be in conjunction with the approved home leave of the staff member; however, exceptions may be granted if the exigencies of service or other special circumstances prevent the staff member and his or her eligible family members from travelling together.

(m) When both spouses are eligible for home leave in their capacity as staff members of the United Nations common system, each staff member shall have the choice either of exercising his or her own home leave entitlement or of accompanying the spouse. A staff member who chooses to accompany his or her spouse shall be granted travel time appropriate to the travel involved. Dependent children whose parents are staff members of the United Nations common system, each of whom is entitled to home leave, may accompany either parent. The frequency of travel shall not exceed the established periodicity of the home leave both with regard to staff members and to their dependent children, if any.

#### **Rule 107.7: Family visit**

(a) Subject to conditions established by the Registrar, in consultation with the Prosecutor, the Court shall pay the travel expenses of a staff member for the purpose of visiting his or her eligible family member(s) at the place of recruitment, the place of his or her home leave or the previous duty station when:

- (i) No eligible family member has been installed at the duty station at the Court's expense; and,
- (ii) During the preceding twelve months, no eligible family member has been present at the duty station after travel at the Court's expense, except on education grant travel.

(b) Family visit travel may be granted once every year in which the staff member's home leave does not fall due.

(c) Eligible staff members serving at designated duty stations may be subject to different conditions regarding the family visit travel, as established by the Registrar, in consultation with the Prosecutor, and in conformity with the United Nations common system standards.

**Rule 107.13: Unaccompanied shipments**

(a) Staff members and/or each eligible family member shall be entitled to the payment of the following expenses for unaccompanied shipments:

- (i) The costs of transportation of personal effects and household goods up to the maximum weight or volume as determined below (including packing but excluding crating material and lift vans), in one consignment by the most economical means, as determined by the Registrar, in consultation with the Prosecutor; and
- (ii) The costs of packing, crating, using lift vans, unpacking and un-crating of the unaccompanied shipment.

(b) Except where otherwise provided and under the conditions specified below, a staff member's maximum entitlement to expenses for transporting personal effects and household goods shall be determined by the duration of:

- (i) His or her initial appointment or appointment upon transfer to another duty station; or
- (ii) His or her continuous employment at a given duty station; as follows:

Duration of appointment or continuous employment	Kg or m <sup>3</sup> for staff member	Kg or m <sup>3</sup> for the first eligible family member residing at the duty station	Kg or m <sup>3</sup> for each other eligible family member residing at the duty station
<b>Shipment category 1:</b> appointment of less than 1 year	100 kg or 0.62 m <sup>3</sup>	/	/
<b>Shipment category 2 or limited removal:</b> appointment of less than 1 year but continuous employment of 1 year or more	Additional shipment up to a total of 1,000 kg or 6.23m <sup>3</sup>	500 kg or 3.11 m <sup>3</sup>	300 kg or 1.87 m <sup>3</sup>
<b>Shipment category 2 or limited removal:</b> appointment of 1 year or more but less than two years	1,000 kg or 6.23 m <sup>3</sup>	500 kg or 3.11 m <sup>3</sup>	300 kg or 1.87 m <sup>3</sup>

<b>Shipment category 2 or limited removal:</b> appointment of less than 2 years but continuous employment of 2 years or more	No additional shipment	/	/
<b>Shipment category 3 or full removal:</b> appointment of 2 years or more	Standard 20-foot container (33.2 m <sup>3</sup> )	Standard 40-foot container (67.7 m <sup>3</sup> )	

(c) Unaccompanied shipment entitlements for home leave, family visit or education grant travel for a staff member and/or each eligible family member shall be as follows:

	<b>Surface kg or m<sup>3</sup> for staff member and/or each eligible family member per journey per person</b>	<b>Substitution by air freight</b>
<b>Home leave, family visit or education grant travel</b>	50 kg or 0.31 m <sup>3</sup>	25 kg
<b>Education grant travel: first outward journey or final return journey</b>	200 kg or 1.24 m <sup>3</sup>	/

If the full entitlement is not used for any one section of the journey, the unused portion may be used to supplement the normal entitlement for the other section of the journey.

(d) All shipments shall be by the most direct and economical mode. Shipment deviations

#### **Shipment deviations**

(e) If, for reasons of personal preference or convenience, a staff member requests:

- (i) An unaccompanied shipment to or from a place other than the one authorized;
- (ii) An unaccompanied shipment in excess of his or her entitlement;
- (iii) An unaccompanied shipment by other than the approved means; or
- (iv) More than one shipment,

The staff member shall bear any additional costs in excess of his or her entitlement under these Staff Rules.

**Rule 107.14: Settling-in grant**

(a) A staff member who is authorized to travel for an assignment of at least one year shall be paid a settling-in grant subject to the conditions set forth below. A settling-in grant may also be paid to a staff member under staff rule 103.3 (e)(ii).

(b) The amount of the settling-in grant shall be equivalent to:

- (i) Thirty days of daily subsistence allowance in accordance with staff rule 107.10 in respect of the staff member; and
- (ii) Fifteen days of daily subsistence allowance in respect of each eligible family member.

The above-mentioned amounts shall be calculated on the basis of the rate prevailing on the date of arrival at the duty station of the staff member or each eligible family member, as appropriate. Where an assignment of less than one year, in respect of which daily subsistence allowance has been paid for six months or more, is extended to at least one year at the same duty station, the provisions of subparagraph (b)(i) shall not apply and only the lump sum portion under paragraph (c) shall be paid.

(c) In addition to any amount of grant paid under paragraph (b), a lump sum calculated on the basis of the staff member's base salary pursuant to Staff Rule 103.3(b) and, where appropriate, post adjustment at the duty station of assignment shall be paid under conditions established by the Registrar, in consultation with the Prosecutor. The lump sum shall be equivalent to one month's base salary and, where appropriate, post adjustment.

(d) If an assignment involves a return to a place at which a staff member was previously stationed, and where a settling-in grant had been paid by the Court or other organization applying the United Nations common system standards, the full amount of the settling-in grant shall not be paid unless the staff member has been absent from that place for at least one year. In the case of a shorter absence, the amount paid shall normally be that proportion of the full grant corresponding to the completed months of absence proportionate to one year.

(e) Where two staff members who are each other's spouse are both entitled to a settling-in grant for the same duty station, the daily subsistence allowance portion of the settling-in grant shall be paid to each staff member in respect of himself or herself. If they have a dependent child or children, the settling-in grant in respect of such child or children shall be paid to the staff member on whom the child is recognized to be dependent. If both spouses qualify for the lump sum portion of the grant, such lump sum shall be paid only to the spouse whose lump sum portion yields the higher amount.

(f) Where a staff member does not complete the period of service in respect of which a settling-in grant is paid, the settling-in grant shall be adjusted proportionately and recovery made under conditions established by the Registrar, in consultation with the Prosecutor, who, in exceptional circumstances, may decide to waive recovery.

(g) The Registrar or the Prosecutor, as appropriate, may, in suitable cases, authorize payment of all or part of the settling-in grant where the Court is not required to pay travel expenses upon assignment of a staff member regarded as internationally recruited.

#### **Rule 109.6: Repatriation grant**

##### **Purpose**

(a) The repatriation grant is intended to facilitate the relocation of expatriate staff members to a country other than the country of their last duty station, provided that such staff members meet the conditions contained in this rule.

##### **Definitions**

(b) For the purpose of this rule:

- (i) "Country of nationality" is the country of nationality recognized by the Court;
- (ii) "Dependent child" is a child recognized as dependent under staff rule 103.17 at the time of a staff member's separation from service;
- (iii) "Home country" is the country of home leave entitlement under staff rule 105.6 or such other country as the Registrar or the Prosecutor, as appropriate, may determine;
- (iv) "Obligation to repatriate" is the obligation to return a staff member and his or her spouse and dependent children, upon separation, at the Court's expense, to a place outside the country of the last duty station;
- (v) "Qualifying service" is one year or more of continuing service and residence away from the home country and the country of nationality of a staff member, or the country where the staff member has acquired permanent resident status. Continuity of service is not broken by periods of special leave; however, periods of special leave without pay of more than 20 working days are not included in the calculation of qualifying service.

### Eligibility

(c) An internationally recruited staff member shall be entitled to be paid a repatriation grant if the following conditions are met:

- (i) The Court has an obligation to repatriate the staff member;
- (ii) The staff member completes five years or longer of qualifying service; and
- (iii) The staff member resides outside his or her country of nationality while serving at the last duty station.

(d) No repatriation grant shall be paid to:

- (i) A staff member who is summarily dismissed;
- (ii) A staff member who is separated from service by reason of abandonment of post;
- (iii) A staff member locally recruited under staff rule 104.9;
- (iv) A staff member who has permanent resident status in the country of the duty station at the time of separation.

### Evidence of relocation

(e) Payment of the repatriation grant after separation of an eligible staff member shall be subject to the prior submission of documentary evidence satisfactory to the Registrar or the Prosecutor, as appropriate, that the former staff member has relocated away from the country of the last duty station.

(f) The amount of repatriation grant for an eligible staff member shall be calculated as follows:

	Staff member with a spouse or dependent child at the time of separation	Staff member with neither a spouse nor dependent child at the time of separation	
		Professional and higher categories	General Service category
Years of continuous service away from home country	Weeks of base salary		
5	14	8	7
6	16	9	8
7	18	10	9
8	20	11	10
9	22	13	11
10	24	14	12
11	26	15	13
12 or more	28	16	14

(g) Where both spouses are staff members of organizations applying the United Nations common system standards and each is entitled, on separation, to payment of a repatriation grant, payment shall be made to each staff member, at single rates, according to their respective entitlements. In cases where dependent children are recognised, the first parent to be separated may claim payment at the rate applicable to a staff member with a spouse or dependent child. In this event, the second parent, on separation, may claim payment at the single rate for the whole period of qualifying service, or, if eligible, at the rate applicable to a staff member with a spouse or dependent child for the whole period of his or her qualifying service, from which is normally deducted the difference between the dependency rate and the single rate of the repatriation grant paid to the first parent.

**Time limitation for submission of the claim**

(h) Entitlement to the repatriation grant shall cease if no claim is submitted within two years of the effective date of separation. However, where both spouses are staff members and the spouse who separates first is entitled to the repatriation grant, the claim for payment of the grant by that spouse may be submitted within two years of the date of separation of the other spouse.

**Payment in case of the death of an eligible staff member**

(i) In the event of the death of an eligible staff member, no payment shall be made unless there is a surviving spouse or one or more dependent children whom the Court is obliged to repatriate. If there are one or more such survivors, payment shall be made in accordance with paragraph (f), subject to the provision of sufficient evidence of relocation