



**Administrative Instruction
Ref: ICC/AI/2011/ 005**

Date: 25 July 2011

CERTIFIED SICK LEAVE AND EMERGENCY LEAVE

The Registrar, pursuant to section 3.2 of Presidential Directive ICC/PRES/D/G/2003/001 and for the purpose of implementing staff rules 106.4 and 106.5, hereby promulgates the following:

Section 1

Definitions

- 1.1 Where reference is made to the Medical Office this will mean the Court's medical staff, i.e. the Medical Officer and the Nurses in the Health and Welfare Unit of the Human Resources Section.
- 1.2 A medical certificate is a note, form or letter from a treating physician containing his or her name, address, specialty and telephone number and specifying:
- a) The duration of the staff member's sick leave absence: start date, review or end date; and
 - b) The rate of the staff member's absence: either full time or part time.
- 1.3 The period of absence on certified sick leave covered by a medical certificate shall not exceed twenty (20) consecutive working days, after which submission of a medical report is required.
- 1.4 A medical report is a report completed by a treating physician containing, in addition to the information indicated under subsection 1.2:
- a) The diagnosis of the staff member's relevant medical condition, a summary of laboratory and other diagnostic test results, performed medical procedures, the description of any treatments as well as the estimated duration of the (partial) incapability to work; and
 - b) Recommendations for adaptation to the staff member's work environment, where applicable; and

- c) The exact dates of any hospitalisation due to the relevant medical condition.

1.5 The medical report is a strictly confidential document to be sent under cover of a sealed envelope to the Court's Medical Office and opened by the Medical Office only. Medical records of a staff member shall be treated as confidential and shall only be available to the Medical Office.

Section 2

General

2.1 Certified sick leave and emergency leave may be granted under staff rules 106.4 and 106.5, respectively, in accordance with the provisions of the present Administrative Instruction.

2.2 Certified sick leave is granted to staff members who are unable to perform their duties by reason of illness or injury, or whose attendance at work is prevented by public health requirements. Staff members who are unable to perform their duties by reason of illness or injury shall include staff members undergoing an examination or treatment for physical (i.e. medical, dental, optical) or mental illness requiring absence from work. Staff members whose attendance at work is prevented by public health requirements shall include staff members who have been exposed to or have contracted a contagious disease, so that their presence in the workplace might jeopardise the health of other staff members.

2.3 All sick leave shall be supported by a medical certificate or report from a medical practitioner licensed to practice at the location where the certificate or report is issued, except when emergency leave is granted under conditions set out in staff rule 106.5. If a staff member has difficulty obtaining a medical certificate or report, he or she shall contact the Medical Office for advice.

Section 3

Entitlement to certified sick leave and emergency leave

Certified sick leave

3.1 A staff member's maximum entitlement to certified sick leave shall be determined by the duration of his or her appointment as follows:

- a) A staff member who holds an appointment of less than one (1) year shall be entitled upon appointment to certified sick leave at the rate of two (2) working days per month of continuous service;
- b) A staff member who holds an appointment of one (1) year or more but less than three (3) years, or who has completed one (1) year but less than three (3) years of continuous service, shall be entitled upon appointment or upon completion of one (1) year of continuous service to certified sick leave of up to sixty-five (65) working days on full pay, and sixty-five (65) working days on half pay in any period of twelve (12) consecutive months;
- c) A staff member who holds an appointment of three (3) years or more, or who has completed three (3) years of continuous service, shall be entitled upon appointment or upon

completion of three (3) years of continuous service to certified sick leave of up to one hundred and ninety-five (195) working days on full pay, and one hundred and ninety-five (195) working days on half pay in any period of four (4) consecutive years.

3.2 The same provisions of section 3.1 of this Administrative Instruction apply to staff members on part-time employment except that salary and allowances are paid on *pro rata* basis during period of sick leave, as set out in Section 12 of Administrative Instruction ICC/AI/2008/006 on the subject of part-time employment of staff members.

Emergency leave

3.3 Subject to the maximum entitlement to certified sick leave specified under section 3.1 of this Administrative Instruction, emergency leave may be granted to a staff member for a period of not more than seven (7) working days each calendar year. In the event of illness or injury of the staff member for which no medical certificate is submitted, not more than three (3) consecutive working days may be granted as emergency leave.

3.4 The entitlement to emergency leave in respect of part-time staff members will be calculated *pro rata*, as set out in Section 12 of Administrative Instruction ICC/AI/2008/006 on the subject of part-time employment of staff members.

Section 4

Notification and approval of certified sick leave and emergency leave

Certified sick leave

4.1 Unless justified by exceptional circumstances, a staff member shall notify his or her immediate supervisor promptly (before 11 a.m. or within two hours of commencement of the work day), of his or her absence due to illness, injury or public health requirements, and shall inform the supervisor of the expected day of return to work. A staff member shall inform his or her immediate supervisor about the new date of return to work, whenever there is an extension of the sick leave period.

4.2 Unless emergency leave is requested under sections 3.3 and 3.4 of this Administrative Instruction, a staff member who is unable to perform his or her duties by reason of illness or injury shall submit a medical certificate to the Medical Office for confirmation of certified sick leave on the day of return to work.

4.3 A staff member who is unable to perform his or her duties by reason of illness or injury for a period that exceeds twenty (20) consecutive working days, shall submit a medical report to the Medical Office for confirmation of certified sick leave, no later than the twentieth working day following the initial absence from duty. An updated medical report shall be required every twenty (20) working days, unless the Medical Officer decides that an updated medical report is not necessary.

4.4 All certified sick leave shall be confirmed by the Medical Officer. The Medical Officer shall determine if additional information is needed in which case the staff member may be requested to submit medical report(s) or undergo additional medical examination and/or tests. Certified sick leave

shall not be confirmed if the Medical Officer forms the opinion that the staff member is able to work.

4.5 When the treating physician does not provide, upon the staff member's request, a medical certificate or medical report justifying the absence due to illness or injury, the staff member shall authorise the Medical Officer to contact the treating physician to verify the reasons for absence for the purpose of confirmation of certified sick leave. If the treating physician is not available or cannot provide a medical certificate or a medical report, the staff member shall contact the Medical Office for further guidance.

4.6 No medical certificate/report needs to be submitted to the Medical Office when a staff member has been required to stay home by the Medical Officer for public health requirements.

4.7 If no certificate or report is submitted as required by sections 4.2 to 4.5 above, or if the certified sick leave is not confirmed by the Medical Officer, absence shall be treated as unauthorized absence in accordance with Staff Rule 105.5. However, if the staff member belatedly submits the required medical certificate or report and establishes to the satisfaction of the Registrar or the Prosecutor, as appropriate, that the late submission was attributable to circumstances beyond his or her control, the absence shall be charged to certified sick leave upon confirmation by the Medical Officer.

4.8 Pursuant to Staff Rule 106.11, a staff member may appeal against a medical decision made by the Medical Officer to a medical referee, i.e. a registered, local and independent occupational health advisor or, if the staff member is assigned to a field (non-headquarters) duty station, a medical practitioner, nominated jointly by the Registrar or Prosecutor, as appropriate, and the staff member. For the medical referee to come to an informed decision he or she will consider all relevant information and documentation from both the staff member and the Court's Medical Officer. The decision of the medical referee shall be final.

4.9 A staff member who wishes to exercise his or her right to appeal against a medical decision shall submit a request in writing to the Registrar or the Prosecutor, as appropriate, within thirty (30) days of notification of the medical decision. An appeal shall not have the effect of suspending action on the contested medical decision.

4.10 If the medical referee decides in favour of the staff member, the Court will pay for the costs of the medical referee. If the medical referee decides partly in favour of the staff member, the costs will be shared by the Court and the staff member. In all other cases, the staff member shall be responsible for the expenses of the medical referee.

4.11 A staff member, while on sick leave, shall not depart from his or her duty station without prior consultation with the Medical Officer and the staff member shall provide the Medical Officer with contact details before departure.

4.12 A staff member on sick leave shall inform the Medical Office of any change of his or her place of recuperation.

Emergency leave

4.13 A staff member requesting emergency leave shall notify his or her immediate supervisor of his or her intention to take emergency leave in advance, if possible, or on the first day of absence in the same manner as specified in section 4.1 of this Administrative Instruction, indicating the probable duration of absence.

4.14 The immediate supervisor may approve the leave, subject to the conditions of staff rule 106.5 and the provisions of this Administrative Instruction.

Section 5

Relationship of certified sick leave and emergency leave to other entitlements

Combination of certified sick leave on half pay with annual leave or half-time duty

5.1 Each day of certified sick leave at half pay may be combined with one-half day's annual leave, provided that the staff member agrees to such an arrangement and to the extent that the staff member's accumulated annual leave allows. In such case, both a whole day's certified sick leave on half pay and a half-day's annual leave shall be charged for each working day involved.

5.2 When a staff member returns to duty on a half-time basis, he or she may be paid for the other half working day on the basis of a whole day's certified sick leave at half pay, provided that the staff member agrees to such arrangement. In such case, both the half-day worked and the whole day's certified sick leave at half pay shall be charged for each working day involved.

5.3 During the combinations under sections 5.1 and 5.2 of this Administrative Instruction, the staff member shall remain with full pay for payroll purposes.

5.4 The combinations under section 5.1 and 5.2 of this Administrative Instruction may not be possible in respect of staff members working part time under administrative instruction ICC/AI/2008/006 on the subject of part-time employment of staff members.

5.5 Other combinations may be made, if requested by the staff member, provided that such arrangements are consistent with the Staff Regulations and Rules and administratively feasible.

Sick leave as a result of service-incurred incidents

5.6 Authorized absences occasioned by the injury or illness attributable to the performance of official duties on behalf of the Court, in accordance with staff rule 106.9, shall be charged to the certified sick leave entitlement of the staff member. In accordance with provisions established by the Registrar in consultation with the Prosecutor, the staff member shall continue to be paid salary and allowances which the staff member was receiving at the date on which he or she last attended at duty (but not including special post allowance) until:

- a) He or she returns to duty; or
- b) If, by reason of his or her disability, he or she does not return to work, then until the date of the termination of appointment or the expiry of two calendar years from the first day of absence resulting from the injury or illness, whichever is later, provided that if the staff member dies before the expiry of such period, the payments shall cease on the date of death.

5.7 Following the exhaustion of sick leave and subject to any prior separation, the staff member shall be placed on special leave. Any special leave granted under this paragraph covering the period

when the staff member is paid compensation equivalent to salary and allowances in accordance with section 5.6 of this Administrative Instruction shall be deemed special leave with pay, while any period of subsequent special leave shall be deemed special leave without pay, in accordance with section 5.9 of this Administrative Instruction.

Exhaustion of certified sick leave entitlement

5.8 The Human Resources Section will endeavour to inform the staff member when his or her entitlements to certified sick leave with half pay or certified sick leave with full pay are near to being exhausted.

5.9 When the entitlement to certified sick leave has been exhausted, further sick leave shall be charged to annual leave. When the entitlements to certified sick leave and annual leave have been exhausted, the staff member shall be allowed by the Registrar or the Prosecutor, as appropriate, to take special leave without pay during continued absence due to illness or injury for a maximum duration of two (2) years, in accordance with staff rule 105.3.

5.10 When a staff member has used all of his or her entitlement to certified sick leave on full pay, as specified in section 3 of this Administrative Instruction, the Human Resources Section shall bring the situation to the attention of the Medical Officer in order to determine whether that staff member should be considered for a disability benefit under article 33 (a) of the Regulations of the United Nations Joint Staff Pension Fund (UNJSPF) while the staff member is on certified sick leave with half pay or receiving compensation under section 5.6 of this Administrative Instruction. When the staff member is being considered for such a benefit and paid leave entitlements have been exhausted because of a delay in the medical determination of the staff member's incapacity for further service or in the decision by the United Nations Joint Staff Pension Board whether to award a disability benefit, the staff member shall be placed on special leave with half pay until the date of such decision.

Submitting case for granting of disability benefit under UNJSPF

5.11 When a staff member is considered for disability benefits under section 5.10 of this Administrative Instruction, the Medical Officer, together with the Chief of the Human Resources Section, shall prepare a report with all relevant information for the Court's Staff Pension Committee for consideration of granting a disability benefit. When a staff member is being considered for disability benefits, the Medical Officer will inform the staff member and keep him or her abreast of any developments.

Accrual of annual leave during certified sick leave and emergency leave

5.12 In accordance with staff rule 105.2 (a), a staff member shall accrue annual leave:

- a) While on emergency leave;
- b) While on sick leave with full pay status;
- c) While absent from work under an agreed arrangement whereby half-day of annual leave is combined with a full day of certified sick leave with half pay, as specified in section 5.1 of this Administrative Instruction;
- d) While absent from work under an agreed arrangement whereby half-time duty is combined with a full day of certified sick leave at half pay, as specified in section 5.2 of this

Administrative Instruction.

Effect of certified sick leave on entitlements other than annual leave

5.13 Periods of certified sick leave, whether on full or half pay, shall not affect the accrual of service credits towards salary increment, home leave, termination indemnity and repatriation grant. Staff members who are on certified sick leave with half pay after exhausting their certified sick leave on full pay and who cannot be maintained on full-pay status through a combination of certified sick leave on half pay with accrued annual leave or half-time duty, shall receive:

- a) Half their base salary and post adjustment, where applicable;
- b) The full amount of the following allowances and benefits: dependency allowance, language allowance, education grant, mobility and hardship allowance, rental subsidy and health insurance subsidy, as applicable.

Individual allowances and benefits linked to the performance of functions under defined circumstances, as is the case for special post allowance and night differential, shall not be payable.

Sick leave and maternity leave

5.14 If a staff member falls ill during a period of pre-delivery leave between six and three weeks preceding expected delivery date, it is the staff member's responsibility to submit a medical certificate to the Medical Officer who shall determine whether maternity leave should commence at once.

5.15 If, upon expiration of maternity leave, a staff member is unable to return to duty due to illness, absence can be charged to such sick leave upon presentation of a medical certificate or report, as appropriate.

Sick leave within a period of annual leave

5.16 If certified sick leave for a period of more than five (5) consecutive working days in any seven (7) day period is requested within a period of annual leave under staff rule 106.4 (f) and the certified sick leave involves an extension of the period of absence from work, the immediate supervisor must be informed before the approved period expires. The immediate supervisor shall inform the Medical Office of the situation. The request for approval of certified sick leave during annual leave must be submitted together with the requisite medical certificate or report, immediately upon return to duty. The provisions of section 4 of this Administrative Instruction shall continue to apply.

Extension of fixed-term appointments for utilization of sick leave entitlement

5.17 When a staff member on a fixed-term appointment is incapacitated for service by reason of illness or injury that continues beyond the date of expiration of the appointment that would otherwise not be extended, he or she shall be granted an extension of the appointment, after consultation with the Medical Officer, for the continuous period of certified sick leave up to the maximum entitlement to certified sick leave at full pay and half pay under staff rule 106.4 and section 3 of this Administrative Instruction.

5.18 When a staff member's fixed-term appointment is extended solely to enable him or her to utilize his or her certified sick leave entitlement, such extension shall not give rise to any further

entitlement to salary increment, annual leave, sick leave, maternity leave, other parent leave, or home leave, although service credits towards repatriation grant may continue to accrue if the staff member has not returned to his or her home country. Sick leave on half pay during the period of extension may not be supplemented by annual leave. In the event of death during the period of extension, the period prior to the death may be taken into account in the determination of the death grant provided in staff rule 109.5 (a).

Section 6

Return to work in case of extended sick leave

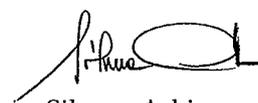
6.1 When a staff member returns to duty after a period of extended absence due to illness or injury, facilitating re-integration to duty may include temporary adaptation of the workload, working hours, scope of work, technical adjustments to the work station and temporary re-assignment, if advised by the Medical Officer or Staff Welfare Officer and practicable. The adaptations(s) shall be agreed upon in advance by the staff member and the immediate supervisor and may include assistance from the Human Resources Section if temporary re-assignment is considered.

6.2 The Medical Officer shall provide a recommendation for the approval of the Registrar or the Prosecutor, as appropriate, to adapt the working conditions for a temporary period to the capacity of the staff member. The Medical Officer may implement directly minor adaptations that can be arranged at little or no cost.

Section 7

Final provisions

7.1 The present administrative instruction shall enter into force on 25 July 2011.



Silvana Arbia
Registrar