



Administrative Instruction – Instruction administrative

Ref: ICC/AI/2013/007

Date: 10 September 2013

**OVERTIME, STAND-BY DUTY, COMPENSATORY TIME OFF, AND
NIGHT DIFFERENTIAL**

The Registrar, in consultation with the Prosecutor, for the purpose of implementing Staff Regulation 1.3 (b) and Staff Rules 101.9(b), 103.15 and 103.16, and pursuant to Section 3.2 of Presidential Directive ICC/PRES/D/G/2003/001, promulgates the following:

Section 1

Scope of application

- 1.1 This Administrative Instruction shall apply to all staff members of the Court, unless specific systems on working hours and overtime compensation are adopted in line with their function or tasks with the approval of the Registrar or Prosecutor, as appropriate.
- 1.2 It shall also apply to duty stations away from the Headquarters, unless otherwise decided.

Section 2

Working Hours

- 2.1 The regular working hours of the Court are from 9 a.m. until 5:30 p.m., from Monday to Friday, with a one hour mandatory lunch break. Thus, the regular total number of working hours per day is seven and one half hours and the regular total number of working hours each week is thirty-seven and one half.
- 2.2 At field duty stations, the Court will normally observe the number and schedule of working hours established by the United Nations common system ("common work week") for the organizations represented at the particular duty station.
- 2.3 Work performed outside regular working hours due to the adoption of a shift system, flexible workplace arrangements or other system shall not be considered as overtime except when the total time worked exceeds the normal working week.

Section 3

General Principles on Overtime Work

3.1 In accordance with the Staff Regulations and Rules¹, staff members shall be required to work beyond the normal working hours when requested to do so.

3.2 In accordance with Staff Rule 103.15 (b), staff members in the Professional and higher categories shall be required to perform their duties in line with their responsibilities outside their working hours scheduled to the extent required by service.

3.3 Overtime work should be avoided or minimized whenever possible. Supervisors should plan and organize the work in the units under their responsibility accordingly. Staff members should aim at completing their tasks within regular working hours.

3.4 All overtime work shall be authorized by supervisors before the work commences.

3.5 In cases where overtime work cannot be avoided, in the interests of the health and welfare of the staff and the efficiency of service, staff members shall not work more than forty hours of overtime during any one month, unless exceptional circumstances so require. For the same reasons, managers shall endeavour to make specific arrangements for their functional unit so as to rotate, where possible, staff members who are required to work overtime.

3.6 Overtime work shall not be automatically factored into any staff member's regular work schedule, but rather provided for on exceptional bases, such as in the case of special projects or for other specific operational needs.

3.7 Pregnant staff members and other staff members with a certified medical condition shall not be required to work overtime.

3.8 Time spent traveling to and from the place of work shall not be counted as part of overtime work, nor time spent traveling for business purposes.

Section 4

Eligibility to Compensation for Overtime Work

4.1 Compensation for overtime work is granted to staff members in the General Service (GS) category only.

4.2 Notwithstanding Section 4.1 above, the Registrar or the Prosecutor, as appropriate, may exceptionally grant compensatory time off (CTO) to staff members in the Professional and higher categories.

¹ See Staff Regulation 1.3 and Staff Rule 101.9.

4.3 Staff members in the GS category in receipt of a special post allowance at the Professional level shall not be entitled to compensation for overtime. They may, however, be granted compensatory time off under the same conditions applicable to staff members in the Professional and higher categories.

Section 5

Credits for Overtime Work

5.1 Credits for overtime shall be given and recorded as follows for staff members in the GS category:

(a) At the straight time rate for work done in excess of the regular scheduled work day for the time corresponding to the difference between the scheduled work day and eight hours of work on that day;

(b) At the one and one-half times rate for work in excess of eight hours on any working day and for Saturdays;

(c) At the double rate for work on Sundays and on official holidays. In case the Registrar or Prosecutor, as appropriate, require staff members to work on a holiday that falls during a period of emergency, the Registrar or Prosecutor, as appropriate, may set another working day to be observed as the holiday and the holiday falling during the period of emergency shall be treated as a normal working day.

5.2 For staff members in the GS category working on shift system, credits for overtime shall be given and recorded as follows:

(a) At the straight time rate in line with 5.1 (a);

(b) At the one and one-half times rate for work in excess of eight hours on the sixth consecutive day or on the first scheduled day off during one working week;

(c) At the double rate for work in excess of eight hours on the seventh consecutive day or on the second scheduled day off during one working week provided the first day off has been worked.

5.3 Where credits for overtime are given to staff members in the Professional and higher categories they shall be recorded at the straight time rate.

5.4 Credits for overtime of eligible staff members who work authorized flexible workplace arrangements shall be subject to guidelines established by the Registrar, in consultation with the Prosecutor.

5.5 Overtime is reckoned to the nearest half hour.

Section 6

Stand-by Duty

6.1 Staff members may be required to be on stand-by duty outside their normal working day when necessitated by the interests of the Court.

6.2 If so required, the Registrar or the Prosecutor, as appropriate, or his/her delegated authority shall establish a stand-by duty roster at the beginning of each calendar month, or, in exceptional circumstances, at short notice, which shall list the staff members who shall be on stand-by duty at specified times during that calendar month.

6.3 In principle, staff members in the GS category should not be obligated to be on stand-by duty. However, it is recognized that a particular need for a skill, language, or an absence of a staff member in the Professional and higher categories, may require staff members in the GS category to be on stand-by duty.

6.4 Staff members on stand-by duty shall remain available for work during the designated period of time, shall be accessible by a means of communication designated by their supervisors and remain within commuting distance to the duty station of one hour, unless instructed otherwise.

6.5 Staff members in the GS category on stand-by duty are entitled to compensation for the actual work carried out or at least a credit of four hours overtime for standby duty of up to seven consecutive days.

Section 7

Compensatory time off

7.1 Subject to the exigencies of service, overtime and stand-by duty are normally compensated as CTO corresponding to the number of credited hours, to be taken at any time during the four months following the week in which the overtime work has been performed.

7.2 Staff members are normally required to exhaust any accrued CTO leave before availing of annual leave.

7.3 A review of the overtime credits shall be conducted by the designated Time Administrator at least three times each year. If, at the time of such review, it is determined that a staff member has accumulated more than thirty-seven and one half hours credit hours which could not be authorized as CTO leave because of the exigencies of service, each credit hour in excess of thirty-seven and one half hours is paid at the hourly rate computed on the basis of the aggregate of the staff member's base salary and language allowance, if any. In order to authorize payment, the supervisor must justify in writing why the exigencies of service prevented the staff member from taking CTO leave. Accumulated credits of thirty-seven and one half hours or less are carried forward and counted as part of the staff member's accumulated entitlement at the time of the next review.

7.4 In cases involving irregular work schedules or where CTO will negatively impact the efficient operation of the Section concerned, direct payment for all overtime hours worked may be authorized.

7.5 In cases where staff members in the Professional and higher categories have exceptionally been granted CTO as indicated in section 4.2 above, such CTO cannot be converted to payment as indicated in this section.

Section 8

Reporting and Recording of Overtime Credits and CTO Leave

8.1 All overtime credits and CTO leave taken shall be recorded by the designated Time Administrator.

8.2 Requests for CTO leave of staff members in the Professional and higher categories shall be signed by the supervisor and submitted to the Registrar or Prosecutor, as appropriate, via the Human Resources Section.

Section 9

Night differential²

9.1 Pursuant to Staff Rule 103.16, staff members of the GS category shall receive, for any regular working hours between 6 p.m. and 9 a.m., a night differential payment at the rate of 10 per cent of their base hourly salary including language allowance, if any, except that no such differential shall be paid for any part of the tour of duty that begins between 6 a.m. and 9 a.m.

9.2 Night differential shall not be payable for any regular working hours authorized under flexible workplace arrangements.

9.3 Staff members whose regular working hours entitle them to receive a night differential payment and who work overtime during hours for which night differential payment is payable, shall be entitled to receive both a night differential and overtime compensation for such overtime work.

9.4 Night differential payment shall be reckoned to the nearest half hour.

Section 10

Final Provisions

10.1 This Administrative Instruction shall enter into force on 26 August 2013.

² See Staff Rule 103.16.

10.2. Any earlier provisions, administrative issuances, guidelines and practices followed before the issuance of the present instruction in respect of overtime work for staff members shall no longer be valid.

10.3. As a transitional measure, at the first review, overtime balances above thirty-seven and one half hours shall be converted to annual leave where payment is not an option.



Herman von Hebel
Registrar