

DECISION OF THE ADMINISTRATIVE COUNCIL
of 29 June 2021
revising the education and childcare benefits of
permanent and other employees of the
European Patent Office

THE ADMINISTRATIVE COUNCIL OF THE EUROPEAN PATENT ORGANISATION,

Having regard to the European Patent Convention and in particular Articles 10(2)(c) and 33(2)(b) thereof,

Having regard to the Service Regulations for permanent and other employees of the European Patent Office (hereinafter referred to as "the Service Regulations") and the Implementing Rule for Article 64 of the Service Regulations,

Having regard to the Pension Scheme Regulations of the European Patent Office (hereinafter referred to as "the Pension Regulations") and the Implementing Rules thereto,

Having regard to the New Pension Scheme Regulations of the European Patent Office (hereinafter referred to as "the New Pension Regulations") and the Implementing Rules thereto,

On a proposal from the President of the European Patent Office, submitted after consulting the General Consultative Committee,

HAS DECIDED AS FOLLOWS:

I. AMENDMENTS TO THE SERVICE REGULATIONS

Article 1

In Article 1a of the Service Regulations, the reference to Article 71 shall be deleted.

Article 2

Article 67 of the Service Regulations shall read as follows:

"Article 67 General provisions

- (1) Under the conditions laid down in this Section, an employee shall be entitled to:
 - (a) family allowances:
 - household allowance,
 - dependant's allowance,
 - young child allowance,
 - education allowance;
 - (b) expatriation allowance;
 - (c) installation allowance;
 - (d) rent allowance;
 - (e) language allowance.
- (2) An employee in receipt of household allowance or dependant's allowance shall declare allowances of like nature paid from other sources; these allowances shall be deducted from those paid under these Service Regulations.
- (3) In cases where both spouses employed by the Office are entitled to family allowances, these shall be payable only to the person whose basic salary is the higher."

Article 3

Article 70a of the Service Regulations shall read as follows:

"Article 70a Young child allowance

- (1) Employees are entitled to the young child allowance for each dependent child within the meaning of Article 69.
- (2) Entitlement to the allowance shall commence in the month of birth of the dependent child. It shall terminate in the month preceding the child's fourth birthday. Entitlement to the allowance shall continue in full during periods of parental and family leave or part-time work.
- (3) The amount of the young child allowance shall be doubled whenever
 - (a) the child concerned regularly attends a childcare facility recognised by the Office, and
 - (b) the costs invoiced by that childcare facility amount to at least twice the amount of the young child allowance.
- (4) The amount of the allowance is set out in Annex IV."

Article 4

Article 71 of the Service Regulations shall read as follows:

"Article 71 Education allowance

I. Conditions of award

- (1) Under the terms set out below, employees may claim the education allowance in respect of each dependent child, within the meaning of Article 69, regularly attending an educational establishment on a full-time basis.
- (2) Entitlement to the allowance shall commence on the first day of the month in which the dependent child turns four. It shall terminate when the child ceases full-time studies, and not later than the end of the month in which the entitlement to the dependent child allowance in respect of that child will cease to be recognised.
- (3) Where the education is discontinued before the end of an academic year, the amounts and ceilings of the allowance are reduced on a pro rata basis.
- (4) The costs set out in paragraphs 5 and 7 may only be claimed once for any given period.

II. Pre-school, primary education and secondary education

- (5) Direct education costs, namely enrolment, tuition and capital fees, incurred for pre-school, primary education or secondary education that exceed EUR 500 per academic year will be fully reimbursed up to the annual ceilings set out in Annex IV.

Employees whose child attends a European school located at their place of employment and subsidised by the Organisation are not entitled to this reimbursement.

- (6) Employees entitled to the education allowance for a child in pre-school, primary education or secondary education will receive a monthly lump sum for indirect education costs, the amount of which is set out in Annex IV.

III. Post-secondary education

- (7) Direct education costs, namely enrolment and tuition fees, incurred for post-secondary education that exceed EUR 500 per academic year will be reimbursed at the rate of 70%, up to the annual ceiling set out in Annex IV.
- (8) Employees entitled to the education allowance for a child in post-secondary education will receive a monthly lump sum for indirect education costs. The amount of the lump sum depends on whether the child is living at home, and is set out in Annex IV."

Article 5

Article 72, paragraph 5, of the Service Regulations shall be deleted.

Article 6

Article 72, paragraph 6, of the Service Regulations shall become Article 72, paragraph 5, of the Service Regulations and the term "spouses" shall replace "a husband and wife" in the English wording. The French and German versions remain unchanged.

Article 7

Article 120a of the Service Regulations shall be deleted.

Article 8

In the table in Annex III B of the Service Regulations, the first point "Expatriation allowance – Allowance under Art. 72, paragraph 5" shall be deleted.

Article 9

Annex IV to the Service Regulations shall read as follows:

"ANNEX IV AMOUNTS OF THE YOUNG CHILD ALLOWANCE AND EDUCATION ALLOWANCE

- (1) The amount of the young child allowance is EUR 350 per month.
- (2) For the education allowance, the ceilings for the reimbursement of direct education costs per academic year are:
 - (a) For employees serving in Munich and The Hague:
 - (i) EUR 11 158 for pre-school and primary education;
 - (ii) EUR 13 389 for secondary education;
 - (iii) EUR 11 158 for post-secondary education.
 - (b) For employees serving in Berlin and Vienna:
 - (i) EUR 15 624 for pre-school and primary education;
 - (ii) EUR 17 856 for secondary education;
 - (iii) EUR 11 158 for post-secondary education.

The ceiling taken into account for the duration of the entire academic year is that in force at the beginning of the academic year.

- (3) The monthly lump sum for indirect education costs paid for a child in pre-school, primary education or secondary education is EUR 112.
- (4) The monthly lump sum for indirect education costs paid for a child in post-secondary education is:
 - (a) EUR 149 for a child living at home, or
 - (b) EUR 521 for a child not living at home.
- (5) These amounts will be reviewed regularly to take into account the evolution of childcare and education costs at the respective places of employment."

II. AMENDMENT TO THE IMPLEMENTING RULE FOR ARTICLE 64 OF THE SERVICE REGULATIONS

Article 10

Article 1, paragraph 4, of the Implementing Rule for Article 64 of the Service Regulations shall read as follows:

- "(4) The amounts of the young child allowance and the education allowance set out in Annex IV to the Service Regulations, the daily subsistence allowance set out in Annex V to the Service Regulations and the kilometric allowance referred to in Article 79 of the Service Regulations are adjusted by applying the arithmetic average rate of annual salary adjustment for Austria, Germany and the Netherlands to those in place."

III. AMENDMENTS TO THE PENSION REGULATIONS AND THE IMPLEMENTING RULES THERETO

Article 11

Article 28, paragraph 1, of the Pension Regulations shall read as follows:

- "(1) The family allowances comprising household allowance, dependant's allowances, young child allowance and education allowance granted under the Service Regulations for permanent employees of the Office shall be paid:
- (i) to the recipient of a retirement pension;
 - (ii) to the recipient of a survivor's pension.

The household allowance shall be calculated by reference to the pension of the recipient. However, the dependant's allowances, young child allowance and education allowance shall be paid in full."

Article 12

Rule 28/2 of the Implementing Rules to the Pension Regulations shall read as follows:

"Rule 28/2 Education allowance

- (i) The education allowance shall be granted for children dependent on a former employee who is in receipt of a retirement pension, or dependent on their spouse, where such spouse is in receipt of a survivor's pension, by applying to the dependent children the same criteria regarding education and expenditure as would apply if the former employee were still serving.
- (ii) In the event of the death of a serving employee or employee actually in receipt of a retirement pension, without any survivor's pension being awarded to a spouse, or in the event of the death of the recipient of a survivor's pension, any education allowance which was being paid at the time of the death shall continue to be paid, unchanged in amount, until the end of the current academic year."

Article 13

Rule 28/3 of the Implementing Rules to the Pension Regulations shall read as follows:

"Rule 28/3 Young child allowance

- (i) The young child allowance shall be granted for children dependent on a former employee who is in receipt of a retirement pension, or dependent on their spouse, where such spouse is in receipt of a survivor's pension, by applying to the dependent children the same criteria as would apply if the former employee were still serving.
- (ii) In the event of the death of an employee or former employee actually in receipt of a retirement pension, without any survivor's pension being awarded to a spouse, or in the event of the death of the recipient of a survivor's pension, any young child allowance which was being paid at the time of the death shall continue to be paid, unchanged in amount, for a further three full calendar months following the death or until the entitlement on which the allowance was based ceases to be recognised, whichever is the earlier."

IV. AMENDMENTS TO THE NEW PENSION REGULATIONS AND THE IMPLEMENTING RULES THERETO

Article 14

Article 22, paragraph 1, of the New Pension Regulations shall read as follows:

"(1) The family allowances comprising household allowance, dependant's allowances, young child allowance and education allowance granted under the Service Regulations shall be paid:

- (i) to the recipient of a retirement pension;
- (ii) to the recipient of a survivor's pension;

The household allowance shall be calculated by reference to the pension of the recipient. However, the dependant's allowances, young child allowance and education allowance shall be paid in full."

Article 15

Rule 22/2 of the Implementing Rules to the New Pension Regulations shall read as follows:

**"Rule 22/2
Education allowance**

- (i) The education allowance shall be granted for children dependent on a former employee who is in receipt of a retirement pension, or dependent on their spouse, where such spouse is in receipt of a survivor's pension, by applying to the dependent children the same criteria regarding education and expenditure as would apply if the former employee were still serving.
- (ii) In the event of the death of a serving employee or employee actually in receipt of a retirement pension, without any survivor's pension being awarded to a spouse, or in the event of the death of the recipient of a survivor's pension, any education allowance which was being paid at the time of the death shall continue to be paid, unchanged in amount, until the end of the current academic year."

Article 16

Rule 22/3 of the Implementing Rules to the New Pension Regulations shall read as follows:

"Rule 22/3 Young child allowance

(i) The young child allowance shall be granted for children dependent on a former employee who is in receipt of a retirement pension, or dependent on their spouse, where such spouse is in receipt of a survivor's pension, by applying to the dependent children the same criteria as would apply if the former employee were still serving.

(ii) In the event of the death of an employee or former employee actually in receipt of a retirement pension, without any survivor's pension being awarded to a spouse, or in the event of the death of the recipient of a survivor's pension, any young child allowance which was being paid at the time of the death shall continue to be paid, unchanged in amount, for a further three full calendar months following the death or until the entitlement on which the allowance was based ceases to be recognised, whichever is the earlier."

V. TRANSITIONAL MEASURES

Article 17

General provisions for transitional measures

1. These transitional measures will apply only to employees who joined the Office up until 30 June 2021.
2. Decisions made by employees to opt in to the new schemes are irrevocable.
3. The President of the Office may take any appropriate further measure to ensure a smooth transition to the new schemes.

Article 18
Employees who received childcare allowance before 1 July 2021
for dependent children aged three or under

1. Employees who received childcare allowance before 1 July 2021 for a dependent child aged three or under will be placed under this transitional measure. They may claim childcare allowance (under Article 70a Service Regulations as at 30 June 2021) and will receive, where applicable, the expatriation allowance supplement (under Article 72(5) Service Regulations as at 30 June 2021) until the child turns four, unless they opt in to the new young child scheme.
2. The maximum amounts of childcare allowance as at 30 June 2021 apply for the duration of the transitional measure under paragraph 1.
3. The amount of expatriation allowance supplement as at 30 June 2021 applies for the duration of the transitional measure under paragraph 1.

Article 19
General provision on miscellaneous education costs

1. Employees who before 1 July 2021 were eligible for the lump sum intended to cover miscellaneous education costs (under Article 71 Service Regulations as at 30 June 2021), the expatriation allowance supplement (under Article 72(5) Service Regulations as at 30 June 2021) and/or the childcare allowance for children aged four to twelve (under Article 70a Service Regulations as at 30 June 2021) will be placed under this transitional measure until 31 July 2022. They are entitled to these benefits for the academic year 2021/2022, unless they opt to receive the new lump sum for indirect education costs. The new lump sum for indirect education costs cannot be claimed alongside the benefits paid under this transitional measure.
2. The maximum amounts of childcare allowance as at 30 June 2021 apply for the duration of the transitional measure under paragraph 1.
3. The amount of expatriation allowance supplement as at 30 June 2021 applies for the duration of the transitional measure under paragraph 1.

Article 20

Employees entitled to payment of school fees under Article 120a Service Regulations

1. Employees whose dependent child was enrolled in a school on 30 June 2021 for the academic year 2021/2022 and for which they would have been entitled to the benefit provided for under Article 120a Service Regulations as at 30 June 2021 will be entitled to full reimbursement of direct education costs, namely enrolment, tuition and capital fees, until the end of their child's secondary education or until their child changes school. This entitlement is conditional on the annual cumulated enrolment, tuition and capital fees of the relevant school exceeding the ceilings defined in Annex IV of the Service Regulations.
2. The same measure applies to employees whose dependent child will be enrolled for their first year of (pre-)school for the academic year 2022/2023, and for which the employees would have been entitled to the benefit provided for under Article 120a Service Regulations as at 30 June 2021.
3. Where applicable, employees covered under paragraph 1 will also be entitled to the expatriation allowance supplement (under Article 72(5) Service Regulations as at 30 June 2021), the childcare allowance for children aged four to twelve (under Article 70a Service Regulations as at 30 June 2021) and full reimbursement of any further costs incurred on account of school attendance and the school bus fees for the academic year 2021/2022, unless they opt to receive the new lump sum for indirect education costs. Entitlement to this transitional measure will cease on 31 July 2022. The new lump sum for indirect education costs cannot be claimed alongside the benefits paid under this transitional measure.
4. The maximum amounts of childcare allowance as at 30 June 2021 apply for the duration of the transitional measure under paragraph 3.
5. The amount of expatriation allowance supplement as at 30 June 2021 applies for the duration of the transitional measure under paragraph 3.

Article 21

Employees with children enrolled at boarding school for the academic year 2020/2021

1. Article 71 Service Regulations as at 30 June 2021 will continue to apply for the academic year 2021/2022 to employees whose dependent child was enrolled at boarding school for the academic year 2020/2021.
2. As from the start of the academic year 2022/2023, these employees will be entitled to reimbursement of incurred annual tuition, board and lodging fees up to a ceiling corresponding to 3.5 times the dependent child allowance applying in the country where the studies are pursued.

3. This transitional measure will irrevocably cease to apply in the event that (i) the child stops boarding or (ii) the child changes school, and (iii) in any event when the child finishes secondary school.
4. This transitional measure does not apply to employees with children in post-secondary education.

Article 22
Employees with children registered in post-secondary education
for the academic year 2020/2021

For the academic year 2021/2022, the same lump sum entitlement and ceiling on reimbursement of direct education costs applied in 2020/2021 (under Article 71 Service Regulations as at 30 June 2021) will continue to apply, if applicable, to employees with a dependent child who was registered in post-secondary education for the academic year 2020/2021 in a country with a dependent child allowance higher than EUR 373.80 on 30 June 2021.

Article 23
Pensioners with dependent children

The transitional measures set out above will apply to pensioners, provided they meet the relevant conditions.

VI. ENTRY INTO FORCE

Article 24

1. The new young child allowance provision and related transitional measures shall apply as from 1 September 2021.
2. The new education allowance provisions and related transitional measures shall apply as from the start of the academic year 2021/2022.
3. Entitlements under the provisions as at 30 June 2021 shall remain in place until the new provisions become applicable.

Article 25

This decision shall enter into force on 1 July 2021.

Done at Munich, 29 June 2021.

For the Administrative Council
The Chairman

A handwritten signature in black ink, appearing to read 'J. Kratochvíl', written in a cursive style.

Josef KRATOCHVÍL

Decision of the President of the European Patent Office dated 13 of July 2021 relating to Circular No. 411 on Young child and education allowances

The President of the European Patent Office,

Having regard to the European Patent Convention and in particular Article 10 thereof,

Having regard to the Service Regulations for permanent and other employees of the European Patent Office and in particular Articles 70a and 71 thereof,

Has decided as follows:

Article 1

The Circular concerning the application of Articles 70a and 71 ServRegs on Young child and education allowances is approved.

Article 2

This decision enters into force on 13 July 2021.

Article 3

Articles 1, 8 paragraph 1 and 9 paragraph 1 shall apply as from 1 September 2021. The remaining Articles shall apply as from the start of the academic year 2021/22.

Done at Munich, 13 July 2021.



António Campinos

President

Circular No. 411

Application of Articles 70a and 71 ServRegs concerning young child and education allowances

The present circular lays down implementation details for Articles 70a and 71 ServRegs.

I. Young child allowance

Article 1 Entitlement to doubled young child allowance

(1) For the purpose of determining the entitlement to doubled young child allowance, regular attendance of a recognised childcare facility means

(i) attendance of a facility that is located in an EPO host state and that meets the conditions indicated in the Annex to the present circular

or attendance of a facility that is located in an EPO member state other than an EPO host state and that is recognised by the relevant local authorities, and

(ii) having a contract with the childcare facility that provides for weekly attendance.

(2) For the purpose of determining entitlement to the doubled young child allowance, the average costs invoiced by the facility over a year will be taken into account.

II. Education allowance

Article 2 Entitlement to reimbursement of direct education costs

(1) For the purpose of determining entitlement to the reimbursement of direct education costs, regular attendance of an educational establishment on a full-time basis means

(i) at pre-school level, at least 20 hours attendance per week

(ii) for primary and secondary level, receiving an education corresponding to the compulsory educational requirements in the country where the studies are pursued

(iii) at post-secondary level, an equivalent to an average of 60 ECTS (European Credit Transfer and Accumulation System) per academic year in a course of studies leading to a diploma or other officially recognised qualification. Proof of full-time attendance such as a copy of the transcript of records or a declaration from the educational establishment is required, even in cases where 60 ECTS are not achieved (because of failed exams or for other reasons).

(2) The following educational arrangements are excluded:

- (i) education as an unregistered student
- (ii) training lasting less than three months
- (iii) training that does not lead to a diploma or certificate officially recognised by the local public authorities responsible for education.

(3) Entitlement to education allowance continues during an internship, traineeship, apprenticeship or other similar arrangements attended during a course of studies, provided that the educational establishment certifies that it is a compulsory part of the full-time curriculum.

(4) Attendance can be physical or remote.

(5) Full-time studies are regarded as discontinued or finished at the end of the month in which the formal studies end, or in which the official diploma is issued, whichever comes first.

Article 3 Reimbursable expenses

(1) For the purpose of direct education costs, the following expenses are reimbursable:

- (i) fees that are required to enrol a child in an educational institution. Such fees cover registration, admission, application or entrance fees
- (ii) tuition fees for full-time attendance which are invoiced by the educational institution and certified by the educational institution as being necessary for attendance
- (iii) capital fees or development fees levied by educational institutions to fund the construction, refurbishment and maintenance of buildings. Such fees may be levied at the time of first enrolment, every year or as needed.

(2) The reimbursement of direct education costs is based on actual costs incurred. Discounts, such as those for siblings, will be taken into account.

Article 4 Application of ceilings

(1) For the purpose of the application of the ceiling for secondary education, the cycle structure (distinction between primary and secondary education) of the relevant educational establishment will be taken into consideration. In case of doubt, the typical cycle structure of the country where the school is located will apply.

(2) For employees serving in Brussels, the ceilings of Munich will apply.

(3) Pensioners entitled to the education allowance will benefit from the ceilings applicable to their last place of employment.

Article 5 Definition of living at home

For the purpose of defining the applicable monthly lump sum for indirect education costs

paid for a child in post-secondary education, a child is considered to be living at home when they live with one or both of their parents.

Article 6
Entitlement to the lump sum for indirect costs

(1) The monthly lump sum for indirect education costs is due and paid automatically from the month in which the child turns four and is maintained as long as the child is under 18.

(2) Should the child still be in secondary education on their eighteenth birthday, entitlement to this lump sum may be extended until finalisation of their secondary education.

Article 7
Education provided by a European School

Any establishment managed or accredited by the Board of Governors of the European Schools is considered to have the status of a European School.

III. Payment/reimbursement and supporting documentation

Article 8
Requests for payment/reimbursement

(1) Requests for payment of the doubled young child allowance must be submitted within six months of the date on which the entitlement commences.

(2) Requests for the reimbursement of direct education costs must be submitted during the academic year within which the costs are incurred and, in any event, no later than three months from the last day of the applicable academic year.

Article 9
Supporting documentation and checks

(1) For the payment of the doubled young child allowance, a copy of the contract must be attached to the request. The employee must be in a position to evidence that the average monthly costs invoiced by the facility over a year amount to at least twice the amount of the young child allowance.

(2) For the reimbursement of direct education costs, the relevant invoices and proof of payment must be attached to the request.

(3) On request, the employee will provide the Office with any additional documentation within four weeks.

Article 10
Entry into force

This circular enters into force on 13 July 2021.

Munich, 13 July 2021

The President of the European Patent Office

António Campinos

Annex – List of recognised childcare facilities

Germany

Childcare facilities that have been approved by the local authorities and to which the following laws apply:

- *Kinderbetreuungsgesetz der Bundesländer*
- *Infektionsschutzgesetz*
- *Datenschutzgesetz*

Explanatory note:

These are facilities registered with the local authorities including:

- registered day-care for children not yet attending school, for example crèche, kindergarten and pre-school day care of international schools
- host parents (*Tagesmutter, Kinderfrau*)

The *Tagesmutter* must be a qualified day-care childminder and must have the authorisation granted by the *Landesjugendamt* or the *Bezirksjugendamt*. This authorisation is only necessary when children are being looked after by a *Tagesmutter* for more than 12 hours per week. A certificate of good conduct (*Führungszeugnis*) for a *Kinderfrau* must be provided.

The Netherlands

Childcare facilities registered under the Dutch law on childcare (*Wet Kinderopvang*)

Explanatory note:

These are facilities registered by the national authorities (*Landelijk Register Kinderopvang LRK*) including:

- registered day-care for children not attending school, for example crèche, play groups (*peuterspeelzaal*) including pre-school childcare in international schools
- host parents via a registered host parents' organisation (*gastouder/gastouderbedrijf*)

Austria

Childcare facilities that have been approved by the local authorities and to which the following laws apply:

- *Kinderbetreuungsgesetz /-regelungen der Bundesländer*
- *Datenschutzgesetz*

Explanatory note:

These are facilities registered by the respective *Bundesland* including:

- registered day-care for children not yet attending school, for example crèche (*Kinderkrippe*), kindergarten including pre-school day-care of international schools

- host parents (*Tagesmutter, Kinderfrau*)

The *Tagesmutter* must be a qualified day-care childminder and must have the authorisation granted by the *Magistratsabteilung 11* (for Vienna) or the *Jugendwohlfahrtsverbände der Bundesländer*. A certificate of good conduct (*Führungszeugnis*) must be provided for a *Kinderfrau*.

Other EPO member states

Childcare facilities that are recognised by the relevant local authorities

All EPO member states – facilities that are not recognised

- Au pair/babysitter/*Krabbelgruppe*/non-approved *Spielgruppe*
- Granny au pair
- Summer camps or the like

Any other facilities will be considered by the Office on a case-by-case basis.