

Co46 - Hours of Work (Coal Mines) Convention (Revised), 1935 (No. 46)

Preamble

The General Conference of the International Labour Organization, Having been convened in Geneva by the Governing Body of the International Labour Office, and having met in its 88th Session on 30 May 2000, and Following consideration of the proposal for the withdrawal of several international labour Conventions, which is the seventh item on the agenda of this session; decides this fifteenth day of June of the year two thousand to withdraw the Hours of Work (Coal Mines) Convention (Revised), 1935 (No. 46). The Director-General of the International Labour Office shall notify all Members of the International Labour Organization as well as the Secretary-General of the United Nations of this decision to withdraw the instrument. The English and French versions of the text of this decision are equally authoritative.

The General Conference of the International Labour Organisation,

Having been convened at Geneva by the Governing Body of the International Labour Office, and having met in its Nineteenth Session on 4 June 1935, and

Having decided upon the adoption of certain proposals with regard to the partial revision of the Convention limiting hours of work in coal mines adopted by the Conference at its Fifteenth Session, which is the seventh item on the agenda of the Session, and

Considering that these proposals must take the form of an international Convention,

adopts this twenty-first day of June of the year one thousand nine hundred and thirty-five the following Convention, which may be cited as the Hours of Work (Coal Mines) Convention (Revised), 1935:

Article 1

- 1. This Convention shall apply to all coal mines, that is to say, to any mine from which only hard coal or lignite, or principally hard coal or lignite together with other minerals, is extracted.
- 2. For the purpose of this Convention, the term ***lignite mine*** shall mean any mine from which coal of a geological period subsequent to the carboniferous period is extracted.

Article 2

For the purpose of this Convention, the term ***worker*** shall mean--

- (a) in underground coal mines, any person occupied underground, by whatever employer and on whatever kind of work he may be employed, except persons engaged in supervision or management who do not ordinarily perform manual work;
- (b) in open coal mines, any person employed directly or indirectly in the extraction of coal, except persons engaged in supervision or management who do not ordinarily perform manual work.

Article 3

- 1. Hours of work in underground hard coal mines shall mean the time spent in the mine, calculated as follows:
 - (a) time spent in an underground mine shall mean the period between the time when the worker enters the cage in order to descend and the time when he leaves the cage after re-ascending;
 - (b) in mines where access is by an adit the time spent in the mine shall mean the period between the time when the worker passes through the entrance of the adit and the time of his return to the surface.
- 2. In no underground hard coal mine shall the time spent in the mine by any worker exceed seven hours and forty-five minutes in the day.

Article 4

The provisions of this Convention shall be deemed to be complied with if the period between the time when the first workers of the shift or of any group leave the surface and the time when they return to the surface is the same as that laid down in paragraph 2 of Article 3. The order of and the time required for the descent and ascent of a shift and of any group of workers shall, moreover, be approximately the same.

Article 5

- 1. Subject to the provisions of the second paragraph of this Article, the provisions of this Convention shall be deemed to be complied with if the national laws or regulations prescribe that for calculating the time spent in the mine the descent or ascent of the workers is to be calculated according to the weighted average duration of the descent or ascent of all shifts of workers in the whole country. In this case, the period between the time when the last worker of the shift leaves the surface and the time when the first worker of the same shift returns to the surface shall not in any mine exceed seven hours and fifteen minutes; provided that no method of regulation shall be permitted by which the

hewers as a class of workers would on the average work longer hours than the other classes of underground workers in the same shift.

- 2. Any Member which, having applied the method laid down in this Article, subsequently applies the provisions of Articles 3 and 4 shall make the change simultaneously for the whole country and not for any part thereof.

Article 6

- 1. Workers shall not be employed on underground work in coal mines on Sundays and legal public holidays.

Provided that this requirement shall be deemed to be complied with if the workers enjoy a rest period of twenty-four consecutive hours, of which at least eighteen fall upon the Sunday or legal public holiday.

- 2. National laws or regulations may authorise the following exceptions to the provisions of the preceding paragraph for workers over eighteen years of age:
 - (a) for work which, owing to its nature, must be carried on continuously;
 - (b) for work in connection with the ventilation of the mine and the prevention of damage to the ventilation apparatus, safety work, work in connection with first aid in the case of accident and sickness, and the care of animals;
 - (c) for survey work in so far as this cannot be done on other days without interrupting or disturbing the work of the undertaking;
 - (d) for urgent work in connection with machinery and other appliances which cannot be carried out during the regular working time of the mine, and in other urgent or exceptional cases which are outside the control of the employer.
- 3. The competent authorities shall take appropriate measures for ensuring that no work is done on Sundays and legal public holidays except as authorised by this Article.
- 4. Work permitted under paragraph 2 of this Article shall be paid for at not less than one-and-a-quarter times the regular rate.
- 5. Workers who are engaged to any considerable extent on work permitted under paragraph 2 of this Article shall be assured either a compensatory rest period or an adequate extra payment in addition to the rate specified in paragraph 4 of this Article. The detailed application of this provision shall be regulated by national laws or regulations.

Article 7

Lower maxima than those specified in Articles 3, 4 and 5 shall be laid down by regulations made by public authority for workers in workplaces which are rendered particularly unhealthy by reason of abnormal conditions of temperature, humidity or other cause.

Article 8

- 1. Regulations made by public authority may provide that the hours specified in Articles 3, 4, 5 and 7 may be exceeded in case of accident, actual or threatened, in case of force majeure, or in case of urgent work to be done to machinery, plant or equipment of the mine as a result of a breakdown of such machinery, plant or equipment, even if coal production is thereby incidentally involved, but only so far as may be necessary to avoid serious interference with the ordinary working of the mine.
- 2. Regulations made by public authority may provide that the hours specified in Articles 3, 4, 5 and 7 may be exceeded in the case of workers employed on operations which by their nature must be carried on continuously or on technical work, in so far as their work is necessary for preparing or terminating work in the ordinary way or for a full resumption of work on the next shift, provided, however, that this shall not refer to the production or transport of coal. The additional time so authorised for any individual worker shall not, except as specified in paragraphs 3 and 4 of this Article, exceed half an hour on any day.
- 3. Regulations made by public authority may provide that the hours specified in Articles 3, 4, 5 and 7 may be exceeded to an extent exceeding half an hour in the case of the following grades:
 - (a) workers whose presence is indispensable for the work of ventilation and pumping stations and of such compressed air stations as are necessary for ventilation;
 - (b) underground storemen; and
 - (c) winchmen and locomotive drivers and their indispensable assistants.

Provided that no worker in the above grades who is employed on operations which by their nature must be carried on continuously may be employed for more than eight hours per day exclusive of the time spent in the mine by that worker in reaching and returning from his place of work, it being understood that in each case this time will be reduced to the indispensable minimum.

Provided also that in the case of--

- (a) underground storemen;

- (b) enginememen and men in charge of internal shafts who are engaged upon the transport of workers;
- (c) drivers of locomotives who are engaged upon the transport of workers; and
- (d) the indispensable assistants of the grades specified in clauses (b) and (c);

the limit of such extension shall be that fixed by the regulations of the public authority.

- 4. Regulations made by public authority may provide that the limit of hours specified in Articles 3, 4, 5 and 7 and in paragraphs 2 and 3 of this Article may be exceeded in the case of workers whose presence is indispensable for the work of underground ventilation, pumping and compressed air stations, but only to such extent as may be necessary to permit the periodical change-over of shifts, and time worked in virtue of this provision shall not be deemed to be overtime, so however that during any period of three weeks no worker shall work more than twenty-one shifts of the length prescribed for his grade by paragraph 2 or paragraph 3 of this Article as the case may be.
- 5. In the case of mines in normal operation the number of persons coming under paragraphs 2 and 3 of this Article shall at no time exceed five per cent. of the total number of persons employed at the mine.
- 6. Overtime worked in virtue of the provisions of this Article shall be paid for at not less than one-and-a-quarter times the regular rate.

Article 9

- 1. Regulations made by public authority may, in addition to the provisions of Article 8, put not more than sixty hours' overtime in the year at the disposal of undertakings throughout the country as a whole.
- 2. This overtime shall be paid for at not less than one-and-a-quarter times the regular rate.

Article 10

The regulations mentioned in Articles 7, 8, and 9 shall be made by public authority after consultation with the organisations of employers and workers concerned.

Article 11

The annual reports to be submitted under Article 22 of the Constitution of the International Labour Organisation shall contain all information as to the action taken to regulate the hours of work in accordance with the provisions of Articles 3, 4 and 5. They shall also furnish complete information concerning the regulations made under Articles 7, 8, 9, 12, 13 and 14 and concerning their enforcement.

Article 12

In order to facilitate the enforcement of the provisions of this Convention, the management of every mine shall be required--

- (a) to notify by means of notices conspicuously posted at the pithead or in some other suitable place, or by such other method as may be approved by the public authority, the hours at which the workers of each shift or group shall begin to descend and shall have completed the ascent.

These hours shall be approved by the public authority and be so fixed that the time spent in the mine by each worker shall not exceed the limits prescribed by this Convention. When once notified, they shall not be changed except with the approval of the public authority and by such notice and in such manner as may be approved by the public authority;

- (b) to keep a record in the form prescribed by national laws or regulations of all additional hours worked under Articles 8 and 9.

Article 13

- 1. In underground lignite mines Articles 3 and 4 and Articles 6 to 12 of this Convention shall apply subject to the following provisions:
 - (a) in accordance with such conditions as may be prescribed by national laws or regulations, the competent authority may permit collective breaks involving a stoppage of production not to be included in the time spent in the mine, provided that such breaks shall in no case exceed thirty minutes for each shift. Such permission shall only be given after the necessity for such a system has been established by official investigation in each individual case, and after consultation with the representatives of the workers concerned;
 - (b) the number of hours' overtime provided for in Article 9 may be increased to not more than seventy-five hours a year.
- 2. In addition, the competent authority may approve collective agreements which provide for not more than seventy-five hours' further overtime a year. Such further overtime shall likewise be paid for at the rate prescribed in Article 9, paragraph 2. It shall not be authorised generally for all underground lignite mines, but only in the case of individual districts or mines where it is required on account of special technical or geological conditions.

Article 14

In open hard coal and lignite mines Articles 3 to 13 of this Convention shall not be applicable. Nevertheless, Members which ratify this Convention undertake to apply to these mines the provisions of the Washington Convention of 1919 limiting the hours of work in industrial undertakings to eight in the day and forty-eight in the week, provided that the amount of overtime which may be worked in virtue of Article 6, paragraph (b), of the said Convention shall not exceed one hundred hours a year. Where special needs so require, and only in such cases, the competent authority may approve collective agreements which provide for an increase of the aforesaid one hundred hours by not more than a further hundred hours a year.

Article 15

Nothing in this Convention shall have the effect of altering national laws or regulations with regard to hours of work so as to lessen the guarantees thereby afforded to the workers.

Article 16

The operation of the provisions of this Convention may be suspended in any country by the Government in the event of emergency endangering the national safety.

Article 17

The formal ratifications of this Convention under the conditions set forth in the Constitution of the International Labour Organisation shall be communicated to the Director-General of the International Labour Office for registration.

Article 18

- 1. This Convention shall be binding only upon those Members of the International Labour Organisation whose ratifications have been registered with the International Labour Office.
- 2. It shall come into force six months after the date on which the ratifications of two of the following Members have been registered by the Director-General of the International Labour Office: Belgium, Czechoslovakia, France, Germany, Great Britain, Netherlands and Poland.
- 3. Thereafter the Convention shall come into force for any Member six months after the date on which its ratification has been registered.

Article 19

As soon as the ratifications of two of the Members mentioned in the second paragraph of Article 18 have been registered with the International Labour Office, the Director-General of the International Labour Office shall so notify

all the Members of the International Labour Organisation. He shall likewise notify them of the registration of ratifications which may be communicated subsequently by other Members of the Organisation.

Article 20

- 1. A Member which has ratified this Convention may denounce it after the expiration of five years from the date on which the Convention first comes into force, by an act communicated to the Director-General of the International Labour Office for registration. Such denunciation shall not take effect until one year after the date on which it is registered with the International Labour Office.
- 2. Each Member which has ratified this Convention and which does not, within the year following the expiration of the period of five years mentioned in the preceding paragraph, exercise the right of denunciation provided for in this Article, will be bound for another period of five years and, thereafter, may denounce this Convention at the expiration of each period of three years under the terms provided for in this Article.

Article 21

- 1. At the latest within three years from the coming into force of this Convention the Governing Body of the International Labour Office shall place on the agenda of the Conference the question of the revision of this Convention on the following points:
 - (a) the possibility of a further reduction in the hours of work provided for in paragraph 2 of Article 3;
 - (b) the right to have recourse to the exceptional method of calculation laid down in Article 5;
 - (c) the possibility of modifying the provisions of Article 13, paragraph 1, subparagraphs (a) and (b), in the direction of a reduction of the hours of work;
 - (d) the possibility of a reduction in the amount of overtime provided for in Article 14.
- 2. Moreover, at such times as it may consider necessary the Governing Body of the International Labour Office shall present to the General Conference a report on the working of this Convention and shall examine the desirability of placing on the agenda of the Conference the question of its revision in whole or in part.
- 1. Should the Conference adopt a new Convention revising this Convention in whole or in part, then unless the new Constitution otherwise provides:
 - (a) the ratification by a Member of the new revising Constitution shall ipso jure involve the immediate denunciation of this Convention, notwithstanding the provisions of Article 20 above, if and when the new revising Convention shall have come into force;

- (b) as from the date when the new revising Convention comes into force this Convention shall cease to be open to ratification by the Members.
- 2. This Convention shall in any case remain in force in its actual form and content for those Members which have ratified it but have not ratified the revising Convention.

Article 23

The French and English texts of this Convention shall both be authentic.