

C052 - Holidays with Pay Convention, 1936 (No. 52)

Preamble

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 Twentieth Session on 4 June 1936, and

Having decided upon the adoption of certain proposals with regard to annual holidays with pay, which is the second item on the agenda of the Session, and

Having determined that these proposals shall take the form of an international Convention,

adopts this twenty-fourth day of June of the year one thousand nine hundred and thirty-six the following Convention, which may be cited as the Holidays with Pay Convention, 1936:

Article 1

- 1. This Convention applies to all persons employed in any of the following undertakings or establishments, whether public or private:
 - (a) undertakings in which articles are manufactured, altered, cleaned, repaired, ornamented, finished, adapted for sale, broken up or demolished, or in which materials are transformed, including undertakings engaged in shipbuilding or in the generation, transformation or transmission of electricity or motive power of any kind;
 - (b) undertakings engaged wholly or mainly in the construction, reconstruction, maintenance, repair, alteration or demolition of any one or more of the following:

buildings,

railways,

tramways,

airports,

harbours,

docks,

piers,

works of protection against floods or coast erosion,

canals,

works for the purpose of inland, maritime or aerial navigation,

roads,

tunnels,

bridges,

viaducts,

sewers,

drains,

wells,

irrigation or drainage works,

telecommunication installations,

works for the production or distribution of electricity or gas,

pipe-lines,

waterworks,

and undertakings engaged in other similar work or in the preparation for or laying the foundation of any such work or structure;

- (c) undertakings engaged in the transport of passengers or goods by road, rail, inland waterway or air, including the handling of goods at docks, quays, wharves, warehouses or airports;

- (d) mines, quarries and other works for the extraction of minerals from the earth;
 - (e) commercial or trading establishments, including postal and telecommunication services;
 - (f) establishments and administrative services in which the persons employed are mainly engaged in clerical work;
 - (g) newspaper undertakings;
 - (h) establishments for the treatment and care of the sick, infirm, destitute or mentally unfit;
 - (i) hotels, restaurants, boarding-houses, clubs, caf  s and other refreshment houses;
 - (j) theatres and places of public amusement;
 - (k) mixed commercial and industrial establishments not falling wholly within any of the foregoing categories.
- 2. The competent authority in each country shall, after consultation with the principal organisations of employers and workers concerned where such exist, define the line which separates the undertakings and establishments specified in the preceding paragraph from those to which this Convention does not apply.
- 3. The competent authority in each country may exempt from the application of this Convention--
 - (a) persons employed in undertakings or establishments in which only members of the employer's family are employed;
 - (b) persons employed in public services whose conditions of service entitle them to an annual holiday with pay at least equal in duration to that prescribed by this Convention.

Article 2

- 1. Every person to whom this Convention applies shall be entitled after one year of continuous service to an annual holiday with pay of at least six working days.
- 2. Persons, including apprentices, under sixteen years of age shall be entitled after one year of continuous service to an annual holiday with pay of at least twelve working days.
- 3. The following shall not be included in the annual holiday with pay:
 - (a) public and customary holidays;
 - (b) interruptions of attendance at work due to sickness.

- 4. National laws or regulations may authorise in special circumstances the division into parts of any part of the annual holiday with pay which exceeds the minimum duration prescribed by this Article.
- 5. The duration of the annual holiday with pay shall increase with the length of service under conditions to be prescribed by national laws or regulations.

Article 3

Every person taking a holiday in virtue of Article 2 of this Convention shall receive in respect of the full period of the holiday either--

- (a) his usual remuneration, calculated in a manner which shall be prescribed by national laws or regulations, including the cash equivalent of his remuneration in kind, if any; or
- (b) the remuneration determined by collective agreement.

Article 4

Any agreement to relinquish the right to an annual holiday with pay, or to forgo such a holiday, shall be void.

Article 5

National laws or regulations may provide that a person who engages in paid employment during the course of his annual holiday may be deprived of his right to payment in respect of the period of the holiday.

Article 6

A person dismissed for a reason imputable to the employer before he has taken a holiday due to him shall receive in respect of every day of holiday due to him in virtue of this Convention the remuneration provided for in Article 3.

Article 7

In order to facilitate the effective enforcement of the provisions of this Convention, every employer shall be required to keep, in a form approved by the competent authority, a record showing--

- (a) the date of entry into his service of each person employed by him and the duration of the annual holiday with pay to which each such person is entitled;
- (b) the dates at which the annual holiday with pay is taken by each person;
- (c) the remuneration received by each person in respect of the period of his annual holiday with pay.

Article 8

Each Member which ratifies this Convention shall establish a system of sanctions to ensure the application of its provisions.

Article 9

Nothing in this Convention shall affect any law, award, custom or agreement between employers and workers which ensures more favourable conditions than those provided by this Convention.

Article 10

The formal ratifications of this Convention shall be communicated to the Director-General of the International Labour Office for registration.

Article 11

- 1. This Convention shall be binding only upon those Members of the International Labour Organisation whose ratifications have been registered with the Director-General.
- 2. It shall come into force twelve months after the date on which the ratifications of two Members have been registered with the Director-General.
- 3. Thereafter, this Convention shall come into force for any Member twelve months after the date on which its ratifications has been registered.

Article 12

As soon as the ratifications of two Members of the International Labour Organisation have been registered, 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 13

- 1. A Member which has ratified this Convention may denounce it after the expiration of ten 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.
- 2. Each Member which has ratified this Convention and which does not, within the year following the expiration of the period of ten years mentioned in the preceding paragraph, exercise the right of denunciation provided for in this

Article, will be bound for another period of ten years and, thereafter, may denounce this Convention at the expiration of each period of ten years under the terms provided for in this Article.

Article 14

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.

Article 15

- 1. Should the Conference adopt a new Convention revising this Convention in whole or in part, then, unless the new Convention otherwise provides:
 - (a) the ratification by a Member of the new revising Convention shall ipso jure involve the immediate denunciation of this Convention, notwithstanding the provisions of Article 13 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 16

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