

Co65 - Penal Sanctions (Indigenous Workers) Convention, 1939 (No. 65)

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 Twenty-fifth Session on 8 June 1939, and

Having decided upon the adoption of certain proposals with regard to the progressive abolition of penal sanctions for breaches of contracts of employment by indigenous workers, which is included in 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-seventh day of June of the year one thousand nine hundred and thirty-nine the following Convention, which may be cited as the Penal Sanctions (Indigenous Workers) Convention, 1939:

Article 1

- 1. This Convention applies to all contracts by which a worker belonging to or assimilated to the indigenous population of a dependent territory of a Member of the Organisation, or belonging to or assimilated to the dependent indigenous population of the home territory of a Member of the Organisation, enters the service of any public authority, individual, company or association, whether non-indigenous or indigenous, for remuneration in cash or in any other form whatsoever.
- 2. For the purpose of this Convention the term ***breach of contract*** means--
 - (a) any refusal or failure of the worker to commence or perform the service stipulated in the contract;
 - (b) any neglect of duty or lack of diligence on the part of the worker;
 - (c) the absence of the worker without permission or valid reason; and
 - (d) the desertion of the worker.

Article 2

- 1. All penal sanctions for any breach of contract to which this Convention applies shall be abolished progressively and as soon as possible.
- 2. All penal sanctions for any such breach by a non-adult person whose apparent age is less than a minimum age to be prescribed by law or regulations shall be abolished immediately.

Article 3

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

Article 4

- 1. In respect of the territories referred to in article 35 of the Constitution of the International Labour Organisation, each Member of the Organisation which ratifies this Convention shall append to its ratification a declaration stating--
 - (a) the territories to which it undertakes to apply the provisions of the Convention without modification;
 - (b) the territories to which it undertakes to apply the provisions of the Convention subject to modifications, together with details of the said modifications;
 - (c) the territories to which the Convention is inapplicable and in such cases the grounds on which it is inapplicable;
 - (d) the territories in respect of which it reserves its decision.
- 2. The undertakings referred to in subparagraphs (a) and (b) of paragraph 1 of this Article shall be deemed to be an integral part of the ratification and shall have the force of ratification.
- 3. Any Member may by a subsequent declaration cancel in whole or in part any reservations made in its original declaration in virtue of subparagraphs (b), (c) or (d) of paragraph 1 of this Article.

Article 5

- 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 registered with the Director-General ratifications to which are appended, in accordance with Article 4 of this Convention, declarations indicating territories to which they undertake to apply the provisions of the Convention.

- 3. Thereafter this Convention shall come into force for any Member twelve months after the date on which its ratification has been registered.

Article 6

- 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 7

- 1. The Director-General of the International Labour Office shall notify all Members of the International Labour Organisation of the registration of all ratifications and denunciations communicated to him by the Members of the Organisation and of declarations communicated to him in accordance with the provisions of Article 4 of this Convention.
- 2. When notifying the Members of the Organisation of the registration of the second ratification communicated to him which fulfils the condition stated in Article 5, paragraph 2, of this Convention, the Director-General shall draw the attention of the Members of the Organisation to the date upon which the Convention will come into force.

Article 8

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 9

- 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 6 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 10

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