

Co67 - Hours of Work and Rest Periods (Road Transport) Convention, 1939 (No. 67)

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 regulation of hours of work and rest periods of professional drivers (and their assistants) of vehicles engaged in road transport, which is the fourth item on the agenda of the Session, and

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

adopts this twenty-eighth day of June of the year one thousand nine hundred and thirty-nine the following Convention, which may be cited as the Hours of Work and Rest Periods (Road Transport) Convention, 1939:

Article 1

- 1. This Convention applies to--
 - (a) persons who drive in a professional capacity a road transport vehicle; and (b) attendants and other persons who travel with a road transport vehicle in a professional capacity connected with the vehicle, its passengers or its load.
- 2. For the purpose of this Convention, the term **road transport vehicle** includes all vehicles, whether publicly or privately owned, propelled by mechanical power, including trams, trolley-cars and trailers drawn by mechanically-propelled vehicles, which are engaged in the transport of passengers or goods by a public highway for payment or for the purposes of the undertaking operating the vehicle.

Article 2

The competent authority may exempt from the application of this Convention--

- (a) persons who drive or travel with private vehicles used solely for personal services;
- (b) persons who drive or travel with vehicles engaged in--

- (i) transport by agricultural or forestry undertakings in so far as such transport is directly connected with and exclusively used for the work of the undertaking;
- (ii) the transport of sick and injured persons by hospitals and nursing homes; (iii) transport for the purposes of national defence, police services and other transport effected in the administration of public authority;
- (iv) transport for rescue or salvage work.

Article 3

The competent authority may exclude from the application of all or any of the provisions of this Convention owners of vehicles and members of their families who are not employed for wages, or prescribed classes of such persons, if and so long as the authority--

- (a) is satisfied that such exclusion will not--
 - (i) expose to unreasonable competition the conditions of employment of the persons to whom the provisions in question remain applicable; or
 - (ii) expose to unreasonable risk of accident the persons to whom the Convention applies or endanger public safety; or
- (b) is satisfied that in view of the conditions in the country concerned the application of the provisions in question to the persons proposed to be excluded is impracticable.

Article 4

For the purpose of this Convention--

- (a) the term **hours of work** means the time during which the persons concerned are at the disposal of the employer or of any other person entitled to claim their services, or in the case of owners of vehicles and members of their families, the time during which they are engaged on their own account in work connected with a road transport vehicle, its passengers or its load, and includes--
 - (i) time spent in work done during the running time of the vehicle;
 - (ii) time spent in subsidiary work;
 - (iii) periods of mere attendance; and

- (iv) breaks for rest and interruptions of work, which breaks or interruptions do not exceed a duration to be prescribed by the competent authority;
- (b) the term ***running time of the vehicle*** means the time from the moment when the vehicle starts at the beginning of the working day until the moment when the vehicle stops at the end of the working day, excluding any time during which the running of the vehicle is interrupted for a period exceeding a duration to be prescribed by the competent authority during which period the persons who drive or travel with the vehicle are free to dispose of their time as they please or are engaged in subsidiary work;
- (c) the term ***subsidiary work*** means work in connection with the vehicle, its passengers or its load which is done outside the running time of the vehicle, including more particularly--
 - (i) work in connection with accounts, the paying in of cash, the signing of registers, the handing in of service sheets, the checking of tickets and other similar work;
 - (ii) the taking over and garaging of the vehicle;
 - (iii) travelling from the place where a person signs on to the place where he takes over the vehicle and from the place where he leaves the vehicle to the place where he signs off;
 - (iv) work in connection with the upkeep and repair of the vehicle; and
 - (v) the loading and unloading of the vehicle;
- (d) the term ***periods of mere attendance*** means periods during which a person remains at his post solely in order to reply to possible calls or to resume action at the time fixed in the timetable.

Article 5

- 1. The hours of work of persons to whom this Convention applies shall not exceed forty-eight in the week.
- 2. The competent authority may authorise higher weekly limits of hours for persons who ordinarily do a considerable amount of subsidiary work or whose work is frequently interrupted by periods of mere attendance.

Article 6

- 1. The competent authority may permit weekly hours of work to be calculated as an average.
- 2. Where the competent authority permits weekly hours of work to be calculated as an average, it shall determine the number of weeks over which the average may be calculated and the maximum number of hours that may be worked in any week.

Article 7

- 1. The hours of work of persons to whom this Convention applies shall not exceed eight in the day.
- 2. Where by law, custom, or agreement between the employers' and workers' organisations concerned, or where no such organisations exist between employers' and workers' representatives, the hours of work on one or more days of the week are less than eight, the limit of eight hours may be exceeded on the remaining days of the week by the sanction of the competent authority, or by agreement between such organisations or representatives, so however that in no case shall the daily limit of eight hours be exceeded in virtue of the provisions of this paragraph by more than one hour.
- 3. The competent authority may authorise higher daily limits--
 - (a) in respect of persons whose weekly hours of work do not exceed forty-eight in any week as provided in Article 5, paragraph 1, or an average of forty-eight as provided in Article 6; and
 - (b) in respect of persons who ordinarily do a considerable amount of subsidiary work or whose work is frequently interrupted by periods of mere attendance.

Article 8

The competent authority shall prescribe the maximum number of hours which may separate the beginning and end of the working day.

Article 9

- 1. The competent authority may permit time lost as a result of accidental causes to be made up within a prescribed period.
- 2. The competent authority may permit the limits of hours authorised by the preceding Articles to be exceeded in cases in which the provisions of this Article are applied.

Article 10

The competent authority may permit the limits of hours authorised by the preceding Articles to be exceeded to a prescribed extent in cases in which it is satisfied that there is a shortage of indispensable skilled labour.

Article 11

- 1. This Article applies in the following cases:
 - (a) in case of accident, breakdown, unforeseen delay, dislocation of services, interruption of traffic, or force majeure;

- (b) in order to make good the unforeseen absence of a person employed upon indispensable work for whom it is impossible to find a substitute;
 - (c) in case of rescue or relief work necessitated by earthquake, flood, fire, epidemic, or any other calamity or disaster;
 - (d) in case of urgent and exceptional necessity for ensuring the working of services of public utility.
- 2. In the cases in which this Article applies--
 - (a) the limits of hours authorised by the preceding Articles may be exceeded,
 - (b) the period of five hours prescribed by Article 14 may be extended, and
 - (c) the periods of rest prescribed by Articles 15 and 16 may be reduced,
 but only in so far as may be necessary for the performance of indispensable work.
 - 3. The employer or the owner of the vehicle shall notify the competent authority, within a period and in a manner to be prescribed by the said authority, of all time worked in virtue of this Article and of the reasons therefor.

Article 12

- 1. The limits of hours authorised by the preceding Articles may be exceeded, but only in so far as may be necessary for the performance of indispensable work, in order to meet exceptional requirements in respect of--
 - (a) the transport by hotels of passengers and their luggage between the hotel and the station or port of arrival or departure; and
 - (b) transport by funeral undertakings.
- 2. The competent authority shall determine the conditions subject to which the preceding paragraph applies.

Article 13

- 1. The competent authority may permit the limits of hours authorised by the preceding Articles to be exceeded by the working of overtime in accordance with the provisions of this Article.
- 2. The competent authority may grant permission to work overtime in accordance with regulations prescribing--
 - (a) the procedure by which permission shall be granted;
 - (b) the minimum overtime rate of remuneration, which shall in no case be less than one and a quarter times the normal rate; and

- (c) the maximum number of hours for which permission may be granted, which shall in no case exceed--
 - (i) seventy-five hours in any year in cases in which weekly hours of work are calculated as an average over a period exceeding a week; or
 - (ii) one hundred hours in any year in cases in which the weekly limit of hours of work is applied as a strict limit applicable to each week.
- 3. In any country in which it is not desired to place a fixed number of hours of overtime in the year at the disposal of undertakings, the competent authority may permit the limits of hours authorised by the preceding Articles to be exceeded, subject to the condition that all time worked in virtue of this paragraph shall be paid for at not less than one and a half times the normal rate.

Article 14

- 1. No driver may drive for any continuous period of more than five hours.
- 2. For the purpose of the preceding paragraph any two periods of time shall be deemed to be a continuous period unless separated by an interval of a duration to be prescribed by the competent authority.
- 3. The competent authority may exempt from the application of paragraph 1 drivers for whom adequate intervals are ensured by stops provided for in the timetable or by the intermittent nature of the work.

Article 15

- 1. Every person to whom this Convention applies shall be granted in every period of twenty-four hours a period of rest comprising at least twelve consecutive hours.
- 2. The competent authority may permit the period of rest required by paragraph 1 to be reduced in the case of certain services subject to breaks of considerable duration.
- 3. The competent authority may permit the period of rest to be reduced on a prescribed number of days in the week, so however that the average rest calculated over the week is not less than the minimum required by paragraph 1.

Article 16

- 1. Every person to whom this Convention applies shall be granted in every period of seven days a period of rest comprising at least thirty consecutive hours of which not less than twenty-two fall within the same calendar day.
- 2. The competent authority may permit a number of periods of rest fulfilling the requirements of paragraph 1 to be granted in the course of a number of weeks not exceeding a prescribed maximum in lieu of one such period of rest in every period of seven days. In such case the number of periods of rest granted in the course of the number of weeks

over which the said periods of rest are distributed shall be at least equal to the number of weeks and the time separating any two periods of rest shall not exceed ten days.

Article 17

Decisions taken by the competent authority in pursuance of the provisions of this Convention enumerated below shall be taken after consultation with the employers' and workers' organisations concerned where such exist:

Article	Article
2	10
3	11, paragraph 3
4, (a) and (b)	12, paragraph 2
5, paragraph 2	13
6	14, paragraphs 2 and 3
7, paragraphs 2 and 3	15, paragraphs 2 and 3
8	16, paragraph 2
9	18

Article 18

- 1. With a view to the effective enforcement of the provisions of this Convention, the competent authority shall maintain a system of supervision by labour inspectors, the police, traffic commissioners or other appropriate administrative authorities, both in garages, depots and other premises and on the roads.

- 2. Every employer shall keep a record in a form approved by the competent authority of the hours of work and rest periods of the persons employed by him, and such records shall be available for inspection by the supervisory authorities under conditions laid down by the competent authority.
- 3. The competent authority shall prescribe a standard form of individual control book and the manner in which the book shall be issued to every person to whom this Convention is applied, and every such person shall be in possession of his book during his hours of work, and particulars of his hours of work and rest periods shall be entered in the book in a manner prescribed by the competent authority.

Article 19

- 1. The operation of the provisions of this Convention may be suspended by the competent authority, but only for the period during which such suspension is strictly indispensable, in case of necessity for meeting the requirements of national safety.
- 2. The International Labour Office shall be notified immediately of--
 - (a) any suspension of the operation of the provisions of this Convention, together with the reasons for such suspension; and
 - (b) the date from which such suspension has been terminated.

Article 20

The annual reports upon the application of this Convention to be submitted by Members under article 22 of the Constitution of the International Labour Organisation shall include more particularly full information concerning--

- (a) any decisions taken in virtue of Article 2;
- (b) any decisions taken in virtue of Article 3, together with a statement of the grounds on which the competent authority is satisfied that such decisions are justified;
- (c) any recourse to the provisions of Article 5, paragraph 2;
- (d) any recourse to the provisions of Article 6;
- (e) any recourse to the provisions of Article 7, paragraphs 2 or 3;
- (f) any determinations made in pursuance of Article 8;
- (g) the extent to which recourse has been made to the provisions of Articles 10 and 13 and any regulations made thereunder.

Article 21

In accordance with article 19, paragraph 11, of the Constitution of the International Labour Organisation, nothing in this Convention shall affect any law, award, custom or agreement between employers and workers which ensures more favourable conditions to the workers than those provided for by the Convention. (Note: That provision reads as follows: In no case shall any Member be asked or required, as a result of the adoption of any Recommendation or draft Convention by the Conference, to lessen the protection afforded by its existing legislation to the workers concerned. As a result of the amendment of the Constitution in 1946, a corresponding provision is now contained in article 19, paragraph 8, thereof.)

Article 22

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

Article 23

- 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 24

- 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 25

- 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.
- 2. When notifying the Members of the Organisation of the registration of the second ratification communicated to him, 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 26

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 27

- 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 24 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 28

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