

Co79 - Night Work of Young Persons (Non-Industrial Occupations) Convention, 1946 (No. 79)

Preamble

The General Conference of the International Labour Organisation,

Having been convened at Montreal by the Governing Body of the International Labour Office and having met in its Twenty-ninth Session on 19 September 1946, and

Having decided upon the adoption of certain proposals with regard to the restriction of night work of children and young persons in non-industrial occupations, which is included in the third item on the agenda of the Session, and

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

adopts this ninth day of October of the year one thousand nine hundred and forty-six the following Convention, which may be cited as the Night Work of Young Persons (Non-Industrial Occupations) Convention, 1946:

PART I. GENERAL PROVISIONS

Article 1

- 1. This Convention applies to children and young persons employed for wages, or working directly or indirectly for gain, in non-industrial occupations.
- 2. For the purpose of this Convention, the term **non-industrial occupation** includes all occupations other than those recognised by the competent authority as industrial, agricultural or maritime occupations.
- 3. The competent authority shall define the line of division which separates non-industrial occupations from industrial, agricultural and maritime occupations.
- 4. National laws or regulations may exempt from the application of this Convention--
 - (a) domestic service in private households; and
 - (b) employment, on work which is not deemed to be harmful, prejudicial, or dangerous to children or young persons, in family undertakings in which only parents and their children or wards are employed.

Article 2

- 1. Children under fourteen years of age who are admissible for full-time or part-time employment and children over fourteen years of age who are still subject to full-time compulsory school attendance shall not be employed nor work at night during a period of at least fourteen consecutive hours, including the interval between eight o'clock in the evening and eight o'clock in the morning.
- 2. Provided that national laws or regulations may, where local conditions so require, substitute another interval of twelve hours of which the beginning shall not be fixed later than eight thirty o'clock in the evening nor the termination earlier than six o'clock in the morning.

Article 3

- 1. Children over fourteen years of age who are no longer subject to full-time compulsory school attendance and young persons under eighteen years of age shall not be employed nor work at night during a period of at least twelve consecutive hours, including the interval between ten o'clock in the evening and six o'clock in the morning.
- 2. Provided that, where there are exceptional circumstances affecting a particular branch of activity or a particular area, the competent authority may, after consultation with the employers' and workers' organisations concerned, decide that in the case of children and young persons employed in that branch of activity or area, the interval between eleven o'clock in the evening and seven o'clock in the morning may be substituted for that between ten o'clock in the evening and six o'clock in the morning.

Article 4

- 1. In countries where the climate renders work by day particularly trying, the night period may be shorter than that prescribed in the above articles if compensatory rest is accorded during the day.
- 2. The prohibition of night work may be suspended by the Government for young persons of sixteen years of age and over when in case of serious emergency the national interest demands it.
- 3. National laws or regulations may empower an appropriate authority to grant temporary individual licences in order to enable young persons of sixteen years of age and over to work at night when the special needs of vocational training so require, subject to the period of rest being not less than eleven consecutive hours in every period of twenty-four hours.

Article 5

- 1. National laws or regulations may empower an appropriate authority to grant individual licences in order to enable children or young persons under the age of eighteen years to appear at night as performers in public entertainments or to participate at night as performers in the making of cinematographic films.
- 2. The minimum age at which such a licence may be granted shall be prescribed by national laws or regulations.
- 3. No such licence may be granted when, because of the nature of the entertainment or the circumstances in which it is carried on, or the nature of the cinematographic film or the conditions under which it is made, participation in the entertainment or in the making of the film may be dangerous to the life, health, or morals of the child or young person.
- 4. The following conditions shall apply to the granting of licences:
 - (a) the period of employment shall not continue after midnight;
 - (b) strict safeguards shall be prescribed to protect the health and morals, and to ensure kind treatment of, the child or young person and to avoid interference with his education;
 - (c) the child or young person shall be allowed a consecutive rest period of at least fourteen hours.

Article 6

- 1. In order to ensure the due enforcement of the provisions of this Convention, national laws or regulations shall--
 - (a) provide for a system of public inspection and supervision adequate for the particular needs of the various branches of activity to which the Convention applies;
 - (b) require every employer to keep a register, or to keep available official records, showing the names and dates of birth of all persons under eighteen years of age employed by him and their hours of work; in the case of children and young persons working in the streets or in places to which the public have access, the register or records shall show the hours of service agreed upon in the contract of employment;
 - (c) provide suitable means for assuring identification and supervision of persons under eighteen years of age engaged, on account of an employer or on their own account, in employment or occupations carried on in the streets or in places to which the public have access;
 - (d) provide penalties applicable to employers or other responsible adults for breaches of such laws or regulations.

- 2. There shall be included in the annual reports to be submitted under Article 22 of the Constitution of the International Labour Organisation full information concerning all laws and regulations by which effect is given to the provisions of this Convention and, more particularly, concerning--
 - (a) any interval which may be substituted for the interval prescribed in paragraph 1 of Article 2 in virtue of the provisions of paragraph 2 of that Article;
 - (b) the extent to which advantage is taken of the provisions of paragraph 2 of Article 3;
 - (c) the authorities empowered to grant individual licences in virtue of the provisions of paragraph 1 of Article 5 and the minimum age prescribed for the granting of licences in accordance with the provisions of paragraph 2 of the said Article.

PART II. SPECIAL PROVISIONS FOR CERTAIN COUNTRIES

Article 7

- 1. Any Member which, before the date of the adoption of the laws or regulations permitting the ratification of this Convention, had no laws or regulations restricting the night work of children and young persons in non-industrial occupations may, by a declaration accompanying its ratification, substitute an age limit lower than eighteen years, but in no case lower than sixteen years, for the age limit prescribed in Article 3.
- 2. Any Member which has made such a declaration may at any time cancel that declaration by a subsequent declaration.
- 3. Every Member for which a declaration made in virtue of paragraph 1 of this Article is in force shall indicate each year in its annual report upon the application of this Convention the extent to which any progress has been made with a view to the full application of the provisions of the Convention.

Article 8

- 1. The provisions of Part I of this Convention shall apply to India subject to the modifications set forth in the present Article:
 - (a) the said provisions shall apply to all territories in respect of which the Indian Legislature has jurisdiction to apply them;
 - (b) the competent authority may exempt from the application of the Convention children and young persons employed in undertakings employing less than twenty persons;

- (c) Article 2 of the Convention shall apply to children under twelve years of age who are admissible for full-time or part-time employment and to children over twelve years of age who are subject to full-time compulsory school attendance;
 - (d) Article 3 of the Convention shall apply to children over twelve years of age who are not subject to full-time compulsory school attendance and to young persons under fifteen years of age;
 - (e) the exceptions permitted by paragraph 2 and 3 of Article 4 shall apply to young persons of fourteen years of age and over;
 - (f) Article 5 shall apply to children and young persons under fifteen years of age.
2. The provisions of paragraph 1 of this Article shall be subject to amendment by the following procedure:
- (a) the International Conference may, at any session at which the matter is included in its agenda, adopt by a two-thirds majority draft amendments to paragraph 1 of this Article;
 - (b) any such draft amendment shall, within the period of one year, or, in exceptional circumstances, of eighteen months, from the closing of the session of the Conference, be submitted in India to the authority or authorities within whose competence the matter lies, for the enactment of legislation or other action;
 - (c) India will, if it obtains the consent of the authority or authorities within whose competence the matter lies, communicate the formal ratification of the amendment to the Director-General of the International Labour Office for registration;
 - (d) any such draft amendment shall take effect as an amendment to this Convention on ratification by India.

PART III. FINAL ARTICLES

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 ratification has been registered.

Article 12

- 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 13

- 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 14

The Director-General of the International Labour Office shall communicate to the Secretary-General of the United Nations for registration in accordance with Article 102 of the Charter of the United Nations full particulars of all ratifications and acts of denunciation registered by him in accordance with the provisions of the preceding Articles.

Article 15

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 16

- 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 12 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 17

The English and French versions of the text of this Convention are equally authoritative.