

C090 - Night Work of Young Persons (Industry) Convention (Revised), 1948 (No. 90)

Preamble

The General Conference of the International Labour Organisation,

Having been convened at San Francisco by the Governing Body of the International Labour Office, and having met in its Thirty-first Session on 17 June 1948, and

Having decided upon the adoption of certain proposals with regard to the partial revision of the Night Work of Young Persons (Industry) Convention, 1919, adopted by the Conference at its First Session, which is the tenth item on the agenda of the session, and

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

adopts this tenth day of July of the year one thousand nine hundred and forty-eight the following Convention, which may be cited as the Night Work of Young Persons (Industry) Convention (Revised), 1948:

PART I. GENERAL PROVISIONS

Article 1

- 1. For the purpose of this Convention, the term ***industrial undertaking*** includes particularly:
 - (a) mines, quarries, and other works for the extraction of minerals from the earth;
 - (b) 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;
 - (c) undertakings engaged in building and civil engineering work, including constructional, repair, maintenance, alteration and demolition work;
 - (d) undertakings engaged in the transport of passengers or goods by road or rail, including the handling of goods at docks, quays, wharves, warehouses or airports.

- 2. The competent authority shall define the line of division which separates industry from agriculture, commerce and other non-industrial occupations.
- 3. National laws or regulations may exempt from the application of this Convention employment on work which is not deemed to be harmful, prejudicial, or dangerous to young persons in family undertakings in which only parents and their children or wards are employed.

Article 2

- 1. For the purpose of this Convention the term **night** signifies a period of at least twelve consecutive hours.
- 2. In the case of young persons under sixteen years of age, this period shall include the interval between ten o'clock in the evening and six o'clock in the morning.
- 3. In the case of young persons who have attained the age of sixteen years but are under the age of eighteen years, this period shall include an interval prescribed by the competent authority of at least seven consecutive hours falling between ten o'clock in the evening and seven o'clock in the morning; the competent authority may prescribe different intervals for different areas, industries, undertakings or branches of industries or undertakings, but shall consult the employers' and workers' organisations concerned before prescribing an interval beginning after eleven o'clock in the evening.

Article 3

- 1. Young persons under eighteen years of age shall not be employed or work during the night in any public or private industrial undertaking or in any branch thereof except as hereinafter provided for.
- 2. For purposes of apprenticeship or vocational training in specified industries or occupations which are required to be carried on continuously, the competent authority may, after consultation with the employers' and workers' organisations concerned, authorise the employment in night work of young persons who have attained the age of sixteen years but are under the age of eighteen years.
- 3. Young persons employed in night work in virtue of the preceding paragraph shall be granted a rest period of at least thirteen consecutive hours between two working periods.
- 4. Where night work in the baking industry is prohibited for all workers, the interval between nine o'clock in the evening and four o'clock in the morning may, for purposes of apprenticeship or vocational training of young persons who have attained the age of sixteen years, be substituted by the competent authority for the interval of at least seven consecutive hours falling between ten o'clock in the evening and seven o'clock in the morning prescribed by the authority in virtue of paragraph 3 of Article 2.

Article 4

- 1. In countries where the climate renders work by day particularly trying, the night period and barred interval may be shorter than that prescribed in the above articles if compensatory rest is accorded during the day.
- 2. The provisions of Articles 2 and 3 shall not apply to the night work of young persons between the ages of sixteen and eighteen years in case of emergencies which could not have been controlled or foreseen, which are not of a periodical character, and which interfere with the normal working of the industrial undertaking.

Article 5

The prohibition of night work may be suspended by the government, for young persons between the ages of sixteen and eighteen years, when in case of serious emergency the public interest demands it.

Article 6

- 1. The laws or regulations giving effect to the provisions of this Convention shall:
 - (a) make appropriate provision for ensuring that they are known to the persons concerned;
 - (b) define the persons responsible for compliance therewith;
 - (c) prescribe adequate penalties for any violation thereof;
 - (d) provide for the maintenance of a system of inspection adequate to ensure effective enforcement; and
 - (e) require every employer in a public or private industrial undertaking 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 such other pertinent information as may be required by the competent authority.
- 2. The annual reports submitted by Members under Article 22 of the Constitution of the International Labour Organisation shall contain full information concerning such laws and regulations and a general survey of the results of the inspections made in accordance therewith.

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 laws or regulations restricting the night work of young persons in industry which provide for an age-limit lower than eighteen years 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 paragraph 1 of 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 this Article.
- 2. The said provisions shall apply to all territories in respect of which the Indian legislature has jurisdiction to apply them.
- 3. The term industrial undertaking shall include:
 - (a) factories as defined in the Indian Factories Act;
 - (b) mines to which the Indian Mines Act applies;
 - (c) railways and ports.
- 4. Article 2, paragraph 2, shall apply to young persons who have attained the age of thirteen years but are under the age of fifteen years.
- 5. Article 2, paragraph 3, shall apply to young persons who have attained the age of fifteen years but are under the age of seventeen years.
- 6. Article 3, paragraph 1, and Article 4, paragraph 1, shall apply to young persons under the age of seventeen years.
- 7. Article 3, paragraphs 2, 3 and 4, Article 4, paragraph 2, and Article 5 shall apply to young persons who have attained the age of fifteen years but are under the age of seventeen years.
- 8. Article 6, paragraph 1 (e), shall apply to young persons under the age of seventeen years.

Article 9

- 1. The provision of Part I of this Convention shall apply to Pakistan subject to the modifications set forth in this Article.
- 2. The said provisions shall apply to all territories in respect of which the Pakistan legislature has jurisdiction to apply them.

- 3. The term industrial undertaking shall include:
 - (a) factories as defined in the Factories Act;
 - (b) mines to which the Mines Act applies;
 - (c) railways and ports.
- 4. Article 2, paragraph 2, shall apply to young persons who have attained the age of thirteen years but are under the age of fifteen years.
- 5. Article 2, paragraph 3, shall apply to young persons who have attained the age of fifteen years but are under the age of seventeen years.
- 6. Article 3, paragraph 1, and Article 4, paragraph 1, shall apply to young persons under the age of seventeen years.
- 7. Article 3, paragraphs 2, 3 and 4, Article 4, paragraph 2, and Article 5 shall apply to young persons who have attained the age of fifteen years but are under the age of seventeen years.
- 8. Article 6, paragraph 1 (e), shall apply to young persons under the age of seventeen years.

Article 10

- 1. The International Labour Conference may, at any session at which the matter is included in its agenda, adopt by a two-thirds majority draft amendments to any one or more of the preceding articles of Part II of this Convention.
- 2. Any such draft amendment shall state the Member or Members to which it applies and 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 by the Member or Members to which it applies to the authority or authorities within whose competence the matter lies, for the enactment of legislation or other action.
- 3. Each such Member 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.
- 4. Any such draft amendment shall take effect as an amendment to this Convention on ratification by the Member or Members to which it applies.

PART III. FINAL PROVISIONS

Article 11

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

Article 12

- 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 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

- 1. The Director-General of the International Labour Office shall notify all Members of the International Labour Organisation of the registration of all ratifications, declarations 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 15

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, declarations and acts of denunciation registered by him in accordance with the provisions of the preceding articles.

Article 16

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 18

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