

C096 - Fee-Charging Employment Agencies Convention (Revised), 1949 (No. 96)

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 Thirty-second Session on 8 June 1949, and

Having decided upon the adoption of certain proposals with regard to the revision of the Fee-Charging Employment Agencies Convention, 1933, adopted by the Conference at its Seventeenth Session, which is included in the tenth item on the agenda of the session, and

Having resolved that these proposals shall take the form of an international Convention, complementary to the Employment Service Convention, 1948, which provides that each Member for which the Convention is in force shall maintain or ensure the maintenance of a free public employment service, and

Considering that such a service should be available to all categories of workers,

adopts this first day of July of the year one thousand nine hundred and forty-nine the following Convention, which may be cited as the Fee-Charging Employment Agencies Convention (Revised), 1949:

PART I. GENERAL PROVISIONS

Article 1

- 1. For the purpose of this Convention the expression ***fee-charging employment agency*** means--
 - (a) employment agencies conducted with a view to profit, that is to say, any person, company, institution, agency or other organisation which acts as an intermediary for the purpose of procuring employment for a worker or supplying a worker for an employer with a view to deriving either directly or indirectly any pecuniary or other material advantage from either employer or worker; the expression does not include newspapers or other publications unless they are published wholly or mainly for the purpose of acting as intermediaries between employers and workers;

- (b) employment agencies not conducted with a view to profit, that is to say, the placing services of any company, institution, agency or other organisation which, though not conducted with a view to deriving any pecuniary or other material advantage, levies from either employer or worker for the above services an entrance fee, a periodical contribution or any other charge.
- 2. This Convention does not apply to the placing of seamen.

Article 2

- 1. Each Member ratifying this Convention shall indicate in its instrument of ratification whether it accepts the provisions of Part II of the Convention, providing for the progressive abolition of fee-charging employment agencies conducted with a view to profit and the regulation of other agencies, or the provisions of Part III, providing for the regulation of fee-charging employment agencies including agencies conducted with a view to profit.
- 2. Any Member accepting the provisions of Part III of the Convention may subsequently notify the Director-General that it accepts the provisions of Part II; as from the date of the registration of such notification by the Director-General, the provisions of Part III of the Convention shall cease to be applicable to the Member in question and the provisions of Part II shall apply to it.

PART II. PROGRESSIVE ABOLITION OF FEE-CHARGING EMPLOYMENT AGENCIES CONDUCTED WITH A VIEW TO PROFIT AND REGULATION OF OTHER AGENCIES

Article 3

- 1. Fee-charging employment agencies conducted with a view to profit as defined in paragraph 1 (a) of Article 1 shall be abolished within a limited period of time determined by the competent authority.
- 2. Such agencies shall not be abolished until a public employment service is established.
- 3. The competent authority may prescribe different periods for the abolition of agencies catering for different classes of persons.

Article 4

- 1. During the period preceding abolition, fee-charging employment agencies conducted with a view to profit--
 - (a) shall be subject to the supervision of the competent authority; and
 - (b) shall only charge fees and expenses on a scale submitted to and approved by the competent authority or fixed by the said authority.

- 2. Such supervision shall be directed more particularly towards the elimination of all abuses connected with the operations of fee-charging employment agencies conducted with a view to profit.
- 3. For this purpose, the competent authority shall consult, by appropriate methods, the employers' and workers' organisations concerned.

Article 5

- 1. Exceptions to the provisions of paragraph 1 of Article 3 of this Convention shall be allowed by the competent authority in exceptional cases in respect of categories of persons, exactly defined by national laws or regulations, for whom appropriate placing arrangements cannot conveniently be made within the framework of the public employment service, but only after consultation, by appropriate methods, with the organisations of employers and workers concerned.
- 2. Every fee-charging employment agency for which an exception is allowed under this Article--
 - (a) shall be subject to the supervision of the competent authority;
 - (b) shall be required to be in possession of a yearly licence renewable at the discretion of the competent authority;
 - (c) shall only charge fees and expenses on a scale submitted to and approved by the competent authority or fixed by the said authority;
 - (d) shall only place or recruit workers abroad if permitted to do so by the competent authority and under conditions determined by the laws or regulations in force.

Article 6

Fee-charging employment agencies not conducted with a view to profit as defined in paragraph 1 (b) of Article 1--

- (a) shall be required to have an authorisation from the competent authority and shall be subject to the supervision of the said authority;
- (b) shall not make any charge in excess of the scale of charges submitted to and approved by the competent authority or fixed by the said authority, with strict regard to the expenses incurred; and
- (c) shall only place or recruit workers abroad if permitted so to do by the competent authority and under conditions determined by the laws or regulations in force.

Article 7

The competent authority shall take the necessary steps to satisfy itself that non-fee-charging employment agencies carry on their operations gratuitously.

Article 8

Appropriate penalties, including the withdrawal when necessary of the licences and authorisations provided for by this Convention, shall be prescribed for any violation of the provisions of this Part of the Convention or of any laws or regulations giving effect to them.

Article 9

There shall be included in the annual reports to be submitted under Article 22 of the Constitution of the International Labour Organisation all necessary information concerning the exceptions allowed under Article 5, including more particularly information concerning the number of agencies for which such exceptions are allowed and the scope of their activities, the reasons for the exceptions, and the arrangements for supervision by the competent authority of the activities of the agencies concerned.

PART III. REGULATION OF FEE-CHARGING EMPLOYMENT AGENCIES

Article 10

Fee-charging employment agencies conducted with a view to profit as defined in paragraph 1 (a) of Article 1--

- (a) shall be subject to the supervision of the competent authority;
- (b) shall be required to be in possession of a yearly licence renewable at the discretion of the competent authority;
- (c) shall only charge fees and expenses on a scale submitted to and approved by the competent authority or fixed by the said authority;
- (d) shall only place or recruit workers abroad if permitted so to do by the competent authority and under conditions determined by the laws or regulations in force.

Article 11

Fee-charging employment agencies not conducted with a view to profit as defined in paragraph 1 (b) of Article 1--

- (a) shall be required to have an authorisation from the competent authority and shall be subject to the supervision of the said authority;

- (b) shall not make any charge in excess of the scale of charges submitted to and approved by the competent authority or fixed by the said authority with strict regard to the expenses incurred; and
- (c) shall only place or recruit workers abroad if permitted so to do by the competent authority and under conditions determined by the laws or regulations in force.

Article 12

The competent authority shall take the necessary steps to satisfy itself that non-fee-charging employment agencies carry on their operations gratuitously.

Article 13

Appropriate penalties, including the withdrawal when necessary of the licences and authorisations provided for by this Convention, shall be prescribed for any violation of the provisions of this Part of the Convention or of any laws or regulations giving effect to them.

Article 14

There shall be included in the annual reports to be submitted under Article 22 of the Constitution of the International Labour Organisation all necessary information concerning the arrangements for supervision by the competent authority of the activities of fee-charging employment agencies including more particularly agencies conducted with a view to profit.

PART IV. MISCELLANEOUS PROVISIONS

Article 15

- 1. In the case of a Member the territory of which includes large areas where, by reason of the sparseness of the population or the stage of development of the area, the competent authority considers it impracticable to enforce the provisions of this Convention, the authority may exempt such areas from the application of this Convention either generally or with such exceptions in respect of particular undertakings or occupations as it thinks fit.
- 2. Each Member shall indicate in its first annual report upon the application of this Convention submitted under Article 22 of the Constitution of the International Labour Organisation any areas in respect of which it proposes to have recourse to the provisions of the present Article and shall give the reasons for which it proposes to have recourse thereto; no Member shall, after the date of its first annual report, have recourse to the provisions of the present Article except in respect of areas so indicated.

- 3. Each Member having recourse to the provisions of the present Article shall indicate in subsequent annual reports any areas in respect of which it renounces the right to have recourse to the provisions of the present Article.

PART V. FINAL PROVISIONS

Article 16

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

Article 17

- 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 18

- 1. Declarations communicated to the Director-General of the International Labour Office in accordance with paragraph 2 of Article 35 of the Constitution of the International Labour Organisation shall indicate --
 - (a) the territories in respect of which the Member concerned undertakes that the provisions of the Convention shall be applied without modification;
 - (b) the territories in respect of which it undertakes that the provisions of the Convention shall be applied subject to modifications, together with details of the said modifications;
 - (c) the territories in respect of 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 pending further consideration of the position.
- 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 at any time by a subsequent declaration cancel in whole or in part any reservation made in its original declaration in virtue of subparagraph (b), (c) or (d) of paragraph 1 of this Article.

- 4. Any Member may, at any time at which the Convention is subject to denunciation in accordance with the provisions of Article 20, communicate to the Director-General a declaration modifying in any other respect the terms of any former declaration and stating the present position in respect of such territories as it may specify.

Article 19

- 1. Declarations communicated to the Director-General of the International Labour Office in accordance with paragraph 4 or 5 of Article 35 of the Constitution of the International Labour Organisation shall indicate whether the provisions of the Convention will be applied in the territory concerned without modification or subject to modifications; when the declaration indicates that the provisions of the Convention will be applied subject to modifications, it shall give details of the said modifications.
- 2. The Member, Members or international authority concerned may at any time by a subsequent declaration renounce in whole or in part the right to have recourse to any modification indicated in any former declaration.
- 3. The Member, Members or international authority concerned may, at any time at which the Convention is subject to denunciation in accordance with the provisions of Article 20, communicate to the Director-General a declaration modifying in any other respect the terms of any former declaration and stating the present position in respect of the application of the Convention.

Article 20

- 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 21

- 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 22

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 23

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 24

- 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 20 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 25

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