

C119 - Guarding of Machinery Convention, 1963 (No. 119)

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 Forty-seventh Session on 5 June 1963, and

Having decided upon the adoption of certain proposals with regard to the prohibition of the sale, hire and use of inadequately guarded machinery, 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-fifth day of June of the year one thousand nine hundred and sixty-three the following Convention, which may be cited as the Guarding of Machinery Convention, 1963:

PART I. GENERAL PROVISIONS

Article 1

- 1. All power-driven machinery, new or second-hand, shall be considered as machinery for the purpose of the application of this Convention.
- 2. The competent authority in each country shall determine whether and how far machinery, new or second-hand, operated by manual power presents a risk of injury to the worker and shall be considered as machinery for the purpose of the application of this Convention. Such decisions shall be taken after consultation with the most representative organisations of employers and workers concerned. The initiative for such consultation can be taken by any such organisation.
- 3. The provisions of this Convention--
 - (a) apply to road and rail vehicles during locomotion only in relation to the safety of the operator or operators;
 - (b) apply to mobile agricultural machinery only in relation to the safety of workers employed in connection with such machinery.

PART II. SALE, HIRE, TRANSFER IN ANY OTHER MANNER AND EXHIBITION

Article 2

- 1. The sale and hire of machinery of which the dangerous parts specified in paragraphs 3 and 4 of this Article are without appropriate guards shall be prohibited by national laws or regulations or prevented by other equally effective measures.
- 2. The transfer in any other manner and exhibition of machinery of which the dangerous parts specified in paragraphs 3 and 4 of this Article are without appropriate guards shall, to such extent as the competent authority may determine, be prohibited by national laws or regulations or prevented by other equally effective measures: Provided that during the exhibition of machinery the temporary removal of the guards in order to demonstrate the machinery shall not be deemed to be an infringement of this provision as long as appropriate precautions to prevent danger to persons are taken.
- 3. All set-screws, bolts and keys, and, to the extent prescribed by the competent authority, other projecting parts of any moving part of machinery also liable to present danger to any person coming into contact with them when they are in motion, shall be so designed, sunk or protected as to prevent such danger.
- 4. All flywheels, gearing, cone and cylinder friction drives, cams, pulleys, belts, chains, pinions, worm gears, crank arms and slide blocks, and, to the extent prescribed by the competent authority, shafting (including the journal ends) and other transmission machinery also liable to present danger to any person coming into contact with them when they are in motion, shall be so designed or protected as to prevent such danger. Controls also shall be so designed or protected as to prevent danger.

Article 3

- 1. The provisions of Article 2 do not apply to machinery or dangerous parts thereof specified in that Article which--
 - (a) are, by virtue of their construction, as safe as if they were guarded by appropriate safety devices; or
 - (b) are intended to be so installed or placed that, by virtue of their installation or position, they are as safe as if they were guarded by appropriate safety devices.
- 2. The prohibition of the sale, hire, transfer in any other manner or exhibition of machinery provided for in paragraphs 1 and 2 of Article 2 does not apply to machinery by reason only of the machinery being so designed that the requirements of paragraphs 3 and 4 of that Article are not fully complied with during maintenance, lubrication, setting-up and adjustment, if such operations can be carried out in conformity with accepted standards of safety.

- 3. The provisions of Article 2 do not prohibit the sale or transfer in any other manner of machinery for storage, scrapping or reconditioning, but such machinery shall not be sold, hired, transferred in any other manner or exhibited after storage or reconditioning unless protected in conformity with the said provisions.

Article 4

The obligation to ensure compliance with the provisions of Article 2 shall rest on the vendor, the person letting out on hire or transferring the machinery in any other manner, or the exhibitor and, where appropriate under national laws or regulations, on their respective agents. This obligation shall rest on the manufacturer when he sells machinery, lets it out on hire, transfers it in any other manner or exhibits it.

Article 5

- 1. Any Member may provide for a temporary exemption from the provisions of Article 2.
- 2. The duration of such temporary exemption, which shall in no case exceed three years from the coming into force of the Convention for the Member concerned, and any other conditions relating thereto, shall be prescribed by national laws or regulations or determined by other equally effective measures.
- 3. In the application of this Article the competent authority shall consult the most representative organisations of employers and workers concerned and, as appropriate, manufacturers' organisations.

PART III. USE

Article 6

- 1. The use of machinery any dangerous part of which, including the point of operation, is without appropriate guards shall be prohibited by national laws or regulations or prevented by other equally effective measures: Provided that where this prohibition cannot fully apply without preventing the use of the machinery it shall apply to the extent that the use of the machinery permits.
- 2. Machinery shall be so guarded as to ensure that national regulations and standards of occupational safety and hygiene are not infringed.

Article 7

The obligation to ensure compliance with the provisions of Article 6 shall rest on the employer.

Article 8

- 1. The provisions of Article 6 do not apply to machinery or parts thereof which, by virtue of their construction, installation or position, are as safe as if they were guarded by appropriate safety devices.

- 2. The provisions of Article 6 and Article 11 do not prevent the maintenance, lubrication, setting-up or adjustment of machinery or parts thereof carried out in conformity with accepted standards of safety.

Article 9

- 1. Any Member may provide for a temporary exemption from the provisions of Article 6.
- 2. The duration of such temporary exemption, which shall in no case exceed three years from the coming into force of the Convention for the Member concerned, and any other conditions relating thereto, shall be prescribed by national laws or regulations or determined by other equally effective measures.
- 3. In the application of this Article the competent authority shall consult the most representative organisations of employers and workers concerned.

Article 10

- 1. The employer shall take steps to bring national laws or regulations relating to the guarding of machinery to the notice of workers and shall instruct them, as and where appropriate, regarding the dangers arising and the precautions to be observed in the use of machinery.
- 2. The employer shall establish and maintain such environmental conditions as not to endanger workers employed on machinery covered by this Convention.

Article 11

- 1. No worker shall use any machinery without the guards provided being in position, nor shall any worker be required to use any machinery without the guards provided being in position.
- 2. No worker using machinery shall make inoperative the guards provided, nor shall such guards be made inoperative on any machinery to be used by any worker.

Article 12

The ratification of this Convention shall not affect the rights of workers under national social security or social insurance legislation.

Article 13

The provisions of this Part of this Convention relating to the obligations of employers and workers shall, if and in so far as the competent authority so determines, apply to self-employed workers.

Article 14

The term **employer** for the purpose of this Part of this Convention includes, where appropriate under national laws or regulations, a prescribed agent of the employer.

PART IV. MEASURES OF APPLICATION

Article 15

- 1. All necessary measures, including the provision of appropriate penalties, shall be taken to ensure the effective enforcement of the provisions of this Convention.
- 2. Each Member which ratifies this Convention undertakes to provide appropriate inspection services for the purpose of supervising the application of the provisions of the Convention, or to satisfy itself that appropriate inspection is carried out.

Article 16

Any national laws or regulations giving effect to the provisions of this Convention shall be made by the competent authority after consultation with the most representative organisations of employers and workers concerned and, as appropriate, manufacturers' organisations.

PART V. SCOPE

Article 17

- 1. The provisions of this Convention apply to all branches of economic activity unless the Member ratifying the Convention specifies a more limited application by a declaration appended to its ratification.
- 2. In cases where a declaration specifying a more limited application is made--
 - (a) the provisions of the Convention shall be applicable as a minimum to undertakings or branches of economic activity in respect of which the competent authority, after consultation with the labour inspection services and with the most representative organisations of employers and workers concerned, determines that machinery is extensively used; the initiative for such consultation can be taken by any such organisation;
 - (b) the Member shall indicate in its reports under Article 22 of the Constitution of the International Labour Organisation any progress which may have been made with a view towards wider application of the provisions of this Convention.

- 3. Any Member which has made a declaration in pursuance of paragraph 1 of this Article may at any time cancel that declaration in whole or in part by a subsequent declaration.

PART VI. FINAL PROVISIONS

Article 18

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

Article 19

- 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 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 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 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.