

C171 - Night Work Convention, 1990 (No. 171)

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 77th Session on 6 June 1990, and

Noting the provisions of international labour Conventions and Recommendations on the night work of children and young persons, and specifically the provisions in the Night Work of Young Persons (Non-Industrial Occupations) Convention and Recommendation, 1946, the Night Work of Young Persons (Industry) Convention (Revised), 1948, and the Night Work of Children and Young Persons (Agriculture) Recommendation, 1921, and

Noting the provisions of international labour Conventions and Recommendations on night work of women, and specifically the provisions in the Night Work (Women) Convention (Revised), 1948, and the Protocol of 1990 thereto, the Night Work of Women (Agriculture) Recommendation, 1921, and Paragraph 5 of the Maternity Protection Recommendation, 1952, and

Noting the provisions of the Discrimination (Employment and Occupation) Convention, 1958, and

Noting the provisions of the Maternity Protection Convention (Revised), 1952, and

Having decided upon the adoption of certain proposals with regard to night work, 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-sixth day of June of the year one thousand nine hundred and ninety the following Convention, which may be cited as the Night Work Convention, 1990:

Article 1

For the purposes of this Convention:

(a) the term ***night work*** means all work which is performed during a period of not less than seven consecutive hours, including the interval from midnight to 5 a.m., to be determined by the competent authority after consulting the most representative organisations of employers and workers or by collective agreements;

(b) the term ***night worker*** means an employed person whose work requires performance of a substantial number of hours of night work which exceeds a specified limit. This limit shall be fixed by the competent authority after consulting the most representative organisations of employers and workers or by collective agreements.

Article 2

1. This Convention applies to all employed persons except those employed in agriculture, stock raising, fishing, maritime transport and inland navigation.
2. A Member which ratifies this Convention may, after consulting the representative organisations of employers and workers concerned, exclude wholly or partly from its scope limited categories of workers when the application of the Convention to them would raise special problems of a substantial nature.
3. Each Member which avails itself of the possibility afforded in paragraph 2 of this Article shall, in its reports on the application of the Convention under article 22 of the Constitution of the International Labour Organisation, indicate the particular categories of workers thus excluded and the reasons for their exclusion. It shall also describe all measures taken with a view to progressively extending the provisions of the Convention to the workers concerned.

Article 3

1. Specific measures required by the nature of night work, which shall include, as a minimum, those referred to in Articles 4 to 10, shall be taken for night workers in order to protect their health, assist them to meet their family and social responsibilities, provide opportunities for occupational advancement, and compensate them appropriately. Such measures shall also be taken in the fields of safety and maternity protection for all workers performing night work.
2. The measures referred to in paragraph 1 above may be applied progressively.

Article 4

1. At their request, workers shall have the right to undergo a health assessment without charge and to receive advice on how to reduce or avoid health problems associated with their work:
 - (a) before taking up an assignment as a night worker;
 - (b) at regular intervals during such an assignment;

(c) if they experience health problems during such an assignment which are not caused by factors other than the performance of night work.

2. With the exception of a finding of unfitness for night work, the findings of such assessments shall not be transmitted to others without the workers' consent and shall not be used to their detriment.

Article 5

Suitable first-aid facilities shall be made available for workers performing night work, including arrangements whereby such workers, where necessary, can be taken quickly to a place where appropriate treatment can be provided.

Article 6

1. Night workers certified, for reasons of health, as unfit for night work shall be transferred, whenever practicable, to a similar job for which they are fit.
2. If transfer to such a job is not practicable, these workers shall be granted the same benefits as other workers who are unable to work or to secure employment.
3. A night worker certified as temporarily unfit for night work shall be given the same protection against dismissal or notice of dismissal as other workers who are prevented from working for reasons of health.

Article 7

1. Measures shall be taken to ensure that an alternative to night work is available to women workers who would otherwise be called upon to perform such work:
 - (a) before and after childbirth, for a period of at least sixteen weeks of which at least eight weeks shall be before the expected date of childbirth;
 - (b) for additional periods in respect of which a medical certificate is produced stating that it is necessary for the health of the mother or child:
 - (i) during pregnancy;
 - (ii) during a specified time beyond the period after childbirth fixed pursuant to subparagraph (a) above, the length of which shall be determined by the competent authority after consulting the most representative organisations of employers and workers.
2. The measures referred to in paragraph 1 of this Article may include transfer to day work where this is possible, the provision of social security benefits or an extension of maternity leave.

3. During the periods referred to in paragraph 1 of this Article:

(a) a woman worker shall not be dismissed or given notice of dismissal, except for justifiable reasons not connected with pregnancy or childbirth;

(b) the income of the woman worker shall be maintained at a level sufficient for the upkeep of herself and her child in accordance with a suitable standard of living. This income maintenance may be ensured by any of the measures listed in paragraph 2 of this Article, by other appropriate measures or by a combination of these measures;

(c) a woman worker shall not lose the benefits regarding status, seniority and access to promotion which may attach to her regular night work position.

4. The provisions of this Article shall not have the effect of reducing the protection and benefits connected with maternity leave.

Article 8

Compensation for night workers in the form of working time, pay or similar benefits shall recognise the nature of night work.

Article 9

Appropriate social services shall be provided for night workers and, where necessary, for workers performing night work.

Article 10

1. Before introducing work schedules requiring the services of night workers, the employer shall consult the workers' representatives concerned on the details of such schedules and the forms of organisation of night work that are best adapted to the establishment and its personnel as well as on the occupational health measures and social services which are required. In establishments employing night workers this consultation shall take place regularly.

2. For the purposes of this Article the **workers' representatives** means persons who are recognised as such by national law or practice, in accordance with the Workers' Representatives Convention, 1971.

Article 11

1. The provisions of this Convention may be implemented by laws or regulations, collective agreements, arbitration awards or court decisions, a combination of these means or in any other manner appropriate to national conditions and

practice. In so far as they have not been given effect by other means, they shall be implemented by laws or regulations.

2. Where the provisions of this Convention are implemented by laws or regulations, there shall be prior consultation with the most representative organisations of employers and workers.

Article 12

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

Article 13

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 14

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 15

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 16

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 17

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 18

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 14 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 19

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