

1936.
NEW ZEALAND.

INTERNATIONAL LABOUR CONFERENCE.

DRAFT CONVENTIONS AND RECOMMENDATIONS ADOPTED BY THE CONFERENCE AT ITS
TWENTIETH SESSION, 4TH – 24TH JUNE, 1936.

To be Laid on the Table of the House of Representatives (by Leave).

THE Draft Convention concerning the regulation of certain special systems of recruiting workers, the Recommendation concerning the progressive elimination of recruiting, the Draft Convention concerning the reduction of hours of work on public works, the Draft Convention concerning annual holidays with pay, and the Recommendation concerning annual holidays with pay, here reprinted, were adopted by the International Labour Conference at its Twentieth Session, held at Geneva, from 4th to 24th June, 1936.

The texts of the Draft Conventions and of the Recommendations as here presented are true copies of the texts authenticated by the signatures of the President of the International Labour Conference and of the Acting Director of the International Labour Office, and deposited with the Secretary-General of the League of Nations.

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INTERNATIONAL LABOUR CONFERENCE.

DRAFT CONVENTION CONCERNING THE REGULATION OF CERTAIN SPECIAL SYSTEMS OF RECRUITING WORKERS.

The General Conference of the International Labour Organization, having been convened at Geneva by the Governing Body of the International Labour Office, and having met in its Twentieth Session on 4th June, 1936, and having decided upon the adoption of certain proposals with regard to the regulation of certain special systems of recruiting workers, which is the first item on the agenda of the session, and having determined that these proposals shall take the form of a Draft International Convention, adopts, this twentieth day of June, of the year one thousand nine hundred and thirty-six, the following Draft Convention, which may be cited as the Recruiting of Indigenous Workers Convention, 1936 :—

Article 1.

Each member of the International Labour Organization which ratifies this Convention undertakes to regulate in accordance with the following provisions the recruiting of indigenous workers in each of its territories in which such recruiting exists or may hereafter exist.

Article 2.

For the purposes of this Convention—

- (a) The term “recruiting” includes all operations undertaken with the object of obtaining or supplying the labour of persons who do not spontaneously offer their services at the place of employment or at a public emigration or employment office or at an office conducted by an employers’ organization and supervised by the competent authority ;
- (b) The term “indigenous workers” includes workers belonging to or assimilated to the indigenous populations of the dependent territories of Members of the Organization and workers belonging to or assimilated to the dependent indigenous populations of the home territories of Members of the Organization.

Article 3.

Where the circumstances make the adoption of such a policy desirable, the following classes of recruiting operations may, except when undertaken by persons or associations engaged in professional recruiting, be exempted from the application of the Convention by the competent authority :—

- (a) Operations undertaken by or on behalf of employers who do not employ more than a prescribed limited number of workers ;
- (b) Operations undertaken within a prescribed limited radius from the place of employment ; and
- (c) Operations for the engagement of personal and domestic servants and of non-manual workers.

Article 4.

Before approving for any area any scheme of economic development which is likely to involve the recruiting of labour, the competent authority shall take such measures as may be practicable and necessary—

- (a) To avoid the risk of pressure being brought to bear on the populations concerned by or on behalf of the employers in order to obtain the labour required ;
- (b) To ensure that, as far as possible, the political and social organization of the populations concerned and their powers of adjustment to the changed economic conditions will not be endangered by the demand for labour ; and
- (c) To deal with any other possible untoward effects of such development on the populations concerned.

Article 5.

1. Before granting permission to recruit labour in any area, the competent authority shall take into consideration the possible effects of the withdrawal of adult males on the social life of the population concerned, and in particular shall consider—

- (a) The density of the population, its tendency to increase or decrease, and the probable effect upon the birth-rate of the withdrawal of adult males ;
- (b) The possible effects of the withdrawal of adult males on the health, welfare, and development of the population concerned, particularly in connection with the food-supply ;
- (c) The dangers to the family and morality arising from the withdrawal of adult males ; and
- (d) The possible effects of the withdrawal of adult males on the social organization of the population concerned.

2. Where the circumstances make the adoption of such a policy practicable and necessary, the competent authority shall, in order to safeguard the populations concerned against any untoward consequences of the withdrawal of adult males, fix the maximum number of adult males who may be recruited in any given social unit in such manner that the number of adult males remaining in the said unit does not fall below a prescribed percentage of the normal proportion of adult males to women and children.

Article 6.

Non-adult persons shall not be recruited: Provided that the competent authority may permit non-adults above a prescribed age to be recruited with the consent of their parents for employment upon light work subject to prescribed safeguards for their welfare.

Article 7.

1. The recruiting of the head of a family shall not be deemed to involve the recruiting of any member of his family.

2. Where the circumstances make the adoption of such a policy practicable and desirable, the competent authority shall encourage recruited workers to be accompanied by their families, more particularly in the case of workers recruited for agricultural or similar employment at a long distance from their homes and for periods exceeding a specified duration.

3. Except at the express request of the persons concerned, recruited workers shall not be separated from wives and minor children who have been authorized to accompany them to, and to remain with them at, the place of employment.

4. In default of agreement to the contrary before the departure of the worker from the place of recruiting, an authorization to accompany a worker shall be deemed to be an authorization to remain with him for the full duration of his term of service.

Article 8.

Where the circumstances make the adoption of such a policy practicable and desirable, the competent authority may make it a condition of permitting recruiting that the recruited workers shall be grouped at the place of employment under suitable ethnical conditions.

Article 9.

Public officers shall not recruit for private undertakings either directly or indirectly, except when the recruited workers are to be employed on works of public utility for the execution of which private undertakings are acting as contractors for a public authority.

Article 10.

Chiefs or other indigenous authorities shall not—

- (a) Act as recruiting agents;
- (b) Exercise pressure upon possible recruits; or
- (c) Receive from any source whatsoever any special remuneration or other special inducement for assistance in recruiting.

Article 11.

No person or association shall engage in professional recruiting unless the said person or association has been licensed by the competent authority and is recruiting workers for a public department or for one or more specific employers or organizations of employers.

Article 12.

Employers, employers' agents, organizations of employers, organizations subsidized by employers, and the agents of organizations of employers and of organizations subsidized by employers, shall only engage in recruiting if licensed by the competent authority.

Article 13.

1. Before issuing any license for recruiting the competent authority shall—

- (a) Satisfy itself that the applicant for a license, if an individual, is a fit and proper person;
- (b) Require the applicant for a license, except when the said applicant is an employers' organization or an organization subsidized by employers, to furnish financial or other security for proper conduct as a licensee;
- (c) Require the applicant for a license, if an employer, to furnish financial or other security for the payment of wages due; and
- (d) Satisfy itself that adequate provision has been made for safeguarding the health and welfare of the workers to be recruited.

2. Licensees shall keep, in such form as the competent authority may prescribe, records from which the regularity of every recruiting operation can be verified and every recruited worker can be identified.

3. A licensee who is the agent of another licensee shall wherever possible receive a fixed salary, and in any case in which he receives remuneration calculated at a rate per head of workers recruited such remuneration shall not exceed a maximum to be prescribed by the competent authority.

4. The validity of licenses shall be limited to a fixed period not exceeding one year to be prescribed by the competent authority.

5. The renewal of licenses shall be conditional upon the manner in which the licensee has respected the conditions subject to which the license was issued.

6. The competent authority shall be entitled—

- (a) To withdraw any license if the licensee has been guilty of any offence or misconduct unfitting him to conduct recruiting operations; and
- (b) To suspend any license pending the result of any inquiry into the conduct of the licensee.

Article 14.

1. No person shall assist a licensee in a subordinate capacity in the actual recruiting operations unless he has been approved by a public officer and has been furnished with a permit by the licensee.
2. Licensees shall be responsible for the proper conduct of such assistants.

Article 15.

1. Where the circumstances make the adoption of such a policy necessary or desirable, the competent authority may exempt from the obligation to hold a license worker-recruiters who—
 - (a) Are employed as workers by the undertaking for which they recruit other workers;
 - (b) Are formally commissioned in writing by the employer to recruit other workers; and
 - (c) Do not receive any remuneration or other advantage for recruiting.
2. Worker-recruiters shall not make advances of wages to recruits.
3. Worker-recruiters may recruit only within an area to be prescribed by the competent authority.
4. The operations of worker-recruiters shall be supervised in a manner to be prescribed by the competent authority.

Article 16.

1. Recruited workers shall be brought before a public officer, who shall satisfy himself that the law and regulations concerning recruiting have been observed and, in particular, that the workers have not been subjected to illegal pressure or recruited by misrepresentation or mistake.
2. Recruited workers shall be brought before such an officer as near as may be convenient to the place of recruiting or, in the case of workers recruited in one territory for employment in a territory under a different administration, at latest at the place of departure from the territory of recruiting.

Article 17.

Where the circumstances make the adoption of such a provision practicable and necessary, the competent authority shall require the issue to each recruited worker who is not engaged at or near the place of recruiting of a document in writing such as a memorandum of information, a work-book, or a provisional contract containing such particulars as the authority may prescribe, as, for example, particulars of the identity of the workers, the prospective conditions of employment, and any advances of wages made to the workers.

Article 18.

1. Every recruited worker shall be medically examined.
2. Where the worker has been recruited for employment at a distance from the place of recruiting or has been recruited in one territory for employment in a territory under a different administration, the medical examination shall take place as near as may be convenient to the place of recruiting or, in the case of workers recruited in one territory for employment in a territory under a different administration, at latest at the place of departure from the territory of recruiting.
3. The competent authority may empower public officers before whom workers are brought in pursuance of Article 16 to authorize the departure prior to medical examination of workers in whose case they are satisfied—
 - (a) That it was and is impossible for the medical examination to take place near to the place of recruiting or at the place of departure;
 - (b) That the worker is fit for the journey and the prospective employment; and
 - (c) That the worker will be medically examined on arrival at the place of employment or as soon as possible thereafter.
4. The competent authority may, particularly when the journey of the recruited workers is of such duration and takes place under such conditions that the health of the workers is likely to be affected, require recruited workers to be examined both before departure and after arrival at the place of employment.
5. The competent authority shall ensure that all necessary measures are taken for the acclimatization and adaptation of recruited workers and for their immunization against disease.

Article 19.

1. The recruiter or employer shall whenever possible provide transport to the place of employment for recruited workers.
2. The competent authority shall take all necessary measures to ensure—
 - (a) That the vehicles or vessels used for the transport of workers are suitable for such transport, are in good sanitary condition, and are not overcrowded;
 - (b) That when it is necessary to break the journey for the night suitable accommodation is provided for the workers; and
 - (c) That in the case of long journeys all necessary arrangements are made for medical assistance and for the welfare of the workers.
3. When recruited workers have to make long journeys on foot to the place of employment, the competent authority shall take all necessary measures to ensure—
 - (a) That the length of the daily journey is compatible with the maintenance of the health and strength of the workers; and
 - (b) That, where the extent of the movement of labour makes this necessary, rest-camps or rest-houses are provided at suitable points on main routes and are kept in proper sanitary condition and have the necessary facilities for medical attention.
4. When recruited workers have to make long journeys in groups to the place of employment, they shall be conveyed by a responsible person.

Article 20.

1. The expenses of the journey of recruited workers to the place of employment including all expenses incurred for their protection during the journey, shall be borne by the recruiter or employer.

2. The recruiter or employer shall furnish recruited workers with everything necessary for their welfare during the journey to the place of employment, including particularly, as local circumstances may require, adequate and suitable supplies of food, drinking-water, fuel, and cooking-utensils, clothing, and blankets.

3. This Article applies to workers recruited by worker-recruiters only to the extent to which its application is considered possible by the competent authority.

Article 21.

Any recruited worker who—

- (a) Becomes incapacitated by sickness or accident during the journey to the place of employment ;
- (b) Is found on medical examination to be unfit for employment ;
- (c) Is not engaged after recruiting for a reason for which he is not responsible ; or
- (d) Is found by the competent authority to have been recruited by misrepresentation or mistake ;

shall be repatriated at the expense of the recruiter or employer.

Article 22.

The competent authority shall limit the amount which may be paid to recruited workers in respect of advances of wages, and shall regulate the conditions under which such advances may be made.

Article 23.

Where the families of recruited workers have been authorized to accompany the workers to the place of employment the competent authority shall take all necessary measures for safeguarding their health and welfare during the journey and more particularly—

- (a) Articles 19 and 20 of this Convention shall apply to such families ;
- (b) In the event of the worker being repatriated in virtue of Article 21, his family shall also be repatriated ; and
- (c) In the event of the death of the worker during the journey to the place of employment, his family shall be repatriated.

Article 24.

1. Before permitting the recruiting of workers for employment in a territory under a different administration, the competent authority of the territory of recruiting shall satisfy itself that all necessary measures have been taken for the protection of the recruited workers in accordance with the provisions of this Convention when the workers have travelled beyond its jurisdiction.

2. Where workers are recruited in one territory for employment in a territory under a different administration and the circumstances and amount of recruiting appear to the competent authorities concerned to necessitate such action, the said authorities shall enter into agreements defining the extent to which such recruiting is to be permitted and providing for co-operation between them in supervising the execution of the conditions of recruiting and employment.

3. The recruiting of workers in one territory for employment in a territory under a different administration shall be undertaken only under license issued by the competent authority of the territory of recruiting : Provided that the said authority may accept as equivalent to a license issued by it, a license issued by the competent authority of the territory of employment.

4. Where the circumstances and the amount of recruiting for employment in a territory under a different administration appear to the competent authority of the territory of recruiting to necessitate such action, the said authority shall provide that such recruiting may only be undertaken by organizations approved by it.

Article 25.

1. In respect of the territories referred to in Article 35 of the Constitution of the International Labour Organization, each Member of the Organization which ratifies this Convention shall append to its ratification a declaration stating—

- (a) The territories to which it undertakes to apply the provisions of the Convention without modification ;
- (b) The territories to which it undertakes to apply the provisions of the Convention subject to modifications, together with details of the said modifications ;
- (c) The territories to 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.

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 by a subsequent declaration cancel in whole or in part any reservations made in its original declaration in virtue of subparagraphs (b), (c), or (d) of paragraph 1 of this Article.

Article 26.

The formal ratification of this Convention shall be communicated to the Secretary-General of the League of Nations for registration.

Article 27.

1. This Convention shall be binding only upon those Members of the International Labour Organization whose ratifications have been registered with the Secretary-General.

2. It shall come into force twelve months after the date on which the ratifications of two Members have been registered with the Secretary-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 28.

As soon as the ratifications of two Members of the International Labour Organization have been registered, the Secretary-General of the League of Nations shall so notify all the Members of the International Labour Organization. He shall likewise notify them of the registration of ratifications which may be communicated subsequently by other Members of the Organization.

Article 29.

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 Secretary-General of the League of Nations 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 30.

At the expiration of each period of ten years after the coming into force of this Convention, the Governing Body of the International Labour Office shall present to the General Conference a report on the working of this Convention, and shall consider the desirability of placing on the agenda of the Conference the question of its revision in whole or in part.

Article 31.

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 29 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 32.

The French and English texts of this Convention shall both be authentic.

The foregoing is the authentic text of the Draft Convention duly adopted by the General Conference of the International Labour Organization during its Twentieth Session which was held at Geneva and declared closed the 24th day of June, 1936.

In faith whereof we have appended our signatures this 18th day of July, 1936.

President of the Conference :

C. V. BRAMSNAES.

Acting Director of the International Labour Office :

E. J. PHELAN.

RECOMMENDATION CONCERNING THE PROGRESSIVE ELIMINATION OF RECRUITING.

The General Conference of the International Labour Organization, having been convened at Geneva by the Governing Body of the International Labour Office, and having met in its Twentieth Session on 4th June, 1936, and having decided upon the adoption of certain proposals with regard to the progressive elimination of recruiting, which is included in the first item on the agenda of the session, and having determined that these proposals shall take the form of a Recommendation, adopts, this twentieth day of June, of the year one thousand nine hundred and thirty-six, the following Recommendation, which may be cited as the Elimination of Recruiting Recommendation, 1936.

The Conference, having adopted a Draft Convention concerning the regulation of certain special systems of recruiting workers, considering that in addition to the regulation of recruiting of labour it should be a cardinal principle to be followed by the Members of the International Labour Organization to direct their policy where necessary and desirable towards the progressive elimination of the recruiting of labour and the development of the spontaneous offer of labour, recommends that each Member of the International Labour Organization should take steps to hasten such elimination by—

- (a) Improvement of the conditions of labour ;
- (b) Development of the means of transport ;
- (c) Promotion of the settlement of workers and their families in the area of employment, where such settlement is the policy of the competent authority ;
- (d) Facilitating the voluntary movement of labour under administrative supervision and control ; and
- (e) The educational development of indigenous peoples and the improvement of their standard of living.

The foregoing is the authentic text of the Recommendation duly adopted by the General Conference of the International Labour Organization during its Twentieth Session which was held at Geneva and declared closed the 24th day of June, 1936.

In faith whereof we have appended our signatures this 18th day of July, 1936.

President of the Conference :

C. V. BRAMSNÆS.

Acting Director of the International Labour Office :

E. J. PHELAN.

DRAFT CONVENTION CONCERNING THE REDUCTION OF HOURS OF WORK ON PUBLIC WORKS.

The General Conference of the International Labour Organization, having met at Geneva in its Twentieth Session on 4th June, 1936, considering that the question of the reduction of hours of work on public works undertaken or subsidized by Governments is the third item on the agenda of the session, confirming the principle laid down in the Forty-hour Week Convention, 1935, including the maintenance of the standard of living, considering it to be desirable that this principle should be applied by international agreement to public works, adopts this twenty-third day of June, one thousand nine hundred and thirty-six, the following Draft Convention, which may be cited as the Reduction of Hours of Work (Public Works) Convention, 1936 :—

Article 1.

1. This Convention applies to persons directly employed on building or civil engineering works financed or subsidized by central Governments.

2. For the purpose of this Convention the precise scope of the terms " building or civil engineering," " financed," and " subsidized " shall be delimited by the competent authority after consultation with the organizations of employers and workers concerned where such exist.

3. The competent authority may, after consultation with the organizations of employers and workers concerned where such exist, exempt from the application of this Convention—

- (a) Persons employed in undertakings in which only members of the employers' family are employed ;
- (b) Persons occupying positions of management who do not ordinarily perform manual work.

Article 2.

1. The hours of work of persons to whom this Convention applies shall not exceed an average of forty per week.

2. In the case of persons who work in successive shifts on processes required by reason of the nature of the process to be carried on without a break at any time of the day, night, or week, weekly hours of work may average forty-two.

3. The competent authority shall, after consultation with the organizations of employers and workers concerned where such exist, determine the processes to which paragraph 2 of this Article applies.

4. Where hours of work are calculated as an average the competent authority shall, after consultation with the organizations of employers and workers concerned where such exist, determine the number of weeks over which this average may be calculated and the maximum number of hours that may be worked in any week.

5. For the purpose of this Convention, the term " hours of work " means the time during which the persons employed are at the disposal of the employer and does not include rest periods during which they are not at his disposal.

Article 3.

1. The competent authority may, by regulations made after consultation with the organizations of employers and workers concerned where such exist, provide that the limits of hours prescribed in the preceding Article may be exceeded in the case of—

- (a) Persons employed on preparatory or complementary work which must necessarily be carried on outside the limits laid down for the general working of the undertaking or branch thereof or of the shift; and
- (b) Persons employed in occupations which by their nature involve long periods of inaction during which the said persons have to display neither physical activity nor sustained attention or remain at their posts only to reply to possible calls.

2. The regulations referred to in paragraph 1 shall determine the maximum number of hours which may be worked in virtue of this Article.

3. The competent authority may permit the limits of hours prescribed in the preceding Article to be exceeded to a prescribed extent in cases in which this is necessary, if serious hindrance to the execution of a particular public work is to be avoided, on account of abnormal circumstances such as the inaccessibility of the site or the impossibility of engaging sufficient qualified labour.

Article 4.

The limits of hours prescribed in the preceding Articles may be exceeded, but only so far as may be necessary to avoid serious interference with the ordinary working of the undertaking,—

- (a) In case of accident, actual or threatened, or in case of urgent work to be done to machinery or plant, or in case of *force majeure*; or
- (b) In order to make good the unforeseen absence of one or more members of a shift.

Article 5.

1. The limits of hours prescribed in Articles 2 and 3 may be exceeded in cases where the continued presence of particular persons is necessary for the completion of an operation which for technical reasons cannot be interrupted.

2. The competent authority shall, after consultation with the organizations of employers and workers concerned where such exist, determine the operations to which this Article applies and the maximum number of hours in excess of the prescribed limits which may be worked by the persons concerned.

3. Overtime worked in virtue of this Article shall be remunerated at not less than one and a quarter times the normal rate.

Article 6.

1. The competent authority may grant an allowance of overtime for exceptional cases of pressure of work. Such an allowance shall only be granted under regulations made after consultation as to the necessity of such overtime and the number of hours to be worked with the organizations of employers and workers concerned where such exist, and no such allowance shall permit of any person being employed for more than one hundred hours of such overtime in any year.

2. Overtime worked in virtue of this Article shall be remunerated at not less than one and a quarter times the normal rate.

Article 7.

In order to facilitate the effective enforcement of the provisions of this Convention, every employer shall be required—

- (a) To notify, by the posting of notices in conspicuous positions in the works or other suitable place or by such other method as may be approved by the competent authority,—
 - (i) The hours at which work begins and ends;
 - (ii) Where work is carried on by shifts, the hours at which each shift begins and ends;
 - (iii) Where a rotation system is applied, a description of the system, including a time-table for each person or group of persons;
 - (iv) The arrangements made in cases where the average duration of the working-week is calculated over a number of weeks; and
 - (v) Rest periods in so far as these are not reckoned as part of the working-hours;
- (b) To keep a record in the form prescribed by the competent authority of all additional hours worked in virtue of Articles 3 (paragraph 3), 5, and 6, and of the payments made in respect thereof.

Article 8.

The annual reports submitted by Members upon the application of this Convention shall include more particularly full information concerning—

- (a) The definitions adopted in virtue of Article 1, paragraph 2;
- (b) Processes which the competent authority has recognized as necessarily continuous in character in virtue of Article 2, paragraph 2;
- (c) Determinations made in virtue of Article 2, paragraph 4;
- (d) Decisions taken in virtue of Article 3; and
- (e) Allowances of overtime granted in virtue of Article 6.

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 Secretary-General of the League of Nations for registration.

Article 11.

1. This Convention shall be binding only upon those Members of the International Labour Organization whose ratifications have been registered with the Secretary-General.

2. It shall come into force twelve months after the date on which the ratifications of two Members have been registered with the Secretary-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.

As soon as the ratifications of two Members of the International Labour Organization have been registered, the Secretary-General of the League of Nations shall so notify all the Members of the International Labour Organization. He shall likewise notify them of the registration of ratifications which may be communicated subsequently by other Members of the Organization.

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 Secretary-General of the League of Nations 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.

At the expiration of each period of ten years after the coming into force of this Convention, the Governing Body of the International Labour Office shall present to the General Conference a report on the working of this Convention and shall consider 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 16.

The French and English texts of this Convention shall both be authentic.

The foregoing is the authentic text of the Draft Convention duly adopted by the General Conference of the International Labour Organization during its Twentieth Session which was held at Geneva and declared closed the 24th day of June, 1936.

In faith whereof we have appended our signatures this 18th day of July, 1936.

President of the Conference :

C. V. BRAMSNAES.

Acting Director of the International Labour Office :

E. J. PHELAN.

DRAFT CONVENTION CONCERNING ANNUAL HOLIDAYS WITH PAY.

The General Conference of the International Labour Organization, having been convened at Geneva by the Governing Body of the International Labour Office, and having met in its Twentieth Session on 4th June, 1936, and having decided upon the adoption of certain proposals with regard to annual holidays with pay which is the second item on the agenda of the session, and having determined that these proposals shall take the form of a Draft International Convention, adopts, this twenty-fourth

day of June, of the year one thousand nine hundred and thirty-six, the following Draft Convention, which may be cited as the Holidays with Pay Convention, 1936 :—

Article 1.

1. This Convention applies to all persons employed in any of the following undertakings or establishments, whether public or private :—

- (a) 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 ;
- (b) Undertakings engaged wholly or mainly in the construction, reconstruction, maintenance, repair, alteration, or demolition of any one or more of the following : Buildings, railways, tramways, airports, harbours, docks, piers, works of protection against floods or coast erosion, canals, works for the purpose of inland, maritime or aerial navigation, roads, tunnels, bridges, viaducts, sewers, drains, wells, irrigation or drainage works, telecommunication installations, works for the production or distribution of electricity or gas, pipe-lines, waterworks, and undertakings engaged in other similar work or in the preparation for or laying the foundation of any such work or structure ;
- (c) Undertakings engaged in the transport of passengers or goods by road, rail, inland waterway, or air, including the handling of goods at docks, quays, wharves, warehouses, or airports ;
- (d) Mines, quarries, and other works for the extraction of minerals from the earth ;
- (e) Commercial or trading establishments, including postal and telecommunication services ;
- (f) Establishments and administrative services in which the persons employed are mainly engaged in clerical work ;
- (g) Newspaper undertakings ;
- (h) Establishments for the treatment and care of the sick, infirm, destitute, or mentally unfit ;
- (i) Hotels, restaurants, boardinghouses, clubs, cafés, and other refreshment-houses ;
- (j) Theatres and places of public amusement ;
- (k) Mixed commercial and industrial establishments not falling wholly within any of the foregoing categories.

2. The competent authority in each country shall, after consultation with the principal organizations of employers and workers concerned where such exist, define the line which separates the undertakings and establishments specified in the preceding paragraph from those to which this Convention does not apply.

3. The competent authority in each country may exempt from the application of this Convention—

- (a) Persons employed in undertakings or establishments in which only members of the employer's family are employed ;
- (b) Persons employed in public services whose conditions of service entitle them to an annual holiday with pay at least equal in duration to that prescribed by this Convention.

Article 2.

1. Every person to whom this Convention applies shall be entitled after one year of continuous service to an annual holiday with pay of at least six working-days.

2. Persons, including apprentices under sixteen years of age, shall be entitled after one year of continuous service to an annual holiday with pay of at least twelve working-days.

3. The following shall not be included in the annual holiday with pay :—

- (a) Public and customary holidays ;
- (b) Interruptions of attendance at work due to sickness.

4. National laws or regulations may authorize in special circumstances the division into parts of any part of the annual holiday with pay which exceeds the minimum duration prescribed by this Article.

5. The duration of the annual holiday with pay shall increase with the length of service under conditions to be prescribed by national laws or regulations.

Article 3.

Every person taking a holiday in virtue of Article 2 of this Convention shall receive in respect of the full period of the holiday either—

- (a) His usual remuneration, calculated in a manner which shall be prescribed by national laws or regulations, including the cash equivalent of his remuneration in kind, if any ; or
- (b) The remuneration determined by collective agreement.

Article 4.

Any agreement to relinquish the right to an annual holiday with pay, or to forgo such a holiday shall be void.

Article 5.

National laws or regulations may provide that a person who engages in paid employment during the course of his annual holiday may be deprived of his right to payment in respect of the period of the holiday.

Article 6.

A person dismissed for a reason imputable to the employer before he has taken a holiday due to him shall receive in respect of every day of holiday due to him in virtue of this Convention the remuneration provided for in Article 3.

Article 7.

In order to facilitate the effective enforcement of the provisions of this Convention, every employer shall be required to keep, in a form approved by the competent authority, a record showing—

- (a) The date of entry into his service of each person employed by him and the duration of the annual holiday with pay to which each such person is entitled ;
- (b) The dates at which the annual holiday with pay is taken by each person ;
- (c) The remuneration received by each person in respect of the period of his annual holiday with pay.

Article 8.

Each Member which ratifies this Convention shall establish a system of sanctions to ensure the application of its provisions.

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 Secretary-General of the League of Nations for registration.

Article 11.

1. This Convention shall be binding only upon those Members of the International Labour Organization whose ratifications have been registered with the Secretary-General.

2. It shall come into force twelve months after the date on which the ratifications of two Members have been registered with the Secretary-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.

As soon as the ratifications of two Members of the International Labour Organization have been registered, the Secretary-General of the League of Nations shall so notify all the Members of the International Labour Organization. He shall likewise notify them of the registration of ratifications which may be communicated subsequently by other Members of the Organization.

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 Secretary-General of the League of Nations 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.

At the expiration of each period of ten years after the coming into force of this Convention, the Governing Body of the International Labour Office shall present to the General Conference a report on the working of this Convention and shall consider 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 ratifications 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 16.

The French and English texts of this Convention shall both be authentic.

The foregoing is the authentic text of the Draft Convention duly adopted by the General Conference of the International Labour Organization during its Twentieth Session which was held at Geneva and declared closed the 24th day of June, 1936.

In faith whereof we have appended our signatures this 18th day of July, 1936.

President of the Conference :

C. V. BRAMSNAES.

Acting Director of the International Labour Office :

E. J. PHELAN.

RECOMMENDATION CONCERNING ANNUAL HOLIDAYS WITH PAY.

The General Conference of the International Labour Organization, having been convened at Geneva by the Governing Body of the International Labour Office, and having met in its Twentieth Session on 4th June, 1936, and having decided upon the adoption of certain proposals with regard to annual holidays with pay which is the second item on the agenda of the session, and having determined that these proposals shall take the form of a Recommendation, adopts, this twenty-fourth day of June, of the year one thousand nine hundred and thirty-six, the following Recommendation, which may be cited as the Holidays with Pay Recommendation, 1936:

The Conference, having adopted a Draft Convention concerning annual holidays with pay for employed persons, considering that the purpose of such holidays is to secure to employed persons opportunities for rest, recreation, and the development of their faculties, considering that the conditions laid down by the Draft Convention constitute the minimum standard to which any system of holidays with pay should conform, considering that it is desirable to deal in greater detail with the methods of applying the system, recommends that each Member should take the following suggestions into consideration:—

1. (1) The continuity of service required in order to become entitled to a holiday should not be affected by interruptions occasioned by sickness or accident, family events, military service, the exercise of civic rights, changes in the management of the undertaking in which the employed person is employed, or intermittent involuntary unemployment if the duration of the unemployment does not exceed a prescribed limit and if the person concerned resumes employment.

(2) In employments in which work is not carried on regularly throughout the year the condition of continuity of employment should be regarded as satisfied by the working of a prescribed number of days during a prescribed period.

(3) The holiday should be earned after one year's work, regardless whether this period has been spent in the employment of the same or of several employers. Each Government should take effective steps to ensure that the cost arising from the granting of the holidays shall not fall entirely upon the last employer.

2. Although it may be desirable that provision should be made in special cases for holidays to be divided, care should be exercised to ensure that such special arrangements do not run counter to the purpose of the holiday, which is to enable the employed person to make good the loss of physical and mental forces during the course of the year. In other cases division of the holiday should be restricted, save in quite exceptional circumstances, to division into not more than two parts, one of which should not be less than the prescribed minimum.

3. It would be desirable that the increase in the length of the holiday with the duration of service should begin to operate as soon as possible, and should be effected by regular stages so that a prescribed minimum will be attained after a prescribed number of years—for example, twelve working-days after seven years of service.

4. The fairest method of calculating the remuneration of a person paid in whole or in part on an output or piece-work basis would be to calculate the average earnings over a fairly long period so as to nullify as far as possible the effect of fluctuations in earnings.

5. It would be desirable that the Members should consider whether a more advantageous system should not be established for young persons and apprentices under eighteen years of age in order to ease the transition from school to industrial life during a period of physical development.

The foregoing is the authentic text of the Recommendation duly adopted by the General Conference of the International Labour Organization during its Twentieth Session which was held at Geneva and declared closed on the 24th day of June, 1936.

In faith whereof we have appended our signatures this 18th day of July, 1936.

President of the Conference:

C. V. BRAMSNAES.

Acting Director of the International Labour Office:

E. J. PHELAN.

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