

Description: Convention Ensuring Benefit or Allowances to the Involuntarily Unemployed (Note: Date of coming into force: 10:06:1938 .)

CONVENTION C044
Place: Geneva
Session of the Conference: 18
Date of adoption: 23:06:1934
Subject classification:
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Subject: Social Security

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 Eighteenth Session on 4 June 1934, and

Having decided upon the adoption of certain proposals with regard to unemployment insurance and various forms of relief for the unemployed, which is the second item on the agenda of the Session, and

Having determined that these proposals shall take the form of an international Convention,

adopts this twenty-third day of June of the year one thousand nine hundred and thirty-four the following Convention, which may be cited as the Unemployment Provision Convention, 1934:

Article 1

1. Each Member of the International Labour Organisation which ratifies this Convention undertakes to maintain a scheme ensuring to persons who are involuntarily unemployed and to whom this Convention applies--
 - (a) benefit , by which is meant a payment related to contributions paid in respect of the beneficiary's employment whether under a compulsory or a voluntary scheme; or
 - (b) an allowance , by which is meant provision being neither benefit nor a grant under the ordinary arrangements for the relief of destitution, but which may be remuneration for employment on relief works organised in accordance with the conditions laid down in Article 9; or
 - (c) a combination of benefit and an allowance.
2. Subject to this scheme ensuring to all persons to whom this Convention applies the benefit or allowance required by paragraph 1, the scheme may be--
 - (a) a compulsory insurance scheme;
 - (b) a voluntary insurance scheme;
 - (c) a combination of compulsory and voluntary insurance schemes; or
 - (d) any of the above alternatives combined with a complementary assistance scheme.
3. The conditions under which unemployed persons shall pass from benefit to allowances, if the occasion arises, shall be determined by national laws or regulations.

Article 2

1. This Convention applies to all persons habitually employed for wages or salary.
2. Provided that any Member may in its national laws or regulations make such exceptions as it deems necessary in respect of--
 - (a) persons employed in domestic service;
 - (b) homeworkers;
 - (c) workers whose employment is of a permanent character in the service of the government, a local authority or a public utility undertaking;
 - (d) non-manual workers whose earnings are considered by the competent authority to be sufficiently high for them to ensure their own protection against the risk of unemployment;
 - (e) workers whose employment is of a seasonal character, if the season is normally of less than six months' duration and they are not ordinarily employed during the remainder of the year in other employment covered by this Convention;
 - (f) young workers under a prescribed age;
 - (g) workers who exceed a prescribed age and are in receipt of a retiring or old age pension;
 - (i) members of the employer's family;
 - (j) exceptional classes of workers in whose cases there are special features which make it unnecessary or impracticable to apply to them the provisions of this Convention.
3. Members shall state in the annual reports submitted by them upon the application of this Convention the exceptions which they have made under the foregoing paragraph.
4. This Convention does not apply to seamen, sea fishermen, or agricultural workers as these categories may be defined by national laws or regulations.

Article 3

In cases of partial unemployment, benefit or an allowance shall be payable to unemployed persons whose employment has been reduced in a way to be determined by national laws or regulations.

Article 4

The right to receive benefit or an allowance may be made subject to compliance by the claimant with the following conditions:

- (a) that he is capable of and available for work;
- (b) that he has registered at a public employment exchange or at some other office approved by the competent authority and, subject to such exceptions and conditions as may be prescribed by national laws or regulations, attends there regularly; and
- (c) that he complies with such other requirements as may be prescribed by national laws or regulations for the purpose of showing whether he fulfils the conditions for the receipt of benefit or an allowance.

Article 5

The right to receive benefit or an allowance may be made subject to other conditions and disqualifications, in particular those provided for in Articles 6, 7, 8, 9, 10, 11 and 12. Any conditions or disqualifications other than those provided for in the said Articles shall be indicated in the annual reports submitted by Members upon the application of this Convention.

Article 6

The right to receive benefit or an allowance may be made conditional upon the completion of a qualifying period, involving--

- (a) the payment of a prescribed number of contributions within a prescribed period preceding the claim to benefit or preceding the commencement of the period of unemployment;
- (b) employment covered by this Convention for a prescribed period preceding the claim to benefit or an allowance or preceding the commencement of a period of unemployment; or
- (c) a combination of the above alternatives.

Article 7

The right to receive benefit or an allowance may be made conditional upon the completion of a waiting period the duration and conditions of application of which shall be prescribed by national laws or regulations.

Article 8

The right to receive benefit or an allowance may be made conditional upon attendance at a course of vocational or other instruction.

Article 9

The right to receive benefit or an allowance may be made conditional upon the acceptance, under conditions prescribed by national laws or regulations, of employment on relief works organised by a public authority.

Article 10

1. A claimant may be disqualified for the receipt of benefit or of an allowance for an appropriate period if he refuses an offer of suitable employment. Employment shall not be deemed to be suitable--
 - (a) if acceptance of it would involve residence in a district in which suitable accommodation is not available;
 - (b) if the rate of wages offered is lower, or the other conditions of employment are less favourable:
 - (i) where the employment offered is employment in the claimant's usual occupation and in the district where he was last ordinarily employed, than those which he might reasonably have expected to obtain, having regard to those which he habitually obtained in his usual occupation in that district or would have obtained if he had continued to be so employed;
 - (ii) in all other cases, than the standard generally observed at the time in the occupation and district in which the employment is offered;
 - (c) if the situation offered is vacant in consequence of a stoppage of work due to a trade dispute;
 - (d) if for any other reason, having regard to all the considerations involved including the personal circumstances of the claimant, its refusal by the claimant is not unreasonable.
2. A claimant may be disqualified for the receipt of benefit or of an allowance for an appropriate period--
 - (a) if he has lost his employment as a direct result of a stoppage of work due to a trade dispute;
 - (b) if he has lost his employment through his own misconduct or has left it voluntarily without just cause;
 - (c) if he has tried to obtain fraudulently any benefit or allowance; or
 - (d) if he fails to comply with the instructions of a public employment exchange or other competent authority with regard to applying for employment, or if it is proved by the competent authority that he has failed or neglected to avail himself of a reasonable opportunity of suitable employment.
3. A claimant who on leaving his employment has received from his employer in virtue of his contract of service compensation for and substantially equal to his loss of earnings for a certain period may be disqualified for the duration of that period for the receipt of benefit or of an allowance. A discharge allowance provided for by national laws or regulations shall not be deemed to be such compensation.

Article 11

The right to receive benefit or an allowance may be limited in duration to a period which shall not normally be less than 156 working days per year, and shall in no case be less than 78 working days per year.

Article 12

1. Benefit shall be payable irrespective of the needs of the claimant.
2. The right to receive an allowance may be made conditional upon the need of the claimant being proved in such manner as may be prescribed by national laws or regulations.

Article 13

1. Benefit shall be payable in cash, but supplementary grants to facilitate the re-employment of an insured person may be in kind.
2. Allowances may be in kind.

Article 14

There shall be constituted in accordance with national laws or regulations tribunals or other competent authorities for the purpose of determining questions arising on applications for benefit or an allowance made by persons to whom this Convention applies.

Article 15

1. The claimant may be disqualified for the receipt of benefit or of an allowance in respect of any period during which he is resident abroad.
2. Special provisions may be prescribed for frontier workers employed in one country and resident in another.

Article 16

Foreigners shall be entitled to benefit and allowances upon the same conditions as nationals. Provided that any Member may withhold from the nationals of any Member or State not bound by this Convention equality of treatment with its own nationals in respect of payments from funds to which the claimant has not contributed.

Article 17

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

Article 18

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 19

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

Article 20

1. A Member which has ratified this Convention may denounce it after the expiration of five 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 with the International Labour Office.
2. Each Member which has ratified this Convention and which does not, within the year following the expiration of the period of five years mentioned in the preceding paragraph, exercise the right of denunciation provided for in this Article, will be bound for another period of five years and, thereafter, may denounce this Convention at the expiration of each period of five years under the terms provided for in this Article.

Article 21

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 22

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 23

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