C93 Wages, Hours of Work and Manning (Sea) Convention (Revised), 1949

Description: Convention concerning Wages, Hours of Work on Board Ship and Manning (Revised 1949) (Note: This Convention has not yet come into force. It was revised in 1958 by Convention No. 109.)

Convention:C093
Place:Geneva
Session of the Conference:32
Date of adoption:18:06:1949
Subject classification: Conditions of Work
Subject: Seafarers

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 partial revision of the Wages, Hours of Work and Manning (Sea) Convention, 1946, adopted by the Conference at its Twenty-eighth Session, which is included in the twelfth item on the agenda of the session, and

Considering that these proposals must take the form of an international Convention,

adopts this eighteenth day of June of the year one thousand nine hundred and forty-nine the following Convention, which may be cited as the Wages, Hours of Work and Manning (Sea) Convention (Revised), 1949:

PART I. GENERAL PROVISIONS

Article 1

Nothing in this Convention shall be deemed to prejudice any provision concerning wages, hours of work on board ship, or manning, by law, award, custom or agreement between shipowners and seafarers, which ensures the seafarers conditions more favourable than those provided for by this Convention.

Article 2

1. This Convention applies to every vessel, whether publicly or privately owned, which is--

(a) mechanically propelled

(b) registered in a territory for which the Convention is in force

(c) engaged in the transport of cargo or passengers for the purpose of trade

(d) engaged in a voyage by sea.

2. This Convention does not apply to--

(a) vessels of less than 500 gross register tons

(b) wooden vessels of primitive build such as dhows and junks

(c) vessels engaged in fishing or in operations directly connected therewith

(d) estuarial craft.

Article 3

This Convention applies to every person who is engaged in any capacity on board a vessel except--

(a) a master

(b) a pilot not a member of the crew

(c) a doctor

(d) nursing staff engaged exclusively on nursing duties and hospital staff

(e) persons whose duties are connected solely with the cargo on board

(f) persons working exclusively on their own account or remunerated exclusively by a share of profits or earnings

(g) persons not remunerated for their services or remunerated only by a nominal salary or wage

(h) persons, excluding those in the service of a wireless telegraphy company, who are employed on board by an employer other than the shipowner

(i) travelling dockers (longshoremen) not members of the crew

(j) persons employed in whale-catching, floating factory or transport vessels or otherwise for the purpose of whaling or similar operations under conditions regulated by the provisions of a special collective whaling or similar agreement determining the rates of pay, hours of work and other conditions of service concluded by an organisation of seafarers

(k) persons who are not members of the crew (whether working on or off articles) but are employed while the vessel is in port on repairing, cleaning, loading or unloading the vessel or similar work or on port relief, maintenance, watch or caretaking duties.

Article 4

In this Convention--

(a) the term officer means a person other than a master who is described in the ship's articles as an officer or who is serving in a capacity which by law, collective agreement or custom is recognised as that of an officer

(b) the term rating means a member of the crew other than a master or officer and includes a certificated seaman

(c) the term able seaman means any person who by national laws or regulations, or in the absence of such laws or regulations by collective agreement, is deemed to be competent to perform any duty which may be required of a rating serving in the deck department other than the duties of a leading or specialist rating

(d) the term basic pay or wages means the remuneration of an officer or rating in cash, exclusive of overtime, premiums or any other allowances either in cash or in kind.

PART II. WAGES

Article 5

1. The basic pay or wages for a calendar month of service of an able seaman employed in a vessel to which this Convention applies shall not be less than sixteen pounds in currency of the United Kingdom of Great Britain and Northern Ireland or sixty-four dollars in currency of the United States of America or the equivalent thereof in other currency.

2. In the event of a change in the par value of the pound or the dollar being notified to the International Monetary Fund--

(a) the minimum basic wage prescribed in paragraph 1 of this Article in terms of the currency in respect of which such notification has been made shall be adjusted so as to maintain equivalence with the other currency

(b) the adjustment shall be notified by the Director-General of the International Labour Office to the Members of the International Labour Organisation

(c) the minimum basic wage so adjusted shall be binding upon Members which have ratified the Convention in the same manner as the wage prescribed in paragraph 1 of this Article, and shall take effect for each such Member not later than the beginning of the second calendar month following that in which the Director-General communicates the change to Members.

Article 6

1. In the case of ships in which are employed such groups of ratings as necessitate the employment of larger groups of ratings than would otherwise be employed the minimum basic pay or wages of an able seaman shall be an amount fixed as the adjusted equivalent of the minimum basic pay or wages stipulated in the preceding article.

2. The adjusted equivalent shall be fixed in accordance with the principle of equal pay for equal work and due allowance shall be made for--

(a) the extra number of ratings of such groups who are employed

(b) any increase or decrease in cost to the shipowner consequent on the employment of such groups of ratings.

3. The adjusted equivalent shall be determined by collective agreement between the organisations of shipowners and seafarers concerned or, failing such agreement and subject to both countries concerned having ratified the Convention, by the competent authority of the territory of the group of seafarers concerned.

Article 7

If meals are not provided free of charge, the minimum basic pay or wages shall be increased by an amount to be determined by collective agreement between the organisations of shipowners and seafarers concerned or, failing such agreement, by the competent authority.

Article 8

1. The rate to be used for determining the equivalent in other currency of the minimum basic pay or wages prescribed in Article 5 shall be the ratio between the par value of that currency and the par value of the pound of the United Kingdom of Great Britain and Northern Ireland or of the dollar of the United States of America.

2. In the case of the currency of a Member of the International Labour Organisation which is a Member of the International Monetary Fund, the par value shall be that currently in effect under the Articles of Agreement of the International Monetary Fund.

3. In the case of the currency of a Member of the International Labour Organisation which is not a Member of the International Monetary Fund, the par value shall be the official rate of exchange, in terms of gold or of the dollar of the United States of America of the weight and fineness in effect on 1 July 1944, currently in effect for payments and transfers for current international transactions.

4. In the case of any currency which cannot be dealt with under the provisions of either of the two preceding paragraphs--

(a) the rate to be adopted for the purpose of this Article shall be determined by the Member of the International Labour Organisation concerned

(b) the Member concerned shall notify its decision to the Director-General of the International Labour Office, who shall forthwith inform the other Members which have ratified this Convention

(c) within a period of six months from the date on which the information is communicated by the Director-General, any other Member which has ratified the Convention may inform the Director-General of the International Labour Office that it objects to the decision, and the Director-General shall thereupon inform the Member concerned and the other Members which have ratified the Convention and shall report the matter to the Committee provided for in Article 21

(d) the foregoing provisions shall apply in the event of any change in the decision of the Member concerned.

5. A change in basic pay or wages as a result of a change in the rate for determining the equivalent in other currency shall take effect not later than the beginning of the second calendar month following that in which the change in the relative par values of the currencies concerned becomes effective.

Article 9

Each Member shall take the necessary measures--

(a) to ensure, by way of a system of supervision and sanctions, that remuneration is paid at not less than the rate required by this Convention

(b) to ensure that any person who has been paid at a rate less than that required by this Convention is enabled to recover, by an inexpensive and expeditious judicial or other procedure, the amount by which he has been underpaid.

PART III. HOURS OF WORK ON BOARD SHIP

Article 10

This Part of this Convention does not apply to--

(a) a chief officer or chief engineer

(b) a purser

(c) any other officer in charge of a department who does not keep watch

(d) a person employed in the clerical or catering department of a vessel who is--

(i) serving in a superior grade as defined by a collective agreement between the organisations of shipowners and seafarers concerned

(ii) working chiefly on his own account

(iii) remunerated solely on a commission basis or chiefly by a share of profits or earnings.

Article 11

In this Part of this Convention--

(a) the term near trade ship means a vessel exclusively engaged in voyages upon which it does not proceed farther from the country from which it trades than the near-by ports of neighbouring countries within geographical limits which--

(i) are clearly specified by national laws, regulations or by collective agreement between organisations of shipowners and seafarers

(ii) are uniform in respect of the application of all the provisions of this Part of the Convention

(iii) have been notified by the Member when registering its ratification by a declaration annexed thereto

(iv) have been fixed after consultation with the other Members concerned

(b) the term distant trade ship means a vessel other than a near trade ship

(c) the term passenger ship means a vessel licensed to carry more than twelve passengers

(d) the term hours of work means time during which a person is required by the orders of a superior to do work on account of the vessel or the owner.

Article 12

1. This Article applies to officers and ratings employed in the deck, engine-room and radio departments of near trade ships.

2. The normal hours of work of an officer or rating shall not exceed--

(a) when the vessel is at sea, twenty-four hours in any period of two consecutive days

(b) when the vessel is in port--

(i) on the weekly day of rest, such time not exceeding two hours as is necessary for ordinary routine and sanitary duties

(ii) on other days, eight hours except where a collective agreement provides for less on any day

(c) one hundred and twelve hours in a period of two consecutive weeks.

3. Time worked in excess of the limits prescribed in subparagraphs (a) and (b) of paragraph 2 shall be regarded as overtime for which the officer or rating concerned shall be entitled to compensation in accordance with the provisions of Article 17 of this Convention.

4. When the total number of hours worked in a period of two consecutive weeks, excluding hours regarded as overtime, exceeds one hundred and twelve, the officer or rating concerned shall be compensated by time off in port or otherwise as may be determined by collective agreement between the organisations of shipowners and seafarers concerned.

5. National laws or regulations or collective agreements shall determine when a ship is to be regarded as being at sea and when it is to be regarded as being in port for the purposes of this Article.

Article 13

1. This Article applies to officers and ratings employed in the deck, engine-room and radio departments of distant trade ships.

2. When the vessel is at sea and on days of sailing and arrival, the normal hours of work of an officer or rating shall not exceed eight hours in any one day.

3. When the vessel is in port, the normal hours of work of an officer or rating shall not exceed-
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(a) on the weekly day of rest, such time not exceeding two hours as is necessary for ordinary routine and sanitary duties

(b) on other days, eight hours except where a collective agreement provides for less on any day.

4. Time worked in excess of the daily limits prescribed in the preceding paragraphs shall be regarded as overtime for which the officer or rating shall be entitled to compensation in accordance with the provisions of Article 17 of this Convention.

5. When the total number of hours worked in a period of one week, excluding hours regarded as overtime, exceeds forty-eight, the officer or rating shall be compensated by time off in port or otherwise as may be determined by collective agreement between the organisations of shipowners and seafarers concerned.

6. National laws or regulations or collective agreements shall determine when a ship is to be regarded as being at sea and when it is to be regarded as being in port for the purposes of this Article.

Article 14

1. This Article applies to persons employed in the catering department of a vessel.

2. In the case of a passenger ship normal hours of work shall not exceed--

(a) when the vessel is at sea and on days of sailing and arrival, ten hours in any consecutive period of fourteen hours

(b) when the vessel is in port--

(i) when passengers are on board, ten hours in any period of fourteen hours

(ii) in other cases--

on the day preceding the weekly day of rest, five hours

on the weekly day of rest, five hours for persons engaged in messing duties and such time not exceeding two hours as is necessary for ordinary routine and sanitary duties in the case of other persons

on any other day, eight hours.

3. In the case of a vessel not a passenger ship, normal hours of work shall not exceed--

(a) when the vessel is at sea and on days of sailing and arrival, nine hours in any period of thirteen hours

(b) when the vessel is in port--

on the weekly day of rest, five hours

on the day preceding the weekly day of rest, six hours

on any other days, eight hours in any period of twelve hours.

4. When the total number of hours worked in a period of two consecutive weeks exceeds one hundred and twelve the person concerned shall be compensated by time off in port or otherwise as may be determined by collective agreement between the organisations of shipowners and seafarers concerned.

5. National laws or regulations or collective agreements between the organisations of shipowners and seafarers concerned may make special arrangements for the regulation of the hours of work of night watchmen.

Article 15

1. This Article applies to officers and ratings employed in near and distant trade ships.

2. Time off in port should be the subject of negotiations between the organisations of shipowners and seafarers concerned on the basis that officers and ratings should receive the maximum time off in port that is practicable and that such time off should not count as leave.

Article 16

1. The competent authority may exempt from the application of this Part of this Convention officers not already excluded therefrom by virtue of Article 10, subject to the following conditions:

(a) the officers must be entitled in virtue of a collective agreement to conditions of employment which the competent authority certifies constitute full compensation for the non-application of this Part of the Convention

(b) the collective agreement must have been originally concluded before 30 June 1946 and the agreement or a renewal thereof must be still in force.

2. A Member having recourse to the provisions of paragraph 1 shall supply to the Director-General of the International Labour Office full particulars of any such collective agreement and the Director-General shall lay a summary of the information received by him before the Committee referred to in Article 21.

3. The said Committee shall consider whether the collective agreements reported to it provide for conditions of employment which constitute full compensation for the non-application of this Part of this Convention. Each Member ratifying the Convention undertakes to give consideration to any observations or suggestions made by the Committee concerning such agreements and further undertakes to bring any such observations or suggestions to the notice of the organisations of shipowners and officers who are parties to such agreements.

Article 17

1. The rate or rates of compensation for overtime shall be prescribed by national laws or regulations or be fixed by collective agreement, but in no case shall the hourly rate of payment for overtime be less than one and a quarter times the basic pay or wages per hour.

2. Collective agreements may provide for compensation by equivalent time off duty and off the vessel in lieu of cash payment or for any other method of compensation.

Article 18

1. The consistent working of overtime shall be avoided whenever possible.

2. Time spent in the following work shall not be included in normal hours of work or be regarded as overtime for the purpose of this Part of this Convention:

(a) work that the master deems to be necessary and urgent for the safety of the vessel, cargo or persons on board

(b) work required by the master for the purpose of giving assistance to other vessels or persons in distress

(c) musters, fire, lifeboat and similar drills of the kind prescribed by the International Convention for the Safety of Life at Sea for the time being in force

(d) extra work for the purposes of customs or quarantine or other health formalities

(e) normal and necessary work by officers for the determination of the position of the ship and for making meteorological observations

(f) extra time required for the normal relieving of watches.

3. Nothing in this Convention shall be deemed to impair the right and duty of the master of a vessel to require, or the duty of an officer or rating to perform, any work deemed by the master to be necessary for the safe and efficient operation of the vessel.

Article 19

1. No person under the age of sixteen years shall work at night.

2. For the purpose of this Article, night means a period of at least nine consecutive hours between times before and after midnight to be prescribed by national laws or regulations or collective agreements.

PART IV. MANNING

Article 20

1. Every vessel to which this Convention applies shall be sufficiently and efficiently manned for the purposes of--

(a) ensuring the safety of life at sea

(b) giving effect to the provisions of Part III of this Convention

(c) preventing excessive strain upon the crew and avoiding or minimising as far as practicable the working of overtime.

2. Each Member undertakes to maintain, or to satisfy itself that there is maintained, efficient machinery for the investigation and settlement of any complaint or dispute concerning the manning of a vessel.

3. Representatives of the organisations of shipowners and seafarers shall participate, with or without other persons or authorities, in the operation of such machinery.

PART VI. APPLICATION OF THE CONVENTION

Article 21

1. Effect may be given to this Convention by (a) laws or regulations

2. Where effect has been given to any provision of this Convention by a collective agreement in pursuance of paragraph 1 of this Article, then notwithstanding anything contained in Article 9 of this Convention the Member shall not be required to take any measures in pursuance of Article 9 of this Convention in respect of the provisions of the Convention to which effect has been so given by collective agreement.

3. Each Member ratifying this Convention shall supply to the Director-General of the International Labour Office information on the measures by which the Convention is applied, including particulars of any collective agreements in force which give effect to any of its provisions.

4. Each Member ratifying this Convention undertakes to take part, by means of a tripartite delegation, in any Committee representative of Governments and shipowners and seafarers' organisations, and including, in an advisory capacity, representatives of the Joint Maritime Commission of the International Labour Office, which may be set up for the purpose of examining the measures taken to give effect to the Convention.

5. The Director-General shall lay before the said Committee a summary of the information received by him under paragraph 3 above.

6. The Committee shall consider whether the collective agreements reported to it give full effect to the provisions of the Convention. Each Member ratifying the Convention undertakes to give consideration to any observations or suggestions concerning the application of the Convention made by the Committee, and further undertakes to bring to the notice of the organisations of shipowners and of seafarers who are parties to any of the collective agreements mentioned in paragraph 1 any observations or suggestions of the aforesaid Committee concerning the degree to which such agreements give effect to the provisions of the Convention.

Article 22

1. Each Member which ratifies this Convention shall be responsible for the application of its provisions to vessels registered in its territory and shall, except where effect is given to the Convention by collective agreements, maintain in force laws or regulations which--

(a) determine the respective responsibilities of the shipowner and the master for ensuring compliance therewith

(b) prescribe adequate penalties for any violation thereof

(c) provide for adequate public supervision of compliance with Part IV of the Convention

(d) require the keeping of the records of hours worked necessary for the purposes of Part III of the Convention and of the compensation granted in respect of overtime and of excess hours of work

(e) ensure to seafarers the same remedies for recovering payments due to them in respect of compensation of overtime and for excess hours of work as they have for recovering other arrears of pay.

2. The organisations of shipowners and seafarers concerned shall, so far as is reasonable and practicable, be consulted in the framing of all laws or regulations for giving effect to the provisions of this Convention.

Article 23

For the purpose of giving mutual assistance in the enforcement of this Convention, every Member which ratifies the Convention undertakes to require the competent authority in every port in its territory to inform the consular or other appropriate authority of any other such Member of any case in which it comes to the notice of such authority that the requirements of the Convention are not being complied with in a vessel registered in the territory of that other Member.

PART V. FINAL PROVISIONS

Article 24

For the purpose of Article 28 of the Hours of Work and Manning (Sea) Convention, 1936, the present Convention shall be regarded as a Convention revising that Convention.

Article 25

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

Article 26

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 first come into force six months after the date at which the following conditions have been fulfilled:

(a) the ratifications of nine of the following Members have been registered: United States of America, Argentine Republic, Australia, Belgium, Brazil, Canada, Chile, China, Denmark, Finland, France, United Kingdom of Great Britain and Northern Ireland, Greece, India, Ireland, Italy, Netherlands, Norway, Poland, Portugal, Sweden, Turkey, Yugoslavia

(b) at least five of the Members whose ratifications have been registered have at the date of registration each not less than one million gross register tons of shipping

(c) the aggregate tonnage of shipping possessed at the time of registration by the Members whose ratifications have been registered is not less than fifteen million gross register tons.

3. The provisions of the preceding paragraph are included for the purpose of facilitating and encouraging early ratification of the Convention by Member States.

4. After the Convention has first come into force, it shall come into force for any Member six months after the date on which its ratification has been registered.

Article 27

1. A Member which has ratified this Convention may denounce it after the expiration of five years from the date on which the Convention 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 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 28

1. The Director-General of the International Labour Office shall notify all the 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 last of the ratifications required to bring the Convention into force, 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 29

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 30

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