

## Convention No. 94



### Labour Clauses (Public Contracts) Convention, 1949

- ★ The objective of Convention No. 94 is to ensure respect for minimum labour standards in the execution of public contracts.

**Public contracts:** contracts to which one at least of the parties is a central public authority, the execution of which involves the expenditure of public funds and the employment of workers by the other party to the contract and which is concluded for:

- the construction, alteration, repair or demolition of public works;
- the manufacture, assembly, handling or shipment of materials, supplies or equipment; or
- the performance or supply of services.

- ★ The Convention also applies to work carried out by subcontractors and contracts awarded by authorities other than the central authorities under conditions to be determined by the competent authority.
- ★ It does not cover contracts relating to the conditions of labour of public officials or Government employees.
- ★ Furthermore, a State may, after consultation with the organizations of employers and workers concerned, exclude from the application of the Convention:
  - ☉ contracts involving the expenditure of public funds of an amount not exceeding a certain limit;
  - ☉ persons occupying positions of management or of a technical, professional or scientific character and who do not ordinarily perform manual work.
- ★ Public contracts have to include clauses ensuring to the workers concerned wages, hours of work and other conditions of labour which are not less favourable than those established for work of the same character in the trade or industry concerned in the same district:
  - ☉ by collective agreement;

- ☉ by arbitration award; or
- ☉ by national laws or regulations.
- ★ The terms of the clauses to be included in contracts have to be determined by the competent authority, in the manner considered most appropriate to the national conditions, after consultation with the organizations of employers and workers concerned.
- ★ Appropriate measures have to be taken, by advertising specifications or otherwise, to ensure that persons tendering for contracts are aware of the terms of the clauses.
- ★ The competent authority has to take adequate measures to ensure fair and reasonable conditions of health, safety and welfare for these workers where appropriate provisions relating to these matters are not applicable in virtue of national laws or regulations, collective agreement or arbitration award.
- ★ The Convention also provides for measures to give effect to its provisions, including:
  - ☉ the publication of the measures to give it effect;
  - ☉ the maintenance of a system of inspection;
  - ☉ the application of adequate sanctions for failure to observe and apply the provisions of labour clauses in public contracts;
  - ☉ measures to enable the workers concerned to obtain the wages to which they are entitled, for example by the withholding of payments due to the employer under the contract.

## RECOMMENDATION No. 84

### Labour Clauses (Public Contracts) Recommendation, 1949

- The Recommendation indicates that labour clauses in public contracts should prescribe:
  - the normal and overtime rate of wages to be paid to the various categories of workers;
  - the manner in which hours of work are to be regulated;
  - holiday and sick leave provisions.
- It also provides that, in cases where private employers are granted subsidies or are licensed to operate a public utility, provisions substantially similar to those of the labour clauses in public contracts should be applied.