

INTERNATIONAL LABOUR OFFICE

REPORT FORM

FOR THE

**INVALIDITY INSURANCE (AGRICULTURE)
CONVENTION, 1933 (No. 38)**

The present report form is for the use of countries which have ratified the Convention. It has been approved by the Governing Body of the International Labour Office, in accordance with article 22 of the ILO Constitution, which reads as follows: "Each of the Members agrees to make an annual report to the International Labour Office on the measures which it has taken to give effect to the provisions of Conventions to which it is a party. These reports shall be made in such form and shall contain such particulars as the Governing Body may request."

GENEVA

1980

REPORT

for the period to, made by the Government of
., in accordance with article 22 of the
Constitution of the International Labour Organisation, on the measures taken to give
effect to the provisions of the

INVALIDITY INSURANCE (AGRICULTURE) CONVENTION, 1933

ratification of which was registered on

- I. Please give a list of the legislation and administrative regulations, etc., which apply the provisions of the Convention. Where this has not already been done, please forward copies of the said legislation, etc., to the International Labour Office with this report.

Please give any available information concerning the extent to which these laws and regulations have been enacted or modified to permit of, or as a result of, ratification.

- II. Please indicate in detail for each of the following Articles of the Convention the provisions of the above-mentioned legislation and administrative regulations, etc., or other measures, under which each Article is applied.

If in your country ratification of the Convention gives the force of national law to its terms please indicate by virtue of what constitutional provisions the ratification has had this effect. Please also specify what action has been taken to make effective those provisions of the Convention which require a national authority to take certain specific steps for its implementation, such as measures to define its exact scope and the extent to which advantage may be taken of permissive exceptions provided for in it, measures to draw the attention of the parties concerned to its provisions, and arrangements for adequate inspection and penalties.

If the Committee of Experts or the Conference Committee on the Application of Conventions and Recommendations has requested additional information or has made an observation on the measures adopted to apply the Convention, please supply the information asked for or indicate the action taken by your Government to settle the points in question.

ARTICLE I

Each Member of the International Labour Organisation which ratifies this Convention undertakes to set up or maintain a scheme of compulsory invalidity insurance which shall be based on provisions at least equivalent to those contained in this Convention.

ARTICLE 2

1. The compulsory invalidity insurance scheme shall apply to manual and non-manual workers, including apprentices, employed in agricultural undertakings, and domestic servants employed in the households of agricultural employers.

2. Provided that any Member may in its national laws or regulations make such exceptions as it deems necessary in respect of—

(a) workers whose remuneration exceeds a prescribed amount and, where national laws or regulations do not make this exception general in its application, any non-manual workers engaged in occupations which are ordinarily considered as liberal professions;

(b) workers who are not paid a money wage;

(c) young workers under a prescribed age and workers too old to become insured when they first enter employment;

(d) outworkers whose conditions of work are not of a like nature to those of ordinary wage earners;

(e) members of the employer's family;

(f) workers whose employment is of such a nature that, its total duration being necessarily short, they cannot qualify for benefit, and persons engaged solely in occasional or subsidiary employment;

(g) invalid workers and workers in receipt of an invalidity or old-age pension;

(h) retired public officials employed for remuneration and persons possessing a private income, where the retirement pension or private income is at least equal to the invalidity pension provided by national laws or regulations;

(i) workers who, during their studies, give lessons or work for remuneration in preparation for an occupation corresponding to such studies.

3. Provided also that there may be exempted from liability to insurance persons who, by virtue of any law, regulations or special scheme, are or will become entitled to invalidity benefits at least equivalent on the whole to those provided for in this Convention.

Please indicate how the scope of compulsory invalidity insurance is determined, in so far as it applies to manual and non-manual workers, and apprentices in agricultural undertakings, and domestic servants in the employment of agricultural employers.

Please indicate whether and to what extent advantage has been taken of the exceptions provided for in the second paragraph of this Article, and in particular:

1. *The remuneration limit within which the scope is determined and/or the definition applied to non-manual workers engaged in occupations which are ordinarily considered as liberal professions (subparagraph (a));*

2. *The lowest and highest age limits for workers who enter employment for the first time (subparagraph (c));*

3. *The definition applied to employment of short duration, to occasional employment, and to subsidiary employment (subparagraph (f));*

4. *On what principles exceptions have been made as provided for in the other subparagraphs (b), (d), (e) and (g) to (i) of paragraph 2 of this Article.*

If advantage has been taken of the exemption provided for in paragraph 3 of this article, please

(1) *indicate the classes of persons exempted;*

(2) *give a list of the statutes, regulations and orders which provide invalidity benefits for the said persons; and*

(3) *forward with the present report texts of the said statutes, regulations and orders.*

ARTICLE 3

National laws or regulations shall, under conditions to be determined by them, either entitle persons formerly compulsorily insured who are not in receipt of a pension to continue their insurance voluntarily or entitle such persons to maintain their rights by the periodical payment of a fee for the purpose, unless the said rights are automatically maintained or, in the case of married women, the husband, if not liable to compulsory insurance, is permitted to insure voluntarily and thereby to qualify his wife for an old-age or widow's pension.

Please indicate whether the rights of persons formerly in compulsory insurance are automatically maintained within the meaning of this Article, and, if not, what opportunity the law grants to the said persons to maintain their rights and on what terms they can take advantage of that opportunity.

ARTICLE 4

1. An insured person who becomes generally incapacitated for work and thereby unable to earn an appreciable remuneration shall be entitled to an invalidity pension.

2. Provided that national laws or regulations which secure to insured persons medical treatment and attendance throughout invalidity and, if invalidity terminates in death, secure pensions at the full rate to widows without any condition as to age or invalidity and to orphans, may make the award of an invalidity pension conditional upon the insured person's being unable to perform remunerative work.

3. In the case of special schemes for non-manual workers, an insured person who suffers from incapacity which renders him unable to earn an appreciable remuneration in the occupation in which he was ordinarily engaged or in a similar occupation shall be entitled to an invalidity pension.

Please indicate how the invalidity giving title to a pension is defined.

ARTICLE 5

1. Notwithstanding the provisions of Article 6, the right to a pension may be made conditional upon the completion of a qualifying period, which may involve the payment of a minimum number of contributions since entry into insurance and during a prescribed period immediately preceding the happening of the event insured against.

2. The duration of the qualifying period shall not exceed 60 contribution months, 250 contribution weeks or 1,500 contribution days.

3. Where the completion of the qualifying period involves the payment of a prescribed number of contributions during a prescribed period immediately preceding the happening of the event insured against, periods for which benefit has been paid in respect of temporary incapacity for work or of unemployment shall be reckoned as contribution periods to such extent and under such conditions as may be determined by national laws or regulations.

Please indicate whether the right to a pension is made conditional on the completion of a qualifying period and, if the law so requires, what is the minimum number of contributions prescribed and during what period they must be paid, and also give particulars of the measures taken to give effect to paragraph 3 of this Article.

ARTICLE 6

1. An insured person who ceases to be liable to insurance without being entitled to a benefit representing a return for the contributions credited to his account shall retain his rights in respect of these contributions.

2. Provided that national laws or regulations may terminate rights in respect of contributions on the expiry of a term which shall be reckoned from the date when the insured person so ceased to be liable to insurance and which shall be either variable or fixed.

(a) Where the term is variable, it shall not be less than one-third (less the periods for which contributions have not been credited) of the total of the periods for which contributions have been credited since entry into insurance.

(b) Where the term is fixed, it shall in no case be less than eighteen months and rights in respect of contributions may be terminated on the expiry of the term unless, in the course thereof, a minimum number of contributions prescribed by national laws or regulations has been credited to the account of the insured person in virtue of either compulsory or voluntarily continued insurance.

Please indicate whether an insured person who ceases to be liable to insurance retains indefinitely his rights in respect of contributions credited to his account.

If not, please indicate in what way the said rights are limited and give information to show conformity either with subparagraph (a) or with subparagraph (b) of paragraph 2 of this Article.

ARTICLE 7

1. The pension shall, whether or not dependent on the time spent in insurance, be a fixed sum or a percentage of the remuneration taken into account for insurance purposes or vary with the amount of the contributions paid.

2. Where the pension varies with the time spent in insurance and its award is made conditional upon the completion by the insured person of a qualifying period, the pension shall, unless a minimum rate is guaranteed, include a fixed sum or fixed portion not dependent on the time spent in insurance.

3. Where contributions are graduated according to remuneration, the remuneration taken into account for this purpose shall also be taken into account for the purpose of computing the pension, whether or not the pension varies with the time spent in insurance.

Please indicate whether or not the pension is dependent on the time spent in insurance.

1. *If the time spent in insurance is not taken into account, please indicate the amount of the pension.*

2. *If the pension is dependent in part on the time spent in insurance, please indicate what are its constituent elements:*

- (a) *if the pension includes a guaranteed minimum rate, please indicate the rate;*
- (b) *if not, but if it includes a fixed sum or portion, please indicate its amount;*
- (c) *please indicate how the portion which varies with the time spent in insurance is calculated.*

ARTICLE 8

Insurance institutions shall be authorised, under conditions which shall be determined by national laws or regulations, to grant benefits in kind for the purpose of preventing, postponing, alleviating or curing invalidity to persons who are in receipt of or may be entitled to claim a pension on the ground of invalidity.

Please indicate what benefits in kind are authorised and under what conditions.

ARTICLE 9

1. The right to benefits may be forfeited or suspended in whole or in part if the person concerned—

- (a) has brought about his invalidity by a criminal offence or wilful misconduct;
- or
- (b) has acted fraudulently towards the insurance institution.

2. The pension may be suspended in whole or in part while the person concerned—

(a) is entirely maintained at the public expense or by a social insurance institution;

(b) refuses without valid reason to comply with the doctor's orders or the instructions relating to the conduct of invalids or voluntarily and without authorisation removes himself from the supervision of the insurance institution;

(c) is in receipt of another periodical cash benefit payable by virtue of any law or regulations concerning compulsory social insurance, pensions or workmen's compensation for accidents or occupational diseases; or

(d) is in employment involving compulsory insurance or, in the case of special schemes for non-manual workers, is in receipt of remuneration exceeding a prescribed rate.

Please indicate the grounds of forfeit or suspension.

ARTICLE 10

1. The insured persons and their employers shall contribute to the financial resources of the insurance scheme.

2. National laws or regulations may exempt from liability to pay contributions—

- (a) apprentices and young workers under a prescribed age;

- (b) workers who are not paid a money wage or whose wages are very low;
- (c) workers in the service of an employer who pays contributions assessed on a basis which is not dependent on the number of workers employed.

3. Contributions from employers may be dispensed with under laws or regulations concerning schemes of national insurance not restricted in scope to employed persons.

4. The public authorities shall contribute to the financial resources or to the benefits of insurance schemes covering employed persons in general or manual workers.

5. National laws or regulations which, at the time of the adoption of this Convention, do not require contributions from insured persons may continue not to require such contributions.

Please indicate the conditions under which the insured persons and their employers contribute to the financial resources of the insurance scheme, and in particular the amount or the rate of their respective contributions.

Please indicate the way in which the public authorities contribute to the financial resources or to the benefits of the insurance scheme.

ARTICLE II

1. The insurance scheme shall be administered by institutions founded by the public authorities and not conducted with a view to profit, or by State insurance funds.

2. Provided that national laws or regulations may also entrust its administration to institutions founded on the initiative of the parties concerned or of their organisations and duly approved by the public authorities.

3. The funds of insurance institutions and State insurance funds shall be administered separately from the public funds.

4. Representatives of the insured persons shall participate in the management of insurance institutions under conditions to be determined by national laws or regulations, which may likewise decide as to the participation of representatives of employers and of the public authorities.

5. Self-governing insurance institutions shall be under the administrative and financial supervision of the public authorities.

Please indicate the constitution and the functions of the institutions entrusted with the administration of the insurance scheme and their particular nature (whether they are institutions founded by the public authorities and not conducted with a view to profit, whether they are State insurance funds, or whether they are institutions founded on the initiative of the parties concerned or of their organisations and duly approved by the public authorities).

Please indicate the measures taken to give effect to paragraph 3 of this Article.

Please indicate the conditions under which the representatives of insured persons and, where the law so provides, the representatives of employers and of public authorities, participate in the management of the insurance institutions.

Please indicate what are the authorities entrusted with the administrative and financial supervision of the self-governing insurance institutions.

ARTICLE 12

1. The insured person or his legal representatives shall have a right of appeal in any dispute concerning benefits.

2. Such disputes shall be referred to special tribunals which shall include judges, whether professional or not, who are specially cognisant of the purposes of insurance and the needs of insured persons or are assisted by assessors chosen as representative of insured persons and employers respectively.

3. In any dispute concerning liability to insurance or the rate of contribution, the employed person and, in the case of schemes providing for an employer's contribution, his employer shall have a right of appeal.

Please indicate whether the law grants to the insured person or his legal representatives a right of appeal in case of dispute concerning benefits.

Please indicate the conditions of the special tribunals which deal with disputes concerning benefits.

Please indicate whether the law grants to the employed person or to his employer a right of appeal in case of dispute concerning liability to insurance or the rate of contribution.

ARTICLE 13

1. Foreign employed persons shall be liable to insurance and to the payment of contributions under the same conditions as nationals.

2. Foreign insured persons and their dependants shall be entitled under the same conditions as nationals to the benefits derived from the contributions credited to their account.

3. Foreign insured persons and their dependants shall, if nationals of a Member which is bound by this Convention and the laws or regulations of which therefore provide for a State subsidy towards the financial resources or benefits of the insurance scheme in conformity with Article 10, also be entitled to any subsidy or supplement to or fraction of a pension which is payable out of public funds.

4. Provided that national laws or regulations may restrict to nationals the right to any subsidy or supplement to or fraction of a pension which is payable out of public funds and granted solely to insured persons who have exceeded a prescribed age at the date when the laws or regulations providing for compulsory insurance come into force.

5. Any restrictions which may apply in the event of residence abroad shall only apply to pensioners and their dependants who are nationals of any Member bound by this Convention and reside in the territory of any Member bound thereby to the extent to which they apply to nationals of the country in which the pension has been acquired. Provided that any subsidy or supplement to or fraction of a pension which is payable out of public funds may be withheld.

Please indicate whether and under what conditions foreign employed persons and their dependants are treated on a footing of equality with nationals.

- (a) *in respect of liability to insurance and payment of contributions (paragraph 1);*
- (b) *in respect of benefits derived from contributions credited to their account (paragraph 2);*
- (c) *in respect of subsidies or supplements to or fractions of pensions payable out of public funds (paragraphs 3 and 4);*
- (d) *in respect of restrictions, if any, which apply in case of residence abroad (paragraph 5).*

ARTICLE 14

1. The insurance of employed persons shall be governed by the law applicable at their place of employment.

2. In the interest of continuity of insurance exceptions may be made to this rule by agreement between the Members concerned.

If agreements have been made providing for exceptions from the rule laid down in the first paragraph of this Article, please forward copies of the said agreements.

ARTICLE 15

Any Member may prescribe special provisions for frontier workers whose place of employment is in its territory and whose place of residence is abroad.

If special provisions have been made for frontier workers, please indicate their principal elements.

ARTICLE 16

In countries which, at the time when this Convention first comes into force, have no laws or regulations providing for compulsory invalidity insurance, an existing non-

contributory pension scheme which guarantees an individual right to a pension under the conditions defined in Articles 17 to 23 hereinafter shall be deemed to satisfy the requirements of this Convention.

If, in order to apply the Convention, recourse is had to Articles 16 to 23, please indicate whether the scheme of non-contributory pensions existing before 18 July 1937 guarantees an individual right to a pension under the conditions defined in Articles 17 to 23.

ARTICLE 17

A person who becomes generally incapacitated for work and thereby unable to earn an appreciable remuneration shall be entitled to a pension.

Please indicate how the invalidity giving title to a pension is defined.

ARTICLE 18

The right to a pension may be made conditional upon the claimant's having been resident in the territory of the Member for a period immediately preceding the making of the claim. This period shall be determined by national laws or regulations but shall not exceed five years.

Please indicate the length of the residence period required for right to a pension.

ARTICLE 19

1. A claimant shall be entitled to a pension if the annual value of his means does not exceed a limit which shall be fixed by national laws or regulations with due regard to the minimum cost of living.

2. Means up to a level which shall be determined by national laws or regulations shall be exempted for the purpose of the assessment of means.

Please indicate the upper limit of the annual value of means beyond which a right to a pension cannot arise, and also the amount of the means exempted within the meaning of paragraph 2 of this Article.

ARTICLE 20

The rate of pension shall be an amount which, together with any means of the claimant in excess of the means exempted, is at least sufficient to cover the essential needs of the pensioner.

Please indicate the amount of the pension and how it is calculated in relation to the means in excess of those exempted.

ARTICLE 21

1. A claimant shall have a right of appeal in any dispute concerning the award of a pension or the rate thereof.

2. The appeal shall lie to an authority other than the authority which gave the decision in the first instance.

Please indicate whether the law grants a claimant a right of appeal in case of dispute concerning the award of a pension or the rate thereof and to what authority.

ARTICLE 22

1. Foreigners who are nationals of a Member bound by this Convention shall be entitled to pensions under the same conditions as nationals.

2. Provided that national laws or regulations may make the award of a pension to foreigners conditional upon their having been resident in the territory of the Member for a period which shall not exceed by more than five years the period of residence prescribed for nationals.

Please indicate under what conditions foreigners are entitled to pensions and what period of residence is required, if any.

ARTICLE 23

1. The right to a pension may be forfeited or suspended in whole or in part if the person concerned—

- (a) has brought about his invalidity by a criminal offence or wilful misconduct;
- (b) has obtained or attempted to obtain a pension by fraud;
- (c) has been sentenced to imprisonment for a criminal offence; or
- (d) has persistently refused to earn his living by work compatible with his strength and capacity.

2. The pension may be suspended in whole or in part while the person concerned is entirely maintained at the public expense.

Please indicate the grounds of forfeit or suspension.

III. Please state to what authority or authorities the application of the above-mentioned legislation and administrative regulations, etc., is entrusted, and by what methods application is supervised and enforced. In particular, please supply information on the organisation and working of inspection.

IV. Please furnish any other information available concerning the manner in which the Convention is applied, whether by a compulsory invalidity insurance scheme or by a scheme of non-contributory pensions.

If statistics are available concerning the application of compulsory invalidity insurance (or non-contributory invalidity pensions) please furnish details also concerning the application of the law especially on the following points:

A. Compulsory invalidity insurance¹

1. Scope:

Total number of insured persons engaged during or at the end of the last annual period in undertakings or occupations to which this Convention applies. (Please indicate whether the figures are taken from statistics or whether they are based on an estimate.)

2. Number of pensioners at the beginning of the last annual period, of new pensions awarded and of pensions which ceased to be paid during the said period.

3. Total expenditure:

- (a) in respect of invalidity pensions;
- (b) in respect of other benefits in cash (e.g. additional benefits) granted to persons ceasing to be insured before acquiring the right to a pension (e.g. refund of contributions);
- (c) in respect of benefits in kind;
- (d) in respect of administrative expenses;
- (e) in respect of placing to reserve.

4. Total receipts:

- (a) contributions from employers;
- (b) contributions from insured persons;
- (c) contributions from the public authorities.

B. Non-contributory invalidity pensions¹

1. The number of pensioners at the beginning and the end of the last annual period.

2. Total amount of expenditure on pensions during the last annual period.

Please state whether you have received from the organisations of employers or workers concerned any observations, either of a general kind or in connection with the present or the previous report,

¹ Re invalidity insurance only, if possible; if not, re invalidity, old-age and survivor insurance jointly.

regarding the practical fulfilment of the conditions prescribed by the Convention or the application of the national law implementing the Convention. The information available for the Conference would be usefully supplemented by your communicating a summary of these observations, to which you might add any comments that you consider useful.

- V. Please give a general appreciation of the manner in which the Convention is applied in your country including, for instance, extracts from official reports and information on any practical difficulties in the application of the Convention.
- VI. Please indicate the representative organisations of employers and workers to which copies of the present report have been communicated in accordance with article 23, paragraph 2, of the Constitution of the International Labour Organisation.¹ If copies of the report have not been communicated to representative organisations of employers and/or workers, or if they have been communicated to bodies other than such organisations, please supply information on any particular circumstances existing in your country which explain the procedure followed.

Please indicate whether you have received from the organisations of employers or workers concerned any observations, either of a general kind or in connection with the present or the previous report, regarding the practical application of the provisions of the Convention or the application of the legislation or other measures implementing the Convention. If so, please communicate the observations received, together with any comments that you consider useful.

¹ Article 23, paragraph 2, of the Constitution reads as follows: "Each Member shall communicate to the representative organisations recognised for the purpose of article 3 copies of the information and reports communicated to the Director-General in pursuance of articles 19 and 22."