

INTERNATIONAL LABOUR OFFICE

REPORT FORM
FOR THE
**RECRUITING OF INDIGENOUS WORKERS
CONVENTION, 1936 (No. 50)**

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 a form and shall contain such particulars as the Governing Body may request."

PRACTICAL GUIDANCE FOR DRAWING UP REPORTS

First reports

If this is your Government's first report following the entry into force of the Convention in your country, full information should be given on each of the provisions of the Convention and on each of the questions set out in the report form.

Subsequent reports

In subsequent reports, information need normally be given only on the following points:

- (a) any new legislative or other measures affecting the application of the Convention;
- (b) replies to the questions in the report form on the practical application of the Convention (for

example, statistics, results of inspections, judicial or administrative decisions) and on the communication of copies of the report to the representative organisations of employers and workers and on any observations received from these organisations;

- (c) **replies to comments by supervisory bodies:** the report must contain replies to any comments regarding the application of the Convention in your country which may have been addressed to your Government by the Committee of Experts or by the Conference Committee on the Application of Conventions and Recommendations.

Article 22 of the Constitution of the ILO

Report for the period to

made by the Government of

on the

RECRUITING OF INDIGENOUS WORKERS CONVENTION, 1936

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 the exact scope of the Convention 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 1

Each Member of the International Labour Organisation 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' organisation 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 Organisation and workers belonging to or assimilated to the dependent indigenous populations of the home territories of Members of the Organisation.

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.

If any exemptions have been granted under Article 3, please indicate the nature of these exemptions and in particular the number of workers prescribed under (a), as well as the radius fixed under (b).

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 organisation 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.

Please indicate the measures, if any, which have been taken by the competent authority during the period covered by the annual report to give effect to each of the provisions contained in subparagraphs (a), (b), and (c) of Article 4.

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 birthrate 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 organisation 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.

Please indicate the methods which it may have been necessary to adopt so as to give effect to paragraph 1 of Article 5; further, if it has been found practicable and desirable to fix the maximum number of adult males who may be recruited under the conditions provided for by paragraph 2 of this Article, please indicate what percentage or percentages have been fixed 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.

If advantage has been taken of the provisions of Article 6, please indicate in each case the age fixed as well as the nature of the safeguards prescribed.

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 authorised 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 authorisation to accompany a worker shall be deemed to be an authorisation to remain with him for the full duration of his term of service.

If it has been found practicable and desirable to encourage recruited workers to be accompanied by their families, under the conditions prescribed in paragraph 2 of Article 7, please indicate—

- (1) *the types of employment for which it has been found expedient to encourage family recruiting;*
- (2) *the minimum distance from the home of the worker as well as the minimum duration of employment for which the authorities encourage family recruiting.*

Please indicate the measures taken to enable the recruited workers, where accompanied to their place of employment by their wives and minor children, to have their families remain with them for the full duration of their 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.

If it has been found practicable and desirable to give effect to the provisions of Article 8, please indicate the measures taken.

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.

Please indicate all measures taken by the authorities with a view to preventing any direct or indirect recruiting by public officers for private undertakings. Please indicate also whether an intervention by public officers has been resorted to in order to ensure recruiting for works of public utility, and, if so, what is the extent of this recruiting, and for what purposes and under what conditions it has been authorised.

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.

Please indicate all supervisory and other measures taken to ensure the application of the provisions of Article 10.

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 organisations of employers.

Article 12

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

Article 13

1. Before issuing any licence for recruiting the competent authority shall—
 - (a) satisfy itself that the applicant for a licence, if an individual, is a fit and proper person;
 - (b) require the applicant for a licence, except when the said applicant is an employers' organisation or an organisation subsidised by employers, to furnish financial or other security for proper conduct as a licensee;
 - (c) require the applicant for a licence, 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 licences shall be limited to a fixed period not exceeding one year to be prescribed by the competent authority.

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

6. The competent authority shall be entitled—

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

Please indicate what are the guarantees required by the competent authority prior to the issuing of a licence for recruiting.

Where a licensee who is the agent of another licensee receives a remuneration computed in proportion to the number of workers recruited, please indicate what maximum has been fixed for this remuneration, so as to give effect to the provisions of paragraph 3 of Article 13.

Please indicate what period has been fixed for the validity of licences for recruiting. Please specify also in what cases a licence can be withdrawn or suspended.

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 licence 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.

Where it has been found necessary or desirable to exempt worker-recruiters from the obligation to hold a licence, please indicate in detail the measures taken to give effect to Article 15, and in particular to paragraphs 3 and 4.

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.

Where it has been found practicable and necessary to give effect to the provisions of Article 17, please append to the annual report models of the documents which are required to be issued.

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 authorise 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 acclimatisation and adaptation of recruited workers and for their immunisation 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 convoyed 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 authorised 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 licence issued by the competent authority of the territory of recruiting: Provided that the said authority may accept as equivalent to a licence issued by it a licence 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 organisations approved by it.

Where the circumstances and the amount of recruiting have necessitated the measures provided for in paragraphs 2 and 4 of Article 24, please append to the first annual report the text of all agreements concluded under paragraph 2; please supply also, subsequently, the text of all new agreements as well as information on the organisation approved under paragraph 4.

- 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 enforced. In particular please supply information on the organisation and working of inspection.
- IV. Please state whether courts of law or other tribunals have given decisions involving questions of principle relating to the application of the Convention. If so, please supply the text of these decisions.
- V. Please add a general appreciation of the manner in which the Convention is applied including, for instance, extracts from official reports as well as information on any practical difficulties encountered in applying 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 a copy of 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."