

INTERNATIONAL LABOUR OFFICE GENEVA

REPORT FORM

FOR THE

HOLIDAYS WITH PAY CONVENTION, 1936 (No. 52)

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 the 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."

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:

- (a) on any new legislative or other measures affecting the application of the Convention;

- (b) in reply 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 organizations of employers and workers and on any observations received from these organizations;

- (c) **in reply to comments by the supervisory bodies:** the report must contain replies to any comments regarding the application of the Convention in your country which have been made by the Committee of Experts on the Application of Conventions and Recommendations or by the Conference Committee on the Application of Standards.
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Article 22 of the Constitution of the ILO

Report for the period _____ to _____

made by the Government of _____

on the

HOLIDAYS WITH PAY CONVENTION, 1936 (No. 52)

(ratification 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, or as a result of, ratification.

- II. Please indicate in detail *for each of the following Articles of the Convention* the provisions of the abovementioned 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 Standards 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

1. This Convention applies to all persons employed in any of the following undertakings or establishments, whether public or private:

- (a) undertakings in which articles are manufactured, altered, cleaned, repaired, ornamented, finished, adapted for sale, broken up or demolished, or in which materials are transformed, including undertakings engaged in shipbuilding or in the generation, transformation or transmission of electricity or motive power of any kind;
- (b) undertakings engaged wholly or mainly in the construction, reconstruction, maintenance, repair, alteration or demolition of any one or more of the following:
 - buildings,
 - railways,
 - tramways,
 - airports,
 - harbours,
 - docks,
 - piers,
 - works of protection against floods or coast erosion,
 - canals,
 - works for the purpose of inland, maritime or aerial navigation,
 - roads,
 - tunnels,
 - bridges,
 - viaducts,
 - sewers,
 - drains,
 - wells,
 - irrigation or drainage works,

- telecommunication installations,
 - works for the production or distribution of electricity or gas,
 - pipe-lines,
 - waterworks,
- and undertakings engaged in other similar work or in the preparation for or laying the foundation of any such work or structure;
- (c) undertakings engaged in the transport of passengers or goods by road, rail, inland waterway or air, including the handling of goods at docks, quays, wharves, warehouses or airports;
 - (d) mines, quarries and other works for the extraction of minerals from the earth;
 - (e) commercial or trading establishments, including postal and telecommunication services;
 - (f) establishments and administrative services in which the persons employed are mainly engaged in clerical work;
 - (g) newspaper undertakings;
 - (h) establishments for the treatment and care of the sick, infirm, destitute or mentally unfit;
 - (i) hotels, restaurants, boarding-houses, clubs, cafés and other refreshment houses;
 - (j) theatres and places of public amusement;
 - (k) mixed commercial and industrial establishments not falling wholly within any of the foregoing categories.

2. The competent authority in each country shall, after consultation with the principal organisations of employers and workers concerned where such exist, define the line which separates the undertakings and establishments specified in the preceding paragraph from those to which this Convention does not apply.

3. The competent authority in each country may exempt from the application of this Convention:

- (a) persons employed in undertakings or establishments in which only members of the employer's family are employed;
- (b) persons employed in public services whose conditions of service entitle them to an annual holiday with pay at least equal in duration to that prescribed by this Convention.

If advantage has been taken of paragraph 3 of this Article please state what exemptions, if any, have been made under (a) or (b) or both, indicating in respect of (a) the definition of the term "family" and in respect of (b) the conditions in view of which such exemptions have been granted. As regards (b) please also indicate the arrangements which have been made for persons employed in public services.

Article 2

1. Every person to whom this Convention applies shall be entitled after one year of continuous service to an annual holiday with pay of at least six working days.

2. Persons, including apprentices, under sixteen years of age shall be entitled after one year of continuous service to an annual holiday with pay of at least twelve working days.

3. The following shall not be included in the annual holiday with pay:

- (a) public and customary holidays;
- (b) interruptions of attendance at work due to sickness.

4. National laws or regulations may authorise in special circumstances the division into parts of any part of the annual holiday with pay which exceeds the minimum duration prescribed by this Article.

5. The duration of the annual holiday with pay shall increase with the length of service under conditions to be prescribed by national laws or regulations.

Where in special circumstances advantage has been taken of paragraph 4 of this Article, please state the length of the parts into which the annual holiday has been divided, at the same time indicating the nature of the special circumstances.

Article 3

Every person taking a holiday in virtue of Article 2 of this Convention shall receive in respect of the full period of the holiday either:

- (a) his usual remuneration, calculated in a manner which shall be prescribed by national laws or regulations, including the cash equivalent of his remuneration in kind, if any; or
- (b) the remuneration determined by collective agreement.

Article 4

Any agreement to relinquish the right to an annual holiday with pay, or to forgo such a holiday, shall be void.

Article 5

National laws or regulations may provide that a person who engages in paid employment during the course of his annual holiday may be deprived of his right to payment in respect of the period of the holiday.

If advantage has been taken of Article 5 please indicate the relevant provisions of the national laws and regulations.

Article 6

A person dismissed for a reason imputable to the employer before he has taken a holiday due to him shall receive in respect of every day of holiday due to him in virtue of this Convention the remuneration provided for in Article 3.

Article 7

In order to facilitate the effective enforcement of the provisions of this Convention, every employer shall be required to keep, in a form approved by the competent authority, a record showing:

- (a) the date of entry into his service of each person employed by him and the duration of the annual holiday with pay to which each such person is entitled;
- (b) the dates at which the annual holiday with pay is taken by each person;
- (c) the remuneration received by each person in respect of the period of his annual holiday with pay.

Please forward specimen copies of the form of record approved by the competent authority.

Article 8

Each Member which ratifies this Convention shall establish a system of sanctions to ensure the application of its provisions.

See Question III below.

- III. Please state to what authority or authorities the application of the abovementioned legislation and administrative regulations, etc., is entrusted, and by what methods application is supervised and enforced, including in particular, information on the system of sanctions prescribed by Article 8 of the Convention. Please supply information also on the organization 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 give a general appreciation of the manner in which the Convention is applied in your country, including, for instance, extracts from the reports of the inspection services, and, if such statistics are available, information concerning the number of workers (classified into adults and young persons under 16 years of age, including apprentices) covered by the relevant legislation, the number and nature of the contraventions reported, etc.**
- VI. Please indicate the representative organizations 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 Organization.¹ If copies of the report have not been communicated to representative organizations of employers and/or workers, or if they have been communicated to bodies other than such organizations, please supply information on any particular circumstances existing in your country which explain the procedure followed.**

Please indicate whether you have received from the organizations 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."