

INTERNATIONAL LABOUR OFFICE

REPORT FORM
FOR THE
EMPLOYMENT PROMOTION AND
PROTECTION AGAINST UNEMPLOYMENT
CONVENTION, 1988 (No. 168)

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."

The Government may deem it useful to consult the appended text of the Employment Promotion and Protection against Unemployment Recommendation, 1988 (No. 176), the provisions of which supplement the present Convention and can contribute to a better understanding of its requirements and facilitate its application.

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.

(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;

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;

(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

EMPLOYMENT PROMOTION AND PROTECTION AGAINST UNEMPLOYMENT CONVENTION, 1988 (No. 168) (ratification registered on.....)

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

Please give any available information concerning the extent to which these laws, regulations and rules 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 above-mentioned legislation, administrative regulations, etc., or other measures under which each Article is applied. In addition, please provide any information specifically requested on certain Articles.

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 the permissive exceptions provided for in certain Articles of the Convention, and to establish or supervise the financial or technical bodies entrusted with the administration of the benefits stipulated.

If the Committee of Experts or the Conference Committee on the Application of Conventions and Recommendations have requested additional information or have 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.

I. GENERAL PROVISIONS

Article 1

In this Convention:

- (a) the term "legislation" includes any social security rules as well as laws and regulations;
- (b) the term "prescribed" means determined by or in virtue of national legislation.

Article 2

Each Member shall take appropriate steps to co-ordinate its system of protection against unemployment and its employment policy. To this end, it shall seek to ensure that its system of protection against unemployment, and in particular the methods of providing unemployment benefit, contribute to the promotion of full, productive and freely chosen employment, and are not such as to discourage employers from offering and workers from seeking productive employment.

Please describe the measures taken to give effect to the provisions of this Article.

Article 3

The provisions of this Convention shall be implemented in consultation and co-operation with the organisations of employers and workers, in accordance with national practice.

Please describe the manner in which the consultation and co-operation called for in this Article are ensured.

Article 4

1. Each Member which ratifies this Convention may, by a declaration accompanying its ratification, exclude the provisions of Part VII from the obligations accepted by ratification.

2. Each Member which has made a declaration under paragraph 1 above may withdraw it at any time by a subsequent declaration.

Article 5

1. Each Member may avail itself, by a declaration accompanying its ratification, of at most two of the temporary exceptions provided for in Article 10, paragraph 4; Article 11, paragraph 3; Article 15, paragraph 2; Article 18, paragraph 2; Article 19, paragraph 4; Article 23, paragraph 2; Article 24, paragraph 2; and Article 25, paragraph 2. Such a declaration shall state the reasons which justify these exceptions.

2. Notwithstanding the provisions of paragraph 1 above, a Member, where it is justified by the extent of protection of its social security system, may avail itself, by a declaration accompanying its ratification, of the temporary exceptions provided for in Article 10, paragraph 4; Article 11, paragraph 3; Article 15, paragraph 2; Article 18, paragraph 2; Article 19, paragraph 4; Article 23, paragraph 2; Article 24, paragraph 2; and Article 25, paragraph 2. Such a declaration shall state the reasons which justify these exceptions.

3. Each Member which has made a declaration under paragraph 1 or paragraph 2 shall include in its reports on the application of this Convention submitted under article 22 of the Constitution of the International Labour Organisation a statement in respect of each exception of which it avails itself —

- (a) that its reason for doing so subsists; or
- (b) that it renounces its right to avail itself of the exception in question as from a stated date.

4. Each Member which has made a declaration under paragraph 1 or paragraph 2 shall, as appropriate to the terms of such declaration and as circumstances permit —

- (a) cover the contingency of partial unemployment;
- (b) increase the number of persons protected;
- (c) increase the amount of the benefits;
- (d) reduce the length of the waiting period;
- (e) extend the duration of payment of benefits;
- (f) adapt statutory social security schemes to the occupational circumstances of part-time workers;
- (g) endeavour to ensure the provision of medical care to persons in receipt of unemployment benefit and their dependants;
- (h) endeavour to guarantee that the periods during which such benefit is paid will be taken into account for the acquisition of the right to social security benefits and, where appropriate, the calculation of disability, old-age and survivors' benefit.

Note: If recourse is had to the temporary exceptions in paragraphs 1 or 2 of this Article, please indicate, under the Articles to which these exceptions refer, if the reasons which motivated these exceptions still exist for the period covered by the report.

Please indicate whether measures have been taken to raise the protection to the level required by the Convention in conformity with the provisions of paragraph 4 of this Article.

Article 6

1. Each Member shall ensure equality of treatment for all persons protected, without discrimination on the basis of race, colour, sex, religion, political opinion, national extraction, nationality, ethnic nor social origin, disability or age.

2. The provisions of paragraph 1 shall not prevent the adoption of special measures which are justified by the circumstances of identified groups under the schemes referred to in Article 12, paragraph 2, or are designed to meet the specific needs of categories of persons who have particular problems in the labour market, in particular disadvantaged groups, or the conclusion between States of bilateral or multilateral agreements relating to unemployment benefits on the basis of reciprocity.

Please indicate whether there exists any difference in treatment among the persons protected.

II. PROMOTION OF PRODUCTIVE EMPLOYMENT

Article 7

Each Member shall declare, as a priority objective, a policy designed to promote full, productive and freely chosen employment by all appropriate means, including social security. Such means should include, inter alia, employment services, vocational training and vocational guidance.

Please state the manner in which national policy designed to promote full employment in the meaning of this Article has been declared and the means whereby such policy has been implemented.

Article 8

1. Each Member shall endeavour to establish, subject to national law and practice, special programmes to promote additional job opportunities and employment assistance and to encourage freely chosen and productive employment for identified categories of disadvantaged persons having or liable to have difficulties in finding lasting employment such as women, young workers, disabled persons, older workers, the long-term unemployed, migrant workers lawfully resident in the country and workers affected by structural change.

2. Each Member shall specify, in its reports under article 22 of the Constitution of the International Labour Organisation, the categories of persons for whom it undertakes to promote employment programmes.

3. Each Member shall endeavour to extend the promotion of productive employment progressively to a greater number of categories than the number initially covered.

1. Please specify, as required in paragraph 2 of this Article, the categories of persons for whom the Government undertakes to promote special employment programmes.

2. Please describe the special programmes which have been established for such persons in conformity with paragraph 1.

3. Please indicate whether measures have been taken, in conformity with paragraph 3, to extend the promotion of employment to other categories of persons.

Article 9

The measures envisaged in this Part shall be taken in the light of the Human Resources Development Convention and Recommendation, 1975, and the Employment Policy (Supplementary Provisions) Recommendation, 1984.

III. CONTINGENCIES COVERED

Article 10

1. The contingencies covered shall include, under prescribed conditions, full unemployment defined as the loss of earnings due to inability to obtain suitable employment with due regard to the provisions of Article 21, paragraph 2, in the case of a person capable of working, available for work and actually seeking work.

2. Each Member shall endeavour to extend the protection of the Convention, under prescribed conditions, to the following contingencies —

(a) loss of earnings due to partial unemployment, defined as a temporary reduction in the normal or statutory hours of work; and

(b) suspension or reduction of earnings due to a temporary suspension of work, without any break in the employment relationship for reasons of, in particular an economic, technological, structural or similar nature.

3. Each Member shall in addition endeavour to provide the payment of benefits to part-time workers who are actually seeking full-time work. The total of benefits and earnings from their part-time work may be such as to maintain incentives to take up full-time work.

4. Where a declaration made in virtue of Article 5 is in force, the implementation of paragraphs 2 and 3 above may be deferred.

1. Please indicate how the contingencies which, according to national legislation, give right to benefits for full unemployment are defined.

2. Please indicate whether measures have been taken, in conformity with paragraph 2, to extend protection to partial unemployment or to temporary suspension of work.

3. Please indicate whether measures have been taken, in conformity with paragraph 3, to extend protection to part-time workers who are actually seeking full-time work.

4. See also the note under Article 5.

IV. PERSONS PROTECTED

Article 11

1. The persons protected shall comprise prescribed classes of employees, constituting not less than 85 per cent of all employees, including public employees and apprentices.

2. Notwithstanding the provisions of paragraph 1 above, public employees whose employment up to normal retiring age is guaranteed by national laws or regulations may be excluded from protection.

3. Where a declaration made in virtue of Article 5 is in force, the persons protected shall comprise —

- (a) prescribed classes of employees constituting not less than 50 per cent of all employees; or
- (b) where specifically justified by the level of development, prescribed classes of employees constituting not less than 50 per cent of all employees in industrial workplaces employing 20 persons or more.

1. Please indicate the classes of persons protected which have been prescribed in conformity with the provisions of paragraph 1 or paragraph 3 of this Article.

2. Please furnish the following statistical information:

A. Number of employees protected:

- (i) under the general scheme
- (ii) under special schemes:
 - scheme
 - scheme
- (iii) Total

B. Total number of employees, including public employees and apprentices if recourse is had to paragraph 1

3. If recourse is had to subparagraph (b) of paragraph 3, please furnish the following statistical information:

A. Number of protected employees:

- (i) under the general scheme
- (ii) under special schemes:
 - scheme
 - scheme
- (iii) Total

B. Total number of employees in industrial workplaces employing 20 persons or more

4. See also the note under Article 5.

V. METHODS OF PROTECTION

Article 12

1. Unless it is otherwise provided in this Convention, each Member may determine the method or methods of protection by which it chooses to put into effect the provisions of the Convention, whether by a contributory or non-contributory system, or by a combination of such systems.

2. Nevertheless, if the legislation of a Member protects all residents whose resources, during the contingency, do not exceed prescribed limits, the protection afforded may be limited, in the light of the resources of the beneficiary and his or her family, in accordance with the provisions of Article 16.

VI. BENEFIT TO BE PROVIDED

Article 13

Benefits provided in the form of periodical payments to the unemployed may be related to the methods of protection.

Article 14

In cases of full unemployment, benefits shall be provided in the form of periodical payments calculated in such a way as to provide the beneficiary with partial and transitional wage replacement and, at the same time, to avoid creating disincentives either to work or to employment creation.

Article 15

1. In cases of full unemployment and suspension of earnings due to a temporary suspension of work without any break in the employment relationship, when this contingency is covered, benefits shall be provided in the form of periodical payments, calculated as follows:

- (a) where these benefits are based on the contributions of or on behalf of the person protected or on previous earnings, they shall be fixed at not less than 50 per cent of previous earnings, it being permitted to fix a maximum for the amount of the benefit or for the earnings to be taken into account, which may be related, for example, to the wage of a skilled manual employee or to the average wage of workers in the region concerned;
- (b) where such benefits are not based on contributions or previous earnings, they shall be fixed at not less than 50 per cent of the statutory minimum wage or of the wage of an ordinary labourer, or at a level which provides the minimum essential for basic living expenses, whichever is the highest.

2. Where a declaration made in virtue of Article 5 is in force, the amount of the benefits shall be equal —

- (a) to not less than 45 per cent of the previous earnings; or
- (b) to not less than 45 per cent of the statutory minimum wage or of the wage of an ordinary labourer but no less than a level which provides the minimum essential for basic living expenses.

3. If appropriate, the percentages specified in paragraphs 1 and 2 may be reached by comparing net periodical payments after tax and contributions with net earnings after tax and contributions.

1. *Please indicate in what manner benefits are calculated.*

2. *If recourse is had to subparagraph (a) of paragraph 1 or to subparagraph (a) of paragraph 2 of this Article, please indicate the amount of the wage of the skilled manual employee or of the average wage of workers.*

3. *If recourse is had to subparagraph (b) of paragraph 1 or to subparagraph (b) of paragraph 2 of this Article, please indicate the amount of the statutory minimum wage or of the wage of an ordinary labourer, or the level which provides the minimum essential for basic living expenses.*

4. *See also the note under Article 5.*

5. *If appropriate, in order that the percentage specified in paragraphs 1 and 2 of this Article may be reached, please indicate the level of benefits after taxes and contributions and of previous earnings after taxes and contributions.*

Article 16

Notwithstanding the provisions of Article 15, the benefit provided beyond the initial period specified in Article 19, paragraph 2 (a), as well as benefits paid by a Member in accordance with Article 12, paragraph 2, may be fixed after taking account of other resources, beyond a prescribed limit, available to the beneficiary and his or her family, in accordance with a prescribed scale. In any case, these benefits, in combination with any other benefits to which they may be entitled, shall guarantee them healthy and reasonable living conditions in accordance with national standards.

Please indicate whether and, if so, the manner in which this Article is applied.

Article 17

1. Where the legislation of a Member makes the right to unemployment benefit conditional upon the completion of a qualifying period, this period shall not exceed the length deemed necessary to prevent abuse.

2. Each Member shall endeavour to adapt the qualifying period to the occupational circumstances of seasonal workers.

1. *Please indicate whether the right to benefits is conditional upon a qualifying period deemed necessary to prevent abuse and, if so, what is the duration of this period.*

2. *Please indicate whether special rules have been adopted for seasonal workers and, if so, what are these rules.*

Article 18

1. If the legislation of a Member provides that the payment of benefit in cases of full employment should begin only after the expiry of a waiting period, such period shall not exceed seven days.

2. Where a declaration made in virtue of Article 5 is in force, the length of the waiting period shall not exceed ten days.

3. In the case of seasonal workers the waiting period specified in paragraph 1 above may be adapted to their occupational circumstances.

1. *Please indicate whether a waiting period has been fixed and, if so, what is the duration of this period.*
2. *See also the note under Article 5.*
3. *Please indicate whether special rules have been adopted for seasonal workers and, if so, what are these rules.*

Article 19

1. The benefits provided in cases of full unemployment and suspension of earnings due to a temporary suspension of work without any break in the employment relationship shall be paid throughout these contingencies.

2. Nevertheless, in the case of full unemployment —

- (a) the initial duration of payment of the benefit provided for in Article 15 may be limited to 26 weeks in each spell of unemployment, or to 39 weeks over any period of 24 months;
- (b) in the event of unemployment continuing beyond this initial period of benefit, the duration of payment of benefit, which may be calculated in the light of the resources of the beneficiary and his or her family in accordance with the provisions of Article 16, may be limited to a prescribed period.

3. If the legislation of a Member provides that the initial duration of payment of the benefit provided for in Article 15 shall vary with the length of the qualifying period, the average duration fixed for the payment of benefits shall be at least 26 weeks.

4. Where a declaration made in virtue of Article 5 is in force, the duration of payment of benefit may be limited to 13 weeks over any periods of 12 months or to an average of 13 weeks if the legislation provides that the initial duration of payment shall vary with the length of the qualifying period.

5. In the cases envisaged in paragraph 2 (b) above, each Member shall endeavour to grant appropriate additional assistance to the persons concerned with a view to permitting them to find productive and freely chosen employment, having recourse in particular to the measures specified in Part II.

6. The duration of payment to seasonal workers may be adapted to their occupational circumstances, without prejudice to the provisions of paragraph 2 (b) above.

1. *Please indicate whether a limit has been fixed for the duration of unemployment benefits and, if so, what is this limit.*

2. *In particular, please indicate whether a limit has been fixed for the duration of payment of benefits which may be calculated in the light of resources in the event of unemployment continuing beyond the initial period of benefit.*

3. *If recourse is had to paragraph 3 of this Article, please indicate what rules are applied to determine the duration of benefits and to ascertain whether the average duration required is reached.*

4. *See also the note under Article 5.*

5. *Please indicate whether special rules have been adopted for seasonal workers and, if so, what are these rules.*

Article 20

The benefit to which a protected person would have been entitled in the cases of full or partial unemployment or suspension of earnings due to a temporary suspension of work without any break in the employment relationship may be refused, withdrawn, suspended or reduced to the extent prescribed —

- (a) for as long as the person concerned is absent from the territory of the Member;
- (b) when it has been determined by the competent authority that the person concerned had deliberately contributed to his or her own dismissal;
- (c) when it has been determined by the competent authority that the person concerned has left employment voluntarily without just cause;
- (d) during the period of a labour dispute, when the person concerned has stopped work to take part in a labour dispute or when he or she is prevented from working as a direct result of a stoppage of work due to this labour dispute;
- (e) when the person concerned has attempted to obtain or has obtained benefits fraudulently;
- (f) when the person concerned has failed without just cause to use the facilities available for placement, vocational guidance, training, retraining or redeployment in suitable work;
- (g) as long as the person concerned is in receipt of another income maintenance benefit provided for in the legislation of the Member concerned, except a family benefit, provided that the part of the benefit which is suspended does not exceed that other benefit.

Please indicate in what cases and to what degree unemployment benefits can be refused, withdrawn, suspended or reduced.

Article 21

1. The benefit to which a protected person would have been entitled in the case of full unemployment may be refused, withdrawn, suspended or reduced, to the extent prescribed, when the person concerned refuses to accept suitable employment.

2. In assessing the suitability of employment, account shall be taken, in particular, under prescribed conditions and to an appropriate extent, of the age of unemployed persons, their length of service in their former occupation, their acquired experience, the length of their period of unemployment, the labour market situation, the impact of the employment in question on their personal and family situation and whether the employment is vacant as a direct result of a stoppage of work due to an ongoing labour dispute.

Please indicate whether recourse is had to paragraph 1 of this Article and, if so, what are the criteria for assessing the suitability of employment.

Article 22

When protected persons have received directly from their employer or from any other source under national laws or regulations or collective agreements, severance pay, the principal purpose of which is to contribute towards compensating them for the loss of earnings suffered in the event of full unemployment —

- (a) the unemployment benefit to which the persons concerned would be entitled may be suspended for a period corresponding to that during which the severance pay compensates for the loss of earnings suffered; or
- (b) the severance pay may be reduced by an amount corresponding to the value converted into a lump sum of the unemployment benefit to which the persons concerned are entitled for a period corresponding to that during which the severance pay compensates for the loss of earnings suffered,

as each Member may decide.

Please indicate whether recourse is had to this Article and, if so, specify if recourse is had to subparagraph (a) or subparagraph (b).

Article 23

1. Each Member whose legislation provides for the right to medical care and makes it directly or indirectly conditional upon occupational activity shall endeavour to ensure, under prescribed conditions, the provision of medical care to persons in receipt of unemployment benefit and to their dependants.

2. Where a declaration made in virtue of Article 5 is in force, the implementation of paragraph 1 above may be deferred.

1. Please indicate whether and under what conditions the right to medical care is guaranteed to persons in receipt of unemployment benefit and to their dependants.

2. See also the note under Article 5.

Article 24

1. Each Member shall endeavour to guarantee to persons in receipt of unemployment benefit, under prescribed conditions, that the periods during which benefits are paid will be taken into consideration —

- (a) for acquisition of the right to and, where appropriate, calculation of disability, old-age and survivors' benefit, and
- (b) for acquisition of the right to medical care and sickness, maternity and family benefit after the end of unemployment,

when the legislation of the Member concerned provides for such benefits and makes them directly or indirectly conditional upon occupational activity.

2. Where a declaration made in virtue of Article 5 is in force, the implementation of paragraph 1 above may be deferred.

1. Please indicate whether and under what conditions the periods during which unemployment benefits are paid are taken into consideration for granting the benefits specified in this Article.

2. See also the note under Article 5.

Article 25

1. Each Member shall ensure that statutory social security schemes which are based on occupational activity are adjusted to the occupational circumstances of part-time workers, unless their hours of work or earnings can be considered, under prescribed conditions, as negligible.

2. Where a declaration made in virtue of Article 5 is in force, the implementation of paragraph 1 above may be deferred.

1. Please indicate whether and, if so, the manner in which the statutory social security schemes have been adjusted to the occupational circumstances of part-time workers.

2. See also the note under Article 5.

VII. SPECIAL PROVISIONS FOR NEW APPLICANTS FOR EMPLOYMENT

Article 26

1. Members shall take account of the fact that there are many categories of persons seeking work who have never been, or have ceased to be, recognised as unemployed or have never been, or have ceased to be, covered by schemes for the protection of the unemployed. Consequently, at least three of the following ten categories of persons seeking work shall receive social benefits, in accordance with prescribed terms and conditions:

- (a) young persons who have completed their vocational training;
- (b) young persons who have completed their studies;
- (c) young persons who have completed their compulsory military service;
- (d) persons after a period devoted to bringing up a child or caring for someone who is sick, disabled or elderly;
- (e) persons whose spouse had died, when they are not entitled to a survivor's benefit;
- (f) divorced or separated persons;
- (g) released prisoners;
- (h) adults, including disabled persons, who have completed a period of training;
- (i) migrant workers on return to their home country, except in so far as they have acquired rights under the legislation of the country where they last worked;
- (j) previously self-employed persons.

2. Each Member shall specify, in its reports under article 22 of the Constitution of the International Labour Organisation, the categories of persons listed in paragraph 1 above which it undertakes to protect.

3. Each Member shall endeavour to extend protection progressively to a greater number of categories than the number initially protected.

1. Please specify, in accordance with paragraph 2 of this Article, the categories of persons which the Government undertakes to protect.

2. Please specify the nature, the conditions and the modalities of the protection received by those persons.

3. Please indicate whether this protection has been extended to new categories in conformity with paragraph 3.

VIII. LEGAL, ADMINISTRATIVE AND FINANCIAL GUARANTEES

Article 27

1. In the event of refusal, withdrawal, suspension or reduction of benefit or dispute as to its amount, claimants shall have the right to present a complaint to the body administering the benefit scheme and to appeal thereafter to an independent body. They shall be informed in writing of the procedures available, which shall be simple and rapid.

2. The appeal procedure shall enable the claimant, in accordance with national law and practice, to be represented or assisted by a qualified person of the claimant's choice or by a delegate of a representative workers' organisation or by a delegate of an organisation representative of protected persons.

Please indicate if all claimants have the right to present a complaint and, if so, to appeal thereafter to an independent body in the case of refusal, withdrawal, suspension or a reduction of benefit or dispute as to its amount. Please state briefly what the applicable procedures are, in particular in connection with the provisions of paragraph 2 of this Article.

Article 28

Each Member shall assume general responsibility for the sound administration of the institutions and services entrusted with the application of the Convention.

Article 29

1. When the administration is directly entrusted to a government department responsible to Parliament, representatives of the protected persons and of the employers shall be associated in the administration in an advisory capacity, under prescribed conditions.

2. When the administration is not entrusted to a government department responsible to Parliament —

- (a) representatives of the protected persons shall participate in the administration or be associated therewith in an advisory capacity under prescribed conditions;
- (b) national laws or regulations may also provide for the participation of employers' representatives;
- (c) the laws or regulations may further provide for the participation of representatives of the public authorities.

1. *If the administration of a scheme is directly entrusted to a government department, please indicate whether representatives of the protected persons and of the employers are associated in the administration in an advisory capacity.*

2. *If the administration of a scheme is not directly entrusted to a governmental department, please indicate whether representatives of the protected persons, and possibly, representatives of employers and public authorities participate in the administration of the scheme concerned. Please specify in what manner they participate in the administration.*

Article 30

In cases where subsidies are granted by the State or the social security system in order to safeguard employment, Members shall take the necessary steps to ensure that the payments are expended only for the intended purpose and to prevent fraud or abuse by those who receive such payments.

Please indicate how effect is given to the provisions of this Article.

III. **Please state to what authorities and institutions the application of the above-mentioned laws, regulations, rules, etc., is entrusted.**

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. **If your country has received assistance or advice within the context of a technical co-operation project being carried out by the ILO, please indicate what action was taken as a result. Please indicate also any factors which may have prevented or delayed such action.**

VI. **Please provide general indications as to the manner in which the Convention is applied in your country, including, for example, extracts from reports of the authorities or institutions responsible for administering the unemployment protection schemes. If available statistics permit, please also provide information on the number, even approximate, of persons protected and on the nature, number and amount of the benefits provided.**

VII. **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 not 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 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 text of these observations, 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."

ANNEX

EMPLOYMENT PROMOTION AND PROTECTION AGAINST UNEMPLOYMENT RECOMMENDATION, 1988 (No. 176)

I. GENERAL PROVISIONS

1. In this Recommendation—

- (a) the term “legislation” includes any social security rules as well as laws and regulations;
- (b) the term “prescribed” means determined by or in virtue of national legislation;
- (c) the term “the Convention” means the Employment Promotion and Protection against Unemployment Convention, 1988.

II. PROMOTION OF PRODUCTIVE EMPLOYMENT

2. The promotion of full, productive and freely chosen employment by all appropriate means, including through social security, should be a priority objective of national policy. Such means should include, inter alia, employment services, vocational training and vocational guidance.

3. In periods of economic crisis, adjustment policies should include, under prescribed conditions, measures to encourage initiatives which involve the maximum use of labour on a large scale.

4. Members should endeavour to grant in particular, under prescribed conditions and in the most appropriate manner, by way of occupational mobility incentives—

- (a) allowances towards the costs of travel and equipment necessary to take advantage of the services provided for in Paragraph 2 above;
- (b) allowances in the form of periodical payments calculated in accordance with the provisions of Article 15 of the Convention for a prescribed period of vocational training or retraining.

5. Members should in addition consider granting in particular, under prescribed conditions and in the most appropriate manner, by way of occupational or geographical mobility incentives—

- (a) temporary degressive allowances designed to offset, where appropriate, a reduction in pay as a result of redeployment;
- (b) allowances towards travel and removal costs;
- (c) separation allowances;
- (d) resettlement grants.

6. Members should ensure co-ordination of statutory pension schemes and encourage co-ordination of private pension schemes in order to remove barriers to occupational mobility.

7. Members should offer to protected persons, under prescribed conditions, facilities to enable them to engage in remunerated temporary employment without endangering the employment of other workers and with the purpose of improving their own chances of obtaining productive and freely chosen employment.

8. Members should, as far as possible, offer to unemployed persons who wish to set up their own business or take up another economic activity, financial assistance and advisory services under prescribed conditions.

9. Members should give consideration to the conclusion of bilateral and multilateral agreements which provide for assistance to foreign workers protected by

their legislation who freely wish to return to the territory of the State of which they are nationals or in which they formerly resided. Where such agreements do not exist, Members should provide, through national legislation, financial assistance to the workers concerned.

10. Members should, in accordance, if appropriate, with provisions in multilateral agreements, invest any reserves accumulated by statutory pension schemes and provident funds in such a way as to promote and not to discourage employment within the country, and encourage such investment from private sources, including private pension schemes, while at the same time affording the necessary guarantees of security and yield of the investment.

11. The progressive introduction in rural and urban areas of community services, including health-care services, financed by social security contributions or by other sources, should lead to increased employment and the provision of training of personnel, while at the same time making a practical contribution to the achievement of national objectives regarding employment promotion.

III. PROTECTION OF UNEMPLOYED PERSONS

12. In case of partial unemployment and in the case referred to in Article 10, paragraph 3, of the Convention, benefit should be provided, under prescribed conditions, in the form of periodical payments fairly compensating for the loss of earnings due to unemployment. These benefits might be calculated in the light of the reduction of hours of work suffered by the unemployed persons or so that the total of the benefit and the earnings from the part-time work reaches a sum between the amount of the previous earnings from full-time work and the amount of the full unemployment benefit, so as not to discourage part-time or temporary work, when these forms of work may assist in a return to full-time work.

13. (1) The percentages specified in Article 15 of the Convention for the calculation of benefits should be reached on the basis of the gross earnings of the beneficiary before tax and social security contributions.

(2) If appropriate, these percentages may be reached by comparing net periodical payments after tax and contributions with net earnings after tax and contributions.

14. (1) The concept of suitable employment should, under prescribed conditions, not apply to—

- (a) employment involving a change of occupation which does not take account of the abilities, qualifications, skills, work experience or the retraining potential of the person concerned;
- (b) employment involving a change of residence to a place in which suitable accommodation is not available;
- (c) employment in which the conditions and remuneration are appreciably less favourable than those which are generally granted, at the relevant time, in the occupation and district in which the employment is offered;
- (d) employment vacant as a direct result of a stoppage due to an ongoing labour dispute;
- (e) employment such that, for a reason other than those covered in clauses (a) to (d), and with due

regard to all attendant circumstances, including the family responsibilities of the person concerned, the refusal of the employment is not unreasonable.

(2) In assessing the criteria specified in clauses (a) to (c) and (e) above, account should be taken in general of the age of the unemployed persons, of their length of service in their former occupation, of their acquired experience, of the duration of their unemployment, of the state of the labour market and of the repercussions of the employment on their personal and family situations.

15. If an unemployed person has agreed to accept, for a prescribed maximum period, temporary employment which cannot be regarded as suitable within the meaning of Paragraph 14 above, or part-time employment in the circumstances covered in Article 10, paragraph 3, of the Convention, the level and duration of unemployment benefit paid at the end of such employment should not be adversely affected by the earnings of the unemployed person from that employment.

16. Members should endeavour to extend progressively the application of their legislation concerning unemployment benefit to cover all employees. However, public employees whose employment up to normal retirement age is guaranteed by national laws or regulations may be excluded from protection.

17. Members should endeavour to protect workers who are experiencing hardship in a waiting period.

18. The following provisions should be applicable, as appropriate, to the categories of persons mentioned in Article 26, paragraph 1, of the Convention:

- (a) in cases of full unemployment, the benefit may be calculated in accordance with the provisions of Article 16 of the Convention;
- (b) the qualifying period should be adapted or waived, under prescribed conditions, for certain of the categories of persons newly seeking work;
- (c) when benefit is provided without a qualifying period—
 - (i) the waiting period may be increased to a prescribed length;
 - (ii) the duration of payment of benefit may be limited under prescribed conditions notwithstanding the provision of Article 19, paragraph 1, of the Convention.

19. When the duration of payment of benefit is limited by national legislation, it should be extended, under prescribed conditions, until pensionable age for unemployed persons who have reached a prescribed age prior to the pensionable age.

20. Members whose legislation provides for the rights to medical care and makes it directly or indirectly conditional upon occupational activity should endeavour to ensure, under prescribed conditions, the provision of medical care to unemployed persons, including, if possible, those who are not in receipt of unemployment benefit, and to their dependants.

21. Members should endeavour to guarantee to persons in receipt of unemployment benefit, under prescribed conditions, that the periods during which benefits are paid will be taken into consideration—

- (a) for acquisition of the right to and, where appropriate, calculation of disability, old-age and survivors' benefit, and
- (b) for acquisition of the right to medical care and sickness, maternity and family benefit after the end of unemployment,

when the legislation of the Member concerned provides for such benefits and makes them directly or indirectly conditional upon occupational activity.

22. Members should endeavour to make adjustments of statutory social security schemes which are based on occupational activity to the occupational circumstances of part-time workers. Such adjustments, provided for in Article 25 of the Convention, should relate in particular, under prescribed conditions to—

- (a) the minimum hours of work and minimum earnings necessary for the entitlement to benefits under the basic and supplementary schemes;
- (b) maximum earnings for the calculation of contributions;
- (c) the qualifying period for entitlement to benefit;
- (d) the methods of calculating cash benefits, in particular pensions, on the basis of earnings and of the length of the period of contribution, insurance or occupational activity;
- (e) entitlement to non-reduced minimum benefits and flat-rate benefits, in particular family allowances.

23. Members should endeavour to promote a real understanding of the hardships of unemployed persons, particularly those who have been unemployed for a long period, and their need for sufficient income.

IV. DEVELOPMENT AND IMPROVEMENT OF SYSTEMS OF PROTECTION

24. Since the systems of protection for the unemployed of some Members are in the early stages of development and others may have to consider changes to existing schemes in the light of changing needs, a variety of approaches may legitimately be taken in assisting the unemployed, and Members should give high priority to a full and frank exchange of information on programmes of assistance for the unemployed.

25. With a view to reaching at least the standards laid down in Part IV (Unemployment Benefit) of the Social Security (Minimum Standards) Convention, 1952, Members which intend to develop their system of protection against unemployment should be guided, in so far as is possible and appropriate, by the following provisions.

26. (1) Members should be aware of the technical and administrative difficulties involved in the planning and introduction of social security mechanisms for the compensation of unemployment. In order to introduce forms of unemployment compensation through the payment of benefits of a non-discretionary nature, they should seek to meet the following conditions as soon as possible—

- (a) the introduction and satisfactory operation of a free public employment service containing a network of employment offices and having acquired sufficient administrative capacity to collect and analyse information on the employment market, to register job offers and jobseekers and to verify objectively that persons are involuntarily unemployed;
- (b) a reasonable level of coverage by and extensive experience in the administration of other branches of social security deemed to have priority on social and economic grounds, such as primary health care and compensation for employment accidents.

(2) Members should, as a major priority, seek to meet the conditions set out in subparagraph (1) above by promoting a sufficiently high level of stable employment offering adequate wages and working conditions,

in particular through necessary and appropriate measures, such as vocational guidance and training, to facilitate voluntary matching of skills on the labour market to available job vacancies.

(3) The co-operation and technical advice of the International Labour Office should continue to be put to good advantage in supporting any initiative taken by Members in this respect in cases where there is insufficient national expertise.

(4) When the conditions specified in subparagraph (1) above are met, Members should, as rapidly as their resources permit, and if necessary in stages, introduce programmes for the protection of the unemployed, including social security mechanisms for the compensation of unemployment.

27. In cases where the conditions referred to in Paragraph 26(1) are not met, Members should give priority to special assistance measures for the most needy unemployed persons, to the extent permitted by the available resources and in the context of national conditions.

28. Members which have set up a national provident fund might examine the possibility of authorising the payment of periodical cash benefits to the holders of accounts whose earnings are interrupted by long-term unemployment and whose family situation is precarious in order to provide for their essential needs. The level of this benefit and the period during which it is payable might be limited according to the circumstances, in particular the amount credited to the account.

29. Members might also encourage employers' and workers' organisations to set up assistance funds at the enterprise or inter-enterprise level. These could advantageously be introduced in the enterprises and sectors of activity which have sufficient economic capacity.

30. Members whose laws or regulations require employers to make severance payments to workers who have lost their jobs should envisage making provision for the employers to bear this responsibility in common through the creation of funds financed by employers' contributions, so as to ensure the receipt of these payments by the workers concerned.

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