

INTERNATIONAL LABOUR OFFICE — GENEVA

REPORT FORM
FOR THE
NIGHT WORK CONVENTION, 1990 (No. 171)

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 Night Work Recommendation, 1990 (No. 178), 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.

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, in particular, where necessary, with regard to the progressive extension of the Convention to categories of workers excluded from its scope in accordance with Article 2, paragraph 2, and the progressive application of the measures referred to in Article 3, paragraph 1;

- (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 the supervisory bodies:** the report must contain replies to any comment 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

NIGHT WORK CONVENTION, 1990 (No. 171)

(ratification registered on)

- I. Please give a list of the laws and regulations, etc., which apply the provisions of the Convention. Please attach to the report copies of the said laws, etc., unless these texts have already been forwarded to the International Labour Office.**

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

- II. Please indicate in detail, under each of the following Articles of the Convention, the above-mentioned laws and administrative regulations, etc., or any other measures concerning the application of each one of these 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 steps had been taken to implement those provisions of the Convention requiring action by the national authorities to ensure its application, such as, for example, the precise definition of the scope and possibilities for dispensation included in the Convention, measures to draw the attention of the parties concerned to the provisions and arrangements for organising appropriate inspection and sanctions.

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

For the purposes of this Convention:

- (a) the term "night work" means all work which is performed during a period of not less than seven consecutive hours, including the interval from midnight to 5 a.m., to be determined by the competent authority after consulting the most representative organisations of employers and workers or by collective agreements;
- (b) the term "night worker" means an employed person whose work requires the performance of a substantial number of hours of night work which exceeds a specified limit. This limit shall be fixed by the competent authority after consulting the most representative organisations of employers and workers or by collective agreement.

Please indicate, giving precise information, the methods used by the competent authority to consult the employers' and workers' organisations on this matter:

- (a) *the period defined as night;*
- (b) *the number of hours fixed as the specified limit for the definition of the term "night workers".*

Article 2

1. This Convention applies to all employed persons except those employed in agriculture, stock raising, fishing, maritime transport and inland navigation.

2. A Member which ratifies this Convention may, after consulting the representative organisations of employers and workers concerned, exclude wholly or partly from its scope limited categories of workers when the application of the Convention to them would raise special problems of a substantial nature.

3. Each Member which avails itself of the possibility afforded in paragraph 2 of this Article shall, in its reports on the application of the Convention under article 22 of the Constitution of the International Labour Organisation, indicate the particular categories of workers thus excluded and the

reasons for their exclusion. It shall also describe all measures taken with a view to progressively extending the provisions of the Convention to the workers concerned.

Where it has been deemed necessary to exclude certain categories of workers from the scope of this Convention:

- (a) *please indicate the consultations which have taken place for this purpose with the organisations of employers and workers concerned;*
- (b) *please list the categories thus excluded and the reasons for this exclusion;*
- (c) *please indicate any advance made in the progressive extension of the Convention to the worker concerned.*

Article 3

1. Specific measures required by the nature of night work, which shall include, as a minimum, those referred to in Articles 4 to 10, shall be taken for night workers in order to protect their health, assist them to meet their family and social responsibilities, provide opportunities for occupational advancement and compensate them appropriately. Such measures shall also be taken in the fields of safety and maternity protection for all workers performing night work.

2. The measures referred to in paragraph 1 above may be applied progressively.

1. Please indicate all other specific measures taken in addition to those mentioned under Articles 4 to 10 of the Convention.

2. Please indicate any progress made in the progressive application of the measures referred to in paragraph 1.

Article 4

1. At their request, workers shall have the right to undergo a health assessment without charge and to receive advice on how to reduce or avoid health problems associated with their work:

- (a) before taking up an assignment as a night worker;
- (b) at regular intervals during such an assignment;
- (c) if they experience health problems during such an assignment which are not caused by factors other than the performance of night work.

2. With the exception of a finding of unfitness for night work, the findings of such assessments shall not be transmitted to others without the workers' consent and shall not be used to their detriment.

Please indicate the measures taken in your country to ensure that workers are entitled to the health assessment foreseen by this Article.

Article 5

Suitable first-aid facilities shall be made available for workers performing night work, including arrangements whereby such workers, where necessary, can be taken quickly to a place where appropriate treatment can be provided.

Please indicate the measures taken in your country to give effect to this Article.

Article 6

1. Night workers certified, for reasons of health, as unfit for night work shall be transferred, whenever practicable, to a similar job for which they are fit.

2. If transfer to such a job is not practicable, these workers shall be granted the same benefits as other workers who are unable to work or to secure employment.

3. A night worker certified as temporarily unfit for night work shall be given the same protection against dismissal or notice of dismissal as other workers who are prevented from working for reasons of health.

Please indicate the measures taken in your country to give effect to this Article.

Article 7

1. Measures shall be taken to ensure that an alternative to night work is available to women workers who would otherwise be called upon to perform such work:

- (a) before and after childbirth, for a period of at least 16 weeks of which at least eight weeks shall be before the expected date of childbirth;

(b) for additional periods in respect of which a medical certificate is produced stating that it is necessary for the health of the mother or child:

- (i) during pregnancy;
- (ii) during a specified time beyond the period after childbirth fixed pursuant to subparagraph (a) above, the length of which shall be determined by the competent authority after consulting the most representative organisations of employers and workers.

2. The measures referred to in paragraph 1 of this Article may include transfer to day work where this is possible, the provision of social security benefits or an extension of maternity leave.

3. During the periods referred to in paragraph 1 of this Article:

- (a) a woman worker shall not be dismissed or given notice of dismissal, except for justifiable reasons not connected with pregnancy or childbirth;
- (b) the income of the woman worker shall be maintained at a level sufficient for the upkeep of herself and her child in accordance with a suitable standard of living. This income maintenance may be ensured by any of the measures listed in paragraph 2 of this Article, by other appropriate measures or by a combination of these measures;
- (c) a woman worker shall not lose the benefits regarding status, seniority and access to promotion which may attach to her regular night work position.

4. The provisions of this Article shall not have the effect of reducing the protection and benefits connected with maternity leave.

1. Please give particulars of the legal provisions, regulations or any other measures taken in your country to give effect to this Article.

2. Please indicate in particular:

- (a) *the periods determined by the authority, in accordance with paragraph 1 (a) and (b), as well as consultations which may have taken place in this connection with the most representative organisations of employers and workers;*
- (b) *the measures taken and the means provided to:*
 - protect a woman worker from dismissal or being given notice of dismissal due to her pregnancy or delivery, in accordance with subparagraph 3 (a);*
 - ensure that the income of the woman worker is maintained at a level sufficient for the upkeep of herself and her child in accordance with a suitable standard of living, in accordance with subparagraph 3 (b);*
 - ensure that the benefits referred to in subparagraph 3 (c) are maintained;*
- (c) *the measures taken and the means provided to ensure that in all of the cases envisaged by this Article the protection and benefits connected with maternity leave are not reduced, in accordance with paragraph 4.*

Article 8

Compensation for night workers in the form of working time, pay or similar benefits shall recognise the nature of night work.

Please indicate the measures taken to implement this Article.

Article 9

Appropriate social services shall be provided for night workers and, where necessary, for workers performing night work.

Please indicate the measures taken to implement this Article and give information on the kind of social services available.

Article 10

1. Before introducing work schedules requiring the services of night workers, the employer shall consult the workers' representatives concerned on the details of such schedules and the forms of organisation of night work that are best adapted to the establishment and its personnel as well as on the occupational health measures and social services which are required. In establishments employing night workers this consultation shall take place regularly.

2. For the purposes of this Article the term "workers' representatives" means persons who are recognised as such by national law or practice, in accordance with the Workers' Representatives Convention, 1971.

Please indicate the provisions which call for consultation by the employer of the representatives of the workers concerned with regard to the introduction of work schedules requiring the services of night workers.

Article 11

1. The provisions of this Convention may be implemented by laws or regulations, collective agreements, arbitration awards or court decisions, a combination of these means or in any other manner appropriate to national conditions and practice. In so far as they have not been given effect by other means, they shall be implemented by laws or regulations.

2. Where the provisions of this Convention are implemented by laws or regulations, there shall be prior consultation with the most representative organisations of employers and workers.

Please indicate in what manner the provisions of the Convention are implemented and, if necessary, whether consultations have taken place with the most representative organisations of employers and workers in accordance with paragraph 2.

III. Please state to what authority or authorities the application of the above-mentioned laws and administrative regulations, etc., have been entrusted and by what methods such application is supervised. Please supply in particular information on the organisation and functioning of these supervisory bodies.

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 texts of these decisions.

V. Please provide general indications as to the manner in which the Convention is applied in your country, including, for example, extracts from reports of inspection departments, detailed information on the categories of workers concerned and, if the current statistics permit, the number of male and female workers employed at night and the kind of violations registered, etc.

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.

VII. 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 texts 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."

APPENDIX

NIGHT WORK RECOMMENDATION, 1990 (No. 178)

I. GENERAL PROVISIONS

1. For the purposes of this Recommendation:
- (a) the term "night work" means all work which is performed during a period of not less than seven consecutive hours, including the interval from midnight to 5 a.m., to be determined by the competent authority after consulting the most representative organisations of employers and workers or by collective agreements;
 - (b) the term "night worker" means an employed person whose work requires the performance of a substantial number of hours of night work which exceeds a specified limit. This limit shall be fixed by the competent authority after consulting the most representative organisations of employers and workers or by collective agreements.

2. This Recommendation applies to all employed persons, except those employed in agriculture, stock raising, fishing, maritime transport and inland navigation.

3. (1) The provisions of this Recommendation may be implemented by laws, or regulations, collective agreements, arbitration awards or court decisions, a combination of these means or in any other manner appropriate to national conditions and practice. In so far as they have not been given effect by other means, they should be implemented by laws or regulations.

(2) Where the provisions of this Recommendation are implemented by laws or regulations, there should be prior consultation with the most representative organisations of employers and workers.

II. HOURS OF WORK AND REST PERIODS

4. (1) Normal hours of work for night workers should not exceed eight in any 24-hour period in which they perform night work, except in the case of work which includes substantial periods of mere attendance or stand-by, in cases in which alternative working schedules give workers at least equivalent protection over different periods or in cases of exceptional circumstances recognised by collective agreements or failing that by the competent authority.

(2) The normal hours of work of night workers should generally be less on average than and, in any case, not exceed on average those of workers performing the same work to the same requirements by day in the branch of activity or the undertaking concerned.

(3) Night workers should benefit to at least the same extent as other workers from general measures for reducing normal weekly hours of work and increasing days of paid leave.

5. (1) Work should be organised in such a way as to avoid, as far as possible, overtime by night workers before or after a daily period of work which includes night work.

(2) In occupations involving special hazards or heavy physical or mental strain, no overtime should be performed by night workers before or after a daily period of work which includes night work, except in cases of *force majeure* or of actual or imminent accident.

6. Where shift work involves night work:

- (a) in no case should two consecutive full-time shifts be performed, except in cases of *force majeure* or of actual or imminent accident;
- (b) a rest period of at least 11 hours between two shifts should be guaranteed as far as possible.

7. Daily periods of work which include night work should include a break or breaks to enable workers to rest and eat. The scheduling and total length of these breaks should take account of the demands placed on workers by the nature of night work.

III. FINANCIAL COMPENSATION

8. (1) Night work should generally give rise to appropriate financial compensation. Such compensation should be additional to the remuneration paid for the same work performed to the same requirements during the day and:

- (a) should respect the principle of equal pay for men and women for the same work, or for work of equal value; and
- (b) may by agreement be converted into reduced working time.

(2) In determining such compensation, the extent of reductions in working hours may be taken into account.

9. Where financial compensation for night work is a normal element in a night worker's earnings, it should be included in the calculation of the remuneration of paid annual leave, paid public holidays and other absences that are normally paid as well as in the fixing of social security contributions and benefits.

IV. SAFETY AND HEALTH

10. Employers and the workers' representatives concerned should be able to consult the occupational health services, where they exist, on the consequences of various forms of organisation of night work, especially when undertaken by rotating crews.

11. In determining the content of the tasks assigned to night workers, account should be taken of the nature of night work and of the effects of environmental factors and forms of work organisation. Special attention should be paid to factors such as toxic substances, noise, vibrations and lighting levels and to forms of work organisation involving heavy physical or mental strain. Cumulative effects from such factors and forms of work organisation should be avoided or reduced.

12. The employer should take the necessary measures to maintain during night work the same level of protection against occupational hazards as by day, in particular avoiding, as far as possible, the isolation of workers.

V. SOCIAL SERVICES

13. Measures should be taken to limit or reduce the time spent by night workers in travelling between their residence and workplace, to avoid or reduce additional travelling expenses for them and to improve their safety when travelling at night. Such measures may include:

- (a) co-ordination between the starting and finishing times of daily periods of work which include night work and the schedules of local public transport services;
- (b) provision by the employer of collective means of transport for night workers where public transport services are not available;
- (c) assistance to night workers in the acquisition of appropriate means of transport;
- (d) the payment of appropriate compensation for additional travelling expenses;
- (e) the building of housing complexes within a reasonable distance of the workplace.

14. Measures should be taken to improve the quality of rest for night workers. Such measures may include:

- (a) advice and, where appropriate, assistance to night workers for noise insulation of their housing;
- (b) design and equipping of housing complexes which take into account the need to reduce noise levels.

15. Suitably equipped resting facilities should be made available to night workers in appropriate places in the undertaking.

16. The employer should take the necessary measures to enable workers performing night work to obtain meals and beverages. Such measures, devised in such a way as to meet the needs of night workers, may include:

- (a) making available, at appropriate places in the undertaking, food and beverages suitable for consumption at night;
- (b) access to facilities where workers may, at night, prepare or heat and eat food which they have brought.

17. The extent to which night work is performed locally should be one of the factors to be taken into consideration when deciding on the establishment of crèches or other services for the care of young children, choosing their location and determining their opening hours.

18. The specific constraints on night workers should be duly taken into consideration by the public authorities, by other institutions and by employers within the framework of measures to encourage training and re-training, as well as cultural, sporting or recreational activities for workers.

VI. OTHER MEASURES

19. At any point during pregnancy, once this is known, women night workers who so request should be assigned to day work, as far as practicable.

20. In cases of shift work, the special situation of workers with family responsibilities, of workers undergoing training and of older workers should be taken into consideration when decisions are taken on the composition of night crews.

21. Except in cases of *force majeure* or of actual or imminent accident, workers should be given reasonable notice of a requirement to perform night work.

22. Measures should be taken, where appropriate, to enable night workers, like other workers, to benefit from training opportunities including paid educational leave.

23. (1) Night workers who have completed a given number of years on night work should be accorded special consideration with respect to vacancies for day work for which they have the necessary qualifications.

(2) Preparations should be made for such transfers by facilitating the training of night workers where necessary for tasks normally performed by day.

24. Workers who have spent a considerable number of years as night workers should be accorded special consideration with respect to opportunities for voluntary early or phased retirement where such opportunities exist.

25. Night workers who have a trade union or workers' representation function should, like other workers who assume such a function, be able to exercise it in appropriate conditions. The need to carry out workers' representation functions should be taken into consideration when decisions are made concerning assignment of workers' representatives to night work.

26. Statistics on night work should be improved and studies on the effects of different forms of organisation of night work, particularly when carried out in the framework of shift systems, should be intensified.

27. Wherever possible, advantage should be taken of scientific and technical progress and of innovations relating to work organisation in order to limit recourse to night work.