

INTERNATIONAL LABOUR OFFICE GENEVA

REPORT FORM

FOR THE

HOME WORK CONVENTION, 1996 (No. 177)

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."

The Government may deem it useful to consult the appended text of the Home Work Recommendation, 1996 (No. 184), 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:

- (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

HOME WORK CONVENTION, 1996 (No. 177)

(ratification registered on)

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

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 above-mentioned laws and regulations, etc., or other measures, which give effect to each Article. In addition, please also give any information specifically requested on the different 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 measures.

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

For the purposes of this Convention:

- (a) the term "home work" means work carried out by a person, to be referred to as a homeworker;
 - (i) in his or her home or in other premises of his or her choice, other than the workplace of the employer;
 - (ii) for remuneration;
 - (iii) which results in a product or service as specified by the employer, irrespective of who provides the equipment, materials or other inputs used,unless this person has the degree of autonomy and the economic independence necessary to be considered an independent worker under national laws, regulations or court decisions;
- (b) persons with employee status do not become homeworkers within the meaning of this Convention simply by occasionally performing their work as employees at home, rather than at their usual workplaces;
- (c) the term "employer" means a person, natural or legal, who, either directly or through an intermediary, whether or not intermediaries are provided for in national legislation, gives out home work in pursuance of his or her business activity.

Please indicate, where necessary, the provisions of national laws or court decisions establishing the status of homeworker, independent worker and intermediary.

Article 2

This Convention applies to all persons carrying out home work within the meaning of Article 1.

Article 3

Each Member which has ratified this Convention shall adopt, implement and periodically review a national policy on home work aimed at improving the situation of homeworkers, in consultation with the most representative organizations of employers and workers and, where they exist, with organizations concerned with homeworkers and those of employers of homeworkers.

Please explain briefly the policy and methods adopted to improve the situation of homeworkers.

Please indicate the employers' and workers' organizations which have been consulted.

Article 4

1. The national policy on home work shall promote, as far as possible, equality of treatment between homeworkers and other wage-earners, taking into account the special characteristics of home work and, where appropriate, conditions applicable to the same or a similar type of work carried out in an enterprise.

2. Equality of treatment shall be promoted, in particular, in relation to:

- (a) the homeworkers' right to establish or join organizations of their own choosing and to participate in the activities of such organizations;
- (b) protection against discrimination in employment and occupation;
- (c) protection in the field of occupational safety and health;
- (d) remuneration;
- (e) statutory social security protection;
- (f) access to training;
- (g) minimum age for admission to employment or work; and
- (h) maternity protection.

Please indicate the measures taken to promote equality of treatment between homeworkers and other employees in the eight areas provided for in this paragraph.

Article 5

The national policy on home work shall be implemented by means of laws and regulations, collective agreements, arbitration awards or in any other appropriate manner consistent with national practice.

Please specify by what means the implementation of the provisions of the Convention is guaranteed, and communicate the relevant text.

Article 6

Appropriate measures shall be taken so that labour statistics include, to the extent possible, home work.

Please indicate the measures taken to apply this provision.

Article 7

National laws and regulations on safety and health at work shall apply to home work, taking account of its special characteristics, and shall establish conditions under which certain types of work and the use of certain substances may be prohibited in home work for reasons of safety and health.

Please indicate the measures taken to apply this provision, and the types of work and substances prohibited in home work.

Article 8

Where the use of intermediaries in home work is permitted, the respective responsibilities of employers and intermediaries shall be determined by laws and regulations or by court decisions, in accordance with national practice.

Where intermediaries are recognized by legislation or tolerated in practice, please communicate the laws or regulations or court decisions establishing the respective responsibilities of employers and intermediaries.

Article 9

1. A system of inspection consistent with national law and practice shall ensure compliance with the laws and regulations applicable to home work.

2. Adequate remedies, including penalties where appropriate, in case of violation of these laws and regulations shall be provided for and effectively applied.

Please indicate the system of inspection for ensuring compliance with the laws applicable to home work. Please communicate detailed information on the organization and operation of the inspection system, if the system differs from the labour inspection prescribed under Convention No. 81.

Please indicate the measures taken to give effect to this provision.

Article 10

The Convention does not affect more favourable provisions applicable to homeworkers under other international labour Conventions.

- III. Please state to what authority or authorities the application of the above-mentioned legislation, regulations, etc. is entrusted, and by what methods such application is supervised.
- 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 and supply — in so far as the information in question has not already been supplied in connection with other questions in this form — extracts from inspection reports and, where such statistics exist, information on the number of workers covered by the measures giving effect to the Convention, the number and nature of infringements 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 explains the procedure followed.
- VII. 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. 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 organizations recognized 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

HOME WORK RECOMMENDATION, 1996 (No. 184)

I. DEFINITIONS AND SCOPE OF APPLICATION

1. For the purposes of this Recommendation:
 - (a) the term "home work" means work carried out by a person, to be referred to as a homemaker,
 - (i) in his or her home or in other premises of his or her choice, other than the workplace of the employer;
 - (ii) for remuneration;
 - (iii) which results in a product or service as specified by the employer, irrespective of who provides the equipment, materials or other inputs used, unless this person has the degree of autonomy and of economic independence necessary to be considered an independent worker under national laws, regulations or court decisions;
 - (b) persons with employee status do not become home-workers within the meaning of this Recommendation simply by occasionally performing their work as employees at home, rather than at their usual workplaces;
 - (c) the term "employer" means a person, natural or legal, who, either directly or through an intermediary, whether or not intermediaries are provided for in national legislation, gives out home work in pursuance of his or her business activity.

2. This Recommendation applies to all persons carrying out home work within the meaning of Paragraph 1.

II. GENERAL PROVISIONS

3. (1) Each Member should, according to national law and practice, designate an authority or authorities entrusted with the formulation and implementation of the national policy on home work referred to in Article 3 of the Convention.

(2) As far as possible, use should be made of tripartite bodies or organizations of employers and workers in the formulation and implementation of this national policy.

(3) In the absence of organizations concerned with homeworkers or organizations of employers of homeworkers, the authority or authorities referred to in subparagraph (1) should make suitable arrangements to permit these workers and employers to express their opinions on this national policy and on the measures adopted to implement it.

4. Detailed information, including data classified according to sex, on the extent and characteristics of home work should be compiled and kept up to date to serve as a basis for the national policy on home work and for the measures adopted to implement it. This information should be published and made publicly available.

5. (1) A homemaker should be kept informed of his or her specific conditions of employment in writing or in any other appropriate manner consistent with national law and practice.

(2) This information should include, in particular:

- (a) the name and address of the employer and the intermediary, if any;

- (b) the scale or rate of remuneration and the methods of calculation; and
- (c) the type of work to be performed.

III. SUPERVISION OF HOME WORK

6. The competent authority at the national level and, where appropriate, at the regional, sectoral or local levels, should provide for registration of employers of homeworkers and of any intermediaries used by such employers. For this purpose, such authority should specify the information employers should submit or keep at the authority's disposal.

7. (1) Employers should be required to notify the competent authority when they give out home work for the first time.

(2) Employers should keep a register of all homeworkers, classified according to sex, to whom they give work.

(3) Employers should also keep a record of work assigned to a homemaker which shows:

- (a) the time allocated;
- (b) the rate of remuneration;
- (c) costs incurred, if any, by the homemaker and the amount reimbursed in respect of them;
- (d) any deductions made in accordance with national laws and regulations; and
- (e) the gross remuneration due and the net remuneration paid, together with the date of payment.

(4) A copy of the record referred to in subparagraph (3) should be provided to the homemaker.

8. In so far as it is compatible with national law and practice concerning respect for privacy, labour inspectors or other officials entrusted with enforcing provisions applicable to home work should be allowed to enter the parts of the home or other private premises in which the work is carried out.

9. In cases of serious or repeated violations of the laws and regulations applicable to home work, appropriate measures should be taken, including the possible prohibition of giving out home work, in accordance with national law and practice.

IV. MINIMUM AGE

10. National laws and regulations concerning minimum age for admission to employment or work should apply to home work.

V. THE RIGHTS TO ORGANIZE AND TO BARGAIN COLLECTIVELY

11. Legislative or administrative restrictions or other obstacles to:

- (a) the exercise of the right of homeworkers to establish their own organizations or to join the workers' organizations of their choice and to participate in the activities of such organizations; and

- (b) the exercise of the right of organizations of homeworkers to join trade union federations or confederations, should be identified and eliminated.

12. Measures should be taken to encourage collective bargaining as a means of determining the terms and conditions of work of homeworkers.

VI. REMUNERATION

13. Minimum rates of wages should be fixed for home work, in accordance with national law and practice.

14. (1) Rates of remuneration of homeworkers should be fixed preferably by collective bargaining, or in its absence, by:

- (a) decisions of the competent authority, after consulting the most representative organizations of employers and of workers as well as organizations concerned with homeworkers and those of employers of homeworkers, or where the latter organizations do not exist, representatives of homeworkers and of employers of homeworkers; or
- (b) other appropriate wage-fixing machinery at the national, sectoral or local levels.

(2) Where rates of remuneration are not fixed by one of the means in subparagraph (1) above, they should be fixed by agreement between the homeworker and the employer.

15. For specified work paid by the piece, the rate of remuneration of a homeworker should be comparable to that received by a worker in the enterprise of the employer or, if there is no such worker, in another enterprise in the branch of activity and region concerned.

16. Homeworkers should receive compensation for:

- (a) costs incurred in connection with their work, such as those relating to the use of energy and water, communications and maintenance of machinery and equipment; and
- (b) time spent in maintaining machinery and equipment, changing tools, sorting, unpacking and packing, and other such operations.

17. (1) National laws and regulations concerning the protection of wages should apply to homeworkers.

(2) National laws and regulations should ensure that pre-established criteria are set for deductions and should protect homeworkers against unjustified deductions for defective work or spoilt materials.

(3) Homeworkers should be paid either on delivery of each completed work assignment or at regular intervals of not more than one month.

18. Where an intermediary is used, the intermediary and the employer should be made jointly and severally liable for payment of the remuneration due to homeworkers, in accordance with national law and practice.

VII. OCCUPATIONAL SAFETY AND HEALTH

19. The competent authority should ensure the dissemination of guidelines concerning the safety and health regulations and precautions that employers and homeworkers are to observe. Where practicable, these guidelines should be translated into languages understood by homeworkers.

20. Employers should be required to:

- (a) inform homeworkers of any hazards that are known or ought to be known to the employer associated with the work given to them and of the precautions to be taken, and provide them, where appropriate, with the necessary training;
- (b) ensure that machinery, tools or other equipment provided to homeworkers are equipped with appropriate safety devices and take reasonable steps to ensure that they are properly maintained; and
- (c) provide homeworkers free of charge with any necessary personal protective equipment.

21. Homeworkers should be required to:

- (a) comply with prescribed safety and health measures;
- (b) take reasonable care for their own safety and health and that of other persons who may be affected by their acts or omissions at work, including the proper use of materials, machinery, tools and other equipment placed at their disposal.

22. (1) A homeworker who refuses to carry out work which he or she has reasonable justification to believe presents an imminent and serious danger to his or her safety or health should be protected from undue consequences in a manner consistent with national conditions and practice. The homeworker should report the situation to the employer without delay.

(2) In the event of an imminent and serious danger to the safety or health of a homeworker, his or her family or the public, as determined by a labour inspector or other public safety official, the continuation of home work should be prohibited until appropriate measures have been taken to remedy the situation.

VIII. HOURS OF WORK, REST PERIODS AND LEAVE

23. A deadline to complete a work assignment should not deprive a homeworker of the possibility to have daily and weekly rest comparable to that enjoyed by other workers.

24. National laws and regulations should establish the conditions under which homeworkers should be entitled to benefit, as other workers, from paid public holidays, annual holidays with pay and paid sick leave.

IX. SOCIAL SECURITY AND MATERNITY PROTECTION

25. Homeworkers should benefit from social security protection. This could be done by:

- (a) extending existing social security provisions to homeworkers;
- (b) adapting social security schemes to cover homeworkers; or
- (c) developing special schemes or funds for homeworkers.

26. National laws and regulations in the field of maternity protection should apply to homeworkers.

X. PROTECTION IN CASE OF TERMINATION OF EMPLOYMENT

27. Homeworkers should benefit from the same protection as that provided to other workers with respect to termination of employment.

XI. RESOLUTION OF DISPUTES

28. The competent authority should ensure that there are mechanisms for the resolution of disputes between a homemaker and an employer or any intermediary used by the employer.

XII. PROGRAMMES RELATED TO HOME WORK

29. (1) Each Member should, in cooperation with organizations of employers and workers, promote and support programmes which:

- (a) inform homeworkers of their rights and the kinds of assistance available to them;
- (b) raise awareness of home-work-related issues among employers' and workers' organizations, non-governmental organizations and the public at large;
- (c) facilitate the organization of homeworkers in organizations of their own choosing, including co-operatives;
- (d) provide training to improve homeworkers' skills (including non-traditional skills, leadership and negotiating skills), productivity, employment opportunities and income-earning capacity;

- (e) provide training which is carried out as close as practicable to the workers' homes and does not require unnecessary formal qualifications;
- (f) improve homeworkers' safety and health such as by facilitating their access to equipment, tools, raw materials and other essential materials that are safe and of good quality;
- (g) facilitate the creation of centres and networks for homeworkers in order to provide them with information and services and reduce their isolation;
- (h) facilitate access to credit, improved housing and child care; and
- (i) promote recognition of home work as valid work experience.

(2) Access to these programmes should be ensured to rural homeworkers.

(3) Specific programmes should be adopted to eliminate child labour in home work.

XIII. ACCESS TO INFORMATION

30. Where practicable, information concerning the rights and protection of homeworkers and the obligations of employers towards homeworkers, as well as the programmes referred to in Paragraph 29, should be provided in languages understood by homeworkers.