

C172 - Working Conditions (Hotels and Restaurants) Convention, 1991 (No. 172)

Convention concerning Working Conditions in Hotels, Restaurants and similar Establishments (Entry into force: 07 Jul 1994) Adoption: Geneva, 78th ILC session (25 Jun 1991) - Status: Up-to-date instrument (Technical Convention).

Preamble

The General Conference of the International Labour Organisation,

Having been convened at Geneva by the Governing Body of the International Labour Office, and having met in its 78th Session on 5 June 1991, and

Recalling that international labour Conventions and Recommendations laying down standards of general application concerning working conditions are applicable to workers in hotels, restaurants and similar establishments, and

Noting that the particular conditions characterising work in hotels, restaurants and similar establishments make it desirable to improve the application of these Conventions and Recommendations in these categories of establishments and to supplement them by specific standards designed to enable the workers concerned to enjoy a status corresponding to their role in these rapidly expanding categories of establishments and to attract new workers to them, by improving working conditions, training and career prospects, and

Noting that collective bargaining is an effective means of determining conditions of work in this sector, and

Considering that the adoption of a Convention together with collective bargaining will enhance working conditions, career prospects and job security, to the benefit of the workers, and

Having decided upon the adoption of certain proposals with regard to working conditions in hotels, restaurants and similar establishments, which is the fourth item on the agenda of the session, and

Having determined that these proposals shall take the form of an international Convention;

adopts this twenty-fifth day of June of the year one thousand nine hundred and ninety-one the following Convention, which may be cited as the Working Conditions (Hotels and Restaurants) Convention, 1991:

Article 1

- 1. Subject to the provisions of Article 2, paragraph 1, this Convention applies to workers employed within:
 - (a) hotels and similar establishments providing lodging;
 - (b) restaurants and similar establishments providing food, beverages or both.
- 2. The definition of the categories referred to in subparagraphs (a) and (b) above shall be determined by each Member in the light of national conditions and after consulting the employers' and workers' organisations concerned. Each Member which ratifies the Convention may, after consulting the employers' and workers' organisations concerned, exclude from its application certain types of establishments which fall within the definition mentioned above, but where nevertheless special problems of a substantial nature arise.
- 3. (a) Each Member which ratifies this Convention may, after consulting the employers' and workers' organisations concerned, extend its application to other related establishments providing tourism services which shall be specified in a declaration appended to its ratification.
 - (b) Each Member which has ratified this Convention may, after consulting the employers' and workers' organisations concerned, further subsequently notify the Director-General of the International Labour Office, by a declaration, that it extends the application of the Convention to further categories of related establishments providing tourism services.
- 4. Each Member which ratifies this Convention shall list in the first report on the application of the Convention submitted under Article 22 of the Constitution of the International Labour Organisation any type of establishment which may have been excluded in pursuance of paragraph 2 above, giving the reasons for such exclusion, stating the respective positions of the employers' and workers' organisations concerned with regard to such exclusion, and shall state in subsequent reports the position of its law and practice in respect of the establishments excluded, and the extent to which effect has been given or is proposed to be given to the Convention in respect of such establishments.

Article 2

- 1. For the purpose of this Convention, the term ***the workers concerned*** means workers employed within establishments to which the Convention applies pursuant to the provisions of Article 1, irrespective of the nature and duration of their employment relationship. However, each Member may, in the light of national law, conditions and practice and after consulting the employers' and workers' organisations concerned, exclude certain particular categories of workers from the application of all or some of the provisions of this Convention.

- 2. Each Member which ratifies this Convention shall list, in the first report on the application of the Convention submitted under article 22 of the Constitution of the International Labour Organisation, any categories of workers which may have been excluded in pursuance of paragraph 1 above, giving the reasons for such exclusion, and shall indicate in subsequent reports any progress towards wider application.

Article 3

- 1. Each Member shall, with due respect to the autonomy of the employers' and workers' organisations concerned, adopt and apply, in a manner appropriate to national law, conditions and practice, a policy designed to improve the working conditions of the workers concerned.
- 2. The general objective of such a policy shall be to ensure that the workers concerned are not excluded from the scope of any minimum standards adopted at the national level for workers in general, including those relating to social security entitlements.

Article 4

- 1. Unless otherwise determined by national law or practice, the term **hours of work** means the time during which a worker is at the disposal of the employer.
- 2. The workers concerned shall be entitled to reasonable normal hours of work and overtime provisions in accordance with national law and practice.
- 3. The workers concerned shall be provided with reasonable minimum daily and weekly rest periods, in accordance with national law and practice.
- 4. The workers concerned shall, where possible, have sufficient advance notice of working schedules to enable them to organise their personal and family life accordingly.

Article 5

- 1. If workers are required to work on public holidays, they shall be appropriately compensated in time or remuneration, as determined by collective bargaining or in accordance with national law or practice.
- 2. The workers concerned shall be entitled to annual leave with pay of a length to be determined by collective bargaining or in accordance with national law or practice.
- 3. In cases where their contract expires or their period of continuous service is not of sufficient duration to qualify them for full annual leave, the workers concerned shall be entitled to paid leave proportionate to the length of service or payment of wages in lieu, as determined by collective bargaining or in accordance with national law or practice.

Article 6

- 1. The term ***tip*** means an amount of money given voluntarily to the worker by a customer, in addition to the amount which the customer has to pay for the services received.
- 2. Regardless of tips, the workers concerned shall receive a basic remuneration that is paid at regular intervals.

Article 7

Where such a practice exists, the sale and purchase of employment in establishments referred to in Article 1 shall be prohibited.

Article 8

- 1. The provisions of this Convention may be applied by or through national laws or regulations, collective agreements, arbitration awards or judicial decisions, or in any other appropriate manner consistent with national practice.
- 2. For the Members where the provisions of this Convention are matters normally left to agreements between employers or employers' organisations and workers' organisations, or are normally carried out otherwise than by law, compliance with those provisions shall be treated as effective if they are applied through such agreements or other means to the great majority of the workers concerned.

Article 9

The formal ratifications of this Convention shall be communicated to the Director-General of the International Labour Office for registration.

Article 10

- 1. This Convention shall be binding only upon those Members of the International Labour Organisation whose ratifications have been registered with the Director-General.
- 2. It shall come into force twelve months after the date on which the ratifications of two Members have been registered with the Director-General.
- 3. Thereafter, this Convention shall come into force for any Member twelve months after the date on which its ratification has been registered.

Article 11

- 1. A Member which has ratified this Convention may denounce it after the expiration of ten years from the date on which the Convention first comes into force, by an act communicated to the Director-General of the International Labour Office for registration. Such denunciation shall not take effect until one year after the date on which it is registered.
- 2. Each Member which has ratified this Convention and which does not, within the year following the expiration of the period of ten years mentioned in the preceding paragraph, exercise the right of denunciation provided for in this Article, will be bound for another period of ten years and, thereafter, may denounce this Convention at the expiration of each period of ten years under the terms provided for in this Article.

Article 12

- 1. The Director-General of the International Labour Office shall notify all Members of the International Labour Organisation of the registration of all ratifications and denunciations communicated to him by the Members of the Organisation.
- 2. When notifying the Members of the Organisation of the registration of the second ratification communicated to him, the Director-General shall draw the attention of the Members of the Organisation to the date upon which the Convention will come into force.

Article 13

The Director-General of the International Labour Office shall communicate to the Secretary-General of the United Nations for registration in accordance with Article 102 of the Charter of the United Nations full particulars of all ratifications and acts of denunciation registered by him in accordance with the provisions of the preceding Articles.

Article 14

At such times as it may consider necessary the Governing Body of the International Labour Office shall present to the General Conference a report on the working of this Convention and shall examine the desirability of placing on the agenda of the Conference the question of its revision in whole or in part.

Article 15

- 1. Should the Conference adopt a new Convention revising this Convention in whole or in part, then, unless the new Convention otherwise provides -
 - (a) the ratification by a Member of the new revising Convention shall ipso jure involve the immediate denunciation of this Convention, notwithstanding the provisions of Article 11 above, if and when the new revising Convention shall have come into force;

- (b) as from the date when the new revising Convention comes into force this Convention shall cease to be open to ratification by the Members.
- 2. This Convention shall in any case remain in force in its actual form and content for those Members which have ratified it but have not ratified the revising Convention.

Article 16

The English and French versions of the text of this Convention are equally authoritative.

Source:

http://www.ilo.org/dyn/normlex/en/f?p=NORMLEXPUB:12100:0::NO:12100:P12100_INSTRUMENT_ID:312317:NO