

CONVENTION (NO. 95) CONCERNING THE PROTECTION OF WAGES

Note: The Convention was concurred in by the Senate, S.R. No. 140, May 21, 1953. The Philippine instrument of ratification was signed by the President, October 28, 1953 and was deposited with the Director-General of the ILO, December 29, 1953. The convention entered into force, September 24, 1952, and with respect to the Philippines, December 29, 1954.

Reference: This Convention is also published in 138 .UNTS, p. 225.

The General Conference of the International Labor Organization,

Having been convened at Geneva by the Governing Body of the International Labor Office, and having met in its Thirty-second Session on 8 June 1949, and

Having decided upon the adoption of certain proposals concerning the protection of wages, which is the seventh item on the agenda of the session, and

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

adopts this first day of July of the year one thousand nine hundred and forty-nine the following Convention, which may be cited as the Protection, of Wages Convention, 1949:

ARTICLE 1

In this Convention, the term "wages" means remuneration or earnings, however designated or calculated, capable of being expressed in terms of money and fixed by mutual agreement or by national laws or regulations, which are payable in virtue of a written or unwritten contract of employment by an employer to an employed person for work done or to be done or for services rendered or to be rendered.

ARTICLE 2

1. This Convention applies to all persons to whom wages are paid or payable.
2. The competent authority may, after consultation with the organizations of employers and employed persons directly concerned, if such exist, exclude from the application of all or any of the provisions of the Convention categories of persons whose circumstances and conditions of employment are such that the application to them of all or any of the said provisions would be inappropriate and who are not employed in manual labor or are employed in domestic service or work similar thereto.
3. Each Member shall indicate in its first annual report upon the application of this Convention submitted under Article 22 of the Constitution of the International Labor

Organization any categories of persons which it proposes to exclude from the application of all or any of the provisions of the Convention in accordance with the provisions of the preceding paragraph; no Member shall, after the date of its first annual report, make exclusions except in respect of categories of persons so indicated.

4. Each Member having indicated in its first annual report categories of persons which it proposes to exclude from the application of all or any of the provisions of the Convention shall indicate in subsequent annual reports any categories of persons in respect of which it renounces the right to have recourse to the provisions of paragraph 2 of this Article and any progress which may have been made with a view to the application of the Convention to such categories of persons.

ARTICLE 3

1. Wages payable in money shall be paid only in legal tender, and payment in the form of promissory notes, vouchers or coupons, or in any other form alleged to represent legal tender, shall be prohibited.

2. The competent authority may permit or prescribe the payment of wages by bank cheque or postal cheque or money order in cases in which payment in this manner is customary or is necessary because of special circumstances, or where a collective agreement or arbitration award so provides, or, where not so provided, with the consent of the worker concerned.

ARTICLE 4

1. National laws or regulations, collective agreements or arbitration awards may authorize the partial payment of wages in the form of allowances in kind in industries or occupations in which payment in the form of such allowances is customary or desirable because of the nature of the industry or occupation concerned; the payment of wages in the form of liquor of high alcoholic content or obnoxious drugs shall not be permitted in any circumstances.

2. In cases in which partial payment of wages in the form of allowances in kind is authorized, appropriate measures shall be taken to ensure that—

(a) such allowances are appropriate for the personal use and benefit of the worker and his family; and

(b) the value attributed to such allowances is fair and reasonable.

ARTICLE 5

Wages shall be paid directly to the worker concerned except as may be otherwise provided by national laws or regulations, collective agreement or arbitration award or where the worker concerned has agreed to the contrary.

ARTICLE 6

Employers shall be prohibited from limiting in any manner the freedom of the worker to dispose of his wages.

ARTICLE 7

1. Where works stores for the sale of commodities to the workers are established or services are operated in connection with an undertaking, the workers concerned shall be free from any coercion to make use of such stores or services.

2. Where access, to other stores or services is not possible, the competent authority shall take appropriate measures with the object of ensuring that goods are sold and services provided at fair and reasonable prices, or that stores established and services operated by the employer are not operated for the purpose of securing a profit but for the benefit of the workers concerned.

ARTICLE 8

1. Deductions from wages shall be permitted only under conditions and to the extent prescribed by national laws or regulations or fixed by collective agreement or arbitration award.

2. Workers shall be informed, in the manner deemed most appropriate by the competent authority, of the conditions under which and the extent to which such deductions may be made.

ARTICLE 9

Any deduction from wages with a view to ensuring a direct or indirect payment for the purpose of obtaining or retaining employment, made by a worker to an employer or his representative or to any intermediary (such as a labor contractor or recruiter), shall be prohibited.

ARTICLE 10

1. Wages may be attached or assigned only in a manner and within limits prescribed by national laws or regulations.

2. Wages shall be protected against attachment or assignment to the extent deemed necessary for the maintenance of the worker and his family.

ARTICLE 11

1. In the event of the bankruptcy or judicial liquidation of an undertaking, the workers employed therein shall be treated as privileged creditors either as regards wages due to them for service rendered during such a period prior to the bankruptcy or judicial liquidation as may be prescribed by national laws or regulations, or as regards wages up to a prescribed amount as may be determined by national laws or regulations.

2. Wages constituting a privileged debt shall be paid in full before ordinary creditors may establish any claim to a share of the assets.

3. The relative priority of wages constituting a privileged debt and other privileged debts shall be determined by national laws or regulations.

ARTICLE 12

1. Wages shall be paid regularly. Except where other appropriate arrangements exist which ensure the payment of wages at regular intervals, the intervals for the payment of wages shall be prescribed by national laws or regulations or fixed by collective agreement or arbitration award.

2. Upon the termination of contract of employment, a final settlement of all wages due shall be effected in accordance with national laws or regulations, collective agreement or arbitration award or, in the absence of any applicable law, regulation, agreement or award, within a reasonable period of time having regard to the terms of the contract.

ARTICLE 13

1. The payment of wages where made in cash shall be made on working days only and at or near the workplace, except as may be otherwise provided by national laws or regulations, collective agreement or arbitration award, or where other arrangements known to the workers concerned are considered more appropriate.

2. Payment of wages in taverns or other similar establishments and, where necessary to prevent abuse, in shops or stores for the retail sale of merchandise and in places of amusement shall be prohibited except in the case of persons employed therein.

ARTICLE 14

Where necessary, effective measures shall be taken to ensure that workers are informed, in an appropriate and easily understandable manner—

(a) before they enter employment and when any changes take place, of the conditions in respect of wages under which they are employed; and

(b) at the time of each payment of wages, of the particulars of their wages for the period concerned, in so far as such particulars may be subject to change.

ARTICLE 15

The laws or regulations giving effect to the provisions of this Convention shall—

(a) be made available for the information of persons concerned;

(b) define the persons responsible for compliance therewith;

(c) prescribe adequate penalties or other appropriate remedies for any violation thereof;

(d) provide for the maintenance, in all appropriate cases, of adequate records in an approved form and manner.

ARTICLE 16

There shall be included in the annual reports to be submitted under Article 22 of the Constitution of the International Labor Organization full information concerning the measures by which effect is given to the provisions of this Convention.

ARTICLE 17

1. In the case of a Member the territory of which includes large areas where, by reason of the sparseness of the population or the stage of development of the area, the competent authority considers it impracticable to enforce the provisions of this Convention, the authority may, after consultation with the organizations of employers and workers concerned, where such exist, exempt such areas from the