

No. 8718

INTERNATIONAL LABOUR ORGANISATION

Convention (No. 121) concerning benefits in the case of employment injury (with schedules and annex), adopted by the General Conference of the International Labour Organisation at its forty-eighth session, Geneva, 8 July 1964

Official texts: English and French.

Registered by the International Labour Organisation on 7 August 1967.

ORGANISATION INTERNATIONALE DU TRAVAIL

Convention (n° 121) concernant les prestations en cas d'accidents du travail et de maladies professionnelles (avec tableaux et annexe), adoptée par la Conférence générale de l'Organisation internationale du Travail à sa quarante-huitième session, Genève, 8 juillet 1964

Textes officiels anglais et français.

Enregistrée par l'Organisation internationale du Travail le 7 août 1967.

No. 8718. CONVENTION¹ (No. 121) CONCERNING BENEFITS IN THE CASE OF EMPLOYMENT INJURY, ADOPTED BY THE GENERAL CONFERENCE OF THE INTERNATIONAL LABOUR ORGANISATION AT ITS FORTY-EIGHTH SESSION, GENEVA, 8 JULY 1964

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 Forty-eighth Session on 17 June 1964, and

Having decided upon the adoption of certain proposals with regard to benefits in the case of industrial accidents and occupational diseases, which is the fifth item on the agenda of the session, and

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

adopts this eighth day of July of the year one thousand nine hundred and sixty-four the following Convention, which may be cited as the Employment Injury Benefits Convention, 1964 :

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;
- (c) the term “ industrial undertaking ” includes all undertakings in the following branches of economic activity: mining and quarrying; manufacturing; construction; electricity, gas, water and sanitary services; and transport, storage and communication;
- (d) the term “ dependent ” refers to a state of dependency which is presumed to exist in prescribed cases;

¹ Came into force, in accordance with article 33, on 28 July 1967, twelve months after the date on which the ratifications of the following two Members of the International Labour Organisation had been registered with the Director-General of the International Labour Organisation on the dates indicated :

Senegal	25 April 1966
Cyprus	28 July 1966

The Convention came into force for the Netherlands on 2 August 1967, twelve months after the date on which its ratification was registered with the Director-General of the International Labour Organisation (2 August 1966).

- (e) the term “ dependent child ” covers—
- (i) a child under school-leaving age or under 15 years of age, whichever is the higher, and
 - (ii) a child under a prescribed age higher than that specified in subclause (i) and who is an apprentice or student or has a chronic illness or infirmity disabling him for any gainful activity, on conditions laid down by national legislation : Provided that this requirement shall be deemed to be met where national legislation defines the term so as to cover any child under an age appreciably higher than that specified in subclause (i).

Article 2

1. A Member whose economic and medical facilities are insufficiently developed may avail itself by a declaration accompanying its ratification of the temporary exceptions provided for in the following Articles : Article 5, Article 9, paragraph 3, clause (b), Article 12, Article 15, paragraph 2, and Article 18, paragraph 3. Any such declaration shall state the reason for such exceptions.

2. Each Member which has made a declaration under paragraph 1 of this Article shall include in its report upon 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.

Article 3

1. Any Member which ratifies this Convention may, by a declaration accompanying its ratification, exclude from the application of the Convention—

- (a) seafarers, including seafishermen,
- (b) public servants,

where these categories are protected by special schemes which provide in the aggregate benefits at least equivalent to those required by this Convention.

2. Where a declaration under paragraph 1 of this Article is in force, the Member may exclude the persons belonging to the category or categories excluded from the application of the Convention from the number of employees when calculating the percentage of employees in compliance with paragraph 2, clause (d), of Article 4, and with Article 5.

3. Any Member which has made a declaration under paragraph 1 of this Article may subsequently notify the Director-General of the International Labour Office that it accepts the obligations of this Convention in respect of a category or categories excluded at the time of its ratification.

Article 4

1. National legislation concerning employment injury benefits shall protect all employees, including apprentices, in the public and private sectors, including co-operatives, and, in respect of the death of the breadwinner, prescribed categories of beneficiaries.

2. Any Member may make such exceptions as it deems necessary in respect of—

- (a) persons whose employment is of a casual nature and who are employed otherwise than for the purpose of the employer's trade or business;
- (b) out-workers;
- (c) members of the employer's family living in his house, in respect of their work for him;
- (d) other categories of employees, which shall not exceed in number 10 per cent. of all employees other than those excluded under clauses (a) to (c).

Article 5

Where a declaration provided for in Article 2 is in force, the application of national legislation concerning employment injury benefits may be limited to prescribed categories of employees, which shall total in number not less than 75 per cent. of all employees in industrial undertakings, and, in respect of the death of the breadwinner, prescribed categories of beneficiaries.

Article 6

The contingencies covered shall include the following where due to an employment injury :

- (a) a morbid condition;
- (b) incapacity for work resulting from such a condition and involving suspension of earnings, as defined by national legislation;
- (c) total loss of earning capacity or partial loss thereof in excess of a prescribed degree, likely to be permanent, or corresponding loss of faculty; and
- (d) the loss of support suffered as the result of the death of the breadwinner by prescribed categories of beneficiaries.

Article 7

1. Each Member shall prescribe a definition of “ industrial accident ”, including the conditions under which a commuting accident is considered to be an industrial accident, and shall specify the terms of such definition in its reports upon the application of this Convention submitted under article 22 of the Constitution of the International Labour Organisation.

2. Where commuting accidents are covered by social security schemes other than employment injury schemes, and these schemes provide in respect of commuting accidents benefits which, when taken together, are at least equivalent to those required under this Convention, it shall not be necessary to make provision for commuting accidents in the definition of “ industrial accident ”.

Article 8

Each Member shall—

- (a) prescribe a list of diseases, comprising at least the diseases enumerated in Schedule I to this Convention, which shall be regarded as occupational diseases under prescribed conditions; or
- (b) include in its legislation a general definition of occupational diseases broad enough to cover at least the diseases enumerated in Schedule I to this Convention; or
- (c) prescribe a list of diseases in conformity with clause (a), complemented by a general definition of occupational diseases or by other provisions for establishing the occupational origin of diseases not so listed or manifesting themselves under conditions different from those prescribed.

Article 9

1. Each Member shall secure to the persons protected, subject to prescribed conditions, the provision of the following benefits :

- (a) medical care and allied benefits in respect of a morbid condition;
- (b) cash benefits in respect of the contingencies specified in Article 6, clauses (b), (c) and (d).

2. Eligibility for benefits may not be made subject to the length of employment, to the duration of insurance or to the payment of contributions : Provided that a period of exposure may be prescribed for occupational diseases.