

INTERNATIONAL LABOUR ORGANISATION

Convention concerning penal sanctions for breaches of contracts of employment by indigenous workers, adopted by the General Conference of the International Labour Organisation at its twenty-fifth session, Geneva, 27 June 1939, as modified by the Final Articles Revision Convention, 1946

English and French official texts communicated by the Director-General of the International Labour Office. The registration took place on 15 September 1949.

ORGANISATION INTERNATIONALE DU TRAVAIL

Convention concernant les sanctions pénales pour manquements au contrat de travail, de la part des travailleurs indigènes, adoptée par la Conférence générale de l'Organisation internationale du Travail à sa vingt-cinquième session, Genève, 27 juin 1939, telle qu'elle a été modifiée par la Convention portant revision des articles finals, 1946

Textes officiels anglais et français communiqués par le Directeur général de l'Organisation internationale du Travail. L'enregistrement a eu lieu le 15 septembre 1949.

No. 640. CONVENTION¹ CONCERNING PENAL SANCTIONS FOR BREACHES OF CONTRACTS OF EMPLOYMENT BY INDIGENOUS WORKERS, AS MODIFIED BY THE FINAL ARTICLES REVISION CONVENTION, 1946²

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 Twenty-fifth
Session on 8 June 1939, and

Having decided upon the adoption of certain proposals with regard
to the progressive abolition of penal sanctions for breaches of
contracts of employment by indigenous workers, which is included
in the second item on the agenda of the Session, and

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

adopts this twenty-seventh day of June of the year one thousand nine
hundred and thirty-nine the following Convention, which may be cited as
the Penal Sanctions (Indigenous Workers) Convention, 1939 :

Article 1

1. This Convention applies to all contracts by which a worker belonging
to or assimilated to the indigenous population of a dependent territory of a
Member of the Organisation, or belonging to or assimilated to the dependent
indigenous population of the home territory of a Member of the Organisation,
enters the service of any public authority, individual, company or association,
whether non-indigenous or indigenous, for remuneration in cash or in any
other form whatsoever.

2. For the purpose of this Convention the term "breach of contract"
means—

- (a) any refusal or failure of the worker to commence or perform the service
stipulated in the contract;
- (b) any neglect of duty or lack of diligence on the part of the worker;
- (c) the absence of the worker without permission or valid reason; and
- (d) the desertion of the worker.

¹ For the date of entry into force of the Convention and the list of ratifications
see Certified Statement on page 320.

² United Nations, *Treaty Series*, Volume 38, page 3.

Article 2

1. All penal sanctions for any breach of contract to which this Convention applies shall be abolished progressively and as soon as possible.

2. All penal sanctions for any such breach by a non-adult person whose apparent age is less than a minimum age to be prescribed by law or regulations shall be abolished immediately.

Article 3

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

Article 4

1. In respect of the territories referred to in Article 95 of the Constitution of the International Labour Organisation, each Member of the Organisation which ratifies this Convention shall append to its ratification a declaration stating—

- (a) the territories to which it undertakes to apply the provisions of the Convention without modification;
- (b) the territories to which it undertakes to apply the provisions of the Convention subject to modifications, together with details of the said modifications;
- (c) the territories to which the Convention is inapplicable and in such cases the grounds on which it is inapplicable;
- (d) the territories in respect of which it reserves its decision.

2. The undertakings referred to in sub-paragraphs (a) and (b) of paragraph 1 of this Article shall be deemed to be an integral part of the ratification and shall have the force of ratification.

3. Any Member may by a subsequent declaration cancel in whole or in part any reservations made in its original declaration in virtue of sub-paragraphs (b), (c) or (d) of paragraph 1 of this Article.

Article 5

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 two Members of the Organisation have registered with the Director-General ratifications to which are appended, in accordance with Article 4 of this