

No. 2898

INTERNATIONAL LABOUR ORGANISATION

Convention (No. 85) concerning Labour Inspectorates in Non-Metropolitan Territories. Adopted by the General Conference of the International Labour Organisation at its thirtieth session, Geneva, 11 July 1947

Official texts: English and French.

Registered by the International Labour Organisation on 1 September 1955.

ORGANISATION INTERNATIONALE DU TRAVAIL

Convention (n° 85) concernant l'inspection du travail dans les territoires non métropolitains. Adoptée par la Conférence générale de l'Organisation internationale du Travail à sa trentième session, Genève, 11 juillet 1947

Textes officiels anglais et français.

Enregistrée par l'Organisation internationale du Travail le 1^{er} septembre 1955

No. 2898. CONVENTION¹ (No. 85) CONCERNING LABOUR INSPECTORATES IN NON-METROPOLITAN TERRITORIES. ADOPTED BY THE GENERAL CONFERENCE OF THE INTERNATIONAL LABOUR ORGANISATION AT ITS THIRTIETH SESSION, GENEVA, 11 JULY 1947

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 Thirtieth Session on 19 June 1947, and

Having decided upon the adoption of certain proposals concerning labour inspectorates in non-metropolitan territories, which is included in the third item on the agenda of the Session, and

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

adopts this eleventh day of July of the year one thousand nine hundred and forty-seven the following Convention, which may be cited as the Labour Inspectorates (Non-Metropolitan Territories) Convention, 1947 :

Article 1

Labour inspection services complying with the requirements of Articles 2 to 5 of this Convention shall be maintained in non-metropolitan territories.

Article 2

Labour inspection services shall consist of suitably trained inspectors.

¹ In accordance with article 11, the Convention came into force on 26 July 1955, twelve months after the date on which the ratifications of two members of the International Labour Organisation had been registered with the Director-General of the International Labour Office. Thereafter, the Convention comes into force for any member twelve months after the date on which its ratification has been registered.

The ratification of the following members have been registered with the Director-General on the dates indicated :

United Kingdom of Great Britain and Northern Ireland	27 March 1950
France	26 July 1954
Australia	30 September 1954
Belgium	27 January 1955

(For declarations concerning the application of this Convention to non-metropolitan territories, see p. 46 of this volume.)

Article 3

Workers and their representatives shall be afforded every facility for communicating freely with the inspectors.

Article 4

1. Inspectors appointed by the competent authority and provided with credentials shall be required to inspect conditions of employment at frequent intervals.

2. Inspectors shall be authorised by law to exercise the following powers for the purpose of carrying out their duties—

- (a) to enter freely and without previous notice at any hour of the day or night any workplace liable to inspection where they may have reasonable cause to believe that persons enjoying legal protection are employed, and to inspect such workplaces ;
- (b) to enter by day any premises which they may have reasonable cause to believe to be liable to inspection ; and
- (c) to carry out any examination, test or enquiry which they may consider necessary in order to satisfy themselves that the legal provisions are being strictly observed and, in particular—
 - (i) to interrogate, alone or in the presence of witnesses, the employer or the staff of the undertaking on any matters concerning the application of the legal provisions, or to apply for information to any other person whose evidence they may consider necessary ;
 - (ii) to require the production of any books, registers or other documents the keeping of which is prescribed by laws or regulations relating to conditions of work, in order to see that they are in conformity with the legal provisions, and to copy such documents or make extracts from them ;
 - (iii) to enforce the posting of notices required by the legal provisions ;
 - (iv) to take or remove for purposes of analysis samples of materials and substances used or handled, subject to the employer or his representative being notified of any samples or substances taken or removed for this purpose.

3. On the occasion of an inspection visit, inspectors shall notify the employer or his representative of their presence, unless they consider that such a notification may be prejudicial to the performance of their duties.

Article 5

Subject to such exceptions as may be made by law or regulation, labour inspectors—

- (a) shall be prohibited from having any direct or indirect interest in the undertakings under their supervision ;
- (b) shall be bound on pain of appropriate penalties or disciplinary measures not to reveal, even after leaving the service, any manufacturing or commercial secrets or working processes which may come to their knowledge in the course of their duties ; and
- (c) shall treat as absolutely confidential the source of any complaint bringing to their notice a defect or breach of legal provisions and shall give no intimation to the employer or his representative that a visit of inspection was made in consequence of the receipt of such a complaint.

Article 6

1. In respect of the territories referred to in Article 35 of the Constitution of the International Labour Organisation as amended by the Constitution of the International Labour Organisation Instrument of Amendment, 1946,¹ other than the territories referred to in paragraphs 4 and 5 of the said Article as so amended, each Member of the Organisation which ratifies this Convention shall append to its ratification, or communicate to the Director-General of the International Labour Office as soon as possible after ratification, a declaration stating—

- (a) the territories in respect of which it undertakes that the provisions of the Convention shall be applied without modification ;
- (b) the territories in respect of which it undertakes that the provisions of the Convention shall be applied subject to modifications, together with details of the said modifications ;
- (c) the territories in respect of 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 at any time 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.

4. Any Member may, at any time at which the Convention is subject to denunciation in accordance with the provisions of Article 12, communicate to the Director-General a declaration modifying in any other respect the terms of any former declaration and stating the present position in respect of such territories as it may specify.

¹ United Nations, *Treaty Series*, Vol. 15, p. 40.

Article 7

1. Where the subject matter of this Convention is within the self-governing powers of any non-metropolitan territory, the Member responsible for the international relations of that territory may, in agreement with the Government of the territory, communicate to the Director-General of the International Labour Office a declaration accepting on behalf of the territory the obligations of this Convention.

2. A declaration accepting the obligations of this Convention may be communicated to the Director-General of the International Labour Office—

- (a) by two or more Members of the Organisation in respect of any territory which is under their joint authority; or
- (b) by any international authority responsible for the administration of any territory, in virtue of the Charter of the United Nations or otherwise, in respect of any such territory.

3. Declarations communicated to the Director-General of the International Labour Office in accordance with the preceding paragraphs of this Article shall indicate whether the provisions of the Convention will be applied in the territory concerned without modification or subject to modifications; when the declaration indicates that the provisions of the Convention will be applied subject to modifications it shall give details of the said modifications.

4. The Member, Members or international authority concerned may at any time by a subsequent declaration renounce in whole or in part the right to have recourse to any modification indicated in any former declaration.

5. The Member, Members or international authority concerned may, at any time at which this Convention is subject to denunciation in accordance with the provisions of Article 12, communicate to the Director-General a declaration modifying in any other respect the terms of any former declaration and stating the present position in respect of the application of the Convention.

Article 8

In respect of each territory for which there is in force a declaration specifying modifications of the provisions of this Convention, the annual reports on the application of the Convention shall indicate the extent to which any progress has been made with a view to making it possible to renounce the right to have recourse to the said modifications.

Article 9

When a declaration undertaking that the provisions of the Labour Inspection Convention, 1947, shall be applied in respect of any territory has been communicated to the Director-General of the International Labour Office in pursuance of

Article 30 of that Convention, or a declaration accepting the obligations of that Convention in respect of any territory has been so communicated in pursuance of Article 31 thereof, the provisions of this Convention shall cease to apply in respect of such territory.

Article 10

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

Article 11

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 12

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 13

1. The Director-General of the International Labour Office shall notify all Members of the International Labour Organisation of the registration of all ratifications, declarations 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 14

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, declarations and acts of denunciation registered by him in accordance with the provisions of the preceding articles.

Article 15

At the expiration of each period of ten years after the coming into force of this Convention, the Governing Body of the International Labour Office shall present to the General Conference a report on the working of this Convention and shall consider the desirability of placing on the agenda of the Conference the question of its revision in whole or in part.

Article 16

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 12 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 17

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

IN FAITH WHEREOF we have appended our signatures this nineteenth day of July 1947.

The President of the Conference :
Irving M. IVES

The Director-General of the International Labour Office :
David A. MORSE

DECLARATIONS CONCERNING THE APPLICATION OF THE CONVENTION
TO NON-METROPOLITAN TERRITORIES :

UNITED KINGDOM OF GREAT BRITAIN AND NORTHERN IRELAND

In pursuance of article 35, paragraphs 2 and 4, of the Constitution of the International Labour Organisation and articles 6 and 7 of the Convention, the Government of the United Kingdom has appended to the instrument of ratification a declaration concerning the application of this Convention to the following non-metropolitan territories :

Application without modification : Aden Colony, Bahamas, British Guiana, British Honduras, Cyprus, Dominica, Gambia, Gibraltar, Gold Coast, Grenada, Hong Kong, Jamaica, Kenya, Leeward Islands, Malta, Federation of Malaya, Mauritius, Northern Rhodesia, St. Helena, St. Lucia, St. Vincent, Seychelles, Sierra Leone, Singapore, Southern Rhodesia, Tanganyika, Trinidad, Zanzibar.

Application with modifications : Barbados (article 3 and part of article 4 are not covered by legislation), Fiji (article 4, paragraph 2 (c) (iv) is not covered by existing legislation), Uganda (articles 4 and 5 are not fully covered by existing legislation), Nigeria (article 5 excluded ; article 4 (2) will be applied in respect of inspection of labour encampments, hospital buildings, latrines, sanitary arrangements and any farm or holding of land where there is reasonable cause to believe any worker is living), Nyasaland (the full provisions of articles 4 and 5 are not covered by existing legislation or staff) ; Brunei and North Borneo (the full provisions of articles 2 to 5 are not covered by existing legislation).

Decision reserved : Bermuda, British Solomon Islands, Falkland Islands, Gilbert and Ellice Islands, Sarawak, Basutoland, Bechuanaland, Swaziland.

ITALY

In pursuance of article 35, paragraph 4, of the Constitution of the International Labour Organisation and article 7 of the Convention, the Government of Italy has communicated a declaration to the Director-General of the I.L.O. concerning the application of the Convention to the following non-metropolitan territory :

Application without modification : Trust Territory of Somaliland.

FRANCE

In pursuance of article 35, paragraph 2, of the Constitution of the International Labour Organisation, and article 6 of the Convention, the Government of France has communicated a declaration to the Director-General of the I.L.O. concerning the application of this Convention to the following non-metropolitan territories :

Application without modifications : Comoro Islands, French Equatorial Africa, French Settlements in Oceania, French Somaliland, French West Africa, Madagascar and Dependencies, New Caledonia and Dependencies, St. Pierre and Miquelon, and the Trust Territories of the Cameroons and Togoland.

In pursuance of article 35, paragraph 2, of the Constitution of the International Labour Organisation, and article 6 of the Convention, the Government of France has communicated a declaration to the Director-General of the I.L.O. concerning the application of the Convention to the following non-metropolitan territories :

Inapplicable : Overseas Departments of Guadeloupe, Martinique, French Guiana and Réunion.

AUSTRALIA

In pursuance of article 35, paragraph 2, of the Constitution of the International Labour Organisation, and article 6 of the Convention, the instrument of ratification of the Government of Australia contains a declaration concerning the application of the Convention to the following non-metropolitan territories :

Application with modifications : Territory of Papua and the Trust Territory of New Guinea ; the Convention is applicable to these Territories subject to the following modifications :

- (a) the provisions of paragraph 2 of article 4 (other than subparagraph (c) (iv) will be applied only in respect of native workers ;
- (b) subparagraph (c) (iv) of paragraph 2 of article 4 will not be applied in the said territories ;
- (c) the provisions of article 5 (b) will not be applied in respect of inspectors who have left the Labour Inspection Service.

Inapplicable : Norfolk Islands.

Decision reserved : Territory of Nauru.