

No. 4423

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## INTERNATIONAL LABOUR ORGANISATION

**Convention (No. 104) concerning the abolition of penal sanctions for breaches of contract of employment by indigenous workers. Adopted by the General Conference of the International Labour Organisation at its thirty-eighth session, Geneva, 21 June 1955**

*Official texts: English and French.*

*Registered by the International Labour Organisation on 14 July 1958.*

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## ORGANISATION INTERNATIONALE DU TRAVAIL

**Convention (n° 104) concernant l'abolition des 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 trente-huitième session, Genève, 21 juin 1955**

*Textes officiels anglais et français.*

*Enregistrée par l'Organisation internationale du Travail le 14 juillet 1958.*

No. 4423. CONVENTION (No. 104)<sup>1</sup> CONCERNING THE ABOLITION OF PENAL SANCTIONS FOR BREACHES OF CONTRACT OF EMPLOYMENT BY INDIGENOUS WORKERS. ADOPTED BY THE GENERAL CONFERENCE OF THE INTERNATIONAL LABOUR ORGANISATION AT ITS THIRTY-EIGHTH SESSION, GENEVA, 21 JUNE 1955

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 Thirty-eighth Session on 1 June 1955, and

Having decided upon the adoption of certain proposals with regard to penal sanctions for breaches of contract of employment by indigenous workers, which is the sixth item on the agenda of the session, and

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

Being convinced that the time has come for the abolition of such penal sanctions, the maintenance of which in national legislation is contrary to modern conceptions of the contractual relationships between employers and workers and to the personal dignity and rights of man;

adopts this twenty-first day of June of the year one thousand nine hundred and fifty-five the following Convention, which may be cited as the Abolition of Penal Sanctions (Indigenous Workers) Convention, 1955 :

<sup>1</sup> In accordance with article 7, the Convention came into force on 7 June 1958, 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, it comes into force for any member twelve months after the date on which its ratification has been so registered. The ratifications of the following members were registered with the Director-General of the International Labour Office on the dates indicated :

New Zealand . . . . .	28 June	1956	Syria . . . . .	7 June	1957
(With a declaration undertaking to apply the provisions of the Convention, without modification, to the Cook Islands (including Niue) and to the Tokelau Islands)*			Cuba . . . . .	15 August	1957
			Dominican Republic . . . . .	10 February	1958

\* By a further declaration, registered on 25 March 1958 with the Director-General of the International Labour Office, the New Zealand Government accepts, without modification, the obligations of the Convention on behalf of the Government of the Trust Territory of Western Samoa.

*Article 1*

The competent authority in each country where there exists any penal sanction for any breach of a contract of employment as defined in Article 1, paragraph 2, of the Penal Sanctions (Indigenous Workers) Convention, 1939,<sup>1</sup> by any worker referred to in Article 1, paragraph 1, of that Convention, shall take action for the abolition of all such penal sanctions.

*Article 2*

Such action shall provide for the abolition of all such penal sanctions by means of an appropriate measure of immediate application.

*Article 3*

Where an appropriate measure of immediate application is not considered to be practicable, measures shall be adopted providing for the progressive abolition of such penal sanctions in all cases.

*Article 4*

The measures adopted under Article 3 of this Convention shall in all cases ensure that all penal sanctions are abolished as soon as possible and in any event not later than one year from the date of the ratification of this Convention.

*Article 5*

With a view to abolishing discrimination between indigenous and non-indigenous workers, penal sanctions for breaches of contracts of employment not covered by Article 1 of this Convention which do not apply to non-indigenous workers shall be abolished for indigenous workers.

*Article 6*

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

*Article 7*

1. This Convention shall be binding only upon those Members of the International Labour Organisation whose ratifications have been registered with the Director-General.

<sup>1</sup> United Nations, *Treaty Series*, Vol. 40, p. 311; Vol. 126, p. 358; Vol. 248, p. 402; Vol. 269, p. 281, and Vol. 282, p. 362.

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 8*

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 9*

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 10*

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 11*

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 12*

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 8 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 13*

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

The foregoing is the authentic text of the Convention duly adopted by the General Conference of the International Labour Organisation during its Thirty-eighth Session which was held at Geneva and declared closed the twenty-third day of June 1955.

IN FAITH WHEREOF we have appended our signatures this nineteenth day of July 1955.

The President of the Conference :

F. GARCÍA OLDINI

The Director-General of the International Labour Office :

David A. MORSE