

No. 10030

INTERNATIONAL LABOUR ORGANISATION

Convention (No. 128) concerning Invalidity, Old-Age and Survivors' Benefits. Adopted by the General Conference of the International Labour Organisation at its fifty-first session, Geneva, 29 June 1967

Authentic texts: English and French.

Registered by the International Labour Organisation on 17 November 1969.

ORGANISATION INTERNATIONALE DU TRAVAIL

Convention (n° 128) concernant les prestations d'invalidité, de vieillesse et de survivants. Adoptée par la Conférence générale de l'Organisation internationale du Travail à sa cinquante et unième session, Genève, 29 juin 1967

Textes authentiques: anglais et français.

Enregistrée par l'Organisation internationale du Travail le 17 novembre 1969.

CONVENTION¹ CONCERNING INVALIDITY, OLD-AGE AND SURVIVORS' BENEFITS

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 Fifty-first Session on 7 June 1967, and

Having decided upon the adoption of certain proposals with regard to the revision of the Old-Age Insurance (Industry, etc.) Convention, 1933,² the Old-Age Insurance (Agriculture) Convention, 1933,³ the Invalidity Insurance (Industry, etc.) Convention, 1933,⁴ the Invalidity Insurance (Agriculture) Convention, 1933,⁵ the Survivors' Insurance (Industry, etc.) Convention, 1933,⁶ and the Survivors' Insurance (Agriculture) Convention, 1933,⁷ which is the fourth item on the agenda of the session, and

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

adopts this twenty-ninth day of June of the year one thousand nine hundred and sixty-seven the following Convention, which may be cited as the Invalidity, Old-Age and Survivors' Benefits Convention, 1967 :

¹ Came into force on 1 November 1969, twelve months after the date on which the ratifications of two Members of the International Labour Organisation (Sweden and Norway) had been registered with the Director-General of the International Labour Office, in accordance with article 48. (Thereafter, the Convention is to come into force for any Member twelve months after the date on which its ratification had been registered.)

The ratifications of the following States were registered with the Director-General of the International Labour Office on the dates indicated :

Sweden (Accepting the obligations of Parts II, III and IV.)	26 July	1968
Norway (Accepting the obligations of Parts II, III and IV.)	1 November	1968
Cyprus (Accepting the obligations of Part IV.)	7 January	1969
Netherlands (Accepting the obligations of Parts II, III and IV.)	27 October	1969
Austria (Accepting the obligations of Part III and with a declaration made under article 39, paragraph 1 (b) to the effect that public servants are excluded from the application of the Convention.)	4 November	1969

² United Nations, *Treaty Series*, vol. 39, p. 165.

³ *Ibid.*, p. 189.

⁴ *Ibid.*, p. 211.

⁵ *Ibid.*, p. 235.

⁶ *Ibid.*, p. 259.

⁷ *Ibid.*, p. 285.

PART I. GENERAL PROVISIONS

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 “residence” means ordinary residence in the territory of the Member, and the term “resident” means a person ordinarily resident in the territory of the Member;
- (e) the term “dependent” refers to a state of dependency which is presumed to exist in prescribed cases;
- (f) the term “wife” means a wife who is dependent on her husband;
- (g) the term “widow” means a woman who was dependent on her husband at the time of his death;
- (h) the term “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 clause (i) of this subparagraph and who is an apprentice or student or has a chronic illness or infirmity disabling him for any gainful activity, under prescribed conditions: 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 clause (i) of this subparagraph;
- (i) the term “qualifying period” means a period of contribution, or a period of employment, or a period of residence, or any combination thereof, as may be prescribed;
- (j) the terms “contributory benefits” and “non-contributory benefits” mean respectively benefits the grant of which depends or does not depend on direct financial participation by the persons protected or their employer or on a qualifying period of occupational activity.

Article 2

1. Each Member for which this Convention is in force shall comply with—
 - (a) Part I;
 - (b) at least one of Parts II, III and IV;
 - (c) the relevant provisions of Parts V and VI; and
 - (d) Part VII.
2. Each Member shall specify in its ratification in respect of which of Parts II to IV it accepts the obligations of the Convention.

Article 3

1. Each Member which has ratified this Convention may subsequently notify the Director-General of the International Labour Office that it accepts the obligations of the Convention in respect of one or more of Parts II to IV not already specified in its ratification.
2. The undertakings referred to in paragraph 1 of this Article shall be deemed to be an integral part of the ratification and to have the force of ratification as from the date of notification.

Article 4

1. A Member whose economy is insufficiently developed may avail itself, by a declaration accompanying its ratification, of the temporary exceptions provided for in the following Articles: Article 9, paragraph 2; Article 13, paragraph 2; Article 16, paragraph 2; and Article 22, paragraph 2. 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 reports 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.
3. Each Member which has made a declaration under paragraph 1 of this Article shall increase the number of employees protected as circumstances permit.

Article 5

Where, for the purpose of compliance with any of the Parts II to IV of this Convention which are to be covered by its ratification, a Member is required to protect prescribed classes of persons constituting not less than a specified percentage of employees or of the whole economically active population, the Member shall satisfy itself, before undertaking to comply with any such Part, that the relevant percentage is attained.

Article 6

For the purpose of compliance with Parts II, III or IV of this Convention, a Member may take account of protection effected by means of insurance which, although not made compulsory by its legislation for the persons to be protected—

- (a) is supervised by the public authorities or administered, in accordance with prescribed standards, by joint operation of employers and workers;
- (b) covers a substantial part of the persons whose earnings do not exceed those of the skilled manual male employee; and
- (c) complies, in conjunction with other forms of protection, where appropriate, with the relevant provisions of the Convention.

PART II. INVALIDITY BENEFIT

Article 7

Each Member for which this Part of this Convention is in force shall secure to the persons protected the provision of invalidity benefit in accordance with the following Articles of this Part.

Article 8

The contingency covered shall include incapacity to engage in any gainful activity, to an extent prescribed, which incapacity is likely to be permanent or persists after the termination, of a prescribed period of temporary or initial incapacity.

Article 9

1. The persons protected shall comprise—
 - (a) all employees, including apprentices; or
 - (b) prescribed classes of the economically active population, constituting not less than 75 per cent. of the whole economically active population; or

(c) all residents, or residents whose means during the contingency do not exceed limits prescribed in such a manner as to comply with the requirements of Article 28.

2. Where a declaration made in virtue of Article 4 is in force, the persons protected shall comprise—

- (a) prescribed classes of employees, constituting not less than 25 per cent. of all employees;
- (b) prescribed classes of employees in industrial undertakings, constituting not less than 50 per cent. of all employees in industrial undertakings.

Article 10

The invalidity benefit shall be a periodical payment calculated as follows :

- (a) where employees or classes of the economically active population are protected, in such a manner as to comply either with the requirements of Article 26 or with the requirements of Article 27;
- (b) where all residents or all residents whose means during the contingency do not exceed prescribed limits are protected, in such a manner as to comply with the requirements of Article 28.

Article 11

1. The benefit specified in Article 10 shall, in a contingency covered, be secured at least—

- (a) to a person protected who has completed, prior to the contingency, in accordance with prescribed rules, a qualifying period which may be 15 years of contribution or employment, or ten years of residence; or
- (b) where, in principle, all economically active persons are protected, to a person protected who has completed, prior to the contingency, in accordance with prescribed rules, a qualifying period of three years of contribution and in respect of whom, while he was of working age, the prescribed yearly average number or yearly number of contributions has been paid.

2. Where the invalidity benefit is conditional upon a minimum period of contribution, employment or residence, a reduced benefit shall be secured at least—

- (a) to a person protected who has completed, prior to the contingency, in accordance with prescribed rules, a qualifying period of five years of contribution, employment or residence; or
- (b) where, in principle, all economically active persons are protected, to a person protected who has completed, prior to the contingency, in accordance with prescribed rules, a qualifying period of three years of contribution and

in respect of whom, while he was of working age, half of the yearly average number or of the yearly number of contributions prescribed in accordance with subparagraph (b) of paragraph 1 of this Article has been paid.

3. The requirements of paragraph 1 of this Article shall be deemed to be satisfied where a benefit calculated in conformity with the requirements of Part V but at a percentage of ten points lower than shown in the Schedule appended to that Part for the standard beneficiary concerned is secured at least to a person protected who has completed, in accordance with prescribed rules, five years of contribution, employment or residence.

4. A proportional reduction of the percentage indicated in the Schedule appended to Part V may be effected where the qualifying period for the benefit corresponding to the reduced percentage exceeds five years of contribution, employment or residence but is less than 15 years of contribution or employment or ten years of residence; a reduced benefit shall be payable in conformity with paragraph 2 of this Article.

5. The requirements of paragraphs 1 and 2 of this Article shall be deemed to be satisfied where a benefit calculated in conformity with the requirements of Part V is secured at least to a person protected who has completed, in accordance with prescribed rules, a qualifying period of contribution or employment which shall not be more than five years at a prescribed minimum age and may rise with advancing age to not more than a prescribed maximum number of years.

Article 12

The benefit specified in Articles 10 and 11 shall be granted throughout the contingency or until an old-age benefit becomes payable.

Article 13

1. Each Member for which this Part of this Convention is in force shall, under prescribed conditions—

- (a) provide rehabilitation services which are designed to prepare a disabled person wherever possible for the resumption of his previous activity, or, if this is not possible, the most suitable alternative gainful activity, having regard to his aptitudes and capacity; and
- (b) take measures to further the placement of disabled persons in suitable employment.

2. Where a declaration made in virtue of Article 4 is in force, the Member may derogate from the provisions of paragraph 1 of this Article.

PART III. OLD-AGE BENEFIT

Article 14

Each Member for which this Part of this Convention is in force shall secure to the persons protected the provision of old-age benefit in accordance with the following Articles of this Part.

Article 15

1. The contingency covered shall be survival beyond a prescribed age.
2. The prescribed age shall be not more than 65 years or such higher age as may be fixed by the competent authority with due regard to demographic, economic and social criteria, which shall be demonstrated statistically.
3. If the prescribed age is 65 years or higher, the age shall be lowered, under prescribed conditions, in respect of persons who have been engaged in occupations that are deemed by national legislation, for the purpose of old-age benefit, to be arduous or unhealthy.

Article 16

1. The persons protected shall comprise—
 - (a) all employees, including apprentices; or
 - (b) prescribed classes of the economically active population, constituting not less than 75 per cent. of the whole economically active population; or
 - (c) all residents or residents whose means during the contingency do not exceed limits prescribed in such a manner as to comply with the requirements of Article 28.
2. Where a declaration made in virtue of Article 4 is in force, the persons protected shall comprise—
 - (a) prescribed classes of employees, constituting not less than 25 per cent. of all employees; or
 - (b) prescribed classes of employees in industrial undertakings, constituting not less than 50 per cent. of all employees in industrial undertakings.

Article 17

The old-age benefit shall be a periodical payment calculated as follows :

- (a) where employees or classes of the economically active population are protected, in such a manner as to comply either with the requirements of Article 26 or with the requirements of Article 27;

- (b) where all residents or all residents whose means during the contingency do not exceed prescribed limits are protected, in such a manner as to comply with the requirements of Article 28.

Article 18

1. The benefit specified in Article 17 shall, in a contingency covered, be secured at least—

- (a) to a person protected who has completed, prior to the contingency, in accordance with prescribed rules, a qualifying period which may be 30 years of contribution or employment, or 20 years of residence; or
- (b) where, in principle, all economically active persons are protected, to a person protected who has completed, prior to the contingency, a prescribed qualifying period of contribution and in respect of whom, while he was of working age, the prescribed yearly average number of contributions has been paid.

2. Where the old-age benefit is conditional upon a minimum period of contribution or employment, a reduced benefit shall be secured at least—

- (a) to a person protected who has completed, prior to the contingency, in accordance with prescribed rules, a qualifying period of 15 years of contribution or employment; or
- (b) where, in principle, all economically active persons are protected, to a person protected who has completed, prior to the contingency, a prescribed qualifying period of contribution and in respect of whom, while he was of working age, half of the yearly average number of contributions prescribed in accordance with subparagraph (b) of paragraph 1 of this Article has been paid.

3. The requirements of paragraph 1 of this Article shall be deemed to be satisfied where a benefit calculated in conformity with the requirements of Part V but at a percentage of ten points lower than shown in the Schedule appended to that Part for the standard beneficiary concerned is secured at least to a person protected who has completed, in accordance with prescribed rules, ten years of contribution or employment, or five years of residence.

4. A proportional reduction of the percentage indicated in the Schedule appended to Part V may be effected where the qualifying period for the benefit corresponding to the reduced percentage exceeds ten years of contribution or employment or five years of residence but is less than 30 years of contribution or employment or 20 years of residence; if such qualifying period exceeds 15 years of contribution or employment, a reduced benefit shall be payable in conformity with paragraph 2 of this Article.

Article 19

The benefit specified in Articles 17 and 18 shall be granted throughout the contingency.

PART IV. SURVIVORS' BENEFIT

Article 20

Each Member for which this Part of this Convention is in force shall secure to the persons protected the provision of survivors' benefit in accordance with the following Articles of this Part.

Article 21

1. The contingency covered shall include the loss of support suffered by the widow or child as the result of the death of the breadwinner.

2. In the case of a widow the right to a survivors' benefit may be made conditional on the attainment of a prescribed age. Such age shall not be higher than the age prescribed for old-age benefit.

3. No requirement as to age may be made if the widow—

- (a) is invalid, as may be prescribed; or
- (b) is caring for a dependent child of the deceased.

4. In order that a widow who is without a child may be entitled to a survivors' benefit, a minimum duration of marriage may be required.

Article 22

1. The persons protected shall comprise—

- (a) the wives, children and, as may be prescribed, other dependants of all breadwinners who were employees or apprentices; or
- (b) the wives, children and, as may be prescribed, other dependants of breadwinners in prescribed classes of the economically active population, which classes constitute not less than 75 per cent. of the whole economically active population; or
- (c) all widows, all children and all other prescribed dependants who have lost their breadwinner, who are residents and, as appropriate, whose means during the contingency do not exceed limits prescribed in such a manner as to comply with the provisions of Article 28.

2. Where a declaration made in virtue of Article 4 is in force, the persons protected shall comprise—

- (a) the wives, children and, as may be prescribed, other dependants of breadwinners in prescribed classes of employees, which classes constitute not less than 25 per cent. of all employees; or
- (b) the wives, children and, as may be prescribed, other dependants of breadwinners in prescribed classes of employees in industrial undertakings, which classes constitute not less than 50 per cent. of all employees in industrial undertakings.

Article 23

The survivors' benefit shall be a periodical payment calculated as follows :

- (a) where employees or classes of the economically active population are protected, in such a manner as to comply either with the requirements of Article 26 or with the requirements of Article 27;
- (b) where all residents or all residents whose means during the contingency do not exceed prescribed limits are protected, in such a manner as to comply with the requirements of Article 28.

Article 24

1. The benefit specified in Article 23 shall, in a contingency covered, be secured at least—

- (a) to a person protected whose breadwinner has completed, in accordance with prescribed rules, a qualifying period which may be 15 years of contribution or employment, or ten years of residence : Provided that, for a benefit payable to a widow, the completion of a prescribed qualifying period of residence by such widow may be required instead; or
- (b) where, in principle, the wives and children of all economically active persons are protected, to a person protected whose breadwinner has completed, in accordance with prescribed rules, a qualifying period of three years of contribution and in respect of whose breadwinner while he was of working age, the prescribed yearly average number or the yearly number of contributions has been paid.

2. Where the survivors' benefit is conditional upon a minimum period of contribution or employment, a reduced benefit shall be secured at least—

- (a) to a person protected whose breadwinner has completed, in accordance with prescribed rules, a qualifying period of five years of contribution or employment; or

(b) where, in principle, the wives and children of all economically active persons are protected, to a person protected whose breadwinner has completed, in accordance with prescribed rules, a qualifying period of three years of contribution and in respect of whose breadwinner, while he was of working age, half of the yearly average number or of the yearly number of contributions prescribed in accordance with subparagraph (b) of paragraph 1 of this Article has been paid.

3. The requirements of paragraph 1 of this Article shall be deemed to be satisfied where a benefit calculated in conformity with the requirements of Part V but at a percentage of ten points lower than shown in the Schedule appended to that Part for the standard beneficiary concerned is secured at least to a person protected whose breadwinner has completed, in accordance with prescribed rules, five years of contribution, employment or residence.

4. A proportional reduction of the percentage indicated in the Schedule appended to Part V may be effected where the qualifying period for the benefit corresponding to the reduced percentage exceeds five years of contribution, employment or residence but is less than 15 years of contribution or employment or ten years of residence; if such qualifying period is one of contribution or employment, a reduced benefit shall be payable in conformity with paragraph 2 of this Article.

5. The requirements of paragraphs 1 and 2 of this Article shall be deemed to be satisfied where a benefit calculated in conformity with the requirements of Part V is secured at least to a person protected whose breadwinner has completed, in accordance with prescribed rules, a qualifying period of contribution or employment which shall not be more than five years at a prescribed minimum age and may rise with advancing age to not more than a prescribed maximum number of years.

Article 25

The benefit specified in Articles 23 and 24 shall be granted throughout the contingency.

PART V. STANDARDS TO BE COMPLIED WITH BY PERIODICAL PAYMENTS

Article 26

1. In the case of a periodical payment to which this Article applies, the rate of the benefit, increased by the amount of any family allowances payable during the contingency, shall be such as to attain, in respect of the contingency in question, for the standard beneficiary indicated in the Schedule appended to this Part, at least the percentage indicated therein of the total of the previous earnings of the beneficiary or his breadwinner and of the amount of any family

allowances payable to a person protected with the same family responsibilities as the standard beneficiary.

2. The previous earnings of the beneficiary or his breadwinner shall be calculated according to prescribed rules, and, where the persons protected or their breadwinners are arranged in classes according to their earnings, their previous earnings may be calculated from the basic earnings of the classes to which they belonged.

3. A maximum limit may be prescribed for the rate of the benefit or for the earnings taken into account for the calculation of the benefit, provided that the maximum limit is fixed in such a way that the provisions of paragraph 1 of this Article are complied with where the previous earnings of the beneficiary or his breadwinner are equal to or lower than the wage of a skilled manual male employee.

4. The previous earnings of the beneficiary or his breadwinner, the wage of the skilled manual male employee, the benefit and any family allowances shall be calculated on the same time basis.

5. For the other beneficiaries the benefit shall bear a reasonable relation to the benefit for the standard beneficiary.

6. For the purpose of this Article, a skilled manual male employee shall be—

- (a) a fitter or turner in the manufacture of machinery other than electrical machinery; or
- (b) a person deemed typical of skilled labour selected in accordance with the provisions of the following paragraph; or
- (c) a person whose earnings are such as to be equal to or greater than the earnings of 75 per cent. of all the persons protected, such earnings to be determined on the basis of annual or shorter periods as may be prescribed; or
- (d) a person whose earnings are equal to 125 per cent. of the average earnings of all the persons protected.

7. The person deemed typical of skilled labour for the purposes of subparagraph (b) of the preceding paragraph shall be a person employed in the major group of economic activities with the largest number of economically active male persons protected in the contingency in question, or of the breadwinners of the persons protected, as the case may be, in the division comprising the largest number of such persons or breadwinners; for this purpose, the international standard industrial classification of all economic activities, adopted by the Economic and Social Council of the United Nations at its Seventh Session on 27 August 1948, as amended up to 1958 and reproduced in the Annex to this Convention, or such classification as at any time further amended, shall be used.

8. Where the rate of benefit varies by region, the skilled manual male employee may be determined for each region in accordance with paragraphs 6 and 7 of this Article.

9. The wage of the skilled manual male employee shall be determined on the basis of the rates of wages for normal hours of work fixed by collective agreements, by or in pursuance of national legislation, where applicable, or by custom, including cost-of-living allowances if any; where such rates differ by region but paragraph 8 of this Article is not applied, the median rate shall be taken.

Article 27

1. In the case of a periodical payment to which this Article applies, the rate of the benefit, increased by the amount of any family allowances payable during the contingency, shall be such as to attain, in respect of the contingency in question, for the standard beneficiary indicated in the Schedule appended to this Part, at least the percentage indicated therein of the total of the wage of an ordinary adult male labourer and of the amount of any family allowances payable to a person protected with the same family responsibilities as the standard beneficiary.

2. The wage of the ordinary adult male labourer, the benefit and any family allowances shall be calculated on the same time basis.

3. For the other beneficiaries, the benefit shall bear a reasonable relation to the benefit for the standard beneficiary.

4. For the purpose of this Article, the ordinary adult male labourer shall be—

- (a) a person deemed typical of unskilled labour in the manufacture of machinery other than electrical machinery; or
- (b) a person deemed typical of unskilled labour selected in accordance with the provisions of the following paragraph.

5. The person deemed typical of unskilled labour for the purpose of subparagraph (b) of the preceding paragraph shall be a person employed in the major group of economic activities with the largest number of economically active male persons protected in the contingency in question, or of the breadwinners of the persons protected, as the case may be, in the division comprising the largest number of such persons or breadwinners; for this purpose the international standard industrial classification of all economic activities, adopted by the Economic and Social Council of the United Nations at its Seventh Session on 27 August 1948, as amended up to 1958 and reproduced in the Annex to this Convention, or such classification as at any time further amended, shall be used.

6. Where the rate of benefit varies by region, the ordinary adult male labourer may be determined for each region in accordance with paragraphs 4 and 5 of this Article.

7. The wage of the ordinary adult male labourer shall be determined on the basis of the rates of wages for normal hours of work fixed by collective agreements, by or in pursuance of national legislation, where applicable, or by custom, including cost-of-living allowances if any; where such rates differ by region but paragraph 6 of this Article is not applied, the median rate shall be taken.

Article 28

In the case of a periodical payment to which this Article applies—

- (a) the rate of the benefit shall be determined according to a prescribed scale or a scale fixed by the competent public authority in conformity with prescribed rules;
- (b) such rate may be reduced only to the extent by which the other means of the family of the beneficiary exceed prescribed substantial amounts or substantial amounts fixed by the competent public authority in conformity with prescribed rules;
- (c) the total of the benefit and any other means, after deduction of the substantial amounts referred to in subparagraph (b), shall be sufficient to maintain the family of the beneficiary in health and decency, and shall be not less than the corresponding benefit calculated in accordance with the requirements of Article 27;
- (d) the provisions of subparagraph (c) shall be deemed to be satisfied if the total amount of benefits paid under the Part concerned exceeds by at least 30 per cent. the total amounts of benefits which would be obtained by applying the provisions of Article 27 and the provisions of—
 - (i) Article 9, paragraph 1, subparagraph (b) for Part II;
 - (ii) Article 16, paragraph 1, subparagraph (b) for Part III;
 - (iii) Article 22, paragraph 1, subparagraph (b) for Part IV.

Article 29

1. The rates of cash benefits currently payable pursuant to Article 10, Article 17 and Article 23 shall be reviewed following substantial changes in the general level of earnings or substantial changes in the cost of living.

2. Each Member shall include the findings of such reviews in its reports upon the application of this Convention submitted under article 22 of the Constitution of the International Labour Organisation, and shall specify any action taken.

SCHEDULE TO PART V :
PERIODICAL PAYMENTS TO STANDARD BENEFICIARIES

<i>Part</i>	<i>Contingency</i>	<i>Standard beneficiary</i>	<i>Percentage</i>
II	Invalidity	Man with wife and two children	50
III	Old age	Man with wife of pensionable age	45
IV	Death of breadwinner . .	Widow with two children .	45

PART VI. COMMON PROVISIONS

Article 30

National legislation shall provide for the maintenance of rights in course of acquisition in respect of contributory invalidity, old-age and survivors' benefits under prescribed conditions.

Article 31

1. The payment of invalidity, old-age or survivors' benefit may be suspended, under prescribed conditions, where the beneficiary is engaged in gainful activity.

2. A contributory invalidity, old-age or survivors' benefit may be reduced where the earnings of the beneficiary exceed a prescribed amount; the reduction in benefit shall not exceed the earnings.

3. A non-contributory invalidity, old-age or survivors' benefit may be reduced where the earnings of the beneficiary or his other means or the two taken together exceed a prescribed amount.

Article 32

1. A benefit to which a person protected would otherwise be entitled in compliance with any of Parts II to IV of this Convention may be suspended to such extent as may be prescribed—

- (a) as long as the person concerned is absent from the territory of the Member, except, under prescribed conditions, in the case of a contributory benefit;
- (b) as long as the person concerned is maintained at public expense or at the expense of a social security institution or service;
- (c) where the person concerned has made a fraudulent claim;

- (d) where the contingency has been caused by a criminal offence committed by the person concerned;
- (e) where the contingency has been wilfully caused by the serious misconduct of the person concerned;
- (f) in appropriate cases, where the person concerned, without good reason, neglects to make use of the medical or rehabilitation services placed at his disposal or fails to comply with rules prescribed for verifying the occurrence or continuance of the contingency or for the conduct of beneficiaries; and
- (g) in the case of survivors' benefit for a widow, as long as she is living with a man as his wife.

2. In the cases and within the limits prescribed, part of the benefit otherwise due shall be paid to the dependants of the person concerned.

Article 33

1. If a person protected is or would otherwise be eligible simultaneously for more than one of the benefits provided for in this Convention, these benefits may be reduced under prescribed conditions and within prescribed limits; the person protected shall receive in total at least the amount of the most favourable benefit.

2. If a person protected is or would otherwise be eligible for a benefit provided for in this Convention and is in receipt of another social security cash benefit for the same contingency, other than a family benefit, the benefit under this Convention may be reduced or suspended under prescribed conditions and within prescribed limits, subject to the part of the benefit which is reduced or suspended not exceeding the other benefit.

Article 34

1. Every claimant shall have a right of appeal in the case of refusal of benefit or complaint as to its quality or quantity.

2. Procedures shall be prescribed which permit the claimant to be represented or assisted, where appropriate, by a qualified person of his choice or by a delegate of an organisation representative of persons protected.

Article 35

1. Each Member shall accept general responsibility for the due provision of the benefits provided in compliance with this Convention and shall take all measures required for this purpose.

2. Each Member shall accept general responsibility for the proper administration of the institutions and services concerned in the application of this Convention.

Article 36

Where the administration is not entrusted to an institution regulated by the public authorities or to a government department responsible to a legislature, representatives of the persons protected shall participate in the management under prescribed conditions; national legislation may likewise decide as to the participation of representatives of employers and of the public authorities.

PART VII. MISCELLANEOUS PROVISIONS

Article 37

Any Member whose legislation protects employees may, as necessary, exclude from the application of this Convention—

- (a) persons whose employment is of a casual nature;
- (b) members of the employer's family living in his house, in respect of their work for him;
- (c) other categories of employees, which shall not exceed in number 10 per cent. of all employees other than those excluded under subparagraphs (a) and (b) of this Article.

Article 38

1. Any Member whose legislation protects employees may, by a declaration accompanying its ratification, temporarily exclude from the application of this Convention the employees in the sector comprising agricultural occupations who are not yet protected by its legislation at the time of the ratification.

2. Each Member which has made a declaration under paragraph 1 of this Article shall indicate in its reports upon the application of this Convention submitted under article 22 of the Constitution of the International Labour Organisation to what extent effect is given and what effect is proposed to be given to the provisions of the Convention in respect of the employees in the sector comprising agricultural occupations and any progress which may have been made with a view to the application of the Convention to such employees or, where there is no change to report, furnish all the appropriate explanations.

3. Each Member which has made a declaration under paragraph 1 of this Article shall increase the number of employees protected in the agricultural sector to the extent and with the speed that the circumstances permit.

Article 39

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

- (a) seafarers, including sea fishermen,
- (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 persons taken into account when calculating the percentages specified in paragraph 1, subparagraph (b), and paragraph 2, subparagraph (b), of Article 9; paragraph 1, subparagraph (b), and paragraph 2, subparagraph (b), of Article 16; paragraph 1, subparagraph (b), and paragraph 2, subparagraph (b), of Article 22; and subparagraph (c) of Article 37.

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 40

If a person protected is entitled, under national legislation, in case of death of the breadwinner, to periodical benefits other than a survivors' benefit, such periodical benefits may be assimilated to the survivors' benefit for the application of this Convention.

Article 41

1. A Member which—

- (a) has accepted the obligations of this Convention in respect of Parts II, III and IV, and
- (b) covers a percentage of the economically active population which is at least ten points higher than that required by Article 9, paragraph 1, subparagraph (b), Article 16, paragraph 1, subparagraph (b), and Article 22, paragraph 1, subparagraph (b), or complies with Article 9, paragraph 1, subparagraph (c), Article 16, paragraph 1, subparagraph (c), and Article 22, paragraph 1, subparagraph (c), and
- (c) secures in respect of at least two of the contingencies covered by Parts II, III and IV benefits of an amount corresponding to a percentage at least five

points higher than the percentages specified in the Schedule appended to Part V,

may take advantage of the provisions of the following paragraph.

2. Such Member may—

- (a) substitute, for the purposes of Article 11, paragraph 2, subparagraph (b), and Article 24, paragraph 2, subparagraph (b), a period of five years for the period of three years specified therein;
- (b) determine the beneficiaries of survivors' benefits in a manner which is different from that required by Article 21, but which ensures that the total number of beneficiaries does not fall short of the number of beneficiaries which would result from the application of Article 21.

3. Each Member which has taken advantage of the provisions of paragraph 2 of this Article shall indicate in its reports upon the application of this Convention submitted under article 22 of the Constitution of the International Labour Organisation the position of its law and practice as regards the matters dealt with in that paragraph and any progress made towards complete application of the terms of the Convention.

Article 42

1. A Member which—

- (a) has accepted the obligations of this Convention in respect of Parts II, III and IV, and
- (b) covers a percentage of the economically active population which is at least ten points higher than that required by Article 9, paragraph 1, subparagraph (b), Article 16, paragraph 1, subparagraph (b), and Article 22, paragraph 1, subparagraph (b), or complies with Article 9, paragraph 1, subparagraph (c), Article 16, paragraph 1, subparagraph (c), and Article 22, paragraph 1, subparagraph (c),

may derogate from particular provisions of Parts II, III and IV on condition that the total amount of benefits paid under the Part concerned shall be at least equal to 110 per cent. of the total amount which would be obtained by applying all the provisions of that Part.

2. Each Member which has made such a derogation shall indicate in its reports upon the application of this Convention submitted under article 22 of the Constitution of the International Labour Organisation the position of its law and practice as regards such derogation and any progress made towards complete application of the terms of the Convention.

Article 43

This Convention shall not apply to—

- (a) contingencies which occurred before the coming into force of the relevant Part of the Convention for the Member concerned;
- (b) benefits in contingencies occurring after the coming into force of the relevant Part of the Convention for the Member concerned in so far as the rights to such benefits are derived from periods preceding that date.

Article 44

1. This Convention revises, on the terms set forth in this Article, the Old-Age Insurance (Industry, etc.) Convention 1933, the Old-Age Insurance (Agriculture) Convention, 1933, the Invalidity Insurance (Industry, etc.) Convention, 1933, the Invalidity Insurance (Agriculture) Convention, 1933, the Survivors' Insurance (Industry, etc.) Convention, 1933, and the Survivors' Insurance (Agriculture) Convention, 1933.

2. The legal effect of the acceptance of the obligations of this Convention by a Member which is a party to one or more of the Conventions which have been revised, when this Convention shall have come into force, shall be as follows for that Member :

- (a) acceptance of the obligations of Part II of the Convention shall, *ipso jure*, involve the immediate denunciation of the Invalidity Insurance (Industry, etc.) Convention, 1933, and the Invalidity Insurance (Agriculture) Convention, 1933;
- (b) acceptance of the obligations of Part III of the Convention shall, *ipso jure*, involve the immediate denunciation of the Old-Age Insurance (Industry, etc.) Convention, 1933, and the Old-Age Insurance (Agriculture) Convention, 1933;
- (c) acceptance of the obligations of Part IV of the Convention shall, *ipso jure*, involve the immediate denunciation of the Survivors' Insurance (Industry, etc.) Convention, 1933, and the Survivors' Insurance (Agriculture) Convention, 1933.

Article 45

1. In conformity with the provisions of Article 75 of the Social Security (Minimum Standards) Convention, 1952,¹ the following Parts of that Convention and the relevant provisions of other Parts thereof shall cease to apply to any Member having ratified this Convention as from the date at which this Convention is binding on that Member and no declaration under Article 38 is in force :

¹ United Nations, *Treaty Series*, vol. 210, p. 131.

- (a) Part IX where the Member has accepted the obligations of this Convention in respect of Part II;
- (b) Part V where the Member has accepted the obligations of this Convention in respect of Part III;
- (c) Part X where the Member has accepted the obligations of this Convention in respect of Part IV.

2. Acceptance of the obligations of this Convention shall, on condition that no declaration under Article 38 is in force, be deemed to constitute acceptance of the obligations of the following parts of the Social Security (Minimum Standards) Convention, 1952, and the relevant provisions of other Parts thereof, for the purpose of Article 2 of the said Convention :

- (a) Part IX where the Member has accepted the obligations of this Convention in respect of Part II;
- (b) Part V where the Member has accepted the obligations of this Convention in respect of Part III;
- (c) Part X where the Member has accepted the obligations of this Convention in respect of Part IV.

Article 46

If any Convention which may be adopted subsequently by the Conference concerning any subject or subjects dealt with in this Convention so provides, such provisions of this Convention as may be specified in the said Convention shall cease to apply to any Member having ratified the said Convention as from the date at which the said Convention comes into force for that Member.

PART VIII. FINAL PROVISIONS

Article 47

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

Article 48

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 49

1. A Member which has ratified this Convention may, after the expiration of ten years from the date on which the Convention first comes into force, denounce the Convention or any one or more of Parts II to IV thereof 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 the Convention or any or more of Parts II to IV thereof at the expiration of each period of ten years under the terms provided for in this Article.

Article 50

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 51

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 52

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 53

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 49 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 54

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

A N N E X

INTERNATIONAL STANDARD INDUSTRIAL CLASSIFICATION
OF ALL ECONOMIC ACTIVITIES*(Revised up to 1958)*

LIST OF DIVISIONS AND MAJOR GROUPS

*Major
group**Division**Division 0. Agriculture, Forestry, Hunting and Fishing*

- 01. Agriculture.
- 02. Forestry and logging.
- 03. Hunting, trapping and game propagation.
- 04. Fishing.

Division 1. Mining and Quarrying

- 11. Coal mining.
- 12. Metal mining.
- 13. Crude petroleum and natural gas.
- 14. Stone quarrying, clay and sand pits.
- 19. Other non-metallic mining and quarrying.

Divisions 2-3. Manufacturing

20. Food manufacturing industries, except beverage industries.
21. Beverage industries.
22. Tobacco manufacturers.
23. Manufacture of textiles.
24. Manufacture of footwear, other wearing apparel and made-up textile goods.

25. Manufacture of wood and cork, except manufacture of furniture.
26. Manufacture of furniture and fixtures.
27. Manufacture of paper and paper products.
28. Printing, publishing and allied industries.
29. Manufacture of leather, and leather and fur products, except footwear and other wearing apparel.
30. Manufacture of rubber products.
31. Manufacture of chemicals and chemical products.
32. Manufacture of products of petroleum and coal.
33. Manufacture of non-metallic mineral products, except products of petroleum and coal.
34. Basic metal industries.
35. Manufacture of metal products, except machinery and transport equipment.

36. Manufacture of machinery, except electrical machinery.
37. Manufacture of electrical machinery, apparatus, appliances and supplies.
38. Manufacture of transport equipment.
39. Miscellaneous manufacturing industries.

Division 4. Construction

40. Construction.

Division 5. Electricity, Gas, Water and Sanitary Services

51. Electricity, gas and steam.
52. Water and sanitary services.

Division 6. Commerce

61. Wholesale and retail trade.
62. Banks and other financial institutions.
63. Insurance.
64. Real estate.

Division 7. Transport, Storage and Communications

71. Transport.
72. Storage and warehousing.
73. Communication.

Division 8. Services

81. Government services.
82. Community services.

83. Business services.
84. Recreation services.
85. Personal services.

Division 9. Activities Not Adequately Described

90. Activities not adequately described.

The foregoing is the authentic text of the Convention duly adopted by the General Conference of the International Labour Organisation during its Fifty-first Session which was held at Geneva and declared closed the twenty-ninth day of June 1967.

IN FAITH WHEREOF we have appended our signatures this thirtieth day of June 1967.

The President of the Conference :

G. TESEMMA

The Director-General of the International Labour Office :

David A. MORSE