

C77 Medical Examination of Young Persons (Industry) Convention, 1946

The General Conference of the International Labour Organisation,

Having been convened at Montreal by the Governing Body of the International Labour Office and having met in its Twenty-ninth Session on 19 September 1946, and

Having decided upon the adoption of certain proposals with regard to medical examination for fitness for employment in industry of children and young persons, 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 ninth day of October of the year one thousand nine hundred and forty-six the following Convention, which may be cited as the Medical Examination of Young Persons (Industry) Convention, 1946:

PART I. GENERAL PROVISIONS

Article 1

1. This Convention applies to children and young persons employed or working in, or in connection with, industrial undertakings, whether public or private.

2. For the purpose of this Convention, the term *industrial undertaking* includes particularly:

(a) mines, quarries, and other works for the extraction of minerals from the earth;

(b) undertakings in which articles are manufactured, altered, cleaned, repaired, ornamented, finished, adapted for sale, broken up or demolished, or in which materials are transformed, including undertakings engaged in shipbuilding or in the generation, transformation or transmission of electricity or motive power of any kind;

(c) undertakings engaged in building and civil engineering work, including constructional, repair, maintenance, alteration and demolition work;

(d) undertakings engaged in the transport of passengers or goods by road, rail, inland waterway or air, including the handling of goods at docks, quays, wharves, warehouses or airports.

3. The competent authority shall define the line of division which separates industry from agriculture, commerce and other non-industrial occupations.

Article 2

1. Children and young persons under eighteen years of age shall not be admitted to employment by an industrial undertaking unless they have been found fit for the work on which they are to be employed by a thorough medical examination.

2. The medical examination for fitness for employment shall be carried out by a qualified physician approved by the competent authority and shall be certified either by a medical certificate or by an endorsement on the work permit or in the workbook.

3. The document certifying fitness for employment may be issued--

(a) subject to specified conditions of employment;

(b) for a specified job or for a group of jobs or occupations involving similar health risks which have been classified as a group by the authority responsible for the enforcement of the laws and regulations concerning medical examinations for fitness for employment.

4. National laws or regulations shall specify the authority competent to issue the document certifying fitness for employment and shall define the conditions to be observed in drawing up and issuing the document.

Article 3

1. The fitness of a child or young person for the employment in which he is engaged shall be subject to medical supervision until he has attained the age of eighteen years.

2. The continued employment of a child or young person under eighteen years of age shall be subject to the repetition of medical examinations at intervals of not more than one year.

3. National laws or regulations shall--

(a) make provision for the special circumstances in which a medical re-examination shall be required in addition to the annual examination or at more frequent intervals in order to ensure effective supervision in respect of the risks involved in the occupation and of the state of health of the child or young person as shown by previous examinations; or

(b) empower the competent authority to require medical re-examinations in exceptional cases.

Article 4

1. In occupations which involve high health risks medical examination and re-examinations for fitness for employment shall be required until at least the age of twenty-one years.

2. National laws or regulations shall either specify, or empower an appropriate authority to specify, the occupations or categories of occupations in which medical

examination and re-examinations for fitness for employment shall be required until at least the age of twenty-one years.

Article 5

The medical examination required by the preceding articles shall not involve the child or young person, or his parents, in any expense.

Article 6

1. Appropriate measures shall be taken by the competent authority for vocational guidance and physical and vocational rehabilitation of children and young persons found by medical examination to be unsuited to certain types of work or to have physical handicaps or limitations.

2. The nature and extent of such measures shall be determined by the competent authority; for this purpose co-operation shall be established between the labour, health, educational and social services concerned, and effective liaison shall be maintained between these services in order to carry out such measures.

3. National laws or regulations may provide for the issue to children and young persons whose fitness for employment is not clearly determined--

(a) of temporary work permits or medical certificates valid for a limited period at the expiration of which the young worker will be required to undergo re-examination;

(b) of permits or certificates requiring special conditions of employment.

Article 7

1. The employer shall be required to file and keep available to labour inspectors either the medical certificate for fitness for employment or the work permit or workbook showing that there are no medical objections to the employment as may be prescribed by national laws or regulations. 2. National laws or regulations shall determine the other methods of supervision to be adopted for ensuring the strict enforcement of this Convention.

PART II. SPECIAL PROVISIONS FOR CERTAIN COUNTRIES

Article 8

1. In the case of a Member the territory of which includes large areas where, by reason of the sparseness of the population or the stage of development of the area, the competent authority considers it impracticable to enforce the provisions of this Convention, the authority may exempt such areas from the application of the Convention either generally or with such exceptions in respect of particular undertakings or occupations as it thinks fit.

2. Each Member shall indicate in its first annual report upon the application of this Convention submitted under Article 22 of the Constitution of the International Labour

Organisation any areas in respect of which it proposes to have recourse to the provisions of the present Article and no Member shall, after the date of its first annual report, have recourse to the provisions of the present Article except in respect of areas so indicated.

3. Each Member having recourse to the provisions of the present Article shall indicate in subsequent annual reports any areas in respect of which it renounces the right to have recourse to the provisions of the present Article.

Article 9

1. Any Member which, before the date of the adoption of the laws or regulations permitting the ratification of this Convention, had no laws or regulations concerning medical examination for fitness for employment in industry of children and young persons may, by a declaration accompanying its ratification, substitute an age lower than eighteen years, but in no case lower than sixteen years, for the age of eighteen years prescribed in Articles 2 and 3 and an age lower than twenty-one years, but in no case lower than nineteen years, for the age of twenty-one years prescribed in Article 4.

2. Any Member which has made such a declaration may at any time cancel the declaration by a subsequent declaration.

3. Every Member for which a declaration made in virtue of paragraph 1 of this Article is in force shall indicate each year in its annual report upon the application of this Convention the extent to which any progress has been made with a view to the full application of the provisions of the Convention.

Article 10

1. The provisions of part I of this Convention shall apply to India subject to the modifications set forth in this Article: (a) the said provisions shall apply to all territories in respect of which the Indian Legislature has jurisdiction to apply them:

(b) the term *industrial undertaking* shall include -

(i) factories as defined in the Indian Factories Act;

(ii) mines as defined in the Indian Mines Act;

(iii) railways

(iv) all employments covered by the Employment of Children Act, 1938;

(c) Articles 2 and 3 shall apply to children and young persons under sixteen years of age;

(d) in Article 4 nineteen years shall be substituted for twenty-one years;

(e) paragraphs 1 and 2 of Article 6 shall not apply to India.

2. The provisions of paragraph 1 of this Article shall be subject to amendment by the following procedure:

(a) the International Conference may, at any session at which the matter is included in its agenda, adopt by a two-thirds majority draft amendments to paragraph 1 of this Article;

(b) any such draft amendment shall, within the period of one year, or, in exceptional circumstances, of eighteen months, from the closing of the session of the Conference, be submitted in India to the authority or authorities within whose competence the matter lies, for the enactment of legislation or other action;

(c) India will, if it obtains the consent of the authority or authorities within whose competence the matter lies, communicate the formal ratification of the amendment to the Director-General of the International Labour Office for registration;

(d) any such draft amendment shall take effect as an amendment to this Convention on ratification by India.

PART III. FINAL ARTICLES

Article 11

Nothing in this Convention shall affect any law, award, custom or agreement between employers and workers which ensures more favourable conditions than those provided by this Convention.

Article 12

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

Article 13

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 14

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 15

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 16

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 17

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 18

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 14 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 19

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