

P89 Protocol of 1990 to the Night Work (Women) Convention (Revised), 1948

Protocol of 1990 to the Convention concerning Night Work of Women Employed in Industry (Revised 1948) (Note: Date of coming into force: FORCE=26:06:1990.)
Convention:P89
Place:(Geneva)
Session of the Conference:77
Date of adoption:26:06:1990

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 77th Session on 6 June 1990, and

Having decided upon the adoption of certain proposals with regard to night work, which is the fourth item on the agenda of the session, and

Having determined that these proposals shall take the form of a Protocol to the Night Work (Women) Convention (Revised), 1948 (hereinafter referred to as "the Convention"),

adopts this twenty-sixth day of June 1990 the following Protocol, which may be cited as the Protocol of 1990 to the Night Work (Women) Convention (Revised), 1948

Article 1

1. (1) National laws or regulations, adopted after consulting the most representative organisations of employers and workers, may provide that variations in the duration of the night period as defined in Article 2 of the Convention and exemptions from the prohibition of night work contained in Article 3 thereof may be introduced by decision of the competent authority:

(a) in a specific branch of activity or occupation, provided that the organisations representative of the employers and the workers concerned have concluded an agreement or have given their agreement;

(b) in one or more specific establishments not covered by a decision taken pursuant to clause (a) above, provided that:

(i) an agreement has been concluded in the establishment or enterprise concerned between the employer and the workers' representatives concerned; and

(ii) the organisations representative of the employers and workers of the branch of activity or occupation concerned or the most representative organisations of employers and workers have been consulted;

(c) in a specific establishment not covered by a decision taken pursuant to clause (a) above, and where no agreement has been reached in accordance with clause (b) (i) above, provided that:

(i) the workers' representatives in the establishment or enterprise as well as the organisations representative of the employers and the workers of the branch of activity or occupation concerned or the most representative organisations of employers and workers have been consulted;

(ii) the competent authority has satisfied itself that adequate safeguards exist in the establishment as regards occupational safety and health, social services and equality of opportunity and treatment for women workers; and

(iii) the decision of the competent authority shall apply for a specified period of time, which may be renewed by means of the procedure under subclauses (i) and (ii) above,

(2) For the purposes of this paragraph the term "workers' representatives" means persons who are recognised as such by national law or practice, in accordance with the Workers' Representatives Convention, 1971.

2. The laws or regulations referred to in paragraph 1 shall determine the circumstances in which such variations and exemptions may be permitted and the conditions to which they shall be subject.

Article 2

1. It shall be prohibited to apply the variations and exemptions permitted pursuant to Article 1 above to women workers during a period before and after childbirth of at least 16 weeks, of which at least eight weeks shall be before the expected date of childbirth. National laws or regulations may allow for the lifting of this prohibition at the express request of the woman worker concerned on condition that neither her health nor that of her child will be endangered.

2. The prohibition provided for in paragraph 1 of this Article shall also apply to additional periods in respect of which a medical certificate is produced stating that this is necessary for the health of the mother or child:

(a) during pregnancy;

(b) during a specified time prolonging the period after childbirth fixed pursuant to paragraph 1 above.

3. During the periods referred to in paragraphs 1 and 2 of this Article: (a) a woman worker shall not be dismissed or given notice of dismissal, except for justifiable reasons not connected with pregnancy or childbirth;

(b) the income of a woman worker concerned shall be maintained at a level sufficient for the upkeep of herself and her child in accordance with a suitable standard of living. This income maintenance may be ensured through assignment to day work, extended maternity leave, social security benefits or any other appropriate measure, or through a combination of these measures.

4. The provisions of paragraphs 1, 2 and 3 of this Article shall not have the effect of reducing the protection and benefits connected with maternity leave.

Article 3

Information on the variations and exemptions introduced pursuant to this Protocol shall be included in the reports on the application of the Convention submitted under article 22 of the Constitution of the International Labour Organisation.

Article 4

1. A Member may ratify this Protocol at the same time as or at any time after its ratification of the Convention, by communicating its formal ratification of the Protocol to the Director-General of the International Labour Office for registration. Such ratification shall take effect 12 months after the date on which it has been registered by the Director-General. Thereafter the Convention shall be binding on the Member concerned with the addition of Articles 1 to 3 of this Protocol.

2. The Director-General of the International Labour Office shall notify all Members of the International Labour Office of the registration of all ratifications of this Protocol communicated to him by parties to the Convention.

3. 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 registered by him in accordance with the provisions of paragraph 1 of this Article.

Article 5

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