

Co57 - Hours of Work and Manning (Sea) Convention, 1936 (No. 57)

Convention concerning Hours of Work on Board Ship and Manning Adoption: Geneva, 21st ILC session (24 Oct 1936) - Status: Outdated instrument (Technical Convention).

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Go to article : [1](#) [2](#) [3](#) [4](#) [5](#) [6](#) [7](#) [8](#) [9](#) [10](#) [11](#) [12](#) [13](#) [14](#) [15](#) [16](#) [17](#) [18](#) [19](#) [20](#) [21](#) [22](#) [23](#) [24](#) [25](#) [26](#) [27](#) [28](#) [29](#)

Preamble

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 Twenty-first Session on 6 October 1936, and

Having decided upon the adoption of certain proposals with regard to the regulation of hours of work on board ship, and manning in conjunction with hours of work on board ship, which is the first item on the agenda of the Session, and

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

adopts this twenty-fourth day of October of the year one thousand nine hundred and thirty-six the following Convention, which may be cited as the Hours of Work and Manning (Sea) Convention, 1936:

PART I. SCOPE AND DEFINITIONS

Article 1

- 1. This Convention applies to every sea-going mechanically propelled vessel, whether publicly or privately owned, which--

- (a) is registered in a territory for which the Convention is in force;
 - (b) is employed in the transport of cargo or passengers for the purpose of trade; and
 - (c) is engaged on an international voyage, by which is meant any voyage from a port of one country to a port outside such country, every colony, overseas territory, protectorate or territory under suzerainty or mandate being regarded as a separate country.
2. This Convention does not apply to--
- (a) sailing vessels with auxiliary engines; or
 - (b) vessels engaged in fishing, whaling or similar pursuits, or in operations directly connected therewith.
3. Any Member may exempt vessels registered in its territory from the application of this Convention while such vessels are exclusively engaged in voyages upon which they do not proceed further from the country from which they trade than the nearby ports of neighbouring countries within geographical limits which--
- (a) are clearly specified by national laws or regulations;
 - (b) are uniform in respect of the application of all the provisions of this Convention;
 - (c) have been notified by the Member when registering its ratification by a declaration annexed thereto; and
 - (d) have been fixed after consultation with the other Members concerned.

Article 2

For the purpose of this Convention the following expressions have the meanings hereby assigned to them:

- (a) **tons** means gross registered tons;
- (b) **officer** means a person other than a master ranked as an officer by national laws or regulations, collective agreement or custom;
- (c) **rating** means a member of the crew other than an officer;
- (d) **hours of work** means time during which a member of the crew is required by the orders of a superior to do any work on account of the vessel or the owner, or to be at the disposal of a superior outside the crew's quarters.

PART II. HOURS OF WORK

Article 3

This part of this Convention does not apply to--

- (a) officers in charge of departments who do not keep watch;
- (b) wireless operators and telephonists;
- (c) pilots;
- (d) doctors;
- (e) nursing staff exclusively engaged on nursing duties or hospital staff;
- (f) persons working exclusively on their own account;
- (g) persons remunerated exclusively by a share of profits;
- (h) persons whose duties are connected solely with the cargo carried on board and who are not in fact in the employment either of the owner or of the master;
- (i) travelling dockers;
- (j) crews consisting entirely of members of the family, as defined by national laws or regulations, of the owner of the vessel.

Article 4

- 1. In vessels of over 2,000 tons the hours of work at sea and on arrival and sailing days of deck ratings whose time is divided into watches shall not exceed eight in the day nor shall they exceed fifty-six in the week.
- 2. In vessels of over 700 tons the hours of work at sea and on arrival and sailing days of deck ratings employed as day workers shall not exceed eight in the day nor shall they exceed forty-eight in the week.
- 3. Hours in excess of the limits prescribed in paragraphs 1 and 2 may be worked on arrival and sailing days. Whether or not such hours are to be worked and where such hours are allowed the conditions under which they may be worked shall be determined by national laws or regulations or collective agreements.

Article 5

- 1. In vessels of over 700 tons the hours of work at sea and on arrival and sailing days of engine-room and stokehold ratings whose time is divided into watches shall not exceed eight in the day nor shall they exceed fifty-six in the week. Provided that extra time may be worked for the normal relieving of watches and the hoisting and dumping of ashes.
- 2. In vessels of over 700 tons the hours of work at sea and on arrival and sailing days of engine-room and stokehold ratings employed as day workers shall not exceed eight in the day nor shall they exceed forty-eight in the week.

- 3. Hours in excess of the limits prescribed in paragraphs 1 and 2 may be worked on arrival and sailing days. Whether or not such hours are to be worked and where such hours are allowed the conditions under which they may be worked shall be determined by national laws or regulations or collective agreements.

Article 6

- 1. In vessels of over 2,000 tons the hours of work at sea and on arrival and sailing days of deck officers shall not exceed eight in the day nor shall they exceed fifty-six in the week.
- 2. Provided that one additional hour per day may be worked at sea and on arrival and sailing days for navigational or clerical purposes.
- 3. Provided also that additional hours may be worked occasionally when the master deems it necessary to order two officers to keep watch simultaneously, so however that in no case shall any officer be required in virtue of this paragraph to work more than twelve hours in any day.
- 4. In vessels of over 700 tons the hours of work at sea and on arrival and sailing days of deck officers employed as day workers shall not exceed eight in the day nor shall they exceed forty-eight in the week.
- 5. Hours in excess of the limits prescribed in paragraphs 1 and 4 may be worked on arrival and sailing days. Whether or not such hours are to be worked and where such hours are allowed the conditions under which they may be worked shall be determined by national laws or regulations or collective agreements.
- 6. The provisions of this Article apply to apprentices and cadets in the deck department.

Article 7

- 1. In vessels required under Article 16 to carry three or more engineer officers the hours of work of such officers at sea and on arrival and sailing days shall not exceed eight in the day nor shall they exceed fifty-six in the week.
- 2. In vessels of over 700 tons the hours of work at sea of engineer officers employed as day workers shall not exceed eight in the day nor shall they exceed forty-eight in the week.
- 3. The provisions of this Article apply to apprentices and cadets in the engine-room department.

Article 8

- 1. In vessels to which this Convention applies the following provisions shall apply to deck, engine-room and stokehold ratings and to deck and engineer officers, including apprentices and cadets in the deck and engine-room departments, whenever sea watches are suspended in any port:
 - (a) hours of work shall not exceed eight in the day nor shall they exceed forty-eight in the week;

- (b) the weekly rest day shall be observed and on that day no work shall be required except as overtime or for the purpose of ordinary routine and sanitary duties, any work required for the purpose of such duties to be included in the weekly limit of forty-eight hours;
 - (c) exceptions to these provisions may be made in accordance with national laws or regulations or collective agreement in the case of ratings required for the safety of the vessel or persons on board or for the preservation of the cargo.
- 2. Sea watches shall normally be suspended if the vessel is expected to stay in the port for more than twenty-four hours following its arrival, unless in the judgment of the master the safety of the vessel would be prejudiced thereby.
 - 3. If sea watches are maintained in port, all time worked in excess of the limits of hours prescribed by or permitted under paragraph 1 of this Article shall, except in the case of--
 - (a) watches maintained for the safety of the vessel; and
 - (b) watches worked within twelve hours after arrival or within twelve hours before sailing,
 be regarded as overtime for which the rating or officer shall be entitled to be compensated.

Article 9

- 1. In all vessels to which this Convention applies in respect of which there is in force--
 - (a) a safety certificate issued in accordance with the provisions of the International Convention for the Safety of Life at Sea for the time being in force; or
 - (b) a passenger certificate,
 the hours of work at sea of ratings in the catering and clerical departments shall be so arranged as to ensure to each such rating not less than twelve hours' rest during any period of twenty-four hours, including a rest period of at least eight consecutive hours.
- 2. In all vessels to which this Convention applies, other than vessels in respect of which there is in force one of the certificates referred to in the preceding paragraph, the hours of work at sea and on arrival and sailing days of ratings in the catering and clerical departments shall not exceed ten in the day.
- 3. In all vessels to which this Convention applies the hours of work in port of ratings in the catering and clerical departments shall not exceed eight in the day, subject to such exceptions as may be permitted by national laws or regulations.

Article 10

- 1. Ratings and deck and engineer officers including apprentices and cadets may be required to work in excess of the limits of hours prescribed by or permitted under the preceding Articles of this Part of this Convention, subject to the conditions that--
 - (a) all such time worked shall be regarded as overtime for which they shall be entitled to be compensated; and
 - (b) there shall be no consistent working of overtime.
- 2. The manner or rate or rates of such compensation shall be prescribed by national laws or regulations or be fixed by collective agreement.

Article 11

- 1. No rating under the age of sixteen years shall work at night.
- 2. For the purpose of this Article the expression ***night*** means a period of at least nine consecutive hours between times before and after midnight to be prescribed by national laws or regulations.

Article 12

The provisions of this Part of this Convention do not apply to--

- (a) work which the master deems to be necessary and urgent for the safety of the vessel, cargo, or persons on board;
- (b) work required by the master for the purpose of giving assistance to other vessels or persons;
- (c) musters, fire, lifeboat and similar drills of the kind prescribed by the International Convention for the Safety of Life at Sea for the time being in force;
- (d) extra work resulting from the sickness of or from injury to any officer or rating or from any unforeseeable reduction in the number of officers or ratings in the course of the voyage;
- (e) extra work for the purpose of customs, quarantine or other health formalities;
- (f) work by officers for the determination of the position of the vessel at noon.

PART III. MANNING

Article 13

Every vessel of over 700 tons shall be sufficiently and efficiently manned for the purposes of--

- (a) safety of life at sea; and
- (b) making possible the application of the rules relating to hours set forth in Part II of this Convention,

and more particularly every such vessel shall comply with the minimum requirements as to manning set forth in this Part of this Convention.

Article 14

- 1. In vessels of over 700 but not exceeding 2,000 tons there shall be carried at least two certificated deck officers in addition to the master.
- 2. In vessels of over 2,000 tons there shall be carried at least three certificated deck officers in addition to the master.

Article 15

- 1. In vessels of over 700 tons the number of deck ratings carried shall be sufficient to allow of three ratings being available for each navigational watch.
- 2. In particular, the following minimum numbers of ratings shall be carried:
 - (a) in vessels of over 700 but not exceeding 2,000 tons: six;
 - (b) in vessels of over 2,000 tons: nine or such larger number as may be prescribed by national laws or regulations or fixed by collective agreement.
- 3. The following minimum numbers of the ratings required to be carried by paragraph 2 shall comply with the conditions as to physical capacity and efficiency stated in paragraph 4:
 - (a) in vessels of over 700 but not exceeding 2,000 tons: four;
 - (b) in vessels of over 2,000 tons: five or such larger number as may be prescribed by national laws or regulations or fixed by collective agreement.
- 4. The conditions as to physical capacity and efficiency to be fulfilled by certain ratings in accordance with paragraph 3 are that each such rating--
 - (a) is eighteen years of age; and
 - (b) either has had at least three years' sea service on deck or holds a certificate, issued by the competent authority, that his standard of efficiency is equal to that of the average rating who has had three years' sea service on deck.
- 5. National laws or regulations or collective agreement shall limit the number of ratings with less than one year's sea service on deck who may be counted as deck ratings for the purpose of satisfying the requirements of this Article.

- 6. No rating signed on in a dual capacity whose services may be required in any department other than the deck department shall be counted as a deck rating for the purpose of satisfying the requirements of this Article.
- 7. Whether or not a wireless operator or telephonist is to be considered as belonging to the deck department for the purpose of the preceding paragraph shall be determined by national laws or regulations or collective agreement.

Article 16

- 1. In vessels to which this Article applies at least three certificated engineer officers shall be carried.
- 2. This Article applies either--
 - (a) to vessels of over 700 tons; or
 - (b) to vessels with engines exceeding 800 indicated horse-power,according as a tonnage or horse-power criterion is prescribed by national laws or regulations.
- 3. Provided that any Member may postpone the application of this Article for a period not exceeding five years from the coming into force of this Convention in the case of existing vessels not exceeding 1,500 tons or with engines not exceeding 1,000 indicated horse-power according as the Member applies the tonnage or horse-power criterion.

Article 17

If in the course of a voyage as a result of death, accident or any other cause a vessel ceases to have available the number of officers or ratings required by the preceding Articles the master shall make up the deficiency at the first reasonable opportunity.

PART IV. GENERAL PROVISIONS

Article 18

The shipowners', officers' and seamen's organisations concerned shall, so far as is reasonable and practicable, be taken into consultation in the framing of all laws or regulations for giving effect to the provisions of this Convention.

Article 19

- 1. Each Member which ratifies this Convention shall be responsible for the application of its provisions to vessels registered in its territory and shall maintain in force national laws or regulations which--
 - (a) determine the respective responsibilities of the shipowner and the master for ensuring compliance therewith;

- (b) prescribe adequate penalties for any violation thereof;
 - (c) provide for adequate public supervision of compliance with Part III before a vessel leaves a home port on an international voyage;
 - (d) require the keeping of records of all overtime worked in pursuance of Article 10 and of the compensation granted in respect thereof; and
 - (e) ensure to seamen the same remedies for recovering extra payments in respect of overtime as they have for recovering other arrears of wages.
- 2. In any case in which it comes to the knowledge of the competent authority of a port that a vessel registered in a territory for which this Convention is in force in virtue of ratification by another Member is not carrying the number of officers and ratings required by Part III of this Convention the said authority shall so notify the consul of the said Member.

Article 20

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

Article 21

- 1. Vessels existing at the date of the coming into force of this Convention in respect of which the competent authority of the territory of registration is satisfied, after consulting the organisations interested, that the circumstances are such that the provision of fresh accommodation or other permanent equipment necessary for an increased crew is not reasonably possible may be exempted from the application of the Convention.
- 2. Such exemption shall be granted by the issue of an exemption certificate, which shall be carried on the vessel, exempting the said vessel from such of the requirements of this Convention as are specified in the said certificate.
- 3. Exemption certificates shall not be issued for a period exceeding four years at a time.
- 4. Every Member taking advantage of the provisions of this Article shall communicate to the International Labour Office in its annual report upon the application of this Convention--
 - (a) the texts of all laws and regulations relating to the grant of exemption under this Article;
 - (b) particulars as to the number of vessels and total tonnage in respect of which exemption certificates are for the time being in force; and
 - (c) any observations as to the grant of exemption made by the shipowners', officers' and seamen's organisations concerned.

PART V. FINAL PROVISIONS

Article 22

- 1. In respect of the territories referred to in article 35 of the Constitution of the International Labour Organisation, each Member of the Organisation which ratifies this Convention shall append to its ratification a declaration stating--
 - (a) the territories in respect of which it undertakes to apply the provisions of the Convention without modification;
 - (b) the territories in respect of which it undertakes to apply the provisions of the Convention 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 subparagraphs (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 by a subsequent declaration cancel in whole or in part any reservations made in its original declaration in virtue of subparagraphs (b), (c) or (d) of paragraph 1 of this Article.

Article 23

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

Article 24

- 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 six months after the date on which there have been registered by the Director-General of the International Labour Office the ratifications of five Members of the Organisation each of which has a mercantile marine tonnage of not less than one million tons.
- 3. Thereafter, this Convention shall come into force for any Member six months after the date on which its ratification has been registered.

Article 25

As soon as the ratifications of five of the Members mentioned in the second paragraph of Article 24 have been registered, the Director-General of the International Labour Office shall so notify all the Members of the

International Labour Organisation. He shall likewise notify them of the registration of ratifications which may be communicated subsequently by other Members of the Organisation.

Article 26

- 1. A Member which has ratified this Convention may denounce it after the expiration of five 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 five years mentioned in the preceding paragraph, exercise the right of denunciation provided for in this Article, will be bound for another period of five years and, thereafter, may denounce this Convention at the expiration of each period of five years under the terms provided for in this Article.

Article 27

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 28

- 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 26 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 29

The French and English texts of this Convention shall both be authentic.