## Minimum Age Convention, 1973

**Canada** ratified the Minimum Age Convention, 1973 on 8 June 2016. It comes into force for Canada on 8 June 2017.
**Adoption:** The Minimum Age Convention, 1973 was adopted by the General Conference of the International Labour Organization on 26 June 1973.
**Entry into force:** 19 June 1976
**Number of signatories and ratifications/accessions:** 169 countries have ratified the Minimum Age Convention, 1973.

## Summary information

The efforts of the International Labour Organization (ILO) to abolish child labour started soon after its inception with the adoption of the *Minimum Age (Industry) Convention, 1919*, which was followed by 9 additional conventions over the next 50 years targeting child employment in various sectors such as agriculture, mining and fishing. By about 1970 the need for a more comprehensive convention on the minimum age of employment was recognized in order to totally abolish child labour. The Minimum Age Convention, 1973 was adopted by the General Conference of the International Labour Organization on 26 June 1973.

The Convention applies to all economic sectors and to all working children. It requires each Member country to specify a minimum age for admission to employment or work and requires that age not be less than the age of completion of compulsory schooling and, in any case, shall not be less than 15 years. But the Convention also provides some flexibility for countries to set the minimum age according to the level of development of the country and according to the type of employment or work. In addition, the Convention requires Member countries to put in place appropriate penalties to ensure effective enforcement of its provisions.

In 1999, the ILO complemented the Minimum Age Convention, 1973 with a second convention aimed at abolishing child labour, the Worst Forms of Child Labour Convention, 1999. The Convention on the Rights of the Child adopted by the UN General Assembly in 1989 also contains provisions requiring State parties to provide a minimum age for admission to employment and protecting children from hazardous work and work that could interfere with education or cause harm to a child's health or physical, mental, spiritual, moral or social development.

## History

The abolition of child labour has been one of the major aims of the ILO since its creation in 1919 as part of the Treaty of Versailles which ended World War I. In fact, the first international treaty on child labour, the *Minimum Age (Industry) Convention, 1919* was

adopted at the first session of the International Labour Conference that year. That convention prohibited children under the age of 14 years from working in industrial establishments, although exemptions were allowed for approved and supervised work in technical schools and for work where only members of the same family were employed. Special provisions also allowed the minimum age in India and Japan to be 12 rather than 14.

Over the following 50 years, 9 additional conventions were adopted by the ILO to set or revise standards for minimum age of employment in agriculture and in mining, at sea and in fishing and in other, non-industrial employment. There was a strong focus in these conventions on ensuring that any employment did not prevent children from attending primary school. Two other conventions included minimum age provisions – the *White Lead (Painting) Convention, 1921*, which prohibited the employment of males under 18 and of all females in painting work of an industrial character involving the use of white lead or sulphate of lead or other products containing those pigments, and the *Radiation Protection Convention, 1960*, which prohibited the employment of persons under 16 in work involving ionising radiations.

The various minimum age conventions received widely different success in terms of ratification. For example, by about 1970, 76 states had ratified the *Minimum Age (Industry) Convention, 1919* or the *Minimum Age (Industry) Convention (Revised), 1937* whereas only 30 states had ratified the *Minimum Age (Non-Industry Employment) Convention, 1932* or the *Minimum Age (Non-Industry Employment) (Revised) Convention, 1937*.

While these conventions were believed to have had a beneficial effect in terms of eliminating the mass exploitation of children in mine and factories, nevertheless the ILO estimated in 1970 that worldwide over 45 million children were “economically active”, with more than 90% of them in developing regions. The need was recognized for a more comprehensive convention on the minimum age of employment, to gradually replace the existing conventions that were limited to certain economic sectors – “with a view to achieving the total abolition of child labour”.

The General Conference of the International Labour Organization in 1972 approved “consultations of governments, on proposals for a Convention and Recommendation concerning minimum age for admission to employment.” Subsequently, the Minimum Age Convention, 1973 (No. 138) was adopted by the General Conference of the International Labour Organization on 26 June 1973.

**Key Provisions**

The Convention requires that each ILO Member, for which it is in force, undertake “to pursue a national policy designed to ensure the effective abolition of child labour and to raise progressively the minimum age for admission to employment or work to a level consistent with the fullest physical and mental development of young persons.”

Each Member country is required to specify “a minimum age for admission to employment or work within its territory”. This minimum age is not to be “less than the age of completion of compulsory schooling and, in any case, shall not be less than 15 years.” Despite this provision, a Member country, whose economy and educational facilities are not sufficiently developed, may initially specify a minimum age of 14 years after consultation with relevant organizations of employers and workers.

Furthermore, a minimum age of 18 years is specified for employment or work identified as “likely to jeopardise the health, safety or morals of young persons”. Again, despite this provision, a Member country can specify the minimum age for such employment or work be 16 “on condition that the health, safety and morals of the young persons concerned are fully protected and that the young persons have received adequate specific instruction or vocational training in the relevant branch of activity.”

There is also provision for a Member country to exclude from the application of the Convention “limited categories of employment or work in respect of which special and substantial problems of application arise” although this exclusion cannot be applied to employment or work likely to jeopardise the health, safety or morals of young persons. There is also provision for Member countries to initially limit the scope of the application of the Convention where the country’s economy and administrative facilities are insufficiently developed.

The Convention allows Member countries to permit employment or work on light work for persons of age 13 to 15 provided the work is not likely to be harmful to health or development or interfere with education. An exception is also provided for the participation of children in artistic performances. In addition, the Convention does not apply to work done by children in the course of their education or training.

Finally, the Convention requires Member countries to put in place appropriate penalties to ensure effective enforcement of its provisions.

## Canada’s Commitments and Responsibilities

Canada ratified the Minimum Age Convention, 1973 on 8 June 2016. It comes into force for Canada on 8 June 2017.

According to Mary Lou Cherwaty, writing for Northern News Services Online in 2009, the official reasons for Canada’s failure to ratify this convention and two other core ILO conventions at that time were “obscure, contradictory and difficult to understand”. She wrote that “[s]uccessive governments have failed to outline reasons for Canada's refusal to ratify them.”

## International Monitoring and Implementation

The Minimum Age Convention, 1973, like other international labour standards, is backed by a supervisory system to ensure that countries implement the conventions they ratify and to indicate where the standards could be better applied. There are two kinds of supervisory mechanism:

- The regular system of supervision: examination of periodic reports submitted by Member States on the measures they have taken to implement the provisions of a ratified Convention; and
- Special procedures: a representations procedure and a complaints procedure.

The ILO set up the Committee of Experts on the Application of Conventions and Recommendations in 1926 to examine the growing number of government reports on ratified conventions. The Committee's role is to provide an impartial and technical evaluation of the state of application of international labour standards.

Today the Committee of Experts is composed of 20 eminent jurists appointed by the Governing Body for three-year terms. The Experts come from different geographic regions, legal systems and cultures. There are no Canadian experts currently serving on the Committee.

“When examining the application of international labour standards the Committee of Experts makes two kinds of comments: observations and direct requests. Observations contain comments on fundamental questions raised by the application of a particular convention by a state. These observations are published in the Committee's annual report. Direct requests relate to more technical questions or requests for further information. They are not published in the report but are communicated directly to the governments concerned.”

“The annual report of the Committee of Experts, usually adopted in December, is submitted to the International Labour Conference the following June, where it is examined by the Conference Committee on the Application of Standards. A standing committee of the Conference, the Conference Committee is made up of government, employer, and worker delegates. It examines the report in a tripartite setting and selects from it a number of observations for discussion. The governments referred to in these comments are invited to respond before the Conference Committee and to provide information on the situation in question. In many cases the Conference Committee draws up conclusions recommending that governments take specific steps to remedy a problem or to invite ILO missions or technical assistance. The discussions and conclusions of the situations examined by the Conference Committee are published in its report. Situations of special concern are highlighted in special paragraphs of its General Report.”

*Special Procedures*

There are two types of special procedures:

The Representations procedure “grants an industrial association of employers or of workers the right to present to the ILO Governing Body a representation against any member state which, in its view, ‘has failed to secure in any respect the effective observance within its jurisdiction of any Convention to which it is a party’. A three-member tripartite committee of the Governing Body may be set up to examine the representation and the government's response. The report that the committee submits to the Governing Body states the legal and practical aspects of the case, examines the information submitted, and concludes with recommendations. Where the government's response is not considered satisfactory, the Governing Body is entitled to publish the representation and the response.”

Under the Complaints procedure “a complaint may be filed against a member state for not complying with a ratified convention by another member state which ratified the same convention, a delegate to the International Labour Conference or the Governing Body in its own capacity. Upon receipt of a complaint, the Governing Body may form a Commission of Inquiry, consisting of three independent members, which is responsible for carrying out a full investigation of the complaint, ascertaining all the facts of the case and making recommendations on measures to be taken to address the problems raised by the complaint. A Commission of Inquiry is the ILO's highest-level investigative procedure; it is generally set up when a member state is accused of committing persistent and serious violations and has repeatedly refused to address them. To date, 11 Commissions of Inquiry have been established.” (Update: By the end of 2016 there had been 13 Commissions of Inquiry,)

**References**

Minimum Age Convention, 1973

Worst Forms of Child Labour Convention, 1999

Convention on the Rights of the Child

Eliminating the Worst Forms of Child Labour (Handbook for Parliamentarians No. 3 – 2002)

Report IV (1) 57th Session, International Labour Conference, Geneva 1972

Canada’s Shameful Secret

Applying and promoting International Labour Standards

Committee of Experts on the Application of Conventions and Recommendations

Conference Committee on the Application of Standards

Representations

Complaints