

R201 - Domestic Workers Recommendation, 2011 (No. 201)

Recommendation concerning Decent Work for Domestic Workers

Adoption: Geneva, 100th ILC session (16 Jun 2011) - Status: Up-to-date instrument.

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Preamble

The General Conference of the International Labour Organization,

Having been convened at Geneva by the Governing Body of the International Labour Office, and having met in its 100th Session on 1 June 2011, and

Having adopted the Domestic Workers Convention, 2011, and

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

Having determined that these proposals shall take the form of a Recommendation supplementing the Domestic Workers Convention, 2011;

adopts this sixteenth day of June of the year two thousand and eleven the following Recommendation, which may be cited as the Domestic Workers Recommendation, 2011.

1. The provisions of this Recommendation supplement those of the Domestic Workers Convention, 2011 ("the Convention"), and should be considered in conjunction with them.
2. In taking measures to ensure that domestic workers enjoy freedom of association and the effective recognition of the right to collective bargaining, Members should:
 - (a) identify and eliminate any legislative or administrative restrictions or other obstacles to the right of domestic workers to establish their own organizations or to join the workers' organizations of their own choosing and to the right of organizations of domestic workers to join workers' organizations, federations and confederations;
 - (b) give consideration to taking or supporting measures to strengthen the capacity of workers' and employers' organizations, organizations representing domestic workers and those of employers of domestic workers, to promote effectively the interests of their members, provided that at all times the independence and autonomy, within the law, of such organizations are protected.
3. In taking measures for the elimination of discrimination in respect of employment and occupation, Members should, consistent with international labour standards, among other things:

(a) make sure that arrangements for work-related medical testing respect the principle of the confidentiality of personal data and the privacy of domestic workers, and are consistent with the ILO code of practice "Protection of workers' personal data" (1997), and other relevant international data protection standards;

(b) prevent any discrimination related to such testing; and

(c) ensure that no domestic worker is required to undertake HIV or pregnancy testing, or to disclose HIV or pregnancy status.

4. Members giving consideration to medical testing for domestic workers should consider:

(a) making public health information available to members of the households and domestic workers on the primary health and disease concerns that give rise to any needs for medical testing in each national context;

(b) making information available to members of the households and domestic workers on voluntary medical testing, medical treatment, and good health and hygiene practices, consistent with public health initiatives for the community generally; and

(c) distributing information on best practices for work-related medical testing, appropriately adapted to reflect the special nature of domestic work.

5.

(1) Taking into account the provisions of the Worst Forms of Child Labour Convention, 1999 (No. 182), and Recommendation (No. 190), Members should identify types of domestic work that, by their nature or the circumstances in which they are carried out, are likely to harm the health, safety or morals of children, and should also prohibit and eliminate such child labour.

(2) When regulating the working and living conditions of domestic workers, Members should give special attention to the needs of domestic workers who are under the age of 18 and above the minimum age of employment as defined by national laws and regulations, and take measures to protect them, including by:

(a) strictly limiting their hours of work to ensure adequate time for rest, education and training, leisure activities and family contacts;

(b) prohibiting night work;

(c) placing restrictions on work that is excessively demanding, whether physically or psychologically; and

(d) establishing or strengthening mechanisms to monitor their working and living conditions.

6.

(1) Members should provide appropriate assistance, when necessary, to ensure that domestic workers understand their terms and conditions of employment.

(2) Further to the particulars listed in Article 7 of the Convention, the terms and conditions of employment should also include:

(a) a job description;

(b) sick leave and, if applicable, any other personal leave;

(c) the rate of pay or compensation for overtime and standby consistent with Article 10(3) of the Convention;

(d) any other payments to which the domestic worker is entitled;

(e) any payments in kind and their monetary value;

(f) details of any accommodation provided; and

(g) any authorized deductions from the worker's remuneration.

(3) Members should consider establishing a model contract of employment for domestic work, in consultation with the most representative organizations of employers and workers and, where they exist, with organizations representative of domestic

workers and those representative of employers of domestic workers.

(4) The model contract should at all times be made available free of charge to domestic workers, employers, representative organizations and the general public.

7. Members should consider establishing mechanisms to protect domestic workers from abuse, harassment and violence, such as:

- (a) establishing accessible complaint mechanisms for domestic workers to report cases of abuse, harassment and violence;
- (b) ensuring that all complaints of abuse, harassment and violence are investigated, and prosecuted, as appropriate; and
- (c) establishing programmes for the relocation from the household and rehabilitation of domestic workers subjected to abuse, harassment and violence, including the provision of temporary accommodation and health care.

8.

(1) Hours of work, including overtime and periods of standby consistent with Article 10(3) of the Convention, should be accurately recorded, and this information should be freely accessible to the domestic worker.

(2) Members should consider developing practical guidance in this respect, in consultation with the most representative organizations of employers and workers and, where they exist, with organizations representative of domestic workers and those representative of employers of domestic workers.

9.

(1) With respect to periods during which domestic workers are not free to dispose of their time as they please and remain at the disposal of the household in order to respond to possible calls (standby or on-call periods), Members, to the extent determined by national laws, regulations or collective agreements, should regulate:

- (a) the maximum number of hours per week, month or year that a domestic worker may be required to be on standby, and the ways they might be measured;
- (b) the compensatory rest period to which a domestic worker is entitled if the normal period of rest is interrupted by standby; and
- (c) the rate at which standby hours should be remunerated.

(2) With regard to domestic workers whose normal duties are performed at night, and taking into account the constraints of night work, Members should consider measures comparable to those specified in subparagraph 9(1).

10. Members should take measures to ensure that domestic workers are entitled to suitable periods of rest during the working day, which allow for meals and breaks to be taken.

11.

(1) Weekly rest should be at least 24 consecutive hours.

(2) The fixed day of weekly rest should be determined by agreement of the parties, in accordance with national laws, regulations or collective agreements, taking into account work exigencies and the cultural, religious and social requirements of the domestic worker.

(3) Where national laws, regulations or collective agreements provide for weekly rest to be accumulated over a period longer than seven days for workers generally, such a period should not exceed 14 days for domestic workers.

12. National laws, regulations or collective agreements should define the grounds on which domestic workers may be required to work during the period of daily or weekly rest and provide for adequate compensatory rest, irrespective of any financial compensation.

13. Time spent by domestic workers accompanying the household members on holiday should not be counted as part of their paid

annual leave.

14. When provision is made for the payment in kind of a limited proportion of remuneration, Members should consider:

- (a) establishing an overall limit on the proportion of the remuneration that may be paid in kind so as not to diminish unduly the remuneration necessary for the maintenance of domestic workers and their families;
- (b) calculating the monetary value of payments in kind by reference to objective criteria such as market value, cost price or prices fixed by public authorities, as appropriate;
- (c) limiting payments in kind to those clearly appropriate for the personal use and benefit of the domestic worker, such as food and accommodation;
- (d) ensuring that, when a domestic worker is required to live in accommodation provided by the household, no deduction may be made from the remuneration with respect to that accommodation, unless otherwise agreed to by the worker; and
- (e) ensuring that items directly related to the performance of domestic work, such as uniforms, tools or protective equipment, and their cleaning and maintenance, are not considered as payment in kind and their cost is not deducted from the remuneration of the domestic worker.

15.

- (1) Domestic workers should be given at the time of each payment an easily understandable written account of the total remuneration due to them and the specific amount and purpose of any deductions which may have been made.
- (2) Upon termination of employment, any outstanding payments should be made promptly.

16. Members should take measures to ensure that domestic workers enjoy conditions not less favourable than those of workers generally in respect of the protection of workers' claims in the event of the employer's insolvency or death.

17. When provided, accommodation and food should include, taking into account national conditions, the following:

- (a) a separate, private room that is suitably furnished, adequately ventilated and equipped with a lock, the key to which should be provided to the domestic worker;
- (b) access to suitable sanitary facilities, shared or private;
- ((c) adequate lighting and, as appropriate, heating and air conditioning in keeping with prevailing conditions within the household; and
- (d) meals of good quality and sufficient quantity, adapted to the extent reasonable to the cultural and religious requirements, if any, of the domestic worker concerned.

18. In the event of termination of employment at the initiative of the employer, for reasons other than serious misconduct, live-in domestic workers should be given a reasonable period of notice and time off during that period to enable them to seek new employment and accommodation.

19. Members, in consultation with the most representative organizations of employers and workers and, where they exist, with organizations representative of domestic workers and those representative of employers of domestic workers, should take measures, such as to:

- (a) protect domestic workers by eliminating or minimizing, so far as is reasonably practicable, work-related hazards and risks, in order to prevent injuries, diseases and deaths and promote occupational safety and health in the household workplace;
- (b) provide an adequate and appropriate system of inspection, consistent with Article 17 of the Convention, and adequate penalties for violation of occupational safety and health laws and regulations;
- (c) establish procedures for collecting and publishing statistics on accidents and diseases related to domestic work, and other

statistics considered to contribute to the prevention of occupational safety and health related risks and injuries;

(d) advise on occupational safety and health, including on ergonomic aspects and protective equipment; and

(e) develop training programmes and disseminate guidelines on occupational safety and health requirements specific to domestic work.

20.

(1) Members should consider, in accordance with national laws and regulations, means to facilitate the payment of social security contributions, including in respect of domestic workers working for multiple employers, for instance through a system of simplified payment.

(2) Members should consider concluding bilateral, regional or multilateral agreements to provide, for migrant domestic workers covered by such agreements, equality of treatment in respect of social security, as well as access to and preservation or portability of social security entitlements.

(3) The monetary value of payments in kind should be duly considered for social security purposes, including in respect of the contribution by the employers and the entitlements of the domestic workers.

21.

(1) Members should consider additional measures to ensure the effective protection of domestic workers and, in particular, migrant domestic workers, such as:

(a) establishing a national hotline with interpretation services for domestic workers who need assistance;

(b) consistent with Article 17 of the Convention, providing for a system of pre-placement visits to households in which migrant domestic workers are to be employed;

(c) developing a network of emergency housing;

(d) raising employers' awareness of their obligations by providing information on good practices in the employment of domestic workers, employment and immigration law obligations regarding migrant domestic workers, enforcement arrangements and sanctions in cases of violation, and assistance services available to domestic workers and their employers;

(e) securing access of domestic workers to complaint mechanisms and their ability to pursue legal civil and criminal remedies, both during and after employment, irrespective of departure from the country concerned; and

(f) providing for a public outreach service to inform domestic workers, in languages understood by them, of their rights, relevant laws and regulations, available complaint mechanisms and legal remedies, concerning both employment and immigration law, and legal protection against crimes such as violence, trafficking in persons and deprivation of liberty, and to provide any other pertinent information they may require.

(2) Members that are countries of origin of migrant domestic workers should assist in the effective protection of the rights of these workers, by informing them of their rights before departure, establishing legal assistance funds, social services and specialized consular services and through any other appropriate measures.

22. Members should, after consulting with the most representative organizations of employers and workers and, where they exist, with organizations representative of domestic workers and those representative of employers of domestic workers, consider specifying by means of laws, regulations or other measures, the conditions under which migrant domestic workers are entitled to repatriation at no cost to themselves on the expiry or termination of the employment contract for which they were recruited.

23. Members should promote good practices by private employment agencies in relation to domestic workers, including migrant domestic workers, taking into account the principles and approaches in the Private Employment Agencies Convention, 1997 (No.

181), and the Private Employment Agencies Recommendation, 1997 (No. 188).

24. In so far as compatible with national law and practice concerning respect for privacy, Members may consider conditions under which labour inspectors or other officials entrusted with enforcing provisions applicable to domestic work should be allowed to enter the premises in which the work is carried out.

25.

(1) Members should, in consultation with the most representative organizations of employers and workers and, where they exist, with organizations representative of domestic workers and those representative of employers of domestic workers, establish policies and programmes, so as to:

(a) encourage the continuing development of the competencies and qualifications of domestic workers, including literacy training as appropriate, in order to enhance their professional development and employment opportunities;

(b) address the work–life balance needs of domestic workers; and

(c) ensure that the concerns and rights of domestic workers are taken into account in the context of more general efforts to reconcile work and family responsibilities.

(2) Members should, after consulting with the most representative organizations of employers and workers and, where they exist, with organizations representative of domestic workers and those representative of employers of domestic workers, develop appropriate indicators and measurement systems in order to strengthen the capacity of national statistical offices to effectively collect data necessary to support effective policymaking regarding domestic work.

26.

(1) Members should consider cooperating with each other to ensure the effective application of the Domestic Workers Convention, 2011, and this Recommendation, to migrant domestic workers.

(2) Members should cooperate at bilateral, regional and global levels for the purpose of enhancing the protection of domestic workers, especially in matters concerning the prevention of forced labour and trafficking in persons, the access to social security, the monitoring of the activities of private employment agencies recruiting persons to work as domestic workers in another country, the dissemination of good practices and the collection of statistics on domestic work.

(3) Members should take appropriate steps to assist one another in giving effect to the provisions of the Convention through enhanced international cooperation or assistance, or both, including support for social and economic development, poverty eradication programmes and universal education.

(4) In the context of diplomatic immunity, Members should consider:

(a) adopting policies and codes of conduct for diplomatic personnel aimed at preventing violations of domestic workers' rights; and

(b) cooperating with each other at bilateral, regional and multilateral levels to address and prevent abusive practices towards domestic workers.

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