

§ 793. - Seafarers' Pensions Convention, 28 giugno 1946 n.71 (1).

(1) Entrata in vigore il 10 ottobre 1962. Ratificata dall'Italia il 10 Aprile.

Art. 1. In this Convention the term *seafarer* includes every person employed on board or in the service of any sea-going vessel, other than a ship of war, which is registered in a territory for which the Convention is in force.

Art. 2. 1. Each Member of the International Labour Organisation for which this Convention is in force shall, in accordance with national laws or regulations, establish or secure the establishment of a scheme for the payment of pensions to seafarers on retirement from sea service.

2. The scheme may embody such exceptions as the Member deems necessary in respect of—

(a) persons employed on board or in the service of—

(i) vessels of public authorities when such vessels are not engaged in trade;

(ii) vessels which are not engaged in the transport of cargo or passengers for the purpose of trade;

(iii) fishing vessels;

(iv) vessels engaged in hunting seals;

(v) vessels of less than 200 gross register tons;

(vi) wooden ships of primitive build such as dhows and junks;

(vii) in so far as ships registered in India are concerned and for a period not exceeding five years from the date of the registration of the ratification of the Convention by India, home-trade vessels of a gross register tonnage not exceeding 300 tons;

(b) members of the shipowner's family;

(c) pilots not members of the crew;

(d) persons employed on board or in the service of the ship by an employer other than the shipowner, except radio officers or operators and catering staff;

(e) persons employed in port who are not ordinarily employed at sea;

(f) salaried employees in the service of a national public authority who are entitled to benefits at least equivalent on the whole to those provided for in this Convention;

(g) persons not remunerated for their services or remunerated only by a nominal salary or wage, or remunerated exclusively by a share of profits;

(h) persons working exclusively on their own account;

(i) persons employed on board or in the service of whale-catching, floating factory or transport vessels or otherwise for the purpose of whaling or similar operations under conditions regulated by the provisions of a special collective whaling or similar agreement determining the rates of pay, hours of work and other conditions of service concluded by an organisation of seafarers concerned;

(j) persons not resident in the territory of the Member;

(k) persons not nationals of the Member.

Art. 3. 1. The scheme shall comply with one of the following conditions:

(a) the pensions provided by the scheme—

(i) shall be payable to seafarers having completed a

prescribed period of sea service on attaining the age of fifty-five or sixty years as may be prescribed by the scheme; and

(ii) shall, together with any other social security pension payable simultaneously to the pensioner, be at a rate not less than the total obtained by computing for each year of his sea service 1.5 per cent of the remuneration on the basis of which contributions were paid in respect of him for that year if the scheme provides pensions on attaining the age of fifty-five years or 2 per cent. of such remuneration if the scheme provides pensions at the age of sixty years; or

(b) the scheme shall provide pensions the financing of which, together with the financing of any other social security pension payable simultaneously to the pensioner and any social security benefits payable to the dependants (as defined by national laws or regulations) of deceased pensioners, requires a premium income from all sources which is not less than 10 per cent. of the total remuneration on the basis of which contributions are paid to the scheme.

2. Seafarers collectively shall not contribute more than half the cost of the pensions payable under the scheme.

Art. 4. 1. The scheme shall make appropriate provision for the maintenance of rights in course of acquisition by persons ceasing to be subject thereto or for the payment to such persons of a benefit representing a return for the contributions credited to their account.

2. The scheme shall grant a right of appeal in any dispute arising thereunder.

3. The scheme may provide for the forfeiture or suspension of the right to a pension in whole or in part if the person concerned has acted fraudulently.

4. The shipowners and the seafarers who contribute to the cost of the pensions payable under the scheme shall be entitled to participate through representatives in the management of the scheme.

Art. 5. The formal ratifications of this Convention shall be communicated to the Director-General of the International Labour Office for registration.

Art. 6. 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 ratifications by five of the following countries: United States of America, Argentine Republic, Australia, Belgium, Brazil, Canada, Chile, China, Denmark, Finland, France, United Kingdom of Great Britain and Northern Ireland, Greece, India, Ireland, Italy, Netherlands, Norway, Poland, Portugal, Sweden, Turkey and Yugoslavia, including at least three countries each of which has at least one million gross register tons of shipping. This provision is included for the purpose of facilitating and encouraging early ratification of the Convention by Member States.

3. Thereafter, this Convention shall come into force for any Member six months after the date on which its ratification has been registered.

Art. 7. 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 should 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.

Art. 8. 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 last of the ratifications required to bring the Convention into force, the Director-General shall draw the attention of the Members of the Organisation to the date upon which the Convention will come into force.

Art. 9. 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.

Art. 10. At the expiration of each period of ten years after the coming into force of this Convention, the Governing Body of the International Labour Office shall present to the General Conference a report on the working of this Convention and shall consider the desirability of placing on the agenda of the Conference the question of its revision in whole or in part.

Art. 11. 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 7 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.

Art. 12. The English and French versions of the text of this Convention are equally authoritative.