

STATE PAPER

Submission of International Labour Instruments to the National Assembly of the Parliament of Guyana for Implementation.

The International Labour Conference at its 95th session held in June 2006 adopted the following instruments.

- ❖ Promotional Framework for Occupational Safety and Health Convention 2006, No.187.
- ❖ Promotional Framework for Occupational Safety and Health Recommendation 2006, No.197.
- ❖ The Employment Relationship Recommendation 2006, No.198.
- ❖ Copies of the Instruments are attached.

As a member of the International Labour Organization, Guyana is under obligation to bring the above mentioned instruments to the attention of the National Assembly for necessary action and to inform the Director General of the International Labour Organization of the action taken.

Convention No.187 concerning the Promotional Framework for Occupational Safety and Health.

Definition and Scope

- I. The term "National Policy" refers to the National Policy on Occupational Safety and Health and the Working Environment developed in accordance with the Occupational Safety and Health Convention 1981, No.155
- II. The term "National System for Occupational Safety and Health" or "National System" refers to the infrastructure which provides the main framework for implementing the national policy and national programmes on Occupational Safety and Health.

- III. The term "National Programme on Occupational Safety and Health" or "National Programme" refers to any national programme that includes objectives to be achieved in a predetermined time frame, priorities and means of action formulated to improve occupational safety and health, and the means to assess progress.
- IV. The term "A National Preventative Safety and Health Culture" refers to a culture in which the right to a safe and healthy working environment is respected at all levels, where government, employers and workers actively participate on securing a safe and healthy working environment through a system of defined rights, responsibilities and duties, and where the principle of prevention is accorded the highest priority.

Objective

Through a national policy, system and programme, government is required to promote continuous improvement of occupational safety and health to prevent occupational injuries, diseases and death.

National Policy

Through a national policy, government shall promote a safe and healthy working environment. The policy shall promote basic principles such as assessing occupational risks or hazard, a preventative safety and health culture that includes information, consultation and training.

National System

The national system shall include laws and regulations, collective agreements and other relevant instruments.

There must be an authority responsible for occupational safety & health along with mechanism for insuring compliance.

There should be a national tripartite advisory body.

There should be a system in place to provide information and advisory services, training, research, collection and analysing of data.

National Programme

Government must formulate, implement, monitor, evaluate and periodically review a national programme on occupational safety and health.

The programme shall promote a preventative safety and health culture, contribute to the eliminating or minimizing of work related hazards and risks and must be widely publicized.

Position in Guyana

There is a national policy but it needs to be updated.

There is a system in place for implementing occupational safety and health policies and programmes but it needs to be strengthened.

The programme suffers from lack of appropriate skills and testing equipments.

There is an occupational Safety & Health Authority.

There is also a national tripartite advisory body known as the National Advisory Council of Occupational Safety & Health (NACOSH).

Guyana has not ratified the Occupational Safety and Health Convention 1981, No.155.

Conclusion

It is recommended that Guyana do not ratify the convention at present but work to implement the goals envisaged in both Conventions 155 and 187.

Recommendation No.197 Concerning the Promotional Framework for Occupational Safety and Health.

National Policy

The national policy formulated under the Convention should take into account provisions of the Occupational Safety and Health Convention No.155.

National System

The national system established and maintained should take into account the International Labour Organization instruments listed in the Annex to the Recommendation.

National Programme

The national programme should be based on principles of assessment and management of hazards and risks at the workplace.

The programme should promote workplace prevention measures and activities that include the participation of employers, workers and their representatives.

National Profile

Government should prepare and regularly update a national profile which summaries the existing situation on Occupational Safety and Health and the progress made towards achieving a safe and healthy working environment.

The profile should include information on the laws, regulations, collective agreements, the occupational safety and health authority, the advisory body and occupational safety and health training among others.

Conclusion

The provisions of the Recommendation supplements those of the Convention and should be used to enhance Occupational Safety and Health in Guyana.

Being a Recommendation, it is not subject to ratification, but must be brought to the attention of the National Assembly.

Recommendation No.198 concerning the Employment Relationship

Introduction

The International Labour Conference considered the difficulties of establishing whether or not an employment relationship exists in situations where the respective rights and obligations of the parties concerned are not clear or where there has been an attempt to disguise the employment relationship and when the uncertainty as to the existence of an employment relationship needs to be addressed has formulated certain proposals as outlined in the Recommendations.

National Policy of Protection for Workers in an Employment Relationship

- Government should formulate and apply a national policy for reviewing at appropriate intervals and, if necessary, clarifying and adapting the scope of relevant laws and regulations, in order to guarantee effective protection for workers who perform work in the context of an employment relationship.
- The nature and extent of protection given to workers in an employment relationship should be defined by national law or practice, or both, taking into account relevant international labour standards.
- The National Policy should be formulated and implemented in accordance with national law and practice in consultation with the most representative organizations of employers and workers.

The national policy should include measures to:

- a) provide guidance on the existence of an employment relationship and the distinction between employed and self – employed workers;
- b) combat disguised employment relationships that have the effect of depriving workers of the protection they are due;
- c) provide effective access to speedy, inexpensive, fair and efficient procedures for settling disputes regarding the employment relationship; and
- d) provide appropriate and adequate training for persons responsible for dealing with the resolution of disputes and enforcement of national employment laws and standards.

The policy must take into account, women workers, young workers, older workers, workers in the informal economy, migrant workers and workers with disabilities.

Government must provide effective protection to prevent abuses of migrant workers in the country and may consider concluding bilateral agreements to prevent abuses and fraudulent practices in the context of an employment relationship.

Determination of the existence of an employment relationship

The determination of the existence of such a relationship should be guided primarily by the facts relating to performance of work and the remuneration of the worker, notwithstanding how the relationship is characterized in any contrary arrangement, contractual or otherwise, that may have been agreed between the parties.

Consideration should be given to the possibility of defining by law or other means, specific indicators of the existence of an employment relationship.

Monitoring and implementation

Government should establish an appropriate mechanism or make use of an existing one, for monitoring developments in the labour market and the organization of work and for formulating advice on the adoption and implementation of measures concerning the employment relationship within the framework of the national policy.

Government should, to the extent possible, collect information and statistical data and undertake research on changes in the patterns and structure of work at the national and sectorial levels, taking into account the distribution of men and women and other relevant factors.

Conclusion

Being a recommendation it is not subject to ratification, but should be used as a guide to national policy.