

ILO Standards and COVID-19 (coronavirus)

FAQ

Key provisions of international labour standards relevant to the evolving COVID-19 outbreak

NORMES

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This note provides a compilation of answers to most frequently asked questions related to international labour standards and COVID-19. It does not provide a comprehensive review of possible legal and policy measures. For the ILO's preliminary assessment concerning the possible impacts of COVID-19 on the world of work and suggested range of policy options, see [COVID-19 and the world of work: Impacts and responses](#).

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“International labour standards provide a tried-and-trusted foundation for policy responses that focus on a recovery that is sustainable and equitable.”

Guy Ryder, ILO’s Director-General

The International Labour Organization maintains a system of [international labour standards](#) (ILS) aimed at promoting opportunities for women and men to obtain decent and productive work, in conditions of freedom, equity, security and dignity.

Labour Standards are a useful decent work compass in the context of the crisis response to the COVID 19 outbreak.

First, respecting key provisions of ILS relating to safety and health, working arrangements, protection of specific categories of workers, non-discrimination, social security or employment protection is the guarantee that workers, employers and government maintain decent work while adjusting to the COVID-19 pandemic.

Secondly, a wide range of ILO labour standards on employment, social protection, wage protection, SMEs promotion or workplace cooperation contain specific guidance on policy measures that would encourage a human-centred approach to the crisis and to its recovery.

Their guidance extends to the specific situation of certain categories of workers, such as nursing personnel, domestic workers, migrant workers, seafarers or fishers, who we know are very vulnerable in the current context.

Respect for these standards further contributes to a culture of social dialogue and workplace cooperation that is key to building the recovery and preventing a downward spiral in employment and labour conditions during and after the crisis. International labour standards illustrate expected conduct and embody resilience in front of concrete situations in the world of work and are fundamental to any long-lasting and sustainable response to pandemics

including the COVID-19. Developed and periodically reviewed and where needed revised over the past century, international labour standards respond to the changing patterns of the world of work, for the purpose of the protection of workers and taking into account the needs of sustainable enterprises. In 2019, the [Centenary Declaration for the Future of Work](#) reaffirmed that the setting, promotion, ratification and supervision of international labour standards is of fundamental importance to the ILO. All ILO legal instruments lay down the basic minimum social standards agreed upon by all the players in the global economy. Countries may implement higher levels of protection and enhanced measures so as to better mitigate the impact of the crisis.

This compilation answers most frequently asked questions related to international labour standards and COVID-19 and aims at supporting governments, employers and workers' adjustment and responses to the COVID-19 pandemic.

What do international labour standards say about crisis response?

ILS contain specific guidance for ensuring decent work in the context of crisis response, including guidance that could be of relevance to the evolving COVID-19 outbreak. One of the most recent international labour standards, the [Employment and Decent Work for Peace and Resilience Recommendation, 2017 \(No. 205\)](#) which was adopted by an overwhelming majority of all constituents, emphasizes that crisis responses need to ensure respect for all human rights and the rule of law, including respect for fundamental principles and rights at work and for international labour standards.¹ The Recommendation outlines a

¹ Preamble and Paras. 7(b) and 43 of the [Employment and Decent Work for Peace and Resilience Recommendation, 2017 \(No. 205\)](#).

strategic approach to crisis response, including the adoption of a phased multi-track approach implementing coherent and comprehensive strategies for enabling recovery and building resilience that include:

- stabilizing livelihoods and income through immediate social protection and employment measures;
 - promoting economic recovery for employment and decent work opportunities and socio-economic reintegration;
 - promoting sustainable employment and decent work, social protection and social inclusion, sustainable development, the creation of sustainable enterprises, in particular small and medium-sized enterprises, the transition from the informal to the formal economy, a just transition towards an environmentally sustainable economy and access to public services;
 - conducting employment impact assessments of national recovery programmes;
 - providing guidance and support to employers to enable them to take effective measures to identify, prevent, mitigate and account for how they address the risks of adverse impacts on human and labour rights in their operations, or in products, services or operations to which they may be directly linked;
 - promoting social dialogue and collective bargaining;
 - building or restoring labour market institutions, including employment services, for stabilization and recovery;
 - developing the capacity of governments, including regional and local authorities, and of employers' and workers' organizations; and
 - taking measures, as appropriate, for the socio-economic reintegration of persons who have been affected by a crisis, including through training programmes that aim to improve their employability.²
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- Moreover, Governments should, as quickly as possible:
 - seek to ensure basic income security, in particular for persons whose jobs or livelihoods have been disrupted by the crisis;

² Para. 8 of R205. Para 9 provides further guidance on immediate measures that should be taken.

- develop, restore or enhance comprehensive social security schemes and other social protection mechanisms, taking into account national legislation and international agreements; and
- seek to ensure effective access to essential health care and other basic social services, in particular for population groups and individuals who have been made particularly vulnerable by the crisis.³
- At the same time, respect for key provisions of ILS relating to OSH, social security, employment, non-discrimination, working arrangements and protection of specific categories of workers also contribute to maintaining decent work during the COVID-19 pandemic.

What is the role of social dialogue in addressing the COVID-19 pandemic ?

- A climate of trust, built through social dialogue and tripartism, will be essential in the effective implementation of measures to address the COVID-19 outbreak and its impacts. Strengthened respect for, and reliance on, mechanisms of social dialogue create a strong basis for building resilience and the commitment of employers and workers to painful but necessary policy measures. This is particularly key during times of heightened social tension. [The Employment and Decent Work for Peace and Resilience Recommendation, 2017 \(No. 205\)](#) emphasizes, in particular, the importance of social dialogue in responding to crisis situations and the vital role of employers' and workers' organizations in crisis response.⁴
- Particularly, the Recommendation underlines the key role of consultation and encouraging active participation of employers' and workers' organizations in planning, implementing and monitoring measures for recovery and

³ Para. 21 of the [Employment and Decent Work for Peace and Resilience Recommendation, 2017 \(No. 205\)](#).

⁴ Paras 7(k), 24 and 25 of R205.

resilience.⁵ It calls on member States to recognize the vital role of employers' and workers' organizations in crisis response, taking into account the [Freedom of Association and Protection of the Right to Organise Convention, 1948 \(No. 87\)](#), and the [Right to Organise and Collective Bargaining Convention, 1949 \(No. 98\)](#).⁶

- Social dialogue at the level of the enterprise is critical, as workers need to be kept informed, consulted and kept aware both as regards the impact on their own terms and conditions of employment and as to the steps they can take for their own protection and to contribute to containment.⁷

Averting job losses and sustaining income levels

What are the key measures for enabling recovery and promoting employment and decent work?

- The ILO estimates that up to 25 million jobs could be lost worldwide as a result of the COVID-19 pandemic. Going forward, the promotion of full, productive and freely chosen employment (in accordance with the [Employment Policy Convention, 1964 \(No. 122\)](#))⁸ will need to include selective measures to stabilize economies and address employment problems, including fiscal and monetary stimulus measures aimed at stabilizing livelihoods and income as well as safeguarding business continuity.⁹

⁵ Para 8(d) of R205.

⁶ Para. 25 of R205.

⁷ See for example, the [Co-operation at the Level of the Undertaking Recommendation, 1952 \(No. 94\)](#), and the [Workers' Representatives Convention, 1971 \(No. 135\)](#), accompanied by the guidance provided in the [Workers' Representatives Recommendation, 1971 \(No. 143\)](#).

⁸ Art. 1 of the [Employment Policy Convention, 1964 \(No. 122\)](#).

⁹ Para. 8 and the Annex of the [Employment Policy Recommendation, 1964 \(No. 122\)](#) and Paras 1, 6 and 10 of the [Employment Policy \(Supplementary Provisions\) Recommendation, 1984 \(No. 169\)](#).

- A phased multi-track approach to enabling recovery should include immediate social protection and employment measures promoting, among others, local economic recovery.¹⁰
- In the context of an economic downturn, sustaining minimum wage levels is particularly relevant as, overall, minimum wages can protect workers in a vulnerable situation and reduce poverty, increase demand and contribute to economic stability.¹¹

What should happen if employment is suspended or terminated?

- Workers whose employment is suspended, reduced or terminated due to the economic impact of COVID-19 or for health and safety reasons should be entitled to unemployment benefits or assistance to compensate for the loss of earnings incurred as a consequence, in accordance with the [Employment Promotion and Protection against Unemployment Convention, 1988 \(No. 168\)](#)¹²
- Workers who have lost their jobs should have access to employment promotion measures, including employment services and vocational training with a view to their reintegration into the labour market.¹³
- With respect to individual termination, the [Termination of Employment Convention, 1982 \(No. 158\)](#) provides that, as a basic principle, the

¹⁰ R.205, Para. 8.

¹¹ The [Minimum Wage Fixing Convention, 1970 \(No. 131\)](#) and [Recommendation \(No. 135\)](#) can provide guidance in this respect (see also *Recovering from the crisis: A Global Jobs Pact*, adopted by the 98th Session of the International Labour Conference, Geneva, 19 June 2009, para. 23).

¹² Art. 10 of the [Employment Promotion and Protection against Unemployment Convention, 1988 \(No. 168\)](#). See also Part IV of the [Social Security \(Minimum Standards\) Convention, 1952 \(No. 102\)](#).

¹³ Arts. 7-9 of C.168. See also Para 2 of the [Employment Promotion and Protection against Unemployment Recommendation, 1988 \(No. 176\)](#).

employment of a worker shall not be terminated in the absence of a valid reason for such termination connected with the capacity or conduct of the worker or based on the operational requirements of the undertaking.¹⁴ Temporary absence from work due to illness or family responsibilities do not constitute valid reasons for termination.¹⁵

- With respect to collective dismissals, Convention No. 158 provides that an employer contemplating terminations for economic reasons shall provide workers' representatives with relevant information (including the reasons for the terminations contemplated, the number and categories of workers likely to be affected and the period over which the terminations are intended to be carried out) and give, in accordance with national law and practice, the workers' representatives concerned, as early as possible, an opportunity for consultation on measures to be taken to avert or to minimise the terminations and measures to mitigate the adverse effects of any terminations on the workers concerned such as finding alternative employment.¹⁶ The Convention also provides for notifying the competent authority, as prescribed, when terminations are contemplated.¹⁷
- In this respect, the [Termination of Employment Recommendation, 1982 \(No. 166\)](#) highlights that all parties concerned should seek to avert or minimise as far as possible termination of employment for reasons of an economic, structural or similar nature, without prejudice to the efficient operation of the undertaking, establishment or service, and to mitigate the adverse effects of any termination of employment for these reasons on the worker or workers concerned. It also provides that, where appropriate, the competent authority

¹⁴ Art. 4 of C.158.

¹⁵ The [1995 General Survey concerning Unjustified Dismissal](#), paras. 136-142 and Art. 8 of C.156.

¹⁶ Art. 13, C158

¹⁷ Art. 14, C158

should assist the parties in seeking solutions to the problems raised by the terminations contemplated.¹⁸

What about a temporary reduction in hours of work?

Governments should take measures to extend unemployment benefits to workers facing a loss of earnings due to partial unemployment, particularly in cases of temporary reduction in hours of work, and the suspension or reduction of earnings due to a temporary suspension of work.¹⁹ What about the payment of wages?

- The [Protection of Wages Convention, 1949 \(No. 95\)](#) provides that wages shall be paid regularly. Upon the termination of a contract of employment, a final settlement of all wages due shall be effected as prescribed, or if not specified, within a reasonable period of time.²⁰

What about wage protection in the event of bankruptcy?

- In the event of the bankruptcy or judicial liquidation of an undertaking (including resulting from the impact of COVID-19), the [Protection of Wages Convention, 1949 \(No. 95\)](#) provides that employed workers shall be treated as privileged creditors for unpaid wages that are protected under the applicable national legislation.²¹

¹⁸ Para 19, R166

¹⁹ Art. 10 of C.168.

²⁰ Art. 12 of C95

²¹ Art. 11 of C95

Occupational safety and health

What should employers do during the outbreak?

- Employers have the overall responsibility of ensuring that all practicable preventive and protective measures are taken to minimize occupational risks ([Occupational Safety and Health Convention, 1981 \(No. 155\)](#))²² Employers are responsible for providing, where necessary and so far as is reasonably practicable, adequate protective clothing and protective equipment, at no cost to the worker.²³
- Employers are responsible for providing adequate information and appropriate training on OSH²⁴; consulting workers on OSH aspects associated with their work²⁵; providing measures to deal with emergencies²⁶; and notifying the labour inspectorate of cases of occupational diseases.²⁷

What are workers' rights and responsibilities during the outbreak?

- Workers are responsible for cooperating in the fulfilment by their employer of the OSH obligations placed on them, complying with the prescribed safety measures, taking reasonable care for the safety of others (including avoiding exposing others to health and safety risks), and use safety devices and protective equipment correctly.²⁸

²² Art. 16 of the [Occupational Safety and Health Convention, 1981 \(No. 155\)](#) provides that: "Employers shall be required to ensure that, so far as is reasonably practicable, the workplaces [...] under their control are safe and without risk to health. "

²³ Art. 16(3) and 21 of C.155.

²⁴ Art. 19(c) and (d) of C.155.

²⁵ Art. 19(e) of the C.155.

²⁶ Art. 18 of C.155.

²⁷ Art. 14 of the [Labour Inspection Convention, 1947 \(No. 81\)](#) and Art. 4 of the [Protocol of 2002 to the Occupational Safety and Health Convention, 1981](#).

²⁸ Art. 19 of C.155 and Para. 16 of the [Occupational Safety and Health Recommendation, 1981 \(No. 164\)](#).

- OSH measures shall not involve any expenditure for workers.²⁹
- Arrangements in workplaces shall mandate workers to report to their immediate supervisor any situation which they have reasonable justification to believe presents an imminent and serious danger to their life or health. Until the employer has taken remedial action, if necessary, the employer cannot require workers to return to a work situation where there is continuing imminent and serious danger to life or health.³⁰
- Workers should be informed in an adequate and appropriate manner of the health hazards involved in their work.³¹

Do workers have a right to removal from work?

- Workers have the right to remove themselves from a work situation that they have reasonable justification to believe presents an imminent and serious danger to their life or health. When a staff member exercises this right, he or she shall be protected from any undue consequences.³²

²⁹ Art. 21 of C.155.

³⁰ Art. 19(f) of C.155.

³¹ Para. 22 of the [Occupational Health Services Recommendation, 1985 \(No. 171\)](#).

³² Art. 13 of C.155. The CEACR has noted that in a number of countries, the nature of the work at issue may also have an influence on the exercise of the right to cease work. For example, in a number of countries, the right to removal cannot be exercised if the danger is a normal condition of employment (as, for example, for firefighters); in such cases, workers may only refuse such work if the understood risk of serious harm has materially increased in a given situation, that is, the risk of harm has become significantly more likely. See for example, para 149 of the 2009 [General Survey on Occupational safety and health](#).

Can COVID-19 be classified as an occupational disease?

- COVID-19 and post-traumatic stress disorder, if contracted through occupational exposure, could be considered as occupational diseases.³³ To the extent that workers who suffer from these conditions and are incapacitated for work, as a result of work-related activities, they should be entitled to cash compensation and medical and allied care, as set out in the [Employment Injury Benefits Convention, 1964 \(No. 121\)](#). The dependent family members (spouses and children) of those who die from COVID-19 contracted in the course of work-related activities are entitled to cash benefits or compensation, as well as to a funeral grant or benefit.³⁴

What about access to health care?

- Persons affected by COVID-19 should have access, for as long as required, to adequate health care and services of a preventive and curative nature, including general practitioner care, specialist care (at hospitals and outside);

³³Paragraph 1.3.9 of the Annex of the [List of Occupational Diseases Recommendation, 2002 \(No. 194\)](#) recommends that the national list of occupational disease (for the purposes of prevention, recording, notification and, if applicable, compensation) should include, among others, diseases caused by biological agents at work where a direct link is established scientifically, or determined by methods appropriate to national conditions and practice, between the exposure to these biological agents arising from work activities and the disease contracted by the worker. The Recommendation specifies that, in the application of this list, the degree and type of exposure and the work or occupation involving a particular risk of exposure should be taken into account when appropriate.

³⁴ See notably the [Employment Injury Benefits Convention, 1964 \(No. 121\)](#), Arts. 6, 8, 9, 10, 18, and the [Employment Injury Benefits Recommendation, 1964 \(No. 121\)](#) as well as Paras 2.1.12 and 2.4.1 of the Annex to the [List of Occupational Diseases Recommendation, 2002 \(No. 194\)](#).

the necessary pharmaceutical supplies; hospitalisation where necessary; and medical rehabilitation.³⁵

Is there any normative guidance on protecting workers against biological hazards at work?

- General occupational safety and health Conventions occasionally call for preventive action in respect of biological hazards at work³⁶, but at present, the body of international labour standards does not include comprehensive provisions specifically focused on protecting workers or the working environment against biological hazards.
- Biological hazards are organisms or organic products of these organisms harmful to human health. Common types of biological hazards include bacteria, viruses, toxins, and animals. They can cause a variety of health effects ranging from irritation and allergies to infections, cancer and other diseases. Workers in some sectors are more exposed to biological agents than in others, e.g. health-care services, agriculture, sanitation and waste management (including, for example, ship-breaking).

³⁵ See notably the [Social Protection Floors Recommendation, 2012 \(No. 202\)](#) (Paras. 4, 5 and 8), Part II of the [Medical Care and Sickness Benefits Convention, 1969 \(No. 130\)](#) and Part II of the [Social Security \(Minimum Standards\) Convention, 1952 \(No. 102\)](#).

³⁶ For example, C155 provides that the competent authorities shall ensure (taking into account national conditions and possibilities) the progressive introduction or extensions of systems to examine biological agents in respect of the risk to the health of workers (Art 11(f)). See also Arts 5(a) and 12(b) of C155. Certain sectoral instruments also contain protections against biological hazards and/or infectious disease: the [Hygiene \(Commerce and Offices\) Recommendation, 1964 \(No. 120\)](#), the [Nursing Personnel Recommendation, 1977 \(No. 157\)](#), [Safety and Health in Construction Convention, 1988 \(No. 167\)](#), the [Safety and Health in Mines Convention, 1995 \(No. 176\)](#), the [Safety and Health in Agriculture Convention, 2001 \(No. 184\)](#), the [Safety and Health in Agriculture Recommendation, 2001 \(No. 192\)](#) and the [Maritime Labour Convention, 2006 \(MLC, 2006\)](#)

- Certain biological agents should be recognized as the cause of an occupational disease in the event of exposure arising from work activities. Where a direct link is established scientifically (or in accordance with other national methods) between the exposure to biological agents arising from work activities and a disease contracted by workers, it is recommended that such disease is recognized as an occupational disease for the purposes of prevention, recording, notification and compensation.³⁷
- The *prevention* of diseases caused by most biological hazards³⁸ currently presents a regulatory gap. The Organization is considering proposals to set a new instrument addressing all biological hazards. The Office is also advancing the development of technical guidelines on biological hazards. The standard and the guidelines will support the central objective of occupational safety and health policy, i.e. the prevention of work-related accidents and injury to health by minimising, so far as is reasonably practicable, the causes of hazards inherent in the working environment.³⁹

Prevention of and protection against discrimination and protection of privacy

What about privacy issues?

- With respect to health surveillance, the [Occupational Health Services Recommendation, 1985 \(No. 171\)](#) indicates that provisions should be adopted to protect the privacy of the workers and to ensure that health surveillance is

³⁷ List of Occupational Diseases Recommendation, 2002 (No. 194). See also the Employment Injury Benefits Convention, 1964 (No. 121) and its Schedule I amended in 1980.

³⁸ The Anthrax Recommendation, 1919 (No. 3) has been reviewed Other than Anthrax, which is covered by the [Anthrax Recommendation, 1919 \(No. 3\)](#). That standard has been reviewed by the [Standards Review Mechanism Tripartite Working Group](#) and considered too narrow in scope both in terms of protection against anthrax in particular and in terms of biological hazards in general. R. 3 is proposed to be revised through an instrument addressing all biological hazards.

³⁹ Art. 4 (2) of the Occupational Safety and Health Convention, 1981 (No. 155).

not used for discriminatory purposes or in any other manner prejudicial to their interests.⁴⁰

What about discrimination, prejudice and xenophobia?

- Incidents of racism and xenophobia are likely following the outbreak, in particular towards persons of certain ethnic backgrounds and persons from countries where the virus is more prevalent. However, it should be recalled that race is one of the grounds listed in the Discrimination (Employment and Occupation) Convention, 1958 (No. 111), which prohibits discrimination in all aspects of employment and occupation. This includes direct and indirect discrimination and discrimination-based harassment, and in particular racial harassment.⁴¹ Racial harassment occurs where a person is subject to physical, verbal or non-verbal conduct or other conduct based on race which undermines their dignity or which creates an intimidating, hostile or humiliating working environment for the recipient.⁴²
- In many countries, discrimination based on health status is prohibited by law.⁴³ Protection against discrimination in employment and occupation based on “health status” (including when affected by a viral infection), can be considered covered by the [Discrimination \(Employment and Occupation\) Convention, 1958 \(No. 111\)](#) if it is included in the national legal framework of ratifying Members as an additional prohibited ground of discrimination.⁴⁴ As

⁴⁰ Para. 11(2) of R.171. R.171 contains further provisions on protection of personal data relating to [health assessments done by occupational health services](#) (Para 14): “Personal data relating to health assessments may be communicated to others only with the informed consent of the worker concerned”. The [ILO Code of practice on the protection of workers’ personal data, 1997](#) contains further useful guidance.

⁴¹ [Discrimination \(Employment and Occupation\) Convention, 1958 \(No. 111\)](#) .

⁴² [General observation of the ILO Committee of Experts on the Application of Conventions and Recommendations \(CEACR\) on Convention No. 111.](#)

⁴³ For example: Albania, Croatia, France, Kenya, Liberia, Mexico, Nepal and Togo.

⁴⁴ Under Art. 1(1)(b) of C.111. The ILO CEACR has considered that when information received from governments and workers’ and employers’ organizations indicates that the legislation or policies concerning discrimination based on additional grounds have been adopted after consultation with the social partners, the Government has availed itself of the possibility envisaged under Article 1(1)(b).

a general principle, and where health status is covered, legal and practical measures should be taken to prevent, and protect workers against, discrimination on the basis of their health status.

- It is worth mentioning that the Convention does recognize that, after consultation with the social partners, special measures to meet the particular requirements of persons who are generally recognized to require special protection or assistance can be adopted, and not be deemed as discrimination.⁴⁵ In addition, Convention No. 111 also states that any distinction, exclusion or preference in respect of a particular job based on its inherent requirements shall not be deemed to be discrimination.⁴⁶ However, it is crucial to recall that this exception must be interpreted restrictively, so as to avoid undue limitation of the protection (a careful examination of each individual case is required). Finally, it is worth drawing attention to the gender impact of the measures taken to counter the pandemic, as the virus spreads globally. The [Employment and Decent Work for Peace and Resilience Recommendation, 2017 \(No. 205\)](#) calls for applying a gender perspective in all crisis response design, implementation, monitoring and evaluation activities.⁴⁷ In the current context, it is anticipated that women will bear the brunt of the social and economic disruption, as, in practice, they still do more caregiving. So when the virus results in closure of schools, restricts travel, and puts elderly relatives at risk, women may have to bear the burden of even more responsibilities at home. The challenges arising out of this pandemic puts an additional strain on existing inequalities. If there is not an equal sharing of family responsibilities or housework already, it will be women who will be responsible for remote schooling, for ensuring that food and other supplies are available at home, and for coping in general with the effects of

⁴⁵ Art. 5(2) of C.111.

⁴⁶ Art. 1(2) of C.111.

⁴⁷ Para. 8 of R205

this crisis. Crisis response should include, as appropriate, a coordinated and inclusive needs assessment with a clear gender perspective.⁴⁸

Leave entitlements and special working arrangements

Are workers entitled to paid sick leave?

- Workers who have contracted COVID-19 should be entitled to paid sick leave or sickness benefits as long as they are incapacitated to work, to compensate for the suspension of earnings they suffer as a consequence.⁴⁹

What about absences from work for quarantine?

- Workers who are absent from work for the purpose of quarantine or for undergoing preventive or curative medical care and whose salary is suspended should be granted a (sickness) cash benefit (the [Medical Care and Sickness Benefits Recommendation, 1969 \(No. 134\)](#)).⁵⁰

What if a member of my family is sick?

- It should be possible for a worker with family responsibilities in relation to a dependent child – or another member of the worker's immediate family who needs that worker's care or support – to obtain leave of absence in the case of the family member's illness, as recommended in the [Workers with Family Responsibilities Recommendation, 1981 \(No. 165\)](#).⁵¹

⁴⁸ Para 9 of R205. See also, for example, Arts. 1 and 2 of the [Equal Remuneration Convention, 1951 \(No. 100\)](#); Arts. 1 and 2 of C.111; and Arts. 1-6 of C.156.

⁴⁹ See, notably, Part III of C. 130 and Part III of C. 102.

⁵⁰ Para. 8 of the [Medical Care and Sickness Benefits Recommendation, 1969 \(No. 134\)](#).

⁵¹ Para. 23(1) and (2) of the [Workers with Family Responsibilities Recommendation, 1981 \(No. 165\)](#).

- Whenever practicable and appropriate, the special needs of workers, including those arising from family responsibilities, should be taken into account in shift-work arrangements and assignments to night work.⁵² Workers who have to care for sick family members should also be provided with help.⁵³

Can a worker be required to use holidays?

- Employers should not *unilaterally* require workers to use their annual holiday in case of a decision that leave is necessary as a precautionary measure to avoid potential exposure: the [Holidays with Pay Convention \(Revised\), 1970 \(No. 132\)](#) provides that the timing of holidays is to be determined by employers *after consultation* with the worker. In fixing the time at which the holiday is to be taken, work requirements and the opportunities for rest and relaxation shall be taken into account.⁵⁴

Do international labour standards address telework arrangements?

- Telework is being used as a means to avoid the spread of the virus in many enterprises and public institutions. ILS do not specifically address the issue of telework. However, the Committee of Experts has dealt with telework in the framework of its [General Survey on Working Time instruments](#) as well as its most recent [General Survey on Employment and Decent Work in a Changing Landscape](#).⁵⁵

⁵² Para. 19 of R.165.

⁵³ Para. 10 of the R.134.

⁵⁴ Art. 10 of the [Holidays with Pay Convention \(Revised\), 1970 \(No. 132\)](#). In this regard, in its 1984 General Survey, the CEACR emphasized that the purpose of holidays, which is to grant workers a minimum period of rest and leisure, is best attained when they are granted at a time which suits the worker (para. 275).

⁵⁵ See paras 614-623 of the [General Survey on Employment and Decent Work in a Changing Landscape](#), which highlights both the advantages and disadvantages of telework arrangements.

Flexibility in international labour standards during emergencies

ILS are flexible and able to accommodate diverse situations. They provide flexibility in cases of “force majeure” or emergency situations, for example with respect to working time and compulsory labour.

What about exceptions to normal working hours during national emergencies?

- The [Reduction of Hours of Work Recommendation, 1962 \(No. 116\)](#) indicates that the competent authority or body in each country should determine the circumstances and limits in which exceptions to the normal hours of work may be permitted in case of force majeure; in case of abnormal pressure of work; or to make up time lost through collective stoppages of work due to calamities and in case of national emergency.⁵⁶

Are there exceptions relating to compulsory work during an epidemic?

- Under ILO standards (notably the [Forced Labour Convention, 1930 \(No. 29\)](#)) the definition of compulsory labour does not include work or service in cases of emergency, including in the event of an epidemic that would endanger the existence or the well-being of the whole or part of the population.⁵⁷
- However, during these exceptional cases, compulsory labour cannot be exacted indistinctively and without the supervision of competent authorities. The duration and extent of compulsory service, as well as the purpose for

⁵⁶ Para. 14(b)(iii) to (vi) of the [Reduction of Hours of Work Recommendation, 1962 \(No. 116\)](#).

⁵⁷ Art. 2(2)(d) of the [Forced Labour Convention, 1930 \(No. 29\)](#).

which it is used, should be limited to what is strictly required by the exigencies of the situation⁵⁸.

Specific categories of workers and sectors

What about protection for health workers?

- Health workers are at particular risk of occupational exposure to transmissible diseases such as COVID-19. The [Nursing Personnel Convention, 1977 \(No. 149\)](#) calls for Governments to if necessary, endeavour to improve existing laws and regulations on occupational health and safety by adapting them to the special nature of nursing work and of the environment in which it is carried out.⁵⁹
- The [Nursing Personnel Recommendation, 1977 \(No. 157\)](#) addresses occupational health protection in the nursing sector and calls for all possible steps to be taken to ensure that nursing personnel are not exposed to special risks. Where such risks are unavoidable, the Recommendation calls for measures to be taken to minimise these risks, including the provision and use of protective clothing, shorter hours, more frequent rest breaks, temporary removal from the risk and financial compensation in the event of exposure.⁶⁰

⁵⁸ Paragraph 280, General Survey on the fundamental Conventions concerning rights at work in light of the ILO Declaration on Social Justice for a Fair Globalization. ILO. 2012 [General Survey on the fundamental Conventions concerning rights at work in light of the ILO Declaration on Social Justice for a Fair Globalization](#). ILO. 2012, para 280.

⁵⁹ Art. 7 of the [Nursing Personnel Convention, 1977 \(No. 149\)](#).

⁶⁰ Para. 49 of the [Nursing Personnel Recommendation, 1977 \(No. 157\)](#). The [ILO Guidelines on decent work in public emergency services](#), 2018, address the need to protect public emergency workers from exposure to communicable diseases, including emergency health workers, stating that “it is important to monitor and evaluate the progress of response management schemes, national policies on the safety and health of [public emergency services] workers, measures to prevent the transmission of communicable diseases (in particular to emergency health workers), investigation protocols on violence and harassment at work and the provision of [personal protective equipment].”

Maritime

What are seafarers' health and safety rights during the outbreak?

The maritime sector has been severely affected by the measures adopted to contain the outbreak of COVID-19. In this context, the protection of seafarers must remain a priority. The [Maritime Labour Convention, 2006](#), states that every seafarer has the right to a safe and secure workplace that complies with safety standards and to health protection, medical care, welfare measures and other forms of social protection.⁶¹

What about the right to shore leave?

Even in the context of the COVID-19 pandemic, seafarers shall be granted shore leave to benefit their health and well-being, and consistent with the operational requirements of their positions.⁶²

Flag States' obligations:

States must ensure that all seafarers on ships that fly its flag are covered by adequate measures for the protection of their health – including the provision of alcohol-based hand rub and facial protection – and that they have access to prompt and adequate medical care whilst working on board.⁶³

Port States' obligations:

States must ensure that seafarers on board ships in its territory who are in need of immediate medical care are given access to the Member's medical facilities on shore.⁶⁴

⁶¹ Article IV of the [Maritime Labour Convention, 2006 \(MLC, 2006\)](#), as amended (MLC, 2006), paras. 1 and 4.

⁶² Regulation 2.4, Para. 2 of the MLC, 2006.

⁶³ Regulation 4.1, Para. 1 of the MLC, 2006.

⁶⁴ Regulation 4.1, Para. 3 of the MLC, 2006.

Good practices:

The ILO participated in a Circular Letter by the International Maritime Organisation (IMO) to the international community aimed at addressing the situation of seafarers in the context of the outbreak of the COVID-19. Attention was drawn to the relevant provisions of the MLC, 2006. The World Health Organisation published the [Operational considerations for managing COVID-19 cases/outbreak on board ships](#).

The International Chamber of Shipping published a Coronavirus (COVID-19) [Guidance for Ship Operators for the Protection of the Health of Seafarers](#). The International Transport Workers' Federation has also published [advice](#) to ships and seafarers on the COVID-19.

How should protection of migrant workers be ensured?

Medical services and testing

- Pursuant to the [Migration for Employment Convention \(Revised\), 1949 \(No. 97\)](#), Governments shall maintain appropriate medical services for migrant workers. These services are responsible for conducting medical testing, for example for COVID-19, and for ensuring that migrant workers and their families enjoy adequate medical attention and good hygienic conditions at the time of departure, during the journey and upon arrival.⁶⁵

⁶⁵ Art. 5 of the [Migration for Employment Convention \(Revised\), 1949 \(No. 97\)](#).

Information on health conditions and risks and protection of the health of migrant workers

- The [Migrant Workers Recommendation, 1975 \(No. 151\)](#) provides that all appropriate measures should be taken to prevent any special health risks to which migrant workers may be exposed.⁶⁶
- Governments shall maintain an adequate and free service to provide migrant workers with accurate information.⁶⁷ These services should advise migrant workers and their families (in a language which they can understand) on health conditions in the place of destination.⁶⁸
- At work, employers should take measures so that migrant workers fully understand instructions, warning and symbols related to safety and health at work, including related to COVID-19.⁶⁹

Social security coverage and access to cash and health care benefits

- Migrant workers who are lawfully in a State's territory and their families should have the same rights as its nationals as regards social security coverage and access to benefits (in cash or in kind, including medical care).⁷⁰
- Migrant workers who have been unlawfully employed or are not lawfully residing in the country, as well as their families, should also enjoy equal

⁶⁶ Para. 20 of [Migrant Workers Recommendation, 1975 \(No. 151\)](#).

⁶⁷ Art. 2 of C. 97.

⁶⁸ Para. 5(2) of the [Migration for Employment Recommendation \(Revised\), 1949 \(No. 86\)](#).

⁶⁹ Para. 22 of the [Migrant Workers Recommendation, 1975 \(No. 151\)](#).

⁷⁰ Art 6(1)(b) of C. 97 and 10 of C.143. Under Art 6(1)(b)(ii) of C. 97 however, national legislation can prescribe special arrangements in respect of benefits or portions of benefits paid out of public funds. Art. 68 of Convention No. 102 also lays down the principle of equality of treatment between national and non-national residents in respect of social security, while Recommendation No. 202 does not distinguish between the two categories, and calls for the provision of basic income security and essential health care guarantees for all residents and all children (Paras. 4 and 5). See also the 2016 [General Survey on Promoting Fair Migration](#), para. 390.

treatment in respect of rights arising out of past employment for which they have been affiliated to social security.⁷¹

Right of residence in the event of incapacity to work and loss of employment

- Migrant workers admitted on a permanent basis and the members of their families shall not be returned because the migrant worker is unable to follow his or her occupation by reason of illness contracted subsequent to entry (including COVID-19), unless the person concerned so desires or an international agreement so provides.⁷²
- In addition, migrant workers who have resided legally in the territory for the purpose of employment, shall not be regarded as being in irregular situation for the mere fact that they have lost their employment (for instance as a result of the economic impact of the COVID-19).⁷³ The loss of employment shall not in itself imply the withdrawal of the authorization of residence or work permit.⁷⁴ Migrant workers who have lost their employment should be allowed sufficient time to find alternative employment and the authorization of residence should be extended accordingly.⁷⁵
- They shall enjoy equality of treatment with nationals in respect of guarantees of security of employment, the provision of alternative employment, relief work and retraining.⁷⁶
- More generally, when a migrant worker has been regularly admitted, the Government should, as far as possible, refrain from removing such person or

⁷¹ Art 9 of C.143. See also the 2016 [General Survey on Promoting Fair Migration](#), para. 313.

⁷² Art. 8 of C.97. The CEACR has stressed that security of residence for permanent migrants and members of their families in case of ill health or injury constitutes one of the most important provisions of Convention No. 97. See the 2016 [General Survey on Promoting Fair Migration](#), para. 455.

⁷³ Art. 8(1) of the [Migrant Workers \(Supplementary Provisions\) Convention, 1975 \(No. 143\)](#).

⁷⁴ *Ibid.*

⁷⁵ Para. 31 of R.151.

⁷⁶ Art. 8(2) of C.143.

the members of his or her family from its territory on account of his or her lack of means or the state of the employment market.⁷⁷

Cost of return

- In case of expulsion of migrant workers and their family, the [Migrant Workers \(Supplementary Provisions\) Convention, 1975 \(No. 143\)](#) states that the cost shall not be borne by them.⁷⁸ This also applies to migrant workers covered by government-sponsored arrangements who fail to secure the employment for which they had been recruited for a reason for which they are not responsible (for instance because they have contracted COVID-19).⁷⁹

What are the rights of domestic workers?

- Domestic workers and caregivers may be particularly vulnerable to exposure to COVID-19 and often do not have adequate access to health services or social protection.
- The [Domestic Workers Convention, 2011 \(No. 189\)](#) states that every domestic worker has the right to a safe and healthy working environment and effective measures should be taken, with due regard for the specific characteristics of domestic work, to ensure the OSH of domestic workers.⁸⁰
- Members giving consideration to medical testing for domestic workers should consider, in accordance with the [Domestic Workers Recommendation, 2011 \(No. 201\)](#):

⁷⁷ Unless an agreement to this effect has been concluded with the country of emigration. Para. 18(2) of R.086 enumerates the specific provisions that should be included in such agreements between the country of emigration and the country of destination. See also Para. 30 of R.151.

⁷⁸ Art. 9(3) of C.143.

⁷⁹ Art. 9 of Annex II of C.097.

⁸⁰ Art. 13 of the [Domestic Workers Convention, 2011 \(No. 189\)](#).

- (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.⁸¹

⁸¹ Para. 4 of the [Domestic Workers Recommendation, 2011 \(No. 201\)](#).