

## Military Service and Contracts of Employment<sup>1</sup>

### ITALY

The system of regulation analysed in the February 1940 number of the *Review* has been radically changed by an Act of 20 June 1940 concerning the legal and economic status of salaried employees in private undertakings who are called to the colours, and also by a collective agreement concluded in May 1940 between the General Confederation of Fascist Manufacturers and the General Confederation of Fascist Industrial Workers.

#### *Salaried Employees*

The new Act abolishes the distinction made under previous regulations between ordinary military service and service in exceptional circumstances. The new system covers both cases.

In the second place it considerably increases the economic advantages granted to the workers. For the first two months it grants them a monthly allowance equal to their salary in civil life, which may be added to their army pay. If, however, the men are called up several times in the course of the same year, the allowance is granted once only. From the third month to the end of their service with the colours, salaried employees are to receive the difference between their civil salary and their army pay.

The Act also secures to salaried employees called to the colours the grant of family allowances and the payment of their contributions to compulsory insurance against invalidity and old age and the other branches of insurance.

Thirdly, the Act makes a considerable change in the method of payment of allowances. In order to guarantee their immediate payment, the allowances are to be paid over by the employer directly to the workers concerned on behalf of the central fund established under the National Fascist Institute for Social Welfare and the employers will receive a refund of the allowances paid, less the amount of the contributions they are themselves bound to pay to the central fund.

#### *Workers*

In terms of the agreement between the Confederation of Manufacturers and the Confederation of Workers, which came into force on 1 May 1940, industrial workers who are called to the colours or

<sup>1</sup> Cf. *International Labour Review*, Vol. XL, No. 5, November 1939, pp. 654-665 (France, Germany, Great Britain, Poland) and Vol. XLI, No. 2, February 1940, pp. 165-176 (Belgium, Hungary, Italy). See also, in the *Review* for July 1940, the article "National Service and Contracts of Employment" by E. HERZ and I. BESSLING.

who volunteer for the army and who are not covered by the regulations concerning salaried employees, are entitled to maintenance of their employment throughout their military service and to an allowance equal to fourteen days' pay. The daily allowance must be equal to the average daily earnings of the worker during the last two pay periods if he is paid by the week, or during the last pay period if he is paid by periods longer than a week. If his service lasts less than fourteen days, the allowance is due only for the days actually served.

It may be added that, in virtue of an agreement between the Fascist Confederation of Manufacturers and the Fascist Confederation of Agricultural Workers, the same allowance is granted to agricultural workers attached to industrial undertakings who are called to the colours.

### RUMANIA

The protection of workers called up for national defence services is secured by the Act of 6 May 1939 concerning payment of public servants and workers serving with the colours, and by two decisions of the Cabinet dated 10 January and 20 February 1940. The first of these decisions establishes on the basis of the Act of 28 March 1929, relating to contracts of employment, and the Act of 6 May 1939, the system of statutory regulation of salaried employees and workers in private undertakings called up for military service; the second provides for assistance to the families of workers, craftsmen and salaried employees not covered by the previous provisions but who are called up for service.

These measures are aimed partly at securing maintenance of the right to employment and partly at payment of the wage during military service, or the grant of an allowance to families of workers who do not meet the conditions required to entitle them to payment of their wages. Protection is thus granted for the future to the whole body of workers in industry and commerce.

#### *Maintenance of the Right to Employment*

Under the Act of 1929 concerning contracts of employment, which applies to industry, commerce and agriculture, the employer may not invoke the calling up of a worker for a period of military service as a pretext for termination of the individual contract of employment. The Act of 6 May 1939 lays down that all workers are entitled, on their release from military service, to reinstatement in their former employment.

The Cabinet decision of 10 January 1940 co-ordinates these two measures. Whatever be the legal nature of the undertaking concerned (whether individual firm, joint-stock company, partnership, limited liability company, co-operative society, etc.), the calling up of a worker for military service does not constitute a lawful ground for termination of the individual contract of employment and the worker resumes his post as of right at the end of his military service.

*Denunciation of Contracts of Employment of Substitutes.*

A contract of employment concluded for the purpose of filling the post of a worker called to the colours may be denounced in accordance with the provisions of the Act relating to contracts of employment, the return of the mobilised worker constituting a lawful ground for such termination.

*Contract of Employment for a Specified Period.*

When a contract of employment has been concluded for a specified period, the obligations of the undertaking towards the worker called to the colours are limited as to time by the duration of the contract, which is considered as terminated at the date agreed upon for its expiry.

*Payment of Wages or Allowances to Families of Mobilised Workers.*

The regulations in force apply to workers and salaried employees in industry and commerce who are called up for periods of military service. The Act of 6 May 1939 guarantees to certain of them the payment of half their wage or salary. Workers, craftsmen and salaried employees who are not covered by the provisions of this Act are entitled by the Cabinet's decision of 20 February 1940 to an allowance for their families.

*The Right to Wages.*

Under the decision of the Cabinet of 10 January 1940, if the undertaking is continuing its work and employing at least five persons, the worker is entitled both to his army pay and to half his wage, provided that he has had two years' service in the undertaking and is married or has family responsibilities.

Any worker who does not fulfil these conditions is entitled under the Act relating to contracts of employment to the payment of his full wage for the first seven days of his absence, if he has at least six weeks' service in the undertaking.

Workers who are required to perform several periods of military service may only exercise the right indicated above once in any one year.

When a worker is called up as a reserve officer for periods of service exceeding thirty days, he is entitled from the thirty-first day (provided the undertaking meets the conditions stated above) either to half his wage or to his army pay. If he opts for the army pay the undertaking must pay half his wage into the Treasury.

A worker of lower rank called to the colours is entitled both to half his wage and to his army pay.

*The Right to Assistance.*

Workers, craftsmen and salaried employees with less than two years' service or working in an undertaking which has suspended its activity or which employs less than five persons, are not covered

by the provisions of the Act of 6 May 1939 and consequently are not entitled to half their pay. To meet this difficulty the Cabinet, on the proposal of the Minister of Labour, decided on 20 February 1940 to introduce a system of aid to the families of such workers.

The allowance granted in this case is 20 lei per family a day; it is granted only to the families of workers called up for service whose military rank is not higher than sergeant.

The members of the family entitled to this assistance are the wife, the minor children, whether legitimate or illegitimate, and the parents of the mobilised man or his wife, if they are dependent on him. The allowance, which is paid only for each period of actual military service, is paid out of the special fund of 40 million lei set up in the Ministry of Labour to cover expenditure from 1 February 1940 to the end of the current financial year.

Payment is made by the social insurance funds and offices under the supervision of a committee attached to these organs and consisting of a delegate of the Ministry of Labour, an employers' delegate and a workers' delegate.

## GREECE

The Greek regulations governing the protection of workers called to the colours guarantee maintenance of the right to employment and the payment of wages.

*Maintenance of the Right to Employment*

The calling up of a salaried employee or skilled worker with more than six months' service in an office, establishment or undertaking may not constitute a ground for the termination of the contract of employment and consequently is not a breach of the contract.

On demobilisation, salaried employees and skilled workers are entitled to reinstatement in their former employment for one year and may not be discharged before the expiry of this period except on grounds admitted by a special committee to be justified. If the discharge is not justified, they are entitled to an allowance equal to six months' pay.

*Payment of Salary or Wage**Salaried Employees and Skilled Workers.*

During the whole period for which salaried employees and skilled workers are with the colours, the employer (provided he employs at least three persons in the case of an establishment or undertaking, or at least two persons in the case of an office) must make the following minimum payments to their dependants or representatives: (a) after one year's service, half the pay of the person concerned if he has dependants or one-third if he has not; (b) after three years' service, two-thirds of the pay or half if there are no dependants; (c) after ten years' service, three-quarters of the pay or two-thirds if there are no dependants. The length of service required in each

case will be deemed to have been completed if the period actually worked falls short of it by not more than two months.

If the person concerned has worked for less than a year in the undertaking in which he was employed at the time when he was called to the colours, the time spent in another undertaking may at the decision of the justice of the peace be taken into consideration, being reckoned at half its real length up to a maximum of two years, one-third up to six years and one-fourth up to ten years.

#### *Workers under Contract.*

Workers engaged under a contract of employment who were employed in an undertaking with a staff of more than three persons or an office employing not less than two persons, and who meet the required conditions as to length of service (at least one year, previous service being taken into account), are entitled to the same allowances if their remuneration is fixed and paid at regular intervals.

#### *Public Servants.*

State and municipal public servants, permanent employees of public corporations and permanent employees of local authorities are entitled to the whole of their salary, including annual increments, if they were engaged at least a year before being called up for service, and to half if they were engaged at least six months before. This provision does not cover temporary employees and those servants of the State, municipalities, local authorities and public corporations who are paid by the day.

Officials of the State, municipalities, local authorities and employees of public corporations holding the rank of officer in the reserve may opt either for their army pay or for their salaries.

## INDUSTRIAL AND LABOUR INFORMATION

### International Labour Organisation

#### FIVE RATIFICATIONS BY SWITZERLAND

The formal ratifications of the following Conventions by Switzerland were registered by the Secretary-General of the League of Nations on 23 May 1940 : —

- Right of Association (Agriculture) Convention, 1921 (No. 11).
- Forced Labour Convention, 1930 (No. 29).
- Underground Work (Women) Convention, 1935 (No. 45).
- Safety Provisions (Building) Convention, 1937 (No. 62).
- Statistics of Wages and Hours of Work Convention, 1938 (No. 63).

In the case of the last-mentioned Convention the Swiss Federal Council has availed itself of the provisions of Article 2 of the Convention to exclude Parts III and IV from the effects of ratification.

#### THE UNION OF SOUTH AFRICA AND CONFERENCE DECISIONS

The Government of the Union of South Africa has informed the Office, by a letter of 19 May 1940, of its attitude in relation to the decisions of the Twenty-fifth Session of the International Labour Conference concerning indigenous workers and concerning road transport.<sup>1</sup>

#### *Indigenous Workers' Contracts*

In regard to the *Contracts of Employment (Indigenous Workers) Convention, 1939 (No. 64)*, the Government states that the policy and the laws of the Union are substantially in accordance with the provisions of the Convention, with the exception of Article 3 (1) (a), which stipulates that labour contracts for six months or over must be in writing. The principle embodied in this Article has already been recognised by Parliament in the Native Trust and Land Act, No. 18, of 1936, and in the large majority of contracts of service the farming community would not be affected one way or the other, but the stipulation in the Article conflicts with the Masters and Servants Laws operative in the several provinces of the Union, which recognise the validity of *oral* contracts concluded for periods up to twelve months, and in order to give effect to its requirements

<sup>1</sup> As regards the Apprenticeship Recommendation (No. 60) adopted by this Session of the Conference, see *Industrial and Labour Information*, Vol. LXXIV, Nos. 9-10, 27 May-3 June 1940, p. 186.