

Convention 189

C189 & R201 at a glance

Recommendation 201



International
Labour
Office
Geneva



Decent Work for
Domestic Workers

Decent Work for Domestic Workers

Convention 189 &
Recommendation 201
at a glance

Copyright © International Labour Organization 2011
First published 2011

Publications of the International Labour Office enjoy copyright under Protocol 2 of the Universal Copyright Convention. Nevertheless, short excerpts from them may be reproduced without authorization, on condition that the source is indicated. For rights of reproduction or translation, application should be made to ILO Publications (Rights and Permissions), International Labour Office, CH-1211 Geneva 22, Switzerland, or by email: pubdroit@ilo.org. The International Labour Office welcomes such applications.

Libraries, institutions and other users registered with reproduction rights organizations may make copies in accordance with the licences issued to them for this purpose. Visit www.ifrro.org to find the reproduction rights organization in your country.

ISBN: 978-92-2-125269-6 (print)

ISBN: 978-92-2-125270-2 (web pdf)

The designations employed in ILO publications, which are in conformity with United Nations practice, and the presentation of material therein do not imply the expression of any opinion whatsoever on the part of the International Labour Office concerning the legal status of any country, area or territory or of its authorities, or concerning the delimitation of its frontiers.

The responsibility for opinions expressed in signed articles, studies and other contributions rests solely with their authors, and publication does not constitute an endorsement by the International Labour Office of the opinions expressed in them.

Reference to names of firms and commercial products and processes does not imply their endorsement by the International Labour Office, and any failure to mention a particular firm, commercial product or process is not a sign of disapproval.

ILO publications and electronic products can be obtained through major booksellers or ILO local offices in many countries, or direct from ILO Publications, International Labour Office, CH-1211 Geneva 22, Switzerland. Catalogues or lists of new publications are available free of charge from the above address, or by email: pubvente@ilo.org

Visit our website: www.ilo.org/publins

Photocomposed and designed in France

CMD

Printed in Switzerland

GLA

Table of Content

Introduction	1
Quotes	4
General aspects	5
A Convention and Recommendation on domestic workers: the rationale	6
The role of Recommendation No. 201	7
What is domestic work? Who is a domestic worker?	7
Who is covered by the Convention?	8
What are the means of implementing the Convention at national level?	9
Social dialogue – an instrument for designing implementation	10
The provisions in focus	11
Promotion and protection of human rights	12
Protection from abuse, harassment and violence	14
Fair terms of employment - decent working and living conditions	14
Information on terms and conditions of employment	15
Working time	16
Remuneration	16
Occupational safety and health	18
Social security	19
Protection for particular groups of domestic workers	19
Private employment agencies	22
Compliance and enforcement	23
Ratification, entry into force and ILO supervision	27
C189 & R201: provisions by subject matter	29
Where to get more information	31

Introduction

At its 100th Session in June 2011, the International Labour Conference adopted the Convention concerning decent work for domestic workers, and a Recommendation supplementing it. This is the first time that the International Labour Organization (ILO) has formulated international labour standards dedicated to this particular group of workers.

The new instruments, also referred to as the Domestic Workers Convention (No. 189) and Recommendation (No. 201), 2011, are a strong recognition of the economic and social value of domestic work and a call for action to address the existing exclusions of domestic workers from labour and social protection. Given that most domestic workers are women, the new standards are an important step to advance gender equality in the world of work and ensure women's equal rights and protection under the law.

Convention No. 189 and Recommendation No. 201 are the result of preparations which started in March 2008 and involved extended research into national law and practice regarding domestic work and consultations and discussions among the ILO's tripartite constituents, namely representatives of government and employers' and workers' organizations¹. United Nations partners, associations of domestic workers and non-governmental organizations contributed to this process as well.

In accordance with the ILO's Constitution, governments have the obligation to submit the Convention and Recommendation to their national legislatures in order to promote measures for the implementation of these instruments. In the case of the Convention, the submission procedure also aims to

1 The texts underwent a so-called "double discussion" in the Committee on Domestic Workers of the International Labour Conference in 2010 and 2011. The official reports submitted to the Committee, as well as the reports summarizing the debates are available at: <http://www.ilo.org/ilc/ILCSessions/100thSession/on-the-agenda/decent-work-for-domestic-workers/lang-en/index.htm> [for 2011]; and <http://www.ilo.org/ilc/ILCSessions/99thSession/lang-en/index.htm> [for 2010].

promote ratification².

This brochure was prepared in response to demands from ILO constituents for timely information material on the provisions of the instruments on domestic workers. It is addressed to government officials and employers' and workers' representatives concerned with laws and policies regarding domestic work and those responsible for follow-up on ILO instruments. It is also addressed to partners within the UN system, domestic workers' associations, NGOs and other stakeholders interested in the new ILO instruments on domestic workers and their promotion.

While this publication presents the content of Convention No. 189 and Recommendation No 201, practical tools and resources that provide further guidance on implementation are available as well (see ILO contact details on page 14).

2 Detailed information regarding this constitutional obligation is contained in the ILO Memorandum concerning the obligation to submit conventions and recommendations to the competent authorities (2005), available at: http://www.ilo.org/global/standards/information-resources-and-publications/WCMS_087324/lang--en/index.htm

Quotes

“We need effective and binding standards to provide decent work to our domestic workers, a clear framework to guide governments, employers and workers.”

Halimah Jacob from Singapore, the Workers Vice-Chair at the 100th Session of the International Labour Conference

“We all agree on the importance of bringing domestic work into the mainstream and responding to serious human rights concerns. All employers agree there are opportunities to do better by domestic workers and the households and families for whom they work”.

Paul MacKay from New Zealand, the Employers Vice-Chair at the at the 100th Session of the International Labour Conference

“I believe that this Convention can provide guidance to the sending and host governments to protect migrant domestic workers. [E] Those domestic workers who work within their own countries must also be given the same protection. Thus, this Convention will help us formulate effective national legislation and regulations for this purpose.”

Susilo Bambang Yudhoyono, President of the Republic of Indonesia, at the 100th Session of the International Labour Conference

“The instruments before us are robust, practical and human and they hold tremendous potential for bringing domestic workers out of the shadows. They give faces to these workers who have been invisible for so long, barely even counted in the statistics until recently and they provide for domestic workers to be streamlined into the Decent Work Agenda”

Toni Moore, worker delegate from Barbados, at the 100th Session of the ILC on behalf of the Worker Vice-Chairperson of the Committee on Domestic Workers

General aspects



A Convention and Recommendation on domestic workers: the rationale

According to the most recent global and regional estimates produced by the ILO, at least 52.6 million women and men above the age of 15 were domestic workers in their main job. This figure represents some 3.6 per cent of global wage employment. Women comprise the overwhelming majority of domestic workers, 43.6 million or some 83 per cent of the total. Domestic work is an important source of wage employment for women, accounting for 7.5 per cent of women employees worldwide³. Statistical data shows that domestic work is a growing economic sector.

Domestic workers make important contributions to the functioning of households and labour markets. Nevertheless, they are often excluded from social and labour protection and face serious decent work deficits. Domestic workers are particularly vulnerable to discrimination and other human rights abuses. Certain groups of domestic workers, such as migrant domestic workers, child domestic workers, or workers that reside in the household for which they work (“live-in” domestic workers) face particular vulnerabilities.

In adopting Convention No. 189 and Recommendation No. 201, the International Labour Conference gave a clear message: Domestic workers, like other workers, have the right to decent working and living conditions. The Convention provides for minimum protection of domestic workers, while allowing for flexibility in implementation.

All existing international labour standards, if not provided otherwise, also apply to domestic workers. Nonetheless, given the specific nature of domestic work and the context in which it takes place, namely household premises other than those of the worker, it was considered

³ See, ILO, Global and regional estimates on domestic workers, Domestic Work Policy Brief No. 4 (Geneva).

desirable to complement existing ILO instruments with specific standards to enable domestic workers to enjoy their rights fully.

Convention No. 189 does not affect more favourable provisions applicable to domestic workers under other international labour Conventions (Art. 19).

The role of Recommendation No. 201

Convention No. 189, which becomes binding under international law for countries that ratify it, lays down basic principles and measures regarding the promotion of decent work for domestic worker. By contrast, Recommendation No. 201 is a non-binding instrument that offers practical guidance for the strengthening of national law and polices on domestic work. The Recommendation builds on the provisions of the Convention and needs to be read in conjunction with it. It serves as a source of guidance for Members with regard to measures they may take to apply the Convention.

Moreover, the Recommendation contains guidance on several matters not addressed by the Convention, e.g. policies and programmes for the professional development of domestic workers, work-life balance, provisions regarding statistical data and international cooperation in a number of areas, including with regard of the protection of the rights of domestic workers employed by diplomatic personnel (see the indicative overview table).

What is domestic work? Who is a domestic worker?

The Convention defines “domestic work” as “work performed in or for a household or households” (Art. 1[a]). Domestic work may involve a range of tasks, including cooking, cleaning the house, washing and

ironing the laundry, general housework, looking after children, the elderly or persons with disabilities, as well as maintaining the garden, guarding the house premises, and driving the family car.

A “domestic worker” is defined in Convention No. 189 as “any person engaged in domestic work within an employment relationship” (Art. 1(b)). This definition includes domestic workers engaged on a part-time basis and those working for multiple employers, nationals and non-nationals, as well as both live-in and live-out domestic workers. The employer may be a member of the household for which the work is performed or an agency or enterprise that employs domestic workers and makes them available to households. Self-employed persons and independent contractors are not considered “domestic workers” under the Convention.

The Convention specifies that “a person who performs domestic work only occasionally or sporadically and not on an occupational basis is not a domestic worker” (Art. 1(c)). The expression “and not on an occupational basis” was included in this provision to ensure that day labourers and similar precarious workers remain included in the definition of “domestic worker”⁴.

It is useful to recall that “domestic work” as addressed in Convention No. 189 is distinct from “home work” which, at the level of international labour standards is covered by Home Work Convention, 1996 (No. 177). Home work is work carried by workers in their own home rather than the workplace of an employer.

Who is covered by the Convention?

The Convention covers all domestic workers (Art. 2(1)).

Members may, within the specific parameters provided for in the

⁴ International Labour Office (ILO). 2010. Decent work for domestic workers, Report V(1), International Labour Conference, 100th Session, Geneva, 2011 (Geneva), page 5.

Convention, exclude certain categories of domestic workers wholly or partly from the Convention's scope. Exclusions can concern: (1) categories of workers otherwise provided with higher or equivalent protection; and (2) limited categories of workers for whom significant problems may arise with regard to the application of the Convention (Art. 2(2)). Exclusions can only be made after consultation with the employers' and workers' organizations.

Any exclusion and the underpinning reasons must be specified in the government's first report to the ILO on the Convention's implementation (see below Ratification, entry into force and ILO supervision). Subsequent implementation reports should indicate measures that may have been taken to extend coverage to the workers concerned (Art. 2(3)). These reports are examined by the ILO Committee of Experts on the Application of Conventions and Recommendations.

What are the means of implementing the Convention at national level?

Laws and regulations are a key for implementing the provisions of Convention No. 189, but collective agreements or any other additional measures are equally appropriate (Art. 18). Several practical measures to apply the Convention are mentioned in the Recommendation, e.g. awareness raising, strengthening the capacity of workers' and employers' organizations, public outreach, hotlines, model contracts, etc.

Depending on the circumstances, the Convention may be implemented by extending or adapting existing laws and regulations or other measures, or by developing new and specific measures for domestic workers (Art. 18).

As a means to make the Convention effective, States have an obligation to take measures to ensure compliance with national laws and regulations regarding domestic work (see Compliance and enforcement).

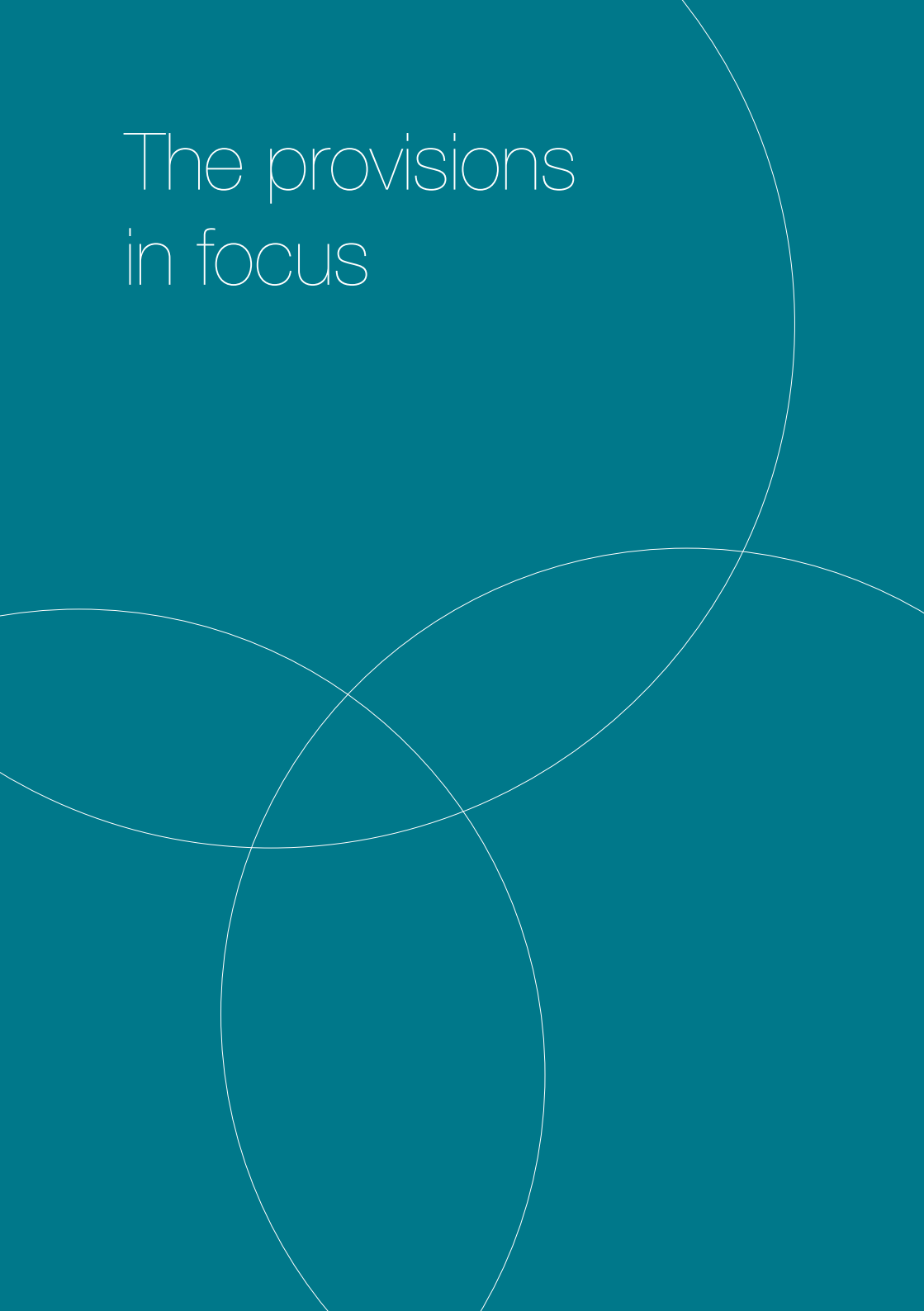
Social dialogue – an instrument for designing implementation

The provisions of the Convention are to be implemented in consultation with the most representative organizations of employers and workers (Art. 18).

Four Articles of the Convention specifically require consultations with “the most representative organizations of employers and workers and, where they exist, with organizations representative of domestic workers and organizations representative of employers of domestic workers”. These four Articles deal with the following matters:

- Identification of categories of workers who may be excluded from the scope of the Convention (Art. 2{2});
- Progressive application of measures in respect of occupational safety and health of domestic workers (Art. 13{2});
- Progressive application of measures in respect of social security (Art. 14{2}); and
- Measures to protect domestic workers from abusive practices by private employment agencies (Art. 15{2}).

The provisions in focus



This part presents the standards set by Convention No. 189, and the obligations of member States that ratify it. References to the related provisions of Recommendations are made to facilitate joint reading and consideration.

Promotion and protection of human rights

The Preamble of the Convention recalls the Universal Declaration of Human Rights⁵ and core United Nations human rights treaties, and Article 3 requires Members to take measures to ensure the effective promotion and protection of human rights of all domestic workers, as set out in the Convention. The Convention recognizes that the promotion and protection human rights and ensuring decent working and living conditions for domestic workers are interrelated and mutually reinforcing objectives.

Fundamental principles and rights at work

The Convention affirms that domestic workers are, like other workers, entitled to the respect and protection of their fundamental principles and rights at work relating to: (a) freedom of association and the effective recognition of the right to collective bargaining; (b) the elimination of all forms of forced or compulsory labour; (c) the effective abolition of child labour; and (d) the elimination of discrimination in respect of employment and occupation. Requiring ratifying Members to respect, promote and realize these principles and rights, the Convention echoes the obligations of ILO member States in the context of the 1998 ILO Declaration on Fundamental Principles and Rights at Work (Art. 3[2]).

⁵ Relevant to subjects covered by the Convention, the Universal Declaration includes the right to just and favourable conditions of work, including the right to just and favourable remuneration ensuring an existence worthy of human dignity, the right to rest and leisure, including reasonable restriction of working hours and periodic holidays with pay, as well as provisions regarding social protection (Articles 23 to 25).

A number of provisions of the Convention and Recommendation address these principles and rights at work more specifically:

Freedom of association and the effective recognition of the right to collective bargaining: Members are required to protect the right of domestic workers and their employers to establish to establish and join organizations, federations and confederations of their own choosing [Art. 3{3}].

Recommendation: Elimination of legislative or administrative obstacles, strengthening capacity of workers' and employers' organizations (Para. 2).

Elimination of child labour: Members are required to set a minimum age for domestic workers [Art. 4]. This minimum age must be consistent with the Minimum Age Convention, 1973 (No. 138), and the Worst Forms of Child Labour Convention, 1999 (No. 182)⁶ and must not be lower than that established for workers generally. Convention No. 189 and Recommendation No. 201 draw attention to the need to identify hazardous domestic work and to prohibit such work for children under the age of 18, taking into account Convention No. 182 and Recommendation No. 190 supplementing it.

Recommendation: Identification, prohibition and elimination of hazards domestic work by children (Para. 5{1}).

6

Ratified by 174 and 180 ILO Members, respectively (as of 1 July 2011).

Elimination of discrimination in employment and occupation: Member States are required to take measures to ensure that remuneration is established without discrimination based on sex (Art. 11)⁷.

Recommendation: Work-related medical testing, HIV/AIDS and pregnancy testing (Para. 3).

Protection from abuse, harassment and violence

Domestic workers, a large majority of whom are women and migrants, are particularly vulnerable to physical, sexual, psychological or other forms of abuse, harassment and violence because their workplace is shielded from the public and they generally lack co-workers. Live-in workers are particularly concerned. The Convention requires Members to take measures to ensure that domestic workers enjoy effective protection against all forms of abuse, harassment and violence (Art. 5).

Recommendation: Complaints mechanisms, investigation and prosecution, relocation from the household, temporary accommodation and health care, rehabilitation (Para. 7).

Fair terms of employment - decent working and living conditions

The Convention requires Members to take measures to ensure that domestic workers, like other workers generally, should enjoy fair terms of employment (Art. 6). The other provisions of the Convention set out specific obligations in this regard. Where the domestic workers reside in the household for which they work, they should also enjoy decent living conditions that respect their privacy (see also Protection for particular groups – live-in workers).

⁷ This provision is consistent with the Equal Remuneration Convention, 1951 (No. 100), ratified by 168 Members (as of 1 July 2011).

Information on terms and conditions of employment

The Convention requires Members to take measures to ensure that domestic workers are informed of their terms and conditions of employment (Art. 7). The Convention lists specific terms and conditions on which information must be provided, such as the usual workplace, the remuneration, the normal hours of work, periods of daily and weekly rest, etc. This information must be communicated to the domestic worker in an appropriate, verifiable and easily understandable manner, preferably through written contracts.

In the case of migrant domestic workers, additional protection is provided by requiring that workers receive a job offer or written contract before crossing national borders (see also Protection for particular groups – migrant domestic workers).

Recommendation: Assistance for understanding the terms and conditions, communication of terms and conditions, model contracts (Para. 6).

Working time

Convention No. 189 requires Members to “take measures towards ensuring equal treatment between domestic workers and workers generally” in relation to normal hours of work, overtime compensation, periods of daily and weekly rest, and annual paid leave (Art. 10 {1}). In setting the objective of ensuring equality of treatment, the Convention recognizes that the special characteristics of domestic work would need to be taken into account when designing working time standards for domestic work.

The weekly rest period is of a minimum of 24 consecutive hours.

The Convention acknowledges that many domestic workers, especially those who live in the households for which they work, are likely to be asked to perform stand-by duty, i.e. “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” (Art. 10{3}). The Convention leaves it to national laws, regulations or collective agreements to determine the extent to which these periods would be regarded as hours of work, such as the modalities and standards governing stand-by duty, and the type and extent of compensation.

Recommendation: Recording of working hours, regulation of stand-by periods, night work, rest during the working day, weekly rest, compensatory rest, annual leave (Paras. 8 to 13).

Remuneration

Low levels of remuneration are frequently found in domestic work.⁸ Pay discrimination based on sex and abusive practices in respect of payment of wages are common problems faced by domestic workers. To address these

8 See ILO, Remuneration in domestic work, Domestic Work Policy Brief No. 1, 2011 (Geneva).

concerns, the Convention lays down a number of principles with regards to minimum wage, non-discrimination and the protection of remuneration.

Minimum wages and non-discrimination

In countries that have minimum wage-setting machinery, Members are required to take measures to ensure that domestic workers enjoy minimum wage protection, by extending the minimum wage coverage so as to include them as well. The remuneration is to be established without discrimination based on sex (Art. 11). This non-discrimination clause aims to address undervaluation and underpayment of domestic work resulting from discrimination based on sex, as envisaged in the Equal Remuneration Convention, 1951 (No. 100).

Means and modalities of payment

As regards the modalities for the payment of remuneration, the Convention provides that payments shall be made:

- i. directly to the domestic worker, as opposed to a third party;
- ii. in cash; and
- iii. at regular intervals but at least once a month (Art. 12{1}).

National laws, regulations or collective agreements may require that monetary payments be made by bank transfer, bank cheque, postal cheque, money order or other lawful means. Where the mode of payment is not provided for in national laws, regulations or collective agreements, payment by the aforementioned methods is permitted with the consent of the worker concerned.

The provision on private agencies requires measures to ensure that fees charged by agencies are not deducted from the remuneration of domestic

workers (Art. 15(1)(e))⁹.

Payments in kind

The Convention establishes that national law, regulations, collective agreements or arbitration awards may allow the payment of a limited proportion of the remuneration in the form of payments in kind¹⁰. Payments in kind for domestic work cannot be less favourable than those generally applicable to other categories of workers and need to be agreed to by the workers and be for their personal use and benefit. The monetary value attributed to such payments in kind must be fair and reasonable (Art. 12(2)).

Recommendation: Regulating payments in kind, wages statements, prompt payment upon termination, protection of worker's claims in case of employers' death or insolvency (Paras. 14, 15 and 20(3)).

Occupational safety and health

The Convention recognizes that every domestic worker has the right to a safe and healthy working environment (Art. 13) and requires Members are to take effective measures to ensure the occupational safety and health of domestic workers. The Convention is flexible as regards the particular kind of measures to be taken, calling for measures “in accordance with

⁹ Article 15(1)(e) does not address the issue whether or not a private employment agency may charge costs or fees to workers. This is regulated by Article 7 of the Private Employment Agencies Convention, 1997 (No. 181).

¹⁰ The Convention and the Recommendation do not fix a specific threshold for payments in kind. The ILO Committee of Experts on the Application of Conventions and Recommendations has considered that governments, before authorizing payment in kind of a certain proportion should carefully assess whether such a measure is reasonable based on its possible repercussions for the workers concerned, having regard to national circumstances and the worker's interests. See, ILQ.2003, Protection of wages. Standards and safeguards relating to the payment of labour remuneration, Report III (Part 1B), General Survey, International Labour Conference, 91th Session, Geneva, 2003, paragraph 118.

national laws, regulations and practice” and “with due regard to the specific characteristics of domestic work”. Moreover, the measures may be put in place progressively.

Recommendation: Measures to ensure occupational safety and health (Paras. 19 and 4).

Social security

The Convention requires Members to take appropriate measures to ensure that domestic workers enjoy conditions that are not less favourable than those applicable to workers generally in respect to social security protection, including as regards maternity benefits. These measures are to be taken “in accordance with national laws and regulations” and “with due regard to the specific character of domestic work”. The Convention thus provides for flexibility in the design of the appropriate measures to ensure social security protection for domestic workers. In addition, the measures may be put in place progressively.

Recommendation: Facilitation of payment of social security contributions, bilateral, regional or multilateral agreements and cooperation, consideration of in-kind payments for social security purposes (Paras. 20 and 26(2)).

Protection for particular groups of domestic workers

Child domestic workers

In addition to emphasizing the need to eliminate child domestic labour¹¹, the Convention pays attention to the special needs of child domestic workers,

¹¹ In line with the relevant international labour standards on child labour, children should not be employed below the minimum age for admission to employment (generally 15 years), while employment in hazardous conditions is to be prohibited for children under the age of 18. See Conventions Nos. 138 and 182.

namely children above the legal minimum age for admission to employment or work and below 18 years of age. The Convention requires Members to take measures to ensure that work performed by these children does not deprive them of compulsory education, or interfere with opportunities for further education or vocational training (Art. 4{2}).

Recommendation: Limitation of hours of work, prohibition of night work, restrictions on excessively demanding types of work, monitoring living and working conditions (Para. 5{2}).

Live-in domestic workers

A large number of domestic workers reside in the households for which they work. Migrant domestic workers most often live in the household where they are employed. Cognizant of the particular risks and issues arising from live-in arrangements, the Convention contains a number of provisions that address this particular situation. Members are required to take measures to ensure that live-in domestic workers:

- are free to reach agreement with their employers or potential employers on whether or not to reside in the household (Art. 9{a});
- enjoy decent living conditions that respect the workers' privacy if they reside in the household (Art. 6);
- are not obliged to remain in the household or with its members during periods of daily and weekly rest or leave (Art. 9{b});
- are entitled to keep their identity and travel documents in their possession (Art. 9{c}).

Ensuring that a clear distinction is made between working time and non-

working time is important for live-in domestic workers. The regulation of stand-by work (see Working Time above) is particularly relevant for live-in workers as they reside in their workplace.

Recommendation: Privacy in the context of work-related medical testing, employer-provided accommodation and food, reasonable period of notice and time-off for seeking new accommodation in case of termination (Paras. 3, 17 and 18).

Migrant domestic workers

The Convention covers all domestic workers, including migrant domestic workers. Nonetheless, because of their specific vulnerabilities, the Convention has provisions that specifically concern migrant domestic workers or are especially relevant to the needs and risks they face.

Members are required by the Convention to:

- take measures to cooperate with each other to ensure the effective application of the provisions of the Convention to migrant domestic workers (Art. 8{3});
- establish a requirement that migrant domestic workers should receive a written contract that is enforceable in the country of employment, or a written job offer, prior to traveling to the country of employment (Art. 8{1}). The contract or job offer should address the terms and conditions of employment enumerated in Article 7 of the Convention (see Information on terms and conditions of employment above). This requirement of Article 8{1} does not apply to migrant domestic workers who are already within the territory of the country of employment. It does not apply either to workers who benefit from freedom of movement for the purpose of

employment between the countries concerned under bi-lateral, regional or multilateral agreements or, within the framework of regional economic integration area [Art. 8(2)];

- take measures to specify the conditions under which domestic workers are entitled to repatriation at the end of their employment. The provision on repatriation is crafted in general terms, allowing for flexibility as to conditions for repatriation and the means by which they are specified [Art. 8(4)].

The provisions of the Convention concerning live-in domestic workers (see above) and the regulation of private employment agencies (see below) are also of particular relevance for migrant domestic workers, given that many of them are recruited through such agencies and that they frequently reside in the household for which they work.

Recommendation: Assistance services and facilities, provision of information, access to complaint mechanisms and legal remedies, repatriation, international cooperation (Paras. 20(2), 21, 22, 23 and 26).

Private employment agencies

Private employment agencies play an important role in the context of recruitment for domestic work. These agencies, in a national or international context, may assist households to identify candidates for employment, while assisting domestic workers in identifying a job offer. On the other hand, agencies may employ domestic workers themselves with a view to making them available to households. The relevant provisions of the Convention cover both types of agencies, focusing on the protection of domestic workers from abusive practices [Art. 15].

Members have the following obligations under the Convention:

- determine the conditions governing the operation of private employment agencies;
- ensure adequate machinery for the investigation of complaints by domestic workers;
- adopt measures to adequately protect domestic workers and prevent abuses, in collaboration with other Members where appropriate; these measures must include laws or regulations specifying the respective responsibilities of the agency and the household and providing for penalties, including prohibition of agencies that engage in fraudulent practices or abuses;
- where workers are recruited in one country to work in another, consider concluding bilateral, regional or multilateral agreements to prevent abuses and fraudulent practices; and
- take measures to ensure that fees charged by agencies are not deducted from the remuneration of domestic workers.¹²

In giving effect to the provisions of Article 15, Members are required to consult with social partners {Art. 15(2)}.

Recommendation: Promotion of good practices, international cooperation regarding the monitoring of private employment agencies (Paras. 23, 26(2)).

Compliance and enforcement

The access to courts and other dispute settlement procedures is essential

¹² This is consistent with the Private Employment Agency Convention, 1997 (No. 181). See endnote ix.

for domestic workers to seek justice and redress in case of violations of their rights. Indeed, access to courts is a fundamental human right.¹³

More generally, measures aimed at ensuring compliance with the relevant national laws and regulations, and appropriate mechanisms for resolving disputes and redressing complaints are indispensable for the effective implementation of the provisions of the Convention.

In this regard, the Convention requires Members to:

- take measures to ensure that domestic workers have effective access to the court, tribunals or other dispute settlement mechanisms under conditions not less favourable than those available to workers generally (Art. 16);
- establish effective and accessible complaint mechanisms and means of compliance with national laws and regulation for the protection of domestic workers (Art. 17{1}); and
- develop and implement measures for labour inspection, enforcement and penalties, with due regard for the special characteristics of domestic work, in accordance with national laws and regulations (Art. 17{2}).

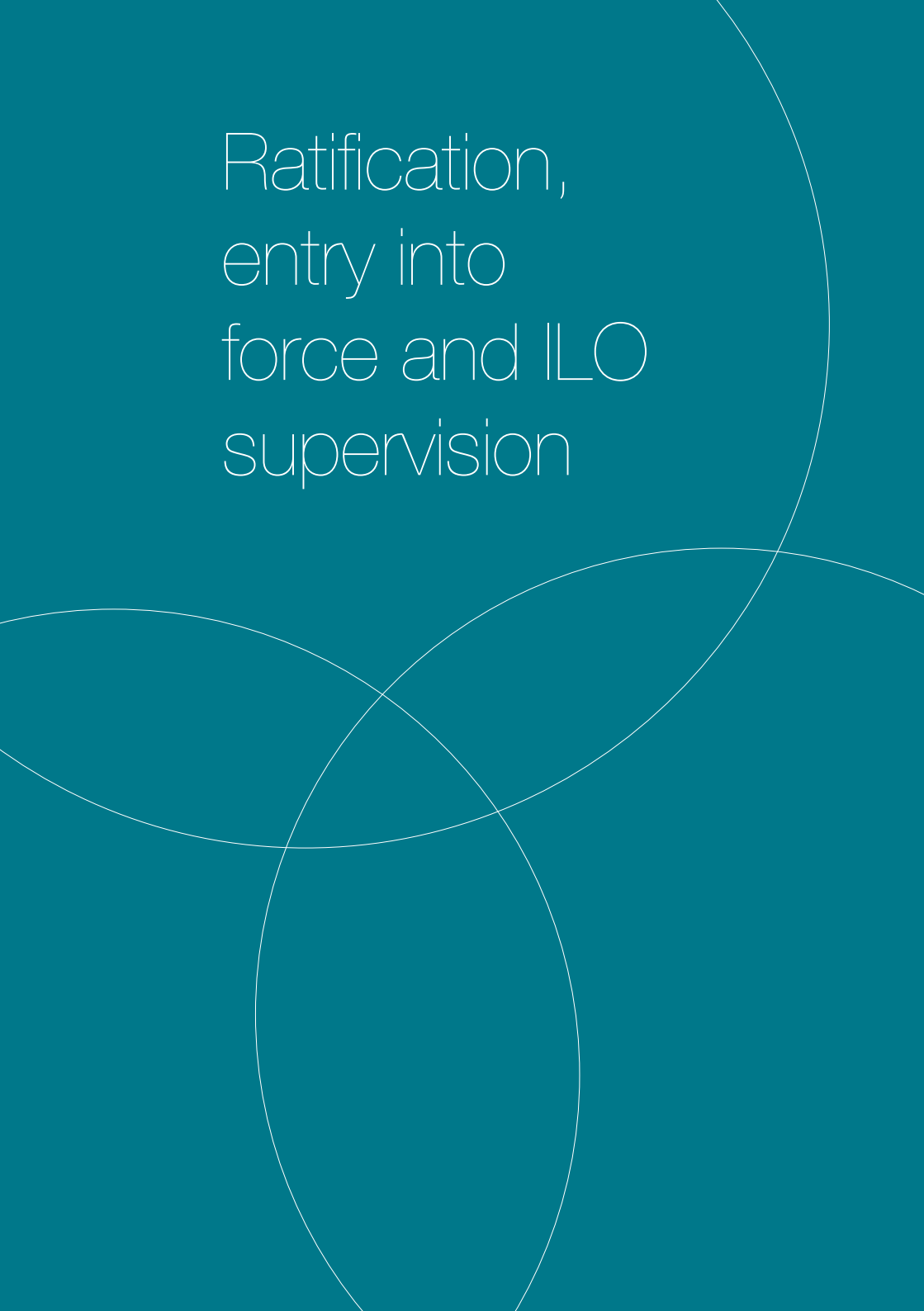
In respect of labour inspection measures, the Convention provides that, as far as compatible with national laws and regulations, such measures must specify the conditions under which access to household premises may be granted. The provision emphasises due respect for privacy (Art. 17{2}).

Article 17 strikes a careful balance between securing the protection of domestic worker's rights and the privacy of the household in which they

13 Article 10, Universal Declaration of Human Rights

work, thus allowing countries to take measures consistent with their constitutional context and international human rights standards.

Recommendation: awareness raising and provision of information on legislation and enforcement complaints mechanisms, investigation and prosecution of complaints, assistance to victims, access of labour inspectors to the workplace (Paras. 7, 19(b), 21 and 24).

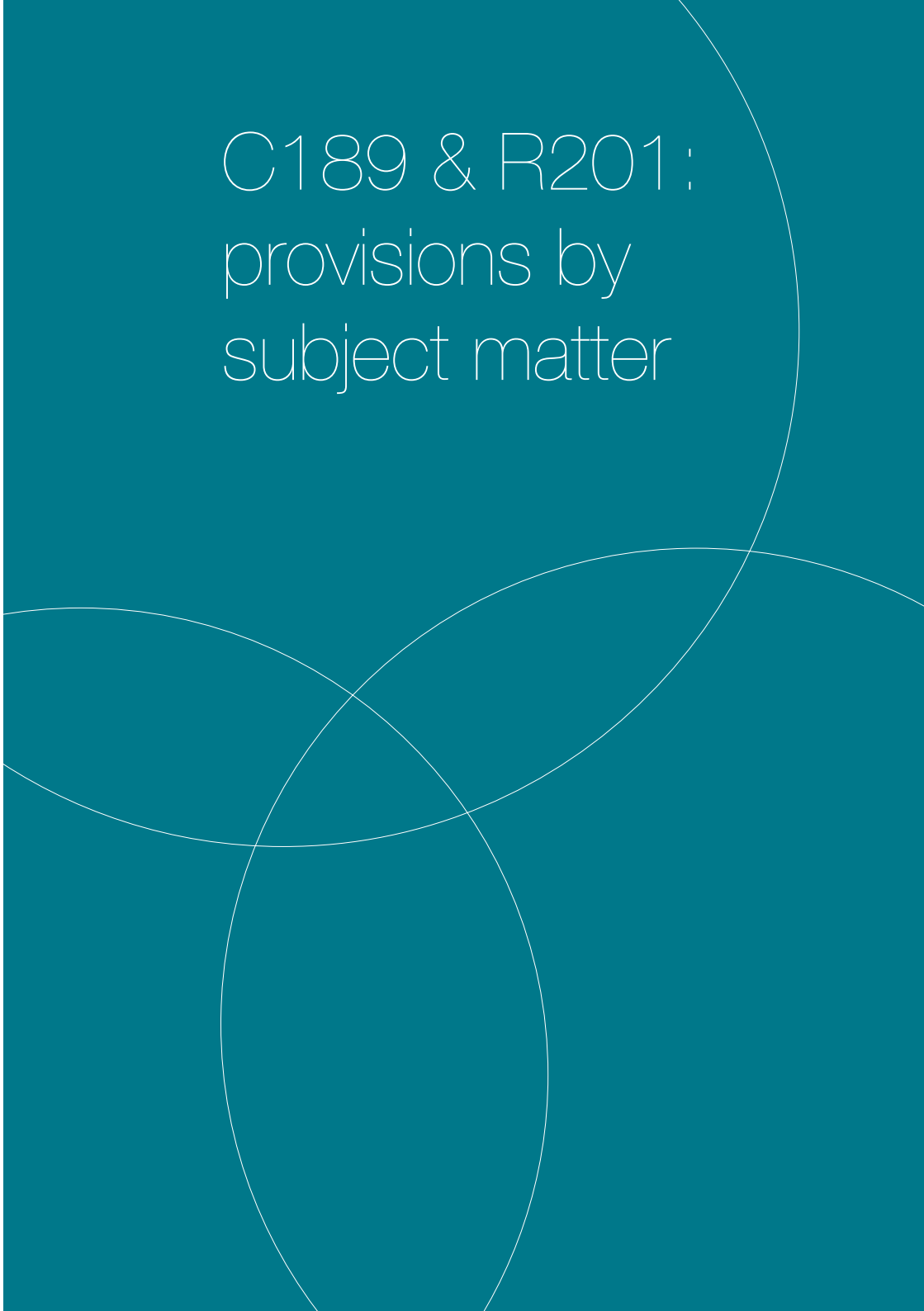
The background is a solid teal color. It features several large, thin white circles that overlap each other, creating a modern, abstract design. The text is positioned in the upper left quadrant of the page.

Ratification,
entry into
force and ILO
supervision

The Convention can be ratified by ILO member States. It enters into force following the registration of the second ratification. Thereafter, it enters into force for any ratifying Member twelve months after ratification. As is the case with other ILO Conventions, ratifying Members have an obligation to submit reports to the ILO on the measures they have taken to implement the Convention. The first such report is due twelve months after entry into force.

The ILO Committee of Experts on the Application of Conventions and Recommendations is mandated to examine the reports submitted by governments, as well as observations by workers' and employers organizations, and to address comments to the country concerned. Based on the Committee of Expert's annual reports, the application of the Convention may be discussed by the Committee on the Application of Standards of the International Labour Conference.¹⁴

14 For more details on the ILO supervisory procedures see ILO, Handbook of procedures relating to international labour Conventions and Recommendations, 2006 (available at: http://www.ilo.org/global/standards/information-resources-and-publications/publications/WCMS_087791/lang--en/index.htm)

The background is a solid teal color. There are several large, thin white circles of varying sizes and positions. One large circle is in the upper right quadrant, partially overlapping the text. Another circle is in the lower left, and a third is in the lower right, overlapping the first circle. The text is centered in the upper half of the page.

C189 & R201:
provisions by
subject matter

Subject matter		C.189 Article	R.201 Paragraph
Definitions		1	
Scope		2	
Promotion and protection of human rights		3	
Freedom of association, right to collective bargaining		3	2
Non-Discrimination		3, 11	3
Forced labour		3	26(2)
Child labour		3, 4	5
Protection against abuse, harassment and violence		5	7
Fair terms of employment, decent working and living conditions		6	17
Privacy		6, 17(3)	3(a), 17(a), 24
Information on terms and conditions of employment, written contracts		7	6
Working time		10	8, 9, 10, 11, 12, 13
Remuneration		11, 12	14, 15, 16, 20(3)
Occupational safety and health		13	4, 19
Social security		14	20, 26(2)
Protection for particular groups	Child domestic workers	4	5
	Live-in workers	6, 9	17, 18
	Migrant workers	8, 15	20(2), 21, 22, 23, 26(1)
Private employment agencies		15	23, 26(2)
Compliance and enforcement		16, 17	7, 19(b), 21, 24
International cooperation and collaboration		8(3), 15(c) and (d)	20(2), 26
Means of implementation		18	
Consultations with employers' and workers' organizations		2(2), 13(3), 14(2), 15(2), 18	6(3), 8(2), 19, 22, 25(1) and (2)
Statistical data			25(2), 26(2)
Professional development			25(1)
Work-life balance, work and family responsibilities			25(1)
Diplomatic personnel			26(4)

Where to get more information

This brochure was prepared by the Conditions of Work and Employment Branch (TRAVAIL)
Labour Protection Department
International Labour Office

Route des Morillons 4
CH – 1211 Geneva 22
Tel. +41 22 799 67 54
Fax. +41 22 799 84 51
travail@ilo.org
www.ilo.org/travail

For more information, please contact TRAVAIL, or the nearest **International Labour Office** in your country or region.

More information on policies, legislation, research and good practices regarding the promotion of decent work for domestic workers can be found on the TRAVAIL website as well as through the ILO global web-portal on domestic work at:

<http://www.ilo.org/global/topics/domestic-workers/lang--en/index.htm>

The text of the Convention and the Recommendation can be found at

<http://www.ilo.org/global/standards/lang--en/index.htm>.

**Conditions of Work and Employment Branch (TRAVAIL)
Labour Protection Department
International Labour Office**

Route des Morillons 4
CH - 1211 Geneva 22
Tel. +41 22 799 67 54
Fax. +41 22 799 84 51

travail@ilo.org
www.ilo.org/travail

ISBN 978-92-2-125270-2



9 789221 252702