

## DECENTWORKCHECK.ORG

Check

Decent Work Check Benin is a product of WageIndicator.org and  
www.votresalaire.org/benin



National Regulation exists



National Regulation does not exist

## 01/13 Work &amp; Wages

	NR	Yes	No
1. I earn at least the minimum wage announced by the Government		<input type="checkbox"/>	<input type="checkbox"/>
2. I get my pay on a regular basis. (daily, weekly, fortnightly, monthly)		<input type="checkbox"/>	<input type="checkbox"/>

## 02/13 Compensation

3. Whenever I work overtime, I always get compensation <i>(Overtime rate is fixed at a higher rate)</i>		<input type="checkbox"/>	<input type="checkbox"/>
4. Whenever I work at night, I get higher compensation for night work		<input type="checkbox"/>	<input type="checkbox"/>
5. I get compensatory holiday when I have to work on a public holiday or weekly rest day		<input type="checkbox"/>	<input type="checkbox"/>
6. Whenever I work on a weekly rest day or public holiday, I get due compensation for it		<input type="checkbox"/>	<input type="checkbox"/>

## 03/13 Annual Leave &amp; Holidays

7. How many weeks of paid annual leave are you entitled to?*		<input type="checkbox"/> 1 <input type="checkbox"/> 2	<input type="checkbox"/> 3 <input type="checkbox"/> 4+
8. I get paid during public (national and religious) holidays		<input type="checkbox"/>	<input type="checkbox"/>
9. I get a weekly rest period of at least one day (i.e. 24 hours) in a week		<input type="checkbox"/>	<input type="checkbox"/>

## 04/13 Employment Security

10. I was provided a written statement of particulars at the start of my employment		<input type="checkbox"/>	<input type="checkbox"/>
11. My employer does not hire workers on fixed terms contracts for tasks of permanent nature <i>Please tick "NO" if your employer hires contract workers for permanent tasks</i>		<input type="checkbox"/>	<input type="checkbox"/>
12. My probation period is only 06 months		<input type="checkbox"/>	<input type="checkbox"/>
13. My employer gives due notice before terminating my employment contract (or pays in lieu of notice)		<input type="checkbox"/>	<input type="checkbox"/>
14. My employer offers severance pay in case of termination of employment <i>Severance pay is provided under the law. It is dependent on wages of an employee and length of service</i>		<input type="checkbox"/>	<input type="checkbox"/>

## 05/13 Family Responsibilities

15. My employer provides paid paternity leave <i>This leave is for new fathers/partners and is given at the time of child birth</i>		<input type="checkbox"/>	<input type="checkbox"/>
16. My employer provides (paid or unpaid) parental leave <i>This leave is provided once maternity and paternity leaves have been exhausted. Can be taken by either parent or both the parents consecutively.</i>		<input type="checkbox"/>	<input type="checkbox"/>
17. My work schedule is flexible enough to combine work with family responsibilities <i>Through part-time work or other flex time options</i>		<input type="checkbox"/>	<input type="checkbox"/>

## 06/13 Maternity &amp; Work

18. I get free ante and post natal medical care		<input type="checkbox"/>	<input type="checkbox"/>
19. During pregnancy, I am exempted from nightshifts (night work) or hazardous work		<input type="checkbox"/>	<input type="checkbox"/>
20. My maternity leave lasts at least 14 weeks		<input type="checkbox"/>	<input type="checkbox"/>

\* On question 7, only 3 or 4 working weeks is equivalent to 1 "YES".

# DECENTWORKCHECK.ORG

- |     |   |   |                          |                          |
|-----|---|---|--------------------------|--------------------------|
| 21. | During my maternity leave, I get at least 2/3rd of my former salary   |  | <input type="checkbox"/> | <input type="checkbox"/> |
| 22. | I am protected from dismissal during the period of pregnancy<br><i>Workers can still be dismissed for reasons not related to pregnancy like conduct or capacity</i> |  | <input type="checkbox"/> | <input type="checkbox"/> |
| 23. | I have the right to get same/similar job when I return from maternity leave   |  | <input type="checkbox"/> | <input type="checkbox"/> |
| 24. | My employer allows nursing breaks, during working hours, to feed my child   |  | <input type="checkbox"/> | <input type="checkbox"/> |

## 07/13 Health & Safety

---

- |     |  |   |                          |                          |
|-----|--|---|--------------------------|--------------------------|
| 25. | My employer makes sure my workplace is safe and healthy  |  | <input type="checkbox"/> | <input type="checkbox"/> |
| 26. | My employer provides protective equipment, including protective clothing, free of cost   |  | <input type="checkbox"/> | <input type="checkbox"/> |
| 27. | My employer provides adequate health and safety training and ensures that workers know the health hazards and different emergency exits in the case of an accident |  | <input type="checkbox"/> | <input type="checkbox"/> |
| 28. | My workplace is visited by the labour inspector at least once a year to check compliance of labour laws at my workplace  |  | <input type="checkbox"/> | <input type="checkbox"/> |

## 08/13 Sick Leave & Employment Injury Benefits

---

- |     |   |   |                          |                          |
|-----|---|---|--------------------------|--------------------------|
| 29. | My employer provides paid sick leave and I get at least 45% of my wage during the first 6 months of illness |    | <input type="checkbox"/> | <input type="checkbox"/> |
| 30. | I have access to free medical care during my sickness and work injury                                       |   | <input type="checkbox"/> | <input type="checkbox"/> |
| 31. | My employment is secure during the first 6 months of my illness   |  | <input type="checkbox"/> | <input type="checkbox"/> |
| 32. | I get adequate compensation in the case of an occupational accident/work injury or occupational disease     |  | <input type="checkbox"/> | <input type="checkbox"/> |

## 09/13 Social Security

---

- |     |   |   |                          |                          |
|-----|---|---|--------------------------|--------------------------|
| 33. | I am entitled to a pension when I turn 60   |  | <input type="checkbox"/> | <input type="checkbox"/> |
| 34. | When I, as a worker, die, my next of kin/survivors get some benefit   |  | <input type="checkbox"/> | <input type="checkbox"/> |
| 35. | I get unemployment benefit in case I lose my job  |  | <input type="checkbox"/> | <input type="checkbox"/> |
| 36. | I have access to invalidity benefit in case I am unable to earn due to a nonoccupational sickness, injury or accident |  | <input type="checkbox"/> | <input type="checkbox"/> |

## 10/13 Fair Treatment

---

- |     |  |   |                          |                          |
|-----|--|---|--------------------------|--------------------------|
| 37. | My employer ensure equal pay for equal/similar work (work of equal value) without any discrimination                                     |  | <input type="checkbox"/> | <input type="checkbox"/> |
| 38. | My employer take strict action against sexual harassment at workplace  |  | <input type="checkbox"/> | <input type="checkbox"/> |
| 39. | I am treated equally in employment opportunities (appointment,promotion, training and transfer) without discrimination on the basis of:* |  | <input type="checkbox"/> | <input type="checkbox"/> |
|     | Sex/Gender   |  | <input type="checkbox"/> | <input type="checkbox"/> |
|     | Race   |  | <input type="checkbox"/> | <input type="checkbox"/> |
|     | Colour   |  | <input type="checkbox"/> | <input type="checkbox"/> |
|     | Religion   |  | <input type="checkbox"/> | <input type="checkbox"/> |
|     | Political Opinion  |  | <input type="checkbox"/> | <input type="checkbox"/> |

\* For a composite positive score on question 39, you must have answered "yes" to at least 9 of the choices.

Nationality/Place of Birth		<input type="checkbox"/>	<input type="checkbox"/>
Social Origin/Caste		<input type="checkbox"/>	<input type="checkbox"/>
Family responsibilities/family status		<input type="checkbox"/>	<input type="checkbox"/>
Age		<input type="checkbox"/>	<input type="checkbox"/>
Disability/HIV-AIDS		<input type="checkbox"/>	<input type="checkbox"/>
Trade union membership and related activities		<input type="checkbox"/>	<input type="checkbox"/>
Language		<input type="checkbox"/>	<input type="checkbox"/>
Sexual Orientation (homosexual, bisexual or heterosexual orientation)		<input type="checkbox"/>	<input type="checkbox"/>
Marital Status		<input type="checkbox"/>	<input type="checkbox"/>
Physical Appearance		<input type="checkbox"/>	<input type="checkbox"/>
Pregnancy/Maternity		<input type="checkbox"/>	<input type="checkbox"/>
40 I, as a woman, can work in the same industries as men and have the freedom to choose my profession		<input type="checkbox"/>	<input type="checkbox"/>

## 11/13 Minors & Youth

---

41. In my workplace, children under 15 are forbidden		<input type="checkbox"/>	<input type="checkbox"/>
42. In my workplace, children under 18 are forbidden for hazardous work		<input type="checkbox"/>	<input type="checkbox"/>

## 12/13 Forced Labour

---

43. I have the right to terminate employment at will or after serving a notice		<input type="checkbox"/>	<input type="checkbox"/>
44. My employer keeps my workplace free of forced or bonded labour		<input type="checkbox"/>	<input type="checkbox"/>
45. My total hours of work, inclusive of overtime, do not exceed 56 hours per week		<input type="checkbox"/>	<input type="checkbox"/>

## 13/13 Trade Union Rights

---

46. I have a labour union at my workplace		<input type="checkbox"/>	<input type="checkbox"/>
47. I have the right to join a union at my workplace		<input type="checkbox"/>	<input type="checkbox"/>
48. My employer allows collective bargaining at my workplace		<input type="checkbox"/>	<input type="checkbox"/>
49. I can defend, with my colleagues, our social and economic interests through "strike" without any fear of discrimination		<input type="checkbox"/>	<input type="checkbox"/>

# DECENTWORKCHECK.ORG

## Results

Your personal score tells how much your employer lives up to national legal standards regarding work. To calculate your DecentWorkCheck, you must accumulate 1 point for each YES answer marked. Then compare it with the values in Table below:



is your amount of "YES" accumulated.

Benin scored 41 times "YES" on 49 questions related to International Labour Standards

### If your score is between 1 - 18

This score is unbelievable! Does your employer know we live in the 21st century? Ask for your rights. If there is a union active in your company or branch of industry, join it and appeal for help.

### If your score is between 19 - 38

As you can see, there is ample room for improvement. But please don't tackle all these issues at once. Start where it hurts most. In the meantime, notify your union or WageIndicator about your situation, so they may help to improve it. When sending an email to us, please be specific about your complaint and if possible name your employer as well. Also, try and find out if your company officially adheres to a code known as Corporate Social Responsibility. If they do, they should live up to at least ILO standards. If they don't adhere to such a code yet, they should. Many companies do by now. You may bring this up.

### If your score is between 39 - 49

You're pretty much out of the danger zone. Your employer adheres to most of the existing labour laws and regulations. But there is always room for improvement. So next time you talk to management about your work conditions, prepare well and consult this DecentWorkCheck as a checklist.

# DECENTWORKCHECK.ORG

## 01/13 Work & Wages

### Regulations on work and wages:

Constitution of the Republic of Benin 1990  
Labour Code, 1998  
General Collective Labour Agreement, 2005

### Minimum Wage

The Constitution recognizes the citizens' right to work and requires the state to create conditions under which the enjoyment of this right is effective and workers are guaranteed just compensation for their services or production.

Minimum Wage is fixed by the Decree of Council of Ministers, upon a report of the Minister of Labour, following the recommendation of the National Labour Council (a tripartite body with representation from government, worker and employer groups). It is revised after every 3 years or when needed. Salary of a person must not be less than interprofessional minimum wage (SMIG).

Minimum wage is determined as monthly wage. It is based on the legal working hours which are 2400 hours per year for agricultural workers (approx. 46 hours per week) and 40 hours per week for all other workers. Compliance with minimum wage rates is ensured through the labour inspection system which has the fundamental task of implementation of laws and its regulations. Violation of minimum wage rules is punishable with a fine of FCFA 14,000 to 70,000. In the case of repeat offence, fine ranges between FCFA 70,000 to 140,000 and an imprisonment term ranging from 15 days to two months.

Source: §30 of the Constitution of the Republic of Benin 1990; §210, 266 & 302 of the Labour Code, 1998

### Regular Pay

Salary, regardless of the way it is calculated, is the basic or minimum amount and all other advantages paid directly or indirectly in cash or in kind, by the employer to the worker in virtue of the employment of the latter and establishment by agreement, or by regulations or conventions.

In accordance with Chapter III of Labour Code, wages must be paid regularly in legal tender on working days and at workplace (or at proximity). Wage interval must not exceed 15 days for workers whose wages are specified by the hour. Similarly, wage interval must not exceed one month for workers whose wages are determined in monthly basis. Monthly payments must be made within eight days of the end of month for which salary is due.

Employer must keep evidence of wage payment(s) and must produce at the request of the labour inspector. An employer should provide individual pay slips or any other documents determined by order of the Minister.

## DECENTWORKCHECK.ORG

Payment in kind or in alcohol and drugs is prohibited. The employer has to arrange accommodation of every worker who has to travel in order to perform work. The employer also has to provide a daily ration of food once the worker cannot, by his own means, provide it to himself and his family regularly. This service is discounted, unless there are more favorable provisions on collective agreements or employment contracts.

Generally, employer is not allowed to deduct wages except in cases provided by the law, such as, worker's contribution paid to Social Security Institutions. An employer should provide pay slips to all employees on each pay day.

In case of violations of provisions related to salary and its payment, employer is punished with a penalty of 14,000 to 70,000 Francs, to be applied as many times as the number of infractions.

Source: §207-226 & 309 of the Labour Code, 1998

# DECENTWORKCHECK.ORG

## 02/13 Compensation

### Regulations on compensation:

Labour Code, 1998

General Collective Labour Agreement, 2005

### Overtime Compensation

The normal working hours are 40 hours a week and 8 hours per day, as specified in the 2017 law (law No. 2017-05). (daily working hours are not clearly mentioned). However in the agricultural establishments, the yearly normal hours of work are 2400 hours (46 hours a week). Thus the weekly working hours range between 40 to 46 hours unless stated otherwise by order of the Minister of Labour and for the urgent work necessitating immediate execution to prevent accidents threatening the equipment, facilities, buildings of business, or repair the consequences or preparatory or complementary work, the working hours should not be longer than sixty hours a week, or more than twelve hours a day. In accordance with the Labour Code, an employer may not require employees to perform overtime work that exceeds 240 hours in a calendar year. Performance of overtime beyond the limit of 240 hours is subject to prior authorization by labour inspector. If a worker works beyond the stipulated working hours, i.e., 8 hours a day and 40 hours a week, he/she is entitled to an overtime pay established by a collective agreement.

Overtime work during day is compensated at following rates

- 112% of normal hourly rate for 41st to the 48th hour; and
- 135% of normal hourly rate beyond the 48th hour.

Source: §141-148 of the Labour Code 1998; §66 of Collective Labour Agreement 2005

### Night Work Compensation

There is no provision in the Labour Code which requires employers to make premium payments to the night workers. However, if workers have to perform overtime during night hours, i.e., between 21:00 to 05:00, they are paid at a premium rate of 150% of the normal wage rate for hours worked during Weekday. A premium rate of 200% of the normal wage rate is paid to the workers performing overtime work during nights of weekly rest days (Sundays) and Public Holidays.

Source: §147 of the Labour Code, 1998

# DECENTWORKCHECK.ORG

## Compensatory Holidays / Rest Days

There is no provision of rest day when a worker has to perform work on a weekly rest day or public holiday.

## Weekend / Public Holiday Work Compensation

There is no premium pay for working on Weekly Rest Day and Public Holiday. However, if a worker performs overtime work during day time on Sundays and Public Holidays, he receives wages at a premium rate of 150% of the normal wage rate. A premium rate of 200% of the normal wage rate is paid to the workers performing overtime work during nights of Sundays and Public Holidays.

Source: §147 of the Labour Code, 1998

# DECENTWORKCHECK.ORG

## 03/13 Annual Leave & Holidays

### Regulations on annual leave and holidays:

Labour Code, 1998

General Collective Labour Agreement, 2005

### Paid Vacation / Annual Leave

The Labour Law provides for annual leave to all workers on completion of one year of service called reference period. A worker is entitled to 24 working days of paid annual leave (at the rate of two working days per month of employment) on completion of 12 months of continuous service.

Annual leave increases with the length of service. The annual leave increases by two working days after 20 years of continuous service, four working days after 25 years of service and six working days after 30 years of service in the same enterprise. The cumulative duration of leave may not exceed 30 working days for 12 months of work. The leave has to be taken in the following twelve months.

Timing for annual leave is determined according to the employer's business requirements and worker's desire. Taking account of seasonal variations in the business activity, collective bargaining agreement may determine the period of year during which the workers may take leave. The annual leave may be split however its minimum duration is at least 14 consecutive calendar days. Women workers or apprentices under 21 years are entitled to 2 supplementary days of leave for each child under their care. Those over the age of 21 years benefit from the same advantage for every child under their care, after the fourth child. An "under care" child is every child registered under the age of 15 years.

Young workers under the age of 18 years are entitled to 30 working days of annual leave regardless of the length of their service while workers aged between 18-21 years are entitled to 24 working days of annual leave. The domestic workers are also entitled to annual leave at the rate of 24 working days per year. The date of the beginning of leave is determined by a mutual agreement between the worker and employer.

The remuneration for annual leave is an allowance that is equal to one-twelfth (1/12th) of the wages a worker received since his last return from leave (it is around one month pay). In case of splitting, the payment is divided proportionally to the duration of each period of leave.

If the employment contract expires before a worker could acquire the right to annual leave, compensation for leave is made in proportion to the number of months and numbers of hours worked in a week. Annual leave is independent of all other kinds of leave provided under the law.

Source: §158-165 of the Labour Code 1998; Order on Conditions of Employment for Domestic Workers

# DECENTWORKCHECK.ORG

## Pay on Public Holidays

Workers are entitled to paid holidays during Festival (public and religious) holidays. These are usually 13 in number. These holidays relate to New Year (01 January); Workers' Day (01 May); National Independence Day (01 August); Assumption Day (15 August); All Saints' Day (01 November); Christmas Day (25 December); Easter Monday; Ascension Day; Pentecost/Whit Monday; Korite/Ramadan's Day (Eid el Fitr- Celerbration at the end of Ramadan), Tabaski Day (Feast of Sacrifice), and Maouloud's Day (Birthday of the Prophet Muhammad, PBUH).

Other than these days, annual party of traditional religions is held on the 10th of January every year and is a public holiday. Dates of Muslim religious holidays depend on the sighting of moon and are thus liable to change every year.

Source: Act on Holidays, 1990 (No. 90-019) & Act on the Annual Holiday for Traditional Religions, 1997 (No. 97-031)

## Weekly Rest Days

Workers are entitled to 24 consecutive hours of rest per week. Labour Law requires that weekly rest day, in principle, should be Sunday for all employees.

In case, providing the same day- off for all staff on the same day is difficult because of the nature of activities of the company, or the urgency of the work executed in order to organize measures of rescue, prevention or repair due to an accident or to maintain work material, weekly rest may be provided on other days of the week as well.

Source: §156 of the Labour Code 1998, §1-4 of the Order on weekly rest period

# DECENTWORKCHECK.ORG

## 04/13 Employment Security

### Regulations on employment security:

Labour Code, 1998

General Collective Labour Agreement, 2005

### Written Employment Particulars

Employment contract is an agreement by which a person is committed to his professional activities under the direction and authority of another person on legal remuneration. It may be oral or in writing and may be concluded for a specific term or for an indefinite duration. However, when an employment contract is verbal, it is for indefinite duration.

The following contracts must be in writing: contract of apprenticeship; fixed term contract exceeding one month; employment contract where worker has to perform work outside the place of his usual residence; contract of migrant workers and the probationary/test term contract. A contract of employment may be concluded for a specific term, work or for an indefinite period.

Government has enacted a new law in August 2017 (Law No. 2017-05) which deals with employment contract and its termination, by either of the parties. In line with the 2017 law, the probation period and contract termination notice period must be specified in the employment contract.

Source: §9-12 of the Labour Code 1998

### Fixed Term Contracts

Fixed-term contract is a contract in which duration of the contract is indicated precisely and fixed in advance. The maximum duration of a single fixed term contract is two years however since it is renewable once, the total term of the fixed term contract is 48 months. This contract is reviewed and registered by the Ministry of Labour.

A fixed duration contract may have an unspecified end date if it is concluded for replacing a worker who is temporarily absent; for work carried out during a season; and occasional periods of extra work or non customary activity of the enterprise. Such contract expires on the return of temporarily absent employee; end of the season; and end of the occasional periods of extra work or non customary activity of the enterprise. Seasonal, temporary or casual contract are of 6 month duration but they can be renewed as many times as possible until the objective condition (for signing them at the first place) remains.

A contract that does not meet the requirements related to fixed term contract is considered to be a contract of indefinite duration. Beninese labour Law allows hiring fixed term contract workers for tasks of permanent nature.

Source: §12-18 of the Labour Code 1998

# DECENTWORKCHECK.ORG

## Probation Period

Probationary period is a period during which an employer assesses the professional ability of the worker and his/her performance and the worker assess the working conditions, wage, OSH and the social environment of the company. The probationary contract is concluded in writing and its duration may not exceed:

- 15 days for workers paid on a casual, seasonal or temporary basis;
- 01 months for workers paid on monthly basis; and
- 03 months for supervisors, managers and the like.

Trial period can't be extended/renewed in the case of fixed-term contracts. Possibility of one time extension/renewing the trial period is available only for contracts of indefinite duration. For fixed term contract workers, the trial period may not exceed one month for employees, workers and labourers and three months for supervisors, managers and the like.

A worker is paid during the probationary period at the rates in category in which the worker was hired in accordance with professional classifications agreement or the collective agreement applicable to the company.

In line with Law No. 2017-05 of 29 August 2017, the trial period must be clearly expressed in writing in the employment contract.

Source: §19-22 of the Labour Code 1998; §9 of the Collective Labour Agreement 2005

## Notice Requirement

A fixed term contract terminates at the end of its term by written agreement of the parties; or by gross negligence as assessed by the competent court; or in case of force majeure; or by judicial resolution. Breach of contract by one party entitles the other party to damages.

An indefinite term contract may be terminated by either of the parties. An employee may cancel an indefinite term contract for any reason. On the other hand, an employer may cancel an indefinite term contract for a valid reason related to the worker's health, inability to hold employment, his competence or conduct (personal reasons); or the requirements of the enterprise such as technological or organizational changes, economic hardship or closure of the company (economic reasons). If dismissal is on personal grounds, employer must notify his/her decision in writing. The dismissal letter must indicate the reasons for termination and other related details. The employer must also notify the labour inspector in writing about the dismissal and provide the same information to the labour department as provided in letter of dismissal. In line with the 2017 law, dismissal may occur only for a legitimate reason. Non-observance of these rules is considered unfair dismissal and employer has to pay an indemnity, ranging from 3-months to 9-months' pay.

## DECENTWORKCHECK.ORG

Either party can terminate a contract of indefinite duration by serving a written notice or paying in lieu thereof. For terminating an indefinite term contract, the required notice period provided is as follows: fifteen days for workers paid by the hour; one month for employees, workers and laborers; and three months for supervisors, executives and equivalents. Under the Collective agreement, minimum length of notice is equal to the probation or trial period.

During notice period, employee works on same terms and employment conditions except that the worker is provided 2 days per week to search for a new job.

Source: §41-57 of the Labour Code 1998, §31 of Collective Labour Agreement 2005

### Severance Pay

In accordance with the Collective Agreement, severance pay is payable in the case of individual dismissals, at the following rate:

- 30% of overall average monthly salary for each year of the first five years;
- 35% of the overall average monthly salary per year from 6th to 10th year inclusive;
- 40% overall average monthly wage per year beyond the 10th year.

In the case of collective dismissals, the rate of severance pay is 35%, 40% and 45% respectively.

Severance pay is not due in case of termination of employment contract resulting from gross negligence of the employee.

Source: §36 of Collective Labour Agreement 2005

# DECENTWORKCHECK.ORG

## 05/13 Family Responsibilities

### Regulations on family responsibilities:

Labour Code, 1998

General Collective Labour Agreement, 2005

### Paternity Leave

Although paternity leave is not clearly provided under Labour Code, the Collective Labour Agreement provides for 03 days leave for birth at home which can be taken as paternity leave by fathers.

Source: §54 of the Collective Labour Agreement

### Parental Leave

There is no provision in the law on paid or unpaid parental leave.

### Flexible Work Option for Parents / Work-Life Balance

No provisions could be located in the law supporting work-life balance for parents or workers with family responsibilities.

# DECENTWORKCHECK.ORG

## 06/13 Maternity & Work

### Regulations on maternity and work:

Labour Code, 1998

Social Security Code, 2003

### Free Medical Care

Pregnant workers (insured or wife of the insured) receive free maternity related medical care including maternity and child health and welfare services. It is not expressly mentioned if medical care is provided after confinement.

Source: §51-53 of the Social Security Code 2003, §170 of the Labour Code 1998

### No Harmful Work

Collective Agreement requires an employer to transfer a pregnant worker to another job if current work exposed a pregnant worker to some particular risk factors that can affect the harmonious development of child. A Decree of the Ministry of Labour and the Ministry of health is supposed to regulate the works excluded from female workers, minors and pregnant workers however this subsidiary legislation could not be located.

Source: §169 of the Labour Code 1998, §55 of the Collective Labour Agreement

### Maternity Leave

Female employees are entitled to fourteen weeks of maternity leave with full pay. Maternity leave can be taken as six weeks before the expected date of confinement (ante natal) and eight weeks after childbirth (post natal). When the delivery occurs before the expected date, the period of rest is extended until the completion of the fourteen weeks to which the employee is entitled. When confinement occurs after the presumed date, the woman returns to work after eight weeks of delivery.

The Labour Law provides extension in maternity leave in the event of post-natal illness. Extension in maternity leave is not provided for multiple births.

Source: §170 of the Labour Code 1998

# DECENTWORKCHECK.ORG

## Income

The maternity leave is fully paid leave. The maternity pay is equal to the salary received before the maternity leave. The maternity benefits are financed 50% by the social security and 50% by the employer.

Source: §170 of the Labour Code 1998, §49-50 of Social Security Code 2003

## Protection from Dismissals

A women worker can't be dismissed during the period of her pregnancy or maternity leave except in the case of gross negligence on the part of worker.

Source: §171 of the Labour Code 1998, §55 of Collective Labour Agreement 2005

## Right to Return to Same Position

There is no specific provision in the labour law regarding a worker's right to return to same position after availing her maternity leave. However, it is mentioned that a worker can't be demised during the term of her maternity leave which implies that right to return to work is implicitly guaranteed under the law.

Source: §171 of Labour Code 1998, §55 of the Collective Labour Agreement 2005

## Breastfeeding

Female workers are entitled to nursing break of one-hour duration to breastfeed their child(ren) until a child is fifteen (15) months old. It is not clear whether these nursing breaks are paid or unpaid.

Source: §173 of the Labour Code 1998

## DECENTWORKCHECK.ORG

## 07/13 Health &amp; Safety

**Regulations on health and safety:**

Labour Code, 1998

**Employer Cares**

In accordance with the Labour Code, every employer is required to take all necessary measures to protect life and health of workers.

It is obligatory for the employer to set up the facilities and create the best labour conditions to protect workers against accidents and diseases and in the benefit of their physical, mental and social well-being. Preventive measures should be taken against occupational hazards by using the less harmful substances for human health and by taking all necessary steps to alleviate discomfort and improve environmental working conditions.

In particular, workplace must be kept clean. Machinery, transmission or other tools and mechanical or manual gears must be installed and maintained in the best possible safety conditions. The moving parts of machines should be isolated by protective walls or barriers, unless they are not accessible to workers.

Workers are required to properly use safety and security devices and refrain from removing or modifying them without permission from the employer. Workers have the right and the duty to stop working or not to start working in a situation which they have a reasonable justification to believe presents an imminent or serious danger to their life or to the workplace. In this case, they are obliged to contact the employer, manager or his representative concerning the measures to be taken to eliminate the risk; or the workers' representatives and the labour inspector of the undertaking, if any.

Source: §182 of the Labour Code 1998

# DECENTWORKCHECK.ORG

## Free Protection

As provided in the Labour Code, an employer is under the obligation to take all measures to protect workers' lives and health. According to the Arrêté n. 22 of 19th April 1999, the employer must provide workers with protective clothes, shoes and equipment if required by their job. Employers must provide protective equipment for workers engaged for work in sewers, pits, cellars, wells, cisterns, tanks, reservoirs and similar places, when they are exposed to damp or wet walls; at risk of poisoning or contamination; exposed to the rain or exceptional cold; and in refrigerating rooms.

The employer is not obliged to provide additional protective equipment if already provides them with working clothes designed and manufactured with materials that may play the role of the protective clothing. The law provides standards about hairstyle, shoes, mittens, goggles, respirators, hearing protection, and vibration.

Source: §182 of the Labour Code 1998, §4, 29-36 & 94-104 of the Arrêté n. 22 of 19th April 1999 portant mesures générales d'hygiène et de sécurité au travail

## Training

An employer is obliged to organize appropriate training on hygiene and safety for the benefit of newly hired employees, who have changed their job or technique and those returning to work after a work stoppage for a period of more than six months.

If there are changes in the legislation, the training is updated for the benefit of all workers. In every workplace with more than 25 permanent workers, two or three workers must be trained to provide first-aid.

Source: §183 of the Labour Code 1998

# DECENTWORKCHECK.ORG

## Labour Inspection System

A vibrant labour inspection system is under operation in the country as is indicated through many responsibilities entrusted to the Labour Inspectors.

Labour administration includes all services that, under the authority of the Minister, are responsible for labour issues, employment, job counseling and vocational training and social security, in the functions of policy-making, counseling, leadership, coordination and control. The Labour administration prepares and publishes an annual report on the activities of the inspection services under its control.

The national legislation provides inspectors the power to enter, inspect and examine the work premises at any time during day or night without prior notice; interview anyone; ask for registers, documents, certificates and notices to inspect, examine and copy them; take samples for the purpose of examination and investigation; make all the necessary examination and inquiry; take advice and consultation of doctors and other technicians regarding hygiene and safety; and enforce posting of notices provided by the law. Labour inspector is also authorised to dismantle the substance or to subject it to any process or test if it appears to have caused or likely to cause danger to safety and health.

The labour inspector is authorized to issue notices to the employer to comply with the law requirements. In cases of extreme urgency, the labor inspector order immediately enforceable measures to stop any serious and imminent danger. After the deadline given in the notice, if the employer did not undertake the required measures, the labour inspector, after verification, initiates prosecutions. However, in cases of extreme urgency, the labor inspector may initiate prosecution without giving notice.

Source: §192, 271-274 of the Labour Code 1998

# DECENTWORKCHECK.ORG

## 08/13 Sick Leave & Employment Injury Benefits

### Regulations on sick leave & employment injury benefits:

Labour Code, 1998

Act No. 98-019 of 21 March 2003 on the Code of Social Security

### Income

Both Labour Code and Collective Agreement provide for the paid sick leave. The duration of the period of sick leave depends on the length of service. It is:

- 06 months for a period of service less than 24 months;
- 12 months for a period of service equal to or greater than 24 months.

As for the compensation for sick leave, it is:

- equal to respective notice period for less than 12 months of consecutive service.
- equal to full pay for 3 months and half pay for other 3 months for 1 to 5 years of service
- equal to full pay for 6 months for more than 5 years of service.
- In case of tuberculosis, mental illness, cancer disease, polio, leprosy or serious sequelae of cardiovascular diseases, Acquired Immune Deficiency Syndrome (AIDS) and diseases of the central nervous systems of nonalcoholic origin, a worker who has at least one year of service benefits from long-term leave and has the right to full salary during the first six months of illness.

Source: §38 & 53 of the Labour Code 1998; §9 & 22 of the Collective Labour Agreement 2005

### Medical Care

Medical benefits are available for insured workers and these include general medical care, specialist care, medicine, hospitalization, maternity care, and transportation.

### Job Security

Employment of a sick worker is secure during the period of sick leave. If a worker is found unfit for the job even after completion of sick leave, he/she can be fired for incapacity. At the end of sick leave, the worker's situation is examined:

- 1) if he is found fit to resume his original post, he is returned to the earlier job;
- 2) if he is physically or mentally diminished, he may be transferred to a different compatible job and enjoy in this job salary and benefits attached thereto;
- 3) if he is found unfit for any employment by a licensed physician, he is dismissed for incapacity in accordance with the legislation in force.

Source: §40 of the Labour Code 1998, §24 of the Collective Labour Agreement 2005

# DECENTWORKCHECK.ORG

## Disability / Work Injury Benefit

Work injuries are divided into four categories: (i) permanent total incapacity (ii) permanent partial incapacity (iii) temporary incapacity and (iv) fatal injury leading to death of a worker.

In the case of permanent total incapacity/disability, 100% of a worker's annual earnings in the year before the disability began is paid, up to three times the legal minimum wage, plus 50% of the portion of earnings between this limit and 10 times the legal minimum wage.

In the case of permanent partial disability, amount of compensation depends on the assessed degree of disability and a percentage of full pension is paid accordingly.

In the case of temporary disability, 66.7% of worker's average wage (in the last month) is paid up to 12 months. If the disability continues after 12 months, amount of benefit depends on worker's yearly earnings. Disability benefit is paid until full recovery or certification of permanent disability.

In the case of fatal injury, dependents are entitled to survivors' pension. 30% of a worker's earnings that are used to calculate permanent disability pension are paid to a spouse (widow/widower). This pension ceases on remarriage and a lump-sum amount is paid. 15% of a deceased worker's earnings are paid to each of the first two orphans as survivor's pension. Others get orphans only get 10%. Total survivors' benefits can't exceed 85% of a deceased worker's permanent disability pension.

# DECENTWORKCHECK.ORG

## 09/13 Social Security

### Regulations on social security:

Social Security Code, 2003

### Pension Rights

Law provides for both full and partial pension. For full pension, a worker must have attained 60 years of age (same for women) with at least 180 months (15 years) of contributions. A worker is entitled to early pension at the age of 55 years.

Minimum Old-age pension is at least 60% of the minimum wage. The old-age pension is 30% of a worker's average monthly earnings in the first 15 years of coverage. The pension is increased by 2% of average monthly earnings for each 12-month period of coverage exceeding 180 months, up to 80% of the insured's earnings. The pension is at least 60% of the insured's average earnings (in the last 120 months). In case of early pension, the pension is reduced by 5% for each year the pension is awarded before the insured reaches age 60; at age 60, the normal pension is paid. The old-age pension is suspended if the pensioner begins new covered employment.

Old-age settlement is paid to the worker with 60 years of age but less than 180 months and at least 12 months of contribution. Old-age settlement is paid as a lump sum of the insured's average monthly earnings in the last 10 years multiplied by the number of 12-month periods of coverage.

### Dependents' / Survivors' Benefit

The Social Security law provides for survivor benefit for dependents including widow, widower, children. If a worker dies, his dependents are entitled to 40% of the deceased's pension and is paid to a widow/widower provided that he has met the requirements of entitlement to old age or invalidity pension or was already getting it. 20% of the deceased worker's pension is paid to each orphan. If there is only one orphan, 30% of the pension is paid. 60% of the deceased's pension is paid if there are no eligible children. 25% of the pension the deceased received or was entitled to receive is paid to each eligible child. Total survivors' benefits can't exceed 80% of a deceased worker's pension.

### Unemployment Benefits

There is no provision for unemployment benefit under Beninese labour laws

# DECENTWORKCHECK.ORG

## Invalidity Benefits

The Social Security law provides for invalidity benefit in the case of non-occupational accident/injury/disease resulting into permanent invalidity. An insured worker must be assessed with at least 66.7% loss of earning capacity and he/she must have at least 36 months of contributions, including at least 6 months in the 12 months before the disability began. Invalidity pension is 70% of a worker's average earnings. It is calculated similarly as old-age pension.

# DECENTWORKCHECK.ORG

## 10/13 Fair Treatment

### Regulations on fair treatment:

The Constitution of the Republic of Benin, 1990

Labour Code, 1998

General Collective Labour Agreement, 2005

### Equal Pay

In accordance with the Labour Code, the principle of equal remuneration for work of equal value between workers applies without any discrimination on the basis of origin, sex, age, status and religion.

Source: §126 & 208 of the Labour Code 1998; §61 of the Collective Labour Agreement 2005

### Sexual Harassment

The 2006 law prohibits all forms of sexual harassment and offers protection for victims. Sexual harassment is a punishable offense and persons convicted of sexual harassment face sentences of one to two years in prison and fines ranging from 100,000 to one million CFA. There are also penalties for persons who are aware of sexual harassment and do not report it.

Source: Loi n° 2006-19 du 17 juillet 2006 portant répression du harcèlement sexuel et protection des victimes en République du Bénin and loi n°2011-26 du 09 janvier 2012 Portant prévention et répression des violences faites aux femmes

### Non-Discrimination

In accordance with the Constitution of Benin, It is a duty of the State to ensure equality before the law without distinction of origin, race, sex, religion, political opinion or social position. Men and women are equal under the law.

Labour law states that there cannot be any discrimination on the grounds of race, gender, age, disability, ethnic origin, social status, membership or non-membership of trade union, trade union activity, religious beliefs or opinions as well as political beliefs and opinions. An employer may not discriminate against a worker on any of the above grounds with regard to hiring, distribution of work, vocational training, promotion, compensation & working conditions as well termination of an employment contract. "The 2015 Children Code requires that young workers cannot be discriminated against (discrimination on the ground of age).

Source: §26 of the Constitution of the Republic of Benin 1990; §4-5 & 31 of the Labour Code 1998; §215 & 227 of Children Code (Loi n° 2015-08)

# DECENTWORKCHECK.ORG

## Equal Choice of Profession

In accordance with Ministerial Order No. 132/MFPTRA/MSP/DC/SGM/DT/SST of 2 November 2000 and article 168 of Labour Code, women can't work in the same industries men.

Source: §168 of the Labour Code 1998, Ministerial Order No. 132/MFPTRA/MSP/DC/SGM/DT/SST of 2 November 2000

## DECENTWORKCHECK.ORG

**11/13**      **Minors & Youth****Regulations on minors and youth:**

Labour Code, 1998

The Constitution of the Republic of Benin, 1990

**Minimum Age for Employment**

Minimum age for employment is 14 years. Children between ages 12- 14 may be hired to perform domestic work and temporary or seasonal light work if it does not interfere with their compulsory schooling. The 2006 Act Relating to the Transportation of Minors and the Suppression of Child Trafficking criminalizes all forms of child trafficking and prescribes penalties of 10 to 20 years' imprisonment. However, for labour exploitation of children, lower penalties—six months to two years' imprisonment or fines— are provided under the law. Exploitation of children includes all forms of slavery and similar practices including debt bondage, serfdom and forced or compulsory labour or employing children in work which by its nature or under conditions it is performed is likely to harm the health, safety and morals of the child.

The abuse includes greater workload in relation to a child's age, total hours of work, inadequacy or lack of compensation or if the work obstructs in education, social, spiritual, moral, physical, and mental development of the child.

Free public education at primary level is guaranteed under the Constitution and the Child Code. Compulsory education age is around 11 years, as specified under the Education Act.

Source: §166 of the Labour Code 1998; loi de 2006 portant sur le transport des mineurs et la répression de la traite des enfants; §114 & 210-211 of Children Code (Loi n° 2015-08); §13 of the Constitution of the Republic of Benin 1990; §24 of the Education Act, 2003 (Loi No. 2003-17)

# DECENTWORKCHECK.ORG

## Minimum Age for Hazardous Work

Minimum Age for Hazardous Work is set as 18 years. The above decree No 2011-029 de Janvier 2011 lists different hazardous activities and includes 22 trades including mining and quarrying, domestic service, and agriculture and defines 74 hazardous activities. The decree also prohibits workers under age 16 from performing certain types of work, including transporting heavy loads, working in slaughterhouses, and operating certain types of machinery.

Night work is prohibited for young workers under 18 years however derogations are usually granted by decree of the Council of Ministers after consultation with the National Labour Council. The daily rest time of young workers aged under 18 years should be a minimum of twelve consecutive hours, including the night period. Any discrimination against young workers (14 years and above) is prohibited.

Compulsory education age is 11 years and any employment which impedes a child's education is prohibited and punishable by law.

Source: §153-155 of the Labour Code 1998; Decret No 2011-029 de Janvier 2011; §212-215 & 227 of Children Code (Loi n° 2015-08)

## DECENTWORKCHECK.ORG

**12/13**    **Forced Labour****Regulations on forced labour:**

Constitution of the Republic of Benin, 1990

Labour Code, 1998

**Prohibition on Forced and Compulsory Labor**

Labour Code prohibits forced/compulsory labour. Forced labor is any work or service exacted from any person under the menace of any penalty and for which the said person has not offered himself voluntarily. Forced labour is punishable by fines ranging from 140,000 CFA to 350,000 CFA and/or imprisonment sentence of two months to one year for individuals involved in such activities.

Source: §03 & 303 of the Labour Code 1998

**Freedom to Change Jobs and Right to Quit**

Workers have the right to change jobs after serving notice or without notice during trial period. For more information on this, please refer to the topic on employment security.

Source: §41-57 of the Labour Code 1998, §31 of Collective Labour Agreement 2005

**Inhumane Working Conditions**

Working time may be extended beyond normal working hours of forty to forty six hours per week and eight hours a day. However, total hours of work inclusive of overtime must not exceed 240 hours per year. For more information on this, please refer to the section on compensation.

Source: §141-148 of the Labour Code 1998, §66 of Collective Labour Agreement 2005

**Regulations on trade unions:**

Constitution of the Republic Of Benin, 1990

Labour Code, 1998

**Freedom to Join and Form a Union**

Constitution and labour law provide for freedom of association and allow workers and employers to join and form unions. In accordance with the constitution, each worker may defend, under the conditions provided by law, his rights and interests whether individually, whether collectively, or by trade union action. This right is regulated by the labour code.

Workers have the right to freely form trade unions in business and geographical segments. Minors over fifteen years of age may also join trade unions. Trade unions are free to elect their representative, define their program and organize their activities freely. They may also draw up their own statutes and administrative regulations, as long as these are not contrary to laws in effect and public order.

The unions must get registered with the Ministry of interior by filing their statutes with the Registry of Court of First Instance, the Minister of the Interior, and the Ministry of Labour. Same procedure has to be followed again in case of any statutory change. Deposits must be made within three months and a receipt is issued within a month.

The representatives of trade unions are determined by the results of professional elections. The classification of unions on the basis of election results is recognized by order of the Minister of Labour.

Unions cannot be administratively subject to dissolution or suspension. Property of a union is vested in accordance to the rules determined by the general meeting, in case of voluntary dissolution (either statutory or pronounced by a court decision)

Source: §31 of the Constitution of the Republic of Benin 1990; §79-84 of the Labour Code 1998

# DECENTWORKCHECK.ORG

## Freedom of Collective Bargaining

Right to collective bargaining is recognized by Labour Code. The collective labor agreement is an agreement intended to settle professional relationships between employers and workers in a company or a group of companies, or one or more branches of activity. A CBA usually provides better benefits to the worker than those provided in the law. If a CBA has provisions which are less favourable than those provided under the law or does not comply with the law, it cannot be enforced.

A CBA may be concluded for definite or indefinite time period. The duration of a CBA signed for definite time period may not exceed 5 years. A CBA of indefinite term may be cancelled by either party. The collective agreement provides the conditions for its termination, renewal or revision.

The CBA, written in official language, is signed by authorized representatives of the contracting parties. It must be registered at the Ministry of Labour or its relevant office and comes into effect on day it is signed unless stated otherwise. Changes to the initial collective agreement must be established, filed, notified and published in the same manner and conditions as above.

Certified copies of agreements and amendments, accessions or denunciations are issued by the minister responsible for labor. Verbal translations can be requested by anyone interested in relevant departments of the Ministry of Labour.

Collective agreements also specify their scope of application. This can be professional (corresponding to activity of one or more branches) or geographical (national, departmental and local levels).

National Labour Council is provided under the Labour Code. It is mandated to study the problems concerning work, employment, vocational training, migration, social security and issue opinions and resolutions in these matters. The Council is further tasked with proposing and advising on the minimum wage rates. The Council is chaired by the Minister for Labour (or his representative) and is composed of equal number of representatives from worker and employer organizations as well as experts appointed by the government (with advisory vote). The representatives to the Council are nominated for three years (renewable once).

Benin also has a higher level Economic and Social Council of Benin, provided under the Constitution. and governed by 1992 law. It is a 30-member council with representation from all strata of society including workers, employers, farmers, self-employed, etc. Its term is five years, renewable once.

A 2016 Decree (2016-797) creates Permanent National Commission for Concertation and Collective Negotiations between Government and Central Trade Union Confederations.

Source: §122-128 & 286-289 of the Labour Code 1998; Loi N° 92-010 du 16 Juillet 1992; Decret N° 2016- 797 du 23 decembre 2016

# DECENTWORKCHECK.ORG

## Right to Strike

Right to strike is recognized and guaranteed under the constitution. The right must be exercised under conditions defined by law. Peaceful strike is allowed only after the failure of negotiations with the inspector or labor director.

Right to strike is restricted by excessive legal barriers such as requiring unions to inform in advance about the duration of strike action and authorities' power to unilaterally prohibit, limit, suspend or cease a strike action, eventually frustrating this fundamental right. Law No. 2001-09 of 21 June 2002 on the exercise of the right to strike provides that civil servants, public and private sector workers as well para-statal employees who provide essential services have to maintain minimum service during strike period. The essential services include health, security, energy, water, air transport, and telecommunications except radio and private broadcasters. Retaliation against strikers is prohibited.

The law allows the government to declare a strike illegal on specific grounds that include threat to social peace and order as well as requisite public services in the event of a strike. Laws prohibits employer action against strikes, except that a company may withhold part of a worker's pay following a strike (for strike days). Employers may not take union membership or activity into account in hiring, work distribution, professional or vocational training, or dismissal.

The strike does not break the employment contract and the employer cannot dismiss an employee because of his/her participation in strike except for gross negligence.

Source: §31 of the Constitution of the Republic of Benin 1990; §264 of the Labour Code 1998; Loi n° 2001-09 du 21 juin 2002 portant exercice du droit de grève; Benin Labour Market Profile 2014

## DECENTWORKCHECK.ORG

**01/13 Work & Wages****ILO Conventions on Work and Wages**

Minimum wage: Convention 131 (1970)

Regular pay & wage protection: Conventions 95 (1949) and 117(1962)

***Benin has ratified the Convention 95 only.***

**Minimum wage**

The minimum wage must cover the living expenses of the employee and his/her family members. Moreover, it must relate reasonably to the general level of wages earned and the living standard of other social groups.

**Regular Pay**

Wages must be paid regularly on a daily, weekly, fortnightly or monthly basis.

**02/13 Compensation****ILO Conventions on Compensation**

Compensation overtime: Convention 01 (1919); Night work: Convention 171 (1990)

***Benin has not ratified the Convention 01 & 171.***

**Overtime Compensation**

Working overtime is to be avoided. Whenever it is unavoidable, extra compensation is at stake - minimally the basic hourly wage plus all additional benefits you are entitled to. In accordance with ILO Convention 1, overtime pay rate should not be less than one and a quarter times (125%) the regular rate.

**Night Work Compensation**

Night work means all work which is performed during a period of not less than seven (07) consecutive hours, including the interval from midnight to 5 a.m. A night worker is a worker whose work requires performance of a substantial number of hours of night work which exceeds a specified limit (at least 3 hours). Convention 171 requires that night workers be compensated with reduced working time or higher pay or similar benefits. Similar provisions are found in the Night Work Recommendation No. 178 of 1990.

**Compensatory Holidays/Rest Days**

If you have to work on a national/religious holiday or a weekly rest day, you should be entitled to compensation. Not necessarily in the same week, provided that the right to a paid compensation is not.

**Weekend/Public Holiday work Compensation**

If you have to work during the weekend, you should thereby acquire the right to a rest period of 24 uninterrupted hours instead. Not necessarily in the weekend, but at least in the course of the following week. Similarly, if you have to work on a public holiday, you must be given a compensatory holiday. A higher rate of pay for working on a public holiday or a weekly rest day does not take your right to a holiday/ rest.

## 03/13 Annual Leave & Holidays

### ILO Conventions on weekly rest days and paid annual leave

Convention 132 (1970) on Holidays with Pay Convention

Conventions 14 (1921), 47 (1935) and 106 (1957) for weekly rest days. In addition, for several industries, different Conventions apply.

***Benin has ratified the Convention 14 only.***

### Paid Vacation/Annual Leave

An employee is entitled to at least 21 consecutive paid annual leave. National and religious holidays are not included. Collective agreements must provide at least one day of annual leave on full remuneration for every 17 days on which the employee worked or was entitled to be paid.

### Pay on Public Holidays

You should be entitled to paid leave during national and officially recognized public holidays.

### Weekly Rest Day

Workers should enjoy a rest period of at least twenty-four consecutive hours in every 7 day period, i.e., a week

## 04/13 Employment Security

### ILO Conventions on employment termination

Convention 158 (1982) on employment termination

***Benin has not ratified the Convention 158.***

The questions under this section measure the security or even flexibility or precariousness of an employment relationship. Although these are not clearly mentioned in a single convention (severance pay and notice requirement are provided in the Termination of Employment Convention No. 158) however, the best practices in the field require that employees be provided with a written contract of employment; workers on fixed term contracts should not be hired for tasks of permanent nature; a reasonable probation period (ideally lower than or equal to 6 months) may be followed to assess the suitability of an employee; a period of notice must be specified in an employment contract before severing the employment relationship; and workers be paid severance allowance on termination of employment relationship.

### Written Employment Particulars

A contract of employment may be oral or written however workers should be provided with a written statement of employment at the start of their employment.

### Fixed Term Contracts

Fixed Term Contract workers must not be hired for permanent tasks as it leads to precarious employment.

### Probation Period

A reasonable probation period must be provided to a worker to learn new skills. A newly hired employee may be fired during probation period without any negative consequences.

### Notice Requirement

A reasonable notice period, depending on the length of service of an employee, may be required before an employer may sever the employment relationship.

### Severance Pay

Employers may be required to pay a severance allowance on termination of employment (due to redundancy or any other reason except for lack of capacity or misconduct).

## DECENTWORKCHECK.ORG

**05/13 Family Responsibilities****ILO Conventions on family responsibilities**

Convention 156: Workers with Family Responsibilities Convention (1981)

Recommendation 165: Workers with Family Responsibilities (1981)

***Benin has not ratified the Conventions 156 & 165.***

**Paternity Leave**

This is for the new fathers around the time of child birth and is usually of shorter duration.

**Parental Leave**

The accompanying recommendation (No. 165) to ILO Convention on Family Responsibilities provides for parental leave as an option available to either parent to take long leave of absence (paid or unpaid) without resigning from work. Parental leave is usually taken once the maternity and paternity leave have been exhausted. For working parents, laws may define the portion of parental leave that has to be compulsorily taken by fathers or mothers.

**Flexible Work Option for Parents / Work-Life Balance**

Recommendation 165 asks for looking into measures for improving general working conditions through flexible work arrangements.

**06/13 Maternity and Work****ILO Conventions on maternity and work**

An earlier Convention (103 from 1952) prescribed at least 12 weeks maternity leave, 6 weeks before and 6 weeks after. However, a later convention (No. 183 from year 2000) requires that maternity leave be at least 14 weeks of which a period of six weeks compulsory leave should be after childbirth.

***Benin has ratified both Conventions 183 only.***

**Free medical care**

During pregnancy and maternity leave, you should be entitled to medical and midwife care without any additional cost.

**No harmful work**

During pregnancy and while breastfeeding, you should be exempt from work that might bring harm to you or your baby.

**Maternity leave**

Your maternity leave should last at least 14 weeks.

**Income**

During maternity leave, your income should amount to at least two thirds of your preceding salary.

**Protection from Dismissals**

During pregnancy and maternity leave, you should be protected from dismissal or any other discriminatory treatment.

**Right to return to same position**

Workers have the right to return to same or equivalent position after availing maternity leave.

**Breastfeeding/Nursing Breaks**

After child birth and your rejoining your organization, you must be allowed paid nursing breaks for breastfeeding your child.

## DECENTWORKCHECK.ORG

**07/13 Health & Safety****ILO Conventions on Health and Safety**

Most ILO OSH Conventions deal with very specific Occupational Safety hazards, such as asbestos and chemicals.

Convention 155 (1981) is the relevant general convention here. Labour Inspection Convention: 81 (1947)

***Benin has ratified the Convention 81 only.***

**Employer cares**

Your employer, in all fairness, should make sure that the work process is safe.

**Free protection**

Your employer should provide protective clothing and other necessary safety precautions for free.

**Training**

In order to ensure workplace safety and health, a central, independent and efficient labour inspection system should be present.

**Labour Inspection System**

You and your colleagues should receive training in all work related safety and health aspects and you should have been shown the emergency exits.

**08/13 Sick Leave & Employment Injury Benefits****ILO Conventions on Sickness and Employment Injury**

Convention 102 (1952), Conventions 121 (1964) and 130 (1969) concerning Social Security, Employment Injury Benefits and Medical Care and Sickness Benefits

***Benin has not ratified the Conventions 102, 121 & 130.***

**Income/Paid Sick Leave**

Your rights to work and income should be protected when illness strikes. The national labour law may provide that sickness benefit may not be paid during the first 3 days of your absence. Minimally you should be entitled to an income during first 6 months of illness. This income should be at least 45 per cent of the minimum wage. (Countries are free to opt for a system which guarantees 60 per cent of the last wages during the first 6 months of illness or even during the first year). You should be entitled to paid sick leave.

**Medical Care**

During illness, you should be entitled to medical care without any additional cost. Employees and their family members should have access to the necessary minimal medical care at an affordable cost.

**Job security**

During the first 6 months of your illness, you should not be fired.

**Disability/Work Injury Benefit**

Whenever you are disabled due to an occupational disease or accident, you ought to receive a higher benefit. In the case of temporary or total incapacity/disability, a worker may at least be provided 50% of his average wage while in the case of fatal injury, the survivors may be provided with 40% of the deceased worker's average wage in periodical payments.

## DECENTWORKCHECK.ORG

**09/13 Social Security****ILO Conventions on Social Security**

Social Security (minimum standards): Convention 102 (1952). For several benefits somewhat higher standards have been set in subsequent Conventions

Employment Injury Benefits: Conventions 121 (1964),

Invalidity, Old age and survivors' benefits: Convention 128(1967)

Medical Care and Sickness Benefits: Convention 130 (1969)

Unemployment Benefits: Convention 168 (1988).

***Benin has not ratified the Convention 102, 121, 128, 130 & 168.***

**Pension Rights**

In the normal circumstances, the pensionable age may not be set higher than 65 years of age. If retirement age is fixed above 65 years, it should give "due regard to the working ability of elderly persons" and "demographic, economic and social criteria, which shall be demonstrated statistically". Pension can be set as a percentage of the minimum wage or a percentage of the earned wage.

**Dependent's/Survivors' Benefit**

When the breadwinner has died, the spouse and children are entitled to a benefit, expressed as a percentage of the minimum wage, or a percentage of the earned wage. This must at least be 40% of the reference wage.

**Unemployment Benefit**

For a limited period of time, the unemployed has a right to unemployment benefit set as a percentage of the minimum wage or a percentage of the earned wage.

**Invalidity Benefits**

Invalidity benefit is provided when a protected person is unable to engage in a gainful employment, before standard retirement age, due to a non-occupational chronic condition resulting in disease, injury or disability. Invalidity Benefit must at least be 40% of the reference wage.

**10/13 Fair Treatment****ILO Conventions on Fair Treatment**

Convention 111 (1958) lists the discrimination grounds which are forbidden.

Convention 100 (1952) is about Equal Remuneration for Work of Equal Value.

***Benin has ratified both Conventions 100 & 111.***

**Equal Pay**

At workplaces equal pay for men and women for work of equal value is a must, regardless of marital status. Pay inequality based on race, colour, sex, religion, political opinion, national extraction/place of birth or social origin is also forbidden. A transparent remuneration system and the clear matching of pay and position should be in place and to help prevent wage discrimination.

**Sexual Harassment**

Not clearly provided in ILO Conventions. However, sexual intimidation/harassment is gender discrimination.

**Non-Discrimination**

Your employer can't discriminate against you on in any aspect of employment (appointment, promotion, training and transfer) on the basis of union membership or participation in union activities, filing of a complaint against an employer, race, colour, sex, marital status, family responsibilities, pregnancy, religion, political opinion, national extraction or social origin, temporary absence due to illness, age, trade union membership, disability/HIV-AIDS, or absence from work during maternity leave. (Conventions 111, 156, 158, 159 and 183)

**Equal Choice of Profession**

People have the right to work and there can't be occupational segregation on the basis of gender.

## DECENTWORKCHECK.ORG

**11/13 Minors & Youth****ILO Conventions on Minors & Youth**

Minimum Age: Convention 138 (1973)

Worst Forms of Child labour: Convention 182 (1999)

***Benin has ratified both Conventions 138 & 182.***

**Minimum Age for Employment**

At workplaces, children may not be forced to perform work that could harm their health and hampers their physical and mental development.

All children should be able to attend school. Once this is safeguarded, there is no objection against children performing light jobs between the ages of 12 and 14. The general minimum age is 15 years however developing countries may set this at 14 years. The minimum age for hazardous work, work that is likely to jeopardize the health, safety or morals of young persons, is 18 years. It can also be set at a lower level of 16 years under certain circumstances

**Minimum Age for Hazardous Work**

Children should not be employed in a work that is likely to harm the health, safety or morals of children. It is considered one of the worst forms of child labour. The minimum age for such hazardous work is 18 years.

**12/13 Forced Labour****ILO Conventions on Forced/Bonded labour**

Forced labour: Conventions 29 (1930)

Abolition of Forced labour: Conventions 105 (1957)

Forced labour is the work one has to perform under threat of punishment: forfeit of wages, dismissal, harassment or violence, even corporal punishment. Forced labour means violation of human rights.

***Benin has ratified both the Conventions 29 and 105.***

**Prohibition on Forced and Compulsory labour**

Except for certain exceptions, forced or compulsory labour (exacted under the threat of punishment and for which you may not have offered voluntarily) is prohibited.

**Freedom to change jobs and Right to quit**

Employers have to allow you to look for work elsewhere. If you do, you should not be shortened on wages or threatened with dismissal. (In the reverse cases, international law considers this as forced labour).

**Inhumane Working Conditions**

If the total working hours, inclusive of overtime exceed 56 hours per week, the worker is considered to be working under inhumane working conditions.

**13/13 Trade Union****ILO Conventions on Trade Union Rights**

Freedom of association and protection of the right to organize: Convention 87 (1948)

Right to Organize and Collective Bargaining: Convention 98 (1949)

***Benin has ratified both Conventions 87 & 98.***

**Freedom to join and form a union**

Freedom of association means freedom to join a trade union. This is part of the fundamental human rights. Employees may not be put at a disadvantage when they are active in the trade union outside working hours. The list of exclusions for sectors of economic activity and workers in an organization should be short.

**Freedom of Collective Bargaining**

Trade unions are entitled to negotiate with employers on term of employment without hindrance. The freedom of a trade union to negotiate with employers to try and conclude collective agreements is protected. (The ILO has a special procedure for handling complaints from unions about violation of this principle).

**Right to Strike**

Workers have the right to strike in order to defend their social and economic interests. It is incidental and corollary to the right to organize provided in ILO convention 87.

# DECENTWORKCHECK.ORG

## About Decent Work and Decent Work Check

Compare your own situation with the international labour standards and how they are applied in Benin. At the end of the checklist you will see how things stand for you. You may be better off than what the international standards prescribe, but you should not be worse off. Behind every answer, you can find a short explanation of what your rights are; nationally and internationally. So you see right away if you can improve your situation.

The Decent Work Check makes the pretty abstract Conventions and legal texts tangible. Because, in the end, you want to know what your rights on the job mean in practice, what you may claim and what protection you are entitled to in case something unexpectedly does go wrong. The Decent Work Check employs double comparison system. It first compares national laws with international labour standards and gives a score to the national situation (happy or sad face). It allows workers to compare their real situation with national regulations in the country. Workers then compare their own score both at national and international levels. The Decent Work Check is based on de jure labour provisions, as found in the labour legislation. The real practice is informed by the employees themselves. This Check is different from other indices like World Bank's Doing Business Indicators or even ISSA's Social Security Programs throughout the World as it is not only descriptive in nature (bereft of any subjective opinions) but also that it covers a lot of different variables. The Revised Decent Work Check is also designed while taking into account upcoming Decent Work Indicators. While Decent Work Indicators focus more on statistics, our priority is informing workers about their rights through this Decent Work Check. Decent Work Check is useful both for employees and employers. It gives them knowledge, which is the first step towards any improvement. It informs employees of their rights at the workplace while simultaneously enlightening employers about their obligations. Decent Work Check is also useful for researchers, labour rights organizations conducting surveys on the situation of rights at work and general public wanting to know more about the world of work.

WageIndicator teams, around the world, have found out that workers, small employers and labour inspectors don't even know the labour law.

When you are informed - being a workers, self-employed, employee, employer, policy maker, labour inspector - there is a greater possibility that you ask for your rights (as a worker), you comply with rules (as an employer) and you strive to enforce these (as a labour inspector). As soon as you complete the DecentWorkCheck, you see which issues need improvement in your work life.

This is exactly the strategy chosen in the debates in many WageIndicator countries. In the debates with roughly 20-30 people around the table from all sides, the decent Work Check has soon the effect of a mini social dialogue. The people who run the dialogue are equally well informed.

The international labour standards are laid down in ILO-Conventions. ILO is the specialised body of the United Nations working on labour issues and was founded in 1919. In the ILO, negotiations are always going on between governments of the member states, national trade unions and employers associations regarding work related issues like rights at work and social protection. These negotiations may take years, but eventually lead to so called Conventions or Recommendations. In Conventions, minimum standards are laid down. Conventions are not the law, but the intention is that member states subscribe to the standard in question. The proper way to do that is to have these Conventions ratified by parliament and then make national laws (Some countries may follow the system of self-executing treaties). National law can be enforced. ILO-Conventions are usually accompanied by Recommendations on how to implement the standards.

Since 1999, the ILO works according to the so called Decent Work Agenda. In the meantime, the Decent Work Agenda has been widely accepted as an important strategy to fight poverty and foster development. The Agenda has been incorporated in the Millennium Development Goals of the United Nations. In short, the idea behind Decent Work is first of all an income which allows the working individual a good life. Moreover, at work, everybody has an equal chance to develop themselves; working conditions are safe; there is no instance of child and forced/bonded labour; and discrimination does not occur. Trade unions are allowed a real say in work related matters and the state has created a social safety net for all especially for the sick, weak, elderly and expecting women.

**Decent Work Checks are developed and updated by Iftikhar Ahmad, Labour Law Specialist, and Team**

**18 October, 2018.**