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Check

DecentWorkCheck Nicaragua is a product of WageIndicator.org and
www.tusalario.org/nicaragua



National Regulation exists



National Regulation does not exist

01/13 Work & 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 & 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 & 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".





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- | | | | | |
|-----|---------------------------------------------------------------------------------------------------------------------------------------------------------------------|-------------------------------------------------------------------------------------|--------------------------|--------------------------|
| 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
<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"/>

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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.

Nicaragua scored 42 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.

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01/13 Work & Wages

Regulations on work and wages:

Labour Code (Codigo del Trabajo), No. 185 (1996), No. 185 (1996)

Minimum Wages Act, No. 625 (2007)

Minimum Wage

Labour code defines minimum wage as the minimum remuneration that every worker is entitled for the services rendered in an ordinary working day, capable to ensure the satisfaction of the basic and vital needs of a family in the material, moral cultural order and in accordance with the cost of living in the different regions of the country. National Minimum Wage Commission periodically determines the minimum wage rate in accordance with the law. The minimum wage rate has been set differently for different sectors of economy. Minimum wage rate may also be set by collective agreement between the parties, provided that the wages cannot be lower than the minimum wage fixed by National Wage Commission. National Minimum Wage Commission, composed of representatives from worker, employer and government organizations (Ministry of Labour, Ministry of Industry & Commerce, Ministry of Finance, and Nicaraguan Central Bank), is charged with the responsibility of adjusting minimum wage rate. A resolution passed by the Commission has legal force once it is signed by representatives of workers, employers and Ministry of Labour.

Minimum wage should be sufficient enough to fulfill the basic needs of average workers and their families. Other factors that are considered while determining the minimum wage include cost of living (a representative basket of 53 food products, that fulfill the basic needs of workers and their families, is taken into account), level of wages in the country, social security benefits, economic development, productivity of the country and the inflation rate officially provided by the Nicaraguan Central Bank. The lowest minimum wage is in the agriculture sector while the highest is in the financial and insurance sector.

Minimum wage rates are adjusted every 6 months according to the particularities of each economic sector. The sectors include agriculture; fishing; mining and quarrying; manufacturing; micro and small cottage industry and national tourism; electricity, gas and water, trade, restaurants and hotels, transport, storage and communications; construction, financial institutions and insurance; social and personal community services; central and municipal Government.

This fixation is made per unit of time or per piece-rate, and may be calculated on hourly, daily, weekly, fortnightly or monthly basis.

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Compliance with labour laws including minimum wage is ensured by the labour inspection system, i.e., the General Directorate of Labour Inspection. The Directorate may impose fines, depending on the seriousness of offence committed by the employer, ranging from five to twenty times the minimum wage rate for the slightest offences and forty to eighty times the minimum wage for most serious offences. In accordance with the minimum wage law, violation of minimum wage by employers will be punished by a minimum fine equivalent to 25% of the amount of payroll at the time of offence. Other than fine, workers also need to be paid their overdue wage by the employer.

Source: §82 of the Constitution of Nicaragua; §85 of the Labour Code 1996; §2, 4 & 8 of the Minimum Wages Act No. 625 of 2007; §57 of the Law No. 664 of 2008 on Labour Inspection

Regular Pay

Labour Code defines wage as the remuneration which the employer shall pay to the employee by virtue of the employment contract or labour relation. Pay period can't exceed 07 days (one week) for workers and 15 days for employees.

Wages must be paid in legal tender (Cordoba) at the workplace, in compliance with the amount and date of payment as established in the labor agreement. Payment cycle varies for different types of workers, in the following manner:

- Manual workers (agricultural workers, construction workers, textile workers, etc.) are paid on weekly basis;
- Intellectual workers are paid fortnightly (every 15th day); and
- Domestic workers are paid monthly.

Government employees are paid on monthly basis to avoid the complexity in processing the payroll. In kind allowances or the compensation with goods or other means of payment are not permitted. However in some cases, such as for domestic workers or agricultural workers, in kind-allowances may be accepted as a part of the remuneration.

In the event of delayed payment of wages for reasons attributable to the employer, the employee may receive for each of the two weeks subsequent to the date of payment, a tenth of what was due per week until the actual pay day.

Source: §86 & 146 of the Labour Code 1996

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02/13 Compensation

Regulations on compensation:

Labour Code (Codigo del Trabajo), No. 185 (1996)

Overtime Compensation

Normal working hours are 8 hours a day and 48 hours a week. Working hours refers to the time the worker is at the employer's disposal, and carrying out his obligations. Any work carried out exceeding the normal working hours and any work performed on a weekly rest day or public holiday is considered as overtime. However, any work carried out to correct any errors attributable to the worker is not included in overtime.

In accordance with the Labour Code, if a worker works beyond the stipulated working hours, i.e., 8 hours a day and 48 hours a week, he/she is entitled to an overtime premium of 100% over and above the rate of his ordinary pay (200% of the normal wage rate for overtime hours). The total amount of overtime hours cannot exceed 3 hours a day and 9 hours a week. The daily and weekly limits for dangerous and unhealthy work, night work, and mixed schedule (day and night time) are as follows:

- Dangerous and unhealthy work: 6 hours daily and 36 hours weekly limit
- Night Work: 7 hours daily and 42 hours weekly limit
- Mixed (Day and Night time): 7.5 hours daily and 45 hours weekly limit
- The hours of work for young workers can't exceed 36 hours per week.

The worker and the employer may agree to extend the worker's daily hours by a maximum of two hours in order to allow the worker to enjoy an additional day or partial day of weekly rest.

Workers are not obliged to perform overtime, unless in the social interest or force majeure. Normal hours of work can be continuous or divided into two or more working periods with rest periods in between. The parties may, within the legal limits, freely schedule the time relative to working time; daily hours of work, breaks, shifts and holidays, taking into account the nature and the urgency of the work among other factors.

Source: §82(5) of the Constitution of Nicaragua; §49, 51-63 & 169 of the Labour Code 1996

Night Work Compensation

Night work is the work performed during 20:00 and 06:00 of the following day. However, the night workers have to work only for 7 hours per day and 42 hours per week. There is no provision in the law that requires an employer to make premium payment to the night workers.

Source: §51 of the Labour Code 1996

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Compensatory Holidays / Rest Days

No provision could be identified in laws which require an employer to provide compensatory rest day for working on weekly rest day or public holiday, especially when workers have been paid at a premium rate for working on these days.

Weekend / Public Holiday Work Compensation

Workers may be required to work on weekly rest days and public holidays. In such circumstances when employees have to work on official holidays and weekly rest day, they are entitled to receive wages at a premium rate of 200% of the normal hourly wage rate.

Source: §65 & 68 of the Labour Code 1996

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03/13 Annual Leave & Holidays

Regulations on annual leave and holidays:

Labour Code (Codigo del Trabajo), No. 185 (1996)

Paid Vacation / Annual Leave

The Labour Law provides annual leave to all workers on completion of 6 months of continuous service with the same employer. An employee is entitled to 15 continuous days of paid annual leave. This law does not indicate whether paid annual leave increases with the length of service. However, after one year of service, an employee is eligible for 30 days of paid annual leave.

Annual leave is fully paid in correspondence to the last ordinary wage. If earnings are variable, the payable amount for annual leave corresponds to the average earnings of the last 6 months. It is a duty of the employer to schedule the annual holidays and inform the workers accordingly. However, in the interest of the employer or the worker or in cases of seasonal work, the period of annual leave may be scheduled in a period different to the previously fixed.

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.

Source: §76-78 of the Labour Code 1996

Pay on Public Holidays

Workers are entitled to paid holidays during Festival (public and religious) holidays. These are 09 in number. Public holidays include; New Year's Day (January 01), Holy Thursday (April 17), Good Friday (April 18), Labour Day (May 01), Festival of Santo Domingo (August 01), Nicaragua Independence Day (September 15), Battle of San Jacinto (September 16), Immaculate Conception (December 08), and Christmas Day (December 25).

Source: §66 of the Labour Code 1996

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.. If a worker has to work on weekly holiday; he/she is entitled to receive his/her wages at a premium rate of 200% of the normal wage rate.

The worker and the employer may agree to extend the worker's daily hours in a maximum of two hours in order to allow the worker to enjoy an additional day or partial day of weekly rest.

Source: §63-65 of the Labour Code 1996

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04/13 Employment Security

Regulations on employment security:

Labour Code (Codigo del Trabajo), No. 185 (1996)

Written Employment Particulars

In accordance with the Nicaraguan Labor Code, an individual employment contract is the written or verbal agreement between an employee and employer whereby a labor relation is established in order for the employee to execute a function or render a service.

Employment contracts can be both written and oral. Verbal contracts are allowed only in agricultural work; housekeeping work; and temporary work that do not exceed 10 days. In the case of oral contract, an employee must be provided with a record of employment containing date of commencement of employment relationship, service to be provided and agreed wage rate.

Contract of employment may be concluded for a fixed term or for an indefinite term. A written employment contract must be written in Spanish, drawn up in duplicate and signed by both parties. These copies are then submitted to the Ministry of Labour for certification. It must contain the following information: identity of the parties; job description and workplace; daily and weekly hours of work; duration of contract (contract type); amount of remuneration and payment intervals; and place and date of signing the contract.

Source: §19-25 of the Labour Code 1996

Fixed Term Contracts

Nicaraguan labour Law allows hiring fixed term contract workers for tasks of permanent nature. Labour Code does not mention the maximum term of a fixed term contract however these fixed-term contracts may be extended twice in succession. After the second extension, the contract is considered indefinite, regardless of the duration of each extension.

Source: §27 of the Labour Code 1996

Probation Period

In accordance with the Labour Code, probation/trial period cannot exceed 30 days for contracts of indefinite duration. Either party can terminate the employment contract without giving any notice during the probationary period specified in the contract.

Source: §28 of the Labour Code 1996

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Notice Requirement

An employment contract can be terminated on expiry of the agreed terms, by the mutual agreement, death or incapacity, convicting sentence or employee's imprisonment, court order, act of God, or force majeure that brings the shutting down of the company as a consequence, and retirement.

Labour law requires an employee to tender a resignation notice 15 days before submitting his resignation. However, there is no clear indication whether the same condition applies on an employer wishing to terminate an employee. Agricultural workers may verbally notify the employer in the presence of two witnesses.

In case of wrongful termination, the worker can request reinstatement before the Labour Ministry. Upon order of reinstatement, the employer not only has to allow it but also he/she has to pay the wages that were not received while the employee was not working. In case of non-compliance, the employer has to pay 200% of the indemnification for seniority. Dismissed workers who are qualified as "trusted employees" are not reintegrated into their jobs.

Source: §41, 44 & 46-47 of the Labour Code 1996

Severance Pay

The Labor Code provides severance pay regardless of the cause for termination, whether by mutual consent or resignation. At the end of a service, an employer is obliged to pay following to the worker:

- (i) Vacations: the vacations are paid in conformity with the last salary earned by the worker. In case of variable salary, it will be necessary to pay in conformity to the average of the ordinary salary of last six months.
- (ii) Thirteenth month salary, usually paid at the end of every one year of service.

If an employer terminates the employment contract for an indefinite period without any just cause, he/she has to pay the worker compensation equivalent to:

- (i) One month's salary for each of the first three years of work;
- (ii) Twenty days' wages for each year of work from the fourth year.

This compensation cannot be less than 01 month or more than five months.

Source: §42-45 of the Labour Code 1996

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05/13 Family Responsibilities**Regulations on family responsibilities:**

Family Code, Law No. 870

Paternity Leave

Paid paternity leave of 05 calendar days is provided to the father on birth of a child without any loss of social benefits.

Source: §79 of the Family Code, Law No. 870

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.

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06/13 Maternity & Work

Regulations on maternity and work:

Labour Code (Codigo del Trabajo), No. 185 (1996)

Social Security Law, Decree No. 974

Free Medical Care

Insured pregnant workers receive maternity related (pre-natal, confinement and post-natal) care for unlimited duration. Women get entitled to medical benefits after at least eight weeks of contribution in the last 22 weeks; contribution is not required for an old-age pensioner.

Source: §89 of the Social Security Law Decree No. 974, ISSA Country Profile

No Harmful Work

Labor Code prohibits women workers from taking work that is detrimental to their health. Furthermore, it does not allow an employer to provide a task to pregnant workers that may affect the healthy progression of her pregnancy.

Source: §140 of the Labour Code 1996

Maternity Leave

Female employees are entitled to a maximum of twelve weeks of maternity leave with full pay on provision of medical certificate indicating the expected date of confinement. The Ministry of Health enacts this certificate without any charges. Maternity leave includes compulsory 04 weeks of pre-natal and 08 weeks of post-natal leave.

Maternity Leave is extended up to 14 weeks (02 additional weeks) in the case of multiple births. In the case of miscarriage, stillbirth or other abnormal confinement, the woman worker shall be entitled to paid leave in accordance with the requirements of the medical certificate.

Source: §141 of the Labour Code 1996, § 95-96 of the Social Security Law Decree No. 974

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Income

The maternity leave is fully paid after sixteen weeks of contributions in the 39 weeks before expected date of childbirth. The employer pays 40% of the maternity leave benefit and the remaining 60% is paid by the Social Security system. If a worker is not insured, 100% of the maternity leave benefit is paid by the employer.

Source: §95 of the Social Security Law Decree No. 974

Protection from Dismissals

It is illegal for an employer to dismiss a female employee during the term of her pregnancy or pre-natal or post-natal maternity leave, except for the valid reasons previously laid down by the Ministry of Labour.

Source: §144 of the Labour Code 1996

Right to Return to Same Position

In accordance with the Labour Code, once danger to the health of an employee subsides (after maternity leave) she is entitled to return to her previous job with the salary in force.

Source: §140 & 144 of the Labour Code 1996

Breastfeeding/ Nursing Breaks

Labour Code requires employers to provide nursing breaks, each of 15 minute duration, after every 3 hours of work to a new mother to breastfeed her child. It is the responsibility of the employer to provide appropriate place for breastfeeding workers. The age of child, till which these breaks are provided, is not clearly mentioned in the law.

Source: §143 of the Labour Code 1996

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07/13 Health & Safety

Regulations on health and safety:

Labour Code (Codigo del Trabajo), No. 185 (1996)

Law of Labour Inspection (Law No. 664, adopted on June 26, 2008)

General Law of Health and Safety at Work, No. 618, 2007

Employer Cares

The constitution of Nicaragua requires employer to provide work conditions that guarantee physical integrity, health, hygiene and the reduction of professional hazards to make effective the worker's occupational security.

In accordance with the Labor Code and Law No. 618, an employer is required to promote and maintain the highest degree of physical, mental and social health of workers in all activities; prevent health deterioration caused by working conditions; protect workers from risks arising from hazardous agents; locate and maintain workers in adequate conditions to safeguard their physiological and psychological health.

It is obligatory for an employer to adopt the necessary preventive measures to ensure effective and appropriate health and safety of workers; ensure prior employment medical examination and periodical medical examination of the workers exposed to specific risks; maintain first aid kit with adequate supplies; maintain toilets, changing rooms, closets, sinks, showers, provision of soap and toilet paper; provision and easy access of drinking water, dormitories, eating and resting areas. The employer must take appropriate preventive measures to avoid risks, assess risks which cannot be avoided, fight risks at source, adapt work to the individual workers, replace dangerous practices, take steps to ensure collective and individual protection, and provide workers with appropriate OSH information.

Source: §82 of the Constitution of Nicaragua; § 100-101 of the Labour Code 1996, § 18 of the General Law of Health and Safety at Work No. 618 of 2007

Free Protection

It is the responsibility of the employer to provide free protective equipment for specific risks to the workers and systematically monitor their usage. They must also maintain and replace personal protective equipment when necessary.

Source: §101 (d) & 103 of the Labour Code 1996; §18 of the General Law of Health and Safety at Work No. 618 of 2007

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Training

In accordance with the Labor Code and Law No. 618, it is the responsibility of an employer to provide training and information through OSH training programs in the workplace to ensure health and safety at work of his employees. It is a duty of an employer to develop OSH training programs that are related to the hazards assessment plan through the scheduling of these trainings in the annual plan of activities.

Source: §105 of the Labour Code 1996; §19-22 of the General Law of Health and Safety at Work No. 618 of 2007

Labour Inspection System

Labour Inspection system is working in the country as provided in Law of Labour Inspection, No. 618, 2007. The Ministry of Labour through General Directorate for Safety and Health is responsible for the intervention, monitoring and enforcement of OSH provisions.

Labour inspectors are authorized to advise and resolve matters concerning occupational safety and health; receive and process applications on OSH conditions; confirm, modify or cancel contested decisions; identify OSH violations and impose sanctions; promote participation in the development of safety and health activities; conduct studies and research on identifying the causes of occupational diseases and accidents; and establish collaboration and assistance with domestic and foreign universities. The labour inspector may also develop national policies on OSH; regulations or instructions to prevent and control occupational hazards; and OSH training programs.

The national legislation provides inspectors the power to enter the work premises at any time ex-officio or upon request with or without prior authorization; carry out investigations; interview anyone; examine documents; gather evidence of all productive process; and take assistance of police to enter the workplace and fulfill their functions.

It is a duty of an inspector to provide technical advice concerning the most effective form to adapt technical provisions related to the control of risk factors. The inspector warns the employer about OSH issues noticed in order for him/her to take certain steps immediately or within certain time period to ensure compliance with the provisions relating to the safety and health of workers. The inspector also has the power to impose financial penalties and sanctions for violation of OSH legislation and to require the immediate cessation of dangerous work and machinery when there is an imminent or serious danger to the life or health of workers.

Source: §304-310 of the General Law of Health and Safety at Work No. 618 of 2007

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08/13 Sick Leave & Employment Injury Benefits**Regulations on sick leave & Employment Injury Benefits:**

Labour Code (Codigo del Trabajo), No. 185 (1996)

Law 776 of 2002

Social Security Law, Decree No. 974

Income

Paid sick leave is not clearly provided under the Labour Code. However, the Social Security Law allows payment of sickness benefit to the insured worker at a rate of 60% of the average earning in the last eight weeks for a period of 52 weeks.

An insured person is entitled to sickness benefit after at least eight weeks of contributions in the last 22 weeks. Sickness benefit is provided after a three-day waiting period (waived if hospitalized).

Source: §92-95 of the Decree No. 974 of the Social Security Law

Medical Care

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

Source: §89 of the Social Security Act; ISSA Country Profile

Job Security

Suspension is the temporary interruption in the execution of contract and legal relationship between the parties. An employment contract may be suspended for the following reasons;

- a) The worker's disability resulting from injury or illness up to a period not exceeding twelve months, until supervening disability is determined permanent total or partial.
- b) The common illness or non-occupational accident involving incapacity to work temporarily for a period of twenty-six weeks, renewable for twenty-six weeks.

Source: §35-37 of the Labour Code 1996

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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, pension is 50% of the former salary if the worker has no family and 60% otherwise.

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

In the case of temporary disability, 60% of average wages (in the last eight weeks) are paid until full recovery or certification of permanent disability.

In the case of fatal injury, dependents (widow/disabled widower/dependent) receive survivors' pension. The survivors' pension is 50% of the deceased's average earnings.

Source: §67-71 & 93 of the Social Security Act; ISSA Country Profile

Regulations on social security:

Social Security Law, Decree No. 974

Pension Rights

In accordance with the Social Security Law full pension is provided to a worker who must have attained 60 years of age (same for men and women) with at least 750 weeks of contributions. Retirement age may be decreased in case of marked physical or mental wear. Pensionable age is 55 years for miners and those in arduous work with at least 15 years of contributions, 55 years for teachers with at least 1,500 weeks of contributions (men) or 750 weeks of contributions (women).

Workers with average earnings of more than twice the minimum wage are paid at the rate of 40% of average earnings (37% in 2014) plus 1.365% (1.15% in 2014) for each additional 52-week period of contributions exceeding 150 weeks. Workers with earnings of up to twice the minimum wage are paid at the rate of 45% of average earnings plus 1.591% for each additional 52-week period of contributions exceeding 150 weeks. In case a worker has reached 60 years of age with at least 250 weeks but less than 750 weeks of contributions, he/she is entitled to a reduced pension. It is paid as a lump sum amount of 1,200 córdobas with 250 to 450 weeks of contributions; 2,000 córdobas with 451 to 600 weeks; and 2,800 córdobas with 601 to 749 weeks of contributions.

The pension is increased by 1% up to 5% for each 50-week period of contributions after age 60 till 65.

Source: §48-50 of the Social Security Law; ISSA Country Profile

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Dependents' / Survivors' Benefit

The Social Security Law provides survivor benefit to the dependents including widow, widower, children less than 15 years of age (age 21 if a student, no limit if disabled), and, if there are no other survivors, other dependent relatives older than age 60 or disabled. If a worker dies (if he has met the requirements of entitlement to old age or invalidity pension or was already getting it), his dependents are entitled to survivors' benefit.

Survivors' benefit is 50% of the deceased's pension and is paid to a widow aged 45 or older or disabled or to a widower aged 60 or older or dependent and disabled. Pension is also payable to a widow younger than age 45 for a limited period of two years or for as long as she is caring for a child receiving an orphan's pension. Each child under 15 or disabled of any age is entitled to orphan's pension equivalent to 25% of the deceased's pension. Pension is given to children until the age of 21 if they are students.

Pension of a widow ceases on remarriage or cohabitation and a lump sum is paid.

Funeral grant is paid if a deceased worker had at least four weeks of contributions in the 26 weeks before death. It is equal to the cost of the funeral or 50% of the deceased's monthly wage.

Source: §57-59 of the Social Security Law; ISSA Country Profile

Unemployment Benefits

There is no provision for unemployment benefit under Nicaraguan labor laws

Invalidity Benefits

The Social Security Law provides for invalidity benefit in the case of non-occupational accident/injury/disease resulting into permanent invalidity. Amount of invalidity pension is 50% if the worker has no family and 60% otherwise.

Source: §67 of the Social Security Act; ISSA Country Profile

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10/13 Fair Treatment**Regulations on fair treatment:**

The Constitution of Nicaragua, 1987

Labour Code (Codigo del Trabajo), No. 185 (1996)

Penal Code, Law 641, 2008

Equal Pay

In accordance with the article 82 of the Constitution, the principle of equal remuneration for work of equal value between men and women workers has to be respected and there cannot be any discrimination on the religious, political, racial, and sexual or any other basis. Labour code prohibits wage discrimination on the basis of age and nationality. Equal pay for equal amount of work, commensurate with work experience, academic background, and level of responsibility is a basic right of both men and women.

Source: §82 of the Constitution of Nicaragua 1987; §134 & 176 of the Labour Code 1996; §19 of the Law of Equal Opportunities

Sexual Harassment

In accordance with the Labor Code, employers are required to ensure that workers are not subjected to harassment or sexual blackmail and they are not subject to advantageous offers or threats of reprisals against another employee in order to force the victim to have sex.

Law prohibits sexual harassment and the convicted person face one to three year prison terms. If the victim is under the age of 18 years, additional penalty of three to five years' imprisonment applies.

Source: §17(p) & 18(l) of the Labour Code 1996; §174 of the Penal Code Law No. 641 of 2008

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Non-Discrimination

In accordance with the article 27 of the Constitution, there cannot be any discrimination on grounds of birth, nationality, political views, race, sex, language, religion, opinion, origin, economic or social condition.

Labour code prohibits discrimination, in regard to wage payment, on religious, racial, political or gender grounds any other kind, which assures a consistent welfare with dignity human.

Decree No 11 of 2014 has detailed provisions on rights of persons with disabilities and requires employers to treat disabled workers on an equal level. The law also requires employers to adapt working conditions based on the needs of people with disabilities. The law further specifies that employment related measures (promotion, relocation, transfer and termination of employment) should be based on performance of individuals within the company regardless of disability.

Source: §27 of the Constitution of Nicaragua 1987; Preliminary Title XIII of the Labour Code 1996; Decree No 11 of 2014 on Rights of Persons with Disabilities

Equal Choice of Profession

In accordance with the Constitution of Nicaragua, "All Nicaraguans have the right to freely elect and exercise their profession or trade and to choose their place of work with no other requisites than a school degree and that the work serves a social purpose". Employers are under obligation to respect the right to free choice of profession or occupation and not require or accept any kind of payment to employ the worker or engage in practices that restrict or exclude the possibilities placement of workers. Women can work in the same industries as men. No restriction could be located in the labour laws.

Source: §86 of the Constitution of Nicaragua 1987; §17(b) of the Labour Code 1996

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11/13 Minors & Youth

Regulations on minors and youth:

Labour Code (Codigo del Trabajo), No. 185 (1996)

Minimum Age for Employment

Minimum age for employment is 14 years. Children between the ages of 14 to 16 years must have parental or legal representative's permission, under the supervision of the Ministry of Labour, to engage in work. Minors are prohibited from work that interfere with their schooling or endanger their health and safety such working in mines, garbage dumps, and night entertainment venues.

Constitution guarantees free primary and basic education. The compulsory education age is 12 years.

Source: §121 of the Constitution of Nicaragua 1987; §131-132 of the Labour Code 1996; §73 of the Childhood and Adolescence Code, 1998 (Law No. 287); §8, 19 & 23 of the General Education Law, 2006 (No. 582)

Minimum Age for Hazardous Work

Minimum Age for Hazardous Work is set as 18 years. The Constitution of Nicaragua prohibits employment of young workers in tasks that can affect their normal development or their obligatory instruction cycle. Children and adolescents must be protected against any form of economic and social exploitation.

Employment of young workers (14-18 years) is prohibited in work which by its nature or the circumstances in which it is performed damages their physical or mental development, moral or spiritual conditions, hinders their education, family unit or integral development. These works include "work performed in unhealthy places, mines, underground and dumps; work involving the handling of toxic substances; work in night clubs; work performed underground, under water or at dangerous heights; or in confined spaces; work with dangerous machinery. Acuerdo Ministerial JCH-08-06-10 of 2010 prescribes a large number of hazardous occupations in which employment of young person is prohibited.

Young workers are paid equally as the other workers for equal amount of work. The employer must provide working conditions that guarantee physical security, physical and mental health, hygiene and protection against occupational hazards. Working hours of young workers must not exceed 06 hours per day and 30 hours per week. Violation of young worker's rights leads to financial penalties.

Source: §84 of the Constitution of Nicaragua 2005; §132-135 of the Labour Code 1996; Acuerdo Ministerial JCH-08-06-10 of 2010; §74 of the Childhood and Adolescence Code, 1998 (Law No. 287)

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12/13 Forced Labour

Regulations on forced labour:

The Constitution of Nicaragua, 1987

Labour Code (Codigo del Trabajo), No. 185 (1996)

Prohibition on Forced and Compulsory Labor

The Constitution of Nicaragua prohibits slavery, indentured servitude, and forced/compulsory labour.

Rights of the victims of human trafficking must be protected without any discrimination on the basis of ethnicity, gender, age, language, religion, disability, sexual orientation, political opinions, national origin, economic status, social status, immigration status or any other condition. This Law (Law Against Trafficking in Persons No. 896) covers labour exploitation (endangering the physical and emotional integrity of any person) and forced labour (work or service exacted from a person under any threat) as well as other forms of exploitation related to human trafficking. The punishment for crime of trafficking including related to forced labour is prescribed under the law.

Source: §40 of the Constitution of Nicaragua 1987; §61-63 of the Law Against Trafficking in Persons, 2015 (No. 896)

Freedom to Change Jobs and Right to Quit

According to the Nicaraguan constitution, every citizen has a right to freely elect and exercise their profession or trade and to choose their place of work with no other requisites than a school degree and that the work serves a social purpose.

Labour law states that workers have the right to change jobs after serving due notice on their employer. For more information on this, please refer to the section on employment security.

Source: §86 of the Constitution of Nicaragua 1987; §44 of the Labour Code 1996

Inhumane Working Conditions

Working time may be extended beyond normal working hours of forty eight hours per week and eight hours a day. However, total hours of work inclusive of overtime must not exceed eleven hours a day. Working hours may not exceed 3 hours a day and 9 hours a week.

For more information on this, please refer to the section on compensation.

Source: §62 of the Labour Code 1996

Regulations on trade unions:

Constitution of Nicaragua, 1987

Labour Code (Codigo del Trabajo), No. 185 (1996)

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. This right is regulated by the labour code. The constitution of Nicaragua allows workers to associate freely and form union for their choice according to their social and economic activities. The Labor Code recognizes the constitutional right of employees and employers to form unions, which may in turn join federations and confederations. The Labor Code establishes all the requirements, benefits, obligations, and prohibitions of these unions and strongly punishes anti-union practices within a company.

The minimum membership requirement for forming a union is 20 workers. These members are free to elect their representatives and formulate their work program. They may draw up their own statutes, administrative regulations, and choose their organisational structure, management and activities as long as these are not contrary to laws in effect and public order.

The unions must get registered with the Labour Ministry by filing their charter, statutes and other required documents. The Directorate of Trade Unions in the Labour Ministry registers the trade union within ten days from the date of submission of the required documents.

Employer may deduct union dues from the wages of the members who voluntarily authorize this.

Source: §87 of the Constitution of Nicaragua 1987; §203-213 & 224 of the Labour Code 1996

Freedom of Collective Bargaining

Right to collective bargaining is recognized by constitution and the law. Collective agreement is the agreement in writing between an employer or group of employers and one or more workers' organizations with legal personality. The objectives of the collective agreements are, inter alia, establish general working conditions, the right to develop the participation of workers in management of the company and have the improvement and implementation of reciprocal rights and obligations. 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, it cannot be enforced.

The provisions of CBA are applicable to people of all the categories who work in the company, business or property, whether or not union members.

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The collective agreement become effective from the date of signature and its copies are given to each party and the Ministry of Labour, for record keeping. The collective agreement contains the identification of the parties, companies or institutions and categories of employees comprising the rights and obligations of the parties and the duration of the collective agreement, which must not exceed two years.

The collective agreement may be reviewed before the end of the period of its validity at the request of either party if substantial changes in the socio-economic conditions of the company or the country occur. In case CBA is not revised at the end of its period, it is deemed to be extended for a period equal to its validity.

The dissolution of unions or subscribers of the collective agreement, or replacement by another subscriber employer, do not affect the obligations and rights under the collective agreement in other companies and institutions within the scope of the collective agreement, which remains in effect in them.

National Minimum Wage Commission, composed of representatives from worker, employer and government organizations (Ministry of Labour, Ministry of Industry & Commerce, Ministry of Finance, and Nicaraguan Central Bank), is charged with the responsibility of adjusting minimum wage rate. A resolution passed by the Commission has legal force once it is signed by representatives of workers, employers and Ministry of Labour. The Minimum Wage Law provides for a National Minimum Wage Commission (a tripartite body) which has the functional autonomy to set the minimum wage while taking into account a basket of 53 basic products which are calculated and adjusted by the Ministry of Health, Nicaraguan Social Security Institute and National Institute of Development Information. The Commission may require and receive all necessary information from Central Bank of Nicaragua, Ministry of Finance, and Ministry of Labour for adjusting the minimum wage. The Commission is also required to oversee the implementation of minimum wage agreements, automatically adjust the minimum wage rate on the basis of loss in purchasing power indicated by semi-annual inflation rate announced by Central Bank, and ensure the minimum wage agreements are effectively enforced. It is also authorized to complain to the authorities if infringements are found.

Nicaragua also has a National Council of Economic and Social Planning which works as an advisory body on social and economic issues including labour relations, productivity, economic growth, and social dialogue. The Council, formed in 1999 through a Presidential Decree, has 100 members (55 regular or titular members and 45 substitute members). The members include representatives of trade unions, employers from various productive sectors, journalists, women rights organizations, non-governmental organizations, political parties and other civil society organizations.

Source: §88 of the Constitution of Nicaragua 1987; §235-242 of the Labour Code 1996; §5-11 of the Minimum Wages Act No. 625 of 2007

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Right to Strike

Right to strike is guaranteed under the constitution and only reasonable restrictions are placed on the right to strike by the Labour Code.

Strike is the collective suspension of work, agreed, implemented and maintained by the majority of the workers in a labor dispute for improving or defending their rights against the employer, working conditions, adequate treatment in labor relations, negotiation, everything concerning the collective labor agreement and overall economic and social interests.

Peaceful strike is allowed only after all the methods of dispute resolution (negotiation, conciliation and arbitration) have failed. The right to strike in public services or of public interest may not extend to situations that endanger the life or safety of persons.

Employer may declare the strike illegal if it does not comply with the law. In this case, the Inspector General of Labour, in the same statement, fixes a period of not less than forty-eight hours for the workers to resume their duties.

Otherwise, the employer may terminate the employment contracts of those who continue to strike. New contracts signed by the employer can not contain employment conditions which are lower than of the workers engaged prior to strike.

The employer is prohibited from hiring new workers during strike period. Employment contract of a striker suspends during the strike period.

Source: §83 of the Constitution of Nicaragua 1987; §244 & 249 of the Labour Code 1996

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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)

Nicaragua has ratified the Conventions 95, 117 & 131.

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)

Nicaragua has ratified Convention 01 only.

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.

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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.

Nicaragua 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

Nicaragua 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).

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

Convention 156: Workers with Family Responsibilities Convention (1981)

Recommendation 165: Workers with Family Responsibilities (1981)

Nicaragua has not ratified both 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.

Nicaragua has not ratified both Conventions 103 & 183.

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.

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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)

Nicaragua has not ratified both Conventions 81 & 155.

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

Nicaragua 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.

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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).

Nicaragua has not ratified any of the Conventions mentioned above.

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.

Nicaragua 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.

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

Minimum Age: Convention 138 (1973)

Worst Forms of Child labour: Convention 182 (1999)

Nicaragua 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.

Nicaragua has ratified both Conventions 29 & 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)

Nicaragua 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.

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About Decent Work and Decent Work Check

Compare your own situation with the international labour standards and how they are applied in Nicaragua. 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.

WageIndicator.org and Iftikhar Ahmad

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