BENIN

Decent Work Check 2019

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WageIndicator started in 2001 to contribute to a more transparent labour market for workers and employers by publishing easily accessible information on a website. It collects, compares and shares labour market information through online and face-to-face surveys and desk research. It publishes the collected information on national websites, thereby serving as an online library for wage information, labour law, and career advice, both for workers/employees and employers. The WageIndicator websites and related communication activities reach out to millions of people on a monthly basis. The WageIndicator concept is owned by the independent, non-profit WageIndicator Foundation, established in 2003. The Foundation has offices in Amsterdam (HQ), Ahmedabad, Bratislava, Buenos Aires, Cape Town, Islamabad and Venice.

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Bibliographical information


For an updated version in the national language, please refer to https://votresalaire.org/benin

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INTRODUCTION

Decent Work is the type of work for which all of us aspire. It is done under conditions where people are gainfully employed (and there exist adequate income and employment opportunities); social protection system (labour protection and social security) is fully developed and accessible to all; social dialogue and tripartism are promoted and encouraged; and rights at work, as specified in ILO Declaration on Fundamental principles and Rights at Work and Core ILO Conventions, are practiced, promoted and respected.

WageIndicator Foundation has been working, since late 2007, to raise awareness on workplace rights through a unique tool, i.e., Decent Work Check. The Decent Work Check considers different work aspects, which are deemed important in attaining "decent work". The work makes the rather abstract Conventions and legal texts tangible and measurable in practice.

The Decent Work Check employs a double comparison system. It first compares national laws with international labour standards and gives a score to the national regulations (happy or sad face). If national regulations in a country are not consistent with ILO conventions, it receives a sad face and its score decreases (and vice versa). It then allows workers to compare their on-ground situation with national regulations. Workers can compare their own score with national score and see whether their working conditions are consistent with national and international labour standards. The Check is based on de jure labour provisions, as found in the labour legislation.

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 even labour inspectors are not, sometimes, fully aware of 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).

The work is relevant to the challenges posed to the future of work especially the effective enforcement of legislation in financially constrained states, rise of precarious employment and measuring the impact of regulatory regimes.

Currently, there are more than 100 countries for which a Decent Work Check is available here: www.decentworkcheck.org During 2019, the team aims to include at least 10 more countries, thus taking the number of countries with a Decent Work Check to 115!
Major Legislation on Employment and Labour

3. General Collective Labour Agreement, 2005
ILO Conventions

Minimum wage: Convention 131 (1970)
Regular pay & wage protection: Conventions 95 (1949) and 117(1962)

Benin has ratified the Convention 95 only.

Summary of Provisions under ILO Conventions

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. Wages must be paid regularly on a daily, weekly, fortnightly or monthly basis.
Regulations on work and wages:
- Constitution of the Republic of Benin 1990
- 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.


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.

The text in this document was last updated in March 2019. For the most recent and updated text on Employment & Labour Legislation in Benin in French, please refer to: https://votresalaire.org/benin
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 favourable 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.

02/13  COMPENSATION
Regulations on compensation:
- 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.


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

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
03/13 ANNUAL LEAVE & HOLIDAYS

The text in this document was last updated in March 2019. For the most recent and updated text on Employment & Labour Legislation in Benin in French, please refer to: https://votresalaire.org/benin
Regulations on annual leave and holidays:
  - 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
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
04/13 EMPLOYMENT SECURITY

The text in this document was last updated in March 2019. For the most recent and updated text on Employment & Labour Legislation in Benin in French, please refer to: https://votresalaire.org/benin
**Regulations on employment security:**
- 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.


**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.


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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.


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.
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 labourers; 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.


**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
Regulations on family responsibilities:
- 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.
06/13  MATERNITY & WORK

The text in this document was last updated in March 2019. For the most recent and updated text on Employment & Labour Legislation in Benin in French, please refer to: https://votresalaire.org/benin
Regulations on maternity and work:
- 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.


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.


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.


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.

**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.


**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.


**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.

07/13 HEALTH & 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.


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 Arreté 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.

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.


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 counselling and vocational training and social security, in the functions of policy-making, counselling, 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 labour 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 labour inspector may initiate prosecution without giving notice.

08/13 SICK LEAVE & EMPLOYMENT INJURY BENEFIT
Regulations on sick leave & Employment Injury Benefits:

- 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 non-alcoholic 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.


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.

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.
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

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.
Regulations on fair treatment:

- 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.


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.


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).

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.

11/13 MINORS & YOUTH
Regulations on minors and youth:

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.


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.

The text in this document was last updated in March 2019. For the most recent and updated text on Employment & Labour Legislation in Benin in French, please refer to: https://notresalaire.org/benin
Compulsory education age is 11 years and any employment which impedes a child’s education is prohibited and punishable by law.

12/13 FORCED LABOUR
Regulations on forced labour:
- Constitution of the Republic of Benin, 1990

Prohibition on Forced and Compulsory Labour

Labour Code prohibits forced/compulsory labour. Forced labour 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.


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.


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.

TRADE UNION
Regulations on trade unions:
- Constitution of the Republic Of Benin, 1990

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)


Freedom of Collective Bargaining

Right to collective bargaining is recognized by Labour Code. The collective labour 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 labour. 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.


**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 labour 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. Law 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.

### 01/13 Work & Wages

<table>
<thead>
<tr>
<th></th>
<th></th>
<th>NR</th>
<th>Yes</th>
<th>No</th>
</tr>
</thead>
<tbody>
<tr>
<td>1.</td>
<td>I earn at least the minimum wage announced by the Government</td>
<td>😊</td>
<td>☐</td>
<td>☐</td>
</tr>
<tr>
<td>2.</td>
<td>I get my pay on a regular basis. (daily, weekly, fortnightly, monthly)</td>
<td>😊</td>
<td>☐</td>
<td>☐</td>
</tr>
</tbody>
</table>

### 02/13 Compensation

<table>
<thead>
<tr>
<th></th>
<th></th>
<th>NR</th>
<th>Yes</th>
<th>No</th>
</tr>
</thead>
</table>
| 3. | Whenever I work overtime, I always get compensation  
(Overtime rate is fixed at a higher rate) | 😊 | ☐ | ☐ |
| 4. | Whenever I work at night, I get higher compensation for night work | 😊 | ☐ | ☐ |
| 5. | I get compensatory holiday when I have to work on a public holiday or weekly rest day | 😊 | ☐ | ☐ |
| 6. | Whenever I work on a weekly rest day or public holiday, I get due compensation for it | 😊 | ☐ | ☐ |

### 03/13 Annual Leave & Holidays

<table>
<thead>
<tr>
<th></th>
<th></th>
<th>NR</th>
<th>Yes</th>
<th>No</th>
</tr>
</thead>
<tbody>
<tr>
<td>7.</td>
<td>How many weeks of paid annual leave are you entitled to?*</td>
<td>😊</td>
<td>☐</td>
<td>☐</td>
</tr>
<tr>
<td>8.</td>
<td>I get paid during public (national and religious) holidays</td>
<td>😊</td>
<td>☐</td>
<td>☐</td>
</tr>
<tr>
<td>9.</td>
<td>I get a weekly rest period of at least one day (i.e. 24 hours) in a week</td>
<td>😊</td>
<td>☐</td>
<td>☐</td>
</tr>
</tbody>
</table>

### 04/13 Employment Security

<table>
<thead>
<tr>
<th></th>
<th></th>
<th>NR</th>
<th>Yes</th>
<th>No</th>
</tr>
</thead>
<tbody>
<tr>
<td>10.</td>
<td>I was provided a written statement of particulars at the start of my employment</td>
<td>😊</td>
<td>☐</td>
<td>☐</td>
</tr>
</tbody>
</table>
| 11. | My employer does not hire workers on fixed terms contracts for tasks of permanent nature  
Please tick “NO” if your employer hires contract workers for permanent tasks | 😊 | ☐ | ☐ |
| 12. | My probation period is only 06 months | 😊 | ☐ | ☐ |
| 13. | My employer gives due notice before terminating my employment contract (or pays in lieu of notice) | 😊 | ☐ | ☐ |
| 14. | My employer offers severance pay in case of termination of employment  
Severance pay is provided under the law. It is dependent on wages of an employee and length of service | 😊 | ☐ | ☐ |

### 05/13 Family Responsibilities

<table>
<thead>
<tr>
<th></th>
<th></th>
<th>NR</th>
<th>Yes</th>
<th>No</th>
</tr>
</thead>
</table>
| 15. | My employer provides paid paternity leave  
This leave is for new fathers/partners and is given at the time of child birth | 😊 | ☐ | ☐ |
| 16. | My employer provides (paid or unpaid) parental leave  
This leave is provided once maternity and paternity leaves have been exhausted. Can be taken by either parent or both the parents consecutively | 😊 | ☐ | ☐ |
| 17. | My work schedule is flexible enough to combine work with family responsibilities  
Through part-time work or other flex time options | 😊 | ☐ | ☐ |

### 06/13 Maternity & Work

<table>
<thead>
<tr>
<th></th>
<th></th>
<th>NR</th>
<th>Yes</th>
<th>No</th>
</tr>
</thead>
<tbody>
<tr>
<td>18.</td>
<td>I get free ante and post natal medical care</td>
<td>😊</td>
<td>☐</td>
<td>☐</td>
</tr>
<tr>
<td>19.</td>
<td>During pregnancy, I am exempted from nightshifts (night work) or hazardous work</td>
<td>😊</td>
<td>☐</td>
<td>☐</td>
</tr>
<tr>
<td>20.</td>
<td>My maternity leave lasts at least 14 weeks</td>
<td>😊</td>
<td>☐</td>
<td>☐</td>
</tr>
</tbody>
</table>

*On question 7, only 3 or 4 working weeks is equivalent to 1 “YES”. 
21. During my maternity leave, I get at least 2/3rd of my former salary
22. I am protected from dismissal during the period of pregnancy
   Workers can still be dismissed for reasons not related to pregnancy like conduct or capacity
23. I have the right to get same/similar job when I return from maternity leave
24. My employer allows nursing breaks, during working hours, to feed my child

### 07/13 Health & Safety

25. My employer makes sure my workplace is safe and healthy
26. My employer provides protective equipment, including protective clothing, free of cost
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
28. My workplace is visited by the labour inspector at least once a year to check compliance of
   labour laws at my workplace

### 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
30. I have access to free medical care during my sickness and work injury
31. My employment is secure during the first 6 months of my illness
32. I get adequate compensation in the case of an occupational accident/work injury or
   occupational disease

### 09/13 Social Security

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

### 10/13 Fair Treatment

37. My employer ensure equal pay for equal/similar work (work of equal value) without any
   discrimination
38. My employer take strict action against sexual harassment at workplace
39. I am treated equally in employment opportunities (appointment, promotion, training and
   transfer) without discrimination on the basis of:

   - Sex/Gender
   - Race
   - Colour
   - Religion
   - Political Opinion

* For a composite positive score on question 39, you must have answered “yes” to at least 9 of the choices.
<table>
<thead>
<tr>
<th>Question</th>
<th>Selection</th>
</tr>
</thead>
<tbody>
<tr>
<td>Nationality/Place of Birth</td>
<td>☒</td>
</tr>
<tr>
<td>Social Origin/Caste</td>
<td>☒</td>
</tr>
<tr>
<td>Family responsibilities/family status</td>
<td>☒</td>
</tr>
<tr>
<td>Age</td>
<td>☒</td>
</tr>
<tr>
<td>Disability/HIV-AIDS</td>
<td>☒</td>
</tr>
<tr>
<td>Trade union membership and related activities</td>
<td>☒</td>
</tr>
<tr>
<td>Language</td>
<td>☒</td>
</tr>
<tr>
<td>Sexual Orientation (homosexual, bisexual or heterosexual orientation)</td>
<td>☒</td>
</tr>
<tr>
<td>Marital Status</td>
<td>☒</td>
</tr>
<tr>
<td>Physical Appearance</td>
<td>☒</td>
</tr>
<tr>
<td>Pregnancy/Maternity</td>
<td>☒</td>
</tr>
</tbody>
</table>

40. I, as a woman, can work in the same industries as men and have the freedom to choose my profession

11/13 Minors & Youth

41. In my workplace, children under 15 are forbidden
42. In my workplace, children under 18 are forbidden for hazardous work

12/13 Forced Labour

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

13/13 Trade Union Rights

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

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.

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.

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.