

DECENT WORK CHECK

BURUNDI 2023

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WageIndicator Foundation - www.wageindicator.org

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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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 practised, 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 deemed necessary in attaining “decent work”. The work makes the 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 scores 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. Finally, workers can compare their personal 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.

A Decent Work Check is beneficial 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 helpful for researchers, labour rights organisations conducting surveys on the situation of rights at work and the general public wanting to know more about the world of work. For example, WageIndicator teams worldwide 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 worker, self-employed, employee, employer, policymaker, 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, a rise in precarious employment and analysing the impact of regulatory regimes.

In 2023, the team aims to include at least 15 more countries, thus taking the number of countries with a Decent Work Check to 125!

MAJOR LEGISLATION ON EMPLOYMENT AND LABOUR

1. Constitution of the Republic of Burundi, 2018
2. Burundi Labour Code, 2020
3. Ministerial Order n. 650/11/88 30 April 1988
4. Ministerial Order n. 630/116, 9 May 1979
5. Ministerial Order n. 630/117, 9 May 1979
6. Ministerial Order n. 630/136, 12 July 1978
7. Decree n° 100/182, 17 July 2006
8. Ministerial Order n. 650/22, 17 February 1984
9. Ministerial Order n. 110/172, 18 November 1971
10. Social Security Code, 1999
11. Ministerial Order n. 650/287, 7 November 1985
12. Ministerial Order n. 630/1, 5 January 1981

01/13 WORK & WAGES

ILO Conventions

Minimum wage: Convention 131 (1970)

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

Burundi has not ratified the Convention 95, 117 and 131.

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:

- Burundi Labour Code, 2020
- Ministerial Order n. 650/11/88 30 April 1988; Ministerial Order n. 630/116, 9 May 1979; Ministerial Order n. 630/117, 9 May 1979 Ministerial Order n. 630/136, 12 July 1978

Minimum Wage

According to the new Labour Code, any worker hired under an employment contract or apprenticeship contract is entitled to a seniority bonus set by national or interprofessional collective agreements and a housing allowance. The salary is determined either by mutual agreement between the employer and the workers or by the order of the Minister in charge of Labour. After consulting the National Labour Council, the Minister's orders establish, after a maximum of four years, the wage zones and the guaranteed interprofessional minimum basic wages; the minimum increase for overtime work and night work, as well as for work performed during weekly rest days and holidays; and increase for seniority.

Minimum wage rates are determined and adjusted according to the cost of living and the current economic situation. The minimum wage has not been revised since 1988, and is too low to have practical application. Wages are particularly low in the public sector and there are large differences in wages for similar jobs in different ministries and parastatal institutions.

The implementation of minimum wage rates and other provisions of the Labour Code is the responsibility of the Labour and Social Security Inspectorate, which acts

under the authority of the Ministry of Labour. The new Labour Code provides for criminal provisions against employers who violate the provisions on payment of the legal minimum wage and pay workers in currency that is not legal tender must pay a fine of 100,000 to 300,000 Burundian francs.

Sources: §181-195 & 623 of the Labour Code, 2020

Regular Pay

In accordance with the Labour Code, wages must be paid in legal tender regularly at the time and at agreed location. Amount of remuneration must not be less than the minimum wage. Wages are paid directly to the worker unless he/she accepts otherwise.

The law also provides that wages may be transferred to a bank account or an approved financial institution indicated in writing by the worker.

The employer is under obligation to pay wages in cash on a working day.

Monthly payments must be made within eight days of the end of month for which salary is due. It is also the responsibility of the employer to pay agreed remuneration with regularity and punctuality. Wage period may be fixed on hourly, daily, weekly or monthly basis. If the employment of a worker is terminated by or on behalf of the employer, the outstanding wages are paid along with severance pay.

Payment, all or part, of wages in kind is prohibited. Also, payment of wages in a form of liquor or drugs is prohibited. Employer is not allowed to compel workers to spend their salary in a certain way.

Workers are entitled to the wages without any kind of deduction that involve direct or indirect payments by the worker. An employer should provide pay slips to all employees on each pay day. Payment must be recorded on a pay slip issued to the worker at time of payment.

Sources: §93, 191-204 of the Labour Code, 2020

02/13 COMPENSATION

ILO Conventions

Compensation overtime: Convention 01 (1919)

Night work: Convention 171 (1990)

Burundi has ratified the Convention 01 only.

Summary of Provisions under ILO Conventions

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, the overtime pay rate should not be less than one and a quarter-time (125%) of the regular rate.

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 the 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.

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

If a worker has to work during the weekend, he/she should thereby acquire the right to a rest period of 24 uninterrupted hours instead. Not necessarily at the weekend, but at least in the course of the following week. Similarly, if a worker has to work on a public holiday, he/she 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 away the right to a holiday/ rest.

Regulations on compensation:

- Burundi Labour Code, 2020
- Ministerial Order n. 650/11/88 30 April 1988; Ministerial Order n. 630/116, 9 May 1979; Ministerial Order n. 630/117, 9 May 1979 Ministerial Order n. 630/136, 12 July 1978

Overtime Compensation

In accordance with the Labour Code, the normal hours of work are 8 hours a day and 45 hours a week. In cases of emergency or extraordinary circumstances, employer has the right to extend working time to a limit of 15 hours per week, and 150 hours per year. If a worker works beyond the stipulated working hours, i.e., 8 hours a day and 45 hours a week, he/she is entitled to an overtime pay according to the following schedule:

- 135% of normal hourly rate for the first two overtime hours, i.e., 46th and 47th hour;
- 160% of normal hourly rate beyond the 48th hour.

Sources: §10 of the Ministerial Order n. 630/117 from 9 May 1979 on Application of Legal Work time, § 2 of the Ministerial Order n. 630/116, from 9 May 1979 on Extra Pay for Overtime Work, Night Work, Work on Weekly Rest Days and Work on Public Holidays

Night Work Compensation

In accordance with the Labour Code, night work is the work performed between 22:00 to 05:00 of the following day.

Labour Code requires employers to make premium payments to the night workers. According to the Ministerial Order n.

630/116, a worker employed during night hours, i.e., between 10 pm and 5 am, is paid at a premium rate of 135% of the normal hourly salary paid during weekday. If the night work is performed as overtime, it is paid 135% or 160% (depending upon the hour of overtime) of the normal wage rate for those night hours (which is 135% of the normal wage rate during the day).

Sources: §269 of the Labour Code 2020, §4 of the Ministerial Order n. 630/116

Compensatory Holidays / Rest Days

In Labour Code, there is no provision of compensatory rest day when a worker has to perform work on a weekly rest day or public holiday, but Ministerial Order n. 650/22, from 17 February 1984, provides a list of business categories where workers are entitled to compensatory rest day when working on weekly rest day or public holiday.

Source: §4 Ministerial orders n. 650/22 from 17 February 1984

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 during daytime on Public holidays or Sundays, they are entitled to receive wages at a premium rate of 200% of the normal hourly wage rate.

Source: §3 of the Ministerial Order n. 630/116, from 9 May 1979 on Extra Pay for Overtime Work, Night Work, Work on Weekly Rest Days and Work on Public Holidays

03/13 ANNUAL LEAVE & HOLIDAYS

ILO Conventions

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.

Burundi has ratified the Convention 14 only.

Summary of Provisions under ILO Conventions

An employee is entitled to at least 21 consecutive days of 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.

A worker should be entitled to paid leave during national and officially recognised public holidays.

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

Regulations on annual leave and holidays:

- Burundi Labour Code, 2020
- Decree n° 100/182, 17 July 2006
- Ministerial Order n. 650/22, 17 February 1984
- Ministerial Order n. 630/116, 9 May 1979

Paid Vacation / Annual Leave

Labour Law provides 20 days paid annual leave (one and two-thirds of a day for every month of service), after completion of 12 months of continuous service. Duration of annual leave is determined either by collective agreement or by the concerned Ministry after consulting the National Labour Council. Length of annual leave does not increase with the length of service. The period of leave is increased by at least one additional working day for every four years of service with the same employer or the employer for whom it is substituted.

Amount of benefit during annual leave is equal to the daily wage paid by the employer. However, the employer may not pay for circumstantial leave, unless the worker has already worked for 15 days at least. It is also obligatory for the employer to pay to the workers the amount in cash of the due in-kind payments, with the exception of furniture and accommodation. The benefits for the annual leaves are paid at the latest, the last working day before the beginning of the leave, whenever it is not a circumstantial leave.

The employer, in consultation with the worker and the enterprise council, determines the schedule of leave by taking into account the work requirements and worker's possibilities of rest. The annual leave may be split however its minimum

duration in one term can't be less than 6 continuous week days between two weekly rest days.

Workers are therefore informed at least 15 days in advance of the start of their annual leave. Workers have the right to accumulate annual leave for a period of two years.

Source: §289, 290-292, al.3 & 304 of the Labour Code 2020

Pay on Public Holidays

Workers are entitled to paid holidays during Festival (public and religious) holidays. These are usually 13 in number. These are New Year (January 01), Reconciliation Day (February 05), Commemoration of the Assassination of President Ntaryamira (April 06), Day of Ascension, Labour Day (May 01), Independence Day (July 01), Assumption Day (August 15), Commemoration of the Assassination of Prince Louis Rwagasore (October 13), Commemoration of the Assassination of President Ndadaye (October 21), All Saints Day (November 01), Christmas Day (December 25), and Eid-el-Fitr and Eid-el-Hajj (Muslim religious holiday dates depend on the sighting of moon).

Sources: Decree n° 100/182 from 17 July 2006 about Holidays

Weekly Rest Days

Labour Code provides for weekly rest. Workers are generally entitled to at least 24 consecutive hours of weekly rest. The weekly rest day is principally Sunday for all the workers. The new code strictly prohibits the employment of a worker on the weekly day of rest.

Source: §263 & 265 of the Labour Code 2020

04/13 EMPLOYMENT SECURITY

ILO Conventions

Convention 158 (1982) on employment termination

Burundi has not ratified the Convention 158.

Summary of Provisions under ILO Convention

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.

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

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

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

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).

Regulations on employment security:

- Burundi Labour Code, 2020

Written Employment Particulars

The contract of employment is any agreement, written or verbal, by which a person (worker) agrees to provide another person (employer) manual or intellectual work, under the direction and the direct or indirect authority of it and for wages or other compensation.

In order to be valid, its formation must comply with the provisions relating to the consent and capacity of the parties to contract, as well as the object and cause of the contract.

According to the new code, the normal and general form of the employment relationship is the contract for an indefinite period. The fixed-term contract is concluded for specific and non-durable tasks.

Employment contracts are drawn up in one of the official languages understood by the worker and must be drawn up in writing in two copies. Nevertheless, the Code specifies that the employer cannot oppose the absence of a written contract if there are relevant indications indicating the presumption of the existence of an employment relationship.

Thus, the information relating to any hiring or termination of the contract is given to the competent service, except for daily workers.

The new code brings an innovation by providing for special provisions for certain workers and certain activities that were

not regulated in the old code. These include foreign workers and workers who are nationals of the East African Community; temporary employment contracts concluded with a temporary employment company; subcontracting contracts; work-for-hire contracts; home-based employment contracts; part-time employment contracts; employment contracts for displaced workers; temporary workers; daily workers; and seasonal workers.

Employment contracts are concluded in writing except for daily workers. An employment contract may be of definite or indefinite duration. An employment contract without the express clause on its length is an indefinite contract. If a worker keeps working at the end of a definite contract, it turns into an indefinite contract.

All labour contracts must include the following: worker and employer name; worker's date and place of birth; nationality of the worker; the composition of the worker's family; the trade or profession of the worker; the place and residence of the worker at the time of the conclusion of the contract; the date of the commitment; the duration of employment contract; the nature of work to be performed; workplace; the details about wages, basic salary, bonuses and various allowances, family benefits, benefits in kind; special conditions of the contract; the signatures of the parties and the number of the work permit for the foreign worker or the worker from the East African Community.

The parties to the employment contract can only derogate from the provisions of the law in a way that is more favourable to the worker. It follows that any clause

granting the worker benefits inferior to those prescribed by the Code without his agreement is considered null and void.

Source: §34-35, 37- 42, 50-52, 54-87 of the Labour Code 2020

Fixed Term Contracts

Burundian labour legislation prohibits the hiring of workers for jobs related to the normal and permanent activity of the company (Article 44 of the Labour Code).

An employment contract may be concluded for the performance of a specific and non-durable task: a contract without an express clause on its duration is presumed to be for an indefinite period.

Fixed-term contracts are contracts concluded for : the replacement of a worker whose employment contract is suspended; jobs for which in certain sectors of activity, it is customary not to resort to a contract of indefinite duration; the performance of an occasional and specific task; the task performed in the event of a temporary and exceptional increase in the company's activity or in the event of the start-up or expansion of the company; the execution of urgent work made necessary to prevent accidents, to repair material deficiencies, to organize rescue measures for the company's installations or buildings in order to avoid any damage to the company and its personnel; jobs of a seasonal nature; jobs intended to promote the hiring of certain categories of job seekers; jobs for which the employer undertakes to provide additional professional training to the worker.

The conclusion of a fixed-term contract is

also possible for a maximum period of one year in the event of the opening of a company or a new establishment within the company or during the launch of a new product. However, no renewal is possible because after this period, the contract becomes in all cases of indefinite duration.

In addition to defining the purpose of the fixed-term contract, it must also include the following information:

- when it is concluded for a specific duration, the expiry date of the term;
- when it does not have an expiry date, the minimum duration for which it is concluded;
- when it is concluded to replace a worker on legal suspension, the duration of the suspension;
- the duration of any trial period.

The law also prohibits the conclusion of a fixed-term employment contract for a temporary increase in activity within six months of a redundancy; the replacement of a worker whose employment contract has been suspended following a collective labour dispute; the performance of certain particularly dangerous work included in a list established by regulation. (Articles 48 & 49 of the Labour Code).

However, according to the new Labour Code, there is equal treatment for workers with open-ended employment contracts and those with fixed-term contracts. Temporary workers are also hired under a fixed-term contract. Temporary workers are also hired under a fixed term contract. If employment of a worker continues beyond the agreed date, the contract is automatically converted to the contract of indefinite duration. An Order of the Labour Minister is supposed to determine the modalities of fixed term contracts however this legislation could not be

located.

Source: §44-49, 51-52 of the Labour Code, 2020

Probation Period

In accordance with the new Labour Code, the trial period in the case of fixed-term contracts is now permitted. Whether it is for an open-ended or a fixed-term contract, the trial clause must be set out in writing, otherwise it will be null and void. Probation/trial period may not exceed the time required to test the staff given the technology and practice of a profession. Thus, probation period in an open-ended contract may not exceed twelve months for supervisors and managers and six months for lower categories, while it may not exceed one third of the maximum duration of the contract in a fixed-term contract.

Probation period, including renewals, must not exceed 12 months. During this period, a worker must receive at least the minimum wage for the professional category the worker is employed in.

During probation, each party has the right to terminate the employment contract at any time without notice within a month of probationary period or by providing 3 days' notice if he is on probation for more than a month.

Source: §88-91 of the Labour Code 2020

Notice Requirement

The fixed-term employment contract ceases to exist at the end of the term without indemnity or notice. However, the contract can only be terminated before the end of the term by the will of one of the

parties in cases of gross negligence, mutual consent of the parties, force majeure, physical unfitness established by the occupational physician or death of the worker. Otherwise, the termination of the contract by one of the parties entitles the other party to damages in an amount at least equal to the remuneration that he would have received until the end of the contract.

Either party may terminate an open-ended employment contract by serving a notice, compensation in lieu of notice or dismissal, except in the case of gross negligence.

In the case of gross negligence, notice may not be required.

Generally, notice period is fixed by collective agreement. According to the Labour Code, Minimum length of notice period for termination of employment contract by an employer is:

- One month if the employee has the seniority (work experience with the firm) of less than 3 years;
- One month and a half (45 days) if the employee has the seniority of 3 to 5 years;
- Two months if the employee has the seniority of 5 to 10 years; and
- 3 months if the employee has the seniority of more than 10 years.

If a worker wants to terminate the employment contract, his/her period of notice is half of the above notice requirements. During the trial period, either party may terminate the employment contract at any time and without notice during the first month of trial period. The required notice during the trial period is 3 days after worker has completed one month of probation/trial. Workers employed on daily basis can be dismissed

at any time without notice period and severance pay.

Source: §153 of the Labour Code 2020

During notice period, the terms and conditions of employment for the worker remain the same except that the worker has a right to take a day off in a week to search for a new job. Worker may take four working days off per month. If a worker finds a job before the end of notice period, he/she can leave the employment without completing notice period and without being liable for any compensation.

Source: §91, 128-143 of the Labour Code 2020

Severance Pay

The Labour Code provides that in case of dismissal without gross misconduct, any worker, other than a daily worker or a worker on probation, is entitled to a dismissal payment. Collective agreements or individual employment contracts determine the amount of this severance. In the case of individual dismissals, the rate of severance pay is as follows:

- for a seniority of service of less than 3 years: half of the average monthly salary in cash plus, if applicable, the average monthly legal value of the benefits in kind, including, if applicable, the provision of housing, to which the employee was entitled at the time of dismissal;
- for a seniority of service of 3 to 5 years: twice the amount provided for in point 1 above;
- for a seniority of service of more than 5 to 10 years: 4 times the amount provided for in point 1s above;
- for a seniority of service of more than 10 years: 6 times the amount provided for in point 1 above.

05/13 FAMILY RESPONSIBILITIES

ILO Conventions

Convention 156: Workers with Family Responsibilities Convention (1981) Recommendation 165: Workers with Family Responsibilities (1981)

Burundi has not ratified both the Conventions 156 & 165.

Summary of Provisions under ILO Convention

Paternity leave is for new fathers around the time of childbirth and is usually of a shorter duration.

Recommendation (No. 165) provides for parental leave as an option available to either parent to take a 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 employers to look into the measures for improving general working conditions through flexible work arrangements.

Regulations on family responsibilities:

- Burundi Labour Code, 2020
- Ministerial Order n. 110/172, 18 November 1971

Paternity Leave

In accordance with the Ministerial Order No. 110/172, workers are allowed fully paid paternity leave of 4 days on the birth of a child.

Source: §2 of the Ministerial Order N. 110/172 from 18 November 1971

Parental Leave

No provisions could be located in the law supporting parental leave for new parents after exhaustion of maternity 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

ILO Conventions

An earlier Convention (103 from 1952) prescribed at least 12 weeks maternity leave, 6 weeks before and 6 weeks after birth. 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.

Burundi has not ratified the Conventions 103 and 183.

Summary of Provisions under ILO Convention

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

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

The total maternity leave should last at least 14 weeks.

During maternity leave, a worker's income should amount to at least two-thirds of your preceding salary.

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

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

After childbirth and re-joining work, a worker must be allowed paid nursing breaks for breastfeeding the child.

Regulations on maternity and work:

- Burundi Labour Code, 1993
- Social Security Code, 1999

Free Medical Care

The disease and maternity insurance in Burundi cover every morbid condition arising from a natural disease, a non-occupational accident, maternity, or childbirth and their consequences. In case of pregnancy, childbirth and their consequences, the medical care includes:

- Antenatal care, care during childbirth;
- Care and post-natal care for new-born for 15 days, given either by a doctor, a nurse or a midwife;
- Hospitalization.

Source: §31-33 of the Social Security Code 1999

No Harmful Work

The Labour Code prohibits a pregnant worker from a work that exceeds her physical abilities. The Labour and Social Security Inspector may require medical examination of a pregnant worker to check that her assigned work does not exceed her strength. She must be transferred to another convenient work. If a pregnant woman occupies a job that exposes her to risks, she is temporarily assigned to another job, at her request or at the employer's initiative, when her medically established state of health so requires. In the event of disagreement between the employer and the employee, only the occupational physician can establish the medical necessity of the change of job and the employee's fitness to hold the new job envisaged.

Temporary assignment to another

establishment is subject to the agreement of the worker concerned and may not exceed the duration of the pregnancy and ends as soon as the worker's state of health allows her to return to her initial job.

A pregnant worker or a worker who has given birth and who works at night and whose state of health has been medically confirmed as requiring it, may be assigned to a day shift at her request or at the request of the occupational physician, for the duration of her pregnancy or breastfeeding. This change of assignment does not result in any reduction in remuneration.

If the employer is unable to offer the employee another job, he must inform her and the occupational physician in writing of the reasons for not doing so.

He then requests authorization from the Labour Inspector to suspend the employment contract, which is suspended until the date of the beginning of the legal maternity leave. During this period of suspension, the woman is covered by social security.

Source: §273-276 of the Labour Code 2020

Maternity Leave

Female employees are entitled to a maternity leave of 12 weeks with full pay, including 6 weeks of prenatal leave. Maternity leave may be extended up to 14 weeks.

Pregnant workers are required to provide medical certificate indicating the presumed date of birth. In case the confinement takes place after the presumed date, the pre-natal leave can be extended until the effective date of birth, without having the compulsory

leave duration reduced after the birth.

Source: §109 of the Labour Code 2020

Income

Maternity leave is fully paid leave. Employer and Social Security Institution share the cost. 50% of the daily benefit is paid by the employer and the other 50% is shared by the Government/Social Security.

Source: §111 of the Labour Code 2020; §34 of the Social Security Code 1999

Protection from Dismissals

Protection from dismissals during pregnancy and maternity leave is guaranteed under Labour Code.

A woman worker can't be dismissed during the period of her maternity leave. The employer is also forbidden to terminate the contract before or after the maternity leave on the pretext of childbirth or pregnancy. In the case that the dismissal is pronounced in the ignorance of the pregnancy, the worker has fifteen days to justify her condition.

Source: §110 of the Labour Code 2020

Right to Return to Same Position

There is no explicit provision in the law that gives a female worker the right to return to same position after availing her maternity leave. According to the new labour code, when the worker occupies a position that exposes her to the risks determined by Order of the Minister of Labour, the employer shall offer her another position compatible with her condition in the event of a medically certified pregnancy; childbirth, taking into account the

repercussions on her health or breastfeeding, for a period not exceeding six months after her return from post-natal leave. However, because an employer cannot terminate a female worker during the term of her maternity leave, it gives an implied right to return to the same job.

Source: § 110 & 277 of the Labour Code 2020

Breastfeeding

Female workers are entitled to paid nursing breaks of one hour duration, for new mothers to breastfeed their child(ren) until a child is six (06) months old. The breastfeeding/nursing breaks are in addition to the normal breaks an employee receives during the working day. These breaks are fully paid and are considered as work time.

Source: §272 of the Labour Code 2020

07/13 HEALTH & SAFETY

ILO Conventions

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)

Burundi has ratified the Convention 81 only.

Summary of Provisions under ILO Conventions

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

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

Workers should receive training in all work-related safety and health aspects and must have been shown the emergency exits.

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

Regulations on health and safety:

- Burundi Labour Code, 2020

Employer Cares

Employers are required to comply with the provisions in force concerning health and safety of workers. They are also required to organize periodic training on occupational safety and health for newly hired staff and for those changing work departments. The training includes measures for preventing accidents and occupational diseases. The employer must also organize occupational health services in the company for all workers. This service is organized at or near the workplace and is intended to provide various activities related to health and safety in the workplace.

In some establishments, employers may form a Health and Safety Committee according to the provisions of the order of Minister related to it. The committee ensures compliance with the regulations related to safety and hygiene; detect risks to health or worker safety; study the preventive measures required; and respond to an accident.

The worker's responsibilities include the correct use of machines, appliances, tools, dangerous substances, transport equipment and other means; the correct use of personal protective equipment provided and its proper storage after use.

Workers must also abide by the Health and safety regulations at workplace.

Source: §316-336 of the Labour Code 2020

Free Protection

Labour code requires workers to follow safety and hygiene rules at a workplace and to use the protective devices recommended by the employer.

In addition, the code obliges the employer to provide workers with appropriate personal protective equipment or protective clothing free of charge. The use of this equipment is done properly according to the instructions.

Source: §321&375 of the Labour Code 2020

Training

Employers are required to organize periodic training on occupational safety and health for newly hired staff and for those changing work departments. The training includes measures for preventing accidents and occupational diseases.

Source: §316 of the Labour Code 2020

Labour Inspection System

Labour Code provides for the General Inspection System of Labour and Social Security however there is extreme shortage of labour inspectors and the current system is not in line with the requirements of ILO Convention 081.

General Inspection System of Labour and Social Security consists of officers that control the workplace and ensure compliance with the law. Labour Code authorizes the labour and social security inspector to enter the workplace in working hours without previous notice; inquire or interview anyone; ask for or take copy of any prescribed book/register, record or

other document; take samples; and examine, check and investigate everything that is required during inspection. The labour and social security inspector may also ask employer to display notices according to legal provisions.

The Labour and Social Security Inspector may take technical assistance of certain administrative technicians or government agencies or any person authorized by Ordinance of the Minister. After visit, the inspectors record their comments in "inspection register" kept by the employers. This register is kept for five years after the last entry.

It is obligatory for the inspector to keep confidential, all the information gathered during inspection. The inspector must not have any personal interest, directly or indirectly, for or against the undertaking under their control. Labour and social security inspector submits a monthly report on the result of their activities to the Central Authority of the General Labour and Social Security Inspection. Annual report is then published by the General Inspectorate authority on the work of the services under his authority.

As far as the medical inspectors are concerned, they carry out a permanent action for the protection of the physical and mental health of the workers at their place of work. They act in liaison with the labour and social security inspectors and cooperate with them in the application of the regulations.

The mission of the medical labour inspector is to control the functioning of the medical labour services in companies; to study the problems related to the prevention of occupational risks; to ensure the

application of the legislation and regulations concerning workers' health; to follow up on the medical examinations on hiring, periodic examinations, examinations on resuming work and annual examinations.

Medical inspectors are subject to the same obligations and enjoy the same prerogatives as those of the labour and social security inspectors. However, they are not authorized to draw up reports of violations and to issue formal notices.

Source: §416-434 of the Labour Code 2020

08/13 SICK LEAVE & EMPLOYMENT INJURY BENEFIT

ILO Conventions

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

Burundi has not ratified the Conventions 102, 121 & 130.

Summary of Provisions under ILO Conventions

A worker's rights to work and income should be protected when illness strikes. The national labour law may provide that sickness benefits may not be paid during the first 3 days of your absence. Minimally, a worker should be entitled to an income during the 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). A worker must be entitled to paid sick leave.

During illness, a worker 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.

During the first 6 months of illness, a worker should not be fired.

If a worker is disabled due to an occupational disease or accident, he/she must 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.

Regulations on sick leave & Employment Injury Benefits:

- Burundi Labour Code, 2020
- Social Security Code, 1999

Income

The Labour Code provides for the paid sick leave. The maximum duration of sick leave is 03 months in a calendar year. As for the compensation for sick leave, it is equal to at least 66.7% of daily wage a worker received before his/her sickness started.

Source: §104-105 & 634 of the Labour Code 2020; §34 of the Social Security Code 1999

Medical Care

Medical benefits are available for insured workers. In addition, the Labour Code provides that even while awaiting coverage by health insurance, the employer is obliged to immediately transport, at his own expense, to the nearest medical facility, a worker who, while at work, requires medical care. These include general medical care, specialist care, medicine, dental surgery, hospitalization, provision of essential medical supplies, etc.

Source: §103 & 636 of the Labour Code, 2020; §33 of the Social Security Code 1999

Job Security

Employment of a sick worker is secure during sick leave. Employment contract is suspended during the terms of sick leave or leave due to some accident or an occupational disease and the employer may not terminate the contract, except in

the case of serious misconduct or force majeure making it impossible to continue the contract, the proof of which must be provided by the employer. Thus, at the end of the suspension period, the employee is reinstated in his or her job or in a similar job if he or she is declared medically fit to do so.

Source: Art.103-106 of the Labour Code, 2020

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, permanent disability benefit is 100% of a worker's annual earnings in three months before the disability began. The pension may be paid as lump sum after 5 years, subject to certain conditions.

In the case of permanent partial disability, amount of compensation depends on the assessed degree of disability (at least 15%) and a percentage of full pension is accordingly paid. If the assessed degree of disability is less than 15%, a lump sum of 3 years pension is paid according to the assessed degree of disability.

In the case of temporary disability, 100% of worker's average wages (in the last 3 months before the disability began) for the first three months (100% paid by the employer in the first month, then 66,7% paid by social security system and 24% paid by the employer). After these three months, the worker gets 66.7% of his average wage for up to 6 months from the date of

accident.

In the case of fatal injury, dependents receive survivors' pension. 50% of the pension a deceased worker would have received, if assessed with permanent total disability, is paid to the widow(er). This pension ceases on remarriage and a lump-sum amount of 6 months of pension is paid to the widow(er). 20% of a deceased worker's full disability pension is paid to each of the orphans younger than 16 years. This pension is 40% for a full orphan. Total survivors' benefits can't exceed 100% of a deceased worker's permanent disability pension.

Source: §30 of National Inter-professional Collective Agreement of 1980, §54-61 of Social Security Code 1999,
www.issa.int/country-profiles;jsessionid=E58DD7CFB3CC093D6AA3370287EC99E2

09/13 SOCIAL SECURITY

ILO Conventions

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).

Burundi has not ratified the Conventions 102, 121, 128, 130 and 168.

Summary of Provisions under ILO Conventions

In normal circumstances, the pensionable age may not be set higher than 65 years of age. If the 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”. The pension can be set as a percentage of the minimum wage or a percentage of the earned wage.

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.

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

Invalidity benefit is provided when a protected person is unable to engage in gainful employment, before the 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.

Regulations on social security:

- Burundi Labour Code, 2020
- Social Security Code, 1999

Pension Rights

The new law provides that every worker is entitled to the benefits of the basic social security schemes as provided for by the relevant legislation. The principle of the right to basic social security is therefore mandatory.

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. The old-age pension for the first 15 years of coverage is 30% of a worker's average monthly earnings. The pension is increased by 2% of average monthly earnings for each 12-month period of coverage exceeding 180 months. The maximum pension is 80% of the insured workers' average monthly earnings.

Source: §67 & 75 of the Social Security Code 1999, §29 & 164 of the Labour Code 2020

Dependents' / Survivors' Benefit

Social Security Code provides survivor benefit for the dependents including widow, widower, children and parents if there is no surviving spouse or children. Survivors' benefit is 50% of the deceased's pension and is paid to a widow/widower. 25% of the deceased worker's pension is paid to each orphan. 40% of the deceased worker's pension is paid to each full orphan. Total survivors' benefits can't exceed 100% of a deceased worker's pension.

Source: §57, 76 & 78 of the Social Security Code 1999

Unemployment Benefits

The new Labour Code provides that during periods of technical unemployment or economic unemployment, the worker is paid an unemployment benefit at the expense of social security.

Source: Article 119 of the Labour Code, 2020

Invalidity Benefits

Social Security Code provides invalidity benefit in the case of non-occupational accident/injury/disease resulting into permanent invalidity. Worker must be assessed with at least 66.7% loss of physical or mental capacity, have at least 3 years (36 months) of contributions, including at least 6 months in the 12 months before the disability began. It is calculated similarly as old-age pension.

Source: §71-75 of the Social Security Code 1999

10/13 FAIR TREATMENT

ILO Conventions

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

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

Convention 190 (2019) is about elimination of violence and harassment in the world of work.

Burundi has ratified the Conventions 100 and 111.

Summary of Provisions under ILO Conventions

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 a clear matching of pay and position should be in place to help prevent wage discrimination.

Convention No. 190 recognises the right of everyone to a world of work free from violence and harassment. It defines violence and harassment as “a range of unacceptable behaviours and practices, or threats thereof, whether a single occurrence or repeated, that aims at, result in, or are likely to result in physical, psychological, sexual or economic harm, and includes gender-based violence and harassment”. This definition covers physical abuse, verbal abuse, bullying and mobbing, sexual harassment, threats and stalking, among other things.

An 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)

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

Regulations on fair treatment:

- Constitution of the Republic of Burundi, 2018
- Burundi Labour Code, 2020
- Ministerial Order n. 650/287, 7 November 1985

Equal Pay

In accordance with the Constitution of Burundi, the principle of equal remuneration for work of equal value applies between workers without any discrimination. According to the Labour Code, workers performing the same work or work of equal value are entitled, without any discrimination, to equal pay.

Source: §57 of the Constitution of the Republic of Burundi 2018, §184 of the Labour Code 2020

Sexual Harassment

The law prohibits sexual harassment, including the use of orders, severe pressure, or threats of physical or psychological violence to obtain sexual favors. The new Labour Code provides for the protection of workers against harassment. Thus, it provides in article 22 that the worker, the person in training or in internship must not be subjected to acts of sexual harassment consisting of words or behavior with sexual connotations that undermine his or her dignity because of their degrading or humiliating nature or create an intimidating, hostile or offensive situation. Likewise, the employee may not be dismissed or subjected to a discriminatory measure in terms of remuneration, training, reclassification, assignment, qualification, professional

promotion, transfer or renewal of contract for having suffered or refused to suffer sexual harassment.

The judgment for sexual harassment extends to penalties of one hundred thousand francs to five hundred thousand francs in fine (100,000 francs to 500,000 francs) and from one month to two years of imprisonment. The sentence for sexual harassment doubles if the victim is less than 18 years old.

Source: §563 of Penal Code 2009, US Department of State Country Report on Human Rights Practices for 2013 for Burundi; Articles 22-23 of the Labour Code

Non-Discrimination

Labour Code provides everyone equal opportunity and treatment in employment and at work, without any discrimination. It opposes any distinction, exclusion or preference based on race, colour, religion, sex, political opinion, and trade union activity, ethnic or social origin with respect to hiring, promotion, compensation and termination.

In accordance with the Constitution, all citizens are equal before the law without any discrimination because of their origin, race, ethnicity, sex, colour, language, social position, religious, philosophical or political beliefs, physical or mental disability or being infected with HIV / AIDS or any other incurable disease.

In accordance with a 2014 Anti-Trafficking Law, victims of trafficking cannot be subject to the discrimination linked in particular to the victim's gender, religious belief, age, nationality and race.

A 2016 law on domestic violence requires enterprises to allow temporary reduction in working hours, reorganization of working time, and change in the workplace, suspension of employment contracts or resignation without notice to the victims of domestic violence on request of the worker and recommendation of the doctor. Victims of gender based domestic violence may remain absent from work however it must be justified by a medical decision and employer must be informed within 72 hours of absence. Such absences are treated as paid leave. Workers are entitled to their job on expiry of the temporary suspension of contract related to domestic violence. An employer who does not respect these provisions is punishable with a fine of 0.5 to 1 million Burundian Francs.

Source: §22 of the Constitution of the Republic of Burundi 2018; §14 of the Labour Code 2020; Loi n° 1/28 du 29 octobre 2014 portant prévention et répression de la traite des personnes et protection des victimes de la traite; §14, 15 and 52 of the Loi n° 1/13 du 22 septembre 2016 portant prévention, protection des victimes et répression des violences basées sur le genre

prohibits the victim from use of family resources or from working, is prohibited under a 2016 law prohibiting domestic violence. A person who is guilty of economic violence is punishable by a fine of 20,000 to 100,000 Burundian Francs.

Source: Ministerial Order No. 650/287 from 7 November 1985; §2(s) and 50 of the Loi n° 1/13 du 22 septembre 2016 portant prévention, protection des victimes et répression des violences basées sur le genre

Equal Choice of Profession

The Ministerial Order No. 650/287 states that women may not be employed for work that is dangerous and may adversely affect their health, and for works that may expose them to high risks. Women workers may not be involved in loads lifting. It is also prohibited to employ women in underground mines and quarries.

Economic violence, where a spouse

11/13 MINORS & YOUTH

ILO Conventions

Minimum Age: Convention 138 (1973)

Worst Forms of Child labour: Convention 182 (1999)

Burundi has ratified the Conventions 138 and 182.

Summary of Provisions under ILO Conventions

At workplaces, children may not be forced to perform work that could harm their health and hamper 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 jeopardise 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.

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.

Regulations on minors and youth:

Source: §9-15 & Chapter 5 of the Ministerial Order No. 630/1 from 5 January 1981

- Burundi Labour Code, 2020
- Ministerial Order n. 630/1, 5 January 1981

Minimum Age for Employment

Minimum age for employment is 16 years. However, children (under 16 years of age) can still be employed in light work only as part of the apprenticeship and for work which does not negatively affect their physical or moral development, or is not harmful to their health or does not impact their attendance at school or their ability to benefit from the instruction given in the school. A comprehensive list of light works allowed for children (12-16 years) is provided in the Ministerial Ordinance No. 630/1. The hours of work for children under 16 years can't exceed 06 hours during a day. Education is compulsory in Burundi for 6 years, i.e., between the ages of 7 and 13 years. This stage is referred to as Primary Education.

Source: §10 & 278 of the Labour Code 2020, §6 of the Ministerial Ordinance No. 630/1 from 5 January 1981

Minimum Age for Hazardous Work

Minimum Age for Hazardous Work is set as 18 years. Ministerial Order 630/1 also establishes a list of occupations forbidden for children under age 18. It includes working with automobiles, using industrial tools such as metal cutters, working in slaughterhouses, mining minerals, and serving alcohol. The total hours of work for workers below 18 years of age may not exceed 08 hours a day. Night work is also prohibited for the children under 18 years of age.

The text in this document was last updated in April 2023. For the most recent and updated text on Employment & Labour Legislation in Burundi in French, please refer to: <https://votresalaire.org/burundi>

12/13 FORCED LABOUR

ILO Conventions

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.

Burundi has ratified both Conventions 29 & 105.

Summary of Provisions under ILO Conventions

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

Employers have to allow workers to look for work elsewhere. If a worker is looking for work elsewhere, he/she should not be shortened on wages or threatened with dismissal. (In the reverse cases, international law considers this as forced labour).

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

Regulations on forced labour:

- Burundi Labour Code, 2020

Prohibition on Forced and Compulsory Labour

Forced Labour is prohibited under the Labour Code. In accordance with the Constitution of Burundi, a person cannot be held in slavery or in servitude. Slavery and trafficking in slaves are prohibited in all their forms. A 2014 law prohibits trafficking in persons for the purpose of slavery, sexual or economic exploitation. The law further prohibits use of deception or state of vulnerability of the victim for economic or sexual exploitation of an individual. It includes forced labour and debt bondage. A person who trafficks another person for exploitation of any kind is punishable with an imprisonment term ranging from one year to three years and a fine 100,000 to 500,000 Burundian Francs.

Source: §26 of the Constitution of the Republic of Burundi 2018; §7 of the Labour Code 2020; Loi n° 1/28 du 29 octobre 2014 portant prévention et répression de la traite des personnes et protection des victimes de la traite

Freedom to Change Jobs and Right to Quit

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: §6 & 137 of the Labour Code 2020

Inhumane Working Conditions

Working time may be extended beyond normal working hours of forty five hours per week and eight hours a day. In certain circumstances, workers may be required to work overtime.

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

Sources: §10 of the Ministerial Order n. 630/117 from 9 May 1979 on Application of Legal Work time; § 2 of the Ministerial Order n. 630/116, from 9 May 1979 on Extra Pay for Overtime Work, Night Work, Work on Weekly Rest Days and Work on Public Holidays

13/13 TRADE UNION

ILO Conventions

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

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

Burundi has ratified both Conventions 87 & 98.

Summary of Provisions under ILO Conventions

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 of working hours. The list of exclusions for sectors of economic activity and workers in an organisation should be short.

Trade unions are entitled to negotiate with employers on the terms 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 violations of this principle).

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

Regulations on trade unions:

- Burundi Labour Code, 2020
- Constitution of the Republic of Burundi, 2018

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. In accordance with the Constitution, the right to found trade unions [syndicats] and to join them and the right to strike are recognized. The law may regulate the exercise of these rights and prohibit certain categories of persons to go on strike. In all the cases, these rights are prohibited to the members of the corps of defence and of security.

Trade unions are formed by the workers to protect their professional rights. Union members are free to elect their representatives and formulate their work program. They may 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 by filing their statutes and list of names of those responsible for management and administration. Copy of these documents is also submitted to the Inspectorate of Labour where the union is established. A trade union is registered by Ministry of Labour within 45 days of submission of required documents. An employer is not allowed to interfere in a trade union's affairs and to support a union that is under his or an employer's organization control.

Source: §32 & 37 of the Constitution of the Republic of Burundi 2018; §24 & 25, 585-616 of the Labour Code 2020

Freedom of Collective Bargaining

Labour Code recognizes right to collective bargaining. Collective bargaining agreement (CBA) is an agreement designed to regulate the relationship between the employer and the worker of an establishment. 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.

A CBA may be concluded for definite or indefinite time period. The duration of a CBA signed for definite time period is 2 to 5 years. The CBA of indefinite duration expires by the will of one of the party unless stated otherwise.

CBA is signed by all the parties and it is submitted to the Ministry of Labour to remove or modify any provisions that is contrary to the legislation and regulations. After approval, three copies of CBA are filed at the Court. Two copies are sent immediately by the tribunal secretary to the Ministry of labour. The CBA is then published in official Bulletin. In case of any change in CBA, same procedure is followed again and it is mandatory to publish the revised CBA in the Official Bulletin.

The CBA is applicable from the day following its filing, unless otherwise stated in the agreement.

Labour Code provides for three consultative bodies such as: National Labour Council, National Committee for Social Dialogue and Labour Council. The

National Labour Council is a tripartite advisory body with equal representation from government, employer and worker sides. Worker and employer representatives in the Council are nominated by the respective representative bodies. The Council has following functions: study the elements on which to base the determination of minimum wage and its annual review; examine any matter relating to labour, work and employment; issue its opinions on regulations and legislation on labour issues. The Council must meet every quarter at the call of Minister for Labour who chairs the Council.

The National Council of Social Dialogue is a consultative body resulting from the National Charter of Social Dialogue. Its main missions are the animation of social dialogue; the promotion of a culture of prevention of collective conflicts; participation in the resolution of conflicts in the world of work on a national or sectoral scale; participation in reflections and consultations on the part of the national labour legislation relating to collective disputes; participation in reflections on the tools of management of the world of work, notably the policies in the field of employment, work, health and safety at work, professional training and social security.

The Labour Council is a mandatory consultative body for any company or establishment with 20 or more permanent employees. Its mission is to ensure a permanent contact between the employer and its employees and to ensure the mission of the hygiene, health and safety committee. It meets at least once a quarter, convened by the employer or his delegate.

Source: §524-533 & 548-564 of the Labour Code 2020

Right to Strike

Right to strike is provided under the Constitution and is regulated under the Labour Code. Only reasonable restrictions have been placed on the right to strike like banning solidarity strikes and requiring the provision of minimum service during strike action.

The strike is a stoppage of work coordinated and carried out within a company or an institution by a group of workers to obtain the satisfaction of claims presented to their employers and satisfaction of these claims is made a condition for resumption of work.

Peaceful strike is allowed only after all the methods of dispute resolution (negotiation, conciliation and arbitration) fail. The legality of the strike is based on four preconditions. Firstly, it must be carried out by a group of workers with the approval of a simple majority of the workforce of the establishment or company; secondly, it must have the purpose of promoting or defending the common economic, professional, social or moral interests of the workers; thirdly, the notice period must have been observed; and lastly, it must occur after the completion of all the formalities and the employer must be informed in advance at least 6 days prior to the proposed date of the strike. Worker who are not participating in strike continue working during the strike.

During strike, the strikers must ensure minimum service, essential to the safety and maintenance of equipments and enterprise installation, in the company so that work can resume normally once the strike ends. Employment contract of strikers is suspended during the period of

strike. Strike is considered illegal if it is contrary to these provisions.

The strike ends with a direct agreement between the conflicting parties, by arbitration award or by a judicial decision. The work must be resumed immediately without any further delay.

Source: §37 of the Constitution of the Republic of Burundi 2018; §500-512 of the Labour Code 2020

QUESTIONNAIRE

DECENTWORKCHECK.ORG

Check

Decent Work Check Burundi is a product of WageIndicator.org and
www.mywage.org/Burundi



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.

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	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.

Burundi 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.