



# CAPE VERDE

## Decent Work Check 2019

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## WageIndicator Foundation - [www.wageindicator.org](http://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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### Bibliographical information

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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](http://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

1. Constitution of Cape Verde 1980 (revised in 1992)
2. Labour Code 2007, last amended in 2016
3. Law on Gender Based Violence of 2011
4. Penal Code 2003
5. Education Law 2010
6. Lei n.º 113/VIII/2016, de 10 de março, que aprova a Lista Nacional do Trabalho Infantil Perigoso (TIP) e regula a sua aplicação

# 01/13 WORK & WAGES

## ILO Conventions

Minimum wage: Convention 131 (1970)

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

**Cape Verde has not ratified the Conventions 95, 117 & 131 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 Cape Verde 1980 (revised in 1992)
- Labour Code 2007, last amended in 2016

## Minimum Wage

The Constitution states that the State will set national standards regarding limiting the duration of work and shall create conditions for establishing a national minimum wage for various occupations.

There is no other legal provision for minimum wages. Furthermore, there is only one national minimum wage in the country and the process for determining the minimum wage has neither been established in law and neither it is established by collective agreements. The Country's first national minimum wage was set and came into force on 1st January 2014 and amounts to 11,000 escudos for public sector workers and 12,000 for entry level-workers. The said wage was set by the Cape Verde's Commission for Social Dialogue.

Compliance with minimum wage regulations along with other Labour Code provisions is the responsibility of the General Labour Inspectorate which works directly under the Ministry of Labour. Labour Inspectors have the right to impose fines.

Source: Article 60 of The Constitution of Cape Verde 1980; §394-397 of the Labour Code 2007

## Regular Pay

Wages means "basic remuneration and all other regular and periodic benefits provided, directly or indirectly, in cash or in kind, to the worker as counterpart to the work."

Wage period cannot exceed 31 days and the wages must be paid on the last working day. The wage must be paid within 31 days of the working period. It must be in national currency unless otherwise agreed between the parties under collective agreements or company regulation. Furthermore, it must be paid in the workplace only.

The employer cannot make deductions from the wage except for those established by law for funding of the social security; deductions determined by a final decision of the court; compensation payable by the employee to the employer because of damage caused by him/her to the company which is determined by the court; fines imposed as disciplinary sanction; meal price at the workplace, the use of telephones, supplies or services of the company that the employee expressly requests; and the allowances or advances provided because of the written document signed by the worker. However, all these deductions (fines imposed, compensation for damages and deductions set by the decision of a court) except for those set by law cannot exceed one third (33%) of the employees' wages.

Source: §199-203 of the Labour Code 2007

*The text in this document was last updated in February 2019. For the most recent and updated text on Employment & Labour Legislation in Cape Verde in Portuguese, please refer to: <https://meusalario.org/caboverde>*

# 02/13 COMPENSATION

## ILO Conventions

Compensation overtime: Convention 01 (1919)

Night work: Convention 171 (1990)

**Cape Verde has not ratified the Conventions 01 & 171.**

### *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, overtime pay rate should not be less than one and a quarter times (125%) 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 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 a 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 in 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:

- Labour Code 2007, last amended in 2016

## Overtime Compensation

Overtime work is the work performed outside the regular working time.

The regular working time cannot exceed 8 hours per day and 44 hours per week. The normal working hours can be increased by 01 hour per day however the worker gets additional half day of rest per week. A worker cannot perform more than 2 hours of overtime per day, and no more than 160 hours of overtime per year. In the case there is written consent from the worker, the annual limit can be increased to 300 hours per year. However, the 8-hour limit does not apply to certain groups, such as upper management and highly qualified personnel who are indispensable for the running of the enterprise. In exceptional circumstances, the competent government authority can permit these limits to be exceeded. These workers are entitled to a pay premium at the rate of 20-35% of the ordinary wage. In accordance with a 2016 reform in the Labour Code, the average weekly working time inclusive of overtime hours may not exceed 48 hours in a reference period (which may range between four months to twelve months). The normal daily working hours can be increased by four hours per day by agreement between the parties or through a collective agreement however the average weekly working hours must be respected in a reference period of 45 days.

The regular working time for young workers cannot exceed 38 hours per week and 7 hours per day. The working time for young workers can be equal to that applied to regular workers whenever the tasks executed are of simple presence, the work is intermittent or for the specific purpose of training of the young worker.

The employer may request overtime work to be performed in the following cases:

- a) When the employers face an increase of workload that does not justify recruiting workers from outside the company;
- b) In cases of force majeure or when there are reasons to prevent or repair serious damages. Overtime is compulsory unless a worker can justify on account of certain personal reasons. These include, among others, care for sick or breastfeeding children and workers going through professional training. Workers with disabilities can decide to work overtime and inform the employer. A pregnant worker and a breastfeeding mother (with a child under 10 months of age) is not required to work overtime on a weekly rest day or a holiday.

Overtime work shall be paid with compensation not less than 50% than the regular remuneration. Government in Cape Verde is contemplating on decreasing this percentage.

Source: §149-161, 207 & 266 of Labour Code 2007

*The text in this document was last updated in February 2019. For the most recent and updated text on Employment & Labour Legislation in Cape Verde in Portuguese, please refer to: <https://meusalario.org/caboverde>*

## Night Work Compensation

Night work is work performed between 22:00 and 06:00 of the following day. Each employer will define for each type of facility, establishment or workplace, what functions can be performed during the night work period. The employer must inform the worker about the consequences of night work on the health and wellbeing as well as protective measures taken by the employer to ensure physical and mental health of the worker. Thus, the worker still willing to work during night hours should give written consent.

Those performing night work are entitled to a compensation of 25% of the basic salary. The amount above mentioned is also due during annual leave, sick or accident leave, or in periods of temporary change to a day time work decided by the employer. Workers who stop performing night work, or shift work after one year in such regime, shall continue to receive the compensation, as remaining pay up to one month for each year of service provided in one of the regimes, after being transferred to a regular daytime, unless the change of regime was due to an objective or subjective cause linked to the worker. The overtime hours for night workers cannot exceed 7 hours per week.

Source: §162-175 of Labour Code 2007

## Compensatory Holidays / Rest Days

Workers are entitled to 24 hours of rest per week. It shall be taken, normally, on Sundays unless the collective agreement, duly approved work schedule, rules to which the employee has agreed freely or the law say otherwise.

Work is not allowed for the mandatory weekly rest period unless circumstances related to force majeure justify the need for work, and where such work has been performed, the compensatory rest may be awarded to the worker within the next three days without having any deduction in remuneration.

Source: §64-65 of Labour Code 2007

## Weekend / Public Holiday Work Compensation

The work performed during a weekly rest period entitles the worker to a compensation of 100% of the salary due for the work performed. Similar provisions exist for working on public holiday as law considers working on public holiday equal to the working on a weekly rest day.

Source: §208 of the Labour Code 2007

# 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.

**Cape Verde has not ratified the above-mentioned Conventions.**

## *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 recognized 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:

- Labour Code 2007, last amended in 2016

### Paid Vacation / Annual Leave

Every worker in an employment contract for a definite or indefinite period is entitled to 22 days of annual leave. For contracts of less than one year, the annual leave shall be proportional to the duration of the employment contract. Unused leave may be transferred to the next year and add up to a maximum of 44 days, provided that the parties agree or if the non-transfer would endanger the worker or the enterprise. The collective agreement or employment contract can establish a progressive increase of one day of vacation for each additional year of service performed during night.

A worker is entitled to take annual leave once he/she has worked for six months during a year (applicable to both definite and indefinite term contracts). Workers engaged for less than one year are entitled to annual leave once they have completed half of their term. The date of leave should be established in agreement between the employer and the employee. If no agreement can be reached, the employer may establish an annual leave timetable after consulting with the Trade Union delegates. The annual leave has to be taken within one year after acquired. Leave is to be taken consecutively, but may be taken in two periods provided the parties so agree. Annual leave can be accumulated to the maximum of 44 working days upon agreement between the employee and the employer or whenever the taking of full leave by worker results in serious damage to the company or to the worker and the worker gives his/her consent.

The remuneration for the annual leave to which the worker is entitled cannot be inferior to that he/she would receive if he/she were working. The additional remuneration in kind can be replaced for the equivalent in cash during the annual leave. Workers are entitled to receive compensation in lieu of annual leave if employment contract is terminated before a worker could take his/her annual leave. Employee is also entitled to receive compensation corresponding to the proportionate time of the year he/she spent in service. A worker who is not permitted to exercise his right to annual leave may file a complaint with the General Labour Inspectorate to this effect.

Source: §52-63 & 170 of Labour Code 2007, last amended in 2016

## Pay on Public Holidays

There are ten public holidays in Cape Verde, which are as follows: New Year's Day (1 January); Democracy Day (13 January); Heroes' Day (20 January); February Carnival; Ash Wednesday; Labour Day (1 May); Children's Day (1 June); Independence Day (5 July); Assumption Day/Day of Our Lady of Grace (15 August); National Day (12 September); All Saints' Day (1 November); and Christmas Day (25 December)

No provisions could be found which could state whether the holidays are paid or not.

## Weekly Rest Days

The provision of law on weekly rest days is contained in the Labour Code Article 64, which stipulates that every worker is entitled to 24 hours of weekly rest. Usually this rest day will be taken on a Sunday, unless the law or the employment contract or the collective agreement determines otherwise.

Source: §64 of Labour Code 2007

# 04/13 EMPLOYMENT SECURITY

## Regulations on employment security:

- Labour Code 2007, last amended in 2016

## Written Employment Particulars

The legal provision on employment contract is contained within the Labour Code. It is defined as the agreement by which a person undertakes to provide his intellectual activity or manual labour to the other person under control and direction of that person for consideration.

There is no requirement that the contract must be subject to any formality by law unless stated otherwise. However, the parties may if they so desire, form a written employment contract by requesting the other person by registered letter with acknowledgement of receipt. If the parties go ahead with this option, they are required to include the details of the contract date, the location and work, professional category and remuneration earned by the employee along with any other elements that the parties deem worthy of interest. Any terms which purport to suspend the employee's contract or determine the probation period other than as required by the law are regarded as invalid. Lastly the lack of writing does not affect the rights arising from the contract for the worker and he is free to invoke the enforcement of such rights in court. The general rule is that employment will be for an indefinite term. The essential elements of an employment contract include the professional category of worker, place of work, compensation and the date of commencement of employment.

An employment contract in which the term is uncertain can also be concluded in certain situations, of which the foremost is where the new employee is replacing an absent employee, an employee who is on unpaid leave, an employee who after being dismissed has taken his case to the court to determine whether the dismissal was unlawful. Apart from this such contracts are also concluded for any occasional task or service precisely defined and which is not lasting and similarly a work project or defined temporary activities. The contract can last for as long as it is necessary to replace an absent employee or to complete the activity, task, job or project.

A fixed term contract turns into an indefinite contract if workers remain in employment after the day of termination takes effect or after 15 days of completion of the activity, service, work or project.

Sources: §27-33 & 366-368 of Labour Code 2007

## Fixed Term Contracts

The Labour code contains the provisions relating to fixed term contracts.

A comprehensive list of reasons in which the fixed term employment contracts will be concluded is provided under Article 361. This includes reasons such as where the work is for a short duration, where a replacement worker is needed as the original worker cannot do work due to illness, military service, holiday enjoyment or any other justified reason, the carrying out of work or service specific functions or tasks of a temporary nature, in particular, in seasonal activities or in those in which, objectively, there are periodic fluctuations in the number of workers, the replacement of a worker who had been performing functions in the company and who has left his post without notice or with short notice (less than six months). Under a 2016 reform in Labour Code, another reason could be temporary need of the company. The employer must provide a deadline and the reasons justifying the need for entering into the contract, and in the case of non-compliance, he/she can be penalised.

The law also stated that new companies incorporated under the Labour Code can enter into fixed-term contracts with its employees during the first five years of its incorporation and such contracts will be converted into contracts of indefinite term on the completion of five years. In addition, the fixed term contracts executed by a new company under the Code will be for a minimum of 3 months. The second renewal will be after six months and the subsequent renewals will be after one year each.

The maximum duration for a fixed term contract ranges between three to five years including all renewals that may take place. After that, the fixed term contract employment will be converted to employment of indefinite duration. Upon expiry of a fixed term contract, the employer can end the employment by giving ten days' notice to the employee, in the absence of which the contract would be renewed for the same period as the preceding contract unless indicated otherwise by the parties. A 2016 reform in the Labour Code allows for temporary contracts with the maximum length (including renewals) of three years.

Source: §360-365 of Labour Code 2007

## Probation Period

The legal provision on Probation is contained within the Labour Code.

The duration of the trial period depends on the type of contract and/or the employees' job title and functions.

In the case of a non-fixed term employment contract, the trial period is normally two months, but it may be extended up to six months if the functions to be performed imply technical complexity and responsibility and if such larger period of time is deemed necessary to evaluate the employee's capacity to carry out the job.



With employees performing management and/or senior functions, a trial period up to twelve months can be agreed upon. In fixed term contracts, a two-month trial period may be reduced, as it cannot be larger than one-fourth of the duration of the contract. The parties may expressly waive the right to a trial period or reduce its length by agreement. The trial period can also be reduced or extended by means of applicable collective agreement. The length of the trial period cannot exceed the length provided as a general rule in such a case. Lastly the employees can be terminated or leave the job during the trial period without the need for giving any notice or reason.

For the purposes of a domestic employment contract, the parties are not required to agree on a probationary period longer than 15 days, after which the contract will be concluded. In accordance with a 2016 reform in the Labour Code, the probation period for domestic workers has been raised from 15 days to 30 days. The probation period cannot be extended beyond 30 days.

Sources: §144-147 & 287 of Labour Code 2007

## Notice Requirement

The Labour code has relevant provisions on termination of an employment contract and necessary advance notice periods.

As a general rule, employers cannot terminate employment agreements at will and/or by giving notice unless there is just cause, either objective due to economic or market reasons or subjective. The latter generally relates to a serious misconduct for a serious incident that destroys the ongoing employment relationship.

Subjective 'just cause' has to be evidenced through a disciplinary proceeding, which might be used not only to apply a dismissal, but also warnings and other sanctions for minor offences or misconduct. This procedure implies a formal accusation and allows the employee to state his case in defence before making the ultimate decision to dismiss. The straightforward reasons leading to a dismissal for just cause are exhaustive and can include:

- The illegitimate disobedience to orders given by higher-ranking officials;
- Practice within the company of wrongdoing, which is harmful to the national economy or moral interests or property of the company itself or its workers or others;
- Repeated provocation of conflicts with other employees or third parties;
- Providing the work in a drunken state, particularly when repeated;
- Lack of compliance with rules on hygiene and safety at work;
- Gross negligence in performing work well and the repeated lack of zeal and diligence standards in providing the service;
- The unexcused absence from work when determining damage or serious risk to the company or the conduct manifestly undisciplined;

- Ten consecutive absences or twenty interpolated faults unjustified, during twelve months regardless of the damage occasioned.
- The worker's unfitness for the functions normally exercised repeatedly
- The unsuitability for worker for the tasks he was hired for;

An employer will inform the worker of his intention to dismiss him for just cause with at least 40 days' notice from the termination of the contract. The employee will be given the right to reply to it within the next 5 days immediately upon his receipt of dismissal notice. If the employer remains unconvinced and dismisses the employee, he must indicate the reasons for dismissal and give the employee 30 days' notice.

The employer can do collective dismissals on grounds of diminished activity or permanent closure of the undertaking, business or part of the structure of the company or for other reasons such as where the economic or technological circumstances change so as to make the employees redundant. The process for achieving such redundancy involves informing the Directorate of Labour about the proposed layoff 60 days before the date on which employees are laid off. The directorate will then listen to the employee and the relevant trade unions and make a proposal to a member of the cabinet, who may or may not allow the redundancy. Where a decision of dismissal is made in such a case, the employer will provide the workers with a notice of 45 days before the dismissal date. In the event of collective dismissals, the following types of workers are given preference in maintaining employment: more qualified and professional workers; workers with greater seniority; elder workers; workers who received employment injury at the workplace reducing their earning capacity; and workers with increased family responsibilities.

Contracts can also be terminated by force majeure, bankruptcy or transfer of worker. In addition, where due to the actions of the employee, it becomes difficult for him/her to maintain an employment relationship taking into account the severity of the degree of guilt, he will be dismissed. Lastly, the contract may also be terminated where a worker reaches the retirement age and by mutual agreement between the employer and the employee. In all such cases, no notice is required.

In both cases, if the employer fails to provide the notice within the specified time, the employer will have to pay compensation to the employee for the number of days by which the notice is delayed.

Where the contract is terminated by the employee, the notice period before leaving will depend on the length of service. The minimum notice period is 15 days and will increase by 15 days per year of seniority, to a maximum of 2 months. An employee may terminate the employment contract for just cause on the following grounds: Non-payment of wages/compensation by the employer; damage to the worker's honour and dignity; lack of safety and hygiene conditions at work; substantial modification of the worker's position; conflicts of provocation with the employee or other employees of the company; and application of abusive sanctions by the employer.

Sources: §220-243 of Labour Code 2007

## Severance Pay

Labour Code provides for severance pay equivalent to one month's pay for each year of service in the event of just cause dismissal. The workers laid off under collective redundancy are also entitled to one month's pay for each year of service. The amount of severance payment can be increased through a collective agreement. The amount of severance pay in the event of collective redundancy and just-cause dismissal has been reduced from 30 days to 20 days per year of service under a 2016 reform in the Labour Code.

There are provisions on compensation on termination of an employment contract. The compensation is granted as follows: 1.75 days' basic pay per month if the duration of contract is less than 1 year; 21 days basic pay if the contract lasts one year; 15 days of basic pay for each year beyond first year. If the contract lasts more than five years, employee is entitled to compensation worth 10 days of basic remuneration per year after the first five years.

In the case of dismissal without cause for domestic workers, the severance pay is still 30 days of wages for every completed year of service till the date of dismissal. In the case of unfair dismissal, worker has the right to reinstatement in the same job category and seniority. If the employer impedes reinstatement of the worker, he is obliged to pay 40 days of wages for each completed year of services and proportionate basis for part of a year.

Source: §224, 238 and 369 of Labour Code 2007



# 05/13 FAMILY RESPONSIBILITIES

## **Regulations on family responsibilities:**

- Constitution of Cape Verde 1980 (revised in 1992)
- Labour Code 2007, last amended in 2016

## **Paternity Leave**

There is no exclusive right to paternity leave in Cape Verde Labour Code. A father is entitled to paternity leave only in certain cases as described below.

The father is entitled to paternity leave, for a period equal to that of the maternity leave or equal to the remaining days in case the mother has already enjoyed part of the maternity leave, in the event of:

- a) Physical or mental incapacity of the mother, and while the incapacity lasts;
- b) Death of the mother.

In the case of death of the mother, the minimum duration of the leave conceded to the father is of at least 30 days.

The death or physical or mental incapacity of the mother during the 120 days immediately following the birth, entitles the father to the rights as described above.

There are no provisions as to whether the paternity is paid or not.

Source: §271 of Labour Code 2007

## **Parental Leave**

No provisions related to parental leave and any subsequent compensation could be identified from the Law.

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

No provisions are available on flexible work options for parents. The Constitution of Cape Verde does say that “the law shall establish special protection for minors, for the handicapped, and for women during pregnancy and after childbirth, and shall guarantee to women working conditions which permit them to carry out their family and maternal duties” however no regulating provisions could be located.



# 06/13 MATERNITY & WORK

## Regulations on maternity and work:

- Labour Code 2007, last amended in 2016

### Free Medical Care

No provision on medical care for pregnant women can be identified in the law. However, where workers become sick or unwell they are entitled to medical care. See Section 8/13 on Sick Leave for further information.

### No Harmful Work

The legal provisions on protecting the health and safety of pregnant workers can be found within the Labour Code. Accordingly, a pregnant worker must work in conditions that do not harm the pregnancy.

During pregnancy and after recent birth, workers have the right not to perform overtime work or night work. Pregnant women, or women with children under the age of 10, are not obliged to perform overtime work during the weekly rest period or holidays.

The pregnant worker may, whenever possible, attend to pre-natal medical examinations outside the regular working time of the company. Whenever the medical examination is only possible during the working time of the company, the employer may require a document attesting such circumstance.

A pregnant woman will be also transferred to daytime work. Pregnant workers, who perform night work or shift work, have to be transferred to day work 180 days (6-months) before the presumed date of birth. They have the right to remain in daytime work for a period not less than one year after the birth, unless the employer works exclusively during the night work regime or in a shift work regime.

There are no other provisions specifying the nature of work, which the women are not required to do.

Source: §160, 162, 270 & 272 of Labour Code 2007

### Maternity Leave

In the event of birth, women are entitled to 60 days of maternity leave.

If the work poses risk to the health of a pregnant worker or the baby and is not assured a place of work and functions appropriate and compatible with her state, the worker has the right to enjoy a special leave for the time necessary to prevent the risk.

Source: §271 & 273 of Labour Code 2007

## **Income**

During maternity leave, the worker is entitled to receive from the employer the difference between her normal salary and the benefits paid by social security. The benefit paid by the social security is either 90% of the insured worker's last monthly earnings or the average of earnings in the last 4 months whichever is higher.

If the female worker has not paid contributions into the social security system, the employer must pay the full amount of the benefit during the maternity leave period that is 60 days.

Source: §212 of Labour Code 2007

## **Protection from Dismissals**

The employer who denies access to work to a pregnant worker or use any kind of means or strategies to create instability in the work or force the pregnant woman to quit the work, beyond other sanctions the fact may give reason, is punished with a fine of one year of salaries that would be due to the worker.

Unless proven otherwise, the dismissal of a pregnant or nursing woman is unlawful.

No other provisions on employment security for pregnant women are found within the law.

Source: §275 & 409 of Labour Code 2007

## **Right to Return to Same Position**

There are no provisions in law specify that a woman has the right to return to same position after delivery.

## **Breastfeeding/ Nursing Breaks**

Breastfeeding/nursing breaks are provided under the law. In accordance with the Labour Code, a worker is entitled to, during the first six months after the birth, to 45 minutes of break in each work period.

Source: §274 of Labour Code 2007





# 07/13 HEALTH & SAFETY

## Regulations on health and safety:

- Labour Code 2007, last amended in 2016

## Employer Cares

The legal provisions on health and safety of workers come from the Labour Code.

An employer is required to ensure hygiene and safety at work and fulfil and enforce laws and regulations applicable and general instructions issued by the competent entities. In addition, the Labour Code imposes a duty on the employer to organize at the enterprise level, security activities, hygiene and health at work for night workers and shift workers.

There are a number of duties on the employer to promote health and safety in the workplace. The employer must take necessary measures so that the workplace, the tools, products and work processes present no risk to the worker safety and health. In this regard, the employer must inform the worker about the functioning mode and maintenance of equipment used in the performance of his duties; promote the repair of appliances and equipment which is at a risk of malfunctioning and which constitutes a risk to the safety and health of workers; to ensure the identification of containers containing products with a degree of toxicity or which may cause injury and also to provide the necessary instructions for their proper use; to provide if necessary, clothing and suitable protective equipment in order to prevent as far as possible the risks of accident and the adverse health effects on workers and to provide, when appropriate, accommodation and power under conditions safeguarding hygiene and health of workers.

The employer must also ensure that all workers are trained for giving first aid treatment and is obligated to hire the required people in order to achieve the necessary result.

Source: §136, 166, 167 & 293 of Labour Code 2007

## Free Protection

There is no specific legal provision which requires the employer to provide protective equipment to the workers, however the Labour Code contains a general provision which imposes on the employer a duty to provide protective equipment if and when necessary to prevent any accidents or adverse health effects.

Source: §293 of Labour Code 2007

## Training

The employer is required to ensure that all workers undertake a training course that enables them to learn the provision of first aid service and are also required to pay the costs of such training.

There are no legal provisions as to what type of training for safety is required.

Source: §166 of Labour Code 2007

## Labour Inspection System

The provisions of the labour inspection system in the country are provided in the Labour Code, which has established the General Labour Inspectorate.

The General Labour Inspectorate is the department with jurisdiction to review compliance with legal regulations regarding working conditions and the protection system on employed and unemployed workers. It reports directly to the Minister responsible for Labour. The Inspectorate exercises its action over the entire territory of Cape Verde and this includes all industry, public, private, individual, corporate, domestic and foreign employment relationships. Employment contracts for the public service of the state are also subject to the supervisory worker of the Inspectorate.

The duties of the Inspectorate include:

1. To ensure compliance with the rules of the code and other provisions contained in other laws, collective regulatory instruments, labour and employment contracts
2. To enforce the rules on protection in employment and unemployment of workers and those relating to vocational training
3. To ensure the application of the rules of hygiene, safety and occupational medicine
4. To provide technical information and advice to workers and employees and their professional associations on compliance with labour law
5. To take in the preparatory study and launching of new or the renewal of labour laws and protection system on employment
6. To alert the relevant departments for any weaknesses, absence or inadequacy of provisions in the labour law.
7. To exercise special vigilance over activities in which accidents or occupational diseases are more frequent and severe

In addition to these roles, the Inspectorate also hears the complaints of workers who feel they have been dismissed unfairly or who have been sanctioned by their employer. The workers must file their grievances within 15 days, and after hearing the workers, the inspectorate may first try to reconcile the differences between the worker and the employer and in the event that is not possible, to give its decision on the complaint.

Source: §140, 386, 387, 395, 396 & 397 of Labour Code 2007

*The text in this document was last updated in February 2019. For the most recent and updated text on Employment & Labour Legislation in Cape Verde in Portuguese, please refer to: <https://meusalario.org/caboverde>*

# 08/13 SICK LEAVE & EMPLOYMENT INJURY BENEFIT

## Regulations on sick leave & Employment Injury Benefits:

- Labour Code 2007, last amended in 2016
- SSPTW country Profile

## Income

The legal provisions on the benefits for sick leave are contained in various laws. For self-employed persons the pension regime is governed by the laws of 2003 and 2009, for employed persons it is the law of 2004, for civil servants and cooperatives, it is the law of 2006, for municipal agents it is the law of 2007 and for house hold workers it is the law of 2009. There are also provisions contained in the Labour Code.

The categories of people who are entitled to the benefits include Public- and private-sector employees, self-employed persons, and household workers. Special systems provide cash benefits for civil servants and certain business owners and cooperative employees.

As with pension, an insured person (employee) contributes 4% of his gross monthly earnings. For the self-employed persons, the rate of contribution is 8% and for the employer it is 4% of the gross monthly payroll. In order to be entitled to receive sickness benefits, the insured must have at least 4 months of contributions. The amount of benefits that will be received is equal to 70% of the insured worker's last monthly earnings or average earnings in the last four months (whichever is greater). This is paid from the fourth day of illness up to 1,095 days. The employer pays 100% of earnings for the first three days. If the sickness lasts longer than 30 days, a medical board must evaluate the insured person's health status.

Source: SSPTW country Profile

## Medical Care

The workers are entitled to receive general and specialist care, surgery, hospitalization, laboratory services, doctor's home visits, medicine, prostheses, and dental care.

The Ministry of Health provides medical care directly through public clinics and hospitals. Certain treatments not available in public clinics and hospitals are reimbursed by the National Social Insurance Institute.

Insured persons have to co-pay by sharing the cost of medicine. Pensioners also co-pay. Medicine is free for low-income pensioners.

Medical benefits for dependents are the same as those for the insured. Eligible dependents include children up to age 18 or receiving family allowances, dependent parents, and dependent grandparents.

Source: SSPTW country Profile

*The text in this document was last updated in February 2019. For the most recent and updated text on Employment & Labour Legislation in Cape Verde in Portuguese, please refer to: <https://meusalario.org/caboverde>*

## Job Security

No provisions could be located in the law about security of employment during the term of sick leave.

## Disability / Work Injury Benefit

Provisions for Work-related Injuries and the subsequent benefits are contained in the Law of 1978, which relates to compulsory insurance and the Law of 1991 that is administrative in nature.

The categories of people who are entitled to the benefits include, among others, the employed persons. A special system is in place for civil servants.

An employer has to contribute 2% of covered monthly payroll for salaried employees or 6% of covered monthly payroll for all other workers. The maximum daily earnings used to calculate contributions are 300 escudos. There is no qualifying period for entitlement to such benefits. Accidents that occur while commuting to and from work are also covered.

For entitlement to temporary or permanent disability benefits, it is first assessed whether the affected person is either totally disabled or partially disabled. Entitlement to benefits on a temporary basis for an insured person assessed with total disability amounts to 40% of the insured person's earning on the day the injury occurred. This amount is paid for up to 14 days after which the percentage is increased from 40% to 70%. For hospitalization, the benefit is 40% of the insured person's earning and 70% if there are dependents. This benefit is paid for up to 1,095 days. The maximum daily earnings used to calculate benefits are 300 escudos.

Where the insured person suffers from partial disability, 25% of the insured's earning on the day the injury occurred is paid (40% of average earnings in the last six months if those earnings differ from the insured's normal earnings).

Entitlement to benefits on a permanent basis for an insured person assessed with total disability amounts to 70% of the insured worker's earnings on the day the injury occurred is paid from the day after the disability began. The employer pays the worker's earnings for the day of the work injury. The maximum daily earnings used to calculate benefits are 300 escudos. If the insured worker requires the constant attendance of others to perform daily functions, 30% of the average earnings are paid. For Permanent Partial disability benefits, if the assessed degree of disability is 10% to 99%, a percentage of the full disability pension is paid according to the assessed degree of disability.

As far as the survivors' benefits are concerned, 30% of the deceased worker's earnings on the day the injury occurred (or 30% of the average earnings in the last six months if those earnings differ from normal earnings) are paid. Eligible survivors include a dependent widow, a dependent widower older than age 64 or disabled, and a divorced

spouse receiving alimony. If there is more than one eligible divorced spouse, the pension is split equally. The maximum daily earnings used to calculate benefits are 300 escudos. The pension ceases if the widow(er) remarries or cohabits. A Remarriage allowance amounting to a lump sum of one year of the pension is also paid. For orphans, 15% of the deceased worker's earnings are paid for each dependent child up to age 18 (age 24 if a student, no limit if disabled) and 45% for each full orphan. If there are any other eligible survivors such as dependent parents, grandparents and brothers and sisters up to the age of 16, 10% of the deceased worker's earnings are paid to them. The total monthly survivor pension is 30% of the deceased's earnings. Lastly, all survivor benefits combined must not exceed 70% of the deceased's monthly earnings.

Source: SSPTW country Profile

# 09/13 SOCIAL SECURITY



## Regulations on social security:

- SSPTW country Profile

### Pension Rights

The legal provisions on the pension rights are contained in various laws for various categories of workers. The provisions on pensions for employed persons are contained in the law of 2004. There are also provisions contained in the Labour Code with respect to pension.

An insured person has to contribute 3% of his/her gross monthly earnings plus 1% of gross monthly earnings for administrative fees. The insured person's administrative fees also finance sickness benefits. An employer has to contribute 7% of the gross monthly payroll plus 1% of gross monthly payroll for administrative fees.

There is no provision of law mentioned under which men and women are entitled to early pension. The age at which men and women are entitled to pension is 65 for men and 60 for women. Furthermore, they have must at least 15 years of contributions, in addition to the ages mentioned above.

With regards to the calculation and payment of pension to an entitled person, 2% of the insured's annual average earnings plus an annual coefficient adjusted for changes in the cost of living is paid for each 12-month period of coverage. The annual average earnings used to calculate benefits are the 120 highest paid months in the last 15 years of contributions. The minimum monthly pension is 6,000 escudos. The maximum monthly pension is 80% of the insured's average monthly earnings.

Source: SSPTW country Profile

### Dependents' / Survivors' Benefit

The legal provisions on the survivors' benefits are contained in various laws for various categories of workers.

The provisions on pensions for employed persons are contained in the law of 2004. There are also provisions contained in the Labour Code with respect to pension.

An insured person has to contribute 3% of his/her gross monthly earnings plus 1% of gross monthly earnings for administrative fees. The insured person's administrative fees also finance sickness. An employer has to contribute 7% of the gross monthly payroll plus 1% of gross monthly payroll for administrative fees.

If the deceased received or was entitled to receive a pension for old-age, a disability pension or had at least 36 months of contributions, his/her survivors and dependents would be entitled to receive that pension. Eligible survivors would include a widow older than age 50 or disabled, a widower older than age 55, and children younger than

age 18 (age 25 if a student, no limit if disabled). A temporary survivor pension is also paid for up to five years to a widow younger than age 50, a widower younger than age 55, and children aged 18 to 25 who are students. However, the affected survivor stops receiving this benefit when they remarry.

The spouse is entitled to receive 50% of the old age or disability pension the deceased worker received or was entitled to receive. As for orphans, each orphan is entitled to 25% of the old age or disability pension the deceased received or was entitled to receive. For Full orphan this percentage increases from 25% to 50%. Lastly, all survivor benefits combined must not exceed 100% of the old age or disability pension the deceased received or was entitled to receive.

Source: SSPTW country Profile

## **Unemployment Benefits**

No statutory provisions could be located on the unemployment benefits.

## **Invalidity Benefits**

The legal provisions on invalidity benefits are contained in various laws for various categories of workers. The provisions on pensions for employed persons are contained in the law of 2004. There are also provisions contained in the Labour Code with respect to pension.

An insured person has to contribute 3% of his/her gross monthly earnings plus 1% of gross monthly earnings for administrative fees. The insured person's administrative fees also finance sickness benefits. An employer has to contribute 7% of the gross monthly payroll plus 1% of gross monthly payroll for administrative fees.

In order to qualify for receiving a disability pension, the concerned person must be assessed with a disability of at least 66.7% or a loss of earning capacity of at least 33.3% and have at least five years of contributions.

The calculation and entitlement to the disability pension is similar to that of the Old-age Pension. Accordingly, 2% of the insured's annual average earnings plus an annual coefficient adjusted for changes in the cost of living is paid for each 12-month period of coverage. The annual average earnings used to calculate benefits are the highest paid months in the last 15 years of contributions. The minimum monthly pension is 6,000 escudos and the maximum monthly pension is 80% of the insured worker's average monthly earnings.

Source: SSPTW country Profile

# 10/13 FAIR TREATMENT

## Regulations on fair treatment:

- Constitution of Cape Verde 1980 (revised in 1992)
- Labour Code 2007, last amended in 2016
- Law on Gender Based Violence of 2011
- Penal Code 2003

## Equal Pay

Both the constitution and the Labour Code have provisions on Equal Pay without discrimination. Under the Constitution, everyone has the right to compensation in proportion to the quantity and quality of work and to security of employment. Furthermore, men and women are guaranteed receive equal pay for equal work. Under the Labour Code, it is stipulated that everyone has the right to receive the same remuneration without any discrimination based on religion, political affiliation, and membership of trade union or sex.

Source: §59 of the Constitution of Cape Verde 1980 (revised in 1992); §15 of the Labour Code 2007

## Sexual Harassment

The issue of sexual harassment is dealt with under the Labour Code, The Penal Code and the Law on Gender Based Violence (GBV Law).

According to the GBV Law, Sexual harassment is any conduct practiced by any person who has authority or influence on others at work, where in exchange for hiring, being at work, renewal of contract, on a promotion or acquisition of any other privileges like scholarships, subsidies or other material benefits, the said person asks for sexual favours in return, either for himself or for a third party.

According to the Labour Code, a fine is imposed on employers who either engage in sexual harassment themselves or promote it. The fine is up to 2 years equivalent of the minimum wage of civil servants. Under the Penal Code, sexual harassment (abuse of authority by a person) is an offence punishable by imprisonment up to 1 year or a fine of 100-250 days of wages.

There are no other provisions of law that stipulate the responsibilities that an employer must undertake to prevent sexual harassment in the workplace.

Source: §410 of the Labour Code 2007; §154 of the Penal Code 2003; §2, 3, and 25 of the Law on Gender Based Violence of 2011

## Non-Discrimination

In accordance with the Cape Verde Constitution, all people have equal social status and are equal before the law, without privilege, benefit or prejudice, and may not be deprived or any rights or exempt from any duty by reason of race, sex, ancestry, language, origin, religion, social and economic condition, or political or ideological conviction. Everyone has the right to compensation in proportion to the quantity and quality of work and to security of employment and no one can be dismissed for political or ideological reasons. Furthermore, all individuals have the duty to respect their fellow citizens without discrimination of any type and to maintain relations, which promote, safeguard and reinforce mutual respect and tolerance.

Under the Labour Code, equality at work means the right not to be passed over, impaired or otherwise discriminated against in access to work, in fixing working conditions, the remuneration of work, suspension or termination the employment relationship or any other labour legal situation on grounds of sex, skin colour, social background, religion, political or ideological convictions, trade union membership or other discriminatory reason. The same principles apply for entitlement to eligibility for compensation and rights and privileges.

The Penal Code has criminalized discrimination on the basis of origin, sex, family status, health status, habits and customs, political opinions, civic activity, membership or non-membership of trade unions or any other organization, on ethnicity, nation, race and religion and has prescribed an imprisonment of up to two years or a fine of 100-300 days (of wages) for anyone who commits such an offence.

Source: §22, 59, and 81 of the Constitution of Cape Verde 1980 (revised in 1992); §15 of the Labour Code 2007; §161 of the Penal Code 2003

## Equal Choice of Profession

In accordance with the Cape Verde Constitution, every citizen has the right to choose freely his work or profession or to have professional training except for legal restrictions imposed in the public interest or inherent in his own capacity or professional qualification.

Under the Labour Code, everyone has the right to work according to their skills, training and professional competence. Furthermore, equality of work includes the right not to be passed over impaired or otherwise discriminated against in access to work.

Source: §39 of the Constitution of Cape Verde 1980 (revised in 1992); §12 & 15 of the Labour Code 2007

# 11/13 MINORS & YOUTH

## Regulations on minors and youth:

- Constitution of Cape Verde 1980 (revised in 1992)
- Labour Code 2007, last amended in 2016
- Education Law 2010

## Minimum Age for Employment

An employment contract may be concluded by a person who has reached the age of 15 years. Employment contracts concluded with those under 15 years of age are considered null and void. Even the employment contracts concluded by those who have not completed 18 years of age may be annulled at the request of their parents or any other representatives, if they do not consent to its conclusion. However, Children under 15 may be hired for performing work related to cinema, ballet, music and other activities of a spiritual nature, provided that they are accompanied by their parents or whosoever legally represents them and that the activity does not threaten their health, schooling, and education or affects their physical, mental or moral development. In addition, an approval will also be required from the Labour Directorate General who may if he/she so deems fit, may alter the contract if it is concluded that the contract does not adequately protect the minor. The Compulsory Education Age is 11 for minors.

The contract of employment will always be in writing failing which it will be void. Any Labour Contract executed with the minor without the approval of the Labour Directorate General is an offense.

In accordance with the Constitution, “the family, society, and the State must guarantee the protection of children against any form of discrimination or oppression, as well as abusive authority from family, public or private institutions to whom they are entrusted, and also against exploitation through child labour.” The

Constitution also prohibits child labour during years of compulsory schooling (till 11 years of age).

Source: §87 of the Constitution of Cape Verde 1980 (revised in 1992); §27 & 260-269 of the Labour Code 2007; §20 of the Education Law 2010

## Minimum Age for Hazardous Work

The Minimum Age on Hazardous work is 18. There are no laws that specify what kind of work amounts to hazardous work in Cape Verdean Law. Under the Labour Code, a minor may not engage in activities, which do not aid its physical and intellectual growth. Any person who becomes aware that a minor is working in conditions that are dangerous or unhealthy or otherwise are a danger to their physical health may report to the Director General of Labour in order to terminate the illegal circumstances being faced in the performance of work.

People who employ minors must ensure before the execution of any task, that they have the physical strength needed to pursue the professional activity for which they were hired. Furthermore, the proof of physical fitness of the minors must be submitted regularly and periodically at least once a year to the relevant authorities. All expenses for the above-mentioned procedures will be borne by the employers.

The normal period of work from minors cannot exceed 38 hours per week and 7 hours per day. However, this normal period may be the same as other workers where the task to be performed relates to simple presence or where the work is intermittent or where it is for the sole purpose of training. Minors are also entitled to an uninterrupted daily rest of up to 12 hours.

Only Minors aged 16-18 are allowed to work overtime, but that is only in cases of force majeure. Even then they may not work for more than 2 hour and 30 hours per year. With respect to night work, the law expressly forbids minors to work between 20:00 pm till 07:00 am, unless that work is essential for their vocational training and is authorized by the Council of General Labour.

A 2016 Law on Hazardous Child Labour sets the minimum age for hazardous work as 16 years except in the case of forced labour, slavery, prostitution, pornography and involvement of children in illicit activities where the minimum age is still 18 years.

The new law has a long list of prohibited works including the hazards involved in such works and the reasons for prohibition. Generally, it prohibits work that exposes children to physical, psychological or sexual abuse; work that is carried out underground, underground, at hazardous heights or in confined spaces; work carried out with hazardous machinery or work involving carrying or handling of heavy loads; work carried out in unhealthy environment which may expose children to dangerous substances; work carried out in difficult conditions including long hours where a child is unjustifiably detained at the employer's premises including night work; work that is unlikely to undermine the development and reproductive capacity of children.

Source: §260-269 of the Labour Code 2007; Lei n.º 113/VIII/2016, de 10 de março, que aprova a Lista Nacional do Trabalho Infantil Perigoso (TIP) e regula a sua aplicação



# 12/13 FORCED LABOUR

## **Regulations on forced labour:**

- Constitution of Cape Verde 1980 (revised in 1992)

*The text in this document was last updated in February 2019. For the most recent and updated text on Employment & Labour Legislation in Cape Verde in Portuguese, please refer to: <https://meusalario.org/caboverde>*

- Labour Code 2007, last amended in 2016

## **Prohibition on Forced and Compulsory Labour**

The Constitution and the Labour Code prohibit forced labour.

As per the constitution, “no one may be compelled to do certain work except in the accomplishment of public service, common and equal for all, or a judicial decision as provided by law.” The Labour Code specifies that no one may be required to perform forced labour, which is understood as an “obligation imposed on a person to perform, under the menace of any penalty and which includes a job or a service for which he/she has not offered him/herself voluntarily”. Labour resulting from judicial convictions, works and services for the community, war, disaster, fire, flood, famine, earthquake, epidemics, diseases, etc. that endanger or threaten to endanger the life or the normal conditions of existence of all or part of the population are not considered as forced labour.

Source: §39 of the Constitution of Cape Verde 1980 (revised in 1992); §14 of the Labour Code 2007

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

The legal provision on the freedom to change jobs is found in the Constitution and the Labour code.

Under the Constitution, every worker has the right to choose freely his/her work or profession or to have professional training except for legal restrictions imposed in the public interest or inherent in his own capacity or professional qualification. Furthermore, under the Labour Code, workers have the right to work according to their skills, training and professional competence and also have the duty of working to raise the means to their livelihood and his family, create personal and family wealth, develop the economy and promote personal and collective well-being.

All individual and collective labour agreements are void if they appear to prejudice the exercise of the right to work after termination of contract. It is permissible, however, for employers to limit the worker's activity in more than three years after the termination of the employment contract, if the employee has done something which is harmful to the employers' office, or where the employer has incurred an exorbitant amount of money on the training of the worker, provided the employer pays the employee a salary.

In the case of contract cancellation by worker, a minimum notice period of 15 days is required, which will increase to a maximum of 2 months' notice, based on the level of seniority of the employee. A worker may terminate an employment contract extraordinarily for reasons specified in the law.

Source: §39 of the Constitution of Cape Verde 1980 (revised in 1992); §12, 13 & 243 of the Labour Code 2007

## **Inhumane Working Conditions**

The maximum number of hours worked may not exceed 44 hours per week.

Limits of overtime work have been defined under the law. Overtime work may not exceed 2 hours per day, 160 hours per year, however with a worker's written consent, the annual overtime limit may be increased to 300 hours a year. Employees are normally required to work only 44 hours per week and 8 hours per day. The overtime work is only performed in exceptional circumstances.

# 13/13 TRADE UNION

## Regulations on trade unions:

- Constitution of Cape Verde 1980 (revised in 1992)
- Labour Code 2007, last amended in 2016

## Freedom to Join and Form a Union

In accordance with the Constitution, the freedom to establish, operate and join trade unions is guaranteed. The establishment of trade unions is governed by the Labour Code.

Trade unions acquire legal personality by the deposit of their constitution and other statutes to the relevant government ministry. The application for the deposit is accompanied by a certificate or certified copy of the minutes of constituent assembly, signed by all workers that have taken part in meeting. There is also the requirement that a union must be democratic in nature and must adopt policies, which is reflective of that nature. Lastly, it is required to be independent from the state and the employer. Trade unions and professional associations are independent of management, of the State, of political parties, the church or religious organizations.

The unions have the right to participate in social dialogue bodies and arbitration agencies, in the definition of the policy of social security institutions and others institutions aimed at protecting and defending the interests of workers and in the preparation/drafting of labour legislation. In addition, they are also tasked in concluding collective labour agreements.

All workers are free to form associations union or professional associations in defence of their collective or individual interests and as well recreational, leisure or cultural associations. No worker or group of workers can be persecuted, threatened or otherwise undermined of their rights arising from work by reason of their membership in an association. Furthermore, no one is forced to subscribe to a union or professional association and to remain unionized or professionally associated, nor are they required to pay dues to a union or professional association of which they are not members. Any worker proven to unionize under a threat or duress, moved by any person or organization can within one year from the date of registration, seek the annulment of trade union registration, and he/she will also be entitled to restitution of anything provided by him/her on becoming part of that union's member.

Source: §61-63 of the Constitution of Cape Verde 1980 (revised in 1992); §15, 19-21, 68-76, 80-97 of the Labour Code 2007

## Freedom of Collective Bargaining

The Constitution gives the trade unions the ability to conclude collective labour agreements on behalf of the members of the unions, whereas the ability of the trade unions to do collective bargaining is regulated and governed by the Labour Code. There are provisions within the Code that identify the parties of a collective agreement, the content of a collective agreement, the scope of the collective agreements on a geographical and professional level, the form of the collective agreement, the conclusion of collective agreements, time and sectoral validity of collective agreements, their termination, settlement of collective labour disputes, recording and public publication of collective agreements.

The issues discussed under collective bargaining are related to categories, qualifications, levels, compensation elements; staff representation within the company; conditions for hiring and termination; duration of work; holidays and public holidays and social guarantees; vocational training; the geographical area of application and scope of professional application and the date of conclusion; the period of validity and the pro-termination process and the regulation of peaceful settlement of collective labour disputes. The collective agreements may contain only those provisions that are more favourable for employees than those provided under the law.

A collective agreement must be concluded in written form; otherwise it will not be valid. A collective agreement will be concluded according to the terms and conditions agreed between the parties, however its term cannot be less than 2 years. The implementation of collective agreements is regulated by the government and the Directorate of Labour.

Source: §63 of the Constitution of Cape Verde 1980 (revised in 1992); §98-111 of the Labour Code 2007

## Right to Strike

The Right to Strike is Constitutional right. Workers have the right to decide on the occasions to strike and the interests, which the strike is intended to defend. Lockouts are prohibited and the law will regulate the exercise of the right to strike.

There are also provisions under the Labour Code 2007. Strike is defined as a collective, concerted refusal and total suspension of the work, aimed at defending and promoting the collective interest of workers. Any strike is considered illegal that is a sit-down strike in the workplace; a strike carried out to support interests whose pursuit through strike is considered illicit and a strike whose purpose is to modify collective labour agreements before expiry of the term. Trade Unions are principally responsible for organizing official strike action. Employees organized as an assembly of workers may also organize a strike provided the majority of the employees are not

trade union members and such assembly/meeting is convened for that purpose by at least 20% of the employees. The decision to strike is only valid if the majority of the employees attended the assembly/meeting and the strike is approved by majority of votes. If the majority of employees are trade union members, then it is the union that should organize the strike and any strike organized by the works council would be deemed unlawful.

During strike action, employment agreements of participating employees are suspended and employers are prohibited from employing temporary or permanent labour to replace those on strike. Employers are also prohibited from offering incentives to those who do not go on strike, so any form of cash reward is unlawful. The employer may, however, contract with another company to provide service or supply of goods that would be unfeasible due to the strike. Workers cannot be discriminated against by the employer by reason of their adherence to strike. Workers are also required to pay for the strike, and the services necessary for the safety and maintenance of equipment and facilities.

The organization that has decided to strike must communicate its decision in writing to the employers covered by strike entities and the directorate of labour in an advance of 5 working days and must also include the details relating to the date and time of the stoppage, the workplaces and professional categories covered, the duration of the strike, the identification of the workers belonging to the strike committee. Representatives of the workers on strike must ensure contacts with other entities design to resolve the conflict, give advice on the determination of the services minimum required to meet the social needs and also give advice on the determination of the services necessary for the safety and maintenance of equipment and facilities. Attempts must be made by the parties to reconcile the differences in order to overcome the conflict.

Where a company is engaged in provision of essential services, workers are obliged to ensure the provision of minimum services during the strike. The essential services are: Post and telecommunications; Health services, meteorology and justice; Funeral services; water and sanitation supplies; energy and fuel supply; Fire; transport, ports and airports; Loading and unloading of animals and food stuffs; banking and credit and Private Security. Usually the issue of provision of minimum services will be decided between the employer and the employees and in the absence of that, the government will be tasked with the responsibility of the setting the services. In accordance with a 2016 Labour Code reform, the minimum services can be determined by an independent tripartite commission composed of one representative each from government, employer and worker side and two other representatives chosen by the government. Lastly the strike ends at the end of the period prescribed in the notice or if the entities who have declared the strike come to a resolution.

Source: §64 of the Constitution of Cape Verde 1980 (revised in 1992); §23-24 & 112-125 of the Labour Code 2007



# DECENT WORK QUESTIONNAIRE



# DECENTWORKCHECK.ORG

Check

DecentWorkCheck Cape Verde is a product of  
WageIndicator.org and www.meusalario.org/caboverde



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".

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





## 07/13 Health & Safety

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- |     |  |   |                          |                          |
|-----|--|---|--------------------------|--------------------------|
| 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

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- |     |   |   |                          |                          |
|-----|---|---|--------------------------|--------------------------|
| 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

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- |     |   |   |                          |                          |
|-----|---|---|--------------------------|--------------------------|
| 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

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

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

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




## 11/13 Minors & Youth

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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

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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

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

# DECENTWORKCHECK.ORG

## Results

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



is your amount of "YES" accumulated.

Cape Verde scored 39 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.