



DECENT WORK CHECK

GABON 2022

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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.

Decent Work Checks are available for 108. In 2022, the team aims to include at least 12 more countries, thus taking the number of countries with a Decent Work Check to 120!

MAJOR LEGISLATION ON EMPLOYMENT AND LABOUR

1. Law n°001/2018 of January 12, 2018 revising the Constitution of the Gabonese Republic
2. Law n° 022/2021 of 19 November 2021 on the Labour Code in the Gabonese Republic
3. Constitution of the Gabonese Republic, 1991
4. Law n°3/94 of November 21, 1994 on the Labour Code, amended by Law n°12/2000 of October 12, 2000
5. Decree n° 855/PR/MTE of November 9, 2006 fixing the Guaranteed Interprofessional Minimum Wage in the Gabonese Republic
6. Order n°018/PR/2010 of February 25, 2010, ratified by Law n°021/2010 of July 27, 2010
7. Law n° 6/75 of November 25, 1975, on the Social Security Code
8. Decree No. 00051/PR promulgating Law No. 028/2016 on the Social Protection Code in the Gabonese Republic
9. Law No. 10-216 of September 5, 2016 on the fight against professional harassment;
10. Decree No. 0933/PR/MTEPS of December 30, 2009 establishing the daily distribution of the weekly working hours in the Gabonese Republic
11. Decree n°0023/PR/MEEDD of January 16, 2013, fixing the nature of the worst forms of work and the categories of enterprises prohibited to children under 18 years old

The text in this document was last updated in August 2022. For the most recent and updated text on Employment & Labour Legislation in Gabon in French, please refer to: <https://votresalaire.org/gabon/>

01/13 WORK & WAGES

ILO Conventions

Minimum wage: Convention 131 (1970)

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

Gabon has ratified the Convention 95 only.

Summary of Provisions under ILO Conventions

The minimum wage must cover the living expenses of the employee and his/her family members. Moreover, it must relate reasonably to the general level of wages earned and the living standard of other social groups. Wages must be paid regularly on a daily, weekly, fortnightly or monthly basis.

Regulations on work and wages:

- Law n° 022/2021 of 19 November 2021 on the Labour Code in the Gabonese Republic
- Decree No. 855/PR/MTE of November 9, 2006 establishing the Guaranteed Interprofessional Minimum Wage in the Gabonese Republic

Minimum Wage

According to the Labour Code, the guaranteed interprofessional minimum wage is the absolute minimum below which it is forbidden to pay a worker. The SMIG is then set by decree on the proposal of the Minister of Labour after consultation with the most representative employers' and workers' organisations.

Clauses containing indexation on the guaranteed interprofessional minimum wage, or references to it, are formally prohibited in collective labour agreements.

The Guaranteed Interprofessional Minimum Wage is set at eighty thousand francs per month for the general and agricultural schemes, throughout the national territory. It is calculated on the basis of 6 hours 40 minutes per day for activities subject to the general regime, i.e. 40 hours per week, and 8 hours of work per day for agricultural and similar activities, i.e. 48 hours per week.

In addition to the determination of the guaranteed interprofessional minimum wage, the Monthly Minimum Income, abbreviated to MMI, is set by decree on the joint proposal of the Minister of Labour and the Minister of the Budget after

consultation with the most representative employers' and workers' organisations. It is granted to any worker whose gross monthly salary is less than the amount.

They also set, in the absence of collective agreements or in their silence, the minimum wages by professional category; the minimum rates for overtime or night work or work on non-working days; the seniority and attendance bonuses.

The task of ensuring the application and respect of legal provisions relating to wages and general working conditions falls to the Labour Inspectorate.

Employers who pay wages below the minimum set by the said decree are liable to a fine of five hundred thousand (500,000) CFA francs to one million (1,000,000) CFA francs and, in the event of a repeat offence, to a fine of one million (1,000,000) to two million (2,000,000) CFA francs, and punished by imprisonment for two to six months or one of these two penalties only.

Sources: Articles 144, 179, 180, 233 and 273 of the Labour Code, 2021; Articles 2-5 of Decree No. 855/PR/MTE of November 9, 2006 establishing the Guaranteed Interprofessional Minimum Wage in the Gabonese Republic

Regular Pay

In accordance with the Labour Code, wages are basic remuneration or salary, and all benefits and accessories paid directly or indirectly in cash by the employer to the worker by reason of the latter's employment.

Thus, the Labour Code provides that wages must be paid in legal tender, during

working hours, at the workplace or at the employer's office when it is close to the workplace. In no case may payment be made on the worker's day of rest, nor in a liquor store or sales outlet, except for workers who are normally employed there. In addition to this obligation, the employer is obliged to pay the salary at regular intervals not exceeding fifteen days for hourly or daily wage workers, and one month for monthly wage workers.

As regards the determination of the time wage, it is established by the hour or by the day, by the week or by the month, by the piece or by the task.

Monthly payments must be made no later than five days after the end of the working month that gives rise to the salary.

In the event of permanent termination of services, wages and allowances must be paid upon termination of service. Nevertheless, in the event of a dispute, the employer may obtain from the President of the Court the provisional freezing in his

hands of all or part of the sizable portion of the sums due.

Wages owed to employees in the event of bankruptcy or judicial liquidation have first priority and must be paid in full before other creditors can claim their share. At the time of payment, the employer is required to issue the employee with an individual pay slip. The payment of wages is recorded by the employer in a register kept for this purpose in the pay book or register.

Source: Art. 169, 181- 183 and 187 of the Labour Code, 2021

02/13 COMPENSATION

ILO Conventions

Compensation overtime: Convention 01 (1919)

Night work: Convention 171 (1990)

Gabon has not ratified the above-mentioned Conventions.

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 time (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 of the Gabonese Republic, 2021
- Decree No. 715/PR/MTEFPRH of April 3, 1992, amending the regulations governing public holidays in the Gabonese Republic
- Decree No. 726/PR/MTEFP of June 29, 1998, regulating the system of exemptions from the legal working hours
- Decree No. 728/PR/MTEFP of June 29, 1998 establishing the distribution of weekly working hours

Overtime Compensation

In accordance with the Labour Code, the legal working hours are forty hours per week, whether for public or private institutions. Consequently, hours worked beyond the legal working time are considered as overtime and give rise to an increase in salary.

For agricultural and similar businesses, the working hours are based on 2,400 hours for the year. Thus, the duration of work is fixed by Decree issued on the proposal of the Minister of Labour, which determines the terms of remuneration for overtime. However, the said decree has not been found in the Gabonese labour legislation.

Working hours may be extended for urgent work whose immediate execution is necessary to prevent imminent accidents or to repair accidents to the company's equipment, installations or buildings. The hours worked in this capacity are paid at the normal rate.

Furthermore, the actual daily working hours may be extended beyond the legal working hours in the event of urgent, exceptional or seasonal work or work justified either by an extraordinary increase in workload, or by the need to maintain or increase production levels, or by a shortage of manpower, giving rise to overtime of up to twenty hours per week. The hours worked in this respect are considered as overtime and their payment includes the increase provided for by the collective labour agreements or, failing that, by decree.

Sources: Articles 195 & 196 of Labour Code, 2021; Article 14 of Decree No. 726/PR/MTEFP of June 29, 1998 regulating the system of derogations from the legal working hours

Night Work Compensation

According to the Labour Code, night work is any work performed between 21:00 and 6:00 in the morning. Thus, the duration of night work may not exceed eight consecutive hours. As for the rates of pay for night work, they are fixed in the sectoral collective agreements and do not concern companies whose normal working hours are at night.

The implementation of night work schedules requires that the employer must first consult the representatives of the workers concerned on the arrangements for the implementation of such schedules.

However, the law prohibits the employment of children under 18 years of age at night in any industrial establishment,

public or private, or in any dependency of such an establishment, with the exception of establishments where the only employees are members of the same family, and of apprentices because of the special nature of certain activities. Night work by children in industry is regulated by a decree issued on the proposal of the Minister of Labour after consultation with the most representative employers' and workers' organisations. Children are granted a daily compensatory rest of at least 12 consecutive hours.

Sources: Articles 202-204 and 206 of the Labour Code, 2021

Compensatory Holidays / Rest Days

According to the Labour Code, every worker has the right to weekly rest and it is compulsory. It lasts for a minimum of twenty-four consecutive hours per week and in principle takes place on Sunday. However, the law provides for derogations from the weekly rest obligation, in particular for activities characterised by the need to ensure continuity of service or by periods of split intervention; for urgent work and rescue measures to prevent imminent accidents or repair accidents that have occurred.

On the other hand, the law makes no provision for compensatory leave or a day of rest for workers who may be employed on the weekly day of rest and the public holiday, including those engaged in retail trade; transport; port handling activities and related operations; hotels; restaurants; pubs; security; rubbish collection; hospitals, clinics, doctors' surgeries; domestic workers; the professions; and the press.

In the case of activities whose continuous operation must, by reason of the nature of the work, be ensured without interruption during the day or night, the weekly working time may reach an average of forty-two hours established over a period of twelve weeks, and each worker must be granted at least one rest period of twenty-four consecutive hours per week.

Thus, the hours of Sunday rest and public holidays worked during work cycles or rotations give rise to recuperation as part of compensatory rest.

Source: Article 200, § 6 and 220 of the Labour Code, 2021; Art. 3 of Decree No. 0933/PR/MTEPS of December 30, 2009, establishing the daily distribution of the working week in the Gabonese Republic; Art. 2 of Decree No. 726/PR/MTEFP of June 29, 1998, regulating the system of derogations from the legal working week

Weekend / Public Holiday Work Compensation

In accordance with the provisions of Decree n°00727/PR/MTEFP of June 29, 1998 regulating the system of public holidays in the Gabonese Republic and amended in its article 2 by Decree n°000484/PR/MTE of May 26, 2004, public holidays are not worked, are paid and give right to the payment, at the employer's expense, of a compensatory allowance equal to the salary calculated on the basis of the normal work schedule, excluding overtime, except when the legal holiday coincides with the weekly rest period, and do not give rise to recovery. It also specifies that workers required to perform their professional activities on a public holiday shall receive, in addition to

the allowance, the salary corresponding to the day's work performed.

Sources: Article 5 of Decree n°727/PR/MTEFP of June 29, 1998 regulating the system of public holidays in the Gabonese Republic

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.

Gabon has ratified the Conventions 14 & 106.

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 of the Gabonese Republic, 2021
- Decree No. 727/PR/MTEFP of June 28, 1998 regulating the system of public holidays

Paid Vacation / Annual Leave

According to the Labour Code, unless there are more favourable contractual provisions, the worker acquires the right to leave at the expense of the employer after a period of service equal to one year. He/she is entitled to two working days per month of actual service, while workers under the age of 18 are entitled to two and a half working days. The length of annual leave increases with seniority in the company. Mothers are entitled to an additional day of leave per year for each dependent child under the age of 16.

Throughout the period of leave, the employer is obliged to pay the worker an allowance at least equal to the corresponding average of the wages, allowances, bonuses and various commissions the worker has received during the twelve months preceding his departure on leave. In addition, the leave allowance must be paid in full to the employee before he or she goes on leave.

Furthermore, the law introduces technical leave by limiting its duration to a maximum of six (6) months, which is not renewable, and establishes the principle that the worker receives a technical unemployment allowance, the rate of which is set by collective agreements or establishment agreements, or failing that, by mutual

agreement between the employer and the workers' representatives.

Finally, the worker receives an allowance in lieu of leave only in the event of termination or expiry of the contract before the worker has acquired the right to such leave. Otherwise, any agreement providing for the granting of compensation in lieu of leave is considered null and void.

Source: Articles 54, §15; 222-225 of Labour Code, 2021

Pay on Public Holidays

Under the Labour Code, a Decree issued on the proposal of the Minister in charge of Labour determines the list of public holidays and the terms of remuneration or recovery of working hours performed on these days. Thus, workers are paid during public holidays and these 11 days are listed as follows: New Year's Day, Easter and Easter Monday, Labor Day, Whitsun and Whit Monday, Assumption Day, National Day, All Saints' Day, Christmas Day, Al fytiri or Ramadan Day, Eid el kebir or Sheep Day. The National Day includes the dates of August 1 and 17.

However, the compensatory allowance is not due when the legal holiday coincides with the weekly rest period.

Sources: Article 184 of the Labour Code, 2019; Articles 2 and 5 of Decree No. 727/PR/MTEFP of June 28, 1998 regulating the system of public holidays

Weekly Rest Days

In accordance with the Labour Code, workers have a weekly rest day of twenty-

four consecutive hours during each seven-day period. This rest is taken exclusively on Sunday.

Sources: Article 220 of the Labour Code, 2021

04/13 EMPLOYMENT SECURITY

ILO Conventions

Convention 158 (1982) on employment termination

Gabon has 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 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:

- Labour Code of Gabonese Republic, 2021

Written Employment Particulars

According to the definition provided by the Labour Code, an individual employment contract is an agreement by which a person undertakes to place his or her professional activity under the direction and authority of another person who undertakes to pay him or her a remuneration in return.

According to the provisions of the Code, the parties are free to conclude the employment contract either verbally or in writing, subject to the compulsory production of a medical certificate attesting that the candidate for the job in question is free of any contagious disease and physically fit to perform the duties for which he is intended.

However, the reform of the Labour Code introduces more flexibility, by codifying several contractual forms of employment that did not yet have a status, and that are more adapted to the new labour market, such as: the seasonal contract; the part-time contract; the intermittent contract; part-time working hours offering the worker the possibility of adapting his or her working hours or benefiting from a part-time contract with the possibility of combining it with another in another company, subject to non-competition clauses; cycle and rotation work by setting a clear legal framework for continuous-fire companies.

The Code also innovates by reinforcing the status of the daily and weekly worker through the creation of the status of the

daily and weekly worker conferring access to the provisions of the Social Security Code and the National Health Insurance and Social Guarantee Fund; the supervision of temporary employment contracts.

Thus, the period fixed in the employment contract determines whether the contract is concluded for a fixed or indefinite period or for the execution of a specific work or task.

Source: Articles 19, 20, 22, 23 b, 27, 29-36, 41-44, 198 and 200 of Law n° 022/2021 of 19 November 2021 on the Labour Code in the Gabonese Republic

Fixed Term Contracts

According to the Labour Code, the fixed-term employment contract has a certain term, fixed in advance and agreed between the parties. In addition, it must be drawn up in writing and the duration is limited to 2 years instead of 4 years, including renewal (art. 24) and affirming the temporary nature of this type of contract; the abolition of short-term fixed-term contracts.

Finally, a fixed-term contract which, at the end of its term, is continued by the will, even tacit, of the parties, confers on the contract the character of a contract of indefinite duration, notwithstanding any clause prohibiting tacit renewal. Also, the continuation of services beyond a period of one month, for the daily or weekly employment contract, confers to this contract the character of a contract of indefinite duration.

Source: Articles 23-25 of Law n° 022/2021 of 19 November 2021 on the Labour Code in the Gabonese Republic

Probation Period

The Labour Code provides for a trial period of employment as a period prior to the conclusion of a definitive contract. Its purpose is to allow the employer to judge the professional attitudes and behaviour of the employee, and to allow the employee to appreciate the general working, health and safety conditions. Moreover, the trial period must be expressly stated in writing, under penalty of nullity, and may be included in the body of a final contract.

The duration of the trial period may in no case exceed the time required to test the personnel hired, taking into account their qualifications, the level of responsibilities associated with the job and the practices of the profession. From the above, it can be deduced, in accordance with the Labour Code, that no individual employment contract, nor any collective agreement, may provide for a trial period, including possible renewal, of more than six months for managers, three months for employees, technicians and supervisors and one month for other employees.

In addition, the classification of a worker hired on probation must correspond to the professional category of the job for which he or she is recruited.

The extension of services beyond this maximum duration automatically entails the confirmation of the final employment contract taking effect on the date of the beginning of the trial period.

Source: Articles 45-50 of the Labour Code, 2021

Notice Requirement

In accordance with the Labour Code, the termination of the employment contract is subject to a notice period given by the party initiating the termination. Thus, during the performance of the contract for a specific work or task, it can be terminated by the employer in case of fault of the employee or by the worker, at his discretion; and in all cases, except for gross negligence, the notice period must be respected.

However, the notice requirement does not apply in the case of gross negligence and any employment contract may be terminated immediately without notice. On the other hand, except in the case of serious misconduct, there are cases where the notice period is waived, in particular in the case of a trial employment contract which can be terminated at any time by either party without notice, unless otherwise agreed.

The employment contract can therefore be terminated at the initiative of either the employer (dismissal) or the employee (resignation).

The length of the notice period is determined on the basis of the employee's seniority in the company. It is fixed as follows:

1. 15 days' notice for up to one year of service;
2. One month's notice for one to three years of service;
3. Two months' notice for three to five years of service;
4. Four months' notice for ten to 15 years of service;
5. Five months' notice for 15 to 20 years of service;

6. Six months' notice for 20 to 30 years of service;
7. 10 days extra per year of service for those with more than 30 years of service.

The Code specifies that collective agreements and individual employment contracts may provide for more favourable provisions, taking into account the worker's professional qualifications. It should also be noted that the notice period begins on the day following the notification of dismissal, resignation or retirement.

Nevertheless, during the notice period, the dismissed worker who has performed at least half of the notice period and who finds another job may leave his employer without being liable for compensation, provided that he gives the employer forty-eight hours' notice of his definitive departure.

But also, a compensatory indemnity is provided for in case of non-respect of the notice period. The amount of this compensation corresponds to the remuneration and benefits of any kind that the employee would have received during the period of notice that was not effectively respected.

Source: Articles 58, 61, 81-82, 86 of the Labour Code, 2021

Severance Pay

The Labour Code provides for severance pay granted to any worker dismissed for a personal reason (physical or professional unfitness, misconduct) other than serious misconduct and having at least two years of seniority in the company. Workers who are dismissed for economic reasons are

entitled to a redundancy allowance after one year's service.

In addition, the worker who resigns or retires benefits from an indemnity for services rendered, and this also extends to the dependents of the deceased worker. However, it should be noted that the severance pay and the indemnity for services rendered cannot be cumulated.

Thus, each of the indemnities amounts to 20 percent of the average monthly salary of the last 12 months per year of continuous presence in the same company. In addition to the severance pay, the breach or termination of the contract before the employee has acquired the right to leave entitles the employee to compensation in lieu of leave, calculated on the basis of the acquired rights.

Finally, in general, the Code provides that in case of termination or breach of contract, the employer is obliged to pay the wages and allowances due upon termination of service.

Source: Articles 87-90; 182, § 6 and 224 of the Labour Code, 2021

05/13 FAMILY RESPONSIBILITIES

ILO Conventions

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

Gabon has not ratified the Conventions 156 & 165.

Summary of Provisions under ILO Convention

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

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

Flexible Work Option for Parents / Work-Life Balance Recommendation 165 asks the employers to look into the measures for improving general working conditions through flexible work arrangements.

Regulations on family responsibilities:

- Labour Code of the Gabonese Republic, 2021
- The Common Core of the Collective Bargaining Agreements of February 6, 1982

Paternity Leave

The law provides that an employee is entitled to three consecutive days' paternity leave if he or she can provide a birth certificate. Thus, an employee who wishes to take paternity leave must inform his employer at least one month before the expected date of delivery.

In accordance with the Labour Code, exceptional leave that would have been granted to the worker on the occasion of family events may not be deducted from the duration of the earned leave. In fact, upon presentation of supporting documents, all employees, regardless of their status, are entitled to paternity leave of three days following the birth of their child.

Source: Articles 54, § 13 and 223, § 6 of Law n° 022/2021 of 19 November 2021 on the Labour Code in the Gabonese Republic; Art. 41 of the Collective Bargaining Agreement, 1982

Parental Leave

In principle, parental leave is taken at the end of maternity, paternity or adoption leave. Thus, according to the Labour Code, mothers are entitled to one additional day

of leave per year for each dependent child under the age of sixteen.

Source: Article 223, 4th paragraph of the Gabonese Labour Code, 2021

Flexible Work Option for Parents / Work-Life Balance

Labour legislation does not contain any work-life balance provisions 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.

Gabon has not ratified any of the above-mentioned Conventions.

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 same or equivalent position after availing maternity leave.

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

Regulations on maternity and work:

- Gabon Labour Code, 2021
- Decree No. 599/PR, setting the terms of application of the Social Security Code and complementary legislative provisions
- Decree No. 000111/PR/MS of March 26, 2018 instituting free deliveries in public health facilities
- Law No. 6/75 of November 25, 1975, on the Social Security Code
- Common Core of Collective Agreements, 1982

Free Medical Care

The Labour Code provides that a woman employee on maternity leave is entitled to free medical care and to the full salary she was receiving at the time of her suspension from work. These benefits are paid for by the National Social Security Fund. In addition, she also retains the right to benefits in kind.

In addition, women of Gabonese nationality who are at least eighteen (18) years of age are entitled to free childbirth benefits, which include: delivery by vaginal delivery and caesarean section; hospitalization; observation; post-partum care for the mother; neonatal care; medication; and medical transportation. Thus, the health benefits related to free deliveries are 100% covered by the CNAMGS.

In accordance with the Social Security Code, a salaried woman is entitled to free health care during childbirth at the expense of the Fund. If the woman resides in the Libreville region, this care is provided in hospitals approved by the National Social Security Fund or in provincial or

departmental hospitals if she resides in other regions.

Free care also includes hospitalization in the second category for a maximum of eight days, unless there are complications in the health of the woman in labour.

Sources: Art. 210, § 5 of the Labour Code, 2021; Art. 2-4 of Decree No. 000111/PR/MS of March 26, 2018, instituting free childbirth in public health facilities; Art.73-74 of Decree No. 599/PR, establishing the terms of application of the Social Security Code and complementary legislative provisions; Art. 53, 2o) of Law No. 6/75 of November 25, 1975, establishing the Social Security Code.

No Harmful Work

The Labour Code prohibits the employment of a woman during her pregnancy and three months after the date of resumption of work, in a job recognized as dangerous to her health or who produces a contradictory medical certificate attesting that a change in the nature of her work is necessary in the interest of her health or that of her child. She thus has the right to be transferred, without reduction of salary, to another equivalent job not prejudicial to her health.

In addition, the labour inspector may require the examination of women for work that presents high risks to their health in order to verify that the work they are assigned does not exceed their strength.

The law also specifies that a woman or child may not be kept in a job recognized as being beyond her strength and must be assigned to a job that is suitable for her. Similarly, night work is prohibited for women, regardless of age, and children under eighteen. They may not be employed

during the night in any industrial establishment, public or private, nor in any dependency of such an establishment, with the exception of establishments where the only employees are members of the same family.

Generally, decrees issued on the joint proposal of the Minister of Labour and the Minister of Public Health determines the nature of the work prohibited for women and pregnant women. However, Decree No. 246PR/MEEDD/MFA of 19 June 2012 establishing the nature of work prohibited to women has not been found.

Source: Articles 209, 210 and 213 of the Labour Code, 2021

Maternity Leave

In accordance with the Labour Code, a pregnant woman is entitled to suspend her employment contract for fourteen consecutive weeks, including six weeks before and eight weeks after the expected date of delivery.

The prenatal rest period may be extended until the date of delivery without reducing the postnatal leave if the delivery does not take place on the expected date. It may be extended by 2 weeks in the case of multiple births, and by 3 weeks in the case of illness following a duly documented pathological birth.

Source: Article 208 of the Labour Code, 2021

Income

A woman on maternity leave is entitled to the full salary she was receiving at the time of suspension of work, as well as benefits in

kind. These benefits are covered by the National Social Security Fund.

Thus, any employed woman or wife of an employee who has undergone three mandatory medical examinations in the 3rd, 6th and 8th months of pregnancy is entitled to prenatal benefits. Prenatal allowances are normally due for the nine months preceding the first day of the month following the birth. They are therefore paid to the mother-to-be in three instalments: the first after the medical examination in the third month; the second after the examination in the sixth month; and the third after the last medical examination.

In addition to the prenatal and maternity allowances, the insured woman also receives a daily allowance during her maternity leave. In accordance with the provisions of the Labour Code, the daily maternity allowance is equal to the average daily wage received by the insured woman at the time of the suspension of work.

The average daily wage is obtained by dividing the total wages received by the insured person during the month preceding the month of suspension of work by thirty.

The daily maternity allowance is paid in two instalments, the first after the birth, the second when the employee resumes work.

Sources: Article 210, § 5 of the Labour Code, 2021; Art. 50-52, 66, 1o), 69 and 71 of the Decree implementing the Social Security Code

Protection from Dismissals

With regard to the termination of employment contracts, the reform of the Labour Code adopts amicable termination

involving the will of both the employer and the employee, which is favourable to workers because it allows them to negotiate an amicable departure, with higher compensation; the relaxation of the dismissal procedure for domestic staff, with the notice period replacing the summons to the preliminary interview; the adaptation of the rules of notice to particular modalities, in particular the cases of impossibility of execution of the notice by the effect of illness or custody; the easing of the dismissal of workers incarcerated for professional misconduct, the observation by a bailiff replaces the summons to the preliminary interview; and finally, the easing of the economic dismissal providing that below ten workers, a procedure of preliminary interview replaces the mechanism of authorisation of the dismissal.

In accordance with the Labour Code, all workers enjoy the same protection and guarantees and may not be discriminated against in employment and working conditions on the basis of race, colour, sex, religion, political opinion, national origin or social origin.

In addition, the provisions of the Labour Code prohibit an employer from terminating or otherwise retaliating against an employee because of her pregnancy or childbirth. Thus, the dismissal of a pregnant woman whose condition has been medically confirmed or any dismissal within fifteen months of the date of delivery is subject to the prior authorization of the Labour Inspector.

During the period of suspension of the employment contract due to pregnancy, the interruption of service does not suspend seniority and cannot be

considered as a cause for termination of the contract. It may even be extended by three weeks in the event of a duly documented illness resulting from pregnancy or childbirth, and during this period the employer may not terminate the contract.

Similarly, the woman has the right to rest for breastfeeding for twelve months and may leave her job permanently without notice and without having to pay compensation for breach of contract.

Sources: Articles 9, 59, 62, 63 §3, 74, 78, 207, 208 & 211 of the Labour Code, 2021

Right to Return to Same Position

The Labour Code provides for the reinstatement of a female employee after her maternity leave provided that the worker's capabilities effectively allow her to return to her position.

In addition, in accordance with the provisions of the Common Core of Collective Agreements, a worker who, at the end of the periods of suspension of the employment contract, is no longer able to return to her job or to perform it under normal conditions, must be reclassified in another job.

The Labour Code also provides that after three months from the date of resumption of work, a woman who was usually employed in a job recognized as dangerous to her health or who produces a contradictory medical certificate attesting that a change in the nature of her work is necessary in the interest of her health or that of her child, has the right to be transferred, without reduction of salary, to another job not harmful to her condition.

If this transfer is not possible, the employment contract must be suspended for a period not exceeding three months. For the duration of this suspension, the woman is entitled, on the one hand, to the payment by the employer of an indemnity equivalent to half the salary she was receiving before the suspension and, on the other hand, to the maintenance of her seniority during the period of this suspension.

Sources: Article 21.5 of the Common Core of Collective Bargaining Agreements, 1982; Article 209 of the Labour Code, 2021

Nursing Breaks

The female employee benefits from breastfeeding breaks for a period of twelve months from the date she resumes work. Thus, these breaks are taken at the rate of two hours per day during the first six months and one hour per day during the last six months.

Moreover, these breastfeeding breaks are considered as part of working time and the law requires that they be paid as such.

Source: Article 211 of the Labour Code, 2021

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)

Gabon has ratified both the Conventions 81 & 155.

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:

- The Gabonese Labour Code, 2021
- Decree No. 01494/PR/MTEPS of December 29, 2011 determining the general rules of hygiene and safety in the workplace

Employer Cares

The employer's duties include the application of preventive measures for occupational safety and health intended to ensure the protection of the workers he employs; to maintain a safe and healthy working environment, to define and implement and periodically review a program for the prevention of risks present in the workplace; to form a safety and health committee within certain establishments in accordance with the provisions of the Ordinance of the Minister having labour in his attributions.

In addition, the employer is obliged to ensure that workers are provided with, maintain and renew in good time individual and collective means of protection recognized as effective, taking into account their activities. The employer must also provide workers with all the information concerning the risks involved in their respective occupations and the measures to be taken to avoid them, including the use of protective systems.

Likewise, the worker must receive appropriate training in the field of occupational safety and health with the aim of informing him/her of the risks of his/her work and the means of preventing them.

Indeed, the occupational safety and health committee contributes to the protection of the health and safety of the workers of the

establishment; ensures the compliance with legislative and regulatory requirements in these matters; analyzes occupational risks as well as working conditions; carries out inspections and investigations in the field of occupational accidents or diseases or of an occupational nature.

And for the workers, they are required to comply strictly with the provisions of the laws and regulations relating to occupational safety and health as well as the instructions of the internal regulations relating thereto.

Sources: Articles 236-239&241 of the Labour Code, 2021

Free Protection

In accordance with the provisions of the Labour Code, the employer must ensure that workers, taking into account their activities, the provision, maintenance and timely renewal of individual and collective means of protection recognized as effective. It should be noted that the Code does not clearly state that this equipment is provided free of charge.

On the other hand, Article 147 of Decree No. 01494/PR/MTEPS determining the general rules of hygiene and safety in the workplace stipulates that the employer must provide, free of charge, at least two complete sets of working clothes adapted to the size and activity of each worker, the first being provided on hiring. In addition, personal protective equipment adapted to the risks involved, maintained in perfect working order, must be made available to workers.

Source: Art. 238 of the Labour Code, 2021; Articles 147 & 213 of Decree No.

The text in this document was last updated in August 2022. For the most recent and updated text on Employment & Labour Legislation in Gabon in French, please refer to: <https://votresalaire.org/gabon/>

01494/PR/MTEPS of December 29, 2011 determining the general rules of hygiene and safety in the workplace

Training

The labour legislation provides for provisions relating to the employer's obligations, including the application of preventive measures for occupational safety and health aimed at ensuring the protection of workers. To this end, workers must receive appropriate training in the field of occupational safety and health in order to keep them informed of the risks of their work and the means of preventing them.

In addition, for workers whose activity involves manual handling, the employer is obliged to provide them with adequate practical training in safety relating to the execution of these operations, with the workers being instructed in the gestures and postures to be adopted in order to carry out manual handling safely.

Source: Articles 236&238, §4 of the Labour Code, 2021; Art. 107 of Decree No. 01494/PR/MTEPS of December 29, 2011 determining the general rules of hygiene and safety in the workplace

Labour Inspection System

The Labour Code provides for a labour inspection system that includes labour inspectors, labour monitors, as well as medical labour inspectors who are responsible for enforcing general occupational safety and health measures.

The CEACR notes that the value of the labour inspection system is not sufficiently

recognized, even though current legislation provides for labour inspectors to be permanently provided with the personnel and equipment necessary for the operation of their service. Indeed, the commission reports a lack of logistical and material resources and a need for human resources in the labour inspectorate, particularly to enforce occupational health and safety laws and regulations. The commission also reports the near absence of control visits in the interior of the country and notes that the implementation of legal labour provisions is not effective since the functions of inspectors are often limited, in practice, to advice and conciliation.

The labour inspectors ensure the execution and control of the legislative, regulatory and conventional provisions enacted in the field of labour, employment, social security, hygiene, safety and medicine of the worker. However, they may not have any direct or indirect interest in the companies under their control. In addition, they are required not to reveal the source of any reports or findings that lead to the discovery of a defect in the facility or a violation of the legislative and regulatory provisions.

The Labour Code authorizes labour inspectors with their professional card to enter freely and without prior warning, at any time of the day or night, into establishments; to enter during the day into all premises which they may have reasonable cause to assume are subject to inspection.

They then have the duty to publish each year, within one month, an annual report on all matters under the control of the Labour Inspection.

The Labour Code does not provide for an effective organization of the labour inspection system which, in principle, would be placed under the supervision and control of a central authority to coordinate the services responsible for labour inspection in accordance with the requirements of the Labour Inspection Convention.

The pecuniary sanctions provided for the perpetrator of an offence under the provisions of Article 286 are a fine of

between one million (1,000,000) and five million (5,000,000) CFA francs. The fine is doubled in the event of a repeat offence.

Sources: Articles 265, 272, 273, 275, 278-279, 284-288 of the Labour Code, 2021; Decree No. 000741 of September 22, 2005, establishing the modalities for the repression of infractions in the areas of labour, employment, occupational safety and health, and social security

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

Gabon has not ratified the above-mentioned Conventions.

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 benefit may not be paid during the first 3 days of your absence. Minimally, a worker should be entitled to an income during first 6 months of illness. This income should be at least 45 per cent of the minimum wage. (Countries are free to opt for a system which guarantees 60 per cent of the last wages during the first 6 months of illness or even during the first year). 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:

- The Gabonese Labour Code, 2021
- Order No. 00021/MTEPS/MSHP of December 12, 2008 defining the basket of care of the compulsory health insurance and social guarantee scheme

Income

In case of absence due to sick leave, it is the responsibility of the employer to pay the sickness benefit or daily allowance which is equal to 100% of the worker's monthly salary due for a maximum period of 6 months. The duration of the benefit depends on the duration of the worker's employment and is as follows:

1. 15 days' sickness benefit for service of less than one year;
2. One month sickness benefit for service of one to three years;
3. Two months' sickness benefit for service of three to five years;
4. Three months' benefit for service of five to ten years;
5. Four months' benefit for service of 10 to 15 years;
6. Five months' sickness benefit for service of 15 to 20 years;
7. Six months' sickness benefit for service of 20 to 30 years;
8. Additional 10 days of sickness benefit for every extra year after 30 years of service

From the seventh month, the benefit is reduced by half until the insured is taken in charge by the National Social Security Fund, which provides a disability pension.

Source: Articles 55 & 82 of the Labour Code,

2021; Article 163 of the Decree implementing the Social Security Code; <https://ww1.issa.int/fr/node/195543?country=857>

Job Security

According to the Gabonese Labour Code, the suspension of the employment contract is defined as a temporary interruption of all or part of the contractual obligations, without resulting in the termination of the contract. Thus, the employer must pay the employee compensation equal to the amount of his or her remuneration for the duration of the absence, up to the maximum notice period. Similarly, in the event of long-term illness, the employer is responsible for paying compensation during the first six months of the absence. In addition, the worker continues to enjoy the rights to medical assistance previously acquired in his company.

Thus, employment is guaranteed since there is no provision for the employer to terminate the contract during the worker's unavailability and the interruption is not considered as a breach of contract.

Furthermore, the Labour Code considers as null and void any dismissal or other retaliatory measure taken against a worker on the grounds that he or she has exercised a right or fulfilled an obligation conferred or imposed by the Labour Code or by legislation in general, or by a collective agreement or by his or her individual employment contract.

Source: Articles 11, 54, 55 & 56 of the Labour Code, 2021

Medical Care

In the event of an accident at work, the law obliges the employer to first provide the victim with first aid; then to contact the doctor in charge of the company's medical services or, failing that, the nearest doctor; and finally, to transfer him or her to the company's or inter-company's medical centre or to the health facilities of the National Social Security Fund.

In addition, workers who suffer an occupational accident or disease are entitled to medical care benefits, which include medical, surgical and dental assistance, including X-ray examinations, laboratory tests and analyses; the supply of pharmaceutical products or accessories; maintenance in a hospital or other health facility; the supply, maintenance and renewal of prosthetic or orthopaedic devices required by the injuries resulting from the accident and recognized by the physician designated or approved by the Fund as essential or likely to improve functional rehabilitation or vocational rehabilitation; functional rehabilitation, vocational rehabilitation and reclassification of the victim; transportation of the victim from the place of the accident to a health facility or to his or her residence.

Sources: Article 82 of Decree No. 599/PR, establishing the terms of application of the Social Security Code and complementary legislative provisions; Article 59 of the Gabonese Social Security Code, 1975

Disability / Work Injury Benefit

In order to receive a daily allowance for temporary disability, the insured worker

must be assessed with a work-related injury or occupational disease. There is no minimum period of affiliation.

Thus, in case of temporary incapacity to work, the victim is entitled to a daily indemnity for each day of incapacity, whether or not working, following the day of cessation of work due to the accident. The indemnity is payable during the entire period of incapacity to work prior to the recovery, consolidation of the injury or death of the worker. The remuneration for the day during which the accident took place is employer's liability.

The daily allowance may be maintained in full or in part in case of resumption of an activity intended to promote recovery, without the total amount of the maintained allowance and the income from this activity exceeding the salary on the basis of which the daily allowance was calculated. If the amount of daily allowance exceeds this salary amount, the injury benefit is reduced accordingly.

The amount of the daily allowance is obtained by dividing by 30 the total earnings received by the person concerned during the month preceding the month in which the accident occurred. This allowance is paid at the same regular intervals as the salary. However, this interval may not be less than one week nor more than one month.

Regarding the benefits due for permanent incapacity, the pension is equal to 100% of the insured worker's average daily wage in the month preceding the incapacity.

The permanent incapacity pension cannot be less than the monthly legal minimum wage.

For a partial incapacity of less than 100%, the pension is equal to the average monthly salary multiplied by 0.5% per degree of incapacity between 10% and 50%, and multiplied by 1.5% per degree for the part exceeding 50%. For a degree of disability of less than 10%, a lump sum is paid.

If the condition of the insured person receiving a permanent total disability pension requires the constant assistance of a third party to perform the acts of daily life, the pensioner is entitled to a supplement equal to 40% of the amount of his or her pension. In no case may this supplement be less than the minimum legal remuneration in force. If the insured is assessed with total disability (100%), payments are monthly; for a degree of disability equal to or greater than 75% and less than 100%, the insured may request monthly payments. Otherwise, the pension is paid quarterly.

Benefits related to permanent disability pensions are adjusted by ministerial decree, in accordance with changes in the cost of living and the legal minimum wage and within the financial capacity of the scheme.

In the event of a work injury followed by the death of the victim, survivors are entitled to reimbursement of funeral expenses and survivors' pensions. Thus, the widow's/widower's pension is equal to 30% of the average monthly salary. If there are several widows, the amount is divided equally among them.

The funeral expenses of the victim (including the costs of transporting the body to the place of burial in case of death due to a commuting accident) are reimbursed by the Fund up to an amount equal to eight times the minimum monthly

salary used as a basis for calculating the pension.

The pension entitlement lapses in the event of remarriage. And the orphan's pension is set at 15% of the deceased's average monthly salary for one orphan, 30% for two orphans; 10% for each additional child from the third on. The pension for dependent parents and grandparents is equal to 10% of the deceased insured's average salary and is paid for each dependent parent.

However, the total of the survivors' pensions must not exceed 85% of the deceased's salary or the total permanent disability pension to which the deceased was or would have been entitled. If the total of the calculated pensions exceeds this limit, each pension is reduced proportionately.

The entitlement to a widow's pension is extinguished in the event of remarriage, and its payment ceases at the end of the calendar quarter in which the remarriage took place.

If there are no surviving dependents, compensation equal to six times the victim's average monthly earnings is payable to the closest family members.

Sources: Articles 60-71 of the Social Security Code, 1975; ISSA Country Profile for Gabon

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).

Gabon has not ratified any of the above-mentioned Conventions.

Summary of Provisions under ILO Conventions

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

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 has a right to unemployment benefit 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 a gainful employment, before standard retirement age, due to a non-occupational chronic condition resulting in disease, injury or disability. Invalidity Benefit must at least be 40% of the reference wage.

Regulations on social security:

- Decree No. 00051/PR on the Social Protection Code
- Order No. 0059/MEFPTFPDS of April 10, 2020 setting the rates of technical unemployment allowance following government decisions to fight the spread of the COVID-19 pandemic
- Law n° 6/75 of November 25, 1975 on the Social Security Code

Pension Rights

In accordance with the Labour Code, the retirement age limit is set at 60 years.

However, this age limit may be reduced to fifty-five years or raised to 65 years for certain sectors of activity. Thus, the age limit of 65 years concerns higher education teachers, doctors and pharmacists.

The law provides that, according to the conditions set by the Social Security Code, retirement entitles the worker to an old age pension or an old age allowance. Thus, the right to an old-age pension opens at the age of 55 (50 in case of premature aging) for the insured person who meets the conditions of attribution related to registration in the Fund for at least 20 years; completion of at least 120 months of effective contributions during the last 20 years; and, cessation of all salaried activity.

The amount of the old-age, disability, or early retirement pension is at least fifty percent (50%) of the Guaranteed Interprofessional Minimum Wage, but not more than sixty percent (60%) of the average monthly remuneration.

The old-age pension is equal to 40% of the

insured's average monthly salary over the last three or five years, whichever is more favorable. The amount is increased by 1% for every 12 months of effective contributions beyond 20 years.

The monthly amount of the minimum old-age pension is equal to 80% of the monthly legal minimum wage.

And for the insured person who does not meet the conditions for receiving an old-age pension, he/she receives a one-time payment equal to the average income during the last three or five months of work or during a shorter period, multiplied by 50% and by the number of semesters of contributions.

Source: Articles 78 of the Labour Code, 2021; Article 75& 78 of Law No. 6/75 of November 25, 1975 on the Social Security Code; Art. 4 of Decree 01894/PR/MTEPS of December 29, 2011 regulating derogations relating to the retirement age in certain sectors of activity and of certain personnel governed by the Labour Code

Dependents' / Survivors' Benefit

The survivors or dependents of a deceased insured employee are entitled to a survivor's pension if the deceased had at least 120 months of insurance and was or would have been entitled to a disability or old-age pension at the time of death. If the deceased did not qualify for an old-age or disability pension and had less than 120 months of insurance, his or her dependents may receive a one-time payment called a survivor's benefit.

The widow(er)'s pension entitlement lapses upon remarriage.

Survivors' pensions are calculated as a percentage of the old-age or early retirement pension.

The survivor's pension is calculated as a percentage of the old-age pension or the early retirement pension to which the insured person was or would have been entitled at the time of his/her death. Thus, the widow's/widower's pension is equal to 50% of the old-age pension. If there are several widows, the amount is divided equally among them, the division being definitive even if one of them dies or remarries.

The old-age pension that the deceased insured was receiving or entitled to receive is equal to 20% for each orphan of either father or mother. It is 35% for each orphan of both parents or for an orphan whose mother does not receive a pension. These survivor pensions are paid quarterly.

However, the total of the survivors' pensions must not exceed 85% of the pension that the deceased insured was receiving or entitled to receive.

The amount of the survivor's benefit is equal to one monthly payment of the old-age pension that the deceased would have been entitled to with at least 120 months of contributions multiplied by the number of six-month periods of actual contributions. If there are several widows, the allowance is divided equally among them. Article 81 of the Social Security Code

Source: Articles 79 & 81 of Law No. 6/75 of November 25, 1975 on the Social Security Code

Unemployment Benefits

The new Labour Code introduces technical leave, the duration of which is limited to a maximum of six (6) non-renewable months and establishes the principle of payment of a technical leave allowance.

Under the Social Protection Code, unemployment insurance schemes are created, including the unemployment savings account and the unemployment benefit. The latter operates on the principle of a social guarantee.

In addition, for workers totally affected by the protection and prevention measures related to the fight against the spread of the COVID-19 virus, an allowance of at least 50 to 70% of the gross monthly salary, excluding bonuses and allowances, is provided, with the exception of low-income workers earning between CFAF 80,000 and 150,000, whose salaries must be maintained in full. The right to maintenance of wages and technical unemployment benefits also applies to young workers on youth apprenticeship contracts. However, this rate of allowance is only a minimum which may be increased according to the wage policies of each company.

In accordance with the Labour Code, employers are obliged to pay severance pay, regardless of length of service, to any worker dismissed for reasons other than gross misconduct, unless the dismissal occurs during the probationary period.

Source: Art. 54, §13 et 87 of Law n° 022/2021 of 19 November 2021 on Labour Code in Gabonese Republic; Articles 40 & 48 of Decree No. 00051/PR on the Social Protection Code; Art. 2 of Order No. 0059/MEFPTFPDS of April 10, 2020 setting

the rates of technical unemployment benefit following government decisions to combat the spread of the COVID-19 pandemic

Invalidity Benefits

In accordance with the Social Security Code, the right to a disability pension is guaranteed for the insured worker who becomes disabled before reaching the age of 55 provided that he/she has been registered with the Fund for at least 5 years and has completed 30 months of insurance during the last five years prior to the onset of the incapacity that caused the disability. In addition, the insured worker must be assessed with a loss of work capacity.

In the case of disability resulting from an accident at work or on the road, the condition of a minimum period of insurance is not required.

Thus, the disability pension to be paid is equal to 60% of the old-age pension that the insured would have received if he/she

had worked until the age of 55.

The minimum monthly disability pension is equal to 60% of the monthly legal minimum wage.

If the insured is assessed with total disability (100%), payments are monthly. For an incapacity equal to or greater than 75% and less than 100%, the insured may request monthly payments. Otherwise, the pension is paid quarterly.

If the insured's condition requires constant assistance from a third party for daily living, a supplement for constant assistance equivalent to 50% of the disability pension is paid. Pensions are paid quarterly.

The disability pension is replaced, at the normal retirement age, by an old-age pension of the same amount.

Sources: Articles 76 & 78, 2o) of Law n° 6/75 of November 25, 1975 on the Social Security Code

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.

Gabon has ratified both conventions.

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

Convention No. 190 recognizes 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 aim 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:

- The Constitution of the Gabonese Republic, 1991
- Labour Code of Gabonese Republic, 2021
- Law No. 10-216 of September 5, 2016 on the fight against professional harassment

Equal Pay

Under the Gabonese Labour Code, workers performing work under the same conditions, qualification and performance, benefit from equal pay treatment, regardless of their origin, nationality, opinion, sex and age. Thus, equal remuneration between male and female workers for work of equal value and of the same nature refers to the rates of remuneration set without discrimination on the basis of sex. In addition, the new Labour Code affirms professional equality between women and men as well as equal pay. Therefore, equal access to work for women is now affirmed by the new law in force.

Source: Articles 9, 5, 170 of Law n° 022/2021 of 19 November 2021 on the Labour Code in the Gabonese Republic

Sexual Harassment

The new Labour Code recognizes moral and sexual harassment as a condemnable and justiciable practice. Thus, the Code defines moral harassment as any behaviour that has the purpose or effect of degrading the employee's working conditions and is likely to undermine his or her rights and dignity,

alter his or her physical or mental health or compromise his or her professional future, while sexual harassment is understood to be any behaviour consisting of comments or behaviour with a sexual connotation that either undermines his or her dignity because of their degrading or humiliating nature, or creates an intimidating, hostile or offensive situation.

According to the Gabonese Penal Code, sexual harassment is defined as any repeated assiduous or suggestive behavior, attitude or speech, directly or indirectly attributable to a person who, abusing the authority or influence conferred by his or her position or social rank, has the purpose of obtaining sexual favors from an individual of either sex.

In addition, according to Law No. 010/2016 on combating harassment in the workplace, any repetitive behavior that has the effect of undermining the dignity of a person and creating an intimidating, hostile, degrading or humiliating environment in the workplace constitutes harassment.

The same law defines sexual harassment as the fact of imposing on a person, in a repeated manner, comments or behaviours with a sexual connotation which either infringe on his dignity because of their degrading or humiliating character, or create an intimidating, hostile or offensive situation against him; to use any form of pressure with the real or apparent aim of obtaining an act or favours of a sexual nature, whether this is sought for the benefit of the author of the acts or for a third party.

Moreover, article 4 of the aforementioned

law specifies that no employee, public servant or trainee should be subjected, in the workplace or during work, to repetitive behaviour constituting moral or sexual harassment. But also, the fact of being subjected to or refusing to be subjected to repeated acts of moral or sexual harassment, or witnessing or reporting such acts, may not under any circumstances be the subject of a sanction, dismissal or discriminatory measure in terms of remuneration, training, classification, assignment, qualification, job promotion, transfer or renewal of contract.

According to the Code, any employer or worker who engages in moral or sexual harassment may be subject to disciplinary sanctions or legal proceedings.

The law also provides for major disciplinary sanctions for any perpetrator of moral or sexual harassment in the workplace or in the course of work.

Finally, the Penal Code provides for sanctions against the perpetrator of sexual harassment, which is punishable by up to six months in prison and a fine of up to 2,000,000 francs.

Source: Art. 6 of Law n° 022/2021 of 19 November 2021 on the Labour Code in the Gabonese Republic; Art. 257, point 3 and 258, paragraph 2 of Law No. 006/2020 of June 30, 2020 amending Law No. 042/2018 of July 05, 2019 on the Penal Code of the Gabonese Republic; Art. 2, 3, 4&10 of Law No. 10/2016 of September 5, 2016 on the fight against harassment in the workplace.

Non-Discrimination

With the reform of the Labour Code, the new Code combats discrimination by

recognising sexual and moral harassment as a condemnable and justiciable practice and affirms women's equal access to work (Article 8) and removes the obstacles (hardship) to women's access to the labour market.

Labour laws provide that all workers are equal before the law and enjoy the same protection and guarantees. Thus, the law prohibits any discrimination in employment and working conditions based on race, color, sex, religion, political opinion, national origin or social origin.

In accordance with the Gabonese Constitution, the duty to work and the right to obtain employment are guaranteed for every Gabonese citizen. Similarly, no one may be prejudiced in their work because of their origin, sex, race or opinions. In addition, the law punishes any act of racial, ethnic or religious discrimination.

According to article 12 of the law on the fight against harassment in the workplace, any discriminatory measure in terms of remuneration, training, classification, assignment, qualification, classification, professional promotion, transfer or renewal of contract, is null and void, insofar as it has been inflicted on an employee, public servant or trainee who has suffered or refused to suffer repeated acts of moral or sexual harassment, or who has testified against or reported such acts.

Sources: Art. 6 & 9 of Law n° 022/2021 of 19 November 2021 on the Labour Code in the Gabonese Republic; Articles 1, point 7) & point 13) 3rd paragraph of the Gabonese Constitution, 1991; Article 12 of Law No. 10/2016 of September 5, 2016 on the fight against harassment in the workplace

Equal Choice of Profession

According to the Constitution, every citizen has the duty to work and the right to obtain employment. In addition, it recognizes that no one may be prejudiced in his or her work because of his or her origin, sex, race or opinions.

In accordance with the provisions of the Labour Code, women have the same rights and obligations in terms of labour legislation, subject to work that is prohibited for pregnant women. Accordingly, the law recognizes the right of non-pregnant and non-breastfeeding women to work during night hours, to work in the same industries as men and to occupy jobs considered dangerous in the same way as men. Thus, no employer may dismiss or otherwise retaliate against a female employee on the grounds of pregnancy or childbirth.

In principle, the law provides that women may perform the same work as men, but it also provides that a pregnant woman or child may not be kept in a job that is recognised as being beyond her strength and must be assigned to a suitable job. Consequently, decrees issued on the joint proposal of the Minister of Labour and the Minister of Public Health determine the nature of the work prohibited for pregnant women.

Sources: Article 1, point 7 of the Constitution of the Gabonese Republic, 1991; Articles 207 & 213 the Labour Code, 2021

11/13 MINORS & YOUTH

ILO Conventions

Minimum Age: Convention 138 (1973)

Worst Forms of Child labour: Convention 182 (1999)

Gabon has ratified all of these Conventions.

Summary of Provisions under ILO Conventions

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

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

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:

- Labour Code of Gabonese Republic, 2021
- Decree n°0651/PR/MTEPS of April 13, 2011, fixing individual exemptions to the minimum age of admission to employment in the Gabonese Republic;
- Decree n°0023/PR/MEEDD of January 16, 2013, fixing the nature of the worst forms of labor and the categories of enterprises prohibited to children under 18 years old;
- Law No. 21/2011 of February 11, 2012 on the general orientation of education, training and research

Minimum Age for Employment

Under Gabonese law, it is forbidden to employ children under the age of 16 in work that is not appropriate to their age, state of health or physical and mental condition, to their development or that prevents them from receiving compulsory schooling, except in cases of derogation provided for under the law in force.

In addition, the law states that school is free and compulsory for all children aged between 6 and 16. Thus, the age of completion of compulsory schooling corresponds to the minimum age for admission to employment, which is 16 years.

Therefore, the law prohibits all companies from employing children under the age of 16, taking into account the circumstances and tasks that may be imposed on them. However, individual exemptions may be granted for certain work, including the participation of the minor in artistic performances; the performance of light

work that is not likely to be detrimental to the health, development and school attendance of the minor concerned, or to his or her participation in vocational guidance or training programmes; and activities taking place in establishments where only family members under the authority of the father, mother or guardian are employed.

In addition, the exercise of the above-mentioned activities and light work must be subject to the prior written agreement of the parents exercising parental authority and to the opinion of the occupational physician, and the weekly duration of the activities must not exceed 15 hours.

Sources: Articles 7 & 214 of the Labour Code, 2021; Art.2 & 3 of Decree No. 0651/PR/MTEPS of April 13, 2011 setting individual exemptions to the minimum age for admission to employment in the Gabonese Republic; Art.2 of Law No. 21/2011 of February 11, 2012 on the general orientation of education, training and research

Minimum Age for Hazardous Work

Gabonese labour legislation does not expressly set a minimum age for hazardous work, but specifies that before the age of 16, no child may be employed in work considered to be the worst form of child labour, particularly work which, by its nature or the conditions in which it is carried out, is likely to harm his or her health, safety or morals. This includes all forms of slavery or practices similar to slavery, such as the sale and trafficking of children, debt bondage and serfdom, and forced or compulsory labour, including forced or compulsory recruitment of children for use in armed conflict.

The text in this document was last updated in August 2022. For the most recent and updated text on Employment & Labour Legislation in Gabon in French, please refer to: <https://votresalaire.org/gabon/>

Similarly, children under 18 years of age may not be employed at night in any industrial establishment, public or private, or in any branch of such establishments, with the exception of establishments where the only employees are members of the same family, and apprentices because of the special nature of certain activities.

the categories of enterprises prohibited to children under 18 years

Under Decree No. 0023/PR/MEEDD of 16 January 2013 establishing the nature of the worst forms of work and the categories of enterprises prohibited to children under 18 years of age, it is prohibited to employ children under 18 years of age in dangerous work which, by its nature or the conditions in which it is carried out, is likely to harm their health, safety or morals, such as: work in slaughterhouses and tanneries; extraction of ores, waste rock, materials and debris in mines and quarries; driving motor vehicles and machinery; and work in construction, except for finishing work not requiring the use of scaffolding.

There are other types of hazardous work that are prohibited for young people, including work that exposes them to physical, psychological or sexual abuse; work with dangerous machinery, equipment or tools; or work that involves handling or carrying heavy loads; which is carried out underground, under water, at dangerous heights or in confined spaces; which is carried out in an unhealthy environment which may, for example, expose the child to dangerous substances, agents or processes, or to conditions of temperature, noise or vibration detrimental to health.

Sources: Articles 204 & 214 of the Labour Code, 2021; Art. 2 of Decree No. 0023/PR/MEEDD of January 16, 2013, establishing the nature of the worst forms of work and

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.

Gabon has ratified both Conventions 29 and 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:

- Constitution of the Gabonese Republic, 1991
- Gabonese Labour Code, 2021
- Decree No. 0023/PR/MEEDD of January 16, 2013, establishing the nature of the worst forms of labor and the categories of enterprises prohibited to children under 18
- Law No. 009/2004 on the prevention and fight against child trafficking in the Gabonese Republic
- Decree n°0933/PR/MTEPS of December 30, 2009 establishing the daily distribution of weekly working hours in the Gabonese Republic

Prohibition on Forced and Compulsory Labour

The Labour Code prohibits forced or compulsory labor. It means any work or service required of an individual under threat of any penalty, and for which the said individual has not offered himself voluntarily.

In accordance with the provisions of the law relating to the prevention and fight against child trafficking in the Gabonese Republic and the Decree establishing the nature of the worst forms of labor and the categories of enterprises prohibited to children under 18 years of age, the prohibition of forced labor includes all forms of forced displacement, bargaining, exchange such as: the sale, trafficking and debt bondage of children; the recruitment, offering and placing of children, whether for reward or not, for domestic service or profit within the family; all forms of slavery or practices similar to slavery, including forced or compulsory recruitment of children for use

in armed conflict; the use, procuring or offering of a child for prostitution, for the production of pornography or for pornographic performances; the use, procuring or offering of a child for illicit activities, in particular for the production and trafficking of drugs as defined in the relevant international conventions;

Under the law relating to the prevention and fight against child trafficking, there are other acts prohibited to any natural or legal person, in particular the fact of introducing or attempting to introduce a child into the national territory with a view to alienating, whether in return for payment or free of charge, his or her freedom; concluding an agreement having; alienating, whether in return for payment or free of charge, the freedom of a child; evading or opposing by any means whatsoever the controls, investigations and searches provided for by the provisions of this law.

The provisions of the Labour Code punish those who have resorted to forced labor. The perpetrators of these offenses are liable to a fine of 300,000 to 600,000 CFA francs, and to imprisonment for one to six months, or to one of these two penalties only.

In the event of a repeat offense, the fine is 600,000 to 1,200,000 CFA francs, and imprisonment is two to twelve months.

Sources: Articles 4 & 16 of Labour Code, 2021; Articles 3, 11, 12 & 13 of Law No. 009/2004 on the prevention and fight against child trafficking in the Gabonese Republic; Article 4 & 16 of the Labour Code, 2019; Article 2 of Decree No. 0023/PR/MEEDD of January 16, 2013, establishing the nature of the worst forms of labor and the categories of enterprises prohibited to children under 18.

Freedom to Change Jobs and Right to Quit

In accordance with the provisions of the Labour Code, the right to terminate the employment contract is recognized to either party who takes the initiative. However, the termination of the employment contract, at the initiative of the employee, must be notified to the employer in writing. Moreover, such termination is subject to a notice period given by the party initiating the termination.

The length of the notice period is determined according to the time the employee has been with the company.

During the notice period, the dismissed employee, who is looking for another job, benefits from one day of freedom per week, taken as a whole and paid at full salary.

The Gabonese Constitution recognizes the duty of every citizen to work and the right to obtain a job. This implies that the right to choose a profession is also guaranteed by the Constitution.

For more information on this subject, please refer to the section on job security.

Sources: Article 1(7) of the Gabonese Constitution; Articles 57, 76, 81 & 85 of the Labour Code, 2019

Inhumane Working Conditions

Under the provisions of the Labour Code, the legal working hours are set at forty hours per week in all public or private establishments, including educational or charitable institutions.

The hours worked beyond the legal working time are considered as overtime and give rise to an increase in salary.

In all agricultural and similar businesses and establishments with continuous fires, workers may be required to work overtime.

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

Sources: Article 195 of the Labour Code, 2021; Article 2 of Decree n°0933/PR/MTEPS of December 30, 2009 establishing the daily distribution of weekly working hours in the Gabonese Republic

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)

Gabon has ratified both Conventions 87 and 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 working hours. The list of exclusions for sectors of economic activity and workers in an organization should be short.

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

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

Regulations on trade unions:

- Labour Code of Gabonese Republic, 2021
- Constitution of the Gabonese Republic, 1991
- Law n° 001/2018 of January 12, 2018 revising the Constitution of the Gabonese Republic
- Law n° 18/92 of May 18, 1993 establishing the conditions and functioning of trade union organizations of state employees

Freedom to Join and Form a Union

The right to form trade unions and the freedom of association are provided for in the Constitution and the Labour Code. This right is regulated by the Labour Code. According to the Constitution, the right to form and join trade unions is recognized. Thus, the State guarantees the freedom and exercise of the right to organize. Similarly, this right is recognized for government employees in accordance with the law establishing the conditions for the formation and operation of trade unions for government employees, but it does not apply to the security and defense forces. Acts of interference or discrimination are prohibited for all employers' and workers' organizations.

Professional unions are groups of persons engaged in the same, similar or related occupations whose exclusive purpose is the study and defense of the rights and common material, moral and social interests of their members, both collectively and individually.

The founders of the union must file their statutes and the names of their leaders at

the town hall near which the union is established and a copy of the file is sent, by the mayor or the head of the administrative district near which the union is established, to the Ministry of Labor, to the Ministry of the Interior and to the Public Prosecutor's Office of the jurisdiction.

The Public Prosecutor is obliged to verify the regularity of this declaration of constitution, including the accompanying file, and to inform the other above-mentioned authorities and the trade union concerned of his conclusions within two months.

Sources: Article 1, point 13) of the Constitution of the Gabonese Republic, 1991; Articles 15, 302-305 of the Labour Code, 2019; Articles 1, 3, 5, 11 of Law n° 18/92 of May 18, 1993 setting the conditions for the constitution and functioning of trade union organizations of state employees

Freedom of Collective Bargaining

The Labour Code recognizes the right to collective bargaining. The collective labor agreement is a written agreement concerning working conditions and social guarantees concluded between the employer(s) and workers of an establishment. The collective agreement generally provides for provisions that are more favorable to workers than those contained in the legislation and regulations in force, but cannot derogate from the provisions of public order.

The Collective Agreement is normally concluded for an indefinite period. When it is applicable for a fixed term, its period may not exceed 5 years. In the absence of a stipulation to the contrary, a fixed-term agreement that expires continues to have

effect as an agreement of indefinite duration. A collective agreement of indefinite duration may be terminated by the will of one of the parties.

The collective agreement must provide for the manner and timing of termination, renewal or revision. In particular, it must provide for the length of the notice period that must precede the termination.

In accordance with the provisions of the Labour Code, the common core of collective labor agreements is the basic agreement by which the most representative employers' and workers' professional organizations agree on the provisions common to all collective labor agreements of the various branches of activity.

In addition, collective agreements may be concluded between public services, companies or institutions and personnel not governed by a particular statute. Thus, the national collective agreement remains applicable to those public services, enterprises and establishments which, due to the nature of their activity, are placed in its field of application.

The law also provides for consultative bodies to be set up under the Minister of Labor. These are the Technical Advisory Committee for Health and Safety at Work, which is responsible for studying questions relating to hygiene, safety and occupational medicine. It must include workers' representatives and employers' representatives.

As for the Labor Advisory Commission, its mission is to study questions relating to labor and manpower, labor relations, employment, orientation, professional

training and development, and labor movements; to examine any difficulties arising from the negotiation of agreements; and to issue opinions and formulate proposals and resolutions on the regulations to be made in these matters.

The role of the National Commission for the Study of Wages is to give a reasoned opinion to the Governmental Commission for Wages on the setting of the guaranteed interprofessional minimum wage (SMIG); to give an opinion, at the request of the Minister of Labor, on any difficulty arising from the negotiation of conventional wages. It also has jurisdiction over any question relating to the determination and application of the national income policy; to study the composition of a standard budget used to determine the SMIG; to monitor changes in the cost of living, in conjunction with the National Directorate of Statistics and Economic Studies.

The Gabonese Constitution provides for an Economic, Social and Environmental Council that gives its opinion on all economic, social, cultural and environmental development issues.

The Economic, Social and Environmental Council is seized, on behalf of the Government, by the Prime Minister of requests for opinions or studies on all economic, social, cultural, environmental and sustainable development issues.

The Council meets every year as of right in two (2) ordinary sessions of twenty-one (21) days each. The first session shall open on the third Tuesday of February and the second on the first Tuesday of September. The opening of each session shall be postponed to the following day if the scheduled day is not a working day.

Its composition includes senior State officials in the economic, social, cultural and environmental fields appointed by decree of the President of the Republic; representatives of local authorities designated by their peers; representatives of autonomous trade unions, trade union confederations, associations, socio-professional groups and non-governmental organizations, the most representative, elected by their groups of origin, after approval by the competent authorities, and representatives of religious denominations.

Source: Art. 103, 105, 108-109 of Law No. 001/2018 of January 12, 2018 revising the Constitution of the Gabonese Republic; Articles 150-153, 289-293 of the Labour Code, 2021

Right to Strike

The right to strike is provided for and regulated by the Labour Code. The Constitution is silent on the subject. However, in accordance with the provisions of the law establishing the conditions for the formation and operation of government employees' trade unions, the right to strike is recognized for government employees, but the law does not apply to the security and defense forces. Restrictions on the exercise of the right to strike are reasonable and are limited to the obligation to give advance notice before any strike is called and the obligation to provide a minimum service during the strike.

The strike is perceived as the concerted stoppage of work by a group of employees, serving as a means of defending their professional, economic and social rights and interests. It is also defined as any collective and concerted stoppage of work, any collective behavior likely to disrupt the

normal functioning of a service, decided to defend a professional claim.

The right to strike is permitted only after the exhaustion and failure of collective dispute settlement procedures, including conciliation and/or mediation, and must be preceded by prior notice from a trade union organization.

In accordance with the Labour Code, a strike is considered illegal if it is of a purely political nature; if it is called without prior notice; if it is carried out with violence, assault, threats, or maneuvers with the aim of undermining the exercise of industry and freedom of work; if it is carried out in violation of the minimum service; or if it takes place during collective bargaining.

The new Code increases the duration of the strike notice period from 5 to 10 days, in order to encourage social dialogue (Art. 381); it specifies the modalities of the minimum service obligation (Art. 383) for all enterprises when a strike is launched; it is three hours of daily working time, spread over the day outside the break hours.

In the event of failure to comply with the minimum service under the conditions laid down by the provisions in force, the employer may, on the advice of the administration, requisition staff to guarantee the minimum level of activity, without however exceeding 20% of the company's workforce.

It must also specify the reasons for the strike and fix the place, time and duration of the strike.

The notice does not preclude negotiation for the settlement of the dispute and the parties concerned must make every effort

to find a solution to the dispute. In addition, the new code codifies settlement as a method of dispute resolution. The provisions relating to strikes by government employees provide for an 8-day notice period and the establishment of a minimum service.

Except in the case of gross negligence on the part of the employee, a strike does not breach the employment contract, but merely suspends it.

Striking employees must refrain from preventing non-striking workers from providing the minimum service normally, under penalty of the sanctions provided for by the texts in force, and the minimum service is paid under normal conditions.

At the end of the strike, the day and time of resumption of work must be the same for all the personnel concerned. Nevertheless, the hours or days of work lost because of the strike do not give rise to remuneration, except if the strike is the result of non-payment of wages. Only family allowances, supplements for family responsibilities and housing assistance are paid to striking employees.

Source: Articles 352, 379-386 of Law n° 022/2021 of 19 November 2021 on the Labour Code in the Gabonese Republic; Article 18-26 of Law No. 18/92 of May 18, 1993, establishing the conditions for the formation and operation of government employees' union organizations

QUESTIONNAIRE

The text in this document was last updated in August 2022. For the most recent and updated text on Employment & Labour Legislation in Gabon in French, please refer to: <https://votresalaire.org/gabon/>

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Check

DecentWorkCheck Gabon is a product of
wageindicator.org and votresalaire.org/gabon



National Regulation exists



National Regulation does not exist

01/13 Work & Wages

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

02/13 Compensation

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

03/13 Annual Leave & Holidays

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

04/13 Employment Security

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

05/13 Family Responsibilities





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

06/13 Maternity & Work





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

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





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





07/13 Health & Safety

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









08/13 Sick Leave & Employment Injury Benefits

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













09/13 Social Security

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



10/13 Fair Treatment

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




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

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





11/13 Minors & Youth

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

12/13 Forced Labour

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

13/13 Trade Union Rights

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

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.

Gabon scored 45 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.