

DECENTWORKCHECK.ORG

Check

Decent Work Check Lesotho is a product of wageindicator.org



National Regulation exists



National Regulation does not exist

01/13 Work & Wages

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

02/13 Compensation

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

03/13 Annual Leave & Holidays

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

04/13 Employment Security

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





05/13 Family Responsibilities

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





06/13 Maternity & Work

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





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

- | | | | | |
|-----|---|---|--------------------------|--------------------------|
| 21. | During my maternity leave, I get at least 2/3rd of my former salary |  | <input type="checkbox"/> | <input type="checkbox"/> |
| 22. | I am protected from dismissal during the period of pregnancy
<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.

Lesotho scored 37 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.

DECENTWORKCHECK.ORG

01/13 Work & Wages

Regulations on work and wages:

Labour Code, 1992

Minimum Wage

The main provisions on the setting of minimum wages are contained in the Labour Code.

The Government establishes wages Advisory Board, which is responsible for fixing and updating the minimum wage on annual basis. This Board consists of representatives of the employees and employers, as well as independent members. The Board may after consultation among its members, make a proposal to the Minister for Labour on the minimum wage level. The Minister can then decide to implement the same through a wage order. In addition, the Minister may also implement any minimum wage that has been agreed upon through collective bargaining if the parties to the negotiations represent a significant proportion of the workforce.

Labor officers (Authorized by the Labour Code) are responsible for monitoring compliance of the minimum wage legislation. In the pursuance of their duties, they may inspect the workplace, ask questions from employees and request provision of information on working conditions. In the case of non-compliance, law provides for fine of up to 300 maloti or a punishment by imprisonment for a period of up to 3 months depending on the seriousness of the offence. In addition, a court can also order the payment of the salary that the worker was entitled to earn. In case of non-compliance with the court order, the employer can be punished by imprisonment for a period of up to 6 months.

Minimum wage has been set differently for different sectors of the industry. They are further classified on the basis the term of occupation and skill level. Examples of such sectors include: clothing textile and leather manufacturing; construction; wholesale and retail; retail (other than small business); hospitality; service; transport and other driver's small business; and domestic workers (including light physical workers).

Source: §14, 17, 18, 34, and 47-60 of the Labour Code, 1992

DECENTWORKCHECK.ORG

Regular Pay

The term “wages” has been defined in the Labour Code as any remuneration or earnings, however designated or calculated, capable of being expressed in terms of money, fixed by law or by a mutual agreement made in accordance with the Code, and payable by virtue of a written or unwritten contract of employment to an employed person for work done or to be done or for service rendered or to be rendered.

Wages can be paid daily, weekly or on a monthly basis depending on the type of work contract as follows:

- i. Contract at piece rate: wage payment on daily basis;
- ii. Contract for less than a month: wage payment on weekly basis; and
- iii. Contract for more than a month: wage payment on monthly basis; and
- iv. Contract for completion of a task: wage payment on completion of the concerned task

Generally, wages are to be paid in legal tender only. The employer may, on agreement with the employee, give partial remuneration in addition to money wages in the form of food or a dwelling place. Wages must be paid on working days and at or near the workplace.

When paying wages to employees, the employer may only deduct amounts corresponding to income tax; contributions to any provident, medical or pension funds; any amount ordered by a court of law; trade union dues; loss or damage caused by an employee; deduction of wage for unauthorized absence and repayment of loans. However, the total amount of the deductions, which are made at one time from any wages payable, cannot exceed 50% of the wages.

Source: §03 & 81-85 of the Labour Code, 1992

DECENTWORKCHECK.ORG

02/13 Compensation

Regulations on Compensation:

Labour Code, 1992

Overtime Compensation

The working hours of employees are subject to rules stipulated in the Labour Code. Normal working hours are 45 hours a week in five or six-day reference period. In a 5-day workweek, the daily working hours are 9 hours while in a 6-day workweek, daily working hours are 8 hours for five days and 5 hours for sixth day.

The provisions concerning working hours do not apply to workers in a family enterprise,; employees holding management positions; when it is necessary to perform urgent work to remedy breakdown of machinery and in case of emergency/force majeure.

Overtime (time in excess of normal working hours) is allowed only when there is exceptional and time-limited need for it.

The general overtime work must not exceed 11 hours per week, subject to the exceptions mentioned above.

For overtime work, a supplement is paid in addition to the pay received by the employee for corresponding work during normal working hours. The overtime supplement is at least 25 per cent, i.e., workers are paid 125% of their normal wage for overtime hours.

Source: §117-119 of the Labour Code, 1992

Night Work Compensation

The provisions regulating night work in Lesotho are contained within Labour Code. The said Act defines the term "night work" as work carried out in the interval between 18:00 and 06:00.

Normal working hours for an employee who regularly works more than 3 hours during above referred night hours, cannot not on average exceed 8 hours during a work day especially of the work which involves exceptional risk or considerable physical or mental strain. The average is calculated over 4 weeks.

The additional compensation paid for doing night work is determined either through collective agreements or by the Government after consulting with the representatives of the employers and the employees. Night workers must be medically examined (free of charge) before commencing employment and no worker will be required to do night work unless he or she is declared fit for it.

Source: §03, 130 and 131 of the Labour Code, 1992

DECENTWORKCHECK.ORG

Compensatory Holidays / Rest Days

The rules on compensatory rest days for working on a weekly rest day or a public holiday come from the Labour Code.

The Law does not prohibit working on a weekly rest day or public holiday but on the other hand also does not provide any criteria for working on such days.

Compensatory rest is only allowed where the work is done on a public holiday. In case of such work, the employee will be entitled to take another working day off in lieu of working on the public holiday.

Source: §117, 119 and 121 of the Labour Code, 1992

Weekend/Public Holiday Work Compensation

The compensation to be paid for working on weekly rest day/public holiday is 100% i.e. workers are paid 200% of their normal wage rate for working on weekly rest days and/or public holidays. In the case of public holidays, employers have the option to either pay wages at double rate or provide a fully paid compensatory rest day.

Source: § 117, 119 and 121 of the Labour Code, 1992.

DECENTWORKCHECK.ORG

03/13 Annual Leave and Holidays

Regulation on Annual Leave and Holidays:

Labour Code, 1992

Paid Vacation/Annual Leave

Annual leave is regulated by the Labour Code. Employees are entitled to a minimum of 12 working days of annual leave in a year (one day in respect of each month of continuous employment with the same employer).

The general rules on annual leave do not apply to employees who opt to receive a cash payment in lieu to taking only 6 days of the statutory annual leave.

An employee is entitled to full pay i.e. the normal remuneration paid to the employee while availing the annual leave.

The leave is to be taken at such times as may be agreed between the employer and the employee. The employee can take at least six working days' holiday in a continuous period during the calendar year the holiday is due. Where, under the terms of a contract of employment or a collective agreement, an employee is entitled to more than the statutory minimum number of holiday in any year, the employee may carry over such additional holiday, not exceeding 18 days in all from one calendar year to the next.

Source: §120 of the Labour Code, 1992

Pay on Public Holidays

The legal provisions on public holidays are contained in the Public Holidays Act. The Act enumerates 10 public holidays, which are as follows:

New Year's Day (January 1); Moshoeshoe's Day (March 11); Heroes Day (April 4); Good Friday; Easter Monday; Ascension Day; Workers' Day (May 1); King's Birthday (May 2); National Independence Day (October 4); and Christmas Day (December 25)

The public holidays are paid.

Source: §02 of Public Holidays Act 1995; §121 of the Labour Code, 1992

DECENTWORKCHECK.ORG

Weekly Rest Days

The provision in law on weekly rest days comes from the Labour Code, which states that an employee must have a continuous off-duty period of 24 hours per seven days. However this will not apply to undertakings in which only members of the employer's family (up to a total of five are employed) are working and to persons holding positions of management.

The day specified as a weekly rest day will usually be Sunday unless depending on the circumstances of work the employer (after consulting with the employee) provides a different day in the week.

There is no clear provision on daily rest periods (at the end of a working day). As for rest breaks (during working hours), no employee may be required to work continuously for more than 5 hours without being given a rest of at least one hour.

Source: §117 and 119 of the Labour Code, 1992

Regulations on Employment Conditions:

Labour Code, 1992

Labour Code Amendment Act 2006

Written Employment Particulars

Employment contracts are regulated under the Labour Code, which states that the contract can be written or oral for all contractual terms (definite or indefinite).

No provisions could be identified from within the law that stipulates the terms that are to be part of the employment contract, neither does the law expressly mention that the employer provide the employee with written employment particulars.

Source: §62 of the Labour Code, 1992

Fixed Term Contracts

An employment contract can be entered into for an indefinite period of time, and in such a case the employees have a right to continue working for the employer until the employment contract is terminated by one of the parties. Fixed term employment contracts and contracts for completing specific tasks may also be used, and they will terminate once the duration or task for which they were created has been completed.

No provisions could be identified from within the law which stipulates the conditions under which fixed term contracts may be allowed, the maximum length of a single fixed term contract and the number of renewals allowed for fixed term contracts. It appears that fixed term contracts are allowed for tasks of permanent nature.

Source: §62 of the Labour Code, 1992

DECENTWORKCHECK.ORG

Probation Period

The Labour Code sets the maximum period for probation as four months. After the successful completion of probation period, the employment automatically turns into a permanent employment for an indefinite period. Trial/probation period can only be extended after obtaining express authority from the Labor Commissioner in this regard.

Employment contract may be terminated during trial period. In the case of employment termination, either party may give 7-day prior notice.

Source: §75 of the Labour Code, 1992

Notice Requirement

Employment relationship may be terminated by either party. Statutory written notice period is provided under the Labour Code, which states that unless otherwise stipulated in collective agreement, the notice period will be as follows:

- a) 7 days' notice for less than 6 months of service;
- b) 14 days' notice for less than 1 year of service;
- c) one-month notice for more than 1 year of service;
- d) three-month notice for more than 10 years of service;

Above notice periods are also applicable where the employee initiates contract termination. In addition, the employer can also terminate the contract without notice, where the employee is found in serious breach of the obligations under the contract (gross misconduct).

The notice period starts on the day following the one on which the notice was given. Payment in lieu of notice is also allowed. In such a case, either party is required to pay the other a sum equal to all wages (the employee was entitled to receive) up to the expiration of any notice of termination which may have been given. If the employee continues working after the expiration of the notice period, the termination notice is regarded as redundant and the employee is treated as having resumed his employment.

Dismissal must be objectively justified on the basis of circumstances relating to the operational requirements of the undertaking or connected with the employee (capacity or conduct). Employers are required to provide a written statement for the reasons of dismissal to a dismissed employee. The prohibited grounds for dismissal include marital status; pregnancy; maternity leave; family responsibilities; filing a complaint against the employer; race; color; sex; religion; political opinion; social origin; nationality/national origin; trade union membership and activities; lawfully taking leave (authorized absence from work) and HIV status.

Source: §05, 63, 64, 65, 66 and 67 of the Labour Code, 1992; §235 of the Labour Code Amendment Act 2006

DECENTWORKCHECK.ORG

Severance Pay

The Labour Code has made provisions for a severance pay that is directly linked to the length of service of the employee.

For any employee who has completed more than one year of continuous service with the same employer, a severance payment equivalent to two week's wages is paid for each completed year of service. Amount of severance pay is capped at a certain level and the amount is updated regularly by the Minister in consultation with the Wages Advisory Board.

Severance pay is not paid to employees who have been dismissed by the employer for misconduct.

If the termination of employment has been initiated by the employee, the employer has the option of either making an immediate severance payment or holding it on trust for a maximum period of 12 months. On completion of such period, employer is required to pay the sum of severance payment plus the interest at fair market rate.

In the event of violation of above provisions, employer is liable on conviction to a fine of six hundred maloti or imprisonment for six months or both.

Source: §79 of the Labour Code, 1992

DECENTWORKCHECK.ORG

05/13 Family Responsibilities

Regulations on employment conditions for Parents:

Paternity Leave

No provisions on paternity leave were identified within the law.

Parental Leave

No provisions on parental leave were identified from within the law.

Flexible Work Option for Parents / Work-Life Balance

No provisions on flexible work for parents of minor children were found within the law.

DECENTWORKCHECK.ORG

06/13 Maternity at Work**Regulations on maternity and work:**

Labour Code, 1992

Free Medical Care

No provisions on free medical care could be identified from within the law.

No Harmful Work

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

Pregnant workers cannot be required to do night work for a period of at least three months before the expected date of confinement and at least three months after childbirth. Alternative work schedules must be made available to them. An employer cannot require a pregnant worker or a nursing mother (within six months of her return to work on completion of maternity leave) to work overtime.

No other provisions on the prohibition of dangerous or hazardous work for pregnant women were identified from within the law.

Source: §119 (5) & 130 of the Labour Code, 1992

Maternity Leave

The rules on maternity leave are specified in the Labour Code.

The general duration of maternity leave is twelve weeks and comprises 6 weeks before and 6 weeks after the confinement. If confinement occurs after the anticipated date, prenatal leave is extended accordingly with no consequent reduction in postnatal leave.

In order to avail the maternity leave, a pregnant female employee must give notice of her anticipated confinement by delivering to her employer a written certificate signed by a medical officer certifying that the employee's confinement will probably take place within six weeks from the date of that certificate. Within 21 days immediately after her confinement, a female employee must deliver to her employer a written certificate signed by a medical officer or a registered nurse and midwife certifying the date of confinement.

DECENTWORKCHECK.ORG

If the pregnant woman contracts any illness or has any complications while being pregnant, they can be allowed to take leave for up to eight weeks. The concerned woman is required to deliver to her employer a written certificate signed by a medical officer certifying their opinion that the employee is suffering from an illness arising out of her confinement and is consequently unfit to return to work.

Source: §133 of the Labour Code, 1992

Income

Maternity leave is unpaid. There is no legal obligation for employers to pay wages during maternity leave, although the contract of employment may provide for paid maternity leave.

In accordance with the Wages Notice 2015, the following terms of paid maternity leave are allowed for different sectors provided that the worker has completed at least one year of service:

- a. 06 weeks paid maternity leave for textile, clothing and leather manufacturing;
- b. 12 weeks paid maternity leave for all sectors other than those specified in “a” and “c”;
- c. 06 weeks paid maternity leave for private security sector

The maternity leave benefit is limited to two confinements per employee (for a and b) during her employment with the same employer.

Source: §134 of the Labour Code, 1992; Part K of the Labour Code Wages Amendment Notice 2015

Protection from Dismissals

The provisions on the protection from discriminatory dismissal come from the Labour Code, which prohibits the employer from dismissing the employee during the period in which she is availing maternity leave. Dismissal during maternity leave and its extension is considered unfair dismissal.

Source: §136 of the Labour Code, 1992

Right to Return to Same Position

No provisions on the guaranteed right to return to the same position for workers returning from maternity leave could be identified within the law. However, since the law protects workers from dismissal during maternity leave and pregnancy, right to return is implicitly provided under the law.

Nursing/Breastfeeding Breaks

Labour Code provides for nursing breaks of at least 60 minutes for six months immediately after the woman's return to work after maternity leave. These nursing breaks are counted as working hours.

Source: §137 of the Labour Code, 1992

DECENTWORKCHECK.ORG

07/13 Health and Safety at Work

Regulations on health and work:

Labour Code, 1992

Mine Safety Act 1981

Employer Cares

Legal provisions pertaining to occupational safety and health in the Kingdom of Lesotho are contained primarily in two pieces of legislation. These are the Labour Code and the Mine Safety Act 4 of 1981. There are other laws and regulations on specific themes such as the Noise Regulations and Spray painting regulations or the Mine Safety Act that regulates occupational safety and health matters in the mining sector.

The Law imposes a range of specific obligations on the employers which are as follows:

- To hold medical exams of employees prior to work in order to determine their health status (and fitness for work);
- Make first-aid arrangements at workplace by providing first-aid items, medical supplies and related equipment;
- To ensure that there are appropriate sanitary installations, adequate supply of clean drinking water and hygienic eating facilities that serve quality food;
- Appoint safety representatives responsible for ensuring occupational health and safety standards;
- To create OSH committees comprising of the representatives of the employees for consultation on OSH issues.

Source: §93, 97, 98, 110 and 157 of the Labour Code, 1992, §17-19 of the Mine Safety Act 1981

Free Protection

The employer is required to provide satisfactory personal protective equipment to the employees and to ensure that the employees are trained in the use of such equipment and that the equipment is used. Employees are required to use protective equipment, exercise caution and contribute to the prevention of accidents and injury to health. Such equipment is provided free of cost, maintained, and renewed by the employer as necessary.

Source: §109 of the Labour Code, 1992

DECENTWORKCHECK.ORG

Training

Employers are required to provide information, instruction, training and supervision that are necessary to ensure, so far as is reasonably practicable, the safety and health at work and of employees.

No person will work at any machine unless he or she has been fully instructed as to the dangers arising in connection with the machine and the precautions to be observed, and has received sufficient training in work at the machine.

Source: §93 and 103 of the Labour Code, 1992

Labour Inspection System

The Ministry of Labour and Employment is responsible for overseeing the enforcement of occupational health and safety legislation. The Labour Department is further subdivided into six sections, two of which have responsibilities over labor inspection: the Industrial Relations Section and the Occupational Health and Safety Section.

The Labour Department enforces the Labour Code, Workmen's Compensation Act and the Wages Order. The Occupational safety and health department conducts workplace inspections, surveys and investigation of accidents, dangerous occurrences and work-related diseases and monitoring adherence to Occupational Safety and Health legislation. The OSH Promotional Services Unit provides relevant training to social partners to enhance the understanding of their duties and obligations in promoting safety and health; promote and implement the National HIV&AIDS Policy at workplaces; compile and analyze statistics on occupational safety and health; and disseminate information on Occupational Safety and health.

Labour officers monitor compliance with the labour code. In this regard, they have the power to enter workplaces to conduct investigations and inspections; prohibit the use of a place of work that does not comply with OSH standards; make an order instructing the employer to remedy any defect relating to health, safety or welfare; cancel registration of workplaces who do not comply with OSH standard; Institute and carry on in his or her own name proceedings in respect of any contravention of, or any offence committed by any person against, any of the provisions of the Code; and resolve any disputes that arise with respect to the rights and liabilities of any party under a contract of employment.

National Advisory Council on OSH is also appointed by the Minister for Labor, which is responsible for giving advice and assistance in respect of OSH issues. This Council consists of representatives of the government, the employees, the employers, and the independent experts with experience in the field.

Source: §11-16, 46, 112 and 114 of the Labour Code, 1992; §8-11 of the Mine Safety Act, 1981

DECENTWORKCHECK.ORG

08/13 Sick Leave

Regulations on Work and Sickness:

Labour Code, 1992

Workmen's Compensation Act 1977

Workmen's Compensation Regulations, 2014

Income/Paid Sick Leave

The rules on paid sick leave come from the Labour Code.

Sick leave during the first six months of continuous employment with the same employer will be unpaid. If the length of employment is greater than six months, employee is entitled to sick leave with full pay for up to 12 days and to sick leave on half pay for up to 24 days in each period of 12 months' continuous employment.

An employee may avail the paid sick leave if they produce a certificate of incapacity signed by a registered medical practitioner. Sick leave is not carried forward from one year to another.

Source: §123 of the Labour Code, 1992

Free Medical Care

There is a provision for free medical care under the Workmen's Compensation Act and its 2014 regulations. For medical expenses, the following amounts are provided under the law:

- a. Maximum amount of 33,400 maloti in respect of medical, surgical and hospital treatment, skilled nursing services and supply of medicines;
- b. Maximum amount of 16,700 maloti in respect of supply, maintenance repair and removal of non-articulated artificial limbs or any other artificial appliances;
- c. Maximum amount of 5,010 maloti in respect of reasonable charges incurred in the transfer of a worker to and from a place where necessary treatment is available.

Job Security

No provisions on the job security for sick workers could be identified within the law. However, the law prohibits the employer from dismissing any employee whose absence from work is justified under the Labour Code, which means that the employer cannot dismiss employees availing the statutory sick leave. The total length of statutory sick leave is however 36 days per year.

Source: §66 of the Labour Code, 1992

DECENTWORKCHECK.ORG

Disability/Work Injury Benefit

The legal provisions on the work injuries and relevant benefits come from the Workmen's Compensation Act. Work injuries may be classified on the basis of their consequences as those resulting in: (i) temporary incapacity; (ii) permanent partial incapacity; (iii) permanent total incapacity and (ii) fatal injury leading to death of a worker. There is no minimum qualifying period for work injury benefits. Accidents that occur while committing to and from work are covered if the transport facility was arranged by the employer.

In the case of temporary incapacity, worker is entitled to 75% of the monthly earnings. In the event of permanent total and partial incapacity, the benefit is paid as a lump sum amount. The amount of benefit in both cases may not exceed 267,200 maloti.

In the event of worker's death, there is provision for survivor benefits: a fixed sum is paid. The total amount of benefit may not exceed 240,500 maloti. Eligible survivors include a widow or dependent widower; children under 18 or disabled children; and dependent siblings and parents. There is also provision for a lump sum death grant. The amount payable for burial expenses may not exceed 16,700 maloti.

Source: Workmen's Compensation Act 1977; Workmen's Compensation Regulations, 2014

DECENTWORKCHECK.ORG

09/13 Social Security

Regulations on social security:

Old Age Pensions Act 2005

Old Age Pension (Amendment) Regulations 2007

Pension Rights

The legal provisions on pension rights come from the Law of 2005. Lesotho has government funded universal pension system. In order to eligible for pension, the concerned person must be aged 70. A fixed sum is paid on a monthly basis.

Source: Old Age Pensions Act 2005; Old Age Pension (Amendment) Regulations 2007

Dependents' / Survivors' Benefit

A survivor pension is paid if the deceased received or was entitled to receive an old-age pension. Eligible survivors include a widow or a dependent widower and children younger than age 18.

100% of the old-age pension the deceased received or was entitled to receive is paid. The pension is split equally among eligible survivors.

Unemployment Benefits

No provisions on unemployment benefits were identified from within the law.

Invalidity Benefit

No provisions on invalidity benefits were identified from within the law

DECENTWORKCHECK.ORG

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

Constitution of Lesotho 1998

Labour Code, 1992

Equal Pay

The Constitution and the Labour Code guarantees equal pay to women workers for work of equal value. Constitution of Lesotho requires the state to adopt policies directed to achieve fair wages and equal remuneration for work of equal value without distinction of any kind. Labour Code requires that men and women working in the same undertaking must receive equal pay for the same work or work of equal value. Pay will be set in the same way for women and men without regard to gender.

Source: §30 of the Constitution of Lesotho 1998, §05 of the Labour Code, 1992

Sexual Harassment

The Labour Code prohibits sexual harassment of the employee by the employer. However, the law is silent on sexual harassment in other situations.

Sexual harassment is regarded as unfair labor practice in the Labour Code, and in such a case, the appropriate punishment is determined by the Labor Court.

Any person who offers employment or who threatens dismissal or who threatens the imposition of any other penalty against another person in the course of employment as a means of obtaining sexual favours or who harasses workers sexually commits an unfair labour practice.

Source: §05, 200 and 201 of the Labour Code, 1992

DECENTWORKCHECK.ORG

Non-Discrimination

The Constitution and the Labour Code both prohibit discrimination. In accordance with the Constitution, discrimination is prohibited on the following grounds: race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth or other status.

Discrimination based on race, colour, sex, marital status, religion, political opinion, national extraction or social origin, property, birth, and HIV and AIDS status is prohibited.

The prohibited grounds for dismissal include marital status; pregnancy; maternity leave; family responsibilities; filing a complaint against the employer; race; color; sex; religion; political opinion; social origin; nationality/national origin; trade union membership and activities; lawfully taking leave (authorized absence from work) and HIV status.

Source: §18 of the Constitution of Lesotho 1998; §5 of the Labour Code, 1992; §235 of the Labour Code Amendment Act 2006

Equal Choice of Profession

The constitution guarantees the right to choose work for all individuals and creates obligations on the state to adopt policies that promote equal opportunity for men and women to be promoted in their employment to higher levels, subject to no considerations other than those of seniority and competence.

Source: §29 and 30 of the Constitution of Lesotho 1998

DECENTWORKCHECK.ORG

11/13 Minors and Youth

Regulations on children at work:

Labour Code, 1992

Children's Protection and Welfare Act, 2011

Education Act 2010

Minimum Age for Employment

Minimum age for employment is 15 years. Children under 15 cannot perform work except when the work done is light work in technical schools (provided the child is 13 years of age or more). A child cannot be engaged to work in any commercial or industrial undertaking except in a family enterprise where up to five family workers are employed. The minimum age for light work is 13 years. Light work is the work, which is not likely to be harmful to the health or development of a child and does not affect the child's attendance at school or the capacity of the child to benefit from school.

Minors under the age of 16 years cannot be required to work for more than four consecutive hours without a break of at least one hour, or for more than eight hours in any one day. A child cannot be engaged in exploitative labour, which is defined as work, which deprives or hinders a child's access to health, education and development.

Primary education is free and compulsory. Compulsory education age is 13 years.

Source: §124 and 125 of the Labour Code, 1992; §22(k) and 228 of the Children's Protection and Welfare Act, 2011; §3 of the Education Act 2010

Minimum Age for Hazardous Work

Minimum age for hazardous work is 18 years. It is defined as the work which poses danger to the health, development, safety or morals of a person. Hazardous work includes mining and quarrying; lifting and transporting of heavy loads; chemical production; workplaces where dangerous machines are used; work in places where a person may be exposed to immoral behavior; commercial sexual work; and tobacco production and drug trafficking.

Night work (18:00 to 06:00) is prohibited for children under 18 years.

Source: §226-23 of the Children's Protection and Welfare Act, 2011

DECENTWORKCHECK.ORG

12/13 Forced Labour

Regulations on forced labour:

Constitution of Lesotho, 1998

Labour Code, 1992

Labour Code Amendment Act 2006

Prohibition on Forced and Compulsory Labour

The legal provisions preventing slavery and forced labor are found in the Constitution and the Labour Code.

The Constitution has stipulated that no one can be held in slavery or forced labor. The Labour Code also prohibits forcing others to forced labor. Any person who forces another person to engage in forced labor is subject to a fine of up to 2000 maloti or to imprisonment for a term not exceeding 1 year.

Source: §04 & 09 of the Constitution of Lesotho, 1998; §07 of the Labour Code, 1992

Freedom to Change Jobs and Right to Quit

The law of Lesotho gives a worker freedom to change jobs and the right to quit. In accordance with the provisions of the Constitution, everyone has the right to work and freedom of work. A worker who wants to terminate his employment contract must also give his employer a minimum period of notice depending on the length of employment, which ranges between 7 days' to three months.

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

Source: §05, 63, 64, 65, 66 and 67 of the Labour Code, 1992; §235 of the Labour Code Amendment Act 2006

Inhumane Working Conditions

Normal working hours are 8-9 hours a day and 45 hours a week. The general overtime work must not exceed 11 hours per week.

The provisions concerning working hours do not apply to employees engaged in a family enterprise; employees holding management positions; where it is necessary to perform urgent work to remedy breakdown of machinery and in case of emergency/force majeure.

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

Source: §117,118 and 119 of the Labour Code, 1992

DECENTWORKCHECK.ORG

13/13 Trade Union

Regulations on trade unions:

Constitution of Lesotho 1998

Labour Code, 1992

Freedom to Join and Form a Union

The Constitution guarantees freedom of association and gives everyone the “right to enjoy their freedom to associate with other persons for ideological, religious, political, economic, labor, social, cultural, recreational and similar purposes”. Constitution of Lesotho further commits the State to “take appropriate steps in order to encourage the formation of independent trade unions to protect workers' rights and interests and to promote sound labour relations and fair employment practices”.

The Labour Code has given every person the right to participate in forming a trade union, to join and to participate in its lawful activities. It also prohibits discrimination and dismissal based on the previously mentioned activities. Right of association is guaranteed to all including agriculture workers. Labour Code requires registration of trade unions with the registrar. Two or more trade unions or employer organizations may join to form a federation. Worker and employer organizations have the right to affiliate with their respective international organizations. A young worker from the age of 15 years may join a trade union however he/she cannot become member of executive committee before attaining the age of 21 years.

Labour Code is applicable to all except the following: Royal Lesotho Defence Force; Royal Lesotho Mounted Police; any other disciplined force; and such category or class of public officer as specified by the Minister of Labour.

Source: §16 & 31 of the Constitution of Lesotho 1998; §06, 168 and 196 of the Labour Code, 1992

Freedom of Collective Bargaining

The Labour Code expressly stipulates that the employer must bargain in good faith with the trade union. The trade union representing the employees must be registered under the rules laid down by Labour Code in order to be eligible for engaging in collective bargaining. Employers are required under the law to bargain in good faith with a representative trade union (a trade union that represents majority, i.e., more than 50%, of employees in an enterprise).

No information on the length of a collective agreement and its conclusion is found in the Labour Code.

DECENTWORKCHECK.ORG

Labour Code provides for a tripartite National Advisory Committee on Labour with three members each from worker, employer and government groups. The Committee is empowered and obligated to discuss any matter connected with labour, employment, industrial relations, working conditions or labour legislation as it sees fit, and to report to the Minister in writing upon such discussion; to consider and advise upon any proposed legislation affecting labour, employment, industrial relations or working conditions; and consider and advise upon issues addressed by tripartite regional or international conferences.

Source: §42, 171-173 and 198A of the Labour Code, 1992

Right to Strike

The Constitution has guaranteed the right of freedom of assembly.

The Labour Code defines the term Strike as the act of any number of employees who are in the employment of the same employer or of different employers, done in contemplation or furtherance of a trade dispute. This may involve discontinuing that employment wholly or partially; refusing or failing after any such discontinuance to resume or return to their employment; refusing or failing to accept engagement for any work in which they were or are usually employed; or in reducing their normal output on their normal rate of work, with the intent to compel the employer to agree to their demands.

The Code differentiates between disputes of rights and disputes of interest. Dispute of rights concerns validity, interpretation or existence of a collective agreement and unfair dismissals. A collective dispute of rights cannot to be resolved through strike, lockout or other industrial action and must be resolved either by the Labor Court (unfair dismissal or unfair labor practice i.e. where a worker is dismissed for participating in a strike) or which has sole jurisdiction over such disputes, or through voluntary arbitration (disputes in relation to the interpretation of the collective agreement). On the other hand, dispute of interest concerns a trade dispute on a matter that is of mutual interest to employees. Such disputes must be attempted to be resolved through the procedures of conciliation and then arbitration, following which the workers may opt to go on strike.

A strike will only be lawful if it concerns an unresolved dispute of interest and in respect of which a notice of 7 days has been given to the other party and the Directorate of Dispute Prevention and Resolution, the government body responsible for resolving such disputes. The Strike must amount to a “peaceful suspension of work” and any act or hostility against persons or property is strictly prohibited. In the case of essential services, Labour Court may give its binding award. Employment of workers is secure during the lawful strike.

Source: §15 of the Constitution of Lesotho 1998; §29, 46B, 225- 227, 228B, 228C, 229 and 230-234 of the Labour Code, 1992

DECENTWORKCHECK.ORG

01/13 Work & Wages**ILO Conventions on Work and Wages**

Minimum wage: Convention 131 (1970)

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

Lesotho has not ratified the above mentioned Conventions.

Minimum wage

The minimum wage must cover the living expenses of the employee and his/her family members. Moreover, it must relate reasonably to the general level of wages earned and the living standard of other social groups.

Regular Pay

Wages must be paid regularly on a daily, weekly, fortnightly or monthly basis.

02/13 Compensation**ILO Conventions on Compensation**

Compensation overtime: Convention 01 (1919); Night work: Convention 171 (1990)

Lesotho has not ratified the above mentioned Conventions.

Overtime Compensation

Working overtime is to be avoided. Whenever it is unavoidable, extra compensation is at stake - minimally the basic hourly wage plus all additional benefits you are entitled to. In accordance with ILO Convention 1, overtime pay rate should not be less than one and a quarter times (125%) the regular rate.

Night Work Compensation

Night work means all work which is performed during a period of not less than seven (07) consecutive hours, including the interval from midnight to 5 a.m. A night worker is a worker whose work requires performance of a substantial number of hours of night work which exceeds a specified limit (at least 3 hours). Convention 171 requires that night workers be compensated with reduced working time or higher pay or similar benefits. Similar provisions are found in the Night Work Recommendation No. 178 of 1990.

Compensatory Holidays/Rest Days

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

Weekend/Public Holiday work Compensation

If you have to work during the weekend, you should thereby acquire the right to a rest period of 24 uninterrupted hours instead. Not necessarily in the weekend, but at least in the course of the following week. Similarly, if you have to work on a public holiday, you must be given a compensatory holiday. A higher rate of pay for working on a public holiday or a weekly rest day does not take your right to a holiday/rest.

DECENTWORKCHECK.ORG

03/13 Annual Leave & Holidays**ILO Conventions on weekly rest days and paid annual leave**

Convention 132 (1970) on Holidays with Pay Convention
Conventions 14(1921), 47 (1935) and 106 (1957) for weekly rest days. In addition, for several industries, different Conventions apply.

Lesotho has ratified the Convention 14 only.

Paid Vacation/Annual Leave

An employee is entitled to at least 21 consecutive paid annual leave. National and religious holidays are not included. Collective agreements must provide at least one day of annual leave on full remuneration for every 17 days on which the employee worked or was entitled to be paid.

Pay on Public Holidays

You should be entitled to paid leave during national and officially recognized public holidays.

Weekly Rest Day

Workers should enjoy a rest period of at least twenty-four consecutive hours in every 07-day period, i.e., a week

04/13 Employment Security**ILO Conventions on employment termination**

Convention 158 (1982) on employment termination

Lesotho has ratified the Convention 158.

The questions under this section measure the security or even flexibility or precariousness of an employment relationship. Although these are not clearly mentioned in a single convention (severance pay and notice requirement are provided in the Termination of Employment Convention No. 158) however, the best practices in the field require that employees be provided with a written contract of employment; workers on fixed term contracts should not be hired for tasks of permanent nature; a reasonable probation period (ideally lower than or equal to 6 months) may be followed to assess the suitability of an employee; a period of notice must be specified in an employment contract before severing the employment relationship; and workers be paid severance allowance on termination of employment relationship.

Written Employment Particulars

A contract of employment may be oral or written however workers should be provided with a written statement of employment at the start of their employment.

Fixed Term Contracts

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

Probation Period

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

Notice Requirement

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

Severance Pay

Employers may be required to pay a severance allowance on termination of employment (due to redundancy or any other reason except for lack of capacity or misconduct).

DECENTWORKCHECK.ORG

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

Convention 156: Workers with Family Responsibilities Convention (1981)

Recommendation 165: Workers with Family Responsibilities (1981)

Lesotho has not ratified the Conventions 156 & 165.

Paternity Leave

This is for the new fathers around the time of child birth and is usually of shorter duration.

Parental Leave

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

Flexible Work Option for Parents / Work-Life Balance

Recommendation 165 asks for looking into measures for improving general working conditions through flexible work arrangements.

06/13 Maternity and Work**ILO Conventions on maternity and work**

An earlier Convention (103 from 1952) prescribed at least 12 weeks maternity leave, 6 weeks before and 6 weeks after. However, a later convention (No. 183 from year 2000) requires that maternity leave be at least 14 weeks of which a period of six weeks compulsory leave should be after childbirth.

Lesotho has not ratified the Conventions 103 & 183.

Free medical care

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

No harmful work

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

Maternity leave

Your maternity leave should last at least 14 weeks.

Income

During maternity leave, your income should amount to at least two thirds of your preceding salary.

Protection from Dismissals

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

Right to return to same position

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

Breastfeeding/Nursing Breaks

After child birth and your rejoining your organization, you must be allowed paid nursing breaks for breastfeeding your child.

DECENTWORKCHECK.ORG

07/13 Health & Safety**ILO Conventions on Health and Safety**

Most ILO OSH Conventions deal with very specific Occupational Safety hazards, such as asbestos and chemicals.

Convention 155 (1981) is the relevant general convention here. Labour Inspection Convention: 81 (1947)

Lesotho has ratified both the Conventions 81 & 155.

Employer cares

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

Free protection

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

Training

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

Labour Inspection System

You and your colleagues should receive training in all work related safety and health aspects and you should have been shown the emergency exits.

08/13 Sick Leave & Employment Injury Benefits**ILO Conventions on Sickness and Employment Injury**

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

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

Income/Paid Sick Leave

Your rights to work and income should be protected when illness strikes. The national labour law may provide that sickness benefit may not be paid during the first 3 days of your absence. Minimally you should be entitled to an income during first 6 months of illness. This income should be at least 45 per cent of the minimum wage. (Countries are free to opt for a system which guarantees 60 per cent of the last wages during the first 6 months of illness or even during the first year). You should be entitled to paid sick leave.

Medical Care

During illness, you should be entitled to medical care without any additional cost. Employees and their family members should have access to the necessary minimal medical care at an affordable cost.

Job security

During the first 6 months of your illness, you should not be fired.

Disability/Work Injury Benefit

Whenever you are disabled due to an occupational disease or accident, you ought to receive a higher benefit. In the case of temporary or total incapacity/disability, a worker may at least be provided 50% of his average wage while in the case of fatal injury, the survivors may be provided with 40% of the deceased worker's average wage in periodical payments.

DECENTWORKCHECK.ORG

09/13 Social Security**ILO Conventions on Social Security**

Social Security (minimum standards): Convention 102 (1952). For several benefits somewhat higher standards have been set in subsequent Conventions

Employment Injury Benefits: Conventions 121 (1964),

Invalidity, Old age and survivors' benefits: Convention 128(1967)

Medical Care and Sickness Benefits: Convention 130 (1969)

Unemployment Benefits: Convention 168 (1988).

Lesotho has not ratified the Conventions 102, 121, 128, 130 & 168.

Pension Rights

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

Dependent's/Survivors' Benefit

When the breadwinner has died, the spouse and children are entitled to a benefit, expressed as a percentage of the minimum wage, or a percentage of the earned wage. This must at least be 40% of the reference wage.

Unemployment Benefit

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

Invalidity Benefits

Invalidity benefit is provided when a protected person is unable to engage in a gainful employment, before standard retirement age, due to a non-occupational chronic condition resulting in disease, injury or disability. Invalidity Benefit must at least be 40% of the reference wage.

10/13 Fair Treatment**ILO Conventions on Fair Treatment**

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

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

Lesotho has ratified the Convention 111 only.

Equal Pay

At workplaces equal pay for men and women for work of equal value is a must, regardless of marital status. Pay inequality based on race, colour, sex, religion, political opinion, national extraction/place of birth or social origin is also forbidden. A transparent remuneration system and the clear matching of pay and position should be in place and to help prevent wage discrimination.

Sexual Harassment

Not clearly provided in ILO Conventions. However, sexual intimidation/harassment is gender discrimination.

Non-Discrimination

Your employer can't discriminate against you on in any aspect of employment (appointment, promotion, training and transfer) on the basis of union membership or participation in union activities, filing of a complaint against an employer, race, colour, sex, marital status, family responsibilities, pregnancy, religion, political opinion, national extraction or social origin, temporary absence due to illness, age, trade union membership, disability/HIV-AIDS, or absence from work during maternity leave. (Conventions 111, 156, 158, 159 and 183)

Equal Choice of Profession

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

DECENTWORKCHECK.ORG

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

Minimum Age: Convention 138 (1973)

Worst Forms of Child labour: Convention 182 (1999)

Lesotho has ratified both the Conventions 138 & 182.

Minimum Age for Employment

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

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

Minimum Age for Hazardous Work

Children should not be employed in a work that is likely to harm the health, safety or morals of children. It is considered one of the worst forms of child labour. The minimum age for such hazardous work is 18 years.

12/13 Forced Labour**ILO Conventions on Forced/Bonded labour**

Forced labour: Conventions 29 (1930)

Abolition of Forced labour: Conventions 105 (1957)

Forced labour is the work one has to perform under threat of punishment: forfeit of wages, dismissal, harassment or violence, even corporal punishment. Forced labour means violation of human rights.

Lesotho has ratified both the Conventions 29 & 105.

Prohibition on Forced and Compulsory labour

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

Freedom to change jobs and Right to quit

Employers have to allow you to look for work elsewhere. If you do, you should not be shortened on wages or threatened with dismissal. (In the reverse cases, international law considers this as forced labour).

Inhumane Working Conditions

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

ILO Conventions on Trade Union Rights

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

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

Lesotho has ratified both the Conventions 87 & 98.

Freedom to join and form a union

Freedom of association means freedom to join a trade union. This is part of the fundamental human rights. Employees may not be put at a disadvantage when they are active in the trade union outside working hours. The list of exclusions for sectors of economic activity and workers in an organization should be short.

Freedom of Collective Bargaining

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

Right to Strike

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

DECENTWORKCHECK.ORG

About Decent Work and Decent Work Check

Compare your own situation with the international labour standards and how they are applied in Lesotho. At the end of the checklist you will see how things stand for you. You may be better off than what the international standards prescribe, but you should not be worse off. Behind every answer, you can find a short explanation of what your rights are; nationally and internationally. So you see right away if you can improve your situation.

The Decent Work Check makes the pretty abstract Conventions and legal texts tangible. Because, in the end, you want to know what your rights on the job mean in practice, what you may claim and what protection you are entitled to in case something unexpectedly does go wrong. The Decent Work Check employs double comparison system. It first compares national laws with international labour standards and gives a score to the national situation (happy or sad face). It allows workers to compare their real situation with national regulations in the country. Workers then compare their own score both at national and international levels. The Decent Work Check is based on de jure labour provisions, as found in the labour legislation. The real practice is informed by the employees themselves. This Check is different from other indices like World Bank's Doing Business Indicators or even ISSA's Social Security Programs throughout the World as it is not only descriptive in nature (bereft of any subjective opinions) but also that it covers a lot of different variables. The Revised Decent Work Check is also designed while taking into account upcoming Decent Work Indicators. While Decent Work Indicators focus more on statistics, our priority is informing workers about their rights through this Decent Work Check. Decent Work Check is useful both for employees and employers. It gives them knowledge, which is the first step towards any improvement. It informs employees of their rights at the workplace while simultaneously enlightening employers about their obligations. Decent Work Check is also useful for researchers, labour rights organizations conducting surveys on the situation of rights at work and general public wanting to know more about the world of work.

WageIndicator teams, around the world, have found out that workers, small employers and labour inspectors don't even know the labour law.

When you are informed - being a workers, self-employed, employee, employer, policy maker, labour inspector - there is a greater possibility that you ask for your rights (as a worker), you comply with rules (as an employer) and you strive to enforce these (as a labour inspector). As soon as you complete the DecentWorkCheck, you see which issues need improvement in your work life.

This is exactly the strategy chosen in the debates in many WageIndicator countries. In the debates with roughly 20-30 people around the table from all sides, the decent Work Check has soon the effect of a mini social dialogue. The people who run the dialogue are equally well informed.

The international labour standards are laid down in ILO-Conventions. ILO is the specialised body of the United Nations working on labour issues and was founded in 1919. In the ILO, negotiations are always going on between governments of the member states, national trade unions and employer's associations regarding work related issues like rights at work and social protection. These negotiations may take years, but eventually lead to so called Conventions or Recommendations. In Conventions, minimum standards are laid down. Conventions are not the law, but the intention is that member states subscribe to the standard in question. The proper way to do that is to have these Conventions ratified by parliament and then make national laws (Some countries may follow the system of self-executing treaties). National law can be enforced. ILO-Conventions are usually accompanied by Recommendations on how to implement the standards.

Since 1999, the ILO works according to the so called Decent Work Agenda. In the meantime, the Decent Work Agenda has been widely accepted as an important strategy to fight poverty and foster development. The Agenda has been incorporated in the Millennium Development Goals of the United Nations. In short, the idea behind Decent Work is first of all an income which allows the working individual a good life. Moreover, at work, everybody has an equal chance to develop themselves; working conditions are safe; there is no instance of child and forced/bonded labour; and discrimination does not occur. Trade unions are allowed a real say in work related matters and the state has created a social safety net for all especially for the sick, weak, elderly and expecting women.

WageIndicator.org and Iftikhar Ahmad
06 April, 2017.