

## DECENTWORKCHECK.ORG

Check

DecentWorkCheck Madagascar is a product of WageIndicator.org and  
www.votresalaire.org/Madagascar



National Regulation exists



National Regulation does not exist

## 01/13 Work &amp; 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 &amp; 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 &amp; 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"/>

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





## 07/13 Health & Safety

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





## 08/13 Sick Leave & Employment Injury Benefits

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









## 09/13 Social Security

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

## 10/13 Fair Treatment

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

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

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

## 11/13 Minors & Youth

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

## 12/13 Forced Labour

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

## 13/13 Trade Union Rights

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

## 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.

Madagascar scored 41 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.

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## 01/13 Work & Wages

### Regulations on work and wages:

Loi n° 2003-044 du 28 juillet 2004 portant Code du travail

DECRET N°2013- 476 Fixant les indices et les salaires minima d'embauche et d'ancienneté par catégorie professionnelle

### Minimum Wage

Minimum wage rates in Madagascar are determined either by Government or by collective agreement between the employer and the worker. Government, following the recommendations of the National Employment Council, sets a wage scale and a national minimum wage rate (on hiring) for agricultural and non-agricultural workers referred to as SME (Salaire Minimum d' Embauche). The National Employment Council is a tripartite body consisting of government, employer and employee representatives.

The minimum starting salary (SME) is determined by taking into account the minimum vital for worker in order to guarantee them a sufficient purchasing power; cost of living; national economic situation and current economic climate; the nation's budget evolution/balance sheet; and the consumer prices.

Compliance with provisions of Labour Code including minimum wages is labour inspectors who have the right to enter workplaces at any time and carry out inspections. Employers who fail to pay the legal minimum wage are liable to a fine which may range between 2,500,000 to 10,000,000 FMG. In the case of repeat offence, the amount of fine is doubled. A worker may also request the Labour Inspectorate to settle a dispute amicably.

Source: §55, 175, 177,199, 234, 238 and 257 of the Labour Code 2003

### Regular Pay

The Labour Code 2003 regulates the payment of wages to all classes of workers. The salary is the counterpart of the work; no salary is due in case of absence outside the cases provided by regulation and unless agreed in writing between the parties.

Minimum wages in Madagascar are calculated on a daily rate. It requires the employers to make timely payment of remuneration to the employee.

- For a worker hired on daily or weekly basis, wages must be paid in regular intervals of less than 8 days;
- For a worker working on fortnightly basis, wage interval must not exceed 20 days; and
- For a working on monthly basis, wages must be paid within 8 days of the end of month.

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The wages should be fully paid in legal tender. This means that law does not allow in-kind payment of wages. Payment of wages in alcohol or alcoholic beverage is not allowed. Delay in payment of wages must be justified by force majeure. Unnecessary delay leads to increase according to the currently applicable statutory rate of interest. Manual or computerized pay slip is drawn by the employer or its representatives as an evidence of payments, and ticked off by each worker or by two witnesses if he is illiterate.

Workers are entitled to the wages without any kind of deduction by attachment and voluntary transfer except in cases prescribed by the law in force.

Source: § 62, 63 & 69 of the Labour Code 2003

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## 02/13 Compensation

### Regulations on compensation:

Loi n° 2003-044 du 28 juillet 2004 portant Code du travail

DECRET N° 68-172 du 18 avril 1968 portant réglementation des heures supplémentaires de travail et fixant les majorations de salaire pour le travail de nuit, des dimanches et des jours fériés, modifié et complété par décret n°72-226 du 6 juillet 1972

### Overtime Compensation

In accordance with the Labour Code, hours of work for all types of workers cannot exceed 173.33 hours in a month. Normal working hours for young workers are 40 hours per week. The yearly working hour limit in the farming sector is 2,200 hours. The National Labour Council determines by branch activity and occupational group, if appropriate, the mode of application of the working time and derogations, nature and the maximum duration of overtime that can be performed with or without prior authorization, and the rate of overtime.

If a worker works beyond the stipulated working hours, he/she is entitled to an overtime pay according to the following schedule:

- 130% of normal hourly rate for the first eight overtime hours;
- 150% of normal hourly rate beyond the 8th hour.

Source: §75-79 & 101 of the Labour Code 2003; §2 of the Decree No. 68-172 of 18 April 1968 to Regulate Overtime and Determine Wage Increases for Work Performed at Night, on Sundays and on Public Holidays

### Night Work Compensation

According to Labour Code, night work is work between 22:00 and 05:00.

In accordance with the decree regulating overtime, regular night work is compensated at the rate of 130% of the normal wage paid for the same work performed during the day. For occasional night work, a worker is paid at 150% of the normal rate of wages.

Source: §83 of the Labour Code 2003; §3 of Decree No. 68-172 of 18 April 1968 to Regulate Overtime and Determine Wage Increases for Work Performed at Night, on Sundays and on Public Holidays

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## Compensatory Holidays / Rest Days

Temporary or casual workers can be asked to work on Festival/Public Holidays. The law does not provide for compensatory holidays. Similarly, there is no provision in the Labour law for compensatory rest day if workers are asked to work over the weekends/weekly rest days.

## Weekend / Public Holiday Work Compensation

Workers may be required to work on weekly rest days and public holidays. In such circumstances when workers have to work on official holidays, they are entitled to receive wages at a premium rate of 150% of the normal hourly wage rate. Workers working on weekly rest days are entitled to premium pay at the rate of 140% of the normal wage rate.

Source: §3 of Decree No. 68-172 of 18 April 1968 to Regulate Overtime and Determine Wage Increases for Work Performed at Night, on Sundays and on Public Holidays



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## 03/13 Annual Leave & Holidays

### Regulations on annual leave and holidays:

Loi n° 2003-044 du 28 juillet 2004 portant Code du travail

### Paid Vacation / Annual Leave

An employee is entitled to at least 30 working days paid annual leave unless otherwise stated in collective agreement or individual labour contract, after completion of 12 months of continuous service. Collective agreement or individual labour contract is applicable only if they provide more favourable annual leave conditions than those provided by law.

A worker is entitled to 1/12th of the annual wages before commencement of annual leave. Employer and employee determine the annual leave schedule by mutual consensus. The annual leave can be accrued over a period of 3 years. The leave can be split however; its minimum duration at one time must be two weeks. The first two weeks have to be taken within 3 months on the completion of the qualifying period of one year. The remainder of annual leave can then be taken during the calendar year or accrued over a 3-year period.

Source: § 86-89 of the Labour Code 2003

### Pay on Public Holidays

Workers are entitled to paid Festival (public and religious) holidays. Festival holidays are announced by Madagascan Government at the start of calendar year (usually 13 in number). The public holidays are regulated by a decree.

Public holidays include New Year (January 01), International Women's Day (March 08), Easter Sunday and Easter Monday, Commemoration of the 1947 Rebellion (29 March), Labour Day (May 01), Ascension Day, Pentecost/Whit and Monday of Pentecost/Whit, Independence Day (June 26), Assumption Day, All Saints' Day (November 01), and Christmas Day (December 25). March 08 is the public holiday with pay only for women workers. Eid el Fitr and Eid al Adha (one day each) are general paid holidays only for Muslims.

Source: §81 of the Labour Code 2003; Decree Fixing the Annual List of Holidays, 2018

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## Weekly Rest Days

Labour Code has provision on weekly rest. Workers are generally entitled to at least 24 consecutive hours of weekly rest. The weekly rest day is principally Sunday for all the workers. Labour Code does not clearly provide for compensatory rest day to workers if they have to work on a weekend.

The rest breaks (during working hours) are negotiated between the workers and employers through collective agreements. As for daily rest period, after completion of work, there is no clear provision for these in the Labour Code except for adolescent workers and women workers. Labour Code requires a daily rest period of at least 12 consecutive hours for young workers and women workers.

Source: §79, 80 and 85 of the Labour Code 2003

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## 04/13 Employment Security

### Regulations on employment security:

Loi n° 2003-044 du 28 juillet 2004 portant Code du travail

### Written Employment Particulars

Madagascan Labour Code requires the working relationship between the worker and the employer. Individual employment contract may be of definite or indefinite period and must be concluded in writing. Employment contract, written in Malagasy or French, may be drawn up and signed between the two parties before commencement of employment. The written statement of particulars should be provided to an employee within two months after the commencement of employment. In absence of a written contract, its conditions may be proved by all legal means of evidence. The employment contract must be drawn up in two originals, one copy for each party.

The employment contract must specify the functions, wage, professional class, effective date of contract, etc. Registration of the contract is not required. The contract must be concluded according to the provisions of Labour Code. Employment contract is prepared in duplicate with one copy provided to each party after signatures.

Source: §6-8 of the Labour Code 2003

### Fixed Term Contracts

Madagascan Labour Law prohibits hiring fixed term contract workers for tasks of permanent nature. An employment contract may be concluded for a definite or indefinite period. A fixed term contract is a contract whose term is fixed by the parties at the time of its conclusion or its term is related to the occurrence of a certain future event that does not depend on the will of the parties.

The total duration of a fixed term contract cannot exceed two years. Fixed term contract workers are not hired for the normal activities of the organization. A fixed term contract of 06 months duration turns automatically into contract of indefinite duration after two renewals. Re-employment of a worker on fixed term contract for same position within the month of completion of one fixed term contract is considered renewal of earlier contract. If a worker keeps working even after the expiry of fixed term contract, his contract is deemed concluded for indefinite duration.

Source: §8-9 of the Labour Code 2003

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## Probation Period

A Decree issued after the National Labour Council determines the form and terms of probationary employment contract and its duration. Labour Code requires that probationary period must not be longer than 6 months, which is renewable once. A probation period must clearly be specified in an employment contract specifying its duration as well as the notice period required in case of contract termination during the probationary period. If a written employment contract does not provide for probation, the worker is deemed to have been hired on an employment contract of indefinite duration. The probationary contract must be concluded in writing, specifying at least the vacancy, duration, salary and occupational category.

Probation period varies according to the occupational category the worker belongs to. This period is fixed under a decree and is as under:

- 3 months for skilled and unskilled blue-collar workers and white-collar workers who do not have managerial responsibilities (cat. 1,2, 3)
- 4 months for engineers, employees with supervisory or managerial functions (cat. 4)
- 6 months for high-ranking executives (cat. 5).

Source: § 35-37 of the Labour Code 2003; Decree No. 2007-008 of 9 January 2007 laying down the forms, duration and other terms of the probationary appointment

## Notice Requirement

Labour law requires termination notice before terminating services of an employee. A contract of employment may be terminated at any time by dismissal (by the employer), or resignation (by the worker), or by mutual agreement of both parties, or at the discretion of the competent court (in case of force majeure). A fixed term contract terminates at the end of its term or by cancellation by either of the parties or in cases of gross negligence or at the discretion of the competent court.

An indefinite term contract may be terminated by either party by giving a written notice to the other or payment in lieu thereof. The period of notice depends on the duration of service and varies with workers' categories. During the notice period, the employer is required to issue to the worker the date of notification of the termination and a provisional certificate of employment. An indefinite term contract may be terminated without prior notice in case of gross negligence or at the discretion of the competent court.

If an employer fails to give the termination notice, he/she must provide the wages and benefits that the employee would have earned during the notice period. In the absence of a collective agreement, a decree issued in consultation with the National Labour Council determines the terms and conditions of notice period and rights & obligations during the notice period. No such decree could be located.

An employment contract may not be terminated when an employee is suspended because of (i) closure of facility; (ii) mandatory military service; (iii) absence due to duly verified illness and (iv) and absence of mother or father due to illness or hospitalisation of a child.

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The length of notice period depends on the length of service in the enterprise and the professional category of worker. The notice period mentioned in the table below is in calendar days.

Length of service	Occupational Group				
	Group 1	Group 2	Group 3	Group 4	Group 5
Less than 8 days	01 day	02 days	03 days	04 days	05 days
Less than 3 months	03 days	08 days	15 days	01 month	01 month
Less than 1 year	08 days	15 days	01 month	01 month and a half	03 months
Over 1 year	10 days	01 month	01 month and a half	02 months and a half	04 months
Over 3 years	Increase of 2 days per year of service in the above-referred total limit				
Over 5 years	01 month	01 month and a half	02 months	03 months	06 months

Source: §16-21 of the Labour Code 2003

### Severance Pay

Labour Code provides for severance/redundancy pay only in the case of economic dismissals. A worker dismissed for economic reasons is entitled to severance payment amounting to 10 days' wages for each completed year of service. Law also defines a maximum limit to the severance payment which is 6 month, i.e., a worker can at most get 6 months' of wages as severance payment.

Source: § 27 of the Labour Code 2003

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## 05/13 Family Responsibilities

### Regulations on family responsibilities:

Loi n° 2003-044 du 28 juillet 2004 portant Code du travail

### Paternity Leave

There is no provision in the law or collective agreement on paid or unpaid paternity leave. However, Labor Code provides for 10 days of leave for family events in a year.

Source: § 87 of the Labour Code 2003

### Parental Leave

There is no provision in the law on paid or unpaid parental leave.

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

No provisions could be located in the law supporting work-life balance for parents or workers with family responsibilities.

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## 06/13 Maternity & Work

### Regulations on maternity and work:

Loi n° 2003-044 du 28 juillet 2004 portant Code du travail

### Free Medical Care

Insured women workers are reimbursed for the cost of medical care during pregnancy and childbirth, up to 5,000 Ariary

### No Harmful Work

A pregnant woman may not be employed on any work, which is beyond her strength; which involves hazards and which is of such nature or is carried out in such circumstances as to injure her morals.

During pregnancy and 3 weeks following her return to work after confinement, a woman is not allowed to carry, push or drag any load.

Source: §93 of the Labour Code 2003; § 1 & 6 of Decree N°62-152 of 28 March 1962 on determining the working conditions for children, women and pregnant women workers

### Maternity Leave

Female employees are entitled to 14 weeks (98 days) of maternity leave with full pay, including 8 weeks of pre natal leave. The maternity leave can be extended by three (3) additional weeks in case of sickness resulting from pregnancy or birth. Medical certificate indicating sickness must be provided to avail extended leave.

Source: §97 of the Labour Code 2003

### Income

Labour code provides fully paid maternity leave. Half of a worker's wage is paid by the employer while the other half is paid by National Social Insurance Fund (CNAPS). If a woman is not insured, the employer has to pay the total amount of the salary.

Source: § 97 of the Labour Code 2003, § 158 of the Social Insurance Code

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## Protection from Dismissals

Labour Code prohibits dismissal of women workers during pregnancy and maternity leave. Dismissal during this period is considered unfair.

Source: § 95 of the Labour Code 2003

## Right to Return to Same Position

No provision could be located in the law which gives a female worker the right to return to same job/position after availing her maternity leave however since the labour code prohibits dismissal of women workers during pregnancy and maternity leave, there is an implied right to return to same position.

## Breastfeeding/Nursing Breaks

Female workers are entitled to paid nursing break of one-hour duration, for new mothers to breastfeed their child(ren) until a child is fifteen (15) months old.

Source: § 98 of the Labour Code 2003



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## 07/13 Health & Safety

### Regulations on health and safety:

Loi n° 2003-044 du 28 juillet 2004 portant Code du travail

### Employer Cares

In accordance with the Labour Code, it is obligatory on the employer to ensure health, safety and welfare of persons at workplace and to keep workplace safe and clean.

The establishment should be monitored to check the quality of the premises; cleanliness; drinking water; health facilities; hygienic arrangements for the needs of personnel; proper canteen; appropriate locker rooms and other furniture necessary for workers' comfort and sanitation.

Safety of a worker is ensured by monitoring, maintenance and systematic verification of machinery, equipments and materials to decrease risk of accidents. Measures should be taken to protect and maintain physical and geographical work environment.

Hygiene and safety conditions on workplace are monitored by the occupational health services to prevent any deterioration of the workers' health. Inter-ministerial commission is responsible to monitor the conditions on hygiene, safety and environment before the opening of the enterprise and to give its opinion on the compliance with health, safety and environment regulations. A Decree issued by the National Labour Council establishes the organization and functioning of this Commission and the departments to be represented there.

Source: § 112-135 of the Labour Code 2003

### Free Protection

In accordance with the provisions of Labour Code, it is the responsibility of employer to provide free protective equipment including clothing to the worker collectively or individually to protect them against different dangers inherent in the workplace especially

Source: § 110 of the Labour Code 2003

### Training

In accordance with the Labour Code, it is the responsibility of an employer to provide instruction, training and supervision as is necessary to ensure health and safety at work of his employees.

Source: § 123 of the Labour Code 2003

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## Labour Inspection System

Labour Code provides for an independent and powerful labour inspection system in the country.

Labour Inspectors, under the authority of Ministry of Labour, ensure the implementation of laws and regulations related to conditions of work and protection of workers in the exercise of their function, such as provisions on working hours, wages, safety, hygiene and well-being, the employment of children and adolescents as well as provisions of a collective agreement. It is the responsibility of the inspector to provide information and technical advice to employers and workers on the most effective means of complying with the legal provisions in force and to bring to the attention of the competent authority defects or abuses, which are not specifically covered by existing laws and regulations.

Labour code authorizes the labour inspector to enter the workplace at any time during day or night without previous notice to carry out examination, test or inquiry; interview anyone; ask for or take copy of any prescribed book/register, record or other document; and take or remove samples. The labour inspector may also ask employer to display notices according to legal provisions.

Labour inspectors are also authorized to prescribe measures to eliminate defects observed in plant; layout or work methods they may have reasonable cause to believe constitute a threat to health or safety of workers.

Source: § 234-240 of the Labour Code 2003

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**08/13 Sick Leave & Employment Injury Benefits****Regulations on sick leave & employment injury benefits:**

Loi n° 2003-044 du 28 juillet 2004 portant Code du travail

**Income**

In accordance with the Labour Code, a worker is entitled to sick leave for up to 6 months if sickness is certified by a qualified doctor.

Source: § 13 & 87 of the Labour Code 2003

**Medical Care**

Medical benefits are available for insured workers and these include hospitalization, medicine, transportation and rehabilitation expenses.

**Job Security**

In accordance with the Labour Code, an employer cannot dismiss a worker during the first 6 months of his/her illness.

Source: § 13 of the Labour Code 2003

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## Disability / Work Injury Benefit

Work injuries are divided into four categories: (i) permanent total incapacity (ii) permanent partial incapacity (iii) temporary incapacity and (iv) fatal injury leading to death of a worker.

In the case of permanent total incapacity/disability, amount of compensation is 100% of an insured worker's average earnings in the 12 months before disability.

In the case of permanent partial disability, amount of compensation depends on the assessed degree of disability. If the assessed disability is less than 10%, a lump sum pension is paid. Both the partial and total disability pensions may be partially converted to lump sum after receiving the pension for 3 years. Moreover, these pensions are paid usually on quarterly basis.

In the case of temporary disability, the daily benefit is provided at the rate of 66.7% of workers' daily average earnings in the last month. This benefit is paid for the first 28 days of temporary disability. The benefits are paid until worker's full recovery or certification of permanent disability.

In the case of fatal injury, dependents (widow/widower/minor children/parents) receive survivors' pension. A widow/widower gets 30% of the monthly pension a deceased worker received or was entitled to receive. Pension for widow/widower ceases on remarriage. An orphan receives 15% of the pension. He/she ceases to receive pension on reaching the age of 15 years. There is also option for dependent parents' and grandparents' pension (10% of pension to each dependent parent or grandparent up to 30%)

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## 09/13 Social Security

### Regulations on social security:

Decree No. 69-145 of 8 April, on the Social Insurance Code

Law No. 94-026 of 17 November, on the Social Protection Code

### Pension Rights

Social Insurance Code provides for both full and partial pension. A worker is entitled to full pension at the age of 60 years (55 years for women) with at least 15 years of coverage including 28 quarters of contributions in the last 10 years. For partial pension, a worker must have at least 100 quarters (men) or 80 quarters (women) of coverage. If a worker does not meet requirements of full or partial pension, there is also an option of solidarity allowance however it is only for those workers who were in employment during 1964-1968.

Source: Social Insurance Code

### Dependents' / Survivors' Benefit

Social Insurance Code provides for survivor benefit for dependents including widow, widower, and children. The deceased worker must be a pensioner or was at least 55 years of age (50 years for women workers) and had already met the contribution conditions for old age pension. Survivors' pensions are paid quarterly. An unemployed widow(er) receives 30% of the pensions an insured workers was entitled to receive while an employed widow(er)/pensioner receives only 15% of this pension. Orphans are also entitled to receive a survivors' pension. Survivors' pension ceases on remarriage (for widow/widower) or attaining the age of 15 years/ 22 years for disabled and students (for orphans).

Source: Social Insurance Code

### Unemployment Benefits

No provision in law for unemployment insurance and benefits.

### Invalidity Benefits

Social Insurance Code provides for invalidity benefit in the case of non-occupational accident/injury/disease resulting into permanent invalidity. A worker must be at least 55 years of age (men) or 50 years (women workers) with at least a 60% loss of working capacity and at least 10 years of coverage including 28 quarters in the last 10 years. Invalidity pension is 80% of the old-age pension. There is also an option of dependents' supplement.

Source: Social Insurance Code

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## 10/13 Fair Treatment

**Regulations on fair treatment:**

Loi n° 2003-044 du 28 juillet 2004 portant Code du travail  
Constitution de la IVe République (11 décembre 2010)

**Equal Pay**

The Constitution of Madagascar states that all individuals have a right to a fair remuneration for their work assuring them, as well as their family, an existence in conformity with human dignity.

In accordance with the Labour Code, workers should receive equal pay for work of equal value regardless of their origin, colour, descent, nationality, gender, age, union membership, their views and their status.

Source: §29 of the Constitution of Madagascar 2010; §53 of the Labour Code 2003

**Sexual Harassment**

In accordance with Labour Code, sexual harassment is any unwanted conduct of sexual nature that interferes with work, employment conditions or normal operation of the quarry or creates an intimidating work environment.

Sexual Harassment is prohibited by law and is a punishable offence. A person who puts granting of sexual favours as a condition to get a job, promotion or award or a favorable decision is punished with imprisonment of one to three years and fine of five million to 20 million francs. And if the perpetrator used sanctions or serious pressure to bring a subordinate to grant sexual favours or punish the one who denied such favours is punished with imprisonment of two to five years and fine of ten million to fifty million francs. (§333-bis of Penal Code)

Source: § 5, 23 & 261 of the Labour Code 2003; § 333-bis of the Penal Code

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## Non-Discrimination

In accordance with the Labour Code, an employer cannot discriminate against a person (in any aspect of employment) on grounds of race, religion, national origin, sex, trade union membership, political affiliation and HIV/AIDS status. Discrimination on above grounds is a liable offence.

The Constitution also prohibits discrimination in the following words: "No one may be prejudiced in their work or in their employment for reason of gender, of age, of religion, of opinions, of origins, of belonging to a trade-union or of political convictions" (Art. 28). "The law is the expression of the general will. It is the same for all, whether it protects, it obligates or it punishes. All individuals are equal before the law and enjoy the same fundamental freedoms protected by the law without discrimination founded on gender, the level of instruction, wealth, origin, religious belief or opinion. The law favors the equal access and the participation of women and men in public employment and to the functions in the domain of the political, economical and social life. (Art. 6)

Source: § 5 & 261 of the Labour Code 2003; § 6 & 28 of the Constitution of Madagascar 2010; Décret n°2011-626, du 11 octobre 2011, portant application de la Loi n°2003-044 du 28 juillet 2004 portant Code du Travail, relatif à la lute contre le VIH/sida en milieu du travail

## Equal Choice of Profession

Women cannot work in the same industries as men. Restrictions are in place to protect women from night work (Art. 85). The industries where women are prohibited from work are determined under decree of National Labor Council (Art. 93).

Source: § 85 & 93 of the Labour Code 2003

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## 11/13 Minors & Youth

### Regulations on minors and youth:

Loi n° 2003-044 du 28 juillet 2004 portant Code du travail  
Constitution de la IVe République (11 décembre 2010)

### Minimum Age for Employment

In accordance with the labour code, the minimum age for employment is 15 years. The minimum age should not be less than the age of completion of compulsory schooling. Children cannot be employed in any business, even as apprentices, before the age of fifteen (15) years without the permission of the Inspector of Labour however the work should not be harmful to their health and normal development (art. 100).

Children under 15 years can be hired to perform light work. Light work is the work that does not exceed their strength; does not have a source of danger; and that is not likely to harm their health or physical, mental, spiritual, moral or social development.

The compulsory education age in Madagascar is 16 years.

Source: §2 of DECRET N° 2007 563 du 3 juillet 2007; §100 of the Labour Code 2003; §39 of the Law No. 2004-004 of 26 July 2004 on the general organization of the education, training and training system; §24 of the Constitution of Madagascar 2010

### Minimum Age for Hazardous Work

Minimum Age for hazardous work is 18 years. Workers under 18 years of age cannot be employed for more than eight hours a day and forty hours a week. Night work and overtime is also prohibited for workers under 18. Daily rest of 12 consecutive hours has to be given to the young workers. Workers below 18 years of age cannot be used for immoral work, work beyond their strength, forced labour and dangerous or unhealthy work.

Children and adolescents are employed only after a medical examination. The labour inspector may also ask for medical examination of children by a licensed physician to verify that work does not exceed their physical strength.

Source: § 101 & 103 of the Labour Code 2003; §10-22 of DECRET N° 2007 563 du 3 juillet 2007



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## 12/13 Forced Labour

### Regulations on forced labour:

Loi n° 2003-044 du 28 juillet 2004 portant Code du travail  
Constitution de la IVe République (11 décembre 2010)

### Prohibition on Forced and Compulsory Labor

Law prohibits forced or compulsory labour. Forced or compulsory labor means all work or service, which is exacted, from any person under the menace of any penalty for which the said person has not offered himself voluntarily.

It is a punishable offence. All forms of forced or compulsory including the sale and trafficking of child labor, the use of children as a pledge to pay the debt of the family, slavery, forced or compulsory recruitment for use of children in armed candied are prohibited.

Source: § 4 of the Labour Code 2003; § 15 of DECRET N° 2007 563 du 3 juillet 2007

### Freedom to Change Jobs and Right to Quit

Workers have the right to change jobs after serving due notice on their employer. The duration of notice period depends on the length of service of the worker and varies with work category. For more information on this, please refer to the section on employment security.

Source: § 16-21 of the Labour Code 2003

### Inhumane Working Conditions

Working time may be extended beyond normal working hours of 173.33 hours in a month. Normal working hours for young workers are 40 hours per week and in farming sector, yearly working hour limit is 2200 hours. Workers may be required to work overtime with or without prior authorization.

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

Source: § 75-79 & 101 of the Labour Code 2003, § 2 of the decree regulating overtime

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## 13/13 Trade Unions

### Regulations on trade unions:

Loi n° 2003-044 du 28 juillet 2004 portant Code du travail  
Constitution de la IVe République (11 décembre 2010)

### Freedom to Join and Form a Union

Constitution and Labour law provide for freedom of association and allow workers and employers to join and form unions. Constitution also supports freedom of association. Every worker has a right to defend his or her interests through syndical action and in particular through the freedom to form a trade union. The affiliation to a trade union is free without any discrimination because of age, sex, religion, origin or nationality.

The union is an organization of workers or employers for the promotion and to defend the interests of workers or employers. The objective of the labor movement is economic progress and social development of its members.

Union members are free to elect their representatives and formulate their work program. They may draw up their own statutes and administrative regulations, as long as these are not contrary to laws in effect and public order. Union members may establish and join federation and confederations.

Public authorities are not allowed to interfere in matters related to union. Employers are prohibited from deducting union dues from worker's salary.

Source: §136 & 152 of the Labour Code 2003; §31 of the Constitution of Madagascar 2010

### Freedom of Collective Bargaining

Labour Code allows employees to bargain collectively through their representatives. In accordance with the Constitution, every worker has the right to participate, notably by the intermediary of their delegates, to the determination of the rules and of the conditions of work.

The collective labour agreement is a written contract covering the terms of labour. It is concluded between one or more employers of group of employers and staff representatives in an establishment with less than 50 members. If number of workers is more than 50, the entity worker is represented by the Committee Enterprise. The collective labour agreement is also concluded between one or more employers or group of employers and representatives appointed by the trade union or representatives of the most representative unions of the unit (if appropriate).

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A collective agreement usually provides better benefits to the worker than those provided in the law. If a CBA has provisions, which are less favourable than those provided under the law, it cannot be enforced. Collective agreements also specify their scope of application. This can be national, local or limited to one or more establishments or one or more businesses.

A collective agreement whose scope is regional or national is concluded, on the side of workers by representatives of the most representative unions and, on the side of employers by union representatives or any other group of employer's representatives.

Madagascar has a National Employment Council which is a tripartite body for consultation, dialogue and negotiation between the social partners on issues of employment, vocational training, social protection, work and wages. The Council was set up under a Decree from 2005. The Council has the mandate to participate in determination and implementation of national policy in the areas of employment, working conditions and wages; contribute to the formulation of legislation on above referred issues and support the social partners in elaboration of collective agreements on such issues; ensure the implementation and monitoring of the policy thus defined; and determine the mechanisms for setting the minimum wages for work. The members for the Council are nominated for a term of three years which is renewable once. Meeting of the Council is convened twice a year.

A new National Council of Labour (and Regional Tripartite Councils of Labour) have been set up in September 2017 under Decree No. 2017-843. The Decree repeals the earlier 2005 Decree which had set up the National Employment Council. The Councils are established through a Decree issued under article 184 of the Labour Code. The Council is tripartite in nature and has 16 members each from government, employer and worker side. The term of office of the Council members is 3 years. The Council participates in the determination and implementation of the national policy in the fields of decent work of the migrant labor, employment, working conditions and wages, health and safety conditions at work; issue opinions after consultation on the legislative and regulatory texts falling within its competence.

Source: §173-183 of the Labour Code 2003; § 32 of the Constitution of Madagascar 2010; Décret N° 2005-329 abrogeant le décret n°97-1149 du 18 septembre 1997 et portant création d'un Conseil National du Travail; Décret n° 2017-843 du 19 septembre 2017 portant création d'un Conseil national du travail et des Conseils régionaux tripartites du travail

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## Right to Strike

Right to strike is recognized by law and enshrined in the constitution however excessively long list of essential services frustrates this right. "The right to strike is recognized, without it being possible to infringe the continuity of the public service or the fundamental interests of the Nation. The other conditions for exercising this right are established by the law" (Art. 33 of Constitution).

The strike is a concerted and collective labor act decided by employees of a company or institution to achieve professional claims that have not been met.

The strikers must ensure essential safety measure to make strike peaceful. During strike, it is prohibited to oppose, by force or under threat to the free exercise of professional activity of workers or employers.

The employment contract suspends during the period of strike. The worker is exempted from his usual services and the employer is not obliged to pay the wages during strike. Workers can apply to the competent court about the loss of damages they have suffered as a result of strike action.

Source: §33 of the Constitution of Madagascar 2010; §228-231 of the Labour Code 2003

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**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)

***Madagascar has ratified the Convention 95 & 117.***

**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)

***Madagascar has ratified the Convention 171 only.***

**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.

## 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.

***Madagascar has ratified the Conventions 14 & 132 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 7 day period, i.e., a week

## 04/13 Employment Security

### ILO Conventions on employment termination

Convention 158 (1982) on employment termination

***Madagascar has not 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).

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

Convention 156: Workers with Family Responsibilities Convention (1981)

Recommendation 165: Workers with Family Responsibilities (1981)

***Madagascar has not ratified the Conventions 156.***

**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.

***Madagascar has not ratified both 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.

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**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)

***Madagascar has ratified the Convention 81 only.***

**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

***Madagascar 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.



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**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).

***Madagascar has not ratified the Convention 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.

***Madagascar has ratified both Conventions 100 & 111.***

**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.

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

Minimum Age: Convention 138 (1973)

Worst Forms of Child labour: Convention 182 (1999)

***Madagascar has ratified both 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.

***Madagascar has ratified both 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)

***Madagascar has ratified both 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.

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## About Decent Work and Decent Work Check

Compare your own situation with the international labour standards and how they are applied in Madagascar. 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 employers 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.

**Decent Work Checks are developed and updated by Iftikhar Ahmad, Labour Law Specialist, and Team**

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