



MOZAMBIQUE

Decent Work Check 2019

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WageIndicator Foundation - www.wageindicator.org

WageIndicator started in 2001 to contribute to a more transparent labour market for workers and employers by publishing easily accessible information on a website. It collects, compares and shares labour market information through online and face-to-face surveys and desk research. It publishes the collected information on national websites, thereby serving as an online library for wage information, labour law, and career advice, both for workers/employees and employers. The WageIndicator websites and related communication activities reach out to millions of people on a monthly basis. The WageIndicator concept is owned by the independent, non-profit WageIndicator Foundation, established in 2003. The Foundation has offices in Amsterdam (HQ), Ahmedabad, Bratislava, Buenos Aires, Cape Town, Islamabad and Venice.

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INTRODUCTION

Decent Work is the type of work for which all of us aspire. It is done under conditions where people are gainfully employed (and there exist adequate income and employment opportunities); social protection system (labour protection and social security) is fully developed and accessible to all; social dialogue and tripartism are promoted and encouraged; and rights at work, as specified in ILO Declaration on Fundamental principles and Rights at Work and Core ILO Conventions, are practiced, promoted and respected.

WageIndicator Foundation has been working, since late 2007, to raise awareness on workplace rights through a unique tool, i.e., **Decent Work Check**. The Decent Work Check considers different work aspects, which are deemed important in attaining "decent work". The work makes the rather abstract Conventions and legal texts tangible and measurable in practice.

The Decent Work Check employs a double comparison system. It first compares national laws with international labour standards and gives a score to the national regulations (happy or sad face). If national regulations in a country are not consistent with ILO conventions, it receives a sad face and its score decreases (and vice versa). It then allows workers to compare their on-ground situation with national regulations. Workers can compare their own score with national score and see whether their working conditions are consistent with national and international labour standards. The Check is based on de jure labour provisions, as found in the labour legislation.

Decent Work Check is useful both for employees and employers. It gives them knowledge, which is the first step towards any improvement. It informs employees of their rights at the workplace while simultaneously enlightening employers about their obligations. Decent Work Check is also useful for researchers, labour rights organizations conducting surveys on the situation of rights at work and general public wanting to know more about the world of work. WageIndicator teams, around the world, have found out that workers, small employers and even labour inspectors are not, sometimes, fully aware of the labour law. When you are informed - being a workers, self-employed, employee, employer, policy maker, labour inspector - there is a greater possibility that you ask for your rights (as a worker), you comply with rules (as an employer) and you strive to enforce these (as a labour inspector).

The work is relevant to the challenges posed to the future of work especially the effective enforcement of legislation in financially constrained states, rise of precarious employment and measuring the impact of regulatory regimes.

Currently, there are more than 100 countries for which a Decent Work Check is available here: www.decentworkcheck.org During 2019, the team aims to include at least 10 more countries, thus taking the number of countries with a Decent Work Check to 115!

Major Legislation on Employment and Labour

1. Labour Law, 2007
2. Law no. 4/2007 Compulsory Social Security
3. Decree no. 53/2007 which approves the Regulation of Compulsory Social Security
4. Constitution of the Republic of Mozambique, 2004

01/13 WORK & WAGES

ILO Conventions

Minimum wage: Convention 131 (1970)

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

Mozambique has not ratified the Convention 95, 117 & 131 only.

Summary of Provisions under ILO Conventions

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

Regulations on work and wages:

- Labour Law, 2007

Minimum Wage

In accordance with article 108 of the 2007 Labour Code, minimum wage is set by the government in consultation with the Consultative Commission on Employment. The minimum wages are revised each year in April. The minimum wage in Mozambique is set differently for eleven (11) different sectors. Labour Law 2007 does not clearly specify the conditions that the government takes into account while determining/revising the minimum wage rates.

Compliance with the minimum wage rates as well as other Labour Law provisions is ensured by the Labour Inspectorate. The Labour Inspectorate monitors the legality of labour matters, and has the power to supervise compliance by employers and employees with their duties. In the event of violation of minimum wage related provisions, employers can be fined up to 10 times the applicable minimum wage per worker victim of the violation. The trade unions and employers' associations can collaborate with the Labour Inspectorate, under the terms of the law, in monitoring the application of labour legislation and collective labour regulation instruments.

Source: Art. 108, 139(d), 259 and 267 of Labour Law 2007

Regular Pay

In accordance with Art. 110 of the Labour Law, remuneration may be paid according to (i) output, (ii) time or (iii) combined criteria of time and output. Wages should be based on actual time spent at work and be paid regularly (on weekly, fortnightly or monthly intervals) in legal tender.

Source: Art. 112-113 of Labour Law 2007

02/13 COMPENSATION

ILO Conventions

Compensation overtime: Convention 01 (1919)

Night work: Convention 171 (1990)

Mozambique has ratified the Convention 01 only.

Summary of Provisions under ILO Conventions

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

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

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

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

Regulations on compensation:

- Labour Law, 2007

Overtime Compensation

In accordance with article 85 of the Labour Code, the normal hours of work are 8 hours a day and 48 hours a week. Daily hours can be extended to 09 hours per day provided that the worker gets an extra half day of rest per week over and above the usual weekly rest time. Under exceptional cases and as agreed in a collective agreement, daily working hours may be increased by a maximum of four hours provided that they weekly working time does not exceed 56 hours. The maximum limits on normal working hours may be extended for employees whose duties are highly intermittent or consist of the mere presence of the employee. The maximum limits on normal working hours may be reduced whenever an increase in productivity allows. However, these increases or decreases in working hours must not cause any economic disadvantage to the employee or bring any unfavourable change in his/her working conditions.

When there are material reasons for extending working hours, an employee may perform up to 96 hours of overtime per quarter, however the weekly overtime hours should not exceed eight hours per week and 200 hours per year. Overtime is allowed only when employers are faced with increased workload which does not justify hiring of new workers and when there are material reasons. If a worker works beyond the stipulated working hours during the week days, i.e., 8 hours a day and 48 hours a week, he is entitled to an overtime pay according to the following schedule:

- 150% of normal hourly rate for the overtime hours till 08 p.m. and
- 200% of normal hourly rate for the overtime hours from 08 p.m. to the start of normal hours on the following day.

Source: Art. 85-90 & 115.1 of Labour Law 2007

Night Work Compensation

There is a provision in the Labour Law which requires employers to make premium payments to the night workers. If workers have to do work during night hours, i.e., between 08 pm and the time at which the normal working hours begin on the following day, they are paid at a premium rate of 125% of the normal wage rate for night hours. If night hours are overtime hours, worker has to be paid 200% of the normal wage rate.

Source: Art. 115.3 of Labour Law 2007

Compensatory Holidays / Rest Days

There is a provision of compensatory rest day when a worker has to perform work on a weekly rest day, public holiday or additional rest day. The compensatory rest day has to be provided within the next 3 days of work, however if the exceptional work does not exceed 5 hours in duration, an employee would be entitled to half day of compensatory rest.

Source: Art. 89.4 of Labour Law 2007

Weekend / Public Holiday Work Compensation

There is a premium pay for working on Weekly Rest Day and Public Holidays (referred to as exceptional work). When a worker performs work on Sundays, Public Holidays or additional rest days, he receives wages at a premium rate of 200% of the normal wage rate.

Source: Art. 89 & 115. 2 of Labour Law 2007

03/13 ANNUAL LEAVE & HOLIDAYS

ILO Conventions

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

Mozambique has ratified the Conventions 14 only.

Summary of Provisions under ILO Conventions

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

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

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

Regulations on annual leave and holidays:

- Labour Law, 2007

Paid Vacation / Annual Leave

Employees are entitled to the following periods of paid annual holidays depending on the length of their service:

- 12 days (one day for every month of actual service during the first year of service);
- 24 days (two days for every month of actual service during the second year of service); and
- 30 days for every year of actual service from the third year onwards

The right of employees to take paid leave cannot be renounced nor can they be refused this leave in any circumstances. Annual leave is taken in a single uninterrupted block however parties may agree to split up the leave. The minimum period taken at one time can't be less than 6 days. Employer can also grant annual leave at the same time to all the staff after consulting with the trade union. If a serious reason justifies this, all or part of the annual leave entitlement can be moved to the next year. Workers can also accumulate holidays however no more than sixty holidays may be accumulated during a year. If a public holiday falls within the period of annual leave, a worker has to be given an extra day of annual leave. Those employed for a fixed term of more than three months but less than one year are entitled to holidays of one day for every month of actual service.

Source: Art. 98-102 of Labour Code)

Pay on Public Holidays

Workers are entitled to paid holidays during Festival (public and religious) holidays. Mozambique does not have any religious holidays. Christmas Day, i.e., 25th December is referred to as the "Family Day". These are usually 09 in number. Whenever a Public Holiday falls on Sunday, work is suspended on the following Monday. The public holidays are New Year's Day (January 01), Heroes Day (February 03), Women's Day (April 07), Workers' Day (May 01), Independence Day (June 25), Victory Day (September 07), Revolution Day (September 25), Peace & Reconciliation Day (October 04), and Family Day/Christmas (December 25).

Source: Art. 96 of Labour Code)

Weekly Rest Days

Workers are entitled to a weekly rest period of at least 20 hours. The weekly rest day is principally Sunday.

Source: Article 95 of Labour Law 2007

04/13 EMPLOYMENT SECURITY

Regulations on employment security:

- Labour Law, 2007

Written Employment Particulars

Individual employment contract must be in writing. Employment contracts are usually in writing except for the work to be carried out in less than 90 days. Failure to provide written employment contract lies on the employer. An employment contract may be permanent, entered for a fixed term or unspecified term. If duration is not mentioned in an employment contract, it is presumed as the permanent contract. Individual employment must contain the following clauses: identity of employer and employee; job title and job description; workplace; contract duration and its renewal; amount, form and interval of wage payments; and date of contract commencement. In the case of fixed term contracts, the term of contract, justification, start and termination date also need to be mentioned. The following contracts have to be in writing: fixed term contracts for longer than 90 days; contract of promise of employment; employment contracts with multiple employers; employment contracts with foreigners; part time employment contracts; contracts for secondment of employees to other employers; temporary assignment contracts; contracts for work in home; and work contracts.

Source: Art. 36-45 of Labour Law 2007

Fixed Term Contracts

Mozambican labour Law prohibits hiring fixed term contract workers for tasks of permanent nature. Fixed term contracts may be entered into for performance of temporary duties, the duties which don't correspond to the normal cycle of production and operation of enterprise. The temporary needs include: replacement of employees who are unable to perform their duties for whatever reasons (sick leave, maternity leave, etc.); performance of work due to an exceptional increase in production and performance of seasonal work; performance of work that does not meet the permanent needs of employer; performance of single piece of work, a project or other specific temporary activity; and provision of services in activities that are incidental to the single projects like subcontracting and tertiarization of services. A fixed term contract may be entered into for a period of 2 years (24 months) however this period can be renewed twice. Thus, the maximum length of fixed term contracts including renewals is 72 months. However, the small and medium enterprises are free to enter into fixed term contracts during their first ten years of activity. A fixed term contract may also be entered into for an unspecified term because the term can't be reasonably predicted.

Source: Art. 40-45 of Labour Code 2007

Probation Period

In accordance with the Labour Law, a probationary period is the initial period of execution of an employment contract. For permanent contracts, probationary period can't exceed:

- 180 days for intermediate and higher level and employees holding leadership and management positions;
- 90 days for other types of employees

For term contracts, probationary period can't exceed:

- 15 days for unspecified term contracts for term of 90 days or more;
- 15 days for fixed term contracts of up to 6 months;
- 30 days for fixed term contracts of between 6 months to one year; and
- 90 days for fixed term contracts of longer than one year duration Art. 46-50 of Labour Law 2007

Notice Requirement

Either party can terminate a contract by serving a notice or paying in lieu of notice. Labour Law requires an employer to serve a contract termination notice (without providing further details as to the number of days although in article 131 of Labour Code, it mentions that the notice period must be 30 days) to the employees and to base this termination on "structural, technological or market related" reasons. There must also be evidence that the current termination is essential to the competitiveness, economic restructuring or the administrative or productive reorganization of the enterprise.

If a fixed-term employment contract is terminated by an employee, law requires a prior notice of at least 30 days' notice or payment in lieu of notice. If a permanent contract is terminated, law requires prior notice of following time periods:

- 15 days if the period of service is greater than 6 months but less than 3 years
- 30 days when the period of service is greater than 3 years.

Source: Art. 129-130 of Labour Law 2007

Severance Pay

Labour Code does require an employer to serve a contract termination notice to the employees and to base this termination on "structural, technological or market related" reasons. There must also be evidence that the current termination is essential to the competitiveness, economic restructuring or the administrative or productive reorganization of the enterprise. On termination, an employee is entitled to severance pay as following:

- 30 days of wages for every year of service if the basic monthly wage of an employee, including the length of service bonus, is between one and seven times the national minimum wage;

- 15 days of wages for every year of service if the basic monthly wage of an employee, including the length of service bonus, is between eight and ten times the national minimum wage;
- 10 days of wages for every year of service if the basic monthly wage of an employee, including the length of service bonus, is between eleven and sixteen times the national minimum wage; and
- 3 days of wages for every year of service if the basic monthly wage of an employee, including the length of service bonus, is greater than sixteen times the national minimum wage.

If a fixed term contract has been terminated, employer is required to pay the affected employee monetary compensation equal to the wages that the employee would have earned between the date of termination and contract expiry date (be it days or months).

Source: Art. 130-131 of Labour Law 2007



05/13 FAMILY RESPONSIBILITIES

Regulations on family responsibilities:

- Labour Law, 2007

Paternity Leave

In accordance with the article 12.5-6 of the Labour law, workers are allowed fully paid paternity leave of 1 day every two years on the birth of a child. An employee wishing to take paternity leave has to inform the employer in writing before or after the birth of a child.

Parental Leave

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

Flexible Work Option for Parents / Work-Life Balance

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

06/13 MATERNITY & WORK

Regulations on maternity and work:

- Labour Law, 2007

Free Medical Care

Mozambican law does not guarantee health insurance for pregnant women, mothers or infants. This is an employer's prerogative. However, the same law protects motherhood and fatherhood in particular, the working women. This protection is characterized by a set of special rights for women, to allow them to be able to give birth and care young children without losing any rights.

Source Article 10 & 11 of the Labour Law)

No Harmful Work

The Labour Law requires an employer not to give such work to the female employees that is harmful to their health or their reproductive functions. During the period of pregnancy and after child birth, female employees have the right, without any loss of remuneration, not to perform works that in clinically inadvisable in their conditions. Moreover, from the third month of pregnancy, female pregnant workers have the right not to perform night work, exceptional work, i.e., working on weekly rest days & public holidays, and overtime work unless it is on her own request and is necessary for her own health or health of her child.

Source: Art. 11.1 & 11.2 of Labour Law 2007

Maternity Leave

Female employees are entitled to a maternity leave of 60 days with full pay, paid by the social security system. The maternity leave may commence 20 days prior to the expected delivery date. The maternity leave applies equally to live births or still births. If there is a clinical risk to the health of mother or child which prevents the employee from working, she is entitled to a leave of absence before birth for such medically prescribed period as is necessary to avert that risk.

Source: Art. 12 of Labour Code)

Income

Maternity leave is fully paid leave. During the term of maternity leave (60 days), women are entitled to cash benefits from the social security system.

Source: Art. 27 of Decree 53/2007 on the System of Compulsory Social Security for workers

Protection from Dismissals

A women worker can't be dismissed during the period of her pregnancy and one year after birth. Employers are forbidden from dismissing, punishing or otherwise causing prejudice to a female employee for reasons of alleged discrimination or exclusion.

Source: Art. 11.1. d and 11.5 of Labour Law 2007

Right to Return to Same Position

There is no explicit provision in the law which gives a female worker the right to return to same position after availing her maternity leave. However, because an employer can't terminate a female worker on maternity leave, it gives an implied right to return to the same job. Moreover, employers can't dismiss an employee, without just cause, during pregnancy or for one year after the birth.

Source: Art. 11.1.d of Labour Law 2007

Breastfeeding

During the one year (maximum period) on a worker's giving birth to a child, nursing breaks of one-hour duration or for two periods of half an hour each on daily basis are allowed to female workers for breastfeeding their children. These breaks are fully paid and are considered as work time.

Source: Art. 11.1.c of Labour Law 2007



07/13 HEALTH & SAFETY

Regulations on health and safety:

- Labour Law, 2007

Employer Cares

In accordance with article 54.5 of Labour Law 2007, every employee has the right to enjoy suitable measures of protection, safety and hygiene at work, capable of ensuring his physical, moral and mental integrity. Employers are responsible for creating and developing adequate means for protecting the physical and mental integrity of employees and constantly improving working conditions. Employers are also required to take all adequate precautions to ensure that all work posts and means of access and exit to and from work are safe and free of risks for the safety and health of employees.

Source: Art. 59 & 216 of Labour Law 2007

Free Protection

Labour Code also requires employers to provide protective equipment and appropriate work clothing to the workers in order to prevent the risk of accidents or detrimental effects on the health of employees.

Source: Art. 216

Training

Employers are required to provide their employees with good physical, environmental and moral working conditions, inform them of the risks of their job, and instruct them on appropriate compliance of the rules on hygiene and safety at work.

Source: Art. 216 of Labour Code

Labour Inspection System

Labour Code provides for the Labour Inspection system Art. 259-268) however the current system is not in line with the requirements of ILO Convention 081. Decree No. 19/2015 provides for the nature and scope of General Inspectorate of Labour (IGT) and determines the powers of inspectorate.

Source: Art. 259-268 of Labour Code 2007

08/13 SICK LEAVE & EMPLOYMENT INJURY BENEFIT

Regulations on sick leave & Employment Injury Benefits:

- Labour Law, 2007

Income

There is no clear provision on paid sick leave in the Labour Law 2007. It however considers the inability to attend work for reasons beyond a worker's control, such as illness or accident, as justified absence. Moreover, it also clearly provides that no remuneration will be paid for that absence.

Source: Art 103 & 105 of the Labour Law, 2007

Medical Care

Medical benefits are available for insured workers and these include general medical care, specialist care, medicine, dental surgery, hospitalization, provision of essential medical supplies, etc. Again, this should be sought by employers.

Job Security

There is no clear provision in the law that employment of a sick worker is secure during the term of his sick leave. However, the employer may grant unpaid leave of the duration, as parties may agree, when requested by the employee. The employment of worker is secure during that unpaid leave. The worker must have already taken his annual leave entitled to him for that year.

Source: Art. 107 of Labour Law)

Disability / Work Injury Benefit

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

In the case of permanent total incapacity/disability, permanent disability benefit is 100% of a worker's annual earnings.

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

In the case of fatal injury, dependents receive survivors' benefit that is six times a monthly salary.

09/13 SOCIAL SECURITY

Regulations on social security:

- Law no. 4/2007 Compulsory Social Security
- Decree no. 53/2007 which approves the Regulation of Compulsory Social Security

Pension Rights

Law provides for old age pension. For pension, a worker must have attained 60 years of age (55 for women) with at least 10 years of contributions. Retirement Benefits also accrue to individuals, regardless of age, if they have been registered into the system for 30 years and fulfilled 25 years of contributions. The old-age pension should not be below 60% of the national minimum wage.

Source: Art. 28-31 of Decree No. 53/2007

Dependents' / Survivors' Benefit

The above laws provide for survivor benefit (these include dependents including widow, widower, children and parents if there are no surviving spouse or children). Survivors' benefit is equal to the deceased worker's pension and 50% of it is paid to a widow/widower. The rest is for divided among orphans.

Source: Art. 37- 47 of Decree No. 53/2007

Unemployment Benefits

There is no provision for unemployment benefit under Mozambican labour laws

Invalidity Benefits

The above laws provide for invalidity benefit in the case of non-occupational accident/injury/disease resulting into permanent invalidity. Worker must have been registered in the system for at least five years and have paid 30 months of contributions before the onset of disability. The month amount of disability pension is equal to 60% of the old age pension a worker would have been entitled to if he had reached the pensionable age. The amount of invalidity pension can't be less than 60% of national minimum wage.

Source: Art. 32- 36 of Decree No. 53/2007

10/13 FAIR TREATMENT

Regulations on fair treatment:

- Constitution of the Republic of Mozambique, 2004
- Labour Law, 2007

Equal Pay

In accordance with the article 112 of the Constitution of Mozambique, the principle of equal remuneration for equal work is recognized. All employees, whether nationals or foreigners, without any distinction based on sex, sexual orientation, race, colour, religion, political or ideological convictions, family background or ethnic origin, have the right to receive a wage and to enjoy equal benefits for equal work.

Source: Art. 108 of the Labour Law 2007

Sexual Harassment

The Labour Law prohibits sexual harassment. Harassment, when it interferes with the stability of employment or with the career progress of the offended employee, is treated as a disciplinary offense, whether it is committed in or out of the workplace. When the harassment is committed by the employer or the employer's agent, the offended employee is entitled to compensation in an amount of twenty times the minimum wage Art. 66.2-3 of Labour Law 2007. In accordance with article 399-A of the Penal Code, whoever, by abusing their authority, sexually harasses another person to obtain favours of sexual nature; he is punished with imprisonment up to one year and a corresponding fine.

Non-Discrimination

All employees are guaranteed equal rights at work, regardless of their ethnic origin, language, race, sex, marital status, age within legally established limits, social condition, religious and political ideals and membership or non-membership of a trade union. Art. 54 of Labour Law 2007. In accordance with article 35 of the Constitution, "all citizens are equal before the law, and they shall enjoy the same rights and be subject to the same duties, regardless of colour, race, sex, ethnic origin, place of birth, religion, level of education, social position, the marital status of their parents, their profession or their political preference".

Under the HIV/AIDS Law 19/2014, employers are required to set up education and awareness programmes on HIV/AIDS; cannot conduct HIV tests in the workplace (except when requested by the employee); and cannot discriminate against HIV-positive employees in the workplace (in their labour rights, training, promotion and career advancement).

Source: Art. 54 of Labour Law 2007; §4 & 46-54 of Law No. 19 of 2014 on Ensuring the Dignity of Persons Living with HIV/AIDS

Equal Choice of Profession

Women can't work in the same industries as men, especially in the industries where work is harmful to their health or their reproductive functions.

Source: Art. 11 of Labour Law 2007

11/13 MINORS & YOUTH

Regulations on minors and youth:

- Constitution of the Republic of Mozambique, 2004
- Labour Law, 2007

Minimum Age for Employment

Minimum age for employment is 15 years. A child may be employed only with permission from legal representatives. Children can be employed from the age of 12 in exceptional cases. A decree of Council of Ministers is supposed to establish the nature and conditions of work that may be performed by minors between the ages of twelve and fifteen years however such decree could not be located. A written authorization by the minor's legal representative is needed.

Source: Art. 26-27 of Labour Law 2007

Minimum Age for Hazardous Work

Minimum Age for Hazardous Work is set as 18 years. Employers cannot give the minors under the age of eighteen the work that is unhealthy, dangerous or which requires great physical strength. The normal working hours of minors (15-18 years) cannot exceed 38 hours per week up to a maximum of 7 hours per day. Minors can be employed only after medical examination and once the certificate of fitness is issued for the job or group of jobs. If a work is dangerous to the health of a minor, he/she has to be transferred to another job. The Council of Ministers has issued a special Decree (No. 68/2017) prohibiting employment of children under 18 in certain economic sectors and activities. The Decree enumerates all those activities which are considered dangerous for children.

Source: Art. 23-25 of Labour Law 2007

12/13 FORCED LABOUR

Regulations on forced labour:

- Constitution of the Republic of Mozambique, 2004
- Labour Law, 2007

Prohibition on Forced and Compulsory Labour

Forced Labour is prohibited under the Constitution of Mozambique Art. 84.3). Whoever knowingly benefits financially or otherwise, or makes use of the work or services of a person subjected to the conditions of involuntary servitude, forced labour or slavery, is punished with the penalty of eight to twelve years.

Source: Article 17 of the Law on Preventing and Combating the Trafficking of People 2008)

Freedom to Change Jobs and Right to Quit

Workers have the right to change jobs after serving due notice on their employer Art. 129 of Labour Law 2007. For more information on this, please refer to the section on employment security.

Source Art. 129 of Labour Law 2007

Inhumane Working Conditions

In accordance with article 85 of the Labour Code, the normal hours of work are 8 hours a day and 48 hours a week. Daily hours can be extended to 09 hours per day provided that the worker gets an extra half day of rest per week over and above the usual weekly rest time. When there are material reasons for extending working hours, an employee may perform up to 96 hours of overtime per quarter, however the weekly overtime hours should not exceed eight hours per week and 200 hours per year.

13/13 TRADE UNION

Regulations on trade unions:

- Constitution of the Republic of Mozambique, 2004
- Labour Law, 2007

Freedom to Join and Form a Union

Constitution and labour law provide for freedom of association and allow workers and employers to join and form unions. This right is regulated by the labour code. Discrimination on the ground of trade union activities is prohibited under the Labour Law. Thus making the hiring of an employee conditional upon membership or non-membership of a trade union association, or on withdrawal from a trade union association to which the employee already belongs; applying a sanction due to the fact that an employee has participated in or promoted the exercise, within legal limits, of a collective right; or transfer or otherwise cause detriment to an employee because he has exercised his right to participate in collective representation structures or because of a worker's trade union membership or non-membership or trade union activities.

Source: Art.137-163 of Labour Law 2007 and Article 86 of the Constitution of Mozambique)

Freedom of Collective Bargaining

Right to collective bargaining is recognized by Labour Code. Trade unions have the right to represent workers in the negotiation and signing of collective bargaining agreements. A collective agreement may govern relationship between trade unions and employers that are party to the agreement. A collective agreement must indicate the period for which it is in force and the procedure and notice periods for terminating it; the territorial scope of application; and the trade unions and employer associations that are covered by the agreement. A collective agreement remains in force until it is modified or replaced by another agreement.

Once a collective agreement is signed, it has to be deposited within 20 days of its signing to the Ministry of Labour for the purpose of depositing it and verification of its legal conformity.

Source: Art. 164-193 of Labour Law 2007

Right to Strike

Right to strike is provided under the constitution Art. 87) and is regulated under the Labour Code Art. 194-206). Workers have the right to strike in order to protect and promote their legitimate social and labour related interests. The decision to resort to strike must be taken by the trade union bodies, after consultation with the employees.

Workers should do not resort to strike until attempts have been made to settle the dispute using alternative dispute resolution methods. If a collective labour regulation instrument is in force, employees should not resort to strike, except in the event of serious violations by the employer and after the dispute resolution methods, as provided under the law, have been exhausted.

The striking workers should not obstruct the access to the premises of the enterprise, should they resort to violence, coercion, intimidation or any other fraudulent measure intended to force the other (non-striking) workers to join the strike. Discrimination against a worker for participation in a legal strike is prohibited. Replacement of striking workers is also prohibited under the law. A lockout by an employer is also prohibited under the law.

Source: Art. 194-206 of Labour Law 2007



DECENT WORK QUESTIONNAIRE

DECENTWORKCHECK.ORG

Check

DecentWorkCheck Mozambique is a product of WageIndicator.org and
www.meusalario.org/mocambique



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"/>

- | | | | | |
|-----|---|---|--------------------------|--------------------------|
| 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"/>

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.

Mozambique scored 38 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.