



# DECENT WORK CHECK

## **NIGERIA** 2023

Iftikhar Ahmad

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

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

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## Bibliographical information

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# TABLE OF CONTENTS

INTRODUCTION .....	1
MAJOR LEGISLATION ON EMPLOYMENT AND LABOUR .....	2
01/13 WORK & WAGES .....	3
03/13 ANNUAL LEAVE & HOLIDAYS .....	9
04/13 EMPLOYMENT SECURITY.....	12
05/13 FAMILY RESPONSIBILITIES .....	16
06/13 MATERNITY & WORK .....	18
07/13 HEALTH & SAFETY .....	21
08/13 SICK LEAVE & EMPLOYMENT INJURY BENEFIT .....	24
09/13 SOCIAL SECURITY .....	27
10/13 FAIR TREATMENT .....	30
11/13 MINORS & YOUTH .....	34
12/13 FORCED LABOUR.....	37
13/13 TRADE UNION .....	40
QUESTIONNAIRE.....	43

# INTRODUCTION

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

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

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

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

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

In 2023, the team aims to include at least 15 more countries, thus taking the number of countries with a Decent Work Check to 125!

# MAJOR LEGISLATION ON EMPLOYMENT AND LABOUR

1. Constitution of the Federal Republic of Nigeria 1999
2. National Minimum Wage Act, 1981
3. Wages Boards and Industrial Council Act, 1974
4. Labour Act (Cap L1 LFN 2004)
5. Public Holiday Act, 1979
6. Factories Act (Cap F1 LFN 2004)
7. Employees Compensation Act, 2010
8. Pension Reform Act, 2014
9. Compulsory, Free Universal Basic Education Act, 2004
10. Trafficking in Persons (Prohibition) Enforcement and Administration Act 2015 (Act No. 4 of 2015)
11. Trade Unions Act (Cap. T14 2004)
12. Trade Disputes Act (Cap.432 LFN 1990)

# 01/13 WORK & WAGES

## **ILO Conventions**

Minimum wage: Convention 131 (1970)

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

**Nigeria has ratified Convention 95 only.**

### ***Summary of Provisions under ILO Conventions***

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

## Regulations on work and wages:

- National Minimum Wage Act, 1981
- Wages Boards and Industrial Council Act, 1974
- Labour Act (Cap L1 LFN 2004)

## Minimum Wage

National minimum wage in Nigeria is determined by the Government. Government is empowered to set up "industrial wages boards" for specific sectors or geographical areas where it considers wages to be "unreasonably low" or where there is no adequate collective bargaining machinery for the effective regulation of wages or other conditions of employment of those workers. The boards, tripartite in nature, may make recommendations on wage rates, which the Government may make binding on the employers and employees concerned. Legislation provides for both National Wages Board and Area Minimum Wages Committees. Other than wages, an industrial wages board may, on the permission by the Minister, make a recommendation for a condition or conditions of employment other than wages.

Generally, wage rate is determined by the applicable collective agreement or the agreement between the worker and the employer.

There is no pre-set criterion to determine the minimum wage. National minimum wage rate is applicable to every worker except part-time workers (working fewer than 40 hours per week); workers paid on commission or piece-rate basis; workers in seasonal employment such as agriculture; workers in merchant shipping or civil

aviation; and those working in establishment employing less than 25 workers.

In kind payment is also allowed if prescribed by the law or collective agreement or arbitration award.

Minimum Wage compliance is regulated by the Labour Inspectorate. In case of non-compliance, individual can complain to labour inspectorate. Employer, in the case of non-payment of minimum wage, is liable to a fine up to 5% of the offender's monthly wage, all outstanding arrears of the worker's wages and in case of continues offence, an additional penalty of not less than the prevailing Nigerian Central Bank lending rate on the wages owed provided that the power to order payment on account of wages under subsection (2) shall not derogate from the right of the worker to recover wages due to him by any other proceeding in a court of competent jurisdiction.. A court may also order the employer to pay such sum, in addition to the fine to makeup the short fall in wages below the minimum rate. The National Minimum Wage Act further clarifies that an agreement for the payment of wages less than the national minimum wage is void and of no effect.

National Minimum Wage Act 2019 exempts the following establishments from the obligation to pay the national minimum wage: an establishment in which less than 25 workers are employed; an establishment in which workers are employed on a part time basis (those working for less than 40 hours per week); an establishment at which workers are paid on commission or on piece rate basis; workers in seasonal employment (as agriculture); and seamen or crew members of an aircraft.

Source: National Minimum Wage Act, of 1981 (Official Gazette, 1981) as amended to 2000, Act No. 1 (Official Gazette, 2000), National Minimum Wage Act amendment 2011; Wages Boards and Industrial Council Act, 1974

## Regular Pay

Wages are the remuneration or earnings (however designated or calculated) capable of being expressed in terms of money and fixed by mutual agreement or by law which are payable by virtue of a contract by an employer to a worker for work done or to be done or for services rendered or to be rendered. Wages and other payments entitled to the employee are paid in the legal tender, i.e., Naira or by prior consent, in a form of cheque or postal order.

The wage payment period must not exceed one month. The wage payment period varies between a day to one month, depending on the period specified in the employment contract. Employer cannot force the worker in employment contract about where and how to spend his wages. In accordance with the Labour Act, employer must provide every worker (not later than 3 months after the commencement of employment) a written statement which should specify, among other things, the rate of wages, the method of wage calculation, the manner and periodicity of wage payment. The wage payment period cannot exceed one month unless the written consent of the state authority has been obtained for this purpose. Section 15 of the Labour Act states that wages shall become due and payable at the end of each period for which the contract is expressed to subsist (daily, weekly or at such other period as may be agreed upon) provided that where the

period is more than one month, the wages become due and payable at intervals not exceeding one month.

Wages must not be paid in the premises used for the sale of liquor or for the retail sale of goods, except in case that the worker is employed on such premises. Employer may make a maximum advance of one month's wages to a worker. The minimum period for recovery of this advance is three months. Labour Act prohibits deductions from workers' wages except in cases specified. With the consent of labour officer, an employer may make a reasonable deduction from a worker's wages in respect of injury or loss caused to the employer by the wilful misconduct or neglect of the worker. An employer is allowed to deduct income tax and pension contribution from the wage with the consent of worker. Similarly, union contribution can be deducted from workers' wages however workers can opt out of it. Any other kind of deduction, without prior consent, is not allowed except in cases specified by the law.

Source: §1-7 & 15 of the Law of the Labour Act (Cap L1 LFN 2004)

# 02/13 COMPENSATION

## ILO Conventions

Compensation overtime: Convention 01 (1919)

Night work: Convention 171 (1990)

**Nigeria has not ratified the Conventions 01 and 171.**

### *Summary of Provisions under ILO Conventions*

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

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

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

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

## Regulations on compensation:

- Labour Act (Cap L1 LFN 2004)
- National Minimum Wage Act, 1981
- Public Holiday Act, 1979

## Overtime Compensation

As specified under the National Minimum Wage Act, Normal full time working hours are forty hours per week. However, the Labour Act does not specify general working hours rather these are fixed by the mutual agreement or collective bargaining within the enterprise or industry. Where there is no machinery for collective bargaining, the general working hours may be fixed by an industrial wages board.

If the worker has to work more than the fixed normal working hours, it is considered as an overtime. There is no statutory provision on the overtime work limit and overtime pay. Overtime compensation is entirely a matter of mutual agreement (employment contract), collective bargaining agreement or an order by the industrial wages board.

Sources: §13(1-2) & 59(8) of the Labour Act (Cap L1 LFN 2004); National Minimum Wage Act, 1981

## Night Work Compensation

Night time for industrial undertakings is a defined as period of eleven consecutive hours (in some cases, the period is reduced to ten hours) including the time between 22:00 to 05:00. For agricultural undertakings, night is a period of nine consecutive hours including the interval between 21:00 to 04:00.

Night period for young workers (under the age of sixteen years) is the period of twelve consecutive hours including the interval between 22:00 to 06:00. For workers between sixteen to eighteen years of age, night is seven consecutive hours' period including time interval between 22:00 to 07:00.

There is no statutory provision regarding compensation for the night time work. However, premium rate for pay can be adjusted by mutual agreement, collective bargaining or an order by the industrial wages board.

Sources: §55(3) & 60(4) of the Labour Act (Cap L1 LFN 2004)

## Compensatory Holidays / Rest Days

Workers can be engaged on certain tasks during the weekly rest periods and public holidays. In extraordinary circumstances, workers may perform work on weekly rest days and public holidays. In such cases, worker is entitled to a day off within fourteen days in lieu of work done or a monetary compensation according to overtime rates (specified under employment contract, collective agreement or an order by industrial wages board) is paid.

As an alternative, workers are entitled to payment for their work in addition to their normal pay for that day according to the pay rate that applies to overtime work.

Source: §13 (7) of the Labour Act (Cap L1 LFN 2004); §6 of the Public Holiday Act 1979

## **Weekend / Public Holiday Work Compensation**

Workers may be required to work on weekly rest days and public holidays. In such circumstances when employee has to work on official holidays or weekly rest days, employee is entitled to the payment of work done in addition to their normal pay according to the pay rate that applies to overtime work. The other alternative is corresponding time-off from work which should be allowed as soon as possible (within 14 days).

Source: §13 (7) of the Labour Act (Cap L1 LFN 2004); §6 of the Public Holiday Act 1979

# 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.

**Nigeria has not ratified the above-mentioned Conventions.**

### *Summary of Provisions under ILO Conventions*

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

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

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

## Regulations on annual leave and holidays:

- Labour Act (Cap L1 LFN 2004)
- Public Holidays Act, 1979

### Paid Vacation / Annual Leave

A worker is entitled to annual leave of at least six working days with full salary. The annual leave is increased to at least twelve working days for young workers (under sixteen) including apprentices. A worker must have worked for at least twelve months in order to qualify for annual leave.

Annual leave must be taken at the end of the year in which it is earned however it can be deferred by mutual agreement provided that the holiday earning period must not exceed twenty-four months and the earned and deferred leave must be taken within 24 months.

It is unlawful for an employer to pay basic wage in compensation of un-availed annual leaves except in case of termination of the employment contract. During annual leave, workers are entitled to basic salary which is exclusive of overtime pay and other allowances.

In case of termination of the employment contract, if the worker has worked for more than six months but less than twelve months, the employer must pay an amount pro rata to the minimum statutory annual leave entitlement accrued during the period of employment. Worker is also granted pro rata payment for accrued annual leave if he/she has worked for at least six months since the last full year in which he/she earned annual leave entitlement.

Source: §18 of the Labour Act (Cap L1 LFN 2004)

### Pay on Public Holidays

Public holidays are paid rest days of religious or memorial nature. The minimum number of paid public holidays is eleven – these are based on the decision of the President. The worker is entitled to the wages that would have been earned for working on that day.

Employees are entitled to public holiday benefits for the following days: New Year's Day (1st January), Good Friday, Easter Monday, Workers' Day (1st May), National Day (1st October), Christmas Day (25th December), Id el Fitr, Id el Kabir, Id el Maulud. Date of holidays of Muslim festivals are subject to sighting of moon and thus are liable to change.

Public Holidays are declared as work free days. If a public holiday falls on weekly rest day, workers are not entitled to another rest day. If the day declared as public holiday is not the actual day of the religious festival, the worker is allowed to take a day off on actual day to perform the religious festival.

Source: Public Holidays Act, 1979

### Weekly Rest Days

In Nigeria, workers are granted one weekly rest day of not less than twenty-four hours after six continuous working days. Weekly rest days are paid days and employees must not work on weekly rest days. If an employee has to work on weekly rest days, additional day off or monetary compensation is provided.

A worker, involved in six hours or more of

daily work, must be provided one or more suitably spaced rest-intervals of not less than one hour on the aggregate. With the exception in case of unforeseen circumstances that render them necessary; and where it is found unavoidable in view of the nature of the work and the working conditions in general, time-off for a meal at the worksite or in the immediate vicinity may be substituted for the rest interval. Length of rest interval is fixed beforehand and the worker is free to dispose of his time and is not required to remain at the place of work. Depending on the job nature, the worker should be allowed the requisite number of suitably adjusted and spaced breaks in the work.

No clear provision could be located on daily rest periods.

Source: §13(3-7) of the Labour Act (Cap L1 LFN 2004)

# 04/13 EMPLOYMENT SECURITY

## ILO Conventions

Convention 158 (1982) on employment termination

**Nigeria has not ratified the Convention 158.**

### *Summary of Provisions under ILO Convention*

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

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

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

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

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

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

## Regulations on employment security:

- Labour Act (Cap L1 LFN 2004)

## Written Employment Particulars

Contract of employment is any agreement, whether oral or written, express or implied, whereby one person agrees to employ another as a worker and that other person agrees to serve the employer as a worker. Employment contract are governed under the Labour Act however the Act is not applicable to persons exercising administrative, executive, technical or professional functions as public servants, or to any person employed on a vessel or on an aircraft to which the laws regulating merchant shipping or civil aviation already apply, among other classes of persons.

An employment contract must be concluded in written form, which must be given to the worker within three months of commencement of employment. A contract of employment must state the following information: the name of the employer or group of employers, and where appropriate, of the undertaking by which the worker is employed; the name and address of the worker and the place and date of his engagement; the nature of employment; expiry date in case of fixed term contract; notice period given before termination of the contract; remuneration, method of its calculation and manner and frequency of payment; any terms and conditions related to working hours, or holidays and holiday pay, or incapacity for work due to sickness or injury, including any provisions for sick pay; and any special conditions of the contract.

The written statement referring to above mentioned terms may not confine only to the contract but extends to other

documents like employer's handbook or collective agreement, that are in worker's access.

Employer must notify the workers within a month regarding any subsequent changes in the terms mentioned above, in a form of written statement or if the employer does not provide written statement, employer must ensure the worker's access to the amended statement by other means.

If a worker starts employment with the same employer after the termination and the gap is less than six months, there is no need to issue a new written contract. Employer must inform the worker about the amendments regarding the terms in written statement. The obligation to provide a written statement do not apply if a worker has a written contract of employment which covers all the terms and a worker has a copy of that written contract.

Any amendments in the employment contract requires mutual agreement of the employer and the worker.

Source: §7 of the Labour Act (Cap L1 LFN 2004)

## Fixed Term Contracts

Employment contract can be of fixed term or indefinite term. There are no special laws regarding fixed term contract. Labour law has not defined any statutory limit on maximum length of fixed term contract, number of renewals allowed, maximum length of fixed term contract including renewals and it seemingly does not prohibit fixed term contracts for tasks of permanent nature.

Source: §7(1) of the Labour Act (Cap L1 LFN 2004)

## Probation Period

No provision could be located in law regarding maximum length of probation period. Law neither allows nor prohibit the employer to employ a worker on probation. However, the employer may in the contract of employment provide for probation period which if accepted by the employee becomes binding on the parties. Labour Act recognizes any special conditions of contract if agreed by the parties to be included in a contract of employment. As stated in section 7 of the Labour Act, employer has to provide a written statement of particulars to the worker within three months of starting an employment which can be considered similar to a probation period. Depending on the level of staff, the probationary period may vary between three (3) to six (6) months.

Source: §7 of the Labour Act (Cap L1 LFN 2004)

## Notice Requirement

The contract of employment may be terminated by either party at any time, with or without any reason by either party giving the notification period provided in the contract. A contract of employment is terminated by the expiry of the period for which it was concluded, death of the worker before expiry of contract and by giving a notice for a period specified under the law.

The required notice period for the termination of the employment contract depends on length of service. The notice period is one day for a period of three months or less; one week for more than three months but less than two years of service; two weeks for two to five years of

service and one month for five or more years.

Notice period does not include the day on which it is issued. The notification of more than one-week period is always provided in written form. Notice period is the same for worker and employer.

For a worker employed for three or more months, the employer is not liable to make any payment for a period during which the worker is absent from work with the leave granted by the employer at the request of the worker. Payments owed to the worker must be paid on or before the expiry of notice period.

Right to notice may be waived by either party and payment in lieu of notice is acceptable. It is calculated by taking basic salary into an account and excluding overtime and other allowances.

A court decision of 1967 states that summary dismissal is warranted if an employee's conduct is of some grave and weighty character that it undermines the relationship of confidence which must exist between a master and a servant. The examples of such grave character include verbal or physical violence, assault on employer, intoxication during working hours, stealing, fraud, bribery, or corruption, etc.

The employer cannot terminate the employment contract without prior notice except in cases specified by the law, otherwise it is treated as fundamental breach of contract.

Source: §11 of the Labour Act (Cap L1 LFN 2004)

## Severance Pay

No provision could be located in law regarding severance pay. Employer is not obliged by the law to make any severance payment. However, severance pay may be specified in employment contract or collective agreement.

# 05/13 FAMILY RESPONSIBILITIES

## **ILO Conventions**

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

**Nigeria has not ratified both the Conventions 156 & 165.**

### ***Summary of Provisions under ILO Convention***

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

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

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

## **Regulations on family responsibilities:**

### **Paternity Leave**

No provision could be located in law regarding paternity leave.

### **Parental Leave**

No provision could be located in law regarding parental leave.

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

No provision could be located in the law to create flexible work option for parents in order to create work-life balance.

# 06/13 MATERNITY & WORK

## **ILO Conventions**

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

**Nigeria has not ratified Conventions 103 and 183.**

### ***Summary of Provisions under ILO Convention***

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

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

The total maternity leave should last at least 14 weeks.

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

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

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

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

## Regulations on maternity and work:

- Labour Act (Cap L1 LFN 2004)

### Free Medical Care

The employer is not obliged to provide medical care for pregnant workers. It is not the duty of an employer to pay any expenses related to pregnancy and confinement of the worker. Prior to recruitment, every worker must be medically examined by a registered medical practitioner at the expense of the employer.

The maternity care is provided to insured worker employed continuously for at least six months by the same employer on provision of a medical certificate. Maternity care is provided for up to four live births. The scheme is managed by the National Health Insurance Scheme.

Source: §54(3) of the Labour Act (Cap L1 LFN 2004); ISSA Country Profile for Nigeria 2017

### No Harmful Work

There are no specific legal provisions on protecting health and safety of pregnant workers. Women are generally not allowed to work at night except those who are employed as nurses and those holding managerial position. Night means a period of eleven or more consecutive hours that includes the interval between 22:00 to 05:00 (in case of industrial undertaking) or a period of nine or more consecutive hours that includes the interval between 21:00 to 04:00 (in case of agricultural undertaking).

Source: §55(1-3) of the Labour Act (Cap L1 LFN 2004)

## Maternity Leave

Female workers are entitled to twelve (12) weeks of maternity leave, to cover pre and post maternity period. Out of this twelve-week period, six-week leave is taken after delivery. Maternity leave may begin six weeks before delivery after providing medical certificate from registered practitioner, confirming that the confinement may take place within six weeks.

Maternity leave can be extended in case of illness, certified by the registered medical practitioner, that arise out of pregnancy or confinement and make her unfit for work.

Source: §54(1-4) of the Labour Act (Cap L1 LFN 2004)

### Income

Workers on maternity leave with at least six months of continuous service with the employer are entitled to receive at least 50% of their normal wages. Payment during maternity leave is made by the employer.

Source: §54(1) of the Labour Act (Cap L1 LFN 2004)

### Protection from Dismissals

It is not lawful for the employer to dismiss a pregnant worker, an employee who has recently given birth or during any period of special maternity leave. A full time female worker cannot be dismissed by the employer for her absence due to sickness which is attributed to pregnancy or delivery and is confirmed by the medical certificate.

Source: §54(4) of the Labour Act (Cap L1 LFN 2004)

## Right to Return to Same Position

There is no legal provision regarding right to return to the same position after availing maternity leave. However, it is mentioned that a worker cannot be dismissed during the term of her maternity leave which means that right to return to work is implicitly guaranteed under the law.

Source: §54(4) of the Labour Act (Cap L1 LFN 2004)

## Breastfeeding

Nursing workers are entitled to breastfeeding breaks of at least 30 minutes twice a day. Law does not specify the age of the child until which nursing breaks are provided to the mothers.

Source: §54(1) of the Labour Act (Cap L1 LFN 2004)

# 07/13 HEALTH & SAFETY

## **ILO Conventions**

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

Convention 155 (1981) is the relevant general convention here.

Labour Inspection Convention: 81 (1947)

**Nigeria has ratified both the Conventions 81 and 155.**

### ***Summary of Provisions under ILO Conventions***

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

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

Workers should receive training in all work-related safety and health aspects and must have been shown the emergency exits.

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

## Regulations on health and safety:

- Factories Act (Cap F1 LFN 2004)

## Employer Cares

An employer is required to protect the health and safety of workers at the workplace in accordance with the provisions of Factories Act and Labour Law.

It is obligatory for the employer, under employment contract to provide safe system and place of work and to take measures to ensure the safety of the worker. Generally, these health and safety laws are applicable only to factories.

It is the duty of the employer to ensure cleanliness in the factory, factories must not be overcrowded during the work. There must be proper ventilation, lighting, drainage of floors and sanitary conveniences.

Employer must ensure safety of worker from injury to their health and dangers of work and machinery by providing safe workplace and work equipment; by complying with the conditions of health, safety and occupational health; and ensuring that machines and work equipment are installed and kept in safe conditions.

Workers must not get involved in tasks that can cause injury or that are hazardous such as dangerous liquids and fumes, explosives, and inflammable dusts, gases, vapours and other substances. Workers must receive proper training and work under the supervisor who has thorough knowledge and experience of the machine.

Employer must also provide and maintain an adequate supply of drinking water, washing facilities, first aid and a place for the workers to store their clothing. It is the duty of the employer to keep health and safety records and makes them available to the inspector, when required.

Employees must also not wilfully and without reasonable cause do anything likely to endanger themselves or any other person. They should use any means or appliance for securing health or safety provided for their use; and should not wilfully interfere with or misuse any means, appliance, convenience or other item provided to secure health, safety or welfare in the factory.

Source: §7-50 of the Factories Act (Cap F1 LFN 2004)

## Free Protection

It is obligatory for the employer to provide free personal protective equipment to the workers. According to the Factories Act, if workers are employed in any process involving excessive exposure to wet or to injurious or offensive substance, suitable protective clothing and appliances, including, where necessary, suitable gloves, footwear, goggles and head coverings, are provided and maintained for the use of such workers.

Effective screens are provided to avoid exposure to the electric arc flash if a worker is involved in electric arc welding.

Source: §47 & 48 of the Factories Act (Cap F1 LFN 2004)

## Training

The employer must acquaint the employees before commencement of work about the hazards they might be exposed to in their occupation and train them about the preventive measures that must be taken to ensure health and safety at workplace. A worker is required to abide the instructions to maintain health and safety at the workplace.

Inexperienced worker is not employed at any machine or in any process, being a machine or process that can lead to cause bodily injury, unless he has been fully instructed as to the dangers related to it and the precautions that should be taken into account. Workers receive a sufficient training to work at the machine or in the process; or they work under adequate supervision by a person who has a thorough knowledge and experience of the machine or process.

Source: §23 of the Factories Act (Cap F1 LFN 2004)

## Labour Inspection System

Labour inspection is one of the main responsibilities of the Federal Ministry of Labour and Productivity. Ministry inspectors conduct routine inspections and inspections based on complaints. Source of the complaint is kept confidential.

An inspector may enter, inspect and examine factories at any time; require the production of relevant records, certificates, notices and documents, and inspect, examine and copy any of them; conduct such enquiries as are necessary to ascertain whether or not the statutory provisions are being complied with; conduct

examinations, tests and analyses, and take photographs and samples; question any person about relevant matters, and require any such person to sign a "declaration of the truth" of these matters, although no one may be required to answer any question or give any evidence tending to incriminate himself/herself; and carry out such medical examinations as may be necessary.

Employer and its representatives must facilitate the inspector. Any kind of hurdle in his work is an offence, punishable by fine or imprisonment or both.

An inspector may issue an improvement notice if he finds that the equipment/machinery used in the factory are not in good condition and they can cause bodily injury.

An inspector may issue a prohibition notice if he finds that the factory or a part of it is in such a condition that it can risk the health and safety of the workers. Use of factory or its part is prohibited until the risk is rectified. After taking the specified steps, the notice can be revoked on application by the employer.

Source: §63-68 of the Factories Act (Cap F1 LFN 2004)

# 08/13 SICK LEAVE & EMPLOYMENT INJURY BENEFIT

## ILO Conventions

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

**Nigeria has not ratified the Conventions 102, 121 & 130.**

### *Summary of Provisions under ILO Conventions*

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

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

During the first 6 months of illness, a worker should not be fired.

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

## Regulations on sick leave & Employment Injury Benefits:

- Labour Act (Cap L1 LFN 2004)
- Employees Compensation Act, 2010

### Income

In case of illness, workers are entitled to a maximum of twelve working days of paid sick leave. Sickness must be certified by the registered medical practitioner. Sick leave is fully paid leave and is calculated as workers' basic wage that is exclusive of overtime pay and other allowances.

Source: §16 & 19 of the Labour Act (Cap L1 LFN 2004); ISSA Country Profile Nigeria 2017

### Medical Care

The worker, on the request of the employer, gets examined by a qualified medical practitioner nominated by the employer.

Medical benefits provided to the insured worker includes specialist consultations, hospitalization of up to 15 days a year, ophthalmological services, preventive care, maternity care for up to four live births, medicines, preventive dental care and pain relief, and some prostheses.

Source: §16(b) of the Labour Act (Cap L1 LFN 2004); ISSA Country Profile Nigeria 2017

### Job Security

Employment of a worker is secure during 12 days of paid sick leave. The contract remains in existence and the worker has to perform his part of the contract save for the incapacity produced by the illness.

Source: §16(a) of the Labour Act (Cap L1 LFN 2004)

### Disability / Work Injury Benefit

Work injuries can lead to the following four situations: (i) permanent total incapacity (ii) permanent partial incapacity (iii) temporary incapacity and (iv) fatal injury leading to death of a worker. The amount of compensation depends on the nature and the degree of disability. The provisions are governed under Employee Compensation Act which is applicable to all employees and employers in both the public and the private sectors though members of the armed forces are excluded except those employed in the civilian capacity.

In the event of temporary disability, that lasts for 12 months, the employee is entitled to a lump sum compensation.

In the case of full incapacity/disability, the benefit of 90% of the gross salary is paid until the worker reaches 55 years of age. If the worker is already 55 years old, the benefit is paid for 2 years from the date the disability begins.

If the permanent disability is partial, the benefit of 90% of the estimated loss of earning capacity is paid.

In the case of fatal injury, a benefit of 30% to 90% of the deceased person's total monthly earnings is paid monthly to the widow(er) according to the number of orphans. Benefit of 90% is paid to the widow with two or more orphans; 85% to the widow with one child; and 60% benefit is paid to the widow with no child and has reached the 50 years of age and is invalid spouse. If the spouse is not invalid and is

under 50 years of age with no dependent children, the benefit is calculated by subtracting 1 per cent from 60% for each year for which the age of the dependent is under the age of 50 years at the date of death of the employee. The law however specifies that the total percentage cannot be less than 30%. In the case of orphans, the monthly payment is equal to 40% of the monthly rate of compensation for one orphan; 60% for two orphans; and 80% for three or more orphans. The monthly payments are made until a child reaches the age of 21 years or completes undergraduate studies, whichever comes first

Medical Benefits includes medical care, hospitalization, medicine, surgery, appliances, transportation, and a daily subsistence allowance. Other benefits are rehabilitation for the injured worker and counselling services for the injured worker's dependents, where possible.

Work injury benefits are paid to the worker in addition to the old-age, disability and survivor's benefit.

Source: Employees Compensation Act, 2010; ISSA Country Profile Nigeria 2017

# 09/13 SOCIAL SECURITY

## **ILO Conventions**

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

Employment Injury Benefits: Conventions 121 (1964),

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

Medical Care and Sickness Benefits: Convention 130 (1969)

Unemployment Benefits: Convention 168 (1988).

**Nigeria has not ratified the above-mentioned Conventions.**

### ***Summary of Provisions under ILO Conventions***

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

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

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

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

## Regulations on social security:

- Pension Reform Act, 2014

### Pension Rights

Law provides for both full pension as well as early pension. The qualifying condition for old age pension is reaching the age of 50 years with at least 20 years of contributions. Employees in some cases retire early on medical grounds or in accordance with the terms and conditions of the employment. Pensions are paid under the social insurance system with both the employer (10% of the gross salary) and worker (8% of the gross salary) paying their contributions.

The amount of old-age pension is based on the insured's account balance and the expected life span. At retirement, the insured may choose between an annuity or monthly or quarterly payments calculated based on life expectancy. The insured person can withdraw a partial lump sum from the individual account if the remaining balance is sufficient to purchase an annuity or to fund periodic payments. The pension is then paid either monthly or quarterly.

In case of early pension, insured persons who become unemployed before age 50 may receive up to 25% of the account balance as a lump sum after a four-month waiting period.

Minimum guaranteed pension is set by the government on the recommendation of the National Pension Commission however the amount is yet to be determined.

Sources: ISSA Country Profile for Nigeria, 2017; Pension Reform Act, 2014

## Dependents' / Survivors' Benefit

The surviving family members are entitled to a survivors' pension if the deceased person received or was entitled to receive an old age or disability pension. The survivor pension is not payable abroad.

The eligible survivors are widow/widower, children or any authorized persons named by the deceased. In case, there is no surviving spouse or child, the pension is paid to the next-of-kin or the administrator of the deceased person's estate.

Amount of survivor's pension is at least three times the deceased person's gross salary and is paid to the deceased worker's individual account by a life insurance company contracted by the employer. The account balance is distributed to the worker's eligible survivor(s).

Sources: ISSA Country Profile for Nigeria, 2017; Pension Reform Act, 2014

### Unemployment Benefits

No provision could be located in the law regarding unemployment benefits.

### Invalidity Benefits

Worker's entitlement to the invalidity benefit must be assessed with an incapacity for work. The invalidity benefit is not payable abroad and the worker's disability may be reassessed after every two years by the medical board or a qualified doctor at the request of the insured person.

Invalidity benefit is based on the insured's contributions plus accrued interest. The insured person may purchase an annuity or receive monthly or quarterly payments that

are calculated on the basis of life expectancy. The insured person can withdraw a partial lump sum from the individual account if the remaining balance is sufficient to purchase an annuity or to fund periodic payments of at least 50% of insured's annual earnings at the time the disability began.

Sources: ISSA Country Profile for Nigeria, 2017; Pension Reform Act, 2014

# 10/13 FAIR TREATMENT

## **ILO Conventions**

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

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

Convention 190 (2019) is about elimination of violence and harassment in the world of work.

**Nigeria has ratified the Conventions 100 and 111.**

### ***Summary of Provisions under ILO Conventions***

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

Convention No. 190 recognizes the right of everyone to a world of work free from violence and harassment. It defines violence and harassment as “a range of unacceptable behaviours and practices, or threats thereof, whether a single occurrence or repeated, that aim at, result in, or are likely to result in physical, psychological, sexual or economic harm, and includes gender-based violence and harassment”. This definition covers physical abuse, verbal abuse, bullying and mobbing, sexual harassment, threats and stalking, among other things.

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

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

## Regulations on fair treatment:

- Constitution of the Federal Republic of Nigeria 1999
- Labour Act (Cap L1 LFN 2004)
- Employees Compensation Act, 2010

## Equal Pay

According to the constitution, it is the duty of the state to ensure there is equal pay for equal work without discrimination on account of sex, or on any other ground. However, no implementing legislation has been enacted so far. A Labour Standards Bill, submitted in the National Assembly in 2008, had provision on equal pay for equal work however it has not been passed.

Source: 17(3) Constitution of the Federal Republic of Nigeria 1999

## Sexual Harassment

There is no provision in Labour Act that prohibits sexual harassment or any other kind of harassment during employment. If an employee consider that the employer is harassing him/her, the employee can terminate the employment contract by providing the giving an appropriate notice. However, if an employer terminates the employment contract, it is not considered as harassment because the Nigerian law clearly states that the employer can terminate the employment contract for any reason or may be for no reason at all. A Labour Standards Bill, submitted in the National Assembly in 2008, had provision on sexual harassment however the said bill has not been passed yet.

The Criminal Law of Lagos State prohibits harassment and describes harassment as

unwelcome sexual advances, request for sexual favours, and other visual, verbal or physical conduct of a sexual nature which when submitted to or rejected - (a) implicitly or explicitly affects a person's employment or educational opportunity or unreasonably interferes with the person's work or educational performance; (b) implicitly or explicitly suggests that submission to or rejection of the conduct will be a factor in academic or employment decisions; or (c) creates an intimidating, hostile or offensive learning or working environment. Any person who sexually harasses another is guilty of a felony and is liable to imprisonment for three years.

Employee Compensation Act provides for compensation in the case of mental stress to a worker if the mental stress is an acute reaction to a sudden and unexpected traumatic event arising out of or in the course of the employee's employment; or (b) diagnosed by an accredited medical practitioner as a mental or physical condition amounting to mental stress arising out of the nature of work or the occurrence of any event in the course of the employee's employment. If the mental stress is caused as a result of the decision of the employer to change the work, the working conditions of work organization in such a way as to unfairly exceed the work ability and capacity of the employee thereby leading to mental stress, such situation is liable to compensation to the degree as may be determined under any regulation made by the Board. Thus, a victim of workplace harassment may be able to claim compensation under this provision.

Source: §11(1) of the Labour Act (Cap L1 LFN 2004); §262 of the Criminal Law of Lagos State 2011; §9 of the Employees

Compensation Act, 2010

## Non-Discrimination

The constitution of Nigeria prohibits discrimination on the grounds of place of origin, sex, religion, status, ethnic or linguistic association or ties. It is the duty of the state to promote national integration by providing adequate facilities, equal opportunities and rights to all the citizens without discrimination. Citizens of Nigeria must not be subject to any disability or deprivation on discriminatory grounds.

There is no specific legal provision regarding discriminatory behaviour while hiring an employee. However, according to the Constitution, it is the duty of the state to ensure equal opportunity for securing adequate means of livelihood as well as adequate opportunity to secure suitable employment, for all the citizens without any discrimination. Also, the state must ensure equal wage for equal amount of work without gender discrimination or discrimination on any other ground.

HIV and AIDS (Anti-Discrimination) Act, 2014 prohibits discrimination on the basis of real or perceived HIV status concerning access to and continued employment, conditions of employment, employment benefits, comprehensive health services, education, use of public facilities and other social services, provided by the employer, individual, community, government or any other establishment.

Furthermore, the Labour Act expressly prohibits employers from discriminating against employees by virtue of their union membership. Labour Act prohibits an employer to cause the dismissal or otherwise prejudice a worker by reason of

trade union membership; because of trade union activities outside working hours (or with the consent of employer during the working hours); or because he has lost the trade union membership or has refused to or is unable to become a member of trade union. Discrimination against pregnant women is also expressly prohibited in the Labour Act.

Under the Nigerian with disabilities Decree 1993, employers are required to reserve 10% quota for disabled persons. Law gives 15% tax deduction to those private sector employers who employ disabled persons in above quota. Employers are further prohibited from discriminating against disabled persons. Moreover, according to the Discrimination against Person with Disabilities Act, 2018 a person with disability shall not be discriminated against on the ground of his or her disability by any person or institution in any manner or circumstances. The new legislation requires public sector employers to allocate a 5% quota for persons with disabilities. The legislation also provides for an equal right to work for persons with disabilities.

If a worker believes he/she has been discriminated against on any of the above referred grounds, he/she can bring a case a before the National Industrial Court which can award compensation if discrimination is proven.

Source: §15(2,3), 17(3) & 42 of the Constitution of the Federal Republic of Nigeria 1999; §3(1) of the HIV and AIDS (Anti-Discrimination) Act, 2014; §9(6) and 54(4) of the Labour Act (Cap L1 LFN 2004); §1 of the Discrimination Against Persons with Disabilities (Prohibition) Act, 2018

## Equal Choice of Profession

Labour law ensures equal rights and same regulations of employment for both men and women with the exception that women cannot work at night and may not be employed on underground work in mines.

If an employer is found guilty of an offence, on conviction he is liable to fine or imprisonment as specified by the law.

Source: §55-58 of the Labour Act (Cap L1 LFN 2004)

# 11/13 MINORS & YOUTH

## **ILO Conventions**

Minimum Age: Convention 138 (1973)

Worst Forms of Child labour: Convention 182 (1999)

**Nigeria has ratified the Conventions 138 and 182.**

### ***Summary of Provisions under ILO Conventions***

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

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

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

## Regulations on minors and youth:

- Constitution of the Federal Republic of Nigeria, 1999
- Labour Act (Cap L1 LFN 2004)
- Compulsory, Free Universal Basic Education Act, 2004
- Child's Rights Act, 2003

## Minimum Age for Employment

The minimum age for employment is 12 years. A child (under 12 years) cannot be employed to work in any capacity except where in a family enterprise on light work of an agricultural, horticultural or domestic nature approved by the Government. A child must not be required to lift, carry or move anything so heavy as to injure his physical development. Trafficking in Persons (provisions), Enforcement and Administration Act prohibits recruitment and employment of a child under 12 years as domestic worker. It is a punishable offence with imprisonment ranging between 6 months to 7 years.

Young person under fourteen years of age can be employed on daily wage and day to day basis, except where they are employed in domestic service. They must be employed on a day-to-day basis, be paid their daily wage, and return to their residence place.

Minimum age for employment in industrial undertakings is 15 years however this cut-off age is not applicable to the work done by young persons in technical schools or similar institutions if the work is approved and supervised by the relevant government department (Ministry of Education).

Young persons, under the age of sixteen, may not be employed to work underground

or on machine work or on public holiday. They are prohibited to work in circumstance where they are unable to return to their residence place except with the approval of the authorized Labour Officer or where the employment is evidenced by a written contract that conforms to the requirements of the Labour Act with respect to a contract of employment.

Minimum age of compulsory education is 15 years. According to the constitution, State is responsible to eradicate illiteracy by providing free educational opportunities at all levels. In accordance with the Compulsory, Free Universal Basic Education Act & Child's Rights Act, Government in Nigeria should provide free, compulsory and universal education for every child of primary and junior secondary school age. Parents must also ensure that their children complete their basic education.

Source: §18 of the Constitution of the Federal Republic of Nigeria 1999, §59(1-5) of the Labour Act (Cap L1 LFN 2004); §2 & 15 of the Compulsory, Free Universal Basic Education Act, 2004; §15 & 28-29 of the Child's Rights Act, 2003; §23 of Trafficking in Persons (provisions), Enforcement and Administration Act, 2015 (Act No. 4 of 2015)

## Minimum Age for Hazardous Work

Minimum age for the hazardous work is eighteen years. Employees who are under 18 are not allowed to work for four hours consecutively and more than 8 hours a day. Young persons are also not allowed to work at night except under circumstances specified by the law. Night time means a period of twelve consecutive hours including the interval between 22:00 to

06:00 for persons under sixteen years of age and a consecutive seven-hour period including the interval between 22:00 to 07:00 for person between sixteen to eighteen years of age. Young workers cannot be required to work overtime, during or public holidays. Labour Act however allows children ages 16 and older to work at night in gold mining reduction work and the manufacturing of iron, steel, paper, raw sugar, and glass. In accordance with the Child Rights Act, no child may be subjected to any forced or exploitative labour.

Employer is required to keep a complete record of young workers with particulars of their ages, the date of employment and the conditions and nature of their employment and such other particulars as may be prescribed, and produce the register for inspection when required by an authorized labour officer.

In accordance with the trafficking in Persons (prohibitions), Enforcement and Administration Act engagement of a child is prohibited in all such work that is exploitative and hazardous to physical, social and psychological development of the child. It is a punishable offence with imprisonment of at least 2 years. In case of denied payment and lack of reasonable compensation, the punishment is extended to at least 3 years. Recruitment or offering of child for pornography or pornographic performance is forbidden. It is illegitimate act with the imprisonment of at least 7 years and 1 million Nigerian Naira. Likewise, any person involved in drug dealing is punishable no less than 1 year.

Child Rights Act prohibits the following:

- a) use of children for the purpose of begging for alms, guiding beggars, prostitution, domestic or sexual

labour or for any unlawful or immoral purpose;

- b) use of children as a slave or for practices similar to slavery such as sale or trafficking of the child, debt bondage or serfdom and forced or compulsory labour;
- c) use of children for hawking of goods or services on main city streets, brothels or highways;
- d) use of children for any purpose that deprives the child of the opportunity to attend and remain in school as provided for under the Compulsory, Free Universal Basic Education Act;
- e) procurement or offering for prostitution or for the production of pornography or for any pornographic performance; and
- f) procurement or offering for any activity in the production or trafficking of illegal drugs and any other activity relating to illicit drugs as specified in the National Drug Law Enforcement Agency Act.

Violation of this provision is punishable with imprisonment for a term of ten years.

Source: §59(5-8) & 60 of the Labour Act (Cap L1 LFN 2004); §28-30 of the Child's Rights Act, 2003; §15 and 23 of Trafficking in Persons (prohibitions), Enforcement and Administration Act, 2015 (Act No. 4 of 2015)

# 12/13 FORCED LABOUR

## **ILO Conventions**

Forced labour: Conventions 29 (1930)

Abolition of Forced labour: Conventions 105 (1957)

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

**Nigeria has ratified both Conventions 29 & 105.**

### ***Summary of Provisions under ILO Conventions***

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

Employers have to allow workers to look for work elsewhere. If a worker is looking for work elsewhere, he/she should not be shortened on wages or threatened with dismissal. (In the reverse cases, international law considers this as forced labour).

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

## Regulations on forced labour:

- Constitution of the Federal Republic of Nigeria 1999
- Labour Act (Cap L1 LFN 2004)
- Trafficking in Persons (Prohibition) Enforcement and Administration Act, 2015
- Child's Rights Act, 2003

## Prohibition on Forced and Compulsory Labour

Constitution of Nigeria prohibits forced and compulsory labour in the country. Forced and compulsory labour excludes any labour required in consequence of the sentence or order of a court; any labour required of members of the armed forces of the Federation or the Nigeria Police Force in pursuance of their duties as such; in the case of persons who have conscientious objections to service in the armed forces of the Federation, any labour required instead of such service; any labour required which is reasonably necessary in the event of any emergency or calamity threatening the life or wellbeing of the community; or any labour or service that forms part of normal communal or other civic obligations of the wellbeing of the community, such compulsory national service in the armed forces of the Federation as may be prescribed by an Act of the National Assembly, or such compulsory national service which forms part of the education and training of citizens of Nigeria as may be prescribed by an Act of the National Assembly.

According to the labour law, if an employer is found guilty of an offence, he is liable on conviction to a fine not exceeding N1,000 or to imprisonment for a period not exceeding two years, or to both. If a public officer puts

unnecessary burden upon workers may be guilty of an offence and on conviction shall be liable to a fine not exceeding N200 or to imprisonment for a period not exceeding six months, or to both.

Trafficking in Persons (Prohibition) Enforcement and Administration Act prohibits forced labour. Forcing or coercing another person into commercial sexual exploitation is a punishable offence with imprisonment of 5 years and fine of 0.5 million Nigerian Naira. Subjugating a minor (under 18 years) into prostitution and commercial sexual exploitation is a punishable offence with imprisonment of at least 7 years and fine of at least 1 million Nigerian Naira. Trafficking in slaves and slaves dealing is again a punishable offence with imprisonment of at least 7 years and fine of at least 2 million Nigerian Naira.

Child's Rights Act also prohibits forced or exploitive labour. It is considered as a crime and the person liable to this offence is punished by a fine not exceeding fifty thousand naira or imprisonment for a term of five years or to both such fine and imprisonment.

Source: §34 of the Constitution of the Federal Republic of Nigeria 1999, §73 of the Labour Act (Cap L1 LFN 2004); §22 of the Trafficking in Persons (Prohibition) Enforcement and Administration Act, 2015; §28 & 30 of the Child's Right Act 2003

## Freedom to Change Jobs and Right to Quit

Labour Law provides the freedom to change job and right to quit job by providing notice period, depending on the period of employment. In certain cases,

specified by the law, worker can quit the job by providing notice and retain his full rights.

The required notice period is one day for a period of three months or less, one week for more than three months but less than two years of service, two weeks for two to five years of service and one month for five or more years of service.

Source: §11 of the Labour Act (Cap L1 LFN 2004)

## Inhumane Working Conditions

Working time may be extended beyond normal working hours of forty hours per week. For young workers, the maximum working hours are eight per day. However, there is no statutory provision on the overtime work limit. For more information on this, please refer to the section on compensation.

Source: §59(8) of the Labour Act (Cap L1 LFN 2004); National Minimum Wage Act, 1981

# 13/13 TRADE UNION

## **ILO Conventions**

Freedom of association and protection of the right to organize: Convention 87 (1948)  
Right to Organize and Collective Bargaining: Convention 98 (1949)

**Nigeria has ratified both Conventions 87 & 98.**

### ***Summary of Provisions under ILO Conventions***

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

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

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

## Regulations on trade unions:

- Constitution of the Federal Republic of Nigeria 1999
- Labour Act (Cap L1 LFN 2004)
- Trade Unions Act (Cap. T14 2004)
- Trade Disputes Act (Cap.432 LFN 1990)

## Freedom to Join and Form a Union

Constitution of Nigeria provides freedom to join and form unions. Every person is entitled to assemble freely and form association with political party, trade union or any other association for the protection of their rights. Exception includes workers of armed forces; police; customs, Immigration and the prison service; the Nigerian Security Printing and Minting Company Limited; the Central Bank of Nigeria; the Nigerian Telecommunications Limited; and certain other government organisations. Young workers under the age of sixteen may not join a union.

Labour law states that the contract of employment must not make it a condition of employment to join or leave the trade union. An employer must not dismiss any worker due to his association with the trade union and the activities of the union.

Trade union is any combination of workers or employers, whether temporary or permanent, the purpose of which is to regulate the terms and conditions of employment of workers. Trade unions may not operate without being registered with the official registrar of trade unions, provided that the application of registration is supported by at least fifty members of the union. This registration must be approved by the government. Trade union may not be registered if a

properly functional union is already operating in the organisation.

Trade unions must also have registered rules that include provisions dealing with matters such as the union's purpose, funds, accounts, membership dues, officers and discipline. The mandatory rule is that no member of the union may take part in a strike unless a majority of members have voted in favour of the strike in a secret ballot.

Source: §40 of the Constitution of the Federal Republic of Nigeria 1999, §9(6) of the Labour Act (Cap L1 LFN 2004); Trade Unions Act (Cap. T14 2004)

## Freedom of Collective Bargaining

Labour Law defines collective bargaining as the process of arriving at, or attempting to arrive at, a collective agreement. Collective agreement is an agreement in writing regarding working conditions and terms of employment concluded between one or more trade unions or other organisations of, or representing, workers (or an association of such organisations); and an employer, a group of employers, or an organisation of, or representing, employers (or an association of such organisations). A collective agreement is interpreted by a National Industrial Court.

Collective bargaining takes place when a trade dispute arises. Trade unions elect a representative to negotiate with the employer. Both parties must try to settle the dispute by any agreed dispute resolution mechanism. In absence or failure of it, parties must appoint a mediator (mutually agreed on and appointed by the parties), within seven days to settle the dispute.

If the mediator fails to settle the dispute within seven days, it is then reported to the Government within three days. Government appoints a mediator to bring about a settlement within seven days, otherwise the Government refers it to the Industrial Arbitration Panel. The panel establishes an arbitration tribunal to make an award within twenty-one days. Government can refer back an award for reconsideration. Once the award is accepted the parties have seven days to object to the award. In case of no objection, the award is published and becomes binding in the employers and workers to whom it relates.

In case of objection, the dispute is referred to the national Industrial Court for the final decision. The Government can refer directly to the court without going through arbitration tribunal stage.

The National Labour Advisory Council (NLAC) is the national tripartite consultative mechanism that provides consultation and co-operation between the government and the organizations of workers and employers at the national level on matters relating to social and labour policies and international labour standards. The Council was reconstituted in 2009 in line with the provisions of Convention 144.

Source: §91 of the Labour Act (Cap L1 LFN 2004); §3, 16 & 48 of the Trade Disputes Act (Cap.432 LFN 1990)

## Right to Strike

Strike is the cessation of work by a body of employed persons acting in combination, or a concerted refusal or a refusal under a common understanding of any number of persons employed to continue to work for

an employer in consequence of a dispute, done as a means of compelling their employer, or to aid other workers in compelling their employer or any persons or, to accept or not to accept terms of employment and physical conditions of work.

No individual, trade union or employer may take part in a strike or lockout if that person, trade union or employer is engaged in the provision of essential services; the strike or lockout concerns a labour dispute that constitutes a dispute of right (rights already specified in law, collective agreement or employment contract); the strike or lockout concerns a dispute arising from a collective and fundamental breach of contract of employment or collective agreement on the part of the employee, trade union or employer; and a ballot has been conducted in accordance with the rules and constitution of the trade union at which a simple majority of all registered members voted to go on strike.

Any person, trade union or employer who are found guilty of offence, are liable to a fine of N 1,000 or to imprisonment for a term of six months or to both.

Workers, who take part in strike, are not entitled to any wages or other remuneration during this period and this period is also not considered as the period of continuous employment and all rights dependent on continuity of employment shall be prejudicially affected accordingly

Source: §18 & 43 of the Trade Disputes Act (Cap.432 LFN 1990); §31(7) of Trade Unions Act (Cap. T14 2004)

# QUESTIONNAIRE

## DECENTWORKCHECK.ORG

Check

Decent Work Check Nigeria is a product of [www.wageindicator.org](http://www.wageindicator.org)  
and [www.mywage.org/nigeria/home](http://www.mywage.org/nigeria/home)



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"/>

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





# DECENTWORKCHECK.ORG

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

- |     |  |   |                          |                          |
|-----|--|---|--------------------------|--------------------------|
| 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.




# DECENTWORKCHECK.ORG

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





## 11/13 Minors & Youth

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

## 12/13 Forced Labour

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

## 13/13 Trade Union Rights

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

# DECENTWORKCHECK.ORG

## Results

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



is your amount of "YES" accumulated.

Nigeria scored 34 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.