



# DECENT WORK CHECK

## **TANZANIA** 2023

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## 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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# 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. The Constitution of the United Republic of Tanzania, 1977 (amended in 2005)
2. Public Holidays Ordinance, 1966
3. Part V of Labour Institutions Act, No.7 of 2004 (through Regulation of Wages and terms of Employment Order, 2013 aka The Wage Order)
4. Employment and Labour Relations Act, No. 6 of 2004
5. Wages Order 2010
6. National Social Security Fund Act, 1997 (last amended in 2015)
7. Occupational Health and Safety Act, 2003
8. Law of the Child Employment Act, 2009
9. Penal Code, 1945

# 01/13 WORK & WAGES

## **ILO Conventions**

Minimum wage: Convention 131 (1970)

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

**Tanzania has ratified the Conventions 95 and 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:

- Part V of Labour Institutions Act, No.7 of 2004 (through Regulation of Wages and terms of Employment Order, 2013 aka The Wage Order)
- Employment and Labour Relations Act, No. 6 of 2004

## Minimum Wage

In accordance with the constitution of Tanzania, every person without discrimination of any kind is entitled to remuneration commensurate with work and all persons working according to their ability are remunerated according to the measure and qualification for the work. Every person is entitled to just remuneration.

The wage rates are determined by Wage Boards constituted in accordance with Labour Institutions Order 2007. The minimum wage rates are fixed under the Wages Order. While determining the minimum wage, the Wage Board takes into account all relevant factors including the cost of living; level of wages and income in the country; economic development; level of employment; the minimum subsistence level; ability of employers to carry on their businesses; operation of small, medium and micro enterprises; the remuneration and terms and conditions of employment of workers employed in the East African Community in the sector; any collective agreements providing for remuneration and terms and conditions of employment in the sector; alleviation of poverty; and any other relevant matter.

Minimum wage rates are determined for the following sectors: Health services; agriculture services; Trade, industries and

commercial services; communication services; mining; Private schools services (Nursery, Primary and Secondary schools); Domestic and Hospital Services; Private Security Services; Energy Services; Transport Services; Construction Services; Fishing and Marine Services; and other sectors not mentioned above.

Minimum wage compliance is regulated through Labour Administration and Inspection Services Department which works under the Ministry of Labour and Employment. Labour Officers under this department have been empowered by the Labour Institutions Act, 2004 to oversee compliance with employment standards including Minimum Wage Order and other terms and conditions of employment.

In case, an employer does not comply with the labour law, the Labour Officer issues a compliance order and if the employer fails to comply with the lawful order, the employer is prosecuted, and if convicted, he is liable to a fine not exceeding five million shillings, or imprisonment for a period of 3 months or both.

**Source:** §23 of the Constitution of Tanzania; §37 & 64(2) of the Labour Institutions Act 2004; §14-18 of the Employment and Labour Laws (Miscellaneous Amendments) Act, 2015

## Regular Pay

The Employment and Labour Relations Act 2004 differentiate between "remuneration" and "basic wage". Remuneration is the total value of all payments, in money or in kind, made or owing to a worker arising from the employment of that worker. Basic wage means that part of a worker's remuneration paid in respect of work done during the

hours ordinarily worked but does not include allowances (whether or not based on the worker's basic wage) and pay for overtime work.

The Employment and Labour Relations Act regulates the payment of wages to all classes of workers. According to this Act, wages can be calculated on hourly, daily, weekly or monthly basis. Workers employed on a basis other than time worked are paid weekly and their wages are calculated on the basis of average amount earned over 13 weeks or according to their period of employment (if it is less than 13 weeks).

Employers are obliged to pay the worker his/her wages during the working hours at the place of work on agreed pay day in a sealed envelope, if payment is made in cash or through cheque. Wage may be deposit directly into an account designated by the worker in writing. Minister responsible for labour matters may allow partial payment of wage in-kind instead of cash for the personal use of the worker and his/her family.

Generally, employer is not allowed to deduct wages unless required or permitted under a written law, collective agreement, wage determination, court order or arbitration award. Deduction may also be made if a worker agrees in writing to the deduction in respect of a debt or to reimburse the employer for loss or damage caused by the worker. Total amount of deduction must not be more than one quarter of the worker's remuneration in cash.

An employer should provide pay slips to all workers along with payment in cash or by cheque; or given to a worker in sealed envelope in case of direct deposit. Section

12 of the Employment and Labour Relations (General) Regulations, 2017 have detailed provisions on the particulars of the pay slip.

**Source:** §26-27 of the Employment and Labour Relations Act 2004



# 02/13 COMPENSATION

## ILO Conventions

Compensation overtime: Convention 01 (1919)

Night work: Convention 171 (1990)

**Tanzania 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:

- Employment and Labour Relations Act 2004
- Wages Order 2010

## Overtime Compensation

In accordance with the Employment and Labour Relations Act 2004, workers can be required to work 6 days a week. The normal working hours are 9 hours per day and 45 hours per week except for those who manage other workers on behalf of the employer and who report directly to a senior management.

Workers may be required to work overtime, work over and above ordinary hours of work, but not more than 12 hours a day and 50 hours in a 4-week cycle except in emergency.

A written agreement may require or permit a worker to work up to twelve hours in a day inclusive of any meal interval without receiving overtime pay. However, such agreement may not require or permit a worker to work more than 5 days and 45 hours as well 10 hours of overtime in a week.

A collective agreement may also provide for averaging of ordinary and overtime hours over an agreed period (not greater than one year) however such agreement may not require or permit the worker to work more than 40 ordinary hours per week calculated over the agreed period and ten hours overtime per week calculated over the agreed period.

The overtime limit does not apply to the workers who manage other workers on behalf of the employer and who report directly to a senior management worker; or emergency work which cannot be performed by workers during their ordinary hours of work; and where an applicable collective agreement provides for the averaging of the overtime hours of work over an agreed period not exceeding one year, subject to a limit of ten overtime hours per week on average.

If a worker works beyond the stipulated working hours, he/she is entitled to an overtime pay that is one and a half time (1.5 of X or 150%) the rate of his ordinary pay.

**Source:** §17-22 of Employment and Labour Relations Act 2004

## Night Work Compensation

According to the Employment and Labour Relations Act, night is the period between 20:00 and 06:00 (of the following day).

Night work is paid at the premium rate of 5% over and above a worker's normal wage rate. If the night work is performed as overtime, the overtime is paid at the night rate (which is 105% of the normal day rate).

**Source:** §20(4) of Employment and Labour Relations Act 2004

## Compensatory Holidays / Rest Days

No provision could be identified in laws to require an employer to provide compensatory rest day for working on weekly rest day or public holiday.

## Weekend / Public Holiday Work Compensation

Workers may be required to work on weekly rest days and public holidays. In such circumstances when employees have to work on official holidays, they are entitled to receive wages at a premium rate of 200% of the normal hourly wage rate. Workers working on weekly rest days are entitled to premium pay at the rate of 200% of the normal wage rate.

In accordance with the Wages Order 2010, a worker is entitled the double the daily wages, in addition to normal weekly/monthly wage, if he works on weekly rest day or public holiday.

**Source:** §24 & 25 of Employment and Labour Relations Act 2004; §7 of the Wages Order 2010

# 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.

**Tanzania has not ratified the Conventions 14, 47, 106 and 132.**

### *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:

- Employment and Labour Relations Act, No. 6 of 2004
- Public Holidays Ordinance, 1966

## Paid Vacation / Annual Leave

The Employment and Labour Relations Act 2004 provides for annual leave on completion of a year of continuous service with an employer. A worker is entitled to 28 consecutive days paid annual leave, inclusive of any public holidays that may fall during the period of leave. Consecutive days also means that weekends are also included in the annual leave duration.

The annual leave may be reduced by the number of days during a leave cycle, which are granted as paid occasional leave by the employer on worker's consent.

A worker with less than six months of service is not entitled to paid leave under the Employment and Labour Relations Act, unless the worker is employed on a seasonal basis or has worked more than once in a year for the same employer, and the total period worked for that employer exceeds six months in that year.

An employer may determine the timing of annual leave provided that it is taken not later than six months once it becomes due. The timing may be extended to 12-month period on worker's consent and if the extension is justified by the operational requirements of the employer.

The employer may not allow a worker to take annual leave in place of any other leave to which the worker is entitled. With the consent of an employee, the employer may

require or permit such employee to work for the employer during a period of annual leave on condition that such employee shall not work for a continuous period of two years. The employer should pay the employee one-month salary in lieu of annual leave to which that employee is entitled or was called upon to work. A worker is entitled to his normal wages in the duration of his/her annual leave. The payment has to be made before leave is taken.

The employer is prohibited to pay compensation in lieu of annual leave except on termination of employment or the expiry of each season in respect of a worker employed on a seasonal basis. Apart from this provision, any agreement providing compensation in lieu of annual leave is null and void. The amount of compensation is calculated at the rate of one day's basic wage for every 13 days the worker worked or was entitled to work.

**Source:** §29-31 of Employment and Labour Relations Act 2004; §6 of the Employment and Labour Laws (Miscellaneous Amendments) Act, 2015

## Pay on Public Holidays

Workers are entitled to paid Festival (public and religious) holidays. Festival holidays are announced by Tanzania Government (usually 17 in number).

The public holidays are regulated under the Public Holidays Ordinance, 1966. It includes the following holidays: New Year Day (January 01), Zanzibar Revolution Day (January 12), Maulid Day (January 03), Good Friday (April 03), Easter Sunday (April 05), Easter Monday (April 06), The Sheikh Abeid Amani Karume Day (April 07), Union

Day (April 26), Workers Day (May 01), International Trade Fair/Saba Saba Day (July 07), Nane Nane (Peasants) Day (August 08), Eid-el-Fitri (July 17), Mwalimu Nyerere Day (October 14), Idd-El-Hajj (September 23), Independence and Republic Day (December 09), Christmas Day (December 25), Boxing Day (December 26). Dates of Muslim festivals are subject to the sighting of moon and thus are liable to change.

Holidays falling on Saturday or Sunday are kept on those days. Act No.10 of 1994 has been repealed and holidays falling on Saturday or Sunday are no longer compensated.

**Source:** Public Holidays Ordinance 1966

## Weekly Rest Days

Workers are entitled to 24 consecutive hours of rest per week between last working day in one week and the first ordinary working day of the next week. Employment and Labour Relations Act requires that weekly rest day, in principle, should be Sunday for all employees.

A written agreement may provide for a rest period of at least 60 consecutive hours fortnightly or a weekly rest period may be reduced to 8 hours if the rest period in the following week is extended equivalently.

Rest break of an hour is provided to the employees who works continuously for more than five hours. An employer may require an employee to work during a break only if the work cannot be left unattended or cannot be performed by another employee.

A daily rest period of at least 12 consecutive hours between ending and recommencing work is provided under the law. This rest period can be reduced to 8 hours if there is a written agreement to that effect or if the ordinary working hours are interrupted by an interval of at least three hours or if the employee lives on the premises of the workplace.

The provisions on daily rest and rest breaks do not apply to managerial employees or those working in emergency situation.

**Source:** §17, 23 (1 & 2), 24 of Employment and Labour Relations Act 2004

# 04/13 EMPLOYMENT SECURITY

## **ILO Conventions**

Convention 158 (1982) on employment termination

**Tanzania 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:

- Employment and Labour Relations Act, No. 6 of 2004

## Written Employment Particulars

Tanzanian labour Law requires that workers should be provided written employment contract at the start of employment except those who work less than 6 days in a month for an employer. The employment contract may be of definite or indefinite period or for a specific task. Employment contract must be in writing if it provides that the worker is to work outside the United Republic of Tanzania.

An employment contract must state the following information: name, age, permanent address and sex of the worker; place of recruitment; job description; date of commencement; form and duration of the contract; place of work; hours of work; remuneration, the method of its calculation, and details of any benefits or payments in kind, and any other prescribed matter. However, if these particulars have already been provided in employment contract, employer may not furnish the written state of employment particulars.

The employer must ensure that all the written particulars are clearly explained to the worker in a manner understandable by the worker. If there is a change in any of the written particular, the employer is required to revise the written particulars in consultation with the worker to reflect the changes. Employer must notify the worker about the change in writing.

The employer is obliged to keep the written particulars for a period of five years after the termination of employment. If an

employer fails to produce a written contract in any legal proceedings, the burden of proving or disproving an alleged term of employment is on the employer. Every employer has to display a statement of employee's right in a conspicuous place.

**Source:** §14-16 of Employment and Labour Relations Act 2004

## Fixed Term Contracts

Tanzanian labour Law prohibits hiring fixed term contract workers for tasks of permanent nature. A contract of employment may be concluded for an unspecified (indefinite) period of time, for a specified period in the case of professionals and managerial cadre and for a specific task. There is no other provision in the Employment and Labour Relations Act, 2004 on number of times a fixed term contract may be renewed or the maximum length of fixed term contracts.

Employment and Labour Relations (General) Regulations, 2017 stipulate that the fixed term contract for professionals and managerial employees cannot be less than 12 months.

If a worker continues working after the expiry of fixed period, the rights and obligations remains the same, in the absence of any agreement to the contrary, as they were at the expiration of the term. If there is no fixed duration of the partnership, any partner may determine the partnership at any time on giving notice of his intention to all the other partners.

**Source:** §14 of the Employment and Labour Relations Act 2004, §197 & 200 of the Law of Contract Act CAP 345



## Probation Period

There is no explicit provision in the Employment and Labour Relations Act 2004 about probation period. However, this act implicitly requires a probationary period of 6 months by saying that a worker with less than 6 months of employment may not bring an unfair termination claim against the employer.

**Source:** § 35 of Employment and Labour Relations Act 2004

## Notice Requirement

Employment and Labour Relations Act 2004 requires written termination notice before terminating services of a worker.

Either party has the right to terminate the employment for a variety of reasons including lawful termination of employment under common law; resignation by a worker because the employer made continued employment intolerable for the worker; failure to renew a fixed term contract on the same or similar terms if there was a reasonable expectation of renewal; failure to allow a worker to resume work after taking maternity leave granted under the Act; failure to reemploy a worker if the employer has terminated the employment of a number of workers for the same or similar reasons and has offered to reemploy one or more of them.

Either party may terminate the employment contract after serving due notice or paying in lieu of notice. For terminating an indefinite term contract, the required notice period depends on the worker's length of service as follows:

- 7 days for the service of one month or less;

- 4 days for a worker employed on daily basis; and
- 28 days for a worker employed on monthly basis.

A longer notice period may also be agreed upon between the parties if it is equal between the worker and the employer. Notice of termination has to be in writing, stating the reasons for termination and the date on which the notice is given. Notice of termination can't be given during any period of leave allowed under law or notice that runs concurrently with any such period of leave.

Termination of employment is unfair if the employer fails to prove that the reason for the termination is valid; is related to the employee's conduct, capacity or compatibility; or is based on the operational requirements of the employer.

In order to decide whether a termination by an employer is fair, an employer, arbitrator, or the Labour Division of the High Court would take into account any Code of Good Practice.

If an arbitrator or the Labour Court finds that a termination is unfair, the arbitrator or Court may order the employer to reinstate the worker from the date of termination without loss of any remuneration during the period that the worker was absent from work due to the unfair termination; or re-engage the worker on any terms that the arbitrator or Court may decide; or pay compensation to the worker at least 12 months of remuneration.

An order for compensation made under the Act is in addition to, and not a substitute for, any other amount to which the worker may be entitled in terms of any law or agreement.

Where an order of reinstatement or re-engagement is made by an arbitrator or court, the employer pays compensation of 12 months of wages in addition to the wages due and other benefits from the date of unfair termination to the date of final payment.

**Source:** § 36-41 of Employment and Labour Relations Act 2004

## Severance Pay

The Employment and Labour Relations Act 2004 provides for Severance Pay. Worker is entitled to the severance pay if he/she has completed at least a year of a service with the employer. Severance pay in Tanzania is equal to at least 7 days' basic wage for each completed year of employment up to a maximum of ten years.

Severance pay is not payable if an employment is terminated on account of misconduct, incapacity and incompatibility with requirements of business but who unreasonably refuses to accept alternative employment with that employer or any other employer, and if the worker has reached the retirement age or if the employment contract has expired or ended by reason of time. Payment of severance pay does not affect the rights of a worker to any other payable amount.

**Source:** §42 of Employment and Labour Relations Act 2004

# 05/13 FAMILY RESPONSIBILITIES

## ILO Conventions

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

**Tanzania has not ratified both the Convention 156.**

### *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:

- Employment and Labour Relations Act, No. 6 of 2004

### Paternity Leave

Employment and Labour Relations Act 2004 provides for paid paternity leave of at least 3 days (in a leave cycle of 12 months) for a new father if this leave is taken within the 7 days of the birth of a child.

The employer may require reasonable proof of birth of child prior to paying for paternity leave. The employee must be employed with the same employer for at least six months in the 12 months before the birth or be employed on a seasonal basis by the same employer.

**Source:** §34 of Employment and Labour Relations Act 2004; ISSA Country Profile Tanzania, 2017

### Parental Leave

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

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

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

# 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.

**Tanzania has not ratified the 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:

- Employment and Labour Relations Act, 2004
- National Social Security Fund Act, 1997

## Free Medical Care

In accordance with the law, a woman is entitled to prenatal confinement and post-natal medical care, if she has made at least thirty-six monthly contributions of which twelve contributions are made in the thirty-six months prior to date of confinement. Maternity benefits are provided upon the receipt by the Director General of a medical certificate from an authorized medical practitioner, certifying that the woman expects delivery of a child

**Source:** §44-45 of the National Social Security Fund Act 1997

## No Harmful Work

In accordance with the Employment and Labour Relations Act 2004, an employer may not permit or require a pregnant worker or a worker who is nursing her child to perform some work that is hazardous to her or child's health.

If a female worker is involved in hazardous work, her employer is required to offer suitable alternative employment, if practicable, on same terms and conditions on which she is already employed.

**Source:** § 33(5 & 9) of Employment and Labour Relations Act 2004

## Maternity Leave

Maternity leave is provided and regulated under the Employment and Labour Relation Act 2004.

Female workers are entitled to at least twelve weeks (84 days) of fully paid maternity leave or 100 consecutive days (in case of multiple births) within a leave cycle of 36 months. A worker is entitled to 84 days paid maternity leave within a leave cycle if the new born dies within a year of birth.

Pregnant worker must notify the employer and provide medical certificate 3 months prior to proceeding on Maternity leave. She may commence maternity leave four weeks prior to the expected date of confinement or earlier if a medical practitioner certifies that it is necessary for the worker or her child. Also, a worker is not allowed to work within 6 weeks of child's birth unless a medical practitioner certifies her to do so.

An employer is required to grant paid maternity leave to a worker four times during the entire tenure of her service.

**Source:** §33 of Employment and Labour Relations Act 2004

## Income

The maternity leave is awarded with full pay. Maternity leave benefits are paid by the employer.

Social Insurance provides a lump sum of up to 12 weeks of the insured worker's average daily wage in the six months before the 20<sup>th</sup> week of pregnancy. The lump sum may be paid in two parts: four weeks before and eight weeks after childbirth (four weeks after childbirth for a stillborn child).

**Source:** §33 of Employment and Labour Relations Act 2004, § 45(b) of the National Social Security Fund Act 1997; ISSA Country Profile Tanzania, 2017

## Protection from Dismissals

It is unfair for an employer to dismiss a female worker due to her pregnancy or any other reason connected with her pregnancy in all aspects of employment.

**Source:** §37(3b) of Employment and Labour Relations Act 2004

## Right to Return to Same Position

According to the Employment and Labour Relations Act, a female worker has the right to return to same job/position and resume her employment on the same terms and conditions after availing her maternity leave.

**Source:** §33 of Employment and Labour Relations Act 2004

## Breastfeeding

In accordance with the Employment and Labour Relations Act, a female worker is entitled to the nursing breaks of maximum 2-hour duration per day.

**Source:** §33 of Employment and Labour Relations Act, 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)

**Tanzania has not ratified 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:

- Occupational Health and Safety Act, 2003

## Employer Cares

Occupational Health and Safety Act, 2003 makes it obligatory for the employer to provide for health, safety and welfare for all his workers and ensure rehabilitations of affected workers.

It is obligatory for an occupier to provide and maintain plant and systems and procedures of work that are safe and without risk to workers' health. Employer must ensure safety and absence of risks to health in connection with the use, handling, storage and transport of articles and substances. Provision of such information, instruction, training and supervision of workers is very crucial to maintain safe and healthy workplace. Means of access to and egress from the workplace should be safe and without risks. Precautionary measure should be taken to eliminate or mitigate any hazards or potential hazard to the safety and health of workers.

Safety devices must be provided and maintained in every workplace. Workers must not get exposed to radiations; irritants; hazardous machinery and equipment; or harmful animals and insects; or infectious agents or allergies; or hazardous chemicals; or hazardous environments while doing work as agricultural worker.

Workplace and work environment that is safe, without health risks and adequate as regards facilities and arrangements for the worker's welfare at work should be maintained. Workers should be well

informed of any risks and imminent danger they are exposed to and they should participate in the application and review of safety and health measures.

Employer must also ensure proper cleanliness; supply of clean and safe drinking water; sufficient and suitable sanitary conveniences; adequate washing facilities; accommodation for clothing; first aid facilities; and suitable seating at rest time.

Preventive and protective measures should be taken after proper risk assessment (at least once a year) to ensure that all chemicals, machinery, equipment, tools and processes are safe and without risk to health and comply with the requirements of safety and health provisions in this Act.

Workers must use the safety equipment with care and act according to the prescribed instructions to preserve his health and protect him from getting injured. Worker must not involve in any action that tends to obstruct implementation of the instructions or the misuse or causing of damage or loss to the means provided for the protection, safety and health of other workers. He/she must report the employer or health and safety representative if any unhealthy or unsafe situation occurs.

**Source:** § 54-61, 65-76, 95 & 99 of Occupational Health and Safety Act 2003

## Free Protection

The Occupational Health and Safety Act 2003 require employers to provide protective equipment (PPE) to workers involved in hazardous work.

Provision and maintenance of effective protective equipment is mandatory for the employer if workers are exposed to any injurious or offensive substance or environment. The type of PPE needed varies depending on the nature of work being performed.

Workplace where toxic materials or substances are produced, handled or stored, the Chief Inspector may require the employer to provide additional bathing facilities including showers; arrange periodical examination by a recognized health institution; and provide additional protective clothing, goggles and effective screens.

Employers are not allowed to deduct from wages of a worker any amount in order to provide him anything in pursuance of Occupational Health & Safety Act.

**Source:** § 62, 63, 67(6) & 94 of Occupational Health and Safety Act 2003

## Training

In accordance with the Occupational Health and Safety Act 2003, it is the responsibility of an employer to provide instruction, training and supervision as is necessary to ensure health and safety at work of his workers. Every worker is to be made conversant with (trained on) the work he is supposed to perform, any article or substance he has to produce, process or transport and any plant/machinery he is supposed to operate. Training must be provided once in every two years.

**Source:** § 34 & 95 of Occupational Health and Safety Act 2003

## Labour Inspection System

The Occupational Health and Safety Act 2003 provides for vibrant labour inspection system. There are independent labour inspection systems in mainland Tanzania and Zanzibar. However, the inspection system is province based and there is no central inspection authority.

The Ministry of Labour, Youth and Employment Development (MoLEYD) is responsible for labour inspection. The inspection is split between labour officers working in MoLEYD (i.e. monitoring employment contracts, wages, working time etc.) and occupational safety and health inspectors who are part of the semi-autonomous Occupational Safety and Health Agency (OSHA). Other government institutions such as the National Social Security Fund also carry out autonomous inspections but with little coordination with MoLEYD or OSHA.

Labour inspectors are authorized to enforce the labour law, provide information and advice to employers and workers on how to comply with the provisions of labour law as well as to bring to the attention of the competent authority any misconduct or abuses that are not specifically covered by the existing provisions. Labour inspectors also assume other responsibilities including dispute resolution.

The national legislation provides inspectors the power to enter, inspect and examine the work premises at any time during day or night with or without prior notice; take measurements, photographs, samples and make recordings for the purpose of examination and investigation; ask for registers, documents, certificates and

notices to inspect, examine and copy them; interview anyone; if the inspector is a medical practitioner he/she may carry out medical examinations; and may take police officer along with him/her if necessary.

If an occupier or his representatives do not facilitate the inspector and obstruct the execution of his duties, he/she commits an offence and is liable to a fine up to 2 million shillings or to imprisonment up to three months or to both.

**Source:** §6-10 of Occupational Health and Safety Act 2003

# 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

**Tanzania 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:

- Employment and Labour Relations Act, 2004
- National Social Security Fund Act, 1997

## Income

In accordance with Employment and Labour Relation Act 2004, every worker certified by a medical practitioner is entitled to paid sick leave (sickness benefit) for a period of 126 days in a leave cycle of 36 month. The worker must have been employed with the same employer for at least six months in the 12 months before the sickness began or be employed on a seasonal basis by the same employer.

Full wages are paid for the first 63 days of sick leave and half of the wages are paid for the remaining 63 days.

**Source:** §32 of Employment and Labour Relations Act 2004; ISSA Country Profile Tanzania, 2017

## Medical Care

Medical benefits are available for insured workers and these include preventive and curative care, medicine, clinical pathology and x-rays, laboratory tests, hospitalization, minor and major surgery. These benefits are limited to the medical services provided by doctors, nurses and other medical providers in authorized hospitals.

**Source:** §42 of the National Social Security Fund Act 1997, §52 of the Social Security Laws (Amendments) Act 2012

## Job Security

In accordance with the section 102 of Occupational Health and Safety Act 2003, an employer may not dismiss a worker during his/her period of sickness and occupational disease. If a worker is unable to work due to bad health condition, his/her employer may terminate his contract in accordance with the procedure prescribed in Security of Employment Act, 1964.

**Source:** §102 of Occupational Health and Safety Act 2003; Security of Employment Act 1964

## Disability / Work Injury Benefit

Work injuries include commuting accidents, accidents sustained during working hours; at the work place; or at a place where one would not have been except for his employment. They 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, the amount payable is 70% of average daily earning is paid until full recovery or certification of a permanent disability.

In the case of permanent partial disability, amount of compensation depends on the assessed degree of disability. If the assessed degree of disability is less than 30%, a lump-sum amount is paid. The maximum partial disability benefit is 84 times the insured person's average monthly earnings, according to the assessed degree of disability.

If the insured person requires the constant attendance of others to perform daily functions, 25% of the permanent disability benefit is paid.

In the case of temporary disability, an insured worker, after certification from medical board, can get temporary disablement benefit as 70% of his average daily earning immediately before the work injury occurred or the occupational disease began is paid for up to 24 months or until full recovery or certification of permanent disability. The incapacity must last at least three days after the work injury occurred or the occupational disease began.

In the case of fatal injury, dependents (widow/widower/minor children/parents) receive survivors' benefit. The widow(er) or cohabiting partner is entitled to either a monthly pension of 40% of the full permanent disability benefit the deceased would have been entitled to receive or a lump sum of two times the full permanent disability benefit. The orphan pension is 20% (40% for full orphans) of the full permanent disability benefit the deceased would have been entitled to receive is paid to those orphans younger than 18 (no age limit is observed for students and disabled).

In case, there are no other eligible survivors, 40% of the full permanent disability benefit is paid for totally dependent parents, siblings, grandparents, and grandchildren; a lump sum is paid if these survivors were partially dependent.

**Source:** § 39-40 of the National Social Security Fund Act 1997 (last amended in 2015); ISSA Country Profile Tanzania, 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).

**Tanzania has not ratified the Conventions 102, 121, 128, 130 and 168.**

### *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:

- National Social Security Fund Act, 1997 (last amended in 2015)

## Pension Rights

National Social Security Fund Act, 1997 provides for both full and partial/early pension. For full pension, a worker must have attained 60 years of age with at least 180 months (15 years) of contributions. An early pension is also available to workers from the age of 55 years. It is reduced form of total pension and is paid from ages 55 to 59 (men) or ages 50 to 54 (women).

If a worker does not meet requirements of full or partial pension, there is also an old-age grant. The monthly pension is calculated by multiplying the accrual rate of 1/580 by the number of contribution months and by the insured person's Annual Pensionable Emoluments (APE), divided by 12. If the insured person chooses to receive part of the pension as a lump sum, the pension is calculated using 75% of APE. The lump sum is calculated by multiplying the accrual rate of 1/580 by the number of contribution months and by 25% of the APE, multiplied by a commutation factor of 12.5.

In case of early retirement, the pension is reduced by 3.6% of the insured earnings used to calculate pension for each 12 months period the pension is taken before age 60. The early pension must be at least equal to the minimum pension.

The old-age grant is provided at age 60 with less than 180 months of contribution and is equal to the average of the last sixty months of contributions before retirement

multiplied by the number of months of contributions.

**Source:** §23-27 of the National Social Security Fund Act 1997 (last amended in 2015); ISSA Country Profile Tanzania, 2017

## Dependents' / Survivors' Benefit

National Social Security Fund Act, 1997 provides for survivor benefit for dependents including a widow(er) and children younger than age 18 (age 21, if a full-time student, no age limit for disabled). If a worker dies and he/she has met the requirements of entitlement to old age or invalidity pension or was already getting it, his dependents are entitled to survivors' benefit.

If there are no dependent children, 100% of the deceased worker's pension is paid to the widow(er). This pension is paid for 2 years only if widow(er) is younger than 45 years or does not have a child younger than 15 years at the time of insured worker's death. If there are dependent children, widow/widower would be paid 40% of the pension and 60% of the pension would be divided among the children. Pension is split equally in case of more than one widow.

If there is no widow/widower, 100% of the pension is divided among the dependent children (under 18 years or 21 years if receiving full time education). Survivors' Pension is available for life or until marriage for widow/widower over the age of 45 years.

Survivors may choose to receive part of the pension as a lump sum, which is calculated by multiplying the accrual rate by 25% of the insured person's Annual Pensionable Emoluments (APE), multiplied by a commutation factor of 12.5.



If there is no surviving spouse or child, parents of the deceased may be paid 100% of the survivor's pension.

**Source:** § 33-36 of the National Social Security Fund Act 1997 (last amended in 2015); ISSA Country Profile Tanzania, 2017

## Unemployment Benefits

No provision in law for unemployment insurance and benefits.

## Invalidity Benefits

National Social Security Fund Act, 1997 provides for invalidity benefit in the case of non-occupational accident/injury/disease resulting into permanent invalidity. An insured person is entitled to invalidity benefit on at least 66.7% loss of earning capacity with at least 180 months of contribution or 36 months of contributions, including at least 12 months in the 36 months immediately before the disability began. A medical examination may be required by a medical board of doctors appointed by the Ministry of Health assesses the disability.

The monthly pension is calculated by multiplying the accrual rate by the number of contribution months and by the insured person's Annual Pensionable Emoluments (APE), divided by 12. If the insured person chooses to receive part of the pension as a lump sum, the monthly pension is calculated using 75% of APE. The lump sum is calculated by multiplying the accrual rate by the number of contribution months and by 25% of the APE, multiplied by a commutation factor of 12.5. The accrual rate is 1/580 for the first 180 months of contributions and 1/1200 for additional months of contributions.

Disability grant is paid as a lump sum amount if the insured worker is assessed with at least 66.7% loss of earning capacity but has less than 180 months of contributions

**Source:** §28-32 of the National Social Security Fund Act 1997 (last amended in 2015); ISSA Country Profile Tanzania, 2017

# 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.

**Tanzania 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 in any aspect of employment (appointment, promotion, training and transfer) on the basis of union membership or participation in union activities, filing of a complaint against an employer, race, colour, sex, marital status, family responsibilities, pregnancy, religion, political opinion, national extraction or social origin, temporary absence due to illness, age, trade union membership, disability/HIV-AIDS, or absence from work during maternity leave. (Conventions 111, 156, 158, 159 and 183)

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

## Regulations on fair treatment:

- The Constitution of the United Republic of Tanzania, 1977 (amended in 2005)
- Employment and labour Relations Act, 2004
- The Penal Code, 1945

## Equal Pay

In accordance with the Constitution of Tanzania, all human being are equal before the law. The Constitution also recognizes the right to work and the right to just remuneration. All persons working according to their ability are remunerated according to the measure and qualification for the work.

The Employment and labour Relations Act, 2004 also requires every employer to take steps to ensure that men and women workers are paid equally for work of equal value.

**Source:** §12-13 & 23 of the Constitution of Tanzania; §7(10) of the Employment and labour Relations Act 2004

## Sexual Harassment

Sexual harassment at workplace is considered a form of discrimination and it is prohibited by law and is a part of the Penal Code.

The perpetrator may be imprisoned for a term up to five years or liable to a fine up to two hundred thousand shillings or to both, and may also be ordered to pay compensation to the victim as determined by the Court.

Unwelcome sexual advances by words or actions used by a person in authority, in a workplace or any other place, constitutes the offence of sexual harassment. No prosecution for an offence can be instituted or continued where the complaint is made by the alleged victim at any time more than sixty days after the occurrence of the event constituting the offence.

**Source:** §7 of the Employment and labour Relations Act 2004; §138(D) of the Penal Code 1945

## Non-Discrimination

In accordance with the Constitution, discrimination means to satisfy the needs, rights or other requirements of different persons on the basis of their nationality, tribe, place of origin, political opinion, colour, religion, sex or station in life such that certain categories of people are regarded as weak or inferior and are subjected to restrictions or conditions whereas persons of other categories are treated differently or are accorded opportunities or advantage outside the specified conditions or the prescribed necessary qualifications except that the word “discrimination” shall not be construed in a manner that will prohibit the Government from taking purposeful steps aimed at rectifying disabilities in the society.

Employment and labour Relations Act, 2004 also prohibits discrimination, directly or indirectly, against a worker in any employment policy on the basis of colour, nationality, tribe or place of origin, race, national extraction, social origin, political opinion or religion, sex, gender, pregnancy, marital status or family responsibility,

disability, HIV/aids, age or station of life. However, it is not discrimination to take affirmative action measures consistent with the promotion of equality or the elimination of discrimination in the workplace; to distinguish, exclude or prefer any person on the basis of an inherent requirement of a job; or to employ citizens in accordance with the National Employment Promotion Services Act, 1999. Any person who contravenes these provisions commits an offence. If convicted, such person would be liable to a fine not exceeding five million Tanzanian Shillings.

**Source:** §13 of the Constitution of Tanzania, § 7 & 102 (3) of the National Employment Promotion Services Act 1999

## Equal Choice of Profession

Women can work in the same industries as men. No restrictions could be located in laws.

# 11/13 MINORS & YOUTH

## **ILO Conventions**

Minimum Age: Convention 138 (1973)

Worst Forms of Child labour: Convention 182 (1999)

**Tanzania 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:

- The Constitution of the United Republic of Tanzania, 1977 (amended in 2005)
- Employment and Labour Relations Act, 2004
- Law of the Child Employment Act, 2009

## Minimum Age for Employment

In accordance with provisions of Employment and Labour Relations Act, 2004, minimum age for employment is 14 years. A child of fourteen years of age may only be employed to do light work, which is not likely to be harmful to the child's health and development. Employment of a child must not affect the child's attendance at school, participation in vocational orientation or training programmes approved by the competent authority or the child's capacity to benefit from the instruction received.

The Constitution of Tanzania provides the right to access education and every citizen is free to pursue education and technique of his/her choice and according to their abilities.

A child cannot be permitted to work during school hours. A child who is still attending school cannot be required or permitted to work for more than three hours per day. A child of 14 years and above who is on leave or has completed his compulsory education or is not in school for any other justifiable reasons may be employed to work in an establishment for not more than 6 hours per day. A child cannot be made to work for more than three consecutive hours without at least one hour of rest.

**Source:** §5 of the Employment and Labour Relations Act 2004; §11 of the Constitution of Tanzania; §3-10 of the Employment and Labour Relations (General) Regulations, 2017

## Minimum Age for Hazardous Work

The minimum age for hazardous work is 18 years. A person may not employ or engage a child in any kind of exploitative labour. This includes employment that is inappropriate for a person of that age; that places at risk the child's well-being, education, physical or mental health, or spiritual, moral or social development or where the child receives inadequate remuneration.

Any person who contravenes any of the provisions of related to exploitive labour commits an offence and is, on conviction, liable to a fine of not less than one hundred thousand shillings or to imprisonment for a term of three months or to both.

It is unlawful to employ or engage a child in any type of hazardous work. Work is considered to be hazardous when it poses a danger to the health, safety or morals of a person.

Hazardous work includes going to sea; mining and quarrying; portage of heavy loads; manufacturing industries where chemicals are produced or used; work in places where machines are used; and work in place such as bars, hotels and places of entertainment. Night work (between 8pm and 6am) and overtime work is also prohibited for children. 2017 Regulations have a long list of hazardous works prohibited for children under 18 years.

**Source:** § 5(3) of Employment and labour

Relations Act 2004, § 77-86 of the Law of the Child Employment Act 2009; §3(2) and first schedule of the Employment and Labour Relations (General) Regulations, 2017

# 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.

**Tanzania 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:

- The Constitution of the United Republic of Tanzania, 1977 (amended in 2005)
- Employment and Labour Relations Act, 2004
- Penal Code, 1945

## Prohibition on Forced and Compulsory Labour

The Constitution of Tanzania prohibits all forms of forced labour. The Employment and Labour Relations Act, 2004 also prohibits all forms of forced labour. Forced labour includes bonded labour or any work exacted from a person under the threat of a penalty and to which that person has not consented. Any person who procures, demands or imposes forced labour, commits an offence.

A person who unlawfully compels others to labour against their will commits an offence. The Child Law prohibits imposing of forced labour or bonded labour on children. A person who contravenes the provision related to forced labour from Child Law commits an offence and is, on conviction, liable to a fine of not less than two hundred thousand shillings or to imprisonment for a term of six months or to both.

**Source:** §25(2) of the Constitution of Tanzania; §6 of the Employment and Labour Relations Act 2004, §80 of the Law of the Child Act 2009

## Freedom to Change Jobs and Right to Quit

Workers have the right to change jobs after serving due notice on their employer. For more information, please refer to the section on employment security.

**Source:** §41 of the Employment and Labour Relations Act 2004

## Inhumane Working Conditions

Working time may be extended beyond normal working hours of forty-five hours per week and nine hours a day. However, total hours of work inclusive of overtime must not exceed twelve hours a day and 50 hours in a 4-week cycle except in cases of emergency.

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

**Source:** § 19 of the Employment and Labour Relations Act 2004

# 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)

**Tanzania 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:

- The Constitution of the United Republic of Tanzania, 1977 (amended in 2005)
- Employment and Labour Relations Act, 2004

## Freedom to Join and Form a Union

The Constitution of Tanzania provides for freedom of association while the Employment and Labour Relations Act allows the workers and employer to establish and join unions.

According to the Employment and Labour Relations Act, trade union is any number of employees associated together for the purpose, whether by itself or with other purposes, of regulating relations between employees and their employers or the employers' associations to which the employers belong.

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

The unions must get registered with the Ministry by filing their statutes and rules; a prescribed form (properly completed and signed by the secretary of organisation or federation); a certified copy of the attendance register and minutes of its establishment meeting; and any further information required by the Registrar. A trade union is registered if the Registrar is satisfied that the organisation has fulfilled all the requirements and issues a registration certificate to the organization. Filing of registration form has to be done

again in case of any change in statutes and administration.

An employer is not allowed to interfere in a trade union's affairs. Employer may deduct union dues from the wages of the members only after their written consent. Discriminatory behaviour is prohibited for the employer on the basis of union affiliation or participation in union activities.

**Source:** §20 of the Constitution of Tanzania; §9, 45-50 & 61 of the Employment and Labour Relations Act 2004

## Freedom of Collective Bargaining

Employment and Labour Relations Act, 2004 allows for collective bargaining in all enterprises.

Collective agreement is a written agreement concluded by a registered trade union and an employer or registered employers' association on any labour matter.

In order to bargain collectively, employer or employer's association and the recognized trade union must bargain in good faith and in a reasonable way. Employer must also provide reasonable resources and information to unions involved in collective bargaining. Persons involved in bargaining have to keep confidential the information provided by the employer.

A collective bargaining agreement must be in writing and signed by the parties. A collective agreement is binding on the parties to the agreement, any members of the parties to the agreement, and workers who are not members of a trade union party to the agreement (if the trade union is

recognised as the exclusive bargaining agent) unless the agreement states otherwise. Any party to an agreement may terminate the agreement on reasonable notice unless the agreement states otherwise. The copy of agreement must be lodged with the Labour Commissioner.

A recognised trade union and an employer or an employers' association may conclude a collective agreement establishing a forum for workers' participation in a workplace. The Labour Commissioner facilitates any discussions concerning the establishment of a forum for workers participation in any workplace taking into account any code of good practice published by the Council on workers participation.

Labour, Economic and Social Council (LESCO), established under the Labour Institutions Act, is a 16-member Council with 4 representatives each from government, employer and worker groups. Four other members are appointed for their expertise in labour, economic and social policy formulation. The Council advises the Minister on national labour market policy, any proposed labour law before it is submitted to cabinet. It also collects and compiles information and statistics relating to the administration of the labour laws.

**Source:** §66-74 of the Employment and Labour Relations Act 2004; §9 of the Employment and Labour Laws (Miscellaneous Amendments) Act, 2015; §3-11 of the Labour Institutions Act 2004

## Right to Strike

According to the Employment and Labour Relations Act, strike means a total or partial stoppage of work by employees if the stoppage is meant to compel their

employer, any other employer, or an employers' association to which the employer belongs, to accept, modify or abandon any demand that may form the subject matter of a dispute of interest.

Compulsory recourse to arbitration, long and complex conciliation and mediation procedures prior to strike actions generally restrict the right to strike. There is a compulsory 30-day mediation period before lawful strike action may be taken. Strike is prohibited to the workers engaged in essential services except when a collective agreement provides for minimum services during a strike and that agreement has been approved by the Essential Services Committee.

Strike is also prohibited for the worker bounded by an agreement that requires issues in dispute to be referred to arbitration; or bounded by a collective agreement or an arbitration award that regulates the disputes in question; or bounded by a wage determination that regulates the issues in dispute during the first year of determination. Members of union must approve strike by secret ballot. Strike is lawful if the dispute is of interest and all the methods of dispute resolution (conciliation, meditation and arbitration) fail. Members of union must inform the employer at least forty-eight hours prior to their intention to strike.

Strikers are prohibited from picketing (in support of a strike or in opposition to a lawful strike), locking the employers in the premises and preventing employers from entering the premises.

The Act prohibits the employer from hiring replacement worker during lawful strike or in a lockout.

A trade union may call a secondary strike in support of a lawful strike (primary strike) if fourteen days' notice of the commencement of the secondary strike has been given to the secondary employer. The secondary strike may pressurize the employer to resolve the dispute that gives rise to primary strike.

Employers also have the right to lockout workers. This right is subject to the same rules and restrictions as the right to strike.

**Source:** §20 of the Constitution of Tanzania, §75-85 of the Employment and Labour Relations Act 2004

# QUESTIONNAIRE

## DECENTWORKCHECK.ORG

## Check

Decent Work Check Tanzania is a product of WageIndicator.org and  
www.mywage.org/tanzania



National Regulation exists



National Regulation does not exist

## 01/13 Work &amp; Wages

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

## 02/13 Compensation

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

## 03/13 Annual Leave &amp; Holidays

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

## 04/13 Employment Security





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

## 05/13 Family Responsibilities





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

## 06/13 Maternity &amp; Work





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

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





## 07/13 Health & Safety

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

Tanzania scored 40 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.