



DECENT WORK CHECK

ZAMBIA 2023

Iftikhar Ahmad

WageIndicator Foundation - www.wageindicator.org

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

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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	10
04/13 EMPLOYMENT SECURITY	13
05/13 FAMILY RESPONSIBILITIES	19
06/13 MATERNITY & WORK	21
07/13 HEALTH & SAFETY	25
08/13 SICK LEAVE & EMPLOYMENT INJURY BENEFIT	28
09/13 SOCIAL SECURITY	32
10/13 FAIR TREATMENT	35
11/13 MINORS & YOUTH	39
12/13 FORCED LABOUR.....	42
13/13 TRADE UNION	44
QUESTIONNAIRE.....	48

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 Republic of Zambia, 2016/Draft Bill of Rights 2016
2. Employment Code Act, 2019
3. Minimum Wages and Conditions of Employment (General) Order, 2011 (amended in 2012)
4. Minimum Wages and Conditions of Employment (Shop Workers) Order, 2011 (amended in 2012)
5. Minimum Wages and Conditions of Employment (Domestic Workers) Order, 2011 (amended in 2012)
6. Factories Act, 1966
7. Occupational Health & Safety Act No. 36 of 2010
8. Workers' Compensation Act (No. 10 of 1999)
9. National Pension Scheme Act (No. 40 of 1996)
10. Anti-Gender Based Violence Act 2011
11. Penal Code 1931, last amended in 2012
12. Anti-Human Trafficking Act, 2008
13. Industrial and Labour Relations Act, 1993

The text in this document was last updated in May 2023. For the most recent and updated text on Employment & Labour Legislation in Zambia, please refer to: <https://mywage.org/zambia>

01/13 WORK & WAGES

ILO Conventions

Minimum wage: Convention 131 (1970)

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

Zambia has ratified the Conventions 95, 117 and 131.

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:

- Employment Code Act, 2019
- Minimum Wages and Conditions of Employment Act, 1982
- Minimum Wages and Conditions of Employment (General) Order, 2011 (amended in 2012)
- Minimum Wages and Conditions of Employment (Shop Workers) Order, 2011 (amended in 2012)
- Minimum Wages and Conditions of Employment (Domestic Workers) Order, 2011 (amended in 2012)

Minimum Wage

The Minimum Wages and Conditions of Employment (General) Order 2011 defines minimum wage as the lowest wage that may be paid to an employee while the Minimum Wages and Conditions of Employment (Domestic Workers) Order 2011 defines minimum wages as the lowest wages which may be paid to a domestic worker.

The Minister (for Labour) may prescribe wage rates for different categories of workers in an employment through a statutory order if he/she is of the opinion that there is no other effective way of regulating the minimum wages or working condition for those groups especially in the absence of collective bargaining.

In pursuance of this provision, Minister for Labour has issued three different statutory instruments, i.e., Minimum Wages and Conditions of Employment (General) Order, 2011, the Minimum Wages and Conditions of Employment (Shop Workers) Order, 2011, and the Minimum Wages and Conditions of Employment (Domestic Workers) Order, 2011 sets minimum wage

and working conditions for certain employment groups. These Statutory Orders were first amended in 2012 and now in 2018 whereby the minimum wage rates have been increased. The total minimum wage includes allowances like Transport Allowance, Lunch Allowance and Housing Allowance. All of these allowances are specified under different statutory wage orders.

Employment Code Act of 2019 has repealed the Minimum Wages and Conditions of Employment Act. The new law provides for Labour Advisory Committee, an ad hoc committee of the Tripartite Consultative Labour Council. Labour Advisory Committee is a tripartite-plus committee with two members each from government, employer, and worker organizations. There must also be two persons with knowledge and experience in determination of minimum wages and conditions of employment. The Committee must also include a representative of the national institution, responsible for statistics.

The Labour Advisory Committee may inquire into the wages and conditions of employment in any undertaking or sector in order to recommend minimum wages and conditions of employment; and review at least every two years and make recommendations, to the Minister, on the minimum wages and conditions of employment for any group of employees. Procedure for making a statutory order regulating wages is not prescribed by the Minimum Wages and Conditions of Employment Act. However, the Act stipulates that the relevant trade union must be consulted before making any statutory order regarding a group of workers. Law does not impose any frequency of adjustment in minimum wage rates. However, any person affected by a

statutory order made under this section may apply to the Minister for a review of such order.

Currently, Labour Office under the Ministry of Labour and Social Security does all the monitoring related to compliance with the law. The Government through the Ministry of Labour and Social Security has the legal mandate to suspend the operating license of the defaulting entity. Non-compliance with the Minimum Wages and Conditions of Employment Act results in a fine of up to 200,000 penalty units.

Government of Zambia has promulgated Employment Code Act of 2019 which repeals and replaces the Employment Act, 1965, the Employment (Special Provisions) Act, 1966, the Employment of Young Persons and Children Act, 1933 and the Minimum Wages and Conditions of Employment Act, 1982.

Source: §98-105 of the Employment Code Act of 2009; §3 of the Minimum Wages and Conditions of Employment (General) Order, 2011 (amended in 2012 and 2018); § Minimum Wages and Conditions of Employment (Shop Workers) Order, 2011 (amended in 2012 and 2018); §3 of the Minimum Wages and Conditions of Employment (Domestic Workers) Order, 2011 (amended in 2012 and 2018)

For updated minimum wage rates, please refer to the section on minimum wages (<https://wageindicator.org/salary/minimum-wage/zambia/>)

Regular Pay

Employment Code Act, 2019 defines wages as “pay, remuneration or earnings, however designated or calculated, capable

of being expressed in terms of money and fixed by a contract of employment which are payable by an employer to an employee for work done or to be done or for services rendered or to be rendered”.

In accordance with the Employment Code Act of 2019, an employer is under the obligation to pay the worker when due and payable on hourly, daily, fortnightly, monthly basis. The piece rate employees have to be paid on the completion of their tasks however wages of piece rate, daily/hourly employees can be accumulated and paid after a month, if agreed between the parties. Law requires payment of wages at regular intervals within five (5) days on the completion of wage period for which wages are payable.

Wages are paid in legal tender directly to the employee or, on written request, by cheque or postal order or money order or directly to the bank account. Wage payment can also be made to the person authorised by the employer in writing.

In kind payment, in addition to wages, is allowed. This payment is customary or agreed to by the employee or provided for in a collective agreement or in accordance with any written law, provided that any such payment, being an allowance in kind, shall be for the personal use and benefit of the employee, and his family, and it must not be in the form of liquor or drugs.

Deduction from wages is allowed in case of contribution in any fund or scheme approved by the Minister; damage/loss done by the worker; repayment of loan; and such other amounts as may be prescribed by the Minister through statutory instrument.

Deduction is prohibited from wages payable to an employee or any amount

paid to such employee as an advance of wages in consideration of, or as a reward for, providing employment for such employee or for retaining such employee in employment. The employer must keep the record of wages and the deductions made from the wages.

An employer may not limit the right of an employee to dispose of his/her wages. An employer may establish a shop to sell provisions for workers however workers may not be compelled in any way to make purchases from that shop. Employer is required to explain it to the worker the wages and conditions on payment of wages to a worker before commencement of employment.

Government of Zambia has promulgated Employment Code Act of 2019 which repeals and replaces the Employment Act, 1965, the Employment (Special Provisions) Act, 1966, the Employment of Young Persons and Children Act, 1933 and the Minimum Wages and Conditions of Employment Act, 1982.

Source: §66-71 of the Employment Code Act of 2009

02/13 COMPENSATION

ILO Conventions

Compensation overtime: Convention 01 (1919)

Night work: Convention 171 (1990)

Zambia 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 Code Act, 2019

Overtime Compensation

In line with the Employment Code Act of 2019, normal working hours are 8 hours a day and 48 hours a week, spread over 6 working days. The weekly hour limit for watchperson is 60 hours, spread over 06 days.

Work done in excess of normal weekly working hours is considered as overtime and is compensated by the premium of at least 150% of the normal hourly wage rate. Law does not clearly specify the limits to overtime. The lesser working hours may be stipulated in an employment contract or collective agreement. In such a case, working hours can be increased to 48 hours per week without paying overtime.

In order to calculate hourly rate of pay, a worker's monthly wages must be divided by 208 hours. For guards and watchpersons, the monthly wages are divided by 240 hours.

Government of Zambia has promulgated Employment Code Act of 2019 which repeals and replaces the Employment Act, 1965, the Employment (Special Provisions) Act, 1966, the Employment of Young Persons and Children Act, 1933 and the Minimum Wages and Conditions of Employment Act, 1982.

Source: §74-75 of the Employment Code Act of 2009

Night Work Compensation

Employment Code Act of 2019 defines night as the “period between 18:00 hours in the evening and 06:00 hours in the morning”. In accordance with the General Wages Order 2011, workers working between 18:00 hours and 06:00 hours are paid hourly rate of categories I & II (3,646 Kwacha). These employees would also be paid an additional rate of 100-kwacha shift differential for hours worked between these hours.

On the other hand, the Shop Workers' Wages Order requires a shift differential of 500 kwacha for these hours.

Source: §2(5) of the Minimum Wages and Conditions of Employment (General) Order, 2011 (amended in 2012); §3(4) of the Minimum Wages and Conditions of Employment (Shop Workers) Order, 2011 (amended in 2012)

Compensatory Holidays / Rest Days

In extraordinary circumstances, workers may perform work on weekly rest days and public holidays. There is no provision of compensatory rest day when a worker has to perform work on a weekly rest day or a public holiday except in the case of domestic worker who can be granted time-off in lieu of overtime allowance. There is no provision for compensatory holiday for workers working on a public holiday.

Source: §7(2) of the Minimum Wages and Conditions of Employment (Domestic Workers) Order, 2011 (amended in 2012)

Weekend / Public Holiday Work Compensation

Workers may be required to work on weekly rest days and public holidays with a premium pay for it. When a worker performs work on Sunday and Public Holidays, he/she receives wages at a premium rate of 200% of the normal hourly wage rate. If it is normal for some class of employees to be working on public holidays, such employees would be entitled to such wages as agreed under collective agreement or an individual contract of service.

Source: §75(3) of the Employment Code Act of 2009; §4(2) of the Minimum Wages and Conditions of Employment (General) Order, 2011 (amended in 2012); §4(2) of the Minimum Wages and Conditions of Employment (Shop Workers) Order, 2011 (amended in 2012); §7(2) of the Minimum Wages and Conditions of Employment (Domestic Workers) Order, 2011 (amended in 2012)

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.

Zambia 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 Code Act, 2019
- Minimum Wages and Conditions of Employment Act, 1982
- Minimum Wages and Conditions of Employment (General) Order, 2011 (amended in 2012)
- Minimum Wages and Conditions of Employment (Shop Workers) Order, 2011 (amended in 2012)
- Minimum Wages and Conditions of Employment (Domestic Workers) Order, 2011 (amended in 2012)

Paid Vacation / Annual Leave

The Employment Code Act of 2019 provides for annual leave to all workers on completion of twelve months of service. The full-time workers are entitled to at least 2 days of annual leave/paid holidays for one month of service. The total annual leave is 24 calendar days per year and is independent of weekly rest days and Public Holidays.

While the earlier law limited the calculation of annual leave benefit to basic pay, the Employment Code Act takes into account full pay, i.e., basic pay, allowances and the cash equivalent of any allowances in kind applicable for a period not exceeding one month, but does not include payments in respect of any bonus.

The annual leave benefit formula is:

$(FP \times D)/26 \text{ Days}$

where FP = full pay

D=number of accrued leave days

Employees are entitled to one month's basic pay as well as other allowances for a

period of one month prior to proceeding on leave. Part time employees are also allowed paid leave of absence in proportion to the number of hours worked in a month (a full time worker works 48 hours per week). An employer pays the entire amount, including holiday allowance, immediately before the worker proceeds to leave. Casual and temporary employees are not entitled to annual leave.

Schedule of annual leave is mutually agreed between the parties. If the employment contract expires before a worker could acquire the right to annual leave, compensation for leave is paid as two days full pay for each completed month of service. If a worker is not granted annual leave during the 12 consecutive months after leave becoming due, employer must pay wages in lieu of leave yet not taken.

Source: §36 and 37 of the Employment Code Act of 2009; §5 of the Minimum Wages and Conditions of Employment (General) Order, 2011 (amended in 2012); §5 of the Minimum Wages and Conditions of Employment (Shop Workers) Order, 2011 (amended in 2012)

Pay on Public Holidays

Workers are entitled to paid holidays during Festival (public and religious) holidays. These include memorial holidays and religious holidays (Christian origin).

The Public Holidays are usually 11 in number. It includes New Year's Day, Youth Day (12th March), Good Friday, Holy Saturday, Labour Day (1st May), African Freedom Day (25th May), Heroes Day (First Monday in July), Unity Day (Tuesday following Heroes Day), Farmers Day (First

Monday in August), Independence Day (24th October), and the Christmas Day.

Wages and Conditions of Employment (Shop Workers) Order, 2011 (amended in 2012)

The workers are entitled to a fully paid public holiday if he/she does not, without the permission of his employer or other reasonable excuse, absent himself from duty either on the day immediately preceding or on the day following such public holiday. Amount of payment received during public holidays is the basic pay, the cash equivalent of any food which may from time to time be provided, and working or other allowances where applicable up to one month, but does not include payments in respect of any bonus.

Source: §2 & Schedule of Public Holiday Act, 1964; §35 of the Employment Code Act, 2019

Weekly Rest Days

While the earlier Employment Act 1965 had no clear provision on weekly rest days, the Employment Code Act of 2019 requires a rest day of at least 24 consecutive hours in every period of 7 consecutive days.

Under the new law, the weekly rest day can be any day of the week on which workers are not required to work under the contract of employment. Shop Workers' Wages Order, however, clearly specifies that shop workers, other than managers, must not be employed on a Sunday.

Employers are further required to allow a meal break of one hour and one health break of at least 20 minutes or two health breaks of at least 10 minutes each.

Source: §76-77 of the Employment Code Act, 2019; §3(1)(f) & 5(2) of the Minimum

04/13 EMPLOYMENT SECURITY

ILO Conventions

Convention 158 (1982) on employment termination

Zambia has 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 Act, 1965
- Minimum Wages and Conditions of Employment Act, 1982
- Minimum Wages and Conditions of Employment (General) Order, 2011 (amended in 2012)
- Minimum Wages and Conditions of Employment (Shop Workers) Order, 2011 (amended in 2012)
- Minimum Wages and Conditions of Employment (Domestic Workers) Order, 2011 (amended in 2012)

Written Employment Particulars

In accordance with the Employment Code Act 2019, there are two types of contracts only, i.e., oral and written contracts. Employment Act does not require contracts to be in writing unless required by this Act or some other law. Even in the case of oral contracts, the law requires preparation of a "record of service" in duplicate to be handed over to an employee within one month of commencement of contract. The record of contract must contain the following: the name and sex of the employee and his nationality; the name, address and occupation of the employer; the date of the employee's engagement and the capacity in which he is to be employed; the type of contract; the place of engagement; the rate of wages and any additional payments in kind; and the intervals of payment.

The written contract is required in the case of contracts of six months or longer duration or contracts of Foreign Service or for some specific tasks which is expected not to be completed within six months. A written contract of service will include all particulars of an employee, employer,

wages, place of work, etc. Employers are required to read and explain the terms of employment contract of employment to the employee. Employees enter into the contract voluntarily and with full understanding of the terms of that contract. The written contract must be signed by the employee or he/she puts the thumb/finger impression to indicate his/her consent and agreement to the terms and conditions specified in it. This contract is enforceable after attestation in triplicate under the relevant office, one copy for each party and third copy for the relevant government office. A written contract of service should not be binding on the family of an employee.

An employer may, prior to entering into a contract of employment with an employee, require the employee to be medically examined by a medical doctor for purposes of determining the fitness of the employee to undertake the work for which the employee is proposed to be employed.

Source: §14-24 of the Employment Code Act, 2019 (first and second schedules under law)

Fixed Term Contracts

A contract of employment may take one of the following forms:

- i. Permanent contract (expires on retirement unless terminated);
- ii. Long term contract (contract of more than 12 months, renewable for a further term);
- iii. Task specific contract (terminates on completion of task);
- iv. Probationary contract (3 months)

Zambian labour Law prohibits casualization. Casualization is defined as an

“employment practice where an employer, without permissible reason, engages or reengages an employee on a temporary or fixed basis, to perform work which is permanent in nature that results, without justifiable reason, in the different treatment of an employee compared to a full-time or other category of employees of the employer; or which has the effect of enabling the employer to avoid any obligations, or depriving an employee of any rights under this Act.

The permissible reasons include the following:

- i. engagement under a contract of apprenticeship;
- ii. engagement for a probationary period;
- iii. temporary employment;
- iv. seasonal employment;
- v. flexibilisation;
- vi. employment due to a temporary increase in the volumes of work which is expected to last for less than 12 months;
- vii. employment of a person who is not a citizen and is to work, subject to a work permit for a defined period;
- viii. the position of the employee is funded by an external source for a limited period;
- ix. the employee is retained by the employer past the normal or agreed retirement age;
- x. the terms of employment of the employee are regulated by a written law or public policy; or
- xi. engagement of a management employee, with the consent of that employee

A short-term contract is the contract with duration of less than 12 months. There is

no clear provision on the length of a single fixed term contract including renewals.

Source: §7 & 19 of the Employment Code Act, 2019

Probation Period

While the earlier law had no clear provision on probationary periods, the Employment Code Act of 2019 allows probationary period for a maximum term of 3 months in order to determine a worker's suitability for appointment. The probationary period can be extended for a further period of 3 months, making the total duration as 6 months.

Either party may terminate the employment contract after serving 24-hour notice. Employment is confirmed after successful completion of probationary period. Assessment of a probationary worker must be completed and conveyed to the worker before completion of probation. Where employer is satisfied with the worker's performance, he must notify the worker of employment confirmation in writing. A worker who is reemployed by the same employer for the same job within 2 years from the date of contract termination is not required to go through probation again, provided that the termination was not performance related.

Source: §27 of the Employment Code Act, 2019

Notice Requirement

A contract of employment terminates in the manner stated in the contract of employment or in any other manner (as stated in the Employment Code Act), except that where an employer terminates the

contract, the employer must give reasons to the employee for the termination of the employee's contract of employment. Contract termination without valid reason is not allowed. Valid reasons include those connected with the capacity or conduct of an employee or based on the operational requirements of an undertaking. A worker's contract may not be terminated on account of conduct or performance without giving the employee an opportunity to be heard.

A contract of employment expires: at the end of the term for which it is expressed to be made; on the death of the employee before the end of the term specified in the contract; on the employee attaining the applicable retirement age, where the contract of employment is permanent in nature; or in any other manner in which a contract of employment lawfully expires or is deemed to expire.

An employment contract may not be terminated based on the following reasons:

- i. union membership or participation in union activities outside working hours or, with the consent of the employer, within working hours;
- ii. seeking office as, acting or having acted in the capacity of, an employee's representative;
- iii. the filing of a complaint or the participation in proceedings against an employer involving alleged violation of laws or recourse to administrative authorities;
- iv. a discriminatory ground under Employment Code Act (refer to the topic on non-discrimination);
- v. family responsibilities relating to taking care of a member of an employee's immediate family;
- vi. absence from work during maternity or paternity leave; or
- vii. temporary absence from work

during sick leave or injury

A worker is entitled to termination notice or payment in lieu of notice except in cases of gross misconduct. The notice period is generally specified under the employment contract. If it is not clearly provided under the contract of employment, the minimum duration is 24 hours for a contract of employment not exceeding one month; 14 days for a contract of employment ranging between one to three months; and 30 days for a contract of employment of more than three months. The notice to terminate a contract of employment of more than six months shall be in writing.

An employer is prohibited from giving termination notice during a period of leave taken under this Act; or which runs concurrently with any period of leave taken under this Act. Employer may pay in lieu of notice where termination notice is not served. If a worker refuses to work during notice period, the employer may deduct, from any money due to the employee on termination, the amount that would have been due to the employee if the employee had worked during the notice period. Task specific contracts as well as time specific contracts terminate on the completion of task and expiry of fixed period respectively without any need for termination notice. Probationary contract can be terminated on 24-hour notice.

Where an employer intends to terminate a contract of employment by reason of redundancy, the employer must give notice of at least 30 days to the employee or a representative of the employee of the impending redundancy and inform the representative on the number of employees (if more than one to be affected) and the period within which the termination is intended to be carried out;

The employment contract can be written or oral. The oral employment contract terminates at the end of notice period and no specific grounds are required for its termination. However, specific procedural requirements are followed in case of summary dismissal and redundancy, as provided by the law. The written employment contract terminates by the expiry of the term for which it is expressed to be made; or by the death of the employee before such expiry; or in any other manner in which a contract of service may be lawfully terminated or deemed to be terminated whether under the provisions of this Act or otherwise. In case of sickness or accident, due to which an employee is unable to fulfil a written contract of service, the contract may be terminated on the report of a registered medical practitioner.

Where a contract is terminated at the initiative of the employer, employer is required to give reasons to the employee for termination of employment. An employment contract cannot be terminated unless there is a valid reason for termination connected with worker's capacity or conduct or the operational requirements of the undertaking. The following have been specified as reasons for unfair dismissals:

- a. Union membership or participation in union activities outside working hours or within working hours with the consent of the employer;
- b. seeking office as an employees' representative;
- c. the filing of a complaint, the participation in proceedings against an employer involving alleged violation of laws or recourse to administrative authorities;
- d. race, colour, sex, marital status, family responsibilities, pregnancy, religion, political opinion or

- affiliation, ethnicity, tribal affiliation or social status of the employee; or
- e. absence from work during leave or a rest period in accordance with a written law.

Either party can terminate a contract by serving a notice or paying in lieu thereof. According to the Employment Act, notice period for terminating an oral employment contract is as follows unless an agreement specifies longer notice duration:

- a. 1 day (24 hours) when the contract is for a period of less than a week;
- b. 14 days when the contract is a daily contract under which wages are payable at intervals not exceeding 1 month (and not on daily basis); and
- c. 30 days when the contract is for a period of one week or longer

Notice to terminate the contract may be written or oral and may be given at any time.

In the case of economic dismissals/redundancies, employer has to provide notice of at least 30 days to the employee representative on impending redundancies and informing the representative on the number of employees affected by redundancy and the time period during which such contract termination would be carried out.

Source: §49-53 of the Employment Code Act, 2019

Severance Pay

Severance Pay is defined under the Employment Code Act of 2019 as "wages and benefits paid to an employee on

contract termination.” The Act provides for the severance pay in the following cases:

- 1) Termination of employment contract of a fixed duration: at least 25% of the employee’s basic pay earned during the contract period;
- 2) Termination of employment due to redundancy: 2 months’ basic pay for each completed year of service;

Employee’s death in service: 2 months’ basic pay for each completed year of service;

Medical discharge: at least 3 months’ basic pay for each completed year of service.

Source: §38(6) and 54 of the Employment Code Act, 2019

05/13 FAMILY RESPONSIBILITIES

ILO Conventions

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

Zambia has not ratified 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:

- Constitution of the Republic of Zambia, 2016

Paternity Leave

There was no provision in the Zambian law on paternity leave earlier. The Employment Code Act of 2019 has clear provisions on the paternity leave. A male employee, having at least one year of service prior to the start of paternity leave, is entitled to at least 5 continuous working days paternity leave. The said employee must be the father of the child; the employee has submitted a birth record of the child to the employer; and the leave is taken within 7 days of the birth of a child.

The Draft Constitution of Zambia supports availability of adequate paternity leave in recognition of the nurturing role of both parents. However, this provision has yet not been translated into a law. The Tripartite Consultative Labour Council (TCLC), a representative body of workers, employers and the government, has recommended for an unpaid paternity leave of up to 7 days.

Bill of Rights is not part of the 2016 Constitution of Zambia (Amendment) Act and will be subject to a referendum during the 2016 general elections being held on 11 August 2016. The referendum was held and although 71% of voters voted in favour of the amendments, since the turnout was only 44%, below the 50% threshold required to validate the result, the amended Bill of Rights 2016 could not be approved. Thus, the Bill of Rights contained in 1996 Constitution is still applicable.

Source: §60(3) of the Constitution of the Republic of Zambia, 2016/Draft Bill of Rights 2016; §46 of the Employment Code Act, 2019

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. In line with the Employment Code Act of 2019, a female worker is entitled to one day's absence from work each month without having to produce a medical certificate or give reason to the employer. This is referred to as Mother's Day in the law.

Source: §47 of the Employment Code Act, 2019

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.

Zambia has ratified Convention 103 only.

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:

- Constitution of the Republic of Zambia, 2016/Draft Bill of Rights 2016
- Employment Act, 1965
- Minimum Wages and Conditions of Employment (General) Order, 2011 (amended in 2012)
- Minimum Wages and Conditions of Employment (Shop Workers) Order, 2011 (amended in 2012)

Free Medical Care

Medical care is available to all citizens in government hospitals at fairly low cost. The Zambian Constitution ensures the availability of adequate maternal and child health care facilities.

No maternity related statutory benefits are provided under labour laws.

Bill of Rights is not part of the 2016 Constitution of Zambia (Amendment) Act and will be subject to a referendum during the 2016 general elections being held on 11 August 2016. The referendum was held and although 71% of voters voted in favour of the amendments, since the turnout was only 44%, below the 50% threshold required to validate the result, the amended Bill of Rights 2016 could not be approved. Thus, the Bill of Rights contained in 1996 Constitution is still applicable.

Source: §60(3)(c) of the Draft Bill of Rights 2016

No Harmful Work

It is obligatory for an employer to provide special protection to women during pregnancy from harmful work.

An employer cannot require a female worker to perform overtime work two months prior to the estimated date of delivery. A female worker, subject to the recommendation of health practitioner, who is pregnant should not be made to perform duties requiring continuous standing; or which might be detrimental to that worker's health and the unborn child. If a work is detrimental to the female worker's health or that of her child, the employer must offer the employee suitable alternative employment, if practicable, on terms and conditions that are not less favourable than worker's terms and conditions of employment. A female worker is exempt from working at night if the worker is pregnant and in the third trimester of pregnancy or nursing a child who is aged 6 months or under.

A female worker should not resume work within 6 weeks of the date of child delivery unless a medical doctor certifies that the worker is fit to resume work.

Source: §31(5c) of the Gender Equity and Equality Act No. 22 of 2015; §42 & 44 of the Employment Code Act, 2019

Maternity Leave

Employment Code Act of 2019 provides for maternity leave of 14 weeks, up from 12 weeks under the Employment Act of 1965. The compulsory post-natal leave is at least 6 weeks. In the event of multiple births, maternity leave can be extended to 18 weeks. A female worker must give a written notice to the employer, along with a medical certificate, of her intention to proceed on maternity leave on a specific date and to return to work on completion of maternity leave.

A female worker who gives birth to a premature child is entitled to extension of maternity leave (beyond 14 weeks) for a period recommended by a medical doctor. A female worker may, immediately on expiry of maternity leave before resuming duties and with the approval of the employer, proceed on sick, annual, compassionate or other leave to which the employee is entitled.

A female worker with one year of continuous service with the same employer is also eligible for 6-week maternity leave after the miscarriage or still birth if she suffers a miscarriage during the third trimester of pregnancy or bears a still born child. The miscarriage or still birth shall be duly certified by a medical officer.

Source: §41 of the Employment Code Act, 2019

Income

Maternity leave is fully paid leave for a worker with two years of continuous service with the employer from the date of first engagement or since the last maternity leave taken and a medical certificate confirming the pregnancy. It is funded by the employer with no support from government.

Source: §7 of the Minimum Wages and Conditions of Employment (General) Order, 2011 (amended in 2012); §7 of the Minimum Wages and Conditions of Employment (Shop Workers) Order, 2011 (amended in 2012); §41(2) of the Employment Code Act, 2019

Protection from Dismissals

A women worker cannot be dismissed during the period of her pregnancy. Similarly, she cannot be penalized or put to a disadvantage for reasons connected with her pregnancy and maternity leave.

The Employment Act 1965, amended in 1982, also provided that an employer is considered guilty of an offense if he/she terminates the contract of service or imposes any other penalty or disadvantage on a female employee within six months after delivery. This provision is not found in the current law.

Source: §7(4) of the Minimum Wages and Conditions of Employment (General) Order, 2011 (amended in 2012); §7(4) of the Minimum Wages and Conditions of Employment (Shop Workers) Order, 2011 (amended in 2012); §41(2) of the Employment Code Act, 2019; §31(5b) of the Gender Equity and Equality Act No. 22 of 2015

Right to Return to Same Position

The earlier legislation did not provide for right to return to the work on expiry of maternity leave. However, the Employment Code Act of 2019 explicitly grants this right to a female worker. On expiry of maternity leave, the female worker has the right to return to the job which the employee held immediately before the maternity leave or to a reasonably suitable job on terms and conditions not less favourable than those which applied to the employee before the maternity leave.

Source: §41(7) of the Employment Code Act, 2019

Breastfeeding

Employment Code Act 2019 provides for nursing breaks. A female worker who is nursing an unweaned child (under the age of 6 months) is entitled each working day, at a time convenient to the worker and having regard to the child's needs, a nursing break of maximum one-hour duration. Instead of one break, two breaks each of 30-minute duration can also be provided.

The nursing breaks are available for a period of 6 months from the date of delivery. Nursing breaks are counted as working hours.

Earlier, there was no provision in the labour law however the Draft Constitution required the State to promote the availability of adequate child care facilities.

Bill of Rights is not part of the 2016 Constitution of Zambia (Amendment) Act and will be subject to a referendum during the 2016 general elections being held on 11 August 2016. The referendum was held and although 71% of voters voted in favour of the amendments, since the turnout was only 44%, below the 50% threshold required to validate the result, the amended Bill of Rights 2016 could not be approved. Thus, the Bill of Rights contained in 1996 Constitution is still applicable.

Source: §60(3)(d) of the Draft Bill of Rights 2016; §45 of the Employment Code Act, 2019

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)

Zambia 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, 1966
- Occupational Health & Safety Act No. 36 of 2010

Employer Cares

The Factories Act and the Occupational Health and Safety Act deal with the occupational health and safety in Zambia. The Factories Act requires the employer to provide clean working environment, adequate ventilation, first aid, lighting, sanitary facilities and fire extinguisher. The Factories Act also requires the employer to prevent overcrowding in the workplace. Factories Act contains provisions on Health, Safety and Welfare.

In accordance with the Occupational Health and Safety Act, it is a duty of the employer to ensure the health, safety and welfare of the employees at the workplace; and place and maintain an employee in an occupational environment adapted to the employee's physical, physiological and psychological ability. The employer must provide the work environment that is safe and without any risk to the health and safety of the employees at their workplace.

The Employer must also take preventive measures including adequate first-aid arrangements to deal with emergencies and accidents; provide and maintain adequate supply of drinking water; and separate eating & resting areas free from poisonous or injurious substances.

An employer, on recommendations of the Director, is required to prepare a health and safety policy concerning the protection of the health and safety of the employees, including a description of the organisation

and arrangements for carrying out reviews to that policy. The employer has to provide plant and systems of work that are, so far as is reasonably practicable, safe and without any risks to human health and maintain them in that condition. The employer may also consult a health and safety representative for guidance and support.

A worker must also take reasonable care for his/her own health and safety and that of other persons who may be affected by his/her acts or omissions at the workplace.

Source: §16, 17 & 32 of the Occupational Health & Safety Act No. 36 of 2010; §19-75 of the Factories Act No. 2 of 1966, CAP. 441

Free Protection

If workers are exposed to any poisonous, injurious or offensive substances, suitable protective clothing and appliances (including goggles, screens) will be provided and maintained by the employer for the workers' use.

According to the Occupational Health and Safety Act, the employer is responsible to provide all appropriate protective clothing or equipment to be used in the workplace by employees, who in the course of employment, are likely to be exposed to the risk of bodily injuries, and adequate instructions in the use of such protective clothing or equipment. All the protective equipment are provided free of cost.

Every worker should be provided with personal protective equipment and protective clothing that must be used at all the times during working hours.

Source: §16(2)(i) of the Occupational Health & Safety Act No. 36 of 2010; §71 of

the Factories Act No. 2 of 1966, CAP. 441; Regulation 11 of the Factories (Benzene) Regulations (S. I. 179 of 1978), as amended up to S. I. No. 158 of 1993

Training

Employers are obliged to ensure that workers have been provided such information, instructions, training and supervision, especially on a machine or process likely to cause bodily injury, to protect the health and safety of employees at workplace.

Source: §16(2)(c) of the Occupational Health & Safety Act No. 36 of 2010; §35 of the Factories Act No. 2 of 1966, CAP. 441

Labour Inspection System

The Factories Act and the Occupational Health & Safety Act provides for a labour inspection system, however, due to resource constraints, it is not in line with the requirements of ILO Convention 081. The Occupational Health and Safety Act provides the enforcement powers of the inspectors including entering, inspecting, and examining any workplace.

The inspector has the power to enter, inspect and search the workplace; take samples; examine any document or article; require the production of any record, report or document; and interview anyone.

The labour inspector is authorised to send a written notice to the employer of the factory requiring such building, part of the building, machine, plant, matter, thing or practice to be vacated, repaired, removed, remedied or stopped, as the case may be, either forthwith or within such time as may be specified in such notice; and may issue

an order of closure of the workplace, in case of non-compliance to the act that is likely to cause death or bodily harm to an employee or any person in the factory's premises, Penalties for non-compliance include fine ranging from one hundred thousand penalty units to seven hundred thousand penalty units or an imprisonment for one to seven years. A court is also authorised to order remedy for the cause of contravention.

Source: §25-29 (Part-V) of the Occupational Health & Safety Act No. 36 of 2010; §103 of the Factories Act No. 2 of 1966, CAP. 441

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

Zambia 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:

- Constitution of the Republic of Zambia, 2016/Draft Bill of Rights 2016
- Employment Code Act, 2019
- Minimum Wages and Conditions of Employment Act, 1982
- Minimum Wages and Conditions of Employment (General) Order, 2011 (amended in 2012)
- Minimum Wages and Conditions of Employment (Shop Workers) Order, 2011 (amended in 2012)
- Minimum Wages and Conditions of Employment (Domestic Workers) Order, 2011 (amended in 2012)
- Workers' Compensation Act (No. 10 of 1999)

Income

The Employment Act provides for a fully paid sick leave in the event of temporary incapacity due to sickness or some accident. In order to avail fully paid leave, the worker must provide a valid medical certificate. The employer may continue to pay for longer period however it is not required under the law.

The length of paid sick leave depends on the type of employment contract. An employee on the short-term contract is paid full pay for the first 26 working days of the sick leave and thereafter, half pay (50%) for the next 26 working days of the sick leave. An employee on the long-term contract is paid full pay during the first three months of the sick leave and thereafter, half pay for the next three months of the sick leave. Long term contracts are all such contracts with duration in excess of 12 months.

In accordance with the General Wage Order and Shop Workers' Wages Order, a worker may be granted paid sick leave at full pay during the first three months and thereafter at half pay for the next 3 months. Shop Workers' Wages Order also provides for paid sick leave for 26 working days for the probationary employees.

Source: §6 of the Minimum Wages and Conditions of Employment (General) Order, 2011 (amended in 2012); §6(b) of the Minimum Wages and Conditions of Employment (Shop Workers) Order, 2011 (amended in 2012); §38 of the Employment Code Act, 2019

Medical Care

No statutory medical benefits are provided under the law. No relevant provisions could be located in law. Medical care is available to all citizens in government run hospitals at a low cost. Constitution also considers it a right to have access to health care services.

National Health Insurance Act of 2018 requires employers to register workers with the National Health Insurance Management Authority. It is a social insurance system, based on the contributions from workers and employers. Among other, the functions of the Authority will be to to implement, operate and manage the National Health Insurance Scheme; accredit health insurance healthcare providers; and develop a comprehensive benefit package to be accessed by members. The new law is yet to be implemented.

Bill of Rights is not part of the 2016 Constitution of Zambia (Amendment) Act and will be subject to a referendum during

the 2016 general elections being held on 11 August 2016. The referendum was held and although 71% of voters voted in favour of the amendments, since the turnout was only 44%, below the 50% threshold required to validate the result, the amended Bill of Rights 2016 could not be approved. Thus, the Bill of Rights contained in 1996 Constitution is still applicable.

Source: §52 of the Draft Bill of Rights 2016

Job Security

In accordance with the Employment Act, a contract may be terminated on the report of a medical practitioner, indicating that an employee is unable to fulfil a written contract due to illness or some accident. If an employee does not recover from illness after six months from the date of accident/illness, employer may discharge such an employee on the recommendation of a registered medical doctor.

Source: §7(4) of the Minimum Wages and Conditions of Employment (General) Order, 2011 (amended in 2012); §7(4) of the Minimum Wages and Conditions of Employment (Shop Workers) Order, 2011 (amended in 2012); §38(5) of the Employment Code Act, 2019

Disability / Work Injury Benefit

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

In the case of permanent incapacity/disability (100% disability), 50% of the monthly earnings when the disability began is paid. The maximum amount of

monthly earning is 800 kwacha. Constant attendance allowance is paid if temporary disabled person requires constant attendance of others.

In case of permanent partial disability, i.e., the assessed degree of disability is more than 10%; the amount of pension is 50% of the covered monthly earnings multiplied by the assessed degree of disability. If the assessed degree of disability is less than 10%, worker is entitled to a lump sum payment.

In the case of temporary disability, i.e., when the assessed degree of disability is 10% or less, 50% of the monthly earnings when the disability began are paid up to 24 months, provided that the medical certificate is provided. The minimum and maximum benefits vary according to the assessed degree of disability. Maximum monthly earning may not increase 800.00 kwacha.

In the case of fatal injury, dependents (widow/widower, children) receive survivors' pension which is 80% of the permanent total disability pension a deceased worker would have received, if assessed with permanent total disability, is paid to the widow/disabled widower. The survivors' pension ceases on remarriage and a lump-sum of 24 months' pension is paid. 15% of the permanent total disability pension a deceased worker was entitled to receive is paid for each unmarried orphan younger than 18 years. For each additional orphan, 5% of pension is added and divided equally among them. The monthly pension can be paid up to 08 orphans and the maximum pension paid to orphans is 50% of the total pension. Law also provides for funeral grant.

Source: §65-86 of the Workers'

Compensation Act, 1999; ISSA Country
Profile Zambia, 2019

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).

Zambia 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 Pension Scheme Act (No. 40 of 1996)

Pension Rights

For full pension, a worker must have attained 55 years of age (age 60 for persons whose insurance period began after August 14, 2015) with at least 180 months of contributions. Early Pension is available to workers having attained the age of 50 years (age 55 for persons whose insurance period began after August 14, 2015) with at least 180 months of contributions. The general retirement age is now 60 years. The early retirement age is 55 years while the late retirement age is 65 years.

The monthly pension is an insured worker's average monthly earnings multiplied by the number of months of contributions and the replacement rate. The amount of monthly pension ranges from 20%-40% of the national average monthly earnings. The early pension is at least 20% of the national average monthly earning.

If a worker does not meet the eligibility conditions for pension, he/she would be eligible for old-age settlement as a lump-sum payment.

Source: §18-22 of the National Pension Scheme Act No. 40 of 1996; ISSA Country Profile Zambia, 2019

Dependents' / Survivors' Benefit

National Pension Scheme Act provides for survivors' benefit to the dependents only if, at the time of death, the worker was in recopy of retirement pension or invalidity

pension; was entitled to invalidity pension or had at least 60 months of contributions. Eligible survivors include the spouse and children younger than age 18 (age 25 if a student, no limit if disabled).

The amount of survivor pension is equal to the old-age or disability pension the deceased received or was entitled to receive at the time of death. If the deceased was not of pensionable age at the time of death, the disability pension is paid according to the date of death as the date of onset of disability. In case of more than one eligible survivor, the pension is split according to a schedule in law. The survivors' pension is available to the spouse until death (or remarriage). If the surviving spouse is younger than 45 years and has no children with the deceased worker, a limited pension is paid for two years. If the deceased worker was already in receipt of old age or disability pension, this pension is replaced by the survivors' pension.

A lump-sum payment is also available to survivors if the deceased worker did not meet the qualifying conditions. Funeral grant, as a lump sum of 10 times the minimum pension, is paid to the survivor, only if the deceased received or was entitled to receive an old-age or disability pension, or had at least 12 months of contributions in the 36 months before death. If there is no survivor, the grant is paid to the person who paid for the funeral.

Source: §29-34 of the National Pension Scheme Act No. 40 of 1996; ISSA Country Profile Zambia, 2019

Unemployment Benefits

Unemployment Benefits are not provided in Zambia.

Invalidity Benefits

The National Pension Scheme Act provides for invalidity benefit in the case of non-occupational accident/injury/disease resulting into permanent invalidity. Invalidity pension is available if a worker suffers from permanent invalidity or is under pensionable age but has either met requirements for old age pension or has paid at least 60 monthly contributions of which 12 were paid in the period of 36 months immediately preceding the beginning of invalidity.

The minimum amount of invalidity pension is 20% of national average earnings. Amount of invalidity pension is either calculated monthly old-age pension or the minimum monthly pension, whichever is greater, is paid. The insured is credited with 1.5% of indexed monthly earnings for each year of work lost from the time the disability began until the normal retirement age.

Source: § of the National Pension Scheme Act No. 40 of 1996; ISSA Country Profile Zambia, 2019

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.

Zambia has ratified the Conventions 100 and 111 only.

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 Republic of Zambia, 2016/Draft Bill of Rights 2016
- Anti-Gender Based Violence Act 2011
- Penal Code 1931, last amended in 2012

Equal Pay

Employment Code Act of 2019 requires employers to pay equal wages for work of equal value. The Draft Constitution provides for equality before the law and equal protection and benefit of law. There is also a provision for gender equality commission. The Constitution also provides that men and women have right to equal treatment including the right to equal opportunities. A person in employment has the right to fair remuneration commensurate to the productivity or size of the enterprise. Bill of Rights is not part of the 2016 Constitution of Zambia (Amendment) Act and will be subject to a referendum during the 2016 general elections being held on 11 August 2016. The referendum was held and although 71% of voters voted in favour of the amendments, since the turnout was only 44%, below the 50% threshold required to validate the result, the amended Bill of Rights 2016 could not be approved. Thus, the Bill of Rights contained in 1996 Constitution is still applicable.

The Gender Equity and Equality Act provides equal remuneration, benefits and treatment in respect of work of equal value as well as equality of treatment in the evaluation of the quality of work for both men and women.

Source: §43, 51 & 54 of the Draft Bill of Rights 2016; §240 of the Constitution of Zambia (Amendment) Bill, 2015; §31(1e) of the Gender Equity and Equality Act No. 22 of 2015; §5(5) of the Employment Code Act of 2019

Sexual Harassment

Sexual harassment is prohibited under the Anti-Gender Based Violence Act 2011. The Act defines harassment as engaging in a pattern of conduct that induces the fear of imminent harm or feelings of annoyance and aggravation in a person, including sexual contact without the consent of the person with whom the contact is made and making unwanted sexual advances; following, pursuing or accosting a person or making persistent, unwelcome communication with a person. It also includes watching, loitering outside or near a building where the harassed person resides, works, carries on business, studies or happens to be; repeatedly making phone calls or using a third party to make phone calls to the harassed person, whether or not conversation ensues; repeatedly sending, delivering or causing the delivery of offensive or abusive letters, telegrams, packages, facsimiles, electronic mail or other offensive objects or messages to the harassed person; or engaging in any other menacing behaviour.

Criminal Sanctions are provided under the Penal Code. A person convicted of sexual harassment at the workplace is liable to imprisonment for a term of not less than 3 years but not exceeding 15 years.

The Gender Equity and Equality Act prohibit sexual harassment. It includes conduct or

contact of a sexual nature, such as the having physical contact, making advances, comments or innuendos without the consent of a person; being offensive, humiliating or intimidating to a person in a suggestive manner; or threatening or imposing a condition on a person for doing or undertaking anything or creating a hostile environment for an employee.

The Minister should develop and implement appropriate policy and procedures to eliminate sexual harassment. The said policy shall entitle a person who has been subjected to sexual harassment to raise a grievance and be guaranteed appropriate disciplinary procedures and action against the perpetrator. This Policy shall further entitle a person who has been subjected to sexual harassment to lodge a grievance with the Commission or an employer of the perpetrator where the conduct giving rise to the complaint has taken place at the workplace or in the course of being employed.

A person who has been subjected to sexual harassment need not have exhausted internal sexual harassment procedures before prosecution of the offence is commenced or civil proceedings are instituted.

Source: §3 of the Anti-Gender Based Violence Act 2011; §137(A) of the Penal Code 1931, last amended in 2012; §2, 17, 39 & 40 of the Gender Equity and Equality Act No. 22 of 2015

Non-Discrimination

The Employment Code Act of 2019 prohibits an employer from direct or indirect discrimination against a current or prospective employee on grounds of

colour, nationality, tribe or place of origin, language, race, social origin, religion, belief, conscience political or other opinion, sex, gender, pregnancy, marital status, ethnicity, family responsibility, disability, status, health, culture or economic grounds. The 2019 law prohibits direct or indirect discrimination on above grounds in respect of recruitment, training, promotion, terms and conditions of employment, termination of employment or other matters arising out of the employment.

However, it is not considered discrimination to take “affirmative action” measures consistent with the promotion of equality or the elimination of discrimination in an enterprise; distinguish, exclude or prefer any person on the basis of an inherent requirement of a job; restrict employment to citizens or restrict access to limited categories of employment where it is necessary in the interest of state security.

The draft Constitution prohibits discrimination on any grounds including birth, race, sex, origin, colour, age, disability, religion, conscience, belief, culture, language, pregnancy, health, marital, ethnic, tribal, social or economic status. Bill of Rights is not part of the 2016 Constitution of Zambia (Amendment) Act and will be subject to a referendum during the 2016 general elections being held on 11 August 2016.

The Constitution of 2016 also talks about establishment of Gender Equality Commission to promote the attainment and mainstreaming of gender equality.

Other than the above referred discriminatory grounds, the Employment Code Act of 2019 considers dismissals on the following grounds: union membership or participation in union activities outside

working hours or during working hours (with employer's consent); employee's representative; for filing of a complaint or the participation in proceedings against an employer; family responsibilities relating to taking care of a member of an employee's immediate family; absence from work during maternity or paternity leave; or temporary absence from work during sick leave or injury.

The Employment (Amendment) Act 2015 considers dismissals on the following grounds as unfair: race, colour, sex, marital status, family responsibilities, pregnancy, religion, political opinion or affiliation, ethnicity, tribal affiliation or social status of the employee.

In accordance with the Gender Equity and Equality Act, discrimination in employment on the basis of gender should be eliminated.

The Persons with Disabilities Act 2012 requires that no such person may be discriminated against on the basis of disability with regard to all forms of employment, including conditions of recruitment, hiring and employment, continuance of employment, the creation, classification and abolition of positions, the determination of wages, pension or other benefits, apprenticeship, promotion, career advancement and safe and healthy working conditions. The Act further allows fixation of employment quota for persons with disabilities in the public and private sectors.

Source: §27 of the Draft Bill of Rights 2016; §31 of the Gender Equity and Equality Act No. 22 of 2015; §35-39 of the Persons with Disabilities Act 2012; §5 and 52(4) of the Employment Code Act of 2019

Equal Choice of Profession

Women can work in the same industries as men as no restrictive provisions could be located in the laws. In accordance with the draft Bill of Rights 2016, a person has the right to choose a trade, an occupation or a profession, subject to limitations imposed by law.

In accordance with the Gender Equity and Equality Act, men and women are free to choose a profession and field of employment.

Source: §53 of the Draft Bill of Rights 2016; §31 of the Gender Equity and Equality Act No. 22 of 2015

11/13 MINORS & YOUTH

ILO Conventions

Minimum Age: Convention 138 (1973)

Worst Forms of Child labour: Convention 182 (1999)

Zambia has ratified both 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:

- Draft Constitution of the Republic of Zambia, 2014
- Employment Code Act of 2019

Minimum Age for Employment

Minimum age for employment is 15 years. The employers are not allowed to employ a person less than sixteen years of age unless authorised by Labour officer or where he/she is employed under an apprenticeship contract. A child may not be employed in a covered work site. A child aged between thirteen and fifteen years may be engaged in light work that is no likely to be harmful to the child's health or development; and prejudicial to that child's attendance at an institution of learning; or participation in vocational orientation or training approved by a competent authority or the child's capacity to benefit from the institution.

The Minister may, after consultation with the relevant trade unions and employers' associations, prescribe the employment of young children or young persons in any type of employment or work, if the Minister is satisfied that the health, safety and morals of the young children or young persons are fully protected; and young children or young persons have received adequate and specific instruction or vocational training in the relevant branch of activity.

The employer must maintain a register of all the young workers and make it available when required by a Labour Officer or Police officer or Assistant Officer. The register must contain general information such as their name and date of birth.

In accordance with the provisions of Bill of Rights provided under Draft Constitution of 2014, a person shall not engage a young person in an occupation or employment which would prejudice the health, education or interfere with the physical, mental or moral development of that young person. The Constitution also allows a young person may be employed for a wage, as prescribed. Bill of Rights is not part of the 2016 Constitution of Zambia (Amendment) Act and will be subject to a referendum during the 2016 general elections being held on 11 August 2016. The referendum was held and although 71% of voters voted in favour of the amendments, since the turnout was only 44%, below the 50% threshold required to validate the result, the amended Bill of Rights 2016 could not be approved. Thus, the Bill of Rights contained in 1996 Constitution is still applicable.

Employment of Young Persons and Children Act No. 10 of 1993 has been repealed by the Employment Code Act of 2019.

Source: §63 of the Draft Bill of Rights 2016; §82- 85 of the Employment Code Act of 2019

Minimum Age for Hazardous Work

Minimum Age for Hazardous Work is set as 18 years. A young person shall not be employed on any type of employment or work which, by its nature or the circumstances in which it is carried out, is likely to jeopardise the health, safety or morals of that young person. Young persons are prohibited from the employment or work that is detrimental to health, safety and morals.

The Prohibition of the Employment of Young Persons and Children (Hazardous Labour) Order provides a list of occupations that are considered to be hazardous for the employment of young persons and children. The Minister after consultation with the relevant trade unions and employers' associations, may authorise in writing the employment of young person not below the age of sixteen years of age in any type of employment or work, if satisfied that the health, safety and morals of the young persons are fully protected and that the young persons have received adequate and specific instruction or vocational training in the relevant branch of activity.

A young worker can be employed in a work of artistic performance by written permission prescribing the number of hours to be worked and the conditions under which the young person works as provided by the Minister. A young worker must not be employed in a task that constitutes a worst form of labour. Otherwise, the person is liable to a fine of two hundred thousand penalty units to one million penalty units, or imprisonment of five to twenty-five years, or both.

Young workers are also not allowed to work at night. However, young workers above sixteen years of age can be employed in industries that require shift work, but not in cases of emergency.

An employer may not employ a young person in an industrial undertaking, unless the young person is either employed under a contract of apprenticeship or is in possession of a certificate signed by an authorized officer authorizing the employment of a young person.

Bill of Rights is not part of the 2016 Constitution of Zambia (Amendment) Act

and will be subject to a referendum during the 2016 general elections being held on 11 August 2016. The referendum was held and although 71% of voters voted in favour of the amendments, since the turnout was only 44%, below the 50% threshold required to validate the result, the amended Bill of Rights 2016 could not be approved. Thus, the Bill of Rights contained in 1996 Constitution is still applicable.

Source: §63 of the Draft Bill of Rights 2016; The Prohibition of the Employment of Young Persons and Children (Hazardous Labour) Order, 2013 (S.I. No. 121 of 2013); §84 of the Employment Code Act of 2019

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.

Zambia 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 Republic of Zambia, 2016
- Employment Act, 1965
- Anti-Human Trafficking Act, 2008
- Penal Code, 1931

Prohibition on Forced and Compulsory Labour

Forced Labour is prohibited under the Constitution, Anti Human Trafficking Act 2008 and Penal Code.

The Anti-Human Trafficking Act defines forced labour as a labour or services obtained or maintained through threats, the use of force, intimidation or other forms of coercion or physical restraint.

Bill of Rights is not part of the 2016 Constitution of Zambia (Amendment) Act and will be subject to a referendum during the 2016 general elections being held on 11 August 2016. The referendum was held and although 71% of voters voted in favour of the amendments, since the turnout was only 44%, below the 50% threshold required to validate the result, the amended Bill of Rights 2016 could not be approved. Thus, the Bill of Rights contained in 1996 Constitution is still applicable.

Source: §31 of the Constitution of the Republic of Zambia/draft Bill of Rights 2016; §2 & 22 of the Anti-Human Trafficking Act, 2008; §263 of the Penal Code, 1931

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 on this, please refer to the section on employment security.

Inhumane Working Conditions

Working time may be extended beyond normal working hours of 48 hours in a week (for both general and domestic workers) and 60 hours in a week (for watchpersons). Law does not clearly specify the limits to overtime. In accordance with the Constitution, a person in employment has the right to decent working conditions.

Bill of Rights is not part of the 2016 Constitution of Zambia (Amendment) Act and will be subject to a referendum during the 2016 general elections being held on 11 August 2016. The referendum was held and although 71% of voters voted in favour of the amendments, since the turnout was only 44%, below the 50% threshold required to validate the result, the amended Bill of Rights 2016 could not be approved. Thus, the Bill of Rights contained in 1996 Constitution is still applicable. For more information on this, please refer to the section on compensation.

Source: §54(2) of the Draft Bill of Rights 2016; §3, 4(1) & 6 of the Minimum Wages and Conditions of Employment (General) Order, 2011 (amended in 2012)

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)

Zambia 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 Republic of Zambia, 2016
- Industrial and Labour Relations Act, 1993

Freedom to Join and Form a Union

The Constitution and the Industrial and Labour Relation Act provide for freedom of association and allow workers and employers to join and form unions. This right is regulated by the Industrial and Labour Relation Act.

Trade union is any group or organisation of employees registered as a trade union under the Industrial and Labour Relation Act whose principal objectives are the representation and promotion of interests of the employees and regulation of relations between employees and employers; and includes a federation of trade unions.

In accordance with the Zambian Constitution/draft Bill of Rights, workers have the right to form, join or participate in the activities and programmes of a trade union. A person must not be compelled to join a union and the parliament must provide the legislation for the registration of associations. Trade union members are free to determine their own administration, programmes and activities; and form and join a federation.

The union must get registered within six months of its date of formation. As prescribed by the Minister, an application signed by at least 50 members is submitted to the Commissioner. The application must be accompanied by two duly certified copies of the constitution of the proposed trade union; and other information or

document as may be required by the Commissioner by notice in writing addressed and delivered to the executive officer of the trade union within such period as may be determined by the Commissioner and specified in such notice.

Employer may deduct union dues from the wages of the members only after their written consent.

Bill of Rights is not part of the 2016 Constitution of Zambia (Amendment) Act and will be subject to a referendum during the 2016 general elections being held on 11 August 2016. The referendum was held and although 71% of voters voted in favour of the amendments, since the turnout was only 44%, below the 50% threshold required to validate the result, the amended Bill of Rights 2016 could not be approved. Thus, the Bill of Rights contained in 1996 Constitution is still applicable.

Source: §38 & 54 of the Draft Constitution of the Republic of Zambia, 2014; §4-27 of the Industrial and Labour Relation Act, 1993

Freedom of Collective Bargaining

Right to collective bargaining is guaranteed under the Constitution and recognized by the Industrial and Labour Relations Act. Collective bargaining means carrying on negotiations by an appropriate bargaining unit for the purpose of concluding a collective agreement. The Collective agreement is defined as an agreement negotiated by an appropriate bargaining unit in which the terms and conditions affecting the employment and remuneration of employees are laid down.

Collective bargaining may be undertaken at the level of an undertaking, through

negotiations between the management of the undertaking and the trade union representing the eligible employees; or at the level of an industry, though negotiations between the employers' organisation and the trade union representing the eligible employees.

Collective agreement must contain the date on which the agreement is to come into effect and the period for which it is to remain in force; and the methods, procedures and rules for reviewing, amending, replacing or terminating the collective agreement.

The parties to a collective agreement submit 05 signed copies within two weeks to the Commissioner, who further submits it to the Minister for the registration. An approved CBA come into force on the date on which it is approved or on a later date specified in the collective agreement. It remains in force for such period as specified in the agreement; and it binds the parties involved in it.

In case a bargaining unit is unable to conclude a new collective agreement before the expiration of the existing collective agreement, or where for any other reason the bargaining unit desires to extend the period during which the existing collective agreement is to remain in force, it may apply to the Minister at least 60 days prior to the expiration of the existing collective agreement.

Bill of Rights is not part of the 2016 Constitution of Zambia (Amendment) Act and will be subject to a referendum during the 2016 general elections being held on 11 August 2016. The referendum was held and although 71% of voters voted in favour of the amendments, since the turnout was only 44%, below the 50% threshold

required to validate the result, the amended Bill of Rights 2016 could not be approved. Thus, the Bill of Rights contained in 1996 Constitution is still applicable.

Tripartite Consultative Labour Council, established in 1993, consists of 21 members from the government, employers and workers. It is established to participate in policy formulation and implementation of economic and social policy; and to advise the government on all issues relating to labour matters, manpower development and utilization and any other matter referred to the Council by the Government.

Source: §54 of the Draft Constitution of the Republic of Zambia, 2014; §65-74 and 79-83 of the Industrial and Labour Relation Act, 1993

Right to Strike

Right to strike is provided under the constitution and it is regulated under the Industrial and Labour Relations Act. The long list of essential services and a long series of procedural requirements actually frustrate the right to strike.

In accordance with the Zambian Constitution, the worker has the right to go on a lawful strike. The Industrial and Labour Relations Act defines strike as the cessation of work or withdrawal of labour contrary to the terms and conditions of a contract by a body of persons employed in any undertaking acting in combination; or a concerted refusal or a refusal under a common understanding of any number of persons who are so employed to continue to work or provide their labour.

Peaceful strike is allowed only after all the methods of dispute resolution fail. Majority

members of union must approve strike by voting in favour of strike, which may commence ten days following the decision to do so and may continue for an indefinite period during which the dispute remains unresolved.

Workers are prohibited from participating in a strike that has not been authorised by a strike ballot taken in the manner provided by the constitution of a trade union under this Act; or it is not in contemplation or furtherance of a collective dispute to which the employee or trade union is a party. Otherwise the person is liable to a fine up to one thousand penalty units in case of a body corporate and a fine up to four hundred penalty units in all other cases.

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

Bill of Rights is not part of the 2016 Constitution of Zambia (Amendment) Act and will be subject to a referendum during the 2016 general elections being held on 11 August 2016. The referendum was held and although 71% of voters voted in favour of the amendments, since the turnout was only 44%, below the 50% threshold required to validate the result, the amended Bill of Rights 2016 could not be approved. Thus, the Bill of Rights contained in 1996 Constitution is still applicable.

Source: §54 of the Draft Constitution of the Republic of Zambia, 2014; §3, 5, 78 & 101 of the Industrial and Labour Relation Act, 1993

QUESTIONNAIRE



National Regulation exists



National Regulation does not exist

01/13 Work & Wages

NR

Yes

No

1. I earn at least the minimum wage announced by the Government
2. I get my pay on a regular basis. (daily, weekly, fortnightly, monthly)

02/13 Compensation

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

03/13 Annual Leave & Holidays

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

04/13 Employment Security

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

05/13 Family Responsibilities

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

06/13 Maternity & Work

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

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

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

07/13 Health & Safety

- 25. My employer makes sure my workplace is safe and healthy
- 26. My employer provides protective equipment, including protective clothing, free of cost
- 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
- 28. My workplace is visited by the labour inspector at least once a year to check compliance of labour laws at my workplace

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
- 30. I have access to free medical care during my sickness and work injury
- 31. My employment is secure during the first 6 months of my illness
- 32. I get adequate compensation in the case of an occupational accident/work injury or occupational disease

09/13 Social Security

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

10/13 Fair Treatment

- 37. My employer ensure equal pay for equal/similar work (work of equal value) without any discrimination
- 38. My employer take strict action against sexual harassment at workplace
- 39. I am treated equally in employment opportunities (appointment, promotion, training and transfer) without discrimination on the basis of:*

Sex/Gender

Race

Colour

Religion

Political Opinion

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

Nationality/Place of Birth

Social Origin/Caste

Family responsibilities/family status

Age

Disability/HIV-AIDS

Trade union membership and related activities

Language

Sexual Orientation (homosexual, bisexual or heterosexual orientation)

Marital Status

Physical Appearance

Pregnancy/Maternity

40. I, as a woman, can work in the same industries as men and have the freedom to choose my profession

11/13 Minors & Youth

41. In my workplace, children under 15 are forbidden
42. In my workplace, children under 18 are forbidden for hazardous work

12/13 Forced Labour

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

13/13 Trade Union Rights

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

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.

scored 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.