



DECENT WORK CHECK **ZANZIBAR** 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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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. Zanzibar Constitution, 1984
2. Employment Act No. 11 of 2005
3. Zanzibar Social Security Fund Act, 2005
4. Occupational Safety and Health Act No. 08 of 2005
5. Workmen's Compensation Act 1986, amended in 2005
6. The Children's Act, 2011
7. Penal Act (No. 6) of 2018
8. Trade Unions Act, 2001
9. Labour Relations Act No. 1 of 2005

01/13 WORK & WAGES

ILO Conventions

Minimum wage: Convention 131 (1970)

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

United Republic of Tanzania has ratified Conventions 95 and 131 only.

Summary of Provisions under ILO Conventions

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

Regulations on work and wages:

- Employment Act No. 11 of 2005

Minimum Wage

In accordance with the provisions of Employment Act, wages may be fixed through a contract of employment, collective bargaining agreement and through a wage order by the President on the recommendations of the Wages Advisory Board. The Wages Advisory Board has representation from all the concerned social partners, i.e., workers, employers, government, representative of informal sector and independent experts. The Board advises the government (Minister for Labour) on wages and other matters concerning the wage payment and reduction of wages in the public and private sector. It can also advise the Minister on minimum wages and proposals for fixing minimum wages for all or any group of employees in Zanzibar. While fixing or proposing the wages, the ability (of the employers) to pay the wages, cost of living in the country, and the impact on employment, poverty reduction and operation of small businesses is taken into consideration. The minimum wages for public and private sector employees in Zanzibar are announced through a Presidential Order.

No worker may be paid less than minimum wage however employers are not prohibited from paying more than the minimum wage agreed under a collective agreement or an individual employment contract.

Compliance with provisions of Employment Act including minimum wages is ensured by the labour inspectorate. If a worker is paid

less than the minimum wage, he/she may file a complaint with the Labour Commission. Payment of wages at a rate lower than the minimum wage is a liable offence and punished with a fine of at least 400,000 shillings and imprisonment of at least three months.

Source: § 91-97 & 106 of the Employment Act No. 11 of 2005

For updated minimum wage rates, please refer to the section on minimum wage.

Regular Pay

The Employment Act requires that wages must be paid in the legal tender, i.e., Tanzanian Schillings and any agreement to the contrary is deemed null and void. A ministerial order may provide for partial payment of wages in kind however not in the form of alcoholic beverages and noxious drugs. Wages, whether paid through cash or cheque, have to be paid during working hours on the working days and at the workplace. Wages are usually paid through cash however with the consent of the worker, the wages may directly be deposited into a bank account designated by the employee. Wages must be paid to an employee in person and in the event of death of such employee, the legal representative(s) are paid the wages and other terminal benefits.

An employer is required to pay the wages to the workers if the worker was present at the workplace however the employer failed to provide work in accordance with the contract. An employee, on the other hand, is not entitled to wages in respect of any period for which she is absent from work without a good cause. Unless there is a prior written agreement between the worker and the

employer, a worker engaged for one day is paid at the end of the day; a worker engaged by hour is paid at the end of that hour, day or week; a worker paid by fortnight or month is paid at the end of that fortnight or month; and an employee engaged in piecework is paid at intervals of no longer than a fortnight.

An employee cannot be obliged to make use of any shop(s) established by the employer for the use of his or her employees or services operated in connection with the undertaking. On the termination of contract, an employee must be paid wages and any other remuneration and accrued benefits to which he/she is entitled.

Deductions from workers' wages are not allowed unless these are deductions required or permitted for certain payments by the employer on the employee's behalf including taxes or contributions due from the worker to any provident, medical or pension fund or any other approved fund; any amounts ordered by a court for direct remittance to the spouse or other dependent relatives of the employee; and trade union dues/contributions.

Deduction can also be made to reimburse an employer for loss of damage only if the loss or damage occurred in the course of employment and was due to the worker's fault however the total deductions should not exceed one quarter (25%) of employee's remuneration.

Employers are required to provide pay slips to the workers indicating the amount and manner in which pay was calculated; indicate deduction(s), its purpose and the net wages paid.

Nonpayment of wages and illegal deductions from wages are both liable

offences punished by a fine of at least 400,000 shillings and imprisonment of at least three months (only in case of illegal deductions).

Source: §98-106 of the Employment Act No. 11 of 2005

02/13 COMPENSATION

ILO Conventions

Compensation overtime: Convention 01 (1919)

Night work: Convention 171 (1990)

United Republic of Tanzania has not ratified any of the above-mentioned Conventions.

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 Act No. 11 of 2005

Overtime Compensation

The statutory working hours are 08 hours a day and 42 hours a week. However, a collective agreement may allow that hours of work may be averaged over 4 months provided that the working hours don't go beyond 10 hours a day and 45 hours a week (on average) over the agreed period. If workers are employed in shifts, it is allowed to employ persons in excess of 08 hours a day and 42 hours a week if the average weekly work hours don't exceed 48 hours.

According to the Employment Act, the employer may not require or permit an employee to work overtime except in accordance with an agreement or more than 10-hours of overtime a week. The law also limits daily working hours to 12-hours thereby limiting overtime hours to 4-hours a day. However, a collective agreement can raise this 10-hour limit to 15-hours per week. The overtime hours can also be averaged over a period of 04 months. The overtime hours limit (10 or 15 hours) can be exceeded in case of an actual or threatened/imminent accident, force majeure, urgent work on machinery or plant. The overtime is paid at: at least double the normal wage rate (200% of the normal wage rate) for working overtime on weekly working days; at least two and a half times the normal wage rate (250% of the normal wage rate) for working on weekly rest days and public holidays; and at least three times the normal wage rate (300% of the normal wage rate) for the upper 7 hours if the collective agreement provides for 15 hours of overtime work in a week.

A Ministerial Order may provide for exclusion of persons holding managerial positions from above provisions, maximum number of working hours and rest days in respect of employment in particular occupations and overtime rates however no such Order could be located.

Source: §62-64 of the Employment Act No. 11 of 2005

Night Work Compensation

Work performed between 19:00 hours and 06:00 hours are considered night hours. However, for the night work to be paid at the premium rate of 105% of the normal daily wage rate, the night hours are considered 22:00 hours and 06:00 hours.

An employer and employee may agree on the above premium rate (of 105%) or proportionate time-off. However, if the night hours are the overtime hours, the night premium is calculated on the overtime rate (of 200% or 250% or even 300% of the normal wage rate).

Source: §3 & 66 of the Employment Act No. 11 of 2005

Compensatory Holidays / Rest Days

There is no provision in the law for compensatory rest for working on weekly rest day. The law however provides for the compensatory rest for working on a Public Holiday. If a worker works on a public holiday, he/she is entitled to a day's holiday with full pay in lieu of the public holiday.

Source: §67.2 of the Employment Act No. 11 of 2005

Weekend / Public Holiday Work Compensation

The Employment Act provides for granting extra pay to workers for working on weekly rest days and Public Holidays.

If an employee works on the weekly rest day, he/she is paid double the basic hourly wage (200%) for each hour worked during the period.

If a worker works on a public holiday, he/she is paid at least 200% of the normal wage.

Source: §65.3 and 67.2 of the Employment Act No. 11 of 2005

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.

United Republic of Tanzania has not ratified any of the above-mentioned Conventions.

Summary of Provisions under ILO Conventions

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

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

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

Regulations on annual leave and holidays:

- Employment Act No. 11 of 2005

Paid Vacation / Annual Leave

The Employment Act provides for 21 calendar days (07 days for every 04 months of service) of annual leave after one full year of service. Workers are paid their full wages during annual leave. The qualifying condition is that the worker must have worked at least six months during the year. The part time workers are entitled to annual leave on proportionate basis.

The timing of annual leave has to be agreed between the worker and the employer. The annual leave may be divided into two parts provided that the part of at least two uninterrupted working weeks' leave has to be granted within one year of entitlement and the remainder within 18 months of the end of year of entitlement. An agreement to relinquish annual leave or forgo it in lieu of compensation is null and void. An employee may, however, receive compensation for any unused annual leave on the termination of employment contract.

Source: §67 of the Employment Act No. 11 of 2005

Pay on Public Holidays

Workers are entitled to paid holidays during Festival (public and religious) holidays. These include memorial holidays and religious holidays (Christian and Muslim origin). The Public Holidays are usually fourteen (14) in numbers. These Holidays are New Year's Day (January 01), Zanzibar Revolution Day (January 12), Maulid (Birth

of the Prophet PBUH) Day, Good Friday, Easter Monday (April 01), Sheikh Abeid Amani Karume Day (April 7), Union Day (April 26), Workers Day (May 01), Peasants Day (August 08), Eid-el-Fitr (two days, Eid-el-Hajj (one day), Republic Day (December 09), and Christmas Day (November 25). If a public holiday coincides with the day of inactivity or Sunday, it is kept on those days and is no longer replaced. The Muslim holidays depend on the sighting of moon and their dates usually change every year.

Weekly Rest Days

Weekly rest period is provided under the Employment Act. Every worker is entitled to enjoy a weekly rest of at least 24 consecutive hours. A worker cannot be required to work for more than six consecutive days without a day's rest.

Source: §65 of the Employment Act No. 11 of 2005

04/13 EMPLOYMENT SECURITY

ILO Conventions

Convention 158 (1982) on employment termination

United Republic of Tanzania has not ratified the Convention 158.

Summary of Provisions under ILO Convention

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

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

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

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

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

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

Regulations on employment security:

- Employment Act No. 11 of 2005

Written Employment Particulars

Employment contract is a contract, whether in writing or oral, between the employer and the worker whereby the worker agrees to work for the employer in return for remuneration.

An employment contract may be concluded for permanent work (for indefinite time period), temporary work (for definite period), part-time work and daily work. An employer may conclude a written employment contract with a worker who has worked with the employer for a continuous period of six months if the employer still needs the services of a worker. It is illegal to employ a daily paid worker in work of permanent nature.

A temporary contract may be concluded for a period of six months to three years. Minister for Labour may issue regulations specifying special categories of service and employees who are allowed to work under temporary contract of service. An employment contract concluded for term exceeding six months must be drawn up in writing. Less duration contracts may be concluded orally and an oral contract expires if an employer still needs the services of a worker after 6 months. An employer is required to provide a copy of employment contract to the worker on the start of employment. Employer is also required to ensure that the worker understands all the terms of employment contract. An employee, while entering into an employment relationship, must undergo a medical examination at his own expense and produce a medical examination report stating that he is fit and capable of being employed in

the service so required. Every written employment contract must be attested to by a labour officer. Employment Act requires that an employment contract for employment outside the United Republic of Tanzania as well as the contract with a foreign worker for employment in Tanzania must be drawn up in writing. The Employment Act also specifies certain particulars which must be part of these written contracts like names and identities of the parties, nature of work, period of employment, wages and allowances, wages, allowances and annual leave, etc.

Source: §43-48 & 56-57 of the Employment Act No. 11 of 2005

Fixed Term Contracts

The labour Law prohibits hiring of fixed term contract workers for tasks of permanent nature. The Employment Act also considers it as an offence to employ a person as a daily paid worker in an employment of permanent nature.

A temporary contract may be concluded for a period of six months to three years. Thus, the maximum length of fixed term contracts including renewals (not clearly specified under the Law) is 36 months.

Minister for Labour may issue regulations specifying special categories of service and employees who are allowed to work under temporary contract of service.

Source: §44 & 45.2 of the Employment Act No. 11 of 2005

Probation Period

The trial/probationary period allows the employer to assess the skills of the employee

in his work, particularly in view of his experience, and the employee to determine whether the new job suits him.

The probationary period for a worker with permanent contract is 06 months from the date he/she was employed. This probationary period can be extended by 06 months (total 12 months). For a worker with temporary contract of employment concluded orally (which means less than six months in duration), the probationary period is 03 months. On the expiry of probationary period, an employee is deemed confirmed whether a letter of confirmation has been issued by the employer or not. During the probationary period, either party may terminate the employment contract by giving the other party 14 days' notice or paying in lieu of such notice.

Pregnancy or breast feeding and absence from work due to employee's sickness should not be considered as good cause for termination of employment contract during the probation period.

Source: §60 of the Employment Act No. 11 of 2005

Notice Requirement

An employment relationship terminates on expiry of the specified (fixed or part-time) term; reaching the retirement age; death of the worker; death of the employer if business ceases on the death; medical disability certified by a medical board; gross misconduct or incompetency of the worker; refusal of the worker to be transferred from one place to another; cessation of the enterprise for a period exceeding 03 months; and cessation of enterprise after one month from the date of occurrence of employer's bankruptcy or winding-up. The Employment

Act requires that there should be a valid reason for termination of the contract connected either with (i) the capacity/competency of the worker to do the work; or conduct of the employee at the workplace; or based on the operational requirements of the undertaking, establishment or services. Employer is required to notify the worker in writing about the decision of dismissal, reasons for such action and the date on which dismissal will take effect.

A dismissal/termination is considered unfair if it is based on, inter alia, the following grounds: ethnic, colour, religion, gender, marriage, family responsibility, pregnancy, political opinion, political affiliation, national extraction, social and place of origin; disability or HIV/AIDS status; maternity leave; temporary absence from work because of illness; affiliation to a trade union; acting or seeking to act as workers' representative; and participation in lawful activities of a trade union including strikes.

In the event of unfair dismissal, the Industrial Court may order for reinstatement or re-engagement in similar work or may award compensation. The reinstatement or reengagement order is given after considering the wishes of the employee, circumstances leading towards dismissal and extent of employee's contribution to the dismissal and practicability of such an order. The Court may also award compensation which cannot be less than six months' remuneration.

Before terminating an employment contract, employer is required to observe following notice period depending on the length of a worker's employment: at least 2 weeks for more than 06 months but less than one year of employment; at least 01 month for more

than 01 year but less than 05 years of employment; and at least 03 months for employment period of five years or more.

The same notice periods are applicable if an employee terminates the employment. However, if a worker has committed a gross misconduct or criminal offence, he/she will not be entitled to a notice period.

Source: §52-54,111-112 & 118-120 of the Employment Act No. 11 of 2005

Severance Pay

If an employee is found guilty of gross misconduct or serious criminal offence before expiry of fixed term, he/she may be dismissed without payment of any terminal benefits (severance pay) except such proportion of his/her contribution to pension or social security fund. (111.3)

Severance Pay is provided only in case an employee is terminated on ground of redundancy (operational requirements). In such a case, the worker is given 03 months' notice or pay in lieu of notice, severance pay and gratuity. Severance Pay in Zanzibar is equal to seven days' basic wage for each completed year of continuous service with the employer up to a maximum of 10 years. So, the maximum severance pay a worker can get is 70 days' basic wages. A collective agreement may provide for a larger sum as severance pay.

Source: §111(3) & 121(6-8) of the Employment Act No. 11 of 2005

05/13 FAMILY RESPONSIBILITIES

ILO Conventions

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

United Republic of Tanzania has not ratified both the Conventions 156 & 165.

Summary of Provisions under ILO Convention

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

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

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

Regulations on family responsibilities:

Paternity Leave

There is no provision in the law on paid or unpaid paternity leave for new father(s) on the birth of a child.

Parental Leave

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

Flexible Work Option for Parents / Work-Life Balance

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

06/13 MATERNITY & WORK

ILO Conventions

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

United Republic of Tanzania has not ratified the above-mentioned Conventions.

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:

- Zanzibar Social Security Fund Act, 2005
- Employment Act No. 11 of 2005

Free Medical Care

The Zanzibar Social Security Fund Act 2005 provides for the medical care benefits. An employer is required to register all the workers within fourteen days of the commencement of employment with the Social Security Fund. For medical care benefits, the limit has been set in the law. The maximum amount that can be withdrawn is accumulation of contributions at 3% of insurable earnings with interest. The contribution rate is 15% (10% by the employer and 05% by the worker)

Source: §26, 29 and Schedule 01 of the Zanzibar Social Security Fund Act 2005

No Harmful Work

The Employment Act provides for the protection of pregnant and nursing employees. If an employer certifies that a female pregnant or nursing employee may be prohibited from night work and/or overtime work to ensure her safety and health, the employer is bound to do that.

If the working conditions of an employee can't be adapted in her current post, she must be transferred to another post without loss of pay. The law also prohibits employing or assigning a female worker to work in any area using poisonous chemicals which may affect her fertility or pregnancy and exposure of female workers to benzene and ionizing radiations. Employer is required to ensure that a pregnant employee is not assigned to heavy duties and working hours are arranged

as such that the said employee is not put on duty at night.

Source: §84-87 of the Employment Act No. 11 of 2005

Maternity Leave

In general, workers are entitled to 03 months (13 weeks) of maternity leave. The compulsory leave is 10 weeks (4 weeks before and 6 weeks after confinement). In the case of multiple births, maternity leave is extended to 100 days. A female worker can take maternity leave as paid leave once every 03 years. However, in the case of miscarriage or death of infant baby during maternity leave, this leave is terminated after six weeks of delivery or miscarriage. If a female worker, whose maternity leave was terminated on the grounds of miscarriage or death of infant baby, falls pregnant again before completion of 03 years from the date of her first confinement, she is eligible to full maternity leave of 03 months.

An employee is also guaranteed the right of absence from work without loss of pay for attending the pre-natal and post-natal examinations.

A permanent worker may also be granted leave without pay for a maximum period of 03 months if she gives birth to a child before completion of one year of service.

Sources: § 70 and 71.1.a of the Employment Act No. 11 of 2005

Income

During the term of maternity leave (03 months in general cases; 100 days for multiple births), workers are paid their full pay as well as other benefits like maternity benefit.

Workers are also entitled to maternity benefit under the Social Security Fund Act. This benefit is available to the women workers once every three years. The maximum amount that can be withdrawn is accumulation of contributions at 3% of insurable earnings with interest. The contribution rate is 15% (10% by the employer and 05% by the worker)

Sources: §70 of the Employment Act No. 11 of 2005; §26, 29 and Schedule 01 of the Zanzibar Social Security Fund Act 2005

Protection from Dismissals

It is prohibited to terminate or dismiss a worker from service on the grounds of pregnancy or childbirth. Pregnancy or breastfeeding are considered unfair causes for terminating a contract even during the probationary period. An employer can't terminate a worker who is on maternity leave on the grounds that by being on maternity leave, the said employee was absent from duty.

Sources: §60.5, 70.7, 87.1.c and 118.3.c of the Employment Act No. 11 of 2005

Right to Return to Same Position

Right to return is guaranteed under the Employment Act. A female employee who delivers a child is guaranteed to work within 08 weeks from the date of her confinement.

Source: §70.8 of the Employment Act No. 11 of 2005

Breastfeeding

Female workers are allowed nursing breaks of one-hour duration to breastfeed new born(s) every day during working hours.

These breaks are considered paid time off and don't lead to loss of pay. Law does not provide the limit (age of the child) till which these breaks are provided.

Source: §70.9 of the Employment Act No. 11 of 2005

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)

United Republic of Tanzania has not ratified the above-mentioned Conventions.

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:

- Employment Act No. 11 of 2005
- Occupational Safety and Health Act No. 08 of 2005

Employer Cares

An employer is required to ensure the wellbeing of workers. It is also required of an employer to conduct his business in a way to ensure that even non-workers who are affected by the undertaking are not exposed to risks. A workplace may be ordered to close on the advice of safety and health inspector (in consultation with the labour officer) if there is present or imminent danger to the health and safety of workers.

Sources: § 16.2 & 17.3 of the Employment Act No. 11 of 2005; §27-40 of the Occupational Safety and Health Act No. 08 of 2005

Free Protection

Provision and maintenance of personal protective equipment is employer's duty. An employer is required to provide uniforms; special protective clothes and other protective gear to employees at his/her own expense.

The clothes and such protective gear would be the property of employer.

In accordance with the OSH Act, effective protective equipment has to be provided and maintained by the employer for the use of workers if these workers are employed in any process involving exposure to any injurious or offensive substance or environment. If the work involves manufacturing, handling, use or storage of toxic materials or substances, an

employer may be required to provide additional protective clothing to the workers. If the circumstances require a worker to enter an atmosphere contaminated by a harmful concentration of a hazardous substance, employer is required to inform the work of all the hazards involved and provide these workers with the appropriate equipment.

Sources: § 82 of the Employment Act No. 11 of 2005; § 36, 90.6.c and 96.6 of the Occupational Safety and Health Act No. 08 of 2005

Training

Employers are required to promote the training of staff on health and safety at work, particularly with regard to the prevention of specific risks of certain assignments. In accordance with the OSH Act, no person may be employed at any machine or process (if that process is liable to cause bodily injury or injury to health), unless the worker has been fully instructed about the dangers likely to arise in connection with the machine or process. The worker must have received sufficient training in the operation of the machine or in the process; must be under adequate supervision by a person who has thorough knowledge and experience of the machine or process. It is also responsibility of the employer to ensure that all exposed workers are instructed on the prevalent hazards at the workplace, safety measures are employed to avoid injury, and that such training is provided at least once in every two years.

Source: §68 of the Occupational Safety and Health Act No. 08 of 2005

Labour Inspection System

The labour inspection system is provided both under the Employment Act and OSH Act. The general responsibility for labour inspection rests with the Ministry of Labour, Youth, Women and Children Development. The Labour Commission, which works directly under the Labour Ministry, has direct control over labour inspection matters while the OSH function is carried out by the Occupational Safety and Health Directorate. There are independent labour inspection systems in mainland Tanzania and Zanzibar. However, the inspection system is province based and there is no central inspection authority.

Sources: § 13-22 of the Employment Act No. 11 of 2005; §4-19 of the Occupational Safety and Health Act No. 08 of 2005

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

United Republic of Tanzania has not ratified the above-mentioned Conventions.

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:

- Workmen's Compensation Act 1986, amended in 2005
- Employment Act No. 11 of 2005

Income

An employer is required to grant a worker sick leave if a medical board has certified that the employee is sick, has suffered from an accident, has contracted a disease arising out of or in the course of employment and is there unable to work. However, the law differentiates between general sickness/disease and occupational diseases (arising out of or in the course of employment). An employee is entitled to following number of sick days if he/she is sick for reasons not related to his employment: two months temporary leave on full pay; and three months sick leave on half pay (if the medical board certifies that the worker is still incapable of work). If, after the expiry of 05 months, the worker is still unable to work, employer may terminate the employment contract.

In the case of occupational diseases or occupational accidents, the sick leave entitlement is as following: 06 months leave on full pay; 03 months sick leave on half pay (if the medical board certifies that the worker is still incapable of work). If, after the expiry of 09 months, the worker is still unable to work, employer may terminate the employment contract.

If an employee is too ill to perform work due to HIV/AIDS, employer may terminate the work for reason of incapacity as provided under the Employment Act (incapacity is one of the fair grounds for dismissal).

The sickness of a worker is not good/fair cause for termination of an employment contract and an employee cannot be terminated solely for the reason because he/she is temporarily absent from work due to sickness.

Source: §60 & 69 of the Employment Act No. 11 of 2005

Medical Care

Medical benefits are available for insured workers and these include general medical care, specialist care, medicine, hospitalization, and transportation.

The Workmen's Compensation Act imposes liability on the employer to defray the reasonable expenses incurred by a workman within Zanzibar or with the approval of the Director of Medical Services, outside Zanzibar as a result of the accident arising out of and in the cause of employment in respect of medical, surgical and hospital treatment, skilled nursing services and the supply of medicines; supply of the maintenance, repair and renewal of non-articulated artificial limbs and apparatus.

Job Security

Employment of a worker is secure during the period of sickness and a disease/sickness does not in itself constitute valid grounds for dismissal. In the case of general sickness, law provides that employment of a worker is secure during the first 05 months of sickness and in the case of occupational diseases; employment is secure during the first 09 months of sickness. These provisions are not final and a collective bargaining agreement may provide for a longer period during which employment of a sick worker is secure.

An employee who has been in the service of an employer for a period of six months of continuous service is eligible for sick leave.

Source: §69 of the Employment Act No. 11 of 2005

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.

An employer is required to pay compensation to a worker if the worker gets some personal injury by accident arising out of and in the course of employment. However, the employer has no responsibility to pay if it is proved that the injury to a workman is attributable to serious and wilful misconduct of that workman. Furthermore, no compensation is payable in respect of any incapacity or death resulting from a deliberate self-injury.

Temporary incapacity is dealt similarly as sick leave. More details on this are provided under paid sick leave.

In the case of permanent partial incapacity, the amount of compensation is equal to percentage in the loss of earning capacity verified by a medical practitioner multiplied by 48 months of earnings.

In the case of permanent total incapacity, the amount of compensation is either 48 months of earnings or 05 million Schillings whichever is higher.

If an employee dies during the period of his employment, and a doctor certifies in writing that the death was occasioned by

reasons arising out of or in the course of the deceased worker's employment, his employer is responsible for burial expenses of the deceased employee, compensation of the deceased worker's heirs in accordance with the provisions of the Workmen's Compensation Act 1986, and also to pay the deceased heirs any other contractual benefits accruing to the deceased employee. But if the deceased worker's death is not occasioned by any reason arising out of or in the course of his employment, the employer is responsible for not less than one third of the deceased's burial expenses, and to pay the deceased heirs any other contractual benefits accruing to the deceased employee in accordance with the Act.

In the case of death of a worker, the survivors/heirs are paid a sum equal to 36 months of earnings. Funeral grant/burial expenses (which can't be less than 33% of total expenses) are also paid to the survivors.

Sources: § 69 of the Employment Act No. 11 of 2005; §4, 10, 11 & 12 of the Workmen's Compensation Act 1986, amended in 2005

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).

United Republic of Tanzania has not ratified the above-mentioned Conventions.

Summary of Provisions under ILO Conventions

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

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

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

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

Regulations on social security:

- Zanzibar Social Security Fund Act 2005

Pension Rights

The legal minimum retirement age is 60 years (same for women workers). The old age pension is available from age 55, however at a reduced rate. There is no minimum or maximum pension. A worker must have paid contributions for a minimum period of 60 months. Those workers who have paid contributions for less than 60 months are reimbursed their contributions plus interest. The old age benefits include an old age pension and gratuity. The old age pension is calculated as the average of last 60 months' pay multiplied by number of months of contributions divided by 30.

Full pension is equal to 3.33% of last average five years of salary for each year of contributions. Monthly pension is two-third of the full pension on a monthly basis. Gratuity, a lump sum payment, is equal to one-third of full pension multiplied by 20.

Source: § 26, 29, 31 and Schedule 01 of the Zanzibar Social Security Fund Act 2005

Dependents' / Survivors' Benefit

The Law provides for survivors' benefits. The survivors' benefits are paid to the Wakf and Trust Commission (WTC for Muslim members) or Registrar General (for other members) for distribution to the beneficiaries. If the worker has contributed to the social security fund for at least 60 months, the full pension is equal to 3.33%

of the last average five years of salary for each year of contributions. Gratuity, paid as lump sum, is equal to one third of the full pension multiplied by 20.

Source: §26, 29 and Schedule 01 of the Zanzibar Social Security Fund Act 2005

Unemployment Benefits

No provision in law for unemployment insurance and benefits.

Invalidity Benefits

To be entitled to invalidity benefit, the insured must be younger than the normal retirement age and there should be medical evidence that the worker is permanently unable to work.

The qualifying conditions for the invalidity benefits are similar to the old age benefits, i.e., at least 60 months of contributions. Full pension is 3.33% of the last average 5 years of salary for each year of contributions. Monthly invalidity pension equals two-third of the full pension on monthly basis. Gratuity is equal to one-third of the full pension multiplied by 20.

Source: §26, 29 and Schedule 01 of the Zanzibar Social Security Fund Act 2005

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.

United Republic of Tanzania 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:

- Zanzibar Constitution, 1984
- Employment Act No. 11 of 2005

Equal Pay

An employer is required to guarantee equal remuneration for men and women workers for work of equal value. Employers are also required to take positive steps to promote equal opportunity in the workplace and eliminate discrimination in employment policy or practice.

In accordance with art. 21.4 of the Zanzibar Constitution, every person, without discrimination of any kind, is entitled to remuneration commensurate with his work and all persons working according to their ability shall be remunerated according to the measure and nature of the work done.

Source: §21.4 of the Zanzibar Constitution, 1984; §10.2 of the Employment Act No. 11 of 2005

Sexual Harassment

Sexual harassment is any form of unwanted verbal, non-verbal or physical behaviour with a sexual connotation (with express or implied promise of preferential/detrimental treatment in present or future employment), which, either by its nature or repetition, has the detrimental effect on that employee's employment, job performance or job satisfaction.

The Employment Act prohibits any form of sexual harassment of an employee by the employer, his representative or any other person.

A victim of sexual harassment may lodge a complaint with the labour officer. All employers who employ more than 25 workers are required to have in place measures to prevent sexual harassment at the workplace. The Minister may, in consultation with the Labour Advisory Board, make special regulation for the prevention of sexual harassment in work places with less than 25 employees.

On the first offence, the perpetrator of sexual harassment is given warning. On second offence, the employment contract of the perpetrator is terminated.

The Penal Act (No. 6) of 2018 also defines sexual harassment as an action whereby a person with intention, assaults or by use of criminal force, sexually harasses another person, or by the use of words or actions, causes sexual annoyance or harassment to such other person, commits the offence of sexual harassment. Similarly, if a person, intending to insult the modesty of another person utters any word, makes any sound or gesture, or exhibits any object including any organ whether male or female, intending that such word or sound shall be heard, or that the gesture or object shall be seen by the person, or intrudes upon the privacy of other person, commits the offence of sexual harassment.

The perpetrator of sexual harassment is liable to imprisonment for a term not exceeding 5 years or to a fine not exceeding 5 million shillings or both. The court may also order the perpetrator to pay damages to the victim.

Source: §11 of the Employment Act No. 11 of 2005; §141 of the Penal Act (No. 6) of 2018

Non-Discrimination

In accordance with the Zanzibar Constitution, “all people are born free and equal” and that “all persons are equal before the law and are entitled to protection and equality before the law without any discrimination”. There can’t be any discrimination on the grounds of person’s tribe, place of origin or domicile, political lineage, colour, religion or sex in enjoyment of fundamental rights.

Employers are required not to discriminate, directly or indirectly, against an employee, in an employment policy or practice on any ground including race, gender, colour, religion, social origin, status, age, place of origin, national extraction, political opinion, marital status, pregnancy, disability, HIV/AIDS status (actual or perceived)

Discrimination is any such distinction, exclusion or preference on above grounds which has the effect of nullifying or impairing equality of opportunity or treatment in employment or occupation.

The Employment Act also supports measures of positive discrimination (affirmative action) to promote equality or eliminate discrimination at the workplace.

Sources: §11, 12 & 25 of the Zanzibar Constitution, 1984; §10 of the Employment Act No. 11 of 2005

Equal Choice of Profession

In accordance with art. 21 and 22 of the Constitution of Zanzibar, every Zanzibari has the right and duty to work by engaging in lawful and productive work.

However, under the Employment Act, it is

unlawful to employ, engage or assign a female worker at night in any industrial undertaking except when the female employee is holding a leadership or management position, is involved in health or other welfare service, is employed in an enterprise in which only dependents or members of the same family are employed or where the nature of employment so requires.

Sources: §21-22 of the Zanzibar Constitution, 1984; § 85-87 of the Employment Act No. 11 of 2005

11/13 MINORS & YOUTH

ILO Conventions

Minimum Age: Convention 138 (1973)

Worst Forms of Child labour: Convention 182 (1999)

United Republic of Tanzania has ratified the Conventions 138 and 182.

Summary of Provisions under ILO Conventions

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

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

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

Regulations on minors and youth:

- The Children's Act, 2011
- Employment Act No. 11 of 2005

Minimum Age for Employment

Minimum age for employment is 15 years and above. A child of 15 years and above may be engaged only in light work which is not harmful for the health or development of the child, does not prevent or affect child's attendance at school, participation in vocational orientation or training program or the capacity of the child to benefit from school work. A child (under the age of 15 years) may not be employed in any type of work except domestic work (work in a family home).

A person who employs a child in contravention of above provision is guilty of an offence and is liable, upon conviction, to a fine of 0.5 million to 02 million schillings or to imprisonment for a term of 12 months to 02 years or to both fine and imprisonment.

Sources: §97, 98 and 106 of the Children's Act 2011; §06-08 of the Employment Act No. 11 of 2005

Minimum Age for Hazardous Work

Minimum Age for Hazardous Work is set as 18 years and no one can employ children under the age of 18 years in hazardous work or any of the worst forms of child labour (slavery, bondage, serfdom, use of children for prostitution and pornographic purposes, use of children for production and trafficking of drugs, and work which is likely to harm the health, safety and morals of children).

The Children's Act prohibits engaging of children in exploitive activities. A work activity becomes exploitative labour if it deprives the child of his health or development, exceeds six hours a day, is inappropriate the child's age or development or requires a child to work at night (from 20:00 to 06:00 in the morning).

The Children's Act also prohibits employment of children in hazardous work (work that poses danger to the health, safety and morals of a person). Hazardous work includes mining and quarrying, carrying of heavy loads, work in manufacturing industries where chemicals are produced and any other hazardous work as declared by the government.

A person who employs a child in contravention of above provision is guilty of an offence and is liable, upon conviction, to a fine of 0.5 million to 02 million schillings or to imprisonment for a term of 12 months to 02 years or to both fine and imprisonment.

Sources: §99, 100 and 106 of the Children's Act 2011; §06-08 of the Employment Act No. 11 of 2005

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.

United Republic of Tanzania has ratified both Conventions 29 & 105.

Summary of Provisions under ILO Conventions

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

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

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

Regulations on forced labour:

- Zanzibar Constitution, 1984
- Employment Act No. 11 of 2005
- Penal Act (No. 6) of 2018

Prohibition on Forced and Compulsory Labour

In accordance with art. 22.2 of the Zanzibar Constitution, forced labour is prohibited in Zanzibar. The Employment Act also prohibits forced labour. A person exacting or imposing forced labour on others is guilty of an offence and is, on conviction, liable to a fine of not less than three million schillings or (in case of default) imprisonment of a term not less than three years or to both such fine and imprisonment.

Any person who unlawfully compels any person to labour against the will of that person is guilty of a offence and is liable to imprisonment for a term ranging between three to five years.

Sources: §22.2 of the Zanzibar Constitution, 1984; §5 of the Employment Act No. 11 of 2005; §265 of the Penal Act (No. 6) of 2018

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

The statutory working hours are 08 hours a day and 42 hours a week.

According to the Employment Act, the employer may not require or permit an employee to work overtime except in accordance with an agreement or more than 10 hours of overtime a week. The law also limits daily working hours to 12 hours thereby limiting overtime hours to 4 hours a day. However, a collective agreement can raise this 10-hour limit to 15 hours per week. The overtime hours can also be averaged over a period of 04 months.

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)

United Republic of Tanzania has ratified both Conventions 87 & 98.

Summary of Provisions under ILO Conventions

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

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

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

Regulations on trade unions:

- Zanzibar Constitution, 1984
- Labour Relations Act No. 1 of 2005
- Trade Unions Act, 2001

Freedom to Join and Form a Union

In accordance with article 20 of the Constitution, every person is entitled to freedom, subject to one's free choice to freely and peaceably assemble, associate and cooperate with other persons, and more specially to form or join associations or organizations formed for workers human rights organizations or other organisations for his benefit and which are established in accordance with the laws of the land.

Everyone may defend their rights and interests through union action and may belong to the union of their choice. An employee may freely join the trade union of his choice. Law prohibits antiunion discrimination. Law prohibits trade union formation only for Judges and all Judiciary officers; members of Special Departments; and employees of the House of Representatives.

An employer may not require a worker to join or not to join or relinquish membership in a trade union and stop participating in lawful trade union activities as a condition of employment. Similarly, the employer may not discriminate against a worker (by prejudicial action or dismissal) because of an employee's trade union membership or participation in lawful trade union activities.

Any person of the age of seventeen years and above may become a member of trade union unless the trade union constitution provides to the contrary.

Sources: §20 of the Zanzibar Constitution, 1984; § 4-5 of Labour Relations Act No. 1 of 2005; §6-13 of the Trade Unions Act, 2001

Freedom of Collective Bargaining

Right to collective bargaining is guaranteed under the Labour Relations Act. Every trade union which is authorized to negotiate on behalf of its members for the purpose of collective bargaining is entitled to bargain collectively with the employer or employer's association concerned on wages, terms and conditions of employment, relations between the parties and other matters of mutual interest. Collective bargaining may take place at the enterprise level, industry or sector level and national level.

A collective agreement signed between trade union and single employer is binding between the employer and employees who are members of the trade union in the bargaining unit. Non-union members are deemed to be represented where the majority of employees at the bargaining unit are members of the trade union engaged in collective bargaining. A collective bargaining agreement must be registered. A collective agreement may be concluded for a fixed term or indefinite term. All collective agreements must be submitted to the Court and a copy to the Commission by any of the parties for registration.

Right to bargain collectively is granted to all employees except public officers involved in administration of state, and senior employees involved in management of the employee affairs.

Sources: §54-61 of Labour Relations Act No. 1 of 2005; §52 of the Trade Unions Act, 2001

Right to Strike

The right to strike (and recourse to lockout by employers) is recognized in Zanzibar. Right to strike however may be exercise only for interest disputes and not for rights disputes. In the case of strike, a 48 hour prior written notice must be served to the employer before commencement of strike (seven days prior notice if government is the employer). Workers in managerial positions as well those engaged in essential services which, inter alia, include water and sanitation, electricity, health services, air traffic control, fire services, and transport services. An employer can't permanently replace workers on lawful strike (or even start disciplinary proceedings against a worker for participation in a lawful strike) however he can engage temporary labour in place of striking workers for provision of maintenance service and other necessary service (if relevant regulation is issued by the Minister for Labour).

Source: 62-71 of Labour Relations Act No. 1 of 2005; §107 & 118 of the Employment Act No. 11 of 2005

QUESTIONNAIRE

DECENTWORKCHECK.ORG

Check

Decent Work Check Zanzibar is a product of WageIndicator.org and
www.mywage.org/zanzibar



National Regulation exists



National Regulation does not exist

01/13 Work & Wages

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

02/13 Compensation

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

03/13 Annual Leave & Holidays

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

04/13 Employment Security

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





05/13 Family Responsibilities

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





06/13 Maternity & Work

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





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





07/13 Health & Safety

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









08/13 Sick Leave & Employment Injury Benefits

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

09/13 Social Security

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

10/13 Fair Treatment

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

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

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

11/13 Minors & Youth

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

12/13 Forced Labour

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

13/13 Trade Union Rights

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

Results

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



is your amount of "YES" accumulated.

Zanzibar scored 41 times "YES" on 49 questions related to International Labour Standards

If your score is between 1 - 18

This score is unbelievable! Does your employer know we live in the 21st century? Ask for your rights. If there is a union active in your company or branch of industry, join it and appeal for help.

If your score is between 19 - 38

As you can see, there is ample room for improvement. But please don't tackle all these issues at once. Start where it hurts most. In the meantime, notify your union or WageIndicator about your situation, so they may help to improve it. When sending an email to us, please be specific about your complaint and if possible name your employer as well. Also, try and find out if your company officially adheres to a code known as Corporate Social Responsibility. If they do, they should live up to at least ILO standards. If they don't adhere to such a code yet, they should. Many companies do by now. You may bring this up.

If your score is between 39 - 49

You're pretty much out of the danger zone. Your employer adheres to most of the existing labour laws and regulations. But there is always room for improvement. So next time you talk to management about your work conditions, prepare well and consult this DecentWorkCheck as a checklist.