

Check

Decent Work Check Kenya is a product of WageIndicator.org and
Mywage.org/Kenya and Africapay.org/Kenya



means National regulation is OK



means National regulation is not OK

01/12 | Work and Wages

NR

YES

NO

I earn at least 7,586 KSH per month if I am working in Nairobi, Mombasa and Kisumu Cities



I earn at least 6,999 KSH per month if I am working in all municipalities and Movako, Ruiru and
Limuru Town Councils

I earn at least 4,047 KSH per month if I am working in all other areas

I get my pay on a regular basis.

(On daily, weekly, fortnightly or monthly basis)



Whenever I work overtime I almost always get compensation

(Overtime rate is one and half (1.5) times the actual rate of pay in Kenya when you work over 52 hours a week)



02/12 | Annual Leave and Working on Weekly and Public Holidays

NR

YES

NO

How many weeks paid leave are you entitled to?

Your entitlement is 21 days paid annual leave on completion of 12 months of continuous service.



1 week

2 weeks

3 weeks

4 weeks +

I get paid during national and religious holidays



I get compensatory holiday when I have to work on a public holiday



I get a weekly rest period of at least one day (i.e. 24 hours) in a week



I get compensatory holiday when I have to work on a weekend



03/12 | Employment Conditions

NR

YES

NO

I was provided a written contract of employment at the start of my employment



My employer hires workers on fixed terms contracts for tasks of permanent nature



My employer offer severance pay in case of termination of employment



Severance pay is not payable if an employment is terminated on account of misconduct, incapacity and incompatibility with requirements of business. Severance Pay is equal to at least 15 days basic wage for each completed year of employment when employment is terminated due to redundancy.

04/12 | Family Responsibilities - If applicable

NR

YES

NO

I can take me annual paid leave during school holidays



My work schedule is flexible enough to combine work with family responsibilities



I am treated equally in employment opportunities (appointment, promotion, training and transfer) irrespective of family responsibilities.



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05/12 | Maternity at Work - If applicable

NR

YES

NO

I am treated equally in employment opportunities (appointment, promotion, training and transfer) irrespective of my marital status or pregnancy.



I get free ante and post natal medical care



During pregnancy, I am exempted from nightshifts (night work) or hazardous work



My maternity leave lasts at least 14 weeks



During my maternity leave, I get at least 2/3rd of my former salary



06/12 | Health and Safety at my Workplace

NR

YES

NO

My employer makes sure my workplace is safe and healthy



My employer provides protective equipment including protective clothing free of cost



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.



I am treated the same even if I file a health and safety complaint or provide information/evidence to a Labour Inspector.



My workplace is visited by the Labour Inspectors at least once a year to ensure compliance of labour laws at my workplace.



07/12 | Work and Sickness

NR

YES

NO

If I fall ill, I get my wages for at least the first 6 months of my illness. Under Kenyan Law, a worker gets full wages for the first week of his illness while for the second week, he gets only half of his wages.



My employment is secure during the first 6 months of my illness



I get adequate compensation in the case of an occupational accident or occupational disease



I am treated equally in employment opportunities (appointment, promotion, training and transfer) irrespective of my disease or disability



08/12 | Social Security

NR

YES

NO

I am entitled to a pension when I turn 60



When I, as a worker, die, my next of kin/survivors get some benefit



I get unemployment benefit in case I lose my job



I have access to adequate medical services in case of an illness



I have access to invalidity benefit in case I am disabled due to an occupational accident



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Check

09/12 Fair Treatment at my Work	NR	YES	NO
My employer ensure equal pay for equal/similar work without any discrimination	😊	<input type="checkbox"/>	<input type="checkbox"/>
My employer take strict action against sexual harassment at workplace	😊	<input type="checkbox"/>	<input type="checkbox"/>
Do I get equal training opportunities for career development without any discrimination	😊	<input type="checkbox"/>	<input type="checkbox"/>
I am treated the same even if I file a complaint for unfair treatment or sexual harassment	😊	<input type="checkbox"/>	<input type="checkbox"/>
10/12 Children at Work	NR	YES	NO
In my workplace, children under 14 are forbidden <i>Minimum age for employment is 13 years.</i>	😞	<input type="checkbox"/>	<input type="checkbox"/>
In my workplace, children under 18 are forbidden for hazardous work <i>Minimum age for employment in hazardous work is 18 years</i>	😊	<input type="checkbox"/>	<input type="checkbox"/>
11/12 Forced Labour	NR	YES	NO
I have the right to terminate employment at will or after serving a notice	😊	<input type="checkbox"/>	<input type="checkbox"/>
I keep my educational and identity documents in my own custody	😞	<input type="checkbox"/>	<input type="checkbox"/>
I get my wages regularly even when I have not yet paid back the loan my employer gave me	😊	<input type="checkbox"/>	<input type="checkbox"/>
My employer keeps my workplace free of forced or bonded labor	😊	<input type="checkbox"/>	<input type="checkbox"/>
When I work overtime, I work only 12 hours overtime in a two week period and with due overtime compensation <i>Normal weekly working hours in Kenya are 52 and for two weeks these are 104 hours. So, the overtime in 2 weeks can only be 12 hours. Overtime compensation rate is 1.5 times the rate of ordinary or normal pay</i>	😊	<input type="checkbox"/>	<input type="checkbox"/>
12/12 Trade Union Rights	NR	YES	NO
I have a labour union at my workplace	😊	<input type="checkbox"/>	<input type="checkbox"/>
I have the right to join a union at my workplace	😊	<input type="checkbox"/>	<input type="checkbox"/>
I can be a union member and participate in union activities outside working hours without the facing any negative consequences for that	😊	<input type="checkbox"/>	<input type="checkbox"/>
My employer allows collective bargaining at my workplace.	😊	<input type="checkbox"/>	<input type="checkbox"/>

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Results

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

* On Work and Holidays, only 3 or 4 weeks is equivalent to 1 "YES".

..... is your amount of "YES" accumulated .

Kenya scores 35 times "YES" on 48 questions related to International Standards.

If your amount is between 1 - 16

This score is unbelievable! Does your employer know we live in the 21st century? As soon as you can, quit that job. If there is a union active in your company or branch of industry, join it and appeal for help.

If your amount is between 17 - 32

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, Wage Indicator or the ILO about your situation, so they may help to improve it. When sending an email to www.Mywage.org/Kenya or www.Africapay.org/Kenya 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 amount is between 33 - 48

You're pretty much out of the danger zone. By and large your employer seems to abide by 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.

About Decent Work

Decent means how your work should be. Compare your own situation with the international standards and how they are applied in Kenya. At the end of the checklist you will see how things stand for you. You may be better off than what the international standards prescribe, but you should not be off worse. Behind every answer you can find a short explanation of what your rights are, internationally and nationally. So you see right away if you can improve your situation. And we give some tips on how to go about it.

The international standards are laid down in ILO-Conventions. The ILO is the International Labour Organization of the United Nations, since 1919. In the ILO negotiations are going on between governments of the member states, national trade unions and employers associations regarding work related issues, labour law and social security. These negotiations may take years, but eventually lead to so called Conventions. In Conventions minimum standards are laid down. Conventions are not the law, but the intention is that member states subscribe to the standard in question. The proper way to do that is have these Conventions ratified by parliament and then make national laws. National law can be enforced. Most ILO-Conventions are accompanied by Recommendations on how to implement the standards. Check the standards.

Since 1999 the ILO works according to the so called Decent Work Agenda. In the meantime the Decent Work Agenda has been widely accepted as an important strategy to fight poverty and foster development. The Agenda has been incorporated in the Millennium Development Goals of the United Nations. In short the idea behind Decent Work is first of all an income which allows the working individual a good life. Moreover, at work everybody has an equal chance to develop themselves, there are proper and safe circumstances and discrimination does not occur. Trade unions are allowed, a real say in work related matters is in place and the state created a social safety net for the sick, weak, elderly and for expecting women. With the Decent Work Agenda the ILO and the UN address governments and the social partners.

The Decent Work Check makes the pretty abstract Conventions and legal texts tangible. Because in the end you want to know what your rights on the job mean in practice, what you may claim and what protection you are entitled to in case something unexpectedly does go wrong.

01/12 | Work and Wages

Regulations on work and wages:

The Labour Institutions Act, No.12 of 2007
Employment Act, 2007

Minimum wage

The minimum wage rate ranges between KSH 4,047 to 7,586 for general workers in different areas of Kenya. The wage rates are determined by Wage Boards constituted in accordance with Labor Institutions Act 2007.

Regular pay

The Employment Act 2007 regulates the payment of wages to all classes of workers. According to Section 18 of the Act, wages can be calculated on hourly, daily, weekly or monthly basis. Section 17 requires that employer should pay the employee his wages during the working hours at the place of work on agreed pay day in cash, cheque, money order or directly deposit the amount in worker's bank account.

Overtime compensation

In accordance with the section 27 of Employment Act,2007;employees can be required to work 6 days a week. The normal weekly working hours are 45 hours. The General Wages Order, however, provides for 52 hours a week. If a worker works beyond the stipulated working hours, he is entitled to an overtime pay that is one and a half time (1.5 of X) the rate of his ordinary pay.

02/12 | Annual Leave and Working on We

Regulations on work and holidays:

Employment Act, 2007

Paid holiday

An employee is entitled to 21 days paid annual leave, after completion of 12 months of continuous service (section 28).

Pay on holiday

Workers are entitled to paid Festival (public and religious) holidays. Festival holidays are announced by Kenyan Government at the start of calendar year (usually 11 in number). The public holidays are regulated under the Public Holidays Act.

Compensation holidays

Workers can be asked to work on Festival/Public Holidays. The law does not provide for compensatory holidays. If an employee works on a public holiday , he is paid at double the rate of his basic wages for each hour worked.

Weekend work compensation

Under Employment Act, 2007 (section 27) , workers are allowed to enjoy in every period of seven days a period of rest comprising 24 consecutive hours. If a worker is made to work on weekly holiday, he has to be paid at double the rate of his basic wages for each hour worked.

03/12 | Employment Conditions

Regulations on employment conditions

Employment Act, 2007

Written Contract

Kenyan Labor Law requires that contract of employment should be in writing and written statement of particulars should be provided to an employee at the start of employment.

Fixed Term Contracts

Kenyan Labor Law allows fixed term contracts for tasks of permanent nature.

Severance Pay

04/12 | Family Responsibilities

Regulations on work and care for children at school

School holidays

There is no specific legislation in this respect.

Equal opportunities of parents

The Constitution of Kenya and Employment Act, 2007 provide that workers will not be discriminated on the basis of marital status or family responsibilities.

05/12 | Maternity and Work

[Employment Act, 2007](#)

Free medical care

Section 34 of the Employment Act requires that an employer has to ensure that sufficient and proper medicine are provided to a worker during illness and, if possible, medical attendance should also be provided during serious illness. The employees covered under the National Hospital Insurance Fund Act are entitled to medical benefits in the case of hospitalization.

No harmful work

There is no provision in the law that women are not to be involved in hazardous or harmful work.

Maternity leave

Female employees are entitled to a 3 months (91 days) of maternity leave with full pay.

Income

The maternity leave is awarded with full pay.

06/12 | Health and Safety at Work

Regulations on health and work:

[The Occupational Safety and Health Act, 2007](#)

Employer cares

In accordance with section 6 of the Occupational Safety and Health Act, 2007 it is obligatory on the employer to ensure health, safety and welfare of persons at workplace.

Free protection

In accordance with section 101 of the Act, it is the responsibility of employer to provide free protective equipment including clothing to the worker whose work involves exposure to wet or injurious substances.

Training

In accordance with section 99 of the Occupational Safety and Health Act, 2007, it is the responsibility of an employer to provide instruction, training and supervision as is necessary to ensure health and safety at work of his employees.

Complaints

In accordance with section 8 of above Act, It is unlawful for your employer to victimize you if you file a complaint about an imminently or actually dangerous situation on the job.

07/12 | Work and Sickness**Regulations on Work and Sickness:**

Employment Act, 2007
Work Injury Benefits Act, 2007

Income when sick

There is no specific legislation in this respect.

Equal opportunities of parents

Every worker certified by a medical practitioner is entitled to paid sick leave (sickness benefit) for a period of 14 days (in a 12 month period). For the first 07 days, full wages are paid and for the remaining 07 days, only half wages are paid.

Job security

As per section 46 of Employment Act 2007, an employer can't dismiss a worker during his/her period of sick leave, pregnancy or disability.

Disability benefit

According to Work Injury Benefits Act, 2007, in the case of temporary disablement, an insured worker after certification from medical board, can get temporary disablement benefit as 50% of his average daily earning for at most one year. In the case of permanent disablement, A lump sum of 60 months of the insured's earnings is paid for a permanent partial disability, up to 240,000 shillings.

Discrimination on the basis of disease or disability

In accordance with section 46 of above Act, a person can't be discriminated on the basis of disability or HIV status.

08/12 | Social Security**Regulations on social security:**

National Social Security Fund Act, 1965 (latest amendment in 2009)

Pension rights

National Social Security Fund Act, 1965 provides for three types of benefits. Old Age, Invalidity and Survivors Benefit.

Dependent's benefit

National Social Security Fund Act, 1965 provides for survivor benefit (these include widow, widower, children)

Unemployment benefit

No provision in law for the unemployment insurance and benefits.

Medical care

National Social Security Fund Act, 1965 provides for free medical care of an insured worker and his dependents.

Invalidity Benefit

National Social Security Fund Act, 1965 provides for invalidity benefit in the case of occupational accident resulting into invalidity.

09/12 | Fair Treatment at my Work**Regulations on fair treatment at work:**

The Constitution of Kenya
Employment Act, 2007

Equal pay

In accordance with article 27 of the Constitution of Kenya, all human being are equal before the law and no person can be discriminated on any ground, including race, sex, pregnancy, marital status, health status, ethnic or social origin, colour, age, disability, religion, conscience, belief, culture, dress, language or birth. The Constitution also recognizes the right to fair remuneration. In accordance with section 5(4) of the Act, it is the responsibility of employer to ensure equal pay for work of equal value to his employees.

Training opportunities

In accordance with section 5 of above Act, an employer has to provide equal training opportunities without discrimination on any ground.

Freedom to complain

In accordance with section 46 of the Employment Act, 2007, an employer can't discriminate and terminate the services of an employee for filing a complaint or initiating any other legal proceedings except when the is shown as irresponsible and unfounded.

10/12 | Children at Work

Regulations on children at work:*Employment Act, 2007***Children under 15**

In accordance with provisions of this Act, a child under the age of 13 years can't be employed. For hazardous occupations, the minimum age is set at 18 years.

11/12 | Forced Labour

Regulations on forced labour:*Employment Act, 2007***Freedom to change jobs**

Article 30 of the Constitution prohibits all forms of forced labour. Section 4 of the Act also prohibits all forms of forced or bonded labor.

No passport of ID

There is no provision in legislation about who keeps a worker's passport or ID; he himself or employer.

Pay back loan

The above Act provides that employer can deduct, from the wages of an employee, on account of payable debt. However, the percentage of monthly deductions can't be greater than 50% of an employee's wages.

12/12 | Trade Union Rights

Regulations on trade unions:*Constitution of Kenya**Labor Relations Act, 2007***Freedom of collective bargaining**

Article 41 of the Constitution provides for freedom of association and the right to bargain collectively. Labor Relations Act, 2007 (section 54) allows for collective bargaining in all enterprises.

Freedom to join a union and outside working hours participate in union activities

Article 41 of the Constitution provides for Freedom of Association while section 4 of Labor Relations Act allows the workers and employer to establish, join unions. Moreover workers are allowed to participate in union activities outside working hours.

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01/12 | Work and Wages

ILO Conventions on work and wages:

Minimum wage: Convention 131 (1970)

Regular pay: Conventions 95 (1949) and 117(1962)

Compensation overtime: Conventions 47 (1935) and 106 (1957)

Kenya has ratified Convention 131.

Minimum wage

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.

Regular pay

Wages must be paid regularly.

Overtime compensation

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.

02/12 | Annual Leave and Working on weekly and Public Holidays

ILO Convention

Convention 132 (1970) on Holidays with Pay Convention

Conventions 14, 47 and 106. In addition for several industries different Conventions apply.

Kenya has ratified Conventions 14 and 132.

Paid holiday

An employee is entitled to at least 21 consecutive paid annual leave, national and religious holidays 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

Pay on holidays

You should be entitled to paid leave during national and officially recognized religious holidays.

Compensation holidays

If you have to work on a national or religious holiday you should be entitled to compensation. Not necessarily in the same week, provided the right to a paid compensation is not forfeited.

Weekend work compensation

If you have to work during the weekend, you should thereby acquire the right to a rest period of 24 uninterrupted hours instead. following week. Not necessarily in the weekend, but at least in the course of the

03/12 | Employment Conditions

ILO Convention

The Three questions under this section measure the precariousness of an employment relationship. Although these are not clearly a single convention however the best practices in the field require that employees be provided with a written contract of employment, workers mentioned in on fixed term contracts should not be hired for tasks paid of permanent nature and severance pay be termination of employment relationship.

04/12 | Children at School

ILO Conventions:

Convention 156: Workers with Family Responsibilities Convention (1981).

Convention 156 is not ratified by Kenya.

School holidays

Your paid holidays should be allowed to coincide with the holidays of school going children.

Equal opportunities of parents

Employees (regardless of gender) with family responsibilities should have the same opportunities as their colleagues who have no such responsibilities.

05/12 | Maternity and Work**ILO Conventions on maternity and work:**

An earlier Convention (103 from 1952) prescribed at least 12 weeks maternity leave, 6 weeks before and 6 weeks after. 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 birth of child. Kenya has not ratified any of ILO Conventions related to maternity protection. However, its maternity leave is in partial compliance with Convention 103.

Free medical care

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

No harmful work

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

Maternity leave

Your maternity leave should last at least 14 weeks.

Income

During maternity leave your income should amount to at least two thirds of your preceding salary.

06/12 | Health and Safety at Work**ILO conventions:**

More Conventions deal with very specific Occupational Safety hazards, such as asbestos and chemicals. They are not dealt with here.

Convention 155 is not ratified by Kenya.**Employer cares**

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

Free protection

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

Training

You and your colleagues should receive training in all work related safety and health aspects and you should have been shown the

Complaints

When you inform your superior about an imminently or actually dangerous situation on the job, you should not be made to take up that job

07/12 | Work and Sickness**ILO conventions on health and safety at work:**

Conventions 121 (1964) and 130 (1969) concerning Employment Injury Benefits and Medical Care and Sickness Benefits.

Kenya has not ratified these Conventions however it provides all the benefits.**Income when sick**

Your rights to work and income should be protected when illness strikes. The first 3 days of your absence due to sickness do not need to be

Minimum income

Minimally you should be entitled to an income during 6 months of 60 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).

Job security

During the first 6 months of your illness you should not be fired.

Disability benefit

Whenever you are disabled due to an occupational disease or accident, you ought to receive a somewhat higher benefit than when the

08/12 | Social Security

ILO Conventions on social security:

Convention 102 (1952). For several benefits somewhat higher standards have been set in subsequent Conventions 121 (1964), 128 (1967), 130 (1969) and 168 (1988).

Kenya has not ratified any of these Conventions.

Pension rights

From the age of 65, set as a percentage of the minimum wage or a percentage of the earned wage. This basic ruling has been laid down in Social Security Minimum Standards.

Dependent's benefit

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.

Unemployment benefit

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.

Medical care

Employees and their family members should have access to the necessary minimal medical care at an affordable price.

09/12 | Fair Treatment at my Work

ILO Conventions on fair treatment at work:

*Convention 111 (1958) lists the discrimination grounds which are forbidden.
Convention 100 (1952) is about Equal Remuneration for Work of Equal Value.*

Kenya has ratified both Conventions.

Equal pay

At workplaces equal pay for men and women for work of equal value is a must, regardless of marital status. Pay inequality based on religion, race or ethnic background is also forbidden. A transparent remuneration system and the clear matching of pay and position are in place and help to prevent wage discrimination.

Sexual Harassment

Sexual intimidation is gender discrimination.

Training opportunities

All employees, regardless of gender, religion, race or ethnic background are entitled to equal training and schooling opportunities.

Freedom to complain

The Protection Against Harassment At Workplace Act, 2009 provides. However it says nothing about job security after filing the complaint.

10/12 | Children at Work

ILO Conventions about working children:

Conventions 138 (1973) and 182 (1999)

Kenya has ratified these Conventions.

Children under 15

At workplaces there should no work be performed by children 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.

11/12 | Forced Labour

ILO Conventions:

Conventions 29 (1930) and 105 (1957) specify the qualifications of forced labour.

It is 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.

Kenya has ratified both Conventions 29 and 105.

Freedom to change jobs

Employers have to allow you to look for work elsewhere. If you do, you should not be shortened on wages or threatened with dismissal. (In the reverse cases international law considers this as forced labour).

No passport of ID

You should hold your own passport or ID. Not your employer. (One of the indicators of forced labour is whether the worker can freely use their passport or ID. Too often still, especially in the context of migration, the employer confiscates this personal document. Whenever this happens it is a matter of forced labour.)

Pay back loan

When you do not receive any pay since you still have not yet fully paid back the personal loan provided by your employer, this is considered to be forced labour.

12/12 | Trade Union Rights

ILO Conventions on trade union rights:

Conventions 87 (1948) and 98 (1949)

Kenya has ratified both Conventions 87 and 98.

Trade union at work

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).

Freedom to join a union and outside working hours participate in union activities

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.