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## FRANCE 13

Decrees: Employment of Women and Children and Native Labour  
(Amendment) (French West Africa)

A) *Décret du 18 septembre 1936 tendant à assurer la protection du travail de l'enfant et de la femme en Afrique occidentale française. (Journal officiel du 20 septembre 1936, no. 221, p. 9977.)*

**Decree to ensure the protection of women and children in employment in French West Africa. Dated 18th September, 1936.**

### PART I.

#### *Sole chapter. Introductory provisions.*

1. For the purposes of this Decree "child" (enfant) shall mean a boy or girl under the age of seventeen years.
2. This Decree shall apply, irrespective of legal status, to Europeans and other persons placed on the same footing and to natives as defined by section 2 of the Decree of 3rd December, 1931<sup>1</sup>, to reorganise the native judicial system in French West Africa.
3. The arbitration boards shall be competent with respect to any industrial dispute which may arise out of the employment of children by private undertakings or individuals.
4. The French and native law-courts shall take cognisance of the contraventions and misdemeanours specified by this Decree, according to the status of the persons concerned. In this respect the regulations in force shall not be affected hereby.

### PART II.

#### *Sole chapter. Family work.*

5. "Family work" (travail familial) shall mean work performed in the family and exclusively in the interest of the family, without the intervention or assistance of any person not belonging to the family. It shall include in particular light household duties, the herding of stock, tillage and harvesting, fishing and all other work defined by an Order of the Lieutenant-Governor in accordance with local custom.
6. Orders shall be issued by the Lieutenant-Governors to lay down the conditions the fulfilment of which justifies the application of the expression "family work" to work in handicraft workshops where apprentices are employed.
7. The work which a child is required to perform shall in every case be proportionate to his strength. The inspectors of administrative affairs, the labour inspectors and the district officers and their assistants shall be entitled to order the medical examination of any child required to perform work which appears to be beyond his strength.

<sup>1</sup> Journal officiel, 6th December, 1931, no. 285, p. 12466. Section 2 of this Decree defines natives as persons whose place of origin is situated in the French Possessions in French West Africa and French Equatorial Africa who do not possess the status of French citizens, and persons whose place of origin is in a country situated between the territories in question or adjacent thereto and who do not possess the status of Europeans in their own country.

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8. Orders may be issued by the Lieutenant-Governors to fix in each colony and in each district thereof the age below which children must not be employed in family work in the handling of tools and machinery (whether agricultural or not) involving danger or requiring an effort beyond their strength.

The said authorities may issue regulations governing the work of pregnant women in connection with the utilisation of appliances for family work.

9. Boys and girls under the age of sixteen years and pregnant women during the last two months of pregnancy shall not be employed on underground work in placer mining operated by family gangs using native methods or on the sinking of other shafts of any kind whatever.

10. If the head of a family or any other person compels a child or pregnant woman to perform work which is prohibited in accordance with sections 7, 8 and 9, he shall be liable to a fine of not less than 16 nor more than 200 francs and imprisonment for not less than fifteen days nor more than three months or to one of these penalties only. In the event of a repetition of the offence within twelve months, the penalty shall be doubled and the sentence of imprisonment shall be compulsory.

11. The provisions of Part III of this Decree shall not apply to family work.

PART III. EMPLOYMENT IN PUBLIC OR PRIVATE UNDERTAKINGS OR BY INDIVIDUALS.

*Chapter I. Employment of children.*

12. Children shall not be employed in public or private undertakings or by individuals until they have attained the age of fourteen years.

The same age limit shall apply to the hiring of domestic services.

The said limit may be reduced to twelve years by an Order of the Lieutenant-Governor in respect of the employment of apprentices in small-scale native handicraft workshops.

The age limit in the first paragraph shall be increased to sixteen years for boys employed in forestry undertakings; girls under the age of seventeen years shall not be employed in such undertakings.

13. Children (irrespective of their age) may be placed in orphanages or charitable institutions, provided that they receive elementary instruction therein and that their manual work shall be governed by the general rules contained in this Decree and shall not in any case exceed three hours a day.

14. In every case the work to be carried out shall be proportionate to the child's strength. A child shall not be admitted to employment unless he holds a medical certificate stating that he is physically fit for the work required of him. The inspectors of administrative affairs, the labour inspectors, and the district officers and their assistants may at any time demand the examination of children by a medical officer of the Medical Relief Service in order to ascertain whether the work on which they are employed is beyond their strength.

If this is so, the inspectors and administrative officers shall have the right to require that the children's work be changed or that they be dis-

missed from the establishment on the recommendation of the said medical officer, after the making of an independent examination if the parents demand it.

15. A child shall not be employed without the express consent of his parents unless he works in the same establishment as his parents and side by side with them. Such consent shall be authenticated by the mayor or the representative of the local authority. If the parents are unable to read or write, their consent shall be authenticated by the administrative officer under the conditions laid down by the Decree of 2nd May, 1906<sup>2</sup>.

16. Every child who hires out his services shall be provided by the employer with an identity card.

17. An employer shall not inflict corporal punishment on a child in his service for any reason whatever, in particular for desertion or unauthorised absence from employment.

18. An employer shall provide every child in his employment who is living away from its family with lodging satisfying the requirements as to hygiene and food composed of the items prescribed by an Order of the Lieutenant-Governor. The employer shall be bound to provide medical attendance free of charge.

19. If a child meets with an industrial accident, its parents shall be entitled to compensation fixed by agreement between the parties or by the arbitration boards.

*Chapter II. Children employed in itinerant occupations.*

20. A child of either sex who is under the age of fourteen years shall not be employed as an actor or supernumerary in public performances given in theatres, cafés, concert halls, circuses and travelling shows.

Nevertheless, by way of exception the Lieutenant-Governor, or by special delegation the district commandant, may authorise the employment of a child or children under the age of fourteen years in a theatre for the performance of a specified piece.

In cases where a child is employed in acrobatic performances or feats of strength, the age of admission to the establishments specified in the first paragraph of this section shall not be less than sixteen years.

21. If a father, mother, guardian or employer, or in general any person having authority over a child or having a child under his care, entrusts his child, ward or apprentice under the age of sixteen years either gratuitously or for remuneration to vagrants, persons with no visible means of support or persons who make their living by begging, or if he gives such child, ward or apprentice into the custody of such persons, he shall be liable to imprisonment for not less than three months nor more than three years and to a fine of not less than 16 nor more than 200 francs.

Middlemen who thus hand over such children or cause them to be handed over, or any person who procures a child under the age of sixteen years to leave the home of his parent or guardian in order to

<sup>2</sup> Decree to provide for the confirmation in writing of agreements concluded between natives in the colonies of French West Africa.



follow any person belonging to the above-mentioned classes, shall be liable to the same penalty.

22. If any person employs children under the age of sixteen years under the conditions specified in section 21, in habitual begging, either openly or under the guise of an occupation or a collection for religious purposes, he shall be liable to the penalties specified in section 21.

23. Children found habitually in the streets engaged in begging shall be taken to their parents. In the event of a repetition of the offence within six months the child may be placed in a public or private institution under the conditions laid down by an Order of the Governor-General, without prejudice to any proceedings against the persons primarily responsible for this.

*Chapter III. Rest periods for lying-in women and for nursing mothers.*

24. The cessation of work by a woman for eight consecutive weeks during the period preceding and following her confinement shall not be a ground for the termination by the employer of the contract for the hiring of her services, and he shall be liable for payment of damages to the woman if he so terminates it. The woman shall be bound to notify the employer of the reason for her absence; at the request of her employer this may be verified by a medical officer of the Medical Relief Service.

Any agreement to the contrary shall be null and void. The woman shall be entitled to sue *in forma pauperis* in case of dispute respecting the application of this section.

25. In the establishments where women are employed, they shall be allowed to nurse their children for at least eighteen months reckoned from the date of the confinement. For this purpose they shall be allowed a rest period of twenty minutes during the morning's work and a rest period of twenty minutes during the afternoon's work. These rest periods for nursing shall be in addition to the ordinary rest periods granted to other workers of the same category in conformity with the employment regulations or the rules of employment of the establishment or with local custom, and consequently shall not be deducted from the said periods.

*Chapter IV. Families of contract workers.*  
Provisions common to women and children.

26. The family (women and children) of every worker engaged under a contract in accordance with the Decree of 22nd October, 1925<sup>3</sup>, for service elsewhere than in his subdivision of origin, whose contract stipulates that he is to be accompanied by his family, shall be entitled at the expense of the employer:—

- to transport free of charge from the place of origin to the workers' camp under the same conditions as the head of the family;
- to food in accordance with the conditions laid down by an Order of the Lieutenant-Governor;
- to medical attendance free of charge.

<sup>3</sup> Decree to regulate native labour in French West Africa. Legislative Series, 1925 (Fr. 13).

*Chapter V. Hours of work, weekly rest and public holidays.*

27. Boys under the age of fifteen years and girls or women under the age of seventeen years shall not be employed in actual work for more than ten hours a day, interrupted by one or more rest periods the total duration of which shall not be less than two hours.

28. The Governor-General may issue special instructions concerning the arrangement of the rest periods prescribed in the last preceding section.

29. The weekly rest shall be compulsory. It shall amount to twenty-four consecutive hours a week.

30. In addition to the weekly rest, public holidays shall be compulsory rest days. The list of public holidays shall be laid down by an Order issued by the Lieutenant-Governor.

*Chapter VI. Night work.*

31. Boys under the age of fifteen years and girls or women under the age of seventeen years shall not be employed in any night work. All work between 11 p.m. and 5 a.m. shall be deemed to be night work.

32. The nightly rest period of boys under the age of fifteen years and of girls or women under the age of seventeen years shall not be less than eleven consecutive hours.

33. By way of exception the rest period fixed in the preceding section may be reduced to ten hours in the case of urgent work which must be carried out immediately in order to prevent impending accidents, for salvage purposes or to repair accidental injuries to the equipment, plant or buildings of the undertaking.

34. An exception to the provisions of sections 31 and 32 shall not be continued for more than one day. The district commandant or subdivisional officer and the labour inspector shall be notified forthwith of every exception.

*Chapter VII. Hygiene and safety.*

35. The premises where work is carried out shall be kept clean at all times and shall satisfy the conditions as to hygiene necessary for the health of the employees.

The said premises shall be equipped in such a manner as to ensure the safety of the workers.

Engines, mechanical appliances, transmission machinery, tools and apparatus shall be installed and kept so as to ensure the best possible safety conditions.

36. Orders shall be issued by the Lieutenant-Governors (subject to approval by the Governor-General in Governmental Council) to specify the various kinds of work which give rise to danger or are excessively heavy or imperil morality and which are prohibited for children and for women, and likewise the special conditions under which these classes of workers may be employed in unhealthy or dangerous undertakings where the worker is exposed to processes or to fumes which are prejudicial to health.



37. Boys and girls or women under the age of eighteen years and pregnant women shall not be employed in carrying, pushing or drawing loads.

38. Stores, shops and other places connected therewith in which articles are handled or offered to the public by female employees shall have in every room a number of seats equal to the number of women employed there. In the case of native women the term "seat" may include any piece of furniture covered with a mat and arranged for use as a seat in the native fashion.

39. The head of every undertaking where boys under the age of sixteen years and girls or women are employed shall take steps to ensure the maintenance of morality and the observance of public decency.

#### PART IV. LABOUR INSPECTION.

##### *Chapter I. Measures of application.*

40. The inspectors of administrative affairs, labour inspectors, district commandants and their assistants and subdivisional officers shall be responsible for supervising the administration of this Decree.

They shall likewise be responsible for supervising the administration of all Decrees and all regulations issued by the Governor-General and the principal administrative officers of the Colonies which relate to employment, labour and social welfare.

41. Employers, managers or heads of establishments who employ children and women shall be bound to post up in each workshop or place where work is carried on the provisions of this Decree and the orders relating to the administration of these provisions and affecting their industry in particular.

42. They shall also post up the hours at which the work of children and girls or women under the age of seventeen years begins and ends.

43. In all workrooms of charitable centres for women's work, orphanages and charitable or philanthropic workshops belonging to religious or secular establishments there shall be permanently placed a notice indicating in readily legible characters the conditions of employment for children and prescribing the utilisation of the day, i.e. the hours for manual work, rest, study and meals.

This notice shall be passed by the labour inspector and shall bear his signature.

44. These provisions shall not affect in any way the technical supervision of the operation of mines, open workings and quarries, works with continuous processes and railways, which shall continue to be governed by the special regulations in force in French West Africa. This shall also apply to the supervision of steam apparatus and of the manufacture and storage of explosives and liquid fuel. With respect to these industries the labour inspectorate shall exercise supervision regarding the application of the regulations in force for the protection of labour.

45. The inspectors of administrative affairs, labour inspectors, district officers and their assistants shall have the right of entry into all establishments covered by the provisions for the administration

of which they are responsible, for the purpose of performing their duties of inspection and inquiry therein.

They shall be bound to observe professional secrecy and shall take an oath not to reveal any manufacturing secrets with which they may become acquainted.

They shall establish contraventions by reports which shall be accepted as proof in default of evidence to the contrary.

#### PART V. PENALTIES.

##### *Chapter I.*

46. Without prejudice to the penalties mentioned in sections 10, 21, 22 and 23 above, employers, heads of undertakings, directors or managers of establishments of any kind whatsoever and directors of charitable institutions who contravene the provisions of this Decree and the Orders for the administration thereof shall be liable to a police fine of not less than 5 francs nor more than 15 francs.

The fine shall be imposed as many times as there are persons employed under conditions contrary to this Decree or as there are separate contraventions established in the report.

Nevertheless, the total amount of the fines shall not exceed 200 francs.

47. In the event of a repetition of the offence the police court may impose a fine of not less than 16 francs nor more than 50 francs upon the offenders.

Repetition of the offence shall be deemed to have occurred when the offender has already been sentenced definitively for an offence of the same kind within the twelve months immediately preceding the offence giving rise to the prosecution.

48. In case of two or more contraventions entailing the penalties for repetition of the offence, the fine shall be imposed as many times as there are instances of further contraventions.

Nevertheless, the total amount of the fines shall not exceed 800 francs.

##### *Chapter II. Special provisions.*

49. Any person who hinders a labour inspector or a representative of the administrative authorities acting in his place in the performance of his duties shall be liable to a fine of not less than 50 nor more than 250 francs and in the event of a repetition of the offence not less than 250 nor more than 300 francs.

50. The provisions of sections 209 *et seq.* of the Penal Code, which deal with and provide penalties for acts of resistance, insults and violence against judicial police officers, shall apply also to persons who are guilty of acts of the same character towards a labour inspector or a representative of the administrative authorities acting in his place.

##### *Chapter III. Extenuating circumstances. Civil liability.*

51. The provisions of the Act of 29th December, 1928, to amend section 463 of the Penal Code (dealing with extenuating circumstances), which were extended to the Colonies by the Decree of 17th February, 1930, shall not apply to penalties imposed under sections 21, 22 and 23 of this Decree.



In all other cases, in the event of a repetition of the offence the fine for the contravention shall not be less than 5 francs; the total amount of the fines may be reduced to 300 francs.

52. Employers and heads of establishments and undertakings shall be liable at civil law for penalties imposed on their directors, managers or agents.

53. The Governor-General of French West Africa shall issue Orders in Governmental Council or in the Standing Committee of this Council containing the detailed measures requisite for the administration of this Decree.

54. All previous provisions contrary to this Decree are hereby repealed.

55. This Decree shall come into operation six months after its promulgation.

56. The Minister of the Colonies shall be responsible for the administration of this Decree, which shall be published in the *Journal officiel* of the French Republic and the *Journal officiel* of French West Africa and inserted in the *Bulletin officiel* of the Ministry of the Colonies.

B) *Décret du 22 septembre 1936 portant modification à la réglementation du travail indigène en Afrique occidentale française.* (*Journal officiel du 26 septembre 1936, no. 226, p. 10192.*)

**Decree to amend the regulations respecting the employment of natives in French West Africa. Dated 22nd September, 1936.**

1. Section 8 of the Decree of 22nd October, 1925<sup>4</sup>, shall be repealed and replaced by the following provisions:—

“ 8. A contract of employment shall be concluded with each individual.

“ Nevertheless, by way of exception group contracts may be concluded in cases where by means of the terms and conditions inserted in such contracts the workers who are engaged by one and the same employer have undertaken identical obligations for clearly specified work and are entitled to identical advantages in return for work for the same period and at the same place. Under this form of contract the workers shall not be deemed to be jointly and severally liable with respect to the employer. In particular, each and every worker shall be entitled to avail himself individually of his right to cancel his contract as prescribed in section 2 of the above-mentioned Decree of 22nd October, 1925.

“ This form of contract shall not exempt the employer from making out a savings book in the name of each worker.

“ Contracts (whether individual or group contracts) shall be drawn up in French, in triplicate, on forms provided by the employer in conformity with the model prescribed for the whole of French West Africa by an Order issued by the Governor-General.

“ One copy of the contract (whether an individual or a group contract), duly registered at the expense of the employer, shall be delivered to him, and the second and third copies (certified to be true copies by the administrative authority of the place where the contract is con-

<sup>4</sup> Decree to regulate native labour in French West Africa. Legislative Series, 1925 (Fr. 13).

cluded) shall be filed, one at the offices of the head of the administrative authority for the place where the contract is concluded and the other at the offices of the head of the administrative authority for the place where the work is to be carried out.

“ Group contracts shall be submitted to the administrative authority for ratification.”

2. The Minister of the Colonies and the Keeper of the Seals and Minister of Justice shall be responsible, each in so far as he is concerned, for the administration of this Decree, which shall be published in the *Journal officiel* of the French Republic and the *Journaux officiels* of French West Africa and inserted in the *Bulletin officiel* of the Ministry of the Colonies.

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