



DATA UPDATE – Women, Business and the Law 2022

Benin

Ministère de l'Economie et des Finances

1. Pay

Comment received from Government:

1. Can a woman work in an industrial job in the same way as a man?

On 26 August 2021 the government of Benin adopted the inter-ministerial order no 2021-096/MPMEPE/MTFP/MS/DC/SGM/DGT/DSSMST/DPEE/SA/012SGG21, fixing the nature of the work and the categories of undertakings prohibited to women, pregnant women and young people and the age limit to which the prohibition applies (*Arrêté interministeriel année 2021-096/MPMEPE/MTFP/MS/DC/SGM/DGT/DSSMST/DPEE/SA/012SGG21 fixant la nature des travaux et les catégories d'entreprises interdites aux femmes enceintes, aux femmes allaitantes et aux jeunes gens et l'âge limite auquel s'applique l'interdiction*).

As a result, women in Benin can now work in an industrial job in the same way as men. This is because the order removes differential weight limits that can be carried and pushed by men and women, as well as provisions barring women from tasks involving exposure to certain chemicals impacting fertility, thus explicitly asserting the equal capability of women in carrying out physically demanding tasks. At the same time, the order still maintains and extends protections for pregnant and breastfeeding women and minors.

This order was adopted by the Minister of Small and Medium Enterprises and Employment Promotion, the Minister of Labour and Public Service and the Minister of Health in Benin. The changes embodied in the order have been many years in the making and were in particular based on the recommendations of the National Commission on Occupational Safety and Health. With the objective of eradicating discrimination against women in the field of employment, the Commissioners called for the removal of provisions barring women from certain categories of work, while maintaining protections for pregnant and breastfeeding women. The order of 26 August 2021 amended the discriminatory provisions of articles 4, 5 and 6 of inter-ministerial order No. 132/MFPTRA/MSP/DC/SGM/DT/SST of 7 November 2000, establishing the nature of the work and the categories of enterprises prohibited to women, pregnant women and young people and the age limit to which the prohibition applies (*Arrêté interministeriel N° 132/MFPTRA/MSP/DC/SGM/DT/SST du 07 novembre 2000 fixant la nature des travaux et les catégories d'entreprises interdites aux femmes, aux femmes enceintes et aux jeunes gens et l'âge limite auquel s'applique l'interdiction*), replacing them with more general provisions, while extending protections for pregnant and breastfeeding women and young workers. In particular:

- Article 4 of the order of 2021 specifies that “*Young workers, pregnant women and nursing mothers may only be assigned to work that is not likely to be detrimental to their safety, health, development and offspring*”. Thereby it removes the provisions of the order of 2000, which set differential weight limits for the loads that could be carried by women manually, in wheelbarrows and handcarts, and on trucks.

- Articles 5 and 6 of the order of 2021 set out a list of harmful physical and chemical agents to which pregnant and breastfeeding women are forbidden from being exposed to during their work, including aromatic hydrocarbons, mercury compounds, and ionizing radiation. This contrasts with the previous order of 2000, which forbid exposure to these agents for all women.

Accordingly, the title of Chapter II of the original order was also amended to read: "Work prohibited to pregnant women and nursing mothers," rather than "Work prohibited to women and pregnant women." These amendments are in line with the recommendations of the ILO which posits that in order to eliminate obstacles to women's employment, protective measures for women should be strictly limited to those designed to protect maternity.

Accordingly, this change should be reflected in the "Pay" indicator of the Women, Business and the Law index, as part of the question – "Can a woman work in an industrial job in the same way as a man?"

Response from Women, Business and the Law team:

The Women, Business and the Law team takes note of the adoption of *Arrêté interministeriel année 2021-096/MPMEPE/MTFP/MS/DC/SGM/DGT/DSSMST/DPEE/SA/012SGG21 fixant la nature des travaux et les catégories d'entreprises interdites aux femmes enceintes, aux femmes allaitantes et aux jeunes gens et l'âge limite auquel s'applique l'interdiction*. The team understands this Order abrogates *Arrêté interministeriel N° 132/MFPTRA/MSP/DC/SGM/DT/SST du 07 novembre 2000 fixant la nature des travaux et les catégories d'entreprises interdites aux femmes, aux femmes enceintes et aux jeunes gens et l'âge limite auquel s'applique l'interdiction*, which previously prohibited nonpregnant and nonnursing women from working in certain industrial jobs. The updated analysis will be reflected in the upcoming Women, Business and the Law report.

2. Entrepreneurship

Comment received from Government:

2. Does the law prohibit discrimination in access to credit based on gender?

On October 12 2020, the Ministry of Economy and Finance in Benin adopted the Circular No. 2468/2020/MEF/CAB/SGM/ANSSFD/DESI prohibiting any discrimination in access to credit based on gender in Decentralized Financial Systems (DFS), which explicitly prohibited Decentralized Financial Systems, also known as Microfinance Institutions, from practicing gender-based discrimination in granting credit, and mandating the leadership of such institutions to take measures to sensitize staff on gender-based discrimination and institute sanctions for any cases of discrimination observed.

In order to monitor progress and assess the full implementation of this circular, the Beninese authorities carried out a survey in July 2021 among a sample of 14 such microfinance institutions. This survey, attached to the DUS, reached the following conclusions:

- The effective dissemination and thorough knowledge of the circular by staff
- The implementation of a framework for enforcement of the circular through clear measures
- The effective communication of the circular through memos, reminders during meeting and posters
- The implementation of a monitoring and control mechanism for the application of the circular

Suggested data modification: The answer to the question should change to "Yes" from "No"

Date of entry into force: 12/10/2020

Legal basis: Circulaire N° 2468/2020/MEF/CAB/SGM/ANSSFD/DESI portant interdiction de toute discrimination en matière d'accès au crédit fondé sur le sexe dans les Systèmes Financiers Décentralisés (SFD) Link : https://finances.bj/type_document/textes-et-lois/

Response from *Women, Business and the Law* team:

According to *Women, Business and the Law* methodology, the answer to this question is “Yes” if the law prohibits discrimination by creditors based on gender or prescribes equal access for both men and women when conducting financial transactions, or entrepreneurial activities or receiving financial assistance; or if the law prohibits gender discrimination when accessing goods and services (defined to include financial services).

The *Women, Business and the Law* team understands that Circulaire N° 2468/2020/MEF/CAB/SGM/ANSSFD/DESI portant interdiction de toute discrimination en matière d'accès au crédit fondé sur le sexe dans les Systèmes Financiers Décentralisés prohibits discrimination in access to credit based on sex for Micro-Finance Institutions (Decentralized Financial Systems). However, this does not apply to banks and other financial institutions, and therefore the answer to this question remains “No.” The WBL team would like to request further information about other financial institutions, including licensed banks and whether there is an applicable legal framework that broadly prohibits discrimination based on gender when accessing credit.

Communications

For questions on this note, please contact:

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