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PUERTO RICO
Employment Laws

Department of Labor and Human Resources

Office of Labor Standards

GOVERNMENT OF PUERTO RICO
DEPARTMENT OF LABOR AND HUMAN RESOURCES
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We administer much of the current labor protection and disputes legislation issued by the former Puerto Rican Minimum Wage Board and by the Secretary of Labor and Human Resources.

We perform the following activities in order to assess and ensure compliance with this legislation:

- Inspections of workplaces, which includes files and payrolls.
- Processing direct claims by employees or those that arise from an inspection.
- Addressing complaints that may be confidential.
- Offering guidance through conferences and seminars for the general public.
- Issuing permits.
- Responding to personal, written or telephone queries.

Summary of some of the Laws that the Office of Labor Standards administers for the protection of workers.

LAW NO. 80 OF MAY 30, 1976, AS AMENDED, KNOWN AS THE WRONGFUL TERMINATION ACT, 29 LPRA SEC. 185A, ET SEQ.

- **Indemnification for wrongful termination**

  Any employee of a company, industry or any other business or site of employment, where he or she works through remuneration of any kind and has been hired with no specified term, and who is terminated from his/her position with no interceding just cause, will be entitled to receive from his/her employer an indemnification or allowance, the amount of which shall depend on the time that he/she worked for his/her employer. For those employees hired before January 26, 2017, in addition to the wages that they may have earned, the terminated employee will be entitled to an indemnification that shall be computed as follows:

  (a) Wages corresponding to two (2) months for indemnification, if the termination occurs within the first five (5) years of service; wages corresponding to three (3) months if the termination occurs after five (5) years and up to fifteen (15) years of service; wages corresponding to six (6) months if the termination occurs after fifteen (15) years of service;

  (b) An additional progressive indemnification equivalent to (1) week for each year of service, if the termination occurs within the first five (5) years of service; two (2) weeks for each year of service, if the termination occurs after five (5) years and up to fifteen (15) years of service; three (3) weeks for each year of service, after having completed fifteen (15) years or more of service.

  For those employees hired on or after January 26, 2017, in addition to the wages that they may have earned, the terminated employee will be entitled to an indemnification that shall be computed as follows:

  (a) An indemnification equivalent to three (3) months of wages;

  (b) An indemnification equivalent to (2) weeks of wages for each year of service completed. In no case shall the indemnification required by law for employees hired on or after January 26, 2017 exceed wages corresponding to nine (9) months. In addition, it shall be understood that for these employees, one (1) month is composed of four (4) weeks.

  Any agreement in which the employee waives his/her right to receive indemnification for wrongful termination shall be void. However, once a claim has been made, the parties may compromise on the indemnification through a valid transaction agreement.

  When there is just cause for the termination, the worker will not be entitled to the compensation mentioned. In this sense, terminations with just cause are those that are not motivated for legally prohibited reasons and that are not a product of mere caprice by the employer. Furthermore, just cause is understood to be those reasons that affect the proper and normal operation of an establishment that include, but are not limited to, the following:

  (a) That the employee engages in an improper or disorderly pattern of conduct.

  (b) That the employee engages in a pattern of deficient, inefficient, unsatisfactory, poor, late or negligent performance. This includes a failure to follow employer rules and standards for quality and safety, low productivity, a lack of competency or ability to perform the job at levels reasonably required by the employer, and repeated complaints from the employer's customers.

  (c) Repeated violation by the employee of reasonable rules and regulations created for the operation of the establishment, provided that a written copy of the same has been provided in a timely manner to the employee.

  (d) Complete, temporary or partial shutdown of establishment operations. In those cases where the employer has more than one office, factory, branch or plant, the complete, temporary or partial shutdown of operations of any of these establishments where the terminated employee works shall constitute just cause.

  (e) Technological or reorganization changes, as well as those in the style, design or nature of the product that is produced or managed by the establishment, and changes in services rendered to the public.

  (f) Reductions in employment that are made necessary due to a reduction in the volume of production, sales or profits, anticipated or that prevail when the termination occurs, or with the purpose of increasing the competitiveness or productivity of the establishment.

- **Probationary period**

  Any employee hired on or after January 26, 2017 will have an automatic probationary period of nine (9) months. This automatic period may not be increased or extended. Nonetheless, the employer and employee may agree to a shorter or no probationary period. Furthermore, nothing prohibits the employer from releasing the employee from the probationary period before expiration of the term, whether automatic or agreed to by the parties.

  In the specific case of "Managers", "Executives" or "Professionals", referred to jointly as exempt employees, their probationary period will be for twelve (12) months.

  Those employees that are terminated during the probationary period will not accrue the indemnification for wrongful termination granted by Law No. 80 of May 30, 1976, as amended.

LAW NO. 230 OF MAY 12, 1942, AS AMENDED, KNOWN AS THE CHILD EMPLOYMENT ACT, 29 LPRA SEC. 431 ET SEQ.

The employment of minors under the age of eighteen (18) years is regulated in Puerto Rico. It is necessary to obtain a working permit from the Department of Labor and Human Resources, which must establish that the occupation does not affect the school attendance of the minor, and is not harmful to his/her life, health or wellbeing.

LAW NO. 379 OF MAY 15, 1948, AS AMENDED, KNOWN AS THE WORK DAY ESTABLISHMENT IN PUERTO RICO ACT

This establishes the regular work hours in Puerto Rico; the type of wages for the hours worked in excess of the legal work hours and sets the meals period.

- **Established rights**

  (a) Eight (8) hours constitute the legal work day in Puerto Rico, and forty (40) hours of work constitute the work week. If there is an alternate weekly work schedule (flextime), the employer and employee may agree to a regular work day that does not exceed ten (10) hours per day. In addition, the hours that an employee works under the protection of an hours replacement agreement shall be considered as a regular workday as long as his/her workday does not exceed twelve (12) hours per day.

  (b) Hours worked in excess of eight (8) hours per day and forty (40) per week shall be compensated as overtime. If there is an alternate weekly work schedule, the hours worked in excess of ten (10) per workday shall be compensated as overtime. In the case where those periods are worked under an hours replacement agreement, the hours worked in excess of twelve (12) hours per day shall be compensated as overtime.

  (c) One hour for meals. This must not be before conclusion of the second nor after the start of the sixth hour of consecutive work. If the employee works during the period meant for his/her meals, the employer must compensate, as a penalty, that period as if it were overtime.

  (d) By means of a written agreement between the employer and employee, the meal period may be reduced to thirty (30) minutes, except for "croupiers", nurses and security guards, which may be up to a minimum of twenty (20) minutes. In those cases where the work day does not exceed six (6) consecutive hours, the meal period may be omitted without need of having to sign a written agreement.

- **Creation and maintenance of registries and payrolls**

  All employers must maintain and keep registries, files, payrolls, lists of days worked or records that reflect the names and addresses of all workers, the hours of work rendered by each one and the wages paid to them. These archives must be kept by the employer for a term of no less than three (3) years and the employer may use any method of storage, as long as the accessibility and integrity of the information is ensured.

- **Claims transactions**

  Any claims transactions under the protection of Law No. 379 require verification by the Department of Labor and Human Resources. Any transaction that does not have this involvement shall be null and void.

  In general, any transacting of a basic claim that does not exceed fifty thousand dollars ($50,000) may be verified by one of the attorneys of the Office of Legal Affairs. Those transactions on basic claims that exceed fifty thousand dollars ($50,000) will require the involvement of the Secretary of Labor and Human Resources.

LAW NO. 289 OF APRIL 9, 1946, AS AMENDED, KNOWN AS THE SETTING OF WORK SCHEDULE DAYS OFF ACT, 29 LPRA SEC. 295 ET SEQ.

Any employer that employs or allows an employee to work during the days off that this law establishes; shall be obligated to pay him/her for the hours worked during said day at a wage rate equal to double that for the agreed to time for regular hours for those employees hired before January 26, 2017. For those employees hired on or after January 26, 2017, the wage rate that must be paid shall be equivalent to the time and a half for the wage agreed to by the parties.

LAW NO. 180 OF JULY 27, 1998, AS AMENDED, KNOWN AS THE PUERTO RICO MINIMUM WAGE, VACATIONS AND SICK LEAVE ACT, 29 LPRA SEC. 250 ET SEQ.

This provides for the fact that the federal minimum wage shall automatically apply in Puerto Rico to workers covered by the federal Fair Labor Standards Act. Employers not covered by that legislation shall pay a minimum wage equivalent to seventy percent (70%) of the federal minimum wage in effect or of that which the mandatory decree establishes, whichever is higher. It also establishes the rules for accrual and use of vacation time and sick leave.

The Federal Fair Labor Standards Act applies to:

(a) Companies with a sales volume of $500,000.00 per year or more.

(b) Those employees that are in interstate commerce or in any process or occupation that is strictly related thereto are considered to be covered by the law, regardless of the sales volume of the company.

(c) Domestic service employees.

(d) Employees of hospitals and care institutions for children, the elderly or mental health patients that stay overnight on the premises of the institution.

(e) Employees of educational institutions, whether at the preschool, elementary, intermediate, secondary, or university level, with the exception of teachers and professors.

Employees in Puerto Rico hired before January 26, 2017 will accrue sick leave at a rate of one day per month worked and vacation at a rate of one and quarter (1¼) days per month. For those employees hired on or after January 26, 2017, they will accrue sick leave at a rate of one (1) day per month worked and vacation according to the time that they work for the same employer. As such, during the first year of service, the employee will accrue a half (½) day of vacation per month worked. After the first year of work and up to the completion of five (5) years of service for the same employer, the accrual rate will be three-quarters (¾) of a day per month worked. Subsequently, after completing five (5) years of service up to completing fifteen (15) years working for the same employer, the accrual rate will be one (1) day of vacation per month worked. Finally, once fifteen (15) years of service have been completed with the same employer, the accrual rate for vacation will be one and a quarter (1¼) days per month worked.

All employees must work no less than one hundred thirty (130) hours per month for the accrual of vacation and sick leave. It is hereby stipulated that the use of vacation and sick leave shall be considered as time worked for the purposes of accrual of these benefits.

Those industries where the effective date of this law may be regulated by mandatory decrees with monthly accrual rates for vacation and sick leave less than those stipulated in this law, or with requirements of minimum hours to be worked in order to be eligible for higher accrual rates than those provided for in this law, shall continue to be subject to the provisions by said mandatory decree with respect to those extremes. In the shortest time possible, and in accordance with the economic capacity of each industry, minimum vacation time and sick leave benefits established by these mandatory decrees will be adjusted to the levels stipulated by this law.

LAW NO. 17 OF APRIL 17, 1931, AS AMENDED, KNOWN AS THE WAGE PAYMENT ACT, 29 LPRA SEC. 171 ET SEQ.

This requires the payment of wages in the legal tender of the United States of America, in periods not longer than fifteen (15) days and may be done through:

(a) Cash

(b) Check

(c) Direct deposit

(d) Payroll card

(e) Electronic transfer of funds directly to the checking or savings accounts of the employees. Restrictions to the form of direct deposit and electronic transfer payments:

  (a) The employee must voluntarily authorize this in writing.

  (b) The payment shall be effective on the same day of payment at the bank selected by the employee.

  (c) Delivery of the proof of deposit or transfer to the employee with all deductions authorized by law.

  (d) The cost of the system is exclusively the responsibility of the employer. Furthermore, the legislation lists the deductions and withholdings that an employer may apply to the wages of the employee not exempted by mutual agreement.

LAW NO. 148 OF JUNE 30, 1969, AS AMENDED, PRIVATE COMPANY EMPLOYEE CHRISTMAS BONUS ACT, 29 LPRA SEC. 501 ET SEQ.

This establishes the payment of a bonus to certain private company employees. Any employee, except those persons employed in agricultural activities, in domestic service or in family residences, in charitable institutions, functionaries and employees of the Government of Puerto Rico, its public corporations and cities, are entitled to the protection of this law.

The period of coverage is from October 1 of any calendar year to September 30 of the following calendar year. Those employees hired before January 26, 2017 must have worked a minimum of seven hundred (700) hours during the coverage period in order to be eligible for the Christmas bonus granted under Law No. 148. In the specific case of dock workers hired before January 26, 2017, these workers must have worked a minimum of one hundred (100) hours during the coverage period in order to be eligible for the Christmas bonus. Any employee hired on or after January 26, 2017 must have worked a minimum of one thousand three hundred fifty (1,350) hours during the coverage period in order to be eligible for a Christmas bonus.

The bonus that an employee hired before January 26, 2017 must receive under the provisions of this law shall be equivalent to six percent (6%) of total wages, calculated up to a maximum of ten thousand dollars ($10,000), earned by the employee within the coverage period, as long as the employer employs sixteen (16) or more employees during any time of the coverage period. An employer that employees fifteen (15) or fewer employees shall grant a bonus equivalent to three percent (3%) of total wages, calculated up to a maximum of ten thousand dollars ($10,000), earned by the employee or worker within that amount of time.

The bonus that any employee hired on or after January 26, 2017 must receive, under the provisions of this law, shall be equivalent to two percent (2%) of total wages earned up to a maximum bonus of six hundred dollars ($600), if the employer employed twenty-one (21) or more employees during more than twenty-six (26) weeks within the coverage period. If the employer employed twenty (20) or fewer employees during more than twenty-six (26) weeks within the coverage period, it will be obligated to grant to each employee a compensation equivalent to two percent (2%) of total wages earned, up to a maximum bonus of three hundred dollars ($300). For these employees, and only during the first year of their employment, the required bonus will be fifty percent (50%) of that stipulated in Law No. 148.

The deadline for payment of this is between November 15 and December 15. If the payment of the bonus established under this law is not made in the manner and by the deadline indicated above, the employer will be obligated to pay, in addition to said bonus, a sum equal to half the bonus, as additional compensation, when the payment has been made within the first six (6) months of its non-fulfillment. If the employer is more than six (6) months late in making the payment, the employer will be obligated to pay another sum equal to said bonus, as a penalty. The employer may credit to its obligation to pay the Christmas bonus any other additional voluntary compensation, that does not form a part of the wage conditions of the employee, paid within the coverage period, as long as the employee has been notified in writing of the employer's intention to do so within a period of five (5) working days from the payment having been made. So that the employer may avail itself of the provisions contained in this law that exempt it from paying the Christmas bonus in whole or in part, when its business has not earned profits or when these are insufficient to cover all of the bonus without exceeding the limit of fifteen percent (15%) of net annual earnings, it must submit an exemption application to the Secretary of Labor and Human Resources no later than November 30 of each year. This application must be filed together with a balance sheet and profit and loss statement for the coverage period, prepared according to the generally accepted accounting principles and standards in Puerto Rico, and their respective notes, and with the corresponding revised or audited compiled report, signed and stamped as an original by a certified public accountant (CPA), with a currently valid license that has been issued by the Puerto Rico Accounting Board, as stipulated by Law No. 293 of May 15, 1945, the "Public Accounting Act of 1945", as amended, which demonstrates this financial situation. Furthermore, the Secretary may request any other information that Law No. 148 authorizes it to request and obtain for the sake of duly considering the exemption application.

DEPARTMENT OF LABOR AND HUMAN RESOURCES REGULATION NO. 7082 OF JANUARY 18, 2006, KNOWN AS REGULATION NO. 13 (FIFTH REVISION 2005)

This regulation defines the terms "Manager", "Executive" and "Professional" for the effects of labor legislation. Employees that are considered to be within the referenced terms are "exempt" employees for protected work labor legislation. In general, labor legislation excludes these employees from some benefits, such as: provisions related to minimum wage, extraordinary compensation for overtime, accrual of vacation, accrual of sick leave and meal periods. This means that the rights of these employees are those that arise from the employment contract or from agreements entered into with their employers.

Hon. Carlos J. Saavedra Gutiérrez
Secretary

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