

## ● PUERTO RICO MINIMUM WAGE, VACATION AND SICK LEAVE ACT

*STATUTORY CITATION:* 29 Laws P.R. Ann. §§ 250 – 250j

*RELATED REGULATIONS:* Mandatory Decrees 57, 58, and 69

*GENERAL SUMMARY:* The Puerto Rico Minimum Wage, Vacation and Sick Leave Act provides that the minimum wage set by the U.S. Congress under the federal Fair Labor Standards Act — currently \$7.25 per hour — applies to workers in Puerto Rico to the same extent and subject to the same exemptions, exclusions and exceptions. Employers in Puerto Rico who are exempt under FLSA from paying the federal minimum wage must pay their workers no less than 70 percent of the federal minimum, or \$5.08 an hour.

Industries that were paying higher wages under a mandatory decree (administrative wage order) when the Minimum Wage, Vacation and Sick Leave Act went into effect must continue to pay the higher rate.

Under the Act, most employees other than domestic workers are also entitled to accrue vacation leave, at a rate of 1/2 day per month during the first year of employment, 3/4 day per month from the second through the fifth year, 1 day per month from the sixth through the 15th year, and 1 1/4 days each month thereafter. Sick leave accrues at a rate of one day each month. Employees must work no less than 130 hours a month to earn the respective credit for vacation and sick leave.

*Exception* — In the case of employers who are residents of Puerto Rico and who employ no more than 12 workers, vacation leave accrues at the rate of 1/2 day per month for as long as the employer's workforce does not exceed 12 employees.

### *PROVISIONS APPLICABLE TO AGRICULTURE*

**WORKERS COVERED BY FLSA** — Farmworkers are entitled to the \$7.25 minimum wage currently in effect under the Fair Labor Standards Act only if they work for an agricultural establishment that used more than 500 worker-days of agricultural labor during any calendar quarter of the preceding calendar year (for example, 50 workers employed for 10 days, 20 workers employed for 25 days, or any other such combination).

Such workers are also entitled to accrue vacation and sick leave, at the rates noted above, for each month in which they work at least 130 hours.

**WORKERS NOT COVERED BY FLSA** — Farmworkers who are employed by an agricultural establishment that does not meet the 500 worker-day test described above must generally be paid no less than \$5.08 an hour. These workers are *not entitled* to accrue vacation and sick leave under the Puerto Rico Minimum Wage, Vacation and Sick Leave Act.

**MINIMUM PAY UNDER MANDATORY DECREES** — All three of the mandatory decrees pertaining to the agricultural industry provide for hourly wages that are less than the \$7.25 and \$5.08 rates prescribed in the Puerto Rico Minimum Wage, Vacation and Sick Leave Act, and thus are not applicable.

### *SPECIAL NOTES OR ADVISORIES*

**RECENT AMENDMENTS** — The summary above reflects significant amendments enacted in the Puerto Rico Labor Transformation and Flexibility Act, a measure intended to address chronic troubles plaguing the economy of Puerto Rico. Some provisions of the Labor Transformation and Flexibility Act apply only to workers hired after the law went into effect, on January 26, 2017. In general, however, employees hired before that date are entitled to the same rights and benefits that applied to them before.

**PREEMPTION BY GUARANTEED INCOME** — The minimum wage rates indicated above may be effectively preempted by a separately legislated "guaranteed income," the payment of which is underwritten by the government of Puerto Rico. As described in the next entry, where the guaranteed income is higher than the minimum wage, the farm operator pays the guaranteed income to the worker and the government reimburses the farm operator for the difference between the guaranteed income and the minimum wage.

### *ADMINISTRATION AND ENFORCEMENT*

**PRIMARY ENFORCEMENT AGENCY** — *Bureau of Labor Standards, Puerto Rico Department of Labor and Human Resources, Hato Rey, Puerto Rico 00918 (787-754-2100)*. Any worker who receives lower compensation than the rate prescribed in or authorized under the Minimum Wage Act may file a claim with the Department, which has power to prosecute the claim in court on the worker's behalf. A worker's claim for unpaid wages must be filed within one year after the worker's employment ends.

**SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY** — *None*.

**PRIVATE CIVIL ACTION** — A worker claiming a violation of the Act is entitled to recover in a civil suit the unpaid wages plus an additional equal amount as damages, as well as interest, court costs and attorney's fees. Court action, through a private attorney or a public legal service provider, must be initiated within one year after the claim arises.