



Commonwealth of Puerto Rico
DEPARTMENT OF LABOR AND HUMAN RESOURCES

October 21, 1997

Consult Núm. 14392

This is in reference to your inquiry, forwarded by your New York Office, pertaining to labor laws applicable to the retail trade industry. Following are your specific questions and our replies to each:

[1] "Do part-time workers receive the same benefits as full-time workers?
Specifically, do they receive annual bonuses and paid leave benefits?"

Payment of the annual bonus is required by Act No. 148 of June 30, 1969 for all employees who work at least 700 hours between October 1 of any calendar year and September 30 of the following calendar year. A seasonal employee who works 40 hours a week will reach 700 hours in about 4 months, and even a part-time employee can reach that level by working as little as 14 hours a week on a year-around basis. With regard to paid leave, Mandatory Decree No. 42, applicable to the Retail Trade Industry, provides for vacation and sick leave benefits, on a pro rata basis, for employees who work only 80 hours per month, and even for those who work even fewer hours. Those benefits, however, apply only to employees hired prior to August 1, 1995. Employees in this industry hired since that date are subject to the provisions of Act No. 84 of July 20, 1995, which grants paid leave only to employees who work at least 115 hours per month.

[2] "Does Puerto Rico have any minimum wage regulations over and above the federal level?"

With the enactment of Act No. 84, the Puerto Rico Legislature established as public policy the automatic application of the Federal minimum wage to all covered workers in Puerto Rico. Although this policy was primarily intended to ensure that workers on the island will receive equal treatment with their fellow citizens on the mainland, it also withdrew from the Puerto Rico Minimum Wage Board the power to grant increases beyond the Federal minimum wage level. A grandfather clause in Act. No. 84 requires compliance with higher minimum rates provided under existing mandatory decrees for both employees hired before and after August 1, 1995. With the increase of the Federal minimum wage to \$5.15 on September 1, 1997, however, only one mandatory decree requires a higher minimum than the Federal. This is Mandatory Decree No. 69, applicable to the Tobacco Industry, which provides for a minimum wage of \$6.50 per hour in one classification.

[3] "How much must retailers pay in workmen's compensation (on average)?"

Workmen's compensation in Puerto Rico is regulated by Act No. 45 of April 18, 1995, as amended, known as Workmen's Accident Compensation Act. Pursuant to Section 23 of the Act, premium rates are set under a schedule of classifications according to the occupations or industries covered by the Act. Said schedules are revised on an annual basis, the object being to set "for each class of occupation or industry the lowest possible premium rates, including minimum rates, consistent with the establishment of a solvent State Insurance Fund and the creation of a reasonable surplus." For information on specific rates currently in effect for any industry in particular, we recommend that the inquiry be directed to Mr. Oscar Ramos, Manager of the State Insurance Fund, P.O. Box 365028, San Juan, Puerto Rico 00936-5028.

[4] "Do Puerto Rico laws still require that employees be paid in cash on a weekly basis? What are the exceptions to this rule?"

That requirement was repealed with the enactment of Act No. 74 of June 30, 1995, which amended Act No. 17 of April 17, 1931. Since the law went into effect, therefore, employees must be paid "in legal tender of the United States of America, whether in cash, check, direct deposit, or

electronic funds transfer, at intervals of up to fifteen (15) days." The Act also provides that payment through either direct deposit or EFT must be on a voluntary basis, with the employee's prior authorization. The Act exempts from its provisions executive, administrative, and professional employees who qualify as such under Regulation No. 13 of the Minimum Wage Board.

[5] "Are Puerto Ricans entitled to paid holidays?"

Payment for holidays not worked is required only for employees in the retail trade industry, who are covered by both Mandatory Decree No. 42 and No. 8 and whose regular workweek consists of at least 4 days; for employees paid on a fixed salary basis that does not specifically exclude payment for holidays; and for those workers who are entitled to such benefit under the terms of a collective bargaining agreement or individual employment contract. See enclosed copies of both decrees.

[6] "What is the legislative mandated level of paid vacation days and sick leave? If industry specific, what are retailers required to provide their employees with?"

As previously stated, employees in the retail trade industry hired since August 1, 1995 are covered by Act No. 84, which provides annual benefits of 15 days vacation and 12 days sick leave for employees who work at least 115 hours per month. Employees in this industry who were hired prior to August 1, 1995 and who work at least 120 hours per month are entitled to 15 days vacation and 15 days of sick leave annually. In addition, employees in the retail trade hired prior to August 1, 1995 who work fewer than 120 hours per month will qualify for prorated benefits in accordance with a sliding scale. Please refer to Article IV, Sections A and B of the enclosed copy of Mandatory Decree No. 42.

[7] "Does Puerto Rico have different health and safety requirements or minimum age standards over and above U.S. requirements?"

In addition to Federal OSHA standards, you should be aware of the provisions of Act No. 16 of August 5, 1975, as amended, which sets occupational safety and health standards for employers in Puerto Rico. A dual-language copy of Act No. 16 is enclosed for your information. With respect to minimum age standards, employers covered by the Fair Labor Standards Act are subject to the Child Labor provisions contained in Section 12 of the Act, which are explained at

length in Child Labor Bulletin No. 101. In addition, employers on the island are subject to the provisions of Act No. 230 of May 12, 1942, known as Puerto Rico's Child Labor Law. A one-page summary of the main provisions of Act No. 230 is enclosed for your reference. It should be borne in mind that employers covered by both laws must comply with the more stringent standard when Federal and local standards differ.

We trust the foregoing is responsive to your inquiry and that the enclosed publications will prove helpful to you.

Cordially,



Virgen R. González Delgado
Solicitor of Labor

Enclosures