



Employment Reform Law In Venezuela

Insights

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Venezuela's new labor law referred to as the Organic Law of Labor and Workers ("LOTTT"), became effective May 7, 2013. LOTTT establishes several critical labor reforms relevant to wage and hour requirements, maternity leave and pension requirements. All employers who are doing business in Venezuela or who are considering doing business in Venezuela should familiarize themselves with the specific provisions of LOTTT and review their current policies and practices to ensure compliance with the new requirements.

Some of the key reforms established by LOTTT are as follows:

- Pursuant to LOTTT, mothers are now entitled to six (6) weeks pre-natal leave and twenty (20) weeks post-natal leave for a total of twenty-six (26) weeks of leave. Under the law, fathers are also entitled to two (2) weeks of paternal leave. This provision of LOTTT also applies to parents' leave rights in cases where there is an adoption of a child under three (3) years of age. Additionally, employers are required to provide nursing mothers with two (2) thirty (30) minute breaks per day if the appropriate facilities are available on site and two (2) breaks of one and a half (1½) hours per day if on site facilities are unavailable.
- Pursuant to LOTTT, overtime work will only be permitted if the work was authorized in advance by the employer or, in cases of emergencies, via subsequent notification. The law does provide an exception whereby the Ministry of Labor can modify the overtime limitations for certain employees providing essential services where overtime is required on a regular basis based upon the nature of the specific position. Additionally, the time within which the Ministry of Labor can rule on the request for authorization to work overtime is now reduced to forty-eight (48) hours and a non-response by the Ministry of Labor will be considered authorization of the application, subject to revocation by a subsequent administrative ruling.
- The workday is now limited to eight (8) hours and the workweek is limited to forty (40) hours reduced from the former limit of forty-four (44) hours. Additionally, pursuant to LOTTT, work must be performed over a five (5) day period and provide for two (2) mandatory consecutive days of rest per work week, which must include a Sunday.
- The workday, in the case of a night shift, is limited to seven (7) hours per day and thirty-five (35) hours per week. Additionally, work performed during a night shift must be compensated with a rate of pay of 30% more than the rate of pay paid to employees working the day shift.
- All employees are entitled to a meal and rest period every five (5) hours worked.

- Wage and hour restrictions applicable to the workday and workweek may be modified in limited circumstances pursuant to Article 175 of the LOTT if approved by the Venezuelan Ministry of Labor and if there is a private agreement between the employee and employer. However, even in those limited circumstances, the workday may not exceed eleven (11) hours, the employee still must receive two (2) consecutive days off every week and the total number of hours worked during an eight (8) week period cannot exceed an average of forty (40) hours per week.
- All employees in Venezuela now have the right to a pension after retirement. Notably, this provision includes providing pensions for stay at home mothers.

The Venezuelan government will be inspecting workplaces to ensure compliance with the new requirements established by LOTTT. Failure to comply with the provisions of LOTTT after June 15, 2013 will result in penalties to the employer.