

Legal update

Minimum salary increase decree

June 2018 Labour

On June 20, 2018, the President of the Republic passed Decree N° 3,478, through which the national minimum salary (Decree for the Increase of the Minimum Salary), granted to all public and private sector workers, was increased to Bs. 3,000,000 and the special bonus for pensioners was updated and set at Bs. 1,200,000, as published in Official Gazette Extraordinary N° 6,383 dated April 30, 2018. The most significant aspects of the decree are as follows:

Minimum salary

National minimum salary

The decree increased the national minimum salary for workers by 300%, effective June 16, 2018, notwithstanding the number of workers who work for a certain employer:

Category	(Day shift)	
	Monthly	Daily
Workers in the public and private sectors	Bs. 3,000,000	Bs. 100,000.00
Adolescents / apprentices	Bs. 2,250,000	Bs. 75,000

According to the provisions of article 172 of the Organic Labour Law for the Workers (OLL) and Article 7 of the Decree for the Increase of the Minimum Salary, the minimum salary of part-time workers may be paid, prorated to the agreed shift.

Retirees and pensioners

The decree adjusted the pensions of retirees and pensioners in the national public sector to the same amount established as the minimum salary, that is, Bs. 3,000,000 per month, effective June 16, 2018.

Therefore, the decree set out a minimum amount for pensions granted by the Venezuelan Institute of Social Security (IVSS) to Bs. 3,000,000 per month, effective June 16, 2018.

Also, the Decree for the Increase of the Minimum Salary establishes an “Economic War Special Bonus” for IVSS pensioners who usually receive a minimum salary pension, analogous to 40% of a minimum salary, equivalent to Bs. 1,200,000 per month. If a pensioner receives more than one pension, the benefit will be received for just one of the pensions.

Method of payment

According to the Decree for the Increase of the Minimum Salary, the minimum salary must be paid in cash and no portion in kind shall make up such a minimum salary.

Penalty

Article 8 of the Decree for the Increase of the Minimum Salary sets out that if the employer pays a salary lower than that established as the minimum national salary, the employer will be required to pay the difference that exists with the employment benefits according to article 130 of the OLL, and will also be penalized in accordance with article 533 of the OLL, with a fine not lower than 120 tax units¹ (TU), and not higher than 360 TU.

Effect of a salary increase under labour law

Under labour law, many labour benefits and obligations are calculated based on the minimum salary. Hereinafter we show how variations in the increase in the minimum salary will affect the most significant labour benefits and obligations set forth under Venezuelan labour law:

Comprehensive care for employees' children

According to articles 343 and 344 of the OLL and articles 101 and 102 of the Regulations of the Abrogated Organic Labour Law² (ROLL) still in force, any employer who employs more than 20 workers must offer a childcare or initial education service during the working shift for workers with children from three months to six years of age and whose salary is lower than five minimum salaries which, from June 16, 2018, amounts to Bs. 15,000,000. If the employer elects to comply with this obligation by paying a monthly amount to an institution duly authorized by the Ministry of People's Power for the Family, such monthly payment must be equal to 40% of the minimum salary which, from June 16, 2018 onwards, shall be the amount of Bs. 1,200,000 for registration fees and monthly fees.

Para-fiscal contributions

Social Security (health and pensions):

- Employer's rate: 9 to 11%.
- Employee's rate: 4%.
- Maximum amount of minimum salaries: Bs. 15,000,000 effective June 16, 2018.
- Calculation basis of minimum salaries: five minimum salaries.
- Base salary: normal salary.

Employment benefits regime³:

- Employer's rate: 2%

- Employee's rate: 0.5%
- Maximum amount of minimum salaries: Bs. 30,000,000 effective June 16, 2018.
- Calculation basis of minimum salaries: ten minimum salaries.
- Base salary: normal salary.

Effective date

The Decree for the Increase of the Minimum Salary shall become effective on June 16, 2018.

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Footnotes

¹ A tax unit is currently equal to Bs. 1,200.00, Administrative Provision No. SNAT/2018/0120, Official Gazette Extraordinary N° 6.383 June 16, 2018.

² Regulations of the Organic Labour Law, Official Gazette N° 38,426 dated April 28, 2006.

³ Law on Employment Benefits Regime, Official Gazette N° 38,281, dated September 27, 2005.

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