

Legal update

Minimum salary increase and adjustment of socialist food tickets for Venezuelan workers

February 2015 Labour

On February 19, 2016, the President of the Republic passed: (i) Decree N° 2.243 (Decree for the Increase of the Minimum Salary) through which the national minimum salary will be increased by 20% as of March 1, 2016, and (ii) Decree N° 2.244 (Decree for the Adjustment of the Socialist Food Ticket) through which socialist food ticket amounts for workers were adjusted. Both decrees were published in the Official Gazette of the Bolivarian Republic of Venezuela N° 40.852 dated February 19, 2016. Hereinafter we point out the most significant aspects of both decrees.

Minimum salary

National Minimum Salary

The Decree increased the national minimum salary for workers by 20%, effective from March 1, 2016, on, notwithstanding the number of workers who work for a certain employer:

Category	(Day shift)	
	Monthly	Daily
Workers in the public and private sectors	Bs. 11,577.81	Bs. 385.93
Adolescents/ Apprentices	Bs. 8,610.21	Bs. 287.01

According to the provisions of article 172 of the Organic Labour Law for the Workers (OLL) and Article 6 of the Decree for the Increase of the Minimum Salary, the minimum salary of workers hired part time 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 fixed as the minimum salary, that is Bs. 11,577.81 per month from March 1, 2016, on.

Therefore, the Decree sets the minimum amount for pensions granted by the Venezuelan Institute of Social Security (VISS) at Bs. 11,577.81 per month from March 1, 2016, on.

Method of payment

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

Penalty

Article 7 of the Decree for the Increase in the Minimum Salary establishes that if the employer pays a salary lower than the one set as the minimum national salary, the employer shall be penalized in accordance with article 533 of the OLL, with a fine not lower than 120 TU (tax units), and not higher than 360 TU.

Effect of salary increase on labour law

Many of labour benefits and obligations are based on the minimum salary. Below we show how the increase in the minimum salary shall affect the most important labour benefits and obligations under Venezuelan labour law:

Comprehensive care for workers' children

According to articles 343 and 344 of the OLL and articles 101 and 102 of the Regulations of the OLL¹ (ROLL), any employer who employs more than 20 workers must offer a child care or initial education service during the working shift for workers with children from 3 months to 6 years of age and whose salary is lower than five minimum salaries, which from March 1, 2016, is Bs. 57,889.05. 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 March 1, 2016, on shall be Bs.4,631.12 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. 57,889.05 from March 1, 2016.
- Calculation Basis of Minimum Salaries: Five minimum salaries.
- Base Salary: Normal Salary.

Employment Benefits Regime²:

- Employer's Rate: 2%
- Employee's Rate: 0.5%

- Maximum Amount of Minimum Salaries: Bs. 115,778.10 from March 1, 2016.
- 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 March 1, 2016.

Socialist food tickets

Value of the meal allowance

The Decree for the Adjustment of the Socialist Food Ticket adjusted the basis for calculating the food ticket benefit for public and private sectors workers to 2.5 TU³ per day, for 30 days per month, and they may receive a maximum equal to 75 TU per month (currently Bs. 442.5 daily and Bs. 13,275.00 per month).

Effective date

The Decree for the Adjustment of the Socialist Food Ticket shall become effective on March 1, 2016.

Yanet C. Aguiar
Valentina Albarrán Luttinger
Eirys Mata Marcano
Juan Carlos Pró-Rísquez
Esther Cecilia Blondet Serfaty

Footnotes

¹ *Regulations of the Organic Labour Law, OGBRV N° 38.426 dated April 28, 2006.*

² *Law on Employment Benefits Regime, OGBRV N° 38.281, dated September 27, 2005.*

³ *A Tax Unit is currently equal to Bs. 177, Administrative Provision No. SNAT/2016/0006, OGBRV N° 40.846 dated February 11, 2016.*

For further information, please contact one of the following lawyers:

> Yanet C. Aguiar	Caracas	+58 212.276.0011	yanet.aguiar@nortonrosefulbright.com
> Valentina Albarrán Luttinger	Caracas	+58 212.276.0017	valentina.albarran@nortonrosefulbright.com
> Eirys Mata Marcano	Caracas	+58 212.276.0026	eirys.mata@nortonrosefulbright.com
> Juan Carlos Pró-Rísquez	Caracas	+58 212.276.0008	jc.pro@nortonrosefulbright.com
> Esther Cecilia Blondet	Caracas	+58 212.276.0018	esthercecilia.blondet@nortonrosefulbright.com

Norton Rose Fulbright Canada LLP, Norton Rose Fulbright LLP, Norton Rose Fulbright Australia, Norton Rose Fulbright South Africa Inc and Norton Rose Fulbright US LLP are separate legal entities and all of them are members of Norton Rose Fulbright Verein, a Swiss Verein. Norton Rose Fulbright Verein helps coordinate the activities of the members but does not itself provide legal services to clients.

References to "Norton Rose Fulbright", "the law firm", and "legal practice" are to one or more of the Norton Rose Fulbright members or to one of their respective affiliates (together "Norton Rose Fulbright entity/entities"). No individual who is a member, partner, shareholder, director, employee or consultant of, in or to any Norton Rose Fulbright entity (whether or not such individual is described as a "partner") accepts or assumes responsibility, or has any liability, to any person in respect of this communication. Any reference to a partner or director is to a member, employee or consultant with equivalent standing and qualifications of the relevant Norton Rose Fulbright entity.

The purpose of this communication is to provide general information of a legal nature. It does not contain a full analysis of the law nor does it constitute an opinion of any Norton Rose Fulbright entity on the points of law discussed. You must take specific legal advice on any particular matter which concerns you. If you require any advice or further information, please speak to your usual contact at Norton Rose Fulbright.