«español»

# *Working Day in Puerto Rico Act*

Act No. 379 of May 15, 1948, as amended

(Contains amendments incorporated by:
Act No. 121 of June 27, 1961
Act No. 88 of June 22, 1962
Act No. 11 of April 26, 1963
Act No. 12 of April 26, 1963
Act No. 25 of April 26, 1968
Act No. 95 of June 5, 1973
Act No. 223 of July 23, 1974
Act No. 27 of May 5, 1976
Act No. 47 of May 19, 1976
Act No. 8 of May 10, 1982
Act No. 61 of June 3, 1983
Act No. 1 of December 1, 1989
Act No. 41 of August 17, 1990
Act No. 83 of July 22, 1995
Act No. 33 of April 30, 1996
Act No. 7 of January 4, 2002
Act No. 143 of November 16, 2009
Act No. 4 of January 26, 2017)

[Amendments non-incorporated:
~~Act No. 41 of June 20, 2022~~ *(repealed by In re: FOMB v Pierluisi Urrutia 17-BK3283-LTS (Adv. Proc. 22-00063-LTS)*
Act No. 82 of August 8, 2023 *(amended Section 8)*

To establish the working day in Puerto Rico; to provide for the payment of double time for hours worked in excess of the legal working day; to fix periods of rest; to regulate certain aspects of labor contracts; to impose certain duties on employers; to fix penalties for the violation of the provisions of this act; to repeal Act number 49, of August 7, 1935.

*Be it enacted by the Legislature of Puerto Rico:*

**Section 1. — *Statement of Motives.*** — This act consecrates the principle of the limitation of the working day—one of the great labor vindications. It is a measure for the effective protection of the health safety and life of the laborer. Excessively long working days produce fatigue, increase the frequency of labor accidents, and weaken the vigour of the body, exposing it to ailments and disease. They also deprive the laborer of the time necessary for relaxation and for the cultivation of his mind and of his social and civic relations.

On the other hand, there is at present a technical basis supporting the advisability of the limitation of the working day; the output of labor is in inverse ratio of its length. Laboratory experiments confirm the fact that if work is prolonged immoderately, fatigue sets in, and this produce in the body a chemical process of actual intoxication which, in addition to the physical and spiritual damage that it does to the laborers, substantially lessens the productivity of his work.

The reduction of the working hours also contributes to alleviate the problem of unemployment, since, in diminishing the working hours of men and women where working, additional employment opportunities are provided for the unemployed. Upon the mechanization of work and the rationalization of industrial organization production, has considerably increased, but the effort of the laborer, now compelled to render his service with machines and under techniques that require the highest skill and unflagging attention, has also increased. Nothing more natural then that the benefits of mechanized agriculture and rationalization should reach the laborer in the form of a more human working day.

It is the policy of this Act to limit to a maximum of eight hours the legal working day in Puerto Rico, and to provide payment of double time for the hours worked in excess of the legal working day.

Experience shows that the prohibitive provision is not sufficient to secure the limitation in question. The penalty imposed on the employer who violates the prohibitive provision, does not benefit the employee or recompense him for this effort when the day's work is extended. The payment, by act of law, of double time for the hours worked of the legal working day is more effective and practical. Such measure, while discouraging employment during extra hours because of the additional financial burden which it imposes on the employer, carries with it a more equitable compensation for the man compelled to work for a longer period.

It is hereby declared that the policy of this Act is, through the exercise of the power of the Legislature of Puerto Rico to enact laws for the protection of the life, health, and safety of employees and workmen, to correct, and as rapidly as possibly to eliminate, the condition of labor exploitation on the basis of overlong working days, substantially to increase the opportunities for employment, and to provide better compensation for the employees in those case where the employer extends the working day

**Section 2.** — (29 L.P.R.A. § 271)

Eight (8) hours of work constitute the legal workday in Puerto Rico.

Forty (40) hours of work constitute a workweek.

*[Amendments: Act No. 223 of July 23, 1974; Act No. 83 of July 22, 1995]*

**Section 3.** — (29 L.P.R.A. § 272)

Regular working hours are eight (8) hours during any workday and forty hours (40) during any workweek.

*[Amendments: Act No. 223 of July 23, 1974; Act No. 83 of July 22, 1995]*

**Section 4.** — (29 L.P.R.A. § 273)

Overtime is:

**(a)** Hours that an employee works for his employer in excess of eight (8) hours during any calendar day. Nonetheless, the employer may notify the employee of an alternate twenty-four (24)-hour cycle, provided, that the notification is made in writing and within a term not less than five (5) days prior to the start of the alternate cycle and that there are eight (8) hours between consecutive shifts.

**(b)** Hours that an employee works for his employer in excess of forty (40) hours during any workweek.

**(c)** Hours that an employee works for his employer during the days or hours in which the establishment should remain closed to the public by legal provision. However, hours worked on Sundays, when the establishment should remain closed to the public by provision of law, shall not be considered overtime hours for the mere reason of being worked during that period.

**(d)** Hours that an employee works for his employer during the weekly rest day, as provided by law.

**(e)** Hours that an employee works for his employer in excess of the maximum number of working hours a day fixed in a collective bargaining agreement.

*[Amendments: Act No. 223 of July 23, 1974; Act No. 1 of December 1, 1989, Act No. 143 of November 16, 2009; Act No. 4 of January 26, 2017 ]*

**Section 5.** — (29 L.P.R.A. § 273a)

For the purpose of computing the hours worked in excess of forty (40) hours, the workweek shall constitute a period of one hundred and sixty-eight (168) consecutive hours. The workweek shall begin on the day and time that the employer determines and notifies to the employee in writing. If there is no notice, the workweek shall begin every Monday at 12:01 a.m.. Once the employer establishes the beginning of the workweek, any change must be notified to the employee within at least five (5) calendar days in advance in order to be effective.

*[Amendments: Act No. 83 of July 20, 1995; Act No. 7 of January 4, 2002; Act No. 4 of January 26, 2017 ]*

**Section 6.** — (29 L.P.R.A. § 274)

Rules and requirements for overtime pay shall be the following:

**(a)** Any employer who employs or allows an employee to work overtime shall be required to pay such employee for each extra hour, at a rate of not less than one and one-half times the regular pay rate; Provided, That the employees entitled to greater rights or benefits who were hired prior to the effective date of the "Labor Transformation and Flexibility Act" shall maintain said rights or benefits.

**(b)** An alternate weekly work schedule may be established, through a written agreement between the employee and the employer, which shall allow for the employee to complete a workweek not to exceed forty (40) hours, with daily shifts that shall not exceed ten (10) hours per work day.

However, if the employee works more than ten (10) hours in a workday, the hours shall be paid at a rate of one and one-half times the regular pay rate.
**(c)** Voluntary or approved alternate weekly work schedule may be revoked by mutual agreement of the parties thereto at any time. Nonetheless, any of the parties could unilaterally terminate the voluntary agreement after one (1) year has elapsed since it was entered into.
**(d)** The alternate weekly work schedules adopted pursuant to this section may be honored by a third party that acquires the business without the need to enter into a new agreement.
**(e)** The employer may approve an employee's request to make-up for work time lost in a week due to personal reasons. Hours thus worked shall not be considered overtime when these are worked during the same week of the absence, are not in excess of twelve (12) hours in a day, and are not in excess of forty (40) hours in a week.

*[Amendments: Act No. 223 of July 23, 1974; Act No. 83 of July 20, 1995; Act No. 4 of January 26, 2017 ]*

**Section 7. —** (29 L.P.R.A. § 275)

For the purpose of determining the compensation for overtime pay when no regular pay rate has been agreed on, the daily, weekly, monthly, or otherwise agreed pay shall be divided by the total number of hours worked during that same period.

*[Amendments: Act No. 83 of July 20, 1995; Act No. 4 of January 26, 2017 ]*

**Section 8. —** (29 L.P.R.A. § 276) *[Note: Act No. 82-2023, amended Sect. 8, but the official translation is not available. Please consult the Spanish version]*

An employee may request, in writing, a change of schedule, number of hours, or workplace. The employee's written request shall specify the change requested, the reason for the request, the effective date, and the duration of said change.

The employer shall be required to answer within a term of twenty (20) calendar days counted as of the receipt of said request. In the case of an employer with more than fifteen (15) employees, the answer shall be required in writing. If the employer meets with the employee within the term of twenty (20) calendar days after receipt of the request for a change, the notice of the answer may be issued within fourteen (14) calendar days after said meeting.

The employer may approve or deny the employee's request. The approval of a request may be subject to the conditions and requirements that the employer deems appropriate. The denial shall state the reasons for the decision and any alternative to the request submitted. The employer shall give priority to the requests made by heads of family who have legal or sole custody of their minor children.

The provisions of this section shall only apply to employees who regularly work thirty (30) hours or more per week, and who have worked for the employer for at least one (1) year. In addition, the provisions herein shall not apply to a request submitted within a term of six (6) months after having received a written decision from the employer, or after approving the change, whichever is greater.

*[Amendments: Act No. 83 of July 20, 1995; Act No. 4 of January 26, 2017 ]*

**Section 9. —** (29 L.P.R.A. § 281)

It is hereby declared that the additional compensation fixed by this Act as overtime pay may not be waived, except as authorized under Section 6 of this Act.

Any clause or stipulation by virtue of which the employee agrees to waive the payment of the additional compensation for extra hours fixed by this act shall be null.

No judgment, award, adjudication or any other provision of a claim for compensation, right or benefit under any act, mandatory decree, wage order, collective agreement or work contract, may be raised as a defense of a former adjudication by [the] fractioning of cause of action, to defeat another claim, unless the same cause of action has been expressly adjudicated in the previous proceeding, for the same facts between the same parties.

*[Amendments: Act No. 95 of June 5, 1973; Act No. 83 of July 20, 1995; Act No. 4 of January 26, 2017 ]*

**Section 10. —** (29 L.P.R.A. § 282)

Any employee who receives a compensation less than that fixed by this act for regular hours and extra hours of work, or for the period fixed for meals, shall be entitled to recover from his employer, through civil action, the sums unpaid, plus an equal sum as liquidation of damages, in addition to the costs, expenses, and attorney's fees of the proceeding.

No employer may retaliate against, discharge, suspend, or otherwise affect the employment or working conditions of any employee by reason of having refused to accept an alternate weekly work schedule as authorized in Section 6 of this Act or for having submitted a request for schedule, work hours, or workplace change as established in Section 8 of this Act. Any employer that engages in said conduct may be held liable for civil damages in an amount equal to the damages that said action has caused to the employee, and if it is proven that the employer engaged in such action with malice or reckless disregard for the employee's rights, punitive damages may be imposed in a maximum additional amount equal to the actual damages caused. The employer's financial situation, the reprehensibility of the employer's wrongdoing, the duration and frequency thereof, the sum of the damages caused, and the size of the company shall be taken into consideration, among other factors, in order to determine the sum to be imposed as punitive damages. The employer may also be required to reinstate the worker in his employment and to cease and desist of the act in question.

Any employee whose employment or working conditions have been affected because his/her employer has incurred the conduct described in the preceding paragraph, may file a recourse before the Court of First Instance. The Secretary of Labor and Human Resources of Puerto Rico may file said action on behalf and in representation of the employee thus affected. When the suit is heard, the burden of proof shall rest on the employer to refute the presumption that he/she has taken reprisals against the employee for refusing to accept a flexible work schedule.

These claims may be handled in accordance with the regular procedure of the complaint procedure established in Act No. 2 of October 17, 1964, 1961 (32 L.P.R.A §§ 3118 et seq.), as heretofore or hereafter amended.

The judicial claim may be filed by one or several employees, in his or their names, and that of other employees who are in similar circumstances; Provided, That after the claim has been

judicially instituted, it may be settled between the parties with the intervention of the Secretary of Labor and Human Resources or any of the attorneys of the Department of Labor and Human Resources appointed by said Secretary, and the approval of the court. The Secretary of Labor and Human Resources shall determine administratively which judicial or extrajudicial settlements shall require his personal intervention, establishing the criteria which shall prevail to such ends, through regulations or administrative order. Every extrajudicial settlement in regard to the payment of the wages for regular hours, extra hours of work, the time specified to partake of food, or the payment of the sum equal to that claimed, which this act fixes as liquidation of damages, shall be null; Provided, however, That for the purposes of this act, a settlement made before the Secretary of Labor and Human Resources or before any of the attorneys or officials of the Department of Labor and Human Resources appointed by said Secretary shall be valid.

Likewise, every extrajudicial compromise reached through the intervention of mediators of labor-management disputes from the Department of Labor and Human Resources shall be valid, subject to the norms or criteria the Secretary may establish to such effect by regulation or administrative order.

*[Amendments: Act No. 25 of April 26, 1968; Act No. 47 of May 19, 1976; Act No. 8 of May 10, 1982; Act No. 83 of July 20, 1995; Act No. 4 of January 26, 2017 ]*

**Section 11.** — (29 L.P.R.A. § 283)

Every employer shall notify his employees, in writing, of the number of working hours required daily for each day of the week, the time work ends and begins, and the times the meal period begins and ends within the regular working hours. The work schedule notice shall constitute prima facie evidence that such working hours in each establishment constitute the division of the working day.

The employer who requires or allows an employee to work for a period longer than five (5) consecutive hours, without providing a meal period, must pay the employee an extraordinary compensation for the time worked as is provided in this Section. In the event that the total number of hours worked by the employee during the day does not exceed six (6) hours, the meal period may be waived.

The meal period shall not begin before the conclusion of the second hour, or after the sixth consecutive hour of work begins.

An employer shall not employ an employee for a work period that exceeds ten (10) hours per day without providing an employee a second meal period except when the total number of hours worked does not exceed twelve (12) hours. In cases in which the total of hours worked does not exceed twelve (12) hours, the second meal period may be waived provided that the employee took the first meal period.

Meal periods within or outside the regular work schedule may be reduced to a period of not less than thirty (30) minutes, provided, that there is a written agreement between the employer and the employee. In the case of croupiers, nurses, security guards, and those authorized by the Secretary of Labor and Human Resources, the meal period may be reduced up to twenty (20) minutes when there is a written agreement between the employer and the employee without requiring the approval of the Secretary. Nonetheless, all other provisions of this [section] shall apply.

Agreements to reduce the meal period shall be valid indefinitely and neither party may withdraw his consent to what was stipulated, without the consent of the other, until one (1) year after the agreements' effectiveness. Such agreements shall continue in effect when a third party acquires the business from the employer.

Any employer that employs or allows an employee to work during the meal period shall be required to pay said period or fraction thereof at a pay rate equal to one and one-half times the regular pay rate agreed on; Provided, That the employees who have the right to a pay rate higher than one and one-half times prior to the effective date of the "Labor Transformation and Flexibility Act" shall maintain the same.

*[Amendments: Act No. 121 of June 27, 1961; Act No. 88 of June 22, 1962; Act No.223 of July 23, 1974; Act No. 27 of May 5, 1976; Act No. 41 of August 17, 1990; Act No. 83 of July 20, 1995; Act No. 4 of January 26, 2017 ]*

**Section 12. —** (29 L.P.R.A. § 284)

Every employer shall be obliged to make, keep, and preserve the payrolls of the persons employed by him, stating the salaries earned and the regular hours and extra hours worked by each one, and other conditions and practices of employment maintained by him. The payrolls shall be kept in accordance with such reasonable rules as the Secretary of Labor and Human Resources may prescribe and shall be kept for such time as the rules may determine.
The Secretary of Labor and Human Resources or any of his duly authorized agents may examine during working hours the payrolls of any employer for the purpose of taking data and information for the statistics, surveys, and investigations in connection with the enforcement of this act.

*[Amendments: Act No. 83 of July 20, 1995; Act No. 4 of January 26, 2017 ]*

**Section 13. —** (29 L.P.R.A. § 285)

The provisions of this Act shall not apply to:
**(a)** Administrators, executives, and professionals as such terms are defined through regulations by the Secretary of Labor and Human Resources;
**(b)** travel agents, peddlers, and outside salesmen as such terms are defined through regulations by the Secretary of Labor and Human Resources;
**(c)** labor union officials or organizers when acting as such;
**(d)** chauffeurs and operators of public and private motor vehicles who work on commission, receive pay per rate, or get paid per route;
**(e)** persons employed in domestic service who, notwithstanding, shall be entitled to a rest day for every six (6) consecutive days of work pursuant to the provisions of Act No. 206-2016;
**(f)** employees, occupations, or trades exempt from the overtime provisions provided in the Fair Labor Standards Act, as amended, approved by the U.S. Congress on June 25, 1938;
**(g)** persons employed by the Government of the United States of America, including each of its three branches and their instrumentalities or public corporations;
**(h)** persons employed by the Government of Puerto Rico, including each of its three branches and their instrumentalities or public corporations;
**(i)** persons employed by the municipal governments and their agencies or instrumentalities;

**(j** employees covered by a collective bargaining agreement negotiated by a labor union unless the same collective bargaining agreement establishes that the provisions of this Act shall apply to the relationship of the parties. However, all overtime provisions of the Fair Labor Standards Act, as amended, approved by the U.S. Congress on June 25, 1938, shall apply;
**(k)** persons exempt pursuant to the provision of a special law.

*[Amendments: Act No. 27 of May 5, 1976; Act No. 83 of July 20, 1995; Act No. 4 of January 26, 2017 ]*

**Section 14. —** (29 L.P.R.A. § 286)

The Secretary of Labor and Human Resources is hereby empowered to adopt and promulgate regulations as are necessary to enforce the provisions of this act. These regulations shall be consistent with the Fair Labor Standards Act, as amended, approved by the U.S. Congress on June 25, 1938, and the regulations approved thereunder, as they are applicable to Puerto Rico, except as otherwise expressly provided by this act.

*[Amendments: Act No. 83 of July 20, 1995; Act No. 4 of January 26, 2017 ]*

**Section 15. —** (29 L.P.R.A. § 287)

Every employer who fails to pay the rate of wages stipulated in this Act for regular hours or extra hours of work, or who permits, induces, or obliges an employee to waive, to accept, or to agree to waive, the compensation on the basis of double time for extra hours, or who does not keep the payrolls of the wages as determined by the Secretary of Labor and Human Resources, or who does not submit the reports in regard to wages that the Secretary may request, or prevents the examination of said payrolls by the Secretary of Labor and Human Resources or his authorized agents, or knowingly sets forth false data in said payrolls or reports, or who violates any provisions of this Act of this title or of the orders, rules, or regulations that the Secretary of Labor and Human Resources may prescribe as herein determined, or who discharges or otherwise discriminates against any employee because the latter has instituted or caused to be instituted any proceeding in accordance with this Act or connected herewith, or who avails himself of any resources, fraud, deceit, or subterfuge in order not to pay, to evade or refuse payment of, or deprive any employee of the right to receive, double time for extra hours of work, shall be guilty of a misdemeanor and, upon conviction, shall be punished by a fine of not less than fifty dollars ($50) or by imprisonment in jail for a term of not less than fifteen (15) days, or by both penalties, in the discretion of the court. In case of a subsequent offense, he shall be punished by a fine of from one hundred [dollars] ($100) to five hundred dollars ($500), or by imprisonment in jail for a term of from thirty (30) to ninety (90) days, or by both penalties, in the discretion of the court.

*[Amendments: Act No. 83 of July 20, 1995; Act No. 4 of January 26, 2017 ]*

**Section 16.** — (29 L.P.R.A. § 288)

The following terms and phrases shall have the meaning stated below, unless the context indicates otherwise:
**(1) 'Employee'** Shall mean any natural person who works for an employer and is paid for his services. It shall not include independent contractors, nor labor union officials or organizers when acting as such.
**(2) 'Employer'** Shall mean any natural or juridical person of any kind that hires and uses the services of an employee.
**(3) 'Employ'** Shall mean to suffer or permit to work.
**(4) 'Wage'** Shall include salary, day wages, payment, and any other form of monetary compensation. It shall not include any portion of tips received in excess of the amount used to comply with the payment of the legal minimum wage, nor the service charges.
**(5) 'Tips'** Shall mean any gifts or gratuity that an employee receives directly or indirectly by a person other than the employer in recognition for the services received.
**(6) 'Service charge'** Any sum of money added to a bill, and required by an establishment, which is allocated between all or some of the employees. It shall also include the charges negotiated between an establishment and a customer.

*[Amendments: Act No. 11 of April 26, 1963; Act No. 223 of July 23, 1974; Act No. 27 of May 5, 1976; Act No. 61 of June 3, 1983; Act No. 83 of July 22, 1995; Act No. 4 of January 26, 2017 ]*

**Section 17.** — [blank] *[Note: Act No. 83-1995 renumbered former Sec. 16 as Sec. 17. Act No.4-2017 renumbered Sec. 17 as Sec. 13]*

**Section 18.** — [blank] *[Note: Act No. 83-1995 renumbered former Sec. 17 as Sec. 18. Act No.4-2017 renumbered Sec. 18 as Sec. 14]*

**Section 19.** — [blank] *[Note: Act No. 83-1995 renumbered former Sec. 18 as Sec. 19. Act No.4-2017 renumbered Sec. 19 as Sec. 15]*

**Section 20.** — (29 L.P.R.A. § 271 note) *[Note: Act No. 83-1995 renumbered former Sec. 19 as Sec. 20. Act No.4-2017 renumbered Sec. 20 as Sec. 16]*

If any clause, paragraph, section, article, or part of this act is declared unconstitutional by a court of competent jurisdiction, say decision shall not affect, prejudice, or invalidate the remainder of this act, but its effect shall be limited to the clause, paragraph, section, article, or part of the act so declared unconstitutional.

**Section 21.** — Act No. 49, approved August 7, 1935, entitled "An Act to regulate the working hours of persons employed in commercial and industrial establishments and in other lucrative business and for other purposes," is hereby expressly repealed.

**Section 22.** — (29 L.P.R.A. § 271 note)

All laws or parts of laws in conflict herewith are hereby repealed; Provided, however that all the terms of Act No. 8, entitled "An Act to create a Minimum Wage Board in the Department of Labor; to define the powers thereof; to establish the procedure for determining the minimum wage to be paid in the different occupations, the maximum working hours and the labor conditions necessary for the maintenance of the health, safety, and well-being of workers; to give a mandatory character to such decrease on minimum wage, working hours, and labor conditions as said Board may promulgate in the discharge of his duties; to establish the procedure for appealing from the decisions of the Board; to fix penalties for the violations of the provisions of this Act; and for others purposes," approved April 5, 1941 and amended by Act No. 1 of November 12, 1941; by Act No. 9 of March 20, 1942; by Act No. 44 of April 23, 1942; by Act No. 217 of May 11, 1945, and by Act No. 451 of May 14, 1947, as heretofore or hereafter amended, and the mandatory decrees promulgated by the Minimum Wage Board created by said Act, Act No. 73, entitled "An Act to regulate the work of women and children and to protect them against dangerous occupations," approved June 21, 1919, an amended by Act No. 28 of April 24, 1930, and by Act No. 6 of December 4, 1947; by Act No. 230 entitled "An Act to regulate the employment of minors and to provide for compulsory public school attendance of children in Puerto Rico; to repeal act No. 75, approved June 20, 1921, as subsequently amended, and for other purposes," approved May 12, 1942; of Section 553 of the Penal Code generally known as the "Closing Law for Commercial and Industrial Establishments," as amended by Act No. 54, of April 28, 1930, by Act No. 110 of May 13, 1937, by Act No. 306 of May 15, 1938, and by Act No. 3, of December 3, 1947, as heretofore or hereafter amended, and by Act No. 289, approved April 9, 1946, shall remain in full force and effect.

**Section 23.** — This Act, being of an urgent and necessary character, shall take effect immediately after its approval.

Note. This compilation was prepared by the Puerto Rico Office of Management and Budget staff who have striven to ensure it is complete and accurate. However, this is not an official compilation and may not be completely free of error. It contains all amendments incorporated for reading purposes only. For accuracy and exactitude please refer to the act original text and the collection of Laws of Puerto Rico Annotated LPRA. The state links acts are property of Legislative Services Office of Puerto Rico. The federal links acts are property of US Government Publishing Office GPO. Compiled by the Office of Management and Budget Library.

See also the **Original version Act**, as approved by the Legislature of Puerto Rico.