

HAITI JURISDICTION



BENJAMIN LAW

Toronto's Premier Family-First Law Firm For
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Labour Overview

Employment relationships are established and regulated by special legislation of the “Labor Code of 1984”. The Ministry of Social Affairs is responsible for enforcing the provisions of this legislation and to maintain a climate of trust between management and workers.

In all agricultural, industrial and commercial establishments, the normal working day is 8 hours a day and 48 hours a week, unless otherwise agreed to by the parties. Hours worked beyond the normal hours are paid at time and a half.

Night shift work, that being shifts between 6pm and 6am, must be compensated at a minimum, time and a half of the day shift rate.

The Code also addresses rest periods, that being, 24 hours off (Sunday) after a period of six (6) consecutive working days in a week.

The Labor Code provides for annual leave of at least fifteen (15) days per year (thirteen days and two Sundays). In the case of irregular employment, the Code provide for the calculation of annual leave.

The worker is also entitled to (15) paid days of sick leave per year provided the required documentation is submitted. Sick days are not cumulative so they do not carry over into the next year.

Women that are pregnant are entitled to maternity leave of six (6) paid weeks paid, or up to three (3) month upon satisfying certain conditions.

There are 12 public holidays a year. Employees who work on a holiday must be paid at time and a half, in addition to any other premiums payable to them, such as night shift premium or overtime rate.

Haitian law recognizes and protects freedom of association. It gives workers the right to organize unions and negotiate collective agreements eventually. In the event of a labour dispute, the Department of Labor Ministry of Social Affairs, once informed of the dispute, asks the Department of Labor Inspection to conduct an investigation to determine the causes.

All workers are entitled to a minimum wage by law. The Haitian worker also receives at the end of the calendar year, particularly in the last week of December, an additional salary or bonus.

Pension Overview

There is little supplemental private pensions market in Haiti, partly because there is no legislation to encourage its development and partly because there is no demand. It is understood that there are a few individual private pension products that exist which have been arranged through general agents of foreign insurers but there are not enough of these to constitute a market.



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Social Security Benefits

The social protection of workers includes pension insurance, health insurance, maternity insurance, insurance against accidents at work, health card, the legal benefits in cases of unfair dismissal, etc.

Summary of Social Obligations:

Any company operating in Haiti must assume certain payroll taxes, including:

- a) The annual bonus, or one twelfth of the total annual compensation, payable between 23 and December 31 of each year.
- b) The annual leave of fifteen (15) paid days in which all workers are entitled;
- c) The payroll tax used to finance vocational training of workers in companies, the sole responsibility of employers in the amount of 2% of monthly wages paid by the company;
- d) The maternity leave of six (6) weeks paid which the pregnant woman is eligible;
- e) Health cards the sole responsibility of the employer and mandatory for any worker within three (3) consecutive months;
- f) The sick leave of fifteen (15) days with pay, which can run up to three (3) months, upon presentation of required documentation;
- g) The medical department of the company the sole responsibility of the employer;
- h) Insurance against accidents, sickness and maternity, the sole responsibility of the employer, 2% of wages paid for the business sector, 3% for agricultural, industrial, construction and agencies shipping lines, 6% for mining companies;
- i) Old-age insurance and disability payable monthly in equal parts by the employer and the worker 2-6% each, according to salary levels, etc.

OR

In Haiti there are two obligatory regulations addressing retirement, one for private employees and one for public servants. Neither law covers self-employed.

The Statutory law of the Department of Social affairs of August 28th, 1967, is the legislation in force in Haiti applicable to all private employers. It replaced the Decree of November 8th, 1965 creating the Retirement Insurance Office. It is an obligatory State owned retirement insurance policy to which employers and employees are required to subscribe.



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Private employees belong to ONA (Office National d'Assurance Vieillesse). Contributions are 6% of base salary from each of the employer and employee.

The retirement benefit is equal to 1/3 of the average salary of the employee during the last 10 years preceding retirement.

Public Servants belong to the Fonds de Pension Civile de Retraite.

The Decree amending the legislation governing the Retirement Civil Pension, is the legislation governing the retirement pension of public servants. This law replaced several laws that once governed the pension fund of public servants in Haiti. The first legislation is the Decree of March 31st, 1975, on Retirement Civil Pension.

Contributions are in the amount of 8% of the salaries of all Government employees and officials including the Autonomous Public Bodies not subject to a special pension scheme. There is no cap on the public servant's contribution.

Public Servants who are 55 years old and have 25 years of service in the public administration are entitled to receive 60% of their weighted average salary of the last 5 years of work without exceeding the stipulated maximum. However, if the salaries of the last five years are not the highest remuneration of the petitioner, the calculation will be the average of wages earned for three highest years.



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