

Puerto Rico Offers a New Emergency Sick Leave with Pay Due to Epidemics for Private-Sector Employees

As of April 9, 2020, eligible non-exempt employees in the private sector can benefit from five days of leave of absence with pay due to a disease or epidemic that causes a declaration of emergency by local government officials.

As a result of the COVID-19 pandemic, Puerto Rico Act No. 37-2020 amended Puerto Rico Act No. 180-1998 (our local vacation and sick leave law) by creating a new, paid sick leave of up to five (5) working days for non-exempt employees to be used during declarations of state of emergency decreed by Puerto Rico's Governor or its Secretary of Health. Non-Exempt employees are eligible to use this special sick leave if they are infected, or are suspected to be infected, with the disease or epidemic that caused the declaration of emergency. Eligible employees may only use this special sick leave if they remain sick after they have exhausted their accrued sick leave and any other accrued leaves of absence to which they are entitled.

As with the justified use of Puerto Rico's traditional sick leave, Act No. 37-2020 prohibits employers from considering justified absences due to this new emergency sick leave as an efficiency criterion when evaluating employee's performance, when deciding upon pay raises or promotions or to impose disciplinary actions such as suspensions or dismissals.

Puerto Rico is known to be a jurisdiction with an extensive array of leave of absence benefits, which may apply in addition to federal leaves of absence including, for example, the two leaves resulting from the enactment of the *Families First Coronavirus Response Act of 2020*. To the extent Puerto Rico's new Emergency Sick Leave interacts with such other benefits, employers are called to carefully examine the circumstances of potentially eligible employees to determine which benefits may apply and the order in which they should be granted.

Our COVID-19 multidisciplinary taskforce comprised of practitioners in our different departments, including Labor and Employment, is available to assist you address questions and legal and practical considerations pertaining to this evolving topic.

This document has been prepared for information purposes only and is not intended, and should not be relied upon, as legal advice. If you have any questions or wish to obtain more information related thereto, or about its possible effect(s) on policy or operational matters, please contact us at your convenience.

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