

DOMESTIC WORKERS

Welcome to this summary of materials related to the legal framework for domestic workers. In the following paragraphs we will briefly point out the main pieces of legislation related to this occupational sector, and the corresponding laws:

Domestic workers have the following rights:

Working day and weekly rest: Law No. 27986 states that the maximum working day for domestic workers cannot exceed 8 hours per day and 48 hours per week. For “in-house” workers, the measure used would be that of the effective work period, namely the period of time when the worker is actually performing tasks under the orders of her or his employer (Law No. 27986, article 15 and article 9 of Presidential Decree No. 015-2003-TR).

Weekly rest: domestic workers have the right to 24 continuous hours of weekly rest (Law No. 27986, article 10), according to regulations on the general labour regime for private activities.

Holidays and vacations: regarding holidays, the current legislation recognizes the same holidays established for workers under the general labour regime for private activities, including all the holidays mentioned in article 6 of the Presidential Decree No. 713 and those established by express provision for the private sector. It also states that working on a holiday should be previously agreed between the parties and that it will generate a payment of a surcharge equivalent to 50% of the salary, in addition to the regular salary for one day (Law No. 27986, article 11).

About vacations, it states that domestic workers have a right to an annual paid vacation leave of 15 days, after one year of continuous services; in order to benefit from this right, the worker must have fulfilled the vacations record provided by article 10 of Presidential Decree No 713 (or any regulation that may replace it).

- Bonus Payments: domestic workers have a right to two bonus payments per year, one for National Holidays and one for Christmas, in the amount of the equivalent to 50% of their monthly salary, which will be paid on the first fortnight of the months of July and December, respectively.

Compensation for time of service: This right is recognized for domestic workers as of the regulations of 1957, which state that this compensation will be calculated

according to the monetary remuneration earned by the worker (paragraph 7 of Presidential Resolution No. 018).

Law No. 27986 indicates that compensation for time of service will be equal to 15 days of salary for each year of services, or the proportional part of that amount for the fraction of a year. It should be paid directly by the employer to the worker when the working relationship ends (within a 48 hours term) or, alternatively, the employer may pay the yearly corresponding amount at the end of every year.¹

Teenage domestic workers and the right to education

Current legislation states that domestic workers have a right to education, and that it is the employers' duty to provide the worker with the necessary conditions to attend school on a regular basis, outside of the working day (Law No. 27986, article 17). Since there is no age limit within the legislation, it is understood that the employer will have this duty at any level of study that the domestic worker wants to pursue.

In the specific case of teenage domestic workers, working relations are governed by the relevant provisions of the Code on Children and Teenagers, and from Law No. 27986 in the areas benefitting them (First final disposition and complementary provision of Law No. 27986). The minimum age for domestic workers is 14 years and in complete observation of children's rights.

Social Security

Dependent workers' insurance to all types of health benefits is mandatory under social security legislation. Regarding old age pensions, they can choose between the National Pension System or the Private Pension System. In order to be enrolled as regular members of the Social Health Insurance scheme, domestic workers must work a minimum of 4 hours per day, and the minimum contribution will be calculated according to the vital minimum wage; this will also be the case for contributions made to the National or Private Pension System. Both for healthcare and for pension contributions, the employer status is held by the natural person in whose service the domestic worker labors (Law No. 27986, article 18 and Presidential Decree No 015-2003-TR, article 10).

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¹ Editor's Note: in the second option, the employer pays the worker the yearly corresponding amount of money at the end of the year, even if the employment relationship continues. This way, the employer avoids having to pay large amounts of money in one installment at the end of the employment relationship, especially if that relationship existed for a long period.



Folder 1)

LAW No. 27986. Domestic Workers Law, published on June 2, 2003.

PRESIDENTIAL DECREE No 015-2003-TR 11/20/2003. Adoption of the regulations of the Domestic Workers Law.

Folder 2)

ILO CONVENTION 189. Decent Work for Domestic Workers. Adopted on June 16, 2011.

Text of the recommendation on decent work for domestic workers.

Folder 3)

Establishment of procedures for the registry of rights holders into the Labour Information Registry (T-REGISTRO), through the Sunat online operations system and modification of the Superintendency Resolution No. 204-2007/SUNAT which approves the pdt Electronic Payroll virtual format No. 601.

Expansion of the use of virtual forms for the declaration and Payment of the general sales tax and income tax, Contributions to EsSalud and the pension contributions (ONP) of domestic workers. SUPERINTENDENCY RESOLUTION No. 203-2012/SUNAT

Superintendency Resolution No. 240-2014/SUNAT

It facilitates the enrollment and disenrollment of domestic workers and their beneficiaries, as well as changes and information updates in the registry of employers of domestic workers, domestic workers and their beneficiaries.

SUPERINTENDENCY RESOLUTION No. 191-2005/SUNAT

It establishes the registration of domestic workers' employers, domestic workers and their beneficiaries.

SUPERINTENDENCY RESOLUTION No. 245-2008/SUNAT

It facilitates the declaration and/or payment of the contributions made to social security by domestic workers' employers.

Folder 4)



RESOLUTION No. 004-GCR-IPSS-98 APPROVING COMPLEMENTARY REGULATIONS TO THE D.S. No. 001-98-SA, RELATED TO DOMESTIC WORKERS AND THEIR EMPLOYERS

OTHER:

RESOLUTION OF THE MAYOR'S OFFICE No. 180 DECLARING JULY 22 AS THE DAY TO RECOGNICE DOMESTIC WORK AND UNPAID CARE PERFORMED BY WOMEN

MANAGERIAL RESOLUTION No. 023-2013-MTPE/3/1 Occupational Profile of the domestic worker

Ministerial Resolution No. 173-2014-TR approving the General Directive No. 001-2014-MTPE/2/14 "A DIRECTIVE WHICH STATES SOME PRECISIONS ABOUT THE WORK OBLIGATIONS ESTABLISHED UNDER THE LABOUR REGIME FOR DOMESTIC WORKERS

PRESIDENTIAL DECREE No. 004-2009-TR (03/30/09) SPECIFYING ACTS OF DISCRIMINATION AGAINST DOMESTIC WORKERS

PRESIDENCIAL DECREE No. 005-2007-TR (03/06/07) DECLARING MARCH 30 AS THE "DOMESTIC WORKERS NATIONAL DAY"

Ministerial Resolution No. 052-2014 TR "Approving the Action Plan to promote the fulfillment of labour rights of domestic workers Year 2014"