

## Legal Alert: Approved law enabling access to unemployment insurance benefits in exceptional circumstances

April 6, 2020 / By [Luis Parada](#) and [Iñaki Irisarri](#).

On April 6, the Law 21,227 (Law on Protection of Employment Positions during Covid-19 crisis) was enacted by means of its publication in the Official Gazette (*Diario Oficial*). This law authorizes the following regime:

*/a/ Automatic suspension of employment agreements:* The law provides that, unless otherwise agreed by the parties, employment agreements will be automatically suspended in those territories where the authority has declared a cessation of activities, provided that the decision necessarily prevents or totally prohibits the provision of the worker's services (not applicable to workers who can provide services at a distance, nor to those companies expressly exempted from activities cessation by the authority's order). In this case the company will continue to be obliged to pay social security contributions (with the exception of insurance against accidents at work), based on 50% of the workers' remuneration, and the worker will receive the benefits of unemployment insurance.

*/b/ Conventional suspension of employment agreements:* The Law authorizes to suspend the employment agreement by mutual consent between the company and each employee, after union consultation, if the company has been affected in its activity due to the crisis. This can be agreed at any time, except when the cessation of activities has been declared by order of the authority.

Employees are entitled to receive the benefits of unemployment insurance and the company will maintain the obligation to pay social security contributions in the manner indicated in section a).

*/c/ Agreement on reduction of remuneration:* Companies that are experiencing verifiable financial difficulties or that have been excluded from the cessation of operations by the authorities, are authorized to agree with their employees, after consultation with the trade unions, on a reduction in working hours and remuneration of up to 50%, and at the same time, the employees will be able to access to a minor part of the unemployment insurance benefits for the balance of the reduced remuneration. These agreements may be extended for a maximum of 5 continuous months for employees with indefinite-term contracts, and 3 months for employees with fixed-term employment agreements or employment agreements for a defined task

(d) The law prohibits the termination of employment contracts on the grounds of *force majeure*, arising from the Covid-19 crisis, and in respect of employees whose employment agreements are suspended by application of the law, they may be terminated only on the grounds of article 161 of the Labor Code. The law also allows any termination of an employment agreement that has taken place from 18 March until the day of application of the law, may be rescinded by mutual agreement between the parties.

(e) The law provides for the criminal liability of companies that misuse these benefits.

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