



**MIJARES ANGOITIA
CORTES Y FUENTES**

COVID-19| LABOR IMPLICATIONS

DECREE ENACTED BY THE MEXICAN MINISTRY OF HEALTH AS CONSEQUENCE OF MEXICO SCALING TO PHASE TWO OF COVID-19 CONTINGENCY



March 25, 2020

On March 24, 2020, the Mexican Ministry of Health enacted a decree in the Federal Official Gazette by means of which preventive measures were imposed in order to mitigate and control the health risks originating from COVID-19 (the "Decree"), such Decree was later approved by the United Mexican States President, Andres Manuel Lopez Obrador, on that same date. The Decree will be legally binding as of March 24, 2020 until April 19, 2020.

1) Article second, subsection a) of the Decree provides that **in all cases, the following employees are required to remain in their homes and avoid coming into their work centers:** adults over 65 years of age or older and groups at risk of developing severe diseases and/or dying from such diseases, including pregnant or breastfeeding mothers, people with disabilities, people with chronic non-transmittable diseases (i.e., people with high blood pressure, lung deficiency, kidney failure, lupus, cancer, diabetes, obesity, liver or metabolic failure, heart disease), or anyone with a disease or pharmacological treatment that causes a suppression of the immune system.

In the event that these employees, due to the nature of their positions and services, can provide their services remotely without the need to be physically present in their work centers, they must continue to provide their services on a regular basis, meaning **this measure does not exempt them from providing their services.**

2) On the other hand, Article second, subsection c) provides **that the activities of the public, social and private sectors that involve physical gatherings, displacements or movement of individuals must be temporarily suspended.** The wording of the Decree results vague in such way that a thorough analysis alongside the legal advisors on a case-by-case basis would be recommended in order to determine its applicability. Notwithstanding the aforementioned, the interpretation in strict sense of such provision would be that individuals who are required to travel back and forth to their work centers to provide their services should not do so, and consequently their activities should be temporarily suspended, this would not be applicable for cases in which employees are able to continue rendering their services remotely. Please note that the Decree does not provide the requirement to continue to pay the salary of such employees, unlike the case of the employees mentioned in number 1) above.

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3) Article second, subsection c), fourth paragraph of the Decree provides that all the companies or establishments that are required to face the health contingency must continue to provide their services. This includes, among others: hospitals, clinics, pharmacies, laboratories, medical services, financial services, telecommunication services, information media services, hotel and restaurant services, gas station services, markets, supermarkets, transportation services and gas distribution companies, as long as they do not require closed spaces with crowds. Our Firm will be happy to assist you in determining the applicability of the aforementioned restriction considering the company's scope of services.

It is important to clarify that, from our point of view, the Decree does not apply to the provisions contained in Articles 42, 427 and 429 of the Mexican Federal Labor Law regarding the suspension of labor activities in exchange of the payment of a severance in favor of the employee equivalent to one daily minimum wage per day of suspension capped to thirty days as consequence of the declaration of a health contingency issued by the Mexican Ministry of Health.

Please consider that this note reflects only our interpretation of the Decree and is based only on the information we have available so far.

Please let us know if you have any comment or doubt.

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