



INFORMATIVE BULLETIN ABOUT CORONAVIRUS

05 | JUNE | 2020



POSSE | HERRERA | RUIZ

CONTENT

CURRENT SITUATION

- Competition and Consumer Protection Law
- Real Estate and Urbanism Law
- Labor and Immigration Law
- Tax Law and Customs
- Infrastructure

SPECIAL EDITION

- Matrix of authorized sectors: conditions for circulation and protocols for activities

INFORMATIVE BULLETIN:

CORONAVIRUS

05 | JUNE | 2020



COMPETITION AND CONSUMER PROTECTION LAW

Reminder note for updating the databases before the RNBD

The deadline for updating the databases registered in the RNBD expires on July 3, 2020. We remind you that the procedure for updating the databases is carried out directly on the RNBD website administered by the Superintendence of Industry and Commerce in digital form, which can be accessed by following the next link

<https://www.sic.gov.co/registro-nacional-de-basesde-datos>

and entering the "Registration" section.

The obligation to register or update the databases before the RNBD is for the Data Controllers who have total assets of more than 100,000 UVT (COP \$ 3,560,700,000).



REAL ESTATE AND URBANISM LAW

Unilateral termination of commercial establishments leases

Through Decree 797 of June 4, 2020, the National Government regulated the early and unilateral termination (effective until August 31) of certain leases of commercial establishments.

The Decree is applicable only to commercial establishments lease contracts whose tenants as of June 1, 2020, due to public order instructions, are unable to carry out the following activities:

- Bars, discos, billiards, casinos, bingos and video game terminals
- Gyms, swimming pools, spa, sauna, Turkish bath, sports courts, mechanical amusement parks and playgrounds.
- Cinemas and theaters.
- Religious services involving crowds.
- Accommodation and food services.

- Public or private events involving crowding of people.

The lessees who want to make use of said legal authorization must be up to date in the payment of the leasing fees, public services and other pecuniary obligations in their charge.

To exercise this power, the lessee must pay only one third of the penal clause agreed in the contract, if it exists; or the value of a lease fee in the absence of a penal clause.

Financial leasing contracts are expressly excluded from this decree.



LABOR AND IMMIGRATION LAW

Circular 041 of 2020 of the Ministry of Labor

Through the Circular 041, 2020, the Ministry of Labor provided the basic guidelines for the development of work at home, within which we find the following:

1. Regarding the employment contract

- The initially agreed conditions remain in force (including salary) and any modification must be duly agreed.
- Objective criteria must be established for monitoring the activities carried out by the employee, guaranteeing the necessary rest areas.
- The employer maintains its subordinate power and its disciplinary authority.

2. Regarding hours and working hours

- The provisions regarding the maximum legal working day (with the allowed exceptions and applicable exclusions) must be respected and the right to digital work dis-

connection must be guaranteed, seeking to harmonize work life with personal / family life.

- Payments for overtime, night work and / or Sunday or holiday will continue to be caused when it occurs.
- Work overloads should be avoided as far as possible and the division of the working day into at least 2 sections should be sought together with the necessary active breaks.

3. Regarding occupational risks

- The Occupational Health and Safety Management System must be updated with the possibility of developing work at home, with effective control of risks and dangers.
- The ARL must be notified of the implementation of this work modality.
- Employees should be constantly fed back on the difficulties that are evident in the performance of the work in order to find possible solutions.

INFORMATIVE BULLETIN ABOUT CORONAVIRUS

05 | June | 2020

- The health status of the employees must be monitored and communication channels must be implemented to report any news that affects the performance of the worker's duties.

4. Final considerations

- Employees must comply with their obligations regarding occupational safety and health while they are working at home.
- The ARLs will include work at home within their promotion and prevention activities and will provide support to the employer regarding active breaks.
- The coexistence committee must provide mechanisms for filing workplace harassment complaints.

Source: [Circular 041 of 2020](#)

Support program for the payment of service premiums and other labor measures

Take into account the most recent labor measures implemented by the National Government in relation to: i) the creation of new supports and / or aid for employers and employees; ii) the possibility of agreeing terms for the payment of the service premium; iii) the establishment of alternatives to manage working hours; and, iv) some modifications to the unemployment protection mechanism.

1. Creation of the Service Premium Payment Support Program - PAP–:

It consists of a State contribution to support and subsidize the payment of the service premium for the month of June 2020, which is established at a value of COP \$ 220,000 for each employee and it could be beneficiaries the legal entities, natural persons as employers, non-profit entities, consortiums and temporary unions.

The requirements that must be accomplished to access this benefit are the following:

Legal entity (general requirements):

- Created before January 1, 2020.
- Registration in the commercial register carried out or renewed at least for 2019.
- 20% or more decrease in income.
- Have a valid deposit product.
- Not have a State participation greater than 50% of its capital.

Non-profit entities (particular requirements):

- Be enrolled in the RUT.
- Be required to declare income or file a declaration of income and wealth, as well as to transmit exogenous information for the taxable year 2019.

Natural persons (particular requirements):

- Have contributed to social security for at least 3 employees in February 2020.
- Not be a Politically Exposed Persons (PEP) or have a blood relationship and / or affinity with a PEP.
- Registered in the commercial registry before January 2020.

Consortium and temporary unions (special requirements):

- Be enrolled in the RUT.
- It will not apply to workers reported through the legal entities or natural persons that comprise it.

In any case and in relation to the application of the PAP, the following should be taken into account:

- a. The procedure for calculating the decrease in income is pending regulation by the Ministry of Finance and Public Credit, as well as the forms required to access the PAP are pending.
- b. It will apply to dependent employees for whom the beneficiary has contributed through the PILA, with an IBC from 1 SMLMV to COP \$ 1,000,000.

 [Content](#)



INFORMATIVE BULLETIN ABOUT CORONAVIRUS

05 | June | 2020

- c. The value of the support will be calculated considering the number of employees who are reported in the PILA for the month of June 2020, as long as they have also been reported in the PILA for the periods of April and May 2020.

It is important to note that the application process for this support must be provided under the following parameters:

- a. A signed application must be submitted under the PAP.
- b. Certification signed by the legal representative or natural employer and the fiscal auditor must be presented, indicating: i) The decrease in income by 20% or more; and ii) The number of service premiums to be subsidized through the PAP.

Additionally, it is established that the contribution recognized through the PAP must be returned when: i) It has been obtained without complying with the requirements established for it or, ii) When it is verified that there was falsehood in the documents presented.

For those beneficiaries of the PAP who in turn are debtors of the credit lines for the payroll guaranteed by the National Savings Fund – FNG, when the sum of the resources received in the same month for the PAP and the credit exceed the total value of the service premiums of their respective payroll, the beneficiary must pay the value of the contribution received by the PAP to the credit.

2. Agreements for the payment of the service premium for the month of June 2020:

By mutual agreement, employers and employees may agree to pay the legal premium for services corresponding to the

month of June 2020 in up to three (3) installments. In any case, the service premium for the month of June 2020 must be paid to the employee before December 20, 2020.

This alternative applies to all employers, including those who become PAP beneficiaries.

3. Digital connectivity aid:

Temporarily and transitory, while the Health Emergency is in force, the employer must recognize the employees who earn up to 2 SMLMV and who carry out work at home, the value of the transport aid (COP \$ 102,854) as Digital Connectivity Aid.

In no case will the Digital Connectivity Aid and the Transport Aid be cumulative.

4. Assistance Program for Workers on Contract Suspension:

It consists of the recognition of an economic support of COP \$ 160,000 to those who meet the following requirements: i) they are dependent employees of the applicants to the PAEF, who earn up to 4 SMLMV; ii) their employment contract has been suspended, including for unpaid leave; and, iii) they are not covered by other support programs established by the National Government.

The financial support may be granted for up to 3 months for employees who have had their employment contracts suspended, during the months of April, May and June 2020. The payments to be made will correspond to the number of months in which the employee has had his work contract suspended between April and June 2020.

This aid will operate as follows:



INFORMATIVE BULLETIN ABOUT CORONAVIRUS

05 | June | 2020

a. It is not a process in which the employer intervenes.

b. It will be the UGPP that will determine the beneficiaries monthly according to the news of suspension of employment contracts reported in the PILA from April to June 2020.

c. The National Planning Department will review the potential beneficiaries to verify that they are not beneficiaries of other support programs established by the National Government.

d. The UGPP will request the financial information of the identified beneficiaries. In the absence of a deposit product, the Ministry of Labor may establish agreements with authorized entities to guarantee the transfer of resources.

e. The Ministry of Finance and Public Credit will direct resources to employees directly in accordance with the instructions given by the Ministry of Labor.

f. In any case, the specific regulation is still pending.

5. Alternatives regarding working hours:

With the purpose of preventing the massive circulation of employees in the transport services, the agglomeration in the work centers and preventing the spread of COVID-19, the Ministry of Labor proposed the following alternatives to literals c) and d) of article 161 of the CST, during the validity of the Health Emergency:

a. Successive work shifts:

The possibility of establishing successive work shifts in the terms of literal c) of article 161 of

the CST, which does not exceed 8 hours a day and 36 hours a week, is considered, which must be agreed with the employee in case of implying a modification in his day.

Under this scheme, there will be no overnight, Sunday or holiday surcharges, a situation that is not modified in the alternative proposed by the Ministry of Labor.

b. Flexible working day:

The possibility of distributing the maximum 48-hour week in up to four 4 days a week by mutual agreement with the employee (without the need to modify the work regulations), with a maximum duration of 12 hours a day. This increase in the working day does not suppose the cause of overtime.

On this modality there are late-night, Sunday and holiday surcharges; however, the employer and the employee may agree by mutual agreement to defer the payment of these maximum surcharges until December 20, 2020.

6. Partial modification of the Mechanism to Protect the Unemployed:

Article 12 of Law 1636 of 2013 was modified, reducing the term of recognition of the benefits provided therein, including the payment of contributions to the comprehensive social security system in favor of the unemployed, from six (6) months to three (3) months. However, the benefits provided for in Decree 488 of 2020 against the Unemployment Protection Mechanism were not modified.





TAX LAW AND CUSTOMS

Reduction of the advance of income tax for certain sectors

The National Government reduced to 0% and 25% the percentage of the advance of the income tax of the taxable year 2020.

Through Decree 766 of May 29, 2020, the National Government reduced, for certain taxpayers, the percentages on which they must calculate the advance of the income tax for the period 2020, which must be settled and paid in the income statement of the taxable period 2019. The percentage will be 0% for some sectors and 25% for others.

The economic sectors covered by this measure are essentially: extractives (hydrocarbons and mining), manufacturing, air transport for people, hotels, restaurants and public entertainment.

The percentage reduction of the income tax advance is determined based on the CIU code registered by the taxpayer.

VAT benefits for certain goods and services

Temporarily certain raw materials, certain franchise contracts and hotel and tourist services will be excluded from VAT.

In order to alleviate the fiscal burdens of the economic sectors most affected by the emergency caused by the COVID-19, the National Government excluded VAT on raw materials for the production of medicines, the activities of selling food through franchise contracts and hospitality tourism services.

In this way, the acquisition of raw materials for medicines and the development of the above activities will not be subject to VAT, which will represent a discount of almost 20% in the price of said goods and services. This measure will be in force during the health emergency, in the case of the acquisition of raw materials for medicines, and until December 31, 2020 in the case of the activities of selling food through franchise contracts and hotel and tourism services.

INFORMATIVE BULLETIN ABOUT CORONAVIRUS

05 | June | 2020

Additionally, until December 31, 2021, the importation of automotive transport and cargo vehicles will be exempt from VAT.

New relief for companies in insolvency proceedings

Certain income earned by insolvent companies will be treated as occasional earnings.

During the periods 2020 and 2021, companies in insolvency may treat discounts, capital deductions or withdrawals, fines, penalties or interests as an occasional profit. In this way, said income will be subject to a reduced rate of 10%, instead of the general rental rate of 32% for 2020 or 31% for 2021.

Additionally, the National Government allowed insolvent companies to offset the occasional gains obtained against occasional losses or accumulated fiscal losses from previous periods. This will be a great opportunity for companies in insolvency processes since it will allow them to take advantage of their tax losses against occasional gains, which is currently limited by the current tax regime.

These measures are in addition to those previously adopted by the National Government for companies in insolvency processes, such as the exception in the application of withholdings at source until December 31, 2020 and in the payment of the advance payment of the period 2020.





INFRAESTRUCTURE

Decree 768 of 2020

Through which the following measures are adopted on the provision of the public transport service and its infrastructure, as of June 1, 2020:

- The public taxi-type individual passenger transport service may be offered by any means complying with all security protocols.
- The activity of the Organisms of Support to the Traffic Authorities is allowed as long as it complies with (i) the conditions and biosafety protocols established for this purpose by the Ministry of Health and Social Protection and (ii) the indications that for the effect determined by the departmental, district or municipal authorities of the respective territory where each of these operate.
- The transit documents, including the driving license and the certificate of mechanical technical review and polluting emissions, the validity of which expires, shall be under-

stood to be automatically extended during the time that the aforementioned Support Organizations for Transit Authorities are suspended, and up to 1 month after this measure is completed.

- The collection of tolls is activated.
- In the concession contracts dealt with in the General Statute of Public Procurement and in the public-private association schemes referred to in Law 1508 of 2012, signed before the issuance of this Legislative Decree, the parties may agree to an extension in time that added exceeds the limits provided in the current regulations, an extension that will be based exclusively on the measures of non-collection of rates and tolls adopted by the National Government.

Source: [Presidency of the Republic](#)

INFORMATIVE BULLETIN ABOUT CORONAVIRUS

05 | June | 2020

Auto National Infrastructure Agency

The National Infrastructure Agency – ANI issues an Auto in order to extend the suspension of procedural terms in relation to the disciplinary actions carried out in the first instance by the Administrative and Financial Vice Presidency of the National Infrastructure Agency, until zero hours on July 1, 2020 .

Source: [National Infrastructure Agency](#)

Decree 131 of 2020

The Mayor of Bogotá issues Decree in order to give continuity to the mandatory preventive isolation from zero hours on June 01 to zero hours on June 16, 2020. Additionally, the following measures are taken:

All persons exempt from the mandatory isolation measure and who must be mobilized must fill out the form provided by the Mayor of Bogotá in the Bogotá Open Government digital application - GABO- or on the website www.bogota.gov.co/Bogota-cuidadora in the register of safe mobility and report of symptoms and state of health.

In the case of companies and commercial establishments that carry out the new excepted activities described in article 3 of decree 749 of 2020 of the national government, they may initiate the registration requirement that is dealt with by District Decree 128 of 2020 as of 1st of June on the platform www.bogota.gov.co/reactivacion-economica.

Finally, the procedural terms are suspended of the administrative, sanctioning, disciplinary actions carried out by entities and agencies of the central sector, and localities, from zero hours on Monday, June 1, 2020, to zero hours

on Monday, June 16, 2020. Without prejudice to The foregoing, each entity may exempt the suspension of terms in cases where it is possible to continue the procedure, guaranteeing due process.

Resolution 6185 of 2020

By which Resolutions 471 of March 2020 and 498 of April 13, 2020 of the National Infrastructure Agency are repealed, and the following transitional measures are established regarding the procedures being carried out by the National Infrastructure Agency:

1. The suspension of terms is ordered for the following actions carried out by the National Infrastructure Agency, during the validity of the isolation measure established in Decree 749 of 2020:

- The terms of review and evaluation of Public Private Partnership Initiative projects in the Prefeasibility and Feasibility stage, including the maximum term for the delivery of the project in the Feasibility stage.
- Requests for certification of contracts or other types of requirements whose process requires the inspection or copy of physical files that are in the file of the Entity.
- Procedures related to requests for port concessions, concessions for piers and contractual modifications and permits in port matters that require the summons to public hearings.

2. The suspension of the terms will not be applied with respect to the attention of requirements of authorities and control entities, responses to requests in exercise of the right of petition or that imply guarantee of fundamental rights.



INFORMATIVE BULLETIN ABOUT CORONAVIRUS

05 | June | 2020

3. During the period of validity of the mandatory preventive isolation, the use of the Quality Management procedures that imply the presence of officials or individuals or their displacement must be managed virtually.

4. For the purposes of electronic notification or communication procedures, the electronic addresses at which the respective notification may be made must be provided by the concessionaires, auditors, contractors and other interested parties in the procedures.

Source: [Ministry of Transport](#)

[You can consult in this link an updated regulatory matrix related with infraestructura and public law in Colombia.](#)

