

Regulation of the Law on Collective Labor Relations amended

In brief

On Sunday, 24 July, **Supreme Decree No. 014-2022-TR** was published, amending the **Regulation of the Law on Collective Labor Relations**.

Below we detail the main changes in the Regulation:

In depth

PROVISION	REGULATORY CHANGE
Scope of application	Nondependent workers are included in the workers subject to the labor regime of private activity. That is, independent contractors will be able to unionize, submit a statement of claims, initiate a negotiation, among other powers recognized by the law. The procedure to be followed in these cases is not specified.
Right to unionize and new types of trade union	A worker who is not represented by a union in the company is allowed to join a federation or confederation directly, and the employing company is forced to negotiate with them. It also adds the possibility of forming unions of company groups, production chain or subcontracting networks, or any other area that workers deem appropriate.
Delegates (when there is no trade union)	The two delegates must be elected by more than half of the workers attending the convened meeting. That is, the election will no longer be calculated based on the totality of the company's workers. This will allow for only a few to choose their delegates and will result in the inability to determine certainty of the level of representation of these representatives. No procedure has been established to call the election either.
Trade union section	A trade union section may also be established for company trade unions with more than one workplace. The union section was based on unions of local, regional or national scope; now it will also be applied for companies with several work centers.
Trade union jurisdiction	Previously, the trade union jurisdiction reached a maximum number of people depending on the type of trade union organization and the number of members. Currently, there are no limits on the number of protected representatives per board of directors. That is, it is left to the discretion of the union to expand the number of workers benefited.
Compulsory attendance events for the application of licenses	The following are considered as acts of compulsory attendance: <ul style="list-style-type: none"> • Officially summoned by the judicial, police or administrative authority, in the exercise of their functions • Those agreed by the parties in collective agreement

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	<ul style="list-style-type: none"> Participation in meetings of the trade union organization <p>However, the amendment has enabled the union to establish in its statutes or through its board of directors other acts of compulsory attendance, without it being necessary to justify it.</p>
Constitution of organizations and procedure for registration in the trade union register	<p>The obligation to submit documents endorsed by a notary public or by the local justice of the peace to the Administrative Labor Authority (known by its Spanish acronym AAT) is eliminated in order to constitute a trade union.</p> <p>With this, the constitution of trade unions is facilitated, without it being possible to verify the veracity of the information presented.</p>
Registration of trade union organizations whose registration has been canceled	<p>After a cancellation of trade union registration, a new registration could be requested after six months, having to correct the requirements that motivated the cancellation.</p> <p>With the modification, a new registration can be requested at any time.</p>
Scope of the collective agreement	<p>Although the possibility of unilaterally extending the scope of the collective bargaining agreement to workers outside its scope was not established, this is now expressly prohibited.</p>
Delivery of information on the economic, financial and labor situation	<p>Before the regulatory change, it was possible to discern what relevant information could be shared with the union, so that it could be used to prepare the statement of claims.</p> <p>Now, a list of information that must be shared is imposed, which may include sensitive information irrelevant for the intended purpose:</p> <ul style="list-style-type: none"> Financial statements Payment slips of the workers in the field for the last six months prior to the request for information Audited report of the most recent financial statements or annual report, if any Table of categories and functions in force Current salary scale and salary policy, if any List of economic benefits and working conditions granted by legal mandate, collective agreement or custom of the company, in force
Proxy arbitration	<p>Only workers will be able to initiate proxy arbitration, eliminating the possibility of the company doing it. In this way, it is impossible for the company to resort to this way of conflict resolution, even when acts of bad faith are noticed.</p>
Communication of the strike declaration	<p>The strike communication process is facilitated. For example, it is not required to present the minutes of the assembly endorsed by a Notary Public, or a local Justice of the Peace.</p> <p>In addition, express approval is not required for the strike to be legal. If the work authority does not respond within three days, positive silence is applied.</p>
Communication of minimum services	<p>Clarifications are added for the justification of essential public services and indispensable tasks that must be covered in the event of a strike. Thus, they should:</p> <ul style="list-style-type: none"> Limit the essential tasks to what is strictly necessary Provide a clear detail about the structure and operation of the company Adequately motivate the proposal of minimum services in virtue of the safety of workers and citizens who are in the company's facilities; or, depending on whether the stoppage of service caused by the strike prevents the immediate resumption of the company's ordinary activity <p>More demands are noted in the demonstration of necessity.</p>
Divergence on minimum services	<p>It is established that it is the AAT who will resolve this, being able to go to the independent body for the submission of a report.</p> <p>When the maximum deadline for resolving the disagreement is met, the union must presume the denial by default by filing the relevant administrative appeals.</p>



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Processing of the divergence on minimum services	<p>The AAT is the one who will resolve the divergence, taking into consideration the report of the independent body, the technical report submitted by the employer, and the observations submitted by the union.</p> <p>As long as it is not resolved, in the event of a strike, the following order of priority is considered to identify the minimum positions:</p> <ul style="list-style-type: none"> • Essential public services: <ul style="list-style-type: none"> • The previous agreements on minimum services • The resolution of a previous divergence in those aspects that have not changed substantially • The declaration made by the employer in accordance with the provisions of its technical report • Indispensable tasks: <ul style="list-style-type: none"> • The previous agreements on minimum services • The resolution of a previous divergence in those aspects that have not changed substantially • In the absence of all the foregoing, the Labor Administrative Authority will apply the principle of good faith and reasonableness, taking as a reference the statement made by the employer, in accordance with the provisions of its technical report.
Effects of the strike	<p>The employer is prohibited from using replacement personnel, directly or indirectly, to carry out the activities of the striking workers or to keep the affected processes or activities active.</p> <p>Likewise, it will not be possible to facilitate access to their work to the personnel included in the strike.</p>
Judicial dissolution of organizations due to loss of the number of affiliates	<p>In order to proceed with the judicial dissolution of a trade union organization due to the loss of the minimum number of members, it must first be verified that the decrease is not due to the commission of anti-union acts.</p> <p>It is established that in the calculation of the minimum number of affiliates, unionized workers who have been dismissed and who have denounced anti-union acts to the labor inspectorate or demanded reinstatement in court will continue to be considered.</p>
Disagreement on the level of collective bargaining	<p>As it had already been recognized in the Law, they may resort to conciliation, mediation or arbitration (alternative mechanisms) in case of disagreement on the level of collective bargaining. In addition, it is added that the workers will be able to file the proxy arbitration.</p>
Obligation to negotiate in good faith	<p>It is specified that the delivery of economic information in a timely manner is a point to be considered for the analysis of good business faith by the employer, in addition to the realization of all efforts for the achievement of agreements.</p>
Consequences of nonsubmission of the minimum services communication	<p>If the employer does not submit the communication of the minimum essential public services or of the indispensable tasks, in the event of a strike, it will consider the following order of priority:</p> <ul style="list-style-type: none"> • Essential public services: <ul style="list-style-type: none"> • The agreement of the parties • The divergence resolution of the immediately preceding year • The employer's minimum service communication for the immediately preceding year • International human rights standards (guarantee of life, safety and health of all or part of the population) • Indispensable tasks: <ul style="list-style-type: none"> • The agreement of the parties • The divergence resolution of the immediately preceding year • In default of everything, the payroll presented by the union with guidelines of good faith and reasonableness



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	Consequently, if no report of indispensable services is submitted, the union could finally decide on the number of indispensable positions.

We trust that this information will be useful to you and your company. If you require legal advice on this issue, do not hesitate to [contact us](#).



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