

Agricultural sector: collective bargaining and minimum working conditions

In brief

Supreme Decree No. 006-2021-TR, which approves the collective bargaining Regulation and minimum working conditions of the Agrarian Labor Regime Law, was published on 30 March 2021. This standard sets out provisions related to the promotion of collective bargaining in the agricultural sector and the minimum working conditions that companies must implement.

The main novelties of the new regulation are as follows:

Promoting collective bargaining

Formation of trade unions	The State recognizes the right of all workers in the agricultural industry to form trade union organizations, to join them freely and to develop trade union activity for the defense and promotion of their economic and social interests.
Promoting collective bargaining	<p>The Ministry of Labor will promote at the national level the progressive implementation of guidance and advisory services on the exercise of freedom of association and collective bargaining in the agricultural sector.</p> <p>In this regard, it has been provided that annual campaigns to promote and respect freedom of association in the agricultural and irrigation, agro-export and agro-industrial sectors, particularly for those above the corporate level, will be held in coordination with the Regional Directorates and/or Managers of Labor and Employment Promotion. The aim is to strengthen trade union activity and the representation of workers with a higher level of scope.</p>
Level of collective bargaining	<p>The parties may agree on the level of collective bargaining. If no agreement is reached, mechanisms such as conciliation or mediation may be used.</p> <p>In addition, taking into account the seasonality and discontinuity of activities in the agricultural sector, the parties have the power to bring a proxy arbitration to define the level of negotiation.</p> <p>In the event of a prior collective bargaining at some level, agreement of the parties is necessary in order to enter into collective bargaining at a different level, in a complementary or substitute manner. In the absence of</p>

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	<p>agreement, the parties have the power to resolve the dispute through mechanisms such as conciliation, mediation or arbitration.</p>
Right to information	<ul style="list-style-type: none"> • The trade union organization may request the relevant information from the company 90 calendar days in advance of the presentation of the statement of claims. • The employer must provide the information within 30 days of the request. • In case the delivery is not fulfilled, the organization may request the information through the Administrative Labor Authority.
Good faith	<p>The parties are obliged to negotiate in good faith for the purpose of concluding a collective agreement. This duty involves at least the following:</p> <ul style="list-style-type: none"> • Receive the statement of claims and commencement of negotiation within 10 calendar days of submission of the statement. • Provide economic, financial and social information, as well as that established in the collective agreement or in the law. • Attend the meetings at the agreed venues and frequency. • Exert the necessary effort to achieve agreements that put an end to collective bargaining, as well as refrain from actions that may be harmful to the other party.
Scope of the supra-corporate collective agreement and rules of representation	<p>For the product of a supra-corporate collective bargaining to have general effects for all workers in the field, it is needed that trade union organization or organizations represent the majority of the businesses and workers at the local, regional or national levels, as appropriate, and be called, directly or indirectly, all of the respective companies. This calculation is made at the time of submission of the statement of claims.</p> <p>In the event that these requirements are not met, the product of the collective bargaining will have limited effect only on workers affiliated with the corresponding trade union organization or organizations.</p> <p>Taking into account the seasonality and discontinuity of the activities of the agricultural sector, the number of enterprises and workers will be determined on the basis of the following:</p> <ul style="list-style-type: none"> • The annual average of companies and workers within the scope of the Agrarian Labor Regime Law. • The average number of workers declared on the Electronic Form in the year prior to the one in which the application is submitted.
Concurrence and articulation of collective agreements of different levels	<p>The collective agreements that operate at different levels are articulated by agreement of the parties. Broadly, the parties can define the rules on articulating the issues subject to collective bargaining through framework agreements on the structure of the negotiation of national scope, or, failing that, through collective agreements of higher levels of the company.</p> <p>In the absence of such rules, the collective agreement that the absolute majority of workers included in the lower-level collective agreement deems most favorable shall apply in its entirety at the general assembly.</p> <p>Matters not covered by a higher-level collective agreement, which relate to the company's own and exclusive working conditions, may be negotiated at company level.</p>

Minimum working conditions

<p>Transfer of workers</p>	<p>If there is no public transport service for the transfer of workers to the work center and it is not possible for them to move safely by their own means, the employer must guarantee the transfer directly or through third parties through a ground transport service.</p> <p>In response to the health emergency, biosecurity measures should be observed to prevent the spread of COVID-19.</p>																								
<p>Diet</p>	<p>The employer must provide its workers with adequate food based on the activity they perform.</p> <p>For these purposes, technical documents issued by the National Food and Nutrition Center – CENAN of the National Institute of Health or other sources of information that fulfill the same purpose are taken into account.</p>																								
<p>Dining halls</p>	<p>The employer shall have a dining hall where food is consumed in suitable and safe conditions. The following should be taken into account:</p> <ul style="list-style-type: none"> • The dining hall should protect the worker from adverse weather conditions. • The dining room should be located away from areas where agrochemicals are applied or where hazardous products are stored. • Commuting to the dining hall should allow food to be consumed in a reasonable time. • The worker may not consume his food while performing his work or in the workplace. <p>To prevent the spread of COVID-19, the employer must establish shifts for workers to use the dining hall.</p>																								
<p>Hydration</p>	<p>Drinking water for human consumption shall be provided throughout the working day through drinking fountains.</p>																								
<p>Rest areas</p>	<p>The employer shall provide sun-protected rest areas.</p> <p>If the worker is obliged to stay overnight, the employer must provide a suitable place for these purposes.</p>																								
<p>Toilet facilities</p>	<p>The employer must have toilet facilities for individual or collective use, which must be in good condition and have drinking water and liquid soap.</p> <p>In work centers that qualify as buildings and/or urban facilities, the established IS 010 Sanitary Installations for Buildings of the National Regulation of Buildings standard is applied. The minimum ratio between the number of workers and the number of sanitary appliances for agro-industrial plants is the same as for industrial plants, according to the following table:</p> <table border="1" data-bbox="352 1794 1281 2029"> <thead> <tr> <th>Workers</th> <th>Toilets</th> <th>Sinks</th> <th>Showers</th> <th>Urinaries</th> <th>Drinking fountains</th> </tr> </thead> <tbody> <tr> <td>1 to 9</td> <td>1</td> <td>2</td> <td>1</td> <td>1</td> <td>1</td> </tr> <tr> <td>10 to 24</td> <td>2</td> <td>4</td> <td>2</td> <td>1</td> <td>1</td> </tr> <tr> <td>25 to 49</td> <td>3</td> <td>5</td> <td>3</td> <td>2</td> <td>1</td> </tr> </tbody> </table>	Workers	Toilets	Sinks	Showers	Urinaries	Drinking fountains	1 to 9	1	2	1	1	1	10 to 24	2	4	2	1	1	25 to 49	3	5	3	2	1
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1 to 9	1	2	1	1	1																				
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25 to 49	3	5	3	2	1																				

	50 to 100	5	10	6	4	2
	For every additional 30	1	1	1	1	1
	In the event that it is not possible to place toilet facilities, the employer will allow workers to leave their place of work and move to the nearest toilet facilities, without deducting the time spent from their remuneration.					
Showers and changing rooms	If the nature of the work involves the use of toxic chemicals, the employer will have one or more shower areas where workers can wash. Changing rooms with continuous air circulation and lockers will also be implemented.					
Use of machinery	The employer shall implement specific occupational safety and health measures for the use and maintenance of machinery, equipment and tools.					
Sun protection	The employer shall establish measures to control the risks associated with sun exposure, such as the delivery of personal protective equipment and the supply of sunscreen. The sun protection factor (SPF) must be equal to or greater than 50 with UVA and UVB protection. A minimum recovery time must be granted in cases where thermal stress has been detected.					
Personal protective equipment	The employer will provide personal protective equipment that will meet the following characteristics: <ul style="list-style-type: none"> • be specific to the type of risk • be consistent with the anthropometric characteristics of workers • comply with manufacturing technical standards Training must be provided to ensure the correct use of the equipment, its maintenance and inspection.					
Infractions	Failure to comply with minimum working conditions is a serious administrative offense punishable by a fine, which will be determined on the basis of the number of workers affected.					

We trust that this information is relevant to you and your company. If you require a deeper understanding of the topic, do not hesitate to [contact us](#).