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New regulations on promotion of labor insertion for the disabled and special leaves for people with family members with disabilities

I) Labor insertion of people with disabilities:

On November of 2018, act No. 19.691 was enacted in our country. This law promotes employment of people with disabilities in the private sector.

The Uruguayan law (N° 18.651) provides that a person with disability is *“any person who suffers or presents a permanent or prolonged functional, physical (motor, sensory, organic, visceral) or mental (intellectual and / or psychic) impairment that in relation to their age and social environment implies considerable disadvantages for their family, social, educational or employment integration”*.

This act establishes that in all new personnel income that occurs as of the effective date of this law, companies with 25 or more workers will have the obligation to employ permanent staff with disabilities who meet conditions and suitability for the position, in a certain percentage of the total of their permanent employees:

1. during the first year in force of the law:

- a) Employers with 500 or more employees: **3%**
- b) Employers with 150 employees and less than 500: **2%**
- c) Employers with 50 employees and less than 150: **1%**

2. during the second year in force of the law:

- a) Employers with 500 or more employees: **4%**
- b) Employers with 150 employees and less than 500: **3%**
- c) Employers with 50 employees and less than 150: **2%**
- d) Employers with less than 50 employees and more than 25: **1,5%.**

3. during the third year in force of the law:

- a) Employers with 500 or more employees: **4%**
- b) Employers with 150 employees and less than 500: **3,5%**
- c) Employers with 50 employees and less than 150: **3%**
- d) Employers with less than 50 employees and more than 25: **2%.**

4. three years after the law came into effect:

- a) 4% in all cases.

Special conditions for disabled employees:

This Law provides that employees with disabilities will enjoy all the rights and obligations provided by labor regulations and provides some special conditions for employees with disabilities, such as:

- Employment support

Employees with disabilities who require support to carry out their duties may request it from the company. Such support includes adaptations, mentors, peer identification, etc. For these purposes, the figure of the Labor Operator is created, an employment technician with support who specializes in the application of the methodology and commits to supporting the person with disabilities until they can work independently.

- Accessibility

The company must have adequate accessibility conditions in the workplace, and must make the necessary adaptations for the adequate performance of the employee with a disability.

- Leave without pay

The disabled employee shall have the right to apply for an extraordinary leave without pay for a period of up to 3 continuous or discontinuous months a year, provided that it is due to his disability and that he is outside the cases provided for by the insurance due to illness and the annual license. To make use of this right, the employee must communicate it 48 hours in advance, accompanying the medical certificate for which the license is requested.

- Dismissal

It is envisaged that disabled persons covered by this act cannot be dismissed unless there is a reasonable cause related to the employee's conduct or based on the needs of the company, establishment, service, or other entity, sufficient to justify the decision taken. In case of non-compliance, the employer must pay compensation for common dismissal plus six monthly payments.

It is added that in any case, the employer must within a period of three months from the dismissal, hire another person with disabilities to replace the disengaged employee, unless the dismissal was due to the removal of the job by restructuring

Companies benefits:

The companies that carry out works of construction of accessibility or adaptation of workplaces in order to enable the performance of personnel hired under the Act, may be included in the benefits of Law of Investment and Industrial Promotion.

Additionally, it is established that employers' pension contributions to the Social Security Bank (BPS) corresponding to persons with disabilities who enter to work as of the effective date of the Law, will be carried out gradually according to the following scale: during the first year, 25% of the contribution; during the second year 50% of the contribution; during the third year 75%; once completed three years of work 100% of the contribution.

Registration of companies and persons with disabilities:

The companies that intend to avail themselves of the benefits must register at the Ministry of Labor and Social Security (MTSS), and must submit a report from the National Labor Inclusion Commission, regarding compliance with the Law. For their part, people with disabilities who intend to benefit from this act, must be registered in the Registry of Persons with Disabilities that operates in the Honorary Commission for Disability.

II) New special leaves:

Later on January, Law 19.729 was published, creating two new special leaves for workers in the private sector that are added to those regulated by Law 18.345 (leave for study, paternity, adoption, adoptive legitimation, marriage and mourning).

a) Special leave for workers with children with disabilities:

The act establishes that every worker who has a child with a disability according to Law 19.691 will have the right to request up to a total of 10 annual days of leave with pay, for medical checks of that child.

The communication of such end to the employer must be made at least 48 hours in advance.

b) Special leave for workers who have family members with disabilities or terminal illness in charge:

This act also creates a special 96-hour annual license that may be used continuously or discontinuously, for every worker who has family members with a disability or terminal illness in charge according to Law 19.691. From said period, 64 hours will be paid by the employer.