



# COVID-19: LATIN AMERICA GUIDE FOR EMPLOYERS



**Employment  
Law Alliance®**

# INTRODUCTION

---

Today, across the globe, companies are trying to balance the many business challenges that are occurring due to the global pandemic of the COVID-19 virus. Employers are doing their best to take the necessary actions to protect their employees, but with local laws and government regulations constantly changing, it is difficult to keep up with the most important issues.

In this white paper, the ELA members from the Latin America region have provided answers to the most important questions that companies need to address during the pandemic. This is a guide for employers, listing the appropriate actions they must take in order to meet the needs of their employees, while also making important choices necessary to keep business moving forward.

We hope that this paper helps you address key issues in your jurisdiction. As the situation is constantly evolving, readers should take note that this publication is accurate as of 6 April 2020. Readers should also keep abreast of developments in the countries of concern to them.

If you have additional questions or need further information, please feel free to reach out to the contributors individually.

Copyright 2020 Employment Law Alliance, (ELA). The Employment Law Alliance is a global consortium of more than 3000 labor, employment and immigration attorneys in over 100 countries. This publication is not intended to provide legal advice but rather information on legal matters and employment law news of interest to our clients, colleagues and individuals who have requested such information. Readers should seek specific legal advice before taking any action with respect to the matters mentioned in this publication.



# CONTENTS

---

[Argentina](#)

[Bolivia](#)

[Brazil](#)

[Chile](#)

[Costa Rica](#)

[Colombia](#)

[Ecuador](#)

[El Salvador](#)

[Guatemala](#)

[Honduras](#)

[México](#)

[Nicaragua](#)

[Panama](#)

[Paraguay](#)

[Peru](#)

[Uruguay](#)

[Venezuela](#)

**Supplements**

[Spain](#)

# ARGENTINA

---

**Q: What happens if employees in the workplace are confirmed to be positive for COVID-19? What actions should be taken? What is the legal framework applied?**

**A:** Mandatory rules for sick leave apply. An employee who is absent from work due to an accident or an extended illness not related to work is entitled to collect normal salary while away during a certain period of time (from 3 to 12 months depending on the tenure within the employment and dependants).

**Q: Can the employer request the employees to use vacation time?**

**A:** No, pursuant to Resolution 279/2020, the employees who are required to stay at home due to the self-isolation requirements will receive their remuneration and their period of absence from the workplace should not be considered as vacation (i.e. the employer would not be able to grant the employees with days of vacation), public holidays or rest days and as such, no supplementary payments which are due to employees for such days (asuetos in Spanish) will be due unless either the self-isolation period coincides with public holidays.

**Q: Is it possible to suspend the employees without pay, with full salary or with half salary?**

**A:** Pursuant to Decree 329/2020, as from March 31, 2020 dismissals without cause and dismissals and suspensions due to lack or reduction of work and/or force majeure are prohibited for a 60-day term. However, suspensions with payment of a “non-remunerative” allowance (pursuant to Section 223 bis of the Labor Contract Law) are allowed. The employer must prove the force majeure. A special procedure known as the “Crisis Preventing Procedure”, which should only be required in the event that certain percentages provided by the law are reached, may be applicable and involve hearings before the Labor Ministry prior to the implementation of suspensions. Negotiation with Union, if any, is recommendable.

**Q: Is it possible to dismiss and/or suspend employees under the argument of force majeure?**

**A:** No.

**Q: Can employees work during mandatory quarantine?**

**A:** Yes, employees covered by the “social, preventive and mandatory isolation” requirements will be exempt from attending the workplace. However, when their duties or other similar duties, can be carried out from home or the place of isolation, they must, within the context of contractual good faith, establish with their employer the conditions in which they will work.

# ARGENTINA

---

**Q: What are the basic guidelines that have been implemented to prevent COVID-19 in the workplace?**

**A:** The National Government ordered the Social, Preventive and Mandatory Isolation from March 20 to April 13, 2020 for all people living within the Argentine territory. During this period of the "social, preventive and mandatory isolation", people must remain in their home and refrain from going to their workplaces. They are not allowed to travel along routes, roads or public spaces.

**Q: Are there any restrictions on terminating employment contracts?**

**A:** Yes, pursuant to Decree 329/2020, as of March 31, 2020 dismissals without cause and dismissals and suspensions due to lack or reduction of work and/or force majeure are prohibited for a 60 day term.

---



[Enrique Stile](#)

**Marval O'Farrell & Mairal**  
Av. Leandro N. Alem 882  
(C1001AAQ) Buenos Aires  
Argentina



# BOLIVIA

---

**Q: What happens if employees in the workplace are confirmed to be positive for COVID-19? What actions should be taken? What is the legal framework applied?**

**A:** Short-term social security legal provisions will be applicable. Benefits for the employer and employees will be activated. Employees will be entitled to sick leave. Employers could deduct a portion of the employee's salary from future mandatory contributions to the short-term social security system.

**Q: Can the employer request the employees to use vacation time?**

**A:** Compulsory vacations are not allowed. However, employers and employees can freely negotiate vacations.

**Q: Is it possible to suspend the employees without pay, with full salary or with half salary?**

**A:** Employees are entitled to receive their full salary during the quarantine that will last until April 15. Employers and employees can freely negotiate no pay or partial pay of full wages.

**Q: Is it possible to dismiss and/or suspend employees under the argument of force majeure?**

**A:** Dismissals as a result of force majeure would be allowed. Quarantine in itself would not be enough to invoke a force majeure event. It is essential to demonstrate other specific requirements provided by judicial precedents and doctrine, which are mainly linked to lack of economic viability.

**Q: Can employees work during mandatory quarantine?**

**A:** Employees in essential sectors are required to continue working during quarantine. Non-essential sectors are applying remote work or telework modalities.

**Q: What are the basic guidelines that have been implemented to prevent COVID-19 in the workplace?**

**A:** In general, local employees have implemented the following measures contributing to social distancing: (i) reduction of working hours; (ii) shifts; (iii) avoid of face-to-face meetings; (iv) provision of sanitary supplies; and (v) implementation and updating of safety protocols.

# BOLIVIA

---

***Q: Are there any restrictions on terminating employment contracts?***

**A:** No, there are no specific limits in place. However, all employers are subject to the constitutional norm that protects job stability. Unjustified dismissals can be rejected by the employees and the Labor Ministry holds authority to order re-entry to work.

---



[René Claire-Veizaga](#)

**Moreno Baldivieso – Law Offices**  
Capitán Ravelo 2366 | PO Box 830  
Bolivia



# BRAZIL

---

**Q: What happens if employees in the workplace are confirmed to be positive for COVID-19? What actions should be taken? What is the legal framework applied?**

**A:** If the employee presents a medical certificate stating that s/he is unable to work, standard rules for sick leave will apply. The company is only liable to pay for the employee's salaries for the first 15 days. After 15 days the company may stop paying salaries and the employee will start to be entitled to receive a sick leave allowance from social security.

**Q: Can the employer request the employees to use vacation time?**

**A:** Yes, if the employee does not present a medical certificate stating that s/he is unable to work. In this case the employee can enjoy vacations as usual, and during the current state of emergency declared by the Government the vacation periods can be anticipated even if the corresponding vesting period is not complete ("early vacations").

**Q: Is it possible to suspend the employees without pay, with full salary or with half salary?**

**A:** Yes, however, payment of a monthly allowance ("compensatory aid") equivalent to 30% of the salary is mandatory for companies with gross income higher than BRL 4,800,000.00 in 2019. Government pays an additional monthly aid/allowance directly to the employee, based on the unemployment insurance amount that would be due to the employee. For employees with salaries between BRL 3,135.00 and BRL 12,202.12 it must be implemented with union participation. It is also possible to reduce working hours schedule and salary proportionally for up to 90 days, whereas specific rules apply depending on the salary range and reduction percentage.

**Q: Is it possible to dismiss and/or suspend employees under the argument of force majeure?**

**A:** Dismissals may be applied regardless of force majeure. A termination based on force majeure, reducing severance, would require proving that the company is shutting down a branch or its entire activities in Brazil. Suspension cases are those addressed in the previous question.



# BRAZIL

---

**Q: Can employees work during mandatory quarantine?**

**A:** Not for confirmed COVID-19 cases or employees suspicious to be infected. Other employees' cases depend on a case-by-case analysis; being due to the possibility of implementing a home office system whenever possible and considering locations where certain activities have either been suspended or deemed as essential services (cannot stop) by the Government.

**Q: What are the basic guidelines that have been implemented to prevent COVID-19 in the workplace?**

**A:** All levels of public administration and private companies have been instructing the public/staff to practice social distancing and following the standards of the World Health Organization to prevent the COVID-19 spread. Several states have limited commerce activities and public transportation, as well as ordered the suspension of educational facilities. To the extent possible, companies are implementing home office system and applying other alternatives made available by existing legislation and those that may still come from the Government.

**Q: Are there any restrictions on terminating employment contracts?**

**A:** Employees cannot be dismissed without cause (i) during their employment agreement suspension or worktime and salary reduction period and (ii) after such special conditions ends, for the same period of time the suspension/reduction lasted.

---



[Renato Canizares](#)

**Demarest**

Av. Pedrosa de Moraes 1201

São Paulo SP 05419-001

Brazil

DEMAREST

# CHILE

---

**Q: What happens if employees in the workplace are confirmed to be positive for COVID-19? What actions should be taken? What is the legal framework applied?**

**A:** In case of an infected employee, a medical license will be issued, and the employee will have to remain on medical leave. During this period s/he will receive the corresponding economic and health benefits from the health insurance company (ISAPRE or FONASA), unless it is possible to establish the origin as labor, being covered by the work accidents and occupational diseases insurance of law No.16.744. Depending on the factual circumstances, other employees who had immediate contact with the infected employee should be informed and sent to the relevant health institution for testing and will normally be ordered to quarantine subject to a medical leave as well.

**Q: Can the employer request the employees to use vacation time?**

**A:** Companies could unilaterally close (completely or partially) one or more of their establishments for a minimum of 15 working days, so that their employees make use of their legal vacation days collectively (collective vacations). Other than in the case of collective vacations, companies could agree with each of the employees about the use of their individual vacation days, but only with their consent.

# CHILE

---

**Q: Is it possible to suspend the employees without pay, with full salary or with half salary?**

**A:** As a general rule, contract suspensions, without pay, with pay or with partial payments may be agreed with the employees through an addendum to the contract.

Notwithstanding the above, in case of force majeure that makes it impossible for the employer to operate its entire business or part of it, as a consequence of an order from the authority, the employer could inform the employees about the suspension of the contract due to force majeure, without paying remuneration, unless the employer is willing to offer full or partial pay (criterion supported by the Labor Board in ruling issued on March 19th). Additionally, there is a new bill just approved on protection of employment (that will be published on the Official Gazette shortly) which, unless otherwise agreed in writing and subject to complying with its specific requirements, provides the possibility for an automatic suspension of the employment contracts if there is an order from authority which forbids or prevents the employees from rendering services. The employer will not be required to pay remuneration, but employees will be able to withdraw money from the unemployment insurance. The employer will remain obliged to pay all the employee's social security contributions but based on 50% of the employees' remunerations prior to the suspension (except for contribution for work-related accidents and professional diseases). Additionally, in case of employers affected by the Covid-19 but not during the term of or else subject to such act of the authority, they may agree with their employees the suspension of the contract in writing with the same effects. Finally, another mechanism introduced by the new bill is an agreed reduction of employees' working schedules with a proportional decrease in their remunerations with employees receiving a supplement to their remuneration from the unemployment insurance. This last mechanism can only be used in four limited scenarios contemplated in the law.

**Q: Is it possible to dismiss and/or suspend employees under the argument of force majeure?**

**A:** The Labor Board has ruled that the closure of companies due to an order of the authority may be qualified as force majeure, hence the employment agreement obligations would be suspended during this period, (which must be analyzed case by case by Labor Courts). The latter does not necessarily mean that force majeure is a validly applicable ground of termination. Moreover, the new law on protection of employment expressly prohibits the use of this ground of termination when the ground is invoked based on the COVID-19 outbreak, for a 6-month term or during the term of the State of Catastrophe.

# CHILE

---

**Q: Can employees work during mandatory quarantine?**

**A:** In case of mandatory quarantine, only companies providing essential services are allowed to continue working. In such cases, employers must process special passes (“salvoconductos”) for the employees. If a company does not qualify as an essential service, employees who are able to render services by a teleworking or remote working system could remain rendering services from their homes, and therefore, are entitled to receive their usual remuneration. **Note that there are different permitting schemes for zones in quarantine and for operation during curfew times.**

**Q: What are the basic guidelines that have been implemented to prevent COVID-19 in the workplace?**

**A:** The Labor Board has ruled that employers should take measures to protect employees’ health under these circumstances, such as: (i) agreeing a teleworking or remote working system with employees; (ii) agree on different entry and exit working schedule and/or shift distribution; (iii) take measures to avoid agglomerations on working spaces; (iv) limit the number of users or clients who visit the company’s premises; and (v) provide the employees with protective elements according to the circumstances including provision of masks, gloves, disinfectant for hands, etc. Employers should take such other measures as recommended or directed by competent authority from time to time.

**Q: Are there any restrictions on terminating employment contracts?**

**A:** Up to this date, only regular restrictions for termination of an employment contract are in place. Nevertheless, the new bill on protection of labor income states that during 6 months after the law is enacted or during the State of Catastrophe, employers cannot terminate the employment contracts under the ground of force majeure based on COVID-19 outbreak. Likewise, in case the employment contract is suspended by virtue of any of the mechanisms established in the new bill on protection of employment the company can only unilaterally terminate employees under the grounds of business necessities and at will of the employer (where applicable). Finally, the new bill stipulates that employment contracts terminated during the period between the declaration of the State of Catastrophe (March 18th) and the date in which the law is enacted, can be set aside by mutual agreement.

# CHILE

---



[Oscar Aitken](#)

**Carey**  
Isidora Goyenechea 2800  
43rd Floor  
Las Condes, Santiago, Chile

/Carey

# COSTA RICA

---

**Q: What happens if employees in the workplace are confirmed to be positive for COVID-19? What actions should be taken? What is the legal framework applied?**

**A:** If an employee is confirmed positive with COVID-19, the Company must send him/her and the employees who had contact with them to Social Security in order to get attention. If they have medical leave, the rules from Social Security related to COVID-19 and subsidies will apply.

**Q: Can the employer request the employees to use vacation time?**

**A:** Yes, the Labor Ministry has issued guidelines for employers and sending employees on vacation is a possibility. For those employees with accrued vacation days, employers are able to force them to go on vacation, and for those who do not have accrued vacation days, the parties could agree on vacation in advance.

**Q: Is it possible to suspend the employees without pay, with full salary or with half salary?**

**A:** Suspension without payment must be authorized by the Labor Ministry. Furthermore, suspension with payment could be implemented unilaterally by the employer, and authorization from the Labor Ministry is not required. If the Company will pay half salary, there must be an authorization of reducing work shifts and salary.

**Q: Is it possible to dismiss and/or suspend employees under the argument of force majeure?**

**A:** Even though it could be explained to employees, the argument must be dismissal without cause based on provision 85 of the Labor Code, and severance and any other indemnification must be paid. On the other hand, suspension could be requested to the Labor Ministry based on force majeure due to the pandemic.

**Q: Can employees work during mandatory quarantine?**

**A:** At this moment Costa Rica does not have mandatory quarantine, however, a lot of people are working from their homes. Therefore, if mandatory quarantine is ordered, it would be necessary to review which operations/positions will be affected.

# COSTA RICA

---

**Q: What are the basic guidelines that have been implemented to prevent COVID-19 in the workplace?**

**A:** The Health Ministry has established clear health protocols, such as handwashing, coughing and sneezing coverage, use of soap, gel, use of masks, gloves and social distancing. Other basic rules are: work from home, send employees on vacation and suspension of employment.

**Q: Are there any restrictions on terminating employment contracts?**

**A:** Not at this moment; employers have the possibility to terminate employment with regular employees paying severance, however, it is not possible to terminate employees who are on medical leave or who are suspects of COVID-19, since it could be considered as discriminatory.

---



[Randall Gonzalez](#)

**BLP**

BLP Building, 4<sup>th</sup> Floor  
Via Lindora Business Center  
Radial Santa Ana – Belen, Km 3.  
Santa Ana, San Jose, Costa Rica



# COLOMBIA

---

**Q: What happens if employees in the workplace are confirmed to be positive for COVID-19? What actions should be taken? What is the legal framework applied?**

**A:** The employee must immediately inform the Health Authorities. Those employees that had direct contact with the employee that is confirmed positive must be immediately sent to quarantine and must report to the Health Authorities in order to be monitored.

**Q: Can the employer request the employees to use vacation time?**

**A:** Yes, through Circular 021 of 2020 the Ministry of Labor included vacations as one of the alternatives that employees may use during COVID-19 crisis. Through Decree 488 of 2020 the National Government authorized employees to unilaterally communicate vacations days with only one (1) day of previous notice.

**Q: Is it possible to suspend the employees without pay, with full salary or with half salary?**

**A:** It is possible to suspend employees without pay, full pay or partial pay, but the Ministry of Labor had stated that such suspension cannot be imposed unilaterally by the employer.

**Q: Is it possible to dismiss and/or suspend employees under the argument of force majeure?**

**A:** Yes. It is possible to dismiss employees, but it will be treated as a termination without cause and certain limits on the number of employees that can be dismissed will apply depending on the size of the company. It is also possible to suspend the employment contract, but a voluntary agreement entered with the employee will be required.

**Q: Can employees work during mandatory quarantine?**

**A:** Yes, Decree 457 of 2020 included some exceptions in which employees may move to the employer's facilities to render services (i.e. medical service, food and medical supply, critical infrastructure, security). Those employees that cannot work on the employer's facilities, may render service through homework or telecommuting.



# COLOMBIA

---

**Q: What are the basic guidelines that have been implemented to prevent COVID-19 in the workplace?**

**A:** The Ministry of Health issued Circular 018 of 2020, in which the following rules are established: i) Employees must constantly wash their hand and clean their workplace; ii) Employers must inform employees of prevention measures; iii) Supply protection elements to those employees that will be exposed (i.e. airports personnel, health employees); iv) Train employees on COVID-19 prevention measures; and, v) Inform health authorities of possible cases of COVID-19.

**Q: Are there any restrictions on terminating employment contracts?**

**A:** Yes, although employees may unilaterally terminate employment agreements, there is a limit of unilateral terminations that may be performed during a period of six (6) months. If the employer exceeds the limit of terminations, the Ministry of Labor may declare a collective dismissal and order the reinstatement of all the employees that where unilaterally terminated during the period of six (6) months. To avoid this risk, employers shall request authorization to the Ministry of Labor, however, the Ministry has expressly indicated that these authorizations will not be given.

---



[Carolina Camacho](#)

**Posse Herrera Ruiz**

Cra 7 No. 71-52

Tower A 5th Floor

Bogota, Colombia



# ECUADOR

---

**Q: What happens if employees in the workplace are confirmed to be positive for COVID-19? What actions should be taken? What is the legal framework applied?**

**A:** The employer must report the case to the Health Ministry using the hotline 173. The applicable legal framework are the recommendations issued by the Labor Ministry to prevent the spread of COVID-19.

**Q: Can the employer request the employees to use vacation time?**

**A:** If the employee has accumulated vacations, the employer can unilaterally instruct him/her to enjoy them. If the employee has no accumulated vacations, both parties may negotiate the vacation period.

**Q: Is it possible to suspend the employees without pay, with full salary or with half salary?**

**A:** Yes. The payment may be reduced up to 25%, tied to a reduction of the working time from 40 hours a week to 30 hours. Besides this, the employer can suspend the workday until the emergency ceases and, in such cases, the form of payment - not the quantity - may be negotiated with the employee.

**Q: Is it possible to dismiss and/or suspend employees under the argument of force majeure?**

**A:** Yes. The suspension is contemplated, but, unless agreed otherwise with the employee, the remuneration must be paid. Once the suspension ceases, the employee must recover the working hours without recharges. The termination is also contemplated in the law. However, taking this measure will, most likely, bring claims, since the job or the enterprise itself did not disappear due to the event.

**Q: Can employees work during mandatory quarantine?**

**A:** Yes, telework is an option to keep working. The industries related to pharmaceuticals, food supply, security, health services, public services and energy industry, among others are obliged to keep working.

# ECUADOR

---

**Q: What are the basic guidelines that have been implemented to prevent COVID-19 in the workplace?**

**A:** Providing training on hygiene and basic supplies such as gloves, masks, hand sanitizing gel, etc. Also, the employer must plan, at least: continuous medical examinations, identification of suspicious cases, preventing social exposure, reporting every possible or confirmed case to the Health Ministry, etc.

**Q: Are there any restrictions on terminating employment contracts?**

**A:** As of now, there are not.

---



[Javier Salvador Soto](#)

**Pérez Bustamante & Ponce**

Av. Republic of El Salvador N36-140

Mansión Blanca Building

Quito, Ecuador

PÉREZ  
BUSTAMANTE  
& PONCE **PBP**

# EL SALVADOR

---

**Q: What happens if employees in the workplace are confirmed to be positive for COVID-19? What actions should be taken? What is the legal framework applied?**

**A:** Currently, there is no legal framework that specifies how to proceed in these cases; COVID-19 is not currently included in the list of diseases of mandatory notification, issued by the Ministry of Health. This might change soon though, as similar diseases such as SARS are included. In any case, we strongly advise notifying the Ministry of Health of any suspected or confirmed cases, to avoid a potential fine of up to US \$11,428.57, as there is no clarity if the Ministry of Health has updated the list of diseases of mandatory notification during this emergency.

**Q: Can the employer request the employees to use vacation time?**

**A:** It is forbidden to send employees on vacation. The employer must provide the vacations and the employee must take them only in the corresponding period (Art. 188 labor code).

**Q: Is it possible to suspend the employees without pay, with full salary or with half salary?**

**A:** It is not possible to reduce the salary conditions for the employees (Art. 30, section 10 labor code), a contractual obligation will be breached if these promotions or salary increases are stated in an employment agreement or any written document. Any type of salary deduction is prohibited. This allows the employee the possibility of releasing the labor agreement with responsibility for the employer (Art. 53, section 1 Labor code).

**Q: Is it possible to dismiss and/or suspend employees under the argument of force majeure?**

**A:** Currently, there is no legal framework that specifies how to proceed in these cases related to COVID-19. In any case, we strongly advise refraining from doing it.

**Q: Can employees work during mandatory quarantine?**

**A:** The employer can request its employees to continue carrying out their functions under the "home office" modality, as long as the employment agreement allows it. And there are some companies with special permits to keep operating, such as textile, agriculture, call centers, public and private health services, among others.

# EL SALVADOR

---

**Q: What are the basic guidelines that have been implemented to prevent COVID-19 in the workplace?**

**A:** The Ministry of Health is adhering to the International Health Regulations (2005) issued by the World Health Organization and has recommended to all the citizens: regular handwashing, covering of mouth while coughing or sneezing, avoiding contact with people who show symptoms and social distancing.

**Q: Are there any restrictions on terminating employment contracts?**

**A:** Employers cannot terminate employment agreements: a) if any of their employees are quarantined (the quarantine order must be issued by the competent health authority); b) in the case that, due to immigration and health restrictions, it is impossible for employees to return to their workplace; The labor stability guarantee starts from the issuance of a quarantine order and will extend for three months after the quarantine has ended, except in cases where the labor release is due to legal causes for termination of the labor agreement. These obligations are contemplated in articles 1, 2 and 3 of executive decree number 7, issued on March 17, 2020 and article 5 of the national state of emergency to deal with the COVID-19.

---



[Randall Gonzalez](#)

**BLP**  
Avante Building, Suite 9-10,  
Madre Selva Urbanization.  
Antiguo Cuscatlán, La Libertad.  
El Salvador



# GUATEMALA

---

**Q: What happens if employees in the workplace are confirmed to be positive for COVID-19? What actions should be taken? What is the legal framework applied?**

**A:** The employer must communicate the situation to the Ministry of Public Health and Social Assistance. The Ministry is entitled to adopt measures for the prevention and control of diseases. Therefore, it could apply measures such as the temporary closure of establishments, targeted quarantine or sanitary cords, depending on the severity of each case. It is suggested to bear in mind when a case of COVID-19 is confirmed in one of the employees, the Ministry may establish sanitary measures in the workplace, not ruling out the possibility of temporary closure or permanent closure.

**Q: Can the employer request the employees to use vacation time?**

**A:** The employer is entitled by article 132 of the Labor Code, to decide when the employees may take vacations, as long as it does not disrupt the operation of the company, to ensure the effectiveness of the company and avoid the overloading of fellow employees. It will be necessary to document the vacation period, with a letter of notification and the subscription of the certificate when the employee returns.

**Q: Is it possible to suspend the employees without pay, with full salary or with half salary?**

**A:** Although the provisions issued by the President of the Republic, in relation to negotiate between employer and employee the reformulation of benefits, such as the reduction of payment, this must be done with great caution, taking care not to suddenly diminish the rights and conditions to them and thus avoid derived contingencies.

**Q: Is it possible to dismiss and/or suspend employees under the argument of force majeure?**

**A:** It is possible that the suspension of employment contracts in a total manner, in which both parties to the employment relationship will cease to comply with their contractual obligations, the employer will cease to pay the salary and the employee will cease to provide his/her services, claiming a case constituting force majeure or fortuitous cases.

# GUATEMALA

---

**Q: Can employees work during mandatory quarantine?**

**A:** Employees can work during mandatory quarantine, as long as the company is included in the authorized company list to operate issued by Government. Although, Guatemala has been restricted to free locomotion since last Sunday (March 22<sup>nd</sup>, 2020 until March 29<sup>th</sup>, 2020) and we are in a “Curfew” from 4 PM to 4 AM.

**Q: What are the basic guidelines that have been implemented to prevent COVID-19 in the workplace?**

**A:** Only the companies included in the list of authorized companies to operate can continue working. If this is the case, the company must follow with the preventive measures established by the government such as handwashing, coughing and sneezing coverage, use of soap, gel, use of masks, gloves, social distancing and medical care.

**Q: Are there any restrictions on terminating employment contracts?**

**A:** At the present time, there are no restrictions regarding the possibility for terminating employment contracts. However, the President of the Republic has issued several provisions over the past few days, and this situation could change from one day to the next.

---



[Randall Gonzalez](#)

**BLP**

Diagonal 6 10-50, Zone 10,  
Interamericas Building, North  
Tower, Office 801  
Guatemala City, Guatemala



# HONDURAS

---

**Q: What happens if employees in the workplace are confirmed to be positive for COVID-19? What actions should be taken? What is the legal framework applied?**

**A:** In the event that the employee notifies the employer that the COVID-19 test result is positive, the employer shall (a) In this case, immediately comply with the Protocol of Health, pursuant to Executive Decree No PCM-0192020 (to send the employee for medical attention), and (b) keep all information related to the case confidential to avoid any type of discrimination of the employee.

**Q: Can the employer request the employees to use vacation time?**

**A:** Yes, employers can send employees on vacations only if the company is under the exception given by the government (companies allowed to work).

**Q: Is it possible to suspend the employees without pay, with full salary or with half salary?**

**A:** Yes, it can be possible, but it has to be approved by the Ministry of Labor.

**Q: Is it possible to dismiss and/or suspend employees under the argument of force majeure?**

**A:** Not dismissed, but it would be possible to suspend employees.

**Q: Can employees work during mandatory quarantine?**

**A:** Only if the company is operating under government permission.

**Q: What are the basic guidelines that have been implemented to prevent COVID-19 in the workplace?**

**A:** All companies should comply with the Government's hygiene and security protocols.

**Q: Are there any restrictions on terminating employment contracts?**

**A:** Employment contracts cannot be terminated during the quarantine period.

---



# HONDURAS

---



[Randall Gonzalez](#)

**BLP**

Paseo Los Próceres.

Nova Tower 5th floor Suite 95-A.

Tegucigalpa, Honduras



# MÉXICO

---

**Q: What happens if employees in the workplace are confirmed to be positive for COVID-19? What actions should be taken? What is the legal framework applied?**

**A:** Mandatory provisions for sick leave will apply. The Mexican Social Security Institute shall substitute the employer in its obligation of paying the applicable salary to the employee (subsidy) during the suspension.

**Q: Can the employer request the employees to use vacation time?**

**A:** Yes, it is an alternative in some cases.

**Q: Is it possible to suspend the employees without pay, with full salary or with half salary?**

**A:** Non-essential activities involving the physical concentration, transit or commute of persons shall be suspended up to April 30. Employers and employees could agree on a suspension with partial pay considering some risks.

**Q: Is it possible to dismiss and/or suspend employees under the argument of force majeure?**

**A:** It requires that a proceeding is followed by the employer at the Labor Board; however, all Boards are closed, and this type of proceeding takes several weeks and there is no certainty on whether the suspension is granted.

**Q: Can employees work during mandatory quarantine?**

**A:** Employees can work if they continue rendering services under a “home-office” modality or if their activities are considered essential. Adults over 65 years of age, children under age, pregnant and nursing women, and people with chronic non-transmissible diseases or with any condition that suppresses cannot attend the work places.

**Q: What are the basic guidelines that have been implemented to prevent COVID-19 in the workplace?**

**A:** The Ministry of Health ordered the suspension of non-essential activities from March 31 to April 30, 2020 and issued certain mandatory measures to favor social distancing under the National Healthy Distance Program, such as stay home, distance greeting, avoid meetings of more than 50 people, among others.

# MÉXICO

---

***Q: Are there any restrictions on terminating employment contracts?***

**A:** No, there is no limit. However, an employer can only dismiss an employee for a justified cause.

---



[Juan Carlos de la Vega](#)

**Santamarina y Steta**

Av. Ricardo Margáin 335, Floor 7  
Col. Valle del Compestre  
66265 San Pedro Garza García  
Nuevo Leon, Mexico

Santamarina  
+ Steta

# NICARAGUA

---

**Q: What happens if employees in the workplace are confirmed to be positive for COVID-19? What actions should be taken? What is the legal framework applied?**

**A:** Currently, there are no governmental regulations or health protocols specifically issued for the COVID-19 situation; therefore, the general laws would allow employers to take the following actions: (i) send employees on vacations, with which this labor liability could be liquidated according to the vacation period accrued by each employee; and (ii) employer and employees may agree on the temporary suspension of the labor contract's execution, which may be total or partial with respect to the basic contractual obligations, and individual or collective in connection with the number of employees involved. The suspension does not terminate the labor relationship. The current COVID-19 situation may be considered as a force majeure case, so the employer and employees may conform a bipartite commission and agree, in writing, on a collective suspension. A collective suspension based on a force majeure case does not require the Labor Ministry's previous approval, but it does require to be duly demonstrated. The legal framework is the Nicaraguan Labor Code (Law No. 185).

**Q: Can the employer request the employees to use vacation time?**

**A:** Yes, according to the vacation period accrued so far by each employee.

**Q: Is it possible to suspend the employees without pay, with full salary or with half salary?**

**A:** Yes. For individual cases, the suspension and the terms can be reached via mutual agreement between the employer and employee, and it does not require the Ministry of Labor's approval. For a collective suspension, a bipartite commission of employer and employees should be conformed to reach out to the agreement. A collective suspension based on a force majeure case, is the sole scenario of collective suspension exempted from the Ministry of Labor's previous approval, though the force majeure must be demonstrated.

**Q: Is it possible to dismiss and/or suspend employees under the argument of force majeure?**

**A:** Dismissal on the argument of force majeure is only possible when the force majeure leads to the employer's closure or shutdown. The suspension of labor agreements based on force majeure, is possible as explained in our answers to questions 1 and 3.

# NICARAGUA

---

**Q: Can employees work during mandatory quarantine?**

**A:** It would depend on the quarantine order's scope, extent and terms, which both employer and employees should respect.

**Q: What are the basic guidelines that have been implemented to prevent COVID-19 in the workplace?**

**A:** There are no specific rules issued so far in Nicaragua to prevent COVID-19. The preventive measures have been established and taken by each private company and employees, including telecommuting and others.

**Q: Are there any restrictions on terminating employment contracts?**

**A:** No.

---



[Randall Gonzalez](#)

**BLP**

Jean Paul Genie Avenue  
Bank Avanz building, first floor.  
Managua, Nicaragua



# PANAMA

---

**Q: What happens if employees in the workplace are confirmed to be positive for COVID-19? What actions should be taken? What is the legal framework applied?**

**A:** According to special regulations issued by the Ministry of Health and Ministry of Labor, the EMPLOYEE must be isolated, and the company is required to notify the health authorities. Every company must have a Health Committee, which is required to keep statistics on: (i) personnel at risk from chronic diseases; (ii) personnel quarantined being at risk of contagion; and (iii) personnel currently suffering from respiratory diseases.

**Q: Can the employer request the employees to use vacation time?**

**A:** According to Executive Decree 81 of 20 March 2020 and as a temporary measure during the State of Emergency, employers may require their employees to take accrued or advanced vacation up to a maximum of 15 days.

**Q: Is it possible to suspend the employees without pay, with full salary or with half salary?**

**A:** It is possible to suspend employees without pay, arguing force majeure according to the procedure in point. As for the reduction of wages, working hours must also be reduced and can only be done by agreement with the worker, which must be recorded in writing and registered with the Ministry of Labor.

**Q: Is it possible to dismiss and/or suspend employees under the argument of force majeure?**

**A:** Force majeure does not constitute cause for termination of employment but does constitute cause for suspension. The employer must apply to the Ministry of Labor for the suspension of employment contracts through a special abbreviated procedure. If the Ministry of Labor does not respond within 3 working days, the request is considered approved.

**Q: Can employees work during mandatory quarantine?**

**A:** According to Executive Decree 64 of 2020, quarantine period is recognized as sick leave, therefore the employee should not work during this time.

# PANAMA

---

**Q: What are the basic guidelines that have been implemented to prevent COVID-19 in the workplace?**

**A:** Workplaces have been ordered to be closed, except for essential activities such as hospitals, pharmacies, supermarkets, communications and fuel supply. Citizens are not allowed to leave their homes except for those who are employees of companies providing essential activities who must carry a special permit. Companies may continue to operate through teleworking.

**Q: Are there any restrictions on terminating employment contracts?**

**A:** Up to date, there are no restrictions.

---



[María Teresa Mendoza](#)

**Morgan & Morgan**  
MMG Tower, 23rd Floor  
Paseo del Mar Avenue, Costa del Este  
Panama City, Republic of Panama



# PARAGUAY

---

**Q: What happens if employees in the workplace are confirmed to be positive for COVID-19? What actions should be taken? What is the legal framework applied?**

**A:** There is a protocol from the Ministry of Work, Employment and Social Security that regulates this. When symptoms are detected, the employer shall immediately notify the Police 911 system. The employer shall also remove the employee from the workplace so that s/he can be sheltered at home. The employer must grant permission to the employee for a period of 5 days, or the time established by the Ministry of Health, for the purpose of carrying out the corresponding tests. If the employee is confirmed positive for COVID-19, s/he is entitled to request sick pay from the Social Security Institute.

**Q: Can the employer request the employees to use vacation time?**

**A:** Yes, as long as the employee is already entitled to vacations. In such case, the employer is exempted from giving the 15 days notice established in the Labor Code. If the employee is not entitled to vacations yet, the employer cannot force him/her to take vacations. However, s/he can negotiate with the employee, explaining that s/he either takes vacations or the employer would have to request the suspension of the employment agreement, without payment of salary.

**Q: Is it possible to suspend the employees without pay, with full salary or with half salary?**

**A:** Yes, but the Ministry of Work, Employment and Social Security must authorize the suspension of employment agreements. For said purpose, the Employer must explain the reasons why s/he requests the suspension and provide certain documentation.

**Q: Is it possible to dismiss and/or suspend employees under the argument of force majeure?**

**A:** According to the Labor Code, one of the grounds to terminate an employment agreement is the following: “Art. 78...d) force majeure, when it permanently prevents the performance of tasks”. In our opinion, the Declaration of National Emergency is temporary and, accordingly, the legal institution that is applicable is the suspension of employment agreements, established in Art. 71, which states: “...f) force majeure that causes immediate, necessary and direct suspension of the tasks...” Furthermore, there is no need to rely on a Force Majeure argument to dismiss employees as the employer can dismiss them freely provided that (i) s/he pays the indemnifications established in the Law; (ii) the employee does not have security of tenure.



# PARAGUAY

---

**Q: Can employees work during mandatory quarantine?**

**A:** Yes, but only some are allowed such as health and police employees, those who work in supermarkets, drugstores, mass media, public works, digital services, etc.

**Q: What are the basic guidelines that have been implemented to prevent COVID-19 in the workplace?**

**A:** There are guidelines rendered by the Ministry of Public Health and Social Welfare (“MPHSW”) depending on the type of establishment. In general, to prevent transmission of the disease, the following is recommended: a) Frequent handwashing; b) When coughing and/or sneezing, to cover the mouth and nose with the inside of the elbow or a with a disposable tissue; c) To avoid traditional greetings (hugs, kisses and handshakes are not allowed); d) To clean and disinfect objects and surfaces that are frequently touched; e) To avoid sharing mate, tereré, glasses and other personal items; f) To avoid touching the eyes, nose and mouth with unclean hands; g) To comply with the social distancing recommended by the MPHSW. If either a client or an employee a) has fever, s/he must not enter into premises; b) has a cough, a face mask must be provided; c) is a suspicious case, s/he must comply with self-isolation at home.

**Q: Are there any restrictions on terminating employment contracts?**

**A:** There is no such limit. As in an ordinary situation, the requirements established in the Labor Code must be fulfilled.



[Rodolfo Vouga](#)

Vouga Abogados  
657 Juan de Salazar  
Asunción - Paraguay

**V O U G A**  
A B O G A D O S

# PERU

---

**Q: What happens if employees in the workplace are confirmed to be positive for COVID-19? What actions should be taken? What is the legal framework applied?**

**A:** The employee will be treated as a sick employee, from the very first day. The employer also needs to report this fact to the Minister of Health.

**Q: Can the employer request the employees to use vacation time?**

**A:** It depends. Within the National Emergency (mandatory quarantine), only by agreement with the employee. After the National Emergency, the employer can unilaterally send the employee on vacations, provided it is the full vacation period (30 days). If the employer wants to send the employee on vacations for shorter periods or even grant future vacations to the employee, an agreement will also be needed.

**Q: Is it possible to suspend the employees without pay, with full salary or with half salary?**

**A:** Yes, but only by agreement with the employee.

**Q: Is it possible to dismiss and/or suspend employees under the argument of force majeure?**

**A:** Yes. The employer can suspend the employment relationships of its employees for up to 90 days in case of force majeure. The Ministry of Labor supervises this decision, which could be reversed if the employer did not make real efforts to use other alternatives with much less labor impact on the employees. Terminations are much more complicated. A previous authorization from the Ministry of Labor is needed, which is granted only if the very existence of the workplace is at stake.

**Q: Can employees work during mandatory quarantine?**

**A:** Yes. Remote work is always allowed. Attendance to the workplace is allowed only in very limited essential cases (food, medicines, banking, etc.).

# PERU

---

**Q: What are the basic guidelines that have been implemented to prevent COVID-19 in the workplace?**

**A:** Attendance to the workplace is restricted. A new “remote work” legislation has been enacted. No unilateral vacations are allowed during the mandatory quarantine. All employees not presently working are deemed to be under a mandatory paid leave with the obligation to recover the hours not worked. High risk employees cannot attend the workplace for 90 days. A new set of health and safety rules have been enacted. The employer can unilaterally modify shifts and schedules.

**Q: Are there any restrictions on terminating employment contracts?**

**A:** Up to this date, no.

---



[José Balta](#)

**Rodrigo, Elias & Medrano Abogados**

Av. San Felipe 758

Jesus Maria,

Lima 11

Lima, Peru

**RODRIGO,  
ELIAS  
& MEDRANO**  
ABOGADOS

# URUGUAY

---

**Q: What happens if employees in the workplace are confirmed to be positive for COVID-19? What actions should be taken? What is the legal framework applied?**

**A:** The company must comply with the Protocol issued by the Government. The measures to be taken are: I) Establish mechanisms of action in case an employee appears with symptoms of the disease. II) The procedures must include the following: a) the participation of the Prevention and Health Services at Work, or the medical provider that corresponds to the employee; b) rapid and effective adoption of control measures for the rest of the employees who were in contact with the employee that could have been eventually infected (contact period within 14 days); c) the factual circumstances that are generated if the sick or potentially sick employee cannot attend the work place.

**Q: Can the employer request the employees to use vacation time?**

**A:** Yes, but the annual leave should be agreed with the employee. Due to the health emergency, the Government has authorized to take in advance during this year, the annual leave to be enjoyed in 2021.

**Q: Is it possible to suspend the employees without pay, with full salary or with half salary?**

**A:** The employee may be sent to the unemployment insurance. The Government will pay a subsidy to the employee and the employer shall not pay the salary for that period because the employment relationship is suspended.

**Q: Is it possible to dismiss and/or suspend employees under the argument of force majeure?**

**A:** In our country the employers may dismiss or send to the unemployment insurance for a certain amount of time (4 months) if it results impossible to provide works to its employees due to the economic situation generated to the economy by the pandemic.

**Q: Can employees work during mandatory quarantine?**

**A:** Currently, the Government has not issued a mandatory quarantine for all the population. The employees are allowed to work but it is recommended that companies implement their work under the home office system.

# URUGUAY

---

**Q: What are the basic guidelines that have been implemented to prevent COVID-19 in the workplace?**

**A:** The company should adopt the following measures: I) Provide the employees with the necessary information regarding prevention and measures to be adopted, according to the guidance issued by the Ministry of Health. II) Provide the necessary hygiene equipment, such as the distribution of sufficient quantities of alcohol, and other personal protection equipment for example: gloves, masks, etc. III) Extreme regulatory hygiene measures through the maintenance and disinfection of equipment that projects air, such as hand dryers, air conditioners, as well as the daily hygiene and disinfection of work clothes, personal protective equipment and surfaces to which employees are exposed. IV) Adopt work organization measures that mitigate the risk of spread of the COVID-19, in line with the possibilities and nature of the activity, such as the implementation of remote work. V) Comply with all the measures suggested by the Health and Prevention Services.

**Q: Are there any restrictions on terminating employment contracts?**

**A:** No.

---



[Enrique Radmilovich](#)

**Hughes & Hughes**  
25 de Mayo 455 2° piso  
11000 Montevideo  
Uruguay



# VENEZUELA

---

**Q: What happens if employees in the workplace are confirmed to be positive for COVID-19? What actions should be taken? What is the legal framework applied?**

**A:** We would need to apply the rules on suspension of the employment contract due to an occupational or non-occupational disease. Legally, the payment of salary can be suspended and instead the employee will receive a social security indemnity equal to 66.66% of the employee's registered salary. The Employer must however pay the remaining 33.33%, as an indemnity, not as salary.

**Q: Can the employer request the employees to use vacation time?**

**A:** In principle, no. Employers and employees can try to reach an agreement, but the agreement is not enforceable. Employees can claim that they did not actually enjoy their vacation as required by law, putting the company at risk to repay the vacation period.

**Q: Is it possible to suspend the employees without pay, with full salary or with half salary?**

**A:** In theory, yes. An employer can suspend employees without pay or with half pay if there are circumstances that make it impossible to provide services. However, prior approval is required from the Labor Inspector's Office. It may also be possible to reach an agreement with employees, but the agreement may not be enforceable. Based on the current information it is highly unlikely for the Labor Inspectors Office to grant such suspensions.

**Q: Is it possible to dismiss and/or suspend employees under the argument of force majeure?**

**A:** No. Dismissals are restricted by law and can only occur provided there are causes for termination after obtaining prior approval from the Labor Inspector's Office. Suspension as a result of force majeure also requires government approval, which is unlikely to be provided at this time.

**Q: Can employees work during mandatory quarantine?**

**A:** Yes, employees of essential activities are required to work during mandatory quarantine (food, health and medicine, etc.) Those employees that can work remotely are encouraged to continue working.

# VENEZUELA

---

**Q: What are the basic guidelines that have been implemented to prevent COVID-19 in the workplace?**

**A:** A Presidential Decree declaring a National State of Alarm was published in Official Gazette No. 6.519 dated March 13, 2020 to attend the emergency caused by COVID-19. This decree allowed the suspension of non-essential activities and work, as long as remote work (work at home) is not possible.

**Q: Are there any restrictions on terminating employment contracts?**

**A:** Yes, even before COVID-19, a general restriction against the termination of employment contracts required government approval for terminating an employee. This general restriction is enforced until December 31, 2020.

---



[John Tucker](#)

**Lega Abogados**

Av. Eugenio Mendoza.  
La Castellana Tower, 7th Floor,  
Urb. La Castellana,  
Caracas, 1060, Venezuela



# PARTICIPATING FIRMS

## Argentina



## Bolivia



## Brazil

DEMAREST

## Chile



## Costa Rica



## Colombia



## Ecuador



## El Salvador



## Guatemala





# PARTICIPATING FIRMS

## Honduras



## México



## Nicaragua



## Panama



## Paraguay



## Peru



## Uruguay



## Venezuela



This document is for general information only and does not constitute legal advice.

Please seek specific legal advice before acting on the contents set out herein.

Published (April/2020)