



DE DIEGO & ASOCIADOS  
ABOGADOS



Labornet No. 1203

Executive Order No. 39/2021. Extended term for the ban on employment termination without fair cause, and a cap on double severance pay. Official Gazette. January 22, 2021.

Dear All,

The most relevant aspects of Executive Order No. 39/2021 include:

1. A new term extension for the ban on employment termination without fair cause or due to lack of work or reduction in operations and for force majeure for a period of NINETY (90) consecutive days following the expiration date set forth in Emergency Executive Order No. 891/20, i.e. April 29, 2021.
2. A new term extension for the ban on work suspension due to force majeure or lack of work or reduction in operations for a period of NINETY (90) consecutive days following the expiration date set forth in Executive Order No. 891/20.
3. This ban and temporary limitations set forth in Sections 220, 221 and 222 of the Employment Contract Act do not apply to suspensions under Section 223 bis of the Employment Contract Act (consolidated text 1976), as amended, as a result of the public health emergency.
4. Any employment termination and suspension in breach of the provisions of Section 2 and first paragraph of Section 3 of this Executive Order shall be null and void, and the existing employment relationships will remain in full force and effect with the respective current conditions.
5. During the effective term of the employment emergency, in case of termination without fair cause whose validity is not challenged, the employee in question shall be entitled to collect double severance pay, as provided by Emergency Executive Order No. 34/19.

6. In order to calculate final severance pay as provided by Section 5 of this Executive Order, the amount of double severance pay shall by no means exceed FIVE HUNDRED THOUSAND ARGENTINE PESOS (ARS 500,000).
7. For a period of NINETY (90) consecutive days following the effective date of this Executive Order, the Coronavirus Disease COVID-19 caused by SARS-CoV-2 virus is presumed to be an unlisted work-related disease under the provisions of subsection b) of Section 2 of Act No. 24557 for workers and employees governed by Act No. 24557 on Workers' Compensation who go to work at their usual workplaces away from their home.

Remember that double severance pay does not apply to employees registered with a new job from the effective date of Emergency Executive Order No. 34/2019 until mid-December 2019 or to the ban on layoffs and work suspension for employees registered with a new job from April 1, 2020 onwards.

According to INDEC data, the total number of job positions has lowered by 9.2% in the third quarter of 2020 as compared to the same period in 2019, reaching 18.8 million jobs. Nowadays, the unemployment rate in Argentina is 11.7%.

Please do not hesitate to contact us for further information,

Best regards,

Natalia G. de Diego

Ma. Solana de Diego