

## Legal Regime of Remote Work - Decree 27/2021

On January 19, 2021, Decree 27/2021 (the “Decree”) was published in the Official Gazette. This Decree regulates Law 27,555 of the “Legal Regime of the Remote Work” which was published in the Official Gazette on August 14, 2020 (the “Remote Work Regime”). See our newsletter:

The Decree provides that the provisions of the Remote Work Regime will not apply when the work is carried out in the establishments of the relevant clients to whom the employer provides services on a regular basis, and *“in cases in which the work is carried out sporadically and occasionally at the domicile of the worker, either at his request or due to some exceptional circumstance.”*

The Decree provides that when the activity of the company is carried out in different time zones or in those cases in which it is essential for any objective reason to communicate outside of working hours will be admitted, but in all other cases, the employee will not be obliged to respond in non-working hours, except in what is known as “overtime”. In addition, incentives related to the non-exercise of this right may not be allowed.

Regarding the right to interrupt work when there are care tasks for children or incapacitated, the Decree provides that the person exercising the right to interrupt the task must communicate virtually and with precision the moment when inactivity begins and when this ends. At the same time, an equitable use, in terms of gender, of the measures provided must be ensured, thus promoting the participation of men in care tasks. In addition, incentives related to not exercising this right to interrupt work when there are care tasks may not be allowed.

The right to return to perform a face-to-face position (called reversibility) and the fulfillment of the resulting obligation must comply with the duties imposed in Sections 9 (*good faith*) and 10 (*abuse of right*) of the Civil and Commercial Code of the Nation and 62 and 63 of the Labor Contract Law. Upon receipt of the request from the person who works, the employer must comply with its obligation within a period of less than 30 days.

The Decree establishes that workers that have agreed to the remote work modality from the beginning of the employment relationship cannot revoke their consent or exercise the right to be granted a face-to-face position, except it is provided in the Collective Labor Agreements or in the individual contracts

Regarding the equipment, it is indicated that their provision is not considered remunerative and, consequently, does not form part of the remuneration base for the computation of any item emerging from the employment contract, or contributions or social security.

Regarding union representation, the Decree establishes that in the cases in which the remote work modality is agreed at the beginning of the relationship, it must be carried out after consultation with the union entity.

To learn more from Law 27,555 of the “Legal Regime of the Remote Work” read our article “New Law on Remote Work” <https://canosa.com/new-law-on-remote-work/>