

➤ LAW NO.21,263 THAT TEMPORARILY AMENDS THE REQUIREMENTS AND INCREASES THE BENEFITS' AMOUNTS OF THE UNEMPLOYMENT INSURANCE ON THE OCCASION OF THE PANDEMIC CAUSED BY COVID-19, AND IMPROVES THE BENEFITS OF THE EMPLOYMENT PROTECTION ACT

On September 4th, 2020, law No.21,263 (hereinafter, the "Law") was published in the Official Gazette, which temporarily amends the requirements and increases the benefits' amounts of the unemployment insurance established in law No.19,728 (hereinafter, "Unemployment Insurance Act") on the occasion of the pandemic caused by COVID-19, and improves the benefits regulated in law No.21,227 (hereinafter, "Employment Protection Act" or "LPE"⁽¹⁾).

The Law sets forth the following main measures:

- 1. **Temporarily amends the requirements to access the unemployment insurance:**
 1. Employees affiliated to the unemployment insurance and currently unemployed, may have access to the benefits of said insurance, with charge to their Unemployment Individual Account and to the Unemployment Mutual Aid Fund, provided that:
 - a. Any of the requirements established in article 2 first paragraph of the LEP are met: (i) Registration of 3 continuous social security payments during the 3 months preceding the termination of the employment contract; or, (ii) Registration of at least 6 continuous or discontinuous social security payments during 12 months preceding the termination of the employment contract, provided that at least the last 2 payments are of the last employer; or,
 - b. The general requirements established for these purposes in the Unemployment Insurance Act (articles 12 and 24 first paragraph).

The employees affiliated to the unemployment insurance who do not fulfill the above-mentioned requirements, will be allowed to exclusively access the benefits with charge to their Unemployment Individual Account according to point 1.2, up to the feasible number of months and percentages considering the available funds.

2. While in force, the Law increases the benefits that are paid with charge to the Unemployment Individual Account, according to the following percentages:

Months	Average Remuneration Percentage
First	70%
From the Second to the Fifth	55%
Sixth or superior	50%

⁽¹⁾ Acronym for "Ley de Protección al Empleo" in spanish.



If you have any questions regarding the matters discussed in this news alert, please contact the following attorneys or call your regular Carey contact.

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These percentages shall be calculated above the average of the accrued remunerations of the employee during the last 3 months in which social security payments were registered, prior to the termination of the employment contract.

- Also while in force, the Law increases the benefits with charge to the Unemployment Mutual Aid Fund, establishing a maximum of 5 provisions. These benefits will be calculated according to the following higher values, lower values and percentages (that shall use the same calculation basis abovementioned):

Months	Average Remuneration Percentage	Higher Value (CLP)	Lower Value (CLP)
First	70%	\$652,956	
From Second to Fourth	55%	\$513,038	\$225,000
Fifth	45%	\$419,757	

- An executive order issued by the Ministry of Finance and signed by the Ministry of Labor and Social Security (the "Executive Order") shall provide the parameters that will allow to increase the percentage of the fifth provision (that can reach 55%) and the higher value of the benefit (proportionally increasing up to CLP\$513,038). These parameters shall be, among others, the sanitary conditions, the labor market conditions, and the regions' particular situation associated to COVID-19's impact.
- The employees who, while the Law is in force, are receiving their fifth provision with charge to the Unemployment Mutual Aid Fund, shall have right to a sixth and seventh provision, if the national unemployment rate published by the National Statistics Institute ("INE"^[2]) exceeds in 1 percentual point the rate's percentage, corresponding to the previous 4 years published by the INE.
- Furthermore, according to the parameters that the Executive Order shall establish, the average remuneration percentages from the sixth and seventh provision (originally of 30%), could be increased up to 45%. In this case, it will be necessary to fix the higher value of the provision without exceeding CLP\$419,757.
- These benefits shall be retroactively in force since August 1st, 2020, until October 31st, 2020. Moreover, as of November 1st, 2020, the provisions will be paid according to the general rules of the Unemployment Insurance Act.

^[2] Acronym for "Instituto Nacional de Estadísticas" in spanish.

II. *Increases the benefits regulated in the Employment Protection Act:*

- 1.** The Law increases the benefits provided in the LPE, in the same percentages and values mentioned in sections 1.2 and 1.3 above, regarding the Unemployment Individual Account and the Unemployment Mutual Aid Fund.
- 2.** In case the parameters established by the Executive Order of section 1.4 above-mentioned are fulfilled, the percentages of the fifth provision will be allowed to increase up to a 55% average remuneration percentage. It will be necessary to fix the higher value of the provision, which will proportionally increase without exceeding CLP\$513,038.
- 3.** The parameters mentioned in the Executive Order could also extend the provisions with charge to the Unemployment Mutual Aid Fund, allowing a sixth and seventh provision. Additionally, the Executive Order shall fix the average remuneration percentage, that shall not exceed 45%, and the higher and lower values of the benefit, that shall not exceed the values mentioned in section 1.3.
- 4.** These benefits shall be retroactively in force since August 1st, 2020, until October 31st, 2020.

III. *General provisions:*

- 1.** The Law enables to extend the enforcement of the agreements establishing a reduction of the working schedule regulated by the LPE, allowing its execution until July 31st, 2021.
- 2.** In case of employees who have the right to receive their fifth provision with charge to the Unemployment Mutual Aid Fund during the month of August, 2020 (regarding the Unemployment Insurance Act or the LPE); the provision will be calculated with a 55% average remuneration percentage, without requiring the issuance of the Executive Order.
- 3.** The Law allows to extend the enforcement of its benefits for a maximum term of 5 months, as of the date of expiration. In this sense, it will be necessary that the Ministry of Finance issues one or more executive orders also signed by the Ministry of Labor and Social Security.
- 4.** Finally, the Law enables employees with their employment contract suspended or who have entered into an agreement of reduction of the working schedule according to the LPE, to agree on transitory employment contracts with other employers, without losing their current employment or the benefits of the unemployment insurance.