

February, 2018

## > LAW 21,015, REGARDING THE INCLUSION OF DISABLED EMPLOYEES IN THE LABORFORCE, ENTERS INTO FORCE

On February 1st, 2018, Decree 64 and Decree 65 were published in the Official Gazette (hereinafter the "Decrees"), both issued by the Ministry of Labor and Social Security.

Due to the aforementioned, Law No. 21,015 (hereinafter the "Law"), will enter into force on April 1st, 2018.

### I. Relevant aspects of the Law

The following main amendments were introduced by the Law:

1. In **companies with 100 or more employees, at least 1% of its total workforce must be comprised of disabled employees or people who are entitled to a disability pension** under any applicable social security system. This specific obligation is also applicable to government agencies, State-owned companies and other public institutions listed in the law.
2. Companies that for justified reasons are unable to comply with such obligation, may alternatively **execute contracts for the provision of services or make monetary donations**, in accordance with the Law and fulfilling the requirements set forth in the Decrees.
3. The **remuneration agreed** to in the employment contracts executed between a company and a mentally disabled individual, **may not be lower than the legal minimum wage**.

### II. Content of the Decrees

The Decrees especially regulate the following matters:

#### 1. Decree 64

- a) Defines "disabled person" and "person entitled to a disability pension", indicating how that condition should be evidenced.
- b) Establishes the calculation process to determine the total number of employees in a company, in relation to the enforceability of the Law.



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- c) Regulates the contracts and donations as alternative means of compliance, as well as the justified reasons for making them applicable.
- d) Appoints the competent institutions to supervise the compliance of the Law and regulates the applicable sanctions.

## 2. Decree 65

- a) Regulates the preferential recruitment process of the disabled, under equal merit conditions.
- b) Establishes rules to verify the maintenance and hiring of disabled persons or individuals entitled to a disability pension, in government agencies.

## III. *Transitory Provision of Decree 64*

Notwithstanding the entry into force of Law, as of April 1st, 2018, **the enforceability of the hiring obligation set forth by the Law will be delayed according to the following rules:**

1. Companies with 100 and up to 199 employees will be subject to the hiring obligation as of the end of the first year counted from April 1st, 2018, this is, as of April 1st, 2019. Likewise, until April 1st, 2021, such companies may comply with the Law through any of the alternative means, without justified reasons.
2. For companies with 200 or more employees, the hiring obligation will be effective as of April 1st, 2018. However, they will also be able to comply alternatively with the Law, without justified reasons, until April 1st, 2020.