

	<b>ARGENTINA</b>
Current as of September 15, 2020	Contributor: Mercedes Balado Bevilacqua, Cecilia Acosta.
<b>1. Has government enacted programs/measures to provide support to employers in relation to salary/payroll costs?</b>	Yes. Through Decree No. 332/2020, the Government created the Emergency Assistance Program for Employment and Production (" <i>Programa de Asistencia al Trabajo y la Producción</i> " or "ATP") in order to help companies and employees that have been economically affected due to the COVID-19 pandemic. The central focus of the ATP is to provide one or more benefits, as discussed in response to question 1.1.
1.1 If so, describe the type and amount of relief available through government program (e.g., reimbursement of certain payroll costs, reduction in social security contributions, etc.).	<p>The benefits included in the ATP are as follows:</p> <ol style="list-style-type: none"> <li>1. <u>Deferment or reduction of up to 95% of the Social Security contributions</u>: Such benefit includes: i) Deferment of the due dates for the payment of the Social Security contributions; ii) reduction of up to 95% of the accrued contributions from April to August 2020, in principle.</li> <li>2. <u>Complementary Salary</u>: It consists on an amount paid by the Social Security Administration ("<i>Administración Nacional de Seguridad Social</i>" – ANSeS-) for the private sector. For payment of the complementary salary, standards are as follows: <ol style="list-style-type: none"> <li>a) For employees that render services in companies that perform activities critically affected (i) It will be equivalent to 50% of the employee's net salary of July 2020; (ii) It must not be less than the amount equivalent to one minimum salary (i.e., ARS 16,875 or approx. USD 214. Current exchange rate: USD 1 = ARS 78.75); and (iii) It may not be more than two minimum salaries (i.e., ARS 33,750 or USD \$429), or to the total net salary of July 2020.</li> <li>b) For employees that render services in companies whose activities have not been critically affected: (i) It will be equivalent to 50% of the employee's net salary of July 2020; (ii) The amount cannot be higher than one and a half minimum salary (i.e. ARS 25,312.50 or approx. USD 321), or to the total net salary of July 2020.</li> </ol> </li> </ol> <p>There are particular requirements, restrictions and limitations that companies may comply with in order to access to this benefit.</p>

	<p>Additionally, the Complementary salary will be considered on account of salary payments or allowances in case of suspensions due to economic causes (outlined under the National Employment Law (“NEL”).</p> <p>In case of multiple employers, the complementary salary must be distributed proportionally, considering the gross salary paid by each employer who has received the benefit. This applies to employees with up to five employment relationships that may receive the complementary salary.</p> <p>In addition, employees whose gross salary accrued in July 2020 exceeds ARS 140,000 (approximately, USD 1,778) are excluded</p> <p>3. <u>Subsidized Rate Credits for companies</u>: This benefit was added as a new benefit to the ATP by means of Decree No. 621/2020. The following provisions are applicable: i) It consists on an amount equivalent to 120% of the Minimum Salary - ARS 20,250 (approximately, USD 257.14)- calculated per employee included in the company's payroll as of May 31, 2020; ii) This benefit cannot exceed the net salary of each employee corresponding to July, 2020 if it is less than the previously mentioned 120%.; iii) Employees whose gross salary accrued in July 2020 exceeds ARS 140,000 (approximately, USD 1,778) are excluded; iv) This benefit is applicable to companies that have less than 800 employees and whose main activity by March 12,2020 was any of the ones included in the ATP; v). Obtaining the Subsidized Rate Credit regarding accrued salaries of July 2020 will not prevent the granting of the Complementary Salary benefit regarding the salaries accrued in August 2020; vi) In order to request the benefit, companies must comply with specific requirements.</p> <p><u>Zero-rate credits</u>: this benefit is incorporated for independent contractors included in the special or simplified regime (“<i>monotributistas</i>”) and the ones included in the general regime (“<i>autónomos</i>”) affected by the current situation. It consists on a finance to be credited to the beneficiary's credit card with a subsidy of 100% of the total financial cost. The maximum amount to be awarded will be ARS 150,000 (approximately USD 1,905).</p> <p>4. In addition, the government has established a Family Emergency Income program.</p>
<p>1.2 Describe the threshold for eligibility (e.g., only businesses with 500 or fewer employees qualify for the program, or those showing a 25% drop in revenue).</p>	<p>To receive the ATP benefits discussed in response to question 1.1, above, one or more of the following requirements must be fulfilled:</p> <ol style="list-style-type: none"> <li>1. Economic activities critically affected in the areas in which they are developed;</li> <li>2. Relevant amount of employees: i) infected by COVID-19; ii) which must comply with the Mandatory, Social and Preventive Isolation (the “Isolation”); or iii) included in risk groups; iv) which must assist other family members due to a situation related to COVID-19, and which are exempted from the duty of attendance to their workplace.</li> </ol>

	<ol style="list-style-type: none"> <li>3. Actual reduction in billing after March 12, 2020.</li> <li>4. Some benefits have particular requirements: <ol style="list-style-type: none"> <li>a) Complementary Salary: i) Regarding the analysis of the negative inter-annual nominal billing variation, periods of July 2019 and July 2020 will be taken as reference. For those companies that started their activities between January 1 and November 30, 2019, the billing comparison must be calculated comparing the periods of July 2020 and December 2019. In addition, for those companies that started their activity as of December 1, 2019 -and those that started it during 2020-, the variation in billing will not be considered;</li> <li>b) Subsidized Rate Credits for companies: i) This benefit is applicable to companies that: i) have less than 800 employees and; ii) perform, as its main activity by March 12, 2020, any of the activities included in the ATP, which were duly informed; ii) In order to request the benefit, the company must verify an inter-annual nominal billing variation between 0% and 40%, comparing the periods of July 2019 with July 2020. For those companies that started their activities between January 1 and November 30, 2019, the billing comparison must be calculated comparing the periods of July 2020 and December 2019.</li> </ol> </li> </ol> <p>In principle, individuals that perform essential activities, and whose employees are exempted from the Isolation, are excluded from the benefits. Nevertheless, Decree No. 376/2020 accepts the possibility that if the aforementioned individuals were affected by the Isolation, they may apply for the benefits under the ATP.</p> <p>In addition, the Government has established the following restrictions to be complied with, as a requirement to continue receiving the benefits:</p> <ol style="list-style-type: none"> <li>1. Profits cannot be distributed for closed tax periods as from November 2019 (such period may vary from 12 to 24 months depending on whether the employer has more than 800 employees);</li> <li>2. Shares cannot be purchased either directly or indirectly;</li> <li>3. Companies will not be able to obtain securities in Argentine pesos for their subsequent and immediate sale in foreign currency or their transfer in custody abroad;</li> <li>4. Expenses of any kind cannot be made to subjects directly or indirectly related to the beneficiary whose residence, establishment or domicile is in a non-cooperative jurisdiction or with low taxation (according to Sections 24 and 25 of Decree No. 862/19, regulatory of the Income Tax Law).</li> </ol>
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<p><b>2. Has the government introduced new rules related to coronavirus restricting dismissals or providing special dismissal protection?</b></p>	<p>Yes. By means of DNU No. 329/2020, the Government established the prohibition to dismiss without cause, and to dismiss or suspend employees due to lack or reduction of work or for reasons of force majeure for 60 days counted as of March 31, 2020. This means that the prohibition, initially, was in force until May 30, 2020 inclusive.</p> <p>This prohibition was extended by means of DNUs No 487/2020 and 624/2020, and this last one established that this prohibition will be in force until September 28, 2020.</p> <p>Therefore, employers must comply with the following provisions:</p> <ol style="list-style-type: none"> <li>1. Terminations without cause -regular terminations- are forbidden until September 28, 2020;</li> <li>2. Terminations based on lack or reduction of work or <i>force majeure</i> are forbidden until September 28, 2020;</li> <li>3. Suspensions due to <i>force majeure</i> or for lack or reduction of work are forbidden until September 28, 2020.</li> <li>4. The referred prohibitions will not be applied to employees hired after July 29, 2020.</li> </ol> <p>The only options available by the Decree are the suspensions of personnel for economic causes (“the Suspensions”) under Section 223 of NEL. These are temporary suspensions for economic causes negotiated with the employee. In turn, the employee will receive an amount agreed among the parties. Such amount will be of non-compensatory nature (the only contribution that needs to be made is the one corresponding to medical insurance). Agreements with the employees or with the union regarding this suspension must be filed with the Ministry of Labor for approval.</p> <p>Any termination or suspension that is done in violation to these prohibitions will be of no effect. The Ministry of Labor may order the reinstatement of employees, the payment of accrued salaries and the compliance with the withholdings and contributions to the Social Security System.</p>
<p><b>3. Are there any new rules connected to COVID-19 that impose new compliance obligations on employers, including mandatory reporting etc.?</b></p>	<p>Resolution No. 279/2020 provides that employees subject to the Isolation orders will be exempt from the duty to perform their work in the workplace, with the exception of those considered as "essential personnel", and to those permitted activities.</p> <p>Employees whose normal tasks may be carried out remotely (in isolation) must enter into good faith agreements with the employer as to the conditions to render services from home. This provision applies only if the employee is not</p>

	<p>infected or symptomatic of COVID-19. Both employees that render services remotely and those who cannot work in their homes due to the nature of the activities are entitled to receive their regular salaries during the Isolation term.</p> <p>In addition, on March 17, 2020, Resolution No. 21/2020 issued by the Labor Risks Superintendent (<i>Superintendencia de Riesgos de Trabajo</i> - “SRT-”), was published on the Official Gazette. The Resolution establishes that employers who enable their employees to work from their home (“Home office”), within the framework of the health emergency (COVID-19), must inform the corresponding Labor Risks Insurer (<i>Aseguradora de Riesgos del Trabajo</i> “ART”), the following:</p> <ol style="list-style-type: none"> <li>1. List of employees who will be rendering services under a home office regime (name, surname, labor code (<i>Código Único de Identificación Laboral</i> “CUIL”));</li> <li>2. Address where the tasks will be carried out; and</li> <li>3. Frequency of the provision of tasks (number of days and hours per week).</li> </ol> <p>On August 14, 2020, Law No. 27,555 was published in the Official Gazette. This Law establishes the legal regime applicable to the Home-Office modality, but will not become effective immediately since it will come into force after 90 days as of the Isolation ends. Reglamentation of such law is still pending from the Ministry of Labor.</p>
<b>4. Has the government announced when current restrictions will be eased, or issued mandates on freedom of movement/business openings, or indicated when such a decision will be made? If so:</b>	<p>On August 31, 2020, Decree No. 714/2020 was published in the Official Gazette. Such Decree extends the Isolation and the Social Distancing periods until September 20, 2020. It is probable that the Government extends those periods again.</p>
4.1 When is this due to happen?	<p>See response to question 4, above.</p>
4.2 What has been announced about how restrictions will be eased?	<p>As the spread of the COVID-19 has not been the same in the different jurisdictions, the Government has established different levels of the Isolation. Therefore, it has been established a segmentation by epidemiological criterion based on the number of infected people:</p> <ol style="list-style-type: none"> <li>1. <u>The Isolation</u>: The following areas are included within the framework of the Isolation: i) the Metropolitan Area of Buenos Aires (“AMBA”); ii) the department of General Pueyrredón in the Province of Buenos Aires; iii) Certain</li> </ol>

	<p>areas of Entre Ríos, Jujuy, La Rioja, Río Negro, Salta, San Juan, Santa Cruz, Santiago del Estero and Tierra del Fuego;</p> <p>;</p> <p>2. <u>Mandatory, Social and Preventive Distance (“The Distancing”)</u>:</p> <ul style="list-style-type: none"> <li>• The Distancing consist on a greater flexibility, mobility and number of activities allowed, within that specific area;</li> <li>• People must keep a distance of, at least, 2 meters from each other. Only activities with a current valid security protocol may be authorized:</li> <li>• The Distancing takes place in all areas where the Isolation does not. Recreational activity is not allowed.</li> </ul>
4.3 Is the public required or going to be required to wear masks and gloves in public spaces?	<p>As of March 15, 2020, the use of masks is mandatory in the City of Buenos Aires. The Resolution issued by the Ministry of Health of the City of Buenos Aires establishes that the use of elements of protection that cover nose, mouth and chin are mandatory to be in public spaces, to enter or stay in shops, governmental entities and public transport. (Face masks can be self-made and made out of cloth). Severe fines may be imposed in case of breach.</p>
4.4 What, if any, “social distancing” guidelines will be applicable to employers (e.g., employees must wear masks; business must implement staggered work start/stop times; physical space separating employees must be at least six feet; etc.)?	<p>Due to employer’s duty to provide a safe workplace, employers must provide their employees with all safety and hygiene elements to protect their health.</p> <p>The SRT requires that employers provide their employees with qualifying respiratory protection to be used when employees must perform tasks in a distance less than two meters away from each other, unless the employer can install physical barriers or other engineering solutions to prevent drop secretions from reaching employees. For some specific cases, the respiratory protector should have an exhalation valve and be of the N95 or N100 type.</p> <p>In addition, employers must comply with the specific provisions established in the approved protocols of the activity they perform.</p>
<b>5. As employees return to work after restrictions have been lifted, has the government issued guidance on new employer obligations in the areas of health and safety?</b>	<p>Due to employer’s duty to provide a safe workplace, employers must provide all items necessary to protect the safety and hygiene of the workplace and protect employees’ health.</p> <p>Employers are advised to train the cleaning personnel and employees in general on the recommendations issued by the Ministry of Health, such as:</p>

	<ul style="list-style-type: none"> <li>• Frequently hand washing with water and soap;</li> <li>• Cover both nose and mouth with the elbow fold when coughing or sneezing;</li> <li>• Open doors and windows to ventilate the room; and</li> <li>• Frequently clean objects and surfaces that are often used.</li> </ul> <p>In addition, as mentioned in point 4.4, they must comply with safety protocols approved by the government, applicable to the specific activity. (Protocols vary according to the risks and particular characteristics of the industry or activity).</p>
5.1 Are employers required to provide employees with masks or other personal protective equipment (PPE) or cleaning supplies?	Please refer to our answer to question 4.4, above.
5.2 Will employers be permitted to take the temperature of employees, and if so, what compliance steps are required ( <i>e.g.</i> written consent, data privacy notice, etc.)?	<p>As of the employer's duty of safety and prevention, it will be reasonable to request temperature tests before beginning to work, taking into account the following issues: i) Employees must be properly informed of the policy regarding how the temperature tests are conducted; ii) The policy must be in writing, pointing out the permissible and forbidden conducts; iii) it must clearly establish possible sanctions in case of breach; iv) If an employee refuses to do such test, due to the current situation, the employer's duty of safety and prevention regarding all employees must prevailed over a particular will of one employee that refuses to have the test done; v) Due to the protective nature of Argentine regulations, it is advisable to have the policies notified in Spanish or in a double column format to avoid its challenge before a Court of Law; vi) Employees' medical information must be kept confidential; vii) Nevertheless, the employees' right to privacy will have as a limit the exposure to third parties at stake of infection sicknesses.</p> <p>As mentioned before, employees' medical information must be kept confidential and employers must establish a backup system to prevent their loss. In this sense, employers must be able to demonstrate having taken all reasonable steps to preserve the confidentiality of the information and prevent its unauthorized use or disclosure.</p> <p>However, if the employer does not comply with the safety measures and the employee has sufficient evidence of this situation, he/she is entitled to request the company to do so. Otherwise, the employee may consider himself/herself constructively dismissed based on the employer's breach of the duty of safety and, consequently, claim the corresponding severance compensation.</p> <p>In case the employees want to report their employer because he/she is not complying with their safety and hygiene duties, the following means are available: i) By phone: 0800-666-4100 (Ministry of Labor, Employment and Social</p>

	Security - <i>Ministerio de Trabajo, Empleo y Seguridad Social</i> or “MTEySS”-) or 0800-666-6778 (SRT); ii) By e-mail: <a href="mailto:denunciasanitaria@trabajo.gob.ar">denunciasanitaria@trabajo.gob.ar</a>
5.3 Can employers require nonemployee visitors (suppliers, delivery personnel, customers, etc.) to submit to temperature testing before entering premises?	Yes. These temperature tests are not illegal. However, third parties (non-employees, visitors, suppliers, customers, etc.) may refuse to take the test and the company cannot force them because it may be considered a violation to their constitutional right to privacy.
5.4 What are the penalties, if any, for businesses that violate the health and safety regulations related to the coronavirus? Is the federal or local government actively enforcing such regulations against businesses that violate such health orders (e.g., imposing fines, closing their business, etc.)?	<p>In case business violate health and safety regulations or public order rules, severe fines may be imposed. Officials are authorized to inspect businesses and impose such fines, and they are also entitled to close the establishment.</p> <p>The national government has authorized the local governors to actively inspect establishments that do not comply with public order rules.</p>
<b>6. As the economy reopens, what are the steps that employers should follow to notify the authorities that they suspect or have confirmed a COVID-19 infection?</b>	<p>There is no specific obligation for employers to report such cases to the authorities. However, Decree No. 620/2020 establishes that those individuals who have symptoms must immediately notify the relevant authorities. In the Autonomous City of Buenos Aires, individuals must call 107, and in the Province of Buenos Aires, they must call 0221-255437 or 148.</p> <p>Concerning employees infected with COVID-19, two assumptions apply: (i) for essential employees, COVID-19 is presumed to be a professional disease in case they are infected while they are rendering services, and (ii) for employees who are not involved within the “essential activities” and get sick with COVID-19, the disease will be considered as a regular sickness and the infected employee will be entitled to the corresponding sick leave. For further information, please see response to question 9, below.</p>
<b>7. As the economy reopens, can an employer require employees to self-report having a COVID-19 infection or other relevant health information (e.g., symptoms of COVID-19)?</b>	<p>Yes, employers may require employees to self-report having COVID-19 or symptoms of COVID 19. Please see response to question 6, above, related to the procedure individuals must follow in case they have symptoms.</p> <p>However, according to Resolution No. 5/2020 issued by the Ministry of Labor and the Ministry of Health, employers are not entitled to require medical certificates or studies related to COVID-19 to employees who start or return to perform their tasks.</p>

<p><b>8. Are there any changes to employers' consultation, bargaining or co-determination responsibilities relating to trade unions and/or Works Councils on return-to-work protocols/measures or enhanced flexibility in any future spike of Covid-19 infections?</b></p>	<p>So far, there are no changes to these responsibilities, as it relates to returning to work protocols or measures.</p>
<p><b>9. Do employers run risks when they request their employees to return to work? (i) Identify the type of risk, if applicable; and (ii) what companies can do to proactively mitigate the risk(s)?</b></p>	<p>For employees rendering essential services, a COVID-19 infection is deemed to be an occupational illness. Therefore, if an employee becomes infected while he/she is working, the corresponding Labor Risk Insurer cannot reject the coverage of this liability and must take the necessary measures to guarantee that the infected employee receives the corresponding medical treatment. The final decision regarding the professional nature of the disease will depend on the Central Medical Commission's evaluation. If appropriate, the Medical Commission will confirm the presumption and establish the causal relationship between the disease and the employees' work. This presumption applies for 60 days after the end of the public emergency related to COVID19.</p> <p>In view of the above, if employees are infected when returning to the workplace, employers will not be liable for the contagion, provided that they have provided all preventive measures and complied with safety protocols approved by the government. If employees who are not rendering "essential activities" become sick with COVID-19, the disease will be considered as a regular sickness and the infected employee will be entitled to the corresponding sick leave:</p> <ul style="list-style-type: none"> <li>• For five years or less of services and no family allowances: three months of paid leave.</li> <li>• Five years of services or more and no family allowances: 6 months of paid leave.</li> <li>• If the employee has family allowances: the periods are six and 12 months, respectively.</li> </ul> <p>The employer is responsible for paying the employee the corresponding compensation during the sick leave.</p>
<p><b>10. Does local law allow employees to sue employers for workplace violations related to the coronavirus? If so, have lawsuits been filed against employers on this basis?</b></p>	<p>Local laws do not encourage employees to sue their employers in case of violation of the health and hygiene protocols, but they have the alternative to file a claim before the Ministry of Labor via e-mail (<a href="mailto:inspecciondeltrabajo@trabajo.gba.gov.ar">inspecciondeltrabajo@trabajo.gba.gov.ar</a>). If such claim is filed, an inspector will visit the establishment, and he/she is empowered to force everyone in the place to comply with the safety protocols and hygiene measures. There are no major court cases regarding this subject, ever since most of the claims are filed before the Ministry of Labor and not before the Judiciary Power.</p>

	<p>However, there have been many judicial cases related to the violation from employers to the prohibition of dismiss without cause or based on lack or reduction of work or force majeure. In this sense, most of case-law established the reinsertion of the affected employees that were dismissed, and the payment of accrued salaries since the date of the dismissals.</p>
<p><b>11. Have there been any changes to the rules that apply to collective dismissals (layoffs), business cessation and/or sale of a business for businesses affected by the COVID-19 pandemic?</b></p>	<p>Please refer to our answer to question 2, above.</p> <p>No further amendments have been made to the prohibition to dismiss.</p>