

## Legal Alert: Law No. 21,431: Services of digital platform employees



March 15, 2022 / By [Luis Parada](#) and [Iñaki Irisarri](#).

On March 11, 2022, **Law No. 21,431** was published in the Official Gazette ("*Diario Oficial*") **amending the Labor Code to regulate the services of digital platform employees**, hereinafter the "Law".

Some relevant aspects of the Law are the following:

Applies to those companies that **manage services through applications, such as distribution and/or delivery of goods, merchandise, or minor passenger transportation, thereby joining supply and demand of such services**. On the contrary, platforms that merely publish advertisements for the provision of services by individuals or the sale or lease of goods are outside the scope of the Law, even when the services are hired through such platforms. Platform companies **may provide their services with dependent employees**, to whom the general labor regulations apply, although with some new adjustments.

In addition, the Law introduces a **new hybrid contractual figure**, in between a dependent employee and an independent service provider, called "**independent platform worker**", hereinafter referred as "**Independents**". In this way, the latter **maintains the freedom of a service provider**, and at the same time, **obtains protection from the labor law** in aspects such as: social security, risk prevention, minimum income, insurance, among others.

The Law requires the **execution of a contract between the parties**. The minimum content of such agreement varies for dependent and Independents. However, in both cases, the agreement must contain the rates to be paid by the application and the way to determine it. In order to modify the terms of the agreement, the acceptance of the service provider is required, thus limiting the practice of unilateral changes of contractual conditions. In the case of Independents, the parties may freely establish the grounds for termination of the contract, including the possibility of

termination without cause for any of them, giving at least 30 days' notice, but not in the case of dependent employees, to whom the general grounds for termination contained in the Labor Code apply.

The platforms shall **safeguard the private information of employees** and Independents, and upon request, shall deliver the personal information stored by the platform, such as personal data, travel, and classification.

Establishes the **platform's obligation to train dependent and Independents** in health and safety matters, and to provide the necessary personal protection elements for the performance of their services (helmet, elbow pads, knee pads, among others).

Companies must hire **insurance to cover damages to personal property of employees and Independents** with a minimum coverage of 50 "Unidades de Fomento" per year (approximately USD\$1,950)[1].

G Regarding working schedule, the employment agreement may establish that dependent employees shall be subject to a fix schedule or that they may have freedom **to determine their working day in the manner that best suits their needs**. In both cases, these employees are authorized to work on Sundays and public holidays. In the case of **Independent**, they have a right to a **minimum disconnection time of 12 hours within a 24-hour period**.

Regulates the **minimum remuneration for dependent employees and Independents**, which is the minimum monthly hourly income, increased in 20%.

It specifically recognizes the **possibility of Independents to have access to social security**.

**Independents are free to form labor unions**, although in their case, these organizations do not have the capacity to force companies to negotiate collectively.

**Companies have the duty to require Independents to comply with tax regulations**, such as the issuance of receipts for services provided.

**Discrimination by the platform is prohibited**. The Law allows Independents to sue the platform company alleging impairment of fundamental rights, in the event they consider that the company has violated such rights, as long as some minimum conditions of service time in the previous three months are met.

The **supervision of this Law will correspond to the Labor Directorate (labor authority in Chile)** which will have broad powers, including the possibility of requesting the source code of the application.

The Law will become **effective as of September 1, 2022**.

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