

Special subsidy for private workers due to COVID19

**Labor and Social Security Ministry Resolutions: N°143 (March 18th, 2020)
N° 163 (March 20th, 2020) and its extension (April 3rd, 2020)**

1. Introduction – Unemployment Insurance General Regime– Act (Decree) N° 15.180, Act N° 18.399, Decree 162/009.

As a consequence of the governmental preventive measures on March 13th, 2020 tending to avoid the population contagion of the COVID-19, there was an immediate decrease of the economic activity.

For so, the Labor and Social Security Ministry has taken several measures aiming to make more bearable the economic situation of thousands of workers who have been deprived of their income source.

Uruguay has a series of social measures for those workers who are either fired of their jobs or the company's activity for which they work is resented by several economic circumstances which may lead the employer to prescind from the worker's service.

The social measure, unemployment insurance is either to collaborate with the unemployment situation while the worker searches for another occupation or to avoid the direct dismissal from the company.

The unemployment insurance has three types:

- a) Dismissal unemployment insurance: the employee will receive a 6 months subsidy equivalent to a percentage of the salary that will descend as the months on the insurance go by.
- b) Complete suspension of activity unemployment insurance: the employee is not fired but sent to unemployment insurance for 4 months, receiving 50% of his salary. By the end of the fourth month, the company must reinstate the employee; if the company does not, the employee will be considered dismissed.



c) Activity reduction unemployment insurance: This partial unemployment insurance is only valid for daily workers. The employee works part of its journey and four so will be paid by the employer. For the reduced part of the journey, the employee will receive a subsidy paid by the State.

In order to access the unemployment insurance, the workers must have been on the payroll of one or more companies in the last twelve months. As well, for that period, must have effectively worked for a minimum of six months – for monthly workers – or three equivalent to 150 journeys – for daily workers. Once the employee uses the benefit must return to contribute the legal minimum months or journeys to once again have access to the unemployment insurance.

The system is financed with the workers and employers State contribution. In fact, the State pays for this benefit through the Previsional Office (BPS)

2. Uruguayan Special subsidy for private workers due to COVID19

One of the first measures taken by the Uruguayan government to the COVID-19 appearance, was creating a special subsidy which comprises certain areas of activity of private sector workers with monthly fixed or variable remuneration.

A) Resolution N°143 (March 18th, 2020):

By the Resolution N°143 dated March 18th, 2020, the Labor and Social Security Ministry established a special subsidy regime for private sector workers, for some specific areas of activity which were promptly severely affected by the arrival to our country of the COVID19. Such areas comprehend: general commerce, food retail, hotels, restaurants and bars, cultural and leisure services and travel agencies.

Dependent workers (with monthly fixed or variable remuneration) may receive this subsidy.

Initially this general regulation did not include the daily workers or the industry area. The Resolution refers to the commerce sector in general and to some specific services.

According to Numeral 2 of the Resolution, workers in a situation of partial suspension will be included in the special subsidy due to a reduction in the number of days of monthly work (with a minimum of six days in the month). Likewise, the special regime will be applied in the case of a reduction of 50% or more in the number of normal hours of work. Notwithstanding the above, workers must comply with the other requisites required by the Act (Decree) No 15.180 in the wording given by Act No 18.399 of October 24, 2008.

The regulation establishes the special subsidy will have a term of 30 days since March 18th, 2020, extendable by 30 additional days through a resolution of the Executive Power.

The subsidy will be the equivalent to 25% of the monthly average of the nominal remuneration received the six months immediately prior to the causal period, calculated proportionally to the period covered by the subsidy. Only the remuneration for the activities for which the subsidy is generated will be computed or considered.

The resolution by the Executive Power through the Labor and Social Security Ministry modifies or softens the general unemployment insurance regime that governs in our country, taking into account the health emergency that the country is going through. Such brings with it a substantial decrease in the activity of the sectors covered by this “exceptional” and clearly transitory benefit.

In this sense, we must appoint as significant modifications:

- a) The special regime will comprehend workers who have exhausted coverage by the general unemployment benefit regime as of March 18, 2020.
- b) In the case of workers who are currently covered by the general regime benefit, the special regime suspends the current collection of the subsidy

established by it, Then returning by the end of the validity of the special regime.

Requests for protection under the special regime will be submitted to the Previsional Office (BPS).

Granting of the special subsidy will not be conditioned to the existence of an unenjoyed annual paid vacation by the worker.

B) Resolution N° 163 (March 20th, 2020):

Two days after the first resolution, with softened the general unemployment insurance, the Labor and Social Security Ministry, submitted a second resolution which widened the areas reached by the subsidy and clarifies certain confusing aspects of the Resolution N° 143

This new resolution, widens the univers of potential beneficiaries of the subsidy: every worker of the private work industry receivingg a monthly fixed or variable remuneration, may recieve the special subsidy by activity reduction.

As well, clarifies certain aspects of the initial regulation:

- a) Those workers who have received coverage by the general unemployment insurance regime due to dismissal or total suspension of activity and who have continuously or discontinuously exhausted the maximum term of the unemployment benefit, may also access this benefit even if they have not elapsed or complied with the provisions of article 6.4 of Act N° 15.180 in the wording given by Act No 18.399 (12 months, 6 of them of effective contribution, since they received the last benefit).
- b) The regime stablished by Resolution No 143 and by the present (No 160) is optional and does not substitute the general unemployment regime.

C) Resolution of April 3rd, 2020:

This new and recent Resolution of the Labor and Social Security Ministry, widens the term of validity of the special unemployment insurance for reduction of activity established by Resolution No. 143 and modifies some articles of the same norm, making them retroactive to April 1st, 2020.

- a) Extension of the term of validity: In Resolution No 143, it was established that the special unemployment insurance for reduction of activity was valid for 30 days from March 18th, 2020, with the possibility of extending the term 30 days more. According to this first Resolution, the term of this subsidy could not be greater than 60 days, counted since March 18th, 2020. This new Resolution dated April 3rd, 2020, further extends the term of validity and extends it until May 31st, 2020.
- b) Specification of maximum and minimum working hours: The new Resolution maintains the minimum of monthly working hours that must be reduced in order to access the benefit (6 journeys per month) but establishes a maximum (19 journeys per month).
- c) Amount of the subsidy: The Resolution reiterates what the amount of the subsidy will be (25% of the monthly average of the computable nominal remuneration received in the six months immediately prior to the causal period, calculated proportionally to the period covered by the subsidy). But the novelty is that it establishes that “The amount to be received shall in no case be less than seventy-five percent (75%) of the average monthly remuneration received in the last six months, including the nominal sum paid by the employer for the period actually worked. ” This implies that, between what the worker receives for its effective work in the company after the reduction of his working day and what he receives for his protection of unemployment insurance for

partial suspension of activity, the pay must be equivalent to 75% of your usual salary.

- d) **Retroactive effect of the Resolution dated April 3rd, 2020:** The Resolution itself establishes that the modifications introduced are effective as of April 1st, 2020.

3. Conclusions

Before listing the characteristics of this special unemployment insurance regime, we must necessarily warn that, given the uncertainty of the scenario facing the country, future modifications to the regime must not be discarded. In any case, and as the tool that companies massively came to since the appearance of the disease in Uruguay, we understood it convenient to update the special regime created by the Executive Power.

The characteristics of this special unemployment insurance regime for the reduction of activity of the partial unemployment insurance are, according to the three Resolutions of the Labor Social Security Ministry:

- I. **Validity of the special regime:** May 31st, 2020 (Resolution of April 3rd, 2020)
- II. **Reached areas of activity Sectors:** All (Resolution No. 163 (March 20th, 2020)
- III. **Workers who may receive the benefit:** Private work activity employees with monthly fixed or variable remuneration. The special regime does not apply to daily workers - Resolution N^o. 143 (March 18th, 2020).
- IV. **Special regime is optional:** It is not the employer's obligation to resort to this special regime. Workers will be able to take advantage of the general unemployment insurance regime (Resolution N^o. 163 of March 20th, 2020).
- V. **Exhaustion of insurance:** Those workers in private activity with fixed or variable monthly remuneration who have previously exhausted unemployment

insurance and do not have the 6 months worked in the previous 12 months, may also make use of this benefit (Resolution No. 143 of March 18th, 2020) .

- VI. **Reduction of working time:** Maximum 19 journeys, minimum 6 journeys or 50% of the usual activity (Resolution N° 143 of March 18th, 2020, in the wording given by the Resolution of April 3rd, 2020).
- VII. **Benefit amount:** 25% of the average monthly nominal remuneration received in the last six months (Resolution N° 143 of March 18th, 2020).
- VIII. **Minimum amount to be received by the worker:** 75% of the usual monthly nominal salary averaging the last six months (Resolution N° 143 of March 18th, 2020, in the wording given by the Resolution of April 3rd, 2020)
- IX. Granting the special subsidy is not be conditioned on the existence of the worker's unused annual paid vacation (Resolution N° 143- of March 18th, 2020).
- X. **Applications for protection of the subsidy:** They must be made before the Social Security Office (BPS) (Resolution N°143 of March 18th, 2020). The application process is carried out by completing a form that is on the website of the BPS. Applications for partial unemployment subsidy that are requested until April 10th, 2020, will be paid on the date determined by the BPS and after April 20th, 2020.