

Reform of the Federal Labor and Social Security Laws in relation to domestic workers

As you may know, on December 5, 2018, the Supreme Court of Justice of the Nation declared that it was unconstitutional that employers are not obligated to register domestic workers with the Mexican Social Security Institute (until then the Federal Labor Law and the Social Security Law established that registration was voluntary), and therefore it was ordered to create a Pilot Program in order to implement a special social security regime for those workers.

As a result of the above, on July 2, 2019 a Decree was published in the Official Federal Gazette reforming various provisions of the Federal Labor Law and the Social Security Law, in relation to domestic workers.

A. The following are among the most relevant amendments to the Federal Labor Law:

1. A domestic worker is defined as someone who “for remuneration carries out activities of care, cleaning, assistance or any other inherent to the home in the framework of a labor relationship that does not mean for the employer a direct economic benefit, according to the daily hours or work weeks established in the Law.”
2. Occasional or sporadic work, or cleaning, assistance, client services and other similar work in hotels, restaurant houses, inns, bars, hospitals, sanitariums, schools, boarding school and other analogous establishments will not be considered domestic work.
3. It is prohibited to hire children under 15 years of age and requirements are established for contracting those over 15, among which are medical certificates, a work week that does not exceed 36 hours and the completion of at least secondary school.
4. Domestic work must be set up through a written contract.
5. The work shift cannot be more than 8 hours a day, with weekly time off of 1 and a half days. The half days off may be accumulated to make a complete day.
6. Domestic workers who reside at the address of the employer will enjoy 9 continuous hours of rest nightly and a daily rest of at least 3 hours between the morning and afternoon activities.

B. The main change to the Social Security Law is that domestic workers are covered by the mandatory social security regime.

The mentioned Decree establishes that incorporation into the Mandatory Social Security Regime will occur after making the adjustments and forming the necessary legal reserves to give functionality to the recognition of this right. Until that happens, employers should guarantee medical attention and funeral expenses.

We will keep you informed of any additional information on this matter.

To obtain additional information contact our experts:

Rodolfo Trampe, Partner:

+52 (55) 5258 1054, rtrampe@vwys.com.mx

Alix Trimmer, Associate:

+52 (55) 5258 1016, atrimmer@vwys.com.mx

Sincerely,

Von Wobeser & Sierra, S.C.

Mexico City, July 4, 2019.