

Mexico Insight: COVID-19 (Coronavirus) / Technical Guidelines Relating to the Activities Outlined in the Health Secretary's Decree of 31 March 2020

Introduction

In the context of the global health pandemic caused by virus SARS-CoV2 (COVID-19), the General Health Secretary published a decree declaring the pandemic as a force majeure emergency health crisis in the Official Federal Gazette of 30 March.

On the following day, 31 March 2020, the Health Secretary issued a second decree, which was published in the Official Federal Gazette of that same afternoon (the "31 March Decree"). This decree established extraordinary measures for addressing the force majeure emergency health crisis caused by the SARS-CoV2 virus, implementing eight main health measures.

On 6 April 2020, the Health Secretary issued another decree (the "6 April Decree"), which set out technical guidelines relating to the activities outlined in sections (c) and (e) of Article I, Part II of the 31 March Decree.

Technical Guidelines Relating to the Activities Outlined in the Health Secretary's Decree

In accordance with Article 1 of the 31 March Decree, as an extraordinary action for addressing the emergency health crisis, the health, social and private sectors must implement various measures. Part II of Article 1 establishes which activities are considered to be "essential". In particular, sections (c) and (e) expressly provide the following:

(c) Fundamental sectors of the economy are: finance, tax revenue, distribution and sale of energy resources, petrol and gas; production and distribution of drinking water, the food and non-alcohol drink industries, food markets, supermarkets, convenience, grocery and convenience food stores; transport services for people and cargo, the fishing, agriculture and livestock industries, the agro-industry, the chemical industry; cleaning products; hardware stores, mail services; security guards; day centres for children and older people, nursing homes, refuges and centres for women victims of violence and their children; telecoms and media outlets; private emergency services, funeral and cremation services, storage services and refrigeration of essential consumables; logistics (airports, ports and railways), as well as activities which, if suspended, would suffer irreversible effects regarding their continued operation;

(e) Necessary activities for the conservation, maintenance and repair of critical infrastructure which will ensure production and distribution of indispensable activities, namely: drinking water, electric power, petrol, gas, jet fuel, basic sanitation, public transport, medical and hospital infrastructure, together with other activities that can be listed in this category.

The 6 April Decree serves as an extension of the 31 March Decree. Based on three components – all of which require the measures provided under Article 1, Part III of the 31 March Decree to be complied with – the 6 April Decree sets out the technical guidelines for (1) businesses which would suffer irreversible effects if their activities were suspended; (2) delivery businesses; and (3) businesses necessary for the conservation, maintenance and repair of critical infrastructure, which ensure the production and distribution of indispensable services: in this case, electric power.

1. With regards to the first component, Article 1 defines which activities would suffer irreversible effects regarding their continued operation if suspended. In accordance with section (c), Part II, such activities include: steel, cement and glass production companies; information technology production companies which ensure continuity of the information systems used by the public, private and social sectors.
 - a. In respect of the first activities, the 6 April Decree states that minimum activity should be maintained in order to avoid irreversible effects on operation, provided that the Secretary of Economy is informed, *in accordance with “Annex1” and within a period no greater than 24 hours from the publication of the current Guidelines, of the total number of employees who would be indispensable for these purposes.*
 - b. Notably, the 6 April Decree guarantees the Federal Government’s existing contracts with producers of steel, cement and glass solely in respect of the current administration’s main projects, namely: *the ‘Dos Bocas’ project, the ‘Mayan Train’ project, the Felipe Ángeles Airport, the ‘Transísmico Corridor’ project; together with current contracts considered indispensable for the national oil company, Petróleos Mexicanos, and the Federal Electrical Commission.*
2. With regards to the second component – regarding delivery businesses – the 6 April Decree establishes that delivery services include electronic trading businesses and platforms.

3. With regards to the third component – regarding businesses necessary for critical infrastructure which ensure the production and distribution of indispensable services – the 6 April Decree specifically addresses electric power. It provides that coal mines will be restricted to the minimum level of production needed to satisfy the demand of the Federal Electrical Commission, and that they will have to inform the Secretary of Economy via email (economia@economia.gob.mx) in accordance with “Annex 1” within 24 hours.
 - a. For distributors of coal, the 6 April Decree provides that they must maintain minimum levels of operation, using only the fewest number of employees possible.

Notwithstanding the fact that the 6 April Decree does not expressly refer to activities relating to the health sector, we understand that, for obvious reasons, such activities must be implicitly included in the list of essential activities outlined in Measure 2 of the 31 March Decree. This Measure specifically describes essential activities as those “which are directly necessary for addressing the emergency health crisis, including those working in the health sector, such as paramedics, and general administrative and support staff for the National Health System. It also includes activities associated with the supply, provision of services and procurement in the health sector, including the pharmaceutical sector, both in the production and distribution of pharmaceuticals (pharmacies); manufacturing of consumables, medical equipment and health care technologies; those involved in the proper disposal of biological/infectious hazardous waste, as well as the cleaning and sanitization of health care units at different levels of service; (...)”.

For our clients’ ease of reference, a copy of “Annex 1” (as previously referred to) is provided below:

Employee Register in order to Continue Operations During the Emergency Health Crisis

Name of Business	
Names of Legal Representative	
Mexican Tax Identification Number	
Contact Telephone Number	
Email Address	
Address	
Contract Number and Name of Project or Work (each project or work to be listed as a separate entry)	
Number of employees hired under normal circumstances	
Number of employees hired during the emergency health crisis	

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Please feel free to contact any of the persons listed below if you have any questions on this important development:



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