

ARGENTINE GOVERNMENT INTRODUCES WORKERS' COMPENSATION AMENDMENTS

Changes to Argentina's Workers' Compensation rules late last year are producing significant rate increases.

Since 1915, Argentina has had a law in place to regulate the reparation and indemnification of work-related accidents. This law was partially repealed and then amended and was eventually replaced by rule 24028 in 1991.

All of the above laws set fixed amounts for injuries or damages and allowed the employer to buy Workers' Compensation (WC) insurance. Employees and their legal heirs could initiate a legal claim through the local tort law system (arts. 1108 and 1113 of the Argentinean Civil Code).

In 1996, law 24028 was replaced by law 24557 (*Ley de Riesgos del Trabajo – LRT*). This new rule was later modified by executive decrees 1278/00 and 410/01, and introduced some major changes in the WC system. Its major features were:

- **OBJECTIVE.** Previous laws focused only on indemnity, while the LRT also included loss prevention and reduction.
- **INSURANCE.** The LRT introduced mandatory, not voluntary, insurance (and the possibility of self-insurance).
- **FIXED AMOUNT INDEMNIFICATION.** The new law maintained this system.
- **TORT LAW CLAIM OPTION.** The LRT excludes any possibility of accessing the tort system to claim for damage reparation (with the exceptions of malice or willful misconduct).
- **NEW AGENCIES AND ENTITIES.** The LRT creates the ARTs



(work-related risks insurance companies), the SRT (governmental agency created with the purpose of regulating WC activity) and a consulting committee.

NEW DECREE 1694/2009 - NOVEMBER, 2009

On November 6, 2009, through an executive decree, the following modifications took effect:

CASH BENEFITS INDEMNIFICATION AMOUNTS UPON DISABILITIES AND DEATHS

- The previous indemnification limit of AR\$ 180,000 is eliminated.
- A minimum indemnification amount of AR\$180,000 is established; therefore, compensation may not be lower than the determined disability percentage applied to AR\$180,000.

- Additional compensation amounts are raised to a single payment of:
 - AR\$80,000 – Final permanent partial disability
 - AR\$100,000 – Final temporary partial disability
 - AR\$120,000 – Death
- The monthly amount for severe disablement is increased from AR\$240 to AR\$2,000.
- Cash benefits for temporary labor disability or temporary permanent disability will be calculated and liquidated according to the provisions of §208 of the Workers’ Compensation Law.

REGISTRY OF HEALTH SERVICES PROVIDERS

The amendment creates a Registry of Health Services Providers of the Workers’ Compensation Law enrolled in the SRT (Argentine Superintendence of Labor Risks).

CREATION OF MUTUAL INSURANCE COMPANIES

The law fosters the creation of not-for-profit mutual insurance companies for the management of benefits and actions provided for by the Workers’ Compensation Law.

EMPLOYERS LIABILITY INSURANCE

The law fosters the creation of an Employers Liability line of insurance.

ALIQUOT REGIME

A new Aliquot Regime according to the benefits increases was approved.

ELECTRONIC PAYMENT OF INDEMNIFICATIONS

The amendment establishes the electronic payment of cash benefits to bank accounts in the name of each injured party.

INSURANCE COST IMPLICATIONS OF THESE LATEST CHANGES

As a consequence of the modifications introduced by the decree, the insurance companies (ARTs) started to raise insurance costs. The average increase for the local market is estimated at 40%.

PRACTICAL COMPARISON CHART: WORKERS’ COMPENSATION LAW - DECREE 1694/2009

WORKERS’ COMPENSATION LAW	AMENDMENT - DECREE 1694/2009
<p>DEATH</p> <ul style="list-style-type: none"> ■ 40-year-old worker ■ Average Salary: AR\$4,000 <p>Workers’ Compensation Law Calculation Monthly Basic Income x 53 x Age Coefficient (65/age) x Disability AR\$4,075 x 53x 1.625 x 100% = AR\$350,000</p> <p>Maximum Indemnification: AR\$ 180,000 Total Indemnification Amount: AR\$230,000 (AR\$180,000 plus Additional Single Payment AR\$50,000)</p>	<p>DEATH</p> <ul style="list-style-type: none"> ■ 40-year-old worker ■ Average Salary: AR\$4,000 <p>Workers’ Compensation Law Calculation Monthly Basic Income x 53 x Age Coefficient (65/age) x Disability AR\$4,075 x 53x 1.625 x 100% = AR\$350,000</p> <p>Maximum Indemnification: AR\$350,000 Total Indemnification Amount: AR\$470,000 (AR\$350,000 plus Additional Single Payment AR\$120,000)</p>

WORKERS' COMPENSATION LAW	AMENDMENT - DECREE 1694/2009
<p>DISABILITY 20%</p> <ul style="list-style-type: none"> ■ 40-year-old worker ■ Average Salary: AR\$3,000 <p>Workers' Compensation Law Calculation Monthly Basic Income x 53 x Age Coefficient (65/age) x Disability</p> <p>AR\$ 3,000 x 53x 1.625 x 20% = AR\$51,675</p> <p>Maximum Indemnification: AR\$180,000</p> <p>Total Indemnification Amount: AR\$36,000</p>	<p>DEATH</p> <ul style="list-style-type: none"> ■ 40-year-old worker ■ Average Salary: AR\$3,000 <p>Workers' Compensation Law Calculation Monthly Basic Income x 53 x Age Coefficient (65/age) x Disability</p> <p>AR\$3,000 x 53x 1.625 x 20% = AR\$51,675</p> <p>Total Indemnification Amount: AR\$51,675</p>
<p>DISABILITY 65%</p> <ul style="list-style-type: none"> ■ 40-year-old worker ■ Average Salary: AR\$7,200 <p>Workers' Compensation Law Calculation Monthly Basic Income x 53 x Age Coefficient (65/age) x Disability</p> <p>AR\$7,200 x 53x 1.625 x 65% = AR\$403,065</p> <p>Maximum Indemnification: AR\$180,000</p> <p>Total Indemnification Amount: AR\$147,000 (AR\$117,000 plus an Additional Single Payment AR\$30,000)</p>	<p>DISABILITY 65%</p> <ul style="list-style-type: none"> ■ 40-year-old worker ■ Average Salary: AR\$7,200 <p>Workers' Compensation Law Calculation Monthly Basic Income x 53 x Age Coefficient (65/age) x Disability</p> <p>AR\$7,200 x 53x 1.625 x 65% = AR\$403,065</p> <p>Maximum Indemnification: AR\$403,065</p> <p>Total Indemnification Amount: AR\$ 483,065 (AR\$403,065 plus an Additional Single Payment AR\$80,000)</p>

CONSEQUENCES FOR MULTINATIONAL COMPANIES IN ARGENTINA

The goals of the law appear to be a liberalization of indemnities and a stabilization of the system via the reinforcement of the Workers' Compensation regime. As noted above, the price of Workers' Compensation insurance is already rising to meet the higher indemnity levels. It is too soon to determine if the new focus on loss prevention will affect future pricing.

The tort law claim option is still valid, although these changes are intended to reduce its applicability by channeling most of the reparation demands through the WC law in force. Equally important, Employers Liability insurance is still not available in the local insurance market, which tends to restrict the options for multinational companies.

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