

# STATE OF NATIONAL EMERGENCY REPEALED: KEY CONSIDERATIONS

SUPREME DECREE No. 130-2022-PCM

## Introduction

Due to the spread of the SARS-CoV-2 virus, the Peruvian government was required to implement several measures to counteract the effects of the pandemic.

In that sense, several regulations were issued to impose restrictions and obligations on citizens and to deal with the chaotic situation at that time. Among these measures, we have the declaration of the State of National Emergency and the declaration of the State of Health Emergency, which gave rise to various regulations on employment and occupational safety and health matters, among others.

### **EFFECTIVE DATE**

Supreme Decree No. 130-2022-PCM became effective on October 28, 2022.



## What does the supreme Decree No. 130-2022-PCM set forth?

This Decree repeals Supreme Decree No. 016-2022-PCM, which declared the State of National Emergency due to the circumstances affecting the life and health of people as a consequence of the COVID-19, and establishes new measures for the restoration of social coexistence.

*It is necessary to clarify that Supreme Decree No. 130-2022-PCM does NOT repeal Supreme Decree No. 008-2020-SA, which declared the State of Health Emergency at the national level. Therefore, the measures implemented as a result of the State of Health Emergency remain in force.*

## What are the main amendments introduced by Supreme Decree No. 130-2022-PCM?

- ▶ The exercise of the following constitutional rights is restored:
  - Personal liberty and safety.
  - Inviolability of the home.
  - Freedom to hold meetings and to transit within Peruvian territory.
- ▶ The powers granted to the National Police of Peru and the Armed Forces to verify and carry out interventions to prevent the development of activities not allowed during the State of National Emergency is eliminated.
- ▶ The mandatory use of masks is eliminated in the following situations:
  - At health facilities.
  - Inside land transportation vehicles.
  - Inside closed spaces with no ventilation.
  - In the case of persons with respiratory symptoms.
  - Inside restaurants or similar closed spaces with no ventilation.
- ▶ The impediment to carry out any procedure before a governmental entity is eliminated in the case of persons who failed to comply with health mandates and those related to the State of National Emergency, and who did not pay the penalty imposed for such infractions.
- ▶ The requirement to provide proof of having received 3 vaccine doses against COVID-19 to enter Peru is eliminated.

### CONSIDER THAT

- The Unique Final Supplemental Provision of Supreme Decree No. 130-2022-PCM promotes the optional use of face masks, the vaccination against COVID-19, and other measures for the promotion and monitoring of healthy activities and practices in connection with the health emergency.
- The requirement to provide a negative PCR test result taken within 48 hours before boarding, if not fully vaccinated, is eliminated.

## Which measures remain in force?

### MEASURES AT THE WORKPLACE

- ▶ Employers are authorized to modify and establish staggered work shifts and schedules, without prejudice to the right of employees to a mandatory weekly rest period.
- ▶ In the case of pregnant employees and nursing mothers whose integrity or that of their child are at risk, the Occupational Safety and Health department will evaluate the continuity of remote work in case the nature of their activities requires their presence at the workplace.
- ▶ In the case of employees aged 60 and over and those who are affected by any health risk factors, the Occupational Health and Safety Physician will verify their clinical information to determine the occupational risk for each employee. This assessment will allow determining whether such employee will perform in-person work, remote work, or hybrid work, on an as-needed basis.

### CONSIDER THAT

The corresponding health measures must remain in force at the workplace, in accordance with the Unique Final Supplemental Provision of Supreme Decree No. 130-2022-PCM.

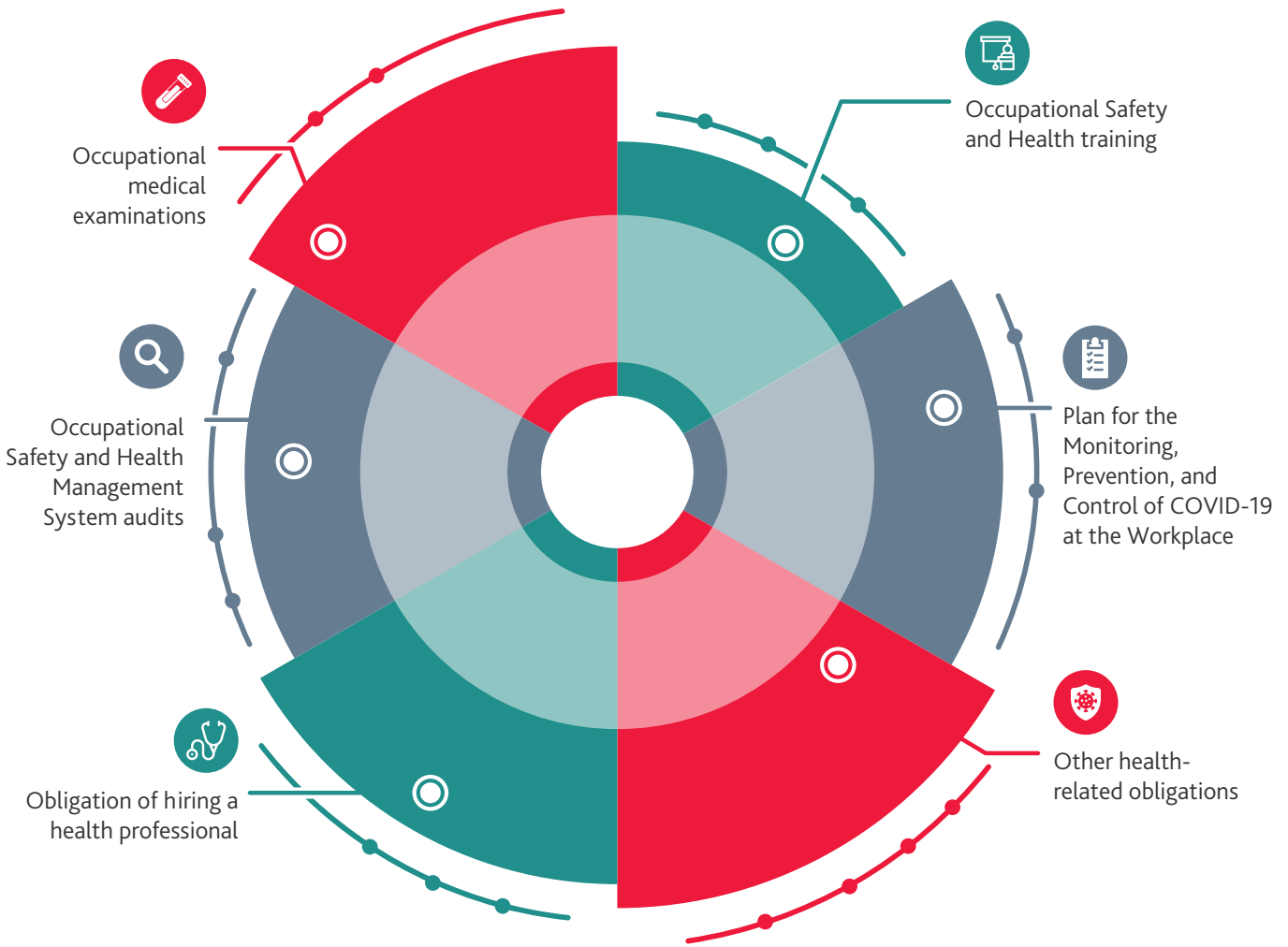
**MEASURES APPLICABLE TO LABOR UNIONS**

- ▶ Information and communication technologies must be used to amend by-laws, appoint and change board members, elect delegates, and establish labor unions, among other act.
- ▶ In the case of labor union activities that must be reported to the Administrative Authority of Employment or that represent a procedural requirement before such entity, the respective minutes may be replaced by a sworn statement of the secretary general or of the person authorized according to applicable regulations.

**CONSIDER THAT**

In the case of labor unions, the use of information and communication technologies must be maintained.

**OCCUPATIONAL SAFETY AND HEALTH OBLIGATIONS**



**OCCUPATIONAL MEDICAL EXAMINATIONS**

During the State of Health Emergency, the occupational medical examinations required under Law No. 29783 - the Occupational Safety and Health Law, will be conducted as follows:

- ▶ For activities classified as high-risk activities, pre-employment medical examinations will be conducted on those employees who have not passed an occupational medical examination within the last year at an authorized occupational medical center or service provider.

**CONSIDER THAT**

Regarding occupational medical examinations, the provisions contained in Legislative Decree No. 1499 remain in force.

- ▶ Periodic occupational medical examinations will be suspended and the validity of those that have already expired or are about to expire during the State of Health Emergency will be automatically extended.
- ▶ In the case of the medical examinations of employees who are leaving the Company, these may be requested by such employees or by the employer at the end of the employment relationship.
- ▶ The Company's occupational physician must validate the employee's information, extend the validity of their medical examinations, and certify their suitability with respect to the medical examinations not performed during the State of Health Emergency.

It is worth noting that these provisions do not exempt employers from their obligation to monitor the health of their employees, as they must comply with the guidelines issued by the Ministry of Health and current Occupational Safety and Health regulations.

#### **OCCUPATIONAL SAFETY AND HEALTH TRAINING**

- ▶ In-person training sessions on Occupational Safety and Health will be conducted adopting preventive biosafety measures, and in the following situations:
  - Upon hiring, irrespective of the work modality or duration.
  - When changes are made to the duties, job positions, or the type of task or activity to be performed by employees.
- ▶ Employers are required to comply with the Company's Training Plan, preferably through online sessions and using different technological means or tools.

#### **OCCUPATIONAL SAFETY AND HEALTH MANAGEMENT SYSTEM AUDITS**

- ▶ The mandatory audits to the Occupational Safety and Health Management System remain suspended.
- ▶ Once the State of Health Emergency ends, employers must conduct audits within the following 90 calendar days. For this purpose, the audit report must be submitted to the competent authorities no later than 15 calendar days after the issuance of such report, when applicable.
- ▶ The term of the employees' representative before the Occupational Safety and Health Committee or that of the supervisor will be extended in case it is not possible to carry out the election process.



**PLAN FOR THE MONITORING, PREVENTION, AND CONTROL OF COVID-19 AT THE WORKPLACE**

- ▶ All workplaces must have a "Plan for the Monitoring, Prevention, and Control of COVID-19 at the Workplace" in place, which must be submitted to the Occupational Safety and Health Committee or to the Occupational Safety and Health Supervisor, which must be approved within 48 hours of receipt.
- ▶ Employers are not required to register the Plan for the Monitoring, Prevention, and Control of COVID-19 at the Workplace with the National Health Authority.
- ▶ Tasks, distance, ventilation, and work shifts must be analyzed for the return or reincorporation of employees with health risk factors. In addition, the Occupational Safety and Health Physician must review the available medical information of employees to determine their health condition and the level of occupational risk.
- ▶ In the case of employees who have not been fully vaccinated against COVID-19, they will be advised to report to the Occupational Safety and Health office or to the person in charge of this department, in order to complete their vaccination doses and return to in-person, remote, or hybrid work.
- ▶ With respect to the ventilation at the workplace, employers must measure the level of CO<sub>2</sub> in the workspaces to verify if these are properly ventilated.
- ▶ Workplaces are still required to have handwashing stations and alcohol and/or alcohol-based hand gel dispensers.

**OBLIGATION OF HIRING A HEALTH PROFESSIONAL**

Pursuant to the provisions of Exhibit 1 of Administrative Directive No. 321-MINSA/DGIESP-2021, all workplaces, depending on their size, must hire a health professional, with a degree in Nursing or Medicine.

**OTHER HEALTH-RELATED OBLIGATIONS**

- ▶ When entering Peruvian territory, all persons must mandatorily present a Traveler's Health Declaration to prevent the COVID-19.
- ▶ The institutions in charge of the administration of ports and airports must adopt the necessary health measures to prevent the spread of COVID-19 in the corresponding spaces.
- ▶ Commercial facilities and markets must implement health measures to facilitate the access to restrooms for their employees and the general public.
- ▶ Public and private transportation services must adopt the corresponding measures to avoid the spread of COVID-19.



**HAVE QUESTIONS OR WANT TO LEARN MORE? CONTACT US!**



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