

GMS Flash Alert



Immigration Edition

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Chile - COVID-19: New Immigration Legislation, Travel Restrictions Extended

As an important milestone, Chile's government announced the country's enacting of a new immigration law on April 1. "Law 21.315 of Immigration and Foreigners" aims to modernize and update the current immigration system in the country.¹

Chile's government has also extended through June 30 the decree that closed its borders on April 5, 2021 to foreign nationals without regular residence status and restricted departures from Chile for all its population, including Chilean nationals and foreign nationals with regular residence status.² (For prior coverage, see *GMS Flash Alert 2021-106*, April 7, 2021.)

WHY THIS MATTERS

Employers and their globally-mobile employees need to be aware of this new law that will establish new conditions and process restrictions for people who are attempting to migrate to Chile. People who are in Chile under a tourist visa will not be able to change it for a temporary or definitive residency.

Current inhabitants with temporary residency will not be able to apply for permanent residency, unless they can fulfill requirements established in the law, and comply with the country's immigrational law.

Further extending limitations on cross-border travel into/from the country will continue to affect the mobility of a company's international workforce. The extended closing of Chile's borders and other travel and entry-exit measures previously announced will continue to impact companies with expatriate populations in terms of future assignments inbound to Chile or outbound from Chile. (For prior coverage, see *GMS Flash Alert 2021-106*, April 7, 2021.) Employees and their families who may have received offers for an international assignment to Chile may need to further postpone beginning the assignment, at least through June. This could cause some anxiety, stress, and inconvenience, especially if plans for relocation are already underway.

Companies with global presence and individuals operating across borders need to continue to be aware of the relevant risks associated with travel, large-crowd events and conferences, and new work arrangements resulting from the COVID-19 pandemic.

Details of New Law

The legislation aims to provide new and modern criteria for the management and consolidation of the process regarding letting new inhabitants and residents enter and live in Chile. It includes important considerations, such as principles, objectives, rights and obligations, migration categories, and immigration institutions. The main objective of the new law is to bring more order and regularization to the country's immigration system.

This law requires regulation before it can be fully implemented. However, a few transitional articles of this law are currently in effect. These articles regulate a special treatment for foreign nationals with irregular status and organize the functions of new public offices.³ The new law creates new immigration categories which will be valid once the required regulation is enacted. According to the law, this regulation must be enacted within a one-year deadline.

The immigration categories under the old law will be similar to the new ones, respecting all the acquired rights before this new law. The new categories created in this law are:

Transitional Permanence: For foreign nationals who do not intend to stay in Chile indefinitely, but only for 90 days with the possibility of another 90-day extension.

Official Residency: Applies for foreign nationals who are acknowledged to be with official diplomatic missions in Chile, but expires 30 days after the ending of the official mission.

Temporary Residency: Generally has a validity of two years. It applies for different subcategories such as foreigners who can prove they have family bonds with other Chileans or permanent residents, foreign nationals who intend to enter the country to work by their own means or under an employment contract, students who enter any state-authorized institution, among others.

Definitive Residency: Authorizes an indefinite stay in Chile, letting people conduct any activity which is not illegal with no other limitations than those established by law. People able to apply for Definitive Residency are those who already have a valid Temporary Residency and fulfill the established requirements under the law, the expected implementing regulation, and a Supreme Decree by the government which approves the Temporary Residency subcategories.

Qualified Nationalization: Applies to applicants who already possess a valid Definitive Residency permit who can prove they have been in Chile without leaving for an uninterrupted two-year period and have three different bonds with Chile's Republic, such as being married to a Chilean for two years and that marriage being properly recorded at the Civil Register according to Chilean law; having Chilean blood relatives; or being adopted by a Chilean citizen, among other things.

Chilean nationals and foreign nationals with regular residence status will be allowed to return to Chile if they are currently abroad; however, they will not be allowed to depart unless they can prove an exceptional circumstance, which includes:

- managing operations abroad that are deemed as fundamental for the country's benefit;
- humanitarian and essential health reasons; or
- departing the country with the intention of not residing any longer in Chile.

Nonresident foreign nationals will be allowed to depart but not to enter Chile as previously stated. To depart the country, the traveler will need to request a special travel permit.⁴

FOOTNOTES:

1 See *Ley de Migración y Extranjería* (in Spanish) published in Chile's *Diario Oficial* at:
<https://www.diariooficial.interior.gob.cl/publicaciones/2021/04/20/42934/01/1930044.pdf> .

2 See the official government decree (in Spanish) *Extiende Vigencia del Decreto Supremo N° 102, de 2020, del Ministerio del Interior y Seguridad Pública, que Dispone del Cierre Temporal de Lugares Habilitados para el Ingreso Egreso de Extranjeros, por Emergencia de Salud Pública de Importancia Internacional (ESPII) por Brote del Nuevo Coronavirus (2019-NCOV)* published in Chile's *Diario Oficial* at:
<https://www.diariooficial.interior.gob.cl/publicaciones/2021/05/29/42965/01/1953398.pdf> .

Also see an official government [website](#) (in Spanish) with the updated border situation.

3 See law in above footnote 1 under epigraph XVI, "Artículos transitorios."

4 See "Información General Sobre Permisos y Salvoconductos" at: <https://comisariavirtual.cl/> .

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Contact us

For additional information or assistance, please contact your local GMS or People Services professional* or one of the following professionals with the KPMG International member firm in Chile:



Angelo Adasme
Partner
Tel. + 56 22 997 14 35
aadasme1@kpmg.com

Maria Villar
Director
Tel. + 56 22 997 14 74
mariavillar@kpmg.com

Felipe Ibarra
Supervisor
Tel. + 56 22 997 14 78
fibarra@kpmg.com

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The information contained in this newsletter was submitted by the KPMG International member firm in Chile.

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