

# GMS Flash Alert

## Immigration Edition

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# Chile – New Decree Provides Implementation Guidance on Immigration Reforms

In Chile, a new immigration regulation has introduced new types of residence permits and stipulated the related requirements and procedures.

On May 14, Chile's government published in the official gazette (*Diario Oficial*) Supreme Decree No.177, which establishes the migratory subcategories for temporary residence in Chile and further develops the New Chilean Immigration Law (Law No. 21.325) and its respective regulation (Decree 296).<sup>1</sup> (For related coverage, see [GMS Flash Alert 2022-038](#), February 23, 2022.)

With the publication of Decree No. 177, all provisions of the aforementioned legislation become effective and immediately applicable.

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## WHY THIS MATTERS

From now on, companies that are planning long-term assignments to Chile may have more clarity regarding the residence permit that they should apply for on behalf of their assignees and the information and documents that must be submitted with the application form.

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## Details

Since February 12, 2022, with the publication of the New Immigration Regulation, Chile has been waiting for the publication of numerous decrees. Particularly, the Decree which establishes the procedures to be followed for visa applications in accordance with the aforementioned Law.

As from its publication, all temporary residence permit applications must be submitted through the “digital process platform” of the National Immigration Service.

Regardless of the migratory subcategory, all applicants must provide the following documents:

(a) A copy of their passports. This document must be valid for at least one (1) year as of the date of filing the application.

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## KPMG NOTE

Considering that the maximum validity of most temporary residence permits is two (2) years, employers/employees may wish to provide a passport with a validity at least of two years as of the date of filing the application.

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(b) Moreover, if the applicants are over 18 years old, they must provide a Police Clearance Certificate from their home country or the country in which they have resided for the last five (5) years. On the other hand, those applicants who reside or have resided in a different country than their home country for less than five years within the aforementioned period, must provide a Police Clearance Certificate for/from each country where they reside or have resided within this period.

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## KPMG NOTE

Additionally, our recommendation is to provide the home country Police Clearance Certificate. These documents must be apostilled or legalized accordingly.

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All documents that have to be submitted with residence permit applications must be issued in Spanish or English. Otherwise, applicants must provide an official translation of each document and it must be authorized by the competent Chilean Consulate. Documents issued by a public institution will be valid for 60 days from the issuance date, and those issued by a private institution, will only be valid for 30 days.

## Description and Application of Each Migratory Subcategory

Supreme Decree No.177 determines the migratory subcategories as well as the types of temporary residence permits that will allow their applicants to reside for a specific period in Chile and perform remunerated activities in the country.

Furthermore, the Decree, as well as the New Immigration Law and its respective Regulation determine which migratory subcategories allow non-Chilean nationals to apply for permanent residence in Chile.

Supreme Decree No.177 establishes sixteen (16) migratory subcategories as follows:

- 1) Family Reunification Permit.
- 2) Permit for non-Chilean nationals who perform remunerated activities.

- 3) Permit for non-Chilean nationals who intend to settle in Chile for student purposes at educational institutions recognized by the state.
- 4) Permit for seasonal workers.
- 5) Labor opportunities Permit.
- 6) Permit for non-Chilean nationals subject to Chilean gendarmerie custody.
- 7) Permit for non-Chilean nationals that are present in the country due to National Justice Courts orders.
- 8) Humanitarian residence Permit.
- 9) Permit for individuals covered by international agreements.
- 10) Permit for religious cults officially recognized.
- 11) Permit for non-Chilean nationals who are under medical treatment.
- 12) Permit for retired and pensioned non-Chilean nationals.
- 13) Permit for ex-permanent resident holders.
- 14) Permit for investors and related personnel.
- 15) Multiple-entry business Permit.
- 16) Permit for refugees and political asylum.

Below, there is a summary of the migratory subcategories that will typically apply to many organizations' circumstances.

**Family Reunification Permit:** This Permit is intended for those non-Chilean nationals who have family ties with a Chilean or a non-Chilean national who currently has a permanent residence permit. This permit may be applied for from within Chile or abroad and allows one to perform remunerated activities in Chile.

**Permit for non-Chilean nationals who perform remunerated activities:** This permit is intended for those non-Chilean nationals who intend to live in Chile and perform remunerated activities under a labor relationship with a Chilean company. Moreover, this permit can only be applied for from abroad.

The end of the labor relationship that was originally provided for by this permit, will not result in the revocation of this residence permit, which allows one to work with different employers without notifying the National Immigration Service.

**Permit for individuals covered by international agreements:** This permit is intended for nationals or residents, as applicable, of those states that are party to international agreements signed by Chile and which are currently in force by/at the time of filing the application. This permit may be applied for from Chile or abroad.

Regarding the aforementioned, it should be noted that Decree No.177 does not specifically refer to the Mercosur Agreement (Decree 239 of 2008 from the Foreign Ministry of Affairs) which allows nationals from Brazil, Uruguay, Argentina, Paraguay, and Bolivia to apply for this permit only in Chile. Therefore, as of today, the National Immigration Service has not informed if it will be possible to apply for this permit for Mercosur nationals from abroad.

**Permit for investors and related personnel:** This permit is intended for non-Chilean nationals, legal representatives, and individuals who exercise management functions or senior management in a foreign company who are seeking to

invest in Chile for an amount equal to or greater than USD 500,000 every time that this investment is aimed at the production of good and services. This Permit is also intended for those non-Chilean nationals who perform management functions or senior management and the technical assistance experts, hired under a labor relationship or to provide services to a company established in Chile whose equity or assets are controlled directly or indirectly by a foreign investor who owns at least the 10 percent of voting rights or an equivalent participation in the capital stock in case of non-joint stock companies. This permit can only be applied for from abroad and will require, among others, a supporting letter from the Foreign Investment Promotion Government Agency (InvestChile).

**Multiple-entry business Permit:** This permit is intended for those non-Chilean nationals who, on the occasion of executive or directive activities related to business or investments that companies maintain in Chile, must travel to the country on a regular basis.

Regardless of the validity of this permit, the total length of stay of the non-Chilean national may not exceed six (6) months in each calendar year. This permit can only be applied for from abroad.

## Final Considerations

According to Decree No.177, if the individual submits the application with grossly erroneous or insufficient documentation, the applicant will have 10 business days to provide new documentation.

Applicants for a residence permit submitted in Chile will obtain a “certificate of residence permit in progress,” which will allow them to:

- prove their regular migratory status in Chile,
- perform remunerated activities, and
- benefit from free transit into and from Chile until the Residence Permit is granted.

This certificate will also be provided to those applicants who request a change of migratory subcategory/change of status (from dependent to main holder) or the extension of their current residence permit.

On the other hand, individuals whose applications for a residence permit are submitted from abroad will only receive proof of such submission but not a certificate of residence permit in progress. This document will only certify the filing of the application and the beginning of the process. However, it will not allow the applicant to enter Chile with a temporary resident status. Under these circumstances, applicants cannot enter Chile as residents until their permits have been granted.

Temporary Residence Permits for Dependents may be granted to spouses, cohabiting partners, and children. This Permit allows dependents to perform remunerated activities in Chile.

Furthermore, pending residence applications filed before the Decree’s publication date (May 14, 2022) will be processed by the National Immigration Service granting a type of residence permit related to a new migratory subcategory which assimilates most with the residence requested before the filing.

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## KPMG NOTE

Despite the new changes introduced by Supreme Decree No. 177, which are already in force, the National Immigration Service is currently working through the new rules and developing updates of all the information on its website and its digital processes platform.

In the meantime, the digital process platform of the National Immigration Service and its webpage are presenting some instability, reduced options to apply for some migratory subcategories, as well as incomplete or outdated information.

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## FOOTNOTE:

1 See the official government law (in Spanish) "Establece Subcategorías Migratorias de Residencia Temporal" published in the *Diario Oficial*, Núm. 43.253, 14 Mayo 2022.

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## Contact us

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

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