

Measures adopted in administrative procedures during the COVID-19 Outbreak

With occasion of the contingency caused by the COVID-19 Outbreak many different public agencies are taking measures in their administrative procedures, such as the suspension and extension of deadlines for administrative procedures followed before these agencies, as well as the adoption of measures related with the monitoring and control made by these agencies.

I. Deadlines suspension

The following agencies declared the deadlines suspension for the administrative procedures:

- **Superintendence of Environmental (SMA)**¹

From April 1, 2020 to April 7, 2020, both dates included, it is declared the suspension of the following:

- All administrative procedures followed before the SMA.
- Administrative deadlines granted to comply with actions within administrative procedures derived from the exercise of the regulatory, supervisory and sanctioning powers of the SMA.

This suspension does not affect the compliance with other kind of duties that must be met before the SMA².

- **Environmental Evaluation Service (SEA)**³

From 1 April 2020 to 30 April 2020, both dates included, deadlines associated with the following environmental impact assessment procedures, developed before the Executive Direction and the Regional Directions of the SEA, are suspended:

- a) Declarations (DIA) and Studies of Environmental Impact (EIA) that are currently in the citizen participation stage.

¹ Exempt Resolution No. 548, issued by SMA dated 23 March 2020.

² This, in special consideration to the provisions of Exempt Resolution No. 497 of 19 March 2020, by which SMA established the duty of weekly reporting, the prevention of compliance with the respective environmental instruments, and the prevention of situations of fortuitous event and force majeure.

³ Exempt Resolution No. 202099101137, issued by the SEA, dated 31 March 2020.

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- b) DIA with environmental burden in which has been declared the realization of a citizen participation process.
- c) DIA and EIA in which it has opened a new citizen participation stage.
- d) EIA entered into the Environmental Impact Assessment System during the said period (must be noted that, even though the EIA will be admitted for its processing, it will be suspending).
- e) DIA and EIA in which meetings with the indigenists groups must be made.

- **Superintendence of Education**⁴

From 26 March 2020 to 30 April 2020, the Superintendence of Education has declared the suspension of the following:

- a) Educational administrative procedures, including those for normative compliance monitoring, and those aimed educational establishments use of resources' verification.
- b) Complaint and mediation procedures.
- c) Procedures for sanctions, authorization to increase rental fees, and closure of nursery schools.

- **Under-Secretary of Fisheries and Aquaculture**⁵

From 19 Marco 2020 to the date on which the measure is rescinded by a subsequent act, this agency has declared the suspension of the following processes:

- a) Tendering of the industrial part of the quota (LTP B).
- b) Extraordinary fishing permits.
- c) Reserve quota for human consumption for smaller enterprises.

Likewise, this Undersecretariat for Fisheries and Aquaculture has also adopted other measures⁶, summarized below:

- a) The suspension of the deadlines and procedures relating to:
 - i. Supreme Decree No. 355 of 1995, issued by the Ministry of the Economy, Development and Tourism, "*Regulations on areas of management and exploitation of benthic resources*".

⁴ Exempt Resolution No. 180, issued by the Superintendence of Education, dated 26 March 2020.

⁵ Exempt Resolution No. 817, issued by the Under-Secretary of Fisheries and Aquaculture, dated 19 March 2020.

⁶ Exempt Resolution No. 886, issued by the Under-Secretary of Fisheries and Aquaculture, dated 31 March 2020.

- ii. Advisory bodies and citizen participation.
 - iii. Aquaculture matters.
 - iv. Projects and institutional studies.
 - v. Procedures for declaration of expiration.
 - vi. Sanctioning procedures.
 - vii. Marine coastal areas of native peoples.
 - viii. Some deadlines provided for in Law No. 19,880.
- b) In relation to the expirations provided for in Title XI of the General Law on Fisheries and Aquaculture, holders must provide evidence the fortuitous event or force majeure that affects them, before the competent agency, except for the periods of the causes of expiry of management plans and exploitation of management areas contained in letters b) and c), both of Article 144 of the General Law, which are suspended as of right during the state of disaster.
- c) In relation to the regime of benthic resource management and exploitation areas, the Undersecretariat may authorize, by means of a resolution, the organizations of artisanal fishers owners of a management area to carry out management actions not provided for in these projects or in the monitoring reports that have been approved, without having to prove compliance with the corresponding requirements.
- d) Collegiate advisory agencies of this Undersecretariat may meet remotely.
- e) With regard to administrative contracts, those which cannot be performed under the agreed conditions owing to decisions implemented by the authority, such as office closures or reduction of working hours, shall continue to be paid to the contractor, provided that the contractor keeps the contracts in force for the workers assigned to the respective contract, and proves payment of the respective remuneration and social obligations. In any event, should the state of emergency be extended, and the premises closed down, the Undersecretariat may amend the contract.
- f) In connection with disciplinary proceedings initiated under Title V of the Administrative Statute, investigators and prosecutors may order the suspension of such proceedings, which may not exceed the duration of the state of emergency.
- **Court of Defense of Free Competition (TDLC)**

The TDLC issued the agreement⁷ adopted by its Plenary of Ministers, regarding the publication of Law No. 21,226, which "*Establishes a Legal Regime of Exception for Judicial Proceedings, in Hearings and Judicial Actions, and for the Time-limits and Exercise of the Actions it Indicates, due to the Impact of Covid-19 Disease in Chile*". Thus, the measures it determined to adopt are as follows:

- a) To suspend the terms of evidence that had begun or that were initiated during the validity of the constitutional state of emergency.
- b) To suspend any evidentiary hearings that have been ordered and are pending in cases where the terms of the evidence have expired. They shall be rescheduled for the earliest possible date after the end of the constitutional state of emergency. Without prejudice to the above, the parties or interveners who have been unable to meet the deadlines set for the conduct of proceedings may claim the possible "impediment".
- c) To carry out remotely any hearings of the cases and public hearings that may take place during the state of constitutional emergency.
- d) To resolve matters of easy dispatch, and, in general, all those matters whose resolution does not cause defenselessness of the parties or interveners, as a result of the measures implemented by the authority, or the effects of the health emergency, in relation to the procedures followed before it during the constitutional state of emergency.
- e) In relation to personal notifications and proceedings requiring the appearance of a party during the period of constitutional state of emergency, the Lawyer Secretary may authorize to carry out them by videoconference or other electronic media.

- **Ministry of Energy**⁸

The Ministry has decided to suspend until June 17, 2020 the deadlines associated with all administrative procedures currently in progress, raised before this Under-secretary.

- **Superintendence of Electricity and Fuels (SEC)**

The SEC has adopted the following measures, communicated in its resolution No. 32201, issued on March 20, 2020. These measures are:

- a) To suspend the deadlines associated with the actions that require the audited and interested parties to attend personally the SEC's offices.

⁷ TDLC agreement, with occasion of the Law No. 21.226, dated 2 April 2020. Available at: https://www.tdlc.cl/nuevo_tdlc/wp-content/uploads/2020/04/Declaraci%C3%B3n-sobre-Ley-N%C2%B0-21.226-F.pdf

⁸ Exempt Resolution No. 36, issued by the Ministry of Energy, dated 20 March 2020.

- b) To suspend the deadlines that require them to make representations to other entities, public or private, and that, given the nature of these actions, do not allow them to be carried out by any other means.

These measures shall be in force until they are rescinded by a founded resolution of the Superintendent of Electricity and Fuels.

- **Superintendence of Sanitary Services (SISS)**

This Superintendence⁹ has determined the adoption of the following measures:

- a) From April 3 to April 20, 2020, both dates included, all actions of the sanctioning process that involve the appearance or intervention of the authority and the entities being audited are suspended.
- b) All proceedings will continue until the stage of appearance or physical presence of the authorities. For justified reasons, the persons concerned may present some other situation which makes it impossible to continue the process, which must be resolved by the SISS.
- c) Any action to be taken in the proceedings should be sent to ofpartes@siss.gob.cl.

Once proceedings have been initiated, the SISS may, on its own initiative or at the request of a party, take any interim measures it deems appropriate to ensure the effectiveness of any decision taken.

- **General Water Directorate (DGA)**

In relation to its administrative procedures, the DGA has suspended¹⁰, from 18 March to 20 May 2020, both dates inclusive, the deadlines that have not yet expired within this time, associated with the generality of the administrative deadlines set out in the second book of the Water Code, including the deadlines for appeals for reconsideration.

II. Extension of deadlines and other measures

The agencies that have decided to extend some of their deadlines, as well as implementing other measures for administrative procedures before them, are the following:

- **National Institute of Industrial Property (INAPI)**

INAPI has set an additional period, corresponding to the maximum authorized by law, for all performances that expire between 17 March 2020 (date of issuance of the resolution) and 30 April 2020.

In addition, it has implemented the following measures:

⁹ Exempt Resolution No. 804, issued by the Superintendence of Sanitary Services, dated 20 March 2020.

¹⁰ Exempt Resolution No. 492, issued by the General Water Directorate, dated 27 March 2020.

- a) Extension of final deadlines¹¹ associated to any action to be carried out in administrative procedures, and which expire from the date of issuance of the resolution until 30 April 2020. This additional period will correspond to half of the original period.
- b) In contentious proceedings, for actions that must be made until 30 April 2020, or which deadline expire in said period, parties may plead obstruction¹².
- c) In relation to powers of attorney, when not possible to obtain original documents, observation to the documents shall be made, allowing a longer period for submitting the original documents. If the user has the original power attorney, he may electronically attach a document and a comment shall be made, in order to submit the original within a period of not less than 15 days¹³.
- d) In the case of evidentiary hearings, a new day and time shall be set¹⁴.
- e) For hearings on the presentation of evidence, in the case of trademark proceedings, certification of notaries as ministers of faith is recommended¹⁵.
- f) In relation to final payments, scanned patent, model and design final payment documents (including decades and five-year periods), attached to a brief filed online, will be accepted. This brief shall be observed so that the original is submitted later, within a period of not less than 15 days¹⁶.
- g) In relation to the payment of taxes for appeal, it will be exceptionally accepted that the proof of payment made in a bank institution, in pdf, be accompanied by the appeal letter¹⁷.

- **Industrial Property Corut (TDPI)**

The TDPI has issued different communications by virtue of which it has determined what measures will be implemented in the proceedings before it. The following is a summary of these communications:

- a) Cases with fewer allegations than normal will be heard, with exception of expert hearings, which will be suspended until the contingency is regularized¹⁸.

¹¹ Exempt Resolution No. 314, issued by the INAPI, dated 17 March 2020.

¹² Idem.

¹³ Available at: <https://www.inapi.cl/sala-de-prensa/detalle-noticia/inapi-informa-medidas-adoptadas-frente-al-coronavirus>

¹⁴ Idem.

¹⁵ Idem.

¹⁶ Idem.

¹⁷ Idem.

¹⁸ TDPI Announcement issued on 23 March 2020. Available at: <http://www.tdpi.cl/2020/03/23/actualizacion-informacion-tdpi-comunicaciones-contingencia-por-fecha/>

- b) All types of presentations must be sent to tdpi@economia.cl, even those not related to compliance with deadlines, attaching the digital file of the document or documents, indicating who is presenting them and the number of the case for which they are intended¹⁹. The document must be signed with an advanced or simple electronic signature, and it will not require subsequent ratification. It also applies to cases that are “in table”.
- c) The Court shall function for hearing cases with a reduced schedule, only two days a week²⁰.
- d) The requirement of presential confirmation of pleadings for hearing suspensions is eliminated²¹. With regarding to the use of stamps, the only requirement is that the writ by which the hearing is suspended must be submitted with a digital sign, in pdf format, and sent to the TPDI email.
- e) The Court may hold hearings by means of a video-conference system, taking into account the rights and guarantees of the litigants²².
- f) The hearings scheduled for 1 and 2 April were suspended²³.

- **Superintendence of Education**

In addition to the suspension of procedures already reported, the Superintendence of Education has reported the implementation of the following measures:

- a) During this period of emergency, no presential hearing or interviews will be held with officials of the Public Prosecutor’s Unit²⁴.
- b) The deadline for completing the accountability process “in due time” was extended to 22 April 2020, at 6 pm²⁵.
- c) An “after deadline” stage of the accountability process will be implemented from 23 April to 30 April 2020²⁶.
- d) The deadline for applications of the publication of revenue for pre-funded grants has been extended to 15 April 2020²⁷.

¹⁹ Idem.

²⁰ Agreement of the Plenary of the TDPI, issued on 24 March 2020. Available at: <http://www.tdpi.cl/wp-content/uploads/2020/03/ACUERDO-DE-PLENO-del-24.pdf>

²¹ Idem.

²² TDPI “Auto acordado”, issued on 24 March 2020. Available at: <http://www.tdpi.cl/wp-content/uploads/2020/03/AUTO-ACORDADO-DEL-TRIBUNAL-DE-PROPIEDAD-INDUSTRIAL-SOBRE-AUDIENCIAS-POR-SISTEMA-DE-VIDEO-CONFERENCIA.pdf>

²³ TDPI Communication issued on 26 March 2020. Available at: <http://www.tdpi.cl/2020/03/25/aviso-suspension-de-audiencias/>

²⁴ ORD. No. 577, issued by the regional director of the Superintendence of Education, on 17 March 2020.

²⁵ ORD. No. 605, issued by the Superintendence of Education, on 23 March 2020.

²⁶ Idem.

²⁷ Idem.

- **Court of Defense of Free Competition**²⁸

After the declaration of total quarantine for seven communes in the Metropolitan Region, the Court of Defense of Free Competition has determined to implement the following:

- a) There will be no court shifts.
- b) Any question must be asked by e-mail.
- c) Presentations must be made virtually.
- d) Any written presentation must be made "by mailbox", sending a backup e-mail indicating that the presentation has been made.
- e) The Court continues to meet by video conference, giving priority to the resolution of urgent matters²⁹.

- **Public Hiring Court**³⁰

On its website, the Public Hiring Court reports the implementation of the following measures:

- a) Reschedule from April all the hearings for the reception of testimonial evidence, for the acquittal of positions and any other hearing that involves the personal appearance of the parties or witnesses in the Court, set for the month of March, in which there is no records of notification to the parties.
- b) To consider with flexibility the alleged obstacles to the personal appearance of the parties or witnesses in March.
- c) The use of electronic processing is requested for making submissions to the Court.

- **National Fisheries Service (SERNAPESCA)**

By means of a series of resolutions³¹, SERNAPESCA has provided for the following measures in the event of a contingency due to force majeure, after a technical analysis and without prejudice to the compliance with the action plans:

- a) Postpone the start of the sanitary rest established by the Salmonid Concession Group (ACS), extending the production period at the level of cultivation or

²⁸ Communication issued by the TDLC, on 26 March 2020. Available at: https://www.tdlc.cl/nuevo_tdlc/wp-content/uploads/2020/03/MEDIDAS-TDLC-CUARENTENA-TOTAL-SANTIAGO-CENTRO-26.03.pdf

²⁹ According its "Auto acordado" No. 20-20, issued on 16 March 2020. Available at: https://www.tdlc.cl/nuevo_tdlc/wp-content/uploads/2020/03/AA-N20-2020.pdf

³⁰ Information available at: <https://www.tribunaldecontratacionpublica.cl/>

³¹ Exempt Resolution No. 565, issued by SERNAPESCA on 16 March 2020; Exempt Resolution No. 585, issued by SERNAPESCA on 19 March 2020; Exempt Resolution No. 648, issued by SERNAPESCA on 24 March 2020.

complete ACS, for which the companies must submit the application indicating the period required for this purpose.

- b) Extend the period of stay in the collection centers. In case a Process Plant is closed, the movement between collections or feeding in the collection center may be evaluated on a case-by-case basis.
- c) Postpone the splitting, by sowing to double number.
- d) In the context of the *A. catenella* Surveillance and Control Program, companies that wish to keep a certifier on board must notify the Service. For the other companies, it will be feasible to opt for sampling at the landfall.
- e) Postpone sowing and extending sowing periods.
- f) Sample prohibited and non-authorized substances in the Processing Plant.
- g) Extend the term established for the beginning and realization of the cleaning and disinfection procedure of the structures of the cultivation center, once the total harvest of the center is done.
- h) Postpone the sampling for the elaboration of environmental reports in the cultivation centers that cannot be carried out in the period in which the restrictions of displacement and movement of people are maintained.
- i) Exempt from carrying out sampling within the framework of the Specific Health Surveillance and Control Program (PSEVC) for *Piscirickettsiosis*.
- j) Exemption from the categorization carried out under the PSEVC for *Caligellosis*, if control measures cannot be applied.
- k) Carry out sampling in the context of PSEVC of Infectious Salmon Anemia (ISA) and sampling for the Specific Health Program of Active Surveillance (PVA) by the company's Veterinary Doctor. In the event of suspicion of high-risk diseases (List 1 or ISAv), the Service must be notified immediately.
- l) Make the *Caligus* and SRS programs more flexible, depending on the health situation, after the Service evaluates the risk.
- m) Extend the monthly validity of the Health Certificate of Movement up to three months, in the case of Atlantic salmon species. For the transfer of mortalities, exemption resolution No. 193 of 29 January 2020 shall remain in force.
- n) Carry out sampling considered in the Specific Sanitary Surveillance and Control Programs, without submitting to SERNAPESCA the request for single sampling.
- o) For confirmed HPR0, quarterly surveillance frequency is established.

- p) Sampling is exempted from being carried out for bacterial kidney disease in the context of Health Surveillance and Control Program for Magallanes and Antarctica.
 - q) Treatment by immersion may be carried out without considering the established treatment windows, prior authorization of the Service.
 - r) Regular sampling within the framework of the Specific Health Program for the Surveillance and Control of *Kaleidosis* will be carried out considering only one of the predefined random cages.
 - s) Sampling under the Mollusk Monitoring Program may be carried out during the second half of 2020.
 - t) Periodic visits by veterinarians to the farms, established in the General Health Program No. 1468 of 2012, may be performed every 3 months".
- **General Comptroller of the Republic**³²

Given the contingency, the General Comptroller has decided to implement an exceptional modality for the submission of presentations by public and particular officials who request a legal pronouncement from the General Comptroller's Office.

Requests for legal rulings must be made using the form available at <http://www.contraloria.cl/denuncia>.

Complaints from officials governed by Law No. 18,834 on Administrative Statutes must continue to be entered through the Official Complaints Service Portal, available at <http://www.contraloria.cl/web/cgr/atención-de-reclamos-funcionarios>.

The General Comptroller's Office has established that the exceptional modality for the submissions will be in force until they are declared ineffective by a founded resolution of the General Comptroller.

- **Labor and Social Security Ministry**³³

The General Directorate of Pledging Credit has decided to establish the suspension of the following procedures:

- a) Auctions of expired term in the Credit Units, to be carried out in March and April 2020.
- b) Auctions provided for in article 4 of DFL No. 16 of 1986, of the Ministry of Labor, as well as those derived from institutional cooperation agreements with municipalities and other State administration agencies, in all the Credit Units of the General Directorate of Pledging Credit, for March and April 2020.

³² Exempt Resolution No. 1393, issued by the General Comptroller of the Republic, on 26 March 2020.

³³ Exempt Resolution No. 112, issued by the Under-secretary of Labor, on 25 March 2020.

- c) Disposals by public auction, ordered in accordance with the provisions of the Code of Criminal Procedure, Law No. 19,925, Law No. 19,913, Law No. 20,000, and any other law which provides for the General Directorate of Pledge Credit to act as an auxiliary to the administration of justice, in all Credit Units, for the months of March and April 2020.
- **National Customs Service (SNA)**³⁴

The SNA has arranged a series of measures, attending the contingency. These measures are:

- a) Carrying out physical inspections without the presence of the Customs agents' assistants, at the request of the respective Customs agent.
- b) Notification of responses to requests from Customs Agents, by e-mail, to the e-mail box that the respective dispatcher has registered with the SNA.
- c) Both the exchange of the "Bill of Landing", and its corrections, may be sent electronically to the Customs Agents. In these cases, the dispatcher shall keep in the dispatch folder the B/L in scanned format with the respective corrections. The same obligation shall apply to the redeemed B/L. The scanned documents must be signed or stamped by the personnel of the respective Customs Agent. Thirty days after receipt, the dispatcher must obtain the originals from the issuer of the B/L.
- d) Authorize the granting of dispatch Powers of Attorney to the Customs Agents by e-mail.
- e) The Customs Agents and their assistants may work remotely.
- f) Extend the validity of the customs cards that expire during the validity of this resolution until September 30, 2020.
- g) Customs Agents may receive, by e-mail from consignors, consignees and other participants in the logistics chain, the basic documents required to prepare and process customs declarations. Thirty days after this resolution is rescinded, the dispatchers must obtain the originals.
- h) The Request for Amendment of a Customs Document and its endorsement may be submitted electronically. The response of approval or rejection shall be reported electronically to the sender. It does not apply to the refund of duties regulated in paragraph 2.1.4., letter a), of Chapter IV of the Payments Manual.
- i) Withdrawal of goods from customs warehouses by auxiliary officials of a Customs Agency other than the one responsible for the dispatch, after the issuance of a simple Power of Attorney to the withdrawing agent by the principal.

³⁴ Exempt Resolution No. 1179, issued by the National Directorate of the SNA on 18 March 2020.

- j) The Customs Agencies may send, electronically and in *pdf* format, the documentation submitted by the exporters for the Legalization of Export Declarations.
- k) In cabotage, the electronic delivery of documents upon the effective arrival of the ship-manifest shall be authorized. An e-mail may be sent to the box informed by each Customs office.
- l) The sending by e-mail of documents attached to applications for the issuance of a passenger is authorized.
- m) The accounting of periods of validity of the passives that could expire during the validity of the present resolution is suspended, until left without effect by the National Director. The same provision shall apply to the periods for which the temporary admission and departure of motor vehicles and aircraft have been authorized.

Likewise, the SNA, in coordination with the Institute of Public Health (ISP), has allowed the preferential processing, and without limit of amounts, of critical medical supplies³⁵ that are imported for the prevention and control of COVID-19. It applies both to imports made or coordinated directly by the Ministry of Health to supply public health-care networks and to donations made to the Government of Chile³⁶.

- **Institute of Public Health (ISP)**

Considering the contingency caused by the outbreak of COVID-19, the ISP has adopted the following measures:

- a) All notification of health charges will be received at autorizacionestablecimientos@ispch.cl.
- b) To suspend, until further notice, the services of stamping pharmacy books and receiving prescriptions and control guides.

- **Ministry of the Environment**

The Ministry of the Environment³⁷ has decided to extend the deadline for the annual declaration of the National Waste Declaration System (SINADER), which applies to establishments that are obliged to declare, as generators and/or recipients of waste, as well as municipalities.

The extension of the deadline was defined until April 30, 2020.

³⁵ Tariff classification of critical goods for COVID-19 quota, available at: https://www.aduana.cl/aduana/site/docs/20200326/20200326162444/clasificacion_mercancias_covid_19.xlsx

³⁶ Exempt Resolution No. 1313, issued by the National Directorate of the SNA, on 26 March 2020.

³⁷ Exempt Resolution No. 282, issued by the Ministry of Environmental, dated 30 March 2020.

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