



Labour Credit
Guarantee Fund



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On October 29th, 2018, Uruguay enacted Act No. 19.690 which establishes the creation, within the scope of the Banco de Previsión Social (local social security agency), of the Labour Credit Guarantee Fund. The main purpose is to cover the eventual insolvency of an employer for the fulfilment of labour credits of its employees.

Scope of application

It includes all workers in the private sector except for the following cases:

1. Those workers who have either links of consanguinity or affinity up to third degree inclusive either with the employer or members of the board of the company;
2. Directors, general managers and all the employees entitled with decision-making authority in key issues of the business;
3. Workers that integrate a working cooperative to continue with the business where they rendered services, as long as they comply with what stated in the Numeral 2, Art. 174 of the Act No. 18.387.

Labour credits that are guaranteed

The labour credits that are covered by the mentioned fund are the following (credits expired due to status of limitations are excluded):

1. Salaries earned during the six months prior to the date the suspension of payments or last salary settlement.
2. 13th salary, vacation pay and vacation bonus generated during the past two years prior to the dates establish in the prior numeral.
3. Severance Payment established by law.
4. Penalty of 10% for the lack of payment of labour credits provided by the Art. 29 of the Act No. 18.572.

The existence of these credits must be verified by insolvency proceeding or by judicial sentence issued by the labour court.

Maximum amount covered

The maximum amount of labour credits that is covered by the fund is UI 105.000 (approximately \$U 420.000 as of October 2018).



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Labour credits that the employee could have collected by the procedure provided by the Art. 62 of the Act 18387 will be deducted from before mentioned maximum amount.

Guarantee fund financing

The guarantee fund is financed by a contribution of 0.025% on the salaries that are subject to social security contributions and the recovery of the credits subrogated by the workers that are beneficiaries of the fund.

Despite the fact that the act does not establish the passive subject of the contribution, parliament debate indicates that the guarantee fund will be financed by employers' contributions. The government can either reduce the rate or temporarily suspend the perception in case the fund has adequate resources to afford before mentioned compensations.

In the event that the fund does not have sufficient resources, the State may integrate the Guarantee Fund in order to maintain the risk coverage, until the amount collected by the contribution could re-establish the financing of the benefit.

Subrogation of labour credits

BPS will subrogate the workers regarding their right and procedures for the amount of gross compensations received plus adjustments, interests and penalties and charging the guarantee fund.

Payment of labour credits

The Banco de Previsión Social will pay such labour credits as long as their existence and the employer insolvency are verified.

In case of death of the owner of the labour credits, fund compensation will be transferred to the successor, spouse or partner, who must prove their status. In case of concurrence, the spouse or partner will be entitled with 50% and the remaining 50% will be distributed among the rest of the successors.

Enforcement date

The act will be in force as of the first day of the month following the date of its publication and will apply to the labour credits accrued 180 days after the mentioned date. The Executive Power must regulate this act within a period of 90 days following its promulgation.

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