

# Opinion Article

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## IMPLEMENTATION OF CONTINUOUS WORKING DAY IN THE PRIVATE SECTOR



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## IMPLEMENTATION OF CONTINUOUS WORKING DAY IN THE PRIVATE SECTOR

In recent weeks, a scenario of uncertainty has been generated in some companies in the private sector due to the determination of the Ministry of Labor to suspend continuous working day and to apply, starting March 6, 2023, the discontinuous working day, to both private and public sector companies. In response to the fact that there are private companies that, due to the nature of their activities, agreements with workers, or other reasons, implement continuous working day. So, the question arises: Is it legally feasible to implement continuous working day in the private sector despite the determination of the Ministry of Labor?

To answer the question, it is important to consider that the health emergency caused by COVID-19 forced the National Government to apply different measures for the prevention and containment of this disease, the implementation of continuous hours in private companies is among them. This measure affected those companies that had discontinuous working day schedules implemented before the pandemic but did not have any major implications for companies that applied continuous working day schedules before the pandemic.

It is evident that the application of the continuous working day schedule provided by the government had: i) a temporary nature, since it was linked to the prevention and containment measures of COVID-19; and ii) A general nature, since it covers all private companies, except those that, due to the nature of their activities, have special working schedules.

As the behavior of the pandemic remained stable and without significant progress, the Ministry of Labor determined that it was convenient to suspend the continuous working day schedule that was applied in attention and compliance with the COVID-19 prevention and containment measures; so it would not have an impact on those companies that implemented continuous working day schedule before the pandemic due to the nature of their activities, agreement with workers, or other reasons.

Given this scenario, we would have the following situations:

1. Those private companies that applied the continuous working day schedule before the pandemic can continue with this schedule without any inconvenience, considering that the working day schedule is subject to the arrangement by the employer, the nature of the activities that will be developed, and/or the agreements with workers.

1) Article Two; Paragraph I, of Ministerial Resolution No. 264/23  
 2) Article Four of Ministerial Resolution No. 731/22  
 3) Article One of Ministerial Resolution No. 264/23

4) Article 46 of the Bolivian's General Labour Law establishes the maximum daily and weekly hours for men and women; without specifying whether they must be performed in a continuous or discontinuous working day schedule, so there is no legal impediment to applying any of these alternatives.

2. Those private companies that applied discontinuous working day schedules and implemented the continuous modality to comply with the provisions of the Ministry of Labor for the prevention and containment of COVID-19, could return to discontinuous hours.

Notwithstanding the above, the continuous working day schedule could be maintained according to the needs of the company and according to the nature of the services; previously having to take some precautions that allow this schedule to be implemented temporarily or permanently with the greatest margin of legal security and avoiding contingencies with the workers.

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