

# GLOBALG.A.P. Risk-Assessment on Social Practice (GRASP)

## GRASP Module – Interpretation for Chile

Version 1.3, July 2015

English Version

Developed by NTWG Chile in August 2016



Control Point	Compliance Criteria	Interpretation for Chile
<b>EMPLOYEES' REPRESENTATIVE(S)</b>		
1	<p>Is there at least one employee or an employees' council to represent the interests of the staff to the management through regular meetings where labor issues are addressed?</p>	<p>Documentation is available which demonstrates that a clearly identified, named employees' representative(s) or an employees' council representing the interests of the employees to the management is elected or in exceptional cases nominated by all employees and recognised by the management. The election or nomination takes place in the ongoing year or production period and is communicated to all employees. The employees' representative(s) shall be aware of his/her/their role and rights and be able to discuss complaints and suggestions with the management. Meetings between employees' representative(s) and the management occur at accurate frequency. The dialogue taking place in such meetings is duly documented. N/A if the company employs less than 5 employees.</p>
<b>COMPLAINT PROCEDURE</b>		
2	<p>Is there a complaint and suggestion procedure available and implemented in the company through which employees can make a complaint or suggestion?</p>	<p>In case there is no employees' council one of the members of the "Comité Paritario" (Parity Committee) can be considered to represent the interests of the workers before the employer.</p> <p>See Normative Annex.</p>
2	<p>A complaint and suggestion procedure appropriate to the size of the company exists. The employees are regularly informed about its existence, complaints and suggestions can be made without being penalized and are discussed in meetings between the employees' representative(s) and the management. The procedure specifies a time frame to answer complaints and suggestions and take corrective actions. Complaints, suggestions and follow-up solutions from the last 24 months are documented.</p>	

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<b>SELF-DECLARATION ON GOOD SOCIAL PRACTICES</b>		
3	Has a self-declaration on good social practice regarding human rights been signed by the management and the employees' representative and has this been communicated to the employees?	The management and the employees' representative(s) have signed, displayed and put in practice a self-declaration assuring good social practice and human rights of all employees. This declaration contains at least commitment to the ILO core labor conventions (ILO Conventions 111 on discrimination, 138 and 182 on minimum age and child labor, 29 and 105 on forced labor, 87 on freedom of association, 98 on the right to organize and collective bargaining, 100 on equal remuneration and 99 on minimum wage) and transparent and non-discriminative hiring procedures and the complaint procedure. The self-declaration states that the employees' representative(s) can file complaints without personal sanctions. The employees have been informed about the self-declaration and it is revised at least every 3 years or whenever necessary.
<b>ACCESS TO NATIONAL LABOR REGULATIONS</b>		
4	Do the person responsible for the implementation of GRASP (RGSP) and the employees' representative(s) have knowledge of or access to recent national labor regulations?	The employer must make sure the employees representative or employees' council, according to the case has knowledge about: a) "Código de Trabajo" (Work Code) (remuneration, labor contract, unions, rights and obligations of workers and employees, work of minors, holidays); b) Law N° 20189, Respect to work of minors. c) Law N° 16.744 (Social Insurance against Risks of work accidents and Professional illness). d) Law N° 20607, that sanction labor harassment. e) Law N° 20.545, of protection of maternity.

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		essential points of working conditions in agriculture as formulated in the applicable GRASP National Interpretation Guidelines.	f) Law 19.069: Establish rules of unions organizations and collective negotiation.  See normative Annex.
<b>WORKING CONTRACTS</b>			
5	Can valid copies of working contracts be shown for the employees? Are the working contracts compliant with applicable legislation and/or collective bargaining agreements and do they indicate at least full names, a job description, date of birth, date of entry, wage and the period of employment? Have they been signed by both the employee and the employer?	For every employee, a contract can be shown to the assessor on request (on a sample basis). Both the employees as well as the employer have signed them. Records contain at least full names, nationality, job description, date of birth, the regular working time, wage and the period of employment (e.g. permanent, period or day laborer etc.) and for non-national employees their legal status and working permit. The contract does not show any contradiction to the self-declaration on good social practices. Records of the employees must be accessible for the last 24 months.	The employer must make sure to put in writing the working contract, which must detail at least the following stipulations: <ol style="list-style-type: none"> <li>1. Place and date of the contract.</li> <li>2. Individualization of the parties with indication of the nationality and date of birth and entry of the worker.</li> <li>3. Determination of the nature of the services and the place or city in which they must report.</li> <li>4. The amount, method and period of payment of the accorded remuneration.</li> <li>5. Duration and distribution of the working day.</li> <li>6. Period of the contract.</li> <li>7. Other pacts that parties have agreed.</li> <li>8. The additional benefits that the employer will supply in the form of house, electric power, fuel, food or others benefits in kind or services.</li> </ol> <p>The time to put the working contract in writing is 15 days after the worker have been incorporated to the work (general rule), or five days if the contracts are by work, determined work or services or a duration inferior to thirty days.</p> <p>See normative Annex.</p>
<b>PAYSLIPS</b>			
6	Is there documented evidence indicating regular payment of salaries corresponding to the contract clause?	The employer shows adequate documentation of the salary transfer (e.g. employee's signature on pay slip, bank transfer). Employees sign or receive copies of pay slips / pay register that make the payment transparent and comprehensible for them. Regular payment of all employees during the last	The employer must pay the remuneration of the worker, under his request by check, cash, bank transfer, sight account or cashier check (Article 54 subsection 2, Código del Trabajo (Work Code)), and with the payment the employer must give the worker a receipt with the indication of the amount payed, the form the remuneration was determinate, and the deductions made, which is denominated "liquidación de sueldo" (wage settlement) that must be signed by the worker (Article 54 subsection 3, Código

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		24 months is documented.	del Trabajo (Work Code)). See Normative Annex.
<b>WAGES</b>			
7	Do pay slips / pay registers indicate the conformity of payment with at least legal regulations and/or collective bargaining agreements?	Wages and overtime payment documented on the pay slips / pay registers indicate compliance with legal regulations (minimum wages) and/or collective bargaining agreements as specified in the GRASP National Interpretation Guideline. If payment is calculated per unit, employees shall be able to gain at least the legal minimum wage (on average) within regular working hours.	The employer may agree a remuneration per unit of time, day, week, fortnight or month of for unit, piece, measure or work. In no case the unit of time must exceed a month. The amount monthly of the wages can't be less than the monthly minimum wages. If partial working days were agreed, the wage can't be less than the current minimum wage proportionally calculated in relation to the ordinary working day (Article 44, Código del Trabajo (Work Code)). The article 42, a) dispone that the wage can't be inferior to the minimum wage. To have access to the amount of the minimum wage, the information can be find in the web site: <a href="http://www.dt.gob.cl">http://www.dt.gob.cl</a> .  See Normative Annex.
<b>NON-EMPLOYMENT OF MINORS</b>			
8	Do records indicate that no minors are employed at the company?	Records indicate compliance with national legislation regarding minimum age of employment. If not covered by national legislation, children below the age of 15 are not employed. If children -as core family members- are working at the company, they are not engaged in work that is dangerous to their health and safety, jeopardizes their development or prevents them from finishing their compulsory school education.	The employer must fully comply to the dispositions contained in the Código del Trabajo (Work Code) (Articles 13 and followings), that allows the work of persons between 15 and 18 years old, with determinate requirements and certain impediment associated to the nature of the labor entrusted. Under no circumstances minors under 15 years can be hired for agriculture labors.
<b>ACCESS TO COMPULSORY SCHOOL EDUCATION</b>			
9	Do the children of employees living on the	There is documented evidence that children of employees at compulsory	According to the article 19 N° 10 of the "Constitución Política" (Political Constitution), the "educación básica" (primary education)

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	company's production/handling sites have access to compulsory school education?	schooling age (according to national legislation) living on the company's production/handling sites have access to compulsory school education, either through provided transport to a public school or through on-site schooling.	and the "educación media" (secondary education), are obligatory, having the state to finance a gratuitous system with that objective. The administration must supervise that minors living in the agriculture operation receive primary and secondary education. Law 20710: Constitutional reformation establish the obligatorily of the second level of transition and creates a system of free financing since the medio menor (middle minor level).  See normative annex.
<b>TIME RECORDING SYSTEM</b>			
10	Is there a time recording system that shows working time and overtime on a daily basis for the employees?	There is a time recording system implemented appropriate to the size of the company that makes working hours and overtime transparent for both employees and employer on a daily basis. Working times of the employees during the last 24 months are documented. Records are regularly approved by the employees and accessible for the employees' representative(s).	For the effect of controlling the assistance and determine the ordinary and extraordinary working hours, the employee shall keep a record that will consist in an employer's assistance book or a control clock with cards records (article 33 "Código del trabajo" (Working Code)). The rest periods can be demonstrated from these records.  See Normative Annex.
<b>WORKING HOURS AND BREAKS</b>			
11	Do working hours and breaks documented in the time records comply with applicant legislation and/or collective bargaining agreements?	Documented working hours, breaks and rest days are in line with applicant legislation and/or collective bargaining agreements. If not regulated more strictly by legislation, records indicate that regular weekly working hours do not exceed a maximum of 48 hours, during peak season (harvest), weekly working time does not exceed a maximum of 60 hours. Rest breaks/days are also guaranteed during peak season.	For the effect of controlling the assistance and determine the working hours, bough ordinary and extraordinary, the employee will keep a record that will consist in an employer's assistance book or a control clock with registration cards (article 33 "Código del trabajo" (Working Code)). The rest periods can be demonstrated from these records.
<b>ONLY APPLICABLE FOR PRODUCER GROUPS</b>			
<b>INTEGRATION INTO QMS</b>			
QMS	Does the assessment of the Quality Management	The assessment of the Quality Management System of the producer	

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System (QMS) of the producer group show evidence of the correct implementation of GRASP for all participating producer group members?	group demonstrates that GRASP is correctly implemented and internally assessed. Non-compliances are identified and corrective actions are taken to enable compliance of all participating producer group members.	
<b>ADDITIONAL SOCIAL BENEFITS</b>		
R 1 What other forms of social benefit does the company offer to employees, their families and/or the community? Please specify incentives for good and safe working performance, bonus payment, support of professional development, social benefits, child care, improvement of social surroundings etc.).		

## Annex to GRASP Interpretation for Chile

### Control Point 1:

#### CÓDIGO DEL TRABAJO (Work Code)

Article 235, bis. The unions of companies that affiliating less than twenty-five employees, will be directed by a director, which will act as of president and enjoy of immunity. Article 236. For being elected to perform as a union director or a union delegate according to the dispositions on article 229, it is requiring to comply with the requirements established in the respective statutes.

Article 237. For the first election of directory, will be candidates all workers that assist to the constitutive assembly and that match the requirement to be union Director.

In the following elections for union directory candidacy there must be presented in form, opportunity and with the publicity stated in statutes. If they didn't have any reference, the candidatures should present in writing before the directory secretary not less than fifteen days or after 2 days before of the date of the election. In this case, the secretary must communicate in written or through a certificate letter the circumstance of having presented a candidature to the respective "Inspección del Trabajo" (Work inspection) within 2 working days after its formalization.

Will be elected who obtain the vote relative majority. In the case there is equality of votes, it will be done to what is settled down in the statute and if nothing was settled down it will proceed only among of who was in that situation, a new election.

Article 239. The voting must be done to choose or to place censorship of the directory will be secret and must be done in the presence of a minister of faith. The day of the voting assembly of the union can take place with the exception of the dispositions detail in article 221. The statute will establish the requirements of seniority for the voting of the election and censorship of the union directory.

Article 302. In the companies or establishment in witch is possible to constitute one or more unions, in conformity with the dispositions of article 227, they can choose one delegate of the employees that are not affiliated to any union, only if their number and percentage of representability that allows to constitute it according to the legal disposition cited. In consequence, there could be one or more delegates of the employees, according how employees determine to group, and according to the number and percentage of the representative identified.

The function of the delegate of the employees is to serve as a nexus of communication between the group of employees who have elected him and the employer, in the same way, with the persons that act in the different hierarchical levels of the company or establishment. It can also represent these employees before the labor authorities.

The delegate of the personnel must comply with the requirements that are requested for a union director; It will last two years in their; can be reelected indefinitely and will enjoy of immunity referred in article 243.

The workers that elect a delegate of the employees must communicate in written to the employer and to the Inspección del Trabajo (Work inspection), accompanied with a roster with their complete names and the respective signatures. This communication must be done in the way and time established in article 225.

Respect to the Parity Committee immunity of the delegates of the employees contracted for fixed-term or fore determinate work or service will rule the same roster of the article 243 final subsection.

DECRETO SUPREMO N° 54, DE 1969, SOBRE FUNCIONES DE LOS COMITÉES PARITARIOS DE HIGIENE Y SEGURIDAD (Supreme Decree N°54, of 1969, Of the functions of the Parity Committee of hygiene and safety)

Article 1. In all companies, chore, branch office or agencies in which work more than 25 persons Parity Committee of Hygiene and Safety, integrated by representatives of the employers and representatives of the employees, which decisions adopted in the exercise, of the distributions that les encomienda the law 16.744, are obligatory for the company and for the employees.

If the company had different chores, branch offices o agencies, in the same or in different places, in each one of them a Parity Committee of Hygiene and Safety must be organized.

Will correspond to the respective Labor Inspector to decide, in case of doubt, if is appropriate or not that a Parity Committee of Hygiene and Safety is constitute.

Article 3. The Parity Committee of Hygiene and safety will be composed by three representatives of the employers and three representatives of the employees.

For each titular member another will designated as substitute.

Article 4. The designation of the employer representative must be done with 15 days of anticipation of the date of end of functions of the Parity Committee of Hygiene and Safety that must be renew and the nomination will be communicates to the respective Inspección del Trabajo (Labor inspection) by certified letter, and to the employers of the company o chore, branch office or agency by notices posted in the working place.

In the case that the employers' delegates are not designated in the time expected, will remain in their functions the delegates that perform as such in the committee witch period is ending.

Article 5. The election of the representatives of the employees will be done through secret and direct voting convened y and presided by the president of the Parity Committee of Hygiene and Safety, that ends its period, with no more than 15 days of anticipation of the date in which be held, by notices posted in visible places in the respective industry or chore.

In this election can take place all the employees of the respective company, chore, branch office or agency; and if any perform part of the working day in a chore and part in other, can participate in the election done in each one.

Article 9. The employers' representatives must be present persons linked to the technical activities that are develop in the industry or chore in which the Parity Committee of Hygiene and Safety is constituted Article 10. To be elected member of the representative of the employer the following is required:

- a) Be more than 18 years old.
- b) Know how to read and write;
- c) Be actually working in the respective employing entity, company, chore, branch office or agency and have belong to the employing entity at least for a year;
- d) Accredited to have attend to an orientation training of prevention of professional's risks dictated by the Servicio Nacional de Salud (National Health <service) or other organism administrator of the insurance against risks of accidents of the work and professional illness: or serv or have served in the Department of Prevention of professional risks of the company, in the tasks related with the prevention of professional risks at least during a year.

e) Regarding workers as referees in article 1° of law N° 19.345, be permanent employee or a contrata, or ruled by the Código del Trabajo (Work Code)

The requirement established by letter c) will not be applicable in those companies, chores, branch offices or agencies were more than a 50% of the employees have less than one year senior.

### Control Point 3:

#### CÓDIGO DEL TRABAJO (Work Code)

Article 2. Recognize the social function of the work and the freedom of people to hire and dedicate their effort to the licit labor that they choose.

The labor relations must always base in a relationship compatible with the dignity of the person. Is contrary among other conducts, the sexual harassment, understanding as it, that one person performs improperly, for any means, requirements of sexual character, not consent by the person who receive them and that menace or prejudice his or her labor situation or the opportunities in their work.

Are against the principles of the labor laws the acts of discrimination. The acts of discrimination are the distinction, or exclusions or preferences based in race reason, color, sex, age, civil estate, syndication, religion, political opinion, nationality, a, national ascendance or social origin, that have as objective annul or alter the evenness of opportunities or the relationship in the employment and the occupation.

With all, the distinction, exclusions or preferences based in the calcifications required for a determinate employment will not be considered discrimination.

Because of the last and without prejudice of the other dispositions of this code, are acts of discrimination the work offers done by a employers, directly or through third parties and by any means, that detail a requirement to postulate to them any of conditions referred in the subsection fourth.

No employer can condition the engagement of employers to the absence of obligation of

Economic nature, financial, banking or commercial that, according to the law, can be communicated by the responsible of records or banks of personal data de records; neither require for this purpose declaration or any certification. Excepting only those employees only the workers that have the power to represent the employer, as: managers, sub managers, agents or representative, as long as, in all this cases, they are endowed, at least, general power of administration; and the workers that have in their hands the collection, administration, or custody of funds or securities of any nature. The disposed in the subsections third and fourth of this article and the obligations that from them emanate for the employees, are understand incorporated to the labor contracts to be held. The State must protect the employee in its right to choose freely his work and ensure the compliance of the rules that regulate the presentation of the services.

Article 13. For the effect of the labor laws, it will be considered a major and can freely hire the provision of theirs services the older than eighteen years old.

The minors of eighteen years old and older than fifteen can celebrate labor contracts only to do light works that do not harm their health and development, always must have express authorization of the father or mother; in absence of them, the grandfather or grandmother paternal o maternal; or in the absence of them, of the keepers, persons or institutions that have taking over the minor, o in the absence of all of the other, of the respective labor inspector. Further, previously, must accredit that they have finish their secondary education or actually being doing it or the primary education. In this case, the labor can't difficult their regular assistance to classes and their participation in educative programs or of formation.

The minors of eighteen years that are actually pursuing their primary or secondary education can't 'develop labors for more than 30 hours in the week during their school period. In no case the minors of eighteen years old can work more than eight hours a day. A petition from, the "Dirección Provincial de Educación" or the respective "Municipalidad", must certify the geographic conditions and od transport in which a minor worker must accede to its primary or secondary education.

The established in the previous subsection will apply regarding to the minors of fifteen years old, in qualified situations in which their recruitment in show and artistic activities that make reference of the articles 16, subsection second and 16.

The inspector of work that has authorized the minor in the cases of the previous subsections, will put the background in the knowledge of the corresponding Family Tribunal, which can nullify the authorization if he considers inconvenient for the worker.

Given the authorization, shall apply to the minor the rules of article 246 of the civil code and will be considered fully capable for exercise the correspondent actions.

The authorization requested in the second subsection will not apply for the married woman, who will be ruled according to the rules of article 150 of the Código Civil. Civil Code.

A regulation of the of the “Ministerio del Trabajo y Previsión Social” (Ministry of labor and social prevision), previous report of the “Dirección de Trabajo” (Work direction), will determinate the activities considered dangerous for the health and the development of the minors of eighteen years old that prevent, in consequence, celebrate work contracts in conformity with the previous subsections, having to update this list every two years.

The companies that hire the services of minors than eighteen years old, must register those contracts in the respective “Inspección Communal del Trabajo”

Article 14. The minors of eighteen years old will not be admitted in works or chores that require excessive force, neither in activities that can be dangerous for their health, safety or morality. The minors of twenty-one years old can't be hired for work in underground mines without undergoing previously an aptitude exam.

The employer that hire a minor of twenty-one years old without having comply the requirement established in the previous subsection shall be liable to a fine of three to eight monthly tributary units, the one that will be doubled in case of re incidence.

Article 17. If a minor is hires without comply the rules in the precedents articles, the employer will be subject to all the obligations inherent to the contract while applicable; but the “Inspector del Trabajo” (Work Inspector), ex officio or under the solicitation of parties, must order the cessation of the relation and apply to the employer the sanctions that corresponds.

Any person can report before the competent organisms the infractions related to infant labor de que had knowledge.

Article 18. It is forbidden to the minors od eighteen years old all night work in industrial and commercial establishments, that will be done between the twenty-two and the seven hours, with exception of those in which only work members of the family, under the authorities of one of them.

The exception of this prohibition are the males older than sixteen years old, in the industries and commerce that determine the regalement, in the case of works which, in reason of their nature, must necessary continue during day and night.

The minors mentioned in this article, will be applicable the disposition in the second subsection of the article 13.

Article 62 bis.- The employer must comply the principle of equality of the remunerations between men and women that do the same work, not being consider arbitraries the objective differences in the remunerations that are based on productivity, among other reasons, in the capabilities, qualifications, suitability, responsibilities or productivity.

The complaint that are done invoking the present article, will be substantiated in conformity to the sixth paragraph of chapter II of Title I of Book V of this code, once that the complaint procedure provided for this effects in the “Reglamento Interno de la empresa” is finished.

Article 212. Recognition of the right of the employees of the private sector and of the estate companies, whatever their legal nature, the right of constitute, without previous authoritarian, the union organization that considers convenient, with the only condition to abide by the law and its statutes.

#### Control Point 4:

LAW N° 16.744, SOBRE SEGURO SOCIAL CONTRA RIESGOS DE ACCIDENTES DEL TRABAJO Y ENFERMEDADES PROFESIONALES (About social insurance against risks of work accidents and professional illness)

Link: <http://www.leychile.cl/Navegar?idNorma=28650>

LAW N° 19.069, SOBRE ORGANIZACIONES SINDICALES Y NEGOCIACIÓN COLECTIVA (About Union Organizations and collective negotiation)

Link: [http://www.paritarios.cl/leyes/leg\\_ley\\_19.069.htm](http://www.paritarios.cl/leyes/leg_ley_19.069.htm)

#### Control Point 5:

CODIGO DEL TRABAJO (Work Code)

Article 9. The work contract is consensual; it must be in written in the time frame, which refer the following subsection, and must be signed by both parts in two copies, held one by every contracting parties.

The employer that do not put in written the contract in the time frame of fifteen days after incorporated the worker, or of five days if they are contract for chore, determinate labor or service or that last less than thirty days, will be sanction with a fine of one to five “Unidades Tributarias mensules” (Monthly tributary unit). (...)

Article 10. The working contract must contain, at least, the following stipulations:

1. Place and date of the contract;
2. Individualization of the parties with indication of the nationality and date of birth and entry of the worker;
3. Determination of the nature of the services and the place or city in which they must report. The contract may detail two or more specific functions, are these alternatives or complementary;
4. The amount, method and period of payment of the accorded remuneration.
5. Duration and distribution of the working day, with exception that in the company exist a system of work for turns, case in which will rule the dispositions in the “reglamento Interno” (internal rules);
6. Period of the contract, and
7. Other pacts that parties have agree.

They must also detail, in its case, the additional benefits that the employer will supply in the form of house, electric power, fuel, food or others benefits in kind or services.

When for hiring an employee has to change its address, there must be testimony of their place of origin. If because of the nature of the services the displacement is requires, it will be understand as working place all the geographic area comprising the activity of the company. This rule will apply specially for the travelers and to the workers of transport companies.

Article 33. For the effect of controlling the assistance and determine the working hours, bough ordinary and extraordinary, the employee will keep a record that will consist in an employer’s assistance book or a control clock with registration cards. (...)

### **Control Point 6:**

Article 13. For the effect of the labor laws, it will be considered a major and can freely hire the provision of theirs services the older than eighteen years old.

The minors of eighteen years old and older than fifteen can celebrate labor contracts only to do light works that do not harm their health and development, always must have express authorization of the father or mother; in absence of them, the grandfather or grandmother paternal o maternal; or in the absence of them, of the keepers, persons or institutions that have taking over the minor, o in the absence of all of the other, of the respective labor inspector. Further, previously, must accredit that they have finish their secondary education or actually being doing it or the primary education. In this case, the labor can’t difficult their regular assistance to classes and their participation in educative programs or of formation.

The minors of eighteen years that are actually pursuing their primary or secondary education can’t develop labors for more than 30 hours in the week during their school period. In no case the minors of eighteen years old can work more than eight hours a day. A petition from, the “Dirección Provincial de Educación” or the respective “Municipalidad”, must certify the geographic conditions and od transport in which a minor worker must accede to its primary or secondary education. (...).

Article 14. The minors of eighteen years old will not be admitted in works or chores that require excessive force, neither in activities that can be dangerous for their health, safety or morality. (...)

### **Control Point 7:**

## CONSTITUCIÓN POLÍTICA

### Article 19

10°.- The Education right.

The education has as objective the full development of the person in the different steps of his life.

The parents have the preferential right and the duty to educate their children.

Fall upon State to give especial protection to the exercise of this right.

For the State is obligatory to promote the preschool education and guarantee the free access and the free financing of the second level of transition, whit out constituting this a requirement for the access to primary education.

The “educación básica” (primary education) and the “educación media” (secondary education), are obligatory, having the state to finance a gratuitous system with that objective, destined to make sure the access of all the population. For “education media” (secondary education) this system, in conformity of the law, will extend up to turning 21 years old.

### Control Point 8:

Article 33. For the effect of controlling the assistance and determine the working hours, bough ordinary and extraordinary, the employee will keep a record that will consist in an employer’s assistance book or a control clock with registration cards. (...)

When is not possible to apply the rules defined in the previous subsection, or when its application is difficult to audit, the “Dirección del Trabajo” (Labor Direction), ex officio or for a petition of a parties may established and regulate, through a founded resolution, a special system or the control of the working hours and the determination of the corresponding remuneration of the services provided. The system will be uniform for the same activity.

### Control Point 9:

#### CÓDIGO DEL TRABAJO (Work Code)

Article 10. Article 10. The working contract must contain, at least, the following stipulations:

5. Duration and distribution of the working day, with exception that in the company exist article 2. The extension of the ordinary working day will not exceed the forty-five hours per week. (...)

Article 28. The weekly maximum established in the subsection first of the article 22 cannot be distributed in more than 6 days and less than five days.

In no case the ordinary working day can exceed the ten hours a day, notwithstanding of what is established in the final subsection of article 38.

Article 31. In the chores, that for their nature, do not harm the health of the employee, can agree extraordinary hours up to a maximum of two for day, that will be paid with the surcharge established in the following article. (...)

Article 32. The extraordinary hours only can be agreed to attend special needs or temporal situations of the company. This pact must be in written and have a transitory validity no longer than 3 months, that can be renewed by an agreement between parties. (...)

Article 34. The working hours will be divided in two parts, leaving between them, at least, the time of half an hour for snack. This intermediate time will not be considered worked to compute the last of the working day.  
Exception to the disposition of the previous subsection the workers of continuous process. In case of doubt if a determinate labor is or not consider under this exception, the “Dirección del Trabajo” will decide through a resolution which can be claimed in front the “Juzgado de Letras del Trabajo” in the terms established in the article 31.

Article 35. Sundays and those days that the law declare as holiday will be for rest, except the activities authorized by the law for working in those days.  
Is declare the national labor day on the First of May of each year, this day will be holiday

Article 106. The working week of the sea people will be of fifty-six hours divided in eight hours every day. The parties can agree extraordinary hours without subjection to the maximum established in article 31.  
Notwithstanding of what is detailed in the first subsection and only for the effect of calculation and pay of the remunerations, the excess of forty-five hours per week will be paid always with the surcharge established in the third subsection of article 32.

Article 93. For the effect of this paragraph, is understand as temporal agriculture employees, all those that develop transitory chores or temporal activities of farming of the land, commercials or industrial derivate from the agriculture and in sawmills and exploitation of wood and others related.

Article 94. The contract of the temporal agriculture workers must be written in four copies, within the five days following to the incorporation of the employee.  
When the length of the labor for which is hired is over twenty-eight days the employees must send a copy of the contract to the respective “Inspección del Trabajo”, within the next five days after its formalization.  
In case there are balances of remuneration that haven't been paid to the workers, the employers must deposit them, within 60 days, counted from the date of termination of the labor relation, in the individual account of the unemployment insurance created by law N° 19.728, except the worker dispose by written other way.  
The money deposited according to this subsection are always of free disposition for the employees.  
The company will respond for this payment in conformity of what is established in articles 64 and 64 bis.

Article 95. In the contract of the transitory or seasonal employees, it will be understood that always included the obligation of the employer to provide to the employee the adequate and hygienic conditions of housing, according to the characteristics of the area, climatic conditions and characteristic of the temporary labor concerned, except they access their residence or can access to his residence or adequate and hygienic place of housing, attended to the distance and means of communication, allows them to develop the labor.

In the temporary labors, the employer must provide to the workers, the adequate hygienic condition that allows them to maintain, prepare and consume the food. In case, the distance or the difficult of the transportation is not possible for the employees to purchase its food, the employer must, also, provide them.

The same way the employer, must provide to the employers that do labor in which has contact with pesticides, or toxic phytosanitary products, according to the classification of the world health organization contained in resolution of the "Ministerio de Salud" (Health Ministry), sufficient information for the correct use and manipulation, elimination of residues, and empty containers, risks derivative of the exposition and about the symptoms that could present y that will reveal its inadequate use. Must provide the employee also the implements and the safety measures to protect from its, also the toiletries necessary for their complete removal and that are nor of current use.

In case the distance between place of the labor and that place were the employs accommodate or can accommodate in conformity of the first subsection of this article, have a distance equal or over three kilometers and no transport means are available, the employer must provide between bough places the necessary mobilization means, that comply the safety requirement that area determinate in the regulation. The obligations established in this articles are of the cost of the employer and cannot be compensated in money or constitute remuneration.

#### DECRETO SUPREMO N° 45 de 1986

Article 1. The duration of the ordinary working day of agriculture workers cannot exceed an annual average of eight hours per day, the one that will be determinate considering the regionals characteristics, climates conditions and other circumstances characteristics of the agriculture activities.

No application of the disposition of the previous subsection in case of the exception contemplated in the second subsection of the article 34 and in the articles 37 and 40 of the Decreto Ley No. 2.200, de 1978.

The several ordinary working days that are agree with the arrangement to these article, it will pay always in a rate of eight hours per day.

The dispositions of the precedent will not be applicable for the transitory or seasonal employees, which will rule by the dispositions of the general rules of the Decreto Ley No. 2.200, of 1978, about limitation of the working.

Article 4. The assistance control and the determination of the working hour, ordinary or extraordinary, will be subject to the general rules of the matter detail in the article 44 of the Decreto Ley No. 2.200, de 1978.

If the record consists in an assistance book, its format will be determinate freely, notwithstanding, the pages must be numerated in a correlative form.

In the record there must be daily evidence of the hour of arrival and exit of the employees, throw the horary digits that correspond, or use other symbols previously detail in the record.

The worker must sign the record or stamp his digital impression at least once a month.

With all, can be done in a shorter period, if its deems appropriate.

In case the workers excluded of the limitation of the work day on conformity to the second subsection of article 34 of Decreto Ley No. 2.200, of 1978, only will be daily evidence of the assistance or not assistance. This constancy must be signed or stamp at least monthly by the employee.

The employees attached to a contract celebrated for a period not superior to 30 days, because it has been agreed or because it is determinate by the nature of the contracted services, must sign or stamp their digital impression at least the day in which their services end.

### **Control Point 10:**

Article 54. Subsections 2 y 3

By the employee request, can be pay, by check or cashier check to his name, along with with the payment the employer must give the worker a receipt with the indication of the amount payed, the form the remuneration was determinate, and the deductions made.

Article 62. All employers with five or more employees must have an auxiliary remuneration book, that must be stamp by the Servicio de Impuestos Internos. (Internal Tax Service). The remunerations included in the book mention in the previous subsection will be the only that can be consider as expenses for remunerations in the company accounting.

## Control Point 11:

### CODIGO DEL TRABAJO

Article 42. It constitutes remuneration among other things, the following:

- a) wage or basic wage, is the obligatory and fix stipend, in money, paid for equal periods, determinate in the contract, that receives the employee for the provision of services in an ordinary work day, Notwithstanding of the detail in the second subsection of article 10. The wage, can't be inferior than a minimum monthly wage. Are exempted of this rule those workers exempt of the compliance of working day, notwithstanding of the disposition in the second subsection of article 22, is will be presumed that the employees is affected to the compliance of the working day when the must record for any mean the day of admission or exit of his labor, or when the employer makes discounts for delay in which incurred the employee. The same way, it will be presumed that the worker is affected to the ordinary work day when the employee, through a hierarchical superior, exercise supervision or direct functional control in the way and the opportunity in which the labors are develop, understanding that there is no that functionality when the worker only gives the results of his efforts and report sporadically, especially in the case of development of his labor in different regions than the address of the employer
- b) over wage, consists in the remuneration of the extraordinary working hours;
- c) commission, Is the percentage of the sales or purchases, or of the amount of other operations, the employer does with the collaboration of the employer.
- d) participation, is the proportion of the profit of a determinate business or a company or only of one or more section or branch offices of it, and
- e) gratification, is the part of the profits with which the employer benefits the wage of the employee.

Article 44. The remuneration may be agreed per unit of time, day, week, fortnight or month of for unit, piece, measure or work, notwithstanding of what is detail in letter a) of article 42.

In no case the unit of time must exceed a month.

The monthly amount of the wages can't be less than the monthly minimum wages. If partial working days were agreed, the wage can't be less than the current minimum wage proportionally calculated in relation to the ordinary working day.

In the contracts that last thirty days or less, it will understand included in the remuneration agreed with the workers all of what must de pay for holiday and other rights that area accrued in proportion of the time served.

What is detail in the previous subsection will not rule respect of that prorogation that, added to the initial period of the contract, exceed the seventy days.