

In recent days, the Chambers of Deputies and Senators approved, respectively, the initiative to reform the Federal Labor Law in connection with teleworking, adding for this purpose Chapter XII Bis, which includes articles 330-A to 330-K. The main points of the reform are the following:

I. Telework definition

Home-based work and telework are differentiated, the latter being defined as a form of organization of subordinate work that consists on the performance of remunerated activities, in different places other than the employer's facilities, without requiring the physical presence of the employee in the workplace, primarily by using information and communication technologies.

It must be noted that work carried out in places different than the employer's facilities on an occasional basis will not be considered as telework, since such modality requires that the employee carries out more than forty percent (40%) of his activities at home or in the place that he chooses for such purpose.

The change in the modality from on-site work to telework must be voluntary and agreed on writing, except in cases of force majeure. The parties will have the right to reverse to the traditional on-site work modality at all times.

II. Special obligations for employers

Article 330-E establishes the special obligations that employers will have regarding teleworking:

- * Provide, install and give maintenance to the equipment necessary for teleworking such as computer equipment, ergonomic chairs and printers, among others;
- * Assume the costs derived from teleworking, including, where appropriate, the payment of telecommunication services and the proportional part of electricity;
- * Keep record of the supplies delivered to teleworkers;
- * Implement mechanisms that preserve the security of information and data; and
- * Respect the teleworker's right to disconnect at the end of the working day.

One more obligation of the employer, consigned in article 330-H, consists of guaranteeing equal treatment and opportunities, including remuneration and training, between on-site employees and teleworkers. Likewise, the employer must observe a gender perspective that allows reconciling personal life and the availability of teleworkers during the working day.

III. Terms and conditions of employment

The telework conditions will be recorded in writing by means of an agreement, which will contain, in addition to the ordinary requirements established by Law:

- * The nature and characteristics of the work;
- * Equipment and labor supplies;
- * The description and amount that the employer will pay the employee under the telework modality for the payment of services at home related to telework;
- * The parties' communication and supervision mechanisms, guaranteeing the teleworkers' privacy right; and
- * The duration and distribution of schedules, which may not exceed the maximum allowed.

On the other hand, the teleworking modality must be included in the collective bargaining agreement and, on the lack thereof, in the internal work regulations.

IV. Special obligations to teleworkers

Teleworkers will have the following obligations:

- * Take utmost care in the safeguard and conservation of equipment, materials and supplies that they receive from the employer;
- * Provide timely information on the agreed costs for the use of telecommunications services and electricity consumption, derived from teleworking;
- * Obey the provisions on safety and health at work established by the employer; and
- * Attend and use the mechanisms and operating systems for the supervision of their activities, as well as for the protection of data, its use and storage.

V. Safety and health in teleworking

The special health and safety conditions for teleworking, including ergonomic and psychosocial factors, will be established by the Ministry of Labor and Social Welfare in a separate Official Mexican Regulation (*Norma Oficial Mexicana*) that shall be published within 18 months following the entry into force of this reform.

VI. Inspection

Labor inspectors will have special duties and faculties, such as:

- * Supervising that employers keep a record of the materials delivered to teleworkers;
- * Verify that teleworkers' salaries are not lower than those paid to on-site employees who perform the same or similar position; and
- * Ensure compliance with the special obligations of employers.

The initiative has been sent to the Federal Executive for its publication in the Official Gazette of the Federation, which is pending.

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