



Mexican Telework Provisions

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Pedro González

pgonzalez@bryanlex.com

Bryan, González Vargas & González Baz

bryanlex.com

Telework Reform to Labor Law



- **January 11, 2021: Publication of decree to reform Article 311 and additions to Chapter XII Bis with Articles 330-A to 330-K of the Mexican Labor Law.**
- **Main definition: Execution of subordinated work in a place of choice by the employee other than the place of business of the company, using IT tools, without immediate supervision of the employer.**
- **Sporadic or occasional work from home is not considered Telework.**
- **Provisions of Teleworking are applicable if the employee works from home more than 40% of the time.**

Special Obligations of the Employer



- I. To provide, install and maintain the equipment necessary for Telework: computer equipment, chair, printer, etc.**
- II. To cover the proportional costs for the Telework: internet service, telecommunication, electricity, etc.**
- III. To keep a record of the equipment provided to the employee working from home and implement mechanisms to guarantee data protection.**
- IV. Guarantee the “right to disconnect”, after work hours.**
- V. Provide Social Security.**
- VI. Provide qualification and training to manage IT tools.**

Special Obligations of the Employee



- I. To safeguard the equipment provided by the employer.**
- II. To comply with the supervision and data privacy policies implemented by the employer.**
- III. To inform the employer about the costs of the internet, telecommunication service and utilities necessary for Telework;**

Telework Employment Conditions



- **Add the following provisions to the Individual Employment Agreement:**

“...IV. Equipment and supplies provided to the employee working from home.

V. Description and amount of allowance for services and utilities;

VI. Contact and supervision mechanisms between employer and employee...”

- **Telework rules and provisions must be included in the Collective Bargaining Agreement and Internal Shop Rules of the Company.**

General Provisions



- **Telework must be voluntary, unless there is a cause of *force majeure*.**
- **Telework may be reversed to work on site, anytime.**
- **The right to intimacy must be protected at all times. Microphones and video cameras may be used to supervise Telework only as an extraordinary measure, if necessary, due to the nature of the activities.**
- **The Ministry of Labor will develop official rules (NOMS) to regulate ergonomic, psychologic and other health and safety factors related to Telework.**

General Provisions



- **Telework provisions are effective as of January 12, 2021.**
- **Compliance with Telework provisions are subject to audit by inspectors of the Labor Ministry, including:**
 - (i) Employer record keeping of the equipment provided to employees working from home.**
 - (ii) Supervision that wages and benefits to employees working from home are not lower than those of employees in similar positions working on site.**

Recommendations



- **Review and evaluate if your staff that is working from home, meets the standard of “*more than 40% of the time*”.**
- **Revise current employment agreements of the staff working from home to include the applicable Telework conditions and legal provisions through an *Addendum*.**
- **Revise the templates of employment agreements for new hires, to include appropriate Telework terms and provisions.**
- **Revise Collective Bargaining Agreements and Internal Shop Rules to update and include Telework rules and provisions.**