



REGULATIONS OF THE NEW TELEWORK LAW

In September 2022 the Law No. 31572 (new Telework Law) was published, but its Regulations were enacted on February 26th 2023 (Supreme Decree No. 002-2023-TR).

Companies must adapt their employment agreements and policies to the new legal framework on telework **until April 27th 2023**.

DLA Piper Peru's Employment team sums up the main aspects on telework rules in Peru:

ITEM	DESCRIPTION
Type of telework	<ul style="list-style-type: none">• Total telework: The work is done outside the employer's premises, except for coordination or activities on site.• Partial telework: The work is done inside and outside the employer's premises. <p>Telework can be temporary or permanent.</p>

<p>Change of work modality (from work on-site to telework, and vice-versa)</p>	<ul style="list-style-type: none"> • By mutual agreement. • At the employee's request: The employer evaluates the application and answers it within the following 10 business days. If there is no response within said period, the application will be considered approved. • At the employer's decision: The employer communicates the employee giving 10 business days in advance. Said decision is extraordinary and substantiated, or is based on a fortuitous event or force majeure, or upon an emergency state declared.
<p>Telework place</p>	<p>Teleworkers decide where is the regular place to telework. They must inform to the employer such place before starting to telework or 5 business days before changing it.</p> <p>Telework can be done outside Peru.</p>
<p>Provision and compensation of equipment, internet and electricity consumption</p>	<p>Equipment, internet and/or electricity consumption are provided by the employer, unless the teleworker provides them. In the latter case in the event of working from home, the employer must compensate the expenses , <u>unless the contrary is expressly agreed.</u></p> <ul style="list-style-type: none"> • The compensation of equipment is calculated taken into account its features and market value. • The compensation of expenses consumption (internet + electricity) is calculated considering the values indicated in Annex 1 (internet) and Annex 2 (electricity) of Regulations.
<p>Minimum content of the telework agreement</p>	<ul style="list-style-type: none"> • Type and modality of telework. • Telework place. • Distribution of working hours. • Means to telework and who will provide them (employer and/or teleworker). Economic compensation. • Mechanism to communicate, supervise and monitor over tasks. • Minimum period for notifying the teleworker to attend the employer's premises. • Prohibition of using third parties to telework. • Duties of the employer in the context of telework. • Rights and duties of the teleworker. • Protective measures against sexual harassment at telework. • Occupational safety and health measures at telework. • Digital security and trust measures. • Security measures and frequency of maintenance on the equipment, if the employer provides it. • Reasonable adjustment to be implemented, in case of disabled teleworker.
<p>Right to privacy and inviolability of communications</p>	<p>It is forbidden to access to documents and communications originated at work or otherwise, without prior authorization from the teleworker; capture and/or record the teleworker's image or voice, without prior authorization from the teleworker; enter to the telework place without prior authorization from the teleworker, etc.</p>

<p>Right to digital disconnection</p>	<p>Non-exempt teleworkers are entitled to disconnect outside their working hours, vacation and leaves, unless there is a fortuitous event or force majeure.</p> <p>Exempt teleworkers are entitled to disconnect minimum 12 continuous hours within 24-hour period, vacation and leaves, unless there is a fortuitous event or force majeure.</p>
<p>Mandatory trainings</p>	<p>The employer must provide the following trainings on:</p> <ul style="list-style-type: none"> a) Use of digital application and platform employed to telework. b) Health and safety at telework. c) Prevention on sexual harassment at telework. d) Use of digital means for data protection, digital security and trust measures. <p>Trainings can be done on-site or digital.</p>
<p>Care of goods and means provided by the employer</p>	<p>The teleworker must preserve the goods, digital means and software provided by the employer.</p> <p>The technical failures or connectivity by fortuitous event or force majeure, which impairs the provision of services are not attributable to the teleworker or be considered as disciplinary offense or productivity decrease, nor affect his/her salary, provided that the teleworker reports them in a timely manner.</p>
<p>General guidelines on health and safety at work</p>	<p>Occupational risks related to telework are detailed in the Regulations as well as guidelines that companies must respect as minimum standards.</p> <p>The telework place should be comfortable, exclusive, quiet and safe.</p> <p>In the event of an accident at work, there are steps to follow, including the internal investigation in which the teleworker and the Supervisor or Committee of Health and Safety at Work must participate.</p>
<p>Mechanism to evaluate occupational risks at telework</p>	<p>The employer and the teleworker may agree to apply the mechanism of auto-evaluation on occupational risks at telework, using the Format approved by the Regulations (Annex 3).</p> <p>The employer must train the teleworker on the correct filling of the Format, and propose the measures to be implemented in order to prevent or reduce occupational risks.</p>
<p>Telework in favor of vulnerable population</p>	<p>Some employees, such as disabled, pregnant, who take care of children or disabled individuals or victims of domestic violence, have the right to be preferred to telework.</p> <p>When an employee in any of aforesaid situations requests the telework, the employer must evaluate the following:</p> <ul style="list-style-type: none"> • If the tasks and activities can be teleworked. • If some task or activity that can't be done via telework, can be modified to continue the employment. • If the nature of functions and job description can be done via telework.
<p>New labor infringements</p>	<p><u>Minor infringements</u></p> <ul style="list-style-type: none"> • Impede the teleworker from attending the employer's premises to work. • Do not register the minimum content in the telework agreement.



New labor infringements	<p><u>Serious infringements</u></p> <ul style="list-style-type: none"> • Implement the change from work on site to telework or vice-versa without the employee consent, except in specific cases established by law. • Apply the abovementioned change without meeting the legal requirements. • Do not comply with equipment provision or maintenance, internet or any other labor condition needed to telework. • Do not grant to the teleworker the same benefits and/or rights that are granted to employees who work on site. • Change the nature of employment relationship, level of hierarchy, salary or other labor condition, as a consequence of telework implementation. • Impede the teleworker from deciding the place or places to telework, except if such places do not meet the digital and communication requirements, or if they may put the teleworker's health or safety at risk. • Reject the employee's application to change the modality of work (work on site or telework) without objective evaluation or explanation. <p><u>Very serious infringements</u></p> <ul style="list-style-type: none"> • Do not respect the right to privacy and inviolability of communications of the teleworker. • Do not respect the right to digital disconnection.
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