

## Resolution No. 23/2020 on the regulation of telework as a special work modality modified by resolution No. 27/2020

The Ministry of Labor, on November 12, 2020, issued Resolution No. 23/2020 on the Regulation of Telework as a Special Work Modality, which was modified on December 11, 2020 through Resolution No. 27/2020 (the “Resolution”). Telework contracts, whether verbal or written, that have been signed prior to the Resolution must comply with the criteria established therein, and be communicated to the General Directorate of Labor within 90 days from its promulgation. So far, the new deadline to communicate prior telework arrangements is February 12, 2020. Likewise, any agreement on telework that occurs after the date of promulgation of the Resolution must also be filed with the General Directorate of Labor. Among the particularities of the Resolution, the following stand out:

1. Telework is defined as a special modality of work that is provided remotely, either **partially or totally**, using technological tools. This special modality will always be voluntary and will be conditioned to a written agreement between the parties.
2. The Resolution defines for the first time the so-called right to “**digital disconnection**” in favor of employees, and it calls on employers to create policies in this regard.
3. The right of “**reversibility**” is recognized, by which any of the parties may request the change of teleworking modality to face-to-face, subject to a prior notice in writing of 30 days; however, the parties can agree on a different period.
4. It is provided that the **teleworking contract or addendum to the existing employment contract** must contain a series of provisions, among which the following are highlighted: i) the description of the teleworker’s tasks, as well as the place or places where the work will be performed; ii) agreed upon salary; iii) assigned department and immediate supervisor details; iv) work supervision system; v) power to verify workplace conditions; vi) tools supplied by the employer; vii) agreement on additional costs (if applicable); and, viii) conditions to establish reversibility, among others.
5. The addendum or telework contract that is carried out by means of **a digital document signed through the use of a qualified electronic signature** is recognized as good and valid, in accordance with the requirements established in Law No. 126-02 on Electronic Commerce, Documents and Digital Signatures. **This type of document must be sent to the Ministry of Labor through the Integrated System of Labor Records (SIRLA by its acronym in Spanish).**



6. The teleworker has the responsibility to **guard the equipment and materials** provided by the employer, and to use them exclusively in the activities of their work.
7. It is recognized that the employer will be able to install **computer controls** of the hours of service provided through the teleworker's work tools. However, **the use of video surveillance controls is prohibited** when work is performed at the teleworker residence.
8. The places where teleworking is carried out must comply with the **hygiene and safety conditions** established by current regulations. In this sense, the employer must inform the teleworker about the safety and hygiene requirements of the workplace, based on the regulations issued by the General Directorate of Hygiene and Industrial Safety.
9. It is established that the **Ministry of Labor may make visits** to the place where telework is carried out, to verify the correct application of the Resolution.

We hope that you find this information useful. We remain at your entire disposal for any specific query on this or any other matter, or in case you require assistance with the drafting of telework contracts or addenda to existing employment contracts.

\*Note: This executive summary modifies the previous summary in order to insert the corresponding updates as a result of Resolution No. 27/2020 dated December 11, 2020.