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Torre Mural. Av. Insurgentes Sur 1605 piso 27
Col. San José Insurgentes, C.P. 03900,
Ciudad de México, México
Tel: (+52) 5556626840
www.ecija.com

legal memo

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Approved NOM-037-STPS-2023 on Telework: What requirements must companies comply with for *home office* in Mexico?

In the evening version of the Official Gazette of the Federation of June 8, 2023, the final version of the Mexican Official Standard on teleworking was published, which will enter into force in December 2023.

The Ministry of Labor and Social Welfare published in the Official Gazette of the Federation ("DOF") the official version of the Mexican Official Standard NOM-037-STPS-2023, Teleworking-Conditions for safety and health at work (the "NOM"), which, after having been submitted to a 60-day public consultation period, underwent modifications derived from comments made by the general public.

This NOM is applicable to all employers who have hired teleworkers, i.e., those who provide their services in more than **40% of their working day** in a place other than the employer's workplace. Among the main obligations for employers are the following:

1. Implement a **telework policy** that contains, among other issues, the following:

    – Communication mechanisms with employees, through face-to-face meetings at the work center or through ICTs, to avoid their social isolation.
    – Mechanisms and rules of contact between the work center and employees for the performance of work, provided that the right to privacy of the latter is guaranteed and that such mechanisms or rules do not interfere with the work-family relationship and are proportional to their objective.
    – The length of the working day and/or the hours in which the services will be provided according to the agreed distribution, respecting the legal maximums, including rest breaks and the right to digital disconnection at the end of the working day, during non-working hours, holidays, leaves, and leaves of absence.
    – Promoting the gender perspective and allowing for the reconciliation of the personal lives of employees.
    – Establishing hours within the workday in which working mothers will enjoy the breastfeeding period to feed their children.
    – Mechanisms for employees to report changes of address.
    – Mechanisms to apply the reversibility of teleworking to on-site modality.

2. Have a **list of employees** under the modality of teleworking, duly updated and confidential.

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3. Have a list of the **computer and ergonomic equipment** provided to the employee for the development of teleworking, which must be detailed in the individual employment contract to be concluded with each employee.

4. Carry out **periodic verifications of the safety and health conditions** of the place from which the employee will provide his/her services, as well as documenting the same.

5. If applicable, document the **change from** on-site to telework modality and *vice versa*.

6. Have in place care mechanisms for cases of **domestic violence** that consider, among other things, a return to on-site modality on a temporary or permanent basis.

7. Perform **medical examinations** of employees, in accordance with the provisions of NOM-030-STPS-2009.

8. Follow-up on **work-related accidents** notices, including those occurring during the transfer of the employee from his/her home to the agreed workplace, and from the latter to the former, if different from his/her home.

9. Share the documentation resulting from compliance with NOM to the **Joint Commission of Safety and Hygiene**, including, as applicable:

   – Verification of health and safety conditions in teleworking.
   – Periodic validation of this verification.
   – Photographic or video evidence of telework safety and health conditions; and
   – List that proves the goods and computer equipment provided to the employee.

It is important to mention that, in accordance with the First Transitory Article of the NOM, it **will become effective** 180 days after its publication in the DOF, that is, on **December 5, 2023**.

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Labor & Employment Area of ECIJA Mexico
socios.mexico@ecija.com
(+52 55) 56 62 68 40
www.ecija.com

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