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TELEWORKING: HEALTH AND SAFETY CONDITIONS

In July, the Official Mexican Norm "**NOM-037-STPS-2023"** (the "Norm") was published in the Official Gazette of the Federation, which becomes effective in December 2023 and, in general, has the following objectives: **1)** to establish mandatory safety and health conditions for **teleworking** in order to prevent accidents and illnesses in people who work or wish to work under this modality; as well as **2)** to promote a safe and healthy environment in the work environment of employees.

The Norm will only apply to employers who have employees working **outside of the official work-center** for **more than 40%** of their workweek.

In general terms, the main obligations imposed by the Norm to employers, among others, are to implement internal policies to regulate teleworking, to provide the necessary material and work equipment, as well as to train at least once a year the people who telework.

On the other hand, employees are obliged to **cooperate** with their employer to comply with the above

In the event that the employer is subject to an audit by the labor authority and presents noncompliance with the Norm, the authority may impose **fines** ranging from approximately **$600 USD to $30,000 USD** depending on the seriousness of the infraction.

The Norm also includes technical provisions related to the physical conditions of the teleworking environment, such as the order to be kept in the workplace, the type of lighting, temperature, noise level, privacy, and ergonomics of the furniture, which is illustrated by the authority through the diagrams and images contained in the official Spanish version of the Norm available at the link[1].

Regarding the psychosocial factors of teleworking, the Norm contemplates elements for the attention of the employer in order to fulfill its obligation to provide a healthy and safe work environment, such as: respect for the right to disconnection[2], breaks, and flexibility of working hours for employees to attend family responsibilities, among others.

Finally, it is important to clarify that the Norm is not mandatory for all employers, but only applicable to those who currently have employees under the telework modality.

In case you have employees, who work under the telework modality, we remain at your service to make a legal diagnosis of your current compliance status and, if necessary, propose measures to comply with the guidelines of this new Norm.

November 1, 2023.

[1] https://dof.gob.mx/nota_detalle.php?codigo=5691672&fecha=08/06/2023#gsc.tab=0

[2] Derecho de un trabajador a apartarse del trabajo (incluida la desconexión de las tecnologías de información y comunicación de manera digital) y abstenerse de participar en cualquier tipo de comunicación con el centro de trabajo al término de la jornada laboral, en los horarios no laborables, vacaciones, permisos y licencias.