

March 6, 2020

Law No. 126 of February 18, 2020 (hereinafter “Teleworking Law”), published in Gazette 28965-A, which establishes and regulates teleworking in the Republic of Panama and modifies an article of the Labor Code, arrives as a legal guarantee in the face of changes in the labor market, in which remote or out-of-office work is becoming more frequent, either during some days of the week or as a permanent work model.

The Law of Teleworking establishes, among others, the following definitions:

- **Teleworking:** It consists of the provision of subordinate services, without a physical presence in the workplace or public entity, through a computer, telecommunications, and similar means, through which, in turn, control and supervision are exercised of the work.
- **Teleworker:** Person who performs work activities in places other than the establishment of the employer, executing their work through the information and communications technologies.

In accordance with the Law of Teleworking, for this modality to be based on this legal system, the following obligations must be accomplished:

- Be agreed by both parties, through a written contract, which is duly sealed by the Ministry of Labor and Labor Development, which contains at least:
 1. The agreement to accept this modality.
 2. The reversible nature of the modality.
 3. The term of notice that will be granted to the worker if the modality is reversed.
 4. The determination of whether it will be in the partial or total mode and the working time.
 5. Declaration of the worker who has the appropriate facilities to carry out the work.
 6. Confidentiality clause.
 7. A clear description of the position and functions.
 8. Remuneration terms.
 9. Address of the parties.
- The parties must agree on the expenses that the employer will subsidize (i.e. additional costs for bandwidth or network speed), which will not be considered as part of the salary.
- The employer must provide training related to the management of the equipment that will be required to perform teleworking and the occupational risks it may have.
- The employer must inform over health and personal safety policies, as well as the manual of best environmental practices and general and family socialization in teleworking.

- The employer must adopt measures for data protection and the worker must adopt them.
- The worker must return to the employer in optimal condition the technological equipment that was delivered once the employment relationship is ended.

The teleworker will have all the rights and obligations inherent to the worker established in the Labor Code of the Republic of Panama, including the Teleworking Law details as follows:

1. That he will not be obliged to work overtime, unless required by the employer and thus established in the employment contract (which will be paid according to what is established in the Labor Code).
2. If the employer requires a transfer to carry out emergency work, the employer must provide the worker with the means of transportation or recognize the expense incurred.
3. That it is recognized as a work accident, for social security purposes, that accident that occurs during the transfer and the face-to-face execution of the work at the employer's premises or if the illness suffered by the worker was caused as a result of the work performed for the employer in telecommuting mode (which must be checked by the Social Security Fund).

To obtain legal advice on this topic or any other topic regarding Panamanian Labor and Employment, please do not hesitate to contact us.