

# NEW TELEWORKING LAW



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Through Law No. 31572, the Peruvian government has approved a New Teleworking Law, whose purpose is to regulate telework at public entities and private companies and institutions within the context of decent work and the reconciliation between personal, family, and work life.

This Law repeals Law No. 30036, the former Teleworking Law, and its Regulations, Supreme Decree No. 009-2015-TR. The most important aspects of this law are explained below:

ASPECTS	DETAIL
Who is this law applicable to?	<ul style="list-style-type: none"> <li>• Public sector employees subject to any labor regime.</li> <li>• Private sector employees subject to any labor regime.</li> <li>• Job training programs, provided that the training nature of these programs is not altered.</li> </ul>
What are the formalities applicable to the implementation of telework?	<ul style="list-style-type: none"> <li>• Agreement signed between the teleworker and the employer (agreement, employment contract, or document attached).</li> <li>• The signed agreement must specify if telework will be applied on a temporary or permanent basis, and in a total or partial manner.</li> <li>• Request from the employee to the employer to change the service provision mode (from in-person work to telework or vice versa). The maximum period to receive a response from the employer is 10 business days.</li> <li>• In case the employer has failed to provide an answer to the employee with respect to the change of service provision mode, such request will be deemed as approved.</li> <li>• Exceptionally, the employer may change the service provision mode from in-person work to telework or vice versa, ensuring the provision of adequate training and working conditions, as well as efficient arrangements for the provision of services.</li> <li>• Communication, supervision, and control mechanisms must be implemented by the employer.</li> </ul>
What are the rights of teleworkers?	<ul style="list-style-type: none"> <li>• Right to receive as part of their working conditions: equipment, access to internet, all legal considerations, as well as compensation for energy consumption, unless agreed otherwise.</li> <li>• Right to digital disconnection.</li> <li>• Right to earn overtime pay in case any work is performed outside the regular work shift.</li> <li>• Right to the privacy and inviolability of private communications and documents.</li> <li>• Right to be informed of measures, conditions, and recommendations related to Occupational Safety and Health (OSH).</li> </ul>

ASPECTS	DETAIL
<b>What are the working conditions that employers must provide?</b>	<ul style="list-style-type: none"> <li>• Provide work equipment and compensate for energy and internet expenses (upon prior agreement).</li> <li>• The obligation to compensate employees for such expenses does not apply to Micro and Small Enterprises registered with the National Registry of Micro and Small Enterprises (Registro Nacional de la Micro y Pequeña Empresa - REMYPE), unless otherwise expressly agreed.</li> </ul>
<b>Where can teleworkers perform their duties?</b>	<ul style="list-style-type: none"> <li>• Teleworkers can freely decide where to provide their services, which can be either inside or outside our country, upon prior communication among the parties.</li> <li>• If the regular place of work changes, the teleworker must inform the employer within 5 business days prior to such change.</li> </ul>
<b>Must a teleworker be registered with the Ministry of Employment?</b>	<ul style="list-style-type: none"> <li>• It will only be necessary to submit a Sworn Statement through the Electronic Payroll System (PLAME).</li> </ul>
<b>How must the expenses incurred by teleworkers be compensated?</b>	<ul style="list-style-type: none"> <li>• The expenses incurred for the equipment used by a teleworker must be borne by the employer in any modality (total or partial telework), and this is not conditioned to whether the telework is performed from the teleworker's home or not, unless agreed otherwise.</li> <li>• Internet services and energy consumption costs will be borne by the employer when teleworking services are provided at the teleworker's home.</li> <li>• The amounts borne by the employer to compensate such expenses qualify as working conditions and are recorded as such in the PLAME.</li> </ul>
<b>What is the work shift of a teleworker?</b>	<ul style="list-style-type: none"> <li>• The work shift of a teleworker is the same as in-person workers.</li> <li>• The parties may agree on the free distribution of the work shift during times that better suit the teleworker's needs, without exceeding the maximum work shift set out by law.</li> <li>• In case a teleworker provides their services outside of the regular work shift or during weekends or holidays, such hours must be recognized by the employer.</li> </ul>
<b>What are the conditions applicable to Digital Disconnection?</b>	<ul style="list-style-type: none"> <li>• Teleworkers have the right to digital disconnection during the hours that do not correspond to their regular work shift.</li> <li>• Digital disconnection time must be at least 12 continuous hours during a 24-hour period. This applies to managerial employees, confidential employees, occasional staff, and those employees not subject to supervision.</li> <li>• During this period, the employee is not required to reply to any communications, orders, among others, except in force majeure events or exceptional circumstances.</li> </ul>

In addition, the main penalties applicable to teleworking are the following:

#### REGIME OF INFRACTIONS AND PENALTIES APPLICABLE TO EMPLOYMENT RELATIONSHIPS, OCCUPATIONAL SAFETY AND HEALTH, AND SOCIAL SECURITY

Type of infraction	Scenario
Minor infractions	Failure to communicate OSH conditions to teleworkers.
Serious infractions	Failure to allow teleworkers to attend the workplace.
	Change an employee from in-person work to telework or vice versa without their consent, except for unilateral changes as prescribed by law.
	Failure to comply with the obligation of providing equipment, internet access, and training.
Very serious infractions	Failure to respect teleworkers' right to digital disconnection outside the regular work shift.



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