



Republic of the Philippines
DEPARTMENT OF LABOR AND EMPLOYMENT
Intramuros, Manila



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DEPARTMENT ORDER NO. 237
Series of 2022

**REVISED IMPLEMENTING RULES AND REGULATIONS
OF REPUBLIC ACT NO. 11165, OTHERWISE KNOWN AS
THE "TELECOMMUTING ACT"**

These Revised Implementing Rules and Regulations of Republic Act No. 11165 are hereby issued pursuant to the rule-making authority of the Secretary of Labor and Employment under Section 9 of the Act and under Article 5 of the Labor Code, as amended:

Section 1. Declaration of Policy. – It is hereby declared the policy of the State to affirm labor as a primary social economic force. To this end, it shall protect the rights of workers and promote their welfare, especially in the light of technological development that has opened up new and alternative avenues for employees to carry out their work, particularly telecommuting, and other flexible work arrangements.

To optimize the benefits of technology, the State encourages employers and employees to jointly adopt and implement telecommuting programs that are based on voluntariness and mutual consent, taking into account competencies, available technologies and resources, the nature of the work to be done, and other practical circumstances.

Section 2. Coverage. – These Revised Rules shall apply to employers and employees in the private sector that implement a telecommuting program.

Section 3. Definition of Terms. – As used herein, the following terms shall mean:

(a) *Alternative workplace* refers to any location where work, through the use of telecommunication and/or computer technology, is performed at a location away from the principal place of business of the employer, including but not limited to the employee's residence, co-working spaces, or other spaces that allow for mobile working.

(b) *Computer technology* refers to all electronic media and services, including computers, software, electronic mail, telephones or mobile phones, voicemail, facsimile machines, online services, and the internet.

(c) *Regular workplace* refers to the principal place of business or any branch office or physical premises established or provided by the employer where employees regularly report to or perform work.

(d) *Telecommunication* refers to a process of relaying and receiving voice, data, electronic messages, written or printed matter, fixed or moving pictures, words, music or visible or audible signals or any control signals of any design or for any purpose by wire, radio or other electromagnetic, spectral, optical or technological means.

(e) *Telecommuting* refers to a work arrangement that allows an employee to work from an alternative workplace, in whole or in part, with the use of telecommunication and/or computer technologies.

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(f) *Telecommuting agreement* refers to the agreement voluntarily entered into between the employer and the employee or a group of employees to implement a telecommuting program in accordance with these Revised Rules.

(g) *Telecommuting employee* refers to a person who is on telecommuting.

(h) *Telecommuting program* refers to the set of voluntarily agreed policies and guidelines adopted in accordance with these Revised Rules, any applicable collective bargaining agreement (CBA) or employment contract, or other company rules or regulations that allows an employee to work from an alternative workplace.

Section 4. Application of labor standards to telecommuting; guiding principles. – The terms and conditions of telecommuting shall not be less than the minimum labor standards, and shall not in any way diminish or impair the terms or conditions of employment contained in any applicable company policy or practice, individual contract, or collective bargaining agreement.

Work performed in an alternative workplace shall be considered as work performed in the regular workplace of the employer.

In accordance with the rules on working hours under Book III, Title I of the Labor Code, all time that an employee is required to be on duty, and all time that an employee is permitted or suffered to work in the alternative workplace shall be counted as hours worked.

Telecommuting employees are not considered field personnel except when their actual hours of work cannot be determined with reasonable certainty.

Nothing herein shall be construed as a limitation on the right of employers and employees to agree on hybrid arrangements where work can be performed in both the regular and alternative workplace, or to compressed workweek or staggered working time arrangements, or to other recognized forms of flexibility. Such arrangements may be incorporated in the telecommuting program.

Section 5. Telecommuting program; form – Subject to the immediately preceding section, an employer may offer its employees, on a voluntary basis, a telecommuting program upon such terms and conditions as they may mutually agree upon. Any employee or group of employees may also propose a telecommuting program to the employer.

The telecommuting program may be in the form of a separate policy, or incorporated into existing policies or employment contracts, or in such other form as is convenient to the parties; provided that in every case there is evidence that the employer and the employees voluntarily agreed to adopt the program.

Section 6. Content of telecommuting program. The telecommuting program shall contain provisions as are reasonably necessary or relevant to ensure its effective implementation, including but not limited to provisions on the following:

- (a) **Eligibility** – job qualification (educational attainment, work experience, training, soft skills, and digital skills), nature or functional areas of work or projects (e.g., research and development, product design and development, sales and customer support, marketing and brand management, corporate communication and social media marketing, finance and administrative functions/task, financial management, accounting, audit, controllership, human resource management, IT and related works, and executive functions/tasks) and roles or positions

suitable for telecommuting], logistical requirements (minimum specification or requirements of computer hardware and software and internet bandwidth, access to host applications, and other applicable equipment and supplies, as deemed necessary), personal circumstances (age, pregnancy, health condition, disability), and performance (performance rating for the previous rating periods).

- (b) **Alternative workplace/s** – acceptable alternative workplace/s for telecommuting, including provisions for telecommunication, computer technology, facilities, and equipment.
- (c) **Telecommunication and computer technology** – minimum requirements of computer hardware and software, such as terminals, host applications, internet connectivity and security, and other applicable equipment and supplies.
- (d) **Occupational Safety and Health (OSH)** – OSH standards, such as ergonomics, good housekeeping, light, sound, and temperature control, and mental health programs, as reasonably necessary, including the physical and mental well-being of employees.
- (e) **Performance evaluation** – common performance standards for telecommuting employees and comparable employees at the employer's premises method and manner of performance evaluation and monitoring, appropriate means of communicating feedback to the concerned employee, and immediate interventions to address performance issues.
- (f) **Code of Conduct** – appropriate work standards, such as attendance, appearance and demeanor during virtual meetings, submission of accomplishment reports, and measures to ensure compliance.
- (g) **Data protection, confidentiality, and security** – standards to protect personal information, sensitive personal information, and other proprietary information utilizing available technologies that promote data protection, confidentiality, and security pursuant to Republic Act No. 10173 or the Data Privacy Act of 2012, its Implementing Rules and Regulations, and other pertinent issuances of the National Privacy Commission.
- (h) **Emergency Protocols** – measures to address device breakdown, poor internet connection, power interruption, weather disturbances, and other related events and similar circumstances.
- (i) **Duration** – date of effectivity and duration of the telecommuting, such as termination or change of work arrangement due to employee's request, business necessity, or change in operation, including reversion to previous work arrangement sans renewal or extension.
- (j) **Dispute resolution** – grievance machinery to resolve all grievances arising from the implementation and enforcement of the telecommuting program, which shall include an agreement for referral to voluntary arbitration.

Section 8. Fair Treatment. – The employer shall ensure that telecommuting employees are given the same treatment as those comparable employees working at the employer's regular workplace. All telecommuting employees shall be covered by the same set of applicable rules or company policies, or by an existing CBA, if any. They shall also:

(a) Receive a rate of pay, including overtime and night shift differential, and other similar monetary benefits not lower than those provided in applicable laws, and/or CBA for authorized hours of work at home or an alternative workplace in accordance with the telecommuting agreement;

(b) Have the right to rest days, regular holidays, and special non-working days;

(c) Have the same or equivalent workload and performance standards as those of comparable workers at the employer's premises; provided that the parties may mutually agree to different performance standards that may be more appropriate given the location of the employee is not at the premises of the employer;

(d) Without additional cost, have the same access to training and career development opportunities as those of comparable workers at the employer's premises, and be subject to the same appraisal policies covering these workers, including the qualification provided on the preceding item;

(e) Without additional cost, receive appropriate training on the technical equipment at their disposal, and the characteristics and conditions of telecommuting; and

(f) Have the same collective rights as the workers at the employer's premises and shall not be barred from communicating with workers' representatives.

The employer shall also ensure that measures are taken, as much as reasonably possible, to prevent the telecommuting employee from being isolated from the rest of the working community in the company by giving the telecommuting employee the opportunity to meet, physically or through telecommunication, with colleagues on a regular basis and, when practicable, allow access to the employer's premises and company information.

Section 9. Implementation and administration of telecommuting. – Facilities, equipment and supplies necessary to implement a telecommuting program and to enable the employee to perform his or her work in an alternative workplace, including expenses for the acquisition, proper handling, usage, maintenance, repair, and return thereof, are considered ordinary and necessary costs of the business of the employer.

The parties to telecommuting shall be primarily and jointly responsible for its administration. Differences arising from the implementation or interpretation of a telecommuting program shall be treated as grievances which shall first be resolved through the grievance mechanism established under the program, company policy or CBA. In the absence of a grievance mechanism, the parties shall endeavor to resolve the differences through dialogue and consultation.

In case of unresolved grievances, the parties may request assistance from the Regional or Field Office of the Department of Labor and Employment which has jurisdiction over the regular or the alternative workplace, for conciliation or mediation in accordance with Department Order No. 151, Series of 2016. The parties may also submit an unresolved grievance to voluntary arbitration.

Section 10. Notice, Monitoring and Reporting. – The employer shall notify the DOLE of the implementation of telecommuting through the Establishment Report System (<https://reports.dole.gov.ph/>). It shall include in the notice all branches, satellite offices, or similar operational units, if any, implementing telecommuting.

Employers shall keep and maintain the documents proving that the parties voluntarily adopted telecommuting for at least three (3) years as part of their records.

Section 11. Effect on Existing Company Practice, Policy or Agreement.
– The terms of any similar voluntary agreement between an employee and an employer, such as existing company practice or policy allowing work from home or similar arrangements providing substantially similar or higher benefits, shall be respected and shall continue to be effective, unless these are not in conformity with these Revised Rules.

Section 12. Separability Clause. – If any provision of these Revised Rules is declared unconstitutional, the remaining provisions not affected shall remain in full force and effect.

Section 13. Repealing Clause. – DOLE Department Order No. 202, Series of 2019, is hereby superseded. All other orders, rules and regulations, and other issuances or parts thereof which are contrary to or inconsistent with these Revised Rules are likewise deemed superseded, amended, or modified accordingly.

Section 14. Effectivity. – These Revised Rules shall take effect fifteen (15) days after its publication in a newspaper of general circulation.

Manila, Philippines, 16 September 2022.


BIENVENIDO E. LAGUESMA
Secretary