



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



DEPARTMENT ORDER NO. 202  
Series of 2019

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**IMPLEMENTING RULES AND REGULATIONS  
OF REPUBLIC ACT NO. 11165 OTHERWISE KNOWN AS THE  
“TELECOMMUTING ACT”**

Pursuant to Section 9 of Republic Act No. 11165 or the “Telecommuting Act”, the following implementing rules and regulations are hereby issued:

**Section 1. Declaration of Policy.** – It is hereby declared the policy of the State to affirm labor as a primary social economic force.

The State shall ensure a cohesive and enabling policy that will foster participation of employers and employees, through the exercise of management prerogative or collective bargaining, in the adoption and implementation of telecommuting as a work arrangement based on the voluntariness and mutual consent of the employer and employee, taking into account the nature of the work to be done.

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.

**Section 2. Definition of Terms.** – As used in this Rules, the following terms shall mean:

(a) *Alternative workplace* refers to a location other than the regular workplace;

(b) *Telecommuting* refers to a work arrangement that allows an employee in the private sector to work from an alternative workplace with the use of telecommunication and/or computer technologies;

(c) *Telecommuting agreement* refers to the mutual consent of the employer and the employee in the implementation of a telecommuting work arrangement based on the telecommuting program of the company, Collective Bargaining Agreement (CBA), if any, and other company rules and regulations;

(d) *Telecommuting employee* refers to a person who is on a telecommuting work arrangement; and

(e) *Telecommuting program* refers to a set of guidelines and rules governing the implementation of a telecommuting work arrangement.

**Section 3. Telecommuting Program.** – An employer in the private sector may offer a telecommuting program to its employees on a voluntary basis or as a result of collective bargaining, if any, and upon such terms and conditions as they may mutually agree upon: Provided, That such terms and conditions shall not be less than the minimum labor standards set by law, and shall include compensable work hours, minimum number of work hours, overtime, rest days, entitlement to leave benefits, social welfare benefits, and security of tenure. In all cases, the employer shall provide the telecommuting employee with relevant written information in order to adequately apprise the individual employee of the terms and conditions of the telecommuting program, including the duration of the program, rights, duties, and responsibilities of the employee.

To effectively implement the telecommuting program, the employer and employees shall adhere to and be guided by the mutually agreed policy or telecommuting agreement which stipulates for the following provisions, including but not limited to:

- (a) Eligibility;
- (b) Applicable code of conduct and performance evaluation and assessment;
- (c) Appropriate alternative workplace/s;
- (d) Use and cost of equipment;
- (e) Work days and/or hours;
- (f) Conditions of employment, compensation, and benefits particularly those unique to telecommuting employees;
- (g) Non-diminution of benefits;
- (h) Occupational safety and health;
- (i) Observance of data privacy policy;
- (j) Dispute settlement; and
- (k) Termination or change of work arrangement.

The employer or employee may terminate or change the telecommuting work arrangement, in accordance with the telecommuting policy or agreement, without prejudice to employment relationship and working conditions of the employee, at no cost to the latter.

**Section 4. Fair Treatment.** – The employer shall ensure that telecommuting employees are given the same treatment as that of comparable employees working at the employer's premises. All telecommuting employees shall be covered by the same set of applicable rules and 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;
- (b) Have the right to rest days, regular holidays, and special nonworking 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, including access to safety and health services when necessary as required by Republic Act No. 11058 and Department Order No. 198, Series of 2018, and shall not be barred from communicating with worker's representatives.

The employer shall also ensure that measures are taken 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 with colleagues on a regular basis and allowing access to the regular workplace and company information.

**Section 5. Data Protection.** – The employer and the employee shall agree on minimum standards that will protect personal information and shall utilize available technologies that promote security and privacy.

The employer shall be responsible for strictly taking the appropriate measures to ensure the protection of data used and processed by the telecommuting employee for professional purposes. The employer shall inform the telecommuting employee of all relevant laws and company rules concerning data protection. Measures such as, but not limited to, disabling of hardware, Universal Serial Bus (USB) access, and external cloud-based storage can be taken by the employer.

The employee shall commit to the company's data privacy policy and ensure that confidential and proprietary information are protected at all times and utilized only in accordance with the requirements of the employer.

For this purpose, the provisions of the Data Privacy Act of 2012 shall have suppletory effect.

**Section 6. Administration.** – The parties to a telecommuting work arrangement shall be primarily responsible for its administration. In case of differences in interpretation, the following guidelines shall be observed:

(a) The differences in interpretation and implementation shall be treated as grievances to be resolved under the applicable grievance mechanism of the

company. Unresolved grievances shall be settled in accordance with existing rules and regulations.

(b) If there is no grievance mechanism or if the mechanism is inadequate, the grievance shall be referred for conciliation and mediation to the regional office or field office of the Department of Labor and Employment (DOLE) which has jurisdiction over the workplace. If the grievance remains unresolved after conciliation and mediation, it shall be referred to the appropriate branch of the National Labor Relations Commission (NLRC), in accordance with Article 224 of the Labor Code, as renumbered.

(c) To facilitate the resolution of grievances, employers shall keep and maintain, as part of their records, the documents proving that the telecommuting work arrangement was voluntarily adopted by the parties.

**Section 7. Notice and Monitoring.** – The employer shall notify the DOLE on the adoption of a telecommuting work arrangement, by accomplishing the DOLE prescribed report form and submitting the same in print or digital copy, to the nearest DOLE Field or Provincial Office having jurisdiction over the area where the principal office is located.

If the employer has branches or operational units outside the region of its principal office, each branch or operational unit shall also submit its respective report to the nearest DOLE Field or Provincial Office having jurisdiction over the branch or operational unit.

All DOLE Regional Offices shall submit to the Bureau of Working Conditions a quarterly report using the DOLE prescribed report form on the implementation of telecommuting work arrangement of establishments, for monitoring and evaluation.

**Section 8. Telecommuting Pilot Program.** – The DOLE shall establish and maintain a telecommuting pilot program in select industries that shall vary from highly technological sectors to sectors that are unlikely to practice telecommuting. The telecommuting pilot program shall last for a period of not more than three (3) years. The DOLE shall be responsible for baselining, scoping and profiling research work prior to implementation, regular quarterly monitoring, and evaluation. At the end of the program, the DOLE shall submit a report to Congress on its findings and upload the same on the DOLE website.

**Section 9. Effect on Existing Agreements and Company Practice or Policy.** – 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, entered before the effective date of Republic Act No. 11165 and this Rules shall not be impaired, provided that the employer shall duly notify the DOLE of such agreement.

**Section 10. Periodic Review.** – There shall be a mandatory review of this Rules after three (3) years from its date of effectivity and every three (3) years thereafter.

**Section 11. Separability Clause.** – If any provision of this Rules is declared unconstitutional, the remaining provisions not affected shall remain in full force and effect.

**Section 12. Repealing Clause.** – All orders, rules and regulations, and other issuances or parts thereof which are contrary to or inconsistent with this Rules are hereby repealed, amended, or modified accordingly.

**Section 13. Effectivity.** – This Rules shall take effect fifteen (15) days after its publication in a newspaper of general circulation and posting on the DOLE website.

Manila, Philippines, 26 MAR, 2019

  
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