

# Employers With Operations in Mexico: The Countdown for Complying With the Telework Health and Safety Standard Has Begun!

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Effective December 5, 2023, the Mexican Official Standard NOM-037-STPS-2023, Telework-Safety and Health Conditions (NOM-037), will become enforceable. Accordingly, employers in Mexico that have employees who render services under a telework modality will be obligated to comply with the NOM-037.

## Quick Hits

- Telework health and safety provisions under the NOM-037 will become enforceable as of December 5, 2023.
- Effective December 5, 2023, the Labor Ministry may start conducting inspections to verify that employers are complying with the NOM-037.
- Employers that do not comply with the NOM-037 could be liable for fines ranging from MXN \$5,187 (approximately USD \$289) to MXN \$518,700 (approximately USD \$28,900), at the Labor Ministry's discretion.

The [NOM-037](#) is applicable only to employers with employees in Mexico under the telework modality. Therefore, before preparing for compliance, employers may want to analyze if they have employees working under the telework modality and not simply a hybrid modality.

Based on the Federal Labor Law (FLL), only employees who: (i) render their services for more than 40 percent of their time at home and/or outside the workplaces, and (ii) render their services necessarily outside of the workplace by using information and communication technologies, are considered teleworkers.

Under the law, employers that have teleworking employees must consider the following to be in compliance with the NOM-037:

- Having a list of teleworkers and agreed workplaces
- Having a telework policy
- Informing employees of risks associated with teleworking
- Implementing a health and safety conditions checklist
- Managing the execution of the teleworking modality
- Providing employees with work tools and equipment
- Providing training
- Having a health and safety joint commission in place and sharing compliance documents with the commission
- Analyzing the NOM-030-STPS-2009, Preventive Safety and Health Services at Work-Functions and Activities, to determine whether medical examinations are applicable
- Implementing mechanisms for domestic violence

The NOM-037 aims to regulate and improve workplace safety and health conditions to prioritize employee well-being. Consequently, the Labor Ministry will be in charge of verifying compliance through labor inspections. Employers that fail to comply could be liable for fines that range from MXN \$5,187 (approximately USD \$289) to MXN \$518,700 (approximately USD \$28,900).

Ogletree Deakins' [Mexico City office](#) will continue to monitor developments and will provide updates on the [Cross-Border](#) and [Workplace Safety and Health](#) blogs as additional information becomes available.

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National Law Review, Volumess XIII, Number 328

Source URL: <https://www.natlawreview.com/article/employers-operations-mexico-countdown-complying-telework-health-and-safety-standard>