

The sample forms provided as part of this presentation are intended merely for informational purposes. No representation is made as to the enforceability of these forms in any jurisdiction, and the materials should not be relied upon or construed as legal advice, or as a substitute for obtaining legal advice from an attorney licensed in the applicable jurisdiction(s).

Remote Work

Region	Country	Regulations on Remote Work
AMERICAS	Argentina	<ul style="list-style-type: none"> • The Argentine Congress has recently passed a law regulating home office work (locally called “teletrabajo”). This law will enter into force on 1 April 2021. • According to the law, telework involves activities performed totally or partially outside the employer's premises. • Although the parties are entitled to agree to telework (by written consent), the employee is entitled to revoke his/her consent. In such a case the employer must respect the employee’s will and return him/her to presential work unless it is deemed impossible. • The employer must provide the equipment and work tools, as well as an ergonomic chair, a portable fire extinguisher, a first aid kit, a mouse pad, a manual of Health and Safety Practices. The teleworker is entitled to be reimbursed for the higher expenses due to connectivity services. However, such reimbursement of expenses is not considered as salary for tax and social security purposes.
	Brazil	<ul style="list-style-type: none"> • For an arrangement to work remotely, an amendment to the employment contract is required setting forth the terms of the arrangement and any changes to the remote work arrangement requires 15-day notice. • Further, the employer must inform employees of the risks and dangers associated with working at home. The employee should be instructed to take sufficient breaks, drink plenty of fluids, and maintain overall health. The amendment to the employment agreement should include an attestation that the employee was informed of these details. • The employer must also provide the equipment necessary to perform the job, and must reimburse reasonable expenses related to work. In addition, the employer should provide a stipend for internet and utilities.
	Chile	<ul style="list-style-type: none"> • Employers and employees can agree on teleworking or remote work, which can cover all or part of the working day. • It is forbidden that the application of this modality implies impairment of the rights of employees, who enjoy all the rights established in the Labor Code. The employer must make available all the elements that will allow the employees to continue to provide services through the telework modality. • The employer must respect the right of employees to be disconnected, which may not be less than 12 consecutive hours in periods of 24 hours. In addition, employee must be trained for at least 8 hours on workplace safety. • There has been an exception to the general law allowing employers to require work from home without a formal agreement due to the COVID-19 pandemic. This exception is still in force.

	Mexico	<ul style="list-style-type: none"> • Mexico has reformed its Federal Labor Law to recognize teleworking, regulating employers' responsibilities to employees who work from home offices as well as remote workers' obligations to their employers. • Remote work is considered such when 40 percent of the employee's work is carried out outside the company's facilities and employees primarily make use of information and communication technologies. Work that is carried out occasionally or sporadically under this format will not be considered "home office." • The following general working conditions must be established in the labor agreement, including home office modality: <ol style="list-style-type: none"> 1) the equipment and work supplies, including health and safety obligations; 2) the description and amount that the employer will pay the employee under the home office modality, as regular payment for the services he or she carries out at home; and 3) the contact and supervision mechanisms between the parties, as well as the duration and distribution of schedules, as long as they do not exceed the maximum weekly legal working hours. • Employers' obligations are as follows: <ol style="list-style-type: none"> 1) deliver computer equipment, ergonomic chairs and printers, if necessary, among other items; 2) assume costs derived from employees' work, such as payment for telecommunication services (internet) and the proportional part of the electricity bills; 3) implement mechanisms that preserve the security of the information and data used; 4) respect employees' right to disconnect to from their computers after work; and 5) establish mechanisms and adequate training with regard to communication and information technologies.
ASIA	China	<p>Employers may arrange employees to work remotely if they cannot go back to the office. Employers can pay the employees by the hour according to the effective time the employees put in their work.</p> <p>When shortening working hours, adjusting salary, arranging employees work remotely and adopting other flexible measures, it will be deemed as changing the labor contract, which is directly related to the interests of the employees. Thus, such measures shall be discussed at the trade union or the meeting of employees' representatives or the general meeting of all employees to collect their opinions and to reach agreements before implementing such flexible measures.</p>
	Japan	<p>The Japanese Ministry of Health, Labour, and Welfare guidance provides that in the event teleworking requires additional expenses, there must be prior discussion and consultation with employees and establish the parameters within work rules. In the event employees are required to shoulder the cost of teleworking, it must be clearly stated in the work rules upon consultation and consent of employees pursuant to Article 89, Section 5 of the Labor Standard Act.</p> <p>In addition, the Japanese government instituted a limited subsidy program for employers implementing alternate work arrangement through teleworking in response to COVID-19.</p>
	Singapore	<ul style="list-style-type: none"> • Without specifics, the Ministry's COVID guidance instructs employers to "review work processes, provide the necessary IT equipment to employees and adopt solutions that enable remote working and online collaboration."
EUROPE	France	<ul style="list-style-type: none"> • If an employee needs internet for the job, or internet at a higher speed than employee uses personally, employer must cover the cost/difference. • Further, a list of necessary equipment must be specified in an agreement. Employers should generally provide the equipment or reimburse any additional costs if the employees use their own. Typically (depending on necessity) these equipment include laptop, headphones, monitor, printer and USB drive.
	Germany	<ul style="list-style-type: none"> • Unless otherwise agreed in the employment contract, an instruction to work remotely cannot be effectively issued. The instruction to work remotely would be a relocation according to Sec. 99 BetrVG and therefore requires the consent of any possibly existing works council. • While there are no specific obligation to provide internet access, employers must provide equipment needed to do the job.
	UK	<ul style="list-style-type: none"> • Employers are not required to reimburse employees, but employees can independently claim a tax rebate directly from Her Majesty's Revenue and Customs. This can only be done directly by the employee.

Additional Resources

Global Solutions Episode 5: Virtual Workplaces Worldwide—Working from Home Across the Globe:

<https://ogletree.com/insights/global-solutions-episode-5-virtual-workplaces-worldwide-working-from-home-across-the-globe/>

Workforces Stranded Abroad Due to COVID-19 and Presidential Proclamation? Implications of Remote Work When Employees Cannot Enter the United States:

<https://ogletree.com/insights/workforces-stranded-abroad-due-to-covid-19-and-presidential-proclamation-implications-of-remote-work-when-employees-cannot-enter-the-united-states/>

Japan’s COVID-19 Response Could Indicate a Global Shift in Daily Workplace Disease Prevention Practices:

<https://ogletree.com/insights/japans-covid-19-response-could-indicate-a-global-shift-in-daily-workplace-disease-prevention-practices/>

German Employers’ Mandatory COVID-19 Testing and Telecommuting Requirements:

<https://ogletree.com/insights/german-employers-mandatory-covid-19-testing-and-telecommuting-requirements>

Q&A on Mexico’s Telework Legislation: Answers to Employers’ Questions on the Pending Reform:

<https://ogletree.com/insights/qa-on-mexicos-telework-legislation-answers-to-employers-questions-on-the-pending-reform>

© Ogletree, Deakins, Nash, Smoak & Stewart, P.C.

For more information, please contact:

Carolyn Knox, carolyn.knox@ogletree.com

Carlos Colón-Machargo, carlos.colon-machargo@ogletree.com