

› Law No. 21,645, which modifies the Labor Code regarding the conciliation of personal, family and work life

On January 29th, 2024, Law No. 21,645, which modifies the Labor Code regarding the conciliation of personal life, family life and work life, entered into force (hereinafter, the “Law”).

The Law modifies the Labor Code in 3 key aspects:

1 Preferential granting of holidays and temporary modification of shifts or daily and weekly working hours: During the vacation period defined by the Ministry of Education, in accordance with the respective school year, those employees who have the personal care of a child under 14 years of age or an adolescent under 18 years of age with disabilities or in a situation of severe or moderate dependency, will be entitled to the following benefits:

- a** Preference in granting of holidays over other employees who do not have these obligations.
- b** Temporarily modify the shifts or the distribution of the daily and weekly working day of the employees, to the extent the nature of their duties allows it, and the company operates on a schedule that is compatible with it. For the above, the employee shall make a proposal to the employer, at least, 30 days in advance, so that the company can decide in its respect. The employer shall respond within 10 days as from the employee’s request, being able to accept the proposal, offering an alternative formula or rejecting the proposal, proving the circumstances that justify it.

If the transitory modification is made, an addendum to the employment contract must be signed, stating this fact. This modification should not affect the length of the weekly working day, the nature of the services rendered, the employee’s remuneration. Likewise, it will not imply that the employer will have to arrange for a replacement or changes in the schedules or functions of other employees.

2 Implementation of telecommuting or teleworking schemes: Employees who take personal care of a child under 14 years of age or of a person with disabilities or in a situation of severe or moderate dependency, regardless of their age, and not receiving a compensation for such purpose, will be able to request that all or part of their daily or weekly workday may be developed under telecommuting or teleworking schemes, as long as the nature of their duties allows it. This alternative does not apply to those employees who have power to represent the employer, such as managers, assistant managers, agents or representatives.

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The employee must submit a written request evidencing his/her situation, indicating the fixed combination of on-site and remote working times, which may not exceed the daily and weekly work limits. The employer must respond within 15 days, being able to accept the proposal, offering an alternative formula, or rejecting the proposal by proving that the nature of the duties does not allow it, or that the employee does not have connectivity or health and safety conditions in the place where he/she will perform the work. This modification should not affect the labor conditions and will not imply that the employer will have to arrange for a replacement or changes in the schedules or functions of other employees.

If accepted, the employer must state in an addendum to the employment contract the premise that enables this form of teleworking, the means by virtue of which the latter was evidenced, and the formula of combination of on-site and teleworking times.

For supervening causes, the employee may return unilaterally to the conditions originally agreed in the employment contract.

- 3 Trade unions and the temporary reduction of their working day:** Trade unions may agree with their employer that employees who have the personal care of a child under 14 years of age or of a person with disabilities or in a situation of severe or moderate dependency, regardless of their age, may request the temporary reduction of their working day during the vacation period defined by the Ministry of Education, according to the respective school year.

Finally, the Law establishes that the Title "Protection of motherhood and paternity and the conciliation of personal, family and work life" in which these matters will be regulated will be governed by the principle of positive parenting, the principle of social co-responsibility, and the principle of protection of maternity and paternity, which must always be applied in accordance with the responsibilities and administrative faculties that the Labor Code recognizes to the employer.

Employers, taking into consideration, in each case, the nature of the employment relationship and the services provided, shall promote the balance between work and private life, carrying out actions aimed at informing, educating and raising awareness regarding the importance of balancing personal, family and work life, through consciousness and diffusion campaigns carried out directly by the employer or through administrative institutions of Law No. 16,744.

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