



DEPARTMENT ADVISORY NO. 4  
Series of 2010

**GUIDELINES ON THE IMPLEMENTATION OF FLEXIBLE WORK  
ARRANGEMENTS AND THE EXEMPTION FROM THE NIGHTWORK  
PROHIBITION FOR WOMEN EMPLOYEES IN THE BUSINESS  
PROCESS OUTSOURCING INDUSTRY**

**I. PURPOSE**

In view of the rapid technological innovations, the continuing streamlining and transformation of the work processes brought about by the globalization phenomena, this Advisory is being issued to assist and guide employers and employees in the implementation of various flexible work arrangements and the exemption from the nightwork prohibition for women employees under Article 130 of the Labor Code of the Philippines, as amended. The adoption of flexible work arrangements is being considered to improve business competitiveness and productivity and give employers and employees flexibility in fixing hours of work compatible with business requirements and the employees' need for balanced work life. On the other hand, the exemption from the nightwork prohibition is recognized under Article 131 of the Labor Code under analogous cases and taking into account the constitutional mandate for equal employment opportunities and the right against employment discrimination.

***A. IMPLEMENTATION OF FLEXIBLE WORK ARRANGEMENTS***

**II. CONCEPT**

Flexible work arrangements refer to alternative arrangements or schedules other than the traditional or standard workhours, workdays and workweek.

The effectivity and implementation of any of the flexible work arrangements shall be based on voluntary agreements between the employer and the employees.

The adoption of the flexible work arrangements provided herein shall in no case result in diminution of existing benefits of the employees.

**III. FLEXIBLE WORK ARRANGEMENTS**

The following are the flexible work arrangements which may be considered, among others:

1. *Compressed Workweek* refers to one where the normal workweek is reduced to less than six (6) days but the total number of work hours of 48 hours per week shall remain. The normal workday is increased to more than eight hours but not to exceed twelve hours, without corresponding overtime premium. The concept can be adjusted accordingly depending on the normal workweek of the company pursuant to the provisions of Department Advisory No. 02, series of 2004, dated 2 December 2004.
2. *Gliding or Flexi-time schedule* refers to one where the employees are required to complete the core workhours in the establishment but are free to determine their arrival and departure time.
3. *Flexi-holidays schedule* refers to one where the employees agree to avail the holidays at some other days provided there is no diminution of existing benefits as a result of such arrangement.

The employers and the employees may likewise explore other alternative work arrangements under any agreement and company policy or practice in accordance with existing laws and regulations.

#### **IV. ADMINISTRATION**

The parties to the flexible work arrangements shall be primarily responsible for its administration. In case of differences of interpretation, the following guidelines shall be observed:

1. The differences shall be treated as grievances under the applicable grievance mechanism of the company.
2. If there is no grievance mechanism or if this mechanism is inadequate, the grievance shall be referred to the Regional Office which has jurisdiction over the workplace for appropriate conciliation.
3. To facilitate the resolution of grievances, employers are required to keep and maintain, as part of their records, the documentary requirements proving that the flexible work arrangement was voluntarily adopted.

#### ***B. EXEMPTION FROM THE NIGHTWORK PROHIBITION FOR WOMEN EMPLOYEES UNDER ARTICLE 130 OF THE LABOR CODE, AS AMENDED***

Women employees may be allowed to work during nighttime in accordance with Article 131 of the Labor Code, subject to the limitation that the female employees should not be below eighteen (18) years of age.

Employers are likewise required, among others, to provide safe and healthful working conditions, and adequate/reasonable facilities such as sleeping/resting quarters in the establishment.

Pregnant women and nursing mothers may be allowed to work at night only if a competent physician, other than the company physician, shall certify their fitness to render night work, and specify, in the case of pregnant employees, the period of the pregnancy that they can safely work.

Any deviation from the limitations stated above and those provided for under the Labor Code, and Department Circular No. 1, Series of 2008 (Policy Guidelines Governing the Occupational Safety and Health of Workers in the Call Center Industry) shall be a ground for revocation of the exemption granted herein.

## V. NOTICE

The employer shall notify the Department through the Regional Office which has jurisdiction over the workplace, copy furnished the Bureau of Working Conditions, of the adoption of any of the above flexible work arrangements and the employment of women employees during nighttime.

Manila, Philippines, <sup>NOV 25 2010</sup> \_\_\_\_\_, 2010.

  
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Secretary