



RIGHT TO REQUEST REMOTE
WORK BILL 2021
REGULATORY IMPACT
ASSESSMENT

Department of Enterprise, Trade and Employment

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1. Executive Summary

Summary of Regulatory Impact Assessment (RIA)		
Department: Enterprise, Trade and Employment	Title of Legislation: Right to Request Remote Work Bill 2021	
Stage: Drafting	Date:	
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<p>Policy options considered</p> <p>1. Do nothing</p> <p>2. Legislate for introduction of a right to request remote work.</p> <p>Preferred option:</p> <p>Option 2, to legislate for the introduction of a right to request remote work is the preferred option.</p> <p>The first ever national Remote Work Strategy was published in January 2021. The Strategy sets out plans to strengthen the rights and responsibilities of employers and employees, to provide the infrastructure to work remotely, and sets out clear guidance on how people can be empowered to work remotely away from the employer’s premises.</p> <p>In the context of Pillar 1 of the National Remote Work Strategy, creating a conducive environment, a commitment was made to legislate to provide employees with the right to request remote work. This is one of the key actions of the Strategy.</p>		
Options		
<i>Costs</i>	<i>Benefits</i>	<i>Impacts</i>
The facilitation of remote working requests by employers is likely to lead to at least some increased costs for employers generally, particularly	Legislation will provide clarity via a legal framework around which requesting, approving or refusing a	The impacts of increased remote work can be substantial and remote working has the potential to fundamentally change the nature of where, how, when

	<p>those who do not already have employees working remotely.</p> <p>From a public service employer perspective, any costs associated with the right to request legislation will be met from within existing resources. Any resource implications for inspection and compliance work of the Workplace Relations Commission (WRC) will also be accommodated from within existing resources.</p>	<p>request for remote work can be based. There are multiple benefits that can be derived from remote work, which will help to achieve numerous public policy objectives. These benefits include increasing participation in the labour market, attracting and retaining talent, enabling balanced regional development, alleviating accommodation pressures, improving work/life balance, improving child and family wellbeing, reducing the amount of time spent commuting, and reducing carbon emissions and air pollution.</p>	<p>and why people work. This in turn will bring about economic, spatial, environmental, cultural and societal change.</p>
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Right to Request Remote Work Bill 2021

Regulatory Impact Analysis

2. Description of policy context and objectives

2.1 Policy Context

The 2020 Programme for Government contains several commitments on the topic of remote working. Remote work is already a key consideration in Government policy documents such as the National Economic Plan, the Climate Action Plan, the Town Centre Living initiative and the Smarter Travel Policy. The State is committed to increasing remote work adoption in Ireland through removing barriers, developing infrastructure, providing guidance, raising awareness and leading by example in this area. The Government's Remote Work Strategy published in January 2021 aims to build on the progress made in the adoption of remote work over the Covid-19 crisis period. The Strategy is built on three fundamental pillars:

1. Create a Conducive Environment
2. Develop and Leverage Remote Work Infrastructure
3. Build a Remote Work Policy and Guidance Framework

The Strategy sets out plans to strengthen the rights and responsibilities of employers and employees, to provide the infrastructure to work remotely, and sets out clear guidance on how people can be empowered to work remotely away from the employer's premises.

In the context of Pillar 1, creating a conducive environment, a commitment was made to legislate to provide employees with the right to request remote work. This is one of the key actions of the Strategy.

Currently in Ireland, all employees can ask their employers for the right to work remotely, but there is no legal framework around which a request can be made and how it should be dealt with by the employer. This new law will set out clearly how these requests should be facilitated as far as possible. The Tánaiste and Minister for Enterprise, Trade and Employment, Leo Varadkar, T.D. committed to publish a General Scheme of a Bill in 2021 for a statutory right to request remote work.

Remote working doesn't work for everyone or for every organisation, so the approach taken in the legislation is a balanced one. However, it will offer people choices and better options.

It is recognised at the outset that not all occupations, industries, or particular roles within an enterprise, will be suitable for remote working. Therefore, even in cases where employers want to support workers and be as flexible as possible, it will not always be an appropriate or suitable option.

It is clear that the interest in remote working in the long term remains strong for a lot of workers and many will want to continue with at least some remote working after the pandemic.

2.2 General Objectives

The introduction of a statutory right to request remote work is intended as a progressive measure that will bring Ireland in line with many other wealthy OECD countries.

The primary policy objectives and considerations in designing the new employment right are set out below:

- The right to request remote work will provide a legal framework around which requesting, approving or refusing a request for remote work can be based.
- It will also provide legal clarity to employers on their obligations for dealing with such requests.
- It will require employers to state reasonable business grounds for refusal of a request for remote working;
- It will oblige employers to prepare a written statement (to be known as a “Remote Working Policy”), specifying the manner in which remote working requests of their employees will be managed and the specific conditions which will apply to remote working generally within the organisation.
- The legislation will provide for the development of Codes of Practice to provide guidance to employers, employees and their representatives on the general principles which apply in the operation of remote working and to aid with the implementation of the new legislation.
- The legislation is intended to introduce a floor level of rights, and it will not interfere with existing, more favourable, remote work arrangements that are in place already or are negotiated by agreement between employers and employees.
- The intention is to develop a new employment right that is fair reasonable, with the minimum complexity and administrative burden, for both the employers and the employees.
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- The legislation is not intended to impose significant new costs on employers, in fact excess costs have been included in the list of potential business grounds for refusal of a request. However, some additional costs for employers are inevitable where employers agree to the request. There are also potential benefits and savings to employers afforded by remote work which may offset any initial outlay.

2.3 Immediate Objectives

In the context of Pillar 1 of the National Remote Work Strategy a commitment was made to legislate to provide employees with the right to request remote work. This is one of the key actions of the Strategy. The Right to request Remote work will provide a legal framework around which requesting, approving or refusing a request for remote work can be based. It will also provide legal clarity to employers on their obligations for dealing with such requests.

2.4 Current position

There is no statutory right to request remote work in Ireland, however many employers facilitate remote working.

3. Identification and Description of Policy Options

3.1 Option 1 “Do Nothing”

The “do nothing” principle would fail to address the commitment by the Government to legislate for a right to request remote work contained within Irelands First National Remote Work Strategy. Under the present framework, employers have discretion on whether to facilitate requests for remote work.

3.2 Option 2 “Legislate for the introduction of a right to request remote work”

To implement the Government commitment to legislate for a right to request remote work contained within Ireland's First National Remote Work Strategy, and to achieve the Policy Objectives set out above on a statutory basis.

3.3 Conclusion on options

For the reasons set out above, Option 2 – “legislate for the introduction of right to request remote” work is the appropriate course to take. The Right to request remote work will provide a legal framework around which requesting, approving or refusing a request for remote work can be based. It will also provide legal clarity to employers on their obligations for dealing with such requests.

The interest in remote working in the long term remains strong for a lot of workers and many will want to continue with at least some remote working after the pandemic. There has been a significant long-term shift in attitudes to remote work amongst both employers and workers throughout the country. Acceptance of remote work is high. The clarity to be provided by the legislation will be beneficial to both workers and employers.

4. Consultation

The Right to Request Remote Work is being developed in consultation with all relevant stakeholders, including unions, employers, employees and other Government Departments and bodies. An Inter-departmental Group was also established to consider various issues related to the right to request remote work.

On 1 April 2021, the Tánaiste launched a Public Consultation on the introduction of a Right to Request Remote Work inviting views on his plans to put the right to request remote working into law. Engagement with the process in April and May was good and a total of 175 submissions were received from a mix of stakeholders. Among the issues arising are:

- A call for guidelines on what should be contained in a remote work policy for employers. Employers will be assisted with advice, templates and guidelines. This will also help mitigate the burden on businesses of complying with the new requirements.
- Concerns about additional costs for employers, particularly SMEs. The Bill provides for ‘cost concerns’ to be a reasonable basis for an employer to refuse a request for remote working.
- A call for guidance in monitoring and recording employees’ working time, particularly when working remotely. This guidance will be provided within the guidelines of the Code of Practice.
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- Health and safety concerns around remote working, which includes concerns for mental health of workers working remotely. This will be a matter for local management to address.

Many commented that comprehensive guidelines for health and safety would be helpful to raise confidence. Guidelines, developed by the Health & Safety Authority are already available and these will be updated and promoted.

Several stakeholders commented that an accompanying Code of Practice for Remote Working should be considered and would provide clarity for both employees and employers. This has been provided for in the Bill.

There are examples of a statutory right to request remote work internationally, particularly in the EU which the Department also reviewed. In almost half of EU Member States, employees may, by law, collective agreement or at the discretion of the employer, be entitled to request remote or tele working. In addition, others are currently considering or progressing measures in this policy space, while some others have initiated temporary arrangements during the Covid-19 pandemic. The International Review was published on the Department's website.

5. Analysis of Costs and Benefits

5.1 Benefits

The introduction of a right to request remote work may have implications for employers, employees, and the wider Irish economy. There are multiple benefits that can be derived from remote work, which will help to achieve numerous public policy objectives. These benefits include increasing participation in the labour market, attracting and retaining talent, enabling balanced regional development, alleviating accommodation pressures, improving work/life balance, improving child and family wellbeing, reducing the amount of time spent commuting, and reducing carbon emissions and air pollution.

5.2 Costs

There are no anticipated additional costs to the exchequer from the public sector employer or Workplace Relations Commission (WRC) enforcement and compliance activities perspective, at least initially, and any costs associated with the right to request legislation will be met from within existing resources.

The facilitation of remote working requests by an employer is likely to lead to at least some increased costs for employers generally. The reality faced by businesses in the past 20 months is that they have had to adapt to a period or periods of remote and hybrid working, where possible, during the pandemic. In many cases employers have had to invest in IT infrastructure and mobile technology that lends itself to the hybrid or remote working models to maintain output and production. Therefore, in many instances the legislation may require no additional investment and even where investment has not been made to date,

future IT investment strategy will be determined by functionality of the technology in remote and hybrid settings as well as onsite.

The scheme is not intended to impose significant new costs on employers, in fact excess cost is a reasonable ground of business for refusing a request for remote work within the proposed legislation. There is a dearth of available data on the likely costs, and it will depend on the scope to facilitate remote work within the role or organisation concerned, the IT equipment in use within those organisations and its functionality to work in disparate locations.

In some instances, any costs incurred in equipment may be somewhat offset by reductions in office rental space savings, and in reduced spend on related costs such as electricity, heating, cleaning, catering and potentially commercial rates.

6. Impacts

The Department of Public Expenditure and Reform Guidance on Regulatory Impact Assessments requires an analysis of the following factors:

1. National Competitiveness
2. Socially excluded and vulnerable groups
3. The environment
4. Whether there is a significant policy change in an economic market, including consumer and competition impacts
5. The rights of citizens
6. Compliance burden
7. North-South and East-West Relations

6.1. Jobs, Competitiveness, and Industry Costs

The flexibility afforded by remote work may help to increase participation in the labour market, including amongst cohorts with low participation rates such as women, people with caring responsibilities, older people and people with disabilities. These impacts are discussed in further detail in the 'Gender Equality' and 'People with Disabilities' impacts below. Many workers place huge value on workplace flexibility, and remote working plays a central role in enabling that increased flexibility. A better work-life balance will lead to higher employee retention and removes geographical barriers to recruitment as well as offering savings on office space and other facilities. It will also assist companies to attract and retain talent as part of the benefits offered to potential employees.

It will however be a matter for individual firms to determine if remote working arrangements are suitable for their business model.

On the other hand, some concerns have been raised about additional costs for employers, particularly SMEs regarding providing equipment for staff in remote settings as well as on the premises. It could also introduce more complexity in the regulatory environment for

businesses. Many larger employers do have remote work policies in place and the covid-19 pandemic has provided real world experience of the suitability of roles and organisations to remote working.

6.2. Socially excluded and vulnerable groups

Ireland has one of the lowest rates of employment amongst persons with disabilities in Europe. This low employment rate relates to the many barriers and possible disincentives to employment that people with disabilities face. Mobility, transport and physical access issues may make attending a workplace difficult. Working from home for persons with disabilities in some cases is the only viable alternative. Increased remote work adoption provides an opportunity to work where otherwise it may not have been possible.

On the other hand, some concerns have been expressed that increased remote work could hinder the visibility of employees with disabilities in the workplace and around access to inclusive communication and collaboration technologies. It has also been emphasised that there would still be a responsibility on employers to provide reasonable workplace accommodation, and that wider barriers to employment experienced by people with disabilities need to be addressed if remote working is to achieve its full potential in this regard.

6.3. Poverty

Remote working should stimulate more economic activity in regional and rural areas. Since incomes are lower in regional and rural areas, in comparison to urban areas, this may reduce the number of people experiencing or at risk of poverty or social exclusion.

6.4. Gender Equality

One of the fundamental elements in promoting gender equality in the workplace and reducing the gender pay gap is in ensuring that women and men have equal access to the workplace. The adoption of remote working arrangements, if embraced equally by women and men, may present an opportunity to address some of the barriers to the full participation of women in the workforce and improve female representation at senior level.

That said, some concerns have been raised regarding how remote working can impact people differently, depending on gender, with care burdens and reduced visibility of remote workers having potentially higher levels of negative impacts for women in the

workplace. This could be particularly significant if remote working arrangements are availed of unequally on a gendered basis. These are matters which will require careful consideration in the implementation and review over time of new remote working practices.

6.5. The Environment/Climate Impact

Increased remote work adoption has the potential to reduce the congestion on roads. The latest Census data (2016) showed that the number of people commuting to work was growing strongly, up by 11 percent on the previous Census. The data also showed that the number of people commuting by car had risen by 8 percent. A sustained reduction of commuters and commuting time will, over time, bring a reduction in transport carbon emissions. Depending on patterns of remote working, such savings could, however, be offset in the near term by increased emissions from buildings, in particular domestic dwellings. Previous work in this area indicated that, for each new full-time remote worker, estimated average daily transport-related emissions savings of approximately 2.6-2.9kg CO₂, depending on petrol/diesel fuel mix, could be achieved.

6.6. Rural Communities

In recent decades, rural regions have faced various challenges such as higher population decline and ageing than cities, fuelling urban-rural divides. Remote working provides new opportunities for regions outside of the cities to mitigate or reverse these structural trends by attracting new residents, through more affordable housing, lower costs of living and better environmental amenities, to boost economic activities and revitalise communities.

Increased remote work adoption can help to enable balanced regional development and it could help to revitalise villages and towns across Ireland. Remote work can provide people with the opportunity to stay within their localities whilst pursuing their careers instead of moving or spending their workday elsewhere. Remote work can also facilitate workers to move to less congested urban and rural locations, again supporting balanced regional development.

However, it could result in challenges for cities as increasingly workers may choose to work from other regional and rural locations.

6.7. Whether there is a significant policy change in an economic market, including consumer and competition impacts

There are no impacts on market competition.

6.8. The rights of citizens

The Right to request remote work would positively impact the rights of citizens. It would give statutory rights to request remote work arrangements for those citizens in employment who are not currently entitled to have a request considered in their workplace.

6.9. Compliance burden

The administration of the right to request remote work will impose administrative costs on employers (that currently do not have remote work policies in place) to ensure they comply with the legislation. The Department has endeavoured to mitigate these potential costs. The legislation will provide for the development of Codes of Practice to provide guidance to employers, employees and their representatives on the general principles which apply in the operation of remote working and to aid with the implementation of the new legislation. Information will also be provided in the form of templates for Remote Work Policies to assist employers develop their own Policy and to help them identify the types of information and procedures that should be outlined in the Policy.

6.10 North-South and East-West Relations

There are no impacts on North-South and East-West relations.