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An Comhchoiste um Fhiontar, Trádáil agus Fostaíocht
Tuarascáil maidir le Grinnscrúdú Mionsonraithe ar an mBille um
Obair sa Bhaile (Covid-19), 2020 [Bille Comhaltaí Príobháideacha]

Meitheamh 2022

Joint Committee on Enterprise, Trade and Employment
Report on Detailed Scrutiny of the Working from Home
(Covid-19) Bill, 2020 [Private Members' Bill]

June 2022



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[33/ETE 6]

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Réamhrá an Chathaoirligh/Chair's Foreword



The Working from Home (Covid-19) Bill, 2020, a Private Members' Bill sponsored by Deputy Alan Kelly, seeks to introduce the 'right to disconnect' in Irish law, update the regulatory framework to address issues arising from employees working from home and widen the access of the working from home expense payment.

The beginning of the pandemic witnessed a large, unplanned, and unprecedented number of employees beginning to work from home on a full-time basis. This challenge was reduced by modern day technological improvements in the workplace. As boundaries are blurred between work and life, workers have found it hard to switch off, mainly due to the removal of the commute to a physical office location as the time and space to move into work mode is no longer there.

The Bill's sponsors expressed their intent to protect the rights of the large numbers of workers who are now working from home. They are proposing two new protections for workers working from home. The first is giving all workers the right to switch off. This is a fundamental and very important protection that ensures workers are not being put under pressure to work all hours.

The Bill requires employers to inform employees what their policy is in relation to out-of-hours communication and gives protection to employees from being punished for failing to respond to emails or other communications out of hours. We would not be the first country in Europe to do something in this space, as France, Italy, Spain and Belgium have all passed legislation to tackle this issue. Ireland is also one of the few EU countries without any modern protection in employment law for remote working.

The second key protection which the Bill offers is ensuring workers have a workstation in their home which is suitable for their working needs and that the cost

of running the office is not being transferred from employers to workers. The Bill requires that employers pay a fixed tax-free amount to cover the costs of working from home, such as higher heating, electricity and broadband bills.

The Joint Committee is aware that the Government has indicated its intention to enact its own legislation addressing the Right to Request Remote Work. When that legislation proceeds, the Joint Committee requests that the key issues raised in this report and the conclusions reached during the detailed scrutiny process are taken on board by the Government and implemented.

On behalf of the Joint Committee, I wish to thank all those who provided submissions and assisted the Joint Committee in their analysis of the Bill. I wish to express particular thanks to the Oireachtas Library & Research Service for the preparation of its briefing paper which was invaluable to the Joint Committee in its consideration of the Bill. I would also like to thank the Secretariat for its work on this report and all those who assisted the Joint Committee with its consideration of the Bill.

While the Joint Committee undertook scrutiny of the legislation, under Standing Orders, the report will now be considered by the Select Committee on Enterprise, Trade and Employment and Taoiseach which will make the decision as to whether to recommend that the Bill should or should not proceed to Committee Stage.



Deputy Maurice Quinlivan, T.D

Cathairleach

Recommendations

1. The Committee recommends the need for a 'right to disconnect' to be delivered by way of legislation, and for access to the WRC where issues arise.
2. The Committee recommends the need for a legal right to request remote working, and for that right to be considered and recourse to the WRC where it is refused.
3. The Committee notes failure to follow a code prepared under s20(1)s of the WRC Act 2015 is not an offence and therefore does not have the same impact or convey the same message to employers and employees compared with a right set down in law.
4. The Committee recommends changes to legislation must be introduced so that employment contracts for new and existing workers are updated to ensure, that where appropriate, out of hours communications policy of the workplace, are set out.
5. The Committee recommends as remote and hybrid home arrangements are now a sizable and growing feature of employment in Ireland, there should be a review of all employment and health and safety legislation to ensure it is fit for purpose.
6. The Committee recommends reforms be introduced to remote workers, tax relief to reflect, in the case of remote work, that the costs of operating an office have been transferred in part or in full, from employers to employees.

Introduction

The Working from Home (Covid-19) Bill 2020 was introduced to the Dáil on 12 November 2020 and completed Second Stage on 18 November 2020. The Bill was not opposed by Government and passed without a formal vote.

The purpose of the Bill is to provide for the following three issues:

- The ‘right to disconnect’ in Irish law;
- An update of the regulatory framework, as set out in the Safety, Health and Welfare at Work Act 2005, to address the issues arising from employees working from home; and
- A widening of access to the discretionary working from home expense allowance of up to €3.20 per day without deducting PAYE, PRSI or USC that is permitted by the Revenue Commissioners.

The Department of Enterprise, Trade and Employment’s Explanatory Memo noted one significant consequence of the Covid-19 pandemic. This was the sudden, unplanned, and large increase in the number of employees temporarily working from home on a regular basis from 200,000 to 700,000. Increased use of technology in the workplace has made it easier for employees to access work-related communications at all hours of the day and night. This has led to a blurring of the distinction between working time and rest from work.

On 3 February 2021, the Select Committee on Enterprise, Trade and Employment agreed to undertake Detailed Scrutiny of the Bill and invited stakeholders to make written submissions on the General Scheme. Submissions were received from: Ibec, ICTU and ISME.

General Scheme

Section 1 seeks to amend the Terms of Employment (Information) Act 1994 by inserting a new paragraph into section 3 of the Act. An employer shall be required, within 2 months of an employee commencing work, to furnish a statement in writing containing particulars of the terms of employment. To satisfy this new requirement the employer would need to:

1. define an electronic communications policy for employees whose work involves the use of electronic communications, and then
2. provide to the relevant employee particulars of that policy, covering the use by employees of electronic devices to send or receive work-related communications outside the hours of work (including during periods of overtime).

These particulars would form part of the employment agreement. It is noteworthy that this provision would only apply to **new** employees. However, [section 3\(6\) of the 1994 Act](#) does give the Minister a general power to make orders requiring employers to give employees a written statement as prescribed in the order.

Section 2 inserts a new section 17A into the Organisation of the Working Time Act 1997. This new section provides that an employer shall not require an employee to access any work-related electronic communications during the period between the employees' normal, or regular or notified finishing time of work and his or her next starting time of work. It is stated, for the avoidance of doubt, that any time spent by an employee in accessing, considering, and responding to work-related electronic communications is 'working time' within the meaning of and for the purposes of the Act of 1997.

The Bill also inserts a reference to the new section 17A into section 5 of the 1997 Act. The effect of this is that the employer is not obliged to comply with the section where due to exceptional circumstances or an emergency, the consequences of which could not be avoided despite the exercise of all due care, or due otherwise to unusual and unforeseeable circumstances beyond the employer's control, it would not be practicable for the employer to comply with the section.

Section 3 applies to an employee who normally, for the purposes of his or her work makes use of a workstation, and to his or her employer, during any period when, due to Covid-19 measures, the employee is not working wholly at his or her normal place of work and is instead working wholly or partly from home.

Where **section 3** applies, the employer's duties under section 8(1)(c) of the Safety, Health and Welfare at Work Act 2005, and under any regulations that give fuller effect to that paragraph, are deemed to be complied with if–

- in the case of an employee who does not have one, the employer provides or provides for a workstation at the employee's home that is adequate and appropriate in relation to the work of the employee concerned, and
- the employer gives to the employee a tax-free flat rate payment, of such amount as may be approved by the Revenue Commissioners, to meet the additional expenses incurred by the employee in working from home.

However, if **section 3** applies and these two conditions are not satisfied, the employer's duties under the legislation and regulations continue in full force and effect. The fact that an employee is temporarily working wholly or partly from home due to Covid-19 measures will not of itself be sufficient grounds for considering that it is not reasonably practicable to ensure compliance with statutory duties.

Finally, **section 3(2)** applies to employment in the public service. However, it only applies if its application would result in less cost being incurred by the employer than if the employer had instead to ensure compliance with his or her duties under section 8(1)(c) of the 2005 Act and associated regulations.

Section 4 provides for the short title of the Bill when enacted.

Relevant Legislation

- The Organisation of Working Time Act, 1997
The 1997 Act provides that employees cannot work over 48 hours in a week except in exceptional circumstances. It requires employers to record hours worked, ensure employees receive adequate and specified breaks as well as daily/weekly rest. It is essential under this Act that employers ensure staff receive statutory entitlements to leave and public holidays. Duty to ensure compliance rests with the employer. An employee is required under the Act to comply with any mechanism to record working hours.
- The Safety, Health and Welfare Act, 2005
The 2005 Act sets out the responsibilities of employers, the self-employed, employees and other parties in relation to safety and health at work. It details the role and function of the HSA. It provides a range of enforcement measures and penalties that may be applied for a breach of occupational safety and health. Employers' and employees' duties are provided for within the Act to safeguard health and safety at work. It prevents employees' from working excessive hours and requires recording of working hours.
- Employment (Miscellaneous Provisions) Act, 2018
Employees must receive a written statement of core terms of employment within 5 days. One core term must relate to normal working hours.
- Terms of Employment (Information) Acts 1994-2014
This Act provides that employees must receive a written statement their remaining terms of employment within 2 months of starting employment. This statement must include details of terms or conditions relating to hours of work (including overtime) and details of any collective agreements that may affect the employee's term of employment.

Policy Context

The issue of an employee's right to switch-off fits within the general duties of employers to ensure a safe and healthy workplace. It is generally accepted that duties to protect the health and safety of employees would extend to all workplaces, even where an employee is working from home.

At the beginning of the Covid-19 pandemic, guidelines underpinning restrictions placed an onus on employers to allow or instruct employees to work from home. It is accepted that an employee should have access to an appropriate and safe working environment and the general duty to provide a safe and healthy workplace would still require employers to provide practical support and assistance to ensure that employees have the capability to work remotely and safely.

The 2005 Act imposes a general duty on every employer to “ensure so far as is reasonably practicable, the health and welfare at work of his or her employee”. The Covid-19 pandemic requirements may have affected what is reasonably practicable at this time.

The duty to identify hazards and conduct a risk assessment is mandatory under the 2005 Act. During the pandemic, this may have been more difficult for employers to achieve. There are provisions in the 2005 Act that state a failure to discharge a duty set out within would amount to a criminal offence.

The Health and Safety Authority guidance on working from home for employers and employees explains that when an employee is working off-premises, the burden of protecting the health, safety and welfare of the employee is shared. Employees are expected to identify a suitable workspace. Employers are expected to identify what equipment/resources employees need to work safely from home and to agree these with an employee. An assessment of risks faced by employees should be carried out also. Health and Safety Authority guidance raises concerns that proposals to dilute occupational safety and health legislation may compromise legislative protections in place.

The Department of Enterprise, Trade and Employment

Second Stage Debate

During the Second Stage debate, the Tánaiste and Minister for Enterprise, Trade and Employment, Mr Leo Varadkar, T.D., made the following points:

- a long-acknowledged potential downside to the use of mobile and other electronic communications devices is the expectation that we are always switched on, always contactable and always available. That is not how it should be.
- it is important to consider the value that many workers place on workplace flexibility. Electronic communications play a central role in enabling that flexibility. Any new arrangements would need to consider the specific needs of the company and the personal needs of the staff member, both of which are important.
- at the company level, new business models and global value chains with just-in-time production require increased flexibility. That flexibility for businesses and workers is important and we need to ensure that we safeguard it, but we also need to ensure that it is not abused.
- the challenge perhaps lies in differentiating between the misuse and abuse of digital tools and legitimate working arrangements that permit connections outside of standard working hours.
- concerns that the proposed amendments could disapply aspects of the occupational safety and health legislation, may have the effect of compromising our robust legislative protections and could compromise the employer-employee relationship. It could diminish workers' rights in some circumstances and create new inequality between public and private sector workers, which would be undesirable.

The Tánaiste explained that the Government was actively examining relevant legislation and strategies in place to determine what deficiencies would need to be rectified to implement some form of right to disconnect.

Minister of State at the Department of Enterprise, Trade and Employment, Mr Damien English, T.D., made the following statement in relation to working from home:

“there is no doubt that working from home or working remotely, even in non-Covid times, when properly planned can provide significant benefits such as a better work-life balance for everyone, reduced daily commutes and less negative impacts on the environment through reductions in traffic and air pollution. It also has great benefits for our regions and local economies, including our towns and villages. Our communities are strengthened by having people at home more often and not having to do long daily commutes. People can spend three or four hours in their cars going to and from work. Everyone benefits from having people working closer to their home, whether they are remote working in their house or working in a hub that is provided privately or through the State.”

Minister of State at the Department of Enterprise, Trade and Employment, Mr Robert Troy, T.D., stated:

“traditional nine to five was gradually giving way to more flexible and fluid ways of working. For many employees with customers and colleagues based in locations across the globe and in multiple time zones, working after 5.30 p.m. has become necessary as part of their day-to-day work. Minister Troy is conscious that restrictions to curb the spread of Covid-19 mean it is mandatory for many people to work remotely who otherwise would not be doing so. This underscores the need for a coherent strategy for remote working. The pressures of needing working space in the home, working, and caring for children and limited social contact all demonstrate the need to continue to roll-out more working hubs in every county and provincial town.”

Remote Working Strategy

On 15 January 2021, The Tánaiste and Minister for Enterprise, Trade and Employment Mr Leo Varadkar T.D., launched '*Making Remote Work – National Remote Work Strategy*,' a comprehensive framework to support the implementation of remote working in Ireland.

The main actions set out in the strategy are -

- mandating that home and remote work should be the norm for 20 percent of public sector employment.
- reviewing the treatment of remote working for the purposes of tax and expenditure in the next Budget.
- mapping and investing in a network of remote working hubs across Ireland.
- legislating for the right to request remote working.
- developing a code of practice for the right to disconnect.
- doing what we can to accelerate the provision of high-speed broadband to all parts of Ireland.

Submissions on the remote working strategy differed on whether new, specific legislation on the right to disconnect was required. It was highlighted that the over-regulation of remote working could undermine its flexibility, one of its fundamental benefits. Concerns were also raised in terms of how such legislation would affect employers who operate across time zones and so accommodate different schedules.

The WRC Code of Practice

Section 20(2) of the Workplace Relations Act, 2015 provides, at the request of the Minister for Enterprise, Trade and Employment, for the preparation of draft codes of practice by the Workplace Relations Commission (WRC) for submission to the Minister.

Codes of Practice are written guidelines, agreed in a consultative process, setting out guidance and best practice for employers and employees with respect to compliance with employment legislation. In accordance with the provisions of section 20(4) of the Workplace Relations Act, 2015, the WRC carried out a public consultation and engaged with representatives of employers and employees, including IBEC and ICTU.

The Workplace Relations Commission (WRC) prepared a such a Code of Practice to give guidance on best practice to organisations and their employees on the Right to Disconnect; this came into operation on 1 April 2021.

Status of Code of Practice

While failure to follow a Code prepared under section 20(1)(a) of the Workplace Relations Act, 2015 is not an offence, section 20(9) provides that in any proceedings before a Court, the Labour Court or the WRC, a Code of Practice shall be admissible in evidence and any provision of the Code which appears to the Court, body or officer concerned to be relevant to any question arising in the proceedings shall be considered in determining that question.

Overview

The Right to Disconnect has three main elements:

- The right of an employee to not routinely perform work outside normal working hours.
- The right not to be penalised for refusing to attend to work matters outside of normal working hours.
- The duty to respect another person's right to disconnect (e.g., by not routinely emailing or calling outside normal working hours).

Main Provisions

Among the provisions of the Code of Practice are the following:

- Employers should engage proactively with employees to develop a Right to Disconnect Policy that takes account of the needs of the business and its workforce. The Policy should take account of health and safety legislation, the employee's terms, and conditions of employment as they relate to working time and the statutory obligations on both employers and employees, with particular emphasis on full compliance.
- The Policy, which should be communicated clearly, should state that it is about supporting the employee's Right to Disconnect, not about restrictions and blockages to communication models while recognising that *occasionally* legitimate reasons arise when it is necessary to contact staff outside of normal working hours.
- Where appropriate, the Policy should recognise that certain businesses and roles within those businesses do not always operate on a standard hour's basis. They should operate in a flexible manner, responsive to customer needs, and as agreed in the employee's terms of employment. In this regard, the Policy should recognise that such flexibility may be beneficial

also to employees and a Policy should find the appropriate balance in terms of employer and employee outcomes.

- The Policy should be equality proofed to avoid unintended negative consequences for any employees (e.g., those with caring responsibilities).
- While there is an expectation that staff disconnect from work emails, messages, etc., outside of their normal working hours and during annual leave, the Policy should allow for *occasional* legitimate situations when it is necessary to contact staff outside of normal working hours, including (for example) ascertaining availability for rosters, to fill in at short notice, for a sick colleague, where unforeseeable circumstances may arise, where an emergency may arise, and/or where business and operational reasons require contact out of normal working hours.
- The Policy should recognise that business and operational needs may dictate that there will be situations which clearly require some out-of-hours working by some employees depending on the service being provided, the employee's role, the needs of customers/clients and the unique requirement of critical services and as agreed in an employee's terms of employment. Where relevant to the business, a right to disconnect policy should recognise that working across different time zones and international travel may result in colleagues connecting at different times outside of normal working hours to complete their objectives. This does not mean that the recipient needs to respond in the same time period.
- Clear guidance around disconnecting and expectations for responding to digital communications globally should be provided to all employees. The Policy should recognise that many employees choose and may request to work in a more flexible manner given their work life balance needs, which results in employees proactively requesting to work outside normal working hours. However, even in circumstances where an employee is working flexibly, the right to be able to maintain clear boundaries between work and

leisure should not be compromised. Where remote or flexible working is in place, employers should consider if their usual method of monitoring specified working hours is suitable for remote and flexible working. In this context, a time management system to record working and attendance is advisable.

- Tone and sense of urgency in written communications should be proportionate, particularly those sent outside of normal working hours – texts or emails sent outside of normal working hours may be easily misinterpreted by the recipient as to its urgency. Where appropriate, use of measures such as email footers and pop-up messages to remind employees, and customers, that there is no requirement to reply to emails out of hours and an answer should not be expected e.g., putting an ‘Out of Office’ on when finishing work and adding a footer to an email signature indicating the sender’s normal hours of work. The sender’s message is equally important, and, when not urgent, the email should state that an immediate response is not expected, or the sender should utilise the “delay send” options and set it to a specified time on the next closest working day. The Policy should stress that emergency communications should only be sent during emergency circumstances – such communications should be the exception, not the norm.
- If situations arise where an employee feels that their Right to Disconnect is not being respected, these should be resolved in the first instance informally, or alternatively, through more formal procedures set-out in the Policy.

Key issues

Key issue 1: The Right to Disconnect

In its submission on this Bill, ICTU noted that when the occasional intrusion on a worker's personal time becomes the norm, it becomes a health and safety concern. Much of the technology that enables us to work from anywhere, makes us reachable at any time. EU legislation regulating working hours and rest periods are somewhat dated and have not kept pace with new technologies or modern working practices.

The WRC code was developed to complement existing legislation regulating working hours. It takes into consideration instances where it may be necessary to contact staff outside office hours. It recognises that flexible working is highly prized by workers and may be required to meet the operational needs of a business, as set out in an employee's contract of employment. It emphasises that while non-standard working hours may suit different employees and different organizations, the right to disconnect from work outside of agreed hours is universal to all.

ICTU recognises a one-size-fits-all approach is unworkable across all businesses and roles. It supports enshrining the right to disconnect in legislation, giving workers a free-standing right to disconnect, as it is the first purpose of this Bill.

ISME's submission opined there was a lack of clarity and flexibility in the Bill. This lack of clarity heightens concerns around the unintended and undesirable consequences for both an employee and employer.

ISME raised concerns that the Bill does not address what occurs if an employee varies working hours (to start late or early to facilitate a school run) or if an employer needs to contact an employee for staffing or rostering reasons. ISME considers that the Organisation of the Working Time Act 1997 is ambiguous regarding contacting employees in an emergency. They believe ensuring employment contracts cover communications outside of work is challenging for employers.

ISME is also concerned with the amendment of Sec 17A. (2) of the Organisation of the Working Time Act as it represents a significant demand upon an employer to ensure adherence to rest periods. It is unclear how an employer would manage an

employee working outside of their own hours without agreement or discussion. The only way for an employer to manage this is to apply strict adherence to set working hours which in turn can prove inflexible to the employee.

Ibec believes the insertion of section 1 and 2 to the Bill providing for a legal 'right to disconnect' is unnecessary and the right is already provided for in the Organisation of the Working Time Act 1997. It also believes the WRC code of practice supports legislation in the area comprehensively as the code is now admissible in Workplace relations proceedings, Labour Court proceedings and in civil courts.

Ibec believes that mandatory implementation of a digital policy is already provided for in the Code and is therefore an unnecessary amendment to the Bill.

Key issue 2: Updating the regulatory framework

Under the Safety, Health and Welfare Act, all employers have a legal duty of care to their staff and must provide a working environment that is without risk to workers' physical and mental health, as far as is reasonably practicable. The duty of care extends to locations beyond the employer's premises including the home when remote working.

ICTU believes there is a pressing need for Government to commit to a review of employment law, including occupational safety and health legislation, to ensure it is fit for the purpose of remote working in the post-pandemic work environment.

Workers' rights and protections must be preserved when remote working and they need to keep pace with changes to ways of working, ensuring gaps in the law are closed.

The Bill proposes to temporarily suspend provisions of the Safety, Health and Welfare at Work Act, namely the duty on employers under the Act to manage ergonomic risks in relation to work activities that involve working at a computer workstation. This freeze on statutory duties will apply where the employer provides

for a workstation at the employee's home and where the employer pays the tax-free daily allowance to cover the business costs from working from home. The amendment is time limited for the duration of the Covid-19 pandemic while employees work from home and it allows a distinction between the public and private sectors.

ICTU does not support an amendment that has the effect of diminishing workers' rights, even temporarily, and diminishing the underlying principle of the Act that all workers should enjoy the same basic entitlement to a safe and healthy workplace. ICTU supports the new statutory right to request remote work. They agree that the employer will be required to conduct an Initial Risk Evaluation and a Risk Prevention Plan in the proposed remote working location. ICTU recommends that employers also be required to complete the risk assessment of the home environment from time to time.

Ibec is concerned with Section 3 of the Bill which proposes a derogation from an employer's duty of care under Section 8 of the Safety Health and Welfare at Work Act. There is a provision of equipment and a contribution to work from home expenses which Ibec is also concerned about. It agrees that the interpretation of existing obligations on employers (regarding risk assessments for remote and hybrid workers) requires review. In Ibec's view, the proposed derogation of an employer's duty of care to provide a safe place of work, even on a temporary basis, is not the appropriate approach. Ibec proposes an alternative, this being an urgent review of HSA guidance considering technological advancements which have occurred over the last 14 years.

ISME sees the proposed Bill as being confined to Covid-19 related matters such as employers providing home workstations and paying revenue approved payments covering employees' expenses.

ISME believe clarity is needed should it become a statutory duty for employers to pay allowances when people are working temporarily at home. A designated workspace provided by the employer can be reasonably assumed to be safe. In a home environment, it may be unreasonable to assume the same burden of

responsibility applies to the employer. ISME believes the Bill needs to clarify employers' liability in relation to home working. ISME states it would be unreasonable to expect employers to be liable to the same extent for workspaces in the employee's home as they would be for workstations on work premises.

During Second Stage, the Tánaiste and Minister for Enterprise, Trade and Employment, Mr Leo Varadkar, T.D., expressed concern that proposals to dilute occupational health and safety legislation may compromise legislative protections currently in place, which could directly affect the employer-employee relationship. He noted this could diminish workers' rights in some circumstances and create new inequality between public and private sector workers.

Minister English expressed concern at Second Stage with the distinction drawn in the Bill between public sector and non-public sector employees and their employers. Health and safety legislation which governs health and safety standards in workplaces must be consistent across all employers, regardless of their status. Minister English stressed the importance of not differentiating between the public and private sectors in this regard.

Key issue 3: The Work from Home expense allowance

The final purpose of this Bill is to widen access to payment of this allowance to offset expenses incurred by employees in the performance of their duties when working remotely or from home.

The Revenue Commissioners offer a concession to remote workers which offsets broadband, electricity and heating costs. Employers are permitted to pay employees up to €3.20 per day without deducting PAYE, PRSI or USC. Payment remains discretionary on the part of the employer. An employee can also make claims directly from Revenue for actual costs incurred because of working from home. These claims may only be made at the end of the tax year.

An employee is entitled to claim:

- Electricity and heat- 10% of the cost of electricity and heat apportioned on the basis of the number of days working from home over the year;
- Broadband- 30% of the cost of broadband apportioned on the basis of the number of days worked from home during the year.

That Minister has indicated that under the Remote Working Strategy, these reliefs will be reviewed in the context of the next Budget. Payment of an allowance by an employer remains discretionary rather than being a contractual or statutory right.

ICTU supports working from home expenses paid to support the operational cost of doing business, either in the form of higher home utility bills or the daily desk charge at a digital hub. The current relief system is, however, inadequate and can cause hardship for some workers as it is not paid in real time. ICTU welcomes proposals to review the suitability of this relief.

In contrast in ICTU's submission, Ibec notes employers are already significantly burdened with additional costs in relation to the adaptation of workplaces, provision of remote and hybrid working and restructuring that the Covid-19 pandemic has presented. Legislation proposed for further costs is disproportionate and unnecessary in circumstances where it is already provided for in the Taxes Consolidation Act of 1997. The Revenue Commissioners' guidance on e-working

and tax and its consideration of the Remote Working strategy includes a commitment to review the treatment of remote working for the purposes of tax as an expenditure in the next Budget.

ISME highlights the issue of admissibility of expenses for employees who ordinarily work from home or who have a contract of employment which specifies their home address as a working place. ISME believes the Revenue Commissioners' guidance document does not provide clear guidance on this but does however state the office holder's or employee's home would not be regarded as the normal place of work unless there is an objective requirement that the duties of the office or employment must be performed at home.

APPENDIX 1- Membership of the Joint Committee

Deputies

Maurice Quinlivan (SF)	Cathoirleach
Richard Bruton (FG)	
Francis Noel Duffy (GP)	
Joe Flaherty (FF)	
Paul Murphy (S-PBP)	
James O'Connor (FF)	
Louise O'Reilly (SF)	
Matt Shanahan (Ind)	
David Stanton (FG)	

Senators

Garret Ahearn (FG)
Ollie Crowe (FF)
Róisín Garvey (GP)
Paul Gavan (SF)
Marie Sherlock (Lab)

Notes:

1. Deputies appointed to the Committee by order of the Dáil on 8 September 2020.
2. Deputy Maurice Quinlivan was appointed as Chair on 8 September 2020.
3. Senators appointed to the Committee by order of the Seanad on 25 September 2020.
4. Deputy James 'O Connor replaced Deputy Niamh Smyth on 26 November 2020.

APPENDIX 2-Terms of Reference of The Joint Committee

a) Scope and Context of Activities of Committees (*derived from Standing Orders – DSO 84, SSO 70*)

- 1) The Joint Committee may only consider such matters, engage in such activities, exercise such powers and discharge such functions as are specifically authorised under its orders of reference and under Standing Orders;
- 2) Such matters, activities, powers and functions shall be relevant to, and shall arise only in the context of, the preparation of a report to the Dáil/and or Seanad;
- 3) The Joint Committee shall not consider any matter which is being considered, or of which notice has been given of a proposal to consider, by the Committee of Public Accounts pursuant to Standing Order 186 and/or the Comptroller and Auditor General (Amendment) Act 1993;
- 4) The Joint Committee shall not consider any matter which is being considered, or of which notice has been given of a proposal to consider, by the Joint Committee on Public Petitions in the exercise of its functions under Standing Order 111A; and

The Joint Committee shall refrain from inquiring into in public session or publishing confidential information regarding any matter if so requested, for stated reasons given in writing, by—

- (i) a member of the Government or a Minister of State, or
- (ii) the principal officeholder of a body under the aegis of a Department or which is partly or wholly funded by the State or established or appointed by a member of the Government or by the Oireachtas:

Provided that the Chairman may appeal any such request made to the Ceann Comhairle, whose decision shall be final.

- 5) It shall be an instruction to all Select Committees to which Bills are referred that they shall ensure that not more than two Select Committees shall meet to consider a Bill on any given day, unless the Dáil, after due notice given by the Chairman of the Select Committee, waives this instruction on motion made by the Taoiseach pursuant to Standing Order 28. The Chairmen of Select Committees shall have responsibility for compliance with this instruction.

b) Functions of Departmental Committees (*derived from Standing Orders – DSO 84A and SSO 70A*)

- (1) The Select Committee shall consider and report to the Dáil on-
 - (a) such aspects of the expenditure, administration and policy of a Government Department or Departments and associated public bodies as the Committee may select, and
 - (b) European Union matters within the remit of the relevant Department or Departments.
- (2) The Select Committee may be joined with a Select Committee appointed by Seanad Éireann for the purposes of the functions set out in this Standing Order, other than at paragraph (3), and to report thereon to both Houses of the Oireachtas.

- (3) Without prejudice to the generality of paragraph (1), the Select Committee shall consider, in respect of the relevant Department or Departments, such—
- (a) Bills,
 - (b) proposals contained in any motion, including any motion within the meaning of Standing Order 187
 - (c) Estimates for Public Services, and
 - (d) other matters as shall be referred to the Select Committee by the Dáil, and
 - (e) Annual Output Statements including performance, efficiency, and effectiveness in the use of public moneys, and
 - (f) such Value for Money and Policy Reviews as the Select Committee may select.
- (4) Without prejudice to the generality of paragraph (1), the Joint Committee may consider the following matters in respect of the relevant Department or Departments and associated public bodies:
- (a) matters of policy and governance for which the Minister is officially responsible,
 - (b) public affairs administered by The Department,
 - (c) policy issues arising from Value for Money and Policy Reviews conducted or commissioned by the Department,
 - (d) Government policy and governance in respect of bodies under the aegis of the Department,
 - (e) policy and governance issues concerning bodies which are partly or wholly funded by the State or which are established or appointed by a member of the Government or the Oireachtas,
 - (f) the general scheme or draft heads of any Bill
 - (g) any post-enactment report laid before either House or both Houses by a member of the Government or
Minister of State on any Bill enacted by the Houses of the Oireachtas,
 - (h) statutory instruments, including those laid or laid in draft before either House or both Houses and those made under the European Communities Acts 1972 to 2009,
 - (i) strategy statements laid before either or both Houses of the Oireachtas pursuant to the Public Service Management Act 1997,
 - (j) annual reports or annual reports and accounts, required by law, and laid before either or both Houses of the Oireachtas, of the Department or bodies referred to in subparagraphs (d) and (e) and the overall performance and operational results, statements of strategy and corporate plans of such bodies, and
 - (k) such other matters as may be referred to it by the Dáil from time to time.
- (5) Without prejudice to the generality of paragraph (1), the Joint Committee shall consider, in respect of the relevant Department or Departments—
- (a) EU draft legislative acts standing referred to the Select Committee under Standing Order 114, including the compliance of such acts with the principle of subsidiarity,

- (b) other proposals for EU legislation and related policy issues, including programmes and guidelines prepared by the European Commission as a basis of possible legislative action,
 - (c) non-legislative documents published by any EU institution in relation to EU policy matters, and
 - (d) matters listed for consideration on the agenda for meetings of the relevant EU Council of Ministers and the outcome of such meetings.
- (6) Where the Select Committee has been joined with a Select Committee appointed by Seanad Éireann, the Chairman of the Dáil Select Committee shall also be the Chairman of the Joint Committee.
- (7) The following may attend meetings of the Select or Joint Committee, for the purposes of the functions set out in paragraph (5) and may take part in proceedings without having a right to vote or to move motions and amendments:
- (a) members of the European Parliament elected from constituencies in Ireland, including Northern Ireland,
 - (b) members of the Irish delegation to the Parliamentary Assembly of the Council of Europe, and
 - (c) at the invitation of the Committee, other members of the European Parliament.
- (8) The Joint Committee may, in respect of any Ombudsman charged with oversight of public services within the policy remit of the relevant Department or Departments, consider—
- (a) such motions relating to the appointment of an Ombudsman as may be referred to the Committee, and
 - (b) such Ombudsman reports laid before either or both Houses of the Oireachtas as the Committee may select: Provided that the provisions of Standing Order 111F apply where the Select Committee has not considered the Ombudsman report, or a portion or portions thereof, within two months (excluding Christmas, Easter or summer recess periods) of the report being laid before either or both Houses of the Oireachtas.

APPENDIX 3- References

- The WRC Code of Practice

https://www.workplacerelations.ie/en/what_you_should_know/codes_practice/code-of-practice-for-employers-and-employees-on-the-right-to-disconnect.pdf

- DETE remote work strategy 2021- 'Making remote work – National Remote Work Strategy'

<https://www.gov.ie/en/publication/51f84-making-remote-work-national-remote-work-strategy/#>

- HSA Guidance on Working from Home for employers and employees

https://www.hsa.ie/eng/topics/remote_working/homeworking_guidance_9mar21_v8.pdf

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