
Right to Request Remote Working Bill 2022



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On 25 January 2022, the Government published the Right to Request Remote Work Bill 2021. The Bill provides employees with a statutory right to request a remote working arrangement. It further requires employers to have a Remote Working Policy in line with a proposed Code of Practice.

Submitting a Request

Employees are entitled to submit a request to work remotely in writing to their employer provided they have been employed for a minimum period of six months. Where making a request, the request must include the following details:

1. The proposed working location
2. The proposed start date for arrangements
3. The proposed number of days to be worked remotely, along with hours
4. Any previous requests made by the employee for remote working, and
5. A self-assessment of the suitability of the proposed remote working location, including a plan for addressing concerns like confidentiality, connectivity and data protection.

Employers may write to the employee seeking further reasonable information or evidence relating to the request and may request a meeting with the employee to discuss their proposal, allowing the employer an opportunity to consult with the employee when considering their request.

Response to the Proposals

Following consultation with the employee, employers must return a decision in writing indicating whether the request for remote working has been wholly approved, partially approved or denied at the very least within 12 weeks from receipt of the request.

Declining Remote Working Requests

Employers may decline requests after giving them due consideration, once satisfied that the proposal is not suitable on business grounds.

“Business grounds” are wide ranging and include but are not limited to:

1. The nature of work not allowing for the work to be done remotely
2. The inability to reorganise work among existing staff
3. Potential negative impact on quality of business product/service
4. Potential negative impact on employee performance, or performance of other employees
5. Burden of additional costs after all financial and other costs that would be entailed have been taken into account
6. Concerns for protection of intellectual property or of business confidentiality
7. Concerns for suitability of proposed workplace on health and safety grounds
8. Concerns for suitability of proposed workplace on data protection grounds

9. Concerns for suitability of proposed workplace on internet connectivity grounds
10. Concerns for commute between proposed remote working location and employer’s on-site location
11. Proposed remote working arrangement conflicts with provisions of an applicable collective agreement
12. Planned structure changes rendering any of the above applicable
13. The employee is the subject of an ongoing or recently concluded formal disciplinary process.

Appeal

Employees who make remote working requests have a right to lodge an “appeal” in the form of a complaint to the Workplace Relations Commission for the following reasons:

1. Where an employer has failed to respond to a request
2. Where an employer has failed to provide any notice of grounds for refusal of a request
3. Where an employer has withdrawn a request but not in line with the legislation.

Employers are also prohibited from penalising employees for making remote working requests under the statute.

Analysis

Employers will need to have objective reasons for declining a request to remote working and will be required to respond in writing. Ideally employers should put in place a policy or a new clause in their contracts for remote working. Each policy or clause can be tailored to the specific needs of the organisation. Should you require any advice in relation to drafting a policy or clause, please contact CC Solicitors.

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Colleen Cleary has been recommended as a global leader in labour and employment law in Who’s Who Legal 2021 as an “excellent, focused and fair lawyer with an immaculate understanding of complex employment disputes” together with her fantastic team at CC Solicitors.

For more information see www.ccsolicitors.ie

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