



An Bille um Obair sa Bhaile (Covid-19), 2020
Working from Home (Covid-19) Bill 2020

Mar a tionscnaíodh

As initiated



AN BILLE UM OBAIR SA BHAILE (COVID-19), 2020
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2. Amendment of Organisation of Working Time Act 1997
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ACTS REFERRED TO

Organisation of Working Time Act 1997 (No. 20)

Public Service Pensions (Single Scheme and Other Provisions) Act 2012 (No. 37)

Safety, Health and Welfare at Work Act 2005 (No. 10)

Terms of Employment (Information) Act 1994 (No. 5)



AN BILLE UM OB AIR SA BHAILE (COVID-19), 2020
WORKING FROM HOME (COVID-19) BILL 2020

Bill

entitled

An Act to provide employees working remotely with a right to switch off from out of working hours work-related electronic communications, to disapply subject to conditions certain provisions of the Safety, Health and Welfare at Work Act 2005 in the case of certain employees working temporarily from home, and to provide for related matters. 5

Be it enacted by the Oireachtas as follows: 10

Amendment of Terms of Employment (Information) Act 1994

1. The Terms of Employment (Information) Act 1994 is amended in section 3(1) by the insertion of the following after paragraph (i):

“(ia) where the employee’s work involves the use of electronic communications (meaning email, text messages or other digital means of conveying data electronically), the policy of the employer regarding the use by employees of electronic devices to send or receive work-related communications outside the hours of work (including overtime) specified under paragraph (i).” 15

Amendment of Organisation of Working Time Act 1997 20

2. The Organisation of Working Time Act 1997 is amended—

- (a) in section 5 by the substitution of “16, 17, 17A or 18A” for “16, 17 or 18A”, and
(b) by the insertion, after section 17, of the following:

“Right to switch off

17A. (1) An employer shall not require an employee to access any work-related electronic communications during the period between— 25

- (a) the employee’s normal or regular finishing time of work as specified by the employee’s contract of employment or by an applicable employment regulation order, registered employment agreement or collective agreement, or 30
(b) where no normal or regular finishing time of work is so specified, or where the employee has been required to work additional hours

(within the meaning of section 17(2)), the finishing time of work notified to the employee under section 17,

and the employee's next starting time of work as so specified or notified.

- (2) For the avoidance of doubt, 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 this Act.”. 5

Application of Safety, Health and Welfare at Work Act 2005 to certain employees working temporarily from home 10

3. (1) Subject to *subsection (2)*, this section 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. 15
- (2) This section applies to an employee who is a public servant and to his or her employer if but only if its application would result in less cost being incurred by the employer than would be incurred if the employer were to ensure compliance with the statutory duties.
- (3) Where this section applies, the statutory duties are deemed to be complied with if— 20
- (a) 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
- (b) the employer gives to the employee free of deduction of tax a 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. 25
- (4) Where this section applies and the statutory duties are not deemed to be complied with by virtue of *subsection (3)*—
- (a) the statutory duties continue in full force and effect, and
- (b) the fact that the employee is temporarily working wholly or partly from home due to Covid-19 measures shall not of itself be grounds for considering it not to be reasonably practicable to ensure compliance with the statutory duties. 30
- (5) In this section—
- “Covid-19 measures” means measures required to be taken by an employer in order to comply with, or as a consequence of, Government policy to prevent, limit, minimise or slow the spread of infection of Covid-19; 35
- “public servant” has the meaning assigned to it by section 5 of the Public Service Pensions (Single Scheme and Other Provisions) Act 2012;
- “the statutory duties” means the duties of the employer under section 8(1)(c) of the Safety, Health and Welfare at Work Act 2005, and under any regulations to give full effect to that paragraph; 40

“workstation” has the meaning assigned to it by Regulation 70 of the Safety, Health and Welfare at Work (General Application) Regulations 2007 (S.I. 299 of 2007), and includes each component part.

Short title

4. This Act may be cited as the Working from Home (Covid-19) Act 2020. 5

An Bille um Obair sa Bhaile (Covid-19),
2020

BILLE

(mar a tionscnaíodh)

dá ngairtear

Acht do thabhairt ceart d'fhostaithe atá ag obair go cianda dícheangal ó chumarsáid leictreonach a bhaineann leis an obair lasmuigh d'uaireanta oibre, do dhífheidhmiú forálacha áirithe den Acht um Shábháilteacht, Sláinte agus Leas ag an Obair, 2005, faoi réir coinníollacha, i gcás fostaithe áirithe atá ag obair sa bhaile go sealadach, agus do dhéanamh socrú i dtaobh nithe gaolmhara.

*Na Teachtaí Alan Ó Ceallaigh, Breandán Ó Húilín,
Ged de Nais, Aodhán Ó Riordáin, Seán Ó Searlóg
agus Donncha Mac Gabhann a thug isteach,*

12 Samhain, 2020

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BILL

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*Introduced by Deputies Alan Kelly, Brendan Howlin,
Ged Nash, Aodhán Ó Riordáin, Seán Sherlock and
Duncan Smith,*

12th November, 2020

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