



Interact Law



Remote working legislation

A JOINT PUBLICATION BY
INTERACT LAW MEMBERS FROM
EUROPE, ASIA AND SOUTH &
CENTRAL AMERICA



Remote working as a standard?

To avoid the further spread of coronavirus employees across the global economy must work from home where possible. Clients that cover several jurisdictions need to know what the laws around home working are in these areas.

During the pandemic employers and their staff have had to adapt quickly to create safe working environments. Laws have evolved and previously unconsidered rules have had to be enforced.

I hope that this booklet will provide some answers to the questions below:

- 1 Do remote workers have the same rights as those working in the office?
- 2 Is there a right to, or can workers be forced to work remotely?
- 3 Should a remote workplace be registered?
- 4 What about a risk prevention protocol for remote workplaces?
- 5 Should there be terms for a remote employment contract?

This document gives a brief insight into global employment rules regarding remote working. Please don't hesitate to contact the expert in your country if you need to know more. If your jurisdiction is not covered (yet), we'll also be pleased to connect you with one of our contacts in the legal industry.

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LAW AND IMMIGRATION





Remote working legislation in 31 countries

EUROPE:

Denmark
England
France
Germany
Greece
Italy
Netherlands
Portugal
Scotland
Spain

AFRICA:

Nigeria

ASIA:

Hongkong

ASEAN:

Brunei
Cambodja
Indonesia
Laos PDR
Malaysia
Myanmar
Phillippines
Singapore
Thailand
Vietnam

SOUTH AMERICA:

Chile
Costa Rica
Dominican Republic
El Salvador
Guatamala
Honduras
Nicaragua
Brazil
Colombia

DENMARK



BY METTE ASMUSSEN

Do workers who work remotely have the same rights as those working at the official workplace?

All staff have the same rights in relation to applicable law and collective agreements, regardless of whether they work on site or remotely.

Is there a right to work remotely for workers? Can workers be forced to work remotely?

Remote working is voluntary unless regulated in the initial contract or by a subsequent mutual agreement. If remote working has not been a part of the initial agreement and the employer later notifies that the work must be performed remotely, it will be viewed as a significant change in working conditions. Workers must be notified and they have the right to reject the change. If rejected the notice can be considered a termination which must be objectively justified. Otherwise, there could be grounds for compensation for unjustified termination.

However, since 5 March 2020, when Denmark was subject to restrictions due to COVID-19, workers were told to work from home, which was not seen as a significant change and did not require a contractual change to the employment relationship.



DENMARK

Should a work place be registered for a person who works from home?

No, there is no requirement of a registration.

Should risk prevention protocols be carried out in remote work places?

The Danish Working Environment Act also applies when a worker is working from home. Working conditions at the worker's home must comply with safety and health regulation.

Also, the employer is obligated to establish guidelines for the workers working remotely and make sure that the necessary safety measures are observed to ensure compliance with The Data Protection Regulation.

There is a general obligation for the worker to cooperate in regards to ensuring proper measures so risks related to working activity outside the offices is averted.

What is the minimum content that a remote employment contract must include?

Danish legislation does not distinguish between Workers working remotely and those working on site in regards to requirement relating to content of the employment contract. The minimum content is regulated in the law (such as name of the parties, place of work, hours of work, remuneration etc.), and must be included in any contract of employment in Denmark.

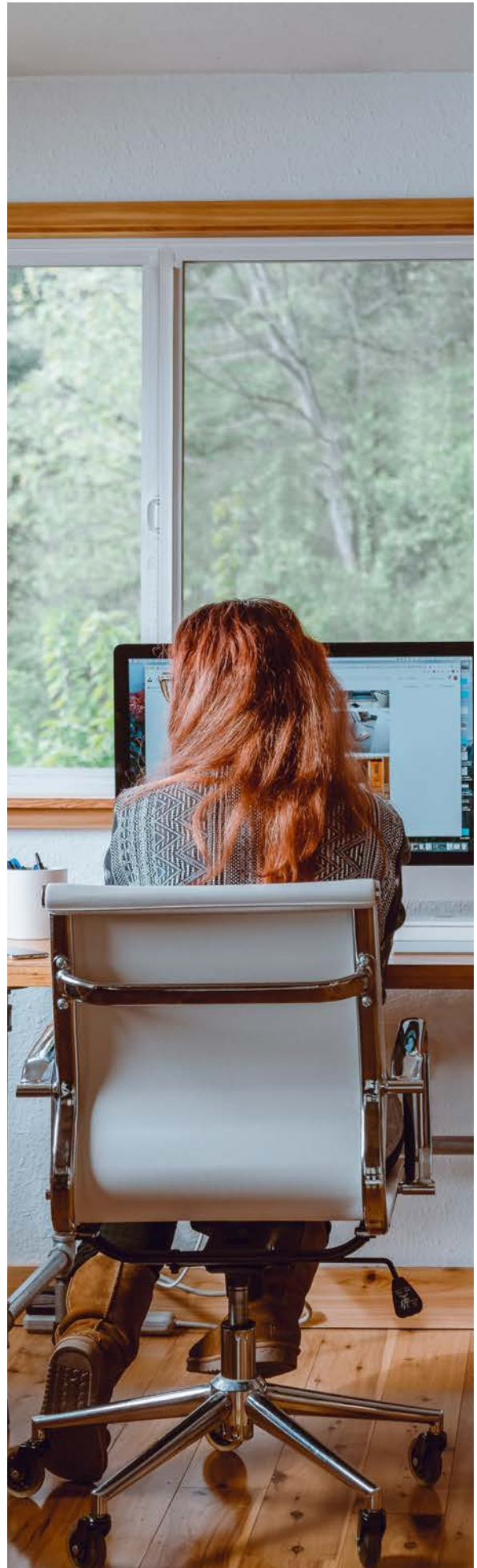


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ENGLAND

CAMBRIDGE - LONDON - READING - SOUTHAMPTON



BY DAVID ARCHER

Do workers who work remotely have the same rights as those working at the official workplace?

Although the term “homeworker” is not defined under the law in England and Wales, the Employment Rights Act 1996 provides a degree of employment protection to homeworkers depending on whether they are self-employed, an employee or a worker. Clearly, many arrangements which involve an element of homeworking are employment relationships and are recognised as such by all concerned, therefore, the employer should treat the homeworker in exactly the same manner with exactly the same statutory rights as all other employees.

Is there a right to work remotely for workers? Can workers be forced to work remotely?

If working from home is a clear requirement of the contract at the outset, then yes a worker can be forced to work remotely. If the employer wishes to impose homeworking at some later date, this would constitute a variation of the contract requiring employee consent. As a last resort, an employer who must impose homeworking but cannot obtain employee consent can offer "new terms for old". In other words, the employer would dismiss the employee and offer a new contract to take effect at the end of the notice period. However, unless the business reasons for making the change are compelling, the employer will find it difficult to defend any subsequent unfair dismissal claim.



ENGLAND

Should a work place be registered for a person who works from home?

No, there is no requirement for a remote workplace to be registered. You will find that most employers' insurance policies cover any place of business, however, additional insurance may be required if homeworkers have visitors or business meetings at home.

Should risk prevention protocols be carried out in remote work places?

Under the law in England and Wales, the employer is responsible for the employees' health and safety so far as is reasonably practicable. Most of the Regulations made under Health and Safety at Work etc. Act 1974 continue to apply to remote workers as they do for employees working at an employer's workplace. Before allowing employees to work at home, all the hazards and associated risks must be considered during a risk assessment conducted by the employer at the start of the homeworking arrangement and periodically thereafter. This can be done as a visit to the employee's home or as a self-assessment by the employee. If the risk assessment identifies any significant risks, steps must be taken to eliminate or, where this is not possible, reduce the risks as far as reasonable practicable.

The Provision and Use of Work Equipment Regulations applies where the employer provides equipment to employees for use at work, they are under a duty to ensure that it is properly maintained. Employers must also ensure that, depending on the nature of the work, adequate first aid is provided under the Health and Safety (First Aid) Regulations 1981.

What is the minimum content that a remote employment contract must include?

Unless home working provisions are provided for in an employee's employment contract, a move to home working will necessitate an amendment to that contract and possibly the staff handbook as well. Any variations to the contract must be agreed between the employer and employee. The new clauses, relevant to homeworking, may include the following:

- Place of work;
- Hours of work;
- Reimbursement of expenses and/or contribution towards utility costs;
- Health and safety requirements requiring the employer to assess the home workplace;
- Provision of equipment and telephone line/internet connection for work purposes;
- Equipment and data security access arrangements to the working area may need to be clarified;
- Employer's insurance may need to be extended to cover work equipment not kept in the office;
- and
- Employers may also wish to add in new clauses to cover confidentiality of information and compliance with the Data Protection Act 1998.



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FRANCE



BY ANNE REBIERRE

Do workers who work remotely have the same rights as those working at the official workplace?

In France, teleworkers enjoy the same rights, legal and contractual benefits, both individual and collective, as those applicable to employees working on company premises, in accordance with the general principle of equal treatment between employees. The French Labour Code expressly provides that: "The teleworker has the same rights as the employee who carries out his activity on the premises of an office" (Article L.1222-9 III). This means that both types of employees must have the same rights with regard to salary, working hours, paid holidays, luncheon vouchers, etc.

Is there a right to work remotely for workers? Can workers be forced to work remotely?

Teleworking is based on voluntary work. Any employee who wishes to telework must first inform his employer of his intention, by any means. However, the employer is not obliged to accept his request; in this case, he must justify his decision to refuse. Even in the context of a health crisis, the employer has the right to refuse telework if he considers that the health and safety rules in his workplace comply with national directives.

The employer may also offer telework to employees. The employee's refusal cannot constitute a reason for termination of the employment contract in principle. Article L. 1222-11 of the French Labour Code provides that exceptional circumstances, including the threat of an epidemic, may justify recourse to teleworking without the employee's consent.



FRANCE

In such cases, the workstation must be fitted out to allow the continuity of the company's business activity and to guarantee the protection of employees.

Should a work place be registered for a person who works from home?

In France, it is absolutely necessary to clearly specify the place where telework is carried out, as this can have consequences in the event of an employee's accident. Indeed, an accident occurring at the place where the telework is carried out during the teleworker's professional activity is presumed to be an accident at work. However, the employer can counteract this presumption by proving, for example, that the accident occurred outside the time slots where the employee must be reachable by the employer.

Should risk prevention protocols be carried out in remote work places?

The employer has an obligation to the health and safety of all its employees, even outside the office. He must assess the occupational risks to which employees are exposed and define preventive measures. Telework must be taken into account in this risk assessment. In particular, the employer must first make sure that the electrical installations in the employee's home are suitable for teleworking (either by sending an expert to the home or by having the employee certify on his honour).



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As mentioned above, the regulations on accidents at work will in principle apply to the accident at the telework location.

In addition, the employer must organise an annual interview, which must include the employee's working conditions and workload.

What is the minimum content that a remote employment contract must include?

Teleworking can be implemented in three ways:

- through a collective agreement (concluded with trade unions);
- by a charter drawn up by the employer after the opinion of the Economic and Social Committee (if one exists);
- by a simple agreement with the employee, formalised by any means (oral agreement, e-mail, letter, amendment to the employment contract, etc.).

As telework is still based on the principle of voluntary work, the employer must however have incontestable proof of the employee's agreement.

In the case of a collective agreement or a charter drawn up by the employer, the following elements must be included:

- the conditions for switching to telework as well as the conditions for returning to an employment contract without telework;
- the terms of acceptance by the employee of the conditions for implementing telework;
- the procedures for controlling working time or regulating the workload;
- the determination of the time slots during which the employer can usually contact the employee in telework;
- the modalities of access of disabled workers to a telework organisation.

GERMANY



BY CHRISTIAN HEIMERL

Do workers who work remotely have the same rights as those working at the official workplace?

Employees who work remotely basically have the same rights as those working on site.

Exceptions can be made, for example if an employee receives extra pay for working on site or for travel to and from work then a remote worker would be excluded from such benefit.

Is there a right to work remotely for workers? Can workers be forced to work remotely?

There is no unilateral right for employees to work remotely, but there are plans in government to give employees the right to work remotely for 24 days per year in the future.

Employees are not obliged to work remotely, an employer cannot instruct their employees to do so.

Therefore the employer and employee have to find an agreement about remote work, which can be part of the employment contract or agreed on at a later stage.

Should risk prevention protocols be carried out in remote work places?

Basic risk prevention protocols have to be carried out by the employer in all work places including home offices. Since an employer does not have access to their employee's home, they have to rely on information given by the employee. It is important that the employer agrees a right to inspect the situation at employee's home in a remote working agreement.

GERMANY

Should a work place be registered for a person who works from home?

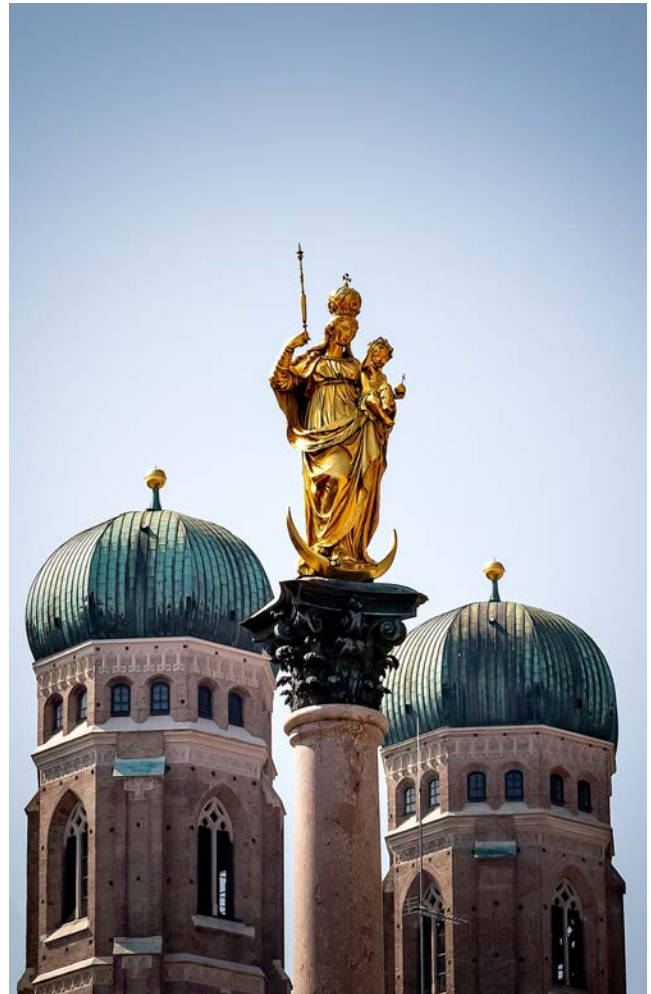
There is no statutory obligation to register a person working remotely at Tax or Labour authorities.

What is the minimum content that a remote employment contract must include?

There is no legal requirement to have a formal written Agreement for remote working.

Nevertheless it is very important to have an agreement about remote working to provide clarity to employers and employees on the following points:

- separate room for remote work is required.
- required work equipment to be provided by employer.
- employees access to private WLAN and internet.
- allocation of costs arising out of remote working.
- right for employer to inspect remote working situation at employee's place.
- availability of employee online and by phone.
- method of recording and monitoring working times.



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GREECE



BY NIKOS ANASTOPOULOS

Do workers who work remotely have the same rights as those working at the official workplace?

Employees have the same rights - guaranteed by applicable law and collective labour agreements - as the comparable employees within the business premises.

Is there a right to work remotely for workers? Can workers be forced to work remotely?

Remote working is voluntary; it may be part of the initial employment contract, or it may be agreed afterwards. If remote working has not been part of the original job description then a worker can refuse to do so. This refusal is not in itself a cause of termination of employment, nor a change in the terms and conditions of employment of this worker.

However, since 11 March 2020 coronavirus legislation has introduced a series of urgent measures. An employer may now unilaterally decide that its workers will work remotely.

Should a work place be registered for a person who works from home?

There is no need for a workplace to be registered for a person who works from home. Remote working is work, which is organised and performed outside the employer's premises. The term covers any work from a distance, and not just homework, making the concept particularly broad.



GREECE

Should risk prevention protocols be carried out in remote work places?

In general, the employer is responsible for providing, installing and maintaining the necessary equipment for remote working. However, the worker can use their own equipment. In any case, the employer provides technical support for the provision of remote working and undertakes the costs of telecommunications.

The Personal Data Protection Authority has issued guidelines for security measures, such as:

- Ensuring that there is no possibility of unsafe remote access to the resources of the employee's information systems, such as internal network computers and internal files by recommending the use of a Virtual Private Network (VPN).
- Providing a WPA2 protocol with a strong password, when using a Wi-Fi internet connection.
- Avoiding storing personal data on online storage services (e.g. Dropbox, One Drive, Google Drive), unless there are the appropriate guarantees, such as a properly encrypted format.
- Avoiding personal e-mail and messaging apps (e.g. Gmail, Yahoo, Hotmail) for sending or receiving work related messages
- Installing the latest application software, operating system, antivirus program and firewall on the work device.
- In case of teleconferencing, platforms that support security services (encryption) should be used. For example, teleconferencing software that does not provide end-to-end encryption should be avoided.

What is the minimum content that a remote employment contract must include?

Under article 5 of Law 3846/2010 a remote employment contract must include all information regarding the execution of the work and in particular regarding the hierarchical connection of the employee with their directors in the business, their detailed duties, remuneration, the method of measuring working time, the reimbursement of the costs incurred by the employee to carry out remote work (telecommunications costs, equipment, device failures, etc.).



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ITALY



BY CONSENTINI SALVATORE

Do workers who work remotely have the same rights as those working at the official workplace?

According to Italian law (no. 81/2017), remote workers have the same rights than those working at the official workplace, under all aspects of employment. It is expressly provided that they cannot receive a lower remuneration or worse regulatory treatment than workers with same duties and tasks working solely at the company's offices.

Workers have the right to professional training. Employers are responsible for health and safety protection.

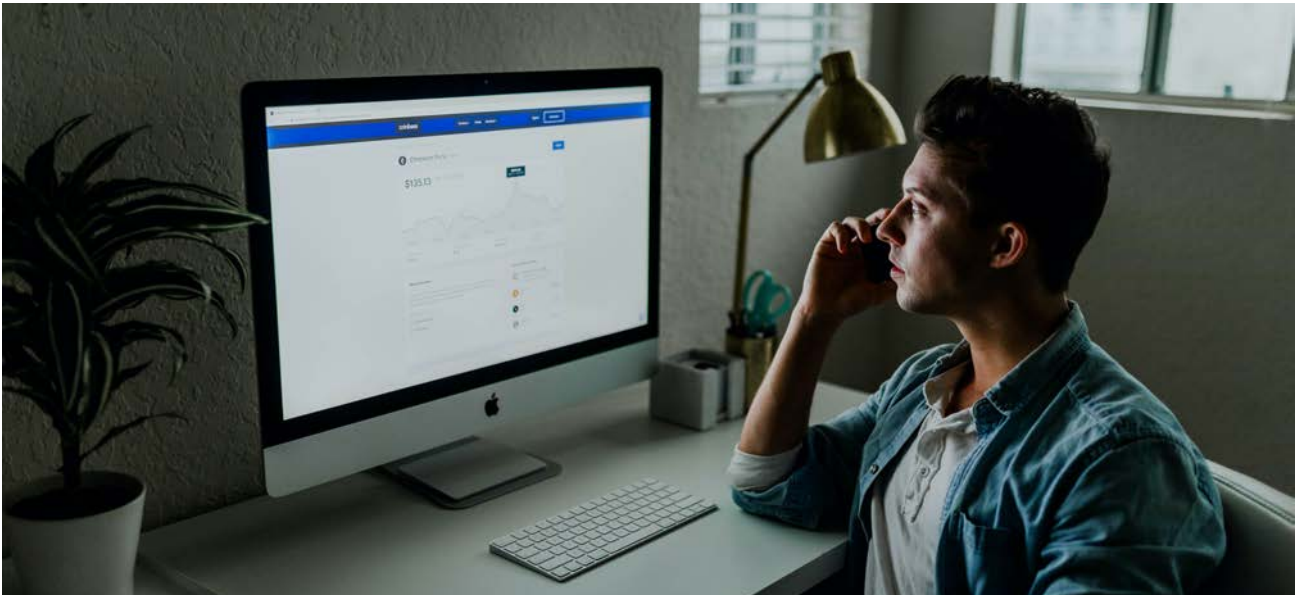
Remote workers carry out their activity remotely without specific restrictions in terms of working time, but only within the daily and weekly limit as set out by law and by the collective agreements

Is there a right to work remotely for workers? Can workers be forced to work remotely?

Employer and workers can use it on a voluntary base, by signing a specific agreement containing the provisions for the proper execution of the activity outside the ordinary working place. The option to work remotely depends on whether it is feasible for the business and duties required.

Due to the outbreak of Covid-19 the Italian Government set out measures to encourage remote working, effectively allowing employers to force their staff to work remotely.

ITALY

**Should a work place be registered for a person who works from home?**

Employers must formally inform Italian labour authorities that workers are working remotely, they do not need to specify the work place but it is usual for it to be defined in particular with a ban in working in specific places that are public and where privacy and confidentiality would not be maintained.

Should risk prevention protocols be carried out in remote work places?

Italian law states that employer remains responsible for workers' health and safety protection.

To comply with the law employers must deliver an informative letter containing information about general and specific risks related to home working. This letter must be sent at least once a year. Workers have to cooperate with prevention protocols to avert risks.

What is the minimum content that a remote employment contract must include?

The individual agreement between employer and worker must be formalised in writing.

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It must contain:

- the duration of the contract (fixed term or open term); in case of fixed term one, also the notice period for the termination;
- the number of days of remote work per week;
- the modality through which the employer can execute its monitoring and directive power;
- the work tools used by the workers for their activity;
- the rest time granted to the workers during each day, and
- the technical measures aimed to ensure the disconnection of the workers from the work.



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NETHERLANDS



BY MARTIJN ZAAL

Do workers who work remotely have the same rights as those working at the official workplace?

Although the term “employee working from home” is not defined under Dutch law, the Dutch Civil Code provides employment protection to all employees regardless of whether they work from home. Clearly many arrangements, like a safe working environment, are also applicable for employees working from home. The employer should treat the employee working from home in exactly the same way with exactly the same statutory rights as all other employees.

Is there a right to work remotely for workers? Can workers be forced to work remotely?

If remote working is agreed at the time of signing the employment contract (for example because there is no office) then the employee can be forced to work from home. If home working is implemented later then this would be viewed as a variation of the contract requiring the employees consent.

Due to the Covid-19 pandemic the Government have strongly advised everyone to work from home. In this case an employer can ask their employees to work remotely. Under Dutch law this request will be seen as a reasonable instruction from the employer and the employee should follow this.

Should a work place be registered for a person who works from home?

No, there is no requirement for a remote workplace to be registered. The employer is advised to check if their insurance policies also cover a remote workplace especially if there are visitors or business meetings at home.

Should risk prevention protocols be carried out in remote work places?

Under the employer's 'duty of care' the employer must ensure a healthy and safe workplace for the employee and a workplace layout adapted to the employee's needs. This also applies to the home workplace.



NETHERLANDS

The extent to which the employer can fulfil this duty depends on what can reasonably be demanded. Circumstances may make it unreasonable to expect this from the employer.

The employer must actively instruct its employees and their health and safety must be a recurring topic of discussion between employer and employee.

Under Dutch law, it is not necessary to change the employment contract if the employee were to work from home. However, the employer should be aware that the Working Conditions Decree states that the workplace must be arranged in the employee's own home in accordance with ergonomic principles.

Another requirement is to ensure that the workplace meets the requirements for monitor work. It must be possible for work behind a monitor to be alternated with other work or rest at regular intervals. If, as an employee, experiences problems with the eyes or eyesight, which may be caused by working with a monitor, the employer must give an employee, the opportunity to carry out appropriate research into this.

Further regulations for monitor work are, for example:

- The monitor is of good quality, easy to adjust and tilt and without glare or reflection.
- The monitor and keyboard may not be attached to each other.
- The workplace must allow a comfortable posture.
- The lighting at the workstation ensures sufficient light and a controlled contrast between the monitor and the surroundings.
- The software is adapted to the tasks to be performed. Furthermore: the employer must identify the risks to which his employees (may) be exposed in terms of psychosocial workload. This covers all factors in the work situation that can cause stress. The employer must take measures to minimise these risks, for example to counteract work pressure. The employer must inform its employees about these risks and the measures taken by the employer to minimise the risks.

What is the minimum content that a remote employment contract must include?

There are no specific requirements but the employer should consider the following clauses (if not already included):

- Place of work;
- Hours of work;
- Reimbursement of expenses and/or contribution towards utility costs;
- Health and safety requirements requiring the employer to assess the home workplace;
- Provision of equipment and telephone line/internet connection for work purposes;
- Equipment and data security access arrangements to the working area may need to be clarified;
- Employer's insurance may need to be extended to cover work equipment not kept in the office.

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PORTUGAL



BY PEDRO DA QUITÉRIA FARIA

Do workers who work remotely have the same rights as those working at the official workplace?

Yes, they do. In the vast majority of cases, workers have been changed to working remotely, rather than hired to work remotely. Some rights such as access to a transport allowance, which serves as compensation to the worker for moving to the workplace, may not be granted to workers who are remote working. This issue must be analysed in detail in the employment agreement or in collective labour/employment regulations. In addition, remote workers may have access to an exemption from working hours by express hierarchical authorisation (in writing).

Is there a right to work remotely for workers? Can workers be forced to work remotely?

Some have the right to be absent from work, in particular immunosuppressed persons and persons with chronic illnesses which, according to Health Authority guidelines are at risk. Workers may justify their absence from work by means of a medical declaration, if they are unable to carry out their activity by remote working or other activities.

For imperative needs of the company, and in order to respect guidelines imposed by the Directorate-General for Health (DGS), the employer may request that some workers perform their activity remotely

PORTUGAL

Should a work place be registered for a person who works from home?

Employment accident insurance must specifically provide for the whole place where the worker is or should be for work. It should also cover where the employer has direct or indirect control of the worker, for the working day and other times when the worker is carrying out work activities.

Should risk prevention protocols be carried out in remote work places?

At the moment no risk prevention protocols applicable to remote working are foreseen. The fact is that remote work is usually carried out at the worker's home, so the worker adopts the measures considered the most appropriate for risk prevention. It should be noted, however, that the measures imposed by the DGS apply to all citizens and that workers, as citizens, must respect them.



What is the minimum content that a remote employment contract must include?

There may be two variants of employment agreements which allow remote working. Thus, we distinguish between remote working employment agreements and employment agreements that allow remote working. Remote working agreements include the provision of legally subordinated work, usually outside the physical work place and through the use of information and communication technologies.

The employment contract must provide for the place and time of work and the work tools made available by the employer for the performance of the work.

Employment agreements which permit remote working are agreements with provision for the possibility of teleworking.

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SCOTLAND



BY MEGHAN JENKINS

Do workers who work remotely have the same rights as those working at the official workplace?

Scots law makes no distinction between onsite and remote workers; so remote workers have the same rights as those who are office based. Each are entitled to the full protection afforded to workers under law.

Is there a right to work remotely for workers? Can workers be forced to work remotely?

Employers cannot force employees to work remotely unless there is a contractual right to do so (which is common). In the absence of a contractual right employers can change an employee's place of work by varying their employment contract. However, to avoid being in breach of contract, or the risk of an unfair dismissal claim the employee's agreement to any changes to the contract should be obtained.

Employees also have the statutory right to make a flexible working request, which may include a homeworking request. To be entitled to make such a request the employee must have been with their current employer for at least 26 weeks and only one request can be made every 12 months.



SCOTLAND

Should a work place be egistered for a person who works from home?

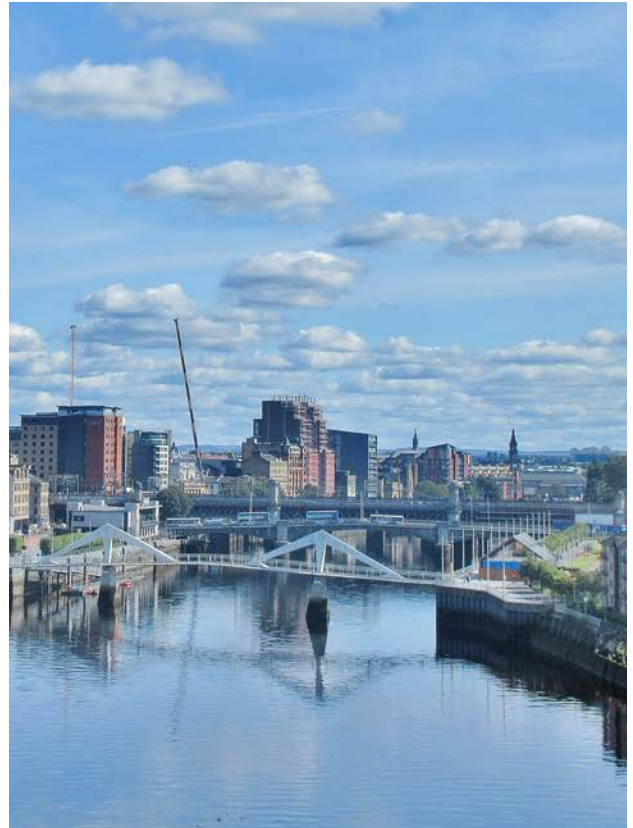
No, there is no requirement under Scots law for registration of an employee's home as a workplace.

Should risk prevention protocols be carried out in remote work places?

Employers have a legal duty to maintain workplace health and safety for all employees, whether at home or in the office.

A homeworking risk assessment should be conducted for any employees working at home including an assessment of their desk set up and equipment.

Consideration should also be given as to whether any particular measures or adjustments are required to fulfil duties under the Equality Act 2010. The requirement to make reasonable adjustments for disabled employees continues to apply when working remotely in the same way it does as in the workplace with a view to avoiding disabled workers being put at a disadvantage. Employers should aim to replicate reasonable adjustments as far as possible in a homeworking setting.



What is the minimum content that a remote employment contract must include?

Scots law does not differentiate between employment contracts based on the location of the workplace. The minimum content for any contract of employment in Scotland is contained within statute, and includes particulars of: the names of the parties to the contract, place of work, remuneration, details of probationary periods, holidays, training and any other benefits to name a few.

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SPAIN



BY ALFONSO MARIA AUTUORI

Do workers who work remotely have the same rights as those working at the official workplace?

Spanish Workers' Statute is the main source of employment regulation along with the newly adopted Law on Remote Working. Both expressly provide that remote workers shall have the same rights than those working on site. In particular, remote workers shall receive at least the total remuneration set for their professional group and duties. It is also provided that the employer shall establish the means needed to ensure effective access for remote workers to professional training to support continuous professional development. The employer shall inform remote workers of on-site job vacancies.

Remote workers are entitled to an adequate health and safety protection, being covered by the Occupational Risk Prevention regulation. Remote workers have also the same rights in terms of collective representation.

Is there a right to work remotely for workers? Can workers be forced to work remotely?

Remote working is voluntary for the worker and the employer concerned unless expressly agreed in the employment contract or in an addendum, voluntarily agreed by the parties, at a later time. The employer cannot force the employee to change what has been agreed in the employment contract, not even on duly justified grounds. With the outbreak of Covid-19 the Spanish Government has approved urgent measures to promote and facilitate home working where feasible. Nevertheless, these measures do not allow employers to force employees to work remotely.

SPAIN

Should a work place be registered for a person who works from home?

Worker's home shall not be registered as a place of work before the labour authorities, but work places shall be specified in the employment contract so as to allow competent authorities to verify the correct application of health and safety rules.

Employers are under an obligation to record their workers' daily working time. This obligation, applies to remote workers.

Should risk prevention protocols be carried out in remote work places?

Ordinarily under Directive 89/39/EEC and Spanish Health and Safety regulations, a risk assessment should be carried out at the worker's home.

In their response to the pandemic, Spanish government have approved exceptional regulations to allow workers to carry out a self-evaluation of occupational risks.

**What is the minimum content that a remote employment contract must include?**

The current Law on Remote Working outlines a mandatory minimum of content that must be included in the contract. These include: an inventory of the equipment and tools required for remote work; how the costs directly and indirectly incurred by the worker will be compensated; the working schedule; distribution between remote work and on-site work; means of control of the activity by the employer; procedure on how to act if there is any technical issue preventing the employee from working effectively.

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NIGERIA



BY AJIBIKE OGUNTIMEHIN

Do workers who work remotely have the same rights as those working at the official workplace?

Nigerian labour law does not distinguish between onsite and remote workers. Both categories of workers have the same statutory rights guaranteed under Nigerian law and these include; right to freedom from discrimination, right to participate in Trade Union activities, right to sick leave, maternity leave, annual holiday, among others.

Employer and employee relationship is governed by the terms of employment contract which stipulates in detail the terms of engagement of the parties subject to the statutory rights guaranteed under the Nigerian law.

Is there a right to work remotely for workers? Can workers be forced to work remotely?

There is no specific right for workers to work remotely, this is solely dependent on the employer's discretion and the terms of the specific employment contract as to the mode of work. It should be noted however that the provisions of the contract can be overridden by mandatory health and safety orders issued by government authorities; and employer directives issued for the safety of workers.

Should a work place be registered for a person who works from home?

There is no legal requirement under the Nigerian labour law to register a worker's home as a workplace.





NIGERIA

Should risk prevention protocols be carried out in remote work places?

The primary duty of the employer is to exercise reasonable care for the safety of employees in the course of their employment. This requirement includes provision of safe equipment, safe place of work and reasonable supervision. In Nigeria, there are protective statutes (such as the Employee Compensation Act (ECA), 2010, and the Factory Act, Cap 126 of the Laws of the Federation of Nigeria, 2004) which are designed to promote the health, safety and welfare of the workers in the course of employment.

The ECA is designed to promote an open and fair system of guaranteed and adequate comprehensive provisions for payment of compensation to employees (either in public or private sectors) who suffer from occupational diseases, mental stress or sustain injuries arising from accidents at the work place or in the course of employment.

Section 11 of the ECA further provides that where an injury to an employee occurs while the employee is working outside normal workplace, compensation shall be paid to the employee

under this Act if:

- The nature of the business of the employer extends beyond the usual workplace. Nature of employment is such that the employee is required to work both in and out of the workplace or;
- The employee has the authority or permission of the employer to work outside normal work place.

The implication of this provision is that the duty of an employer to ensure the health, safety and welfare of employees in the course of employment extends to remote workplaces provided that the employer has authorised the employee to work remotely or same is provided for in the employment contract.

Nevertheless, there are no laws clearly identifying risk prevention protocols applicable to remote work places under Nigerian Law. This may however be subsumed by the provisions of Section 65 and 66 of the Labour Act, Cap L1 of the Laws of Federation of Nigeria, 2004 which requires employers to provide and maintain safe working conditions for their employees.

What is the minimum content that a remote employment contract must include?

Nigerian labour law does not distinguish between onsite and remote work.



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ASEAN



BY THREENUNCH BUNRUANGTHAWORN
& ARISTOTLE DAVID

LAO PDR

Do workers who work remotely have the same rights as those working at the official workplace?

The respective Labor Laws provide the same rights to employees regardless of working remotely and do not make a distinction.

Is there a right to work remotely for workers? Can workers be forced to work remotely?

No and Yes: Under Lao Labour Law, conditions of work are to be agreed between employer and employee in the employment contract. The location of a workplace would generally be determined at the time of the execution of the contract.

There is thus no general right for employees/workers to work remotely without permission of employers. Lao Labour Law does not expressly permit the change of workplace of employees/workers by employers. However, the law prohibits termination of employment of employees/workers who are assigned to work at other locations by employers. Therefore, provided that the employer has valid and lawful reasons to demand employees to work from home, such as to provide a safe workplace environment to employees or to comply with governmental direction, the assignment of some or all workers to work remotely would not be contrary to the Lao Labour Law.

Should a work place be registered for a person who works from home?

No requirement under labor legislations, providing that the employment status is maintained.

Should risk prevention protocols be carried out in remote work places?

Yes, the law requires the employer to generally adopt occupational and health and safety measures for the workplace.

What is the minimum content that a remote employment contract must include?

The Lao Labour Law does not distinguish between the required contents of an employment contract for employees working remotely and those working at an official workplace.

ASEAN

THAILAND

Do workers who work remotely have the same rights as those working at the official workplace?

Yes, the respective Labour Laws do not make a distinction.

Is there a right to work remotely for workers? Can workers be forced to work remotely?

No and Yes: Under Thai law, the location of the workplace would generally be determined at the time of the execution of the employment contract. In the absence of the agreement, work rules and regulations, which will specify working conditions, including location of employment would be applicable when specifying the work location.

There is no general right for employees/workers to work remotely without permission of employers.

An employer is entitled to assign workers to work remotely and such workers have to follow such assignment. If the remote work is not possible or is not allowed by the employer, the employer has to take appropriate measures to ensure of the safety of employees.

Should a work place be registered for a person who works from home?

No requirement under labor legislations. This would be mainly agreed upon with the employer.

Should risk prevention protocols be carried out in remote work places?

The respective Labor Law requires employer to generally adopt occupational and health safety measures for employee's workplace.

What is the minimum content that a remote employment contract must include?

As stated above, the Thai labor law does not distinguish the remote work from work at the workplace.

BRUNEI

Do workers who work remotely have the same rights as those working at the official workplace?

The respective Labor Laws provide the same rights to employees regardless of working remotely and do not make a distinction.

Is there a right to work remotely for workers? Can workers be forced to work remotely?

No and Yes: Under Brunei Law, the conditions of work are to be agreed between the employer and employee in an employment contract.

There is no general right for employees to work remotely without the permission from the employers. An employer can assign employees to work remotely provided that there are justifiable and lawful reasons for the employees to work from home. In addition, the employer would be required to provide a safe workplace environment to their employees or to comply with the government direction.

Should a work place be registered for a person who works from home?

No requirement under labor legislations, providing that the employment status is maintained.

Should risk prevention protocols be carried out in remote work places?

The respective Labor Law requires employer to generally adopt occupational and health safety measures for employee's workplace.

What is the minimum content that a remote employment contract must include?

The Brunei Law does not distinguish the required contents of employment contract between employees working remotely and those working at workplaces.

ASEAN

CAMBODIA

Do workers who work remotely have the same rights as those working at the official workplace?

Yes, the respective Labour Laws do not make a distinction.

Is there a right to work remotely for workers? Can workers be forced to work remotely?

No and Yes: Under Cambodian Labour Law, the employee may be directed to work at any place as determined by the employer and agreed between the employer and employee in the employment contract. Employees may be directed to work remotely by the employer where the employment contract allows the employer to do so.

Unless the compulsory measure to work remotely is in line with the internal regulations of the company and the provisions of the contract, the employer may not unreasonably compel an employee to work remotely.

Should a work place be registered for a person who works from home?

There is no requirement under Cambodian Labour Law to register an employee's home as a workplace. The requirement to register workplaces are only applicable to employers when they first declare the opening of the enterprise.

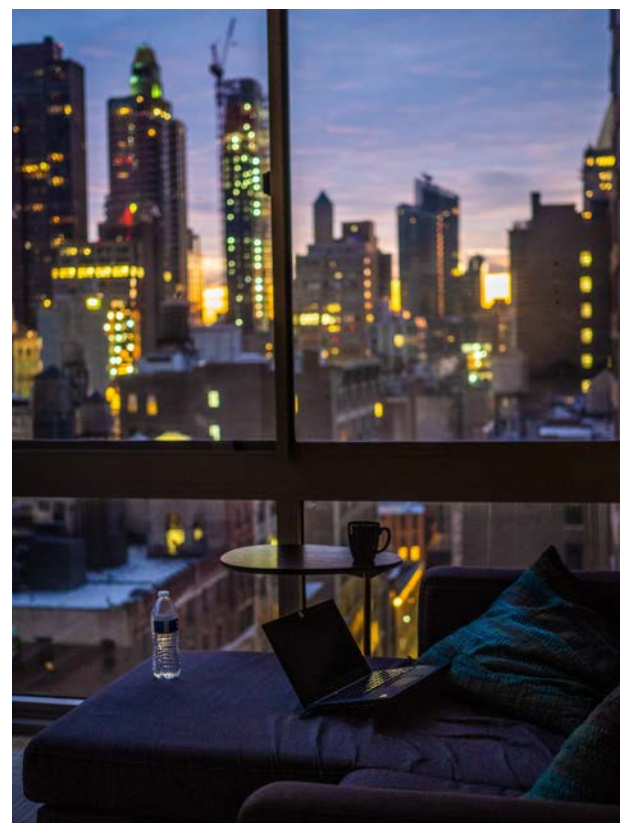
Should risk prevention protocols be carried out in remote work places?

Cambodian Labour Law provides that employers have the primary duty to ensure that the workplace is kept clean and to maintain standards of hygiene, sanitation and conditions necessary for the health of the employee.

The employer is responsible for all work-related accidents and/or injuries during work hours regardless of fault. Hence, it would be important for employers to implement risk management measures to prevent work related accidents and/or injuries happening to employees whilst working remotely.

What is the minimum content that a remote employment contract must include?

As Cambodian Labour Law does not distinguish employment based on the location of employment.



INDONESIA

Do workers who work remotely have the same rights as those working at the official workplace?

Yes, the respective Labour Laws do not make a distinction.

Is there a right to work remotely for workers? Can workers be forced to work remotely?

Yes and Yes: Under Indonesian labour law, stipulation related to workplace is not specifically regulated. However, there are several terms that shall be agreed upon at the time of the execution of the employment contract, one of which is the workplace. In other words, the workplace is not a unilateral decision of the employer, but an agreement between the employer and the employee.

Thus, if both the employer and the employee agree to work remotely, then it is not prohibited and legally can be done. In addition, the Indonesian labour law requires every employer to guarantee its employees right for protection at workplace known as the protection of occupational safety and health. Therefore, an employer may set a policy to change the workplace of its employee as long as it is part of the employer's measure to provide protection to their employees and to ensure the health of its employees.

Should a work place be registered for a person who works from home?

No specific requirement under the Indonesian Labor Law regarding registered workplace for a person who works from home.

Should risk prevention protocols be carried out in remote work places?

The Indonesian Labour Law requires every employer to apply an occupational safety and health efforts and management system that shall be integrated into the employer's management system.

What is the minimum content that a remote employment contract must include?

The Indonesian Labor Law does not distinguish the contents of employment contract between any employees.

MALAYSIA

Do workers who work remotely have the same rights as those working at the official workplace?

The respective Labor Laws provide the same rights to employees regardless of working remotely and do not make a distinction.

Is there a right to work remotely for workers? Can workers be forced to work remotely?

No and Yes: Generally, under Malaysian labour law the location of the workplace is provided for in the employment contract. Nonetheless, some employment contracts can provide for remote working.

Should a work place be registered for a person who works from home?

There are no requirements under the current legislations.

Should risk prevention protocols be carried out in remote work places?

The respective Labor Law requires employer to generally adopt occupational and health safety measures for employee's workplace.

What is the minimum content that a remote employment contract must include?

The Malaysian Employment Act 1955 does not differentiate between remote employment and normal employment (in the workplace). There is no regulated minimum content that must appear in a contract that facilitates remote working.

CORONAVIRUS

ASEAN

SINGAPORE**Do workers who work remotely have the same rights as those working at the official workplace?**

The respective Labor Laws provide the same rights to employees regardless of working remotely and do not make a distinction.

Is there a right to work remotely for workers? Can workers be forced to work remotely?

No and Yes: Under Singapore labour law, employees do not have the right to work remotely. Subject to the employers consent, the location of workplace is generally determined at the time the employment contract is executed.

Currently, telecommuting is the default mode of working for all companies in order to minimise the spread of COVID-19, subject to certain exceptions. If telecommunicating is not possible, employers are to split their employees into teams and there should be no cross-deployment/interaction between employees in different teams or worksites, even outside of work.

Should a work place be registered for a person who works from home?

No requirement under labour legislations. In Singapore, a workplace does not need to be registered unless it is defined as a factory under the Workplace Safety and Health Act 2006.

Should risk prevention protocols be carried out in remote work places?

Under the Workplace Safety and Health Act 2006, regardless of whether work is undertaken at the office or remotely, an employer owes safety and health obligations in respect of employees who are at work. Accordingly, risk prevention protocols should still be carried out in remote workplaces.

What is the minimum content that a remote employment contract must include?

Singapore labour law makes no distinction between the required employment contract of an employee working remotely or at the office.

VIETNAM**Do workers who work remotely have the same rights as those working at the official workplace?**

The respective Labor Laws provide the same rights to employees regardless of working remotely and do not make a distinction.

Is there a right to work remotely for workers? Can workers be forced to work remotely?

No and No: Under Vietnam labor law, details of workplaces must be determined in employment contracts. In case workers want to work remotely, they must seek permission from their employers.

Generally, workers cannot be forced to work remotely. However, in certain cases prescribed under the labor law, employers can assign workers to do works different from those agreed in employment contracts temporarily in 60 days. Arguably, if workers are assigned to do other works temporarily, they may be forced to work at workplaces different from those agreed in employment contracts.

Should a work place be registered for a person who works from home?

There is no requirement under Vietnam Labor Law to register an employee's home as a workplace.

Should risk prevention protocols be carried out in remote work places?

Vietnam Labor Law requires employers and employees to adopt occupational and health safety measures at all workplaces.

What is the minimum content that a remote employment contract must include?

Vietnam Labor Law does not distinguish contracts for working remotely from contracts for working at employers' workplaces.

ASEAN

MYANMAR

Do workers who work remotely have the same rights as those working at the official workplace?

Myanmar Law does not distinguish between workers who work remotely and those at the official workplace. Therefore the rights are the same as long as there is the employer-employee relationship existing.

Is there a right to work remotely for workers? Can workers be forced to work remotely?

No and Yes: Under Myanmar labor law, workplace is normally at the office of the employer or agreed location of workplace between the employer and the employee is required to be stated in the employment contract as per section 5(b)(4) of the Employment and Skill Development Law 2013.

There is no express right for workers to work remotely.

Working remotely depends on the agreement between the employer and the employee.

Should a work place be registered for a person who works from home?

There is no specific legislation or requirement for the workplace to be registered for a person who works from home.

Should risk prevention protocols be carried out in remote work places?

Myanmar enacted the Occupational Safety and Health Law in 2019 (“OSHL 2019”) which provides a definition for “Workplace” at Section 2(c):
2(c) “Workplace” means a place, a building and any of the following in which any activity mentioned in Chapter 3 is carried out.

Therefore in the context of ‘remote’ being employees ‘working from home’ then there are no such obligations on the Employer. If however ‘remote workplace’ includes movable or other off-site location other than the Employer’s primary premises, then for certain industries set out in Section 4, there would be an obligation for the Employer to comply with OHS 2019.

What is the minimum content that a remote employment contract must include?

There is no separate provisions for the contents of the employment contract between the employer and the employee who will work remotely. The employer can use same employment contract with additional clause.



ASEAN

PHILIPPINES

Do workers who work remotely have the same rights as those working at the official workplace?

The Philippine labour law does not make a distinction, and accords the rights of employees working at the official work place to those who work in remote sites. Further, the Philippine Telecommuting Act provides that remote workers, or those employees allowed to work from an alternative workplace, should be treated the same as those comparable employees working at the employer's premises, except the employer and employee may mutually agree to different performance standards that may be more appropriate given the location of the employee is not at the premises of the employer.

Is there a right to work remotely for workers? Can workers be forced to work remotely?

No and Yes: Under Philippine labour law, the location of the workplace is the office, premise or work site where the employees are habitually employed, including office or place where the employees who have no fixed or definite work site regularly report for assignment in the course of their employment. Generally, however, the workplace is determined in the employment contract as prescribed by the employer.

Employees generally do not have the right to demand remote work. The employer may assign the employee to work remotely or transfer to sites other than the usual work place of the employee, provided that there is no demotion in rank or diminution of salary, benefits and other privileges, and that the assignment or transfer is exercised without grave abuse of discretion. The employee may refuse the assignment or transfer if an imminent dangerous situation exists in the alternative work site. Under the Philippine Telecommuting Act, an employer may offer a remote working program to its employees on a voluntary basis or as a result of collective bargaining. The terms and conditions must be mutually agreed upon by both employer and employee. The Telecommuting Act specifically applies to a work arrangement that allows employees to work from an alternative work place with the use of computer technologies.





ASEAN

Should a work place be registered for a person who works from home?

Yes, under the DOLE-prescribed establishment report form.

Should risk prevention protocols be carried out in remote work places?

Philippine labour laws provide that the employer shall adopt appropriate practices, means and working conditions reasonably necessary to ensure health and safety. Covered places are those establishments, sites or other places where work is being undertaken. Under the Philippine Telecommuting Act, remote workers shall have access to safety and health services when necessary. The telecommuting arrangement shall also have provisions on occupational health and safety.

What is the minimum content that a remote employment contract must include?

Under the Philippine Telecommuting Act, the terms and conditions of the agreement must not be less than the minimum labour standards set by law, which includes provisions on compensable work hours, minimum number of work hours, overtime, rest days, entitlement to leave benefits, social welfare benefits and security of tenure. In addition to these minimum labour standards, and to effectively implement the remote working the agreement shall stipulate the following provisions:

1. Eligibility;
2. Applicable code of conduct and performance evaluation and assessment;
3. Appropriate alternative workplace/s;
4. Use and cost of equipment;
5. Conditions of employment, compensation, and benefits particularly those unique to telecommuting employees;
6. Non-diminution of benefits;
7. Occupational safety and health;
8. Observance of data privacy policy;
9. Dispute settlement; and
10. Termination or change of work arrangement.



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HONG KONG



BY ADAM HUGILL

Do workers who work remotely have the same rights as those working at the official workplace?

Yes, although it depends on where the remote workers are working. In Hong Kong all employees, whether working remotely or at the official workplace, will receive the benefit of Hong Kong statutory protections, including the Employment Ordinance; Employees' Compensation Ordinance; Minimum Wage Ordinance and certain Anti-discrimination / Equality ordinances. However, since employment / labour protection tends to be territory specific, if otherwise Hong Kong based employees are working remotely, in another jurisdiction, the laws of that jurisdiction may automatically apply. Jurisdictions such as the People's Republic of China, Japan, Australia, New Zealand and throughout Europe tend to offer greater employee protections than those granted in Hong Kong.

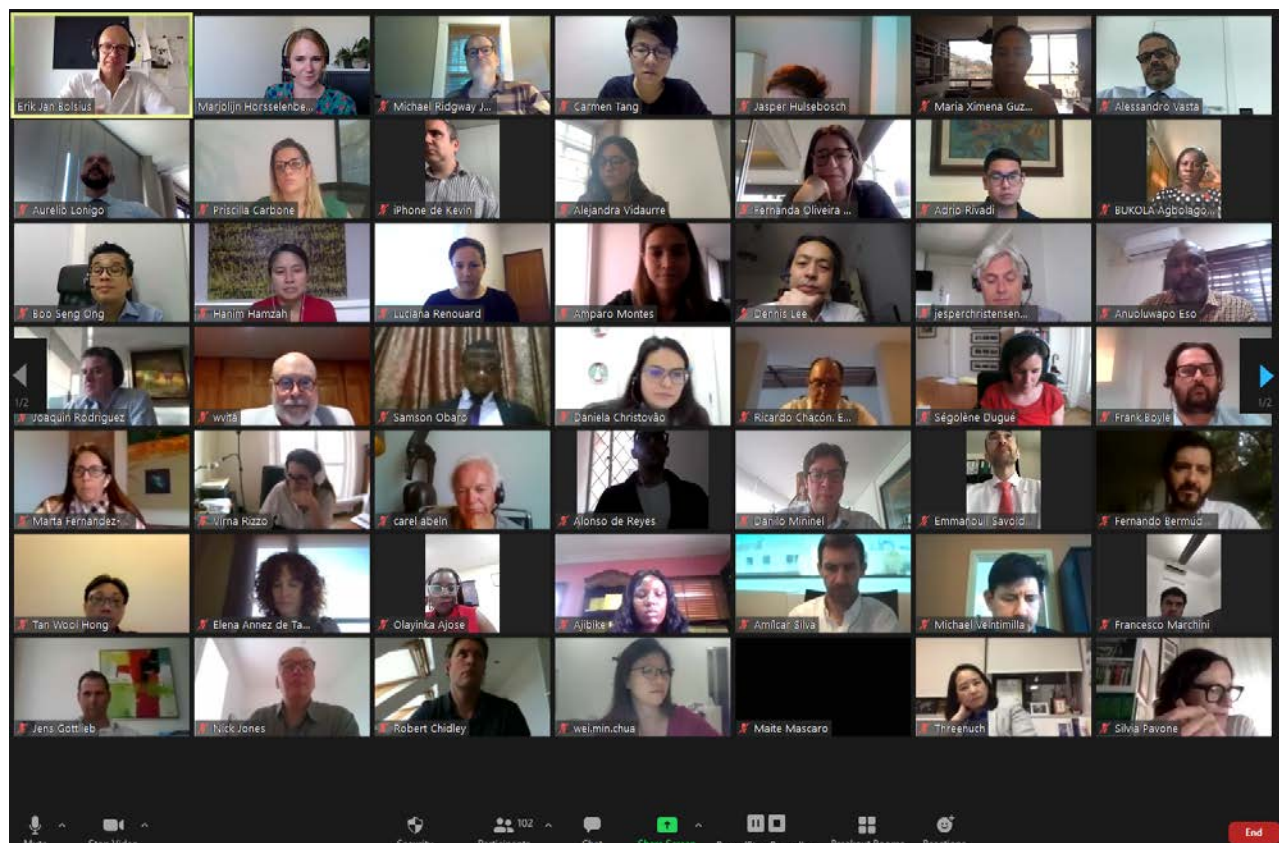
Is there a right to work remotely for workers? Can workers be forced to work remotely?

Unless the right to remote working is specifically stated in the employment contract, there is no right for an employer to insist on remote working or for an employee to demand remote working. Mutual consent is required.

Should a work place be registered for a person who works from home?

There is no requirement for an employee's home address to be 'registered' as a workplace. Employers should ensure that their mandatory employee workplace accident insurance policies cover remote workplace injuries.

HONG KONG



Should risk prevention protocols be carried out in remote work places?

- Employers must comply with their duty to ensure a safe and healthy place of work for all employees, whether or not they are working from home.
- Employers should take reasonable steps to ensure that its remote employees are working in a healthy environment which includes ensuring they have an adequate and functional working space.



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What is the minimum content that a remote employment contract must include?

There is no statutory minimum requirement or form for a remote working contract. Practically, we would advise that such contracts clearly specify duties and obligations, including the right for the employer to monitor performance. In addition, it would be advisable to include provisions that require the employees to report to the official workplace as required or on a temporary or full time basis. Obligations about use of personal property for work functions, ensuring the confidentiality of information and the proper assignment of intellectual property should also be clearly specified given the potential blurring of lines between work activity and personal activities.

CHILE



BY GERARDO OTERO

Do workers who work remotely have the same rights as those working at the official workplace?

Workers who work remotely have the same legal rights as those working at the official workplace. Particular conditions can be agreed in each case as for on-site workers, but legal rights are the same.

Is there a right to work remotely for workers? Can workers be forced to work remotely?

Under normal circumstances this is something that should be agreed by the parties. Workers cannot be forced to work remotely except under special circumstances as the current ones. Chilean government recommended to work remotely when possible during the quarantine. If work from home is agreed during the labour relationship in an Annex, and not at its beginning in the contract, either party can unilaterally return to the original conditions, if

prior written notice given 30 days in advance and if the right is exercised by the employer it cannot mean a decrease in the employee's rights. However, if working from home was agreed in the employment contract, both parties need to agree to the change of conditions. Additionally, such workers can always access the company's site and participate in collective activities and the employer must bear transport costs.

Should a work place be registered for a person who works from home?

It is not needed to have the work place registered if the person works from home, but the labour contract or work from home Annex should expressly state the place where the employee will work and the company has the obligation to verify health and safety requirements, and provide training based on the particular circumstances of such type of work. Please bear in mind that it is not considered telework or work from home if the employee renders services from places designated by the employer, even if they are not the company's site.

The employer must provide the employee with the working tools, materials, etc. for distance or telework, including safety equipment if needed. Also, repair, functioning, maintenance and operational costs of such equipment and tools must be borne by the employer and the employee cannot be forced to use elements of its own property.

Should risk prevention protocols be carried out in remote work places?

Yes, as mentioned above. The employer must inform the employee of the minimum health and safety conditions that must be met by the workplace and must verify its compliance.



CHILE

Nevertheless, the employer cannot access the workers home without prior authorisation but can always request the accidents insurance administrator to access the home with prior authorization from the worker, in order to verify health and safety working conditions.

As of October 2020, Work from Home Ruling is mandatory, and its states the following obligations for the employer:

- Send each worker under telework/work from home the questionnaires' to auto evaluate risks provided by the entity in which they have the accidents insurance.
- Review the risk assessments/matrix annually.
- Notify the employee what safety requirements must be met, with advice from insurers.
- Prepare a work program with the results of the risk matrix, analyzing annually the efficiency of the measures and required improvements (not applicable when the employee can unilaterally choose from where to work.
- Inform employees in writing of the risks of their work, preventive measures and appropriate working methods.
- Train the employees on the main safety and health measures they must take into consideration to carry out their work.

What is the minimum content that a remote employment contract must include?

Remote employment contract or the corresponding Annex should include, in addition to requirements for every labour contract, the following:

- Express mention that the parties have agreed to work from home or distant work, whether this is complete or partial with the ratio of on-site and remote.
- Place or places where workers will work, except if the parties have agreed the employee can choose it unilaterally, which shall also be mentioned.
- The term for which the agreement is valid, which can be indefinite or fixed to a certain term.
- Employer monitoring of work
- If employee can distribute working hours unilaterally as it better fits their needs when the employee has a working schedule or if they exempt from it.
- Unconnected time (minimum 12 hours per day, during which employees cannot answer messages, orders or other requests) for employees exempt from working schedule.



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CENTRAL AMERICA & CARIBBEAN



BY DANIEL VALVERDE

COSTA RICA

Do workers who work remotely have the same rights as those working at the official workplace?

Law 9738 regulates remote working in Costa Rica.

The law mandates that remote employees are treated equally to work-from-office employees, and they cannot be discriminated against for working remotely.

Is there a right to work remotely for workers? Can workers be forced to work remotely?

There is no right to work remotely. Law 9738 states that teleworking is forced when the position is hired as a teleworker. If so, neither employees or employers can revoke teleworking except if both mutually agree. If teleworking is applied to a current employment relationship, it can only be voluntary, and it can be revoked by any of the parties.

Should a work place be registered for a person who works from home?

There is no right to work remotely. Law 9738 states that teleworking is forced when the position is hired as a teleworker. If so, neither employees or employers can revoke teleworking except if both mutually agree. If teleworking is applied to a current employment relationship, it can only be voluntary, and it can be revoked by any of the parties.

Should risk prevention protocols be carried out in remote work places?

Yes. In all jurisdictions, the same obligations applicable to the workplace is applied to a work-from-home environment. As such, there is an obligation for employers to demand and supervise the application of occupational hazards in work-from-home settings.

CENTRAL AMERICA & CARRIBEAN

What is the minimum content that a remote employment contract must include?

Remote employment contract must be in writing, and contain, at minimum: a) the procedure that must be followed by employee and employer in order to inform the revocation of teleworking; b) establish the procedure for employee to notify of an unexpected situation preventing them from teleworking, and if so, the procedure to determine if the unexpected situation was responsibility of the employee or not, to establish if the time must be paid.

GUATEMALA

Do workers who work remotely have the same rights as those working at the official workplace?

Guatemala does not have a specific remote working law. Conventional employment law can be used to implement remote working. Remote workers should have the same rights as work-from-office employees.

Is there a right to work remotely for workers? Can workers be forced to work remotely?

There is no right to work remotely. Teleworking can only be applied if it is granted voluntarily by the parties.

Should a work place be registered for a person who works from home?

In all jurisdictions, employers must be duly registered at the Social Security administration. However, there is no additional registry for teleworking, if applied to a specific or group of employees.

Should risk prevention protocols be carried out in remote work places?

Yes. In all jurisdictions, the same obligations applicable to the workplace is applied to a work-from-home environment. As such, there is an obligation for employers to demand and supervise the application of occupational hazards in work-from-home settings.

What is the minimum content that a remote employment contract must include?

As there is no specific law in Guatemala, there is no obligation to render a contract or a minimum requirement for such contract. However, it is advised that remote working is formalised through a written contract, in order to demonstrate that the scheme was voluntary.

HONDURAS

Do workers who work remotely have the same rights as those working at the official workplace?

Honduras does not have a specific teleworking law. Conventional employment law can be used to implement and remote workers should have the same rights as work-from-office employees.

Is there a right to work remotely for workers? Can workers be forced to work remotely?

There is no right to work remotely. This can only be applied if it is granted voluntarily by the parties.



CENTRAL AMERICA & CARRIBEAN

Should a work place be registered for a person who works from home?

In all jurisdictions, employers must be duly registered at the Social Security Administration. However, there is no additional registry for teleworking, if applied to a specific or group of employees

Should risk prevention protocols be carried out in remote work places?

Yes. In all jurisdictions, the same obligations applicable to the workplace is applied to a work-from-home environment. As such, there is an obligation for employers to demand and supervise the application of occupational hazards in work-from-home settings.

What is the minimum content that a remote employment contract must include?

As there is no specific law in Honduras, there is no obligation to render a contract or a minimum requirement for such contract. However, it is advised that remote working is formalised through a written contract, in order to demonstrate that the scheme was voluntary.

EL SALVADOR

Do workers who work remotely have the same rights as those working at the official workplace?

El Salvador does have a specific teleworking law, the Legislative Decree 600 of 2020. Any employer and employee that desires to telework must comply with the guidelines of the law. The law determines that remote workers should have the same rights as work-from-office employees.

Is there a right to work remotely for workers? Can workers be forced to work remotely?

There is no right to work remotely. Article 6 of Legislative Decree 600 of 2020 states that teleworking can only be applied voluntarily between the parties. Such consent must be given in writing. Also, any party can revoke teleworking if it informs the other party.

Should a work place be registered for a person who works from home?

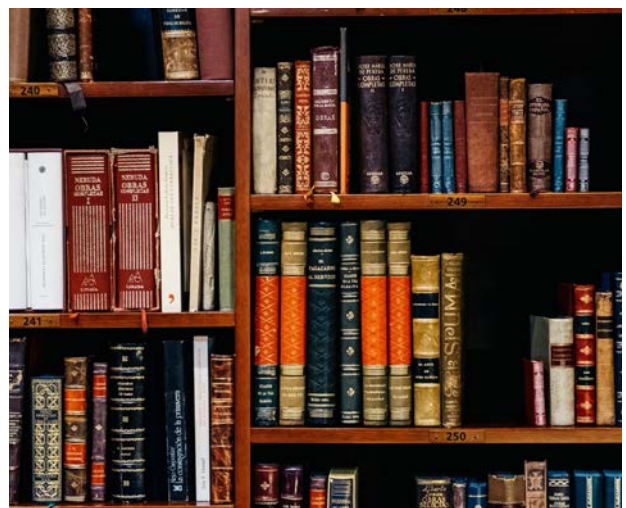
In all jurisdictions, employers must be duly registered at the Social Security Administration. However, there is no additional registry for teleworking, if applied to a specific or group of employees.

Should risk prevention protocols be carried out in remote work places?

Yes. In all jurisdictions, the same obligations applicable to the workplace is applied to a work-from-home environment. As such, there is an obligation for employers to demand and supervise the application of occupational hazards in work-from-home settings.

What is the minimum content that a remote employment contract must include?

Remote employment contract must be in writing, and contain, at minimum: a) establish in the contract, Internal Bylaws and other internal instruments, the workday and their limits, and how they will be respected, as well as any assistance control the employees must comply with in order to pay the corresponding overtime; b) Establish the procedures of the use of work tools, IT programs, as well as the minimum requirements that the place in which the telework will take place must have; c) establish how the payment of utilities that are used during remote work are reimbursed.





NICARAGUA

Do workers who work remotely have the same rights as those working at the official workplace?

Nicaragua does not have a specific teleworking law. Conventional employment law can be used to implement teleworking. The same rights apply to workers as if they were working in their offices.

Is there a right to work remotely for workers? Can workers be forced to work remotely?

There is no right to work remotely. Workers can only work from home by mutual agreement with their employers.

Should a work place be registered for a person who works from home?

In all areas of the country, employers must be registered at the Social Security Administration. However, there is no additional registry for working from home.

Should risk prevention protocols be carried out in remote work places?

Yes. In all jurisdictions, the same obligations applicable to the workplace is applied to a work-from-home environment. As such, there is an obligation on employers to check and supervise the application of occupational hazards in work-from-home settings.

What is the minimum content that a remote employment contract must include?

As there is no specific law in Nicaragua, there is no obligation to render a contract or a minimum requirement for such contract. However, it is advised that teleworking is rendered through a written contract, in order to demonstrate that the scheme was voluntary.

PANAMÁ

Do workers who work remotely have the same rights as those working at the official workplace?

Law 126 rules the application of teleworking in Panamá. Although not expressly stated, teleworking employees have the same rights.

Is there a right to work remotely for workers? Can workers be forced to work remotely?

Law 126 states that teleworking is forced when the position is hired as a teleworker. The employer retains the option of revoking teleworking at any time. If teleworking is applied to a current employment relationship, it can only be voluntary.

Should a work place be registered for a person who works from home?

In all jurisdictions, employers must be duly registered at the Social Security Administration. However, there is no additional registry for teleworking, if applied to a specific or group of employees.

Should risk prevention protocols be carried out in remote work places?

Yes. In all jurisdictions, the same obligations applicable to the workplace is applied to a work-from-home environment. As such, there is an obligation for employers to check and supervise the application of occupational hazards in work-from-home settings.

What is the minimum content that a remote employment contract must include?

Any remote employment contract must be in writing, and contain provisions providing, as a minimum, the following: a) Determining if it is a partial of total teleworking shift; b) The process in which teleworking can be reversed or revoked, establishing a prior notice term.

CENTRAL AMERICA & CARRIBEAN

**DOMINICAN
REPUBLIC****Do workers who work remotely have the same rights as those working at the official workplace?**

Dominican Republic does not have a specific teleworking law. Conventional employment law can be used to implement teleworking. Teleworking should be applied with the same rights as work-from-office employees.

**Is there a right to work remotely for workers? Can workers be forced to work remotely?**

There is no right to work remotely. Teleworking can only be applied if it is by mutual agreement of the parties.

Should a work place be registered for a person who works from home?

In all jurisdictions, employers must be duly registered at the Social Security Administration. However, there is no additional registry for teleworking, if applied to a specific or group of employees.

Should risk prevention protocols be carried out in remote work places?

Yes. In all jurisdictions, the same obligations applicable to the workplace is applied to a work-from-home environment. As such, there is an obligation for employers to check and supervise the application of occupational hazards in work-from-home settings.

What is the minimum content that a remote employment contract must include?

As there is no specific law in Dominican Republic, there is no obligation to render a contract or a minimum requirement for such contract. However, it is advised that teleworking is rendered through a written contract, in order to demonstrate that the scheme was voluntary.

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BRAZIL



**BY FERNANDA DIAS FERRAZ
& PRISCILLA CARBONE**

Do workers who work remotely have the same rights as those working at the official workplace?

In Brazil, employment relations are regulated by the Consolidated Labor Laws (“CLT”). All employees have the same rights, regardless of the conditions and of the location of the work development. Nevertheless, it is important to note that, even though they have the same rights, there are some rules that apply differently. One example is that employees who work at the employer’s facility, as a rule, can have either an informal and unwritten employment contract or a formal and written one. On the other hand, employees who work remotely must have a written employment contract, which specifically foresees the remote work and its terms and conditions.

Is there a right to work remotely for workers? Can workers be forced to work remotely?

It is possible to change the work regime from remote to local and vice versa. If the employee works remotely, it is possible for the employer to force him/her to start working from the employer’s facility, with a 15-day prior notice. However, as a rule, the opposite is not possible, because in order for the employee to start working remotely, he/she must be in agreement.

Should a work place be registered for a person who works from home?

In Brazil, all employees have a Work and Social Security Card (“CTPS”). The main information about all working relations involving the employee must be registered on the CTPS, such as the hiring, vacations, salary raise, and termination of the employment contract.



BRAZIL

If an employee works remotely from home, this form of hiring must be on the CTPS (but not the employee address or his/her actual work place), as well as the employer's name, address, and registration number, regardless if the employee doesn't work in loco.

Should risk prevention protocols be carried out in remote work places?

This matter is very controversial in Brazil. The CLT foresees that the employers must instruct their employees who work remotely, regarding the risk prevention protocols that must be carried out, in order to avoid work accidents or diseases. In addition, the employee must sign a term attesting the compliance with the risk prevention protocol.

Considering that, in Brazil, the labor legislation and the labor courts are very protective when it comes to employees' rights, it is possible for the employer to be liable in case an employee who works remotely suffers an accident at home, even if the employee has previously signed the term attesting the compliance with the risk prevention protocol. As the regulation of remote work by CLT is relatively new, it having been introduced in November 2017, there is not yet a consolidated Interpretation by Labor Courts on this particular subject.



What is the minimum content that a remote employment contract must include?

As mentioned above, a remote employment contract must be in writing, and must include terms covering remote work from home. In addition, it shall contain the activities that will be developed by the employee, work duration, as well as the terms about who is responsible for the acquisition, maintenance or supply of working equipment and infrastructure. Lastly, it is important that employers define confidentiality rules, with regard to remote access to the network and the use of software installed by IT, as well as for sharing data and information, during remote work, in accordance with the General Data Protection Regulation in Brazil.

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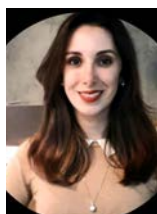
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COLOMBIA



BY JOE BONILLA GALVÉZ

Do workers who work remotely have the same rights as those working at the official workplace?

Yes, according to article 10 of the Colombian Substantive Labour Code all employees are equal before the law. Employees have the same rights and guarantees and any rules that impose unfair or different obligations on employees working from home are prohibited.

Also, article 6 of the Law 1221 of 2008 (law that promotes and regulates remote work in Colombia) and article 4 of the Decree 884 of 2012 (decree that regulates the Law 1221 of 2008) establish that equality amongst employees who work remotely, and other employees, will be promoted at all times during the work relationship. This means that employees who work remotely have the right to (i) receive the same salary earned by an employee who works at the office in the same working position, (ii) affiliate to unions, (iii) be protected against discrimination, (iv) access the Social Security benefits (Retirement, Healthcare and Professional Risks Protection), (v) maintain their privacy and (vi) the same maternity benefits.

Is there a right to work remotely for workers? Can workers be forced to work remotely?

According to article 23 of the Colombian Substantive Labour Code the employer has the faculty to choose the conditions in which the employee renders his or her service. In this sense, the employer is the one who chooses the way, time, and quantity of work the employee has to achieve, with the limitation of the minimum employee's rights and dignity. According to the above, employees can be forced to work remotely if the employer orders them to, unless the fact of working remotely affects the employee's minimum rights or his or her dignity.

COLOMBIA

Should a work place be registered for a person who works from home?

According to article 2 of the Law 1221 of 2008 and article 2 of the Decree 884 of 2012, remote working is defined as a working organization that consists in the development of remunerated activities or the rendering of services to third parties using as a support the information and communication technologies (TIC) to contact an employee and the employer, without the requirement of the physical presence of the employee in a specific workplace.

However, there are three types of remote work:

1. Independent: Employees who use their home or a chosen place to develop their professional activity. They always work outside of the office and only go there in certain occasions.
 2. Mobile: Employees who don't have a fixed working environment, and who develop their activities throughout mobile devices, and
 3. Supplementary: Employees who work two or three days per week at their homes and the other days they work from the office.
- According to the above, the registered workplace for an employee who works remotely will vary depending on the type of remote work he or she develops.

Should risk prevention protocols be carried out in remote work places?

Yes, according to article 8 of the Decree 884 of 2012, the obligations for employer and employee related to security and professional risk preventions apply equally to home working as to the office.

Also, the employer must include special provisions for remote working in its internal working rules and procedures. In this sense, article 9 of the Decree 884 of 2012 states that Professional Risk Administrators (ARP) along with the Ministry of Labour must promote regulations for hygiene and security in remote working conditions.

What is the minimum content that a remote employment contract must include?

According to article 3 of the Decree 884 of 2012 a remote employment contract must include:

- Service conditions: the technological needs and environment required for and the way to carry out the service.
- The days and schedules in which the remote employee must carry out the activities for the purpose of limiting the risk of accidents, and keeping within proper working hours.
- Definition of liability regarding working tools, and the procedure for their return at the conclusion of the remote working, and Technological security measures which must be known and fulfilled by the employee.

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