

Bird & Bird & The Future of Remote Work

Overview of issues relating to remote working across countries



Last updated 30 November 2020

Introduction

2020 has seen one of the most dramatic transformations of the global workforce imaginable. With minimal notice, tens of millions of office-based workers have been sent home to set up remote workplaces from kitchen dining tables and home offices on a scale never seen before.

Businesses around the world have adapted surprisingly well. It is also clear that this global remote working 'experiment' presents significant opportunities for employers longer term, to reduce costs on expensive city centre office space and to embrace more flexible and agile working practices which in turn may help attract and retain key talent. This latter point about talent is particularly relevant given that there appears to be an emerging consensus that employees around the world want to maintain a degree of flexibility moving forward.

At the same time, many employers are mindful of the benefits that being in the same physical space brings, from collaboration and innovation to knowledge sharing and social cohesion, and are looking at the practicalities of how to transition staff back to office-based working, at least to some degree, once it is safe to do so.

So what does all this mean for the future of work and the workplace? Unsurprisingly, employers are approaching this question differently, informed by their own strategic and commercial objectives, industry norms and organisational culture. At one end of the spectrum, there are those organisations that are keen to get employees back to 'normal' in the workplace as soon as possible. At the other end, there have been well-publicised examples of employers already informing their global teams that they can work remotely into 2021, and beyond.

Whilst these new and evolving ways of working present a myriad of options for employers, what is clear is that this topic goes to the very root of the employment relationship, and the meaning of work and the workplace. Any future solution therefore requires employers to navigate complex local legal considerations traversing not only employment laws and human resources topics but also tax, data privacy and immigration laws.

While working on this overview, it became apparent that there were basically always two subtypes of work outside the office: work from the employee's home and work from anywhere else outside the employer's workplace. However, there are many different nuances in each country and the terms could not be standardized without losing at least some of these nuances, which we have therefore kept and defined.

In the first part of this guide, we look at the practical questions employers should be asking when considering remote working longer term, as well as what we think are the key themes emerging for the future of remote working. In the second part, we have included a country-by-country overview of issues relating to remote work.

This is a vast topic and in this brief guide we can only identify some key insights for employers based on our extensive experience advising international clients on these issues. We do hope you find our guide useful and we would be delighted to discuss any of the topics raised with you in more detail.

Thomas Hey
Partner, Germany

Tel: +4921120056313
thomas.hey@twobirds.com



Ian Hunter
Partner, UK

Tel: +44 20 7415 6140
ian.hunter@twobirds.com



Pattie Walsh
Partner, Hong Kong

Tel: +852 2248 6088
pattie.walsh@twobirds.com



twoBirds Access

Coordinating and delivering global projects through effective project management

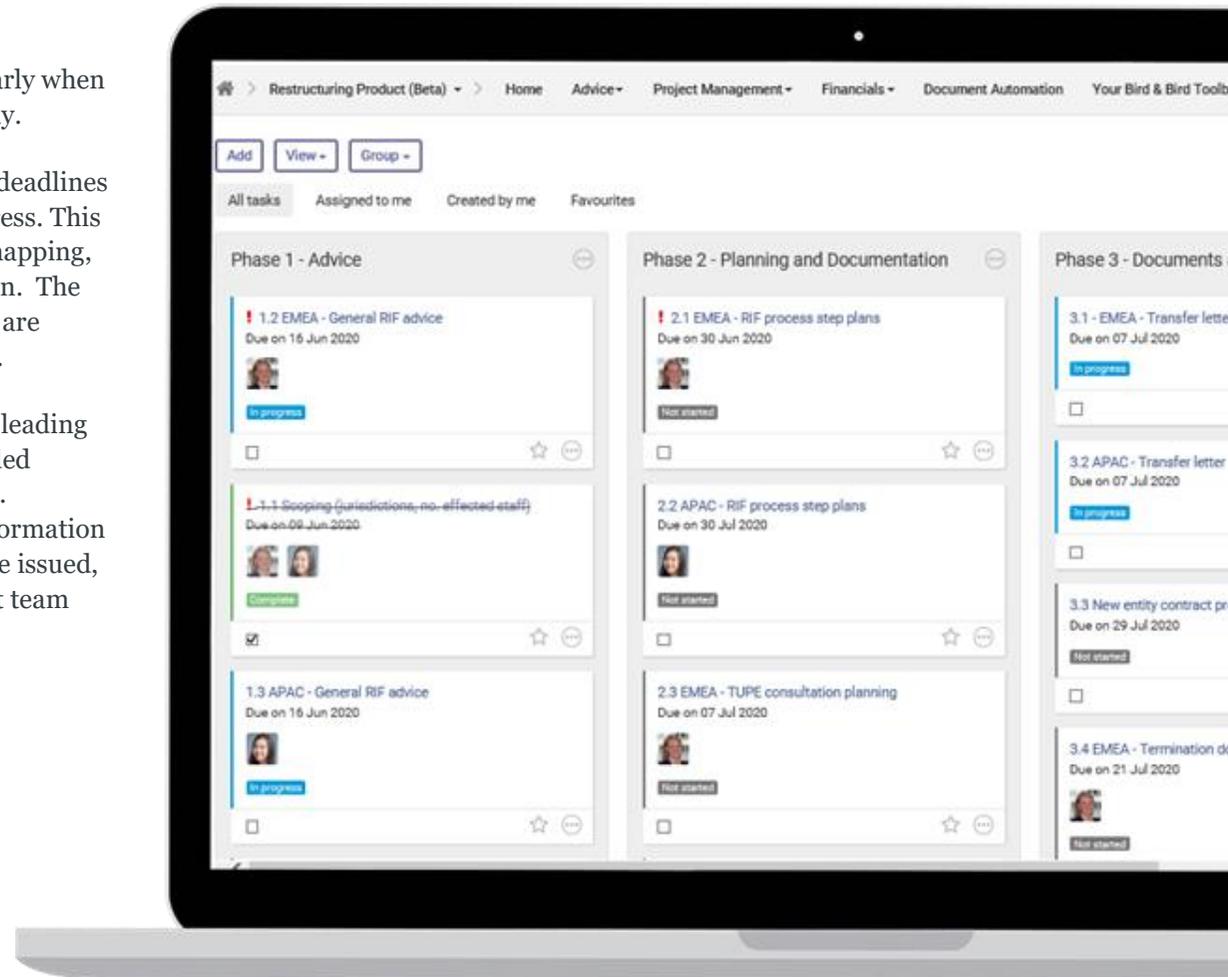
Large-scale international projects can be challenging to manage, particularly when multiple time zones are involved and even more so when working remotely.

Our twoBirds Access platform enables us to effectively manage tasks and deadlines on large projects, reduces email traffic and gives clients visibility on progress. This cloud-based solution incorporates workflow and global project timeline mapping, giving all users access 24/7 to relevant information, irrespective of location. The interactive nature of portal means individuals get email alerts when tasks are assigned and reminders when deadlines due, so the project stays on track.

All Access sites are hosted by HighQ, an ISO 27001 certified and industry leading collaboration portal. The encrypted security portal ensures that all uploaded documents are safe and can only be accessed by pre-approved individuals. Permissions can be set at different levels, so project members only see information that is relevant to their workstream(s). In addition, multiple log-ins can be issued, giving you control over which parts of the site can be accessed by different team members.

Key benefits:

- Access to key documentation 24/7
- Visibility on project progress and milestones
- Reduction in email traffic
- Tailored views for different teams



The Future of Remote Work

What practical questions should employers be asking?

Global or local approach?

Benefits of consistent global approach vs need to navigate local legal considerations



Responsibility

Given the interdisciplinary nature of the issues, who will have oversight and responsibility? A team of key stakeholders? A new 'Head of Remote Work'?

Business protection

How will you protect confidential information and data security in a remote setting? Do you need new policies, training and contingency plans? Who is responsible for insurance?

Documentation

Do employment contracts or policies/work rules need to be modified? Should there be a specific remote work policy covering the key issues?

Implementation strategy

Are there notice, employee consent or consultation requirements to be observed? How will the changes be communicated and implemented?

Health and safety

Who is responsible for risk assessments? Can the employer enter the employee's home (see further below)? Is the employer obliged to appoint a health and safety officer? What mental health support will be available?



Expenses

What will be covered and by whom? Will the employer reimburse expenses or provide an allowance? Does the employer have any local legal obligations (see further below)?

Employee monitoring

Will employee working time, productivity and performance be monitored? How will data protection compliance aspects of any monitoring be managed?



Disciplinary issues

Will there be specific rules/expectations for remote workers e.g. prohibition on using work time for domestic, family or other commitments such as another business interest or childcare?

Hours/ place of work

Will there be any obligations/restrictions on where and when employees work e.g. public spaces, hours of availability? How will rest breaks be managed?

Ethical workplace

How will the working arrangements impact workplace diversity and issues such as mental health? Does this align with your policy aims? How can the impact be measured longer term?

Governance framework

What types of flexible or remote working arrangements will be available and who will be eligible? Will a trial period apply? Can the arrangements be terminated?

Working abroad

What systems will be in place to track overseas working? Have local employment laws, payroll tax obligations, corporate tax and immigration/right to work compliance issues all been considered?



8 key themes emerging for the future of remote work

Workplace culture: Flexible and remote working models inevitably give rise to wider concerns about how to maintain trust and generate an engaged, collaborative and productive workplace culture necessary to ensure the success of the organisation. These concerns will underpin how organisations approach their longer-term working arrangements.

1

2 Talent attraction and retention: More innovative and flexible working arrangements may be key to attracting and retaining talent. Remote working also opens up a wider, potentially global, talent pool. In some cases this has led to a reconsideration of pay and whether this should be linked to where the employee lives, rather than the office location.

Job design and contingent labour: New technologies and ways of working may require new skills and reconsideration of roles and responsibilities within organisations. We are also seeing a trend towards increased use of contingent working arrangements giving employers increased workforce management flexibility going forwards.

3

4 Performance and reward: Traditional employee performance evaluations, goal setting and reward frameworks may need to be adapted to assess and motivate employees in a remote context.

Ethical workplace: There are fears remote work may exacerbate diversity and inclusion challenges requiring organisations to work harder to foster a culture of inclusivity and belonging where all employees have equal opportunity.

5

6 Technology: COVID-19 has accelerated the rate of digital transformation and many organisations have gained efficiencies investing in and embracing new technologies during the pandemic. The focus is now shifting towards finding ways to harness these benefits longer term, including by upskilling and retraining staff.

Mental health and psychological safety: There is growing evidence that employees are working longer hours at home and the blurring of professional and domestic is leading to rising levels of stress and 'remote work burnout'. A holistic approach to employee well-being, promoting mental as well as physical health, will be a key component of any longer term remote working strategy.

7

8 Employee monitoring: Many employers are considering new ways of monitoring staff and remote monitoring technologies, such as those that track keystrokes, measure active and idle time and even facial recognition software, have seen a surge in popularity. These pose inherent challenges from a privacy and data protection standpoint.

Additional resources

Article: Data protection and workplace monitoring

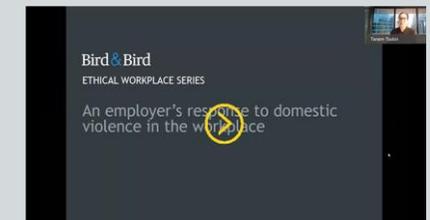
Tips and pitfalls for staff monitoring in the context of COVID-19: Big Brother (probably) wants to be watching more

By Alison Dixon, Stephanie Creed, Oran Klazim
04-2020

Twitter LinkedIn Share on LinkedIn

Recent Webinars

An employer's response to domestic violence in the workplace



Getting your mobile workforce in the right place: employment law, immigration and tax issues



Current issues in remote working – key takeaways

This is intended to give a brief high level summary, please refer to the specific country pages and seek local advice from your regular Bird & Bird contact, or one the contacts listed at the conclusion of this document in relation to your specific circumstances.

Can an employee demand to work from home?	Basis for enabling remote working	Forms of remote working	Tax incentives for remote working
<ul style="list-style-type: none">• None of the in-focus jurisdictions give employees a unilateral right to insist on working from home.• In Germany and the Russian Federation, there is a proposal law in the pipeline.• In Australia, the Netherlands, UK and certain individuals in the UAE, employees have a right to request flexible/remote working.• In Singapore, Slovakia and Spain, due to the current Covid-19 pandemic, there are special remote working permissions in place which are time-barred.	<ul style="list-style-type: none">• The basis for enabling remote working in almost all in-focus jurisdictions is an agreement between the employer and the employee.• A remote-working policy or internal rules could also form the basis for enabling remote working in most in-focus countries.• For Singapore, Slovakia and Spain, special COVID-19 pandemic provisions enable working from home without the need for specific agreement.• In Australia certain categories of employees can make a flexible work request.	<ul style="list-style-type: none">• Different jurisdictions will have different locally used terms, but the general forms of remote working are:<ul style="list-style-type: none">– Working full time from home (Full-time remote working/home office)– Teleworking (form of remote working reliant on information technologies and such devices)– Working part time from home/in the office (partial/occasional/ alternating remote working)– Working wherever necessary (agile/mobile/ flexible working, working from anywhere)	<ul style="list-style-type: none">• Australia, Belgium, Denmark (and Germany and Sweden subject to certain criteria) provide for employee tax deductions that can be claimed for time spent and/or professional/equipment costs incurred whilst working from home.• Czech Republic and the UK allow for employer tax deductions for expenditure on reimbursement of home working costs made to employees. The UK further provides for tax relief in relation to work expenses.• Netherlands has expanded tax-free allowances and benefits in kind for the COVID-19 crisis period.

Current issues in remote working – key takeaways

This is intended to give a brief high level summary, please refer to the specific country pages and seek local advice from your regular Bird & Bird contact, or one the contacts listed at the conclusion of this document in relation to your specific circumstances.

Rules to be observed when remote working	Bringing employees back into the office	Employer's right to inspect the home working place	Claims for reimbursement/ compensation for remote working
<ul style="list-style-type: none">• Generally speaking, for all in-focus jurisdictions:<ul style="list-style-type: none">Statutory requirementsContractual requirementsCompany home working policies/ work rules/ internal regulations/ guidelines/ directivesGuidelines/ Codes of Practices issued by governmental labour authorities	<ul style="list-style-type: none">• Generally, if the home working arrangement was made via agreement, bringing the employee back to work will require:<ul style="list-style-type: none">– notice (as agreed);– consent to cancel the arrangement; or– expiry of the fixed term for remote working.• Of course, any governmental mandates (as a result of COVID-19 special measures or otherwise like in Singapore) would take precedence over any agreement or notice to return to the office.	<ul style="list-style-type: none">• In Hungary and certain situations in Italy, employers have a legal right to inspect the home workplace (to be arranged with the employee). In all other in-focus jurisdictions, there is no right to inspect an employee's home working place without specific consent from the employee.• All such employers still have a duty of care to ensure an employee's workplace is safe (often including the homeworking space). This may be achieved by requesting the employee to complete a workstation and health and safety checklist.	<ul style="list-style-type: none">• Belgium, China, Czech Republic, France, Germany, Italy, Netherlands, Poland, Russian Federation, Singapore and Spain require reimbursement of certain costs incurred during remote working (such as home office equipment, internet subscription, meal costs etc. depending on the jurisdiction).• France provides for home office allowance to employees if there are no company premises available.• In other jurisdictions it is more common that the employer provides the requisite equipment to allow the employee to work from home.

Overview of employment law issues relating to remote working

View resources by country – *click* on country name



 Australia	 Italy
 Belgium	 Netherlands
 China	 Poland
 Czech Republic	 Russian Federation
 Denmark	 Singapore
 Finland	 Slovak Republic
 France	 Spain
 Germany	 Sweden
 Hong Kong	 UAE
 Hungary	 UK

Bird & Bird has extensive contacts with preferred firms in countries where our firm does not have offices.

Australia



The future of remote work: Overview

<p>1. Do employees have a legal right to insist on working from home or remotely?</p>	<p>Yes, though only in limited circumstances, as set out in question 2. Certain categories of employees can make a 'flexible work request' of their employer, which might include a request to work flexibly from home for some or all hours of work.</p> <p>An employer is not obliged to agree to a flexible work request, but can only refuse on 'reasonable business grounds' which include:</p> <ul style="list-style-type: none">a The new working arrangements are too costly (unlikely to apply to home working);b There is no capacity to change the working arrangements of other employees to accommodate the new working arrangements requested by the employee;c It would be impractical to change the working arrangements of other employees to accommodate the new working arrangements requested by the employee;d The new working arrangements requested would likely result in a significant loss of productivity or efficiency; ore The new working arrangements requested would likely have a significant negative impact on customer service.
<p>2. On what basis can the employee work from home/outside the office?</p>	<p>Employees who fall into one of the below categories can make a flexible work request:</p> <ul style="list-style-type: none">a An employee who is a parent or has responsibility for the care of a child who is school age or younger;b An employer who is a carer;c An employee who has a disability;d An employee who is 55 or older; ore An employee who is experiencing domestic violence, or who provides care/support to an immediately family member who is experiencing domestic violence. <p>Furthermore, the parties can agree on flexible work.</p>
<p>3. Forms of working outside the "regular working space/office"</p>	<ul style="list-style-type: none">a Telework/home office = working full time from homeb Alternating telework = working part time from home/in the officec Mobile work = working wherever necessary

Australia



The future of remote work: Overview

<p>4. Tax treatment for working outside the office?</p>	<p>Tax deductions can be claimed for time spent working from home based on a fixed hourly rate deduction or an actual costs method.</p> <p>For the period 1 March to 31 December 2020, employees may claim for tax deductions using the 'shortcut method' applying a deduction of 80 cents per hour for time spent working from home.</p>
<p>5. What rules need to be observed when working outside the office?</p>	<p>a Statutory requirements e.g. compliance with the Fair Work Act and the National Employment Standards, workplace health and safety laws, the Privacy Act and Australian Privacy Principles;</p> <p>b Contractual requirements; and</p> <p>c Company policies.</p>
<p>6. How to bring employees back to the office?</p>	<p>This can be done as a matter of policy after assessing each arrangement on a case by case basis. We recommend that at the approval stage, employers approve flexible work requests on a trial basis initially, to allow each party to assess the suitability of the arrangement. Employers can then reassess after the trial and if the arrangement is not working, decline the arrangement on an ongoing basis on 'reasonable business grounds'.</p>
<p>7. Co-determination rights to be acknowledged?</p>	<p>Australia does not recognise co-determination or a work council model.</p> <p>Unions are still entitled to engage with employees and employers and continue to actively work with and represent employees.</p> <p>Certain unions have indicated they will continue to advocate for flexible work measures post COVID-19.</p>
<p>8. Which data protection aspects have to be observed?</p>	<p>a The Privacy Act 1988 (Cth) incorporating the Australian Privacy Principles must still be observed.</p> <p>b The Office of the Australian Information Commissioner is encouraging employers to consider undertaking a threshold assessment to determine if a Privacy Impact Assessment is necessary with regards to employees working from home.</p> <p>c Employers are also asked to consider if they need to implement additional security measures and mitigation strategies.</p>
<p>9. Does the employer have a right to inspect the remote workplace?</p>	<p>a The employer cannot force an employee to submit to a physical inspection of the home workplace. Employers should consult with workers where necessary.</p> <p>b Employers still have a duty of care and must ensure the home workplace is safe; this may be achieved by requesting the employee to complete a workstation and health and safety checklist.</p>

Australia



The future of remote work: Overview

10. Can employees claim additional compensation when working outside the office? Can they make additional claims for office furniture, etc.?

Employers are not required to compensate workers for equipment costs; however, many companies choose to voluntarily reimburse the cost of equipment and increased internet/electricity costs etc.

Employees may claim tax deductions for equipment costs.

11. Special regulations during the pandemic?

Regulations differ depending on the State or Territory.

Currently in New South Wales and Victoria employers cannot require employees to attend work where the work can reasonably be completed from home.

Nationally, employers may direct employees to work from home under work, health and safety laws, where they have shown symptoms of COVID-19 or it is reasonably necessary to ensure health and safety in the workplace.



Belgium



The future of remote work: Overview

<p>1. Do employees have a legal right to insist on working from home or remotely?</p>	<p>Generally, no, but at the current stage of the spread of the COVID-19 pandemic, it is mandatory whenever the employees' functions allow it (the mandatory character of homeworking is regularly reassessed by the authorities depending on the state of urgency, ranging from "highly recommended" to "mandatory", which is the current status until 13 December 2020 – date expected to be extended). If their functions can be performed remotely, employees may refuse to come to the premises and decide to work from home. Employers cannot impose on employees to come to the premises, if no adequate health and safety rules are in force at the workplace.</p>
<p>2. On what basis can the employee work from home/outside the office?</p>	<p>a Written agreement between employer and each employee teleworking (i.e. performing work at home using information-technology that could also be done at the company premises) on a regular basis. b Agreement (not necessarily written) between employer and employee where the employee is occasionally teleworking. c Current COVID-19 rules imposing homeworking wherever the functions allow it.</p>
<p>3. Forms of working outside the "regular working space/office"</p>	<p>a Occasional telework (in force majeure cases (e.g. an unforeseen railway strike, really bad weather conditions) or for personal reasons (e.g. a doctor's appointment that could only be planned during working hours) b Regular telework (not occasional) c Regular home working (i.e. not using information-technology for work that could not otherwise be performed at the company premises.) This form of home work has nearly vanished d COVID-19 telework e Mobile work = working wherever necessary</p>
<p>4. Tax treatment for working outside the office?</p>	<p>a Tax and social security deductibility of duly evidenced professional costs incurred by the employee and reimbursed by the employer. b Certain net lump sum reimbursements of costs are accepted by the authorities e.g. for the home office, the internet subscription or the professional use of a private computer by the teleworker, or for the road and meal costs incurred by a mobile worker.</p>
<p>5. What rules need to be observed when working outside the office?</p>	<p>a Statutory requirements e.g. compliance with the Employment Contracts Act and other occupational health and safety rules (incl. having a first aid kit), data protection etc. b Contractual requirements c Company regulations (e.g. works agreement)</p>

Belgium



The future of remote work: Overview

6. How to bring employees back to the office?	Depends on relevant provisions of the agreement on telework concluded between the parties (i.e. usually one month prior written notice from the employer).
7. Co-determination rights to be acknowledged?	<ul style="list-style-type: none">a Works council has information and consultation rights regarding any envisioned change likely to affect the work organisation.b Occasional telework terms and conditions can be settled in a company's Collective Bargaining Agreements (negotiated with the unions) or in the company Work Rules (amended by the work council if any).
8. Which data protection aspects have to be observed?	<ul style="list-style-type: none">a Compliance with the EU General Data Protection Regulation ("GDPR") and implementing domestic lawsb Employer is responsible for ensuring compliancec Employer needs to take appropriate technical and organisational measures to protect the datad Advisable to address this in the general employee privacy notice
9. Does the employer have a right to inspect the remote workplace?	<ul style="list-style-type: none">a The employer's internal or external prevention services can at any time access the workplace to check if the occupational health and safety rules are observed (with which the employees must comply).b When the workplace is at the employee's residence, the employer and the prevention services may only inspect it with the employee's consent.
10. Can employees claim additional compensation when working outside the office? Can they make additional claims for office furniture, etc.?	<ul style="list-style-type: none">a Employers must provide and maintain the tools necessary to perform the agreed work (e.g. phone, computer, software and internet connection for telework).b Employees using their own tools are entitled to receive compensation which must be addressed in the agreement on telework between the parties.c Teleworkers cannot legally claim compensation for office furniture, electricity, heating, etc. but this is often agreed contractually (can be tax and social security deductible).
11. Special regulations during the pandemic?	Whenever possible, employers must encourage employees to work from home, particularly when observing the social distancing rules at the workplace is not possible. Employees who cannot safely work at the workplace nor telework can apply for unemployment benefits.

China



The future of remote work: Overview

1. Do employees have a legal right to insist on working from home?	No, the employee has no right to insist on working from home, unless the workplace is in a High-Risk Area (as defined by the local policy) and the company is required by the COVID-19 prevention policies to arrange employees to work from home.
2. On what basis can the employee work from home/outside the office?	<ul style="list-style-type: none"> a COVID-19 prevention policies b Agreement between employer and employee in the employment contract or in a subsequent agreement c Defined rules for working outside the office in the company's internal policies
3. Forms of working outside the "regular working space/office"	<p>The legislation does not define other forms of working outside the "regular working space/office." In practice, working outside the office should be acceptable if the company internally classifies working outside the office into the following categories:</p> <ul style="list-style-type: none"> a Telework/Home office = working full time from home b Alternating telework = working part time from home/in the office c Mobile work = working wherever necessary
4. Tax treatment for working outside the office?	Not applicable
5. What rules need to be observed when working outside the office?	<ul style="list-style-type: none"> a Statutory requirements e.g. compliance with the occupational health and safety rules, data protection etc. b Contractual requirements c Company regulations e.g. staff handbook
6. How to bring employees back to the office?	Provided that the employer and the employee have agreed in the employment contract or subsequent contract that the workplace is the company office, the company can exercise its managerial authority to bring employees back to the office, unless the COVID-19 prevention policy states otherwise.
7. Co-determination rights to be acknowledged?	Not applicable

China



The future of remote work: Overview

8. Which data protection aspects have to be observed?	<ul style="list-style-type: none">a Application of the Cyber Security Law and its supporting policies.b Employer is responsible for ensuring compliancec Employer needs to take appropriate technical and organisational measures to protect the datad Advisable to conclude an agreement on data protection measures with the employee
9. Does the employer have a right to inspect the remote workplace?	<ul style="list-style-type: none">a The employer has no legal right to inspect the home workplace, but needs to ensure the workplace is in compliance with occupational health and safety rulesb Possibility to conclude an individual agreement regulating the right to inspect the home workplace under certain conditions.
10. Can employees claim additional compensation when working outside the office? Can they make additional claims for office furniture, etc.?	Strictly speaking, the employer is responsible for providing work equipment to the employees. If working outside the office will notably increase the employee's cost for work (for example, printing fees, office equipment costs, telephone fees, network fees, etc.), the employer should compensate the employee. However, it is rare to see such claims in practice.
11. Special regulations during the pandemic?	An employer can unilaterally direct the employee to work from home, if it is a special situation and the health of employees is at risk.

“We have offices across Europe and frequently work with Bird & Bird on multi-jurisdictional matters. They are true subject matter experts and are able to support on even the most complex of matters.”

Chambers, 2020

Czech Republic



The future of remote work: Overview

<p>1. Do employees have a legal right to insist on working from home?</p>	<p>Under the Czech Labour Code, employees cannot generally demand to work from home. However, due to the COVID-19 pandemic, the Czech Government recommends that, where possible, employers should allow their employees to work from home.</p>
<p>2. On what basis can the employee work from home/outside the office?</p>	<p>By agreement between the employer and employee made in the employment contract itself or its addendum. Please note that there is no comprehensive legislation regarding working from home in the Czech Republic and, therefore, it is important to properly address the particular terms for the work from home arrangement in an agreement.</p>
<p>3. Forms of working outside the "regular working space/office"</p>	<p>a The Czech Labour Code specifically recognizes and regulates only one form of remote working. This arises where an employee does not work at the workplace of the employer and performs for their employer the agreed type of work within working hours which the employee determines themselves. These employees are exempt from certain Labour Code provisions (e.g. compensation for overtime work or work on public holidays).</p> <p>b Employees who work outside the workplace of their employer (whether fully or partially), but whose working hours are assigned by their employer, are subject to all the provisions of the Labour Code and the exemption above does not apply to them.</p>
<p>4. Tax treatment for working outside the office?</p>	<p>The employer is obliged to reimburse employees working from home for the costs that they demonstrably incur in connection with the performance of their work, e.g. expenditure on telephone, internet, electricity, heating consumption, IT equipment etc. These costs are tax deductible for the employer.</p>
<p>5. What rules need to be observed when working outside the office?</p>	<p>a Statutory requirements under the Czech Labour Code and related legislation, e.g. occupational health and safety rules, data protection etc. b Contractual requirements agreed between the parties c Company internal policies and work rules</p>
<p>6. How to bring employees back to the office?</p>	<p>a Based on an agreement between the parties b Unilaterally, if such possibility has been agreed between the parties (this should be addressed in the work from home agreement or addendum). c Upon the lapse of the time limit specified in the work from home agreement or addendum.</p>

Czech Republic



The future of remote work: Overview

7. Co-determination rights to be acknowledged?	Under the Czech Labour Code, an employer should inform employees/works council/trade union organisation of the basic terms of the employees' working conditions and their changes. In addition, an employer should consult with the employees' representatives of any measures adopted for the purposes of occupational health and safety protection.
8. Which data protection aspects have to be observed?	Compliance with the GDPR and local data protection legislation must be ensured by the employer. Appropriate technical and organisational security measures must be put in place to protect personal data. Employees should be trained on how to treat personal data and other confidential information when working from home.
9. Does the employer have a right to inspect the workplace?	The employer is not entitled to inspect the employee's home workplace without the employee's consent. However, the employer must ensure the protection of health and safety of its employees even when they work from home. The work from home agreement should therefore allow the employer to inspect the home workplace upon prior notification to the employee and whilst respecting the employee's privacy.
10. Can employees claim additional compensation when working outside the office? Can they make additional claims for office furniture, etc.?	Employees can claim compensation when working outside the office and buying equipment for their work. If an employee uses their own equipment (based on an agreement with the employer), then they are entitled to reimbursement of the incurred costs.
11. Special regulations during the pandemic?	No, there are no special regulations regarding work from home during the pandemic. It has only been recommended that employees work from home where the nature of their work allows them to do so.

“Bird & Bird provides a 'responsive and client-focused service' across the spectrum of employment issues impacting local and multinational employers.”

Legal 500, 2020

Denmark



The future of remote work: Overview

1. Do employees have a legal right to insist on working from home?	No, unless this is agreed in the employment contract.
2. On what basis can the employee work from home/outside the office?	Agreement between employer and employee in the employment contract, in an addendum to the employment contract or on a time-to-time basis.
3. Forms of working outside the "regular working space/office"	It is up to the employee and the employer to agree on the extent to which the employee should be available. This could include: a working full time outside the office; or b working part time outside the office and part time in the office.
4. Tax treatment for working outside the office?	Employees should not incur any additional expenses because they are working from home. It is therefore common in Denmark for the employee to be provided with internet, laptop, mobile etc. by the employer. It has been decided that the free internet, mobile and other electronic devices have a total value of DKK 2.900,00 per year. As a consequence, the employee needs to pay taxes on this amount in addition to "normal" income tax, if she/he is allowed to use the equipment provided by the employer for private purposes. The Danish payroll provider will state this on the monthly payslip, and it will be calculated automatically on a monthly basis by the Danish Tax Authorities.
5. What rules need to be observed when working outside the office?	The Danish Work Environment Act also applies when employees are working from home. This requires the employer to ensure the workplace is safe and healthy and the employee must take part in this process. Among other things, this includes ensuring the employee has the appropriate equipment to do the job, i.e. computer, screen, keyboard etc. The employee could also be entitled to an appropriate chair, appropriate light, glasses etc.
6. How to bring employees back to the office?	Depends on the consequences of the change for the employee. Danish labour law distinguishes between insignificant changes and significant changes. It is always an individual assessment whether a change in the employment terms is deemed significant or not. But the absolute main rule is that if the change will have negative economic consequences for the employee, the change is significant. A change in the employee's traveling hours to and from work could also be considered a significant change.

Denmark



The future of remote work: Overview

	<p>a <u>If insignificant</u>: The changes can come into force with reasonable notice (approx. 10 days).</p> <p>b <u>If significant</u>: A unilateral change will be considered a termination of employment by the employer accompanied by an offer to the employee to continue on the new conditions. The change can therefore only be implemented with the individual notice of termination.</p> <p>If the employee refuses, the employee must then cease employment at the end of the notice (and the original terms and conditions will apply until expiry of the notice).</p> <p>c <u>If agreed with the employee (recommended)</u>: If the employee agrees to the changes, the changes can become effective immediately or with retroactive effect (if also agreed) and will not constitute termination by the employer.</p>
<p>7. Co-determination rights to be acknowledged?</p>	<p>It is always recommended to have an open dialogue with the employee regarding the arrangement of the workplace.</p> <p>There are no general requirements of participation by work councils unless this is stated in a collective bargaining agreement.</p>
<p>8. Which data protection aspects have to be observed?</p>	<p>a Application of the GDPR</p> <p>b Employer is responsible for ensuring compliance</p> <p>c Employer needs to take appropriate technical and organisational measures to protect the data</p>
<p>9. Does the employer have a right to inspect the remote workplace?</p>	<p>The employer has no legal right to inspect the workplace at home. However, to ensure compliance with the Danish Work Environment Act, the employee must either inform the employer of the necessary actions or the employer should be allowed to inspect the employee's home to commence the required actions.</p>
<p>10. Can employees claim additional compensation when working outside the office? Can they make additional claims for office furniture, etc.?</p>	<p>Employees should not have any additional expenses because they are working from home. It is therefore common practice in Denmark that the employee is provided with internet, laptop, mobile etc. To provide the employee with internet access, the employer may either engage with the internet provider to have it installed at the home address of the employee with the invoice to be sent directly to the employer or the employee continues to use her/his internet provider and the employer reimburses any expenses in relation hereto.</p>
<p>11. Special regulations during the pandemic?</p>	<p>Employers are encouraged to let their employees work from home to the greatest extent possible.</p>

Finland



The future of remote work: Overview

1. Do employees have a legal right to insist on working from home?	No, an employee cannot work remotely only by his/her own decision. Equal treatment of employees is necessary even when deciding who can or cannot work remotely.
2. On what basis can the employee work from home/outside the office?	<ul style="list-style-type: none">a Agreement between employer and employee in the employment contract or in a subsequent agreementb Defined rules for working outside the office in a separate agreement or in a works agreement
3. Forms of working outside the "regular working space/office"	Remote work refers to a model of work that can be performed outside the actual place of work. Employees can work: <ul style="list-style-type: none">a regularly or irregularly;b all or a part of their hours; orc remotely at home or in a place chosen by the employee.
4. Tax treatment for working outside the office?	Tax deductible expenses include e.g. workspace costs, furniture expenses and data connection fees. If an employee receives wage income, he/she is automatically granted a EUR 750 deduction for the production of income. If an employee has more expenses than EUR 750, he/she can report them as expenses for the production of income on his/her tax return.
5. What rules need to be observed when working outside the office?	The same provisions of: <ul style="list-style-type: none">a labor law, e.g. Employment Contracts Act;b collective agreements;c applicable agreements between the employer and the employee, such as the employment agreement and possible separate remote work agreement; andd employer's guidelines apply equally to remote work as to similar work performed on the employer's premises.
6. How to bring employees back to the office?	Unless otherwise agreed, the employee does not have an independent right to work remotely and, in principle, the employer can oblige the employee to return to the workplace.

Finland



The future of remote work: Overview

7. Co-determination rights to be acknowledged?	The employer must annually prepare a personnel and training plan in the co-operation negotiations. The plan must include the principles of the various forms of employment relationship including remote work (e.g. who can work remotely and how often, how remote work is organized, etc.)
8. Which data protection aspects have to be observed?	<p>a The employer is responsible for ensuring that the GDPR and other relevant legislation concerning data protection is complied with.</p> <p>b Employees must follow the data protection instructions issued by the employer.</p>
9. Does the employer have a right to inspect the remote workplace?	The employer has no right to inspect the workplace at home. The provisions of the Occupational Safety and Health Act are of limited application to remote work, as the employer has limited ability to monitor working conditions or monitor workload.
10. Can employees claim additional compensation when working outside the office? Can they make additional claims for office furniture, etc.?	Usually, the employer acquires the equipment and tools needed for remote work and is responsible for their installation, maintenance and technical support. The employee and the employer may also agree that the employee will use his/her own work equipment, in which case any compensation paid by the employer will be agreed between the parties.
11. Special regulations during the pandemic?	In a situation where the health authorities state that the COVID-19 epidemic is growing regionally, the Finnish Government recommends that workplaces in the region shift to remote work when possible. Correspondingly, in a situation where the health authorities state that, despite preventive measures, the epidemic is increasing nationally, public and private sector workers should shift to remote work as extensively as possible where their duties allow.

“Clients highlight the team's “timely, responsive service and superb value for money,” and praise the firm's “expertise and collaborative nature.””

Chambers, 2020

France



The future of remote work: Overview

1. Do employees have a legal right to insist on working from home?	No, but working from home is common practice, and even more so since the beginning of the COVID-19 pandemic.
2. On what basis can the employee work from home/outside the office?	<p>a Either by implementing a home office policy (i.e. a collective agreement, or failing that, a charter defined by the employer after consultation of the staff representative bodies, if any)</p> <p>b Or by signing an individual amendment for each employee</p>
3. Forms of working outside the "regular working space/office"	<p>a Permanent work from home = working full time from home;</p> <p>b Alternating work from home = working part time from home/in the office;</p> <p>c Telework in co-working spaces = the employee performs his/her duties in professional spaces with computer and telecommunications equipment managed by a private operator;</p> <p>d Mobile telework = working wherever necessary (e.g. employees who travel regularly).</p>
4. Tax treatment for working outside the office?	Same tax treatment as employees working on the company's premises (i.e. the remuneration is subject to social contributions and income tax and professional expenses are deductible under usual conditions).
5. What rules need to be observed when working outside the office?	<p>a Statutory requirements:</p> <ul style="list-style-type: none"> - Expenses coverage; - Home office allowance; - Rules regarding working time, mandatory time off, monitoring the workload; - Time slots during which the employer can contact home-based employees; - Conditions of access for disabled workers (if any). <p>b Other applicable rules (e.g. the employer provides, installs and maintains necessary equipment; ensures that the employee's home is suitable for telework and each employee has insurance cover; that working time regulations are complied with).</p>
6. How to bring employees back to the office?	<p>Depends on how home office working was implemented:</p> <p>a Unilateral decision by the employer in case of exceptional home office work (pandemic);</p>

France



The future of remote work: Overview

	<ul style="list-style-type: none"> b With the employee's agreement if they have a home office contract; c At the company's discretion with reasonable notice in the event of "flexible" home office working implemented by a company policy or in-house agreement.
7. Co-determination rights to be acknowledged?	Prior consultation of the works council if telework is implemented by a policy.
8. Which data protection aspects have to be observed?	<ul style="list-style-type: none"> a Application of the GDPR; b Employers need to take necessary measures to ensure the protection of the data used and processed by the employee for professional purposes; c Employers need to inform the employee of the following: <ul style="list-style-type: none"> – any restrictions regarding the use of IT equipment or tools such as the Internet; and – sanctions in the event of non-compliance with the applicable rules.
9. Does the employer have a right to inspect the remote workplace?	The employer has no legal right to inspect the work place at home but has obligations which may require the employer to attend the employee's home with the employee's consent (e.g. install, provide and maintain necessary equipment and ensure that the employee's home is suitable for telework).
10. Can employees claim additional compensation when working outside the office? Can they make additional claims for office furniture, etc.?	<ul style="list-style-type: none"> a The employer pays for professional expenses linked to the home office and provides the necessary equipment for telework. b In addition, employees are entitled to a home office allowance (between EUR 60 and EUR 100 / month) if there is no office available for them in the company premises.
11. Special regulations during the pandemic?	Yes, during the pandemic, the French Government recommends employers implement work from home arrangements in order to limit the spread of the virus. In this context, the employer can impose telework unilaterally without having to comply with any particular prior consultation or consent and without having to pay the home office allowance (except for employees who are usually full remote workers).

Germany



The future of remote work: Overview

1. Do employees have a legal right to insist on working from home?	Not yet, but there is a proposal from the Federal Employment Ministry for a new law giving employees a right to work from home. It is doubtful whether such a law will come into force under the current government.
2. On what basis can the employee work from home/outside the office?	<ul style="list-style-type: none"> a Agreement between employer and employee in the employment contract or in a subsequent agreement b Defined rules for working outside the office in a separate agreement or in a works agreement
3. Forms of working outside the "regular working space/office"	<ul style="list-style-type: none"> a Telework/home office = working full time from home b Alternating telework = working part time from home/in the office c Mobile work = working wherever necessary
4. Tax treatment for working outside the office?	<p>The costs for a study/office at home are tax deductible where:</p> <ul style="list-style-type: none"> a The employer has no other workplace available for the employee, b The study at home is a closed room c The room is used almost exclusively for work.
5. What rules need to be observed when working outside the office?	<ul style="list-style-type: none"> a Statutory requirements, e.g. compliance with the Working Conditions Act and other occupational health and safety rules, data protection etc. b Contractual requirements c Company regulations (e.g. works agreement)
6. How to bring employees back to the office?	<p>Depends on the basis for working outside the office:</p> <ul style="list-style-type: none"> a to a limited extent: managerial authority b agreement of the parties c unilateral, if contractual requirements are valid and met d time limitation pursuant to a contractual agreement (e.g. the agreement stipulates a permitted duration for the working from home arrangement, after which employees will return to work at the office)

Germany



The future of remote work: Overview

<p>7. Co-determination rights to be acknowledged?</p>	<p>a There are no co-determination rights regarding the question of whether home office/mobile work should be introduced generally.</p> <p>b However, if the employer has decided to introduce home it, the works council has information and negotiation rights regarding the design of home office/remote work in the company, e.g. the amount of days each employee may spend working from home per week etc. Usually the parties conclude a works agreement specifying the details.</p>
<p>8. Which data protection aspects have to be observed?</p>	<p>a Application of the GDPR</p> <p>b Employer is responsible for ensuring compliance</p> <p>c Employer needs to take appropriate technical and organisational measures to protect the data</p> <p>d Advisable to conclude an agreement on data protection measures with the employee</p>
<p>9. Does the employer have a right to inspect the remote workplace?</p>	<p>a The employer has no legal right to inspect the home workplace but needs to ensure compliance with occupational health and safety rules.</p> <p>b It is possible to conclude a collective or individual agreement regulating the right to inspect the home workplace under certain conditions.</p>
<p>10. Can employees claim additional compensation when working outside the office? Can they make additional claims for office furniture, etc.?</p>	<p>Depends on the form of working outside the office:</p> <p>a Telework/Home office: The employer generally needs to equip the workplace and pay the related expenses.</p> <p>b Mobile work: Generally, no compensation, because the employee is able to use the fully equipped workplace at the office. Mobile work aims to give the employee flexibility to work wherever necessary, e.g. while travelling. Therefore, there is no need for another fully equipped workplace. The employee will, however, be provided with laptop, mobile etc.</p>
<p>11. Special regulations during the pandemic?</p>	<p>Employer can unilaterally direct the employee to work from home if it is a special situation and the health of the employee is at risk.</p>

Hong Kong



The future of remote work: Overview

1. Do employees have a legal right to insist on working from home?	No, currently employees do not have a legal right to work from home (unless provided otherwise in the employment contract or other agreements). We are not aware of any government plans to introduce legislation giving employees the right to work from home.
2. On what basis can the employee work from home/outside the office?	Agreement between employer and employee in the employment contract or in another contractual document/company policy.
3. Forms of working outside the "regular working space/office"	<ul style="list-style-type: none">a Remote working/telework/home office = working full time from homeb Alternating remote working/flexible working = alternating periods of working from home and working from the office, or employees have the option to work from home flexibly when the need arisesc Mobile working = working wherever necessary
4. Tax treatment for working outside the office?	Unlikely that there is any special tax treatment in relation to the employer for implementing working from home arrangements in Hong Kong.
5. What rules need to be observed when working outside the office?	<ul style="list-style-type: none">a Statutory requirements, e.g. compliance with the Occupational Health & Safety Ordinance and other occupational health and safety regulations to provide a safe environment working from home, (Employees' Compensation Insurance to provide compensation for injuries or death caused by accidents arising out of and in the course of employment, and the Minimum Wage Ordinance to track employees' working time if the wages payable in respect of that month are less than HK\$15,300 etc.)b Contractual requirementsc Company regulations (e.g. policies and handbooks)
6. How to bring employees back to the office?	Depends on the terms of agreement for working from home: <ul style="list-style-type: none">a agreement of the partiesb unilateral, if the contractual requirements are clear, valid and met (e.g. the agreement gives the employer the right to require employees to return to the office for work)c time limitation pursuant to contractual agreement (e.g. the agreement stipulates a permitted duration for the working from home arrangement, after which employees will return to work at the office)

Hong Kong



The future of remote work: Overview

7. Co-determination rights to be acknowledged?	Consultation is not legally required, unless it is stipulated in a collective bargaining agreement, which is uncommon in Hong Kong.
8. Which data protection aspects have to be observed?	<p>a Application of the Personal Data (Privacy) Ordinance</p> <p>b The Office of the Privacy Commissioner for Personal Data advises employers to take all practicable steps in protecting data from unauthorised/accidental access, processing, erasure, loss or use (e.g. incorporating security measures into the data storage equipment, ensuring the integrity of persons who have access to the data, redacting personal and confidential information before transferring out of employer's premises etc.)</p> <p>c Advisable to conclude an agreement on data protection measures with the employees</p>
9. Does the employer have a right to inspect the remote workplace?	<p>a The employer has no legal right to inspect the workplace at home, but needs to ensure compliance with the Occupational Health & Safety Ordinance and other occupational health and safety regulations</p> <p>b Advisable for the employer to perform a risk assessment of the workplace at home (with the consent of employees), or require employees to carry out a self-assessment based on clear company guidelines</p>
10. Can employees claim additional compensation when working outside the office? Can they make additional claims for office furniture, etc.?	<p>Generally, employees do not have a right to claim compensation for working outside the office (in the absence of any agreements/policies to the contrary).</p> <p>However, employers may consider providing reimbursement or a one-off allowance for employees to procure suitable office furniture and laptops, or to cover additional expenses arising from the working from home arrangement incurred by the employees.</p>
11. Special regulations during the pandemic?	<p>There are no special regulations for working from home arrangements during the pandemic.</p> <p>The government has encouraged employers to adopt flexible working arrangements particularly during surges in COVID-19 cases, although it is not mandatory to adopt such arrangements.</p>

“The advice and support we get from the team is consistently of a very high quality,” one client comments, adding: “They’re very knowledgeable, flexible and hard-working.”

Hungary



The future of remote work: Overview

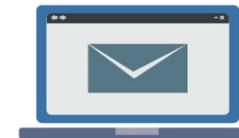
1. Do employees have a legal right to insist on working from home?	No, the employee does not have a legal right to work from home (except if a telework employment agreement is concluded between the parties).
2. On what basis can the employee work from home/outside the office?	<ul style="list-style-type: none"> a Agreement between employer and employee in the employment contract or in a subsequent amendment to the employment contract b Based on employer's internal policy allowing home working
3. Forms of working outside the "regular working space/office"	<ul style="list-style-type: none"> a Telework: working full time on a regular basis at a place other than the employer's premises, using IT equipment, where the work product is delivered by way of electronic means. b Home office: working partly / irregularly from home.
4. Tax treatment for working outside the office?	No specific rules on taxation regarding telework/home office.
5. What rules need to be observed when working outside the office?	<ul style="list-style-type: none"> a Statutory requirements (e.g. compliance with occupational health and safety rules, data protection laws etc.) b Contractual requirements (e.g. protection of trade secrets, use of company equipment) c Company regulations, internal policies (e.g. IT security, BYOD)
6. How to bring employees back to the office?	<ul style="list-style-type: none"> a Unilateral, unless (i) health and safety of employees cannot be ensured in the workplace or (ii) employment agreement/internal policy provides otherwise b Based on agreement between the employer and the employee or employer's internal policy setting out home office requirements
7. Co-determination rights to be acknowledged?	Opinion of the works council must be obtained before the introduction of home office/teleworking.
8. Which data protection aspects have to be observed?	<ul style="list-style-type: none"> a Application of the GDPR and the Hungarian Info Act (if applicable) b Employer is responsible for ensuring compliance c Employer needs to take appropriate technical and organisational measures to protect the data d Employer needs to inform the employee on employer's data processing activities

Hungary



The future of remote work: Overview

<p>9. Does the employer have a right to inspect the remote workplace?</p>	<p>The employer has the right to inspect the home workplace. However, the inspection must not impose a disproportionate burden on the employee or on any other person who is also using the property designated as the place of work. In case of telework, further specific requirements apply on inspecting the workplace.</p>
<p>10. Can employees claim additional compensation when working outside the office? Can they make additional claims for office furniture, etc.?</p>	<p>Depends on the form of working outside the office:</p> <ul style="list-style-type: none">a <u>Telework</u>: The Employer should equip the workplace of the employee. The parties may decide that the employee may use his/her own devices. In general, the employer should reimburse the employee for the work-related costs. However, there is no telework-specific binding rule regulating the employer's duty to pay the expenses and in practice, many employers do not provide a compensation.b <u>Home office</u>: No specific regulation, but the practices set out above are followed in general.
<p>11. Special regulations during the pandemic?</p>	<p>Employers were able to unilaterally direct employees to work from home during the 'state of emergency' which ended on 1 July 2020 based on a COVID-19-specific Government Decree. A new Government Decree from 12 November 2020 re-regulates certain aspects of telework in the state of emergency which was declared again in early November.</p>





The future of remote work: Overview

<p>1. Do employees have a legal right to insist on working from home?</p>	<p>No. Home working and ‘smart working’ (see below) can be implemented on a voluntary basis and require the employer’s consent. During the COVID-19 emergency some specific categories (e.g. disabled employees, employees assisting disabled family members or with children under 14 years old and employees with chronic diseases) are entitled to work from home provided their tasks can be performed remotely.</p>
<p>2. On what basis can the employee work from home/outside the office?</p>	<p>a Home working: agreement between employer and employee in the employment contract or in a subsequent agreement. The smart working scheme requires a specific agreement (usually an annex to the employment contract). b Defined rules for working outside the office in a separate agreement or in a specific annex.</p>
<p>3. Forms of working outside the "regular working space/office"</p>	<p>There are two remote working schemes:</p> <p>a smart working, where the work activities are performed, partly at the company office and partly outside it without a fixed place of work (home or other places); and b teleworking/home working, where the activities are regularly performed at the employee’s home which is the normal place of work.</p>
<p>4. Tax treatment for working outside the office?</p>	<p>There are no specific tax rules/incentives for smart working/home working.</p>
<p>5. What rules need to be observed when working outside the office?</p>	<p>a Statutory requirements: e.g. compliance with working conditions applicable to employees working at the office with similar tasks b Compliance with health and safety rules c Compliance with data protection rules d Terms and conditions provided by the applicable national collective agreement and by company agreements (if any) e Contractual requirements</p>
<p>6. How to bring employees back to the office?</p>	<p>a At the expiry of the term provided by the smart working / home working agreement, if it is entered for a fixed term. b Smart working agreements entered for an open-ended term can be unilaterally terminated by the employer giving notice to the employee. c Home working agreements cannot be unilaterally terminated and the change of place of work requires the employee’s consent.</p>

Italy



The future of remote work: Overview

7. Co-determination rights to be acknowledged?	Both smart working and home working can be implemented on an individual basis and do not require information/consultation with Trade Unions. However, it may be possible to negotiate with Company Trade Unions on specific rules to be implemented in individual agreements.
8. Which data protection aspects have to be observed?	<ul style="list-style-type: none">a Application of the GDPR;b Employer needs to take appropriate technical and organisational measures to protect the data;c Advisable to provide a policy on the use of company devices and protection of information. The policy should indicate the possible forms of control of the employee's activities and the sanctions that may be applied.
9. Does the employer have a right to inspect the remote workplace?	<ul style="list-style-type: none">a Smart working: the employer ensures compliance with health and safety obligations by providing an information notice setting out the risks associated with remote working. Home inspections are not required (inspections may be agreed between the parties, but it is not common practice for smart working).b Homeworking: the employer is legally obliged to carry out home inspections to check that the home office complies with health and safety minimum requirements. The specifics of home inspections can be agreed between the parties.
10. Can employees claim additional compensation when working outside the office? Can they make additional claims for office furniture, etc.?	Depends on the form of working outside the office: <ul style="list-style-type: none">a Smart working: the employer is not obliged to provide equipment or to compensate/reimburse possible costs.b Homeworking: the employer must:<ul style="list-style-type: none">- reimburse/compensate the costs for installing and maintaining the workstation (desk, laptop and other necessary tools); and- reimburse/compensate the costs related to remote working (internet connection, telephone calls, electricity).
11. Special regulations during the pandemic?	Employer can unilaterally assign the employee to smart working until 31 December 2020. An extension of this deadline is possible.

Netherlands



The future of remote work: Overview

<p>1. Do employees have a legal right to insist on working from home?</p>	<p>No. The Flexible Working Act prescribes that an individual employee can request a (partial) change of workplace, provided that the relevant employee has been employed for at least six months.</p> <p>The employer may reject such request at its discretion, albeit that the employer should (i) consult the employee before making the decision, (ii) properly substantiate the reasons for any rejection and (iii) observe the standards of acting as a good employer (which may occasionally result in the employer having to accept the employee's request).</p> <p>Note that if the employer does not provide a timely response to the employee's request (i.e. absent urgent circumstances, ultimately one month before the date on which the employee requested the change to take effect), the contractual workplace will change in accordance with the employee's wishes.</p>
<p>2. On what basis can the employee work from home/outside the office?</p>	<p>Employment contract, any addenda to the employment contract or any other written agreement between parties.</p> <p>Recommended: putting in place a policy relating to working from home.</p>
<p>3. Forms of working outside the "regular working space/office"</p>	<p>a Working from home = working full time from home</p> <p>b Working from anywhere = working wherever necessary</p> <p>c Any hybrid (e.g. partially working from home, partially working from the office)</p>
<p>4. Tax treatment for working outside the office?</p>	<p>Under Dutch law, there is a system of tax-free allowances and benefits in kind (the so-called "free space"). Under this system, designated work-related costs of an employer may amount up to 1.7% of the first EUR 400,000 of its wage bill and 1.2% of anything beyond the EUR 400,000 of its wage bill, without triggering any Dutch wage withholding tax. Due to the COVID-19 crisis, the "free" space" has temporarily been increased to 3% of the first EUR 400,000 of the wage bill.</p> <p>Some expense reimbursements are not at the expense of the "free space": the so-called 'targeted exemptions'. Employers are therefore always allowed to reimburse those, without triggering any Dutch wage withholding tax.</p> <p>If the employer provides equipment (rather than reimbursement), such equipment provided can – depending on the circumstances – fall under a targeted exemption. Such equipment will only fall under the exemption if the equipment is returned by the employee as soon as the equipment, in the opinion of the employer is no longer necessary for the proper performance of the duties or if the residual value is paid by the employee to the employer.</p>

Netherlands



The future of remote work: Overview

	<p>Food and beverages at the home office and energy and water costs in principle cannot be reimbursed untaxed, unless there is an independent workspace at home, which is a separate part of the house with its own sanitary facility. Costs for a land telephone line cannot be reimbursed untaxed. However, it is possible to place the aforementioned costs under the free space.</p> <p>The above should be verified with the employer's tax advisers.</p>
5. What rules need to be observed when working outside the office?	<ul style="list-style-type: none">a Statutory requirements, e.g. compliance with the Working Conditions Act and other occupational health and safety rules, data protection etc.b Contractual requirementsc Company regulations (e.g. works agreement)
6. How to bring employees back to the office?	<p>Depends on the basis for remote working:</p> <ul style="list-style-type: none">a to a limited extent: managerial authorityb agreement of the partiesc unilateral, if contractual requirements are valid and metd time limitation pursuant to contractual agreement (e.g. the agreement stipulates a permitted duration for the working from home arrangement, after which employees will return to work at the office)
7. Co-determination rights to be acknowledged?	<p>If a Works Council ("WC") or Personnel Representative Body (lesser form of a WC; "PRB") is in place, the company should seek their consent in respect of any contemplated decision to adopt, amend or revoke a Working from home policy.</p> <p>In the absence of a WC or PRB and provided the company employs more than 9 employees, the Town Hall has a right to render (non-binding) advice, provided that 25% of the workforce will be impacted by the decision.</p>
8. Which data protection aspects have to be observed?	<ul style="list-style-type: none">a Application of the GDPR (AVG / UAVG)b Employer is responsible for ensuring compliancec Employer needs to take appropriate technical and organisational measures to protect the datad Advisable to conclude an agreement on data protection measures with the employee

Netherlands



The future of remote work: Overview

<p>9. Does the employer have a right to inspect the remote workplace?</p>	<p>The employer has no legal right to - against the employee's will - inspect the home workplace but needs to ensure compliance with occupational health and safety rules.</p> <p>We recommend designating the occupational health and safety service (arbodienst) for the purpose of inspecting the workplace and including contractual provisions in the relevant written agreement between the parties and/or policy in place granting the right to inspect the workplace.</p>
<p>10. Can employees claim additional compensation when working outside the office? Can they make additional claims for office furniture, etc.?</p>	<p>Assuming that the relevant employee does not work from home incidentally, the employer is obliged to provide the employees with or reimburse the following equipment (if the employee does not have the proper equipment already):</p> <ul style="list-style-type: none">• Ergonomic chair;• Ergonomic desk;• Monitor;• Ergonomic keyboard;• Ergonomic mouse;• Ergonomic footrest, if requested;• Proper lighting.
<p>11. Special regulations during the pandemic?</p>	<p>Employer may unilaterally require employees to work from home.</p>

“Bird & Bird has huge experience and knowledge when it comes to employment matters, but what I appreciate most is the fact that they always deliver legal problem solutions and their advice is always business-oriented.”

Chambers, 2020

Poland



The future of remote work: Overview

<p>1. Do employees have a legal right to insist on working from home?</p>	<p>No, unless the following applies:</p> <ul style="list-style-type: none"> a Telework was agreed in an employment contract, b The employer's internal regulations grant such right; or c A minor exception applies regarding a parent of a child suffering from certain disabilities/illnesses.
<p>2. On what basis can the employee work from home/outside the office?</p>	<ul style="list-style-type: none"> a If telework is agreed in an employment contract or in a subsequent amendment. b Where remote work is not a permanent/periodical arrangement, but rather an atypical event, then in practice it is assumed that an employee may perform remote work to the extent and under the terms set out by an employer in its internal policies (so-called: "occasional remote work", which is often considered as an employee benefit, e.g. the employer's policy sets out that an employee can unilaterally decide to work remotely up to a certain number of days per month).
<p>3. Forms of working outside the "regular working space/office"</p>	<ul style="list-style-type: none"> a Telework = working remotely full/part time on a permanent/repetitive basis. b Occasional remote work = working remotely only occasionally.
<p>4. Tax treatment for working outside the office?</p>	<p>An employee's deductible costs are generally fixed, and remote work would not entitle an employee to increase the deductible costs beyond the fixed amount specified in the legislation.</p> <p>However, a cash equivalent granted in lieu for using the employee's own equipment, tools, or materials may be treated as exempt from tax and/or social security payments.</p>
<p>5. What rules need to be observed when working outside the office?</p>	<ul style="list-style-type: none"> a Statutory requirements, e.g. compliance with the health and safety rules, data protection etc. b Contractual requirements c Employer's internal regulations (e.g. teleworking policy)
<p>6. How to bring employees back to the office?</p>	<p>Depends on the basis for remote work:</p> <ul style="list-style-type: none"> a if based on an agreement between the parties - upon the amendment by the parties or upon a motion/notice of change if statutory requirements are met; b if based on the employer's internal regulations (e.g. occasional remote work) - in accordance with those regulations.

Poland



The future of remote work: Overview

<p>7. Co-determination rights to be acknowledged?</p>	<p>If employees are teleworking, an employer should introduce a teleworking policy which must be agreed with trade union(s), and if there are no trade union(s), with elected employee representatives. Depending on the situation, the introduction of the policy may also require compliance with information and/or consultation procedures relating to a works council (if any).</p> <p>At an employee's request, the employer may agree a teleworking arrangement with the employee even if there is no teleworking policy in place.</p>
<p>8. Which data protection aspects have to be observed?</p>	<p>a Application of the GDPR and Polish data protection law (which in the scope of employment tends to be stricter than the GDPR)</p> <p>b An employer is responsible for ensuring compliance</p> <p>c An employer needs to take appropriate technical and organisational measures to protect the data.</p> <p>d An employer should set out the rules for the protection of data shared with an employee and should carry out relevant briefing and training sessions.</p>
<p>9. Does the employer have a right to inspect the remote workplace?</p>	<p>An employer can inspect the performance of work at the workplace. However, if telework is performed at an employee's home, the employee's prior consent is required, in writing or via means of electronic communication.</p>
<p>10. Can employees claim additional compensation when working outside the office? Can they make additional claims for office furniture, etc.?</p>	<p>a Telework: An employer should equip the workplace and pay the related expenses. However, the parties may agree that an employee will use his/her own personal equipment and then the employer should pay a cash equivalent in lieu of equipping the workplace.</p> <p>b Occasional remote work: in accordance with the employer's internal regulations.</p>
<p>11. Special regulations during the pandemic?</p>	<p>During the period of an epidemic emergency or state of epidemic announced due to COVID-19, and within three months after its cancellation, in order to counteract COVID-19, an employer may instruct an employee to perform work remotely, if the employee has the skills and technical and housing capabilities to perform remote work, and if given the nature of the work concerned it can be performed remotely.</p> <p>The abovementioned employer's right is specified in a few details in the legislation, but it is currently unclear to what extent the rules on regular telework (described in response to the previous questions) apply.</p>

Russian Federation



**Comments are provided based on the current legislation in force. There is a draft law under consideration of the Russian State Duma on further developments relating to forms of remote working of employees.*

The future of remote work: Overview

1. Do employees have a legal right to insist on working from home?	No. Although the Russian Labour Code recognises such type of employment contract as a contract for distance working, which must be agreed upon by both parties. Employees employed under the general employment contract may be transferred to a contract for distance working if an employer agrees to such transfer.
2. On what basis can the employee work from home/outside the office?	The parties should enter into an employment contract for distance working. In accordance with the comments of the Russian Ministry of Labour, if employees are temporarily transferred to distance working as a result of COVID-19, such transfer may be implemented by way of signing a distance working addendum to an employment contract.
3. Forms of working outside the "regular working space/office"	Working full time from home. If an employee would like to work some days in the office, a separate employment contract should be entered into governing working from the office.
4. Tax treatment for working outside the office?	There are no differences for an employer when dealing with expenses associated with a distance working employee.
5. What rules need to be observed when working outside the office?	<ul style="list-style-type: none"> a Statutory requirements, e.g. compliance with limited occupational health and safety rules which apply to distance working employees, arranging for compulsory social insurance against industrial accidents and occupational diseases, data protection etc. b Contractual requirements c Employer's internal labour regulations
6. How to bring employees back to the office?	The employment contract for distance working should be terminated and a new general employment contract should be entered into. Employees who were temporarily transferred to distance working as a result of COVID-19 by way of signing a distance working addendum, may return to the office by terminating the distance working addendum.

Russian Federation



**Comments are provided based on the current legislation in force. There is a draft law under consideration of the Russian State Duma on further developments relating to forms of remote working of employees.*

The future of remote work: Overview

7. Co-determination rights to be acknowledged?	Not applicable.
8. Which data protection aspects have to be observed?	All data protection requirements applicable to the employment relationship apply in relation to a distance working employee (for example, obtaining consent for processing employee personal data (where required); written acknowledgement by an employee of all data protection policies issued by an employer; implementing legal, organisational and technical measures to protect personal data against unauthorised access, use and/or loss, etc.).
9. Does the employer have a right to inspect the remote workplace?	No. In accordance with Russian employment law, the workplace of a distance working employee is deemed to be outside of direct or indirect control of an employer. Russian legislation on the special assessment of working conditions does not apply to distance working employees.
10. Can employees claim additional compensation when working outside the office? Can they make additional claims for office furniture, etc.?	Employees may ask an employer to provide equipment, software and hardware and/or information security means which are required for performance of the employee's employment duties, but ultimately this is for an employer to agree. However, there is a legal requirement for an employer to compensate the employee for (i) use by the employee of the employee's personal equipment, software and hardware for performing employment duties and (ii) the expenses incurred by the employee as a result of the above use (for example, home broadband expenses, etc.).
11. Special regulations during the pandemic?	Generally, employers cannot unilaterally direct an employee to work from home. However, Russian regions may issue local COVID-19 related requirements which are mandatory for employers, including the requirement to direct some employees (for example, 65 years old and above or employees with certain underlying health conditions) to work from home.

Singapore



The future of remote work: Overview

1. Do employees have a legal right to insist on working from home?	No, but current government advice provides that working from home remains the default mode of working due to the COVID-19 pandemic.
2. On what basis can the employee work from home/outside the office?	Agreement between employer and employee in the employment contract or in a subsequent agreement.
3. Forms of working outside the "regular working space/office"	<ul style="list-style-type: none"> a Telework/Home office = working full time from home b Alternating telework = working part time from home/in the office
4. Tax treatment for working outside the office?	Not applicable.
5. What rules need to be observed when working outside the office?	<ul style="list-style-type: none"> a Statutory requirements, e.g. compliance with the Workplace Safety and Health Act, Workplace injury and compensation Act, data protection, currently COVID-19 (Temporary Measure) (Control Order) Regulations 2020 b Contractual requirements c Company policies and /or regulations
6. How to bring employees back to the office?	<p>Depends on the basis for working outside the office:</p> <ul style="list-style-type: none"> a Agreement of the parties b Unilateral, if contractual requirements are valid and met c Time limitation pursuant to a contractual agreement
7. Co-determination rights to be acknowledged?	Not applicable.
8. Which data protection aspects have to be observed?	<ul style="list-style-type: none"> a Employer is in charge to ensure compliance with the PDPA (Personal Data Protection Act) b Employer needs to make reasonable security arrangements to protect their employees' personal data and prevent any unauthorized access or processing.

Singapore



The future of remote work: Overview

<p>9. Does the employer have a right to inspect the remote workplace?</p>	<p>a The employer has no legal right to inspect the workplace at home. b It may be possible to enter into individual agreements with the employee to inspect the workplace at home or to ask the employee to provide confirmation in writing that the workplace at home does not contain any health or safety hazards.</p>
<p>10. Can employees claim additional compensation when working outside the office? Can they make additional claims for office furniture, etc.?</p>	<p>There is no immediate right to compensation unless provided in agreement between employer and employee. For Telework/Home office, there is generally an implied obligation for an employer to provide IT facilities necessary for employee to perform work from home.</p>
<p>11. Special regulations during the pandemic?</p>	<p>Employers can unilaterally direct employees to work from home, as working from home remains the default mode of working according to current government advice.</p>



Slovak Republic



The future of remote work: Overview

1. Do employees have a legal right to insist on working from home?	Generally, no. Temporarily, yes - due to the COVID-19 pandemic, if the nature of the agreed work allows this and there are no operational reasons why working from home is not possible. These regulations apply temporarily (during the extraordinary situation, state of urgency or state of emergency and two months after they are revoked) pursuant to special provisions adopted due to the COVID-19 pandemic in Slovakia (Act No. 66/2020 Coll. amending the Slovak Labour Code No. 311/2001 Coll.)
2. On what basis can the employee work from home/outside the office?	<p>a Generally upon agreement between the employer and employee made in the employment contract itself or an addendum.</p> <p>b Whilst the abovementioned "COVID-19 pandemic provisions" are in effect, the employee has a statutory right to work from home when the prescribed conditions are met, and no specific agreement between the employer and employee is then required. Working from home this scenario does not represent any change in the provisions of the employment contract, and so no addendum to the employment contract is necessary. The employer may, however, adopt internal guidelines/recommendations to impose specific regulations on working from home.</p>
3. Forms of working outside the "regular working space/office"	<p>The Slovak Labour Code recognizes the following:</p> <p>a Home working (in Slovak: "domácka práca") - the employee permanently performs work from home or another agreed place of work, and</p> <p>b Telework (in Slovak: "telepráca") - the employee permanently performs work with use of information technologies from home or another agreed place of work.</p> <p>c Prior to the COVID-19 pandemic, the Slovak Labour Code did not specifically regulate "temporary/occasional work from home" arrangements of employees and this was mostly considered a working benefit granted to employees by employers on a voluntary basis.</p>
4. Tax treatment for working outside the office?	We are not aware of any specific provisions/exemptions regarding tax deductions with respect to working from home in Slovakia.

Slovak Republic



The future of remote work: Overview

<p>5. What rules need to be observed when working outside the office?</p>	<p>a Statutory requirements (e.g. compliance with the Slovak Labour Code (Act No. 311/2001 Coll as amended), Slovak Act No. 124/2006 Coll. on Safety and Protection of Health at Work as amended, data protection regulations etc.)</p> <p>b Contractual requirements under the employment contract</p> <p>c Company internal regulations/guidelines/directives</p>
<p>6. How to bring employees back to the office?</p>	<p>a Generally, upon agreement between the employer and employee made in the employment contract itself or its further addendum.</p> <p>b With respect to the special COVID-19 pandemic provisions, the right of the employee to work from home shall cease two months after revocation of the extraordinary situation, state of urgency or state of emergency in Slovakia.</p>
<p>7. Co-determination rights to be acknowledged?</p>	<p>The employer shall be obliged to consult in advance with the employees' representatives (if there are any) under the Slovak Labour Code on any measures adopted for the purposes of protection of the health of employees, hygiene improvement and improvement of working conditions at the workplace.</p>
<p>8. Which data protection aspects have to be observed?</p>	<p>a Application of GDPR and Slovak data protection regulations</p> <p>b The employer is responsible for ensuring compliance</p> <p>c The employer needs to take appropriate technical and organisational measures to protect the data. Specifically in the case of teleworking, the employer must secure, install and regularly maintain technical and programme equipment necessary for telework performance, and to secure protection of data used and processed by the telework performance (in case of software), and notify the employee of any limitations on use of technical and programme equipment, as well as of any sanctions for breach of such limitations.</p>
<p>9. Does the employer have a right to inspect the remote workplace?</p>	<p>Generally, the employer has no legal right to inspect the home workplace. The same shall apply during the COVID-19 pandemic. It is recommended by the National Labor Inspectorate to inspect work performance remotely.</p>

Slovak Republic



The future of remote work: Overview

10. Can employees claim additional compensation when working outside the office? Can they make additional claims for office furniture, etc.?

- a Generally, the employer shall be under a duty to equip the employee with the working tools to enable the employee to perform his work duties.
- b The employer must treat employees homeworking or teleworking equally in comparison to employees performing the same work at the workplace.
- c With respect to the COVID-19 pandemic and temporary home working of employees, it is recommended by the National Labour Inspectorate to provide the employees working from home on laptops with a monitor and keyboard. The employer shall not, however, bear responsibility for fulfilment of ergonomic requirements for working at home. This shall be the sole responsibility of each employee. Pursuant to the recommendations of the National Labour Inspectorate, the employer may voluntarily contribute towards the expenses incurred by the employee as a result of working from home.

11. Special regulations during the pandemic?

Due to the COVID-19 pandemic, the employee has a temporary statutory right to work from home, if the nature of the agreed work allows it and there are no operational reasons why working from home is not possible.

Equally, the employer has a statutory right to unilaterally order employees to work from home, if the nature of the agreed work allows this. This regulation shall apply temporarily (during the extraordinary situation, state of urgency or state of emergency and for two months after it is revoked) pursuant to special provisions adopted due to the COVID-19 pandemic in Slovakia.

“Clients note the responsiveness of the team and its ability to resolve disputes: “The team was responsive and exhibited a good understanding of the framework for resolving employment disputes outside of the courts.””

Chambers, 2017

Spain



**Please note that there is a new Royal Decree-Law 28/2020 on remote working which applies from 13 October 2020 onwards. By 31 January 2021, all work from home agreements must comply with the new law (unless already regulated by a collective bargaining agreement or collective agreement; or if exceptional work from home due to COVID-19 measures apply).*

The future of remote work: Overview

1. Do employees have a legal right to insist on working from home?	<p>No, work from home is voluntary for both the employee and the employer.</p> <p>Exceptionally during the COVID-19 pandemic, the employee may unilaterally request to work from home when such measure is reasonably needed to take care of family members due to COVID-19 related grounds (e.g. COVID-19 infection, school closure, etc.). This unilateral right currently applies only until 31 January 2021.</p>
2. On what basis can the employee work from home/outside the office?	<p>a Agreement between employer and employee in a written "work from home" agreement.</p> <p>b Exceptionally during the COVID-19 pandemic (currently until 31 January 2021), to take care of family members due to COVID-19-related grounds, upon unilateral request to the employer by the employee.</p>
3. Forms of working outside the "regular working space/office"	<p>a Remote work (work from home) = rendering services from the employee's home or a place chosen by the employee, at least 30% of the ordinary working time.</p> <p>b Telework = work primarily rendered through computer, telematic or telecommunications means (understood as a sub-category of "remote work").</p>
4. Tax treatment for working outside the office?	<p>This is not regulated under the new work from home law.</p> <p>a Allowances agreed to be paid to employees for working from home (e.g. internet, electricity costs) will be deemed to be salary income, subject to Spanish personal income tax and also subject to withholding tax to be applied by the employer, as a general rule. There is no tax exemption envisaged (at least yet) for this kind of allowance.</p> <p>b Under the current regulation it would be difficult to show that allowances for working from home are mere reimbursement of expenses incurred by the employee on behalf of the employer (and therefore not subject to taxation by the employee), as it would be difficult to justify which part of the expenses "covered" by the employer are effectively related to the working from home activity and not for the employee's personal benefit.</p>
5. What rules need to be observed when working outside the office?	<p>a Remote workers must be subject to the same working conditions as office workers.</p> <p>b Right to be provided with all necessary resources and tools and their maintenance; and compensation for any related costs.</p>

Spain



The future of remote work: Overview

	<p>c Full application of occupational health and safety rules, with employer's risk evaluation of the workplace.</p> <p>d Rights to privacy, data protection and "right to disconnect from work".</p>
6. How to bring employees back to the office?	A collective agreement or, alternatively, the work from home agreement with the employee, must establish the conditions to revert the work from home situation (it must be reversible for both the employer and the employee).
7. Co-determination rights to be acknowledged?	Works council participation is not mandatory (except to adopt certain policies/instructions), but collective agreements may establish certain minimum conditions (compensation of expenses, working time flexibility; conditions of reversibility, etc.).
8. Which data protection aspects have to be observed?	<p>a Full application of the Law 3/2018 of Data Protection (GDPR regulation)</p> <p>b Employer is responsible for ensuring compliance.</p> <p>c Employees must follow the employer's instructions regarding data protection, adopted with the prior participation of workers' representatives.</p>
9. Does the employer have a right to inspect the remote workplace?	<p>No, visiting the home workplace to ensure compliance with occupational health and safety rules requires the employee's consent. Without such consent, the employee's self-evaluation according to the health prevention service's instructions would suffice.</p> <p>The employer may adopt necessary measures to control the employee's performance (including telematically), as long as they are proportionate and respect employee's rights.</p>
10. Can employees claim additional compensation when working outside the office? Can they make additional claims for office furniture, etc.?	<p>Yes, the employer must compensate all expenses related to work from home (furniture, laptops, internet, electricity, etc.). The employee shall bear no costs related to remote working.</p> <p>A collective agreement may establish the mechanism to determine, compensate and pay such expenses.</p>
11. Special regulations during the pandemic?	<p>The new work from home law does not apply to exceptional work from home due to COVID-19 measures (although full compensation of expenses does apply).</p> <p>Additionally, see questions 1 and 2 for right to work from home to take care of family members.</p>

Sweden



The future of remote work: Overview

1. Do employees have a legal right to insist on working from home?	No.
2. On what basis can the employee work from home/outside the office?	<ul style="list-style-type: none"> a Employer's instruction; b Agreement between employer and employee in the employment contract or in a subsequent agreement.
3. Forms of working outside the "regular working space/office"	<ul style="list-style-type: none"> a Telework/Home office = working full time from home b Alternating telework = working part time from home/in the office c Mobile work = working wherever necessary
4. Tax treatment for working outside the office?	<p>Tax deductible when:</p> <ul style="list-style-type: none"> a No other workplace available, b Home office room is absolutely necessary, c Home office room is separate from living space, d Use of home office room is exclusively for work, e Employee maintains larger home space due to the need of a home office room.
5. What rules need to be observed when working outside the office?	<ul style="list-style-type: none"> a Statutory requirements, e.g. compliance with the Work Environment Act. b Contractual requirements. c Company home working policies.
6. How to bring employees back to the office?	<p>Depends on the basis for remote working:</p> <ul style="list-style-type: none"> a revoke employer's instruction b terminate home working agreement as per its terms
7. Co-determination rights to be acknowledged?	Consultation with trade union where the employer is bound by a collective bargaining agreement.

Sweden



The future of remote work: Overview

<p>8. Which data protection aspects have to be observed?</p>	<ul style="list-style-type: none">a Application of the GDPRb Employer is responsible for ensuring compliancec Employer needs to take appropriate technical and organisational measures to protect the datad Advisable to conclude an agreement on data protection measures with the employee
<p>9. Does the employer have a right to inspect the remote workplace?</p>	<p>The employer has no legal right to inspect the workplace at home but needs to ensure the compliance with work environment rules.</p>
<p>10. Can employees claim additional compensation when working outside the office? Can they make additional claims for office furniture, etc.?</p>	<ul style="list-style-type: none">a No claim to additional compensation.b Employee may claim to be equipped with office equipment.
<p>11. Special regulations during the pandemic?</p>	<p>The government encourages employers to instruct employees to work from home.</p>

“The team is straight-talking and realistic, with widespread experience in many jurisdictions and with many client types.”

Chambers, 2020

United Arab Emirates



The future of remote work: Overview

<p>1. Do employees have a legal right to insist on working from home?</p>	<p>a There is no right to work from home under UAE Labour Law (which applies to private sector employees including employees in free zones (except financial free zones DIFC and ADGM)) and the employee's work permit allows an employee to work from one location only. Employers and authorities are more flexible since the COVID-19 pandemic.</p> <p>b Since March 2020 a special Remote Working Resolution (the "Resolution") requires the implementation of a system for remote working for certain groups of private sector employees (includes freezone employees only if the Resolution was adopted by such free zone). The Resolution does not have a specific expiration date.</p> <p>c A separate remote-working regime was implemented in April 2020 for current and future UAE national employees only.</p>
<p>2. On what basis can the employee work from home/outside the office?</p>	<p>a Under UAE Labour Law, subject to agreement between the employer and employee to this effect.</p> <p>b Under the Resolution, all employees whose job duties do not require physical presence or who otherwise are deemed "vulnerable" (which includes the following categories of employees: (i) pregnant workers, (ii) workers over 55 years old, (iii) workers who have a disability, (iv) workers who suffer from respiratory or chronic illness, (v) female workers with children in 9th grade and lower) shall be subject to a remote working system.</p>
<p>3. Forms of working outside the "regular working space/office"</p>	<p>Working outside the office can take different forms depending on the agreement between the employer and the employee, including:</p> <p>a Partial remote working (where the employee's work time is divided between the main workplace and the remote workplace); and</p> <p>b Full-time remote working (where the job is performed completely outside the main place of work).</p>
<p>4. Tax treatment for working outside the office?</p>	<p>Not applicable; there is no personal income tax.</p>
<p>5. What rules need to be observed when working outside the office?</p>	<p>Same rules and obligations as would be required if working in the office, i.e.</p> <p>a All statutory requirements in relation to health and safety, data protection;</p> <p>b Any contractual requirements; and</p> <p>c All company policies</p>

United Arab Emirates



The future of remote work: Overview

6. How to bring employees back to the office?	Employees are required to attend the office if requested by the employer, unless they have a lawful reason for not attending. An unreasonable refusal to return to the office could be grounds for disciplinary action and dismissal. It is recommended that employers communicate to employees the health and safety measures that have been implemented in light of COVID-19 and give reasonable notice of the date by which employees are expected to return to the office.
7. Co-determination rights to be acknowledged?	Not applicable.
8. Which data protection aspects have to be observed?	<p>a Generally the employer is responsible for ensuring compliance with confidentiality and to protect data in the workplace.</p> <p>b The Resolution specifically includes an obligation on employers to provide a safe technological environment in terms of maintaining confidentiality of information and protecting data.</p> <p>c Employers are encouraged to review, update and communicate data protection, data monitoring, IT and working from home policies and the consequences of failure to comply.</p>
9. Does the employer have a right to inspect the remote workplace?	The employer has no right to physically access and inspect an employee's home for the purpose of remote working.
10. Can employees claim additional compensation when working outside the office? Can they make additional claims for office furniture, etc.?	<p>a No monetary compensation can be claimed.</p> <p>b Under UAE Labour Law, employers are under a general duty to provide a suitable working environment at the workplace but no specific obligations to provide tools/equipment for working outside the office.</p> <p>c Employers subject to the Resolution must provide the required technological tools to employees to perform work remotely using smart and electronic systems.</p>
11. Special regulations during the pandemic?	The Resolution was implemented as a precautionary measure in response to the COVID-19 pandemic. It does not have a formal expiry date but remains subject to change.

United Kingdom



The future of remote work: Overview

<p>1. Do employees have a legal right to insist on working from home?</p>	<p>a Outside of the pandemic, there is no legal right to insist on home working. However, all employees with 26 weeks' service are entitled to request flexible working arrangements which can include home working. Employers are obliged to consider such a request and may only refuse on specific grounds set out in the legislation.</p> <p>b It was reported in May 2020 that UK government officials were considering a new legal right to work from home after coronavirus lockdown ends, however this has not been officially announced and some commentators think it is more likely that changes are made to existing flexible working rules (not specifically related to home working, such as allowing requests more than once every 12 months and reducing/removing the 26-week qualifying period).</p>
<p>2. On what basis can the employee work from home/outside the office?</p>	<p>a Where it is a reasonable employer instruction (such as where this is in line with government guidance during the COVID-19 pandemic);</p> <p>b Agreement between employer and employee in the employment contract or in a subsequent agreement.</p>
<p>3. Forms of working outside the "regular working space/office"</p>	<p>a Telework/Home office = working full time from home</p> <p>b Alternating telework = working part time from home/in the office</p> <p>c Mobile work = working wherever necessary</p>
<p>4. Tax treatment for working outside the office?</p>	<p>Costs related to telework may be treated as expenses of the company and tax deductible if the employer reimburses the employee's expenses and the expenses have been incurred "wholly and exclusively for the purposes of the trade" (section 54 Corporation Tax Act 2009).</p>
<p>5. What rules need to be observed when working outside the office?</p>	<p>a Statutory requirements (including health and safety laws)</p> <p>b Contractual requirements</p> <p>c Company home working policies.</p>
<p>6. How to bring employees back to the office?</p>	<p>Depends on the basis for remote working:</p> <p>a revoke employer's instruction; or</p> <p>b terminate home working agreement as per its terms.</p>

United Kingdom



The future of remote work: Overview

	<p>During COVID-19 pandemic:</p> <ul style="list-style-type: none"> a A variety of factors should be considered, including current government guidance, the size and nature of the workplace, the number of vulnerable staff or those who live with vulnerable people, caring responsibilities, public transport dependency, as well as local and wider outbreaks. b Employers should 'consult' with staff (ask for and consider their views to try and reach an agreement) about returning to work.
7. Co-determination rights to be acknowledged?	Employers must consult all employees, in good time, on health and safety matters. In workplaces where a trade union is recognised, this will be through union health and safety representatives. In non-unionised workplaces, employers can consult with employees either directly or through other elected representatives.
8. Which data protection aspects have to be observed?	<ul style="list-style-type: none"> a Application of the GDPR b Employer is responsible for ensuring compliance c Employer needs to take appropriate technical and organisational measures to protect the data d Advisable to conclude an agreement on data protection measures with the employee
9. Does the employer have a right to inspect the remote workplace?	<ul style="list-style-type: none"> a The employer needs to reserve the right to inspect the employee's home workplace in the employment contract. b Employers still have a duty of care and must ensure the home workplace is safe; this may be achieved by requesting that the employee complete a workstation and health and safety checklist.
10. Can employees claim additional compensation when working outside the office? Can they make additional claims for office furniture, etc.?	Employees can claim up to £6 per week tax relief in relation to work expenses (e.g. business telephone calls or the extra cost of gas and electricity for a home office) if they are required to work from home on a regular basis. This can be claimed through their employer or by the employee directly using HMRC's online form.
11. Special regulations during the pandemic?	Current government guidance is that individuals should work from home if they can do so effectively.

Local contacts

Kristy Peacock-Smith
Partner, Australia

Tel: +61292269871
kristy.peacock-smith@twobirds.com



Pieter De Koster
Partner, Belgium

Tel: +3222826081
pieter.dekoster@twobirds.com



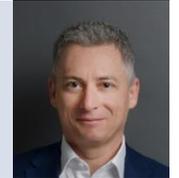
Ying Wang
Partner, China

Tel: +862123121277
ying.wang@twobirds.com



Ivan Sagál
Partner, Czech Rep. & Slovakia

Tel: +420226030509
ivan.sagal@twobirds.com



Søren Narv Pedersen
Partner, Denmark

Tel: +4539141612
soren.pedersen@twobirds.com



Maisa Nikkola
Partner, Finland

Tel: +358962266730
maisa.nikkola@twobirds.com



Nathalie Devernay
Partner, France

Tel: +33478656015
nathalie.devernay@twobirds.com



Dr. Barbara Geck
Partner, Germany

Tel: +4969742226000
barbara.geck@twobirds.com



Pattie Walsh
Partner, Hong Kong

Tel: +85222486088
pattie.walsh@twobirds.com



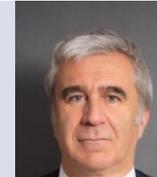
Zoltan Tarjan
Associate, Hungary

Tel: +3613018924
zoltan.tarjan@twobirds.com



Amedeo Rampolla
Partner, Italy

Tel: +390230356064
amedeo.rampolla@twobirds.com



Philip Hartman
Partner, Netherlands

Tel: +31703538840
philip.hartman@twobirds.com



Karolina Stawicka
Counsel, Poland

Tel: +48225837918
karolina.stawicka@twobirds.com



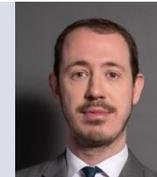
Seow Hui Goh
Partner, Singapore

Tel: +6564289419
seowhui.goh@twobirds.com



Miguel Pastur
Partner, Spain

Tel: +34917903206
miguel.pastur@twobirds.com



Katarina Ahlberg
Partner, Sweden

Tel: +46850632087
katarina.ahlberg@twobirds.com



Ian Hunter
Partner, UK

Tel: +442074156140
ian.hunter@twobirds.com



twobirds.com

Abu Dhabi & Amsterdam & Beijing & Bratislava & Brussels & Budapest & Copenhagen & Dubai & Dusseldorf & Frankfurt & The Hague & Hamburg & Helsinki & Hong Kong & London & Luxembourg & Lyon & Madrid & Milan & Munich & Paris & Prague & Rome & San Francisco & Shanghai & Singapore & Stockholm & Sydney & Warsaw & Satellite Office: Casablanca

The information given in this document concerning technical legal or professional subject matter is for guidance only and does not constitute legal or professional advice. Always consult a suitably qualified lawyer on any specific legal problem or matter. Bird & Bird assumes no responsibility for such information contained in this document and disclaims all liability in respect of such information.

This document is confidential. Bird & Bird is, unless otherwise stated, the owner of copyright of this document and its contents. No part of this document may be published, distributed, extracted, re-utilised, or reproduced in any material form.

Bird & Bird is an international legal practice comprising Bird & Bird LLP and its affiliated and associated businesses.

Bird & Bird LLP is a limited liability partnership, registered in England and Wales with registered number OC340318 and is authorised and regulated by the Solicitors Regulation Authority. Its registered office and principal place of business is at 12 New Fetter Lane, London EC4A 1JP. A list of members of Bird & Bird LLP and of any non-members who are designated as partners, and of their respective professional qualifications, is open to inspection at that address.