

## Regulatory compliance by Employer during Remote working

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The Lockdown post the Pandemic of Covid-19 had influenced transition of performing duty in office space to working remotely. More than Work-From-Home, it is apt to state that it is Remote Working, as around 30% to 40% of employees in India, are working from the place where they are currently staying (they could not be able to move to their home-town due to sudden announcement of lockdown and immediate withdrawal of transportation).

Many in the industry start stating that this is going to be “New Normal”, which would continue for next 2~3 years or more. It may be a compulsion from the Employer to ensure such New Normal to continue, but the individual employees, think otherwise. More specifically, the social thinkers, fearing backlash on the woman at home.

As such there is no guidelines or provisions under any of the Employment legislation either to govern or regulate such Remote working, except under Maternity Benefit Act.

Currently, this being an Advisory from the Government/s and a need for both employee as well as the employer.

What are the factors, which needs to be considered in regulation of such Remote Working of employees? Few specifics are mentioned below for discussion:

1. Working Hours and Overtime
2. Leave
3. Data security/Privacy
4. Health and Safety of an employee
5. Non-discrimination between employees at workplace and from remote

### Working hours and Overtime

- The working hours of such remote working employees remains constant as if he/she is working in an office premises or manufacturing industry.
- It shall be neither more nor less

- If the employee performs extra hours of work, he/she shall be paid overtime as applicable (or) compensatory off as per the company policy or provisions of the applicable legislation
- The Employer must ensure computation of the right working hours

The general reflexion of such remote working is, the Reporting Managers are having Meeting/Reviews as and when they like, within or after the working hours. Most of the employees feel that they have to work after such meeting or extra hours on the same day to complete the request/outcome of the review meetings.

Here HR must ensure either Overtime is paid, or such meetings are postponed to next working day without obstructing the deliverables.

### **Leave**

- Where the employee is eligible for any leave as applicable in the respective State where he/she belongs to, all such leaves are to be considered
- Employee can avail leave any available leave to his/her credit

In any case, no employee will avail any leave, as he/she may not abstain from except for serious illnesses.

### **Data Security/Privacy**

**The most sensitive and critical area which needs to be governed by the employer as agreed by both the employee and the employer in the offer/appointment letter.**

For any breach of such data security, which has a financial implication or impact on the brand, employer can take disciplinary action as per the contractual obligation between the parties.

Provisions of Information Security Act shall be added to the offer/appointment letter if it was not done earlier.

### **Health and Safety of an employee**

Though the workplace is employee's residing area, employer needs to ensure that it does not pose a risk to your health and safety, which can be accomplished by providing the necessary resources to perform the required job. A mutually agreed schedule can be added to the offer/appointment letter, to this effect, if required.

If not the similar facilities available the employee in office, compensation shall be made for essential infrastructure, that is required to complete the job.

## **Non-discrimination between employees at workplace and from remote**

Except for reimbursement of specific infrastructure facilities availed by the employee while working remotely, both employees (at office and remote) shall be treated equally.

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