

Remote Working Trends Across the World



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Introduction

You should never view your challenges as a disadvantage. Instead, it's important for you to understand that your experience facing and overcoming adversity is actually one of your biggest advantages – Michelle Obama.

Long before the pandemic hit the world and made it turn upside down, remote working stood as an alien concept and was considered disadvantageous to the working space. The idea of remote working was only consumed by a few people mainly at the managerial level in an organization and used in exceptional emergency situations.

With the onset of Covid 19 in 2020, remote working came to be accepted as the norm across the globe in various organizations. The world economy was forced to shut down and organizations had to dwell into the remote working framework in order to keep the business up and running. A year later, we can derive from the working pattern being followed across the world, that remote working will soon become a common and normal form of working for a lot of employers across the globe.

While employees across the world are keeping up with the workflow and getting accustomed to new tools and means of working from home, the employers are working to determine what the future of remote working would look like.

Meaning of Remote Working and Legal implications

Remote work also known as “Work from Home” or “Teleworking” is a flexible working arrangement which allows employees to work from a location different from their corporate offices. In simple words, it is a practice wherein an employee is allowed to work at their home, or in some other place that is not an organization’s usual place of business. Such arrangements can be temporary or permanent or can even be applied full time or part time as per the requirement of the organization. The arrangement also requires various policies to be in place in an organization for smooth functioning and in order to avoid any significant data breaches etc such as, an employer should have a remote working policy involving guidelines regarding work equipment’s handling and usage, network security and performance expectations etc.

Organizations employing a workforce based on remote working can bring enormous benefits such as saving on overhead expenses attached with a location dependent workforce, expanding top talent by not being restricted to hiring in the usual office location as well as more retention of employees in the organization, etc.

Remote working comes with its own challenges and legal implications which the employers should consider before moving the employees to remote working arrangement.

Some of the common legal implications and requirements are :

1. **Immigration implications** – Prior to hiring an employee overseas, an employer shall ensure the legal status of the employee in that particular jurisdiction such as whether he/she

has a right to work or is just on a business or tourist visa. Depending on the laws of that particular jurisdiction, along with potential liabilities for the employee, the employer may find themselves to be liable in case the employee is found to have violated immigration laws.

2. **Payroll** – An employer should be aware of the payroll compliance in countries or states from where the employee is working. For example, the minimum wage applicable in those states, additional benefits computations etc., for the purpose of payment of salaries and avoidance of any legal issues that might occur due to wrong payment of salary to the employees.

In the United States of America, when an employee is remote working from a location different from his office location, it might be crucial for employers to understand which employment laws will apply to such employees working out of town. Generally, the laws of the state in which the work is being performed are the ones that govern, even when an employee is merely assigned to work temporarily in that state. However there are exceptions. For example, for the purpose of minimum wage and overtime provisions, there usually is no minimum amount of time an employee is required to work in a jurisdiction to establish his eligibility for state law provisions. The laws in the state where the work is performed will generally prevail. However, exceptions arise when there is no state minimum wage or overtime law, in which case the employee might be covered under the Federal Fair Labour Standards Act (FLSA).

3. **Privacy and Security** – Employees working remotely leads to a decentralized workspace and hence, privacy and security of business shall be given utmost priority. Employers shall therefore ensure that all employees including the ones in a remote working set up understand the organization's privacy and security policy. An organization shall ensure to have a system in place for making sure those policies are enforced & followed by everyone in the organization.
4. **Data Regulation** - In case of transmission of personal data, an employer shall ensure to check the local data protection laws and guidelines. For example, In European Union, the General Data Protection Regulation (GDPR) applies prominently in case of privacy of data providing rules for a legal framework around data protection. The recent legal developments in the policy makes it more challenging in transferring data abroad. Apart from European Union, various other jurisdictions such as Japan, South Korea and Singapore have also implemented stringent data protection laws which affect the working of transmission of employee's personal information.
5. **Tax related implications** – If an employer hires an employee or certain number of employees in an overseas jurisdiction, it might lead to a tax presence of such an employer in that particular jurisdiction leading to payment of corporate tax in overseas jurisdiction as well. Hence, employers should be careful about the tax related concerns when hiring employees overseas.
6. **Health and safety** – Employees not physically present at the workplace should not mean that an organization does not have to comply with the health and safety standards prescribed in the applicable regulations. However, it is up to the employer to identify any potential hazards that may come with remote work and how it should be avoided.

Considering the ambiguities an employer may face in controlling the health and safety concerns, employers should consider seeking lawful undertakings from employees regarding remote work arrangements and implement measure to control and mitigate risk, by establishment of a system for reporting and investigating injuries, illness or any such other incidents that can occur because of work activities.

7. **Regulatory and compliance requirements** – Employers need to understand the compliance requirement of the overseas jurisdiction such as whether there is a need to separately register or a requirement of approvals in order to perform the role lawfully from the overseas jurisdiction, etc. Employers have to be very careful as there may be a risk that the relevant foreign law becomes the governing law of the contract contrary to the employer’s intention.
8. **Review and update internal policies** - With the havoc created at the beginning of the pandemic leading to a rush to implement work from home arrangements, it may be the time employers shall consider incorporating work from home policies within their employment contract. An employer may also include remote work as a part of the organization’s internal rules which can include certain arrangements related with an employee working from a remote location located abroad, reimbursements related to travel, and arrangements related to office home.

Timesheet management during remote working

Timesheets is a common practice followed across various organizations across the globe. Time and attendance softwares provides many useful business benefits and capabilities, such as paid time off and sick leave tracking, overtime monitoring, mobile accessibility, and reporting.

Timesheets can prove to be useful for both employers and employees with respect to management of workspace. The main key here is to find a tool or a system that would fit perfectly within the organization and establish processes which can be followed regularly. Traditionally this will have been done as employees enter a building, “clocking in”, and as they leave a building, “clocking out”. Over the years this has changed from a mechanical punch or print card type system to the more sophisticated electronic systems used today with access control swipe cards, tokens, mobile phones and even biometrics.

The pandemic however posed a lot of challenges for the managers in tracking and managing the workforce. Decentralization of work, employees working from various locations, no direct communication with employees, has made timesheet management even more difficult. Organizations can overcome such challenges if the management prepares a plan in which employees are not burdened with the process of filling up of timesheets at the end of the day or week, and instead given better tools to work which could help in time management and would also help keep a track of the time spent by employees in real time for the purpose of tracking attendance as well as for workforce management.

Below are a few of the best practices followed by organizations across the globe for the purpose of timesheet management during remote working -

1. **Establishment of advanced tools and technology at organizational level** – This is an important key factor of great concern across organizations when it comes to allowing employees to work remotely along with the apt technology. In order to establish routine work even while working remotely, organizations have equipped employees with advanced tools which could help them accomplish their tasks smoothly. Simple tools such as having an automated system of attendance tracking to maintain employee's attendance and to track working hours also helps in better management of the workforce.
2. **Time tracking from different locations** - A remote working framework cannot be applied across many businesses. In many scenarios, employees might work partly from home and partly from the office. In such cases, a digital time tracking tool can be used which would help streamline time tracking of employees, allowing them to synchronize clock in and clock out procedures even from different locations.
3. **Mobile Apps for Time Tracking** – Having mobile applications for the purpose of time tracking can eliminate an enormous amount of paperwork, which often consumes a lot of time for the Human Resource Department. Time tracking applications can also be made to synchronize with the employee's schedule, managing time off, and other essential elements related to timesheet management.
4. **Geo Fencing** -Geofencing can help IT teams in organisations by promoting employee productivity, data and device security, process automation and operational efficiency. This allows the IT admin to restrict, limit or allow access to corporate apps and resources, and also enforce dynamic security and usage policies, depending on the device's location. These systems are also a great strategy to cut back on employee time fraud such as buddy punching.

Synopsis of remote working regulations currently effective and coming into effect in future across various jurisdictions

The pandemic has driven the need towards having remote working options at workplaces to a large extent possible. Various countries across the globe have implemented regulations and policies with respect to remote working. Most of the policies have been framed in order to ensure that remote work maximises economic, social as well as environmental benefits. The legislations being developed across the world are made keeping the economy in mind and to harness the opportunities that remote working has to offer. Below are some of the regulations which have been recently implemented by various countries in order to streamline work and provide opportunities in remote working areas.

United States of America

The United States of America currently does not include a right to work from home in their labor laws. In the US, it is entirely at the discretion of the employer to permit flexible working or work from home. However under the Family Medical Leave Act, some employees with special medical conditions or those closely caring for others with medical conditions may be

able to apply to work from home. Employees who do not fall under FMLA are generally not entitled to work from home. The decision to work remotely or in a flexible manner lies with the employer.

Under the US Fair Labor Standards Act, employers can implement remote and flexible working for their employees as long as they maintain an accurate record of the working hours of employees. Such provisions relating to work from home can also be included explicitly in the employment contract of employees. Certain other obligations arising from flexible working can also be agreed upon in the contract such as how often an employee gets to work from home, how they may be contacted, how overtime is calculated etc. Such clauses can be added in the employment contract.

Remote working can also be regulated through labor agreements and not necessarily managed through employment contracts. Labor agreements could also regulate flexible working arrangements. Home working provisions may also be defined internally between management and employee's association etc.

European Union

With the onset of the pandemic many countries in the **European Union** are coming up with respective legislations that would support employees who would want to telework. Employers are permitted to allow employees to telework, so long as they comply with the laws and regulations of both the EU and individual member states.

Spain has passed the *Royal Decree-law 28/2020*, which enables the employees to work from home. The decree requires the employees and employers to formalize work from home through written agreements. It also provides that an employee can choose voluntarily to work from home and can also deny the same. Since the decree creates room for employees to deny working from home, this would mean that even if a single employee denies working remotely, it will require employers to provide employees with an office space, which in turn would incur a real estate cost to the employers.

France has not passed any regulation particularly pertaining to tele working but has passed a national interprofessional agreement which provides for employers to assess the health risks to employees working remotely. Employers are required to control employee's workload and consider employee's working environment conditions while putting forth work on them. Also, an employee's right to disconnect from work shall be maintained. An employer must not expect an employee to work beyond the working hours assigned and should allow them appropriate time to be detached from work. Also, the Court of Cassation has recently ruled that an employee cannot take advantage of remote working legislation unilaterally. The Court further provided that in case of absence of an agreement between the employer and employee on the use of telecommuting, an employee shall not telework unilaterally.

In **Ireland**, the government has published their strategy for national remote working called "*Making Remote Work*". This strategy provides a commitment to bring about a legislation that would enable a framework which would allow employees to request remote working and provide employers with much more clarity on best practice in dealing with such requests.

Till the time legislation is brought into effect, the employers shall consider the suitability of remote working for their business model. Though the legislation is expected to come into effect late this year and is intended to harness more opportunities that remote working has to offer, taking into consideration the fact that not all roles are compatible to remote working and employers may not be able to facilitate full time remote working for all employees but perhaps they can provide work from home on a mixed basis to employees on a larger scale.

Remote work is viewed as the strategy which has the potential to improve labour market participation among people with disabilities, older employees and people with caring responsibilities. It will be important that employers monitor the diversity of their workforce engaged in remote working and make sure to avoid any indirect discrimination. Employers would also have to ensure equal opportunities for career development and progression among remote and office-based employees.

Portugal - Effective January 15, 2021, Portugal have introduced a *Remote Work Regime* in their labor code. Certain important guidelines have been issued towards the smooth implementation of the framework such as there shall be no requirement of any agreement between the employee and the employer with respect to remote work. Employees working in essential services are not required to adhere to the remote working framework. In cases where it is difficult to adapt to remote working, the employers shall have staggered working hours in place in order to avoid too much contact between the employees. The guideline also states that breaches to such a framework would be considered as a misconduct and may lead to a fine between EUR 2,040.00 and EUR 61,200.00.

Turkey - Turkey introduced the *Remote Work Regulation* in the official gazette on March 10, 2021. The main purpose of the regulation has been defined in Article 1, which is to determine the tasks that cannot be done remotely and procedures and principles of remote work. Unlike Portugal, the regulation requires the employer and employee to have a contract in writing with regard to remote work, which includes the job description, duration, and location of the workplace, etc. It also provided for arrangement of the working location, supply and use of business equipment, covering production costs etc. The regulation puts responsibility on the employer with regards to occupational safety of the employees even in case of remote working. As per the regulation, employers can require employees to perform overtime work but there shall be an agreement in place in writing between both the parties with regard to such an arrangement. The regulation therefore provided definite guidelines in the space of remote working and how the framework shall be implemented in organizations.

Belgium - The Belgium government enacted *CBA No. 149* which applies to organizations, which prior to 1 January 2021, had no "structural or occasional telework arrangement" with employees. Belgian organizations have the option of implementing three types of work from home systems:

Structural telework – In this case, the duration of the agreement would be indefinite and an employee would be able to receive extra compensation for expenses.

Occasional Telework - In this instance, the employer can refuse such an arrangement, but if adopted it can be formally entrenched in an employment agreement or an addendum to an agreement.

Homework – which allows for employees to fulfill their work duties at home independent of any direct supervision by an employer.

Chile - The Chilean government approved the *Distance Working and Teleworking Law No 21,220* on April 1, 2020. Under the framework, employees are subject to working hour restrictions. An employer shall provide an attendance record in which employees shall put in their working hours as well as overtime work performed by them. An employee may also be allowed to distribute their working hours as per their needs as long as the maximum daily and working hours are achieved.

Netherlands - *The Flexible Work Act* allows employees who are employed under an employer for a period of 6 months can make a request for change of workplace to home. The employee shall make such a request at least 2 months in advance and the employer must inform the employee no later than one month prior to this proposed date whether he approves the request or not.

Countries such as **Germany** have already proposed a *Mobile Work Act*, which would enable employees to work from home. The experts however are of the opinion that this is highly unlikely to become a Law, since even with the support of the Federal government, the inter ministries have not formed consensus because of which consultations on the same have been delayed and the chances of the same becoming law is not clear. In **Austria**, telework is regulated through working-time legislation, rather than as a separate law.

Similarly, **Russia** has also brought amendments to the *Labour Code of the Russian Federation* effective January 2021. The legislation would allow employees to permanently work from home should they wish to, without even having to confirm their place of work. This would, however, create problems in the context of salaries, tax computations etc, because many countries reserve the right of first taxation and also lead to creation of problems such as double taxation, which the employers would want to avoid

Asia- Pacific

Australia - In Australia, an employer can allow an employee under the Job Keeper provisions of the Fair Work Act, to perform duties at a place which can be different from the employee's normal place of work. An employer shall ensure that the employee's location is safe, and that his/her duties are within the scope of the employer's business operations.

Singapore - In Singapore, a temporary measure was put in place as a response to challenges posed by covid 19 in April 2020. The order required organizations to provide work from home to employees, making it an offence if an organization does not comply with the same. Employers are required to maintain employee's attendance and shall provide employees with required tools for effective work from home.

India - The government of India has issued a draft *Model Standing Orders* for the service sector with respect to remote working. The government has proposed to formalise a work from home facility and have provided that subject to the conditions of appointment or agreement between employer and employees, an employer may allow an employee or certain group of employees to remote work for a duration of time as may be considered fit to the needs of the organization. The government has also indicated in the standing orders that the main intention behind framing these basic guidelines for work from home is to safeguard the interests of employees, so that they are not left to the discretion of the employers in the arrangement

made for work from home. Separately, the government has also introduced draft Model Standing Orders for the manufacturing and the mining sectors seeking comments from stakeholders on how flexible working arrangements can be introduced in such sectors.

Philippines - The President of Philippines passed *Republic Act No. 11165 or the Telecommuting Act* which declares telecommuting as an alternative work arrangement that employers may implement upon agreement with their employees. The new law provides the rights and duties of employers and employees when a telecommuting program is in place. It also provides for the resolution of grievances arising from the telecommuting program. The Act gives the employers the option to offer their employees a telecommuting program, subject to terms and conditions mutually agreed upon between them. For this purpose, the terms and conditions of the telecommuting program shall not be less than the minimum labor standards set by law including matters with respect to salary, premium payments and other monetary benefits.

Other Jurisdictions

Argentina - On August 14, 2020, a decree was passed on remote working in Argentina. The decree is called the “*Legal Regime of the Remote Working Contract*”. It provides for certain guidelines which shall be followed when an employee is allowed to do remote working. According to the decree, there shall be an agreement in writing with respect to remote work and it shall be recorded. All technological equipment to be used by the employee, as well as the cost of maintenance of such equipment shall be borne by the employer. The law also provides that remote working agreements can be executed both in the country and abroad in the most favourable way applicable to the employee.

United Arab Emirates - The Ministry of Human Resources and Emiratisation had passed “*Temporary Guide Regulating the Remote Work in Private Establishments*” in addition to the “*Ministerial Resolution No. 281 of 2020*” which gives an employer the right to request an employee to telework. The application of such regulations differs within the Free zones as they have passed their own guidance with respect to remote working.

Pros and Cons of Remote Working

Remote working comes with its own set of benefits and challenges. Some of the most common pros and cons have been discussed below:

Pros of remote working:

1. **Higher Productivity** – Employees working remotely tend to be more productive as compared to employees working in offices. Several reasons can be attributed to the enhanced productivity of employees working from home such as employees not being time bound as they can work beyond their normal regular working hours. Also, employers do not mind the flexible working schedule of the employee as long as the work is completed and delivered on time.
2. **Better work life balance** – Remote working allows employees to save some extra time by not commuting to the workplace which thus provides a greater number of hours which can

be used for spending time with family members. Additionally, it is also possible to create a working schedule which can help achieve the perfect balance between work and personal life. Employees working remotely can be happier and more satisfied with their jobs by getting some extra time daily to manage personal life.

3. **Reduced carbon footprint and increased savings** – One of the key advantages of working remotely is the reduced carbon footprint. Lesser commute means reduction in carbon emission and lesser pollution with remote working parking tickets and other associated costs can be mitigated. Hence, remote working would not only help on mega savings but also help save the environment.
4. **Healthier lifestyle** – Working professionals tend to have a lesser healthier lifestyle compared to employees working remotely. This may be because of the everyday hustle which restricts employees from having proper food, breaks etc. Hence, maintaining a healthy lifestyle becomes difficult to manage when working in office. However, remote working allows employees to save up on a lot of time previously used for commuting to office and other related tasks and instead put in that time now to organize plans for a healthier lifestyle.

Cons of Remote Working

1. **Communication Gap** – One of the most important challenges of working from home arrangement is lack of proper communication among team members. In the workplace, an employee finds it easier to communicate as they can just walk up to the other employee's desk and get resolutions for any query. However, this is not such an easy road when it comes to remote working. Though video conferencing and instant messaging are some of the options to connect to other team members, it is still not considered as effective as talking to someone in person. The absence of proper communication is likely to act as a roadblock for effective team collaboration.
2. **Work setup Challenges** – Considering work from home creates a free space for work, but one of the main drawbacks is that employees are solely responsible for the smooth functioning of the work area in their respective home. An employee has to manage everything on their own ranging from having a good internet connection to working on various other technical tools which would otherwise generally be taken care of by the IT team at the workplaces.
3. **Lack of Motivation**– One of the biggest challenges which an employee faces while working remotely is the burden to stay motivated throughout the workday. Lesser communication and absence of colleagues makes it sometimes difficult to stay motivated while working.
4. **Lack of Social Interaction** – Employees working from home do not get to interact as much as compared to individuals working in offices, which often leads to a dip in the performance. This affects the employees more who are extroverted. Employees are required to put in more effort to interact with people in their teams and outside or build some remote team building activities etc, in order to not feel aloof while working.

Economic effects of working from home

Though remote working comes with its own advantages and disadvantages, on a large scale it cannot be denied that working from home at any given point of time is a more economical & safer option in the midst of the pandemic. Various studies have proved that working from home provides better flexibility in working schedule, higher productivity levels etc. A study by Premier Global Services Inc. provides that a leading software services found that 80 percent of employees reported higher morale when working from home while 69% reported lower absenteeism.

While employees working remotely have experienced a definite economic advantage in terms of savings through reduction in commuting, eating outside, spending on office wardrobe etc, employers too have saved more money spent previously on maintaining an office premises. According to Forbes, annual savings of \$10 million to \$15 million was done by American Express in 2013 by providing more work from home options to its employees.

The economic impact is mixed. While some of the experts' state that the era post coronavirus will lead to a decline of big city centres because of organizations freeing themselves from the densely populated office spaces leading on putting a lot of pressure on city budgets, as a good amount of income relies on the tax revenue from individuals travelling to office as well as commercial real estate. Experts also mention that an employee's isolation from their colleagues might have negative effects on one's productivity due to the interference between work and family responsibilities, etc.

While, on the other hand experts who advocate the work from home ideology, says that remote working cuts down on commuting time and costs, reduces traffic, as well as contributes to a better work-life balance. The arrangement also allows organizations to save money on office space in cities where rents have skyrocketed.

In brief, we can conclude the following as some of the main effects of telecommuting on the economy:

1. Through remote working, an employee can save up more on the time which is spent on travelling from home to office. This saved up time can rather be used in the working hours leading to an increased productivity. The idea of working in a centralized space in an clustered economy where productivity increases with the density of economic activity and sharing of information between employees that are very localized within organizations across central cities, will be affected if a good number of employees start working from home. Therefore, the first major economic effect can be seen in saving the commuting costs versus the foregone clustered economies.
2. The effects of increasing remote working will lead to a change in real estate. Telecommuting will increase demands in the size of the homes, as people would want workspace within their homes leading to a simultaneous decrease in the office space demands. It is very important to understand and make research in this space in order to understand and evaluate the economic effect which work from home would bring to the area of real estate.

3. There is a general consensus that remote working elevates the highly skilled individuals and has a negative impact on the people with low education. Therefore, it is more likely to have substantial impacts when it comes to distribution of income in the economy. Also, it is more likely that skilled individuals and those in managerial and professional occupations are more likely to work at home and can do a significantly higher share of their work and suffer less productivity loss. This would in turn put pressure on the low skilled workers who form a major part of the economies across the world.

Conclusion

From an organisational perspective, some organizations may have previous experience in implementing WFH arrangements or they may already have emergency remote work plans in place. However, many organizations are likely to be implementing WFH arrangements for the first time, and they need to quickly and urgently adopt remote work arrangements across the entire organization. For example, a survey conducted in March 2020 of 250 large firms in Argentina found that 93 per cent had adopted teleworking as a policy in response to the COVID-19 pandemic.

The framework of remote working can possibly be considered as the best arrangement if an individual wants to manage their personal life in a better manner while staying productive at work also. Various surveys conducted throughout the pandemic, has shown that individuals have actually been more productive at work even while working remotely. Through such outcomes, it appears that the hustle culture will no longer be the reality of the working space in the near future, as the pandemic continues to unfold.

According to the survey conducted by Pew Research Center, most of the individuals applauded the work from home approach. Vaccinated or not, more than half of employees said that, given the option, they would want to keep working from home even after the coronavirus crisis fades away.

Although the future remains uncertain, it would be considered as misguided to assume that the coronavirus vaccines would lead to a complete return to the era before the pandemic changed the world. The moment has arrived when organizations across the globe shall take time to embrace and build a more permanent way for remote working in order to be prepared to handle any such events which might occur in the future. With careful planning, organizations can implement a remote working model to meet business and employee obligations.