

eWorking in Ireland: Code of Practice

This Code of Practice is designed to inform those who have an interest in e-Working on a wide range of issues from the inception of the idea to the implications of e-Working for the self-employed, employers and employees. It is envisaged that the Code would be regularly reviewed and up-dated, as appropriate.

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Foreword by Noel Treacy, T.D., Minister for Science, Technology and Commerce

Modern information and communication technologies have opened up new methods of work organisation. e-Work is one such facet of the electronic age. e-Work is a powerful tool which can be exploited, not just to improve business competitiveness, but also to increase employment opportunities, skills availability, ease pressure on infrastructure and facilitate regional development.

However, if the opportunities presented by this exciting phenomenon are to be maximised, it is essential that those employers that wish to introduce e-working in their firms and those interested in e-working are aware of what is involved in terms of obligations and entitlements.

This Code provides valuable information and will be of great assistance in identifying and clarifying key issues that need to be addressed in introducing an e-working policy in firms and organisations. If the potential of e-work is to be exploited fully, for the mutual benefit of workers and employers, it is vital that clear ground rules are established which inspire confidence in both parties.

The Government welcomes and endorses this Code, which is the product of a fruitful collaboration involving IBEC and ICTU. There is no doubt that e-Work has the potential to be an engine of economic growth while simultaneously providing employees with greater choice and balance in the organisation of their work and home lives.

Foreword by John Dunne, Director General, Irish Business and Employers Confederation

The structure of industry in Ireland has changed dramatically as we enter the new millennium, with advances in telecommunication radically transforming many aspects of Irish business. These advances have led to the emergence of a whole new type of business and way of working.

Today business, in all sectors of the Irish economy, is becoming more dependant on developments in information and communication technologies to service its market and remain competitive. Increase usage of mobile phones, laptop computers, the Internet and video conferencing has changed the way in which business is conducted.

e-Working or e-Working - the terms coined to describe a way of working with information technologies independent of any geographical location - can offer Irish business the potential to develop new business opportunities, improve productivity and maintain competitiveness. Employers concerned with staff retention issues are now investigating the introduction of e-working or e-Working as a flexible work option, particularly for employees with family responsibilities or those who spend long periods commuting.

IBEC welcomes the work of the e-Work Action Forum in promoting e-work and developing Ireland as an 'e-work friendly location'. It is delighted to endorse the e-work Code of Practice, which aims to encourage best practice in Irish companies to the benefit of employers and employees.

Foreword by Peter Cassells, General Secretary, Irish Congress of Trade Unions

The awesome speed of technological change in very recent years continues to transform the workplace. More team-based organisational structures, greater variety of work contracts and a concentration on innovation and creativity are characteristic of key sectors of our economy. When we speak of e-working we imply the same radical change in how, where and with whom people work as the evolving ways of conducting business, government or running organisations. In some cases the changes have resulted in higher wages, better working conditions, in others, however, change has resulted in greater exploitation and poor conditions of employment.

In recognition of these trends Congress welcomed the opportunity to identify and set down responses to the key issues associated with e-working for ever increasing numbers of workers across a variety of sectors in our economy. The issues are wide-ranging encompassing many different aspects of work and access to work. The Code of Practice on e-Working encourages the introduction of a formal e-working policy in companies or organisations as a way of avoiding potential problems or difficulties which may arise with the introduction of this new form of work organisation.

Congress welcomes and endorses the Code of Practice on e-Working as an important strategy both to develop and safeguard the position of workers. With proper safeguards workers can engage with and benefit from the new ways of working and realise the possibilities associated with e-Working such as more control over their work including working hours, reductions in commuting time, and a better balance between working and family/home life.

Definition

E-Work is a way of working using information and communication technologies in which work is carried out independent of location. E-Work is not a job but a method of working.

Ways of e-Working include:

- *E-Worker - at home full-time / part-time*
- *Telecommuter - part-time at home or part-time in office*
- *Mobile - on the move*

Introducing E-Working in a company

E-Working may be introduced as a flexible work option in a company or it can develop over time on a more informal basis. This code of practice aims to encourage best practice in companies engaged in e-Working arrangements, to the benefit of both employers and employees.

When introducing e-Working employers are advised to draw up a written policy which specifies how the e-Working arrangements will operate in that company. This should be done in consultation with employees and union/employee representatives, where appropriate. Where necessary this policy can then be varied by negotiation to take account of individual circumstances or working arrangements. The drafting of such a document can help avoid potential problems or difficulties that may arise with the introduction of e-Working in an organisation. A sample e-Working policy setting out some key points to consider when e-Working is included in this Code of Practice.

E-Working may be required as part of a persons initial job description or may be engaged in as a voluntary arrangement. Where e-Working is entered into voluntarily the policy should set out provisions for suspending or terminating the e-Working arrangement and returning to conventional office working. Such terms should be agreed between the parties at the outset.

Suitable jobs and e-Worker selection

Jobs suitable for e-Working at a distance include those involving a high degree of information processing, clearly defined areas of individual work, and work where there are clear objectives, measurable outputs and minimal requirements for supervision. Some employees may have jobs where one part of the job description is suitable for home working while other parts need office resources or face to face interaction with other staff and thus may prefer to alternate e-Working with conventional office working. Not all jobs will be suitable for e-Working.

- *Employees may opt to e-Work or employers may specifically recruit e-Workers.*
- *Depending on the nature of the work the following personal attributes and skills may be particularly relevant:*
 - *decision making and problem solving skills*
 - *time management skills*
 - *self discipline*
 - *communication skills*
 - *experience*

- ability to cope with reduced social contact

- Where an e-Working arrangement is being proposed the suitability of the e-Worker's line manager should also be considered, having regard to the need for skills in distance management.
- E-Working arrangements may offer a range of employment opportunities to people who may have been previously excluded from the Labour Market. Where e-Working is introduced as part of a company disability policy consideration should be given to appropriate support mechanisms that may be required by individual employees. Employers should also be aware of any potential equality or industrial relations implications of excluding certain workers from e-Working. In order to avoid such problems clear criteria in relation to the job/person suitability should be clarified at the outset.
- E-Working arrangements should include mechanisms to avoid unfair extra workload on those working at home or left back at the office.

Home office

Specific arrangements should be clearly set out in any e-Working policy with regard to the setting up of a home office. Apart from assessing general technical requirements, other issues to consider may include:

Space and Location:

- procedure for checking that a suitable home office space is available.
- availability of a separate room in the home.
- availability of other options including a VDU workstation and adjustable chair in compliance with the health and safety legislation.

Equipment and Furniture:

- provision and ownership
- maintenance and technical support,
- insurance,
- personal use
- provisions against misuse
- arrangements for returning the items if the e-Worker changes employment or reverts back to office-based work.

Note: Employers may supply e-Workers with equipment or provide a budget and allow the employee to select suitable items within that budget. In other cases, employees may have to provide their own equipment.

Whatever the arrangement employers should undertake a health and safety risk assessment to ensure that the e-Workers workstation complies with all legislation. Arrangements should be agreed in advance to allow employers access to the e-Workers home to conduct risk assessments.

Childcare

- e-Working should never be used as a substitute for childcare arrangements.

Privacy:

Any issues regarding the e-Workers privacy at home should be clarified at the outset. Details regarding home visits for health and safety inspections, or for computer maintenance, including details on prior notice for such visits should be agreed. Where necessary mechanisms for introducing telephone or mail redirection systems should also be provided.

Insurance provisions:

Extension of employer's insurance policy to the home office or, where necessary, the acquisition of a home office policy by the e-Worker, which may in some circumstances specify the area within the home which is covered by employer liability insurance (the "cordon" approach).

Planning permission:

Requirements under current legislation.

Note: Permission is not normally required if changes due to homeworking are "ancillary" or temporary such as the installation of a desk and a computer in a spare bedroom, and where no change in the external appearance of the building or increase in traffic is involved. However if any proposed changes fall outside these areas planning and business rates advice should be sought.

implications, if any, in relation to existing mortgage agreements or tenancy leases.

Communications policies:

It is widely acknowledged that effective communication is vital to successful e-Working. A e-Working policy should establish ground rules and a range of procedures to replace the informal communications system of the workplace, particularly in relation to:

- *use of fax, phone, email, collection of voicemail*
- *core contact times e.g. set times for contacting managers or on completion of projects, and keeping receptionists and secretaries informed of a remote employee's whereabouts.*
- *access to technical support for e-Workers with equipment or software problems*
- *personal contact i.e. face to face meetings with managers and teambuilding with colleagues such as regular 'in the office' days.*
- *delivery of internal communications such as memos and newsletters to the e-Worker*
- *access to groupware technology such as computerised diaries and intranets where appropriate*
- *arrangements to monitor work performance. Performance appraisal procedures, where they exist, may need amendment in relation to the e-Working arrangement. Where keystroke or call listening methods are used employees should be advised of this.*
- *procedures for reporting harassment via email or other misuse of company communication systems*

Social isolation can pose a problem many e-Workers. Arrangements should be put in place to ensure that e-Workers have the same access to company information as their office-based colleagues. In supplying company information, companies should be aware that e-Workers are often beyond the reach of the usual informal office chatter and informal learning and should make active efforts to remedy the resulting information gap, perhaps through the use of intranets and email.

Training:

Training requirements should be assessed for both the e-Worker and his/her office-based manager. Appropriate training may include:

- *computer/IT skills e.g. remote access/Internet*
- *self management skills such as time management, project management, effective telephone usage, priority setting etc.*
- *coping with isolation*
- *management training especially "management by results", goal setting, monitoring progress, giving appropriate feedback*
- *health and safety training e.g. covering the responsibility of the employer for the health and safety of employees, and the responsibility of employees to take reasonable care of their health and safety and in reporting defects in workplace equipment leading to risks.p*

A variety of training opportunities and techniques should be considered ensuring equal access to training opportunities with onsite workers, optimising the use of distance learning techniques and support through mentoring of new e-Workers by experienced e-Workers.

Security:

E-Working policies should review company security policies to see whether they are appropriate for e-Workers and specify any variations required, considering issues such as:

- *how to deal with secure document waste*
- *locking of the home office/computer*
- *procedures for computer virus checking and password changes*
- *data backups (it is advisable to require that one set of data backups be held at the central site where possible in case of fire damage or other problems affecting the home office).*
- *confidentiality and non-disclosure agreements*

Employee Terms and Conditions:

- *An employee engaged in e-Working has the same employment rights and is protected by employment legislation in the same way as all other employees. An overview of the minimum legal entitlements for employees under Irish employment legislation is set out in Part Two.*
- *Under some e-Working arrangements clarification may be needed on how certain terms and conditions may apply in a e-Working situation and these should be clarified at the beginning of any e-Working arrangement.*
- *Where the introduction of e-Working gives rise to any changes to normal work practices or to an employee's terms and conditions, these should be agreed between the parties at the outset. This is advisable to avoid any potential difficulties that may subsequently arise about working arrangements.*

Working Hours:

Working time arrangements should be agreed having regard to workplace agreements and hours of

work legislation. The key issues should include:

- *What core hours, if any, must be worked?*
- *What hours or days must be worked from the office rather than through e-Working?*
- *What is the procedure for agreeing and monitoring working time or overtime, sickness and holiday arrangements?*

Company Policies:

Consideration should also be given to the operation of company policies that may be affected by the e-Working arrangement. New arrangements may need to be put in place for the claiming or granting of sick leave or annual leave. Clarification may also be required on how certain pay and benefits may apply. These may include:

- *Bonus: application of bonus systems*
- *Piecework: application of piecework systems*
- *Expenses: reimbursement of expenses (e.g. heat, light, cleaning home office, stationery, postage, telecommunications, travel)*
- *Benefit-in-kind: taxation implications of personal use of equipment (personal use can be considered a benefit in kind)*
- *Fringe Benefits: application of fringe benefits*

Trade Unions:

Where e-Workers are members of a trade union recognised by the employer, the union should be consulted about the introduction of any e-Working arrangements and with regard to any proposed changes to terms and conditions of employment, in line with normal practices. Employees working under e-Working arrangements should have normal access to their trade unions, and vice versa.

Monitoring and Review:

The e-Working policy should include a procedure for regular monitoring and review. Where necessary the policy may need to be varied to take account of individual circumstances or working arrangements.

Sample e-Working agreement

The following sample e-Working agreement sets out some key areas that should be agreed upon before embarking on a e-Work arrangement. Details of e-Working agreements will vary according to the nature of the work carried out and the degree to which the e-Worker carries out the work away from the traditional workplace. This agreement can be varied by negotiation (see italics) to take account of individual circumstances or working arrangements.

The sample agreement could be used as a standalone document but is most effective in conjunction with an agreed and detailed company policy on e-Working. (Some appropriate issues for inclusion are in brackets)

- *Name:*

- *Address at which the e-Work/distance work will mostly be performed:*
- *Telephone number:*
- *Mobile telephone number:*
- *Details of Position/Nature of work:*
- *Hours of Work (Office based Days/Hours, Home based days/Hours - include details where applicable on core hours, flexible hours; recording of working time, overtime arrangements , etc.)*

Communications Structures (core contact times, team meetings, feedback, mentoring, etc.)

- *Reporting In procedures:*
- *Home Office Arrangements*
 - *Technical requirements*
 - *Provision of Equipment/furniture*
 - *Maintenance/Prevention of Mis-use*
 - *Personal use of equipment*
 - *Health & Safety*
 - *Insurance*
- *Training (induction, technology training, self-management skills,-remote management skills - where appropriate)*
- *Security/confidentiality arrangements:*
 - *Terms & conditions (application of company policies to terms of employment where they may differ as a result of e-Working arrangements).*
- *Suspension/termination of E-Working*
- *Monitoring & Review Process:*
- *I have read and understood the company policy on e-Working and agree to a e-Working arrangement.*
- *I have agreed that a health and safety risk assessment will be required on the proposed workplace for e-Working.*
- *I will operate in accordance with the company safety statement*
- *I have informed my mortgage/insurance company that I intend to use my home for business purposes.*
- *I understand that e-Working is not a substitute for childcare.*
- *I understand that the e-Working arrangement does not affect my status as an employee.*
- *I understand the arrangements for termination of the e-Working agreement by myself or by the company.*

Signed (employee):

Signed (company):

Date:

e-Working for self employed e-Workers

Self employed e-Workers should always ensure there is a written document specifying the terms and conditions of the agreement between the e-Worker and their client or customer.

A clear written agreement can help to avoid disputes, unnecessary work stress and nonpayment of bills.

Written agreements between Self employed e-Workers and the Clients should include the following key aspects:

- *Clear contacts: Identity and contact addresses of purchaser and supplier (if either is a corporate body, the names of the individuals concerned).*
- *Nature of work: General description of the work to be carried out including the purpose and scope, the timetable for completion of the work, the delivery format and delivery date.*
- *Payment terms: Details of the payment for the work including a timetable for payment during or following the completion of the work, VAT liability.*
- *Confidentiality: Details of systems/procedures to ensure confidentiality and security of the work including responsibilities under Data Protection legislation*
- *Ownership: Clarity with respect to the ownership of any resulting copyright and intellectual property rights if appropriate.*
- *Supply of equipment: Arrangements for loan or supply of equipment, including insurance arrangements.*
- *Illness cover/holidays: Arrangements for cover in the event of illness, incapacity, holidays or other absences, and for any consequent subcontracting, if permitted.*
- *Quality assurance: Procedures for compliance with quality assurance system to be used, if any. If group working is involved, identify the individual responsible for quality within the group.*

Note: Self-employed e-Workers should be aware of their responsibilities under the Data Protection Act, 1988 listed in part one above and may wish to consider keeping a set of data backups at a secure location offsite.

Self-employed e-Workers, because their situation differs from employees in areas such as eligibility for many social welfare benefits, should also consider:

- *Adequate insurance: for business equipment e.g. through a home office insurance policy covering issues such as data loss, public liability, business interruption insurance and computer breakdown costs. Some e-Workers may also need to consider taking out professional liability insurance where such insurance is not included in home office policies.*
- *Planning permission: whether a home office requires planning permission (see Part One home office section for further information)*
- *Pension coverage: contribution to a pension scheme where possible*
- *Health insurance: provision of permanent health insurance cover to replace lost income if incapacitated by ill health*
- *Appropriate professional advice: access to suitable professional advisors such as accountants and solicitors*

- *Working hours: protection from overwork. Self-employed e-Workers are exempt from the working time directive and so often work long hours to meet deadlines. They may suffer from periods of "feast or famine" in workload. EU research indicates that stress through overwork ("self-exploitation") is a major occupational health hazard for self-employed e-Workers.*
- *Stress factors: the risk of stress resulting from isolation through working alone from home - details of e-Work support organisations and Internet resources which can provide advice or alleviate isolation problems are given in Part three - contact details.*
- *Quality Control: quality control measures to ensure customer satisfaction.*

Employee Rights and Employer Obligations

This section provides a short overview of the relevant employment legislation which is not exhaustive. Further information is available through guides and explanatory leaflets provided by the Departments of Enterprise, Trade and Employment and Justice, Equality and Law Reform and the Health and Safety Authority. These are listed in the references section.

- *Written information on terms of employment must be supplied within two months of the date of commencement of employment [Terms of Employment (Information) Act, 1994] including details of the name and address of the employer, the place of work, the job title/nature of the work, the date of commencement of employment, the nature of the contract (temporary or fixed term), pay and pay intervals, hours of work (including overtime and all paid leave), sick pay and pension schemes, notice entitlements and collective agreements. The Terms of Employment (Information) Act, 1994 does not apply to a person normally required to work for the employer for less than 8 hours a week, or who has been in the continuous service of the employer for less than one month.*
- *Written pay statements: a written statement every pay day of wages with every deduction itemised must be supplied [Payment of Wages Act, 1991].*
- *Employment equality: The Employment Equality Act, 1977 prohibits discrimination on grounds of gender and marital status in respect of all aspects of employment i.e. access to employment, conditions of employment, training or experience for, or in relation to, employment, promotion or re-grading and classification of posts. The Anti-Discrimination (Pay) Act, 1974 provides the right for men and women to equal pay for like work.*

These Acts will shortly be repealed when the Employment Equality Act, 1998 comes into force in 1999. The Employment Equality Act, 1998 combines the protection of the existing Acts into a single Act and extends the grounds for discrimination to nine grounds namely, gender, marital status, family status, sexual orientation, religion, age, disability race and membership of the traveller community.

The new Employment Equality Act, 1998 as it applies on the grounds of disability requires that an employer must make a reasonable accommodation for an employee with a disability, if that person would be capable of doing the job effectively with the assistance of special treatment or facilities, unless the cost to the employer of the provision of such treatment or facilities is more than a nominal one.

- *Data Protection: employees who as part of their work act as data controllers or data processors must be aware of their obligations under the Data Protection Act, to ensure data are kept up to date and for lawful purposes, and that sufficient security measures are taken so that data are not disclosed.*
- *Working time provisions: Under the Organisation of Working Time Act, 1997 the maximum average working week is 48 hours but averaging may be balanced out over a 4, 6 or 12 month period. Employees are entitled to 11 hours daily rest per 24 hour period, to one period of 24 hours rest per week preceded by a daily rest period of 11 hours and to rest breaks of 15 minutes per 4.5 hours and 30 minutes where 6 hours have been worked. There are transitional arrangements whereby an employee may agree to work up to an average of 55 hours per week in the period 1st March 1999 to 29th February 2000. A range of conditions apply to this arrangement.*
- *Holidays: From 1, April 1999 under the Organisation of Working Time Act, 1997 employees are entitled to four working weeks annual holidays for each leave year in addition to the nine public holidays. All*

- employees, whether full-time, part-time or casual qualify for holidays based on hours worked.
- **Sunday premium:** employed e-Workers who work on a Sunday are entitled to supplementary payment equivalent to the closest applicable collective agreement for the same or similar employment which provides for a Sunday premium. This premium can be in the form of added payment, paid time off in lieu, a portion of the shift premium or unsocial hours premium.
 - **Zero hours:** where an employee is requested to be available for work and is not, on the day, asked to work, he/she is compensated for 25% of the time during which he/she is required to be available, or 15 hours in any week, whichever is the lesser.
 - **Maternity protection and adoptive leave:** employees have a statutory right to (i) maternity leave of 14 weeks plus an option for an additional four weeks leave and the right to return to work after such leave and (ii) 10 weeks adoptive leave plus the option of an additional 4 weeks leave. Employees who satisfy the contribution conditions are entitled to claim the Pay-Related Maternity Allowance from the Department of Social Welfare for the entitlement periods of 14 weeks (maternity) or 10 weeks (adoptive).
 - **Parental Leave:** employees who are parents have a statutory right to 14 weeks unpaid leave. This entitlement relates to children born or adopted after the 3rd June 1996. The must be taken before the child reaches 5 years of age.
 - **Notice of Dismissal:** employees who are normally expected to work at least 8 hours a week are entitled to statutory periods of notice which vary according to their length of service [Minimum Notice and Terms of Employment Act 1973-91.
 - **Unfair Dismissals:** employees with one year's service are protected against unfair dismissal under the Unfair Dismissal Acts. The requirement of the one year's continuous service does not apply where the dismissal results from the exercising of rights under the Maternity Protection and or Adoptive Leave legislation or for trade union membership or activities. Dismissals are deemed unfair where they result from trade union membership or activities, pregnancy, religious activities, race, colour or sexual orientation, legal proceedings against an employer where the employee is a witness, unfair selection for redundancy, the exercise of a right to maternity, or adoptive leave, age or membership of the travelling community. The Act provides that an employee, who has been dismissed must receive the reason for dismissal in writing within 14 days from their employer.
 - **Redundancy payments:** where an employee's job ceases to exist and they normally work at least 8 hours per week and they have been employed for over 104 weeks of continuous service they are entitled to paid compensation according to schemes laid out in the Redundancy Payments Acts 1967-1991.

Provisions of the following Acts may also apply to employed e-Workers:

- *Protection of Employment Act 1977;*
- *European communities (Safeguarding of Employees' rights on Transfer of Undertakings) Regulations 1980;*
- *Protection of Employees (Employers' Insolvency) Acts 1984;*
- *Worker Participation (State Enterprises) Acts 1977-1993;*
- *Industrial Relations Act 1946, amended 1969, 1976, 1990;*
- *Transnational Information and Consultation Act 1997.*

Health and Safety

Health, safety, health and welfare at work: All provisions of the Safety, Health and Welfare at Work Act 1989 and the subsequent General Application Regulations 1993 apply to home offices and to work outside the conventional office. Both employer and employee have statutory duties based on common law duties of care and all persons must consider the impact their place of work or articles used at work have on the public or visitors to the premises.

The employer has a legal duty to ensure so far as reasonably practical, the safety, health and welfare of their employees. Employees are similarly obligated to co-operate fully with the implementation of the Act and comply with all appropriate health and safety provisions in the workplace. Employees are required to report without delay, any accidents or defects in workplace equipment that may lead to a risk or danger. Every place of work including a home office must have a Safety Statement, which can form part of the overall company safety statement. Carrying out a risk assessment of the home work station is the responsibility of the employer and may involve, by prior agreement, a home visit. The e-Worker must be involved in this risk assessment. Where necessary the results must be explained to and understood by the e-Worker. As conditions change the risk assessment may have to be repeated.

The risk assessment should cover:

- *furniture: e.g. adequate space for a workstation, office chairs and tables which must be adjustable in order to comply with VDU health and safety regulations.*
- *electrical safety avoiding overloading of sockets, and safely stowing cables*
- *fire safety e.g. provision of fire extinguishers*
- *lighting levels*
- *provision of heating and ventilation*
- *maintenance procedures*
- *carrying heavy equipment*
- *VDU requirements - information on ergonomic posture for prolonged use of computer workstations and use of portable computers and on importance of eye sight tests for all regular VDU users*
- *procedures for reporting of workplace accidents*
- *awareness of dangers of social isolation through prolonged exclusive homeworking*

Note: some companies now instruct employees not to use mobile telephones whilst driving because of the risk of accidents due to driver distraction or inability to correctly control the vehicle when hands-free sets are not in use.

Where the employees have selected a safety representative the representative should be able to visit the e-Workers they represent in their home offices if appropriate e.g. to carry out independent health and safety inspections. The inspections should only be carried out by prior permission and consent of the e-Worker, in accordance with the work agreement.

Employment agencies

Some e-Workers are classified as agency workers. Agency workers are persons who register with

employment agencies, who in turn make these temporary workers available to a third party. In the past such workers were neither employees of the agency or the third party and as such were not protected by employment legislation. In recent years legislation has been implemented that protects the rights of agency workers in the same way as direct employees of a company. Agency workers now have the protection of the following pieces of employment legislation:

- *Payment of Wages Act, 1991*
- *The Unfair Dismissals Acts, 1977 - 1993*
- *The Terms of Employment (Information) Act, 1994*
- *The Maternity Protection Act, 1994*
- *The Adoptive Leave Act, 1994*
- *The Organisation of Working Time Act, 1997*
- *Parental Leave Act, 1998*
- *Employment Equality Act, 1998*

The 'employer' in such cases is deemed to be the party who is liable to pay the agency worker. In most cases this is the agency. For the purpose of unfair dismissal the employer is deemed to be the user of the agency worker, i.e. the client company. Employment agencies must be licensed by the Department of Enterprise, Trade and Employment.

Legislation Affecting Self-Employed E-Workers

The legislative requirements which apply to the self-employed e-Worker are the Safety, Health and Welfare at Work Act, 1989 and Safety, Health and Welfare at Work (General Application) Regulations 1993, the Data Protection Act 1988, and the Registration of Business Names Act 1963. However, like all self-employed people, self-employed e-Workers must also consider issues such as the form of trading they will select, and liability for taxes such as VAT. Self employed e-Workers are strongly recommended to seek advice from professionals such as accountants and solicitors in relation to these matters, and to use the Enterprise Link helpline service provided by the Department of Enterprise, Trade and Employment on 1850 353333.

Safety, Health and Welfare at Work Act, 1989 and the General Application Regulations 1993.

The provisions of the Safety, Health and Welfare at Work Act 1989 and subsequent General Application Regulations 1993 apply to any place of work including those used by the self employed. Thus a self employed person has a duty under the Act to assess their own workplace for risks and prepare a safety statement, even if it is a home office and they are working alone. The Act puts a duty on the self employed to ensure that they do not put other persons who are not their employees at risk, such as other family members where homeworking is involved.

Under the Safety, Health and Welfare at Work Act, 1989 self-employed e-Workers are obliged to:

- *Identify hazards that may cause harm however small (such as electrical equipment which might cause an electric shock).*
- *Decide who might be harmed and how (e.g. the homeworker, members of the household, visitors)*
- *Assess the risks of injury (e.g. electrocution)*

- *Take appropriate action to eliminate or reduce the identified risks*
- *Record the findings e.g. steps taken to reduce or eliminate risks in their safety statement*
- *Check the risks regularly and take appropriate steps, especially if there is a change in working procedures.*

The main relevant health and safety law for e-Workers is the 1993 General Applications Regulations. Part VII gives the main requirements for working with VDUs which are:

- *a clear and stable screen, bright and free from glare, which should swivel and tilt easily*
- *adequate arrangement of keyboard characters, adjustable keyboard with sufficient space to support the hands and arms of the user*
- *sufficient user space to change positions and vary movements. Work desk sufficiently large, document holder adjustable and stable*
- *satisfactory lighting conditions*
- *minimised glare and reflection at the workstation, and minimisation of radiation levels*
- *work chair adjustable in height including the back rest*
- *a foot rest available if required*
- *environmental factors should be minimised including effects of reflection/glare, noise, heat and humidity*

Part IV of the 1993 General Application Regulation on the use of work equipment also applies, which states that when selecting work equipment account should be taken of specific working conditions, characteristics and hazards in the place of work and that equipment must be without risk to health and safety, or that steps are taken to minimise any such risk. Work equipment must also be kept adequately maintained throughout its working life. The 1989 Act and the 1993 General Application Regulations also state that workers should be adequately trained so that they can use their work equipment in a safe and correct manner.

Data Protection Act, 1988

Self-employed e-Workers who as part of their work act as data controllers or data processors must be aware of their obligations

- *to register under the Act,*
- *to ensure data are kept up to date and for lawful purposes, and*
- *to ensure that sufficient security measures are taken so that data are not disclosed.*

Although only those involved as the main part of their business in processing or holding financial or personal data are required to register, all data users have a duty to safeguard data regardless of whether they are registered or not and to abide by the data protection principles set out below. Personal data is any information relating to living, identifiable individuals processed by computer.

Data Protection Principles

- *Obtain and process information fairly and lawfully*
- *Keep it only for one or more specified and lawful purposes*

- *Use and disclose it only in ways compatible with these purposes*
- *Keep it safe and secure from unauthorised or accidental disclosure or loss*
- *Keep it accurate and up to date*
- *Ensure that it is adequate, relevant and not excessive*
- *Retain it no longer than is necessary for the purpose or purposes*
- *Give a copy of his/her personal data to any individual on request.*

Registration of Business Names Act 1963

Self-employed people or sole traders should register their business name if trading under a name other than their own under the provisions of the Registration of Business Names Act 1963. This is done by completing a simple form and paying a small fee. (See Part Three for contact details).

Forms of Trading

Persons intending to combine e-Working with starting up a business need to consider the legal form of the proposed business. The options are:

- *Sole trader: the simplest option is to become a sole trader and the only initial formalities are to obtain an RSI number from the Revenue Commissioners should you not already have one, and to complete tax returns as appropriate.*
- *Partnership: this format is used to extend sole trader status to more than one person and normally involves the additional preparation of a written partnership agreement.*
- *Limited company: in this format the business is a separate entity from the individual, and is owned by shareholders in proportion to the number of shares held. The shareholders must meet at least once a year and appoint at least two directors to run the business. Limited companies must be registered with the Registrar of Companies and must also file an annual return including the accounts of the company with the Registrar of Companies in accordance with the Companies Acts.*

Value Added Tax (VAT)

Any self-employed person can become liable to VAT if their turnover exceeds £20,000 per annum for the supply of services or £40,000 per year for the supply of goods. It is also possible to opt to be registered for VAT before turnover reaches these limits which can be advantageous for some businesses. In either case a VAT registration must be obtained from the Revenue Commissioners, and VAT accounts submitted subsequently, usually on a bi-monthly basis.

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- *The E-Working Handbook (2nd Edition): Imogen Bertin and Alan Denbigh, TCA, 1998*
- *Trade Unions and E-Work: FIET report by Andrew Bibby 1997*
- *Health and Safety Authority Newsletter No.94*
- *Newsletter March 1994. The Health and Safety of E-Workers*
- *Health and Safety Authority Guidelines on:*
- *Preparing your safety statement*
- *Health and safety of office workers*
- *Safety Consultation and Safety Representatives*

Contact details

- *Communication Workers Union virtual branch (e-Work advice and support) 021 887300*
- *Data Protection Registrar Block 4 Irish Life Centre Dublin 1 01 874 8544*
- *Employment Rights Information Unit, Department of Enterprise and Employment, Davitt*
- *Employment Equality Agency, 36 Upper Mount Street, Dublin 2 Tel: 01 660 5966*
- *Enterprise Link helpline 1850 353333*
- *European E-Work Development Project in Ireland, Cork E-Working, Reagrove, Minane Bridge, Co. Cork Tel: 1800 225070*
- *House, 65A Adelaide Road, Dublin 2 Tel: 01 6312121 and 1890 20222*
- *Registrar of Business Names, Lower Castle Yard, Dublin Castle, Dublin 2. Tel: 01 6614222*
- *National Advisory Council on E-Working, Theresa Fitzpatrick, Department of Enterprise, Trade and Employment, Kildare Street, Dublin 2 Tel: 01 661 4444*
- *Rights Commissioner Service, Tom Johnson House, Haddington Road, Dublin 4 Tel: 01 660 9662*
- *eircom Freefone 1800 666444*
- *E-Work Ireland Association (e-Work advice and support) Freefone 1800 421426*
- *IBEC, Confederation House, 84-86 Lower Baggot Street, Dublin 2. Email erinfor@ibec.ie*
- *ICTU, Congress House, 19 Raglan Road, Dublin 4. Email raglan@ictu.iol.ie*

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- *Imogen Bertin, Manager, Cork E-Working, co-author of the TeleFutures report and the E-Working Handbook*

Useful Websites

- *Andrew Bibby - e-Work articles*
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- *Telecommute America! (USA)*
- *Telecommuting Advisory Council (USA)*
- *E-Work Ireland*
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