

# Social partner consultation issue raised in remote work bill discussion

**ANDY PRENDERGAST**

**The controversial design of the planned 'right to request' remote working law was discussed in Joint Committee hearing this week – the hearing reflected there has been an apparent deficit of tripartite consultation on the general scheme up to now.**

The social partners, Ibec and ICTU, outlined their positions in a Joint Committee on Enterprise, Trade and Employment hearing this week, with ICTU strongly arguing the scheme for the bill, as it currently stands, is “useless.”

On the other hand, Ibec, which has less opposition to the content of the general scheme of the bill, is not in favour of legislating on remote working due to the potential imposition of a ‘one-size fits all’ approach to workplace flexibility, and in the context of an “unprecedented level of new legislation facing employers.”

Ibec’s director of employer relations, Maeve McElwee, said that in the context of an individual who would have an ambition to work remotely and the overall obligations of employers under all relevant legislation, but also the rights and obligations employers have to every other employee within the business, “these are very difficult to marry-up under a single piece of legislation.”

ICTU has particular objection to two key aspects of the general scheme: an employer’s “unfettered” right to refuse a remote working request, and the lack of an appeal, to the WRC, challenging an employer’s substantive reason(s) for refusing a worker’s request.

It is these claims that had led to the general scheme being branded as “toothless” and imbalanced, in favour of employers (*see [IRN 04/2022](#)*).

Congress is seeking several changes to the planned bill, such as reducing the waiting time for a decision on a remote working request, from 12 weeks to 4, and that an employer be required to set up a meeting with the worker and their representative within two weeks of receiving the request “to discuss options and look for an arrangement that will work for everyone.”

Significantly, it is seeking an appeal avenue to the WRC for workers taking issue with the substantive decision of the employer to refuse their remote working request.

## **LACK OF CONSULTATION?**

However, it is apparent – certainly from ICTU’s submission to the Joint Committee – that close consultation with the social partners was absent in the run up to the publication general scheme of the ‘right to request’ remote working bill.

ICTU general secretary, Patricia King, said that Congress had put forward its views on remote working via the Labour Employer Economic Forum (LEEF) and had several indications from the Minister that he was positively predisposed to legislating in the area. In addition, ICTU made submissions to the public consultation on the right to request remote working bill.

Congress was informed, on December 10, 2021, that the general scheme would be published in January 2022. However, ICTU did not see the general scheme before it was published, in January 2022.

Ms King noted that, with previous employment bills, such as the Employment (Miscellaneous Provisions) Act, 2018, prohibiting zero-hour contracts, the social partners would have been consulted more closely.

She added that the general scheme of the ‘right to request’ remote working bill “would have been much more fit for purpose had there been more engagement.”

Ibec, similarly, did not receive sight of the general scheme of the bill before it was published. Ms McElwee, largely relayed that the employer body had the same level of consultation as ICTU on the general scheme.

Deputy Paul Murphy, speaking at the Committee hearing, suggested that Ibec might have had a stronger influence on the scheme than ICTU.

Ms King also stressed that for the particular aspects of what is featured in the general scheme, such as the waiting period before an employee can make a remote working request, these issues can “be thrashed out in a tripartite setting.”

## **COMPETITIVE FACTOR**

Both ICTU and Ibec cited anecdotal, but contrasting evidence on the use of hybrid/remote working arrangements, as the economy emerges from Covid-19 restrictions. Ms McElwee said a vast majority of Ibec’s members are indicating they will continue using hybrid working arrangements.

Ms McElwee also noted that hybrid working is an increasingly competitive factor in what is a tight labour market, and that employers do see opportunities and cost savings with hybrid working.

However, Ms King said she can “correct the conventional wisdom that employers are ahead of the Government” in the area of hybrid working, and that trade unions have been finding employers “reluctant to engage” on remote/hybrid working until the legislation is enacted.

Ms King acknowledged that in employments where collective bargaining exists, remote/hybrid working arrangements can be managed through a collective process. But there are “swathes” of the private sector not covered by collective bargaining, and it is in these workplaces where remote working legislation is most important, she argued.