

Gov rejects attempt to permit WRC look at why remote working was refused

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Proposed amendments to the Work Life Balance Bill to allow WRC adjudicators and the Labour Court to look behind the reasons employers may give for refusing remote working to employees were rejected in the Seanad this week.

The Bill currently states that WRC adjudicators and the Labour Court “shall not assess the merits” of the decision of the employer for refusing remote and flexible working, or for why an employer terminated any such remote or flexible working arrangement.

The intent of the bill is that a complaint to the WRC and Labour Court would be on procedural grounds only. The procedure an employer will have to follow involves consideration of his/her needs and the needs of the employee, as well as a planned WRC Code of Practice.

Labour Senators Marie Sherlock, Annie Hoey, Rebecca Moynihan and Mark Wall sought to replace the wording of “*shall not assess the merits of*” with an alternative “*may where appropriate consider and take into account the reasonableness of*”.

Rejecting the amendments, Minister for Children and Equality Roderic O’Gorman reiterated that the Government is not seeking to introduce a right to remote working per se, and suggested that the proposed amendments would push the right beyond what was originally intended, noting that remote working does not suit many jobs.

The Minister also pointed again to a planned two-year review of the law, after it is enacted, at which point if issues emerge with how the new law will operate, it may then be updated, in 2025. The reality since 2021, however, is that in types of work where remote working is more common, employers have moved ahead to develop their own remote working policies, in the context of the demand for such and the current labour market.

SCOPE FOR CHALLENGE

However, a new legislative provision may be of more use to a worker who has less bargaining power, or who is compelled to seek remote or flexible working due to personal exigencies.

Yet, as the bill is currently worded, there is a wider extent of what can be considered 'procedural' than was first anticipated, when the general scheme of the now-abandoned right to request remote working bill was published over a year ago (*for more on this, see [IRN 46/2022](#)*).

What will be of significance is the WRC Code of Practice and what it will contain, as an employer must show consideration of the Code in considering an employee's request.

Other amendments to tweak the wording of the Work Life Balance Bill by Senators Alice-Mary Higgins, Lynn Ruane and Emer Currie, such as employers having to show that matters given to end a flexible working arrangement are 'reasonable and demonstrable', were also rejected.

Senator Higgins expressed concern that the refusal to permit the use of 'reasonable' in the bill will make it ineffectual in practice.