

Appendix 7 Telecommuting Scheme

ARTICLE 1

In this scheme the following definitions apply:

- a. telecommuting: carrying out activities in the employee's residence whereby information and telecommunications technology are used;
- b. residence: the place where the employee lives as evidenced by statements from the municipal administrations.

ARTICLE 2

In this scheme the involved party is the employee who on a voluntary basis telecommutes on one or more workdays.

ARTICLE 3

1. The employee who of his own volition wishes to telecommute on one or more days a week can submit an application thereto.
2. An application can be approved if it benefits the interests of the organization.

ARTICLE 4

1. The telecommuting arrangements shall be established in writing with the involved party.
2. The arrangements, meant in the first paragraph, concern at any rate:
 - a. The requirements resulting from the provision in or by virtue of de Working Conditions Act;
 - b. The availability of the involved party;
 - c. The manner of feedback with the organization;
 - d. The activities to be carried out;
 - e. Telecommuting facilities provided to the involved party;
 - f. The manner in which the telecommuting facilities are supplied;
 - g. The period in which the involved party telecommutes;
 - h. The number of days per week and the days the involved party telecommutes;
 - i. The manner of and the grounds for terminating telecommuting;
 - j. The consequences that the termination of telecommuting holds for the telecommuting facilities provided;
 - k. Data security;
 - l. Aspects of privacy.

ARTICLE 5

The telecommuting facilities meant in article 4, second paragraph, section e., could be:

- a. a computer and allied necessary devices;
- b. refurbishment of the working room;
- c. a fax;
- d. a mobile telephone;

- e. the installation of an additional telephone line;
- f. payment of all work-related telephone costs;
- g. payment of all work-related Internet costs;
- h. payment for the use of the private accommodation for work.

ARTICLE 6

1. The telecommuting facilities, meant in article 5, can be put at the disposal of the involved party by the competent authority, who will also pay for this insofar as these are necessary for the involved party to enable work.
2. If the private computer and allied necessary devices are used for telecommuting the involved party can be granted a compensation to the amount of € 22.69 a month. The employer may reduce this payment if for example the involved party telecommutes infrequently or if the employer has already received a contribution in the purchase costs of the computer.

ARTICLE 7

This scheme takes effect on 1 June 2001.

CLARIFICATION

In this scheme the legal aspects of telecommuting are arranged. The following elements will at any rate be discussed:

- the appropriated definitions;
- the manner in which arrangements between the telecommuter and employer are made and laid down. This concerns i.a. arrangements on the refurbishment of the workplace, the computer device, data (telephone, modem), the manner of feedback with the organization (work negotiations, work arrangements, job assessment interview, number of telecommuting days);
- the payment of the costs connected to the arrangements mentioned above (refurbishment costs, costs of the devices, data connection costs, costs for use of private room).

The nature of the scheme is not connected to the desirability in terms of policy or the application of telecommuting within the research centres. Whether the employee will telecommute is to be agreed upon by the manager and the employees themselves, taking different factors into consideration. Therefore the scheme does not deal with the whys and wherefores of telecommuting and shall not unnecessarily restrict the space for involved parties to make arrangements about the application of telecommuting. The scheme does, however, create more clarity on the aspects of the legal position of telecommuting and to that end eradicates the obstacles to applying this form of work there where involved parties deem this desirable, insofar as these obstacles are due to lack of clarity on those aspects.

Telecommuting is about carrying out activities for the organization in or from the employee's home. The application of this form of work may or may not be linked to the function that is fulfilled. By definition telecommuting takes place on grounds of the voluntariness of the parties involved. In quantitative terms telecommuting exists in many forms. These range from a couple of incidental hours to one or more structural days or even everyday work at home.

On a voluntary basis and due to the collective interests of employer and employee an agreement on telecommuting is made. Telecommuting is neither a right, nor an obligation. This is important for the content of the skeletal scheme with respect to this form of telecommuting. For example, it is not reasonable to record enforced regulations in the area of facilities or allowances. The scheme merely sketches to the possibilities for the employer.

The extent of the telecommuting facilities is not coupled to the possibilities that the tax legislation offers to provide telecommuting facilities free of tax. However, they can be used.

The scheme was not conceived to "incorporate" telecommuting in all research centres. Arrangements on the incorporation of telecommuting can best be made at the decentralised level because that is the best level to consider whether telecommuting is desirable or possible. The scheme provides the parties involved who are considering this use or this form of work with a clear framework with respect to the (legal position) conditions which should be taken into consideration. Within this framework further rules can be arranged at the decentralised level in agreement with the works councils.

ARTICLE-BASED

ARTICLE 3

The employee who wishes to telecommute can submit an application. The employer will subsequently have to consider if the organization will benefit from this. To that end he will have to take the following into consideration:

- the financial consequences of telecommuting for the employer;
- the effects of telecommuting on the quality and quantity of the work delivered;
- the influence of telecommuting on the staff motivation;
- the influence of telecommuting on the continuity of the organization;
- the question whether the function is suited to telecommuting;
- the personal traits of the involved party;
- the home situation of the involved party;
- privacy and safety aspects.

ARTICLE 4

With the involved party who at his own request has been allowed to telecommute, written arrangements will be made which will ensure the conditions under which telecommuting takes place. The arrangements as regards the requirements resulting from the Arbo legislation consist of the following. The employer is under the obligation to ensure that the workplace of the telecommuter meets the requirements of the ARBO requirements and that the relevant employee also works at home in compliance with the prevalent Arbo-regulations. To that end the employer cannot continuously supervise the telecommuting place. Adequate information to the employee is a requirement to that end. In addition the involved party must explicitly declare that the workplace meets the requirements of the ARBO requirements and that he shall carry out his activities in compliance with the prevalent Arbo-regulations.

Furthermore, the involved party must agree to inspection of the workplace by or on behalf of the employer subject to the timely announcement of such inspections. In the formulation of the general Arbo policy the employer shall pay attention to telecommuting as well as the experiences which have been accumulated along the way. The Arbo policy must be co-determined.

Specific provisions for working from home – for example for providing benefits, registration of relevant data and the notification of accidents - have been recorded in the working Conditions Act (Bulletin of Acts 1997, 60). In addition the arrangements see to:

- the telecommuting facilities and the manner in which these are provided to the party involved;
- the concrete working arrangements such as: availability, the manner in which feedback to colleagues /executive take place, the number of telecommuting days per week, activities to be carried out;
- the termination of telecommuting and the consequences thereof for the telecommuting facilities given to the involved party.

ARTICLE 5

This article sums up the telecommuting facilities which may be provided to the involved party by the competent authority. The facilities shall be goods (computer, workroom refurbishment, fax, mobile telephone) and payments (telephone costs, Internet costs, housing).The employer shall determine whether the facilities are offered, made available or funded. The provision of a telecommuting facility means that the facility becomes the property of the employee. Making a facility available means that the facility is given on loan to the employee and remains the employer's property. Funding of the facility means that the employee will be given a monetary sum for the telecommuting facilities. Tax legislation makes it possible that if certain conditions are met telecommuting facilities can be provided free of tax, or can be given up to a certain tax-free maximum value, given on loan or funded. This may be taken into consideration when providing telecommuting facilities.

ARTICLE 6

The employer is not under obligation to provide telecommuting facilities; the involved party and the employer should make further arrangements for that. They can also arrange that the involved party provides the telecommuting facilities. Before telecommuting facilities can be provided the following conditions must be met. The involved party needs the facility in order to telecommute. Depending on the concrete implementation of the telecommuting a certain facility may be necessary. This will mainly involve facilities such as fax and a mobile telephone, Internet costs, and the laying of an additional telephone line. Furthermore, the involved party who already has access to a furnished telecommuting workplace meeting the Arbo standards will not qualify for the refurbishment of the workroom at the expense of the employer.

The second paragraph provided that the involved party who already has a personal computer with accompanying devices will be given a tax-free payment to the amount of € 22.69 a month, if his computer is used for telecommuting. The costs involved are for depreciation and maintenance and include insurance costs (fire and burglary) as well as electricity costs for the device (but not for lighting in the workroom).

A reduction of this sum is in any case reasonable in those cases in which the involved party has received a subsidy from employer for the PC programme project for the purchase of a computer or if the involved party telecommutes on an incidental or infrequent basis.