



Are Our Labour Laws Still Relevant for Teleworking?

By Morley Gunderson

Many of our labour laws and regulations were established in an earlier era when the economy was vastly different than it is today. Just as technological change has made many of our production procedures and skills obsolete, it is not surprising that many of our labour policies would be obsolete. And just as there is resistance to technological change, there will be resistance to changes in labour policies. Luddism can apply to policy change just like it applied to the Luddites who resisted technological change in the early 1880s.

A major change that has been spurred on by the pandemic is teleworking or working remotely from home. For Canada, about 40 percent of the workforce has the potential to work entirely from home, and this corresponds to the proportion that was working from home during the early part of the pandemic. An additional 10 percent could work partially at home, so that around 50 percent of the workforce could work entirely or partially from home. The rate of working from home will likely drop, but only to about half those rates after the pandemic as both employers and workers have experienced the benefits including:

- reduced commute times with social benefits from reductions in traffic congestion, air pollution, and energy consumption;
- savings in house prices and rents if they can move to cheaper locations and connect online;
- productivity gains, or at least not the productivity losses that were often anticipated;
- fostering work-family balance that can benefit females who have a disproportionate share of household work;
- better control over one's work environment with respect to such factors as temperature, lighting, music, and colleagues dropping by;
- improved worker satisfaction and hence improved recruitment and retention;
- accommodating disability limitations;
- providing a cushion against future contagions that are likely to re-occur.

Furthermore, those working from home have generally invested in their home working environment as well as technology and are familiar with the new arrangements that are also rapidly improving. Employers will likely use hybrid models—mixtures of working from home and at the workplace—to deal with such factors as team-building and cor-

porate culture, as well as training and career development, that benefit from personal interaction. And they will adjust to the concerns that can arise if working from home involves 24/7 constant availability with little opportunity to disengage. Working from home is not for everybody or for every workplace.



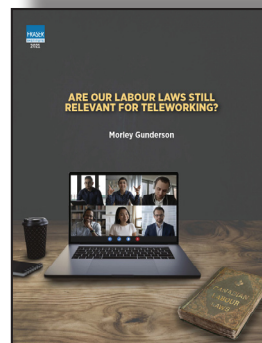
Many of our existing labour laws are ill-fitted for working from home. Employment standards legislation on hours of work and overtime, for example, is difficult for government to monitor and enforce for persons working from home. The same applies to regulations on break times. Minimum wage legislation will be difficult to enforce because employers may respond to a higher hourly minimum wage by simply expecting longer worktime in a day.



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culoskeletal injuries that are difficult to diagnose and have long latency periods, multiple causes, and complex interactions. Health and safety regulations will also be extremely difficult if not impossible to enforce for working from home and this is already recognized in some jurisdictions. Pay equity legislation will be complicated by the difficulty of evaluating the working conditions component of jobs when some work at home.

Because of these difficulties, this paper outlines various policy considerations and issues to be wary of in extending our labour regulations to where they do not fit. Rather than extending our labour regulations, the emphasis should be on removing barriers that inhibit working from home. Such practices include extending broadband infrastructure, flexibility in zoning to enable market adjustments to the new reality, and providing information on best practices in this area to facilitate market adjustments to such best practices. Reducing rather than extending regulation in teleworking should foster the growth and competitive markets that facilitate employers and workers making the mutually beneficial choices that can come from this growing workplace arrangement.



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