

**NASSCOM<sup>®</sup>**

**FREQUENTLY ASKED QUESTIONS**

**WORK FROM HOME POLICY FOR IT/ITES  
COMPANIES INCLUDING UNITS IN SEZ, STPI AND  
UNITS REGISTERED AS OSP's**

**March 2020**

## **Work from Home: FAQs**

In the backdrop of Covid-19 pandemic, there have been widespread propagation of safety measures to be adopted to prevent further spreading of the virus. Further as per the advisory given by World Health Organization (WHO) to maintain social distancing, at least 1 meter is recommended to prevent the spread of virus.

Given the fact that the geographies where IT/ITeS Companies, SEZ units, STPI units and Other Service Providers (OSP's) registered with Department of Telecom are located in India and the number of workforce employed therein, it would seem a difficult task to adhere to maintain social distancing and thereby exposing the employees to potential risk of spreading Covid-19.

In this background while the organizations are undertaking necessary preventive measures to contain the risk exposure of Covid-19, including extending the facility of work from home ('WFH') to their employees, it is equally important for organisations to be aware of regulatory framework and policies relating to WFH.

This document attempts to educate the reader about the regulatory guidelines to be followed in case of WFH policy for employees of units in SEZ, STPI and OSP's. In addition, important links to the relevant Government advisories, including Helplines numbers as well as some of the practices around work from home is also annexed.

*We would like to acknowledge of our knowledge partners [Pracctive Advisors](#) and [Nishith Desai Associates](#) for their valuable support in preparing this document.*

*We hope you will find this document useful.*

### **Disclaimer**

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**Frequently Asked Questions**

**General**

Sl No	Category	Question	Answer
1.	General	Whether IT/ITeS companies are allowed to provide work from home option to their employees?	<ul style="list-style-type: none"> <li>Yes, IT companies can allow employees to work from home based on their HR policies. However, in case of SEZs, STPIs and those registered as OSPs, there are certain specific compliance requirements under applicable laws and Directorate General of Foreign Trade (“DGFT”) policies. The same have been detailed out under their respective sections below.</li> </ul>
2.	General	Is it mandatory for IT/ITeS companies to provide work from home option to its employees?	<ul style="list-style-type: none"> <li>Typically, no governmental approval is required for enabling employees to work from home for most establishments. However, please note that for SEZs STPIs and registered OSPs, there are certain compliance requirements. OSPs also require specific approvals.</li> </ul>
3.	General	Can WFH be extended to all the employees of the Company?	Yes. It depends upon the organisation policies related to work from home in addition to nature of work performed by the employees.
4.	General	Are there any approvals that Companies are required to take from the Government for enabling work from home?	Since WFH is not specifically regulated under any labour laws in India, the approvals if any would only be as per the internal WFH policy of the organisation

**For Units in SEZ**

Sl No	Category	Question	Answer
1.	SEZ Unit	Whether IT/ITeS companies in SEZ are allowed to provide work from home option to their employees?	Yes, SEZ regulations <sup>1</sup> permit employees of IT/ITeS units to work from home.
2.	SEZ Unit	If yes, then are there any compliance requirements that units are required to follow?	<p>SEZ law<sup>2</sup> prescribes the following conditions for WFH:</p> <ul style="list-style-type: none"> <li>• a regular employee of the unit, who has been issued identity card as per provisions of SEZ law shall be authorised by the unit to undertake the work pertaining to that unit.</li> <li>• the work to be performed by the employee permitted to work from home shall be as per the services approved for the unit, and the work is related to a project of the unit.</li> <li>• the unit shall provide laptop or desktop and secured connectivity (for e.g. Virtual Private network, Virtual Desktop Infrastructure) to establish a connection between the employee and work related to the project of the unit.</li> <li>• the unit shall ensure export revenue of the resultant products or services to be accounted for by the unit to which the employee is tagged and at no given point shall work from home involve the export of services from outside the unit.</li> <li>• once the employee ceases to be part of the project of the</li> </ul>

<sup>1</sup> Special Economic Zones Act, 2005 and Special Economic Zones Rules, 2006.

<sup>2</sup> Rule 43, Special Economic Zones Rules, 2006.

			<p>unit, the employee shall be untagged from the respective unit and the unit shall surrender the I-Card to Specified Officer.</p> <ul style="list-style-type: none"> <li>List of employees along with their ID number, asset identification number (of laptops, data card etc to be carried outside SEZ premises) to be submitted before the Specified officer.</li> </ul>
<b>3.</b>	SEZ Unit	What are the categories of employees permitted to WFH?	<p>The following category of employees are permitted to work from home<sup>3</sup>:</p> <ul style="list-style-type: none"> <li>personnel employed with IT/ITeS units</li> <li>employees temporarily incapacitated</li> <li>employees travelling and offsite employees</li> </ul>
<b>4.</b>	SEZ Unit	Can WFH be extended to all the employees of the Company?	<p>There is no specific restriction on this aspect in the SEZ law. However, given the contingency requirement it is suggested that the Development Commissioner of the SEZ unit may be approached with justification for permitting all employees to work from home.</p>
<b>5.</b>	SEZ Unit	When should the permission be obtained from proper officer of SEZ for WFH?	<p>SEZ law provides that the permission for WFH needs to be obtained prior to extending such facility to the employees. Such permission would be issued post verification of compliance by the unit with the conditions as mentioned in Q2 above.</p>

<sup>3</sup> Rule 43, Special Economic Zones Rules, 2006.

6.	SEZ Unit	For what duration can WFH option be provided to the employees?	There is no specific restriction on this aspect in the SEZ law. However, given the contingency requirement it is suggested that the Development Commissioner of the SEZ unit may be approached with justification for permitting extended duration as may be required.
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**For units in STPI**

Sl No	Category	Question	Answer
1.	STPI Unit	Whether IT/ITeS companies registered as STPI units allowed to provide work from home option to their employees?	<p>Yes, STPI regulations<sup>4</sup> permit employees of IT/ITeS units to work from home.</p> <p><b>Please note that the STPI has issued a circular<sup>5</sup> dated 12<sup>th</sup> March 2020 with the subject being enabling work from home for employees of STPI registered units due to break out of COVID-19.</b></p>
2.	STPI Unit	If yes, then are there any compliance requirements that units are required to follow?	<p>STPI regulations<sup>6</sup> prescribes the following conditions for WFH:</p> <ul style="list-style-type: none"> <li>• there must be an authorisation from the unit specifying the duration of such authorization.</li> <li>• responsibility for carrying out the work and supervision, if any, be that of the unit, which will be liable for any misuse</li> <li>• export of the resultant products / services would take place only from the premises of the unit.</li> <li>• persons authorized by IT/ITeS units may access</li> </ul>

<sup>4</sup> Para 6.07 and Para 6.08 of the Handbook of Procedures (2015-2020). Please see: <https://dgft.gov.in/sites/default/files/HBP%20Chapter%206%20as%20on%20June%2030%202019.pdf>

<sup>5</sup> <https://twitter.com/stpiindia/status/1238115572254007296/photo/1>

<sup>6</sup> Para 6.07 and Para 6.08 of the Handbook of Procedures (2015-2020). Please see: <https://dgft.gov.in/sites/default/files/HBP%20Chapter%206%20as%20on%20June%2030%202019.pdf>

			<p>facility installed in the unit through data communication links.</p> <ul style="list-style-type: none"> <li>• the unit shall provide laptop or desktop and secured connectivity (for e.g. Virtual Private network, Virtual Desktop Infrastructure) to establish a connection between the employee and work related to the project of the unit. Such assets can be taken outside the premises.</li> <li>• the unit shall ensure export revenue of the resultant products or services to be accounted for by the unit to which the employee is tagged.</li> <li>• List of employees along with their ID number, asset identification number (of laptops, data card etc to be carried outside STPI premises) to be submitted before the STPI officer and Customs officer having jurisdiction over the STPI unit.</li> <li>• Conditions imposed by Development Commissioner and Customs officer on case to case basis to be adhered to.</li> </ul>
<b>3.</b>	STPI Unit	What are the categories of employees permitted to WFH?	Person(s) / employee(s) authorized by a unit are permitted to work from home. <sup>7</sup>
<b>4.</b>	STPI Unit	Can WFH be extended to all the employees of the Company?	There is no specific restriction or condition on this aspect in the STPI regulations. However, given the contingency requirement it is suggested that the Development Commissioner of the STPI unit may be

<sup>7</sup> Para 6.07 and Para 6.08 of the Handbook of Procedures (2015-2020). Please see: <https://dgft.gov.in/sites/default/files/HBP%20Chapter%206%20as%20on%20June%202019.pdf>

			approached with justification for permitting all employees to work from home.
<b>5.</b>	STPI Unit	When should the permission be obtained from proper officer of STPI for WFH?	A unit should obtain prior permission from Development Commissioner of STPI and subsequent to the same approach the Customs officer having jurisdiction over the unit to approve the duty-free assets <sup>8</sup> to be taken outside the STPI unit by the authorized employees. Such permission would be issued post verification of compliance by the unit with the conditions as mentioned in Q2 above.
<b>6.</b>	STPI Unit	For what duration can WFH option be provided to the employees?	There is no specific restriction on this aspect in the STPI law. However, given the contingency requirement it is suggested that the Development Commissioner of the STPI unit may be approached with justification for permitting extended duration as may be required.

**For units registered as OSP's with Department of Telecom ('DoT')<sup>9</sup>**

Sl No	Category	Question	Answer
<b>1.</b>	OSP's	Whether IT/ITeS companies registered as OSP's allowed to provide work from home option to their employees?	Yes, as per OSP guidelines issued by DoT, employees are permitted to work from home.
<b>2.</b>	OSP's	If yes, then are there any compliance requirements that units are required to follow?	OSP regulations of DoT prescribes the following conditions for WFH: <ul style="list-style-type: none"> <li>• Bank guarantee of INR 1 crore to be furnished for each registered location of OSP</li> </ul>

<sup>8</sup> Notification No. 52/2003-Cus

<sup>9</sup> <https://dot.gov.in/relatedlinks/registration-under-other-service-providers-osp-category>



			<ul style="list-style-type: none"> <li>• the employee at home is treated as Extended Agent Position of the call centre and interconnection is permitted through authorized service providers provisioned (secured) VPN (PPVPN) which have pre-defined locations i.e. home of the agent and the OSP centre as VPN end user sites.</li> <li>• Over and above PPVPN, the OSP may use their own security mechanism like Authentication, Authorization and Accounting at the same call centre from which the connectivity has been extended to the home agent.</li> <li>• an application with names of employees along with their ID number, address, asset identification number (of laptops, data card etc to be carried outside OSP registered premises), connectivity along-with the name of the service provider to be submitted before the DoT officer.</li> <li>• all logs of the activities carried out by the extended agent employee should be maintained for 1 year</li> <li>• IP address assigned on the VPN and the OSP centre in this regard should also be maintained for each extended agent position and should be produced whenever required by DoT.</li> </ul> <p><b>Note: In lieu of the COVID-19 situation and towards</b></p>
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			<p><b>ensuring the health and safety of people and business continuity, the DOT vide notification<sup>10</sup> (No. 18-5/2015-CS-I) dated 13th March 2020, has amended the Other Service Providers (OSP) terms and conditions related to WFH, which are as follows:</b></p> <ul style="list-style-type: none"> <li>• The condition related to bank guarantee is now removed.</li> <li>•The condition related to the requirement of establishing connectivity through PPVPN has also been relaxed and organizations have been allowed to use their enterprise VPN with Static IP connectivity.</li> <li>•The requirement of seeking prior permission from authorities has been exempted and companies can now intimate the authorities before starting WFH facility.</li> </ul> <p><b>These relaxations are valid upto 30.04.2020</b></p>
3.	OSP's	What are the categories of employees permitted to WFH?	Person(s) / employee(s) authorized by OSP unit are permitted to work from home.
4.	OSP's	Can WFH be extended to all the employees of the Company?	There is no specific restriction on this aspect in the OSP guidelines. However, given the contingency requirement it is suggested that the jurisdictional DoT officer may be approached with justification for permitting all employees to work from home.
5.	OSP's	When should the permission be obtained	OSP unit should obtain prior permission from the DoT officer. Such permission would be

<sup>10</sup> <https://dot.gov.in/sites/default/files/Relaxation%20inT%26C%20of%20OSP%2013.3.20.PDF>

		from proper officer of DoT for WFH?	issued post verification of compliance by the unit with the conditions as mentioned in Q2 above.
6.	OSP's	For what duration can WFH option be provided to the employees?	The validity of the Work from Home registration is 3 years, after which permission can be renewed for another 3 years. As long as the OSP <b>Centre's</b> registration is valid, the employees can be permitted to work from home for such duration that the employers deem fit.
7.	OSP's	What are the conditions to be met for an OSP who is also an IT/ITeS unit registered under STPI or SEZ law?	If the OSP is also an IT/ITeS unit registered with STPI or SEZ then the conditions mentioned in respective tables above for a unit in SEZ/STPI should also be adhered to in addition to the conditions stipulated by DoT.
8.	OSP's	What are the penal consequences if the conditions of WFH imposed by DoT are not adhered to?	<p>The following would be penal consequences:</p> <ul style="list-style-type: none"> <li>• The DoT authority shall have the right to forfeit the security deposit, in case of violation of any of the terms &amp; conditions for OSP category.</li> <li>• The OSP shall be liable for any violation of the said terms and conditions by anyone including but not limited to its employees/ home agents. The DoT authority reserves the right to take appropriate action including cancellation of the registrations held by OSP and the company shall be debarred from taking OSP registration for three years from the date of cancellation of such registration.</li> </ul>

**A. Important Links**

- **Ministry of Health and Family Welfare:** <https://www.mohfw.gov.in/>
- **World Health Organization:** <https://www.who.int/emergencies/diseases/novel-coronavirus-2019>
- **Do's and Don'ts' (COVID-19):**  
[https://www.mohfw.gov.in/Poster\\_Corona\\_ad\\_Eng.pdf](https://www.mohfw.gov.in/Poster_Corona_ad_Eng.pdf)
- **Travel Advisory:**  
<https://www.mohfw.gov.in/ConsolidatedTraveladvisoryUpdated11032020.pdf>
- **NASSCOM Advisory:**  
[https://www.nasscom.in/sites/default/files/Advisory\\_Coronavirus\\_05032020.pdf](https://www.nasscom.in/sites/default/files/Advisory_Coronavirus_05032020.pdf)
- **Helpline Numbers (State and Central):**  
<https://www.mohfw.gov.in/coronavirushelplinenumber.pdf>

**B. Reference information on some of the practices around work from home**

- **How to Manage Remote Teams Effectively:**  
<https://www.shrm.org/resourcesandtools/hr-topics/employee-relations/pages/how-to-manage-remote-teams-effectively.aspx>
- **12 ways to work remotely during COVID-19:** <https://knowledge-leader.colliers.com/wp-content/uploads/2020/03/12-Ways-to-Work-Remotely-During-COVID-19-1.pdf>
- **Coronavirus: 6 tips to nail working from home:**  
<https://www.weforum.org/agenda/2020/03/work-from-home-distractions-productivity/>
- **9 Tips To Be Productive When Working At Home During COVID-19:**  
<https://www.forbes.com/sites/bryanrobinson/2020/03/14/9-tips-to-be-productive-when-working-at-home-during-covid-19/#642551855a38>
- **Implementing 'work from home' policy:**  
[http://www.nishithdesai.com/fileadmin/user\\_upload/pdfs/Research%20Articles/Article%20on%20Work%20from%20Home.pdf](http://www.nishithdesai.com/fileadmin/user_upload/pdfs/Research%20Articles/Article%20on%20Work%20from%20Home.pdf)
- **COVID-19 Has My Teams Working Remotely: A Guide for Leaders:**  
<https://www.gallup.com/workplace/288956/covid-teams-working-remotely-guide-leaders.aspx>
- **Working from home: Do's and Don'ts:**  
<https://www.foxbusiness.com/lifestyle/working-from-home-dos-donts>