



Union of IT & ITES Employees (UNITE)'s

Amendments/Recommendations

on the Draft Model Standing Orders for Service Sector 2020

Union of IT and ITES Employees (UNITE) Reg. No. 3621/CNI

No. 27, Mosque Street,
Chepauk, Chennai,
Tamil Nadu 600005
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Cover Letter

To,
Shri Sanjeev Nanda,
Under Secretary to the Government of India,
Ministry of Labour and Employment,
Room No 17, Shram Shakti Bhawan,
Rafi Marg, New Delhi-110001

Dear Shri Sanjeev Nanda,

Subject: Response of Union of IT & ITES Employees (UNITE) to Draft Model Standing Orders, 2020 for Service Sector notified vide G.S.R. 814(E) dated 31st December 2020.

We form the Union of IT & ITES Employees (UNITE) a registered trade union (Reg. No. 3621/CNI) of employees working in IT and ITES industry for securing rights and welfare.

We expected the draft to be modern and futuristic to cater the need of democratic and dignified workplace, but on the contrary we find it regressive.

We believe the draft has not met the basic needs of 40 lakh IT and ITES employees of India. Even a shallow survey on the problems faced by IT and ITES employees would assert the need of regulating the Performance Appraisal Process to create transparency and curtail the exploitation exercised through that, but the draft failed to address that. Lack of Job Security is undermined by the loopholes of existing legal framework, which is a serious issue, but the draft failed to address that.

Moreover the need to democratize the workplace and distribute power centralized with employers to the collective will of employees, which will reduce the industrial disputes by providing an avenue to dialogue with employers, has been overlooked.

We have prepared a set of bare minimum recommendations, amendments, modifications and deletions with reference to your Gazette Notification no. G. S. R. 814(E) dated 31st December 2020 notifying Draft Model Standing Orders, 2020 for Service Sector inviting "objections and suggestions". UNITE likes to submit the enclosed note for your consideration, which will improve the working conditions of 40 lakh IT and ITES employees of India.

Encl: UNITE's Amendments on Draft Model Standing Orders for Service Sector 2020

Regards,

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Alagunambi Welkin,
General Secretary.
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Amendments and Recommendations

Organization	Section	Proposed Change	Reason
Union of IT and ITES Employees (UNITE) Reg. No. 3621/CNI No. 27, Mosque Street, Chepauk, Chennai 600005	Section 1 Sub Section (2) Page No. 16	Modification: (2) They extend to all States and Union territories within India to the industrial establishments employing fifty or more number of workers/employees who are working in the industrial establishments and which are covered under the Occupational Safety, Health and Working Conditions Code, 2020 (37 of 2020) and the rules made thereunder under the control of Central Government or the State Government engaged in service sector.	Publicly listed IT and ITES companies' total number of employment figures amounts to only 20% of the total IT and ITES employees in India. From the available data, we can deduct the rest 80% of the direct employment are with the few unlisted large corporations and many MSME companies. We believe 300 employees count as the cap will exclude more than 75% of the total IT and ITES employees from a minimum decent working conditions. Therefore we demand the minimum cap should be modified to 50 employees for the applicability of Standing Orders. Which will cover 90% of the IT and ITES employees of India and there by will provide a minimum decent working conditions for the majority.
Union of IT and ITES Employees (UNITE) Reg. No. 3621/CNI No. 27, Mosque Street, Chepauk, Chennai 600005	Section 3 Sub Section (7) (a) Page No. 17	Modification: (a) wages, allowances and other benefits shall not be less than that of a permanent worker doing the same work or work of similar nature;	Including work hours in this clause can be interpreted to have more work hours for Fixed term employment, which would create an unequal working condition. Therefore to promote equality, we demand removal of hours of work from this clause.
Union of IT and ITES Employees (UNITE) Reg. No. 3621/CNI No. 27, Mosque Street, Chepauk, Chennai 600005	Section 3 Sub Section (7) Page No. 17	Inclusion: (e) the minimum term of employment shall be 1 year	Fixed term employment without a minimum period of term will enable employers to escape from the social security benefits of Fixed term employees by setting up the term within one year. Therefore to prevent the misuse and to address the gap, we demand a minimum term of one year.

<p>Union of IT and ITES Employees (UNITE) Reg. No. 3621/CNI No. 27, Mosque Street, Chepauk, Chennai 600005</p>	<p>Section 3 Sub Section (7) Page No. 17</p>	<p>Inclusion: (f) the maximum renewal of fixed term employment shall be for three times.</p>	<p>Fixed term employment promotes precarity due to the short lived employment. Uncertainty causes hardship to the life of IT and ITES employees. Allowing the uncertainty to be endless will affect the financial stability of the IT and ITES employees and their family, which inturn will affect the country's economy. Thereby we demand an upper renewal limit of three times for the fixed term employment.</p>
<p>Union of IT and ITES Employees (UNITE) Reg. No. 3621/CNI No. 27, Mosque Street, Chepauk, Chennai 600005</p>	<p>Section 3 Sub Section (7) Page No. 17</p>	<p>Inclusion: (g) the total period of fixed term employment for an employee / worker shall be 3 years.</p>	<p>Ending the precarious work and to promote stable, dignified employment for the citizens of India, we demand the total fixed term employment period shall be capped to a maximum of three years for a citizen.</p>
<p>Union of IT and ITES Employees (UNITE) Reg. No. 3621/CNI No. 27, Mosque Street, Chepauk, Chennai 600005</p>	<p>Section 5 Sub Section (1) Page No. 18</p>	<p>Deletion of this clause</p>	<p>We demand deletion of this point, as it provides free hand to the employers to unilaterally decide working hours and force it upon employees. Practically, employees will not have any say in this, therefore is the need of the Standing Order to bring balance between employers and employees interests. Inclusion of this sentence defeats the purpose of regulating working conditions for a minimum dignified working condition. Therefore we oppose it and demand regulation of the working hours in IT and ITES companies.</p>

Union of IT and ITES Employees (UNITE)
Reg. No. 3621/CNI
No. 27, Mosque Street, Chepauk,
Chennai 600005

Section 10
Page No. 18

Modification:
10. Work from home.- Subject to period or periods as may be determined by employer and employee, Work From Home / Remote Work can be allowed providing below conditions are met.

- a) Not more than 30 hours Work Week and 6 hours Workday.**
- b) Employees doing remote work (RW) have the same rights as people working from office.**
- c) Switching to RW must be voluntary, bilateral, and put down in writing.**
- d) the RWer can, at any point, choose unilaterally to return to in-person work.**
- e) RW salary must be equal or higher than the salary for the same work done in person.**
- f) the employer should not request tasks to be completed or contact the RWer outside of the worker's contractually obliged working hours. Employees should have the right to disconnect after contractually obliged work hours.**
- g) RWers responsible for children, disabled people or elderly people should have the right to working hours compatible with their domestic labor, including the right to interrupt their shift for this reason.**

Work From Home(WFH) / Remote Work (RW) emerged as a dominant form or work in the Pandemic situation and proved its resilience by supporting both internal needs of the country and the external needs of the world. The RW model has objectively increased productivity by the reports of top IT and ITES corporates. But the RW model has caused hardship to the employees in various ways. Financial hardship due to increased internet, electricity, workplace setup, etc. Physical and mental burden due to sedentary work without any break and blurring of work time and personal time. Loss of dignity due to increase in precarity, lack of clarity on rights and job security. To prevent further hardship on employees, we demand various rights and reduction in work hours. We believe regulated Work From Home / Remote Work will only benefit the employees and the country.

		<p>h) the employer must provide the necessary equipment and support for doing the work, either by providing a computer and software licenses OR paying the worker for the purchase of one.</p> <p>i) the employer must compensate the worker for additional expenses incurred (Internet bill, power bill, any services that must be employed, etc) due to remote work.</p> <p>j) the employer must contribute financially to the physical and mental health wellbeing of employees</p> <p>k) Gratuity, pension, health insurance, reskilling fund and other social security benefits should be provided regularly by the employer without any disruption.</p> <p>l) The privacy of employees should be upheld.</p> <p>m) RWers have the same right as in-person workers to classes, workshops, seminars and union rights.</p>	
<p>Union of IT and ITES Employees (UNITE) Reg. No. 3621/CNI No. 27, Mosque Street, Chepauk, Chennai 600005</p>	<p>Section 12 Sub Section (2) Page No. 19</p>	<p>Modification: Availing of Leave is right for an employee.</p>	<p>Minimum leaves earned by employees are the outcome of the necessity to rejuvenate from the hardship caused by labour spent for the employer. Denying the right does not promote a decent working condition. To uphold dignified working conditions, we demand availing of leave should be a right of employees.</p>

<p>Union of IT and ITES Employees (UNITE) Reg. No. 3621/CNI No. 27, Mosque Street, Chepauk, Chennai 600005</p>	<p>Section 15 Sub Section (1) (ii) Page No. 20</p>	<p>Modification: (ii) Every worker shall be entitled to a service certificate, specifying the nature of work, designation and the period of employment (indicating the days, months, years) at the time of discharge, termination, retirement or resignation from service to be issued by an employer. Worker/Employee has to provide consent for any addition / modification happening at the service card. Worker/Employee has the right to request for change/addition/deletion/modification of the data related to his/her service card.</p>	<p>Enabling workers/employees to control what is being added in the service card is crucial for preventing mis-use of power by the employer. Service card should not be used as a means to threaten employees and coerce them to comply with the interests of employers and against the interest of employees.</p>
<p>Union of IT and ITES Employees (UNITE) Reg. No. 3621/CNI No. 27, Mosque Street, Chepauk, Chennai 600005</p>	<p>Section 18 Sub Section (2) (b) Page No. 21</p>	<p>Modification: (b) reasonable joining time is allowed in case of transfers from one station to another and the worker concerned shall be paid traveling allowance including the transport charges and hundred per cent thereof to meet incidental charges, such transfer shall not be effected.</p>	<p>We believe when an employee/worker is transferred for business reasons, making the employee/worker borne a 50% of expense is unethical. Therefore we demand to change the 50% to 100%.</p>

<p>Union of IT and ITES Employees (UNITE) Reg. No. 3621/CNI No. 27, Mosque Street, Chepauk, Chennai 600005</p>	<p>Section 21 Page No. 21</p>	<p>Modification: Secrecy.- No worker shall take any papers, books, drawings, photographs, instruments, apparatus, documents or any other property either in electronic form or physical form, of an industrial establishment out of the work premises except with the written permission of his immediate superior, nor shall he in any way pass or cause to be passed or disclose or cause to be disclosed any information or matter concerning the manufacturing process, trade secrets and confidential documents of the industrial establishment to any unauthorized person, company or corporation without the written permission of the employer. Cases such as exposing unlawful activities and evidence to legally challenge the employer, does not require any written permission of the employer.</p>	<p>In the name of secrecy, denying the employees to defend themselves with evidence is objectionable. Employees should have the right to expose companies' unlawful activities and it should be protected. Therefore we demand to exclude these cases from needing written permission from the employer.</p>
<p>Union of IT and ITES Employees (UNITE) Reg. No. 3621/CNI No. 27, Mosque Street, Chepauk, Chennai 600005</p>	<p>Section 25 Sub Section (1) Page No. 22</p>	<p>Modification: (1) A worker may be suspended by the employer pending investigation or enquiry into complaints or charges of misconduct against him. Such investigation or enquiry, or where there is an investigation followed by enquiry, both the investigation and enquiry shall be ordinarily completed within ninety days from the</p>	<p>Providing subsistence wage during an investigation discourages employees from speaking up and thus promotes inhuman, slave-kind of working conditions. We oppose that and demand full wage be paid during the investigation period.</p>

		date of suspension. The worker shall be paid full wage during the period of suspension which shall be subject to the worker not taking any employment elsewhere during the period of suspension.	
Union of IT and ITES Employees (UNITE) Reg. No. 3621/CNI No. 27, Mosque Street, Chepauk, Chennai 600005	Section 25 Sub Section (3) (h) Page No. 22	Deletion of this clause	Sleeping should not be considered as misconduct as it can be caused by wearing out of employee physical / mental ability to work. Therefore we demand it to be removed from the misconduct list.
Union of IT and ITES Employees (UNITE) Reg. No. 3621/CNI No. 27, Mosque Street, Chepauk, Chennai 600005	Section 25 Sub Section (3) (s) Page No. 22	Modification: disclosing to any unauthorized person of any confidential information in regard to the working or process of the industrial establishment which may come into the possession of the worker in the course of his work; Cases such as exposing unlawful activities and evidence to legally challenge the employer, does not require any authorization.	In the name of secrecy, denying the employees to defend themselves with evidence is objectionable. Employees should have the right to expose companies' unlawful activities and it should be protected. Therefore we demand to exclude these cases from needing authorization from the employer.
Union of IT and ITES Employees (UNITE) Reg. No. 3621/CNI No. 27, Mosque Street, Chepauk, Chennai 600005	Section 25 Sub Section (4) (d) Page No. 22	Modification: The proceedings of the inquiry shall be completed within a period of ten days from the date of suspension.	Inquiry process is itself a taxing exercise on mental and financial conditions of the employee/worker. Prolonging it to 90 days is not acceptable. To reduce the hardship caused by the process, and considering the growth of technological developments, we demand to finish the process within 10 days.

<p>Union of IT and ITES Employees (UNITE) Reg. No. 3621/CNI No. 27, Mosque Street, Chepauk, Chennai 600005</p>	<p>Section 26 Page No. 24</p>	<p>Modification: Grievance Redressal and Complaints.- All complaints or grievances arising out of employment including those relating to unfair treatment or wrongful exaction on the part of the employer or his agent, shall be submitted to the Manager or person specified in this behalf with the right to appeal to the employer. Total number of grievances received, status of grievances and satisfactory status of the grievances should be displayed on the notice board/electronic board in the beginning of every month.</p>	<p>To create transparency and accountability, we demand displaying the grievances received, their status and satisfaction state of the complaine.</p>
<p>Union of IT and ITES Employees (UNITE) Reg. No. 3621/CNI No. 27, Mosque Street, Chepauk, Chennai 600005</p>		<p>Recommendation: The draft Model Standing Order for Service Sector should be gender neutral consistently throughout the document.</p>	<p>The draft document is male centric, with exceptional to few places. We demand the document should be gender neutral therefore to be inclusive of all genders.</p>
<p>Union of IT and ITES Employees (UNITE) Reg. No. 3621/CNI No. 27, Mosque Street, Chepauk, Chennai 600005</p>		<p>Recommendation: The draft Model Standing Order for Service Sector should be consistent in using worker/employee throughout the document.</p>	<p>The draft document confuses the readers as the words worker and employees are interchangeably used.</p>
<p>Union of IT and ITES Employees (UNITE) Reg. No. 3621/CNI No. 27, Mosque Street, Chepauk, Chennai 600005</p>		<p>Recommendation: The draft Model Standing Order for Service Sector can have mandatory notification for employees/workers on any changes by the employer through SMS, Email, or social media platforms.</p>	<p>Personal notification on changes made is important to enable employees/workers to make informed decisions. As modern tools and technologies make it feasible with minimum effort to achieve.</p>

<p>Union of IT and ITES Employees (UNITE) Reg. No. 3621/CNI No. 27, Mosque Street, Chepauk, Chennai 600005</p>		<p>Recommendation: The draft Model Standing Order for Service Sector should include regulating performance appraisal process followed by IT and ITES companies.</p>	<p>Performance appraisal process is being followed by all companies from MNC to MSME to Startups to evaluate performance of employees. In the name of performance appraisal thousands of employees are sent out of the company, favouritism is systemized and unjust working condition prevails due to non-transparent performance appraisal system. Draft Model Standing Orders of Service Sector neglecting the important function of a company is condemnable. We demand the performance appraisal be regulated to protect employees welfare.</p>
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