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South Africa

Disaster Management Act, 2002: Regulations issued in terms of section 27(2) of the Act

Covid-19 Temporary Employee / Employer Relief Scheme (C19 TERS), 2020

Published in Government Gazette no. 43161 on 26 March 2020

Assented to on 25 March 2020

There are multiple commencements:

Provisions	Status
Section 1–7	commenced on 26 March 2020.
Section 3(a), 3(b)	commenced on 8 April 2020 by Amended Covid-19 Temporary Employee / Employer Relief Scheme (C19 TERS), 2020 .

[This is the version of this document from 8 April 2020.]

[Amended by [Amended Covid-19 Temporary Employee / Employer Relief Scheme \(C19 TERS\), 2020](#) on 8 April 2020]

I, Thembelani Waltermade Nxesi, the Minister of Employment and Labour, in terms of Regulation 10 (8) of the [Regulations](#) issued by the Minister of Cooperative Governance and Traditional Affairs in terms of section 27 (2) of the [Disaster Management Act, 2002 \(Act No. 57 of 2002\)](#) has determined that it is necessary to implement steps in respect of the administration of the COVID-19 through the Covid19 Temporary Employee / Employer Relief Scheme to prevent an escalation of the COVID-19 infections funded through the National Disaster Benefit .

MR. T. W. NXESI, MP

MINISTER OF EMPLOYMENT AND LABOUR

DATE25/03/2020

The President has on the 15 March 2020 declared the Covid-19 pandemic a National Disaster and announced several extraordinary measures to combat this grave public health emergency. The National Disaster has been declared in terms of the [National Disaster Act, 2002 \(Act No. 57 of 2002\)](#) ("the Act"). As a result of this declaration, the Minister of Cooperative Governance (COGTA) has made Regulations in terms of section 27 (2) of the Act. In terms of Regulation 10(8), the Minister empowers various Ministers to issue Directives with regard to the National Disaster in respect of matters falling within their respective mandates.

On the 23rd March 2020, the President announced the national lockdown in order to curb the spread of the Covid-19.

In view of the declaration of the National Disaster, in terms of Regulation 10(8), the Minister of Employment and Labour has issued a Directive called Covid19 Temporary Employee / Employer Relief Scheme (C19 TERS).

During this period of lockdown, companies will have to shut down and employees laid off temporarily. This means that employees are compelled to take leave, which is not out of choice. We therefore anticipate that employees may lose income. Employers are encouraged to continue to pay employees, but where this is not economically possible; we have created a special benefit under the Unemployment Insurance Fund as per the Directive Covid-19 Temporary Employee / Employer Relief Scheme.

1. Definitions

1.1 In these Directives, unless the context otherwise indicates -

1.1.1 "**UI Act**" means the [Unemployment Insurance Act, 2001 \(Act No. 63 of 2001\)](#) as amended and any word or expression to which the meaning has been assigned in the Act has that meaning;

1.1.2 "**COVID-19**" means the 2019 coronavirus (SARS-COV2/COVID-19);

1.1.3 "**COVID-19 National Disaster**" means a national disaster relating to the Covid-19 pandemic declared in [Government Notice No. 313 of Government Gazette No. 42096 on 15 March 2020](#) ;

1.1.4 "**Quarantine**" means separating a symptomatic individual potentially exposed to a disease from non-exposed individuals in such a manner so as to prevent possible spread infection or contamination;

1.1.5 "**Covid-19 temporary employee / employer relief scheme**" means a scheme established to compensate employees who have lost income due to Covid-19; and

1.1.6 "**Scheme**" means the Covid-19 temporary relief scheme.

[Clause 1.1.6 inserted by clause 1 of [Government Notice No. 240 in Government Gazette No. 43216 of 8 April 2020](#)]

1.1.7 "**temporary lay -off**" means a reduction in work following a temporary closure of business operations, whether total or partial, due to Covid-19 pandemic for the period of the National Disaster.

[Clause 1.1.7 renumbered and substituted by clause 2 of [Government Notice No. 240 in Government Gazette No. 43216 of 8 April 2020](#)]

2. Purpose

2.1 The purpose of this Directive is -

2.1.1 To make provision for the -

- (a) Payment of benefits to the Contributors who have lost income due to Covid-19 pandemic;
- (b) Minimise economic impact of loss of employment because of the Covid-19 pandemic;
- (c) Avoid contact and contain the spread of Covid-19 during the process of application for benefit;
- (d) Establish the Temporary Employee / Employer Relief Scheme and set out the application process for benefits of the Covid-19 pandemic and to alleviate economic impact of Covid-19;

2.1.2 to make provision for online applications for benefits in order to avoid contact during the national disaster period.

3. Covid -19 Employee I Employer Temporary Relief Scheme (C19 TERS)

3.1 Should an employer as a result of the Covid-19 pandemic close its operations, or a part of its operations, for a 3 (three) months or lesser period affected employees shall qualify for a Covid-19 benefit.

[Clause 3.1 substituted by clause 3 of [Government Notice No. 240 in Government Gazette No. 43216 of 8 April 2020](#)]

3.2 The benefit shall be de-linked from the UIF's normal benefits and therefore the normal rule that for every 4 (four) days worked, the employee accumulates a one day credit and the maximum credit days payable is 365 for every 4 (four) years will not apply.

3.3 The benefits will only pay for the cost of salary for the employees during the temporary closure of the business operations.

3.4 The salary to be taken into account in calculating the benefits will be capped at a maximum amount of R17,712.00 per month, per employee and an employee will be paid in terms of the income replacement rate sliding scale (38%-60%) as provided in the UI Act.

[Clause 3.4 substituted by clause 4 of [Government Notice No. 240 in Government Gazette No. 43216 of 8 April 2020](#)]

3.5 Should an employee's income determine in terms of the income replacement sliding scale fall below R3500, the employee will be paid a replacement income equal to that amount.

[Clause 3.5 substituted by clause 5 of [Government Notice No. 240 in Government Gazette No. 43216 of 8 April 2020](#)]

3.6 Qualifying employees will receive a benefit calculated in terms of Sections 12 and 13 (1) and (2) of the UI Act, provided that an employee shall receive a benefit of no less than R3 500.

[Clause 3.6 substituted by clause 6 of [Government Notice No. 240 in Government Gazette No. 43216 of 8 April 2020](#)]

3.7 For the company to qualify for the temporary financial relief scheme, it must satisfy the following requirements -

3.7.1 The company must be registered with the UIF;

3.7.2 The company must comply with the application procedure for the financial relief scheme; and

3.7.3 The company's closure must be directly linked to the Covid-19 pandemic.

3.8.1 An employer whose employees are entitled to receive covid-19 benefits provided by the Unemployment Insurance Fund during the period of lockdown from a bargaining council may not make an application in terms of the Scheme and the employees of that employer may not receive any payment in terms of the Scheme than through the bargaining council.

[Sub-clause 3.8.1 inserted by clause 7 of [Government Notice No. 240 in Government Gazette No. 43216 of 8 April 2020](#)]

3.8.2 The restriction in clause 3.8.1 only applies if -

- (a) the parties to the bargaining council have concluded a collective agreement that-
 - (i) has been extended by the Minister of Employment and Labour in terms of section 32 of the [Labour Relations Act, 1995 \(Act No. 66 of 1995\)](#); and
 - (ii) provides for the disbursement of funds received from the Unemployment Insurance Fund to provide covid-19 benefits to employees bound by the collective agreement during the period of lock-down; and
- (b) the bargaining council has concluded a memorandum of agreement with the Fund for the council to disburse covid-19 benefits on behalf of the Fund to -
 - (i) the employees who fall within the scope of the collective agreement; and
 - (ii) if authorised by the memorandum of agreement, any other employees in a sector identified in the agreement, whether or not they fall within the registered scope of the bargaining council.

[Sub-clause 3.8.2 inserted by clause 7 of [Government Notice No. 240 in Government Gazette No. 43216 of 8 April 2020](#)]

4. Illness benefit

4.1 Where an employee is in quarantine for 14 days due to Covid-19 pandemic, the employee shall qualify for illness benefit.

4.2 Confirmation from both the employer and the employee must be submitted together with the application as a proof that the employee was in an agreed pre-cautionary self-quarantine for 14 days.

4.3 In this instance, the confirmation letters from the employer and employee shall suffice.

4.4 Should an employee be quarantined for more than 14 days, a medical certificate from a medical practitioner must be submitted together with continuation form for payment.

5. Application procedure

5.1. The employers shall apply by reporting their closure to email box Covid19ters@labour.gov.za and there shall be an automatic response outlining the application process.

5.2 The employer shall be required to furnish the Unemployment Insurance Fund with the following completed documents:

5.2.1 Letter of authority from the company;

5.2.2 Signed memorandum of agreement from the employer or bargaining council with the UIF, or written or electronic confirmation of acceptance by an employer or bargaining council of the terms and conditions of the scheme provided to the employer or bargaining council or published in writing by the UIF.

[Sub-clause 5.2.2 substituted by clause 8 of [Government Notice No. 240 in Government Gazette No. 43216 of 8 April 2020](#)]

5.3 Subject to the amount of the benefit contemplated in clause 3.6, an employee may only receive covid-19 benefits in terms of the Directive if the total of the benefit together with any additional payment by the employer in any period is not more than the remuneration that the employee would ordinarily have received for working during that period.

[Clause 5.3 substituted by clause 9 of [Government Notice No. 240 in Government Gazette No. 43216 of 8 April 2020](#)]

5.4 All amounts paid by or for the UIF to employers or Bargaining Council(s) under the terms of the Scheme shall be utilized solely for the purposes of the Scheme and for no other purpose. No amount paid by or for the UIF to an employer or Bargaining Council under the terms of the Scheme that is required to be paid, in turn, to an employee will fall into the general assets of the employer or Bargaining Council, and no bank may refuse to release or administer the transfer of that amount into the bank account of the employee as required by the Scheme, irrespective whether the employer or Bargaining Council is in breach of its overdraft or similar contractual arrangements with the bank concerned.

[Clause 5.4 inserted by clause 10 of [Government Notice No. 240 in Government Gazette No. 43216 of 8 April 2020](#)]

6. Short title

6.1 This Directive is called the "Covid-19 Temporary Relief Scheme, 2020".

7. Commencement

7.1 This Directive shall commence immediately from the date of publication by Minister of Employment and Labour notice in the Gazette.

7.2 This Directive remains in operation for a period of 3 (three) months or until they are withdrawn by the Minister, whichever comes first.