

**COVID-19 TEMPORARY EMPLOYEE / EMPLOYER RELIEF SCHEME
(C19 TERS) 2020 AS AMENDED**

**DIRECTIVE BY THE MINISTER OF EMPLOYMENT AND LABOUR IN
TERMS OF REGULATION 10(8) 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)**

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Amendments are marked in red for ease of reference.

SCHEDULE

PREAMBLE

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 (SARSCOV2/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.
- 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.
- 1.1.8 "**Bargaining council**" means a bargaining council or statutory council registered in terms of the Labour Relations Act, 1995 (Act No. 66 of 1995).
- 1.1.9 "**Entity**" means any juristic person that in terms of its articles of association or constitution has employees or employers as members and is permitted to pay COVID-19 benefits to employees directly or indirectly through its employer members.

2. Purpose

2.1 The purpose of this Directive is –

2.1.1 to make provision for the –

- (a) Payment of benefits to Contributors who have lost income **or have been required to take annual leave in terms of section 20(10) of the BCEA** due to the 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 Subject to Clause 3.8 in view of social distancing and in order to avoid in person individual employee applications at Departmental offices for the Covid-19 benefit during lockdown, 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, the employer must apply in accordance with clause 5.1 and 5.2 for Covid-19 benefits for and on behalf of its affected employees.
- 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.
- 3.5 Should an employee's income determined in terms of the income replacement sliding scale fall below R3500, the employee will be paid a replacement income equal to that amount.
- 3.6 Qualifying employees will receive a benefit calculated in terms of sections 13 (1) and (2) of the UI Act, provided that an employee shall receive a benefit of no less than R3500.
- 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 or entity 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 or entity.

3.8.2 The restriction in clause 3.8.1 above 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 / or
- (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 or its registered scope; 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; or
- (c) An entity has concluded a memorandum of agreement with the Fund for it to disburse Covid -19 benefits on behalf of the Fund to employees who are employed by its members; or
- (d) the employer has not submitted an application for Covid-19 benefits prior to the bargaining council or entity signing of a MOA with the UIF.

3.9 An employee may individually apply for COVID-19 benefits if-

- 3.9.1 the employee meets the requirements of clause 2.1.1(a) of this Directive;
- 3.9.2 no bargaining council or entity has concluded a MOA with the UIF in terms of clause 3.8; and

3.9.3 the employee's employer has failed or refused to apply for COVID-19 benefits in terms of clause 3.1.

3.10 This Directive, including any amendments made to it, takes effect from 27 March 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.
- 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.
- 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.

Note – clauses below have been incorrectly numbered 5.4 and 5.5 – they should read 5.5 and 5.6

- 5.4 An employer who has required an employee to take annual leave during the period of the lock-down in terms of section 20(10)(b) of the BCEA may set off any amount received from the UIF in respect of that employee's Covid-19 benefit against the amount paid to the employee in respect of annual leave provided that the employee is credited with the proportionate entitlement to paid annual leave in the future.
- 5.5 To speed payment of Covid-19 benefits to employees, employers are urged to pay employees based on clause 3.4 of the Directive and reimburse or set off such with Covid-19 benefits claim payments from UIF.

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.