GENERAL NOTICES • ALGEMENE KENNISGEWINGS

DEPARTMENT OF LABOUR

NOTICE 215 OF 2020

COVID-19 TEMPORARY EMPLOYEE / EMPLOYER RELIEF SCHEME (C19 TERS), 2020

No. R. 2020

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)

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
DATE: 25/03/2020

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

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 / Employer Temporary Relief Scheme (C19 TERS)

3.1 Should an employer as a direct result of Covid-19 pandemic close its operations for a 3 (three) months or lesser period and suffer financial distress, the company shall qualify for a Covid-19 Temporary Relief Benefit.

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 benefits will be capped to 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.

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 (MOA) from the employer or Bargaining Council with the UIF;

5.3 An employee who is being paid by the employer during this period is not

GOVERNMENT NOTICE

DEPARTMENT OF EMPLOYMENT AND LABOUR

AMENDED COVID-19 TEMPORARY EMPLOYEE / EMPLOYER RELIEF SCHEME

(C19 TERS), 2020

No. R.

2020

AMENDMENT OF DIRECTIVE BY 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)

I, Thembelani Waltermade Nxesi, the Minister of Employment and Labour, acting 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) hereby amend the Directive that I issued 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) as set out in the Schedule.

MR T W NXESI, MP
MINISTER OF EMPLOYMENT AND LABOUR
DATE: 06 APRIL 2020

SCHEDULE

AMENDMENTS TO THE DIRECTION OF 25 MARCH 2020

1. The following clause is inserted after clause 1.1.5 of the Directive –

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

2. Clause 1.1.6 is renumbered as 1.1.7 and is substituted with the following –

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.

3. The following clause is substituted for clause 3.1 of the Directive –

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.

4. The following clause is substituted for clause 3.4 of the Directive -

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.

5. The following clause is substituted for clause 3.5 of the Directive -

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.

6. The following clause is substituted for clause 3.6 of the Directive -

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.

7. The following clauses are inserted after clause 3.7 of the Directive –

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.

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.

8. The following clause is substituted for clause 5.2.2 of the Directive –

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.

9. The following clause is substituted for clause 5.3. of the Directive -

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.

10. The following clause is inserted as a new clause 5.4. of the Directive -

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.

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(C19 TERS), 2020

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AMENDMENT OF DIRECTIVE BY 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)

I, Thembelani Waltermade Nxesi, the Minister of Employment and Labour, acting 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) hereby amend the Directive (s) that I issued 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) as set out in the Schedule.

MR. T. W. NXESI, MP

MINISTER OF EMPLOYMENT AND LABOUR

DATE: 16/04/2020

SCHEDULE

AMENDMENTS TO THE DIRECTION OF 08 APRIL 2020

1. Clause 2.1.1(a) is amended as follows -

2.1.1(a) Payment of benefits to Contributors who have lost income or have been required to take annual leave in terms of section 22(10) of the Basic Conditions of Employment Act, 1997 (Act 75 of 1997) due to the Covid-19 pandemic

2. Clause 3.1 of the Directive is amended as follows –

3.1 Subject to clause 3.8.1 and 3.8.2 (c) 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. The following clauses are inserted after clause 3.8.2 (b) of the Directive –

(c) the employer has not submitted an application for COVID 19 benefits to the UIF prior signing of an MOA with UIF.

4. The following clauses 5.4 and 5.5 are added to the Directive -

5.4 An employer, who has required an employee to take annual leave during the period of the lockdown in terms of section 22(1)(b) of the Basic Conditions of Employment Act, 1997 (Act 75 of 1997), 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.

GOVERNMENT NOTICE

DEPARTMENT OF EMPLOYMENT AND LABOUR

CORRECTION TO COVID-19 TEMPORARY EMPLOYEE / EMPLOYER RELIEF SCHEME (C19 TERS), 2020

No. R.

2020

CORRECTION OF DIRECTIVES BY 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)

I, Thembelani Waltermade Nxesi, the Minister of Employment and Labour, acting 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) hereby correct the Directives that I issued on 8 and 16 April 2020 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) as set out in the Schedule.

MR. T. W. NXESI, MP

MINISTER OF EMPLOYMENT AND LABOUR

DATE: 20/04/2020

SCHEDULE

CORRECTION TO THE DIRECTIVES OF 8 AND 16 APRIL 2020

1. Clause 2.1.1 (a) is corrected by the deletion of the reference to 'section 22 (10)' and replaced by 'section 20 (10)'.

2. Clause 3.6 is corrected by the deletion of the reference to section '12'.

3. Clause 3.8.2 (ii) is corrected by the deletion of 'and' after the semi-colon and replaced by 'and/or'.

4. Clause 5.4 is corrected by the deletion of the reference to 'section 22 (10)(b)' and replaced by 'section 20(10)(b)'.