



TERS BENEFIT EXTENDED FOR CERTAIN CATEGORIES OF EMPLOYEES

Business for South Africa welcomes the extension of the TERS benefit for certain employees until 15 August 2020. The Direction allowing the extension was signed on 12 August 2020 and is expected to be gazette very soon. Applications for July to 15 August 2020 are due to open on 17 August 2020.

The categories of employees who may claim benefits in respect of the period 1 July 2020 to 15 August 2020 are those whose employers are:

1. not yet permitted to commence operations, either partially or in full, as a result of the Regulations published in terms of the Disaster Management Act, 2002, such as restaurants and gyms;
2. unable to implement special measures in respect of vulnerable employees, or to make alternative arrangements for them to work from home; and
3. unable to make use of the employees' services either fully or partially because of operational requirements, particularly the need to limit the number of employees at the workplace through rostering, staggering of working hours, short time, and the introduction of shift systems.

"Vulnerable employees" are those with known or disclosed health issues or comorbidities or any other condition that may place the employee at the higher risk of complications or death than other employees if infected with COVID-19, or those above the age of 60 years who are at a higher risk of complications or death if infected.

The Direction prescribes a slightly different method of calculation than what applied in terms of the original March Directive. Specifically, clauses 3.5, 3.6 and 5.3 are amended:

- In terms of the revised clause 3.5, subject to clause 3.6 and 5.3, a qualifying employee will receive a benefit calculated in terms of section 13(1) of the Unemployment Insurance Act.
- Clause 3.6 provides that should the benefit calculated in clause 3.5 together with any remuneration earned fall below R3 500, the benefit will be increased to ensure that the employee receives R3 500.
- In terms of clause 5.3, an employee may only receive COVID-19 TERS benefits in terms of the Direction if the total of the benefit together with any remuneration paid by the employer for work

performed by the employee in any period is not more than the remuneration that the employee would ordinarily have received for working during that period.

The use of term "remuneration" is deliberate. It refers to the term as defined in section 35(5) of the Basic Conditions of Employment Act and the Schedule on Remuneration published in terms of this section. This means, *inter alia*, that goodwill payments by an employer (such as gratuities or discretionary amounts that are not related to the employee's performance of hours of work) are not regarded as "remuneration". This is confirmed in the Explanatory Memorandum that is published with the Direction.

Accordingly, if an employer pays an employee an amount as a gesture of goodwill (and not in respect of hours worked or work performed), or if the employee utilises her/his annual leave, or the employer advances a loan, such amounts are not remuneration. When the application for the benefit is made, such amounts must accordingly not be declared as "income" or "remuneration" received.

The Explanatory Memorandum contains the following examples illustrating the effect of these changes:

1. If the remuneration plus the sliding scale benefit is less than the employee's normal pay, the full benefit is paid (the effect of clause 3.5):

Example:

If an employee's ordinary salary is R4 000, then the UIF sliding scale is R1 920. If the remuneration earned by the employee is R2 000, then the benefit = R1 920 (because the benefit plus the remuneration earned is less than the ordinary salary).

2. If the remuneration earned plus the sliding scale benefit is less than R3 500 then the benefit will be increased to ensure that the employee receives R3 500 (the effect of clause 3.6)

Example

If an employee's ordinary salary is R4 000, then the UIF sliding scale is R1 920 and if the employee received no remuneration then the benefit = R3 500.

3. If the remuneration earned plus the sliding scale benefit is more than the ordinary salary, the benefit is reduced accordingly (the effect of clause 5.3)

Example

If an employee's ordinary salary is R20 000 then the UIF sliding scale is R6 800. If the remuneration earned by the employee is R15 000, then the benefit is R5 000 (because the total of the remuneration earned plus the sliding scale benefit will be more than the employee's ordinary salary).



As the extended lockdown covers a 6-week period across two months, employers are urged to follow guidelines issued in respect of amounts to be declared in “Normal Monthly Salary” and “Remuneration Received” columns within the application process.

The UIF calculations of applicable TERS benefit will factor in the variance between these periods when determining amounts payable to employees.

Labour Workstream

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