

GN 215 of 26 March 2020: Covid-19 Temporary Relief Scheme
(Government Gazette No. 43161)

as amended by

Notice	Government Gazette	Date
240	43216	8 April 2020
R.486	43265	4 May 2020
R.541	43330	15 May 2020
R.595	43353	26 May 2020
R.878	43611	13 August 2020
R.968	43693	7 September 2020

as corrected by

Notice	Government Gazette	Date
R.486	43265	4 May 2020

DEPARTMENT OF LABOUR

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 Covid 19 Temporary Employee/Employer Relief Scheme to prevent an escalation of the COVID-19 infections funded through the National Disaster Benefit.

(Signed)

MR. T.W. NXESI, MP

MINISTER OF EMPLOYMENT AND LABOUR

DATE: 25/03/2020

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 (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 GN 240 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, previously clause 1.1.6, renumbered by GN 240 of 8 April 2020 and substituted by GN 240 of 8 April 2020.]

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).
[Clause 1.8 added by GNR.541 of 15 May 2020.]

(Editorial Note: Wording as per original *Government Gazette*.)

(Editorial Note: Numbering as per original *Government Gazette*.)

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.
[Clause 1.9 added by GNR.541 of 15 May 2020.]

(Editorial Note: Numbering as per original *Government Gazette*.)

“*Worker*” means—

- (a) a contributor; or
- (b) an employee as defined in the UI Act who should have received benefits under this Directive but for circumstances beyond that employee’s control, namely that the employer failed to—
 - (i) the register as an employer in contravention of section 10 (1) of the Unemployment Insurance Contributions Act, 2002 (Act No. 4 of 2002);
 - (ii) provide details relating to the employees in contravention of section 10 (3) of that Act and accordingly not registered as contributors; or

(iii) pay the contributions contemplated in section 5 (1) of that Act in respect of that employee.

[Definition of “Worker” added by GNR.595 of 26 May 2020.]

(Editorial Note: Numbering as per original *Government Gazette*.)

2. Purpose

2.1 The purpose of this Directive is—

2.1.1 To make provision for the—

(a) Payment of benefits to workers who have lost income or have been required to take annual leave in terms of section 20 (10) of the Basic Conditions of Employment Act, 1997 (Act No. 75 of 1997) due to the COVID-19 pandemic;

[Clause 2.1.1 (a) amended by GNR.486 of 4 May 2020, corrected by GNR.486 of 4 May 2020 and substituted by GNR.595 of 26 May 2020.]

(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/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.

[Clause 3.1 substituted by GN 240 of 8 April 2020 and amended by GNR.486 of 4 May 2020 and by GNR.541 of 15 May 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 GN 240 of 8 April 2020.]

3.5 Subject to clauses 3.6 and 5.3, a qualifying employee will receive a benefit calculated in terms of section 13 (1) of the UI Act.

[Clause 3.5 substituted by GN 240 of 8 April 2020 and replaced by GNR.878 of 13 August 2020 and by GNR.968 of 7 September 2020.]

- 3.6 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.

[Clause 3.6 substituted by GN 240 of 8 April 2020, corrected by GNR.486 of 4 May 2020 and replaced by GNR.878 of 13 August 2020 and by GNR.968 of 7 September 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 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 other than through the bargaining council or entity.

[Clause 3.8.1 inserted by GN 240 of 8 April 2020 and substituted by GNR.541 of 15 May 2020.]

(Editorial Note: Numbering as per original *Government Gazette*.)

- 3.8.2 The restriction in clause **Error! Reference source not found..1** above only applies if—

(Editorial Note: Wording as per original *Government Gazette*. It is suggested that the phrase “Error! Reference source not found..1” is intended to be “clause 3.8.1”.)

- (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 authorized 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.

[Clause 3.8.2 inserted by GN 240 of 8 April 2020, amended by GNR.486 of 4 May 2020 and substituted by GNR.541 of 15 May 2020.]

(Editorial Note: Numbering as per original *Government Gazette*.)

- 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
 - 3.9.2 the employee's employer has failed or refused to apply for COVID-19 benefits in terms of clause 3.1.
- [Clause 3.9 added by GNR.541 of 15 May 2020.]

(Editorial Note: Numbering as per original *Government Gazette*.)

- 3.10 This Directive, including any amendments made to it, takes effect from 27 March 2020.
- [Clause 3.10 added by GNR.541 of 15 May 2020.]

(Editorial Note: Numbering as per original *Government Gazette*.)

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.

[Clause 5.2.2 substituted by GN 240 of 8 April 2020.]
- 5.3 Subject to the amount of the benefit contemplated in clause 3.5, an employee may only receive covid-19 benefits in terms of the Directive 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.

[Clause 5.3 substituted by GN 240 of 8 April 2020 and replaced by GNR.878 of 13 August 2020 and by GNR.968 of 7 September 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 GN 240 of 8 April 2020.]

- 5.4 An employer, who has required an employee to take annual leave during the period of the lockdown in terms of section 20 (10) (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.

[Clause 5.4 added by GNR.486 of 4 May 2020 and corrected by GNR.486 of 4 May 2020.]

(Editorial Note: Numbering as per original *Government Gazette*.)

(Editorial Note: The correction by GNR.486 of 2020 to Clause 5.4 refers to the deletion of section 22 (10) (b). We suggest that the intended section to be deleted is section 22 (1) (b).)

- 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.

[Clause 5.5 added by GNR.486 of 4 May 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.
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