



Who pays salaries during 21-day lock-down?

With the declaration of a lock-down announced as from midnight on Thursday 26 March 2020 until midnight on Thursday 16 April 2020. During this period all employees, with the exception of a few categories such as health services, will have to stay at home. Who pays their salaries? What happens after the 21-day lock-down?

The Minister of Employment and Labour has announced measures to facilitate a variety of UIF claims relating to the Coronavirus. We attach a booklet issued by the UIFund.

The options are as follows:

Reduced working time

Where employees have to work short time or are laid off temporarily without pay, they can now claim from the UIF. The following documents need to be submitted:

- UI 19 and UI 2.7 (completed by employer)
- UI 2.1b
- UI 2.8 (bank form completed by bank)
- Letter from employer confirming reduced work time is due to the Coronavirus
- Copy of ID document

Illness benefits

These benefits are available to employees who are quarantined for 14 days for the Coronavirus (i.e. "special leave"), irrespective of whether the employee is ill or not.

No medical certificate is needed for the first 14 days, but the employer and employee have to submit a letter of proof that they have agreed to "special leave". In addition to the letter referred to above, the following documents need to be submitted:

- UI 19 and UI 2.7 (completed by employer)
- UI 2.2 (a portion of which is completed by the doctor)
- UI 2.8 (bank form completed by bank)
- Copy of ID document

Sick leave

Normal sick leave will apply where an employee is absent due to having contracted the Coronavirus.

Death benefits

In the unfortunate event that an employee passes away, certain beneficiaries may apply for benefits.

The following documents need to be submitted:

- UI 19 and UI 53 (completed by employer)
- UI 2.5 or UI 2.6
- Death certificate
- UI 2.8 (bank form completed by bank)
- Copies of ID documents of applicant and the deceased

UIF options

While the UIF options still apply in principle, the 14-day agreed quarantine period under the recently introduced UIF provisions, is essentially now superseded during the 21-day lock-down.

We have serious doubts about the ability of the UIF to cope with processing the flood of claims in the short term.

There also are several new points for employers to consider.

Forced lay-off

Short time: Before the announcement of the 21-day lock-down, employers would have first considered short time as an alternative to retrenchment. As from midnight on Thursday, short time is not an option unless the business operates in one of the designated industries that are allowed to operate or when staff can work remotely from home.

Annual leave: An alternative option is to grant employees such paid annual leave as is available to them.

Lay-off: Thereafter, the most reasonable remaining option would be the temporary lay-off of staff. Even here the situation has changed. Where an employer would, up until now, have had to negotiate and reach agreement on the terms of a lay-off, this is no longer the case.

Neither the employer nor or the employee has control over the situation. The employee will not be permitted to tender his or her services. The employer should therefore be relieved of its contractual obligation to pay remuneration during the lock-down period. But is it advisable to simply inform employees that they are laid off without pay?

Other measures to assist

While employers are encouraged to assist their employees financially, there is no obligation to do so. Most smaller employers are unable to do so. There are of course certain UIF options available.

In his address to the nation, the President stated that –

“We are in consultation on a proposal for a special dispensation for companies that are in distress because of COVID-19. Through this proposal employees will receive wage payment through the Temporary Employee Relief Scheme, which will enable companies to pay employees directly during this period and avoid retrenchment.”

No further details have been provided yet.

The President further stated that –

“In the event that it becomes necessary, we will utilise the reserves within the UIF system to extend support to those workers in SMEs and other vulnerable firms who are faced with loss of income and whose companies are unable to provide support. Details of these will be made available within the next few days.”

We will publish the details mentioned once they are available.

Although nothing is certain, employers and employees should in the meantime try their best to plan ahead.

What happens after the lock-down?

Members are encouraged to look beyond the 21-day lock down period, with the view of retaining the skills and good labour relations with their employees if business was to resume at a later stage, albeit at a smaller scale. It almost certainly won't be business as usual.

Considering that work is unlikely to resume as normal after the 21-day lock-down period, there is likely to be a need for an extended lay-off, beyond the lock-down, for at least some employees. Now is the best time to plan and agree on this upfront. Where possible, some assistance may be offered by employers.

The President in his speech proposed that employees will receive wage payment through the Temporary Employee Relief Scheme, which will enable companies to pay employees directly during this period and avoid retrenchment. He noted that any employee who falls ill through exposure at their workplace will be paid through the Workmen's Compensation Fund.

Government will utilise the reserves within the Unemployment Insurance Fund (UIF) system to extend support to those workers in SMEs and other vulnerable firms who are faced with loss of income and whose companies are unable to provide support for them. We expect further details in this regard within the next few days.

Using the tax system, Government will also provide a tax subsidy of up to R500 per month for the next four months for those private sector employees earning below R6,500 under the Employment Tax Incentive. This will help over four million workers, while the South African Revenue Service (Sars) will work towards accelerating the payment of employment tax incentive reimbursements from twice a year to monthly, to get cash into the hands of compliant employers as soon as possible.

President Ramaphosa further announced that tax compliant businesses with a turnover below R50-million would be allowed to delay 20% of their pay-as-you-earn liabilities over the next four months, as well as a portion of their provisional corporate income tax payments, without incurring penalties or interest charges over the next six months.

The Department of Small Business Development has made over R500-million available immediately – accessed via a simplified application process - to assist small and medium enterprises that are in distress. The website address is <http://www.smmesa.gov.za/>, it is not clear at this stage if dental practices qualify and nobody is able to provide information. We will continue to follow up with them.

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