

3 MARCH 2021

EMPLOYMENT LAW ALERT

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Extended COVID-19 TERS benefits and tool kit for a TERS audit

Since the President's announcement at the State of the Nation Address, that the COVID-19 TERS would be extended until 5 March 2021, the social partners at NEDLAC have been working to finalise the details and importantly, the sectors which will receive the extended benefits. The Unemployment Insurance Fund (UIF) has recently, released a statement with further details of the extension.

Extended COVID-19 TERS benefits and tool kit for a TERS audit

We deal with two aspects in this alert: Firstly, the extended TERS benefits and secondly, we propose a tool kit for employers in respect of an audit of the TERS benefits received by employees.

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With the extended benefits there are two payment iterations. The first will be for the period between 16 October to 31 December 2020, and the second from 1 January to 15 March 2021. Claims for the first period are now open.

The UIF will communicate to all employers on the opening of the online portal for the second period (1 January – 15 March 2021). Claims made for dates prior to 16 October 2020 will not be accepted on the system.

The UIF has confirmed in a [previous statement](#) that sectors ranging from tourism to hospitality and sectors involved in the manufacturing, sale, dispensing, distribution and transportation of liquor would be covered by the extended benefits. The details of the sectors have not as yet been announced or gazetted.

According to the latest UIF release, the extension of the COVID-19 TERS covers the following categories of employees:

1. Employees who are on temporary lay-off or reduced work time within those sectors that have not been able to operate due to restrictions imposed by regulations (in such a case, employers can make the following claims on behalf of their employees);
2. Employees in all sectors who were required to self-isolate or quarantine to prevent the spread of COVID-19;
3. Employees in all sectors who are age 60 and over and who could not be reasonably accommodated in the workplace; and



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Including the virtual world of work

A GUIDE TO MANAGING
SEXUAL HARASSMENT

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Extended COVID-19 TERS benefits and tool kit for a TERS audit...*continued*

Seven companies with auditing, accounting and forensic investigation expertise have been appointed to “*follow the money*” for all COVID-19 TERS payments.

4. Employees in all sectors who have comorbidities and who could not be reasonably accommodated in the workplace.

For claims 2 – 4 above, supporting documentation should accompany the claim.

How to Apply for the TERS extension benefits

All applications must be lodged on the online portal by using the bulk application spreadsheets and processes. Employers can apply on behalf of their employees, who are temporarily laid-off or who are working reduced hours. Benefits will still be paid directly to employees. Employers should upload the following documents:

1. Signed approval/acceptance letter;
2. Bank confirmation letter (current);
3. Proof of payment to employees for previous benefits claimed and received for the prior period (e.g. EFT, payroll report, pay recon);
4. Refund to the UIF (if applicable); and
5. Letter of authority.

The claims period for employees who were required to self-isolate or quarantine, employees aged 60 and over, and employees with comorbidities have not yet opened. However, the UIF will communicate once the window period opens.

When the window opens, claims for the above three categories should be made directly online.

Employees who are affected but do not fall under any of the above categories can still claim relief under Section 12(1)(b) of the Unemployment Insurance Act 63 of 2001 which provides that a contributor or dependent, as the case may be, may make a claim to the UIF in respect of illness benefits.

The UIF’s ‘follow the money’ project

Since December 2020, forensic auditors have been appointed by the UIF to examine the financial records of employers and to verify if the benefits received were legitimately applied for and paid to eligible employees. Employers will face legal action where fraud, against the UIF, is uncovered.

Seven companies with auditing, accounting and forensic investigation expertise have been appointed to “*follow the money*” for all COVID-19 TERS payments. Employers who benefited from the COVID-19 TERS fund are advised to keep the following documents prepared, electronically or manually for an inspection:

1. All documents provided to the UIF at the time of application for the relief;
2. Bank statements relating to the COVID-19 TERS application;
3. Each employee’s personnel file; and
4. Payroll report from 01 January 2020 to March 2021.

These documents will assist in proving that the employees were entitled to the TERS benefit.

Imraan Mahomed, Mariam Jassat and Yusuf Omar



New Minimum Wage and Earnings Threshold

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A CHANGING WORK ORDER

CASE LAW UPDATE 2020

[CLICK HERE](#) to access CDH's 2020 Employment Law booklet, which will assist you in navigating employment relationships in the "new normal".

EMPLOYMENT

RETRENCHMENT GUIDELINE



CLICK HERE for the latest thought leadership and explanation of the legal position in relation to retrenchments, temporary layoffs, short time and retrenchments in the context of business rescue.

2021 RESULTS

CHAMBERS GLOBAL 2014 - 2021 ranked our Employment practice in Band 2: Employment.

Aadil Patel ranked by CHAMBERS GLOBAL 2015 - 2021 in Band 2: Employment.

Fiona Leppan ranked by CHAMBERS GLOBAL 2018 - 2021 in Band 2: Employment.

Gillian Lumb ranked by CHAMBERS GLOBAL 2020 - 2021 in Band 3: Employment.

Imraan Mahomed ranked by CHAMBERS GLOBAL 2021 in Band 2: Employment.

Hugo Pienaar ranked by CHAMBERS GLOBAL 2014 - 2021 in Band 2: Employment.

Michael Yeates ranked by CHAMBERS GLOBAL 2020 - 2021 as an up and coming employment lawyer.



Our Employment practice is ranked as a Top-Tier firm in THE LEGAL 500 EMEA 2020.

Fiona Leppan is ranked as a Leading Individual in Employment in THE LEGAL 500 EMEA 2020.

Aadil Patel is recommended in Employment in THE LEGAL 500 EMEA 2020.

Gillian Lumb is recommended in Employment in THE LEGAL 500 EMEA 2020.

Hugo Pienaar is recommended in Employment in THE LEGAL 500 EMEA 2020.

Michael Yeates is recommended in Employment in THE LEGAL 500 EMEA 2020.

Jose Jorge is recommended in Employment in THE LEGAL 500 EMEA 2020.

Imraan Mahomed is recommended in Employment in THE LEGAL 500 EMEA 2020.



POPI AND THE EMPLOYMENT LIFE CYCLE: THE CDH POPI GUIDE

The Protection of Personal Information Act 4 of 2013 (POPI) came into force on 1 July 2020, save for a few provisions related to the amendment of laws and the functions of the Human Rights Commission.

POPI places several obligations on employers in the management of personal and special personal information collected from employees, in an endeavour to balance the right of employers to conduct business with the right of employees to privacy.

[CLICK HERE](#) to read our updated guide.

OUR TEAM

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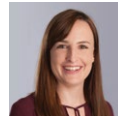
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BBBEE STATUS: LEVEL TWO CONTRIBUTOR

Our BBBEE verification is one of several components of our transformation strategy and we continue to seek ways of improving it in a meaningful manner.

PLEASE NOTE

This information is published for general information purposes and is not intended to constitute legal advice. Specialist legal advice should always be sought in relation to any particular situation. Cliffe Dekker Hofmeyr will accept no responsibility for any actions taken or not taken on the basis of this publication.

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