

18 MARCH 2020

# EMPLOYMENT ALERT

**BREAKING NEWS**

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### Government is coming to the assistance of distressed companies amid the COVID-19 pandemic

The Department of Employment and Labour has recently provided much-needed guidance in respect of questions which employers have been grappling with since President Ramaphosa's declaration of a National State of Disaster on Sunday, 15 March 2020.

### CCMA's Response to COVID-19

On 17 March 2020, the CCMA Director issued an urgent directive in response to COVID-19.

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EXPERTISE AND SERVICES

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## Government is coming to the assistance of distressed companies amid the COVID-19 pandemic

The benefit to which a contributor is ordinarily entitled to is calculated in accordance with Schedule 2 of the UIF Act.

The Department of Employment and Labour has recently provided much-needed guidance in respect of questions which employers have been grappling with since President Ramaphosa's declaration of a National State of Disaster on Sunday, 15 March 2020. Most of these questions relate to employees' rights who are required to self-quarantine, sick leave and annual leave entitlements and under which conditions would employees have access to their UIF benefits.

Under normal conditions, section 20(1)(a) of the Unemployment Insurance Act 63 of 2001 (UIF Act) outlines a contributor's right to illness benefits. A contributor is entitled to illness benefits if "*the contributor is unable to perform work on account of illness*". This is, however, subject to the exclusion when a contributor is entitled to other unemployment benefits.

The benefit to which a contributor is ordinarily entitled to is calculated in accordance with Schedule 2 of the UIF Act.

Section 19 of the UIF Act states that the period of the illness is determined from the date the contributor ceases to work as a result of the illness, and is ordinarily pre-empted by a medical certificate.

However, these are no-ordinary times. Given the advent of the COVID-19 pandemic in South Africa, scenarios have emerged which are not necessarily contemplated by the UIF Act.

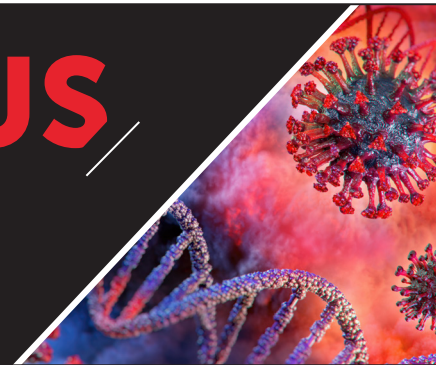
The Minister of Employment and Labour, Mr Thulas Nxesi, announced on 17 March 2020 that a period of reprieve will be considered in order for companies not to contribute to the Unemployment Insurance Fund (UIF). He said the Funds Temporary Employer/ Employee Relief Scheme will be used to avoid workers being laid off.

# CORONAVIRUS

**THE COVID-19 (OR "CORONAVIRUS") IS SPREADING.**

Employers and employees have a role to play in limiting its impact.

**Click here to read our Employment team's COVID-19:  
The Employment Survival Guide** 



## Government is coming to the assistance of distressed companies amid the COVID-19 pandemic ...continued

The Minister urged employers to conduct a health and safety risk assessment in consultation with its employees.

Minister Nxesi stated that the following measures are being considered in light of the COVID19 pandemic:

| SCENARIO   | CONTEMPLATED GOVERNMENT ASSISTANCE   |
|--|--|
| Companies who decide to close for a short period   | Short term UIF benefits will be available to employees   |
| Companies who contemplate a short term shut down   | Companies contemplating a short term shut down must notify the Department who will dispatch a team to visit these companies to provide assistance with the processing of UIF claims                            |
| Employees who must subject themselves to be self-quarantined for 14 days   | such leave will be recognized as 'special leave' and employees will be permitted to apply for UIF benefits which will be paid on condition that the reason for the quarantine meets the necessary requirements |
| Employee who are required to be quarantined for periods longer than 14 days as a result of having travelled or been in contact with an infected person | such a leave will be recognized as 'special leave' and employees will be eligible to apply for unemployment insurance benefits   |

The Minister urged employers to conduct a health and safety risk assessment in consultation with its employees, whilst ensuring that measures are put in place to ensure a healthy workplace in terms of its health and safety obligations such as the provision of the necessary protective equipment and put in place systems to deal with the outbreak, as well as including all mitigating measures that are to be put in place until the outbreak has been dealt with.

*Michael Yeates*

## CCMA's Response to COVID-19

The directive will apply with effect from 18 March 2020 until 14 April 2020.

On 17 March 2020, the CCMA Director issued an urgent directive in response to COVID-19. The details of the directive are the following:

- **Contact processes** – These include all fact-to-face interactions such as conciliations and arbitrations where the parties are required to be physically present. The directive has postponed such processes. Please note that this is limited to matters set down between 18 March 2020 up to and including 14 April 2020.
- **Discretionary functions** – These include conferences and training. These events are postponed unless otherwise advised. However, the CCMA may approve that large scale dismissals processes, Inquiry by Arbitrator processes and matters identified to be of public interest be set down and proceed in venues other than the CCMA offices, subject to adequate health and safety conditions and written agreement by the parties, Commissioner and CCMA.

- **Exceptional circumstances** – The pre-conciliation process is not postponed since it is conducted telephonically. Further, conciliations which are conducted by telephone on agreement between the parties, the Commissioner and the CCMA are allowed. The directive empower Commissioners to try and resolve disputes telephonically or using approved online methods.

This directive does not prevent parties from filing referrals or documents and contacting the CCMA via email, fax and telephone. It is clear that the applicable timeframes for processes will be enforced. The directive will apply with effect from 18 March 2020 until 14 April 2020.

*Michael Yeates*

**\*This is a developing issue as we are still to receive further detail on Government's considerations in this respect and when this will become effective.**

CDH is a Level 1 BEE contributor – our clients will benefit by virtue of the recognition of 135% of their legal services spend with our firm for purposes of their own BEE scorecards.



EMPLOYMENT

## CASE LAW UPDATE 2019

**CLICK HERE**  
to access CDH's  
Employment Law  
booklet to assist  
you in navigating  
the employment  
relationship during  
the current economic  
uncertainty.



# STOP SEXUAL HARASSMENT

## E-learning Offering

Our Employment practice recently launched an e-learning module:  
**A better place to work**

The module will empower your organisation with a greater appreciation and understanding of what constitutes sexual harassment, how to identify it and what to do if it occurs.

**CLICK HERE FOR MORE INFORMATION** 

CHAMBERS GLOBAL 2014 - 2020 ranked our Employment practice in Band 2: Employment.

Aadil Patel ranked by CHAMBERS GLOBAL 2015 - 2020 in Band 2: Employment.

Fiona Leppan ranked by CHAMBERS GLOBAL 2018 - 2020 in Band 2: Employment.

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

Hugo Pienaar ranked by CHAMBERS GLOBAL 2014 - 2020 in Band 2: Employment.

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

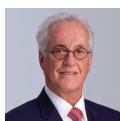


## OUR TEAM

For more information about our Employment practice and services, please contact:



**Aadil Patel**  
National Practice Head  
Director  
T +27 (0)11 562 1107  
E aadil.patel@cdhlegal.com



**Hugo Pienaar**  
Director  
T +27 (0)11 562 1350  
E hugo.pienaar@cdhlegal.com



**Steven Adams**  
Senior Associate  
T +27 (0)21 481 6341  
E steven.adams@cdhlegal.com



**Gillian Lumb**  
Regional Practice Head  
Director  
T +27 (0)21 481 6315  
E gillian.lumb@cdhlegal.com



**Thabang Rapuleng**  
Director  
T +27 (0)11 562 1759  
E thabang.rapuleng@cdhlegal.com



**Anli Bezuidenhout**  
Senior Associate  
T +27 (0)21 481 6351  
E anli.bezuidenhout@cdhlegal.com



**Jose Jorge**  
Director  
T +27 (0)21 481 6319  
E jose.jorge@cdhlegal.com



**Michael Yeates**  
Director  
T +27 (0)11 562 1184  
E michael.yeates@cdhlegal.com



**Sean Jamieson**  
Senior Associate  
T +27 (0)11 562 1296  
E sean.jamieson@cdhlegal.com



**Fiona Leppan**  
Director  
T +27 (0)11 562 1152  
E fiona.leppan@cdhlegal.com



**Avinash Govindjee**  
Consultant  
M +27 (0)83 326 5007  
E avinash.govindjee@cdhlegal.com



**Bheki Nhlapho**  
Senior Associate  
T +27 (0)11 562 1568  
E bheki.nhlapho@cdhlegal.com



**Asma Cachalia**  
Associate  
T +27 (0)11 562 1333  
E asma.cachalia@cdhlegal.com



**Tamsanqa Mila**  
Associate  
T +27 (0)11 562 1108  
E tamsanqa.mila@cdhlegal.com

### BBBEE STATUS: LEVEL ONE CONTRIBUTOR

Cliffe Dekker Hofmeyr is very pleased to have achieved a Level 1 BBBEE verification under the new BBBEE Codes of Good Practice. 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.

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.

### JOHANNESBURG

1 Protea Place, Sandton, Johannesburg, 2196. Private Bag X40, Benmore, 2010, South Africa. Dx 154 Randburg and Dx 42 Johannesburg.  
T +27 (0)11 562 1000 F +27 (0)11 562 1111 E jhb@cdhlegal.com

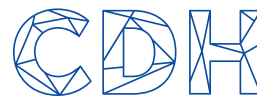
### CAPE TOWN

11 Buitengracht Street, Cape Town, 8001. PO Box 695, Cape Town, 8000, South Africa. Dx 5 Cape Town.  
T +27 (0)21 481 6300 F +27 (0)21 481 6388 E ctn@cdhlegal.com

### STELLENBOSCH

14 Louw Street, Stellenbosch Central, Stellenbosch, 7600.  
T +27 (0)21 481 6400 E cdhstellenbosch@cdhlegal.com

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CLIFFE DEKKER HOFMEYR