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EMPLOYMENT ALERT

IN THIS ISSUE

COVID-19 National Lockdown: Through the lens of immigration

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TERS gone live: A step-by-step guide in applying for TERS benefits online

Under the Temporary Employer-Employee Relief Scheme (TERS), employers who have had to implement a temporary partial or full closure of their business operations due to the COVID-19 pandemic are able to apply to the Unemployment Insurance Fund (UIF) for the payment of certain benefits to its affected employees.

COVID-19 National Lockdown: Through the lens of immigration

Giving a national address on national television, President Cyril Ramaphosa declared a National Lockdown from 27 March 2020 and has since then extended it to end of April 2020 to contain the spread of COVID-19.

Since the outbreak of the COVID-19 (Coronavirus) pandemic in late 2019, over 1,934,583 people have been diagnosed with the illness and 120,863 people have died at the time of penning this article.

Since the national lock down, and its subsequent extension, temporary measures have been established in an effort to accommodate foreign travellers in the Republic of South Africa from the commencement of the National Lockdown.

Temporary measures have been put in place to accommodate foreign nationals whose visas expired from 15 February 2020 onwards unless one has proof that they have already submitted an application for a visa extension prior to 15 February 2020 and the outcome is pending. These temporary measures will be valid until 31 July 2020. Foreign nationals whose visas expired from mid-February 2020 but failed to apply for visa renewals will not be declared illegal or prohibited persons.

Foreign nationals who opt to leave the country and return to countries of origin or residence without renewing their expired visas after the lock down will not be declared illegal upon departure.

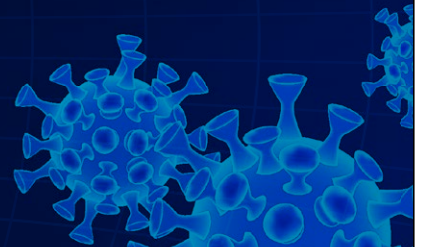
Furthermore, if the visa expired after 15 February 2020, the foreign nationals will be permitted to reapply for new visas without the need to legalise their status in South Africa first.

Study, work and business visas

Foreign nationals whose visas expired during the lockdown and those whose applications are still pending adjudication will be allowed to continue working, study or conduct business after the lockdown on the same terms and condition which were endorsed on their initial visa which had expired. It is unlikely that the DHA would allow any change of status or conditions to expired visas under the provisions of the temporary measures.

CDH'S COVID-19 RESOURCE HUB

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COVID-19 National Lockdown: Through the lens of immigration *...continued*

The departure of foreign nationals currently in South Africa is prohibited during the lockdown unless another state initiates their expatriation.

Visas for high risk countries

Visas issued to foreign nationals of high-risk countries who were outside the Republic on 15 March 2020 were revoked as per the Directions issued by the Department in terms of the Disaster Management Act, 2002. These visas remain revoked.

Departure of foreign nationals

The departure of foreign nationals currently in South Africa is prohibited during the lockdown unless another state initiates their expatriation. However, post the upliftment of the lock down restrictions, should a foreign national decided to leave South Africa, he/she will not be declared an undesirable person, if the foreign national's visa expired during the lock down period.

Lesotho Exemption Permit

The Lesotho Special Permit holders have until 15 June 2020 to submit renewal applications. The Lesotho Special Permit is valid until 15 June 2020 and new applications will be accepted.

Asylum Seeker Permits

Asylum seekers whose visas expired from 16 March 2020 to the end of the lockdown period will not be penalised or arrested. This is applicable only where they have legalised their visas with 30 days of the lockdown being lifted.

Michael Yeates and Mapaseka Nketu



TERS gone live: A step-by-step guide in applying for TERS benefits online

Initially, employers lodged claims under TERS by emailing a designated UIF email address. However, to simplify and expedite the application process, the UIF has recently developed an online portal to lodge claims under TERS.

Under the Temporary Employer-Employee Relief Scheme (TERS), employers who have had to implement a temporary partial or full closure of their business operations due to the COVID-19 pandemic are able to apply to the Unemployment Insurance Fund (UIF) for the payment of certain benefits to its affected employees.

Initially, employers lodged claims under TERS by emailing a designated UIF email address. However, to simplify and expedite the application process, the UIF has recently developed an online portal to lodge claims under TERS.

To assist employers in lodging a claim under TERS using the online application process, the steps to be taken are as follows:

Step One: Go to Website

Enter the URL <https://uifecclabour.gov.za/covid19> into any web browser.

Step Two: Register as User

Register as a user by clicking on the "Register" button which appears on the top left of the application system homepage.

The employer will have to register as a user of the online platform by providing certain information such as, for example, the employer's UIF reference number and then create a user password.

Step Three: Login Using User Profile

After successfully registering as a user by completing and submitting the above information, the employer will be prompted to further login by entering their UIF reference number as their username and their newly created password.

Step Four: Register as Employer

The employer will then have to further register by capturing its entity's details including, for example, their PAYE number and chosen payment medium. After having captured these details, the employer will click the "Proceed" button at the bottom of the registration page.

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.

TERS gone live: A step-by-step guide in applying for TERS benefits online

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Once the above has been completed, the employer should be directed to a page providing: *"Employee details has been successfully loaded. An email will be sent to client once a claim has been processed."*

Step Five: Accept Terms and Conditions of Memorandum of Agreement between UIF and Employer

The employer will then have to accept the terms and conditions of the relevant MOA, which will be displayed on the screen, by clicking "Accept".

Step Six: Accept Terms and Conditions of the Letter of Undertaking

The same process will then have to be followed in respect of the terms and conditions provided in the Letter of Undertaking.

Step Seven: Confirmation of Bank Details

The employer will then have to confirm their bank account details by uploading a PDF document of their bank confirmation in the form of a latest bank statement.

Step Eight: Capturing Affected Employees' Details

The employer will then have to enter the relevant details of their affected employees, in this regard the employer has an option of doing so by either uploading CSV files (which are Microsoft excel templates provided by the UIF and which have to be converted to CSV files) or capturing their affected employees' individual details on the online platform.

Step Nine: Wait for Email Confirmation

Once the above has been completed, the employer should be directed to a page providing: *"Employee details has been successfully loaded. An email will be sent to client once a claim has been processed."*

Although this online application process is a commendable initiative on the part of the UIF in expediting the application process, the employer should be cautioned that it potentially removes the possibility of re-negotiation of unfavorable terms in the MOA by omitting a step providing an employer with the option to do so. Should employers need assistance in dealing with these issues they should seek further legal advice in this regard.

Jaden Cramer and Joshua Geldenhuys, overseen by Sean Jamieson

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 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.

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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.

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