

## **C-19 TERS BENEFIT: WHAT YOU NEED TO KNOW**

One of the measures that is designed to provide relief to employers and employees is the C-19 TERS benefit. On 3 April 2020, the Minister of Employment and Labour issued a revised Directive under the Disaster Management Regulations that will regulate these benefits. In addition, the benefits are subject to the terms of the memorandum of understanding or standard terms, which have also been published.

### **WHO CAN CLAIM?**

- Contributors, i.e. employers and employees who contribute to the UIF.
- The employer must have closed its operations, or part of its operations, as a direct result of the Covid-19 pandemic, for a period of three (3) months or less.
- The size of the employer's workforce does not matter. Special provisions of the memorandum of agreement apply to employers with fewer than 10 employees.
- The employee must have been in the employer's employ on 27 March 2020, and must have suffered, or will suffer, a loss of income as a result of the closure.
- The benefit may only cover the cost of salaries during the closure – it may not be used for other purposes.

### **WHAT IS THE VALUE OF THE BENEFIT?**

- The benefit is determined with reference to a sliding scale.
- Employees may get a percentage of their salary (between 38% and 60%).
- For purposes of this calculation, the relevant salary amount is the maximum of R17,712 per month, per employee. Therefore:
  - If an employee's salary is more than the maximum threshold amount of R17,712 - for example, R20,000 - the employee would not receive a percentage of R20,000, but would receive 38% of the threshold amount of R17,712. The maximum amount of the C-19 TERS monthly payment will therefore be the amount of R6,730.
  - If an employee's salary is less than the threshold amount, e.g. R15,000, the employee would receive a percentage of her/his salary of R15,000. The exact percentage that s/he would receive, will be determined in accordance with the UIF calculator. The calculator is soon to be found on the UIF website, and we will update this note when it is.
- The minimum amount of the benefit is R3,500 regardless of the minimum wage as prescribed by the applicable sectoral determination / collective agreement.
- Employers may supplement these benefits, but employees may not get their full salary PLUS the benefit. The maximum that an employee may accordingly receive (from the UIF and their employer) is 100% of their salary.

### **WHAT IF THE EMPLOYER PAID THE EMPLOYEE? CAN THE EMPLOYER STILL CLAIM THE BENEFIT?**

- Yes. The employer may claim the benefit and may retain the value of the benefit already paid to the employee.
- In order to avoid disputes, it is recommended that the employee's payslip reflects "TERS Benefit" (in the event that the employee is paid the value of the benefit) or "Includes TERS Benefit" (if the employee is paid an amount higher than the TERS benefit).

#### **WHO WILL PAY THE BENEFIT?**

- If the employer has concluded a Memorandum of Agreement with the UIF, or if the employer has accepted the UIF's standard terms and conditions, the value of the benefit in respect of the employer's employees will be paid to the employer. The employer must then pay over the benefit to the employees concerned (except where they have already been paid) within two days (see below).
- If the employer is a member of a bargaining council that has concluded a Memorandum of Agreement with the UIF, the UIF will pay the amount to the bargaining council, and the bargaining council will administer the payments to the employees.
- Employees will therefore not be paid by the UIF directly, but by their employer or the applicable bargaining council. The only exception to this is where an employer employs fewer than 10 employees.
- The UIF will first verify the supporting documents submitted by the employer and, within 10 business days of the employer submitting all of the required documents and information, will deposit the funds into the employer's business account.
- Employers must pay their employees the benefit within 2 days of receiving payment from the UIF. If the employer has already paid their employees part or all of the benefit amount, the employer can recover those amounts from the funds deposited by the UIF and pay the balance – if applicable - to the employees within 2 days. Employers must submit proof of payment to the UIF within 5 days of the payment by the UIF and return any funds not used (including interest) to the UIF within 10 days of its business operations recommencing.

#### **WHAT MUST THE EMPLOYER DO TO CLAIM?**

- The employer must apply by reporting the total or partial closure to [covid19ters@labour.gov.za](mailto:covid19ters@labour.gov.za).
- The employer will receive an automatic response outlining the application process and the documents and information that is required.
- These documents would include:
  - A letter of authority from the employer;
  - The signed memorandum of agreement, or electronic acceptance of the standard terms;

- The UIF's template which includes details of the employer, the period of closure, the list of employees and their dates of employment and ID numbers, the remuneration received by the employees;
- Proof of remuneration to employees for the previous 3 months;
- Confirmation of employer bank account.

**WILL THE BENEFIT BE PAID IN ONE LUMPS SUM?**

- The UIF will pay benefit funds in relation to three separate time periods: first for the period of temporary closure for 30 days from the date of lockdown; second for any period of temporary closure during the following 30 days; and third, for any period of temporary closure during the balance of the Memorandum of Agreement. The Agreement is in force for three months from the date of confirmation by the UIF that it accepts the employer's Covid-19 TERS application.

**WHAT ABOUT EMPLOYERS WHO EMPLOY FEWER THAN 10 EMPLOYEES?**

- Employers with FEWER than 10 employees must submit the individual bank account details of each of the employees to the UIF. The UIF will pay these employees directly.

**WHAT ARE THE EMPLOYER'S ACCOUNTING OBLIGATIONS?**

- Employers must keep all their accounting records relating to the Memorandum of Agreement and the COVID-19 benefit for 5 years and keep them separate from accounting records relating to its business. This will enable them to be identified on a standalone basis from the business-related accounting records.
- Employers must keep a proper audit trail of the UIF funds received and benefits paid to employees.
- Employers may not withdraw the funds paid by the UIF or draw any cheques from the funds.
- The UIF may appoint an auditor or investigator to audit the employer's implementation of the Memorandum of Agreement.

**IS THE INFORMATION SUBMITTED TO THE UIF CONFIDENTIAL?**

- Yes, the information submitted by the employer and employees must be kept confidential, unless it needs to be disclosed to a third party in order for the Memorandum of Agreement to be implemented.

**WHAT HAPPENS IF THERE IS A DISPUTE?**

- The first step is for senior officials of the UIF and the employer to meet to attempt to resolve the dispute amicably.
- If that doesn't resolve the dispute, either of the parties may refer the dispute to the Arbitration Foundation of South Africa, which arbitration will include the right of appeal.