

and contradictory statements made by senior government officials, politicians, the UIF call centre, social media commentators, legal experts and more, has muddied the waters further. Many of these flaws were ironed out with the amendments that were released on 8 April and 17 April 2020. There are still some areas of uncertainty, however, below are answers to previous frequently asked questions that we believe have been conclusively ironed out.

Please note that there are constant updates to the templates (e.g. from 16 April there has been a migration to online submissions) and less often to the Directives and 'Easy Aid Guide' on the Department of Employment and Labour's website. We encourage you to visit their website from time to time.

QUESTIONS AND ANSWERS:

For the less initiated:

1. Will my employees be entitled to assistance from the UIF COVID TERS Fund?

Yes, if you, as a business, have closed, or partially closed due to the Covid19 Virus and you have been contributing to UIF on behalf of your employees, you are in line to apply for this funding.

2. What number do I call for UIF CV19TERS queries?

This number has recently changed to 0800 030 007.

3. How do I apply if I have not done so yet?

Applications can now be done online by visiting <https://uifecc.labour.gov.za/covid19/> (this is not a live link). You can also send a mail to covid19ters@labour.gov.za and an automated response will direct you to the above site with additional 'Easy Aid Guides' and the necessary templates to complete. It is also possible to peruse the Department of Employment and Labour website at www.labour.gov.za for the 'Easy Aid Guides'. (note that this is also a new address as opposed to the original method a few weeks ago).

4. If the application is verified and approved, will the money be paid to the company, or to the employees directly?

Although the money can be paid to either the employee or the employer, we advise employers to submit their own banking details. On receipt of the money from UIF, the employer will distribute funds to the respective employee's bank accounts accordingly. Part of the Memorandum of Agreement (MOA) which the employer enters into with the UIF, includes an undertaking by the employer that the money received will only be used for employee remuneration and nothing else.

Areas of contradiction or confusion

- 5. If a business is only partially closed due to COVID-19 Pandemic, can the employer still apply for COVIDTERS Fund benefits on behalf of its' affected employees?**

Yes, the recent amendments to the Ministerial Directive make it clear that a partially closed business can also apply for this benefit for their employees. (Published 8 April - 1.1.6 - becomes 1.1.7 with the amendment).

- 6. If an employee receives partial or reduced payment from the employer, (e.g. 50%), can they still benefit from the COVID19TERS fund for a portion of what they have lost out on?**

Yes, the recent amendments to the Ministerial Directive make it clear employees may benefit, whether they are on reduced or zero pay. The combined employer and UIF contributions may, together, not exceed the employee's normal remuneration. The application is also to the COVID19TERS Fund (Published 8 April - Clause 5.3 as amended).

- 7. What is the minimum benefit an employee will receive if he/she was a full-time employee (e.g. 40 hours per week)?**

Lower earning employees receiving no income from the employer due to the impact of the COVID-19 pandemic should get no less than R 3500.00 per month (published 8 April - Amended Clause 3.5).

- 8. What is the maximum an employee will receive in terms of the UIF payment sliding scale?**

The maximum pay-out from the UIF for an employee will be 38% of R 17712 = R 6730.56 (this will be for an employee earning R 17712 or more per month) (8 April - Amended Clause

3.4). See our ILS Covid19 communication of 29 April 2020 recalculation of amounts from UIF). You may find that an employee, in reality, receives more than the minimum, because the company may have claimed for a period of days exceeding the month (i.e. from 26 March to 30 April = 35 days).

9. Does my business have to open a separate bank account in order to receive the money from the Fund?

No, this was an initial requirement in the automated response from UIF, but this has subsequently changed and is now only applicable to Bargaining Councils – you can therefore now use your normal business banking account.

10. Does the business have to prove that it suffered financial distress?

No. This was a requirement in clause 3.1 of the original Ministerial Directive of 26 March. However, this requirement was removed in the amendments of 8 April and again amended on 16 April 2020. An employer simply needs to be closed or partially closed as a result of the COVID19 pandemic. Keep in mind that if employers can afford to pay staff they are encouraged by the Minister to do so.

11. Presuming the funding is approved and I receive the confirmation from UIF, how soon will I receive the funds?

The UIF undertook that they will pay out within 10 days after the application has been signed and finally approved (which can take 2-4 days). Considering the sheer volume of applications, whether the UIF can maintain this undertaking will remain to be seen. (Refer to Department of Employment and Labour website under FAQ's).

12. Can one employer have different claims from the CV19Ters Fund on the same application form, i.e. for some employees you claim based on zero income and others on reduced or partial payment?

Yes, as long as the fact that you are not paying in full is clearly due to the impact of the COVID19 pandemic on the business. It would, in our opinion, be important that the distinction between any variation between employees' partial remuneration percentage paid by the employer within one business, is operationally objectively defensible.

The Tourism Business Council of South Africa (TBCSA)

13. If my business has already applied to the COVID-19 TERS Fund prior to the signing of the Tourism MOA, should we now re-apply?

It would **not** be necessary to apply again as your current application is already in the pipeline unless the response from UIF requires you to do so. Either way, you can apply using the normal CV19Ters online application route.

You can, however, upload your company detail and date of submission to the UIF on the TBCSA central list – <https://covid19ters.typeform.com/to/ID2B0H> for monitoring purposes by the TBCSA.

14. What is the value of logging your UIF CV19Ters application with the TBCSA?

The main value is that, should you apply to UIF, you would, thereafter, also confirm the fact that you have now applied to the TBCSA on address: <https://covid19ters.typeform.com/to/ID2B0H>. TBCSA will then be able to monitor progress with the UIF. Moreover, representatives of TBCSA will also be meeting with the UIF regularly in order to follow up on progress (this would apply only if you are a member of a tourism-related organisation within TBCSA – such as FEDHASA).

General Queries

15. What if someone's contract was due to end prior to the end of June 2020, should the employer extend the contract until end June and include those employees in the claim?

No. The employee's contract should be terminated as per their fixed-term contract. The employer will claim for the period up to the contractual termination date via the CV19Ters Fund. Thereafter the employee, if employment has been terminated and should he/she be eligible, will have to claim normal UIF as under ordinary circumstances of being unemployed (not from the CV19TERS Fund).

16. What if I belong to a Bargaining Council?

If your company is party to a Bargaining Council, the Council may have entered into a Memorandum of Agreement with UIF and you should refer to your Bargaining Council as to whether they have entered in an MOA with UIF – each MOA is likely to be different. (see

Clauses 3.8.1 to 3.8.2 in the Ministerial Directive). Only a few Bargaining Councils has entered into agreements with UIF that we are aware of at this stage.

Going Forward

17. How long is the fund going to be available for use?

Although the Directive has always provided for the COVID19 benefit to be available “for a 3 (three) months or lesser period”, there has been confusion over whether the employer would qualify for the relief **post the lockdown period**. The confusion has arisen as a result of the contradictory wording in an early version of the Department of Employment and Labour ‘Easy Aid Guide’, where it states that employers are entitled to the benefit in cases where they are required to “enforce lockdown, as regulated”.

The amendment now clarifies that employers who need to close their business or part of their business as a result of COVID19 pandemic and social distancing, qualify for the benefit for a period of up to three months. (as per clause 3.1 - Amended on 17 April 2020).

18. What will happen after the 3 months?

At this stage, UIF is planning the CV19TERS Fund for 3 months. This period may be extended thereafter. If not, individuals who are put on short time, or retrenched, will be able to claim on the original UIF system, as their UIF credits were not affected by claims from the CV19TERS fund. There is also the possibility of utilising elements of the original TERS fund aimed at lay-offs via the CCMA.

19. If the company has not received the money yet from the UIF, but the application has been approved, can they pay in advance?

In order to ensure that employees are paid timeously, employers may now pay the COVID19 TERS benefit to employees upfront. Employers will then claim those amounts from UIF, either through a reimbursement or set-off. The amendment states that such payments should be in line with clause 3.4 of the Directive, which references the sliding scale of benefits. (as per clause 5.5 – Amended on 17 April 2020).

Although this amendment is welcomed, as it seeks to ensure that employees in need are not prejudiced by the delay of payment due to a backlog in the processing of claims by UIF, it is

uncertain as to how employers will know the exact value of the benefit to be paid to each employee in advance. Whilst it will be easy for employers to pay employees who will be entitled to no more than the minimum benefit of R3500.00, it will be difficult for employers to calculate the benefits payable to employees where the sliding scale needs to be applied unless such information is officially available via a UIF 'online' calculator.

20. What happens if an employee took leave during this period because s/he was required to do so by the employer?

Where an employee has been required to take annual leave, the employer may now set off monies received from the COVID19Ters benefit for that employee, against the amount paid to the employee in respect of the annual leave taken. The employee must then be proportionately credited for the annual leave which has been set off. (as per clause 2.1.1(a) - amended on 17 April 2020).

21. Can the employer make any deductions from the UIF benefit received - such as union subscriptions / Garnishee Orders/loan repayments etc?

The UIF benefit is not remuneration - so the employer is neither obliged, nor allowed to make such a deduction. If, however, the employer has paid some salary during the month, then the deduction can take place subject to the 25% limit (note that the 25% cap does not apply to court order deductions / collective agreements).

We hope that the above answers have been of assistance and has clarified areas of concern.

We are well aware that there are still areas of confusion and contradiction related to the COVID19 TERS benefit. For example, there is wide-spread confusion in respect of the method being used by UIF in the calculation of benefits payable to employees. We at ILS are keeping our ears close to the ground in order to obtain some clarity. As soon as we have definitive answers on this and other areas of uncertainty, we will inform you accordingly.

In the meantime, we send well wishes to all of you and your staff. We know how challenging these times are, and we are committed to assisting wherever we are able. Keep well and keep safe.

The ILS Team



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