

Implications of COVID 19 on business and employment levels

As the Lockdown is now in place it is important that organisations consider how to address the operational circumstances. There are a number of possible responses to this situation.

Please note that Pons Consulting has drafted and made available a set of Human Resource guidelines and policy considerations for organisations to follow specifically to guide employers and employees in managing the COVID19 pandemic in their workplace sensibly, with a sense of equity and fairness. These have been made available to our all our clients at no fee, but as a service given the nature of the pandemic.

The purpose of this guideline is to outline employer considerations should they have reduced operational requirement leading to a need to cut costs and or reduce labour costs. It is indeed difficult making such suggestions given the human and financial burden that such measures place on people, but if these are done with a view to future sustainability they may need to be considered.

1. The official position

The Department of Labour has announced a number of measures to address the situation via COID and UIF Funds. This paper will address UIF specifically. There are three forms of relief offered, namely:

1. Reduced Working benefit
2. Illness benefit
3. Temporary Employer/ Employee Relief Fund

The official and legal position is that this situation is a forced layoff. As such, the business principle is one of “no work no pay”. It is not the fault of the employer that there is no work at this time.

1.1 The Reduced working benefit is applicable to most employers unless their business position is under threat (then the TEERF) or working shorter time) i.e. this Lockdown) and affects the general situation and the benefit offered will apply to all registered employers and employees. Some of the conditions we have gathered to date include:

- 1.1.1 The initial waiting period for an employee to access to benefits is waived.
- 1.1.2 Benefits can apparently (I suggest apparently because it has to date been impossible to reach the UIF numbers provided) be applied for online via the UIF filing site. We are checking whether this will obviate an individual application process but are currently receiving different feedback in this regard.
- 1.1.3 Benefits will be paid out based on a minimum of R 3 500 and a maximum of R 17 000. The documents are unclear whether this applies to the lockdown period specifically or per month. We suspect per month and accordingly the amounts payable may be pro-rated. To understand the ratio of UIF payment (as

determined by the UIF calculator) here are two examples as the calculator works on a sliding scale:

- a. At R 3 500 and employee would receive around R 1500.00.
- b. The percentage paid reduces up to R 17 000.00. At this level an employee receives around R 4 300.00. R 17 000 is the maximum level. There is no increase in the amount payable if an employee earns in excess of R 17 000.00.

1.1.5 Under the current situation, the benefit starts from 1 April 2020, as the Minister advised that employees would have been paid up to 31 March 2020. Weekly workers were not paid to 31 March 2020 but it is unclear whether / how this will be addressed.

1.1.6 Should an employer pay a portion of the employee's remuneration this amount will be deducted from the payment that may have been due on the general UIF calculation.

1.1.7 There is some talk that Bargaining Councils and Employers can become Agents for the disbursement of this benefit, by application. This will be monitored to ensure monies reach employees. This process is still unclear as some officials have advised that employees will have to apply individually, as is the case with other UIF benefits.

1.1.8 The Department has suggested that employers pay employees and then the claim will pay them back. This is currently difficult to do as the sliding scale is unknown and it may be difficult to know whether payment will be aligned with the UIF calculation.

The Department has advised that employers cannot force employees to take annual or unpaid leave.

Guidelines to manage impact of COVID19 on operations

The following are guidelines that Employers could consider in the circumstances related to COVID 19 to manage the impact on operations:

1. Consult employees and seek agreement on the way forward that include cost cutting. **It is important that a solution offering the UIF alternative is put to employees the Department is advising the public that an employer cannot force an employee to take annual leave.**
2. It has been noted in numerous consultations to date that people have readily understood the situation and have accordingly heard the rationale placed by management and been in a position to agree a mutual way forward.
3. Avoid making suggestions / "promises" the organisation cannot keep (for example, the Company will make up your remuneration when business returns)

A few principles that could guide decisions / discussions in this regard include (please note this is not meant to be an exclusive list):

- 3.1 Fairness and equity.
- 3.2 Operational considerations facing the organisation.
- 3.3 Circumstances facing individuals.
- 3.4 Work performed / skills and / or jobs that are key to operational continuity, if required.

4. Measures that could be considered:

When considering the measures below employers must consider whether additional legislation remains in place such as Bargaining Council Agreements or Sectoral Determinations that may require additional steps, typically consultation with Unions, letters to Councils and advance notice of intention to implement:

- 4.1 No work no pay and use UIF, as employees cannot work and business is under significant pressure.
- 4.2 Working remotely – fully operational and therefore payment in full.
- 4.3 Reduction in remuneration related to a reduction in business.
- 4.4 Short time - reduction in hours of work with a commensurate reduction in remuneration in affected areas.
- 4.5 Work sharing arrangements: roster skeleton working from home
- 4.6 Requesting employees to take accumulated annual leave, clarifying options should this not be taken. Thereafter they could go into deficit annual leave.
- 4.7 A combination of payment and annual leave.
- 4.8 A reduction in rate of pay.
- 4.9 As a last resort retrenchments.

5. Written agreement

Once management has identified requirements, a rationale / communication to staff should be planned to commence the consultation process. It is advisable to draft a written agreement that each employee signs in relation to the agreement reached. This agreement must be retained on the employee's personal file.

Pons Process Consulting is in a position to assist employers in identifying practical approaches to manage these aspects of this difficult aspect of managing COVID19.

Kind regards

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