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Amendments to the Regulations issued in terms of the Disaster Management Act, 2002: 20 April 2020

INSERTED CLAUSES (NEW)

1A. Application of Chapters 1, 2, 3 and 4

" (1) Chapter 1 and any direction issued pursuant to the Regulations shall continue to be in force and effect, save that if there are any inconsistencies between Chapter 1 and Chapters 2 to 4, Chapters 2 to 4 shall prevail to the extent of the inconsistency.

(2) Chapters 2, 3 and 4 of these Regulations will apply as from 26 March 2020 at 23h59 until 30 April 2020 at 23h59: Provided that Chapter 3 will remain in force for the period of the national state of disaster, or for such periods as may be extended."

6. Closure of schools and partial care facilities

"Schools and partial care facilities must be closed by 18 March 2020 until 30 April 2020, which period may be extended by way of directions by the Cabinet member responsible."

<p>7. Suspension of Visits</p>	<p>" (e) Department of Social Development facilities, including Child and Youth Care Centres, shelters, One Stop Centres, and Treatment Centres, are suspended for the period of lockdown from the date of publication of this Notice, which period may be extended for any period, but not beyond the duration of the national state of disaster, by the cabinet member responsible"</p>
<p>8. Limitation on the sale, dispensing or transportation of liquor. Subregulation 6.</p>	<p>"(6) he transportation of liquor is prohibited, except where alcohol is required for industries producing hand sanitizers, disinfectants, soap, alcohol for industrial use and household cleaning products."</p>
<p>10. Authority to Issue Directions. Subregulation 9.</p>	<p>" (9) All directions issued in terms of these Regulations shall continue to apply unless, varied, amended or withdrawn by the Cabinet member responsible for such directions."</p>
<p>11A. Definitions- 'lockdown'</p>	<p>" 'lockdown' means the restriction of movement of persons during the period for which Chapters 2, 3 and 4 of these Regulations apply, namely from 23H59 on 26 March 2020, until 23H59 on 30 April 2020. "</p>
<p>11B. Restriction on the movement of persons and goods.</p>	<p>"1. For the period of lockdown—</p> <p style="text-align: center;">...</p> <p>(iii) movement between provinces and between metropolitan and district areas is prohibited except—</p> <ul style="list-style-type: none"> (aa) for essential workers who have to travel to and from work; (bb) transportation of - <ul style="list-style-type: none"> (bbA) essential goods; (bbB) transportation of cargo from ports of entry to their intended destination; and (bbC) cargo currently at ports of entry. for export of goods to decongest

the ports of entry.

...

11B(1)(g) Stores selling hardware products and vehicle components must maintain a register of persons buying essential goods listed in Part A of Annexure B, and must keep a record of a signed declaration, which corresponds substantially with Form 4 of Annexure C by the buyer of goods attesting that the goods are essential goods as defined in the Regulations.

...

11B(4A)(b) The Cabinet members responsible for health and social services and trade, industry and competition may, by directions, designate services which are necessary to provide or maintain essential health and social services and international trade or industrial activities listed in Annexure B to the Regulations.

11B(8)(h) – deleted

...

(9) (a) Movement of children between co- holders of parental responsibilities and rights or a caregiver, as defined in section 1(1) of the Children's Act, 2005 (Act No. 38 of 2005), during the lockdown period, is prohibited, except where arrangements are in place for a child to move from one parent to another, in terms of-

(i) a court order;

(ii) where a parental responsibilities and rights agreement or parenting plan, registered with the family advocate, is in existence, or

(iii) the co- holder of parental responsibilities and rights is in possession of a birth certificate or certified copy of a birth certificate of the child or children to prove a legitimate relationship between the co- holders of parental responsibilities and rights: Provided that in the household to which the child has to move, there is no person who is known to have come into contact, or is reasonably suspected to have come into contact with any other person known to have contracted, or is reasonably suspected to have contracted COVID - 19 in the household which the child has to move to.

	<p>(b) The parent or caregiver transporting the child concerned must have in his or her possession, the court order or the parental responsibilities and rights agreement or parenting plan or the birth certificate of the child or children, as required.</p> <p>(10) All forms must be completed in full, including full names, identification or passport numbers and full contact details as required in the form and failure to do so will result in the form being rejected as invalid.</p>
11CA. Prohibition on evictions.	<p>" No person may be evicted from their place of residence regardless of whether it is a formal or informal residence or a farm dwelling, for the duration of the lockdown."</p>
11G. Offences and Penalties.	<p>"For the purposes of this Chapter, any person who contravenes –</p> <p>(a) regulation 11B(1)(a), (b), (c), (d), (f) or 11B(4): or</p> <p>(b) regulations 11C(1) and 11 CA, commits an offence and is, on conviction. liable to a fine or to imprisonment for a period not exceeding six months or to both such fine and imprisonment. "</p>
11H. Contact tracing.	<p>" (13) The Cabinet member responsible for justice and correctional services shall, in terms of section 7(1)(a) read with paragraph (d) of the definition of "service" in section 1(1) of Judges' Remuneration and Conditions of Employment Act, 2001 (Act No. 47 of 2001) request a judge or a Constitutional Court Judge who has been discharged from active service to perform service as a COVID -19 Designated Judge as provided for in the Regulations."</p>
11I. Offences and penalties.	<p>"(1) A failure to comply with –</p> <p>(a) an obligation imposed in terms of regulation 11H(5), (9), (11), (17); or</p> <p>(b) a direction issued in terms of regulation 11H(10) or (18), constitutes an offence.</p>

	<p>(2) A person who fails to comply with an obligation imposed in terms of regulation 11H(5), (9), (11) or (17) or a direction issued in terms of regulation 11H(10) or (18), commits an offence and is, on conviction, liable to a fine or to imprisonment for a period not exceeding six months or to both such fine and imprisonment."</p>
<p>11J. Energy and Petroleum products supply</p>	<p>" To ensure the continuous supply of energy and petroleum products to society as referred to in paragraph 6 of Part B of Annexure B –</p> <p>(a) collieries that supply Eskom must continue to operate at full capacity; and (b) refineries must operate at full capacity to avoid shortage of fuel, and such operations must include smelters, plants and furnaces."</p>
<p>11K. Mining Operations</p>	<p>"(1) Mining operations, as referred to in paragraph 22 of Part B of Annexure B, must be conducted at a reduced capacity of not more than 50% during the period of lockdown, and thereafter at increasing capacity as determined by direction issued by the Cabinet member responsible for mineral resources and energy.</p> <p>(2) The following conditions apply to the starting and increasing of capacity:</p> <p>(a) A rigorous screening and testing program must be implemented as employees return to work; (b) the mining industry must provide quarantine facilities for employees who have tested positive for the COVI D-19; (c) data collected during the screening and testing programme must be submitted to the relevant authority; (d) mining companies must make arrangements to transport their South African employees from their homes to their respective areas of operations; (e) workers from neighbouring Southern African Development Community countries must be recalled to their place of employment at the end of lockdown in their respective countries in accordance with these Regulations and regulations applicable in those countries.</p>

	(3) The monitoring and impact assessment of seismicity through the Council for Geoscience must be intensified with immediate effect."
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AMENDMENTS TO ANNEXURE B CATEGORIZATION OF ESSENTIAL GOODS AND SERVICES DURING LOCKDOWN REGULATION 11A

The following goods have now been deemed 'essential goods':

1. Any food product, including non-alcoholic beverages, but excluding cooked hot food
6. Hardware, components and supplies required by any qualified tradespersons solely for the purpose of emergency repairs at residential homes;
7. Hardware, components and supplies required by any entity engaged in the provision of essential services for any project related to the provision of water, electricity or other essential services;
8. Components for vehicles under -going emergency repairs where such vehicle is used by a person engaged in essential services work.

The following services have now been deemed 'essential services':

5. Grocery stores and wholesale produce markets, spaza shops, informal fruit and vegetable sellers and langanas with written permission from a municipal authority to operate being required in respect of spaza shops and informal fruit and vegetable traders: Provided that all valid permits for spaza shops and informal fruit and vegetable traders issued before or during the declared national state of disaster and which fall due during the said period, will remain valid for a period of one month after the end of the national state of disaster.

22. Gold, gold refinery, coal and mining.

27.1. Commissioners of the South African Human Rights Commission, Gender Commission, the Commission for the Promotion and Protection of the Rights of Cultural, Religious and Linguistic Communities, the Public Protector and Deputy Public Protector and the Independent Electoral Commission; and

27.2. Services rendered by the institutions referred to in item 27.1.

30. Call centres necessary to provide health, safety, social support, government and financial services, debt restructuring for consumers of retailers and access to short-term insurance policies as a result of reduced income or loss of income.

34. Trades necessary for the rendering of emergency repair work, including plumbers, electricians, locksmiths, glaziers, roof repair work.

35. Trades necessary for emergency automobile repairs for persons rendering essential services.

36. Information and Communication Technology services rendered to entities and institutions engaged in delivering essential services in terms of these Regulations.



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INTENDED AMENDMENTS TO COVID-19 TERS NOT YET GAZETTED AS AT 23 APRIL 2020

	PREVIOUS DIRECTIVE	INTENDED AMENDMENT
SUBSTITUTED CLAUSES		
Clause 2.1.1 (a)	2.1. The purpose of this Directive is 2.1.1. To make provision for the (a) Payment of benefits to the Contributors who have lost income due to Covid19 pandemic	2.1. The purpose of this Directive is 2.1.1. To make provision for the (a) Payment of benefits to Contributors who have lost income <u>or have been required to take annual leave in terms of section 22 (10) of the Basic Conditions of Employment Act, 1997 (Act 75 of 1997)</u> due to the Covid-19 pandemic.
Clause 3.1	3.1. Should an employer as a result of the Covid19 pandemic close its operations, or a part of its operations, for a 3 (three) months or lesser period affected employees shall qualify for a Covid19 benefit.	3.1. <u>Subject to clause 3.8.1 and 3.8.2 (c) in view of social distancing and in order to avoid in person individual employee applications at Departmental offices for the Covid-19 benefit during lockdown</u> , should an employer as a result of the Covid-19 benefit pandemic close its operations, or a part of its operations, for a 3 (three) months or lesser

		period <u>the employer must apply in accordance with clause 5.1 and 5.2 for Covid-19 benefits for and on behalf of its affected employees.</u>
INSERTED CLAUSES (NEW)		
	PREVIOUS DIRECTIVE	INTENDED AMENDMENT
Clause 3.8.2 (c)	- N/A	3.8.2. The restriction in clause 3.8.1 only applies if - <u>(c) the employer has not submitted an application for COVID-19 benefits to the UIF prior to signing of an MOA with the UIF.</u> "
Clause 5.4	- N/A	<u>"An employer, who has required an employee to take annual leave during the period of the lockdown in terms of section 22 (1)(b) of the Basic Conditions of Employment Act, 1997 (Act 75 of 1997, may set off any amount received from the UIF in respect of that employee's COVID-19 benefit against the amount paid to the employee in respect of annual leave provided that the employee is credited with the proportionate entitlement to paid annual leave in the future."</u>

Clause 5.5	- N/A	<u>"To speed payment of COVID-19 benefits to employees, employers are urged to pay employees based on clause 3.4 of the Directive and reimburse or set off such with COVID-19 benefits claim payments from UIF."</u>
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UPDATED COVID-19 TERS AS AT 23 APRIL 2020

	PREVIOUS DIRECTIVE	AMENDED DIRECTIVE
DEFINITIONS	<ul style="list-style-type: none"> - N/A - Clause 1.1.6 – definition of "Temporary lay-off" 	<ul style="list-style-type: none"> - Clause 1.1.6 – insertion of 'scheme': means the Covid-19 temporary relief scheme - Clause 1.1.7 – renumbering of clause containing the definition of "Temporary lay-off"

SUBSTITUTED CLAUSES		
Clause 3.1	<ul style="list-style-type: none"> - "Should an employer <u>as a direct</u> result of Covid -19 pandemic close its operations for a 3 (three) months or lesser period and suffer <u>financial distress</u>, the company shall qualify for a <u>Covid-19 Temporary Relief Benefit.</u>" 	<ul style="list-style-type: none"> - "Should an employer <u>as a result</u> of the Covid-19 pandemic close its operations, or a part of its operations, for a 3 (three) months or lesser period affected employees shall qualify for a <u>Covid-19 benefit.</u>"
Clause 3.4	<ul style="list-style-type: none"> - "The <u>salary benefits</u> will be capped to a maximum amount of R17 712, 00 per month, per employee and an employee will be paid in terms of the income replacement rate sliding scale (38 % -60 %) as provided in the UI Act." 	<ul style="list-style-type: none"> - "The <u>salary to be taken into account in calculating the benefits</u> will be capped at a maximum amount of R17,712.00 per month, per employee and an employee will be paid in terms of the income replacement rate sliding scale (38%-60%) as provided in the UI Act."
Clause 3.5	<ul style="list-style-type: none"> - "Should an employee's income determined in terms of the income replacement sliding scale fall below <u>the minimum wage of the sector concerned</u>, the employee will be paid a replacement income equal to <u>minimum wage of the sector concerned.</u>" 	<ul style="list-style-type: none"> - "Should an employee's income determine in terms of the income replacement sliding scale fall below <u>R3500</u>, the employee will be paid a replacement income equal to that amount."
Clause 3.6	<ul style="list-style-type: none"> - "Qualifying employees will receive a benefit calculated in terms of sections 12 and 13 of the UI Act, provided that an employee shall receive a benefit of <u>no less than sector specific minimum wage.</u>" 	<ul style="list-style-type: none"> - "Qualifying employees will receive a benefit calculated in terms of Sections 12 and 13 (1) and (2) of the UI Act, provided that an employee shall receive a benefit of <u>no less than R3 500.</u>"

<p>Clause 5.2.2</p>	<ul style="list-style-type: none"> - "Signed Memorandum of Agreement (MOA) from the employer or Bargaining Council with the UIF" 	<ul style="list-style-type: none"> - Signed memorandum of agreement from the employer or bargaining council with the UIF, <u>or written or electronic confirmation of acceptance by an employer or bargaining council of the terms and conditions of the scheme provided to the employer or bargaining council or published in writing by the UIF.</u>
<p>Clause 5.3</p>	<ul style="list-style-type: none"> - "An employee who is being paid by the employer during this period is not entitled to this benefit." 	<ul style="list-style-type: none"> - "Subject to the amount of the benefit contemplated in clause 3.6, an employee may only receive covid-19 benefits in terms of the Directive if the total of the benefit together with any additional payment by the employer in any period is not more than the remuneration that the employee would ordinarily have received for working during that period."

INSERTED CLAUSES (NEW)**Clause 3.8**

- "3.8.1 An employer whose employees are entitled to receive covid-19 benefits provided by the Unemployment Insurance Fund during the period of lockdown from a bargaining council may not make an application in terms of the Scheme and the employees of that employer may not receive any payment in terms of the Scheme than through the bargaining council.

- "3.8.1 The restriction in clause 3.8.1 only applies if –
 - (a) the parties to the bargaining council have concluded a collective agreement that –
 - (i) has been extended by the Minister of Employment and Labour in terms of section 32 of the Labour Relations Act, 1995 (Act) No. 66 of 1995); and
 - (ii) provides for the disbursement of funds received from the Unemployment Insurance Fund to provide covid-19 benefits to employees bound by the collective agreement during the period of lock-down; and

 - (b) the bargaining council has concluded a memorandum of agreement with the Fund for the council to disburse covid-19 benefits on behalf of the Fund to –
 - (i) the employees who fall within the scope of the collective agreement; and
 - (ii) if authorised by the memorandum of agreement, any other employees in a sector identified in the agreement, whether or not they fall within the registered scope of the bargaining council."

Clause 5.4

- "All amounts paid by or for the UIF to employers or Bargaining Council(s) under the terms of the Scheme shall be utilized solely for the purposes of the Scheme and for no other purpose. No amount paid by or for the UIF to an employer or Bargaining Council under the terms of the Scheme that is required to be paid, in turn, to an employee will fall into the general assets of the employer or Bargaining Council, and no bank may refuse to release or administer the transfer of that amount into the bank account of the employee as required by the Scheme, irrespective whether the employer or Bargaining Council is in breach of its overdraft or similar contractual arrangements with the bank concerned."

Please note: If the employer has paid to the employees the TERS benefit they would be entitled to receive in advance, the employer may reimburse itself once the claim is paid.



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IMPORTANT INFORMATION

QUESTION	ANSWER
<p>1. Is the MOA applicable to all employers?</p>	<ul style="list-style-type: none"> • The automated response from the Department of Employment and Labour indicates that employers with 10 or less employees need not sign an MOA as the UIF will pay the employees directly. • It is encouraged that employees follow the instructions received on their automated response from the Department of Employment and Labour or the prompts from the online system.
<p>2. Does a company needs to be 'financially distressed' to qualify for the TERS benefit?</p>	<ul style="list-style-type: none"> • This qualification has been <i>removed</i> in Clause 3.1. • Instead, the employer must show a 'financial loss' as a direct result of the pandemic and satisfy the qualification criteria to claim from TERS.

<p>3. What is the R17 712 amount? Is it the salary to be considered or the maximum benefit payable to employees?</p>	<ul style="list-style-type: none"> • This amount is the maximum salary to be considered when the benefits payable is paid out to employees. • Therefore, it does not matter that an employee earns above the R17 712 threshold because the amendment confirms that benefits are calculated on the income replacement rate sliding scale and are therefore capped at 38% of R17 712. • The maximum benefit payable to an employee is therefore R6 730.56.
<p>4. What is the R3 500 amount?</p>	<ul style="list-style-type: none"> • Where an employee's benefits calculated in terms of the sliding scale falls below R3 500, they will be paid a replacement income equal to R3 500. • This amount is in line with the National Minimum Wage.
<p>5. How should the MOA be completed?</p>	<ul style="list-style-type: none"> • Simply fill in the company name on page 1. • Initial each page. • Sign in full at the end.
<p>6. Is a letter of authority required as a document in the application?</p>	<ul style="list-style-type: none"> • Yes. This is a new form that is indeed required to be signed by the employer or their designated representative. • This from can be found in the UIF'S automatic response e-mail.

<p>7. Does everyone need to open a special bank account?</p>	<ul style="list-style-type: none"> • No. Only Bargaining Councils need to open a special bank account because they represent multiple employers.
<p>8. Where an employer belongs to a bargaining council, do they apply for the TERS Fund with the Department of Labour or the bargaining council?</p>	<ul style="list-style-type: none"> • Where a bargaining council has entered into an MOA with the UIF, the employer will apply for the TERS Fund through the bargaining council and not through the Department of Employment and Labour. • Currently, this is only applicable to the clothing and textile bargaining council.
<p>9. What are UI Reference numbers that is required by the Department of Employment and Labour?</p>	<ul style="list-style-type: none"> • This is the company's U-filing employer reference. • It is not the U-number issued by SARS. • This number can usually be found either on the UIF registration form or an issued U 19 form. • It can also be found on the company information page within the payroll system if it is captured on there.
<p>10. What is the period of submission for applications?</p>	<ul style="list-style-type: none"> • There are 2 lockdown periods, from 27 March 2020 to 16 April 2020 and from 17 April 2020 to 30 April 2020. • It is likely that the Department will deal with applications from the first and second period of the lockdown separately.

<p>11. Are foreign nationals with no ID number excluded from claiming?</p>	<ul style="list-style-type: none"> • Changes have been made to include both ID numbers and passport numbers. • In light of this, it seems as though foreign nationals are not expressly excluded from applying.
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QUALIFICATION CRITERIA: COVID-19 TEMPORARY RELIEF SCHEME

CLOSURE OF OPERATIONS	CONDITIONS
<ul style="list-style-type: none"> • The employer's operations have to be either fully or partially closed, for a period of up to a maximum of three (3) months as a direct result of the COVID-19 pandemic. 	<ul style="list-style-type: none"> • The company must be registered with the UIF; • The closure must be directly linked to the pandemic; • If an employer has more than 10 employees, they must agree to the MOA terms with the UIF; and • There must be compliance with the application procedure for financial relief scheme.

PLEASE NOTE:

1. R3 500 is the Minimum wage used to determine the benefits payable to employees.
2. Leave income refers to the salary paid during the lockdown/ shutdown period if applicable.
3. The 'termination date' should not be filled in.

THE APPLICATION PROCESS

STAGE 1	STAGE 2
<ol style="list-style-type: none"> 1. Business closures must be reported by employers to covid19ters@labour.gov.za upon which an automatic response which outlines the application process will be received. <ul style="list-style-type: none"> - Applications can also be made via the online process. - Employers: https://uifecc.labour.gov.za/covid19/ - Employees: User must login or register to uFiling 2. The application and documents must be emailed to covid19claims@labour.gov.za. These documents include: <ul style="list-style-type: none"> - Prescribed template that requires crucial information from the employer. An employer will have to furnish his/her banking details. - An employer's account information: this can be completed by the employer or the bargaining council. - MOA: completed between the respective parties, i.e. UIF, bargaining council and the employer. - Confirmation of bank account details: this should be in the form of a letter that need not be certified. - The letter of undertaking. 3. The UIF will thereafter download the completed template to process the claim. 	<ol style="list-style-type: none"> 4. Where an employer has more than 10 employees, the UIF will provide the employer with the amount due to employees. 5. The UIF will deposit the total amount due to employees into the respective bank accounts of employers. 6. Employers will then deposit the amount into the employees' bank accounts. 7. Where an employer has 10 or less employees, the UIF will pay the employees directly into their bank accounts. <ul style="list-style-type: none"> - Apart from not needing to complete an MOA, the application process will remain the same.