

South Africa

Disaster Management Act, 2002

Direction Extending COVID-19 TERS Benefits for Certain Categories of Employees

Government Notice R878 of 2020

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Contents

1. Definitions	1
2. Incorporation of Directive for certain categories of employer and employee	1
3. Application for benefits	2
4. Commencement and duration	2

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Assented to on 11 August 2020

Commenced on 27 June 2020

[This is the version of this document from 13 August 2020.]

I, Thembelani Waltermade Nxesi, the Minister of Employment and Labour, acting in terms of Regulation 4(10) of the Regulations made by the Minister of Cooperative Governance and Traditional Affairs in terms of section 27 (2) of the Disaster Management Act, 2002 [Act No. 57 of 2002](#)) hereby issue this Direction.

MR TW Nxesi, MP

Minister of Employment and Labour

1. Definitions

In this Direction, unless the context otherwise indicates-

"**COVID-19**" means the 2019 coronavirus (SARS- COV2/COVID-19);

"**Directive**" means the Directive issued by the Minister of Employment and Labour on 25 March 2020 in GN 215 of 26 March 2020 GG 43161 as amended on 6 April 2020 and 16 April 2020 and corrected on 20 April 2020;

"**OHS Direction**" means the Consolidated Direction on OHS Measures (GNR 639 of 2 June 2020);]

"**remuneration**" bears the same meaning as the definition of the term in the Basic Conditions of Employment Act, 1997 ([Act No. 75 of 1997](#)) read with section 35(5) of that Act and the Schedule to Government Notice 69, GG 24889 of 23 May 2003;

"**vulnerable employee**" means an employee -

- (a) with known or disclosed health issues or comorbidities or any other condition that may place the employee at the higher risk of complications or death than other employees if infected with COVID-19; or
- (b) above the age of 60 years who is at a higher risk of complications or death if infected.

2. Incorporation of Directive for certain categories of employer and employee

2.1 Notwithstanding the lapsing of the Directive on 27 June 2020, the provisions of the Directive are incorporated in this Direction-

2.1.1 subject to sub-paragraph 2.4; and only

2.1.2 in respect of the employers referred to in sub-paragraph 2.2 and the employees contemplated to in sub-paragraph 2.3.

2.2 The employers referred to in sub-paragraph 2.1 are those contemplated in sub-paragraph 2.3.

- 2.3 The employees contemplated in sub-paragraph 2.1 are those employees whose employers are -
- 2.3.1 not permitted to commence operations, either partially or in full, in terms of the Regulations published by the Minister of Cooperative Governance and Traditional Affairs in terms of section 27(2) of the Disaster Management Act, 2002. ([Act No. 57 of 2002](#)) pursuant to the declaration of a national disaster dated 15 March 2020 in terms of section 3 of that Act;
 - 2.3.2 unable to make alternative arrangements for vulnerable employees to work from home or take other measures as contemplated in clause 20.3 of the OHS Direction;
 - 2.3.3 unable to make use of their services either fully or partially because of operational requirements based on the economic, technological, structural or similar needs of the employer caused by compliance with the Regulations made in terms of section 27 (2) of the Disaster Management Act, 2002 ([Act No. 57 of 2002](#)) or directions made under regulation 4(10) of those Regulations in particular the need to limit the number of employees at the workplace through rostering, staggering of working hours, short time, and the introduction of shift systems.
- 2.4 Clauses 3.5, 3.6 and 5.3 in the Directive are replaced with the following clauses:
- 3.5 Subject to clauses 3.6 and 5.3, a qualifying employee will receive a benefit calculated in terms of section 13 (1) of the UI Act.
 - 3.6 Should the benefit calculated in clause 3.5 together with any remuneration earned fall below R3 500, the benefit will be increased to ensure that the employee receives R3 500.
 - 5.3 Subject to the amount of the benefit contemplated in clause 3.5, an employee may only receive covid-19 benefits in terms of the Directive if the total of the benefit together with any remuneration paid by the employer for work performed by the employee in any period is not more than the remuneration that the employee would ordinarily have received for working during that period.

3. Application for benefits

An employer or employee contemplated in paragraph 2 may continue to claim Covid-19 TERS benefits contained in the Directive from 1 July 2020 and may apply for those benefits as provided for under paragraph 5 of the Directive and any additional procedural prescripts that may be required by the Unemployment Insurance Commissioner.

4. Commencement and duration

This Direction, despite the date of publication by notice in the *Gazette*, is deemed to commence on 27 June 2020 and remains in operation until 15 August 2020 unless the Direction is withdrawn by the Minister by notice in the *Gazette*.