



REDFERN & FINDLAY
ATTORNEYS

COVID-19

NEWS BLAST
21.04.2020

COVID-19 TERS REGULATIONS -

AMENDED FOR A THIRD TIME ON 16 APRIL 2020

CIRCUMSTANCES SURROUNDING COVID-19 ARE DYNAMIC AND EMPLOYERS NEED TO BE AGILE. ADVICE PROVIDED IS ADAPTED WITH THE EVER-CHANGING DEVELOPMENTS.

THIS EDITION:

- AMENDED COVID-19 TEMPORARY EMPLOYEE/EMPLOYER RELIEF SCHEME (C19 TERS), 2020, REGULATIONS

Amended COVID-19 Temporary Employee/Employer Relief Scheme (C19 TERS), 2020, regulations have been signed by the Minister of Employment and Labour on 16 April 2020. The amendment has yet to be gazetted.

We set out the key amendments in this issue.

1. Expansion of the purpose of the TERS regulations to cover payment of benefits to contributors who have been required to take annual leave in terms of S 22(10) of the BCEA due to the COVID-19 pandemic
 - Amends clause 2.1.1 (a)
 - Previously, it referred to payment of benefits to contributors who have lost income due to COVID-19.
2. Obligation on an employer to apply for COVID-19 TERS benefits for and on behalf of its affected employees should an employer close its business or a part thereof.
 - Amends clause 3.1
 - Previously, the clause recorded that should an employer close its operations for 3 months (or less), affected employees shall qualify for COVID-19 benefits.
 - Now, the use of the word “must apply” clarifies that the obligation rests with employers to apply for TERS, where employees are not being paid their full salaries (either in full or in part) or placed on annual leave.

- This is also linked to the social distancing requirement and avoiding individual employees approaching UIF offices to make applications.

3. Permitting an employer to set-off any TERS benefit amount received from the UIF, against the amount paid to the employee in respect of annual leave. The employee must then be credited with the proportionate entitlement to annual leave in the future.

- Addition of clause 5.4.
- It will be necessary to keep a proper record of any leave granted to employees and any set-off that is applied by employers.
- It must be noted that given that the TERS benefit is only a percentage of the employee’s rate of pay, any annual leave credited will only be a proportion of the annual leave granted.

4. Employers are urged to pay employees the COVID-19 TERS benefits and reimburse or set-off such with the COVID-19 TERS benefits claim payment received from UIF.

- Addition of clause 5.5
- This clause may not be practical as there is much uncertainty related to actual calculation of the TERS benefit per employee.

FOR ASSISTANCE WITH YOUR COVID-19 TERS APPLICATION, OR FURTHER ADVICE,

CONTACT US NOW: 033 347 0039