

FREQUENTLY ASKED QUESTIONS

IMPORTANT MATTERS RELATING TO UNEMPLOYMENT INSURANCE CLAIMS IN TERMS OF THE TEMPORARY EMPLOYEE / EMPLOYER RELIEF SCHEME (TERS)

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Introduction and background

The Minister of Employment and Labour issued a Directive in terms of Regulation 10(8) issued by the Minister of Cooperative Governance and Traditional Affairs in terms of Section 27(2) of the Disaster Management Act, 2002. This Directive implemented steps for employers and employees to obtain relief through the COVID-19 Temporary Employee / Employer Relief Scheme (TERS) (the Directive is referred to as the TERS Directive in this document).

Various questions have been raised in terms of when employers must claim the TERS or other UIF (Unemployment Insurance Fund) benefits. SAICA has tried to provide answers to the questions in consultation with the UIF.

The TERS Directive was published on 25 March 2020 and updated on 6 April 2020 and 16 April 2020, then corrected on 20 April 2020, and further amended on 30 April 2020 and 26 May 2020. The various amendments have led to different interpretations during this period. The Deputy Minister of Employment and Labour informed employers that the TERS benefits will be extended until 15 August 2020.

UIF COVID-19 TERS

1. How do employers know which benefit to apply for? Do employers apply for both UIF and TERS?

No, employers do not apply for UIF and TERS benefits. The TERS Directive states that should an employer as a result of the COVID-19 pandemic close its operations or a part of its operations for 3 months or less, affected employees qualify for the COVID-19 benefit (Directive 3.1) i.e. the TERS benefit. The amendment to the Directive removed the requirement that the company should be in financial distress.

The TERS Directive states that the benefits will only pay for the cost of the salary of the employees during the temporary closure of business operations. Employers are not required to claim TERS if they can afford to pay the employee, but if the employer meets the requirements they can claim the TERS benefit to assist them financially.

Subject to the provisions of the UIF Act a contributor or dependent is entitled to claim

- unemployment benefits;
- illness benefits;
- maternity benefits;
- parental benefits;
- adoption benefits; or
- dependant's benefits,

from the UIF.

Employees can therefore only claim either UIF or TERS. If the employer does not commence business after the three months that TERS can be claimed, employees can claim UIF benefits in the form of unemployment or reduced time benefit.

2. Can an employer apply for the TERS benefit if employees were requested to take leave in terms of the Basic Conditions of Employment Act?

Yes, as per the TERS Directive (as amended) employers that required employees to take annual leave may set off the amount received from UIF against the amount paid to the employee in respect of annual leave, provided that the employee is credited with the proportionate paid annual leave in future (clause 5.4 of the TERS Directive).

3. Can an employer apply for the TERS and ETI benefits?

An employer can qualify for both the TERS benefit and the Employee Tax Incentive (ETI).

The ETI is a tax incentive for employers that were registered with SARS on 1 March 2020. Please refer to the tax legislation for more information on the ETI.

4. Can a company claim TERS if they pay their employees?

If the company meets the requirements of closing the operations due to COVID-19 but they pay their employees a certain amount, the business can claim TERS for the amounts up to the employees' normal salaries less the money paid by the employer, up to the maximum benefit scale.

5. Can an employer submit a TERS claim and then top up the employees' salaries to their normal salary? For example, if an employee normally receives a salary of R10 000, can a claim for a TERS benefit be made and the employee then be paid the difference between the amount of the TERS benefit of R4 277 (as calculated, daily benefit rate of R328,77 X 41,97%(IRR) = R137,99 per day, 31 days x R137,99= R4 277) and the employee's salary of R10 000?

The TERS Directive originally did not allow for top-up of remuneration, but the amendments to the TERS Directive included clause 5.3 which states: "*Subject to the amount of the benefit contemplated in 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.*"

Therefore if the employer received R4 277 as TERS benefit to pay to the employee, the employer can top-up the remuneration with the amount of R5 723. The employee will receive a total remuneration of R10 000 which is not more than the remuneration that the employee would have ordinarily received for working during that period.

6. Will the employer be taxed on the amount received and can the employer claim the payment to an employee as a tax deduction?

Please refer to the SAICA 2020 [COVID-10 Tax relief summary](#) for the answer and other tax guidance.

7. Owners of businesses have always been excluded from applying for and receiving UIF benefits. Are the TERS benefits available to owners?

TERS benefits are only available to employees. An employee is defined in the Unemployment Insurance Act 63 of 2001, as any natural person who receives remuneration or to whom remuneration accrues in respect of services rendered or to be rendered by that person, but excludes any independent contractor. If the director / owner was also an employee and contributed to UIF then the director / owner can claim the TERS benefit.

8. Can two claims be submitted if a person is employed by two employers, collects two salaries per month, and contributes to UIF from each salary?

An employee can only claim the TERS benefit once. As the TERS benefit only allows an identity number to be used once, benefits for one employee cannot be claimed for twice. An employee's normal salary benefits cap will apply and an employee will only be able to claim to a maximum amount of R17 712 per month, and an employee will be paid in terms of the income replacement rate sliding scale.

9. Where an entity is providing an essential service and applied for a certificate, can the company still apply for TERS?

Yes, a company that provides essential services can still claim TERS for the non-essential part of the company's staff that is not providing essential services.

10. What is the difference between TERS and the National Disaster Fund benefits?

The TERS has been put into place in terms of the National Disaster classification and there is no other National Disaster benefit.

11. What is the difference between the amounts used of R17 712 and R14 872?

The UIF contributions to be paid by employers and employees are capped at R14 872 as per the Government Gazette No. 35715 dated 26 September 2012, *Determination of limit on amount of remuneration for purposes of determination of contribution in terms of section 6 of the Unemployment Insurance Contributions Act, 2002*. The UIF benefit is capped at R17 712.

12. How is the TERS benefit calculated?

The UIF calculates the employees benefits in terms of sections 13(1) and (2) of the UI Act.

The salary benefits will be capped to a maximum benefit amount of R17 712 per month and the employee will be paid in terms of the income replacement rate sliding scale (38%-60%) as per the UI Act.

13. What is the minimum amount that may be paid to an employee?

Clause 3.5 of the TERS Directive provides that, should an employee's income determined in terms of the income replacement sliding scale fall below R3 500, the employee will be paid a replacement income equal to that amount.

Clause 3.6 states that, qualifying employees (*which is not defined in the Directive*) will receive a benefit calculated in terms of sections 13(1) and (2) of the UI Act, provided that an employee shall receive a benefit of no less than R3 500.

Clause 5.3 states that subject to the amount of the benefit contemplated in clause 3.6, an employee may only receive COVID-19 benefits in terms of this directive if the total 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.

This implies that if the calculation to determine the replacement amount, results in an amount less than R3 500, then the person who lost income will be entitled to R3 500. If the calculation results in the employee getting more than the normal remuneration in total (that is the amount paid by the employer plus the amount calculated in terms of the scheme), then the R3 500 is reduced.

14. Is the payment from the UIF in terms of TERS made to the employee or employer?

The [UIF Frequently Asked Questions](#) state that for employers with less than 10 employees, the UIF will refund the employee. For employers with more than 10 employees the UIF will refund the employer who needs to pay the employees.

The on-line forms allow the employer to choose if they want the UIF to pay the amount into the employer's bank account, as in some cases employees do not have bank accounts.

15. Is there an advantage/disadvantage between claiming a reduced time benefit versus the TERS benefit?

Yes, it would be advantageous specifically to employees earning below the National Minimum Wage to claim the TERS benefit because if they were to claim normal unemployment or reduced time benefit the claim amount can be less than the national minimum wage.

16. Is the TERS benefit only available for companies who are completely closed, i.e. not including those companies that have lost revenue and are unable to pay salaries but employees are able to continue working from home?

Clause 3.1 of the TERS Directive states that should an employer as a result of the COVID-19 pandemic close its operations or part of the operations for a period of 3 months or less, affected employees shall qualify for benefits.

17. Will the TERS benefit apply to domestic workers as well?

Yes, clause 3.1 of the TERS Directive states that if an employer should close its operations due to COVID-19 then the employer can claim TERS benefits for the employee/s. There is no exclusion for domestic workers.

18. When applying for the TERS benefit does one apply for all 3 months at once, or month by month, as it cannot yet be ascertained how long the business will be closed?

The TERS benefit should be applied for month by month. The employer should enter the date that the employer is currently closed for. The UIF initially paid employers / employees for 35 days from 27 March to 30 April 2020. The UIF has indicated that they will request that employers indicate the number of days claimed for May, to ensure that the TERS benefit is only paid for the days not worked. This is to also take into account the change in Lockdown regulations and the move from Alert Level 5 to Alert Level 4 and then Alert Level 3 (and so on).

19. Where an employer and employee has agreed that the employees would be working but agreed to a reduction in salary as per their employment contract, can they claim UIF?

If the employees are still employed and agreed to a reduction in salary then the employer cannot claim UIF as the employer and employees agreed to the arrangement. The employees are working and are being remunerated by the employer. The TERS benefit can only be claimed by the employer if the operations are either partly closed or completely closed for the period as stated in clause 3.1 of the TERS Directive.

20. Where can one find information on the calculation and the sliding scale applicable to the TERS benefit?

Please refer to the [SAICA media release on the COVID-19 TERS misunderstanding](#). The media release sets out the formulae. SAICA also prepared a [calculator](#) to assist in the calculation of the TERS benefits.

21. In cases where a company pays salaries to staff for two of the three weeks' lockdown period, in lieu of annual paid leave, could those two weeks be claimed in terms of the TERS benefit? Or will the claim be limited to the 3rd week, where salaried staff are not paid, in lieu of unpaid leave?

Refer to clauses 5.3 to 5.5 of the Directive:

- Clause 5.3: Subject to the amount of the benefit contemplated in 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.
- Clause 5.4: An employer, who has required an employee to take annual leave during the period in terms of section 20(10)(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.
- Clause 5.5: 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.

22. What if the employer or employee has been overpaid?

Please refer to the [SAICA COVID-19 TERS update](#) (dated 19 May 2020) on the SAICA webpage that sets out how overpayments must be dealt with. The UIF also released information on [what happens after application](#) that can assist.

Clients are advised to first email the UIF with a request for refund before making a bank transfer. Clients should email the following documents/ information to covid19refunds@labour.gov.za making them aware of the transfer - Bank statement - UIF reference number - Payment breakdown report The UIF team will review the information and provide feedback as to the way forward. Should you require the banking details for the transfer, please contact the call center.

23. How can the UIF number be obtained if the employer is not sure?

Visit the [UIF COVID-19 webpage](#): Go to the button next to "Register" at the top of the page: "Get your UIF reference number". Click there and then enter PAYE number. The UIF reference number is then provided.

uFiling

24. If a company pays the UIF contributions via SARS, why must the company also declare to the UIF?

The Unemployment Insurance Act, 2001 (the UIF Act), specifically requires employers to submit information to the UIF on a monthly basis. This can be done via one of three methods:

- Manually submitting a UI19 on a monthly basis.
- Submitting via e-declarations via the payroll system.
- Submitting via uFiling.

Refer to section 56 of the UIF Act:

“S56. Information to be supplied by employer

(1) Every employer must, as soon as it commences activities as an employer, provide the information referred to in subsection (2) regarding its employees to the Commissioner, irrespective of the earnings of such employees.

(2) The information contemplated in subsection (1) must:

- (a) include the street address of the business, and any of its branches, of the employer;*
- (b) if the employer is not resident in the Republic, or is a body corporate not registered in the Republic, include the particulars of the authorised person who is required to carry out the duties of the employer in terms of this Act; and*
- (c) include the names, identification numbers and monthly remuneration of each of its employees, and must state the address at which the employee is employed.*

(3) Every employer must, before the seventh day of each month, provide the Commissioner with all information during the previous month in terms of subsection (1).

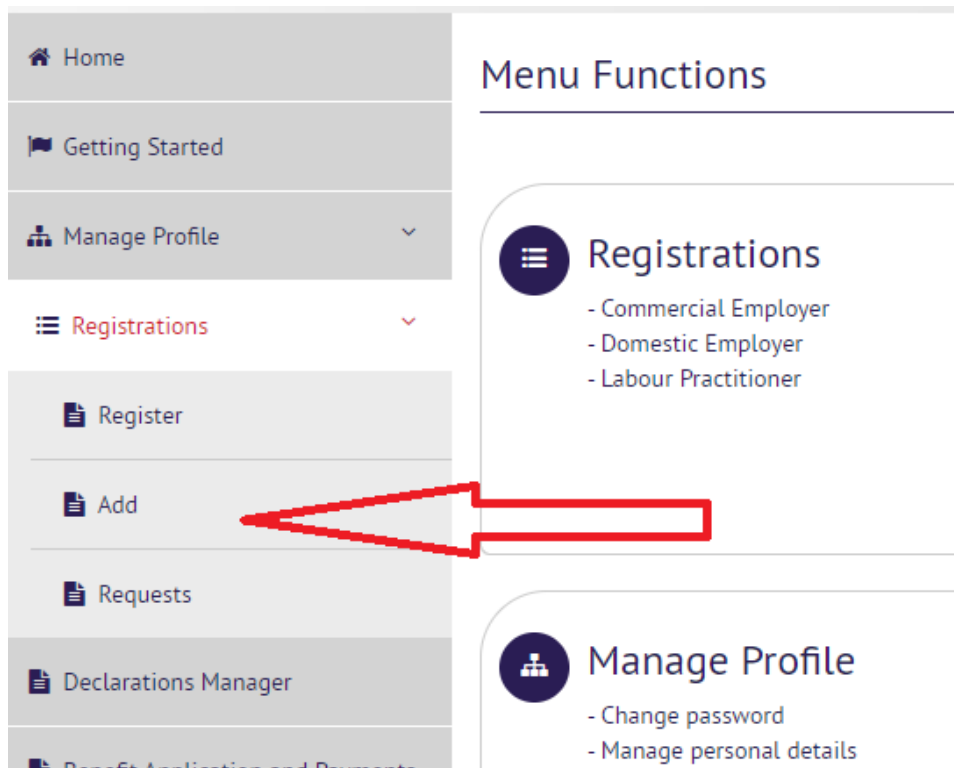
(3A) The Minister will issue regulations on a special dispensation applicable to domestic employers and small businesses or enterprises regarding the submission of information in subsection (3).

(4) The Commissioner may request the employer to provide such additional particulars as may reasonably be required to give effect to the purpose of this Act within 30 days of the request, or within such extended period as the Commissioner may allow.”

25. When trying to access uFiling various error message are received. What do the error messages mean and how can they be resolved?

There are various error messages that users receive when trying to access uFiling:

- UFL 1006 – please retry at a later stage, this might be related to the system being overloaded.
- UFL 3136 – ownership information is missing, please submit UI8 and CIPC documents to UIF.
- UFL 1020 – ownership information does not correlate with CIPC database, please submit UI8 and CIPC documents to UIF.
- UFL 3142 – the PAYE reference number is already associated with another registered user. The user is trying to register a new company but should be adding the company. Example: Below the “Register” menu item there is an “Add” menu item:



Questions answered on 31 July 2020 - SAICA and UIF webinar

26. When will the TERS benefit end?

The TERS benefit was initially introduced for a 3 month period, from 27 March to 30 June. The Department of Employment and Labour recently announced that the TERS benefit will be extended for a further 6 weeks until 15 August. The Fund could not yet confirm whether the 6 weeks will be claimed in one process or two separate processes. This will still be confirmed.

27. When will the claims process for April to June be closed?

The Fund is considering closing the applications for April to June but they will inform employers of the closing date. The UIF will not accept any new applications for April to June once the system closes, but all applications already received will be processed.

28. Employers are experiencing issues with CSV files and other errors. How can employers escalate or solve these problems?

Corrections are currently being done manually and the employers need to send the Fund an email with the relevant issues. This unfortunately takes time to correct.

The Fund is planning to implement some changes in the system that will allow employers to correct certain amounts and information, such as monthly salary, leave income and lockdown claim period from a date to be determined in August.

29. Why has the UIF recently introduced a bank verification process?

The UIF recently amended their banking verification process to strengthen controls. The UIF therefore implemented an additional banking detail verification.

[SAICA released an update](#) on the issues experienced with the bank verification. .

30. There are various problems with the bank verification process and certain employers cannot follow the verification process. What must they do?

Various practical issues became apparent once the bank verification process was implemented. The UIF is using ABSA as a service provider to verify the bank account details.

1. Individual / sole proprietor – individuals or sole proprietors might have included another bank account number for the funds to be paid. Going forward the bank account number must be linked to the identity number of the person receiving the money: either the employer, if the money is paid into the employer's bank account, or the employee, if the money is paid into the employee's bank account. The UIF is engaging with National Treasury to assist in verifying these employers.

2. Non verifiable banks – some banks are not part of the on-line verification community. The UIF is working with their service provider (ABSA) on verifying the bank accounts manually, but this takes time as this is a manual process where the other banks must verify their clients banking detail manually.

3. Non-profit organisations, schools, trusts, associations and other entities that do not have an identifier linked to the bank account – the UIF is engaging National Treasury to assist on the confirmation of these accounts.

4. Bank accounts – in some cases one bank account was used for various payments. The UIF now works on a “1 bank account, 1 client” basis and therefore clients that used an intermediary have issues with regards to the confirmation of the bank account number. The UIF is working on a risk-based approach to deal with the use of one bank account by various employers. These employers accounts might be impacted by the “risk block” discussed in question 32.

31. Can employers who employed new staff claim the TERS benefit.

Clause 3.7 of the TERS directive states that for a company to qualify for the TERS benefit the company must be registered with the UIF, the company must comply with the application procedure and the company’s closure must be linked to the COVID-19 pandemic.

The UIF also confirmed in the webinar that new employees that have been recruited during this period should be able to claim the TERS benefit if they meet the requirements.

32. Certain employers have received a “risk block” on their TERS applications. How can this be dealt with?

Where an employer receives a risk block on their TERS online application. The UIF confirmed that employers that have a “risk block” will be notified via a letter on the process to submit the required information and to have the block lifted.

33. How can employees be removed from the TERS system to claim UIF?

We have not yet received an answer on this question and we will update the answer once we receive feedback from the UIF.

34. Foreign employees

The UIF is still busy processing the foreign employees’ declarations and claims.

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Additional resources

[SAICA COVID-19 UIF webpage](#)

[SAICA Frequently asked questions on U-filing](#)

[UIF webpage](#)

[Webber Wentzel summary of SAICA and UIF webinar on 30 July 2020](#)