

## FAQ REGARDING COVID-19 AND THE LOCK-DOWN 26 MARCH TO 16 APRIL 2020

### Q. Whose decision was it to declare a lockdown?

A. The President of South Africa has the authority to do so under the Disaster Management Act.

### Q. What does the lockdown entail?

A. People not required to provide essential services will be restricted to remaining at home for the period from midnight 26 March to midnight 16 April 2020.

### Q. Who or what is regarded as an 'essential service'?

A. Select the following link for a summary of essential services according to the website www.iol.co.za: <https://www.iol.co.za/news/politics/coronavirus-lockdown-in-sa-these-are-the-businesses-that-can-operate-45431834>

### Q. Will the virus definitely be under control at the end of the lockdown?

A. This will depend on how widespread the infection rate is. We all have a role to ensure that we are not infected and that we do not infect others. Stay at home and minimise contact with others.

### Q. What measures will be implemented to assist employees?

A. A National Disaster Benefit Fund under the auspices of the UIF will be implemented to assist employees that are laid off without pay.

### Q. How much money will employees receive if they are laid off?

A. If approved, it is expected that payment under the National Disaster benefit Fund will be capped at R3500.

### Q. Will SMME's get assistance?

A. Registration for assistance is now open at [www.smmesa.gov.za](http://www.smmesa.gov.za)

### Q. What business qualifies as an SMME?

A. National Small Enterprise Act, No. 102 of 1996. This Act classifies businesses into micro, very small, small or medium enterprises, using a complex set of thresholds. These thresholds are summarised in Table 1 below.

Sector or sub-sector within the Standard Industrial Classification	Size	Total full-time equivalent of paid employees	Total turnover	Total gross asset value (fixed property excluded)
Various	Medium	100 – 200	R5m – R64m	R5m – R23m
	Small	50	R3m – R32m	R1m – R6m
	Very Small	10 – 20	R0.2m – R6m	R0.50m – R2m

Sector or sub-sector within the Standard Industrial Classification	Size	Total full-time equivalent of paid employees	Total turnover	Total gross asset value (fixed property excluded)
	Micro	5	R0.2m – R0.2m	R0.10m

**Q. What strategies can an employer consider w.r.t employees during the lockdown?**

**A.**

- Special paid leave to employees for the three-week period of the lock-down;
- Partial payment (a percentage of basic);
- Unpaid leave (layoff)

**Q. What steps must an employer follow if it cannot afford to grant paid leave during the shut-down period?**

A. The employer should brief employees on the virus and preventative hygiene measures (if this has not already been done).

The employer should assist employees by making on-line applications on their behalf to claim UIF benefits from the Department of Labour as announced by the President. This will be done through a specially created fund, the National Disaster Benefit. The following documents need to be submitted:

- Forms UI19 and UI2.7 (completed by employer)
- UI 2.1 (application)
- UI 2.8 (bank form completed by the employee's bank);
- Letter from the employer, confirming reduced work time due to the Coronavirus;
- Copy of the employee's ID document.

The employer prepares a letter to employees advising them that the business will close for the period of the lock-down and inviting them to make representations on how best to ameliorate their financial situation. (see Annexure A).

It is important that management shows empathy and reasonability and must additionally consult with employees as per the above letter (per 8.3). In doing this, the employer should remind employees to contact banks and any other parties to whom they owe money to advise them that they will be unable to make their repayments due to their loss of income/reduction of income during the lock-down.

This should be done in small groups ensuring the recommended social distancing.

It is important to hear them out and to give serious considerations to their proposals.

Options for consideration could include:

- Employees take annual leave;

- Employees take a percentage pay cut (e.g. 30% or 50% depending on whether this is affordable to the business– it might not be);
- Employees agree to work overtime after the lock-down to catch up on lost production and this be offset against advance payment of remuneration during the lock-down (if feasible);
- Employees are laid off for the period without pay and application for UIF benefits are made on their behalf.

As in all matters, if a trade union is involved, consultations should take place with the union (who might take a different and possibly adversarial approach). There is, however, very little time to arrange such meetings and it is doubtful that a trade union would agree to an urgent meeting. If necessary, invite the union to make urgent written submissions.

A record (paper trail) must be kept of all interactions, meetings, documents etc. dealing with the lock-down.

If consensus cannot be achieved, the employer will have little option but to declare a lay-off and notify the Department of Labour accordingly. In such event, for the period of the lock-down the principle of no-work, no-pay shall apply.

**Q. How do I apply for UIF assistance for my staff?**

A. Should you need to lay staff off, you must notify the Unemployment Insurance Fund which falls under the Department of Employment and Labour. You must then complete the following online forms <https://www.ufiling.co.za/> and steps to submit an application:

- Forms UI19 and UI2.7 (completed by employer)
- UI 2.1 (application)
- UI 2.8 (bank form completed by the employee’s bank);
- Letter from the employer, confirming reduced work time due to the Coronavirus;
- Copy of the employee’s ID document.

**Q. What can I do if our business can remain open (essential service) but an employee refuses to come to work?**

A. The employee is required to come to work if instructed to do so in an essential service business. Failure to do so is misconduct and may result in serious disciplinary action. The principle of “no work no pay” will also apply.

**Q. What should be done if an employee suspects that he/she may have contracted the Coronavirus?**

A. The employee must not come into work and immediately self-quarantine. He/she must contact their local doctor telephonically or a health care facility for advice on what to do next. Several health care facilities dealing with the virus are: Polokwane

Hospital in Limpopo, Rob Ferreira Hospital in Mpumalanga, Steve Biko and Tembisa hospitals in Gauteng, Grace Hospital in KwaZulu-Natal, Klerksdorp Hospital in the North West, Kimberly Hospital in the Northern Cape, Pelonomi Hospital in the Free State, Livingstone Hospital in the Eastern Cape and Tygerberg Hospital in the Western Cape.

The NICD website <http://www.nicd.ac.za/> is a useful source of information.

**Q. Can I lay off some of my staff without pay but keep others working if my business is an essential service?**

A. Yes you can. You will, however, need to follow a fair approach which involves consulting the employees concerned. Be aware to keep social distances when meeting with staff. Have small meetings in open areas. Apply for UIF benefits for the staff that have been laid off.

**Q. Can I decide that some of my employees work from home?**

A. Yes. You can make such arrangements if it is at all possible for employees to work from home.

**Q. If I am an essential service business and I have to decide between which staff to allow at work and which not, what selection criteria must I use?**

A. This is not a retrenchment process so the normal criteria of LIFO should not be applicable. You should rather decide on staff critical to the running of your business. If you do have to choose between staff, apply selection criteria that is fair and objective.

**Q. Can an employee be placed on forced paid leave instead of being laid off?**

A. Yes, the employer can force paid annual leave and those who don't have sufficient leave can go into a negative balance. When they return to work, they can work back the negative leave against leave accumulated. Try to get employees to sign an agreement in this regard.