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April Monthly Legislation Update

Presented by Caryn Maitland
2020

It's all about Corvid 19....

INTROVERTS




**CHECK
ON YOUR**

EXTROVERTS



**THEY ARE
NOT OKAY**

Can we get a
refund on 2020???



We are facing
many
challenges
beyond just
work....

HOW IS HOMESCHOOL GOING?

**2 STUDENTS WERE SUSPENDED
FOR FIGHTING.**

**ANOTHER STUDENT IS
REQUESTING TO TRANSFER TO
ANOTHER SCHOOL.**

**THE LUNCH LADY QUIT ON THE
FIRST DAY.**

**THE JANITOR HAS NEVER HAD TO
CLEAN SO MUCH MESSINESS.**

**AND A TEACHER WAS FIRED FOR
DRINKING ON THE JOB.**

GREAT. JUST GREAT.

Ok, time to get serious.

Many of us are anxious about our health and the health of our children. We worry how we will be able to make ends meet or if we will have jobs to go back to. The poorest of the poor worry where their next meal will come from. Our young people are unsure that they will be able to finish their studies or graduate. Business owners are counting the cost of the closures and what it will mean for them and those who depend on them to earn a living. Many feel vulnerable. Others feel frustrated and powerless. Many are afraid.

But we South Africans are a resilient people. We endured the worst excesses of a dark past and were able to emerge, united and strong. The virtues of courage, of optimism and of compassion carried us along the path to freedom, and they are what sustain us today.

Cyril Ramaphosa – Good Friday address 10 April 2020

First things first

- Who can still trade?
 - If you produce, manufacture or in any other way supply any of the defined essential goods or services as per regulation.
 - A third amendment has been released to the Regulations to the Disaster Management Act 2002, published by Government Notice No 318 of 18 March 2020, as amended by Government Notice No 398 of 25 March 2020 and Government Gazette Notice No 419 of 26 March 2020
- Amended subsequent to this, now need to know the stages..

Are you an essential
service?

Are accountants an essential service?

- Do you provide payroll services?
 - Than yes
- Do you support an essential service client?
 - Then yes, to the extent that you do their work
- Applications have been made to declared to profession an essential service due to compliance deadlines not being moved
 - Eg VAT submissions etc

Main categories under Stage 5

- Food (not restaurants/takeaways – yet)
- Drinks
- Financial services (absolutely not debt collection)
- Medical equipment/services
- Stationery
- Health services (including funeral and waste disposal)
- Assistance to children/the elderly

Call centres

- Additional regulations released on 9 April
- Please see attached GG 43224
- In short? Very onerous safety requirements and severe penalties for CEO's...

As of the 10th of April

- Government is investigating adding clothing/fabric manufacturers to the list for the production of cloth masks.
- <http://www.dsbd.gov.za/?p=3442>
- On the 13th, Government issued a request for information from all small food retailers: <http://www.dsbd.gov.za/wp-content/uploads/2020/04/RFI-3-Request-for-Information-Food-Household-Supplies-13.04.-2020-Final.pdf>

Not sure?

- If you have any queries about what an essential service is and if it applies to your sector, you can get in touch with lockdownexemptions@thedtic.gov.za or call +27 80 000 6543 or +27 12 394 5560 for advice regarding your specific business.
- Check the attached PDF's

Essential services

- Application for registration done via CIPC
- http://www.bizportal.gov.za/essential_service_apply.aspx
- Notes:
 - This is auto generated, not firm proof!
 - It is a criminal offence to apply for one if you don't qualify

Some practical considerations

- Always carry your ID
- Not specified, but please get the certificates of the people you are selling to. It seems prudent.
- This is not a blanket relief, you can only continue with those parts of your business that are essential.

Being taken very seriously...

- <https://www.sanews.gov.za/south-africa/suspect-arrested-selling-fake-permits>
- <https://www.sanews.gov.za/south-africa/non-compliant-businesses-shut-down-free-state>

Changing Stages

The 5 levels of lockdown



Level 5

Means that drastic measures are required to contain the spread of the virus to save lives.

Level 4

Means that some activity can be allowed to resume subject to extreme precautions required to limit community transmission and outbreaks.

Level 3

Involves the easing of some restrictions, including on work and social activities, to address a high risk of transmission.

Level 2

Involves the further easing of restrictions, but the maintenance of physical distancing and restrictions on some leisure and social activities to prevent a resurgence of the virus.

Level 1

Means that most normal activity can resume, with precautions and health guidelines followed at all times.

What relief is being offered?

Right, so what relief has been granted?

- Main categories:
 - Additional funding
 - For essential sector industries
 - For SME's
 - Special UIF claims (TERS)
 - Increases in tax incentives
 - ETI
 - Tax payment relief
 - PAYE
 - Prov Tax

Additional funding

- The place with the most up to date news and requirements!
<http://www.dsbd.gov.za/?cat=18>
- Types of funding?
 - Spaza shop
 - Essential services (SMME Business Growth)
 - SMME funding (SMME Debt Relief)

<https://smmesa.gov.za/>

Whatever you want –
register!!



small business
development
Department:
Small Business Development
REPUBLIC OF SOUTH AFRICA

COVID-19 SMME INTERVENTION MEASURES

SMME RELIEF FINANCE SCHEME

This facility is a Soft Loan Facility, aimed at assisting existing businesses in order to keep them afloat during the COVID-19 pandemic for a period of 6 months, from April 2020.



BUSINESS GROWTH AND RESILIENCE FACILITY



This facility will fund SMMEs who Produce or Supply health care and related products that are required to combat the spread of COVID-19 pandemic.

RESTRUCTURING OF SEFA-FUNDED LOANS

A payment moratorium/holiday will be given to sefa funded SMMEs for a period of a maximum of six months to reduce the instalment burden of loan obligations on clients during the COVID-19 period.



INFORMAL SECTOR

Tailor-made Facilities are being developed in consultation with Organised Informal Business Owners, Spaza Shops and the Self-Employed. These will be announced in due course.



Info@dssbd.gov.za | Info@mybindu.org.za | 0860 663 7867 | <https://smmesa.gov.za>

sefa
Small Enterprise Finance Agency

seda
SMALL ENTERPRISE DEVELOPMENT AGENCY
an Agency of the State

IMPORTANT CONTACT DETAILS COVID-19 SUPPORT FOR SMMES

APPLICATION AND SUBMISSION OF SUPPORTING DOCUMENTS FOR THE SMME RELIEF FUND

All applicants registered on the National SMME database (www.smmesa.gov.za) are eligible to apply for Debt Relief Finance Scheme or Business Growth/Resilience Facility online from the 2 April 2020.

*CONTACT US
WE ARE READY TO ASSIST!*



WEBSITES

The application form is now editable and downloadable from any of the following websites:

- <https://smmesa.gov.za/>
- www.dsbd.gov.za
- www.seda.org.za
- www.sefa.org.za
- www.mybindu.org.za

EMAILS

Complete application forms should be directed as follows:

Business Growth/Resilience Facility :
bizgrowth@sefa.org.za

Debt Relief Finance Scheme:

smmerelief@sefa.org.za

General enquiries : info@dsbd.gov.za

NB

All applications forms should bear a reference number obtained through the SMMSA registration or received via sms

HOTLINE

All telephonic enquiries should be directed to the National DSBD COVID-19 Hotline

0860 663 7867

#STAYHOME #STAYSAFE

Spaza Shops

- Main benefits are access to bulk buying prices and a “credit card” for use in approved stores.
- Requirements for application are similar to the full SMME application.
- Also provides assistance with legal and accounting compliance
- Please see www.dsbd.gov.za for more information

All other funding requests?

APPLICATION PROCESS

- Register on <https://smmesa.gov.za/>
- Complete online Application Form (to be released on Thursday, 02 April 2020);
- Upload Required Supporting Documents

SMME Business Growth

- To qualify must be in “essential” supplies sector – currently only available for medical supplies and certain foodstuffs.
- Will have to tick the appropriate sector on the www.ssmesa.gov.za registration form.

Paperwork? A lot...

- The business must have been registered with CIPC by at least 28 February 2020;
- Company must be 100% owned by South African Citizens;
- Employees must be 70% South Africans;
- Priority will be given to businesses owned by Women, Youth and People with Disabilities;
- **Be registered and compliant with SARS and UIF;**
- For non-compliant Micro businesses, Seda will assist them to comply and request for assistance must be sent to: growthfund@seda.org.za;
- Registration on the National SMME Database: <https://smmesa.gov.za/>
- Complete the simplified online application form available from www.dsbd.gov.za; www.sefa.org.za: <https://seda.org.za>
- CIPC Registration Documents;

- FICA documents (e.g. Municipal accounts, letter from traditional authority);
- ID Copies of Directors/members;
- 3 months Bank Statements;
- **Latest Annual Financial Statements or Management Accounts not older than three months from date of application;**
- Business Profile;
- **6 months Cash Flow Projections** – where applicable;
- Relevant Industry Certification – where applicable;
- Estimations for funding requested.

Some problems?

- Sole props/partnerships?
- Proof of citizenship of employees?
- Getting certified FICA docs now if you don't already have them
- **NNNNNNNB: TAX COMPLIANCE!!!!**

SMME Debt relief

- Aimed at all businesses that are negatively impacted by COVID-19
- In English? You had to shut down all or part of your business and were unable to continue trading.

Right, let's look at the application form

- Same form for both reliefs

Paperwork?

- The business must have been registered with CIPC by at least 28 February 2020;
- Company must be 100% owned by South African Citizens;
- Employees must be 70% South Africans;
- Priority will be given to businesses owned by Women, Youth and People with Disabilities;
- Be registered and compliant with SARS and UIF;
- Seda will assist micro-enterprises to comply and request for assistance must be emailed to debtrelief@seda.org.za;
- Whereas small and medium enterprises must ensure own compliance;
- Registration on the National SMME Database – <https://smmesa.gov.za>
- Proof that the business is negatively affected by COVID-19 pandemic;
- Complete the simplified online application platform;

- Company Statutory Documents;
- FICA documents (e.g. Municipal accounts, letter from traditional authority);
- Certified ID Copies of Directors;
- 3 months Bank Statements;
- [Latest Annual Financial Statements](#) or Latest Management Accounts not older than three months from date of application – where applicable;
- Business Profile;
- [6 months Cash Flow Projections](#) – where applicable;
- Copy of Lease Agreement or Proof ownership if applying for rental relief;
- If applying for payroll relief, details of employees - as registered with UIF and including banking details – will be required as payroll payments will be made directly to employees;
- SMME employers who are not compliant with UIF must register before applying for relief;
- Facility Statements of Other Funders;
- Detail breakdown on application of funds including salaries, rent etc.

Practical issues?

- Facility statement of other funders?
- Detailed breakdown of how funds will be used
- Tax compliance!!!
- Management accounts not more than 3 months old

Solidarity Fund?

- <https://www.solidarityfund.co.za/>
- Focused on:
 - Prevention
 - Detection
 - Care
 - Individual support

TERS/UIF

- Where to look?
 - Online Applications <https://uifecc.labour.gov.za/covid19/>
 - COVID 19: <http://www.labour.gov.za/easy-guide-for-employers-on-covid19>
 - FAQ's:
<http://www.labour.gov.za/DocumentCenter/Publications/Unemployment%20Insurance%20Fund/COVID%2019%20FAQ.pdf>

Key Features

- Must already be UIF registered and compliant
- Must have been contributing UIF
 - Domestic workers are included!
 - Independent contractors, spaza shops, etc not included...
- As this is a special exemption, will not impact future claims of employees, this includes potential future “actual” retrenchments.

Payment?

- Through Bargaining Councils or Employer Associations
- Directly to company and then employees (if not part of Bargaining Council)
- Alternatively – directly to employee (if less than 10 employees)
- Applicable for the lockdown period

Employees?

- If employee on leave with no pay:
 - Employer must assist employee with claim
- If you're an existing UIF recipient?
 - Business as usual...

Who can claim?

- Should an employer as a result 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 Covid-19 benefit.

Must I close completely?

- *a reduction in work following a temporary closure of business operations, whether total or partial, due to Covid -19 pandemic for the period of the National Disaster.*

Interpretation issue?

- The TERS applies to employers who are *“facing distress, on lockdown and unable to pay salaries due to the lockdown”*. This differs from the regulations previously published and which govern the TERS (**“Regulations”**) as well as the terms of the Memorandum of Agreement for employers (**“MOA”**) in that:
- The FAQs indicate that there must be an inability to pay salaries as opposed to a loss of income; and
- According to the FAQs, the financial distress must result specifically from the lockdown as opposed to the Covid-19 pandemic more broadly.

Other issue?

- Regulation says applications must be in before lockdown ends
- FAQ still refers to 21 days and the 16th of April.

Application process?

- Online now
- Email still required to be sent to: Covid19UIFclaims@labour.gov.za
- Will be sent the documents to be completed.
- Documents?
 - Letter of Authority, on an official company letterhead granting permission to an individual specified to lodge a claim on behalf of the company
 - MOA (completion of the agreement between UIF, Bargaining Council and Employer)
NB: Not required if less than 10 employees – also, format changed on 9 April 2020
 - Prescribed template that will require critical information from the employer
 - Evidence/payroll as proof of last three months employee(s) salary(ies)
 - Confirmation of bank account details in the form of certified latest bank statement

NB:

- The payroll/proof of salaries needs to be done in the Excel template received.
- UIF has only approved 136 of 16 534 applications because the CSV conversion wasn't done. (<https://www.moneyweb.co.za/news/south-africa/incomplete-applications-hold-up-uif-relief/>)
- Full details for conversion available here:
<https://uifecc.labour.gov.za/covid19/documentsJspController>

How much?

- Similar to maternity benefits, ie: can be a top up to anything the employer is paying
 - NB: Salary + UIF payment cannot be > normal salary
- Income replacement sliding scale:
 - 38% of R 17 712 = (R 221.28 per day) = R 6 638.40 for 30 days or R 6 859.68 for 31 days).
 - 60% for minimum wage
 - Can't be less than R3 500
- 2 interpretations with respect to the calculation...
 - Fact sheet – Salary R6000, Company pays R3500
 - TERS payout calc 1: R2500
 - TERS payout calc 2: R1000
 - ??????

The new MOA

- Must pay employees within 2 days of UIF receipt.
- Must keep reconciliation of payments made. UIF calcs trump yours.
- UIF has the right to audit and inspect records to verify information submitted.
- See here for examples: <https://www.fasa.co.za/covid-19-ters-benefit-what-you-need-to-know/>

Other concerns

- Employer can only apply for the TERS relief for people still on the payroll.
- If ill/laid off, employee must still apply at Online.BCP@labour.gov.za or <https://www.ufiling.co.za/>

Tax relief

Tax relief measures

- Bad news first...
 - The lock down days are still counted as working days for payments
 - They are not counted as business days for:
 - Objection processes
 - Court dates
 - Audit/interview/document completion requests
 - Prescription

How to contact SARS?

- See here for full details:
<https://www.sars.gov.za/Media/Pages/25March-LettertoTaxpayers.aspx>
- Short version?
 - Email (function specific email in notice above)
 - Call Centre

Employment Tax Incentive

- Increasing the maximum amount of ETI claimable during this four-month period for employees eligible under the current ETI Act from R1 000 to R1 500 in the first qualifying twelve months and from R500 to R1 000 in the second twelve qualifying months.
- Allowing a monthly ETI claim in the amount of R500 during this four-month period for employees from the ages of:
 - 18 to 29 who are no longer eligible for the ETI as the employer has claimed ETI in respect of those employees for 24 months; and
 - 30 to 65 who are not eligible for the ETI due to their age.
- Accelerating the payment of employment tax incentive reimbursements from twice a year to monthly

Examples:

Example 1

Employer A has 10 workers earning R4 500 per month each. The employer can retain up to an additional R5 000 from the employer's PAYE liability each month between April and July.

Example 2

Employer B has 3 workers. The employer claims the ETI for Employee A, the employer exhausted ETI claims for 27-year-old Employee B two years ago, and Employee C is 34 years old and has never been a qualifying employee. The employees each earn R4 500 per month. Employer B will be able to retain R2 500 per month. Since these are the only 3 workers, the amount will likely be claimed as a reimbursement from SARS.

	Remuneration	ETI	EXPANDED ETI	Total
Employee A	4500	1000	500	1500
Employee B	4500	0	500	500
Employee C	4500	0	500	500
Total	13500			2500

Points to note

- Normal compliance rules apply
- ONLY applies to people already registered as employers on 1 March 2020.
- Begins 1 April ends 31 July 2020
- This will therefore only change your April to July payroll and payments as of 7 May to 7 August.

PAYE relief

- Period: PAYE for April to July.
- Payments made? 7 May to 7 August
- Applies to?
 - Turnover < R100 million
 - Practical issue: Legislation refers to gross income?
 - Must be tax compliant
 - All returns
 - All debts paid

Relief granted?

- Deferral of 35% of the PAYE bill for each month.
- Total deferred must be paid in 6 equal instalments starting 7 September.
- No penalties and interest
- If understated PAYE liability, then penalties and interest apply.

Provisional Tax

- Deferral of a portion of the payment of the first and second provisional tax liability to SARS, without SARS imposing administrative penalties and interest for the late payment of the deferred amount;
- The first provisional tax payment due from 1 April 2020 to 30 September 2020 will be based on 15 percent of the estimated total tax liability, while the second provisional tax payment from 1 April 2020 to 31 March 2021 will be based on 65 percent of the estimated total tax liability;
- Provisional taxpayers with deferred payments will be required to pay the full tax liability when making the third provisional tax payment in order to avoid interest charges.

Prov Tax

- Period: 1 April 2020 to 31 March 2021
- Payments made? During that period
- Applies to?
 - Turnover < R100 million
 - Practical issue: Legislation refers to gross income?
 - Must be tax compliant
 - All returns
 - All debts paid

What does this mean practically?

- P1: Assume company with income of R1 million.
- Normal calc: $R1 \text{ million} \times 28\% \div 2 = R140 \text{ 000}$
- Now? $R1 \text{ million} \times 28\% \times 15\% = R42 \text{ 000}$

What does this mean practically?

- P2: Assume company with income of R1 million.
- Normal calc: $R1 \text{ million} \times 28\% - R140 \text{ 000} = R140 \text{ 000}$
- Now? $R1 \text{ million} \times 28\% \times 65\% - R42 \text{ 000} =$
 $R140 \text{ 000}$

And then?

- P3 will be needed to catch up the missing amount: $R280\ 000 - R42\ 000 - R140\ 000 = R98\ 000$

SARS examples

	FYE	estimated tax liability	P1	P2	P3	Total provisional tax
Company A	30-Jun-20	3 000 000	31-Dec-19	30-Jun-20	31-Dec-20	
	<i>current law</i>		50%	50%	0%	
			1 500 000	1 500 000	-	3 000 000
	<i>temporary relief</i>		50%	15%	35%	
			1 500 000	450 000	1 050 000	3 000 000
	cash flow relief			1 050 000		

	FYE	estimated tax liability	P1	P2	P3	Total provisional tax
Company B	28-Feb-21	800 000	31-Aug-20	28-Feb-21	30-Sep-21	
	<i>current law</i>		50%	50%	0%	
			400 000	400 000	-	800 000
	<i>temporary relief</i>		15%	50%	35%	
			120 000	400 000	280 000	800 000
	cash flow relief		280 000			

Other changes?

- Proposal for COVID19 PBO's
 - Will be subject to normal PBO rules
 - Will be able to issue s18A's
- For more information, please see the EM.
- Quite specialist, won't apply to most.

VAT relief?

- Yeah, no.
- The ONLY relief is on the importation of a very limited list of goods, which will be zero rated. In country sales still standard rated.
- Escalate refunds...

Funding

***“Never let a good crisis go to waste”
(Winston Churchill)***

- ***“The secret of crisis management is not good vs. bad, it’s preventing the bad from getting worse”
(Andy Gilman)***

Small businesses – the new relief programs

- the situation is changing daily, these are the main ones –
- The DSBD (Department of Small Business Development) will provide relief to businesses in several categories. Call the DSBD on its 0860 663 7867 hotline or email info@dsbd.gov.za to see if you qualify. Apply at <https://smmesa.gov.za/>.
- The DTI (Department of Trade and Industry) is set to provide relief for large businesses as well as small. Keep an eye on the DTI's [website](#) for developments.
- The Solidarity Fund has been set up with R150 million from the government to, amongst other things, assist and support those affected (contact details [here](#)).
- Employer and employee relief: Access the “Easy Guide for employers on COVID19” [here](#) and read up on the “Temporary Employer/Employee Relief Scheme” and UIF benefits from a special R30bn National Disaster Benefit Fund. Confirmation that employees who fall victim to the virus will be paid through the Compensation Fund - details [here](#).
- Other funds and relief measures: The Rupert and Oppenheimer families have pledged R1 billion each to help struggling small businesses and employees

- Specific industries are getting relief
 - DAFF for farmers
 - Retail rentals - The Property Industry Group
 - Taxi Industry
 - Department of Tourism
 - Sukuma-relief-programme (Business Partners)
 - Spaza Shop Grant Funding

Financial Reporting challenges

Going concern challenges

- **SUBSEQUENT EVENT**
- Loss of revenue
- Onerous contracts
- Impairments to assets
- Goodwill impairments
- Relief measures
- Access to supply
- Contractual penalties for failure to preform
- Valuations of assets
- Forex

Impact on Impairments, IFRS 9 and ECL

Budgeting and forecasting

- Over what timeline????
- cash flows implications
- Relooking at business model, costs and expenses
- Access to financing
- Compliance
 - AFS, tax etc
- Payment holidays
- Ever changing interest rates

CIPC

- relaxation on insolvency requirements
- Extension on deadlines – annual returns, etc

IRBA

- Implications of the COVID-19 outbreak on audits, audit firms and regulatory requirements
 - Impact of Corvid 19 on the Audit and Auditors
 - Impact of Corvid 19 - Extension of Reporting periods
 - JSE listed companies granted 2 month extension for reporting for Dec to Mar YE's
 - Impact of Corvid 19 on the Audit Report – Going Concern
 - Impact of Corvid 19 – File Assembly

Code of Conduct - Ethics

Ethical considerations

- Your independence
- Your capacity to work
- Understanding the technicalities
- Professional behaviour

Final thoughts...

Staff considerations

- Health and Emotional Well being of staff
 - Impact on productivity
- Brainstorming....
- Leave
 - Unpaid, annual leave, fully paid?
 - Credit insurance for staff not receiving salaries (loans after 1 Aug 2017)
 - Compensation Fund – Corvid 19 illnesses – exposure at work
- Trainees
 - Impact on training offices
- Skills of your staff – social media, tech, communication
- Remote access
 - Security considerations

Matters to talk to your clients about

- Strategy and recovery
 - Corvid 19 Business Plan
- Communicating with stakeholders
- Fast tracking the digital age
 - What will your business look like post Corvid 19
- Keeping your brand out there
 - Yours and your clients
 - Voucher system
- Industries that may emerge strongly
- Potential restructuring
- Data security...

QUESTIONS

A large, light grey graphic on the left side of the slide, consisting of several overlapping, semi-transparent chevron shapes pointing downwards.

THANK YOU FOR YOUR PARTICIPATION



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