

Fighting COVID 19: Supportive Measures for Businesses and Workers in South Africa

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South Africa has the [highest recorded cases of COVID-19 infections](#) in Africa. The Government has acted swiftly after COVID 19 was declared a global pandemic. This blog will discuss the measures that have been put in place by the government, in safeguarding businesses and protecting the rights of workers who are vulnerable to the socio-economic effects of the COVID-19. This will be divided into two sub-topics, namely measures taken during the declaration of national disaster and action initiated during the lockdown.

Declaration of a National State of Disaster

About 4 days after COVID-19 was declared a pandemic by the World Health Organisation, South African President Cyril Ramaphosa declared COVID-19 a [national state of disaster](#). This declaration of national state of disaster was made in terms of section 27 (1) of the [Disaster Management Act](#) (DMA), further, in terms of subsection (5), the declared national state of disaster runs for 3 months, thus lapsing after that.

The department of Employment and Labour issued a [Workplace Preparedness: COVID-19 \(SARS-CoV-19 virus\) guide](#) to assist employers preparedness for COVID-19. This guideline gives awareness for the categories of workers and their risk to COVID -19. Employers are required to ensure that workers have protective clothing, a safe working environment where proper hygiene is fully practised. This guideline further guides on effective human resource administration for workers during this COVID-19 period, such as self-quarantine when ill and minimizing contact with each other through social distancing.

The department of Trade and Industry through its minister issued [Consumer and Customer Protection and National Disaster Management Regulations and Directions](#), which are meant to prevent price gouging during COVID-19. Businesses that increase their prices on their products such as cleaners, surgical gloves, disinfectants, facial masks, all-purpose cleaners will be subjected to penalties.

Declaration of a Lockdown

Soon after confirming this national state of disaster, on 23 March 2020, the president [declared a 21-day lockdown](#) spanning from midnight 26 March 2020 to 16 April 2020 where all people in South Africa will be expected to stay at

home. Essential services such as medical workers, police, army and correctional services department, banks, businesses producing essential products, mines and supermarkets and fuel stations will be excluded from the lockdown. The movement of people allowed during the lockdown for the purpose of buying groceries in supermarkets, going to the pharmacy, accessing banking services, getting fuel and obtaining of social grants (pensioners and disabled).

Financial Intervention Strategies in Place by the Government for Small Businesses

With that said, the president in his [speech](#) highlighted financial intervention strategies for small and large businesses during this lockdown. A financial commitment was made by the [Rupert and Oppenheimer families](#) of R1 billion each (approximately USD 56 525 900 million each) to assist struggling small businesses and their employees with cash bailouts to cushion them during this 21-day lockdown. [Small businesses](#) will receive loans at a prime interest rate of 5% from the [500 million Rands](#) (approximately USD 28 961 000.00) availed by the department of Small business Development. However, strict conditions must be met before one can receive such a loan. These include

- 100% ownership of the business by a South African citizen,
- proof that 70% of the employees are South African citizens and
- evidence that the applicant is tax compliant.

Small businesses will have to register on the website of the [Department of Small Business Development](#) to access these funds.

The [Department of Tourism](#) has been allocated a budget of 200 million Rands (approximately USD 11 418 168.00) to support small tourism businesses to mitigate the impact of COVID-19. Those eligible tourism businesses must have a turnover of less than R2.5 million (approximately USD 142 941.30) per year. Targeted small tourism companies include Bed and Breakfast Lodges, tour operators, professional caterers for events and gatherings. These businesses must have

- [BBBEE compliant status](#),
- been in operation for at least one year,
- prove their tax compliance obligations,
- prove minimum wage compliance and
- prove that request for relief is a result of the impact suffered by COVID-19.

These measures in the tourism business are mainly concerned with mitigating the potential loss of livelihood of workers in these tourism establishments right across all nine provinces of South Africa.

Tax Measures Put in Place by the Government to Cushion Businesses and Workers

The government has given Businesses with [a turnover of less than 50 million Rands](#) (approximately USD 2 883 575.00) a four-month holiday on certain types of tax. Businesses can also delay one-fifth of their tax based on 'pay on you earn'. These Businesses can also delay paying a portion of their provisional and income tax for 6 months without penalties. About 75 000 small and medium enterprises will benefit from this tax holiday. Workers earning less than 6500 Rands (approximately USD 370) will receive a tax subsidy of 500 Rands (approximately USD 28.46) for the next 4 months under the [employment tax incentive scheme](#). This will cover roughly 4 million workers.

Registration as an Essential Service by Businesses

The Minister of Trade and Industry made an announcement calling on businesses that have been permitted to operate as essential services during this lockdown to register themselves with the Department of Trade, Industry and Competition. During the duration of this lockdown, only businesses deemed as critical will be allowed to operate. The list of businesses classified as essential services was published in the [government gazette No. 11062](#) on 25 March 2020. These businesses can make an online request found at the [Companies and Intellectual Property Commission website portal](#). This process involves a declaration that the business is an essential service.

Social Security for Workers

South African labour law makes it mandatory for the employer to register the employee with [the Unemployment Insurance Fund](#) (UIF). UIF is a 2% deduction from the worker's remuneration directed to the UIF in the form of social security to the worker or his dependents as funds to survive in the event of employment ending or death. The [UIF Amended Act of 2016](#) states that workers can claim their UIF benefits for reduced working hours. If a business intends to shut down temporarily, such business must inform the UIF, and a team of UIF officers will visit the business to provide assistance in processing workers UIF claims. This process comes at the right time when many businesses have either temporarily closed or cut down on staff down in the wake of COVID-19 effects. The National Disaster fund has allocated [about 30 billion Rands](#) (approximately USD 1 733 272 470), and this will pay UIF benefits for 3 months for workers whose income was negatively affected by the impact of COVID-19. However, they many workers such as [domestic workers](#) and [farm workers](#) employed by errant individual people and businesses that do not register them with the UIF. Most of these errant employers are reluctant to pay such workers sick leave and paid annual leave These workers also have a [constitutional right](#) in terms of section 23 (1) to fair labour practice read with section 185 (b) of the [Labour Relations Act](#) in light of the devastating impact of COVID-19 on their livelihoods. The legal consequences arising from the conduct of those errant

individuals and businesses in not giving workers paid leave, failing to comply with the rules of registration with UIF and not paying monthly contributions to the UIF in the wake of the COVID-19 situation remains to be seen.

Concerns for Social Security from the Informal Sector

According to the [quarterly labour force survey](#), the informal sector has about 3 million people. Most informal traders do not pay taxes, because [70%](#) of them earn less than the pegged [income tax threshold](#) of 89 000 Rands per annum (approximately USD 5 086.99). This lockdown is an extremely tricky situation, mainly because scores of informal traders cannot afford to be outside the informal labour market. The government has pointed out that [UIF will not be extended to the informal sector](#) under this COVID-19 lockdown, governments reason is that there is no compelling legislation government to do so. While UIF legislation is not the suitable legislation to deal with this situation, [Olivier in 2011](#) forewarned of lack of legislation that protects those in the informal labour market and those who are unemployed. COVID-19 measures on lockdown depict the forewarnings of Oliver were not addressed by the government. The measures do not demonstrate how the informal sector will be covered in light of the 21-day lockdown without any income made. The current net worth of [UIF assets is at 180 billion Rands](#) (approximately USD 10 425 960 000). The UIF annual report of the financial year ending 31 march 2019 confirms the availability of [Surplus UIF funds](#). [One media source](#) states that these surplus funds as of February 2020 are in the amount of 100 billion Rands (approximately USD 5 702 970 000.00). One [state-owned enterprise](#) was eyeing these surplus funds for its own business recuse purposes weeks before COVID19 outbreak in South Africa. UIF has been silent on considerations of distribution of these surplus funds to the unemployed and informal sector in light of the 21-day lockdown and any scenarios that may occur after this lockdown.

Conclusion

The most recent measure of a lockdown is necessary and welcomed, considering that cases of COVID rose from 68 to 1,155 active cases and 1 death in just 2 weeks at the time of writing this blog. Although business rescue funds have been put in place for small businesses, these measures may fall far short of the need to rescue many businesses who have to pay their workers and retain these workers after this COVID-19 is over. With regard to errant employers who never registered their workers with UIF and are likely to give workers unpaid leave or terminating these jobs, it is anticipated that the government takes action. Perhaps it will be rational in the [spirit of ubuntu](#), to see the government in the light of COVID-19 lockdown waiving the requirement for people to have been UIF registered before the occurrence of COVID-19 to be eligible for UIF benefits. In the current circumstances, these surplus funds can be used to rescue unregistered workers and informal traders unconditionally. These workers and informal traders may not have any personal savings in this hard and uncertain period as most survive on hand

to mouth. It remains anticipated that government will come with new regulations that cover the informal sector, workers not registered with UIF and many potential businesses that may fall short of the requirements of benefiting from the small businesses fund.

