



INTERPRETATION DOCUMENT: COVID19 TERS SCHEME

This document will unpack the various stages of the covid19 TERS scheme and provide an explanation / insight into the operationalisation of key concepts of the scheme and how claims received were processed. The processing of the TERS claims evolved considering the Auditor General report, Social Partners contributions, and continuous evaluation and enhancement of the systems and processes that governed the payment of benefits to employees affected by the lockdown.

DIRECTIVES GOVERNING COVID19 TERS

As Covid19 lockdown regulations adjusted, extensions to TERS were agreed, and directives explaining – and clarifying - eligibility criteria were published.

Directive 1 signed on 25 March 2020:

- The introduction of the National Disaster Benefit to be used for social security during the lockdown period was intended to assist employers and employees that suffered financial distress as a direct result of Covid19 pandemic.
- Scheme was introduced to cover loss of income by employees
- Provided for the online application process to avoid contact during the national disaster period.
- Covered a period of three months (26 March – 31 May 2020)
- Benefit Calculation considerations:
 - Delinked from credit days (all employees, not only contributors could apply)
 - Capped salary of R 17 712.00
 - Sliding scale of benefits (38 to 60%)
 - Introduced sector minimum wage
 - Benefits were calculated using section 12 and 13 of the UI Act

Directive 2 signed on 06 April 2020:

- Removal of Financial distress criteria for employers meant that all employees that were affected by the lockdown could apply for benefits
- Temporary lay-offs, and eligibility for these employees to apply for TERS was introduced
- Simplification of sector minimum wages, with a standard R3500 (as minimum wage) was introduced
- Clarity was further provided that those employees receiving partial payment could still apply for – and receive – TERS benefits providing that the amount received from UI (TERS) and Employer should not exceed the employee's normal monthly remuneration.

Directive 3 signed on 16 April 2020:

- Legalize and compels employers to apply on behalf of their employees.
- Employees who were forced to take leave during lockdown could be applied for, providing that TERS benefits received would be offset against leave, with applicable leave days credited back to employees. The employer could accordingly retain this amount.
- Leave income and advances not regarded as remuneration for TERS – thus Employer did not have to declare that portion on the TERS claim.
- Clarification that Employer can offset from TERS benefits any leave credits or advances paid to the employee.



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Directive 4 signed on 20 April 2020:

- Removal of section 12, thus altering the calculation of benefits, meaning that TERS would be paid out (top up) to the normal monthly salary amount, rather than the benefit level.

Directive 5 signed on 30 April 2020:

- Make provision for Employees to apply for COVID19 TERS for themselves if their Employer is unable to/ refuses to apply for them.

Directive 6 signed on 25 May 2020:

- Clarifies the definition of a worker, to include even those who may not have previously been declared, so that employees should be penalised for the non-compliance of employers. Clarified the eligibility to claim for employees whose salaries had been temporarily reduced (even if working), due to Covid19.

Directive 7 and 8 signed on 11 August 2020 and 4 September 2020:

- Allowed for the extension of the COVID19 TERS benefit effective from 01 July 2020 until 15 August 2020, and from 16 August 2020 to 15 September 2020 and 16 September to 15 October 2020 for specific categories of employees as outlined in the directives.

DETAILED EXPLANATION TO KEY CONCEPTS:

Calculation Rules:

PERIOD	CALCULATION RULE
14-APR-2020 to 20-SEP 2020	<ol style="list-style-type: none"> 1. Use the salary received from Employer in TERS (Avg Sal) 2. Calculate Daily Income (DI) = Avg Sal * 12 / 365 3. Calculate Daily Benefit Amount (DBA) = DI * IRR/100 4. Calculate the Daily Remuneration During lockdown (leave income) = Leave Income * 12/365
21-Sep-2020 to 15-Oct-2020	<ol style="list-style-type: none"> 1. Compare the most recent employee salary as declared (March 2020 to Jan 2020) and compare this figure with the salary received from Employer in TERS. Use the lower of the two values as Average salary for TERS benefit calculation purposes. If no declaration is found in Siyaya, then use TERS salary. (Avg Sal) 2. Calculate Daily Income (DI) = Avg Sal * 12 / 365 3. Calculate Daily Benefit Amount (DBA) = DI * IRR/100 4. Calculate the Daily Remuneration During lockdown (leave income) = Leave Income * 12/365 <p>For 46 days' payment in July/Aug period the leave income is calculated as Leave Income/No of days' application is made for</p>
16-Oct to 31-Dec-2020	<ol style="list-style-type: none"> 1. Calculate the most recent employee contributing salary as declared (March 2020 to Oct 2019) using 6 months to determine average salary. 2. If no contributing salary is found in point 1, then go back 6 months from current date to calculate Average Salary. 3. If no declaration is found in Point 1 and Point 2, then go back up to 4 years from current date to find the contributing salary and use average of 6 months from there. (Avg sal) 2. Calculate Daily Income (DI) = AvgSal * 12 / 365 3. Calculate Daily Benefit Amount (DBA) = DI * IRR/100 4. Calculate the Daily Remuneration During Shutdown (leave income) = dailyLeaveIncome = ((leaveIncome/2.5 * 12)/365)



Calculation first payment period:

- TERS calculation commenced on the 18.04.2021, those calculations covered:
 - Covered the minimum wage rule of R3500
 - Section 12 (1) b --- that is payment from employer and UI must not be more than benefit level as determined by the sliding scale (38% to 60%) – subsequently changed – see below
 - And leave income and advances given by employer to employee was part of the remuneration received – subsequently changed – see below
 - However, Directive dated 16.04.2020 and 20.04.2021 brought in the following changes:
 - Leave income and advances not seen as part of remuneration earned during lock down and can be off settled against UI TERS benefits received, provided employee got credited for corresponding number of leave credits.
 - Removal of 12(1) b as part of the calculation, thus *payment from employer and UI must not be more than normal monthly salary the employee could have earned during that period – not benefit level.*

Execution (and assessment of compliance):

Salaries: (27.03.2020 to 21.09.2020)

- As stated, the salary submitted by the employer in the TERS claim was used to determine TERS benefits
- Key concept used as per Directive dated 06.04.2020 ... the remuneration that the employee would ordinarily have received for working during that period.
 - The above also includes the averaging of the salary over the last 6 months, provided the employer can substantiate the monthly salary as stated in the claim to the UI
 - The above only applies to payment till 20.09.2020, thereafter, UI used the data base to determine the monthly salary to be used in benefit calculations.
- Thus, the employer must support salary used in the TERS claim during audits
- The revised explanatory notes dated 23.08.2021 for iteration 4 (01.07 to 15.08.2020 supported; temporary reduction in the employee's ordinary remuneration. This rule is further applicable for claims from 27.03.2021 to 30.06.2021
 - Employers who temporarily reduced salaries (even for those who were working), due to operational requirements or as mitigation against retrenchment, were entitled to claim TERS for these affected employees, but should be able to provide necessary proof of communication to employees.

Advance Payment:

- If the employer made an advance payment, not related to work performed, to the employees who were affected by lockdown, the employer is entitled to offset the COVID19 TERS funds against the advance payment. The funds (equivalent to the advance) can be kept by the employer subject to reconciliation being performed between amount received and amount paid, and any remaining TERS benefit being paid across to the employee or refunded to the UIF (if applicable).

Leave days' credits:

- If the employer paid employees utilising annual leave, and then claimed for COVID19 TERS, the employer should calculate the value of the leave days equivalent to the benefit received and credit back these leave days to the employees.



- If leave income and advances were stated in the TERS claim, recalculation was done, and underpayment authorised to employers.

Minimum wage R 3500

- If benefits to be paid was less than R3500, employee's TERS benefit was topped up to ensure R3500 pay-out to the employee.
- If income given to employee plus TERS benefit amount is less than R3500, then UI benefits is increased to arrive at the cumulative total of R3500 for the period.

SASSA GRANTS and Student Funding

- The receipt of a SASSA grant does not affect or influence the payment of TERS to qualifying employees. However, the employee should inform SASSA that he/she is in employment, which could influence the amount he/she receives from SASSA following the revised means test.

Refunds to UIF

- If the employee is receiving less than the minimum wage (R3500 per month), his / her TERS benefit pay-out will always be greater than THE NORMAL salary. In this instance, no refund is necessary.
- The same applies to the cumulative amount of UI benefit and employer payment, can be greater than normal salary but no more than R3500, no refund is necessary.
- Refund is permissible
 - Incorrect claim by employer / incorrect interpretation of Directive
 - Amount cannot be given to employee
 - Amount received is greater than normal salary (factoring min wage)

TERS payments

- Employees must be in employment with that particular employer to qualify for benefits
- Terminated employees do not qualify
- Depending on the circumstances an employee could be employed during lockdown, however, the employer must provide proof of the recruitment process.
- TERS payments are permissible for vulnerable; comorbidities and or isolation / quarantine cases.

Death of employee

- Amount received can be handed to Dependants if period is before date of death
- If period is later than date of death, then entitlement is to the day before date of death, and TERS benefits should be paid to employer/employee. Thereafter dependants should apply for death benefits via the usual UIF processes.

EVIDENCE

- Any relevant, reliable, and conclusive evidence is accepted.
- ***In case of suspected fraud:*** Recorded conversation will be accepted as evidence and ideally sworn affidavit provided, in the case of suspected fraud.

REPORTS

- All audited employers are entitled to an audit outcome report which clearly states key findings/ deviations and reasons thereof.