

TEMPORARY EMPLOYER / EMPLOYEE RELIEF SCHEME (TERS)

WHAT IS THE TERS?

The TERS is a 12-month (maximum) solution which benefits employers and employees in companies facing distress. **[This TERS is not to be confused with the Covid-19 TERS which is a different scheme and which is directly applied through the UIF]**

It enables the retention of employment by such companies in a manner which has little cost to the employer and which ensures employees continue to receive an income.

It also gives companies the maximum opportunity to recover during the temporary relief from distress and to re-absorb employees into ordinary work at the end of the TERS.

Companies can implement a turn-around strategy on their own or through Productivity SA during the period of participation.

Under the TERS, employees affected by short-time / layoffs / possible retrenchment may be placed on SETA-funded training for up-skilling / re-skilling for a maximum of 12 months and during this period their wage cost is covered by the UIF and not by the employer.

Employers are only required to cover the social contributions of employees (e.g. provident fund, death benefits, medical aid, etc.).

Employers are also encouraged to top up on the amount paid to the employees by the UIF.

Where training occurs, it is conducted by SETA-funded service providers either on-site or off-site and is either linked to the skills-needs of the employer or needs of the economy.

The TERS is flexible. If it is used for a layoff, employees will be on the TERS every working day of the period of layoff/ period approved for by the Single Adjudication Committee (SAC).

If it is combined with short-time, employees will only be on the TERS during the days when there is no work in the company over a 12-month period.

Participation in the TERS is voluntary and by agreement between the company and the employees.

BENEFITS FOR EMPLOYERS

The benefit of the TERS for struggling companies is that they can:

- i. reduce their wage costs for employees on the TERS over a 12- month period, or less, while in distress;
- ii. use this period to focus on recovery;
- iii. bide their time for a favourable change in market conditions; and
- iv. have a better skilled workforce available at the end of the program to enable more competitiveness.

The benefit for employees is that instead of having no earnings, working short-time or being laid off, or facing the risk of retrenchment, the TERS provides employees with income while in some instances, also ensuring they receive training and have a better prospect of avoiding

retrenchment/securing alternate work at the end of the TERS.

An employee on the TERS receives 75% of their ordinary wage / salary up - to a maximum of **R205 433,30 per annum – all of which is paid by the UIF. Employees earning above the threshold are eligible for participation, but will only receive the above mentioned income.

** (GN 531 of GG 37795 of 1 July 2014 read with Chapter Two of the Basic Conditions of Employment Act 75 of 1997 – also known as the “BCEA threshold” which is adjusted from time to time by the Minister)

WHO QUALIFIES FOR TERS?

Employees who are facing short-time, lay-off or possible retrenchment.

Businesses that are in distress and may benefit from the short-term relief on the salary bill. There must be a reasonable chance that the business will improve as a result of the temporary relief.

Businesses that are facing operational distress. For example, where a business has guaranteed orders for particular products, but cannot produce same in the short to medium term due to unforeseen supply chain blockages.

HOW TO ACCESS TERS

The employer may consider participation in the Scheme at the first sign of either financial, operational or employee distress:

TEMPORARY EMPLOYER / EMPLOYEE RELIEF SCHEME (TERS)

A request to participate may come directly from the workplace.

During a S189A (large-scale retrenchment) process or any other collective bargaining dispute, the parties may explore participation in the Scheme.

All requests to participate in the TERS must be made via the CCMA, on the TERS Application Form and submitted to the CCMA. TERSapplication@ccma.org.za

The applicant may request the CCMA to facilitate a TERS Agreement on the TERS Application Form.

The CCMA facilitator will explain how the Scheme works and assists the parties to reach an agreement to participate in the TERS. The facilitator will check to ensure that all the documents are complete.

The employer must provide financial information to show that the business is in distress or is facing distress. i.e.

- Annual financial statements (AFS) (audited) for the past 12 months. If the business/company is not required to be audited by law, the AFS must be independently reviewed in terms of the International Standard of Review (ISRE) 2410/ ISRE2400 standard of accounting.
- Management Accounts with comparative figures for the same period if the AFS are older than 3 months (must be independently reviewed in terms of ISRE2410/ ISRE2400 standard of accounting) in the same format / structure as their AFS.
- Any other evidence, e.g. order books, production schedules, etc.

Information that is submitted is private and confidential.

The SAC has the discretion to invite applicants to make oral representations.

In exceptional circumstances, a company may request to make representation directly to the SAC.

The TERS Single Adjudication committee - comprising of CCMA, Productivity SA, Department of Trade, Industry & Competition(DTIC) and Unemployment Insurance Fund (UIF) representatives - recommends participation in the TERS in the form of a Recommendation Ruling.

DOCUMENTS APPLICABLE

- TERS Application form
- TERS Agreement
- Annexure A and B (Employee list (spreadsheet))
- Terms and Conditions (initialed at the bottom of each page)
- Financial Statements
- Employer's slide Presentation (covering business case and turn-around strategy)
- Annexure C (Mandate form, where employees are non-unionized)

FOR MORE INFORMATION

Contact the Employment Security Unit (ESU) or Dispute Prevention and Workplace Outreach (DP&WO) Commissioner or Coordinator at your nearest CCMA office or dial 0861 16 16 16 and wait to be diverted to your nearest CCMA office.

TERS applications can either be hand delivered to any CCMA Provincial Office, or forwarded to tersapplication@ccma.org.za.