

National Council of Provinces

Ministerial Briefing: Employment and Labour

Subject: 'Progress made on measures to mitigate the impact of the Covid19 pandemic on employment and labour, as well as response to allegations and cases of fraud and corruption relating to the Covid-19 pandemic'

13.10.2020

Input:

TW Nxesi MP, Minister of Employment and Labour

Protocol:

- Honourable Chairperson and Deputy Chair of the NCOP
- Honourable members
- DM, DG and Senior Management of the Department, the UIF and the Compensation Fund
- Members of the media, ladies and gentlemen

Thank you for this opportunity. I take very seriously these engagements with Parliament – where you hold the Executive and officials to account. It is one of the cornerstones of our democratic system.

The NCOP has asked to be briefed on the Department of Employment and Labour's response to the pandemic and the consequent lock-down, in particular the steps taken to mitigate the impact of the pandemic on employment and labour. You will also want to hear the steps taken to address and remedy the issues raised by the Auditor-General's Office in their audit of the UIF, particularly the Covid19 Ters Benefit system.

I would like to take this opportunity to briefly provide a broad context of the Department's response to Covid19 and the lockdown required to slow the spread of the pandemic.

Let us start by casting our minds back six months to the onset of the Covid19 pandemic, and the terrible journey we have been through in that relatively short period:

- A health crisis of unforeseeable and massive proportions – which took the lives of over 17,000 fellow South Africans – some say far more than that – and certainly affected the lives of many, many more.
- Then the lockdown to slow the progress of the virus – to buy time to ready our response to the health threat – and with it the economic damage and the impact on livelihoods and food security.
- And from the side of government, the need to move rapidly to put in place wholly new systems to mitigate the impact both of the pandemic and the consequent lock-down and economic fall-out.

As the Department of Employment and Labour we were directly involved in the following areas:

- In regard to the Unemployment Insurance Fund (UIF) – designing and putting in place systems to distribute

the Covid19 Ters benefits – completely separate from the traditional UIF benefit system;

- From the side of the Compensation Fund – changing and putting in place regulations and measures to support workers infected at the workplace, and
- The Inspection and Enforcement Services Branch (the Labour Inspectorate):
 - Developing numerous regulations and directives to keep workplaces safe during the pandemic, and especially in relation to the gradual return to work.
 - Inspecting workplaces and enforcing existing health and safety regulations as well as the new Covid19 regulations.

I believe it is important to acknowledge the role of the Labour Health and Safety Inspectorate - on the frontline in combatting the virus. Also, I need to inform the House that, this year, we have recruited an additional 500 Health and Safety Inspectors. A positive take-away from this is that we will emerge from this difficult period, as a Department, with a much strengthened

occupational health and safety inspection and enforcement capacity.

During lockdown levels 5 through 2, up until 14th September, nearly 7,000 inspections were carried out: 5,406 in the private sector; 1,434 in the public sector. These inspections took place in every province, every economic sector, and across the private and public sectors.

The level of compliance with health and safety regulations was well below par:

- 58% compliance in the private sector; and
- a lowly 45% in the public sector.

3,710 non-compliance notices were issued during this period, including 611 Prohibition Notices – closing entities' operations, either wholly or in part. This is particularly worrying given the spread of the pandemic.

Full disclosure: four of those Prohibition Notices were served on Department of Labour and Employment premises. So these inspections are conducted without fear or favour. And none of us can afford to be complacent.

I need to thank the socially-responsible employers who do ensure compliance with health and safety regulations, as well as unions and workers who provide tip-offs to our inspectors.

By the way, in terms of ILO guidelines, we would need some 10,000 Labour Inspectors to fully cover the economically active population of South Africa. So we need all the help we can get from employers and labour.

UIF

- In regard to the UIF – the task was to create and deliver the wholly new Covid19 Ters Benefit Scheme – to meet

the crisis of the pandemic and the lockdown, and to provide income support to temporarily laid-off workers.

- In this endeavour, process and consensus-building was very important. What we achieved was only possible because of the collective active support of all the social partners at Nedlac.
- Remember the UIF was faced with massively increasing the volume of disbursements – in fact, a tenfold increase. It was the discussions at Nedlac – and the agreement to make mass disbursements through Bargaining Councils and employers' payrolls – that provided the breakthrough – allowing the Covid benefit to be distributed on this unprecedented scale.
- This also addressed the problem of Labour Centres being overwhelmed by claims – at the same time compromising social distancing.

- I also need to make the point that Nedlac, and its Rapid Response Task Team, ensured a united response to all aspects of our response to the pandemic – for example, ensuring there was agreement and buy-in to the new Covid19 health and safety directives.

- As to Covid19 Ters payments, as of 9th October, since the beginning of the lock-down: over R49 billion had been disbursed in benefits in the form of over 11 million payments. These benefits were disbursed across all provinces roughly in proportion to demographics and economic activity:
 - in Gauteng: R23 billion was disbursed in 5 million payments;
 - Northern Cape: R484 million was disbursed in just over 100,000 payments;
 - and all other provinces falling in between.

- At the same time R7.5 billion was disbursed in 1.3 million payments in normal UIF benefits.

- Covid19 Ters benefits have been paid for a period of 6 months.
- Millions of laid-off workers and their families received a much-needed life-line, also keeping companies afloat and injecting cash into local communities in every corner of the country.
- There has been very positive feedback from many employers. Mr. Gerhard Papenfus, CEO of the National Employers Association of South Africa stated that [and I quote]: *‘the UIF payments to him have been a success despite the challenges they are facing. UIF did the impossible by putting in place systems within weeks, what could have taken years to materialise.’* [close quote]. He also stated, prophetically that: *‘the criminals saw the loopholes and took advantage.’*
- Let’s be clear, Chairperson. The UIF is not some ‘money tree’ with unlimited resources. So, as we repurposed the Fund to deliver to laid-off workers, we

also needed to build in the necessary financial controls and ensure the liquidity and long-term sustainability of the Fund itself. I said at the time: ‘we don’t start paying out benefits before controls are in place.’ This led to initial delays, and complaints from employers that the conditions were too onerous – which in turn compromised UIF controls in the rush to get payments out to laid-off workers.

- I need to flag that, from the start, the UIF was wide-awake to the risks of fraud with the new Covid benefit system – especially given the large sums involved. That is why the UIF developed a strategy to ‘Follow the Money’, and budgeted for a complete audit to account for every cent paid out. We also made this very clear to the employers in our Nedlac engagement as well as in the Directions that we issued. We said the following: we will support you and your workers, but when this is over, you will be audited.
- Chairperson I must reiterate that from the onset, I had instructed the UIF Commissioner and his Team not to

make any payment until risk mitigation measures were in place in order to prevent fraud and corruption.

The A-G's Report

- So a good story, despite the many challenges. But ... then came the Auditor-General's Report. As you are aware, the Report indicated large risks and gaps in UIF systems allowing fraudulent and illegal payments to take place, as well as overpayments and underpayments.
- I need to flag that the risks were in respect of the Covid19 Ters benefit payments, and not normal UIF benefits.
- This was a failure to put in place basic controls, the A-G told us. Ultimately, operational responsibility for ensuring adequate financial controls lies with the top management of the Fund. That is why I took the decision to place management on precautionary

suspension. We shall take follow up action after the investigations have been completed.

- This was the most difficult decision – and there has never been any suggestion that the individuals suspended were themselves corrupt. But from the side of government, we cannot continue to preach consequence management and accountability, and then when something like this happens we do nothing.
- The Department and the Acting Management of the UIF has taken the necessary steps to address the A-G's findings and recommendations, and we have made great progress:
 - Addressing the main findings of the A-G regarding verification of ID numbers and banking details – this has been largely implemented – with the cooperation of the banks and other government departments.
 - This is a problem that originates, in part, from the 'silo mentality' of government – whereby each Department maintains its own database and there is

no cross-referencing. This is fertile territory for 'double dipping'. This has been addressed – on a bilateral basis with the relevant departments. The challenge we experienced has also fuelled a serious conversation in government about how we better align and link databases and systems across government.

- The process of overhauling the SCM processes of the UIF is also underway.

That is a summary of the UIF's response to the A-G's findings.

Detailed response to A-G's findings:

Upon receipt of the first Auditor General's audit report the following actions were taken:

- All affected Identity Document numbers were immediately blocked on the system for any further payment;
- Detailed root cause analysis was performed on all the findings and the control driven action plan was developed to address those root causes;

- On the 4th of September 2020, all COVID19 TERS payments were put on hold in order to implement adequate controls and mitigate the identified risks. The following controls were implemented:
 - Requested sharing of data with South African Social Security, Home Affairs, Correctional Services, National Student Financial Aid Scheme and South African National Defence Force.
 - System controls implemented included verification of salaries submitted, blocking all UIF employees' ID numbers from applying, developing a system rule for benefit amount threshold block and to produce daily error reports.
 - Implemented bank verification for Companies with Company Registration number and Companies and Intellectual Property Commission numbers, as well as identifiers for Non-profit Organisations, Churches, Schools and Sole Proprietors.
 - UIF entered an agreement with Absa Bank to coordinate manual verification processes for non-verifying banks such as Post Bank.

- Verified some 5 million COVID19 TERS applicants' Identity Document (ID) numbers with Home Affairs;
- Submitted foreign nationals file to Home Affairs to verify the status of the foreign national identity document and legality of entry of the applicant to South Africa.
- After the above controls were implemented, the UIF requested independent assurance on the effectiveness of the controls from the Risk Management Unit and Internal Audit:
 - Risk Management assured the Fund that all relevant and recommended controls were fully implemented;
 - The Internal Audit report indicated all controls were adequately implemented, however 27% of the controls were partially effective as the Fund is still awaiting data sharing from other state institutions.
- During the first payment run on the 21st of September 2020, after the suspension of COVID19 Ters

payments, the following errors were detected and the payments were rejected as part of the new controls:

- Deceased persons: 193 applications rejected;
 - Government employees: 1,668 applications rejected;
 - Inmates: 2 applications rejected;
 - Invalid ID number: 1,968 applications rejected.
- So, the holes are being plugged:
 - UIF has received the correct Master Data from the Department of Home Affairs which is the latest data - so no deceased employee will be paid.
 - The risk of inflated salaries by employers has also been corrected as the UIF now verifies with the latest declared salary.
 - All under age ID numbers have been blocked on the system.
 - No UIF employees will be paid by the COVID19 TERS system.

Looking forward, the Auditor-General South Africa is currently auditing all payments made from April to June

2020 and the above controls were fully implemented only on the 21st of September 2020.

So, the Auditor-General's second Report may identify the same findings prior to the 21st of September 2020. However, the comprehensive audit action plan was submitted to the Auditor-General.

Other measures in hand include the following:

- The Special Investigative Unit is conducting a rapid audit to identify and charge individuals who benefited from illegal payments, and to recover the money. In some cases, bank accounts have been frozen and assets seized. People have been charged and arrested. I will return to this to provide a progress report.
- Over R3.4 billion of wrongful payments has already been recouped. My thanks to the many honest, responsible employers who returned over-payments after realising a mistake had been made – often

benefits were calculated on the basis of incorrect information. For others who returned overpayments – conscience is a wonderful thing – but it also helps if you know that the Auditor-General is looking into the payments, and that the SIU will be investigating.

- As I mentioned earlier, the UIF has also commenced its own programme to ‘Follow the Money’ tracking every payment made by the Covid19 Ters scheme. This process was part of the plan from the onset.
- I need to mention that as part of this, the President has established ‘the Fusion Centre’ – bringing together all the relevant law enforcement agencies – with the objective of fast-tracking investigations and prosecutions.
- Longer-term, and in an attempt to proactively address long-standing underlying systemic problems, the Director-General – together with the UIF and Compensation Fund – has launched a

process to ‘conduct an organisational architecture review for the UIF and the Compensation Fund, including provincial and Labour Centres.’ In simple terms: every aspect of the two Funds’ business model, systems, structures and procedures will be reviewed and where necessary re-engineered with the intention of optimising their effectiveness and service to the clients.

- Even as we address immediate issues, the Department is looking ahead with a focus on improving security, efficiency and service to the public.

I also need to mention, that the pandemic, the lockdown and the payment of Covid19 benefits shone a light on gaps in our social security safety net – both for the UIF and the Compensation Fund – particularly in relation to non-standard employment where the classic employer-employee does not exist. This is an area which is to be reviewed by Nedlac.

SIU Investigation: progress report

I will report progress with the SIU investigations in some detail – as it is absolutely incumbent upon us that we account for monies collected from workers and their employers:

1. 157 cases were allocated for investigation.

2. These cases fall into the following categories:

- Employer withholding/underpaying employees' benefits: 38 Cases
- Employer using incorrect UIF ref number: 4 Cases
- Overpayment of UIF benefits to employers: 1 Case
- Individuals' claims blocking companies' claims: 10 Cases
- Incorrect banking details: 8 Cases
- Suspected fraudulent claims: 90 Cases, which include the following subcategories:
 - Ghost employees

- Work and draw benefits (company claiming while it was fully functional)
- Company claiming for terminated employees
- Collusion between employer and employee to lodge fraudulent claims
- Non-compliance of employers with the UIF Act: 6 Cases.

3. Sixty-seven (67) cases have been finalised. The findings of these completed cases were as follows:

- Employers withholding/underpaying employees' benefits: 16 Cases. The following was observed:
 - Three employers had paid the employees in full at the time of the investigation;
 - Four employers refunded the unpaid money to the UIF;
 - One was a case of ID numbers not appearing on our systems linked to Home Affairs.
 - Three employers could not access the system;
 - One complainant did not want to proceed with the investigation;
 - Two companies withheld employee's benefits;

- One case was referred to the Province for further investigation;
- One case was referred for enforcement of the Memorandum of Agreement (MOA) with employers.
- Employer using incorrect UIF reference number: 3 Cases
- Overpayment of UIF benefits to employers: 1 Case. The employer used his own formula to calculate the employee benefits instead of that of the UIF.
- Individuals' claims blocking companies' claims: 6 Cases:
 - Five employees attempted to lodge individual claims blocking the company claims.
 - One employer could not access the system.
- Incorrect banking details: 2 Cases
 - One SAPS criminal case opened for further investigation and recovery process; and
 - One employer to refund the unpaid money to the UIF.
- Suspected fraudulent claims: 34 Cases:

- 3 cases had elements of fraud and were referred for further forensic investigation.
- A few of the cases were work and draws – ie the company was functioning and also claiming benefits.
- Some are employees attempting to lodge individual claims blocking the company profile.
- Employers distributing benefits equally among all employees even those that were not declared and not paid by the Fund.
- Employers had used their own calculations to pay benefits and refunded the difference.
- And for the rest there was no fraud detected.
- Non-compliance of employers with the UIF Act: 5 Cases.

4. This House will want to know details of corrective measures that have been taken against those identified in these completed cases:

- Criminal cases are opened where applicable;
- Recommendations are made to Operations in most findings for control improvement.

5. There are some 90 cases still pending. The categories are as follows:

- Employer withholding/underpaying employees' benefits: 22 Cases
- Employer using incorrect UIF reference number: 1 Case
- Individuals' claims blocking companies' claims: 4 Cases
- Incorrect banking details: 6 Cases
- Suspected fraudulent claims: 56 Cases, which include the following subcategories:
 - Ghost employees.
 - Work and draw (company claiming while it was fully functional).
 - Company claiming for terminated employees.
 - Collusion between employer and employee to lodge fraudulent claims
- Non-compliance by employers with the UIF Act: 1 Case.

6. This House will want to know if criminal cases have already been opened:

- Three cases have been instituted by complainants.
- The UIF has instituted 75 criminal cases; eleven people have been arrested; ten have already appeared before the court.

7. As to whether officials in the UIF may have aided illegal actions, at this stage, all I can say is that investigations are in progress.

Let me conclude this section on UIF and Covid19 Ters by repeating the closure dates which have been widely advertised:

- Applications for March 2020 to end May 2020 closed on 25 September 2020;
- Applications for June 2020 shall close on 15 October 2020; and
- Applications for July to 15 September 2020 shall close on 30 October 2020.

Compensation Fund

- The Compensation Fund has - as of 28 September 2020 - received a total of 7,966 COVID-19 claims with respect to COIDA.
- Interestingly, 57% of claims were from females and 43% from males.
- An amount of just over R5 billion has since been paid towards benefits.
- From the total 7,966 claims received, over half have already been adjudicated.

The work of the Compensation Fund comes in the wake of the improved controls and systems that the Unemployment Insurance Fund has instituted resulting in better vetting of claims and claimants. So, it is important to make the point that lessons learned by the UIF are being implemented in the Compensation Fund.

Thank you again Chair for this opportunity.

NOTES FOR POSSIBLE ADDITIONAL QUESTIONS:

Q: The AG asked whether you had been intending to pay children of 15 years and under, foreign nationals, South African Social Security Agency grant beneficiaries, and inmates?

A: Controls were implemented as follows:

- Payment made to deceased persons: UIF submitted 5 million ID numbers to the Department of Home Affairs for verification purposes. The Department of Home Affairs provided the status of each ID number and the UIF implemented a system business rule to reject any ID number which was not verified.
- Payment made to minors: The business rule was implemented on the system to block all the under age applications received from the employers. The control is now effective.
- Payment made to government employees: The full set of data with date of appointment and termination date

was received from the Department of Public Service and Administration (DPSA). Another business rule was introduced to reject any government employees applying for the COVID19 TERS benefit.

- Payment made to prisoners: The Department of Correctional Services provided data of all the prisoners with the release dates. The business rule implemented rejects any application made prior to the release date of the prisoner.
- Payment made to SASSA beneficiaries: The Department of Social Development provided their application requirements which stated that there is no rule that prohibits SASSA beneficiaries to apply for UIF COVID19 TERS benefit.
- Payment made to UIF employees: All UIF employees were immediately blocked from applying for the COVID19 TERS benefit. ID numbers of all UIF employees were used to change the business rule and block them.
- Overpayment and underpayments: The business rule was implemented to create a ceiling amount of each

benefit which cannot be overridden. The control is now effective.

Q: How far is the process of integrating government operating systems?

A: The progress status is as follows:

- Home Affairs: Latest full set of data received. Data verified.
- Foreign nationals data has been submitted to Home Affairs, however response has not been received.
- Correctional Services: Latest full set of data received.
- South African Social Security Agency beneficiaries: UIF will pay South African Social Security Agency beneficiaries and submit data to South African Social Security Agency.
- National Student Financial Aid Scheme: UIF will pay National Student Fund Aid Scheme beneficiaries and submit data to National Student Fund Aid Scheme.
- South African National Defence Force: UIF did not receive data and the matter has been escalated.

The general point is that the process of integrating all government systems is at an early stage. The Department of Monitoring and Evaluation is co-ordinating this effort.