**To Whom It May Concern**

**After consultation with the Department of Employment and Labour, please find below some clarity on:**

**\*\*Various employees have been expressing their dissatisfaction after learning that they may have to take annual or unpaid leave during this time. Question employees are asking:**

* **“May my employer force me to use my annual leave for lockdown purposes?”**
* **“Isn’t it illegal for my employer not to pay me during this time?”**

While government has encouraged all businesses to continue to pay their employees/ workers, who may be stuck at home and won’t be able to work during this time, many companies can’t afford this and are considering other options.

The options for the employees during the period are as follows:

1) Annual leave, or

2) Temporary Lay-off; or

3) Unpaid leave until the lockdown comes to an end. (This is not an option one wants to consider as it will mean the worker/ employee will be without an income/ salary/ age for the lockdown period)

It is the prerogative of the employer to inform the employees that they need to take leave as currently there is no work. This is similar to indicating that annual leave (aka holiday leave) is during off time and not the busy harvest time.

The employer can indicate to employees to take annual leave for purposes of adhering to the lockdown regulations. Employees won't be allowed to work during the lockdown period of three weeks, which starts on Thursday midnight. This is if the service or duties they perform are not categorised as essential services.

If an employee has leave available, this would be the first and best option to use employees’ leave allocation until it is depleted.” This will ensure workers receive a wage/ salary.

Employers may consider other options to ease their cash flow during this time, including staggering wage payments. Another option would be reduced wages. Please find attached guideline on the Temporary Employer/ Employee Relief Scheme which could assist struggling companies, with contactable details of Department of Labour.

A relatively new option will be a temporary lay-off, whereby you will still officially be in the employment of a company. You will be able to claim money from the Unemployment Insurance Fund (UIF), but it won’t be your full salary. Attached is a booklet/ easy guide on this matter and the processes to be followed.

The UIF normally doesn’t pay out money quickly, there are stringent processes and there is uncertainty whether the local offices will be operational. With severe impact currently on businesses, it is expected that Labour/ UIF will be flooded with huge volumes of claims during this time. Therefore clarity will be required as to how payments by Labour will happen during the lockdown. See attached circular from Labour.

The Department of Labour has confirmed that there will be skeleton staff in their Labour Centre. Also please note on the attached UIF guide the details of Cape Town as well as Mr Toni Lamati for assistance.

On Tuesday Minister of Employment and Labour, Mr Thulas Nxesi, confirmed that companies may do pay outs directly to staff, and then claim it back from the UIF.

Just to add that if you contract COVID-19:

1. Within/ at the workplace the Compensation for Occupational Injuries and Disease Act (COID) applies.
2. Outside of the workplace, the normal sick leave can be take. (This includes other illnesses contracted during the lockdown period).

Please note that the evidentiary documents in terms of COID and sick leave need to accompany the applications, as per normal requirements.

For further information please visit [www.labour.gov.za](http://www.labour.gov.za)

Or contact your Labour Centre or the details provided in the attached guides.