

Unemployment Insurance Act 63 of 2001 (UIA)

Unemployment Insurance Contributions Act 4 of 2002 (UICA)

Topic: Employment/Labour/Human Resources

IN A CALABASH

Introduction

In order to provide employees with a lifeline during times of unemployment the government will pay an unemployed employee a portion of his or her last-earned salary while that employee attempts to seek and gain alternative employment, provided such employee has been registered with the Department of Labour.

This financial assistance is known as unemployment insurance and is claimed from a government agency known as the Unemployment Insurance Fund.

Objectives of the Act

There are two Acts which apply and regulate the payment of unemployment insurance contributions, namely the Unemployment Insurance Act (UIA) and the Unemployment Insurance Contributions Act (UICA). The main objectives of these Acts are to establish the Unemployment Insurance Fund (UIF), to collect unemployment levies and to pay out claims to unemployed persons in the event of unemployment.

Application of the Acts and their implication to Tourism

Each employee must comply with the UICA and the UIA. Employees contribute to the Fund.

Every employer must comply with the UICA and UIA. Compliance by an employer can be delegated to the human resources or industrial relations department, payroll or finance department or, in the case of a small business, the owner of the business or a manager is responsible for compliance.

These Acts apply to all employers and employees, except

- an employee who has been employed by that employer for less than 24 hours a month and his or her employer;
 - employees under a learnership contract of employment in terms of the Skills Development Act 97 of 1998 and their employers;
 - employees in the national and provincial spheres of government who are officers or employees as defined in the Public Service Act and their employers; and
 - an employee and his or her employer when that employee is in the Republic for the purpose of carrying out a contract of service, apprenticeship or learnership if, on the termination of the contract, the employer is required by law, by the contract of service, apprenticeship or learnership or by any other agreement or undertaking to repatriate that person, or if that person is required to leave the Republic.
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Summary of the provisions of the Acts

The UIF Fund will only pay unemployment benefits to employees who–

- have been retrenched or have resigned and who are unable to find work for a defined period; and
- are unable to work due to illness, maternity or adoption.

The Unemployment Fund will also, under defined circumstances, pay amounts to family members and dependants of anyone who is unemployed.

In summary, the two Acts have to be read together: the UICA provides for the payment of contributions for the benefit of the Unemployment Fund and the UIF provides for the establishment of the Unemployment Fund.

The UIF and UICA both outline the procedures for the collection of contributions and the payment of the benefits.

Requirement to register

Employers are required to register all their employees with the Unemployment Insurance Fund or compensation fund. The employer must inform its employees about the UICA and the benefits afforded to the employee should the employee lose his or her job or be booked off or take maternity leave.

Contributions

Every employer and employee to whom the UICA applies must, on a monthly basis, contribute to the Unemployment Insurance Fund. The contributions are to be paid over by the employer to either the Commissioner of Inland Revenue or the Unemployment Insurance Fund, depending on whether the employer is registered under the Income Tax Act or not.

The amount of the contribution payable by an employee must be one per cent of the remuneration paid or payable to that employee by his or her employer during any month. The amount of the contribution payable by an employer in respect of any one of its employees must be equal to one per cent of the remuneration paid or payable by that employer to that employee during any month.

It is important to note that the Minister of Finance may fix a maximum amount of earnings on which contributions must be paid. No contributions are payable if the employee earns more than the amount determined by the Minister, who must consult with the Minister of Labour and the Unemployment Insurance Commissioner before announcing the maximum monthly earnings on which contributions to the Unemployment Fund may be deducted by the employer and paid over to the Receiver of Revenue or the Unemployment Insurance Fund. Currently, where an employee earns more than R14 872,00 per month, 'the determined amount', the 2% will only be levied on the determined amount.

Employers must on a monthly basis deduct or withhold the employees' contributions, which contribution currently stands at 2% of the employees' remuneration or on the value of R14 872,00 where the employee earns more than R14 872,00.

Where the remuneration of the employee is paid at intervals other than on a monthly basis, the employer must deduct the amount of the employee's contributions in a manner that coincides with the intervals of payment of remuneration by the employer to the employee. That could be once a week or daily in some cases. The contribution must be deducted when the payment takes place. The employee will then receive the net wage after the deduction of UIF.

When making a deduction, an employer may not—

- deduct amounts that are in excess of the amount of the contribution due by the employee; or
- seek or receive a fee from the employee for or deduct arrear contributions from the employee after the end of the financial year during which it was payable.

Where the employer fails to deduct the contribution, the employer or its directors are personally liable for such contributions.

Compliance with both the UICA and the UIA is relatively easy:

- Every employer must register all its employees with the Unemployment Compensation Fund;
- The Employer must inform its employees about the UICA and the UIA and the benefits afforded to the employee should the employee lose his or her job or be booked off or take long-term sick or maternity leave;
- Every employer and employee to whom the UICA and the UIA apply, must contribute to the Unemployment Insurance Fund on a monthly basis. The contributions currently are 1% payable by the employer and 1% payable by the employee;
- The employer must keep a record of all deductions and payments made and submit it to the Unemployment Commissioner on demand;
- The Employer must have a policy on registration for UIF benefits, to be housed under human resources policies; and
- An employer must advise the employee that it will be making UIF deductions from the employee's salary under the employee's contract of employment.



WHAT HAPPENS IF YOU DO NOT COMPLY?

Late payment interest and penalties

Where an employer fails to pay any levies on behalf of its employees, the Unemployment Commissioner has the right to levy a late payment penalty and interest, to be levied as per the prescribed rate.

A late payment penalty of 10% of the unpaid amount will be payable in addition to interest charges when any UIF contribution is not paid on the due date. The Unemployment Commissioner may, after considering the circumstances of each specific case, remit the penalty or a portion thereof.

Where an employer fails to comply with the Acts including any attempt to evade the payment of any contribution or to claim an undue refund from the Unemployment Commissioner which is in excess of the amount properly refundable to the employer, an additional penalty not exceeding an amount that is equal to double the due amount of the contribution which is outstanding or the amount not refundable may be imposed on the employer.

Furthermore, where the employer fails to deduct any contribution, the employer is liable for such contributions.

Where an amount of an employee's contribution which has been deducted or withheld by an employer which is a company other than a listed company has not been paid over to the Commissioner, the representative employer and every director and shareholder of that company who controls or is regularly involved in the management of the company's overall financial affairs is held personally liable for the payment of that amount to the Commissioner and for any penalty which may be imposed in respect of that payment.



RECOMMENDED ACTIONS OR CONTROLS WHICH SHOULD BE IMPLEMENTED BY THE TARGET AUDIENCE TO ENSURE COMPLIANCE WITH THE ACTS

The following physical controls must be in place to demonstrate compliance:

- Registration for UIF;
- Training;
- Contributions;
- Records; and
- Policies and procedures.

FURTHER INFORMATION

Regulator

The Acts are administered by the Commissioner who is part of the Department of Labour.

Website

www.labour.gov.za