

Nxesi urges employers to comply with labour law during lockdown

Employment and labour minister Thulas Nxesi has pleaded with employers to comply with the labour laws and the Covid-19 regulations. Addressing reporters during a social cluster press briefing on Tuesday, 31 March, the minister revealed that some employers were still not adhering to the relevant laws.



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These ranged from some employers forcing employees to take leave, to employers providing non-essential services obtaining fraudulent operating and trading certificates. “Inevitably, there will be challenges and the need to take remedial action. This is the case in relation to leave arrangements,” said the minister.

He said the department has in recent days been inundated by concerns from workers and unions about employers who shift the burden of the lockdown onto the workers, making workers use their annual leave as the first line of response to the lockdown. Nxesi said complaints also included those of employers instructing workers to take unpaid leave during this lockdown.

“We do understand that in terms of the leave determination, employers can compel employees to take leave at any time as they deem fit. However, this is a unique situation that requires all of us to act in a manner that promotes social solidarity,” Nxesi said.

The department, he said, has issued a directive explaining the process to be followed, and the kind of benefits employees will be entitled to under the Unemployment Insurance Fund (UIF).

The department has also announced a National Disaster Covid-19 benefit that the UIF has put in place as an instrument to mitigate the effects of lay-offs of workers during the lockdown.

“It is important though that all parties understand that the UIF cannot deal with millions of individual claims. This would lead to delays in the processing of such claims. Instead, we have put in place systems to pay out UIF benefits through companies, sectoral associations and bargaining councils.

“We are in the process of concluding such an agreement with the Textile Bargaining Council. We would also like to mention that discussions with the travel and tourism sector are underway,” he said.

The department has also engaged the Banking Council to facilitate UIF payments.

“We are moving away from the traditional model of individual claims through Labour Centres, which would be simply overwhelmed. It would also turn Labour Centres into virus hubs, as they would attract huge crowds,” Nxesi said.

He said it was important to stress that such arrangements for group/collective payments require that a Memorandum of Understanding be entered into with employer bodies and bargaining councils, and that their use of the monies will be subject to audit.

He urged parties to get together and engage in order to expedite the payment of these monies to the workers that need them.

The UIF staff is available to assist on +27(0)123371997 from 8am - 8pm. The call centre operates from Monday to Friday.

Nxesi thanked employers, who have already demonstrated social responsibility and solidarity by not only paying workers in full during this lockdown, but also by making themselves available to assist by acting as disbursing agents during this period.

Essential workers

“Firstly, it appears that some employers who are not delivering essential services and goods are forcing their employees to work. Employers are either unaware or choose to ignore the provisions of the National Disaster legislation and regulations, which only provide for essential services and production to continue at this time,” Nxesi said.

In terms of Regulation 11G, this is a criminal offence and puts at risk not only those employees, but all who they are in contact with and goes against the call for as many of us as possible to stay at home”.

“Any employee who is not involved in a business delivering essential services and goods and who is forced to work is entitled to contact the SAPS [South African Police Service] and report their employer.

“Any worker who does this and is subsequently victimised will be protected by the Labour Relations Act, since this is an unfair labour practice,” the minister said.

The minister further urged employer organisations to intensify their communication to individual employers informing them of their responsibilities during this critical period.

Health and safety

The minister said employers are required to ensure that the Occupational Health and Safety Act is adhered to in respect of occupational hygiene and the provision of personal protective equipment.

He said the department has received numerous complaints from workers that some employers are forcing them to work without the necessary personal protective equipment.

“Our labour inspectors are following up, particularly at the moment in Gauteng, Western Cape and KZN. Indeed, a number of retail and manufacturing enterprises have been temporarily closed exactly for these reasons: lack of PPE and failure to ensure social distancing,” he said.

He urged non-compliant employers to do the right thing.

“If the situation persists, we will start to name and shame individual companies and branches,” warned Nxesi.

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