



17 April 2020

Our ref: JV Mathunjwa/CPJvR/Income and Leave during the National Lockdown

Your ref: All Members

**Attention: All Members of AMCU  
By electronic transmission**

Dear Comrades

**RE: INCOME AND LEAVE DURING THE NATIONAL LOCKDOWN**

Our previous letters and notices refer.

On 23 March 2020 our honourable State President, Mr Cyril Ramaphosa announced that South Africa would go into a phase of total national lockdown for a total of 21 days, and that everybody who are not engaged in essential services, must stay at home to contain the Covid-19 coronavirus.

The State President encouraged employers to continue paying their employees. The government also put in place a variety of measures to assist employers who have financial difficulties.

On 9 April 2020, the honourable State President again addressed the nation, indicating that the lockdown was making a difference and thus extending the lockdown until the end of April 2020.

Since the lockdown was announced, we have been engaging with various employers about the implementation of the measures announced by the State President. Apart from our concerns regarding the health and safety of workers, we requested all employers to continue paying the salaries of workers and to keep their terms and conditions of employment in place.

Still, many employers took the unfortunate decision to pay only part of the workers' salaries and in some cases, employers stopped paying employees, citing the "no work, no pay"-rule. Herewith a brief summary of your rights during this time, especially pertaining to income and leave:

1. AMCU calls on all employers to continue paying their employees their full salaries and benefits during the national lockdown, on the basis that the national lockdown came by means of presidential decree, and it is not the choice or the fault of employees.
2. Where employers have financial difficulties with paying wages, AMCU suggests that they first look at measures to cut costs of operations and specifically the salaries of management, before the rank-and-file workers' wages are considered.
3. Employers should first exhaust all options, such as-
  - 3.1. cutting other operational costs of their businesses;
  - 3.2. reducing top management's salaries;
  - 3.3. utilising the measures put in place, including:
    - 3.3.1. The Temporary Employee/Employer Relief Scheme (TERS), which can be applied for through the Department of Employment and Labour;
    - 3.3.2. The Unemployment Insurance Fund (UIF), which can be accessed through the Department of Employment and Labour;
    - 3.3.3. Tax relief measures for employers announced by the Ministry of Finance; and/or
    - 3.3.4. The Solidarity Fund to, amongst other things, help care for and support those whose lives have been severely disrupted by the pandemic.
4. AMCU appeals to employers to top up the salaries which are partly subsidised by the TERS and UIF options, so that workers do not earn less during these difficult times.
5. Most importantly, employers must consult with AMCU about the plans they want to implement to deal with this pandemic and before decisions are made that impact workers' conditions of employment.

When employers did not use the State President's measures and told employees that they cannot continue paying them while not being at work, employees must remember that they have the following rights in terms of the Basic Conditions of Employment Act (BCEA) and the Labour Relations Act (LRA):

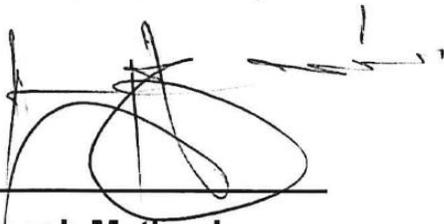
1. No employer may discipline its employees for not attending work during the national lockdown unless you form part of essential services defined by the Covid-19 Regulations issued in terms of the Disaster Management Act. (In this regard, if you feel your employer's business is not an essential service then please contact your respective Regional Chairperson or Regional Secretary);
2. Employees and employers can agree that the employee takes annual leave for the whole period, or part thereof;

3. No employer may force employees to take unpaid leave without first consulting AMCU and may, with the employee's consent, apply annual leave to the period in question (BCEA s20[6]);
4. No employer may temporarily lay off employees and/or embark on short time without consulting AMCU; and
5. No employer may dismiss employees due to the impact of the Covid-19 coronavirus without following the correct procedures in terms of the LRA.

Comrades, these are difficult times and many of us will face hardship in the months to come. Let us remember our rights and keep employers accountable to the laws and regulations of our country.

We urge you to contact your respective Regional Chairperson or Regional Secretary if you have any questions or queries in this regard.

Yours in Social Justice,

A handwritten signature in black ink, consisting of several overlapping loops and a long horizontal stroke extending to the right. The signature is positioned above a solid horizontal line.

**Mr Joseph Mathunjwa**  
**President**