



**ESWATINI**  
**GOVERNMENT GAZETTE**  
**EXTRAORDINARY**

---

---

VOL. LVII

MBABANE, Tuesday, APRIL 14<sup>th</sup> 2020

[No. 61

---

---

**CONTENTS**

**No.**

**Page**

**GENERAL NOTICE**

22. The Guidelines on Employment Contingency Measures in Response to the  
Coronavirus (Covid-19) Pandemic Notice, 2020 ..... 1

## GENERAL NOTICE NO 22 OF 2020

## THE CORONAVIRUS (COVID-19) REGULATIONS, 2020

THE GUIDELINES ON EMPLOYMENT CONTINGENCY MEASURES IN RESPONSE  
TO THE CORONAVIRUS (COVID-19) PANDEMIC NOTICE, 2020  
(Under Regulation 32 (10))

It is notified for general information that the Minister for Labour and Social Security, in exercise of powers conferred by Regulation 32(10) of the Coronavirus (COVID-19) Regulations, 2020, issues the following Notice -

***Citation and commencement.***

1. (1) This Notice may be cited as the Guidelines on Employment Contingency Measures in Response to the Coronavirus (COVID-19) Pandemic Notice, 2020.

(2) These Guidelines shall be deemed to have come into force on 27 March, 2020 and shall remain in force during the period of national emergency.

***Scope and Application.***

2. (1) These Guidelines shall apply to -

- (a) employees and employers;
- (b) employees' and employers' organizations and federations; and
- (c) Government.

(2) These Guidelines shall be taken into account by the Courts, the Conciliation, Mediation and Arbitration Commission (CMAC), the Commissioner of Labour and any other person in arriving at a decision in proceedings under the Disaster Management Act, No. 1 of 2006, the Employment Act, No. 5 of 1980, the Wages Act, No. 16 of 1964, the Industrial Relations Act, No. 1 of 2000, the Workmen's Compensation Act, No. 7 of 1983, the Eswatini National Provident Fund Order, No. 23 of 1974 and any other labour related legislation.

***Purpose and Objective.***

3. The purpose and objective of these Guidelines is to -

- (a) provide for temporary employment contingency measures which are meant to mitigate against the effects of loss of earnings by employees;
- (b) legitimize various temporary employment contingency measures which are meant to mitigate against job losses;
- (c) suspend Eswatini National Provident Fund contributions and divert funds towards payments of wages and salaries for the months of April and May, 2020;
- (d) provide for standard measures on Workplace Governance during the period of national emergency;

- (e) promote workplace related social dialogue (consultations) between employers and employees in respect of all employment contingency measures that are deemed appropriate during the period of the partial lockdown or national emergency, as the case may be;
- (f) safeguard the rights of employers in managing their businesses;
- (g) safeguard the rights of employees from unfair labour practices disguised as employment contingency measures in response to the emergency situation;
- (h) promote occupational safety and health of all front-line employees, health-care employees, employees in the services which have been classified as essential during the partial lockdown, and all other strategic employees during the period of the national emergency; and
- (i) uphold the implementation and compliance with international labour standards in all employment contingency measures invoked during the period of national emergency.

***Measures that are meant to mitigate against the effects of loss of earnings.***

4. Employers are encouraged to continue to pay their employees, where this is not economically possible, employers, in consultation with a recognized employees' organizations or employees' representative structure within the enterprise and the Commissioner of Labour, are to consider the following options to mitigate against the effects of loss of earnings by their employees during the partial lock-down period or during the entire period of the national emergency, -

- (a) granting employees their annual paid leave, in consultation with the employees;
- (b) applying for the release of the bond of security of wages from the office of the Commissioner of Labour in respect of those employers who have made security provision for the payment of wages in terms of section 62 of the Employment Act, No. 5 of 1980;
- (c) granting employees advance salaries or explore possible pre-access to any other form of social security measure as may be available within the enterprise for medium or long term contingencies such as pension schemes and provident funds, where feasible, in consultation with the employees and the Registrar of Retirement Funds;
- (d) suspension of Eswatini National Provident Fund contributions for April and May 2020, and divert these to cushion wages and salaries payments; or
- (e) other options such as work from home, shift work and short time as might be considered appropriate by employers, acting in consultation with the employees or their representative structure, are hereby legitimized, provided that any of the preferred or feasible option is not incompatible with any of the conditions of the lock-down period or any of the conditions of the declared national emergency.

***Interim Measures for Workplace Governance.***

5. In the event that any of the measures that are meant to mitigate against the effects of loss of earnings are exhausted, the following guidance is provided to employers and employees -

- (a) **Lay-offs** – In the unlikely event that any unpaid lay-off becomes inevitable due

to severe economic constraints and in an effort to mitigate against immediate job losses (or retrenchments) during the period of the national emergency, employers across all industries or businesses without differentiation, acting in consultation with a recognized employees' organization or employees' representative structure within the enterprise, may consider laying off their employees for any period not exceeding two (2) months, provided that such unpaid layoff is approved by the Commissioner of Labour.

The normal time lines for giving notice of lay-offs to employees are suspended in respect of lay-offs that are recurrent to the period of national emergency.

- (b) **Retrenchments** – An employer shall not retrench any employee within the declared period of a partial lock-down provided that an employer who was ordinarily planning on retrenchments during the period of the declared national emergency on the basis of prior arranged or on-going standard restructuring processes, shall fully comply with the provisions of **Section 40 of the Employment Act, No. 5 of 1980**.
- (c) **Occupational Safety and Health of Front-line and all Healthcare Employees** – Front-line employees, healthcare employees, employees in the services which have been classified as essential during the period of partial lockdown and all strategic employees during the period of the national emergency are deemed to be at a high risk of contracting the disease. Therefore, all these employees who may contract Coronavirus Covid-19 within their official line of duty are to be treated within the ambits of occupational safety and health provisions of the **Workmen's Compensation Act, No. 7 of 1983**, both in terms of medical assistance, sick leave and any warranted compensation.
- (d) **Variation of Contracts of Employment** – Variation of terms and conditions of employment of an employee shall be permitted during the declared period of national emergency if this becomes necessary in order to save life and property or to meet basic needs of the business or enterprise concerned.

Employers shall ensure that such variation do not expose the employee to hazardous and unsafe working conditions and that no employee is be subjected to disciplinary proceedings for failing to accede to variated terms and conditions of employment if these were considered to be either worse of or unfavorable or unsafe by the employee concerned.

- (e) **Industry related employment contingency measures** – All other employment contingency measures which may be deemed appropriate by employers for being industry related or industry suitable during the period of the partial lock-down or during the period of the declared national emergency and yet these are not covered in these Guidelines are to be submitted for approval to the Commissioner of Labour subsequent to internal consultations with the employees or their recognized organization or representative structure at enterprise level. This is to ensure that any considered employment contingency measure is verified for compliance with national legislation, the Coronavirus (COVID-19) Regulations and ratified international labour standards.

#### ***Labour Compliance Certificates.***

6. (1) The validity of Labour Compliance Certificates which expire during the declared period of national emergency shall be presumed to have been automatically extended for a period of the national emergency.

(2) All other Labour Compliance Certificates issued during the national emergency period shall be provisional as they shall be for a period not exceeding three (3) months.

***Suspension of Wages Councils negotiations.***

7. (1) All negotiations ensuing within the Wages Councils in terms of the **Wages Act, No. 16 of 1964** are suspended pending the lifting of the declared period of national emergency.

(2) The publication of Regulations of Wages Orders in the Government Gazette in respect of those Wages Councils who have already completed their negotiations is suspended pending the lifting of the declared period of national emergency.

***Amendment.***

8. The Minister of Labour and Social Security may, after consultation with all relevant stakeholders, amend or issue further Guidelines as new developments warrant.

**MAKHOSI C. VALAKATI**  
*MINISTER FOR LABOUR AND SOCIAL SECURITY*











