

# NEW INCLUSIONS UNDER THE UIF ACT ON DOMESTIC WORKERS

The new Unemployment Insurance Contributions Act (the Act) came into effect on 1 April 2002. One of the effects of the new legislation is that, as from 1 April 2003, domestic workers and their employers will have to make UIF contributions.

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The purpose of the Unemployment Insurance Fund is to provide for unemployment, illness, maternity, adoption and dependant's benefits to employees.

## Who is a domestic worker?

In terms of section 1 of the Act<sup>1</sup>, a domestic worker is an employee who performs domestic work in the home of his or her employer. A domestic worker includes a gardener, a person employed by a household as a driver of a motor vehicle and a person who takes care of any person in that home. According to the Unemployment Insurance Fund Help Desk this includes a chauffeur, an au pair (who is a permanent resident in South Africa) as well as a person from a hospice who takes care of a person in your home. A domestic worker excludes a farm worker and a person that is employed for less than 24 hours a month<sup>2</sup>.

## How is the UIF contribution calculated?

Employees, including domestic workers and their employers, each have to contribute 1% of the employee's monthly salary to the Unemployment Insurance Fund. The employee's salary, on which the calculation is based, is limited to R8 099 per month<sup>3</sup>.

## Who is responsible for the payment of the UIF contribution?

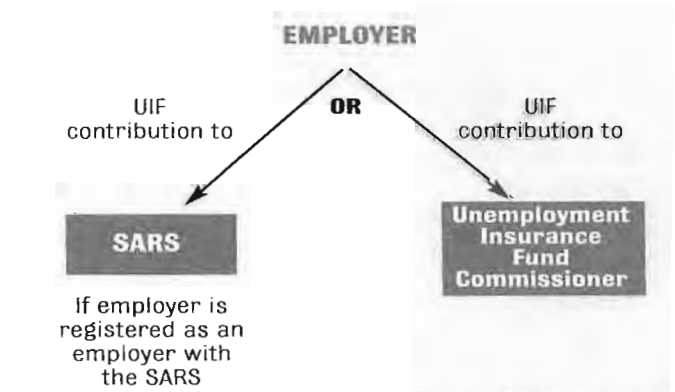
It is the employer's responsibility to deduct the employee's contribution on a monthly basis from the employee's salary<sup>4</sup>. The employer must then pay the amount deducted together with its own 1%

contribution, either to the SARS or the Unemployment Insurance Fund Commissioner<sup>5</sup>.

## To whom should the payment be made?

An employer should register at the SARS as an employer, for employee's tax purposes, if the salary paid to any employee exceeds R30 000 per year (R2 500 per month, R115,00 per day)<sup>6</sup>. Employers that are registered with SARS as such, have to pay the monthly UIF contributions, together with the monthly employee's tax, to the SARS.

All other employers (not registered with SARS as discussed above) have to pay the UIF contributions to the Unemployment Insurance Fund Commissioner (see diagram).



Employer has to register at the SARS if salary to employee exceeds R2 500 per month

## How should an employer register with the Unemployment Insurance Fund Commissioner?

Employers have to submit a UI 8 and UI 19 forms, which can be obtained from labour centers country-wide, or on the Unemployment Insurance Fund website ([www.uif.gov.za](http://www.uif.gov.za)). These forms can be submitted by facsimile, or post or on-line. According to a media statement by the Department of Labour on 25 February 2003, employers of domestic workers have

<sup>1</sup> Unemployment Insurance Contributions Act, 2002 (Act No. 4 of 2002)

<sup>2</sup> Section 4(1)(a)

<sup>3</sup> Department of Labour : Notice to all employers : Reference UI2/7/1/8/1

<sup>4</sup> Section 7(1)

<sup>5</sup> Section 8 and 9

<sup>6</sup> For salaries paid after 1 March 2003 (calculated in terms of the 2004 tax threshold)

to register before 31 March 2003.

### **When and how should the payment be made?**

The employer has to pay the contributions to the SARS or the Unemployment Insurance Fund Commissioner, as the case may be, within 7 days after the end of the month in respect of which the contributions are payable.

Where the employer is required to pay the contributions to the Unemployment Insurance Fund Commissioner (annual salary less than R30 000), the employer may elect to make a payment of the full amount of all the contributions in respect of that financial year as a single payment within seven days after the beginning of that financial year<sup>7</sup>.

If the employer discovers that the amount of such payment is less than the actual amount payable in respect of all its employees, the employer must as soon as possible, but before the end of the financial year in question, pay the outstanding amount to the Unemployment Insurance Commissioner<sup>8</sup>.

According to a media statement by the Department of Labour on 25 February 2003, the employer will be able to submit UIF payment electronically. According to the statement the online facility will be available from 15 March 2003.

The employer must submit a statement together with the payment, in such form as the Unemployment Insurance Fund Commissioner may require, reflecting the amount of the payment and other particulars required.

The Commissioner or the Unemployment Insurance Commissioner may also request the employer under section 10(4) to provide within 30 days of the request such additional particulars as may reasonably be required to give effect to the purpose of the Act.

### **How will a domestic worker know that UIF has been deducted from his/her salary?**

On every pay day, the employer must give the domestic worker a statement showing among other the wage and details of any deductions made<sup>9</sup>.



Registering your domestic worker for UIF ensures they are granted access to unemployment benefits

### **What will happen if employers do not register or do not contribute to the UIF?**

The Unemployment Insurance Contributions Act imposes strict enforcement and compliance measures, which are intended to ensure severe penalties to those employers who deliberately contravene the provisions of the new law. These measures include interest at the prescribed rate<sup>10</sup> on any late payments<sup>11</sup>, a penalty at 10% of the unpaid amount<sup>12</sup> and an additional penalty of double the amount that should be paid by the employer if he tries to avoid any amount of the contribution payable<sup>13</sup>.

In addition to the interest and penalties, any person that is convicted of an offence is liable on conviction,

to a fine or imprisonment for a period not exceeding 12 months, or both a fine and imprisonment.

A person commits an offence in terms of section 17 of the Act if that person fails to :

- pay any amount due in respect of the Act on the day determined for payment thereof;
- submit or deliver any statement or other document required to be submitted or delivered under the Act;
- disclose any information required by or under the Act;
- reply to or answer truly and fully any question put to him in terms of the Act or;
- attend and give evidence at an enquiry under the Act where duly required to do so or where that person hinders or obstructs any person in carrying out his or her functions in terms of the Act.

### **Conclusion**

Domestic workers are one of the largest employment sectors in this country. Registration with the UIF offers them peace of mind and access to unemployment benefits. To ensure that your domestic worker will be entitled to these benefits, registration is of utmost importance.

<sup>7</sup> Section 9(5)(a)

<sup>8</sup> Section 9(5)(b)

<sup>9</sup> In terms of section 6(1) of the Basic Conditions of Employment Act, no 75 of 1997 Sectoral Determination 7: Domestic Worker Sector, South Africa

<sup>10</sup> currently 15,5%

<sup>11</sup> Section 12

<sup>12</sup> Section 13(1)

<sup>13</sup> Section 13(2)