

South African Payroll Association
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Draft changes to UIF regulations bring fairness for contributing refugees and asylum seekers

The Department of Labour has issued draft regulations that will eventually open the door for refugees and asylum seekers to claim benefits from the Unemployment Insurance Fund (UIF).

Jethro Malapane, executive committee member of the South African Payroll Association, says since 2009 the regulations that govern UIF were updated to include "non-RSA" identity documents and "valid foreign identity documents and passports. Yet it continued seeing the asylum seekers still barred from payouts they were eligible for.

In order to obtain a South African identity, they first have to be granted asylum. This process should not take longer than 180 days, but in reality this often takes several years.

The draft regulations have been the result of successful litigation by Werksmans Attorneys' pro bono team. The current policy has been declared unconstitutional in February this year, and the draft regulations for consideration have now been published.

If someone has fled their country and fear prosecution because of race, religion, politics or being a member of a specific social group they are considered to be an asylum seeker and once they have been granted asylum they are considered to be a refugee in South Africa.

Once they receive an asylum seekers permit (a section 22 permit), which is valid for six months, they have the right to work and study in SA and is protected against deportation to their country of origin, the Department of Home Affairs explains on their website.

The asylum seeker has to undergo a second round of interviews in order to obtain written recognition of refugee status (a section 24 permit) which is valid for two years and is renewable.

Malapane says the draft regulations have been released for stakeholder input, and once the comments have been considered the final regulations will be published.

"It is possible that the final regulations will be published this year still, but there may be a delay with the updating of the systems at the Department of Labour and the UIF."

Malapane emphasis that people who do not have a valid work permit, or who has entered the country illegally will not be entitled to work in SA, and therefore could not be eligible to contribute to or benefit from the UIF.

“It is my understanding that those who were not able to claim in the past because of the current regulations, may be in a position to backdate their claims.”

He explains that they may be given a window in which to resubmit claims that have been rejected. However, there is no indication how long it will be backdated in order to assist people who lost their jobs and were not entitled to their contributions to the fund.

The UIF will have to increase its capacity to deal with the registrations and potential increase in the number of claims going forward, Malapane says.

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