

1st December 2020

Legal Alert | Treasury to implement an Unemployment Insurance Fund

Widely reported last week¹ is a plan by the Treasury to set up an Unemployment Insurance Fund (**UIF**), in order to assist the unemployed as a result of the COVID-19 pandemic. As reported, the plan seems rather simple; a 1% tax will be levied on employees and employers alike in order to fund the UIF and offer a monthly stipend to the unemployed, or those unable to work due to illness. Several questions arise from this proposal, thought to have emanated from South Africa's UIF, who's Act has been in force since 2001:

- 1) Why tax only those employees in formal employment? According to Statista², in 2019, only 3 out of 18 million people were employed in the formal sector in Kenya.
- 2) Is the reason for the unemployment a factor? Will a "bad leaver" be able to benefit the same as a person whose employment has been terminated as a result of a winding up?
- 3) What about redundancy; this process already makes available the ability to recoup a severance pay. Will the redundant be treated equally to all the other unemployed/ ill?
- 4) Will it matter how long one has worked for? Should someone employed for a short period benefit the same as someone recently employed and unemployed? What incentive will exist to remain employed?
- 5) Will a minimum and maximum salary be applicable? In South Africa both apply.
- 6) Many employers in Kenya have already implemented pay cuts on employee salaries. What effect will this have on the employment rate in Kenya?
- 7) Is this a tax? It is yet unclear whether this will be treated as a tax that will be subject to relief. Will it be subject to set off, adjustment and refund?

All these questions arise even before understanding how the approximate KES 23 billion proposed to be collected annually will be distributed and measures that will be taken to authenticate identity, employment status and effect payment.

Our employment practice is following these developments keenly and is available to assist our clients in all areas of Employment Law.

Should you require more information, please do not hesitate to contact [Desmond Odhiambo](mailto:Desmond.Odhiambo@kieti.co.ke) (dodhiambo@kieti.co.ke) or [Njeri Wagacha](mailto:Njeri.Wagacha@kieti.co.ke) (nwagacha@kieti.co.ke).

¹ Business Daily, Wednesday 25 November 2020, Citizen Tuesday 24 November 2020

² <https://www.statista.com/statistics/1134332/total-employment-in-kenya/#:~:text=In%202019%2C%20approximately%2018%20million,employed%20in%20the%20formal%20sector.>



- Desmond Odhiambo
- Partner and Head of Employment Practice
- Email: dodhiambo@kieti.co.ke
- www.kieti.co.ke



- Njeri Wagacha
- Partner and Co-Head of Employment Practice
- Email: nwagacha@kieti.co.ke
- www.kieti.co.ke