# NATIONAL ASSEMBLY WRITTEN REPLY

**QUESTION NUMBER: 1816 [NW2211E]**

**1816. Ms C N Mkhonto (EFF) to ask the Minister of Employment and Labour:**

What steps will his department take to (a) intervene and (b) save the livelihoods of the workers employed at Mthatha Motors in the Eastern Cape who have been instructed by their employer to take unpaid leave during the lockdown to curb the spread of the coronavirus?

NW2211E

**REPLY**

The labour inspector was dispatched to conduct an inspection to determine the level of non-compliance by the employer.

**OUTCOME OF THE INSPECTION CONDUCTED**

The BCEA and OHS inspection was conducted on the 13th of August 2020. During the inspection, it transpired that the employees are covered by MIBCO Bargaining Council. Employees were given two options by the employer during lockdown,

1. to take unpaid leave and personally claim from UIF,
2. another option was to take paid leave.

Some of the employees opted for paid annual leave while the rest of the employees were given paid leave while the employer also claimed for the COVID- 19 (Temporary Employer/Employee Relief Scheme TERS) benefits.

The Department issued the Amended COVID-19 Temporary Employer/Employee Relief Scheme directive that was signed on the 16th of April 2020 (clause 5.4) which provides as follows: “ an employer who has required an employee to take annual leave during the period of lockdown in terms of section 22(1)(b) of the BCEA 1997(Act 75 of 1997) may set off an amount received from the UIF in respect of that employee’s COVID -19 benefit against the amount paid to the employee in respect of annual leave provided that the employee is credited proportionate entitlement to paid annual leave in the future”

Amendment to Directive

Clause 5.5 provides as follows : “ To speed payment of COVID 19 benefits to employees, employers are urged to pay employees based on clause 3.4 of the Directive and reimburse or set off such with COVID 19 benefits claim payments from UIF”

In the case of these employees, the employer did not deduct paid annual leave from the UIF COVID-19 TERS payments.

Proof of UIF COVID-19 TERS and annual leave payments will be provided by the employer.

The employer is in the process of closing the business due to lease agreement that is coming to an end with TOTAL. CCMA is facilitating the retrenchment process. (Case No EC EL3458/20)

It is therefore recommended that the employer deducts the paid annual leave from July COVID-19 TERS benefits to ensure that if the employees are retrenched they would be reimbursed for the annual leave credit.