



THE TRAINING LAYOFF SCHEME

29 September 2009
High Level Version



Background to the training layoff scheme

Countries across the world, including South Africa, are affected by the deepest & most serious economic crisis in at least 80 years.

NEDLAC, in partnership with the Presidency, have agreed on a collective response to the challenge facing us. The purpose of the initiative is to ensure:

- **That the poor & the most vulnerable are protected as far as possible from its impact;**
- **That the economy is ready to take advantage of the next upturn & that the benefits of such growth are shared by all our people.**

NEDLAC Framework Document – February 2009

Background to the training layoff scheme (cont.)

The NEDLAC Framework Document prioritises training & skills development & introduces the training layoff as follows:

“In addition to other measures to avoid retrenchment, one further option that parties will consider is training layoffs

- **financed by the NSF & SETA’s;**
- **for workers whose employers would ordinarily retrench them;**
- **& which can be introduced on terms that would keep them in employment during the economic downturn;**
- **but re-skill them as an investment for the future economic recovery.”**

NEDLAC Framework Document – February 2009

What is a training layoff?

“A training layoff is a temporary suspension of work of a worker or group of workers that is used for training purposes.

The layoff depends on an agreement between an employer & a trade union on behalf of workers, or, in the absence of a trade union, between an employer & individual workers;

who may otherwise be subject to dismissal for operational requirements.

Participation in the training layoff is voluntary.”

A Guide to the Training Layoff Scheme, DOL, 18 September 2009

What are the aims of the training layoff scheme?

- **Retain employment & avoid retrenchments.**
- **Enhance the skills of workers.**
- **Support companies to survive the recession.**
- **Position workers & employers to take advantage of the next economic upturn.**
- **Social partners strongly encouraged to participate.**

What are the main aspects of the scheme?

- **A temporary suspension of work used for training.**
- **Retention of the employment contract.**
- **Training to be flexible, but linked to the skills needs of the company.**
- **A training allowance paid to the affected workers.**
- **Employer carries the costs of a basic package of social benefits.**

How does the scheme work?

- **Participation in the scheme is by agreement & subject to approval by a DoL Committee (NSF, UIF).**
- **Workers remain employed during the training layoff period but forego their normal wage for a training allowance.**
- **Employers pay full contributions to a basic social security package.**
- **The training layoff may be combined with short-time work arrangements during the period of training.**
- **The envisaged training period is three months or less.**

How is the scheme delivered?

- **There is a single point of entry via the CCMA. All parties wishing to participate do so through the CCMA.**
- **The CCMA recommends participation in the scheme & facilitates the conclusion of a Training Layoff Agreement.**
- **SETAs facilitate the provision of training, fund training costs, apply to the DoL Committee for training allowances & transfer funds to employers.**
- **The DoL Committee considers the CCMA recommendation & pays training allowances to SETA's on application.**
- **Employers pay the training allowances, received via the SETA's, to the affected workers.**

Who may use the training layoff scheme?

- **Employers, trade unions, an individual worker or group of workers may participate in the scheme.**
- **Only workers earning up to R180 000-00 per year and who may be at risk of retrenchment are eligible, subject to certain conditions.**
- **The scheme is limited to employers facing economic distress and contemplating retrenchment of workers.**
- **Employers must be in the position to benefit from the short-term relief & re-absorb workers at the conclusion of the training layoff.**
- **Employers must be compliant with statutory obligations.**

What are workers' terms & conditions of employment during the training layoff period?

- The training allowance is calculated on a maximum income of R149 736 per annum; R12 478 per month; R2 880 per week (UIF thresholds).
- The training allowance may be up to 50% of the worker's normal wage up to a maximum of R6 239-00 per month or R1 440-00 per week.
- To qualify there must be full layoff lasting a continuous period of at least four weeks or partial layoff (short time) of at least two days a week (or 16 days) (shifts) contemplated to last for at least eight weeks.

What are workers' terms & conditions of employment during the training layoff period? (cont.)

Social benefit contributions:

- **Employers pay full contributions (unless otherwise agreed) to basic social security package to which workers are entitled at the time of introduction of the training layoff.**
- **The basic social security package is pension/provident fund, death cover & unemployment insurance.**
- **Parties are free to negotiate a continuation of all existing social benefit contributions (e.g. medical scheme contributions and housing allowances).**

What type of training options apply?

- **Training of workers in distressed companies should be linked to the skills needs of the employer, as far as is possible.**
- **Various training options may apply, depending on the nature of the business, the position of workers whose jobs are at risk & the future economic opportunities for the employer.**
- **The menu of training options may include apprenticeships, learnerships & skills programmes of shorter duration.**
- **Training may also include generic workplace skills, such as ABET courses & other generic skills that may further personal development.**

How to participate in a training layoff

The CCMA process

- A request for a training layoff may be made either directly to the CCMA by completing a form, or it may emerge as an alternative to retrenchment during a CCMA process.

The 3 ways a training layoff may arise at the CCMA

- Scenario 1 – the training layoff arises from a CCMA process dealing with operational requirements matters (LRA s189A facilitation or a s189 [s135] conciliation).
- Scenario 2 – the training layoff arises from a request to participate from a party/parties in the labour market not involved in a CCMA process (in terms of LRA s150).
- Scenario 3 – the training layoff arises from a Training Layoff Agreement concluded by parties in the labour market not involved in a CCMA process, along with a request to participate (in terms of LRA s150).

How to participate in a training layoff

The CCMA process (cont.)

- **The CCMA Advisory Committee makes a recommendation in the form of an advisory award.**
- **If the recommendation is positive, the CCMA then facilitates the process to conclude a Training Layoff Agreement.**
- **The Training Layoff Agreement is perused for compliance & then forwarded, along with the advisory award & other documents, to the DOL Committee & the affected SETA.**
- **The DoL Committee considers the CCMA's recommendation.**
- **The CCMA monitors & reports on Training Layoff Agreements & the impact on the CCMA.**

How to participate in a training layoff

The role of DoL

- **The DoL Committee considers the CCMA's recommendation.**
- **The DoL Committee funds the cost of the training allowance.**
- **The DoL Committee does this on the basis of an application lodged by the SETA.**
- **The funds are transferred to the SETA.**
- **The DOL plays an oversight & coordination role.**

How to participate in a training layoff

The role of SETA's

- Structures grant allocations to accommodate training layoff claims.
- Facilitates the provision of training for workers participating in the scheme. This includes engaging with individual companies regarding type, cost, provider & duration of training.
- Applies to the DoL Committee for funding of the training allowances.
- Makes transfers of funds to employers & training providers (received from the DoL Committee).
- Monitors & reports on the training layoff scheme.

How to participate in a training layoff

The role of social partners + implementing partners

- **A Steering Committee to consider changes to Terms & Conditions of the training layoff scheme.**
- **NEDLAC teams to review the training layoff scheme after three months.**
- **Ensure appropriate use of training layoff scheme.**
- **Communicate & support.**

Training Layoff scheme resource documents

- **Framework for South Africa's Response to the International Economic Crisis (NEDLAC, 19 February 2009).**
- **DoL Guide to the Training Layoff Scheme (18 September 2009).**
- **DoL Training Layoff Implementation Guide (7 September 2009).**
- **Terms & Conditions of Training Layoff Scheme**
- **CCMA/DoL/SETA process flow diagram.**
- **CCMA/SETA arrangements.**
- **CCMA Facilitator's Guide**
- **Request to Participate in Training Layoff form.**
- **Training Layoff Process Agreement Form.**
- **Agreement to Participate in the Training Layoff Scheme form.**

THANK YOU

