

# Benchmarking Study of Models of Training Lay-off and Retrenchment Mitigation Schemes



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## SECTION ONE: INTRODUCTION

### 1.1. PROBLEM STATEMENT

The metals industry has been shedding jobs from the onset of the global recession in 2008. Since then, over 90 000 metal workers lost their jobs out of a 480 000 workforce. At an average company size of 50 employees, this translates to the closure of 1 800 companies.<sup>1</sup> The cost of downstream job losses and company closures makes for equally gloomy reading. This has raised awareness of the need to give greater social security protection to vulnerable workers in the industry.

Retrenched metal workers receive unemployment insurance fund (UIF) benefits for a period of six months. The UIF is a mandatory social security scheme that has been in place for many decades. Workers and employers contribute equally to UIF monthly on a sliding wage scale.

The international experience shows that a combination of unemployment cash benefits and active labour market policies to support re-employment is the most effective means to protect the unemployed and their families against poverty. Countries that offer retrenched workers services such as effective job search, counselling, job fairs, assistance for writing curriculum vitae (CV), labour market information and job database tend to be successful with helping retrenched workers find employment. In addition, most of the schemes offer programmes to encourage the insured unemployed workers to upgrade their skills. They are usually provided with financial assistance to enrol on training programmes and receive benefit extensions if the training lasts beyond the end of the UIF benefit period.<sup>2</sup>

Since the advent of democracy in 1994, South Africa has created an active labour market policy environment. Despite this, the official unemployment rate is at its highest ever at 27.7%.<sup>3</sup> Active labour market policies alone cannot resolve unemployment. To reduce

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<sup>1</sup> Financial Mail. 2017. Bid to save the industry, 12-18 October: P29. Accessed at [www.financialmail.co.za](http://www.financialmail.co.za)

<sup>2</sup> ILO. 2013. A comparative review of unemployment and employment insurance experiences in Asia and worldwide. International Labour Organisation.

<sup>3</sup> StatisticsSA. 2017. Quarterly Labour Force Survey, 3<sup>rd</sup> quarter.

unemployment, or increase employment, inclusive economic growth is needed. This requires the creation of economic, social and political conditions conducive to growth and development.

From a skills development perspective, the 2008 recession prompted the South African government to introduce a *Training Layoff Scheme* (hereunder referred to as the *Scheme*), as just under 1 million jobs were lost in the labour market between 2008 and 2009. The *Scheme* enables firms to retain workers on their books; place them on a training layoff; and work with relevant Sector Education and Training Authorities (SETAs) to provide training during the layoff period.

Whilst the *Scheme* looks very impressive “on paper”, there is criticism from the tripartite partners (government, labour and employers) of its effectiveness and efficiency as a vehicle for assisting retrenched workers and distressed employers. Criticisms relate to poor leadership; lack of political will; unwieldy bureaucracy; slow delivery; lack of accountability by managing agents; and weak implementation, to list a few. Many firms proceed to retrenchments as the first choice due to the inherent problems in the *Scheme*.<sup>4</sup>

The importance of retention schemes to mitigate job losses is not sufficiently recognised as an effective tool to address unemployment. With the notable exception of merSETA, there is little interest by other SETAs to assist retrenched workers in their respective sectors. The *Training Layoff Scheme* is not robustly pursued in the SETA environment or among companies and trade unions. Clearly, where job losses are unavoidable, more effort is needed to applying job retention mechanisms.

Many middle-income countries with active labour market policies have rebounded from the recession in 2008. South Africa is an outlier in this respect. Hence, there is a strong need to learn from countries which have implemented schemes to support retrenched workers.

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<sup>4</sup> Rasool, H & Rasool, F. 2013. How Effective and Efficient is the Training Layoff Scheme for Clothing and Textiles Companies in South Africa? Southern African Clothing & Textile Workers Union.

## 1.2. OBJECTIVES

The objectives of this research study are to:

- review the effectiveness and efficiency of the *Training Layoff Scheme* in the metal industry;
- identify similar models of retrenchment mitigation schemes successfully applied in other countries; and
- make recommendations to either improve the current *Training Layoff Scheme* or replace it with a better alternative.

## 1.3. KEY RESEARCH QUESTIONS

The key research questions are:

- How active is the *training lay-off scheme* in the metal industry?
- What are best-practice models used in other countries?
- Should the current *training lay-off scheme* be modified or replaced?
- What is the most appropriate model for *training-layoff* or retrenchment mitigation that can be used in the metal industry?

## 1.4. KEY CONSIDERATIONS

**Context:** Although the findings and recommendations are drawn from a Metal Industry context, the *Training Layoff Scheme* is an economy-wide programme that applies to all industries.

**Comparative analysis:** Comparative analysis between South Africa and other countries is somewhat awkward, since the schemes are structured differently - we are not comparing “apples with apples”. In the latter case, training benefits are inextricably linked to other components of social security for workers.

**Proactive and retroactive policies:** Whereas the traditional unemployment insurance system, such as in South Africa, concentrates on remedial measures in *post-factum* by giving cash benefits to the unemployed, Malaysia, South Korea and Sweden institutionalise preventive measures against unemployment as well by adopting various measures for active labour market policy.

These countries have designed systems that not only help unemployed workers by giving them unemployment benefits, but also to enhance employment stabilisation and employability of workers through skills training within the framework of the Employment Insurance System (EIS). Thus, these systems are referred as employment insurance system (EIS) rather than an unemployment insurance fund (UIF).

**Aim of Training Layoff Scheme:** The aim of the *Scheme* is not to train retrenched workers for the sake of training. In other words, the end goal is not training. Rather, the aim is to get workers re-employed. Training is a development vehicle to support re-employment and increase employability.

**Structure of schemes:** In some countries, Unemployment Insurance Fund (UIF) or Employment Insurance Schemes (EIS) are linked to active labour market policies such as skills training assistance, job seeking allowances and career counselling. Hence, the retrenched worker is offered an integrated package of social security benefits and incentives to seek re-employment. In contrast, the approach to social security for workers in South Africa tends to be compartmentalised.

For instance, the South Korean EIS links closely the Unemployment Benefit programme with an Employment Stabilisation programme and the Vocational Competency Development

programme (these will be discussed later). Under the Korean scheme, unemployment benefits are divided into: a job seeking allowance, which provides partial income replacement, and employment promotion benefits for finding work or attending vocational training.<sup>5</sup>

In Japan, the EIS is divided between: unemployment benefits scheme, job counselling, allowance for training; services for employment stability and development of workers' capabilities. Vocational training allowances are given throughout the duration of training, irrespective of how long a person has been receiving UIF benefits. It also provides for "wide-area job search" where a person who is interested in finding work outside their designated area can receive an additional 90 days of UIF benefit.

In China, the UIF can be used to subsidise the vocational training and career counselling for the unemployed to promote their re-employment. In Mongolia, an unemployed worker who qualified for UIF benefits is entitled to be included in vocational training or retraining within six months after the termination of the employment contract and after two years of the completion of a first vocational training session.<sup>6</sup>

In contrast, South Africa's UIF benefit is decoupled from the *Training Layoff Scheme*. The latter is essentially a "stand alone" incentive scheme which sits outside the service level agreement targets of SETAs and the National Skills Development Strategy. It is an appendage to existing schemes. Moreover, the beneficiaries are restricted to companies that voluntarily participate in the *Scheme*. It is not accessible to all retrenched workers, thus preventing most retrenched workers from obtaining training benefits.

In Poland, a work-sharing programme supported by workers' and employers' organisations, was added in July 2009, financed from the Guaranteed Employee Benefits Fund. It also

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<sup>5</sup> Yoo, Kil-Sang. 1999. The Employment Insurance System in Korea; Korea Labor Institute.

<sup>6</sup> Carter, J, Bedard, M & Bista, CP. 2013. Comparative review of unemployment and employment insurance experiences in Asia and worldwide. ILO/Japan Multi-bilateral programme. Regional office for Asia and the Pacific. ILO.

establishes training support, with up to 90% of the costs to be paid from Unemployment Benefits/Labour Fund (the rest is financed by employer training funds).<sup>7</sup>

French employers and trade unions signed a national agreement for the development of training throughout employees' working life, professionalisation and securing career paths. The agreement resulted in workers being granted the right to transfer their existing individual right to training if they lost their job due to dismissal or redundancy. The workers would then be able to use their accumulated rights for training while they are unemployed or, if they find a new job, transfer them to their new employer.<sup>8</sup>

In the Netherlands, the Czech Republic and Slovenia, employers are required to enable workers to participate in training during periods of short-time working or temporary leave, while in Austria employers are entitled to receive a training subsidy if they provide training courses for workers who are on short-time working. In the Czech Republic, incentives have taken the form of contributions to social security costs.<sup>9</sup>

**Choice of country examples:** We have provided best practice examples of training schemes for retrenched workers from Malaysia, South Korea and Sweden. Although, there are many other countries with successful schemes to support retrenched workers, we thought much can be learnt from these countries.

Malaysia introduced its EIS as recently as 2017 with the support of the International Labour Organisation (ILO). We selected Malaysia because their scheme has factored best practices of earlier schemes used in other countries.<sup>10</sup>

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<sup>7</sup> ILO. 2009. Protecting people, promoting jobs. A survey of country employment and social protection policy responses to the global economic crisis: An ILO Report to the G20 Leaders' Summit, Pittsburgh, 24–25 September 2009, Geneva.

<sup>8</sup> Alleki, N. 2009. Intersectoral agreement lays basis for training system reform', European Industrial Relations Survey Online, Eurofound, Belgium.

<sup>9</sup> Heyes, J. 2010. Training, employment and 'employability': responding to the jobs crisis' University of Birmingham, Birmingham, UK.

<sup>10</sup> ILO. 2009. Protecting people, promoting jobs. A survey of country employment and social protection policy responses to the global economic crisis: An ILO Report to the G20 Leaders' Summit, Pittsburgh, 24–25 September 2009, Geneva.

The South Korean scheme places huge emphasis on vocational training to get retrenched workers re-employed. Therefore, it is a worthy example to study in the context of the *Training Layoff Scheme*.<sup>11</sup>

Sweden is a very interesting case study since it is remarkably different from other schemes. The Swedish model compels us to think innovatively and look beyond training support. The difference with the Swedish model is that it is an outcomes-driven scheme instead of an inputs-driven one. It has been relatively successful in minimising the adverse consequences for workers who bear the brunt of retrenchments. This is, after all, the purpose of the *Training Layoff Scheme* – to get workers re-employed.

Sweden has a longstanding tradition of collaboration between the social partners that share responsibility for restructuring. This has resulted in special arrangements and practices that provide help to workers affected by economic downturns much faster than in most other OECD countries. With this approach, over 85% of retrenched workers find a new job within one year. Surprisingly, there are hardly any incentives for training in the Swedish Model. These will be explored subsequently in greater depth.<sup>12</sup>

These countries EI systems seek to prevent massive layoffs, stimulate re-employment and expand job opportunities by providing economic incentives to employers who have averted massive unemployment and employed displaced workers. It also seeks to promote job placement by providing accurate information on the labour market and administering vocational counselling and guidance. South Korea and Malaysia also foster and stimulate vocational training for new entrants to the labour market and develop the job skills of employees and displaced workers.

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<sup>11</sup> Ibid.

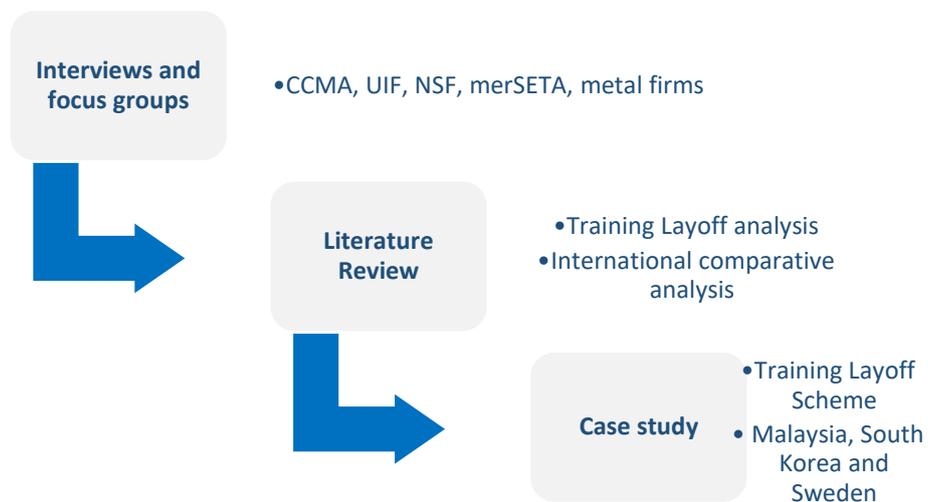
<sup>12</sup> Van de Pas, I. 2012. Securing job-to-job transitions in the labour market: a comparative study of employment security systems in European countries, Tilberg University, Stichting Instituut Gak, Hilversum.

**Disruption:** We are reluctant to propose measures that will radically disrupt the *Training Layoff Scheme*. Our goal is to effect improvements to the existing scheme, whilst keeping the momentum of delivery undisturbed.

Our recommendations are simple, unambiguous and actionable. It provides effective skills training and development support to retrenched workers for obtaining re-employment.

### 1.5. RESEARCH METHODS

The following research methods were employed:



## 1.6. CONSULTATIONS

The following people and organisations were consulted:

NAME	POSITION	ORGANISATION
Ansa Liebenberg	Manager: Special Projects	Manufacturing, engineering and related industries SETA
Sabelo Buthelezi	Senior Manager: Implementation	
Carol Moletsane	Co-ordinator: Special Projects	
Bongani Mbali	Employment Security Manager	Commission for Conciliation, mediation and Arbitration
Nolufefe Nyamezele	Project Manager: TLS	
Nozipho Ndlovu	Skills Development Facilitator	Azimon Consulting
Teboho Maruping	UIF Commissioner	Department of Labour
Merriam Moitse	UIF Officer	Department of Labour
Natasja Fassen	HR Manager	Prevail Engineering
<b>Hennie Vosloo</b>	Industry Facilitator	Solidarity
<b>Amanda Hattingh</b>	Organiser	Solidarity
Nanette Neel	HR Manager	DCD Ring-rollers

## 1.7. STRUCTURE OF REPORT

The report is structured as follows:

<b>Section One</b>	Introduction
<b>Section Two</b>	South Africa - Training Layoff Scheme
<b>Section Three</b>	Malaysia - Employment Insurance Scheme
<b>Section Four</b>	South Korea - Employment Insurance Scheme
<b>Section Five</b>	Sweden - Job Security Councils - Trygghetsrådet (Trr)
<b>Section Six</b>	Findings and Recommendations
<b>Section Seven</b>	Conclusion

## SECTION TWO: SOUTH AFRICA - TRAINING LAYOFF SCHEME

### 2.1. BACKGROUND

South Africa experienced a severe economic downturn in 2008. As a response, businesses in difficulties retrenched workers to reduce operating costs. It is estimated that about 1.1 million jobs were lost between the 4<sup>th</sup> Quarter of 2008 and the 2<sup>nd</sup> Quarter of 2010, representing an effective 7.9% decrease in total employment.<sup>13</sup>

In December 2008, the social partners in the Presidential Economic Joint Working Group from organised labour, business and government met to consider a response to large-scale job losses. The foremost concern was to protect the poor and most vulnerable workers from impact of the global recession.

The social partners crafted the *Training Layoff Scheme*<sup>14</sup> and implementation guidelines as a fresh alternative to support companies in distress and find alternatives to simply retrenching workers. The NEDLAC framework document *Framework for South Africa's response to the International Economic Crises* was crafted, which offered an option to avoid retrenchment.

A R2.9 billion *Training Layoff Scheme*<sup>15</sup> was set up, aimed at providing temporary relief for workers threatened with retrenchment. *The Scheme* enabled firms to retain employees they would have normally retrenched; place them on a training layoff; and work with Sector Education and Training Authorities (SETAs) to provide them skills development. As part of the *Scheme*, government agreed to pay half the workers' wages from the National Skills Fund (NSF) and the Unemployment Insurance Fund (UIF).

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<sup>13</sup> Statistics South Africa. 2008. Labour Force Survey (Quarter 4).

<sup>14</sup> Hereunder referred to as *The Scheme*.

<sup>15</sup> A TLS is "a temporary suspension of work of a worker or a group of workers that is used for training purposes who might otherwise be subjected to dismissal for operational requirements"

The focus of *the Scheme* is to save jobs and increase worker productivity through skills development. It is hoped that at the end of the training period, the companies would have recovered, and employees absorbed into the workforce.

The *Training Layoff Scheme* is a pioneering initiative by the social partners to apply socially responsible restructuring and job retention strategies as a short-to long-term solution to business distress and job losses.

South Africa is currently in a recession and has an unemployment rate at 27.7%, the highest since the advent of democracy in 1994.<sup>16</sup> Hence, the *Scheme* serves as a short-term intervention against retrenchment and economic hardships for employees.

According to the Commission for Conciliation, Mediation and Arbitration (CCMA):<sup>17</sup>

*“...while a great deal of emphasis is placed on the need for job creation, insufficient attention is placed on retention of existing jobs and preventing workers currently employed from becoming unemployed and impoverished because of job losses. Where job loss is unavoidable, more effort should be placed on the application of survival mechanisms and enhancing employability, thus contributing to alleviating poverty’.*

*The Scheme* was implemented by the Department of Labour (DoL) in 2009 and has since been active. Despite active participation in the *Scheme* by some metal companies, the high number of cancellations, 7 companies covering 3310 workers, due to liquidations is concerning.

The slow turnaround time from company application to first payment of the wage cost component by the NSF and UIF means that some companies cannot access the *Scheme* promptly. For the *Scheme* to work effectively and efficiently, its turnaround time should be considerably faster, since applicants need immediate support.

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<sup>16</sup> Statistics South Africa. 2017. Labour Force Survey (Quarter 3).

<sup>17</sup> Everett, W. & Daphne, J. 2012. Exploring the Full Use of Partnerships and a Multi-Faceted Job Saving Strategy to More Effectively Address Job Loss and Deepening Poverty. 12 August: CCMA.

## 2.2. OBJECTIVES

The objectives of the *Training Lay-Off Scheme* are to:<sup>18</sup>

- Retain employment and avoid retrenchment during an economic downturn or any other event leading to retrenchment.
- Enhance the skills of workers through training to increase productivity and enable workers find employment.
- Support companies to curb retrenchments in times of financial distress.
- Position workers and businesses to take advantage of the next economic upturn with better skilled workers.

## 2.3. KEY ROLE-PLAYERS

The key role-players are the following:

ORGANISATION	ROLE FUNCTION
<b>Managing Partners</b>	
Department of Labour (DoL)	Oversight responsibilities for scheme
National Economic Development and Labour Council (NEDLAC)	Negotiation between tripartite social partners
<b>Implementation Partners</b>	
Unemployment Insurance Fund (UIF)	Vet application and make funding available
Commission for Conciliation Mediation and Arbitration (CCMA)	Vet applications and make recommendation
Sector Education and Training Authorities (SETAs)	Assist with application for funding, training intervention and payments
National Skills Fund (NSF)	Vet application and make funding available
<b>Users</b>	
Employers	Initiate training layoff
Trade Unions or Workers	Initiate training layoff
Displaced workers	Undergo training

<sup>18</sup> Everett, W. & Daphne, J. 2012. Exploring the Full Use of Partnerships and a Multi-Faceted Job Saving Strategy to More Effectively Address Job Loss and Deepening Poverty. 12 August: CCMA.

## 2.4. MANAGEMENT OF SCHEME

At a macro-level, the *Scheme* is jointly managed by the Commission for Conciliation Mediation and Arbitration (CCMA), Sector Education and Training Authorities (SETAs), National Skills Fund (NSF) and Unemployment Insurance Fund (UIF). At firm-level, employers and labour representatives are responsible for ensuring that the intervention is efficiently and effectively implemented. At an individual level, workers that are registered on the *Scheme* are responsible for ensuring the successful conclusion of their training programmes.



## 2.5. TERMS AND CONDITIONS

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 and a trade union on behalf of workers, or, in the absence of a trade union, between an employer and individual workers, who may otherwise be subject to dismissal for operational requirements. Participation in a training layoff is voluntary.

The employer must continue the contract of employment. Parties are free to negotiate a continuation of existing social benefit contributions. Employers shall pay full contributions to a basic social security package to which a worker is entitled at the time of the introduction of

the training layoff (i.e. disability and death cover, pension/provident funds, unemployment insurance).

The aim is to ensure that the contract of employment remains in place and only the wage component changes. The worker(s) agrees to forego their normal wage, to attend a training programme, and to accept a training allowance during the period of training.

Any employer that is under threat of closure due to the economic recession that is contemplating retrenchment of workers, but may be sustainable through short-term relief, qualifies for the scheme. Any worker earning below R180 000 per annum, who may be at risk of retrenchment due to the operational requirements of the company is eligible.

Employers, after consultation with a trade union or affected workers, may combine the training layoff with short-time work arrangement.

Payment of a training allowance (financed by UIF) –75% of basic wage up to R9,358.00 per month. The employer is encouraged to top up the remaining 25%.

Employer carries cost of a basic package of social benefits –UIF, provident/pension fund and death and disability cover. The employer can agree to cover other benefits such as Medical Aid.<sup>19</sup>

The *Scheme* is not suitable in all situations of distress. The CCMA Advisory Committee assesses eligibility for participation in the *Scheme*. In determining eligibility, emphasis is placed on the CCMA Advisory Committee having a flexible approach.

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<sup>19</sup> Auditor-General of SA. 2017. Training Layoff Scheme Value Chain Analysis, March.

To be eligible for participation in the *Scheme*:

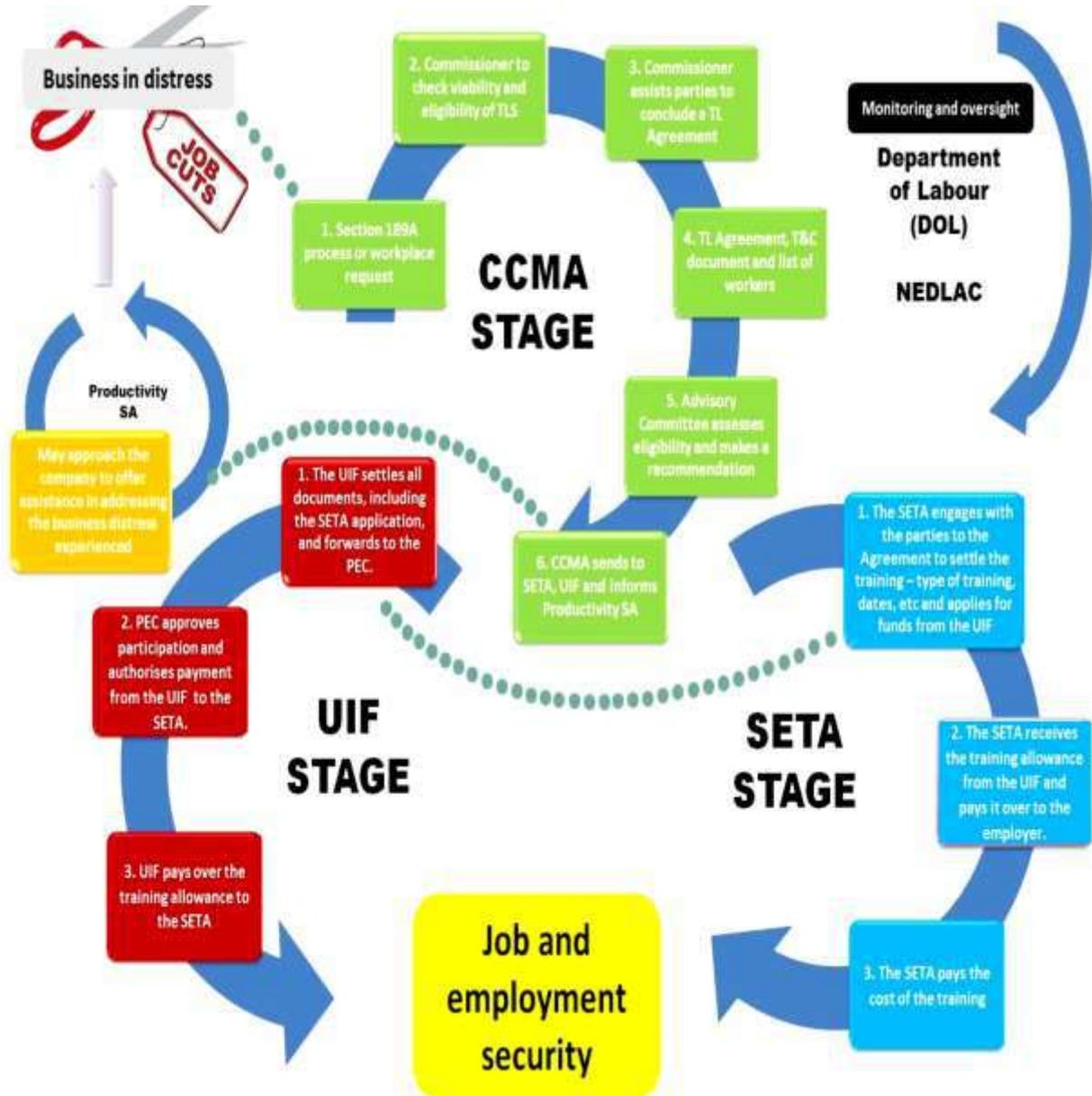
- ⇒ The business must be in distress or be facing distress;
- ⇒ The distress must impact on the employees of the business by way of reduced working hours or intended retrenchment; and
- ⇒ Short-term financial relief, obtained through a reduction in payroll costs, should assist in alleviating the distress.

The Advisory Committee determines business distress by examining the change in the business's turnover, with a reduction of 10% or more being accepted as indicating distress. Where not in distress but facing distress, a reduction in total orders/ production output of 10% or more is accepted. Worker distress is determined by examining reduction in working time or intended retrenchment. In determining whether the short-term financial relief could assist in alleviating business distress, labour costs in relation to total operating costs are examined.<sup>20</sup>

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<sup>20</sup> Ibid.

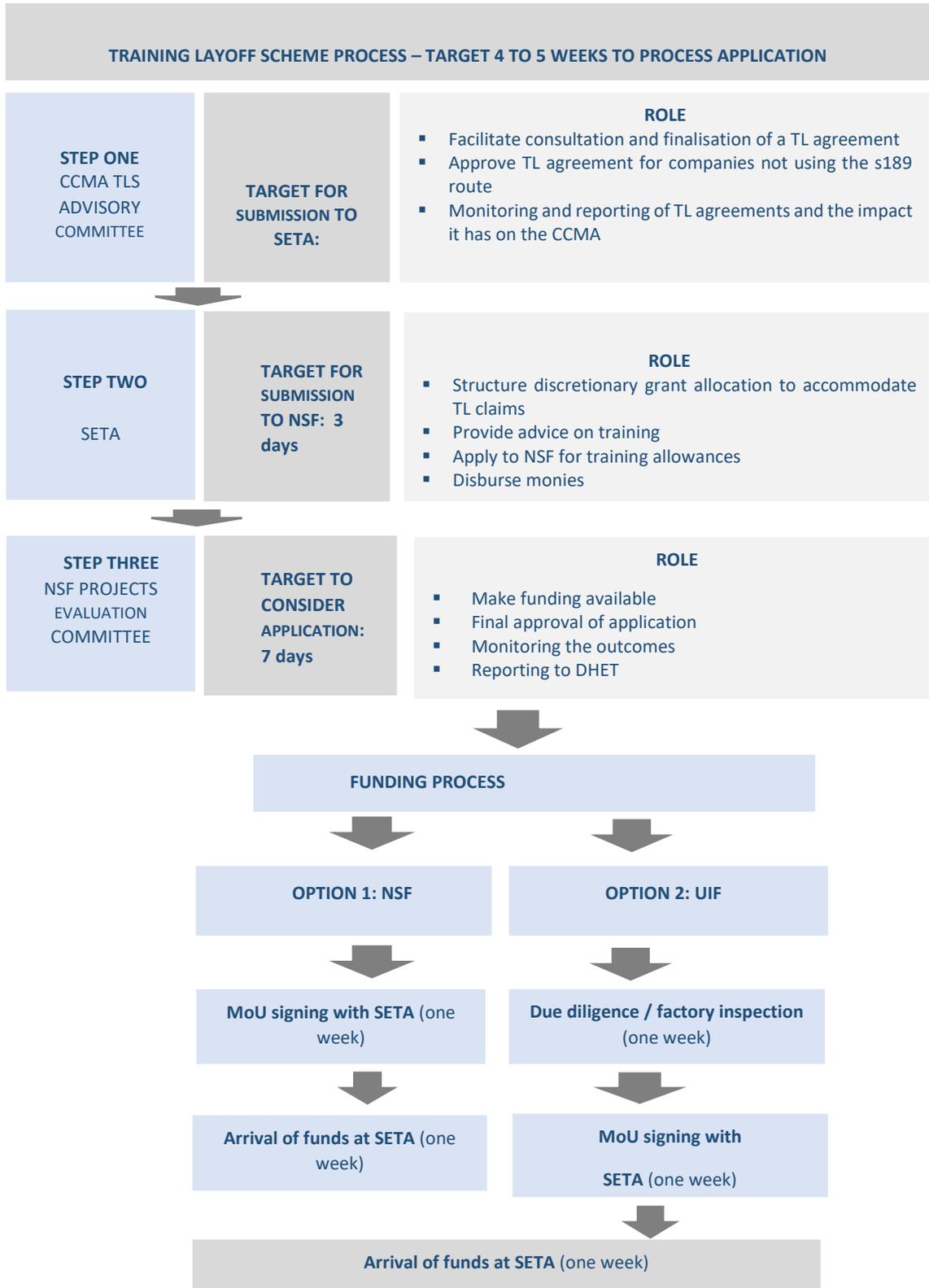
### Training Layoff Scheme Value Chain



Source: Auditor General of South Africa

## 2.6. PROCESSES

The process of *the Scheme* unfolds as follows:



## 2.7. FINANCE

*The Scheme* is funded by the NSF and UIF.

## 2.8. BENEFICIARIES

The beneficiaries are employees that would have been retrenched and companies who have kept employees on their books.

## 2.9. STRENGTHS

*The Scheme* has the following strengths:<sup>21</sup>

- ⇒ It is an important mechanism within a package of approaches to address job and employment insecurity.
- ⇒ Workers remain employed, but forego their normal wage. Instead, they receive a training allowance and are retained in employment and their skills enhanced.
- ⇒ Supports businesses in distress and provides an opportunity to turn the business around.
- ⇒ The company's interests are met because it saves on having to pay out severance packages (it is liable for the payment of social benefits) and gets workers back after the layoff period who are better skilled This should positively affect the enterprises' productivity and competitiveness.
- ⇒ *The Scheme* keeps the employment contract intact, which is strategically the most innovative aspect of the *Scheme*. If workers were dismissed, they would have to try to re-enter employment, which in South Africa, with its high unemployment rate, is difficult. Eventually many would lose hope and cease to seek employment.

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<sup>21</sup> Roskam, A & Howard, N. 2010. Review of the Training Layoff Scheme. 15 December. Employment Promotion Programme. Development Policy Research Unit. University of Cape Town.

## 2.10. WEAKNESSES

The *Scheme* also has weaknesses:

**Legal Basis:** The scheme is not located in a legal and regulatory framework. Hence, it is not anointed in law or regulation. Consequently, it lacks legal backing. There is currently no amendment in any legislation that accommodates *the Scheme*. Without legislative backing, it is difficult to justify spending resources on *the Scheme*, regardless of its manifest benefits. There is resistance from many SETAs to allocate funds for layoff. Furthermore, policies that have a bearing on the *Scheme* lie in other Departments.

**Design Flaws:** There are inherent design flaws in the *Scheme*. It is a multi-party structure comprising the CCMA, UIF, NSF and SETAs. This renders the Scheme cumbersome, slow and difficult to implement. Invariably, there are delays in the value chain which makes implementation problematic.

It is evident that social partners under-estimated the enormity of the task of establishing this *Scheme*, especially where it involved the co-ordination of so many government departments, government institutions and social partners.

Many of the officials and departments that were required to implement *the Scheme* had not been involved in the discussions that led up to the agreement, and yet they were suddenly expected to understand and implement it.<sup>22</sup>

**Administration:** *The Scheme* is viewed as excessively bureaucratic, complicated and difficult to access. There are difficulties in convening PEC meetings to consider recommendations, deal with blockages and obtain decisions, especially in urgent situations.<sup>23</sup> Metal companies

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<sup>22</sup> Roskam, A & Howard, N. 2010. Review of the Training Layoff Scheme. 15 December. Employment Promotion Programme. Development Policy Research Unit. University of Cape Town.

<sup>23</sup> Everett, W. & Daphne, J. 2012. Exploring the Full Use of Partnerships and a Multi-faceted Job Saving Strategy to more Effectively Address Job Loss and Deepening Poverty, 21 August.

interviewed complained about their frustrations of the *Scheme*. In some instances, companies have chosen to shut their doors rather than participate in the *Scheme* out of a sense of hopelessness.

There are considerable delays with the actual moving of documents from one public entity to the next. There are also lengthy delays running into months from final approval to first payment.

**SETA Issues:** *The Scheme* is not part of the service level agreement between the SETA and the DHET. Hence, there is no budget for the *Scheme* in the discretionary fund of the SETA. There appears to be a lack of commitment by SETA Boards to make funding available for the *Scheme*, or to prioritise it as an important skills development intervention.

**Institutional Capacity:** *The Scheme* has no precedent in South Africa. There were no institutions, procedures, processes or rules through which the *Scheme* could be implemented. Although the *Scheme's* establishment and implementation relied on the CCMA, as a statutory national dispute resolution structure, and on the SETAs, statutory bodies with sectorally based training functions, these institutions had to adapt to the new roles and functions and build the capacity and expertise to understand, promote and facilitate the implementation of the *Scheme*. Furthermore, the concept of the *Scheme*, the rules for participation and the procedure for implementation had to be designed and built from scratch. These posed institutional capacity challenges.<sup>24</sup>

One small example of this relates to the disbursement of funds by the UIF. The UIF had no experience of disbursing funds to other organisations. It had to draft and conclude separate contracts with organisations it was disbursing funds to; so that the funds were properly disbursed with the appropriate authorisation and accountability required for reporting on expenditure. This was new to the UIF and its financial officers, and caused substantial delays.<sup>25</sup>

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<sup>24</sup> Roskam, A & Howard, N. 2010. Review of the Training Layoff Scheme. 15 December. Employment Promotion Programme. Development Policy Research Unit. University of Cape Town.

<sup>25</sup> Ibid.

**Small Business:** To date, there has been little participation in the *Scheme* by small businesses. Yet, small-scale retrenchments constitute most retrenchments occurring through CCMA processes.

It was alleged that the *Scheme* was orientated to large businesses and large-scale retrenchments, and was not suitable for small businesses.<sup>26</sup> Factors that hindered small business and small-scale retrenchment participation included: the criteria for participation in *the Scheme* were too limiting, the onerous administration processes, the lack of willingness on the part of the SETAs to deal with these kinds of matters, and the fear that the employee allowances would be paid too late.<sup>27</sup>

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<sup>26</sup> Ibid.

<sup>27</sup> Ibid

## 2.11. METAL INDUSTRY

**Participation:** The South African Metal Industry is an active participant in the *Training Layoff Scheme*. For instance, between 2012 and 2016 metal company participation was as follows:<sup>28</sup>

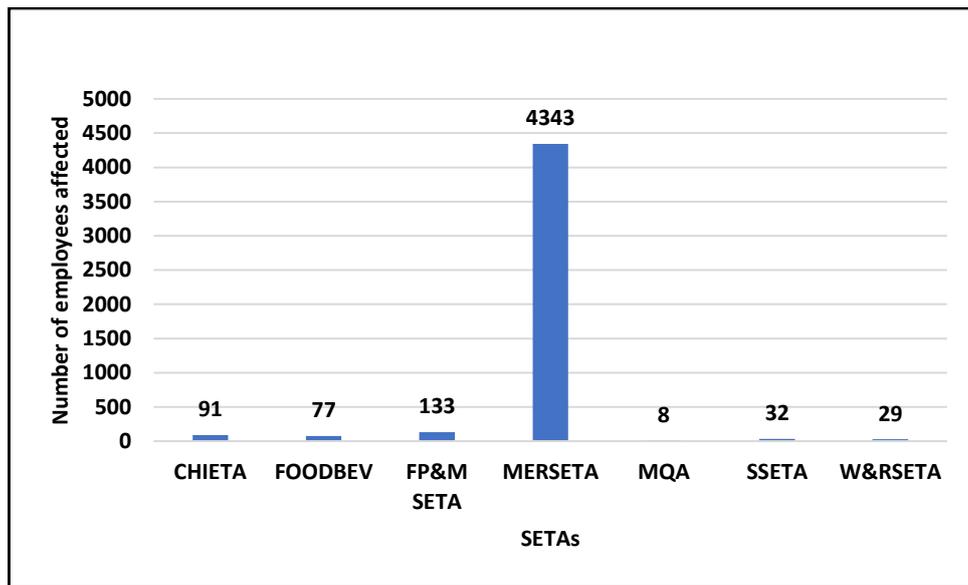
2012 - 2016	
<p><b>Participating Metal Companies</b></p>  <p><b>18</b></p>	<p><b>Participating Metal Workers</b></p>  <p><b>4 843</b></p>
<p><b>Wage Component by NSF / UIF</b></p>  <p><b>R163 018 335.27</b></p>	<p><b>Training Component by merSETA</b></p>  <p><b>R55 122 755.56</b></p>
<p><b>Cancellations due to Liquidations</b></p>  <p><b>7</b></p>	<p><b>Number of affected Workers due to Liquidations</b></p>  <p><b>3310</b></p>

<sup>28</sup> MerSETA database 26 September.2017.

**Comparison merSETA and other SETAs:** There are 21 SETAs supporting skills development in their sectors. There was a total of 20 training layoff advisory awards issued by the CCMA for the period 1 April 2014 to 31 January 2016. Only 7 SETAs were affected by the awards issued.

Details of the awards issued and tested are as follows:

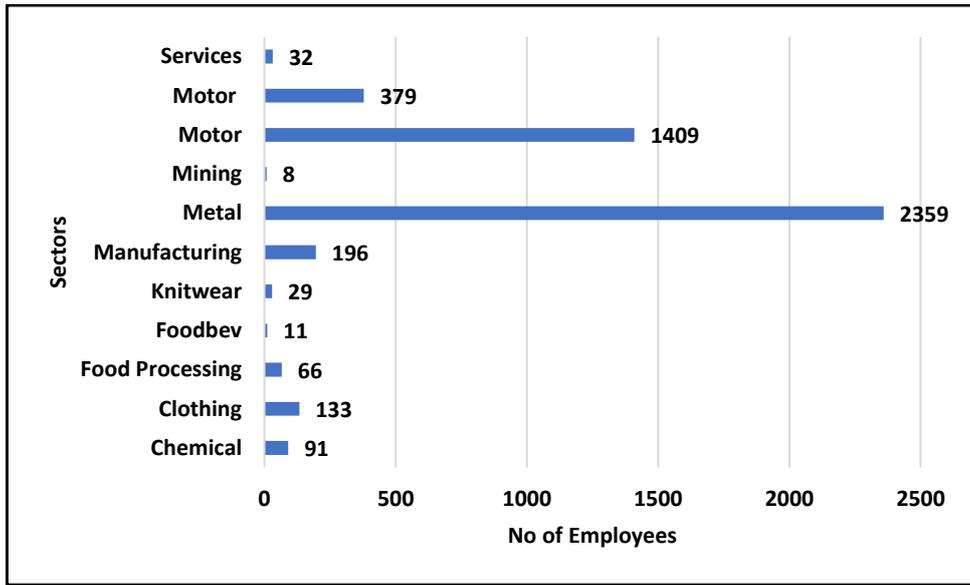
**Employees affected by business distress per SETA**



Source: Auditor-General – training layoff value chain analysis (2017)

- ⇒ There appears to be very little interest from SETAs, except 7 of them, to use the *Scheme*.
- ⇒ The merSETA is the most active user of the *Scheme*.
- ⇒ The metal industry, followed by food processing and food and beverages.

Businesses in distressed sectors



Source: Auditor-General – training layoff value chain analysis (2017)

## SECTION THREE: MALAYSIA - EMPLOYMENT INSURANCE SCHEME

### 3.1. BACKGROUND

During the Asian Financial Crisis (1997-98) about 121 222 Malaysian workers were retrenched. This number excludes workers with temporary lay-off and those whose wages were reduced. Many foreign workers were sent back to their home countries. Government gave MYR 500 (USD 167) to the unemployed workers for attending training through a special economic stimulus package.<sup>29</sup>

In the global recession (2007-08), 49 123 Malaysian workers were retrenched, and 400 000 foreign workers were sent back. The Government allocated MYR 650 million (USD 217 million) through the Ministry of Human Resource to assist the unemployed under the “Train & Place Program”, which provided MYR 500 (USD 167) monthly as training allowance. During this crisis, Malaysia’s Trade Union Congress (MTUC) requested the government to establish an Unemployment Insurance Benefit System.

A total of 38 499 workers were retrenched in 2015, inclusive of normal retrenchments as well as voluntary severance schemes. This was the highest record of retrenchment over the past five years. Most workers retrenched in 2015 were from the finance, insurance and Takaful sectors totalling to 17 628 workers.<sup>30</sup>

In early 2012, the ILO reached an agreement with the Malaysian government to provide technical expertise to the project “Supporting and Facilitating the Design of an Unemployment Insurance System in Malaysia”. It comprised three studies (legal; institutional and operational; actuarial) on establishing the proposed EI system in Malaysia.<sup>31</sup>

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<sup>29</sup> The Star Online. 2017. EIS – a win-win scheme for all, 17 August. <http://www.thestar.com.my/news/nation/>

<sup>30</sup> Ibid.

<sup>31</sup> ILO. 2015. The design of an employment insurance system for Malaysia. ILO: Bangkok.

According to TradingEconomics.com, Malaysia's labour force participation rate was about 67% as of April 2016; 14.2 million people were employed out of the total of 14.71 million. The oil price crash and a series of multinational corporation budget cuts led to high number of retrenchments in Malaysia in 2016.<sup>32</sup>

It was also reported by AsiaOne Business that 10 industry players in the local oil and gas sector have outlined plans to slash at least 2,700 more jobs in 2017. Shell Malaysia is on top of the list with a projected 1 300 job cuts in two years. Seven of the remaining nine, plan to cut between 80 and 600 jobs each.<sup>33</sup>

Hence, to protect employees who face retrenchment, the Malaysian government initiated an employment insurance scheme that was supposed to be put in place since 2014. The "Employment Insurance Scheme" (EIS) took effect from January 2018 and payments are expected to be made from 1 January 2019.

According to statistics revealed during the tabling of the Bill, there has been an average retrenchment rate of 30 000 to 40 000 workers a year in the past 10 years.<sup>34</sup>

### 3.2. OBJECTIVES

The objectives of the *EIS* are to:<sup>35</sup>

- ⇒ act as a "safety net" for retrenched workers;
- ⇒ provide financial aid to employees who have been retrenched and have not found alternative employment;
- ⇒ assist with job search, career counselling and job suitability;
- ⇒ help enterprises adjust to economic changes and re-organize their businesses;

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<sup>32</sup> [www.TradingEconomics.com](http://www.TradingEconomics.com)

<sup>33</sup> [www.asiaone.com/malaysia](http://www.asiaone.com/malaysia)

<sup>34</sup> The Star Online. 2017. EIS – a win-win scheme for all, 17 August. <http://www.thestar.com.my/news/nation/>

<sup>35</sup> Government of Malaysia. 2017. Employment Insurance System Bill 2017.

- ⇒ facilitate labour force mobility through income security and re-employment measures; and
- ⇒ encourage job retention measures.

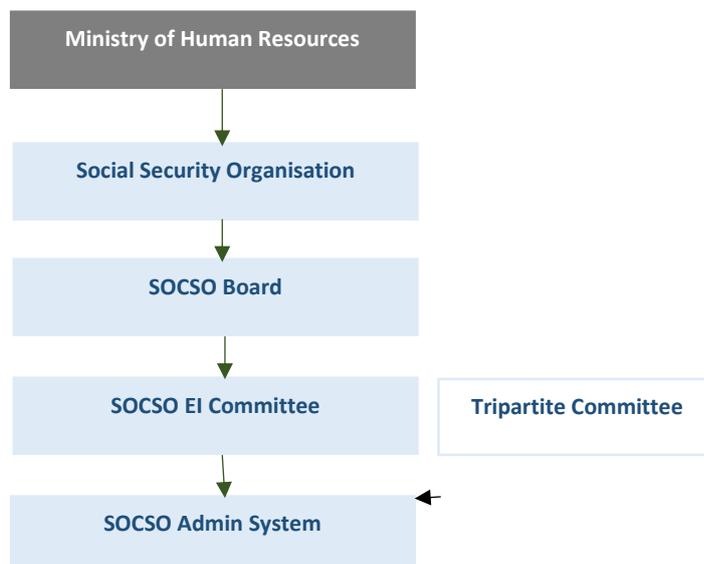
### 3.3. KEY ROLE-PLAYERS

The key role-players are the following:

ORGANISATION	ROLE FUNCTION
Employees	<ul style="list-style-type: none"> <li>▪ Make contributions to EIS.</li> <li>▪ Ease the burden of retrenchments.</li> </ul>
Employers	<ul style="list-style-type: none"> <li>▪ Make contributions to EIS.</li> <li>▪ Access benefits from scheme.</li> </ul>
Government	<ul style="list-style-type: none"> <li>▪ Reduce social welfare burden.</li> </ul>

### 3.4. MANAGEMENT OF SCHEME

The EIS initiative is expected to be managed by SOCSO.



The EIS falls under the Ministry of Human Resources in the division of the Social Security Organisation. It is made up of a Board EI Committee and internal administration operations.<sup>36</sup>

### 3.5. TERMS AND CONDITIONS

The EIS is a job-loss coverage scheme for retrenched staff. It also includes employees made redundant due to business restructuring or closure, and those whose employers abscond or become bankrupt. Under the Bill, employers are to contribute to the EIS, a minimum rate based on the employee's monthly wages.

The Bill seeks to establish the Employment Insurance System (EIS) for post-exit benefits to affected individuals and to assist with re-employment. A sliding scale percentage of wages may be claimed for up to six (6) months of unemployment for job search purposes.

It does not cover voluntary resignation of the insured person, the expiry of a contract, termination of a contract of service due to mutual consent, completion of contract in accordance with the terms of conditions of service, retirement and termination of a contract of service due to the insured employee's misconduct.

All private sector employers with one or more employees will be required to register under the EIS, and all employees will need to be insured. The EIS contribution totals approximately 1.5% of monthly wages, with the employee and employer contributing 50% each.

The scheme covers monthly wages of up to RM 4 000, with both the employers' and employees' contributions ranging from 10 sen to RM 29.65 a month.

Any employee meeting the conditions of termination which allows for the insurance to be activated, must apply within 60 days from the day the employee loses their job.

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<sup>36</sup> Government of Malaysia. 2017. Employment Insurance System Bill 2017.

A job search allowance could be paid to the insured person, but on condition that the person shall not be under any employment during the job search period.

Another provision is the incentive of an early re-employment allowance. Under this provision, the insured person shall be paid early re-employment allowance in the month that the employee has reported for work with a new employer.

The insurance pay-out to an employee made jobless will follow the monthly contribution scale, but the insurable benefit will be capped at RM 4 000 even if the staff member earns more than RM 4 000.

A maximum of 12 claims can be made, depending on the number of months of contribution within an employment period.

Employers found to dock pay or benefits from employees to cover the additional expense of contributions can be punishable by a fine of up to RM 10 000, up to two years' imprisonment, or both.

A worker must have contributed to the fund for at least 12 months to be entitled to three months of unemployment benefits.

For a retrenched staff member to be entitled to six months of benefits, at least 24 months of contributions must have been made.

Other claimable allowances include for early re-employment, reduced income and career counselling and training purposes.<sup>37</sup>

Relative to other Malaysian employment-related legislation, the definition of employer under the Bill is broader and includes the employer's agent, as well as the legal representative of the employer.

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<sup>37</sup> Wong & Partners. 2017. New compulsory allowances and benefits scheme for terminated employees in Malaysia: W&P: Malaysia.

Employees who are terminated for misconduct, voluntarily resign, retire or whose fixed-term employment contract expired, will be excluded from the benefits. Those who exit because of *force majeure* events, through voluntary separation schemes or constructive dismissal, remain eligible.

### 3.6. BENEFITS

The EIS benefits structure is as follows:<sup>38</sup>

<ul style="list-style-type: none"> <li>• <b>Job Matching and Job Placement Services</b></li> </ul>	<ul style="list-style-type: none"> <li>• Job activation to overcome difficulties of employment.</li> </ul>
<ul style="list-style-type: none"> <li>• <b>Career Counselling</b></li> </ul>	<ul style="list-style-type: none"> <li>• Employment strategy development.</li> </ul>
<ul style="list-style-type: none"> <li>• <b>Job Seeking Allowance</b> <ul style="list-style-type: none"> <li>○ A job search allowance could be paid to the insured person but on condition that the person shall not be under any employment during the job search period.</li> </ul> </li> </ul>	<ul style="list-style-type: none"> <li>• 30% - 80% from insured wages for 3 to 6 months.</li> </ul>
<ul style="list-style-type: none"> <li>• <b>Early Re-Employment Incentive</b> <ul style="list-style-type: none"> <li>○ The insured person shall be paid early re-employment allowance on the month that follows the month he or she has reported for work with a new employer.</li> </ul> </li> </ul>	<ul style="list-style-type: none"> <li>• 25% from balance of JSA.</li> </ul>
<ul style="list-style-type: none"> <li>• <b>Training Allowance</b> <ul style="list-style-type: none"> <li>○ Training, Re-training, Re-skilling, Up-skilling.</li> <li>○ Basic employment skill; human resource skill, communication skill, work ethics, competency development skill.</li> <li>○ Job searching skill: career goal-setting, resume writing, interview skill.</li> </ul> </li> </ul>	<ul style="list-style-type: none"> <li>• 25% from insured wages (minimum MYR 300 and maximum MYR 600) for maximum period of 6 months.</li> </ul>
<ul style="list-style-type: none"> <li>• <b>Training Fees</b> <ul style="list-style-type: none"> <li>○ Assistance for vocational training to the unemployed.</li> </ul> </li> </ul>	<ul style="list-style-type: none"> <li>• Maximum MYR 10 000 for maximum period of 6 months to the service provider.</li> </ul>
<ul style="list-style-type: none"> <li>• <b>Income Reduce Benefits</b></li> </ul>	<ul style="list-style-type: none"> <li>• Employees with multiple employers.</li> </ul>

<sup>38</sup> Ibid.

### 3.7. STRENGTHS

*The Scheme* has the following strengths:

- ⇒ Malaysia has not had any legally-mandated system for assisting former employees prior to the Bill. The *Employees Social Security Act* administered by the *Social Security Organisation (SOCSO)*, covers only workplace injuries. The Bill therefore represents a very significant development in assisting impacted individuals.
- ⇒ From the employer's standpoint, complying with the new requirements will be straightforward due to SOCSO administering the scheme.
- ⇒ Employers and existing employees would already be registered with SOCSO.
- ⇒ The monthly EIS contribution for both parties is not unduly burdensome, and will hopefully assist the individual expeditiously in the unfortunate event that employment cannot continue.
- ⇒ The EIS will therefore provide financial aid to employees who have been retrenched and have not found alternative employment
- ⇒ Aside from financial assistance, employees looking for new jobs will also be provided assistance with job search, career counselling and job suitability.
- ⇒ There is a training component in the scheme.
- ⇒ To encourage the unemployed recipient under the scheme, there are incentives in place:
  - Incentives for active job search;
  - Early re-employment incentive;

- Nationwide job seeking allowance;
- Incentives for active participation in vocational training for the unemployed;
- Assistance for vocational training to the unemployed;
- Training allowance for the recipient: on top of the unemployment benefit for three to six months;
- Training fees up to RM10 000;
- Penalties for lazy job seekers; and
- Suspension of unemployment benefit upon refusal of suitable job replacement service, vocational training and other relevant behaviours.

### **3.8. WEAKNESSES**

When the framework was first announced in the 2015 Budget, the employment insurance scheme faced strong objections from many parties including the Federation of Malaysian Manufacturers and the Associated Chinese Chambers of Commerce and Industry of Malaysia.

Concerns raised primarily cohere on the additional costs for businesses and employers. While the scheme is technically positive for workers, the additional costs involved (specifics of which have yet to be provided) could make it counter-productive as employers may try to downsize their workforce to cut costs.

Of possible concern to employees is the requirement that claims will need to be adjourned until such time that other claims are resolved. This could result in the benefits scheme under the EIS not achieving the objective of expeditious post-cessation assistance. It remains to be seen if this will be revised or be subject to implementation regulations.

Some claim that EIS will raise operating costs for businesses who are already facing challenging economic times. It would result in the “whole workforce contributing to a large pool which will be used to serve a minimal number of people”.

Employers who are not contractually bound and are in a financial position to make voluntary benefits payments but fail to do so, are more likely to be regarded by the Industrial Court to have contributed to the unfairness of the dismissals. It is straightforward in practice for former employees to pursue unfair dismissal claims, and the compensatory award can be substantial.

Failure to comply is a criminal offence, and will subject the employer to a fine of maximum RM 10 000 or 2 years' imprisonment, or both. Relative to other Malaysian employment-related legislation, the definition of employer under the Bill is broader and includes the employer's agent, as well as the legal representative of the employer.

## SECTION FOUR: SOUTH KOREA: EMPLOYMENT INSURANCE SCHEME

### 4.1. BACKGROUND

Until the 1970s, South Korea had mainly prioritised economic development over social security, relying on full employment and family support to meet income security and social protection needs. Though the oil crisis of the 1970s and the numerous lay-offs revealed the needs to introduce unemployment benefits and better support to the unemployed.

However, it is only after 20 years of lengthy debate fuelled by business cost concerns in December 1993 that the *Employment Insurance Act (Law No. 4644)* was adopted. The Employment Insurance Scheme (EIS) was finally introduced in 1995. It was called EIS to stress the key coordination of social protection with labour market policies.<sup>39</sup>

In the wake of the 1997-98 Asian financial crisis, the unemployment rate went from below 3% to 7% in 1998, for the first time since the 1960s. Spurred by unprecedented unemployment rates, the Government reacted by expanding the scope of EIS coverage, which only covered 15% of workers at the time, and initiated labour market programmes which were later folded into the *Employment Insurance Act*.<sup>40</sup>

South Korea's EIS is a combination of traditional unemployment benefits and active labour market programmes. South Korea calls this system employment insurance (proactive) rather than unemployment insurance (retroactive).

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<sup>39</sup> Carter, J, Bedard, M & Bista, CP. 2013. Comparative review of unemployment and employment insurance experiences in Asia and worldwide. ILO/Japan Multi-bilateral programme. Regional office for Asia and the Pacific. ILO.

<sup>40</sup> Yoo, Kil-Sang. 1999. The Employment Insurance System in Korea; Korea Labor Institute.

A key feature of South Korea's EIS is its active labour market policies that aim at preventing unemployment and supporting early re-employment.

#### **4.2. OBJECTIVES**

The objectives of the EIS scheme are three-fold:

- ⇒ preventing unemployment and promoting employment in conjunction with the development of vocational knowledge, skills and capabilities;
- ⇒ strengthening development of job skills of the labour force and efficient job placement services; and
- ⇒ providing financial assistance to displaced workers.

### 4.3. MANAGEMENT AND STRUCTURE OF SCHEME

The Ministry of Employment and Labour supervises the Employment Security Offices (ESO), which are responsible for processing claims and paying benefits. The Korea Worker’s Compensation and Welfare Service (COMWEL) collects EI contributions for both EI and working injury insurance.<sup>41</sup>

#### Structure of the Korean Employment Insurance System

Employment Stabilisation Programme	Employment Adjustment Assistance	Aid for Employment Maintenance Grant to Promote Employment of Displaced Workers
	Regional Employment Stimulation Grant	
	Employment Facilitation Assistance	Grants to Promote Employment of the Elderly Grants to Promote Employment of Women Grants for Facilities for Employment Promotion
	LMI and Job Placement Services	
Job Skill Development Programme	Assistance to Employers	Subsidies for Training Costs Loan for Training Facilities
	Assistance to Employees	Vocational Training Subsidies for Insured Employees Loan for Tuition
	Assistance for training the Unemployed	Aid for Retraining Displaced Workers Aid for Youth Training
Unemployment Benefits	Job Seeking Allowance	Job Seeking Allowance Extended Benefits Sickness Benefits
	Employment Promotion Benefits	Early Reemployment Allowance Vocational Training Promotion Allowance Nationwide Job Seeking Allowance Moving Allowance

<sup>41</sup> Yoo, Kil-Sang. 1999. The Employment Insurance System in Korea; Korea Labor Institute.

#### 4.4. TERMS AND CONDITIONS

South Korea’s EIS consists of three key pillars:<sup>42</sup>



**NOTE: We will focus on the Vocational Ability Development Programme component.**

#### Vocational Ability Development Programme

**Subsidy for employer-provided training:** If an employer trains job candidates or employees directly or entrusts training institutions to train them, the government pays for all or part of the training costs. Employers insured by employment insurance who provided their employees or job candidates with vocational training authorised by the Minister of Labour can apply for the subsidy.

<sup>42</sup> Carter, J, Bedard, M & Bista, CP. 2013. Comparative review of unemployment and employment insurance experiences in Asia and worldwide. ILO/Japan Multi-bilateral programme. Regional office for Asia and the Pacific. ILO.

Subsidy level varies depending on the type of training. In case of collective training, the government covers 80-120% of the training costs. If an employer provides trainees who have finished collective training courses of a month or longer with on-the-spot training, 20% of the training costs is covered by the government.

Financial support for on-the-spot training is limited to high school graduates (those who are about to graduate) and job candidates. If it is correspondence training, the government pays for 80%-90% of training costs.

**Subsidy for paid training leave:** If an employer grants paid leave to their employees and trains them, the training costs and wages are paid by the government. The subsidy rate varies: 80% - 120% of training cost and 100%-120% of wage depending on type of occupation and size of companies.<sup>43</sup>

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**SMEs training:** Employers of SMEs with less than 150 full-time employees, who grant paid leave to their employees and train them, can apply for the subsidy. In the case of employers of SMEs with 150 or more full-time employees, who grant paid leave to their employees, can also apply if the employees have worked for one year or longer.

During the training, employers must pay as much as normal wage or more and bear training costs. The paid leave should exceed 30 days and the training hours should be 120 or more. In case of companies for preferential assistance, the paid leave should exceed 14 days and the training hours must be 60 or more.<sup>44</sup>

**Loan for vocational training facilities and equipment:** If an employer, employers' organisation, or workers' organisation establishes training facilities or purchase training equipment, the government provides a loan to cover necessary costs.

The loan is available for employers, workers' organisations, employers' organisations, training corporations, and training facilities designated by the Ministry of Labour that want to establish vocational ability development training facilities or purchase training equipment. Up

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<sup>43</sup> Carter, J, Bedard, M & Bista, CP. 2013. Comparative review of unemployment and employment insurance experiences in Asia and worldwide. ILO/Japan Multi-bilateral programme. Regional office for Asia and the Pacific. ILO.

<sup>44</sup> Ibid.

to 90% of the costs are provided as a loan with a ceiling of six billion KW. Loan rate varies from 1% to 4% depending on type of organisation and the loan should be paid back within 10 years.<sup>45</sup>

**Subsidy for taking training courses:** If an employee takes vocational training classes, the government pays the training expenses. The subsidy is available for employees insured by the Employment Insurance who received the notice of dismissal. Those aged 40 or older, who are insured by employment insurance, and workers who work in companies with less than 300 full-time employees, can also apply for the subsidy.<sup>46</sup>

**Loan for employees' college expenses:** The government provides a loan for college expenses at long term low interest rate (annual rate 1%-1.5%), if employees insured by the Employment Insurance enter or attend a college or university for ability development. All school expenses (enrolment fees, tuition, and other expenses) are covered.

In addition, even after the unemployment benefits have been exhausted, the unemployment benefits can be extended up to 24 months until the retrenched worker has completed the vocational education and training. If the trainee is not eligible for unemployment benefits, they receive a training allowance instead of unemployment benefits, while undergoing training programmes for reemployment.

When a worker is admitted to or enrolled at a technical or specialised college or a higher educational institution, they may receive a very low-interest loan from the Employment Insurance Fund to finance tuition and other fees.<sup>47</sup>

#### 4.5. FINANCE

EI premium rates are divided into the rate for employment security and vocational skills development programmes and the rate for unemployment benefits.

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<sup>45</sup> Ibid.

<sup>46</sup> Ibid.

<sup>47</sup> Yoo, KS. 1999. The employment insurance system in Korea. Korea Labour Institute.

In July 2013, the rate for unemployment benefits was raised from 1.10% (0.55%, each from employer and employee) to 1.30% (0.65% each from employer and employee).<sup>48</sup>

#### 4.6. STRENGTHS

*The Scheme* has the following strengths:

- South Korea's EIS is a combination of traditional unemployment benefits and active labour market programmes.
- The Employment Insurance System institutionalises preventive measures against unemployment by adopting various measures for active labour market policy.
- The system is designed not only to help unemployed workers by giving them unemployment benefits, but also to enhance employment stabilisation and employability of workers.

#### 4.7. WEAKNESSES

- It is often adjusted which makes monitoring and evaluation a challenging task.

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<sup>48</sup> Carter, J, Bedard, M & Bista, CP. 2013. Comparative review of unemployment and employment insurance experiences in Asia and worldwide. ILO/Japan Multi-bilateral programme. Regional office for Asia and the Pacific. ILO.

## SECTION FIVE: SWEDEN: JOB SECURITY COUNCILS - TRYGGHETSÅRÅDET (TRR)

### 5.1. BACKGROUND

The driving force for supporting retrenched workers is the Job Security Councils (JSCs). The first councils were established in 1972 and 1974 against the backdrop of deteriorating economic conditions in Sweden in the late 1960s and massive job losses in the wake of the oil crisis in 1973.<sup>49</sup>

The Public Employment Services (PES) was not regarded by employers as providing sufficient support for workers to find new jobs. Therefore, the social partners agreed upon establishing a specific type of organisation that would provide services to retrenched workers. Over time, such organisations have been established in most segments of the labour market and today there are more than 10 JSCs in operation.

Our case study will focus one such council - the **Trygghetsrådet (TRR)** – for white collar workers in the private sector. The council that an employer or employee belongs to depends on the collective agreement they fall under and their trade union membership.

The social partners in Sweden have traditionally taken a large degree of responsibility through labour legislation by means of collective agreements. Over 80% of the workforce are covered by these types of agreements.

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<sup>49</sup> Mass, G. 2015. Supporting job-to-job transitions in Sweden. Friedrich Ebert Stiftung: Stockholm.

## 5.2. OBJECTIVES

The work of the councils is usually premised on two ideas:

- A person who is given notice of dismissal can easily become demoralised and can experience difficulties in adapting to the new situation.
- Such a change in ones' life can have positive consequences and lead to innovate ideas, contacts and opportunities.

Hence, the primary objective of the JSC is to assist a person find a new job as quickly as possible.

## 5.3. MANAGEMENT AND STRUCTURE OF SCHEME

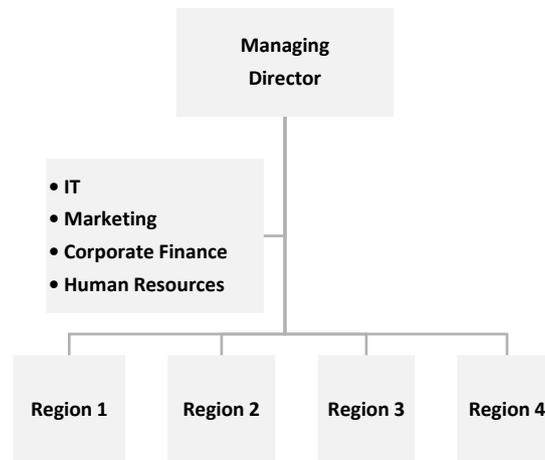
The contractual partners in TRR are the *Confederation of Swedish Enterprise* (Svenskt Näringsliv) and the *Federation of Salaried Employees in Industry and Services* (PTK).

The contract covers 32 000 companies and 700 000 white-collar employees in the private sector. The TRR is the second largest JSC. It has 325 employees working in 40 offices spread out throughout Sweden. Of these, 180 are counsellors with an average of 24 years of working experience.<sup>50</sup>

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<sup>50</sup> Van de Pas, I. 2012. Securing job-to-job transitions in the labour market: a comparative study of employment security systems in European countries, Tilberg University, Stichting Instituut Gak, Hilversum.

### TRR Organisational Structure



It has a lean management structure to keep administrative costs down.

#### 5.4. TERMS AND CONDITIONS

Sweden has a relatively elaborate system available to deal with the consequences of restructuring. It is based on the division of labour between several actors. The main approach is to transfer dismissed workers to new jobs as soon as possible.

To facilitate the transfer of workers to new jobs, it is important to provide workers with a safety net, that would allow workers to transfer without losing their income as well as transition services such as coaching and counselling to activate and motivate workers to search for jobs. However, the source of income and provider of transition services changes over time.

In the first stage, redundant workers are taken care of by the TRR. It provides advice and coaching support to redundant workers covered by the collective agreement.

One of these tools is guidance and counselling. Every dismissed person has a personal guidance counsellor who guides him along a career path. The process is usually initiated when a company representative or trade union representative contacts TRR and informs the council of dismissals in the organisation. A counsellor then visits the company and meets with its leadership and trade union representatives. It presents the work procedures for supporting leaders and trade union representatives with restructuring.

The counsellor also meets with affected employees to present the work procedures of the TRR. These include how often the counsellor and the redundant employee are going to meet for individual consultations.

The TRR does not provide income support to the redundant workers while they are searching for new jobs. Such compensation is provided, either by the former employer (through dismissal periods, which varies between 01 and 06 months dependent on the length of employment, or severance payments) or through the unemployment benefits system. In cases of bankruptcy, when the employer is not able to financially pay the relevant wages to cover the legally required dismissal periods for the workers affected, workers are entitled to benefits from a wage guarantee fund for a period equivalent to the dismissal period.<sup>51</sup>

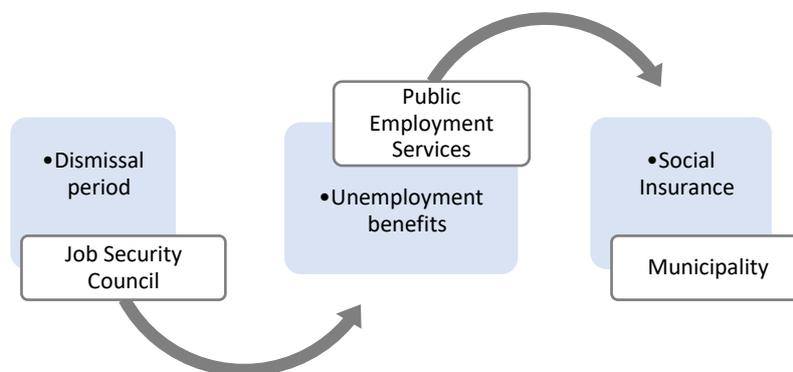
In a second stage, when the income support provided by the employer has ended and the worker has still not found new employment, they can be eligible for income support from the unemployment benefit system, administered by the Public Employment Services (PES). This income is generally considerably lower than the workers' previous income (maximum 80%). After 200 days with unemployment benefits the support is reduced to 70% of the previous income. Since contribution to the unemployment benefit system is voluntary, not all workers are covered by the unemployment benefits.<sup>52</sup>

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<sup>51</sup> Alleki, N. 2009. Intersectoral agreement lays basis for training system reform', European Industrial Relations Survey Online, Eurofound, Belgium.

<sup>52</sup> Ibid.

Stages of Social Security for unemployed



The PES does not provide services such as job coaching or training activities to support workers to find new jobs. Neither are they involved at an early stage in cases of restructuring. They offer transition services and other activities to prioritised groups, such as the long-term unemployed (unemployed for more than 300 days).<sup>53</sup>

Those workers who still have not found a new job after the unemployment benefit period is over, or are not eligible to unemployment benefits enter a third stage. This stage is referred to as the Job and Development Guarantee, implying that they receive a reduced income support, which is provided by the social insurance office and are subject to intensified labour market programmes.

In this stage, individuals who have temporary economic difficulties are eligible to apply for financial assistance, which is the lowest level of income support paid from the municipality budget.

Therefore, the safety net has three stages organised and financed by different actors and with successively reduced benefits to the individual. From the municipalities' point of view, increasing unemployment may in the longer term put heavy burden on the financial situation of the municipality. Thus, there are clear incentives for municipalities to initiate measures to stimulate development and avoid longer-term unemployment spells at the local level.<sup>54</sup>

<sup>53</sup> Alleki, N. 2009. Intersectoral agreement lays basis for training system reform', European Industrial Relations Survey Online, Eurofound, Belgium.

<sup>54</sup> Ibid.

Training, as an instrument to manage restructuring, is not used in Sweden. This is a direct effect of national evaluations of the experiences of labour market training during the 1990s. As a result, the government has put more restrictions on the use of training as labour market policy measures in favour of measures to stimulate employers to employ long-term unemployed, so called job guarantee programmes.<sup>55</sup>

## 5.5. FINANCE

The membership fee amounts to 0.3% of a company's sum of the total payroll for employees covered by the agreement. The TRRs' activities are financed by the employers who continuously contribute with a percentage of their total payroll.

The contribution level is determined as part of the collective agreement.

## 5.6. STRENGTHS

*The Scheme* has the following strengths:

- ⇒ It is outcomes-driven by focusing on the result, which is re-employment.
- ⇒ The support provided involves the use of a personal adviser or coach, and is adjusted to the individual situation of the affected worker.
- ⇒ The scheme is based on a co-operative model between the social partners. The state is not burdened with all the responsibility.
- ⇒ In their new jobs, most of the displaced employees receive salary that is about 80% of their previous position.
- ⇒ The risk of long-term unemployment is reduced by this fast and quality intervention.

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<sup>55</sup> OECD. 2015. Improving the re-employment prospects of displaced workers. OECD: Employment Analysis and Policy Division.

⇒ Outcomes also include a positive fiscal effect for the state.

## 5.7. WEAKNESSES

*The Scheme* has the following weaknesses:

- ⇒ There is very little emphasis on training of retrenched workers. In an age of technological advancement, training is an imperative for the active workforce. Both the Swedish and international literature that tracks employment outcomes for five years or more after entry into a training programme, find that training has a long-term positive impact on participants' employment and earnings, especially for displaced workers with low skills and limited formal schooling.
- ⇒ At the same time, the share of training-related expenditure in total active labour market programme spending has collapsed over the past 15 years. This has been attributed to policy evaluations demonstrating that training has been an ineffective instrument in helping unemployed people into new jobs. The government should therefore reallocate resources to training and set-up pilot programmes targeted at the training needs of displaced workers.
- ⇒ The PES does not place a focus on early skills validation by identifying unemployed people with often rich, but unrecognised job skills accumulated during their career.
- ⇒ Finally, both the PES and the JSCs should be encouraged and requested to improve their data collection systems. Stronger evidence is needed to be able to judge better what works well and what works less well and improve the efficiency and equity of Swedish labour market policies for displaced workers.

## SECTION SIX: FINDINGS AND RECOMMENDATIONS

### 6.1. FINDINGS

**Refine Scheme:** There is a temptation to discard the *Training Layoff Scheme* due to a myriad of operational problems. It is also asserted that the *Scheme* is confined only to employers wanting to activate training layoff benefits. In this respect, the *Scheme* lacks scale and critical mass appeal to make meaningful socio-economic contribution to society.

Rather than succumb to the temptation of replacing the *Scheme*, we contend that the existing *Scheme* should be improved to render it effective and efficient – that is – fit for purpose and fit of purpose.

**Legislative backing:** The fundamental impediment to the effective functioning of the *Scheme* is that it is not rooted in any legislative framework with ensuing regulations. It lacks a legal basis and legal entitlements.

Without legislative backing, it is difficult to compel managing and implementing agents to give the *Scheme* the effort and resources it requires to become a success. Currently, the implementation of the *Scheme* is based on guidelines, which does not bear the same authority as legislation.<sup>56</sup>

There is resistance from SETAs to allocate funds for layoff because it is not a legal requirement, nor is it captured in service level agreements between SETAs and the DHET. The response from SETAs is that there is no budget for the *Scheme* as their funds are already committed.<sup>57</sup>

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<sup>56</sup> Auditor-General of SA. 2017. Training Layoff Scheme Value Chain Analysis, March.

<sup>57</sup> Rasool, H & Rasool, F. 2013. How Effective and Efficient is the Training Layoff Scheme for Clothing and Textiles Companies in South Africa? Southern African Clothing & Textile Workers Union, unpublished.

**Lack of integration:** A key feature of successful social security schemes for workers in many countries is an integrated package policies and programme to support displaced workers. This is evident in the case studies of Malaysia, South Korea and Sweden. Other examples are Japan, Germany and France.

In contrast, the *Training Layoff Scheme* is not integrated into the package policies and programme to support displaced workers in South Africa. It is detached from the UIF and skills levy grant system. This fragmentation of disparate programmes should be addressed.

**Design flaws:** The *Scheme* is beset with design flaws structurally, managerially and operationally. The complexity of the *Scheme* in terms of its design and application process is widely recognised as a major obstacle in increasing the uptake in the *Scheme*.<sup>58</sup>

Some of these flaws include, but not limited to:<sup>59</sup>

- ⇒ Structurally the *Scheme* is ill-conceived. It is a multi-party structure that necessitates all implementing partners work in tandem effectively and efficiently. This often does not occur. There are incessant delays at different points in the value chain.
- ⇒ There are poor information flows between the various implementing partners exacerbating the delays.
- ⇒ The Scheme's value chain is inefficient. It is a laborious process for parties who are in distress and need urgent relief. Processing of applications post-CCMA stage are a challenge and the lengthy time it takes defeats the purpose of the scheme to provide urgent relief. It can take anything up to 06 to 12 months to reach the training phase.

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<sup>58</sup> Roskam, A & Howard, N. 2010. Review of the Training Layoff Scheme. 15 December. Employment Promotion Programme. Development Policy Research Unit. University of Cape Town.

<sup>59</sup> Auditor-General of SA. 2017. Training Layoff Scheme Value Chain Analysis, March.

- ⇒ Clear accountability lines that ensure the effective delivery of the *Training Layoff Scheme* are not established and formally documented. There is no clear ownership for the effective delivery of the *Scheme* and oversight of implementing partners.
  
- ⇒ Although interventions were made to address blockages, its impact is limited due to inherent design flaws in the *Scheme*.

**Monitoring, evaluation and impact:** Reporting processes relating to key performance indicators and targets for the *Training Layoff Scheme* are not established, and useful and measurable performance objectives and performance indicators are not developed to report on money spent and whether services are delivered as planned.<sup>60</sup> There are no impact assessments being done to measure the effectiveness of the *Scheme*.

The Auditor General found the following with respect to monitoring and evaluation:<sup>61</sup>

- ⇒ The *Training Layoff Scheme* guide has been developed, however, this guide does not include key monitoring and evaluation concepts.
  
- ⇒ DoL Management has provided monitoring tools designed (impact assessment template as well as the monitoring template). However, there is no evidence of implementation of these monitoring tools. The completed impact assessment templates and monitoring templates were not available for the employers selected.
  
- ⇒ The annual performance plan of the Department of Labour, and reporting processes relating to key performance indicators and targets for the training layoff scheme were not established, and useful and measurable performance objectives and performance indicators were not developed to report on how well money was spent and whether services were delivered as planned.

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<sup>60</sup> Ibid.

<sup>61</sup> Auditor-General of SA. 2017. Training Layoff Scheme Value Chain Analysis, March.

**Accessibility:** The *Scheme* is accessible only to displaced workers in companies that are approved by the CCMA to participate in training layoff. This effectively implies that most retrenched workers, whose companies do not participate in the *Scheme*, do not qualify for training layoff. Given that the *Scheme* is used by a fraction of companies in distress, it renders the *Scheme* as an ineffective labour market policy instrument to help displaced workers.

**Inappropriate training:** There is insufficient attention given to the appropriate of training for displaced workers. The issue of appropriate training is the heart and soul of training layoff because the *Scheme* is intended to get displaced workers re-employed as soon as possible.

Formal guidelines informing users what constitutes appropriate training is lacking in the *Scheme*. This inevitably exposes the *Scheme* to risk by over-zealous companies wanting to shore up funds and training providers aiming to score a quick from the misfortunes of workers.

Furthermore, before enrolling displaced workers on training programmes, it is necessary to provide them with career counselling services to determine their training needs and aspirations. The *Scheme*, however, lacks this critical component.

## 6.2. RECOMMENDATIONS

**Refinement:** In theory, the *Scheme* has the potential to alleviate hardship for displaced employees through the provision of training and layoff cash benefits. It also gives employers “breathing space” to revitalise their business activities and possibly re-employ. Therefore, improvements should be made to the *Scheme* in all areas of need, instead of its replacement.

**Legal backing:** Government should produce a Green or White paper on the broader issues relating to assisting enterprises, workers and sectors that are in distress with the view to regulating the *Scheme* through legislation, even though the *Scheme* is, and must remain, a

voluntary process. In this way, we believe that the *Scheme* could become part of a coherent policy framework to deal with future shocks.<sup>62</sup>

In a nutshell, the *Scheme* should be cast in a legislative framework with defined legal mandates.

**Integrated package:** Government should consider an integrated policy package and supporting programme within the constellation of social security for workers. It should not address issues such as the *Training Layoff Scheme* in isolation to other support programmes such as UIF and skills training through SETAs. It should also introduce policy and institutional changes in sequence to ensure any fiscal and institutional constraints are addressed.

**Strengthening design:** The current design of the *Scheme* should be reviewed in the context of a legislative framework governing the Scheme as well as an integrated package of responses for the displaced workers. The design should be geared to expedite delivery within the shortest possible time.

**Monitoring, evaluation and impact:** If the Scheme is cast in a legislative framework it will be governed by regulations pertaining to government-wide performance monitoring and evaluation for public entities.

There should be a clearly defined monitoring, evaluation and impact assessment framework with supporting policies, processes, targets and reporting arrangements. Moreover, these should be implemented.

**Limited accessibility:** The *Scheme* should have universal coverage for all retrenched workers, regardless of company-level participation. Hence, the recommendation for an integrated package of policy and programme responses. All workers receiving UIF benefits should have access to training layoff.

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<sup>62</sup> Roskam, A & Howard, N. 2010. Review of the Training Layoff Scheme. 15 December. Employment Promotion Programme. Development Policy Research Unit. University of Cape Town.

**Appropriate training interventions:** There is a need for criteria to determine what constitutes appropriate training for displaced workers based on their individual training needs and aspirations. This requires flexibility as a “one size fits all” approach is unlikely to work.

A career guidance and counselling service should be a precursor to programme selection by displaced workers. This facility should be built into the *Scheme*.

## SECTION SEVEN: CONCLUSION

### 7.1. FINAL REMARKS

There is little doubt that the idea of training layoff conceived by the tripartite partners and supported by the state is a very noble one. In a country with chronically high unemployment, considerably more must be done to enhance employability, save jobs, and develop workers' skills as an urgent priority. The *Training Layoff Scheme* is such a mechanism for keeping workers employed, whilst management tries to bring the company back on track.

It is also a socially and economically sound idea to get retrenched workers back into the workplace.

But the problems of the *Scheme* rests in its design flaws, complexity arrangements, excessive bureaucracy and location in the broader constellation of labour market policies and programmes. Then, there are issues such as poor motivation, lack of political will, insufficient capacity and weak implementation by management and implementing partners.

It also appears that there is no centre holding the scheme together, steering the process, guiding partners, and holding them individually accountable for meeting deliverables timeously.

What is essentially required is a holistic approach to social security where UIF, skills development levies and training lay-off is integrated into a package of responses that is universally accessible to retrenched workers.

South Africa has a solid base upon which to build a more inclusive and successful system for supporting displaced workers. We should build on it.

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