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COVID-19 Legal Insights

Employment

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1. Temporary closing of education establishments. Days off for parents

Granting days off to parents to supervise their children in case of temporary closing of education establishments

Law No. 19/2020 on granting days off to parents to supervise their children in case of temporary closing of educational establishments ("Law No. 19/2020") was published within the Official Gazette, Part I, No. 209, dated March 14, 2020 and enters into force starting with 17 March 2020.

1. In which situations parents benefit of days off?

According to the provisions of Law No. 19/2020, in case of temporary closing of educational establishments as a result of extreme situations declared by the competent authorities, the parents of children who are enrolled in these educational establishments shall be granted with days off.

2. Conditions to be fulfilled by parents for granting days off

In order to benefit of days off under the provisions of Law No. 19/2020, the parents shall fulfil cumulatively the following conditions:

   a) Have children up to the age of 12, or to those who have disabled children, up to the age of 18, enrolled in an educational establishment;

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1 The legislator did not specify the term of entry into force of the law, so that the law enters into force in 3 days as of the date it was published within the Official Gazette.

2 The provisions of the law shall apply both to public and private employees.
b) The workplace in not compatible with work from home or telework.

To obtain this benefit, the parents who fulfil the above mentioned conditions shall submit a request to the employer, attaching an affidavit of the other parent, declaring that he/she did not requested days off in accordance with the provisions of this law. Therefore, both parents won’t be able to obtain days off from their workplace simultaneously.

The provisions of the law shall also apply to single parents who have dependent children, to the legal representative of the child or the person designated according to law to exercise the parental authority towards the child.

3. Categories of employees exempted from the application of the provisions of Law No. 19/2020

As an exception, the law contains a number of categories of employees which may benefit of days off with the employer’s prior agreement, if they perform activities in units part of the national energy system, units part of the nuclear sector, units with mandatory continuous activity, the health and social assistance units, telecommunications, radio and public television, rail transports, units that provide the public transport and the sanitation of the localities, including the supply with gas, electricity, heat and water.

Additionally, according to the provisions of Art. 32 of Annex 1 to Decree No. 195/2020 on the establishment of the state of emergency in Romania, the provisions of Law No. 19/2020 shall not apply to the employees of the national defence system, to the employees of the penitentiaries, to the personnel of the public sanitary units and to other categories that can be further established by resolution of the Minister of Internal Affairs, the Minister of Economy, Energy and Business Environment, and the Minister of Transport, Infrastructure and Communications. Employees performing activities within this sectors considered of national importance benefit of a salary increase of 75% of the salary corresponding to a working day, but not more than the correspondent per day of 75% of the gross average wage used to substantiate the state social insurance budget, if neither parent benefits of days off under the Law No. 19/2020.

4. Total number of days off that parents can benefit from

The parents who fulfil the conditions mentioned under the preceding paragraph benefit of paid days off for the entire period of time when the authorities decided the closing of those educational establishments.

5. The allowance for days off

For each day off granted, the employees receive an allowance in the amount of 75% of the salary corresponding to a working day, but no more than 75% of the gross average wage used to substantiate the budget of the state social insurance.

Thus, in 2020, the gross average wage used to substantiate the state social insurance budget is RON 5,429. For example, during the month of March 2020, which has 22 working days, the allowance for a free day granted shall not exceed RON 185.
The allowance is to be paid initially by the employer, and later the amounts corresponding to this allowance will be retrieved by the employer from the Fund guaranteeing the payment of salary claims.

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COVID-19 Legal Insights is our response to the COVID-19 outbreak. We shall keep you informed on the various legal challenges posed by the coronavirus, thanks to a dedicated practice group comprising lawyers with different backgrounds, such as compliance/regulatory, corporate and commercial, insurance, labour and employment, litigation and arbitration, insolvency, public procurement, data privacy, tax and customs. In addition, our taskforce offers strategic advice on crisis-specific matters: corporate restructuring, review and (re)negotiation of agreements (including collective bargaining agreements and individual employment contracts), performance of the contracts which are affected by force majeure and hardship, unblocking pre-litigation relationships, etc. To keep abreast of developments, please feel free to regularly check our dedicated online resource: http://www.tuca.ro/covid-19/