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# COVID-19 Legal Insights



## Employment

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1. **Temporary closing of education institutions. Days off for parents**

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

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Law No. 19/2020 on granting days off to parents to supervise their children in case of temporary closing of educational institutions (“**Law 19/2020**”) was published in the Official Gazette, Part I, No. 209, dated 14 March 2020 and entered into force on 17 March 2020<sup>1</sup>.

Law 19/2020 has been recently amended and supplemented by Government Emergency Ordinance No. 30/2020 amending and supplementing certain enactments and establishing social protection measures in the context of the epidemiological situation caused by the spread of the SARS-CoV-2 coronavirus, and by Government Decision No. 217/2020 for the application of Law 19/2020.

1. **In which situations do parents benefit of days off?**

According to Law 19/2020<sup>2</sup>, in the event courses in educational institutions are temporarily closed or suspended as a result of extreme situations declared by the competent authorities, parents whose children are enrolled in these educational establishments shall benefit of days off.

2. **Conditions to be met in order to benefit of days off**

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

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<sup>1</sup> Absent a specified term, the law is deemed to enter into force in 3 days as of the date it was published in the Official Gazette.

<sup>2</sup> The provisions of the law shall apply both to public and private sectors’ employees.

- a) Their children of up to 12 years old, or, for disabled children, up to the age of 18, are enrolled in an educational institution;
- b) Their workplace is 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 wherein the other parent declares that he/she did not requested days off under the law, that he/she is not on annual leave or unpaid leave, as well as a copy of the birth certificate(s) of the child /children.

### **3. Categories of employees exempted from the application of Law 19/2020**

As an exception, the law provides certain categories of employees which may benefit of days off only based on the employer's prior agreement, if they work in units belonging to the national energy system, the nuclear sector, in units where continuation of activity is mandatory, in health and social assistance units, telecommunications, radio and public television, rail transports, units providing public transport and the sanitation to localities, including the supply with gas, electricity, heat and water, foods, production and distribution of medicines and sanitary equipment, distribution of fuels, as well as pharmaceutical units.

Additionally, according to Art. 32 of Annex 1 to Decree 195/2020 instituting the state of emergency in Romania, Law 19/2020 does not apply to the employees of the national defense system, to the employees of 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 these sectors considered of national importance benefit of a salary increase of 75% of the base 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 Law 19/2020.

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

The parents who fulfil the conditions mentioned in the preceding paragraphs benefit of paid days off for the business days throughout the entire period in which the educational institutions remain closed, until the decreed emergency situation ceases, except for those business days which fall in the school holidays periods.

### **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.

In 2020, the gross average wage used to substantiate the state social insurance budget is of 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 the net allowance received by the employees will be retrieved by the employer from the Fund guaranteeing the payment of salary claims. In order to retrieve such amounts, the employer shall submit a request signed by the legal representative to the county employment agency, accompanied by the following documents:

- The list of employees who benefited from days off and the allowance payed during this period;
- Copies of the payroll resulting that the allowance was granted;
- Affidavit of the legal representative declaring that the employees for whom the company requests payment of the allowance fulfil the legal conditions in order to benefit from days off.

The payment request, including the supporting documents, shall be submitted by email / any other means of communication to the county employment agency, no later than 30 days from the date of payment of the contributions and taxes related to the allowance, and the amounts paid will be reimbursed within 60 calendar days from the date of registration of such request.

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## Editors

**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/>



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