

employment - legal changes published in April 2019

Government Emergency Ordinance no. 26/2019 regarding the amendment and supplementation of certain normative acts was published in the Official Gazette of Romania, Part I, no. 309 of 19 April 2019, entering into force on the same date.

Among others, this Ordinance brings two changes of interest in the field of employment law.

- (I) The first of these is the amendment of Law no. 52/2011 regarding occasional activities performed by dayworkers.

Thus, the legislator revises the changes implemented at the end of 2018 (whereby the areas where the day workers could be used were drastically restricted) adding new areas as follows:

- organization of exhibitions, trade shows and congresses - group 823;
- advertising - group 731;
- artistic interpretation - performances - class 9001, artistic interpretation activities - performances - class 9002 and performing arts management activities - class 9004;
- farming and husbandry of semi-domesticated animals and other animals - class 0149;
- catering for events - class 5621;
- landscape maintenance activities - planting, care and maintenance of parks and gardens, except for private housing facilities - class 8130;
- restaurants - class 5610;
- bars and other beverage serving activities - class 5630;
- activities of zoos, botanical gardens and nature reserves - class 9140

Also, in art. 4 par. (4) it is stipulated that no day worker can carry out activities for **the same beneficiary** for a period **longer than 90 days** cumulated over a calendar year, except for those engaged in activities in the following areas: agriculture, extensive animal farming through seasonal grazing activities of sheep, cattle, horses, seasonal activities in botanical gardens under accredited universities, and in the wine sector

- for those **a maximum of 180 cumulative days** is provided for a calendar year, both in the case of activities for a single beneficiary, and for several beneficiaries.

The Ordinance introduces the concept of the Electronic Registry of Dayworkers - as the only way of sending the data on the records of dayworkers, **which will be set up on December 20, 2019**. The Labor Inspectorate will be the institution that will acquire the computer system related to this registry, and the methodology of compiling and sending the electronic registry by the beneficiaries, as well as the records that will have to be made thereto, shall be established by order of the minister of labor and social justice, within 60 days from the establishment of the registry.

Also, new obligations for beneficiaries are introduced:

- to establish, fill in and send the Electronic registry of dayworkers according to the methodology and model established by order of the minister of labor and social justice;
- to send the electronic registry of dayworkers to the labor inspectorate, daily, before the start of the activity by each person who will be in a work relationship with the beneficiary;
- to submit the Electronic registry of dayworkers before the competent control bodies.

These provisions will apply from the entry into force of the aforementioned order of the minister of labor and social justice, most likely in 2020.

Regarding the **dayworker's pay**, it is stipulated that it will be subject to income tax, according to the provisions of Law no. 227/2015 regarding the Fiscal Code. *Thus, the calculation, payment and declaration of income tax due for the income from the activity performed by the dayworker is the beneficiary's responsibility.*

Another novelty is **the introduction of the obligation to pay the social security contribution due to the state social insurance budget for the income from the activity performed by the dayworkers**, according to the provisions of Law no. 227/2015 regarding the Fiscal Code, awarding the dayworker quality of insured person in the public pension system. The obligation to calculate, declare and make the payment belongs to the beneficiary.

Last but not least, although the dayworker is not insured for work accidents and occupational diseases, in the event of an accident at work or occupational disease, **the beneficiary is obliged to pay the related medical expenses.**

- (II) The second major change provided in GEO no. 26/2019 targets the Labor Code. As a novelty, an additional, paid, three-day rest leave will be granted to employees undergoing an *in vitro* fertilization procedure.

In order to benefit from this leave, the employee must submit to the employer an application accompanied by the medical letter issued by the specialist physician.

Order no. 635/1.348/2019 on amending and supplementing the Classification of Occupations in Romania - level of occupation (six characters), approved by Order of the Minister of Labor, Family and Social Protection and of the President of the National Institute of Statistics no. 1.832/856/2011 was published in the Official Gazette of Romania, Part I, no. 308 of 19 April 2019, entering into force on the same date.

Firstly, we mention that the Order introduces new occupations, mostly in IT, as follows:

- Software developer engineer – COR code 251207;
- Measuring equipment engineer – COR code 215242;
- Web application developer engineer – COR code 251208;
- Optical systems engineer – COR code 214956.

Also, a number of occupations are renamed, and others are moving into other groups. For example, the former "building manager" is currently called "condominium manager".