

employment - legal changes published in July 2020

Order of the Minister of Labour and Social Protection no. 1106/2020 for the amendment of the Order of the Minister of Labour and Social Protection no. 740/2020 regarding the approval of the template of the documents provided in art. XV para. (1) of the Government Emergency Ordinance no. 30/2020 for amending and supplementing some normative acts, as well as for establishing measures in the field of social protection in the context of the epidemiological situation determined by the spread of SARS-CoV-2 coronavirus, with amendments and completions brought by the Government Emergency Ordinance no. 32/2020 for the amendment and completion of the Government Emergency Ordinance no. 30/2020 for amending and supplementing some normative acts, as well as for establishing measures in the field of social protection in the context of the epidemiological situation caused by the spread of SARS-CoV-2 coronavirus and for establishing additional social protection measures was published in the Official Gazette of Romania, Part I, no. 576 of July 1, 2020, entering into force on the same date.

The Order amends the Annex to the Order of the Minister of Labour and Social Protection no. 740/2020 regarding the approval of the template of the documents provided in art. XV para. (1) of the Government Emergency Ordinance no. 30/2020 for amending and supplementing some normative acts, as well as for establishing measures in the field of social protection in the context of the epidemiological situation determined by the spread of the SARS-CoV-2 coronavirus. The Annex contains the template of the application and of the declaration on one's own responsibility for requesting the indemnity by other professionals and by the persons who have concluded individual labour agreements based on Law no. 1/2005 on the organization and functioning of the cooperation.

Order of the Ministry of Labour and Social Protection no. 1107/2020 on amending the Order of the Minister of Labour and Social Protection no. 741/2020 for the approval of the template of the documents provided in art. XII para. (1) of the Government Emergency Ordinance no. 30/2020 for amending and supplementing some normative acts, as well as for establishing measures in the field of social protection in the context of the epidemiological situation determined by the spread of SARS-CoV-2 coronavirus, with amendments and completions brought by the Government Emergency Ordinance no. 32/2020 for the amendment and completion of the Government Emergency Ordinance no. 30/2020 for amending and supplementing some normative acts, as well as for establishing measures in the field of social protection in the context of the epidemiological situation caused by the spread of SARS-CoV-2 coronavirus and for establishing additional social protection measures was published in the Official Gazette of Of Romania, Part I, no. 576 of July 1, 2020, entering into force on the same date.

The Order amends the Annex to the Order of the Minister of Labour and Social Protection no. 741/2020 for the approval of the template of the documents provided in art. XII para. (1) of the Government Emergency Ordinance no. 30/2020 for

amending and supplementing some normative acts, as well as for establishing measures in the field of social protection in the context of the epidemiological situation determined by the spread of the SARS-CoV-2 coronavirus. The Annex includes the template of the application, of the declaration on one's own responsibility and of the list of persons that the employers must submit in order to benefit from the payment of the indemnity for employees whose employment contracts have been suspended at the initiative of the employer, according to art. 52 para. (1) letter c) of the Labour Code.

Order of the Minister of Health and of the President of the National Health Insurance House no. 1092/745/2020 for the approval of the single template of the medical leave certificate and of the instructions regarding the use and the way of completing the medical leave certificates on the basis of which the indemnities of the insured persons from the social health insurance system and from the accident insurance system are granted and occupational diseases was published in the Official Gazette of Romania, Part I, no. 583 of July 2, 2020, entering into force on the same date.

The Order approved the unique template of the medical leave certificate, as printed with a special regime, which is a payment order and based on which the social health insurance benefits are granted, as well as the insurance benefits for work accidents and occupational diseases.

At the same time, the Order approved the Instructions on the use and how to fill in the medical leave certificates.

Order of the Minister of Labour and Social Protection no. 1140/2020 for the approval of the Methodology for drawing up and transmitting the Electronic Register of daily laborers' records, as well as the registrations made in it was published in the Official Gazette of Romania, Part I, no. 651 of July 23, 2020, entering into force on July 25, 2020.

According to the Order, the beneficiaries of the works, defined according to art. 1 para. (1) letter b) of the Law no. 52/2011 regarding the exercise of occasional activities carried out by day laborers have the obligation to draw up, fill in and transmit the electronic Register of the daily laborers.

For the establishment of the Register, the beneficiary obtains, based on a documentation, the username and password from the territorial labour inspectorate in whose territorial area it has its headquarters.

The Register shall be filled in by the beneficiary or by one or more authorized persons using the computer application for mobile devices "*Labour Inspection*", in accordance with the instructions for use obtained from the website of the Labour Inspectorate.

The Register is sent online by the beneficiary or by the persons empowered by him, through the computer application "*Labour Inspection*", after filling it in the same application.

Law no. 151/2020 for the amendment and supplementation of the Law no. 53/2003 - The Labour Code was published in the Official Gazette of Romania, Part I, no. 658 of July 24, 2020, entering into force on July 27, 2020.

Law no. 151/2020 amends the definition of regime of discrimination at the workplace provided by the Labour Code by introducing several discrimination criteria and new notions, such as “harassment at work”, “victimization” and “discrimination by association”:

- the list of discrimination criteria was supplemented, being explicitly included the chronic non-contagious disease, HIV infection and belonging to a disadvantaged category;
- the indirect discrimination is redefined, representing any provision, action, criterion or seemingly neutral practice that has the effect of disadvantaging a person to another person on the basis of one of the criteria of discrimination, unless that provision, action, criterion or the practice is objectively justified by a legitimate aim and whether the means to that end are proportionate, appropriate and necessary;
- the harassment is expressly defined in the Labour Code as any type of behavior based on one of the criteria provided in para. (2) of art. 5 which has as its purpose or effect the damage of a person's dignity and leads to the creation of an intimidating, hostile, degrading, humiliating or offensive environment;
- the discrimination by association was introduced and defined as any act or act of discrimination committed against a person who, although not part of a category of persons identified according to the criteria provided in para. (2) of art. 5, is associated or presumed to be associated with one or more persons belonging to such a category of persons;
- the victimization is defined as any adverse treatment, coming in response to a complaint or legal action regarding the violation of the principle of equal treatment and non-discrimination;
- is also considered discrimination the act of ordering, in writing or verbally, a person to use a form of discrimination against one or more persons;
- instead, it is not considered discrimination the exclusion, restriction or preference in respect of a particular job in case in which, due to the specific nature of the activity in question or the conditions under which the activity is performed, there are certain essential and decisive professional requirements, provided that the purpose is legitimate and the requirements proportionate;
- the non-compliance with the legal provisions mentioned above is sanctioned with a fine from Lei 1,000 to Lei 20,000.

The Government Emergency Ordinance no. 120/2020 on the establishment of support measures for employees and employers in the context of the epidemiological situation caused by the spread of SARS-CoV-2 coronavirus was published in the Official Gazette of Romania, Part I, no. 658 of July 24, 2020, entering into force on the same date.

The Ordinance establishes that, by derogation from the provisions of art. 24 of Law no. 55/2020 on some measures to prevent and combat the effects of the COVID-19 pandemic (as subsequently amended), the employees of the employers whose activity has been suspended due to the epidemiological investigation conducted by the county public health directorates, respectively the municipality of Bucharest, benefit from granting the indemnity (in the amount of 75% of the basic salary corresponding to the job occupied) provided in art. XI of the Government Emergency Ordinance no. 30/2020 for amending and supplementing some normative acts, as well as for establishing measures in the field of social

protection in the context of the epidemiological situation determined by the spread of SARS-CoV-2 coronavirus, approved with amendments and completions by Law no. 59/2020, with subsequent completions.

The indemnity mentioned above is calculated for the number of days in which the activity was suspended.

The above mentioned measure applies for the entire period in which the activity is suspended, but not later than December 31, 2020. This measure does not apply for the employees on sick leave and receiving the related social insurance indemnity.