

employment - legal changes published in October 2020

Order of the Minister of Labor and Social Protection no. 1468/2020 regarding the amendment of annex no. 1 to the Order of the Minister of Labor 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 caused by the spread of SARS-CoV-2 coronavirus, with amendments and completions brought by 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. 933 of October 12, 2020, entering into force on the same date.

Through the Order, Annex no. 1 to the Order of the Minister of Labor and Social Protection no. 741/2020 was amended, which contains the template of the documents necessary for obtaining the indemnities from which the employees benefit for the period of temporary suspension of the individual employment contract, at the initiative of the employer, according to article 52 paragraph (1) letter c) of the Labour Code, as a result of the effects produced by the SARS-CoV-2 coronavirus. The amendments take into account the alignment with the recent legislative provisions and the extension of the state of alert on the Romanian territory.

Government Decision no. 856/2020 on the extension of the state of alert on the Romanian territory starting with October 15, 2020, as well as the establishment of the measures applied during it to prevent and combat the effects of the COVID-19 pandemic was published in the Official Gazette of Romania, Part I, no. 945 of October 14, 2020, entering into force on the same date.

The Decision extended the state of alert on the Romanian territory starting with October 15, 2020 with another 30 days.

The Decision maintains the obligation to wear a protective mask in closed public spaces, commercial spaces, means of public transport and at the workplace.

Also, for all the public or private institutions and economic operators, the obligation to analyze the way of carrying out the activity and the organization of the work in teleworking regime or working from home is established. If it is not possible for the employee to implement the teleworking regime or working from home and, in order to avoid the congestion of public transport, the public and private institutions and economic operators shall organize the work schedule so that the staff is divided into at least two groups to start or end the activity at a difference of at least one hour.

Order of the Minister of Labour and Social Protection no. 1477/1056/2020 on amending and supplementing the Classification of occupations in Romania - occupation level (six characters), approved by the Order of the Minister of Labour, Family and Social Protection and of the President of the National Institute of Statistics no. 1832 / 856/2011 was published in the Official Gazette of Romania, Part I, no. 965 of October 20, 2020, entering into force on the same date.

The Classification of occupations in Romania was supplemented with the following occupations: administrator of national communicable diseases programs, communicable diseases network agent, naval architect, assistant coordinator of national curative programs and non-communicable diseases, external public auditor, ship researcher, medical receptionist, technical manager with execution, hair extensions stylist, medical transcriber.

Order of the Minister of Finance no. 2810/1352/2020 on establishing the value of the indexed monthly amount that is granted in the form of nursery vouchers for the second semester of 2020 was published in the Official Gazette of Romania, Part I, no. 978 of October 23, 2020, entering into force on the same date.

The Order establishes that, for the second semester of 2020, starting with October 2020, the value of the monthly amount granted in the form of nursery vouchers is Lei 470. This value also applies for the first two months of the first semester of 2021, respectively February 2021 and March 2021.

Order of the Minister of Finance no. 2876/1452/2020 for establishing the indexed nominal value of a meal ticket for the second semester of 2020 was published in the Official Gazette of Romania, Part I, no. 978 of October 23, 2020, entering into force on the same date.

According to the Order, for the second semester of 2020, starting with October 2020, the nominal value of a meal ticket cannot exceed the amount of Lei 20.01. This value also applies for the first two months of the first semester of 2021, respectively February 2021 and March 2021.

Government Emergency Ordinance no. 180/2020 for the amendment and supplementation of Law no. 136/2020 on the establishment of measures in the field of public health in situations of epidemiological and biological risk, Government Emergency Ordinance no. 158/2005 on leave and social health insurance benefits, as well as for establishing measures regarding the granting of medical leave was published in the Official Gazette of Romania, Part I, no. 982 of October 23, 2020, entering into force on the same date.

In the content of Law no. 136/2020 on the establishment of measures in the field of public health in situations of epidemiological and biological risk are introduced the following provisions:

- until confirmation of infection with an infectious disease, persons who show signs and symptoms suggestive specific to the case definition, as well as those who, after confirmation of the diagnosis of infectious disease by specific paraclinical investigations, according to the case definition show no signs or symptoms suggestive or show symptoms which does not require isolation in a health facility or, as the case may be, in an alternative

location attached to the health facility, shall be isolated at home or in another location of its choice for a period which may not exceed the disease-specific period of contagion determined by the pathogen agent, established according to existing scientific data; if the respective persons do not agree with the isolation measure, under the above mentioned conditions, the measure is established by decisions of the county public health directorates, respectively of the municipality of Bucharest (art. 8 paragraph 3 ind.1);

- the persons in the above mentions situations shall inform the family physician of the situation in which they find themselves, including the place where they have decided to isolate themselves or the isolation has been instituted; the family physician has the obligation to record and monitor the health of the persons concerned and to send to the county public health directorate, respectively, of the municipality of Bucharest, the monitoring file of the isolated person, whose template is approved by order of the Minister of Health;
- in case the persons refuse the measure of isolation or if the persons violate the measure of isolation established at home or at the declared location during it, even if they have previously consented, the family physician or, as the case may be, the control bodies immediately inform the public health directorate. county or the municipality of Bucharest, which may confirm or overturn the measure of isolation at home or at the declared location, by an individual decision, which will be issued within two hours from the information made by the family physician or, as appropriate, by the control bodies and shall be communicated immediately to the person concerned.

The Government Emergency Ordinance no. 158/2005 on leave and social health insurance benefits, as well as for establishing measures regarding the granting of medical leave is amended as follows:

- it is established that, for the insured persons for whom the measure of isolation was ordered, under the conditions of article 8 paragraph 3 ind. 1 of Law no. 136/2020, the medical leave certificates are issued by the family physicians who have registered and monitored these persons, for a period established according to the evolution of the disease and the duration of the monitoring;
- it is established that, for the insured persons for whom the measure of isolation was ordered, under the conditions of article 8 paragraph 3 ind. 1 of Law no. 136/2020, and following specific paraclinical investigations the diagnosis of infectious disease was not confirmed, the family physician grants the medical leave for quarantine based on the document issued by the county public health directorate or, as the case may be, Bucharest and for the period registered in it.

Of these 2 provisions also benefit the insured persons for whom the county or Bucharest public health directorates have instituted the measure of isolation at home or at a declared location until the date of entry into force of the Emergency Ordinance. In these cases, the medical leave certificates are granted by the family physician, based on the documents issued by the public health directorates and for the period registered in them, within 30 days from the date of entry into force of the Emergency Ordinance.

The Emergency Ordinance further provides that, for the purpose of collecting and correlating the strictly necessary data provided by the entities involved in combating the effects of SARS-Cov-2 coronavirus, as well as for the purpose of recording persons confirmed with SARS-Cov-2 coronavirus or infection with this virus, the Ministry of Health, in the exercise of its legal powers, uses computer systems and applications, including the computer application Corona-forms, developed and technically managed by the Special Telecommunications Service.

Government Emergency Ordinance no. 182/2020 for supplementation of the Government Emergency Ordinance no. 147/2020 on granting days off for parents to supervise children, in case of limitation or suspension of teaching activities that involve the actual presence of children in schools and early childhood education units, following the spread of SARS-CoV-2 coronavirus, as well as art. 6 of the Government Emergency Ordinance no. 132/2020 on support measures for employees and employers in the context of the epidemiological situation caused by the spread of SARS-CoV-2 coronavirus, as well as to stimulate employment growth was published in the Official Gazette of Romania, Part I, no. 993 of October 27, 2020, entering into force on the same date.

The Government Emergency Ordinance no. 147/2020 is amended as follows:

- it is established that the provisions of this G.E.O. also apply to the parent or legal representative who has in the care, supervision and support of one or more school children, with chronic diseases for which the family physician or specialist has issued certificates for education under the conditions provided in annex no. 1 - Guide on health and protection measures in pre-university education units during the pandemic COVID-19 to the annex to the Order of the Minister of Education and Research and the Minister of Health no. 5487/1494/2020;
- for the situation provided above, the parent will submit to the employer a copy of the certificate issued by the family physician/ specialist;
- it is mentioned that the provisions of this G.E.O. also apply in the situations where the application of scenario 2 has been established "Daily participation of all preschoolers and students in primary education, students in grades VIII and XII, in compliance with and application of all rules of protection and Partial return by rotation of 1-2 weeks of students in other middle school classes and high school, in compliance with and application of all protection rules", respectively scenario 3 "Participation of all preschoolers and students in online activities/ lessons"; in these situations, the number of days off is granted depending on the period provided by the decision of the county committee for emergency situations/ of the Bucharest Municipality Committee for Emergency Situations; the days off are granted only after the employer has applied the legal regulations in force for carrying out the activity through teleworking regime or working from home, if the workplace of the parent allows it.

G.E.O. no. 182/2020 also amends article 6 of G.E.O. no. 32/2020, stipulating that the support granted to employers for each teleworker in the amount of Lei 2,500 in order to purchase packages of technological goods and services necessary for carrying out the teleworking activity is not granted to the employers who sent in the General Register of Employees the data regarding the elements of the employment relationship, through which it was established the development of the activity in teleworking regime, after the expiration of the legal term for registering the change.

Order of the Minister of Health no. 1818/1111/2020 for the amendment of the Norms for the application of the provisions of the Government Emergency Ordinance no. 158/2005 on leave and social health insurance benefits, approved by the Order of the Minister of Health and the President of the National Health Insurance House no. 15/2018/ 1311/2017 was published in the Official Gazette of Romania, Part I, no. 993 of October 27, 2020, entering into force on the same date.

The Norms for the application of the provisions of the Government Emergency Ordinance no. 158/2005 on leave and social health insurance benefits are supplemented with the following aspects:

- the insured persons for whom the measure of isolation has been undertaken, according to the law, in health units or in an alternative location attached to a health unit benefit from medical leave for the whole period for which this measure has been undertaken;
- for the insured person for whom the measure of isolation was undertaken, according to the law, exclusively in health units or in an alternative location attached to a health unit, the attending physician issues the medical leave certificate at hospital discharge, both for hospitalization and for the discharge period, as the case may be, by entering the corresponding indemnity code; the medical leave certificates are issued for periods of maximum 30/31 calendar days; if, after the expiry of the medical leave granted on leaving the hospital, the insured person's state of health does not allow the resumption of the activity, the family physician may extend the medical leave for the same condition;
- for the insured person for whom the measure of isolation has been undertaken in a health unit or in an alternative location attached to a health unit and which can be discharged, provided the isolation at home or at the location declared by the person to be isolated, the hospital that cared for and discharged the patient issues the medical leave certificate for the duration of the hospitalization and may grant medical leave on discharge until the maximum term of the isolation period or for a period established by it;
- if the date of hospitalization of the insured person is later than the date of collection of the first sample confirming the infectious disease, for this period the medical leave certificate is granted by the family physician, based on the document issued by the public health directorate, which contains information on the date of collection the first test, the date of confirmation of the infectious disease and the date of hospitalization of the sick person;
- the insured person confirmed with an infectious disease for which the measure of isolation has been undertaken at home or at a declared location, on the recommendation of the physician who performed its assessment without hospitalization, in order to ascertain and limit the risk of transmitting an infectious disease, by the family physician, for the entire period specified in the document issued by the Public Health Directorate, which includes information on the physician who assessed the case, the health unit in which he works, and the recommendation on the establishment of the isolation measure, specifying the period for which this measure is ordered;
- the medical leave certificates granted to the persons for whom the isolation measure was ordered are issued after the last day of the termination of the isolation period, but not later than 30 calendar days from the date of the last day of its termination; if the length of the isolation period exceeds 90 days, the opinion of the social security physician expert is not required for these medical leave certificates;
- the gross monthly amount of the isolation and quarantine allowance is determined according to art. 10 of the G.E.O. no. 158/2005 and is fully supported from the budget of the Single National Health Insurance Fund, except for the situations where according to the legal provisions it is provided otherwise.

Order of the Minister of Finance no. 2814/1536/1806/2020 for the approval of the template, content, method of submission and management of the "Statement on obligations to pay social security contributions, income tax and nominal records of insured persons" was

published in the Official Gazette of Romania, Part I, no. 1005 of October 29, 2020, entering into force on November 1, 2020.

The need to update the Statement no. 112 was imposed by the legislative changes in the field of social protection, in the context of the epidemiological situation. Thus, the form, as well as the instructions for its completion, have been adapted accordingly.

The Statement no. 112 has been amended as follows:

- introduction of new cassettes in Annex 1.1. - Employer Annex, Sections C2, C3, E2 and E3, for the separate centralization of medical leave for temporary incapacity for work due to an infectious-contagious disease for which the quarantine measure or the isolation measure is required;
- introduction of new cassettes in Annex 1.2. - Insured Annex - Section B.4, for the distinct declaration of the calculation bases of the indemnities granted based on the provisions of art. XI para. (11) of the G.E.O. no. 30/2020 and based on the provisions of art. 1 para. (4) and art. 3 para. (1) of the G.E.O. no. 132/2020, as well as the related social insurance contribution;
- introduction in the Nomenclature "Insured type" from Annex no. 4 of the form, of new types of insured persons, as follows:
 - i. Employee who benefits from the allowance provided in art. 1 paragraph (4) of the G.E.O. no. 132/2020, borne from the unemployment insurance budget;
 - ii. Cooperating member, employee based on the individual labour agreement, provided by Law no. 1/2005 regarding the organization and functioning of the cooperation, which benefit from the indemnity provided in art. 3 para. (1) of G.E.O. 132/2020, for which the insurance contribution for work is not due;
 - iii. Employee who benefits from the allowance granted according to G.E.O. no. 147/2020;
 - iv. Individuals whose individual employment contracts have been terminated as a result of collective redundancies, according to the law, who receive amounts representing compensatory payments calculated on the basis of average net wages per unit;
 - v. Change of the name of the type 5 of insured person - Individuals dismissed through collective redundancies, who receive individual monetary compensations, supported from the salary fund, according to the provisions provided in the employment contract;
 - vi. Individuals who receive income from salaries and assimilated to salaries or incomes whose tax treatment is assimilated to income from salaries and assimilated to salaries and who are not found, during the reporting period, in the other types of insured persons provided in the Nomenclature "Insured type" of Annex no. 4. This type of insured will be used only in the case of legislative interventions that lead to the amendment of this order, so that until the order and the computer application are amended accordingly, the employers/ income payers will fulfill their declaratory obligations within the legal term.
- the introduction in Annex 5 - Nomenclature "Indicative of special conditions", of two new values related to the two new jobs in special conditions, introduced by Law no. 234/2019 and G.E.O. no. 10/2020.