

LEGAL ALERT



MEASURES FOR GRANTING DAYS OFF TO PARENTS IN ORDER TO MONITOR THEIR CHILDREN IN CASE OF LIMITATION OR SUSPENSION OF THE TEACHING ACTIVITIES

Government Emergency Ordinance no. 147/2020 on granting days off to parents for monitoring their children, in case of limitation or suspension of the teaching activities which involve face-to-face presence in educational establishments and early childhood educational establishments as a result of the spread of SARS-COV-2 coronavirus ("GEO 147/2020") was published on 28 August 2020 in the Official Gazette of Romania.

SCOPE

GEO 147/2020 shall apply to all employees in the public and private environment for the entire term of limitation or suspension of the courses in the educational establishment or the activity in daycare centers for persons with disabilities, during the state of alert and after its cessation, but no later than the completion of the courses in the school year 2020 – 2021.

One of the parents is entitled to days off for monitoring their children, in case of limitation or suspension of the teaching activities which involve the face-to-face presence in educational establishments and early childhood educational establishments, where

such children are enrolled, following an epidemiological inquiry conducted by the competent Public Health Directorates and considering the decision of the competent Committee for Emergency Situations.

QUALIFYING CONDITIONS FOR THE EMPLOYEES

The provisions of GEO 147/2020 shall apply to parents that meet the following conditions, on a cumulative basis:

- a) They have children:
 - up to the age of 12, enrolled in an educational establishment or early childhood educational establishment; or
 - with disabilities, up to the age of 26, enrolled in an educational establishment or early childhood educational establishment;
- b) The other parent does not, in his/her turn, benefit from days off.

GEO 147/2020 sets forth that the category of parents shall include, among others, the adopter, the person that has the child in placement or custody, the parent or legal representative of the adult with disabilities enrolled in an educational establishment.

The provisions of GEO 147/2020 are not applicable if one of the parents:

a) is on leave for childcare or in the situation provided under art. 11 par. (2) of GEO 111/2010 or benefits from leave for care of a disabled child up to the age of 7;

b) is the personal assistant of one of the dependent children;

c) is on annual leave/unpaid leave;

d) has the employment relationship suspended in case of temporary interruption or reduction of the employer's activity, without the termination of the employment relationship, for economic, technological, structural or similar grounds;

e) does not obtain income from salaries and assimilated to salaries, income from independent activities, income from intellectual property rights, income from agricultural activities, forestry and fish farming, subject to income tax.

PERIOD FOR GRANTING PAID DAYS OFF

The above-mentioned persons are entitled to paid days off, for the entire term when the limitation or suspension of the teaching activities involving face-to-face presence in educational establishments and early childhood educational establishments is decided.

PROCEDURE FOR GRANTING PAID DAYS OFF

GEO 147/2020 establishes the employer's obligation to grant days off under the above conditions if requested by the employee.

One of the parents shall submit:

a) an application with the employer from which he/she wishes to benefit from paid days off granted for child monitoring,

b) an affidavit of the other parent, indicating that he/she did not exercise the same right provided under GEO 147/2020, that he/she does not have the employment agreement suspended for temporary interruption of the employer's activity and that he/she is not in one of the situations which exclude the applicability of this Ordinance,

and

c) a copy of the birth certificate(s) of the child/children or of the document attesting the capacity for requesting the days off, as well as, if the case, the copy of the certificate of disability level for the child or adult up to the age of 26;

Note: The template application and affidavit are established by order of the Minister of Labor and Social Protection, which shall be published in the Official Gazette.

BENEFIT RECEIVED IN CASE OF GRANTING PAID DAYS OFF

The amount of the benefit is of 75% of the base salary corresponding to a working day, but no more than the daily equivalent of 75% of the average gross salary used to draw up the social security state budget.

The benefit is in gross amount and is subject to taxation and payment of the social security contribution and social health insurance contribution, as well as the mandatory work insurance contribution.

Such amounts for payment of the benefit shall be settled from the Guarantee Fund for Payment of Salary Receivables only for the period of the days off granted.

Until the end of the tax year, the settled amounts shall be repaid to the Fund according to a procedure established in a government decision.

SETTLEMENT OF THE AMOUNTS FOR PAYMENT OF THE BENEFIT

To such end, the employer shall comply with the following procedure:

- It shall submit an application with the

competent employment agency, along with supporting documents on the fulfillment of the conditions for benefit settlement, **within no more than 30 days from payment of the taxes and contributions related to the benefit.**

- Template electronic applications and forms published on the Electronic sole contact point platform or on <http://aici.gov.ro/> platform may be used for electronic submission of applications and documents.

The settlement of the amounts paid as benefit shall be performed within 15 calendar days from registration of the documents.

Note: The settlement procedure, the supporting documents and their template are established by order of the President of the National Employment Agency, which shall be published in the Official Gazette.

SANCTIONS

The employer's failure to grant the days off in case the employee requested them is an offence and is sanctioned with a fine **from RON 1,000 to RON 2,000** for each person who is refused to be granted the days off, **up to a total of RON 20,000**. The provisions relating to offences come into force 30 days after the publication of GEO 147/2020 in the Official Gazette.



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