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## Client Alert | Labour

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Italy

### **“Cura Italia” Decree. Measures supporting the employment and employees for the protection of work and income.**

March 2020

On 17 March 2020, Decree-Law No. 18 of 17 March 2020 was published in the Official Gazette (“*Gazzetta Ufficiale*”) introducing measures supporting the Italian healthcare system and supporting households, workers and businesses in connection to the COVID-19 emergency outbreak (the so-called “Cura Italia” Decree, hereinafter the “**Decree**”).

One of the areas in which the Decree makes the most incisive intervention is that of support to employment and workers for the protection of work and income.

Please note that detailed circulars are currently being issued aimed to clarify practical and enforcement issues raised by the new rules on social shock absorbers, leaves and other forms of income support included in the Decree.

Below is a summary of the contents of the main provisions of the Decree relating to the abovementioned aspects.

#### **Extension of special measures on social shock absorbers to all the Italian territory**

##### **1. Ordinary salary integration and ordinary allowance (*Article 19 of the Decree*)**

The Decree provides for the opportunity to apply for **ordinary salary integration or ordinary allowance** by reason of “**COVID-19 Emergency**”.

The Decree provides for significant incentives, in derogation from Legislative Decree No. 148 of 14 September 2015, whose features are briefly summarized below.

#### **Scope of Application**

This measure is accessible to **employers that during the year 2020 envisage a suspension or reduction of the work activities due to events linked to the COVID-19 outbreak emergency** and that fall within one of the following categories:

- employers falling within the scope of the Ordinary Redundancy Fund (“*Cassa Integrazione Guadagni Ordinaria*”);
- employers registered with the Salary Integration Fund, with more than 5 employees;
- employers registered with bilateral solidarity Funds pursuant to Article 26 of Legislative Decree No. 148 of 14 September 2015;



- employers registered with alternative Funds pursuant to Article 27 of Legislative Decree No. 148 of 14 September 2015;
- employers registered with bilateral solidarity Funds of the Trentino Alto Adige Region.

Beneficiaries will be all workers who **were employed by the applicant employers on 23 February 2020 and who are not required to have worked for at least 90 days on the date of submission of the application.**

**Duration and time-limits. No assessment of causal requirements**

The application can cover periods commencing on 23 February 2020, up to a **maximum duration of 9 weeks**, and, in any case, up to August 2020.

**Submission of the application. No assessment of causal requirements**

The application shall be submitted within the end of the fourth month following the one in which the working activity suspension or reduction has commenced and **is not subject to the assessment of causal requirements, normally carried out.**

**Information, consultations and possible joint examination phase**

Employers submitting the application are anyway subject to the obligation of **information, consultation and joint examination, also by electronic means, within the three days following the preliminary notification.**

**Effects on the maximum duration of the ordinary and extraordinary salary integration**

**The periods of salary integration and ordinary allowance granted for events linked to the COVID-19 outbreak emergency** are not counted for the purposes of the maximum aggregate duration of the ordinary and extraordinary salary integration and access to the solidarity funds, provided by the relevant provisions on social shock absorbers during the employment relationship. Therefore, such periods shall not be taken into account **for the purposes of further applications.**

**Company Cap and Additional Contributions**

**Only for year 2020, the ordinary allowance granted by the Fund for Salary Integration is not subject to the company cap**, consisting of an amount equal to 10 times the ordinary contributions due by the same employer.

Moreover, no further contribution shall be paid as a result of such instruments, in derogation from the ordinary provisions under Legislative Decree No. 14 of 15 September 2015.

**Ordinary allowance: beneficiary and payment method**

The **ordinary allowance** is granted for the period stated and in the year 2020, also **to employees of employers registered with the Salary Integration Fund (FIS) that employ more than 5 workers on average.**

Moreover, at the employer request, such instrument may **be granted by way of indirect payment by the Italian National Institute for Social Security (INPS)**. The same method shall apply to payments made by alternative bilateral solidarity funds and bilateral solidarity funds of Trentino and Alto Adige.



## 2. Salary integration for companies already under Extraordinary Redundancy Fund (“Cassa integrazione Straordinaria”) (Article 20 of the Decree)

### **Scope of application**

The provision **applies to employers falling within the scope of the Extraordinary Redundancy Fund who on 23 February 2020 were receiving extraordinary salary integration benefits** and who therefore have the possibility to apply for ordinary salary integration for events related to the epidemiological emergency by COVID-19, for a period not exceeding nine weeks.

### **Conditions and effects of the grant of the ordinary salary integration**

The **grant** of the ordinary salary integration determines the suspension of the extraordinary redundancy fund already ongoing. The instrument provided for the COVID-19 emergency may concern also the same employees already included in the scope of the extraordinary salary integration, with a reduction up to 100% of working time.

**Effects on the maximum duration of the ordinary and extraordinary salary integration envisaged**  
**Periods of ordinary salary integration indemnity granted for events attributable to the COVID-19 epidemiological emergency** are not counted for the purposes of the limits of the maximum overall duration of ordinary and extraordinary salary integration indemnity provided for by the regulations on social shock absorbers during the employment relationship. Therefore, these periods will not be taken into account **for the purposes of subsequent applications**.

### **Additional contribution**

**Only for the ordinary salary integration granted for events linked to the COVID-19 outbreak emergency**, no additional contributions will have to be paid as a consequence of the use of this instrument.

### **Procedural terms for the joint examination and submission of application to access to extraordinary salary integration**

## 3. Ordinary allowance for employers currently receiving solidarity allowance (Article 21 of the Decree)

### **Scope of application**

This provision shall apply to employers, registered with the Salary Integration Fund, who on 23 February 2020 were receiving a solidarity allowance and who have the possibility to file an application for the grant of the ordinary allowance for events linked to the COVID-19 outbreak emergency, for a period not exceeding nine weeks.

### **Conditions and effects of the grant of the ordinary allowance**

The grant of the ordinary allowance:

- determines the suspension of the solidarity allowance already being paid, which is therefore replaced;
- may also cover the same workers included in the scope of the solidarity allowance for full working time coverage.



### **Effects on the maximum overall duration of the ordinary and extraordinary salary integration envisaged**

**The periods of co-existence of the solidarity allowance with the ordinary allowance for events linked to the COVID-19 outbreak emergency** shall not be computed for the purposes of the maximum overall duration of the ordinary and extraordinary salary integration and access to solidarity funds provided for by the legislation on social shock absorbers during the employment relationship (in particular, the limits provided for under Article 4, paragraphs 1 and 2 and under Article 29, paragraph 3 of Legislative Decree No. 148 of 14 September 2015). Therefore, such periods are **neutralised for the purpose of subsequent applications**.

The wording of the provision raises more than one interpretative doubt and a clarification in this respect is expected.

### **Additional contribution**

Limited to the periods of ordinary allowance granted for events related to the epidemiological emergency from COVID-19, no additional contribution shall be paid as a consequence of the use of the instrument.

## **4. New provisions concerning the “exceptional” Redundancy Fund (*Article 22 of the Decree*)**

### **Scope of Application**

The provision shall apply to **employers of the private sector, regardless of the number of their employees, who are not subject to the application of the instruments provided for by the current legislation in force on the suspension or reduction of working time**.

These employers, during the course of the employment relationship, will have the possibility of obtaining from the Regions and Autonomous Provinces the access to the “exceptional” Redundancy Fund as a consequence of the epidemiological emergency from COVID-19.

Domestic employers are excluded.

### **The procedure**

For the purposes of **obtaining access to the “exceptional” redundancy fund**, a prior **agreement is required, which may be executed also by electronic means, between the Regions and Autonomous Provinces and the trade unions that are comparatively more representative at national level for employers**.

The implementing arrangements, including those relating to information, consultation and possible joint examination procedures, will be determined by the individual Regions and it will be necessary to refer to their decisions.

**No agreement is required for companies employing up to five employees.**

Access to the “exceptional” redundancy fund is granted by decree of the Regions and Autonomous Provinces concerned to be notified to INPS by electronic means within 48 hours from its adoption.

**In view of the expected broad participation in the support measure, it should be underlined that its effectiveness is subject to verification of compliance with the expenditure limits.**

Access to the “exceptional” redundancy fund can be granted exclusively by means of direct payment by INPS.



### **Duration of the “exceptional” redundancy fund**

The “exceptional” redundancy fund is granted **for the duration of the suspension of the employment relationship and, in any case, for a period not longer than nine weeks**. Employees are entitled to imputed contributions and relevant ancillary charges.

### **Special provisions on the reduction of working time and support for workers**

1. COVID-19 emergency leave and allowances for private-sector employees, workers enrolled in the INPS’s special fund for self-employed workers (“*gestione separata*”) and the self-employed (*article 23 of the Decree*)

#### **Paid leave for parents**

**Workers who are parents of children up to the age of 12** (including **foster parents**) are entitled, as a result of the suspension of childcare services and educational activities in schools of all levels and degrees, to a leave **granted alternately to both parents**, for a **total of fifteen days**.

The leave may be enforced, even with retroactive effect as from 5 March 2020.

In any case, **the age limit does not apply to children with disabilities in a situation of proven seriousness**, enrolled in schools of all levels and degrees or accommodated in day care centres.

#### **Moreover, the leave:**

- is subject to the condition that in the household there is no other parent receiving income support instruments in the event of suspension or cessation of employment or other unemployed or non-working parent;
- provides for the payment of an **allowance equal to 50 per cent of the salary**. The periods concerned are covered by **imputed social security contributions**;
- replaces **any periods of parental leave** enjoyed by parents during the period of suspension of childhood education services and teaching activities in schools of all levels and degrees, with entitlement to the corresponding allowance, and is not counted or compensated as parental leave.

#### **Unpaid leave for parents**

**Parents employed in the private sector with minor children between the ages of 12 and 16 – provided that in the household there is no other parent receiving income support in the event of suspension or cessation of work or that no non-working parent is present – have the right to abstain from work** for the period of suspension of childcare services and educational activities in schools of all levels and degrees, **without payment of compensation or of imputed social security contributions**, with a ban on dismissal and the privilege of job retention.

#### **COVID-19 emergency leave for working parents enrolled exclusively in the INPS’s special fund for self-employed workers.**

Working parents enrolled exclusively in the INPS’s special fund for self-employed workers are entitled, for children not older than 12 years of age, to a **specific leave for which an allowance** is



paid **equal to 50 per cent of 1/365 of the income identified** according to the calculation basis used to determine the maternity allowance for each eligible day.

**COVID-19 emergency leave for self-employed parents enrolled in INPS (Italian National Institute for Social Security)**

Parents who are self-employed and enrolled in INPS are entitled to a **specific leave for children not older than 12 years of age, for which an allowance is paid for each eligible day at 50% of the conventional daily salary** established annually by law, depending on the type of self-employment.

**Operating procedures**

The **operating procedures** for accessing the COVID-19 emergency leave or the bonus for the purchase of baby-sitting services are **established by INPS**.

For **parents who are employed in the public sector**, the payment of the allowance, as well as an **indication of how to take the leave is made by the public administration** with which the employment relationship exists.

**Babysitter Bonus**

**Recipients of paid leave may, as an alternative, request a bonus for the purchase of baby-sitting services up to an overall maximum limit of Euro 600.00<sup>1</sup>**, to be used for services provided during the period of suspension of childcare services and educational activities in schools of all levels and degrees.

This **bonus is also granted to self-employed workers who are not enrolled in INPS**, subject to notification by the respective social security funds of the number of beneficiaries.

2. **Extension of the duration of paid leave pursuant to article 33, law no. 104 of 5 February 1992 (Article 24 of the Decree)**

For workers who benefit from the leave referred to in Article 33, paragraph 3, of Law No. 104 of 5 February 1992, **the number of days of paid monthly leave covered by imputed social security contributions shall be increased by a further twelve days in March and April 2020**.

3. **Urgent measures to safeguard the period of active surveillance of private sector workers (Article 26 of the Decree)**

**Private sector workers**

In relation to private-sector workers, the **period spent in quarantine with active surveillance or under fiduciary home-stay with active surveillance:**

- is **equivalent to illness for the purposes of the economic treatment provided for in the relevant legislation;**
- **is not counted for the purposes of the protected period.**

<sup>1</sup> For employees in the public and accredited private health sector, belonging to the categories of doctors, nurses, biomedical laboratory technicians, medical radiology technicians and socio-medical operators, as well as employees of the State Police, the bonus for the purchase of baby-sitting services for the care and supervision of children up to the age of 12 years is instead provided within the overall maximum limit of Euro 1000.00.



With reference to the above-mentioned periods, the attending doctor is required to draw up the certificate of illness with the details of the measure that gave rise to the quarantine with active surveillance or to fiduciary home-stay with active surveillance.

Illness certificates transmitted before the entry into force of the Decree shall be considered valid.

**Other cases regulated by the Decree**

In relation to **public and private employees who have a disability with connotation of seriousness, as well as to workers in possession of certification issued by the competent medical and legal bodies, attesting a condition of risk deriving from immunodepression or from the results of oncological pathologies or from undergoing the relevant life-saving therapies, the period of absence from the service** prescribed by the competent health authorities **must be treated as hospitalization.**

With reference to the above-mentioned periods, the attending doctor shall draw up the certificate of illness with the details of the measure that gave rise to the quarantine with active surveillance or to fiduciary home-stay with active surveillance.

Illness certificates transmitted before the entry into force of the Decree shall be considered valid.

4. **Indemnity granted to professionals, workers with a coordinated and continuous collaboration relationship, self-employed workers enrolled in the special fund of the mandatory general insurance (“AGO”), seasonal employees in the tourism sector and spas and workers in the agricultural sector and workers enrolled in the workers' pension fund in the entertainment industry (Articles 27, 28, 29, 30, 31 and 38 of the Decree)**

The Decree provides for the granting of an allowance, scheduled for the month of March, for an amount of Euro 600.00 in favour of:

- **freelancers holding an active VAT number** as at 23 February 2020, who are not pensioners and not enrolled in other compulsory social security schemes;
- **workers with coordinated and continuous collaboration relationships active as at 23 February 2020, enrolled in the INPS's special fund for self-employed workers**, not pensioners and not enrolled in other compulsory social security schemes;
- **self-employed workers enrolled in the special fund of the AGO**, not pensioners and not enrolled in other compulsory social security schemes;
- **seasonal employees in the tourism sector and spas** who involuntarily terminated their employment relationship in the period between 1 January 2019 and the date of entry into force of the Decree, non-pensioners and not employed on the date of entry into force of this provision;
- **fixed-term agricultural workers, non-pensioners**, who have carried out at least 50 actual days of agricultural work in 2019;
- **workers who are members of the Pension Fund for Workers in the Entertainment Industry**, with at least 30 daily contributions, paid in 2019 to the same Fund, resulting in an income not exceeding Euro 50,000, and who are not pensioners.

It is also provided that the allowances:

- do not constitute income from work;



- are not cumulative;
- are not granted to recipients of citizenship income.

#### 5. Extension of time-limits for NASpl and DIS-COLL unemployment applications (*Article 33 of the Decree*)

**The Decree has extended** – in order to facilitate applications – **the time-limits for the submission of NASpl and DIS-COLL unemployment applications from sixty-eight to one hundred and twenty days, for events of involuntary cessation of work occurred from 1 January 2020 until 31 December 2020.**

In addition, for applications submitted after the ordinary deadline, the effective date of the measure from 68 days after the date of involuntary cessation of employment shall remain unaffected.

#### 6. Extension of the forfeiture time-limits for social security and welfare (*Article 34 of the Decree*)

As of 23 February 2020, until 1 June 2020, the forfeiture and limitation periods relating to **«social security, welfare and insurance benefits provided by INPS and INAIL»** shall be suspended ipso jure.

#### 7. Smart work provisions (*Article 39 of the Decree*)

Article 39 of the Decree introduces the following **additional measures on smart work**<sup>2</sup>:

- until 30 April 2020, **workers with disabilities or who have a disabled person in the family unit have the right to work using smart-working methods**, provided that said working methods are *«compatible with the characteristics of the performance»*;
- **private workers with «serious and proven pathologies» are given priority in accepting requests to perform their work using smart working methods.**

#### 8. Contributions to enterprises for security and health care strengthening (*Article 43 of the Decree*)

An **INAIL contribution** of Euro 50 million will be paid by Invitalia **to private employers for the purchase of «personal protective equipment and other personal protective devices».**

<sup>2</sup> On this point, it should be noted that, in order to give priority to the use of smart working, the Decree of the President of the Council of Ministers of 1 March 2020 provided for the possibility for employers throughout Italy, until 31 July 2020, to resort immediately to smart working, even in the absence of individual agreement with the worker, without prejudice to the obligation to provide information on risks to health and safety at work - even electronically and even using the documentation made available on the INAIL online site.





#### 9. Setting-up of the last resort income fund (“fondo per il reddito di ultima istanza”) for workers affected by COVID-19 virus (Article 44 of the Decree)

The provision establishes that employees and self-employed workers, including professionals, who have ceased, reduced or suspended their activity or employment relationship as a result of an epidemiological emergency, will be granted a special allowance - whose value has not been pre-set - whose priority criteria and allocation methods - as well as any share of the spending limit - will be defined by one or more decrees of the Minister of Labour and Social Policy, in agreement with the Minister of Economy and Finance, to be adopted within thirty days of the entry into force of the Decree.

#### 10. Suspension of the procedures for challenging dismissals (Article 46 of the Decree)

With a view to maintaining employment levels, the provision at issue imposes on employers the following **relevant measures concerning “economic” dismissals, which shall be effective within 60 days of the entry into force of the Decree:**

- **suspension of collective dismissal procedures commenced after 23 February 2020** (*i.e.* from 24 February onwards);
- **prohibition to initiate new collective dismissal procedures pursuant to Articles 4, 5 and 24 of Law No. 223/91;**
- **prohibition of dismissal for objective just cause pursuant to Article 3 of Law No. 604/1966**, concerning also dismissals not related to the COVID-19 emergency regardless of the number of employees in force (although the provision is silent on the point, in light of the purpose of the same, it is considered reasonable and precautionary to suspend also the procedures commenced pursuant to Article 7 of Law No. 604/1966 and still in progress at present, with the consequent need for employers who find themselves in such a situation to manage redundancies availing themselves, for example, of social shock absorbers).

So, within 60 days of the entry into force of the Decree-Law it will be possible to proceed only with dismissals that do not fall within the scope of the prohibition and, therefore, to dismiss for subjective just cause, just cause, failure to pass the probation period and, in consideration of the regulatory postponement contained in the provision, for exceeding the protected period.

#### 11. Employee premium (Article 63 of the Decree)

Employees with an income from employment for the previous year up to Euro 40,000, are entitled to the payment, in the month of April 2020, of a premium for the month of March 2020 – which does not contribute to the formation of the total income – equal to Euro 100 to be calculated in relation to the number of days worked “*at their workplace*” in that month. This amount is paid in advance by the employer and then offset in the payment of taxes and social security contributions according to the indicated procedure.



12. New urgent measures to counter the COVID-19 epidemiological emergency and contain its effects in civil, criminal, tax and military justice (*Article 83 of the Decree*)

**Hearings** scheduled **from 9 March to 15 April 2020 in all civil and criminal proceedings** – subject to the specific exceptions indicated – will be **postponed *ex officio*** and **procedural deadlines** - for the same period of time – will be suspended.

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*The content of this article is for information purposes only and does not constitute professional advice. For further information, please contact [Michele Bignami](#), [Roberta Russo](#) or [Dario Clementi](#).*