

20 MARCH 2020

NEWSFLASH: CORONAVIRUS - THE "CURA ITALIA" LEGISLATIVE DECREE

Legislative Decree no. 18 of 17th March 2020 was published in the Gazzetta Ufficiale no. 70 of the same date, providing measures to strengthen the National Health Service and to give economic support to families, employees and companies in relation to the health emergency caused by COVID-19. The Decree came into force on 17th March 2020.

Below is a summary of the main innovations relating to workforce management.

"SOCIAL SHOCK ABSORBERS" (*Ammortizzatori sociali* - State-funded resources providing financial assistance to companies in the event of a temporary reduction or suspension of activity)

↳ ORDINARY WAGE GUARANTEE FUND (*Cassa Integrazione Guadagni Ordinaria, CIGO*) AND ORDINARY ALLOWANCE (ART. 19)

Regardless of the number of employees employed, companies that operate in the specific sectors identified by art. 10 of Legislative Decree no. 148/2015 (by way of example, but not limited to, industrial manufacturing, transport, mining, production and distribution of energy, water and gas, and production and work cooperatives), and that suffer a reduction in their activity as a consequence of the current emergency, may request a wage supplement on "Covid19 emergency" grounds.

Employers that are registered with the Wage Integration Fund (*Fondo di Integrazione Salariale, FIS*) and employ more than 5 employees on average may also apply for an ordinary allowance.

The application for gaining access to CIGO or the ordinary allowance must be presented by the end of the fourth month following the month in which the period of work suspension or reduction began.

The activation procedure is simplified compared to that provided for by Legislative Decree no. 148/2015, because it is possible to inform the Unions even by electronic means, as well as consult and carry out a joint assessment of the situation with the Unions within three days of informing them.

The allowance may be granted for a maximum period of 9 weeks from 23rd February 2020 and, in any case, no later than August 2020. The period is not counted for the purposes of the duration provided for by Legislative Decree no. 148/2015.

To access this allowance employers do not have to pay the additional contribution (articles 5, 29 and 33 of Legislative Decree no. 148/2015) equal to 9%.

Employers do not pay any social security contribution for the non-worked hours, however this does not affect employees since such social security contributions are granted by the Italian system.

➤ **ORDINARY WAGE GUARANTEE FUND (CIGO) REPLACING EXTRAORDINARY WAGE GUARANTEE FUND (*Cassa Integrazione Guadagni Straordinaria*, CIGS) (ART. 20)**

Employers which were using CIGS as at 23rd February 2020 may apply for CIGO.

Access to the ordinary wage guarantee fund is subject to the suspension of the effects of the benefits received from the previous fund.

While using CIGO no additional contributions are due from employers (art. 5 Legislative Decree 148/2015).

The wage supplement may be granted for a maximum period of 9 weeks and the period of CIGO does not count towards the limits set for CIGS.

➤ **CIGO REPLACING ON-GOING SOLIDARITY ALLOWANCE (*Assegno di Solidarietà*) (ART. 21)**

Employers registered with the FIS and which, as at 23rd February 2020, have a Solidarity allowance in progress may apply for CIGO.

During CIGO no additional contributions are due from employers (art. 29, paragraph 8, Legislative Decree no. 148/2015).

The allowance may be granted for a maximum period of 9 weeks and the period of CIGO does not count towards the limits set for the Solidarity allowance.

➤ **EXCEPTIONAL WAGE GUARANTEE FUND (*Cassa Integrazione Guadagni in Deroga*, CIGD) (ART. 22)**

Employers which cannot benefit from the general protections provided for by the law for cases of suspension or reduction of working hours (including those operating in the agricultural, fisheries and tertiary sectors and religious institutions), will have access to CIGD in accordance with the provisions of each region or autonomous province.



The allowance may be granted for a maximum period of 9 weeks starting from 23rd February 2020 (i.e., with retroactive effect) and will be paid by INPS.

Employers do not pay any social security contribution for the non-worked hours, however this does not affect employees since such social security contributions are granted by the Italian system.

MEASURES FOR EMPLOYEES

↘ PARENTAL LEAVE FOR PRIVATE SECTOR EMPLOYEES, FOR THOSE ENROLLED ON A SEPARATE INPS SCHEME AND FOR THE SELF-EMPLOYED (ART. 23)

Given the suspension of educational services for children and teaching in schools of all levels from 5th March 2020:

- a. Parents employed in the private sector with children under 12 years will be granted extraordinary parental leave equal to 15 days, with an allowance equal to 50% of their salary and with social security contribution coverage granted by the Italian system. Parents with children between 12 and 16 years old are entitled to refrain from work for the period in which educational services are suspended, with no entitlement to any allowance or social security contribution coverage, but with a right to retain their job (in fact, employers are prohibited from dismissing them);
- b. Parents with children up to 12 years old, registered with a separate INPS scheme and not benefitting from CIGO, will be granted an allowance that will be calculated according to specific parameters.

The above-mentioned 12-year age limit does not apply in cases of children with severe disabilities.

Just one of the parents is entitled to take the leave, as long as neither parent receives a wage support allowance.

As an alternative to the above-mentioned allowances, working parents can opt for the payment of a voucher for baby-sitting services with a maximum value of € 600 monthly. This voucher is also granted to self-employed workers not registered with INPS, subject to the respective pension funds communicating the number of payees.

↘ PAID LEAVE PURSUANT TO ART. 33 OF LAW NO. 104/92 (ART. 24)

The number of leave days for assisting disabled immediate family members have been increased, with an additional 12 days. These days are remunerated, covered by social security contributions granted by the Italian system, and can be used in March and April 2020.

↘ LEAVE AND ALLOWANCES FOR EMPLOYEES IN THE PUBLIC SECTOR (ART. 25)

Parents who are employed in the public sector are entitled to leave and to the relating allowance referred to in art. 23 (see above), including the possibility to benefit from the leave granted to parents with children aged between 12 and 16.

Employees in the health care sector (both public and private accredited) and employees of the State Police are entitled to a so-called baby-sitting voucher with a maximum value of € 1,000.

↘ QUARANTINED EMPLOYEES (ART. 26)

The quarantine period imposed on employees who, for public health reasons, must be absent from work, is equated (for the purposes of pay) to sick leave and does not count for the calculation of the maximum period to which employees on sick leave are entitled to retain their job. The allowance will be paid by the State.

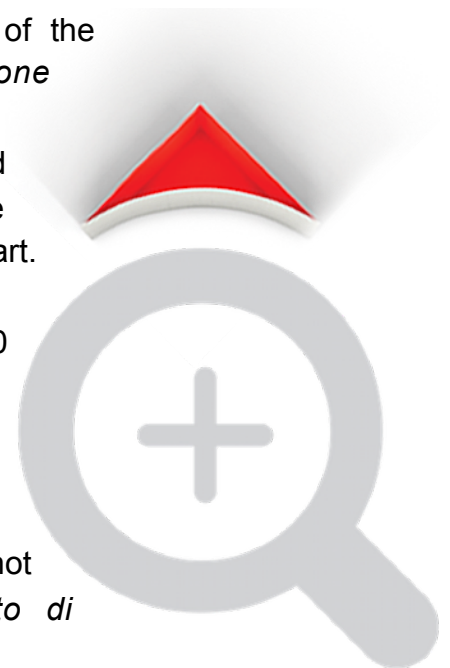
Practical procedures have also been established for how health certificates should be drawn up by physicians.

↘ THE “ONE-TIME” PAYMENT FOR MARCH (ARTICLES 27 TO 31 AND 38)

INPS will pay an amount equal to € 600 to the following categories of employees for the month of March:

- i. freelancers with VAT numbers and so-called *collaboratori coordinati e continuativi* (co.co.co.) workers, who are signed up to a separate INPS scheme as at 23rd February 2020 (art. 27);
- ii. self-employed workers enrolled in the special schemes of the Compulsory General Insurance Scheme (*Assicurazione Generale Obbligatoria*, AGO) (art. 28);
- iii. seasonal employees working in the tourism industry and spas, who, on an involuntary basis, have ceased to be employed between 1st January 2020 and 17th March 2020 (art. 29);
- iv. fixed-term agricultural workers who have done at least 50 days of effective agricultural work (art. 30);
- v. employees in the entertainment industry, with at least 30 days of social security contributions in 2019 and with an income not exceeding € 50,000 (art. 38).

The above-mentioned allowances are not cumulative, are not available to the recipients of citizenship income (*Reddito di cittadinanza*) and do not count for income tax purposes (art. 31).



↘ **DEADLINE EXTENSIONS (ARTICLES 32 TO 34)**

The deadlines for the submission of the following applications have been extended:

- a. agricultural unemployment allowance: extended until 1st June 2020 (art. 32);
- b. NASpl and DIS-COLL unemployment insurance benefits: extended from 68 to 128 days (art. 33);
- c. entrepreneurship subsidy: extended by 60 days (art. 33);
- d. welfare and insurance payments provided by INPS and INAIL: suspended from 23rd February 2020 to 1st June 2020 (art. 34).

↘ **FLEXIBLE WORKING (ARTICLES 39 AND 87)**

Until 30th April 2020, disabled employees or those who have a disabled family members as per art. 3 of Law no. 104/92 are entitled to work from home, as long as it is compatible with the characteristics of their work. Employees suffering from serious illnesses with reduced working capacities must be prioritised in the acceptance of requests to work from home (art. 39).

Flexible working is the ordinary way of performing work in the public administration (art. 87).

↘ **DEADLINE SUSPENSION (ART. 40)**

The following are suspended for two months following the entrance into force of the Decree:

- obligations and deadlines relating to citizenship income;
- the assessment of requisites and deadlines for those who receive Naspl and DIS-COLL benefits and beneficiaries of salary integration allowances;
- fulfilment of obligations relating to the compulsory recruitment of disabled employees;
- time limits for summonses from job centres for participation in career guidance programmes.

↘ **CREATION OF THE “LAST INSTANCE INCOME” FUND (*Fondo per il Reddito di Ultima Stanza*) (ART. 44)**

Employees and self-employed individuals, including professionals who have ceased, reduced or suspended work as a result of the Covid-19 emergency are entitled to compensation from the “Last instance income fund”, which has an overall limit of € 300 million. The compensation will be paid out through the fund in accordance with the procedures which will be subsequently defined by the Ministry of Labour and the Ministry of Economy.

↘ **BONUS FOR EMPLOYEES WORKING AT NORMAL WORK PREMISES (ART. 63)**

Employees who have continued to work during March 2020 at the company’s normal premises and who have a total income not exceeding € 40,000, are entitled to a bonus of

€100 in relation to the effective number of days spent on the premises. The bonus will be automatically advanced by the employer, together with the salary paid in April 2020.

MEASURES FOR COMPANIES

↘ ASSISTANCE FOR THE PURCHASE OF PERSONAL PROTECTIVE EQUIPMENT AND SANITISATION (ARTICLES 43 AND 64)

In order to deal with the health emergency:

- an amount equal to € 50 million will be transferred from INAIL to Invitalia by 30th April 2020, to be provided to companies for the purchase of devices and other personal protective equipment (art. 43);
- a tax credit of 50% will be available for expenses sustained for the sanitisation of the workplace and work equipment, up to a maximum amount of € 20,000 (art. 64).

↘ SUSPENSION OF DISMISSALS (ART. 46)

For 60 days following the entrance into force of the Decree:

- collective redundancies are prohibited;
- employers are prohibited from dismissing employees on justified objective grounds (GMO);
- the collective procedures referred to in Law no. 223/91, pending as at 23rd February 2020, are suspended.

↘ PAYMENTS TO THE PUBLIC ADMINISTRATION (ARTICLES 60 AND 61)

The deadlines for payments to the P.A. have been extended to 20th March 2020, including social security contributions, due to expire on 16th March 2020 (art. 60).

Payments of withholding tax, social security contributions and compulsory insurance are suspended in the cases identified in art. 61 (e.g., passenger transport services, whether on land, by air or sea, sports associations and clubs, and institutions that manage museums). Suspended payments shall be made, without any sanctions or interest, in a single lump sum payment by 31st May 2020 or by instalments of up to 5 equal monthly instalments as from May 2020.



↘ **SUSPENSION OF DEADLINES FOR FULFILLING OBLIGATIONS AND THE PAYMENT OF SOCIAL SECURITY CONTRIBUTIONS (ART. 62)**

For the individuals engaged in the conduct of business, art or profession and who have their tax residence, registered office or place of business in Italy with revenues or income not exceeding € 2 million in the tax period prior to the current one as at 17th March 2020, payments deriving from self-assessment tax returns, which are due in the period between 8th March 2020 and 31st March 2020 and relate to the following, are suspended:

- taxes withheld at source on employment income;
- pension and social security contributions;
- payments for mandatory insurance.

This suspension also applies to individuals with an income over € 2 million based in the provinces most affected by Covid-19.

JUSTICE MEASURES

↘ **JUDICIAL ACTIVITIES (ART. 83)**

From 9th March 2020 until 15th April 2020 all civil and criminal court hearings are suspended and automatically postponed to after 15th April 2020. The same applies for the filing deadlines of all the court documents in these proceedings.

The deadlines for carrying out mediation, assisted negotiation and out-of-court dispute settlement proceedings are suspended for the same period, if such proceedings were filed by 9th March 2020 and if they are a condition for filing a claim.

From 16th April 2020 to 30th June 2020, the heads of the judicial authorities may use their discretion to adopt specific measures to counteract the health emergency, including the postponement of hearings to after 30th June 2020.

FIND OUT MORE

For queries relating specifically to the employment law issues posed by the coronavirus, please contact our dedicated task force, coordinated by our partners Aldo Bottini and Lea Rossi (sab@toffolettodeluca.it).