

22 May 2020

Law Decree no. 34 of 19 May 2020: Employment support measures

The Law Decree no. 34 of 19 May 2020, so-called *Decreto Rilancio* (the “**Rilancio Decree**”), published in the Official Gazette on 19 May 2020, introduced additional support measures within the context of the COVID-19 emergency legislation.

This outline provides an introductory overview on certain provisions of the Rilancio Decree that are relevant for employers in the management of employees, including in relation to Health and Safety and Health Surveillance.

1. COVID-19 SOCIAL SHOCK-ABSORBERS

“CIGO” and Ordinary Check (FIS / Solidarity Funds)¹

- In addition to the 9-week social coverage provided by the Law Decree 18/2020 (so-called *Decreto Cura Italia*), **employers that have used in full the previous coverage up to the maximum term of 9 weeks** have access to further 5 weeks; this applies within the period **23 February 2020 – 31 August 2020**;
- **Additional 4-week coverage** can be granted between **1 September 2020 and 31 October 2020**; such additional 4-week coverage can be used also before 1 September 2020 by employers of *tourism, fairs and conferences, amusement parks, live entertainment and cinemas sectors* (provided that the previous coverage up to the maximum term of 14 weeks have been used in full);
- It applies to employees employed as at 25 March 2020 regardless of the 90-day actual seniority requirement;
- Employers are exempted from the Union information and consultation procedure provided by article 14, D. Lgs. 148/2015; however, **the Rilancio Decree reintroduced information/consultation, that can be made also electronically, within 3 days from the initial notice**;
- Employers remain exempted from the ordinary terms to apply for CIGO / Ordinary Check provided by article 15, paragraph 2, and article 30, paragraph 2, D. Lgs. 148/2015; however, **the application must be filed: (1) by the end of the month following the suspension/reduction of the working activity; and (2) in any case by 31 May 2020, with respect to suspension / reduction of working activity between 23 February 2020 and 30 April 2020**;
- It is confirmed that:
 - the period of time during which the working activity is suspended does not count for the purpose of the time limits applicable to CIGO and Ordinary Check pursuant to ordinary legislation;
 - no additional contribution on employers is required;
 - the FIS Ordinary Check is granted also to employees employed by companies having, as an average, more than 5 employees;
 - with exclusive reference to year 2020, as regards the FIS Ordinary Check the ordinary cap to the amount of the subsidy does not apply;
 - CIGS / FIS solidarity programs in place as at 23 February 2020 can be

¹ Articles 68, 69, 70, 71.

	<p>suspended and replaced respectively by CIGO / Ordinary Check granted for COVID;</p> <ul style="list-style-type: none"> - Employers can anticipate to the employees the payment of the subsidy and then get reimbursement from the INPS, or apply for direct payment of the subsidy by INPS to the employees (without the need of proving adverse financial conditions); ▪ If the employer applies for the <u>direct payment mechanism</u> starting from 30 days following the entry into force of the Rilancio Decree, a new procedure applicable also to the Exceptional CIG Scheme (see below) will apply; given the uncertainty of certain provisions governing the new payment procedure, clarifications from competent authorities are expected in the next days.
<p>Exceptional CIG Scheme ("CIGD")²</p>	<ul style="list-style-type: none"> ▪ In addition to the 9-week social coverage provided under Law Decree 18/2020, employers that have used in full the previous coverage up to the maximum term of 9 weeks <u>have access to further 5 weeks</u>; this applies within the period 23 February 2020 – 31 August 2020; ▪ Additional 4-week coverage can be granted between 1 September 2020 and 31 October 2020; such additional 4-week coverage can be used also before 1 September 2020 by employers of <i>tourism, fairs and conferences, amusement parks, live entertainment and cinemas sectors</i> (provided that the previous coverage up to the maximum term of 14 weeks have been used in full); ▪ It applies to employees employed as at <u>25 March 2020</u> regardless of the 90-day actual seniority requirement; ▪ The financial coverage is granted subject to a Unions agreement that can be entered into also electronically; the Unions agreement is not required for employers employing up to 5 employees (while it has been reintroduced for employers that had suspended the operations during the lockdown); ▪ no additional contribution on employers is required; ▪ the Exceptional CIG Scheme can be granted exclusively through the <u>direct payment mechanism</u> by the INPS; however, according to a new provision introduced by the Rilancio Decree, companies having establishments located in more Regions can anticipate to the employees the payment of the subsidy and then get reimbursement from the INPS; ▪ as anticipated above, the Rilancio Decree introduced a new procedure applicable to the direct payment mechanism (that should hopefully cure the delay in the payment of the subsidy to the employees), whereby: (i) the employer submits its application directly with INPS within 15 days from the suspension / reduction of the working time; and (ii) INPS makes an advance payment of 40% within the subsequent 15 days and pay the balance once it received all the relevant data by the employer.

² Article 71.

2. HEALTH AND SAFETY AND HEALTH SURVEILLANCE	
Personal Protective Equipment (PPEs)³	<ul style="list-style-type: none"> ▪ Medical masks qualify as PPEs, pursuant to Article 74, Paragraph 1, of Legislative Decree no. 81/08, with regard to all workers, including volunteers, medical and non-medical workers; ▪ the authorization to the use of generic masks, already provided for common citizens in the Italian territory, has been extended to the workers carrying out domestic and household services.
Health Surveillance⁴	<ul style="list-style-type: none"> ▪ Without prejudice to the provision set forth by Article 41 of Legislative Decree no. 81/08 on health surveillance, public and private employers must ensure, until the end of the current health emergency due to the COVID-19, extraordinary health surveillance for certain groups of individuals, to be identified pursuant to the following criteria: <ul style="list-style-type: none"> - age; - risks arising from immunodepression conditions, also resulting from COVID-19 contagious; - aftereffects connected with oncologic diseases; - aftereffects connected with life-saving therapies; - however, connected with the comorbidity which could involve a higher riskiness level. ▪ Employers exempted from the obligation to appoint the Company Doctor, according to Article 18, Section 1, of Legislative Decree no. 81/08, can either appoint a Company Doctor during the emergency period to ensure the extraordinary health surveillance, or avail themselves of doctors employed by the local departments within the National Institute for Insurance against Injuries (INAIL). ▪ The inability to carry out the employment duties certified during / as a result of the extraordinary health surveillance cannot ground the termination by the employer of the employment relationship.
Supporting measures aimed at reducing the risk of the contagion on workplaces⁵	<p>In order to encourage the implementation of the anti-contagion protocols, INAIL promotes extraordinary measures to support employers that adopted initiatives, such as the purchase of equipment and devices aimed at reducing the risk of the contagion.</p>
Tax measures for workplaces H&S improvements⁶	<p>Employers can have access to tax credits / tax measures for H&S workplace improvements, sanitizations and purchase of PPEs.</p>

³ Article 66

⁴ Article 83

⁵ Article 95

⁶ Articles 120, 125

3. OTHER PROVISIONS OF RELEVANCE FOR EMPLOYERS	
Extension of the ban on dismissals for business-related reasons⁷	<ul style="list-style-type: none"> ▪ The ban on collective and individual dismissals is extended from 60 days to 5 months, running from March 17, 2020; ▪ The ban affects also pending individual dismissal procedures pursuant to article 7 of Law 604/1966; ▪ Dismissals for business-related reasons carried out between 23 February 2020 and 17 March 2020 can be withdrawn at any time without charges or penalties for the employer, provided that a simultaneous application for Covid social coverage is made.
Fondo Nuove Competenze (“New Skills Fund”)⁸	<p>In 2020, subject to local or company bargaining collective agreement, part of the working time can be converted into professional training, financed by the <i>Fondo Nuove Competenze</i> (“New Skills Fund”) set up at ministerial level. However, a ministerial decree will be necessary in order to fix criteria and methods for the application of the measure.</p>
Fixed-term employment⁹	<p>To cope with the restart of the activities as a result of the epidemiological emergency, the fixed-term employment contracts in force on 23 February 2020 may be renewed or extended until 30 August 2020 even in the absence of the mandatory reasons required by the law¹⁰.</p>
Smart-working¹¹	<ul style="list-style-type: none"> ▪ Until the end of the epidemiological state of emergency, certain employees, outlined below, are entitled to carry out their activities on smart-working mode even in the absence of individual agreements, provided that the information obligations are fulfilled and only if the smart-working mode is compatible with the relevant activities: (i) parents employed in the private sector who have at least one child under the age of 14, and provided that certain conditions are met; (ii) disabled workers pursuant to article 3, paragraph 3 of law 104/90 and those whose family includes a person with serious disabilities pursuant to the same law; (iii) immunosuppressed workers and family members of immunosuppressed people; ▪ Smart-working activities can also be carried out through employee’s IT tools when they are not provided by the employer.
Parental and disability leaves¹²	<ul style="list-style-type: none"> ▪ The special paid parental leaves for employees with children under the age of 12 are extended from 15 to 30 days, while the link between the use of the leaves and the suspension of school activities is no longer a requirement; ▪ The unpaid parental leaves are now available to employees with children under the age of 16; ▪ Paid leaves to take care of disabled persons are extended to 12 additional days for May and June 2020.

⁷ Article 80

⁸ Article 88

⁹ Article 93

¹⁰ Article 93 of the Rilancio Decree supplements the fixed-term contracts special rules introduced by [article 19-bis of Law Decree 18 / 2020](#) pursuant to which, in derogation of mandatory provisions of law, employers under Covid social coverage may renew or extend in the same period fixed-term contracts (and also temporary agency workers).

¹¹ Article 90 and Law 27/2020

¹² Articles 72 and 73

Subsidy for the payment of salaries¹³

- Territorial public bodies/organizations (such as Regions) may provide subsidies to companies for the payment of salaries, including social security contributions, in order to avoid dismissals during the Covid-19 pandemic;
- The subsidy is granted for a period not exceeding 12 months and can amount up to 80% of the gross monthly salary of the employees;
- The subsidy at stake is compatible with other employment support measures, within the limit of the salary costs relating to the concerned employees.

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¹³ Article 60