

24 March 2020

COVID-19: Prime Minister's Decree of 22 March 2020 Temporary lockdown of production activities to limit spread of Covid -19

After a new record number of infections and deaths, especially in the Lombardy region, on 21 March 2020 the Italian Prime Minister first announced in a press conference and then, the day after (*i.e.* on 22 March 2020) adopted a Decree¹ (the “**22 March Decree**”) setting out new measures to manage the Covid-19 emergency. These measures became effective on 23 March 2020 and will remain in force until **3 April 2020**.

The 22 March Decree was anticipated by two ordinances issued on 21 March 2020 by, respectively, the Lombardy Region², subsequently amended on 22 March 2020 (the “**Lombardy Ordinance**”), and the Piedmont Region³ (the “**Piedmont Ordinance**”). The ordinances provide for even more stringent restrictions for the regions concerned, and will remain in force until 3 April 2020 (for the Piedmont Region) and 15 April 2020 (for the Lombardy Region).

The new restrictions under the 22 March Decree apply cumulatively with the restrictive measures already provided under Prime Minister's Decree of 11 March 2020 *#iorestoacasa*⁴/*istayathome*” (see our newsletter of 12 March at the following link http://www.gop.it/doc_pubblicazioni/837_154bh4zjwo_eng.pdf) and the ordinance of the Ministry of Health dated 20 March 2020⁵. Both these regulations, which initially expired on 25 March, were extended until 3 April 2020.

1. What are the main changes under the 22 March Decree?

a. Lockdown of production activities

In addition to other restrictions already in place, such as the lockdown of bars and restaurants, shops, school and universities, sport infrastructure, cultural and leisure activities (with some exceptions), the 22 March Decree provides for a general **lockdown** of all industrial and commercial activities, with some exceptions.

¹ The 22 March Decree (“*Additional measures aimed at facing and managing the COVID-19 emergency*”) published on the Official Gazette no. 176 of 22 March 2020 (20A01807).

² (i) Ordinance no. 514 of 21 March 2020 “*Additional measure for the prevention and management of the Covid-19 emergency. Ordinance pursuant to article 32, paragraph 3, of Law no. 833 dated 23 December 1978, providing for measures regarding hygiene and public health: movement limitations within the whole region*” as subsequently amended by the ordinance no. 515 of 22 March 2020 “*Additional measure for the prevention and management of the Covid-19 emergency. Ordinance pursuant to article 32, paragraph 3, of Law no. 833 dated 23 December 1978, providing for measures regarding hygiene and public health: suspension of the activities in presence of the public administrations and private subjects deputed to the exercise of administrative activities as well as amendments to the ordinance no. 514 of 21 March 2020*” (the “**22 March Ordinance of Lombardy**”)

³ Ordinance of the Region of Piedmont no. 34 of 21 March 2020 “*Additional measures for the prevention and management of the Covid-19 emergency. Ordinance pursuant to article 32, paragraph 3, of Law no. 833 dated 23 December 1978, providing for measures regarding hygiene and public health*”.

⁴ Decree of the President of the Ministry of Councils of 11 March 2020 “*Additional measures implementing the Law Decree dated 23 March 2020, no. 6, providing for urgent measures aimed at facing and managing the COVID-19 emergency, applicable in the whole Italian territory*” (20A01605) (Official Gazette General Series n. 64 of 11 March 2020)

⁵ Ordinance of the Ministry of Health of 20 March 2020 “*Additional urgent measures aimed at facing and managing the COVID-19 emergency, applicable in the whole Italian territory*” published on the Official Gazette no. 73 dated 20 March 2020 (20A01797).

b. Which activities may continue to operate?

Production that remains allowed is listed under Annex 1 of the 22 March Decree (attached) and is identified through the relevant ATECO code, an administrative code identifying the economic activity in which a business operates. The industries that can continue to operate are mainly certain key industries, such as health, agro-food, logistic and energy activities, financial, insurance, maintenance and vigilance services. A complete list of the ATECO codes is attached.

See also further under paragraph 3 below.

c. Can the list of permitted activities be updated?

Yes, the list of ATECO codes identifying the permitted activities may be updated through a decree issued by the Ministry of Economic Development, in consultation with the Ministry of the Economy and Finance.

2. Are there any new limitations regarding the movement of persons?

Yes, in addition to the other restrictions already applicable⁶, it is now forbidden for persons to **leave the municipality or town** in which they currently reside **through any public or private means of transportation**, except for urgencies, proven professional reasons or healthcare needs.

Any person moving for any of the above reasons is required to declare the reasons with a written self-declaration.

3. If my company does not fall within the list provided under Annex 1, may I continue to conduct my business activity?

In addition to the activities listed under Annex 1, a number of other activities are also allowed, namely:

- **activities aimed at ensuring the continuity of the supply chain** of the production activities listed in Annex 1 and of any public services and essential services, **subject to a notice to the Prefect** of the province where the relevant production activity is located, indicating the relevant companies and public authorities benefiting from the relevant products and services;
- **activities of plants with a continuous production cycle**, the interruption of which may cause serious damage to the plant or expose to accidents, **subject to a notice to the Prefect** of the province where the relevant production activity is located⁷;
- activities of the **aerospace and defense industry** and **strategically relevant activities** for the national economy, **subject to a prior authorization from the Prefect** of the province where the relevant production activity is located;
- public utility and essential services regulated under law no. 146 of 12 June 1990⁸;

⁶ In particular, under the Decree of the President of the Ministry of Councils dated 11 March any gatherings in public places or in places open to the public have been prohibited, whereas under the ordinance of the Ministry of Health of 20 March 2020 the following activities have been prohibited: (i) the access to parks, villas, play areas and public gardens; (ii) the carrying out of any outdoor recreational activity, save in case such activity is carried out near home; and (iii) moving towards "second homes" during holy and pre-holy days.

⁷ Please note that the activities of the plants used in the provision of an essential service of public need is not subject to the prior communication to the Prefect.

⁸ The services relating to the opening of museums to the public (together with all the other institutions and sites of cultural interest provided under article 101 of the Italian Code of Cultural Goods), as well as the educational services where not issued at a distance or from remote shall be in any event suspended.

- **the production, transport, commercialization and delivery of medical products, healthcare technology and medical devices and any agricultural and food supplies;**
- any activities useful to manage the emergency.

The Prefect may suspend any activities that are notified in case he/she believes that the above conditions which allow these businesses to continue to operate are not met. The Prefect must further inform the President of the relevant Region or autonomous province, the Ministry of Internal Affairs, the Ministry of the Economic Development, the Ministry of Labor and the police of any notices received and any decisions adopted. Therefore, it is up to the Prefect at local level to decide whether a production activity (subject to notification duties) may be continued or not.

The activities that are subject to a notification duty may continue to operate on the basis of the notice sent, until the Prefect eventually decides to lock the activity down.

The above measures seem to accommodate the requests formulated by the National Industry Organisation Confindustria, to allow the prosecution of activities not expressly included under Annex 1, but necessary to allow business continuity of those activities deemed essential, and of businesses whose activity cannot be easily interrupted without causing damage to the plants. For this purpose, a simple and flexible administrative procedure is now available, based on a notice made by the applicant and an *ex post* control mechanism by the competent authorities.

4. Am I allowed to carry out production through smart working?

Yes, also the production activities which are subject to the lockdown and must close their plants and offices may continue to operate activities that can be carried out remotely or through smart working.

5. Are there any additional rules that must be respected by companies which continue to operate?

Businesses that continue to operate must (i) implement, where possible, smart working; (ii) comply with the shared protocol regulating the measures aimed at limiting the spread of Covid-19 in the workplace, entered into on 14 March 2020 by and between the government and the social parties (see our newsletter of 15 March at the following link http://www.gop.it/doc_covid/18.pdf); and (iii) comply with the provisions set forth under the Decree of the Prime Minister of 11 March 2020 (including the requirement to close any departments which are not necessary for the production).

6. My business must be locked down according to the 22 March decree, but:

- a. What about any products and goods already organized to be delivered or supplied?
- b. What about plants that cannot be shut down in one day?
- c. What about maintenance and surveillance once the plant is closed?

Companies who are required to lockdown their activities may **continue to carry out activities needed to proceed with the lockdown until 25 March** 2020. This includes the delivery of finished goods, loading/unloading and shutdown in secure conditions.

Moreover, security, surveillance and maintenance activities are included in the list of permitted activities (see Annex 1) and are therefore allowed during the entire lockdown period.

7. Are there any limits to the circulation of goods?

The 22 March Decree contains no specific provisions in this respect. However, the permitted activities include land, sea or air transport, storage and transport support activities.

Nonetheless, as a result of the new restrictions which are now being introduced, goods that will circulate after 25 March 2020 (*i.e.* the deadline for the lockdown of all production activities that are not permitted to continue their business), will mainly relate to the permitted activities or to **e-commerce platforms**⁹ or **audio-television channels** (TV, telephone, call center, etc.). These activities are specifically authorized under the 11 March Decree.

Moreover, on 23 March 2020, the EU Commission has issued a communication inviting Member States to identify “green lanes” under the Guidelines for border management measures to protect health and ensure the availability of goods and essential services.

8. Are there any restrictions on professional services?

The 22 March Decree expressly states that **professional services are not suspended**. In any case, it is recommended that professional service providers use, to the maximum possible extent, smart working methods, as required under article 1, paragraph 7 of the 11 March Decree. In this respect, please see our newsletter of 12 March at the following link http://www.gop.it/doc_publicazioni/837_l54bh4zjwo_eng.pdf.

9. Will public offices remain open?

Public offices must limit the presence of staff in their offices to guarantee only those activities that cannot be postponed and that require physical presence at the workplace. Many services are, however, available online or may be carried out through remote working.

The additional restrictions provided for by article 87 of Law Decree no. 18 of 17 March 2020 also remain applicable. In this respect, see our newsletter of 19 March at the following link http://www.gop.it/doc_covid/34.pdf.

10. Are there any changes to commercial activities?

Commercial activities must, in any case, comply with the provisions of the 11 March Decree. In this respect please see our newsletter of 12 March at the following link http://www.gop.it/doc_covid/7.pdf) and the Order of the Minister of Health of 20 March 2020. This order provides, among other things, for the closure of food and beverage shops inside railway and waterfront stations and in service and refueling areas, excluding motorways.

⁹ Amazon, the leading e-commerce operator, announced on 22 March 2020 the decision to focus distribution capacity on products with the highest priority and, as of that date, has temporarily stopped accepting orders on some non-essential products on Amazon.it.

11. Will hotels remain open?

Hotels are among the permitted activities listed in Annex 1 to the 22 March Decree.

In any case, they must comply with the provisions of the 11 March Decree (in this respect, please see our newsletter of 12 March at the following link http://www.gop.it/doc_covid/7.pdf) and the Order of the Minister of Health of 20 March 2020.

12. What about construction activities?

Construction activities do not fall within the permitted activities and are suspended, unless they fall within the functional activities related to essential activities (e.g. setting up of field hospitals) and subject to the notification duty to the Prefect.

In this case, the requirements of the shared protocol referred to in point #[5] above must be respected. Please see our newsletter of 12 March at the following link http://www.gop.it/doc_covid/7.pdf.

13. What additional restrictions are provided in the Lombardy Ordinance and the Piedmont Ordinance?

The Lombardy Ordinance, as amended on 22 March, provides, with exclusive reference to the Lombardy territory, for even stricter limitations than those set by the government to counter the spread of Covid-19. These measures will remain in force until **15 April 2020** and provide for:

- a ban on gatherings of more than two persons in public places and sanctions in case of non-respect up to EUR 5,000.00 (five thousand);
- medical monitoring of health workers before the start of the shift;
- the suspension of the activities of public offices and private entities carrying out administrative activities, except for essential services and public utility services;
- the suspension of handicraft activities not related to emergency sectors or essential supply chains;
- the suspension of all open weekly markets;
- the **suspension of activities relating to personal services;**
- the **closure of the activities of professional firms**, except for services which cannot be postponed or which are subject to deadlines;
- the closure of all accommodation facilities except those related to the management of the emergency. Guests who are already present must leave the facilities within 72 hours after the entry in force of the ordinance. The facilities may, however, remain in service for needs related to emergency management (medical overnight stay, patient isolation, etc.) or to accommodate the personnel in service at the facilities, guests for work reasons for permitted activities, traveling personnel of transport services, guests forced to extend their stay due to force majeure, persons having their registered residence in these facilities, persons assisting sick or hospitalized persons or persons who have entered into contracts of stay before 22 March 2020. Facilities and accommodations for university students and facilities for welfare and solidarity accommodation purposes are excluded from the closure;
- the stop of activities at construction sites, excluding health, hospital and emergency related restructuring

sites, as well as road, motorway and railway sites;

- the closure of the so-called 'h24' vending machines that distribute drinks and food;
- the prohibition to practice outdoor sport activities, even individually, if not near home;
- the closure of kindergartens, schools and universities of all grades and levels, saved from the possibility of carrying out distance learning activities;
- no travel to houses other than the main one is allowed, including holiday houses;
- public access to parks, villas, play areas and public gardens is prohibited.

Newsstands, pharmacies and para-pharmacies remain open, but a safety distance of one meter must be guaranteed in any case.

As mentioned above, these measures remain applicable until **15 April 2020**.

The Piedmont Ordinance substantially reflects the measures included in the Lombardy Ordinance, and remains effective until 3 April 2020.

There are some discrepancies between the 22 March Decree, the Lombardy Ordinance and the Piedmont Ordinance, which will probably be clarified in the coming days.

Annex 1 to 22 March Decree: list of permitted activities

ATECO no.	DESCRIPTION
01	Agricultural crops and production of animal products
03	Fishing and aquaculture
05	Carbon mining
06	Extraction of crude oil and natural gas
09.1	Oil and gas extraction support service activities
10	Food industry
11	Beverage industry
13.96.20	Manufacture of other technical and industrial textiles
13.94	Manufacture of twine, cordage, ropes, cables and nets
13.95	Manufacture of woven and non-woven fabrics and articles made of these materials (except clothing products)
14.12.00	Manufacture of gear, uniforms and other workwear
16.24.20	Manufacture of wooden packaging
17	Paper manufacturing
18	Printing and reproduction of recorded media
19	Manufacture of coke and refined petroleum products
20	Manufacture of chemical products
21	Manufacture of basic pharmaceutical products and pharmaceutical preparations
22.1	Manufacture of rubber products
22.2	Manufacture of plastic products
23.19.10	Manufacture of glassware for laboratory, hygiene use or pharmacy
26.6	Manufacture of irradiation, electromedical and electrotherapeutic equipment
27.1	Manufacture of electric motors, generators and transformers and equipment for the distribution and control of electricity
28.3	Manufacture of machinery for agriculture and forestry
28.93	Manufacture of machinery for the food, beverage and tobacco industry (including parts and accessories)
28.95.00	Manufacture of machinery for the paper and cardboard industry (including parts and accessories)
28.96	Manufacture of machinery for the plastics and rubber industry (including parts and accessories)
32.50	Manufacture of medical and dental instruments and supplies
32.99.1	Manufacture of equipment and articles of protective safety clothing
32.99.4	Manufacture of funeral boxes
33	Repair, maintenance and installation of machines and equipment
35	Electricity, gas, steam and air conditioning supply
36	Water collection, treatment and supply
37	Sewerage management
38	Waste collection, treatment and disposal activities; recovery of materials
39	Reclamation activities and other waste management services
42	Civil Engineering
43.2	Installation of electrical systems, hydraulic and other construction installation works
45.2	Maintenance and repair of motor vehicles
45.3	Trade in motor vehicle parts and accessories

45.4	Only for the maintenance and repair of motorcycles and trade in parts and accessories
46.2	Wholesale of agricultural raw materials and live animals
46.3	Wholesale of food, beverages and tobacco products
46.46	Wholesale of pharmaceutical products
46.49.2	Wholesale of books, magazines and newspapers
46.61	Wholesale of machinery, equipment, machines, accessories, agricultural supplies and agricultural tools, including tractors
46.69.19	Wholesale of other transport means and equipment
46.69.91	Wholesale of instruments and equipment for scientific use
46.69.94	Wholesale of fire and accident prevention products
46.71	Wholesale of petroleum products, automotive lubricants and heating fuels
49	Land transport and pipeline transport
50	Sea and water transport
51	Air transport
52	Warehousing and transport support activities
53	Postal services and courier activities
55.1	Hotels and similar facilities
J (from 58 to 63)	Information and communication services
K (from 64 to 66)	Financial and insurance activities
69	Legal and accounting services
70	Business management and management consulting activities
71	Activities of architectural and engineering firms; technical testing and analysis
72	Scientific research and development
74	Other professional, scientific and technical activities
75	Veterinary services
80.1	Private security services
80.2	Services related to security surveillance systems
81.2	Cleaning and disinfection activities
82.20.00	Call center activities
82.92	Packing and packaging activities on behalf of third parties
82.99.2	Distribution agencies for books, newspapers and magazines
84	Public administration and defense; compulsory social security insurance
85	Education
86	Healthcare
87	Residential social work services
88	Non-residential social work services
94	Activities of economic, employers' and professional organizations
95.11.00	Repair and maintenance of computers and devices
95.12.01	Repair and maintenance of landline, cordless and mobile phones
95.12.09	Repair and maintenance of other communications equipment
95.22.01	Repair of electrical appliances and domestic goods
97	Activities of households as employers for domestic staff

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For any questions, please send a mail to coronavirus@gop.it.

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