

New Labour regulations approved in Italy

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A new set of Labour regulations - part of a larger bill rolling out in the next few months, known as the "Jobs Act" - has been approved by Renzi's administration and is said to be effective starting March 1st 2015.

Largely invoked by employers and investors, the new regulations aim at reshaping the effects of ungrounded/unlawful dismissals – both individual and collective – while introducing a new settlement procedure, directed at a more time-efficient and cost-effective dispute resolutions.

1. A binary system

Employees hired post introduction of the new regulations will be affected, together with:

- employees belonging to companies whose workforce – as a consequence to new hirings – exceed no. 15 individuals in the same business unit or municipality (or exceed no. 60 individuals in total);
- employees on fixed-term contracts converted into open-term contracts after the new regulations become effective;
- employees on apprenticeship contracts converted into open-term contracts after the new regulations become effective.

All other employees will continue to be subject to the previous Labour regulations.

2. Effects of ungrounded/unlawful dismissals

Different remedies are introduced depending on the reasons causing the dismissal.

- Seniority-based indemnities for economic dismissals: the employer shall no longer be sanctioned with the reinstatement of the employee in case of ungrounded dismissals for economic reasons. The sanction is a compensation for damages only (i.e. 2 months' salary per each year of service, with a minimum of 4 and a maximum of 24 months).
- Seniority-based indemnities will also apply to unlawful dismissals based on justified subjective reasons and just cause. Reinstatement is to be implemented – together with an indemnity equal to the salaries due from the date of dismissal until the reinstatement (up to 12 months), plus social security charges – only if facts causing the dismissals are proven non-existent.
- No "grey areas" regarding the right to reinstatement for discriminatory dismissals and other void dismissals: reinstatement – together with an indemnity equal to the salaries due from the date of dismissal until the reinstatement (minimum 5 months) – is to be implemented only in serious cases of unlawful dismissals, including mere verbal dismissals, dismissals based on discrimination or retaliation, dismissal during maternity leave, etc. Employees could alternatively choose an indemnity equal to 15 months' salary instead of reinstatement.
- Dismissals affected by formal irregularities: now a restricted scenario, a seniority-based indemnity is due, consisting of 1 months' salary per each year of service, with a minimum of 2 and a maximum of 12 months.

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Employers staffed up to 15 employees have to pay only half of any seniority-based indemnity (i.e. 1 months' salary per each year of service, with a minimum of 2 and a cap set to 6 months).

3. "Quick" settlement agreement

The employer has the opportunity to offer, within 60 days from any kind of dismissal, a settlement compensation to the employee equal to 1 months' salary per each year of service, with a minimum of 2 and a maximum of 18 months. If the offer is accepted, the employee will waive all rights in relation to the termination of his/her employment.

The settlement compensation is exempted from tax and social security contributions and shall be immediately paid to the employee by cash check. Additional compensation paid as part of the settlement deal (i.e. for the employee to waive all rights in relation to the past employment such as, for example, non-paid overtime and alleged demotions) will be subject to the ordinary tax treatment.

Employees who are not affected by the new regulations and are dismissed for economic reasons will continue to be subject to the mandatory settlement procedure pursuant to Section 7 Law n. 604, 1966.

4. Collective dismissals

Employers who perform collective dismissals in breach of the mandatory procedure and/or in non-compliance with the selection criteria, are due to pay a seniority-based indemnity equal to 2 months' salary per each year of service, with a minimum of 4 and a maximum of 24 months.

The "binary effect" may be particularly troubling in this case. In the same collective dismissal, in fact, employers may face radically different outcomes, depending on the date the employee has been hired (for hirings prior to the effective date of the new regulations, for example, collective dismissals performed in breach of the selection criteria may cause the reinstatement of the employee and the payment of an indemnity equal to the salaries due from the dismissal until the reinstatement date, with a 12 months cap).

5. Final remarks

The Jobs Act – and particularly, this first set of regulations – will certainly have a strong impact on Italy's Labour market, increasing flexibility for the employer and making risks connected to dismissals more assessable, both cost and time wise.

Additional provisions, such as the 2015 budget Law, further increase this impact, allowing employers to benefit from strong economic incentives connected to new hirings made during the year.

Of course, critical aspects should also be considered. The binary effect between "old" and "new" employees will create confusion, definitely not helping the process of simplification of Italy's Labour system, already known as particularly chaotic.