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Further extension of the state of emergency and latest emergency measures regarding Green Pass in the workplace

The holiday period that has just ended, which marked a record increase in the number of COVID-19 infections, was characterized by the adoption of emergency measures of significant impact on daily life and business activities.

Law Decree no. 221 of December 24, 2021 ("**LD 221/2021**") has further extended the state of emergency until **March 31, 2022**. Such an extension has entailed, for private employers, among others, the extension of certain emergency measures, including the possibility of implementing the Smart Working using the well-known simplified procedure, as well as the extension of the use of COVID green certification (so-called Green Pass) in the workplace.

In this regard, significant innovations were recently introduced by Law Decree no. 1 of January 7, 2022 ("**LD 1/2022**"), effective since January 8.

First of all, LD 1/2022 introduced, as of January 8 and until June 15, 2022, the **mandatory vaccination** for Italian and EU citizens resident in Italy, as well as non-EU citizens legally resident in Italy, who have reached the **age of 50¹⁻²**.

Vaccination is not mandatory for individuals whose health is endangered by specific clinical conditions. Violation of the vaccination obligation as of February 1, 2022 will result in a fine of EUR 100.

In line with the mandatory vaccination for over 50s, as of February 15, 2022, for employees in the private sector over 50 it will not be sufficient the "swab" Green Pass to access the workplace, since **it will be necessary that the Green Pass has been issued (i) upon vaccination, or (ii) upon recovery from COVID**.

The Law Decree provides the same procedures currently applicable to all employees with reference to the need for Green Pass in the workplace.

Therefore, in accordance with the current regulation, employees over 50 who communicate that they are not in possession of the required green certification or are found without it when accessing the workplace, will be considered unjustified absents without disciplinary consequences and with the right to keep their job. For the days of unjustified absence no remuneration or any other pay or emoluments are due.

Moreover, administrative fines up to EUR 1,500 are provided for in case of violation by the employer of its obligation to check the possession of the green certification prescribed for over 50s and the violation by the employee of the obligation not to enter the workplace without the certification.

Please note that LD 1/2022 introduces for all the employers (regardless of the size of the company), their right to suspend the employee without the required Green Pass, after 5 days of unjustified absence, for the duration of the fixed-term agreement entered into for his/her replacement, for a period not exceeding in any case 10

1 The fulfilment of the vaccination obligation includes the primary vaccination cycle and the administration of the booster dose, to be carried out in compliance with the indications and deadlines set out in the circular issued by the Ministry of Health (Article 3-ter, Law Decree no. 44/2021).

2 The obligation is also extended to those who will turn 50 after the effective date of LD 1/2022, without prejudice to the deadline of June 15, 2022.

working days, renewable until March 31, 2022.

Moreover, employees who are not subject to mandatory vaccination or whose obligation is deferred for health reasons should be assigned to different tasks, without loss of remuneration, in order to avoid the risk of contagion.

Given the new regulations, employers must provide appropriate information to employees, adapt control systems, as well as integrate the COVID Safety Protocols.

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