

COVID-19 AND NEW SAFETY MEASURES IN THE WORKPLACE IN ITALY

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As part of a first phase of measures designed to ease the lockdown ordered in Italy due the COVID-19 pandemic, the Prime Minister issued a new decree on 26 April 2020, to apply from 4 May 2020 (the “Decree”), and replacing the measures provided under the decree dated 10 April 2020. These measures will remain in force until 17 May 2020.

"If employers wish to gather information from employees in relation to COVID-19, the Protocol recommends that any information requested should be 'necessary, adequate and relevant'."

Any businesses whose activities are not suspended by the Decree must ensure compliance with the health protection protocol agreed between the Italian Government and trade unions on 24 April 2020, which detailed measures to control and restrict the spread of COVID-19 in the workplace (the “Protocol”). Any failure to do so will result in the suspension of business until safe conditions are restored.

The following is a brief summary of some of the main provisions of the Protocol (Annex 6 to the Decree):

ACCESS TO THE WORKPLACE

Companies must clearly display a notice on their premises, directing anyone with a temperature of 37.5 degrees or above (or anyone experiencing other flu-like symptoms) to leave the workplace, and employees should stay at home if recent

contact has been made with anyone likely (or confirmed) to have COVID-19. The Protocol also states that employers may take employees' temperature before they enter the workplace (which constitutes processing of their personal data and therefore should not be recorded unless necessary). Any individual entrusted with taking employees' temperatures should take obvious precautions such as wearing a surgical mask, gloves and safety glasses. As a general point, if employers wish to gather information from employees in relation to COVID-19, the Protocol recommends that any information requested should be 'necessary, adequate and relevant'.

The same precautions applicable to employees should also extend to any third parties wishing to enter a business' premises. Delivery drivers should maintain a sensible distance from premises and staff, comply with required social distancing measures while loading/unloading goods and have access to dedicated toilet facilities on site.

WORKPLACE SANITISATION

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If a member of staff tests positive for COVID-19, employers must ensure that the correct sanitation procedures are carried out, as detailed in the Circular issued by the Ministry of Health no. 5443, 22 February 2020. Common areas should be cleaned regularly, and rooms continuously ventilated. There is a tax credit available to encourage adequate workplace sanitisation, equal to 50% of expenses incurred, up to a maximum amount of €20,000.

All individuals should comply with social distancing measures (i.e. by keeping one metre apart from others), wear masks and other protective devices wherever possible and hand sanitiser should be provided at the entrance and exit of company premises.

WORKPLACE ORGANISATION

As already detailed in point 7 of Article 1 of the Prime Minister's Decree of 11 March 2020, the Protocol details that companies may limit the risk of the spread of the virus by organising their work systems as follows:

- implementing flexible working from home arrangements for any activities which can be carried out remotely;
- encouraging employees to take leave;
- suspending activities in any non-essential departments; and
- staggering entry and exit times for employees to ensure effective social distancing measures.

Ultimately, an employer, as 'holder of the decision making and spending powers', should aim to protect the health and wellbeing of their workers, organising the workplace effectively to ensure this happens as effectively as possible.

If an employer does not comply with its health and safety obligations, it risks liability under the Italian Criminal Code.

If you have any questions or queries in relation to this briefing, please do contact a member of Watson Farley & Williams' Employment Team.

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KEY CONTACTS



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