

SNACKS: DIGESTIBLE WEEKLY LABOUR NEWS – ISSUE 4

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WEEKLY ITALIAN LABOUR UPDATES

"Variable remuneration connected to key performance indicators benefits of tax and social security exemptions if regulated through a collective company agreement. It is also possible to include the possibility for employees to opt for substitutive welfare benefits."

Support Decree converted into law

The conversion law for the Support Decree confirmed provisions in force since 22 March 2021 and also introduced certain supplements to salary support benefits. Para. 2-bis was inserted in Article 8 of D.L. 41/2021. It sets out that the number of weeks entitled to salary support benefits in the Support Decree can be merged seamlessly with the salary benefits in the 2021 Budget Act, where these were fully used, and are potentially effective until 26 March 2021. Moreover, the deadlines for filing applications for or sending information on Covid-19 benefits that expired in the period from 1 January 2021 to 31 March 2021 have been extended to 30 June 2021.

Law 21/05/2021 no. 69

Application of CIGO/CIGS with no additional contributions to continue till end 2021 (with an extension of the ban on redundancies)

After the deadline for implementing the Covid-19 salary standard support scheme (CIGO) ends (30 June 2021), manufacturing and construction companies that, due to

the suspension of or reduction in working activity, requested to participate in the ordinary and extraordinary (CIGS) salary support scheme, will benefit from an exemption from additional contributions. This exemption will last until 31 December 2021. However, if companies apply for CIGO or CIGS, they will not be able to implement individual or collective redundancies for business reasons. Exemption from contributions is, therefore, linked to maintaining employment levels, effectively an indirect extension of the ban on redundancies for companies that downsize or reduce operations by temporarily suspending staff from work and resorting to the standard salary support benefit.

Law Decree 25/05/2021 no. 73 (Art. 40)

Employee threshold for expansion agreements down to 100

The 2021 Budget Act lowered the minimum headcount to be eligible for an expansion contract to 250. The Support II Decree Law has further decreased this threshold, making companies with a headcount of at least 100 eligible also. This has allowed many more companies to benefit from a contract scheme with great potential benefits, as it allows older staff to retire 60 months early and still receive the standard old age pension benefits as of that time, thereby allowing for the recruitment of younger workers with up-to-date skills more in line with modern business needs.

Law Decree 25/05/2021 no. 73 (Art. 39)

More benefits from solidarity agreements for companies that don't make redundancies

Companies that continue to maintain existing employment levels after the end of the ban on redundancies can benefit from solidarity agreements that allow for, among other benefits, a temporary reduction in staff working hours on new and more favourable terms: (i) the salary support scheme for part-time employees is set at 70% of the hours not worked; (ii) the average hourly reduction cannot exceed 80% of the daily, weekly or monthly hours for employees involved in the collective solidarity agreement, while (iii) for each employee involved, the overall reduction can rise to 90% for the span of the entire duration of the solidarity agreement. Implementing solidarity agreements on these more favourable terms is conditional on companies suffering from a 50% drop in revenues between first semester 2019 and first semester 2021.

Law Decree 25/05/2021 no. 73 (Art. 40)

The re-employment's contract debut

If companies hire new, previously unemployed workers they can benefit from a 100% exemption from social security contributions – though not from Inail mandatory insurance premiums and charges – for six months from the effective date of their employment. The exemption from contributions, which has a maximum ceiling of €6,000 per annum, re-calculated on a monthly basis, presupposes that the worker gives his consent to a six-month training programme aimed at updating their professional skills. At the end of said programme, their employment may be terminated or continued under a standard open-ended agreement. In any event, the company is not eligible for exemption from contributions if, in the six months prior to the execution of the re-employment contract, it implemented individual or collective redundancies for business reasons in the same operating unit. In addition, the company loses eligibility for exemption from contributions if, during or at the end of the training period, the worker is dismissed or another worker operating in the same unit with the same job description is made redundant. In the event of the employee's resignation, however, the contributory benefit operates for the effective duration of the relationship. Re-employment agreements can be implemented until 31 October 2021.

Law Decree 25/05/2021 no. 73 (Art. 41)

Six-month extension of special salary support scheme in case of business shutdown

Subject to a collective agreement being approved by the Ministry of Labour (as well as the Ministry of Economic Development and the Regions), a six-month extension to special salary support scheme is available to companies of national or local strategic importance, which have begun terminating their business activities and have encountered problems doing so. This measure is applicable until 31 December 2021.

Law Decree 25/05/2021 no. 73 (Art. 45)

Monthly reduction in Naspi unemployment benefits frozen until end 2021

The 3% reduction in the Naspi unemployment benefit after the fourth month of payment of monthly allowances is frozen from 1/06/2021 until 31/12/2021.

Law Decree 25/05/2021 no. 73 (Art. 45)

Ban on redundancies includes businesses that did not take up Covid salary support benefits

The ban on individual and collective redundancies initially introduced by art. 46 of D.L. 18/2020, and later reiterated in art. 14 of D.L. 104/2020, also applies to companies that did not take advantage of the Covid salary support benefit scheme or benefit from related exemptions from social security contributions. Termination of employment by an employer in breach of the ban on redundancies is null and void and triggers the right to reinstatement to employment and full compensation for damages incurred equivalent to no less than five months' salary.

Court of Venice (ruling) 17/05/2021

Reclassification from self-employment to employment with full compensation

If a set of self-employment contracts are reclassified as a single seamless employment contract, the employee is entitled to all remuneration from the date on which their self-employment contract was terminated until the date of the court ordered their reinstatement. In this case, the cap on compensation – from 2.5 to 12 months' salary – applicable on fixed-term contracts that were declared null and void and converted into open-ended contracts, does not apply.

Supreme Court 30/04/2021 n. 11424

Contributory negligence on part of injury victim does not reduce employer's liability

In the event of a breach of health and safety regulations, an employer is fully responsible for any resulting injury to an employee, even if the latter was careless in performing their duties and breached said regulations. The order given to the worker to carry out dangerous tasks is the only causal factor of the accident and triggers full liability on the part of the employer, and no contributory negligence by the employee may be claimed in consideration of any of his or her careless actions.

Supreme Court 20/04/2021 n. 10373

Confirmed exemption from criminal liability for vaccine administrators

The Italian Parliament confirmed the implementation of the Covid Decree (Legislative Decree 01/04/2021 no. 44) which provides, among other measures, for the exemption of vaccine administrators from criminal liability for manslaughter and personal injury. This exemption from criminal liability operates on condition that the death or injury occurred as a result of the administration of the vaccine.

Conversion into law of the D.L. 01/04/2021 n. 44 (pending publication in the Official Journal)

Five-year period to claim extended to notice allowance for agency contracts

The five-year period for claiming economic indemnities due the termination of an employment relationship (Article 2948 of the Civil Code) also applies to indemnities claimed on the termination of agency contracts. The reference of the law to the termination of the employment relationship does not consider the five-year limitation period limited to subordinate employment relationships, since it must include every form assumed by the employment relationship itself, including that of agency.

Supreme Court. 21/05/2021 n. 14062

Labour Inspectorate has no authority to dispute classification of workers

It is not up to the Labour Inspectorate to claim a worker's classification as part-time incorrect and request their employer recognise them at a higher contractual level. A worker's classification in a different contractual category from that labour inspectors believe they should be assigned to is not a breach of the employment and social legislation which, under art. 14 of

Leg. Dec. 124/2004, the Labour Inspectorate has the authority to raise against companies.

Regional Administrative Court of Friuli Venezia Giulia 18/05/2020

If a job classification changes, a new fixed-term agreement is possible

After 24 months under a fixed-term contract, it is perfectly lawful to re-hire the worker under a fixed-term contract with a different contractual classification. In this event, the assisted exception procedure before the Labour Inspectorate need not be pursued. If the statutory category and classification level are different from the previous fixed-term contract, restrictions on the maximum aggregate term of 24 months do not apply and the counter is brought back to zero.

National Labor Inspectorate, notice 19/05/2021 n. 804

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