

SNACKS: DIGESTIBLE WEEKLY LABOUR NEWS – ISSUE 37

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"Companies (with 50 or more employees) who have entered a business reorganization or technological investments can access the expansion contract, which allows to substitute employees near to retirement and to use 18 additional months of the special salary support scheme CIGS also to train and requalify the employees."

INPS issues clarifications on social safety net reorganisation

The INPS delivered its first clarifications on the reorganisation of the new social safety net regime outlined in the 2022 Budget Law and highlighted that the new provisions are aimed at creating a social protection system available, for the first time, to all employees. It emphasised that the reorganisation affects both those in ongoing employment and those involuntarily made redundant, combining a social protection system with strong re-employment policies. The aim of this reorganisation is to ensure that social safety nets will no longer be viewed simply as a welfare measure but also means of promoting existing measures aimed at making easier worker relocation and requalification according to the needs of the employment market.

INPS, Circular 03/01/2022 No. 1

Urgent new measures to combat spread of Covid-19 in the workplace

A new Decree-Law announcing urgent new measures to combat the spread and risk of infection from Covid-19 in workplaces and schools has been published.

Concentrating on workplace safety measures, the following are among its key new provisions:

1. From 8 February to 15 June 2022, people aged 50 over – or who will turn 50 no later than 15 June 2022 – will be obliged to be vaccinated against Covid-19. This obligation does not apply to those with health conditions that prevent vaccination (as ascertained by a doctor). People who do not get vaccinated will be fined €100. From 15 February 2022, employees of both public and private sectors aged 50 (or who turn 50 no later than 15 June 2022) will only be able to access the workplace with a Super Green Pass. To verify and control the possession of Super Green Passes, the previous rules on accessing workplaces with a Basic Green Pass (simple green certificate) provided for by Law Decree No. 52/2021 will now apply;
2. Said employees aged 50+ (or that will turn 50 no later than 15 June 2022) without a Super Green Pass will be considered unjustifiably absent from work and not entitled to remuneration or any other form of compensation. Said unjustified absence will be deemed to last until 15 June 2022 unless the employee gets vaccinated before then and presents a Super Green Pass to their employer;

3. Lacking a Super Green Pass does not allow for disciplinary procedures nor can it affect an employee's current contract. Nevertheless, if an employee accesses their workplace without a Super Green Pass, they may be subject to a disciplinary procedure the severity of which will be determined on the basis of the applied NCLA as well as a fine of €600-1500;
4. Employers who do not regularly monitor their employees' possession of Super Green Passes will be subjected to the same fines already provided for by Law Decree No. 52/2021 regarding accessing the workplace with a Basic Green Pass – a fine of between €400 and €1,000 and closure of the business for one to ten days if three separate violations (in three different days) occur;
5. After five days of unjustified absence from work, all businesses (not just businesses employing fewer than 15 employees) are entitled to suspend an employee without a Super Green Pass and replace them with another substitute employee hired on a fixed-term contract. In such cases, the absent employee cannot go back to work (nor are entitled to remuneration) until the fixed-term contract of the substituting employee expires (the maximum duration of the fixed-term being 10 days renewable for equal periods until 31 March 2022); and
6. Employees over 50 who cannot be vaccinated due to certified health risks are not considered to be breaking the rules. In such cases employees should be assigned different tasks without any decrease in pay.

Finally, amongst other measures, the possession of a Basic Green Pass is now required to access various public services including public offices, post offices, banks and financial institutes, as well as to engage in commercial activity (except for essential services as to be determined by a Prime Ministerial decree) These measures will be binding until 31 March 2022 and begin on 1st February 2022 for commercial activity.

Law Decree 07/01/2022 No. 1

Smart work recommended as pandemic continues

Due to the new rise in Covid-19 infections, a joint circular from the Ministries for Public Administration and of Employment recommends that public authorities and private businesses return to using smart work as a way of combatting the spread of the virus in the workplace. The circular notes that smart working guidelines have been extended until 31 March 2022 and, therefore, can be activated without an individual agreement with an employee and that written communications to employees on workplace safety and risk prevention can be substituted with an electronic communication through the INAIL website. Employers are obliged to support smart working employees by providing them with relevant electronic devices and by reorganising rotas/schedules to allow for appropriate breaks and rest periods.

Ministry for the Public Administration and Ministry of Employment, Circular 05/01/2022

'Relentless' checks on employees on sick leave to be considered harassment

An employer's continued use of medical checks to monitor an employee absent from work due to sick leave and the initiation of numerous unjustified disciplinary procedures against said employee are to be deemed harassment and part of an unjustified plan to terminate their employment contract according to the Court of Appeal of Bari. In such situations, if the relationship between the victim of harassment and their colleagues is affected, it is the line manager's duty to take actions to restore a peaceful working environment.

Court of Appeal of Bari 17/11/2021

INPS instructions on parental leave

The INPS has delivered clarifications on the current regulations (in force until 31 March 2022) concerning the parental leave of employees with children with Covid-19, quarantined after having been in contact with someone who has tested positive, or undertaking online tuition due to their school being forced to suspend in-person teaching. Parental leave in the above cases can only be used by one parent (with the other continuing to work) and applies to the parents of children younger than 14 who live with them and the parents of children with severe disabilities (regardless of age and whether or not they reside with that parent). Allowance for this leave is 50% of the average daily wage in Italy. The parent on leave also benefits from social security contributions.

INPS, Message 08/01/2022 No. 74

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