

SNACKS: DIGESTIBLE WEEKLY LABOUR NEWS – ISSUE 43

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WEEKLY ITALIAN LABOUR UPDATES

"Agreements to settle employment related claims must be signed in a protected venue. If this is not done, the employee has six months to oppose their validity."

Economic protection for vulnerable workers extended

Vulnerable employees' rights to complete their roles via smart working (whether their original duties or alternative tasks better suited to their personal situation) and to receive remuneration comparable to hospitalization in case smart working is not possible have been extended until 31 March 2022. The extension was introduced by Law No. 11/2022 (published in the Official Journal on 18.02.2022) which amended the existing Article 17 of Law-Decree No. 221/2021. Said measures are retroactively applicable from 1 January 2022, with funds of €16.4m available.

Law 17/02/2022 No. 11

Accessing the Wage Integration Fund

The number of companies that can access the Wage Integration Fund (FIS) has grown considerably since 1 January 2022. In fact, even businesses with just one employee can access the fund provided they do not fall within the scope of the ordinary salary support scheme (CIGO) nor enjoy bilateral solidarity fund protection. Access to the FIS is subject to a prior trade union consultation.

As a transitional (and exceptional) measure, INPS has provided that companies accessing FIS for the first time can submit their application without needing to previously complete the consultation procedure required under Article 14 of Legislative Decree No. 148/2015. They have also simplified the application process for the wage supplement allowance direct payment by INPS, considering a report referring to the current pandemic and a company's financial difficulties to be sufficient evidence.

These simplified measures will apply until 31 March 2022.

INPS Circular 16/02/2022 No. 3

National Labour Inspectorate introduces proposed new health and safety training requirements

Legislative Decree No. 146/2021, which amends Article 37 of Legislative Decree No. 81/2008 (consolidated law on safety in the workplace), has introduced new health and safety requirements. The new rules will come into force following an agreement at the State-Regions Conference. The National Labour Inspectorate (INL) specified that, *pending the agreement*, sanctions relating to the new training requirements for employers and supervisors cannot be issued. As such, a transitional period will need to be created to allow companies to adapt to the new rules. On the other hand new rules requiring a practical test on the correct and safe use of equipment and personal protective equipment, apply immediately. The practical test must be recorded in a special register and any violations of the new training provisions are immediately actionable.

National Labour Inspectorate, Circolar 16/02/2022 No. 1

Dismissal v wage deduction – it's extortion

The Supreme Court found that the conduct of an employer who took advantage of the current labour market situation (in which supply exceeds demand) by forcing his employees to either accept a deduction in pay or be dismissed was extortion.

Supreme Court 02/02/2022 No. 3724

Return of the New Skills Fund

The New Skills Fund will be restarting soon in order to finance training hours for employees whose companies require them to acquire new knowledge or improve their professional skills. The Decree-Law, approved by the Council of Ministers on 18 February 2022 (awaiting publication), extends the scope of the New Skills Fund to cover companies that have signed development agreements for strategic investment projects, or have made use of the so called Industrial Transition Fund.

Decree-law approved in the Council of Ministers 18/02/2022

New provisions concerning tachographs

The decree of the Ministry of Economic Development ("MISE") No. 242/2021, which adapts the existing provisions involving tachographs, will come into force on 25 February 2022. It introduces significant changes that the authorities responsible for approving and authorising the installation of digital tachographs and issuance of tachograph cards must follow, including updates involving the verification and conformity of tachographs.

In particular, the new decree provides that:

- the controlling authorities will be those in charge of supervising labour relations in the road transport sector, i.e. those in charge of, or authorised to provide, traffic policing duties;
- Chambers of Commerce, Industry, Crafts and Agriculture and the Chamber of Business and Professions of the Valle d'Aosta region will be in charge of the acquisition of data relating to the existing tachograph register (art. 31 EU Regulation No. 165/2014) and will ensure a connection to the TACHOnet messaging system;
- lists of people authorised to carry out installation, control and repairs will be drawn up by Unioncamere which will also ensure they are kept up to date;
- procedures for issuing tachograph cards and maintaining the register will be established by decree of the MISE, in agreement with the Ministries of the Interior, Labour and Infrastructure.

Ministry of Economic Development, Decree No. 242/2021

Dismissal employees on the basis of either their comparative earnings or their age discriminatory

Dismissing a manager on the basis of them earning more than other employees is unlawful in the absence of a genuine company reorganisation. A company's desire to reduce its costs without carrying out a concrete corporate reorganisation is not a good enough reason to fire an employee, the Tribunal of Milan recently ruled.

Furthermore, it is also discriminatory to dismiss an employee on the basis of age and how close they are to retirement.

Tribunal of Milan, 10/11/2021 (Judge Paziienza)

Failure to submit monthly report to INPS is tax evasion

Failure to make a monthly report to INPS on employment relationships and remunerations, even if recorded in a company's books, constitutes tax evasion. In order to avoid being charged with tax evasion, the burden of proving that there was no fraudulent intent falls on the defaulting employer.

Supreme Court 03/02/2022 No 3420

INPS clarifications on Covid leave for parents with children under 14 year

The INPS has provided clarifications on the use of "SARS CoV-2" leave for working parents with children under 14 that have tested positive for Covid-19, been told to quarantine or must participate in home learning. Said leave is available not only to employees, but also to self-employed individuals registered with INPS and those registered exclusively with INPS' "Gestione Separata". Leave can be taken on a full-day or hourly basis and involves an allowance equal to 50% of salary and the recognition of figurative contributions. It should be noted that parents with children between 14 and 16 years old can also access SARS CoV-2 leave but are not entitled to an allowance or notional contributions. For parents of severely disabled children, access to leave does not require cohabitation, nor is there any age limit for the child.

INPS, Message 17/02/2022 No. 798

Mixed duties and right of recognition

Employees that regularly carry out duties that are above their seniority grade may be entitled to recognition for their performance if the superior duties are the ones carried out most often. The assessment of whether superior or typical duties predominate should not be carried out (only on the basis of a quantitative comparison, but should also take into account the professional value of the duties).

Supreme Court 30/12/2021 No. 41996

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