

SNACKS: DIGESTIBLE WEEKLY LABOUR NEWS – ISSUE 47

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WEEKLY ITALIAN LABOUR UPDATES

"To reduce the gender gap in the workplace, businesses with 50+ employees are (now) obliged to a biennial report on the work conditions. If the report has a positive outcome, a gender parity certificate is released."

Green Pass rules relaxed

The Council of Ministers has relaxed the Green Pass requirements for certain locations as follows:

- As of 1 April 2022, a Green Pass will no longer be needed to access commercial establishments in open-air locations (bars, restaurants, etc.), except for sporting venues and concerts;
- The Green Pass requirement remains in place to access local public transport (metro systems, bus) until 30 April 2022;
- As of 1 April 2022, the obligation for employees over 50 to possess a Super Green Pass will end and they will only need a Basic Green Pass (for which a negative swab is sufficient); and

- From 1 May 2022, a Green Pass will no longer be required to access indoor locations.

Law Decree 17/03/2022 (soon to be published)

Quarantine and vaccination requirements to access the workplace progressively relaxed

The Council of Ministers has relaxed the rules surrounding compulsory vaccination and quarantine. In particular:

- As of 1 April 2022, the need to quarantine after close contact with a positive person will no longer apply. Instead a self-monitoring regime will be implemented, consisting of wearing a FFP2 mask indoors and in crowds for 10 days following close contact;
- Individuals who test positive will still need to isolate; and
- On 15 June 2022, the obligation for workers in specific sectors (schools, military, police etc.) to be vaccinated will expire. However, the vaccination requirement is extended to 31 December 2022 for employees in the healthcare sector.

Law Decree 17/03/2022 (soon to be published)

Simplified smart working extended

The simplified smart working regime, which was due to end on 31 March 2022, has been extended for a further three months. Therefore, until 30 June 2022, employers will be able to continue to work remotely without their express consent in a written agreement, nor will they be required to hand over information on specific and general risks of accidents while smart working, as using the forms on the INAIL website will continue to be sufficient. The extension also covers access to agile working for vulnerable employees.

Law Decree 17/03/2022 (soon to be published)

First National Labour Inspectorate indications on new internships rules

The INL has provided clarifications regarding the new provisions concerning curricular internships introduced by Budget Law No. 234/2021. In particular:

- The current regional regulations will remain in force until the new shared guidelines on internships are adopted by Italian regional governments (to be done within 180 days of the 2022 Budget Law entering into force);
- The recognition of an adequate participation allowance for trainees remains in force. Failure to pay this allowance will result in a fine ranging from €1,000 to €6,000;
- To ascertain any fraudulent uses of the internship, INL will refer to the regional regulations currently in force;
- The obligation to communicate the start of internships to an Employment Centre only concerns extracurricular internships; and
- The host company is obliged to comply with health and safety at work obligations for their trainees, just like other employees.

INL, Note 21/03/2022 No. 530

Ministerial clarifications on the transition agreement for 12 additional months of CIGS

The Ministry of Labour has provided clarifications on using an additional 12 months of the CIGS salary support scheme by companies which have exhausted the extraordinary wage supplementation scheme (that is, two years of a five-year rolling period), are involved in business reorganisation processes or affected by serious financial problems. The CIGS' additional 12 months presuppose the signing of a transition agreement with trade union organization, committing companies to manage redundancies through active policy actions. To this end, companies are called upon to prepare a programme in which, among other actions, investments to support a transition process are outlined, including measures for technological and digital upgrading or for energy and ecological sustainability.

Ministry of Labour, Circular 18/03/2022 No. 6

Employer health and safety responsibilities

The responsibility of an employer to protect their employees against accidents at work cannot be assigned to individuals lacking the decision-making and spending powers required to effectively run a business. In applying this principle, the Supreme Court found that the conviction of a managing director for not having correctly managed the Covid-19 risk assessment within his company was legitimate. Although the managing director transferred his powers to a manager within the company, that person did not have the decision-making and spending powers required to autonomously manage said function.

Supreme Court 16/03/2022 No. 9028

Dismissal based on same reasons as collective redundancy unlawful

Justifying the dismissal of an employee by using the same reasons as those given in a previous collective dismissal constitutes a fraudulent scheme under Article 1344 of the Civil Code, unless the redundancy process was later deemed null and void or ineffective. An employer cannot go back on the choices they previously made with regard to the number, business units or professional profiles of the employees made redundant, or on the selection criteria for individual employees to be dismissed, when considering further and subsequent individual dismissals. In such cases, the lawfulness of new dismissals is subject to proving different financial and business reasons for doing so.

Supreme Court 07/03/2022 No. 7400

Protection against accidents even without regular work contract

An employer must take appropriate measures to protect **all** employees from accidents at work, even those that are performing their tasks without a regular contract. This obligation derives from both Article 2087 of the Civil Code, which requires the employer to take all appropriate measures to protect the health of employees and prevent accidents at work, and Articles 2 and 299 of the Safety Act, which extends the relevant protections to all employees working for the company.

Supreme Court 11/03/2022 No. 8042

Burden of proof on employee when making claims for higher paid work

An employee who takes legal action in order to claim a larger salary entitlement as a result of carrying out duties above their pay grade has the burden of proving both that their employer has failed to fulfil their obligations and of including the relevant documents needed for the claim to be a success. In particular, the employee must provide evidence of the nature of the higher pay grade duties they carried out and the length of time they did so as well as attaching all relevant legal and contractual documents.

Tribunal of Naples 02/03/2022

Only sick leave included in notice of dismissal counted

In cases involving dismissals for exceeding the maximum sick leave period, an employer does not need to specify the individual days of sick leave taken by the employee in their letter of dismissal if the period of leave was a single and uninterrupted event. However, if the period of sick leave is made up of multiple instances, the employer must specify each occurrence of leave. This requirement aims to help employees build their defence. Therefore, only periods of leave indicated in an employee's dismissal letter can be used to calculate whether they exceeded the maximum sick leave period.

Supreme Court 16/03/2022 No. 8628

Employee's waiver of future rights null and void

An employee cannot waive any future rights they may acquire through the signing of a settlement agreement and any attempt to do so is null and void even in relation to so-called 'protected venues' referred to in the last paragraph of Article 2113 of the Civil Code. In the context of settlements made in a protected venue (e.g. before trade unions or the Territorial Labour Inspectorate), an employee can only waive rights already acquired prior to the signing of any settlement agreements. By virtue of these principles, a settlement agreement by which the employee has waived future rights has no effect.

Supreme Court 01/03/2022 No. 6664

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