

## SNACKS: DIGESTIBLE WEEKLY LABOUR NEWS – ISSUE 91

26 JANUARY 2023 • ARTICLE



### WEEKLY ITALIAN LABOUR UPDATES

"Additional holidays and leave to those granted by the CCNL are a lever to improve the work life balance."

#### INPS clarifications on new measures for occasional work

The INPS has provided operational guidelines on the new measures regarding 'occasional work' introduced in Italy's Budget Law 2023. Most notable is the increase from €5,000 to €10,000 that companies and individuals can pay employees on occasional work contracts. Another new measure is that occasional contracts can now be used by firms employing up to ten workers rather than the previous limit of five. And, in the hotel and hospitality sector, access to occasional work contracts is now available to all categories of employees having been previously restricted to

retirees (whether due to old age or disability, the unemployed, benefit recipients and students under 25).

*INPS, Circular 19/01/2023 no. 6*

#### 'Pensami' system live

The "Pensami" pensions and retirement simulator is now live on the INPS website. Its function is to provide users with tailored information on retirement and pension options based on their personal data. The service can be accessed without the need for a password or registration. The INPS issued a circular explaining how to access and use the service, also announcing that a mobile app to do so will be made available in the coming weeks.

*INPS, Message 18/01/2023 no. 298*

#### Employees may refuse to perform duties due to intimidation

Refusal to perform an agreed work duty in the manner prescribed in their employment contract constitutes a valid reason for dismissal unless the employee's failure to do so is attributable to good faith. Applying this principle, the conduct of a supermarket cashier who had failed to stop (or try to stop) three customers who were climbing over the checkout barrier to deposit goods in their shopping trolleys was deemed lawful. Whilst, company policy stated that the cashier should have prevented such behaviour from occurring the cashier feared retaliation due to the intimidating and threatening behaviour of the three customers. The employer had dismissed the employee, but the Supreme Court upheld the appeal sentence that had annulled the dismissal and ordered the employee be reinstated. According to the Supreme Court, the incident had exposed the employee to a potential danger that justified their refusal to act according to the company policy.

*Supreme Court, (ord.) 12/01/2023 no. 770*

## **Reinstatement of an employee must be to the original workplace**

The transfer of an employee to a workplace different to their original one as per a judicial order for reinstatement following the transfer of the business they worked for been deemed unlawful. It was held that, in this case, the fact that in the period between the dismissal and the judicial order for reinstatement the company's structure had not changed sufficient to justify reinstatement to a different workplace. The employer's compliance with the judicial order required, pursuant to Article 2103 of the Italian Civil Code, the reinstatement of the employee be to their original workplace.

*Supreme Court (ord.) 17/01/2023 no. 1293*

## **One-fifth of salary automatically transferred to retirement pension**

When one-fifth of their monthly salary due to a loan received by an employee was withheld in payroll, the same amount is automatically transferred to their occupational pension to go towards their retirement (according to Art. 39 Presidential Decree no. 180/1950). INPS confirmed that an employee who is less than 10 years away from retirement may not take out such a loan.

*INPS, Message 13/01/2023 no. 244*

## **Public transport vouchers renewed for students and low-income employees**

Decree-Law No. 5/2023 reconfirms that students and employees whose total income in 2022 did not exceed €20,000 are entitled to a €60 voucher to be used to purchase a public transport season ticket. The Decree significantly reduces the number of people entitled to the voucher compared to last year as previously the income threshold was €35,000. The Ministry of Labour will announce the procedures to submit an application for a voucher by 14 February 2023. The voucher has maximum value of €60 to be used to cover the costs of using local, regional and national rail public transport until 31 December 2023. The voucher is non-transferable and can only be used to purchase a single season ticket.

*Decree-Law 14/01/2023 no. 5*

## **Settlement agreements made in protected venues can be challenged on the grounds of breach of consent**

Even if signed in a protected venue (trade union offices, the Labour Inspectorate, etc.), according to Article 2113 of the Italian Civil Code, a settlement agreement to which an employee has consented to in the face of threats to their employment relationship can be challenged on the grounds of breach of consent as said threats are considered intimidation thereby breaching consent.

*Tribunal of Naples, 30/11/2022 no. 6262*

## **Settlement agreements requiring signature in unreasonably short time periods ineffective**

The validity of a settlement signed in a protected venue is subject to proof of the signatory's full awareness and understanding of the content and extent of the rights waived in said agreement. Applying these principles, a settlement agreement was deemed ineffective due to the short time period (five minutes) allowed for signature, which the judge deemed insufficient to allow for the full content of the agreement to be read and understood.

*Tribunal of Milan 11/11/2022*

## Solidarity Funds and generational relay

By accessing the Bilateral Solidarity Funds, 'generational relay' can be implemented through part-time employment relationships. Generational relay is a mechanism allowing employees who will reach retirement age within the following 36 months to be retired early so an employee under 36 can take their place (Decree-Law no. 21/2022). The Ministry of Labour has clarified that generational relay can also be implemented by reducing the working hours of employees close to retirement and hiring employees under 36 years to cover the hours they no longer work.

*Ministry of Labour, Circular 17/01/2023 no. 1*

## KEY CONTACTS



**GIUSEPPE BULGARINI  
D'ELCI**

PARTNER • MILAN

T: +39 02 721 7071  
M: +39 347 26 86 664

[gbulgarini@wfw.com](mailto:gbulgarini@wfw.com)



**ROBERTA CRISTALDI**  
COUNSEL • MILAN

T: +39 02 721 7071  
M: +39 344 0506106

[rcristaldi@wfw.com](mailto:rcristaldi@wfw.com)

## DISCLAIMER

Watson Farley & Williams is a sector specialist international law firm with a focus on the energy, infrastructure and transport sectors. With offices in Athens, Bangkok, Dubai, Dusseldorf, Frankfurt, Hamburg, Hanoi, Hong Kong, London, Madrid, Milan, Munich, New York, Paris, Rome, Seoul, Singapore, Sydney and Tokyo our 700+ lawyers work as integrated teams to provide practical, commercially focussed advice to our clients around the world.

All references to 'Watson Farley & Williams', 'WFW' and 'the firm' in this document mean Watson Farley & Williams LLP and/or its affiliated entities. Any reference to a 'partner' means a member of Watson Farley & Williams LLP, or a member, partner, employee or consultant with equivalent standing and qualification in WFW Affiliated Entities. A list of members of Watson Farley & Williams LLP and their professional qualifications is open to inspection on request.

Watson Farley & Williams LLP is a limited liability partnership registered in England and Wales with registered number OC312252. It is authorised and regulated by the Solicitors Regulation Authority and its members are solicitors or registered foreign lawyers.

The information provided in this publication (the "Information") is for general and illustrative purposes only and it is not intended to provide advice whether that advice is financial, legal, accounting, tax or any other type of advice, and should not be relied upon in that regard. While every reasonable effort is made to ensure that the Information provided is accurate at the time of publication, no representation or warranty, express or implied, is made as to the accuracy, timeliness, completeness, validity or currency of the Information and WFW assume no responsibility to you or any third party for the consequences of any errors or omissions. To the maximum extent permitted by law, WFW shall not be liable for indirect or consequential loss or damage, including without limitation any loss or damage whatsoever arising from any use of this publication or the Information.

This publication constitutes attorney advertising.