

SNACKS: DIGESTIBLE WEEKLY LABOUR NEWS – ISSUE 96

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WEEKLY ITALIAN LABOUR UPDATES

"The salary credits' statute of limitations starts after the employment has ended."

Deadline for accessing New Skills Fund extended

The New Skills Fund has received an additional €180m in funding with the deadline for submitting applications to Anpal for funded training extended to 27 March 2023. These, in addition to extending the New Skills Fund for FY2023 (as set forth by the Law No. 14/2023), are the latest changes introduced in an Anpal decree. The new 27 March 2023 deadline applies both to the execution of company collective agreements (the deadline for which had expired end 2022) and to the final date for submitting Anpal applications (whose deadline had expired on 28 February 2023). It

is a very tight timeframe, but companies already have training projects for employees regarding company reorganisations will nevertheless be able to take advantage of these extended deadlines.

ANPAL Decree 24/02/2023

Updates regarding remote working in Milleproroghe Decree

For vulnerable public and private workers, the deadline for the right to remote working has been extended from 31 March to 30 June 2023. This covers vulnerable workers suffering from serious chronic illnesses covered by the Ministry of Health Decree of 4/2/2022, which includes those who are immunocompromised (transplant patients, oncological pathologies etc.). If remote working is incompatible with the tasks carried out by such vulnerable workers, their employer must assign them other suitable tasks. If this is not possible then, though offering remote training opportunities was no longer planned, a lack of clarity means that it nevertheless remains an option. The only alternative is to be exempt from carrying out one's role whilst retaining full pay. The right to remote working is reintroduced for private sector workers with children under 14, provided the other parent is not out of work or in receipt of income support. The same right (and deadline) applies to workers especially susceptible to contracting Covid-19 provided they have a doctor's note. Unlike for vulnerable workers, however, the right to remote working presupposes that their tasks are compatible with remote working.

Law 24/02/2023, no. 14

Other Milleproroghe updates

The final deadline for sending workers hired on an open ended contract by employment agencies to the same user company for a fixed term period longer than the maximum of 24 months (including intermittent placements) has been extended to 30 June 2025 (from 30 June 2024). Access to the New Skills Fund has been extended to end 2023.

Law 24/02/2023, n. 14

Fuel bonus updates

The fuel bonus, of which employees can receive up to a maximum of €200 each, remains excluded from the base tax rate, but is now included when calculating social security contributions. This is provided by an addition to Article 1, paragraph 1, of Decree-Law of 14/1/2023, no. 5, which notes *“the exclusion from the contribution to the formation of the employee’s income, provided by the first sentence, is not relevant for contribution purposes”*. The text has been approved by the Chamber of Deputies and now awaits Senate approval.

Draft Law converting Decree-Law no. 5/2023

Secret recording of colleagues’ conversations permissible for defence in court

Recording an employee’s conversations with colleagues without their knowledge constitutes a serious breach of their right to confidentiality, unless the recording was intended to provide evidence against their employer in a future or upcoming lawsuit. In such cases, these recordings constitute an expression of the right to defence according to Article 24 of Legislative Decree no. 196/2003 (Privacy Code) which allows an individual’s consent to be disregarded.

Trib. Velletri 21/02/2023, Judge Falcione

Failure to pay contributions to assistance funds and bilateral institutions

An employer who does not pay contributions to bilateral institutions as provided for by the NCLA’s is required to pay an additional portion of salary to workers. The same principle applies to employers who do not pay (or partially pay) contributions to the Health Care Fund and Welfare Fund which is also required by the NCLA’s. Payment of such contributions is mandatory and, in the event of non-compliance, an employer is obliged to pay their employee an additional amount on top of their salary for each month of contribution omission.

Trib. Milano 13/02/2023, no. 437

Dismissals for disobedience or bad language

An employee who, for reasons connected with their health, refrains from performing a task ordered by his superior is liable for disobedience. However, such non-compliant conduct is not sufficiently serious to justify a disciplinary dismissal. Nor is a disciplinary dismissal lawful if abusive language was used by an employee in the presence of multiple colleagues when refusing to carry out orders. If dismissed for such reasons, an employee should be reinstated and is entitled to compensation.

Cass. (ord.) 16/02/2023 no. 4831

Two-year limit after contract termination does not apply to social security debts

The two-year limit in Article 29, paragraph 2 of Legislative Decree 276/2003, by virtue of which the employer is jointly obliged with the contractor to fulfil all salary payments, insurance premiums and social security contributions for two years from the termination of a contract does not apply to the recovery of social security debts promoted by the INPS. The obligation to pay contributions is distinct and autonomous from the obligation to pay salaries and the INPS is only subject to the limitation period.

Cass. 30/12/2022, no. 38151

Leave to assist disabled family member does not require exclusive assistance

Using leave to assist a seriously disabled family member (art. 33 L. 104/1992) does not require said assistance cover the entire working day. In application this principle, the dismissal of an employee who, when on leave pursuant to the above law devoted the time primarily to personal activities and only caring for his disabled father for two to three hours a day, was deemed unlawful.

Court of Appeal Rome 13/09/2022, President Panariello

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