








LAW DECREE No. 34/2020 (“*RILANCIO DECREE*”): WHAT MEASURES IN MATTER OF EMPLOYMENT LAW?

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On May 19th, 2020 the Italian Government issued Law Decree no. 34/2020 which contains “urgent measures in matter of health, support for work and economy, as well as social policies in order to face the COVID-19 emergency”(“ **Rilancio Decree**”)

From an employment law perspective, the Rilancio Decree impacted on the following aspects.

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1. LAYOFF ALLOWANCES

1.1. *Cassa Integrazione Ordinaria (CIGO)* and *Assegno Ordinario* on the ground of the “COVID-19 emergency”

Beneficiaries	<p>The Rilancio Decree widened the number of beneficiaries so as to include employees already in employment on March 25th, 2020 who are temporarily laid off because of the Covid-19 Emergency, regardless of their length of service.</p> <p>Moreover, the Decree confirmed that also companies that on February 23rd, 2020 were already benefitting from the <i>Cassa Integrazione Guadagni Straordinaria</i> (CIGS) national layoff allowance fund may benefit from these special layoff allowances on the grounds of the “Covid-19 National Emergency”.</p>
Duration and period of application	<p>Those employers who have already benefitted from the 9 weeks layoff allowances introduced by the previous legislation to face the Covid-19 emergency, are entitled to benefit from other 5 weeks to be set as from February 23rd, 2020 up to and until the end of August 2020.</p> <p>Employers may also benefit from other 4 weeks to be set as from September 1st, 2020 and October 31st, 2020 provided that they have already benefitted from the above 14 weeks. Only employers active in the sectors of tourism, fairs and congresses, amusement parks, live shows and cinemas may benefit from the above 4 weeks before September 1st, 2020.</p>
When to apply?	<p>The relevant application is to be filed by the end of the month following that of the beginning of the layoff.</p> <p>→ If the application is submitted after the above deadline, the layoff allowance may only be granted for the week preceding the date of submission.</p> <p>Applications concerning layoff allowances periods to be set from February 23rd, 2020 to April 30th, 2020 are to be filed by May 31st, 2020.</p>
Are there further requirements?	<p>A prior consultation with the Trade Unions is required, to be carried out even by means of IT devices within three days following the date of prior notification. The Rilancio Decree reintroduced such provision which was previously deleted for a short period of time.</p>
Plurality of allowances	<p>Employees benefitting from the <i>Assegno Ordinario</i> on the ground of the Covid-19 emergency are also entitled to be paid the family allowance under Sect. 2 of Law Decree no. 68/1998 (“<i>assegno per il nucleo familiare</i>”).</p>
Simplification of the layoff allowance direct payment by the Italian Social Security Institution (INPS)	<p>As to layoff allowances applications filed after June 18th, 2020, should the employer decide not to advance the relevant payments to the employees, then it have to file to INPS the request of direct payment within 15 days following that of the beginning of the layoff.</p> <p>By 15 days from the application of the request of direct payment, INPS will advance a 40% of the amount due to the employees concerned, while the remaining 60% will be paid only once the employer has sent all the necessary documentation. The employer must send such documentation within 30 days from the payment by INPS of the 40% tranche.</p>

1.2. Cassa Integrazione Guadagni in Deroga

The **duration** of the *Cassa Integrazione Guadagni in Deroga* was **extended** upon the same terms and conditions under the chart sub §1.1. above.

It is confirmed that in case of **employers employing at least 5 employees**, a prior **agreement with the Trade Unions** regarding the duration of the layoff allowance is required, to be carried out even by means of IT devices. Such agreement is necessary even if the employer was forced to shut down the business due to an order of the authorities.

While Regions or the Provinces of Trient and Bozen authorize the first 9 weeks of Cassa Integrazione in Deroga, the **subsequent periods** of layoff allowances are **authorized by INPS upon the employer's application**. In particular, the relevant application is to be filed to INPS by the end of the month following that of the beginning of the layoff, together with a list of the employees benefitting from the layoff allowance and relevant downtime.

As to the direct payment of the layoff allowance to the employees, please see the chart *sub* §1.1. above.

2. PROHIBITION OF DISMISSALS

The Rilancio Decree extended **until August 17th, 2020** the prohibition of individual dismissals for objective reasons and collective redundancies, as well as the suspension of the relevant procedures.

In addition, employers who made dismissals for objective reasons during the period from February 23rd, 2020 to March 17th, 2020 are allowed to revoke them at any time without incurring any penalties, provided that they file an application for the layoff allowances under §1. above to be granted to the employees concerned.

3. SMART WORKING

Throughout the duration of the COVID-19 emergency, i.e. until July 31st, 2020¹, **employees with at least one child under 14 years old** are **entitled** to work on a smart working pattern under the following terms and conditions.

Requirements	Fulfilments	Work devices
Absence of any of the parents: <ul style="list-style-type: none">benefitting from income support wagesvoluntarily not working. The working activity is to be compatible with the smart working pattern.	No individual agreement is required. The employer has to provide the employee an information in matter of health and safety by using the form made available by INAIL. The employer has to communicate, even by means of IT devices, to the competent authorities (i) the name of the employees performing their activities on a smart working pattern, and (ii) the date of	Employees may also use their own IT devices in order to perform their working activities, if the employer does not provide such devices.

¹ This is as of today's date

	termination of the smart working pattern.	
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As to **all other employees**, until December 31st, 2020 employers are entitled to unilaterally impose the smart working pattern, without a previous agreement. However, the employer has to provide the employee an information in matter of health and safety by using the form made available by INAIL.

4. FIXED-TERM EMPLOYMENT CONTRACTS

Employers may **renew** fixed-term employment contracts already in force on February 23rd, 2020 as well as **postpone their date of expiration up to August 30th, 2020, without** indicating any of the **specific grounds** usually required by Italian law to this end.

Moreover, it is confirmed that also employers benefitting from the layoff allowances under §1. above are allowed to renew or postpone (without time limits) the date of expiration of fixed-term contracts, including temporary fixed-term contracts.

5. HEALTH SURVEILLANCE

Throughout the duration of the COVID-19 emergency, i.e. until July 31st, 2020², employers must ensure an exceptional health surveillance towards those employees who are exposed to a higher risk due to (i) their age; or (ii) health factors (such as immune-depression, also as a consequence of a COVID-19 pathology, oncological pathologies, life-saving therapies or co-morbidities).

Employers who are not required by law to appoint a company doctor may appoint one to carry out the above mentioned exceptional health surveillance. Otherwise, they may involve the Italian National Institute for Accident at Work Insurance (INAIL) territorial services and their own doctors.

6. PARENTAL LEAVES AND PAID LEAVES UNDER SECT. 33, PARA. 3, of LAW No. 104/1992

6.1 The specific parental leave introduced by the previous legislation to face the COVID-19 emergency for **employees with children no older than 12** has been extended from 15 up to 30 days, to be used from March 5th, 2020 and July 31st, 2020.

The following terms and conditions still apply.

Requirements	Terms of use	Remuneration	Social Security Contribution
absence of any of the parents: <ul style="list-style-type: none"> • benefitting from income support wages • unemployed • voluntarily not working 	The parental leave is to be alternately used by one or the other of the parents, on a consecutive or a non-consecutive basis	Wage equal to 50% of the remuneration under Sect. 23 of Legislative Decree no. 151/2001	Accruing even in absence of contributions payable by the company

² This is as of today's date.

As an alternative option, upon the above conditions employees with a child no older than 12 will benefit from one or more baby-sitting bonuses to be used during the same period of time up to a maximum amount of € 1.200.00=, to be paid through the so-called family booklets contemplated by Sect. 54-bis of Law no. 50/2017.

While, the above bonuses may be directly paid to the employees concerned in order to pay childcare or educational services.

6.2 Employees with children no older than 16 (but no more necessarily older than 12, as provided by the previous legislation to face the COVID-19 emergency) are permitted to abstain from working upon the following terms and conditions.

Requirements	Duration	Remuneration	Social Security Contribution	Other conditions
Absence of any of the parents: <ul style="list-style-type: none"> • benefitting from income support wages • voluntarily not working 	The entire period of stay of the educational services and teaching activities.	No wage	Not accruing	Prohibition of dismissal and right to keep the job

6.3 The Rilancio Decree provided **12 additional days** of paid leave for **employees caring for persons with serious disabilities** as envisaged by Sect. 33, paragraph 3, Law no. 104/1992 to be used during the months of **May 2020** and **June 2020**. This means that these additional 12 days will be added to the 6 days paid leave (3 for the month of May and 3 for the month of June) already contemplated by Law no. 104/1992. Such additional 12 days paid leave can be used on an hourly basis and also on a consecutive basis within the same month.

7. WAGES FOR WORKERS AFFECTED BY THE COVID-19 EMERGENCY

7.1. Self-employed workers

Beneficiaries ³	Indennità
(i) Professionals having a VAT position active on or before February 23 rd , 2020, enrolled in the INPS pension system; (ii) workers self-employed under a coordinated and continuous collaboration agreement, enrolled in the INPS pension system; <u>and</u> (iii) self-employed workers enrolled on special pension schemes of the INPS pension system; who has already benefitted from the € 600 wage contemplated by the previous legislation to face the	may benefit from a € 600 wage also in April 2020.

³ Se tali soggetti appartengono ad un nucleo familiare già percettore di reddito di cittadinanza per un importo inferiore alla indennità di cui al presente §7.1, allora non hanno diritto a tale indennità ma il beneficio del reddito di cittadinanza dovrà essere integrato fino all'ammontare della stessa indennità dovuto in ciascuna mensilità.

COVID-19 emergency for March 2020.	
<p>(i) Professionals having a VAT position active on or before May 19th, 2020, who suffered a reduction of at least 33% of the income in the second two-month period 2020 compared to the same two-month period 2019;</p> <p>(ii) workers self-employed under a coordinated and continuous collaboration which was terminated on May 19th, 2020.</p>	may benefit from a € 1.000 in May 2020.
<p>(i) Self-employed workers with no VAT position, usually employed under occasional self-employed contracts but with no contract on February 23rd, 2020, enrolled in the INPS pension system with at least one month social security contribution.</p> <p>Provided that:</p> <ul style="list-style-type: none"> • they are not employed with an open-ended employment contract; • they do not receive a retirement income. 	may benefit from a € 600 in April 2020 and in May 2020 as well.
<p>(i) Self-employed workers who are not enrolled in the INPS pension system</p> <p>Provided that:</p> <ul style="list-style-type: none"> • they are not employed with an open-ended employment contract; • they do not receive a retirement income. 	may benefit from the so called <i>Reddito di ultima istanza</i> also in April 2020 and in May 2020 as well.

7.2. Domestic workers

Domestic workers with one or more employment contracts as at February 23rd, 2020, for overall 10 hours per week or more, are entitled to a wage of €500 for each of the months of April 2020 and May 2020.

Such wages are paid by INPS, upon request of the domestic worker provided that he/she does not have another open-ended employment contract and provided that he/she is not cohabiting with the employer.

7.3. Plurality of wages

Workers benefitting from one of the wages under §§ 7.1 e 7.2 above:

- are not entitled to be paid another one of the same wages;
- are entitled to be paid the disability allowance (in Italian “*assegno ordinario di invalidità*”).

7.4. Emergency Wage (REM)

The Rilancio Decree introduced the so-called Emergency Wage (REM) in favour of those families in financial straits due to the COVID-19 emergency.

Amount	<p>REM is paid by INPS in 2 equal instalments.</p> <p>The amount of a single instalment varies from € 400 to € 800 depending on the number of family members.</p>
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Beneficiaries	<p>Families that cumulatively meet the following requirements:</p> <ul style="list-style-type: none"> • applicant residing in Italy; • family income for the month of April 2020, lower than the amount of a single REM instalment; • family movable assets for year 2019 < (€ 10,000 + € 5,000 * number of family members other than the applicant, up to a maximum of € 20,000); <u>and</u> • ISEE (which is an indicator of a family economic condition contemplated by Italian law) < € 15,000. <p>are entitled to be paid REM.</p>
Exclusions	<ul style="list-style-type: none"> • People in custody; <u>and</u> • people in long-term care institutions/other residential facilities at the full expense of the State or other public administration; <p>are not entitled to receive REM.</p> <p>If one of the family members is a person who is in one of the above mentioned conditions, the same is not counted as part of the family for the purposes herein.</p>
Plurality of wages	<p>REM is not due if one of the family members:</p> <ul style="list-style-type: none"> • was paid one of the wages under §§ 7.1 e 7.2 above; • receives a retirement income; • are employed with an employment contract with a gross remuneration higher than the amount of a single REM instalment; • receives the so called <i>reddito di cittadinanza</i>.

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Il presente articolo ha esclusivamente finalità informative e non costituisce parere legale.

This article is exclusively for information purposes, and should not be considered as legal advice.




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