

CORONAVIRUS OVERCOMING THE DIFFICULTIES

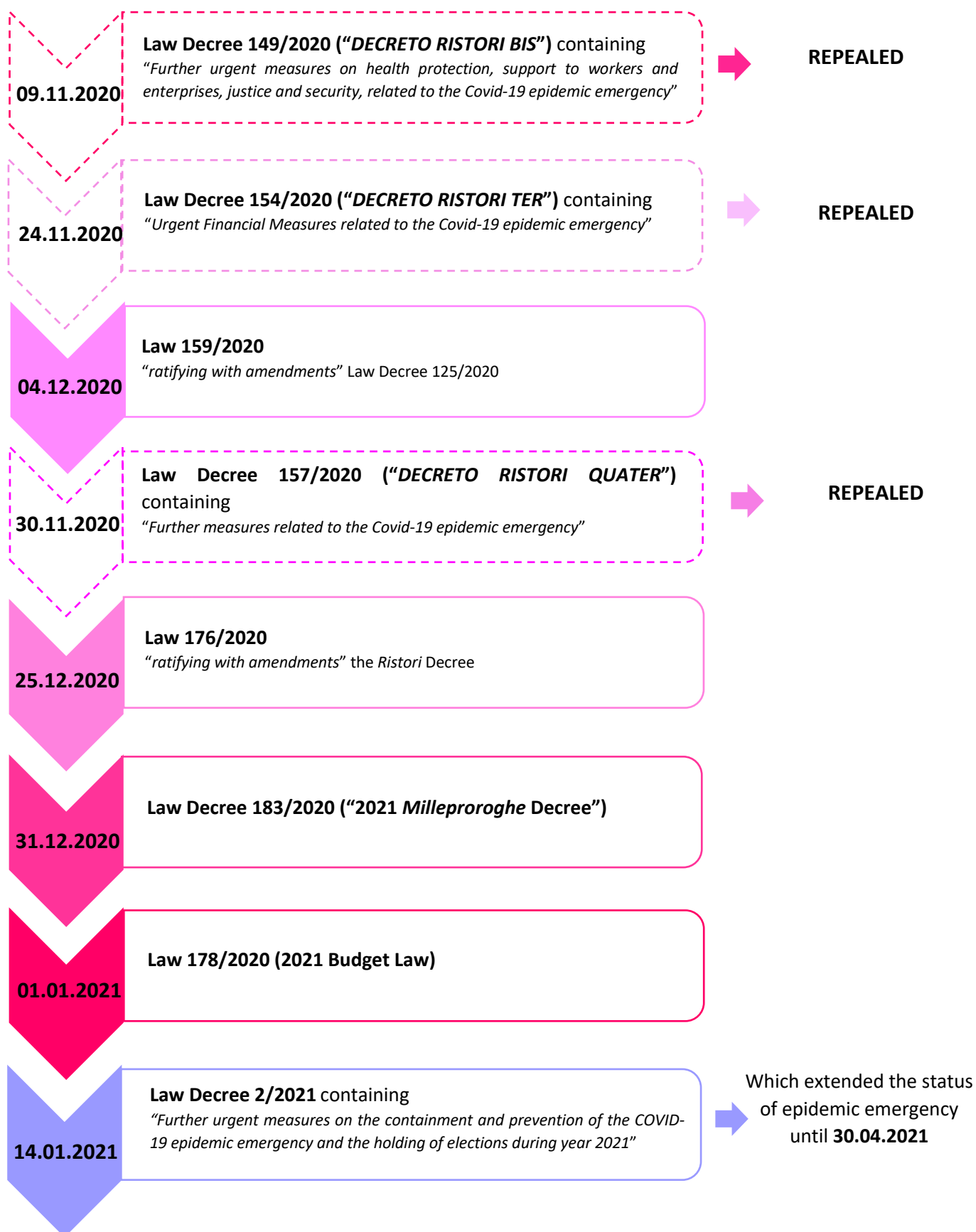
MEASURES IN MATTER OF EMPLOYMENT AS FROM OCTOBER 2020 THROUGH JANUARY 2021: WHERE ARE WE NOW?







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Over the last months, the Italian Government has adopted several pieces of legislation affecting the management of the workforce through the enduring Covid-19 emergency.

A chronicle of the main legislative steps that occurred, in particular, as from October 2020 through January 2021 as well as the main noteworthy measures in matter of employment are summarised here below.

DATE OF EFFECTIVENESS	PIECE OF LEGISLATION	
15.08.2020	Law Decree 104/2020 (“August Decree”) containing <i>“Urgent measures to support the economy”</i>	➔ On this matter please see our article available here .
08.10.2020	Law Decree 125/2020 containing <i>“Urgent measures related to the extension of the status of epidemic emergency and for the operational continuity of the COVID alert system, as well as for the implementation of Directive (EU) 2020/739 of 3 June 2020”</i>	➔ Which extended the status of epidemic emergency until 31.01.2021
14.10.2020	Law 126/2020 <i>“ratifying with amendments” the August Decree</i>	
29.10.2020	Law Decree 137/2020 (“Ristori Decree”) containing <i>“Further urgent measures on health protection, support to workers and enterprises, justice and security, related to the Covid-19 epidemic emergency”</i>	



	LAYOFF ALLOWANCES ON THE GROUNDS OF THE “COVID-19 EMERGENCY”	§1.
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1. LAYOFF ALLOWANCES ON THE GROUNDS OF THE “COVID-19 EMERGENCY”

According to the 2021 Budget Law employers may benefit from further **12 weeks** layoff allowances on the grounds of the “Covid-19 emergency” **to be used:**

- **between January 1st, 2021 and March 31st, 2021** in case of access to the “Cassa Integrazione Guadagni Ordinaria (CIGO)” national layoff allowance fund;
- **between January 1st, 2021 and June 30th, 2021** in case of access to the “Assegno Ordinario” and to the “Cassa Integrazione in Deroga” national layoff allowance fund;

and even with reference to those employees who were hired as from March 25th, 2020 onwards.

Weeks of layoff allowances on the grounds of the “Covid-19 emergency” granted to employers according to the Ristori Decree and to be used after January 1st, 2021, if any, will count against the 12 weeks layoff allowances contemplated under this §1.

The **application** to benefit from the layoff allowances under this §1. are to be submitted to the Italian National Institute for Social Security (“INPS”) **by the end of the month following that of the beginning of the layoff.**

	No. of weeks of subsidised layoff as from February 2020	Reference period	Further characteristics
1.1 <i>Cura Italia</i> Decree	9	23.02.2020 - 31.08.2020	/
1.2 <i>Rilancio</i> Decree	5 + 4	up to 31.10.2020	<ul style="list-style-type: none"> The authorisation of the second tranche of 4 weeks was conditional upon the employer having already benefitted from the 9-week layoff under §1.1 above <u>and</u> from the first tranche of 5 weeks of layoff under this §1.2.
1.3 August Decree	9 + 9	13.07.2020 - 31.12.2020	<ul style="list-style-type: none"> The weeks of layoff under §1.2 above used after July 12th, 2020 counted against the first tranche of 9 weeks of layoff under this §1.3. The authorisation of the second tranche of 9 weeks was conditional upon: (i) the employer having already benefitted from the first tranche of 9 weeks layoff; <u>and</u> (ii) the payment of a duty.
1.4 <i>Ristori</i> Decree	6	16.11.2020 - 31.01.2021	<ul style="list-style-type: none"> The weeks of layoff under §1.3 above used after November 15th, 2020 counted against the 6 weeks of layoff under this §1.4. Authorisation conditional upon: (i) the employer having already benefitted from the overall 18 weeks of layoff under §1.3; <u>and</u> (ii) the payment of a duty.
1.5 2021 Budget Law	12	01.01.2021 - 31.03.2021 in case of access to the "Cassa Integrazione Guadagni Ordinaria" 01.01.2021 - 30.06.2021 in case of access to the "Assegno Ordinario" and "CIG in Deroga"	<ul style="list-style-type: none"> The weeks of layoff under §1.4 above used after January 1st, 2020 count against the 12 weeks of layoff under this §1.5.

2. EXEMPTION FROM THE OBLIGATION TO PAY SOCIAL SECURITY CONTRIBUTIONS

Those employers (not operating in the agricultural sector) who decide not to benefit from the layoff allowances under §1. above are exempted from the obligation to pay social security contributions **for a period of time expiring on March 31st, 2021** at the latest, the length of which must not exceed the length of the subsidised layoff used in the months of May and June 2020, with a cap of **8 weeks**.

The measure under this §2. is to be authorised by the European Commission.

3. FIXED-TERM CONTRACTS

The 2021 Budget Law extended **until March 31st, 2021** the **term for employers: (i) to renew fixed-term employment contracts; or (ii) to extend their term; once and for a maximum of 12 months** without having to indicate any of the specific grounds usually required by Italian law to this end. The overall duration of renewed or extended fixed term employment contracts must not exceed 24 months in the aggregate.

4. PROHIBITION OF DISMISSAL

The 2021 Budget Law extended **until March 31st, 2021** the prohibition of collective and individual dismissals for redundancy.

Dismissals are still allowed:

- 4.1** in the event of closing down of the operations of the employer without continuation, even on a partial basis, of its activity, provided that such closing down does not amount to a transfer of a going concern;
- 4.2** with regard to those employees who decide to accept an incentive to leave as defined by a collective agreement to be entered into at a company level;
- 4.3** in case of bankruptcy of the employer, without continuation, even on a partial basis, of its activity;
- 4.4** in case of employees being hired by the new contractor in the framework of a change of the contractor under a procurement or a service contract.

The *Ristori* Decree repealed the previous provision of the August Decree allowing employers who dismissed employees for redundancy to **revoke** the dismissals at any time with no penalties, provided however that an application was filed by the employer to give the dismissed employees access to the subsidised layoff allowances on the ground of the “*Covid-19 emergency*” as of the date of the dismissal.

5. REMOTE WORKING

- 5.1** **Until June 30th, 2021 employees with at least one child with serious disabilities** are entitled to work from remote without entering into an agreement on this subject, provided that: **(i)** their job is compatible with a remote working pattern; **and that (ii)** there is no other parent voluntarily not working.
- 5.2** **Until February 28th, 2021 “vulnerable workers”¹** will work from remote. To this end, such workers: **(i)** may be assigned different duties, though within the same category as contemplated by the applicable Collective Bargaining Agreement; **or (ii)** may take part to training activities even from remote.
- 5.3** **Until March 31st, 2021** employers may impose on their employees as a whole or in part to work from remote, without being required to enter into an agreement on this subject with each of them. A simplified information in matter of health and safety at work is to be given to the employees concerned, using the form made available by the Italian National Industrial Accident and Workers’ Compensation Insurance (“*INAIL*”) to this end.

6. VULNERABLE WORKERS

In addition to what illustrated under §5.2 above, in the period January 1st, 2021 through February 28th, 2021 absences from work of vulnerable workers as prescribed by the health authorities will be regarded as periods of hospitalisation.

¹ Employees with certified serious disabilities or in conditions of serious risk from immunodepression / oncological pathologies / life-saving therapies (Sect. 26, para. 2, Law Decree no. 18/2020).

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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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