

## LABOUR NEWSLETTER 10 – 2020

### Labour Law

1. **CROSS-BORDER SECONDMENT IN THE EU - CHANGES**
2. **CONFIRMATION OF RESIGNATIONS BY FATHERS**
3. **QUARANTINE FOR COVID-19 - CLARIFICATIONS FROM INPS**
4. **EXTENSION OF A WAGE GUARANTEE SCHEME - DROP IN TOTAL SALES**
5. **RATIFICATION OF THE AUGUST DECREE LAW**

#### 1. **CROSS-BORDER SECONDMENT IN THE EU - CHANGES**

Legislative Decree no. 122/2020 implementing European law has introduced some interesting changes for the secondment of staff among countries in the European Union. First, all the rules governing secondments have been extended to cover employment agencies that second a worker to a company (i.e. a client) with its offices or a plant in Italy. Secondly, for workers seconded to Italy from an EU country, it is necessary to adopt, when more favourable, the working and employment terms and conditions established by Italian law or collective bargaining agreements (excluding company agreements) for employed workers doing a similar job. This specifically relates to:

- 1) Working hours and minimum rest periods.
- 2) Minimum duration of leave.
- 3) Compensation, including increases for overtime.
- 4) Employment agency terms and conditions, especially in relation to the provision of workers by employment agencies.
- 5) Workplace health and safety.
- 6) Protection of working and employment conditions for pregnant women, women who recently gave birth, children and young people.
- 7) Gender equality between men and women, and other provisions combating discrimination;
- 8) Providing suitable accommodation for workers, where accommodation is provided by the employer.
- 9) Allowances or reimbursements for travel, board and lodging costs for workers required to do off-premises work. This extends to travel, board and lodging expenses for seconded workers in Italy

both when they have to go to their normal place of work and when they are sent temporarily to a workplace that is not where they are currently stationed, in Italy or abroad.

Where the actual duration of a secondment exceeds 12 months (or 18 months, in cases of proven specific needs and conditions), the seconded workers must receive, where more favourable, all the employment and working terms and conditions established by Italian **law** and **local and national collective bargaining agreements** signed by the most nationally representative trade unions. The only exceptions to this are the rules and regulations governing:

- a) Hiring and dismissal.
- b) Non-compete clauses.
- c) Industry-specific supplementary pension schemes.

To prevent illicit conduct, where one or more seconded workers is/are replaced to do the same job in the same location, the duration of the secondment, as far as calculating the period of 12 months (or 18 months), is calculated as the sum of all the periods worked by the individual workers.

## 2. CONFIRMATION OF RESIGNATIONS BY FATHERS

The Italian National Labour Inspectorate has clarified that the father of a child aged three or under must, like the mother, confirm his resignation with the relevant territorial office, regardless of whether paternity leave is used, if the employer learns the worker is a father through any form of communication.

## 3. QUARANTINE FOR COVID-19 - CLARIFICATIONS FROM INPS

In Message no. 3653 of 9 October past, the Italian Social Security Institute (*INPS*) provided clarifications on COVID-19 social security coverage in cases of **home quarantine** (*isolamento domiciliare*), **precautionary self-isolation and vulnerable persons**.

Cases of quarantine or precautionary self-isolation, and this extends to vulnerable persons, do not automatically mean the person is unable to work and, where possible, such people should continue working using a smart working approach.

For vulnerable persons, sick leave will only be recognised in the case of an acute phase of the pathology, as certified by the person's GP. In this case, the person cannot continue working using a smart working approach.

**Quarantine abroad:** A worker abroad who is ordered to quarantine by the competent authorities cannot be recognised as on sick leave in Italy, as there is no order from the Italian healthcare authorities.

**Wage protection schemes and quarantine:** For a worker on a wage protection scheme (*FIS, CIGO, CIGD*), the salary integration scheme will prevail over sick leave, with this also extending to vulnerable persons.

#### **4. EXTENSION OF A WAGE GUARANTEE SCHEME - DROP IN TOTAL SALES**

When the so-called August Decree was ratified by parliament, a provision was included to allow employers who experience a slowdown or suspension of work due to the Covid-19 pandemic to use an additional 9 + 9 weeks of the wage guarantee schemes. Applications to use the wage guarantee schemes must be submitted by the end of the month following the month in which the related slowdown or reduction in work commenced.

Importantly, applications for the **additional 9 weeks** of a wage guarantee scheme require the company to pay an additional contribution, equal to 18% of the global compensation that would have been payable to the worker for the working hours not worked during the suspension or slowdown in work. This contribution is not payable where the drop in total sales in the first six months of 2020 exceeded 20%, compared to the first semester 2019. For a reduction of less than 20%, the contribution will be reduced to 9%.

Please carefully check your position and swiftly get in touch with your contact person should it be necessary to apply for a wage guarantee scheme.

#### **5. RATIFICATION OF THE AUGUST DECREE LAW**

Law no. 126 of 13 October 2020 ratified, with amendments, the August Decree Law, which was extensively covered in Labour Newsletter no. 08\_2020. The following measures were confirmed:

- Suspension of dismissals for justified objective reasons.
- Contribution relief for new hires on open-ended contracts.
- Contribution relief for workers operating in disadvantaged regions (measure put to the EU commission for approval).
- Contribution relief for companies that used COVID-19 wage guarantee schemes in May and June, but that don't apply for new schemes (measure put to the EU commission for approval).