

**Decree Law no. 18 of 17 March 2020  
NEW 'SOCIAL SHOCK ABSORBERS' AND  
EMPLOYMENT RULES**

**Alerts & Updates**

**CORONAVIRUS Health Emergency**

## Decree Law no. 18 of 17 March 2020

### NEW 'SOCIAL SHOCK ABSORBERS' AND EMPLOYMENT RULES

#### I. SOCIAL SHOCK ABSORBERS, WHO IS ENTITLED TO THEM AND HOW TO APPLY

The COVID-19 virus emergency has also created problems for businesses, which may need to reduce or suspend production activities and, consequently, work.

The Decree Law, which is made up of 127 articles, dedicates articles 19-22 to the *“Extension of special measures consisting of social shock absorbers throughout the country”*.

##### A. Ordinary wage subsidy scheme

Companies that already qualify for the wage subsidy scheme have been offered the possibility of applying for a new category known as *“COVID-19 emergency”* for *“events linked to the epidemiological emergency”* that lead to the suspension or reduction of work in 2020.

This new category gives companies the right to benefit from the ordinary wage subsidy scheme for periods starting from 23 February 2020, for up to nine weeks, and in any case up to the end of August 2020.

The above-mentioned events are sufficient to render companies eligible for the wage subsidy scheme, even where the normal requirements are not met (transient events not attributable to the company or its employees; temporary market circumstances).

The Decree Law makes reference to the *“ordinary wage subsidy scheme”*. This would suggest that the amount paid in this new category will be 80% of the total remuneration that would have been payable to the worker for the hours not worked, between zero hours and the maximum contractual working hours.

The reference to the *“ordinary wage subsidy scheme”* also suggests that it includes the notional contribution for workers based on general rules.

Workers who, as at 23 February 2020, were employed by an employer applying for the wage subsidy are entitled to benefit from the scheme.

Unlike for the normal wage subsidy, it is not necessary for the worker to have effectively worked for at least 90 days by the date the application for the new wage subsidy is submitted.

Employers interested in activating the new wage subsidy are exempt from the obligation to inform and consult with the trade unions, which is normally applicable under the rules governing the ordinary wage subsidy scheme.

However, such employers must provide advance notification and carry out a joint consultation, even online, within the subsequent 3 days.

The Decree does not state who the notification should be sent to or with whom the joint consultation should be conducted. We can assume, however, that trade unions should be involved or, where these are absent, the company trade union representatives, as well as the local representatives of the country's largest trade union associations.

Applications for the new “COVID-19 emergency” wage subsidy must be submitted online to INPS before the end of the fourth month following the month in which the suspension or reduction of work began.

It seems that the wage subsidy scheme may apply retroactively, given that it also involves workers whose activity after 23 February 2020 had already been suspended or reduced.

The previous use of other contractual provisions (PAR, ROL, accrued hours, holidays), which allow the reduction / suspension of working hours, does not prevent companies from benefitting from the ordinary wage subsidy scheme for the “COVID-19 emergency”.

The “COVID-19 emergency” category of the wage subsidy scheme may also be activated when the production / organisational conditions that initially led a company to use smart working no longer apply (see also the “Shared protocol regulating measures to combat and contain the spread of the COVID-19 virus in the workplace” of 14 March 2020).

Employers do not need to pay the additional contribution in relation to the new category.

Periods of wage subsidy connected to the new category are not included when calculating the maximum period during which wage subsidies may be received (usually 24 months in a ‘mobile’ five-year period or 30 months in a ‘mobile’ 5-year period for construction companies and companies operating in the excavation and/or stone materials processing sectors).

Periods of wage subsidy connected to the new category also are not relevant for the specific time limits that normally apply to the ordinary wage subsidy scheme (which art. 12 of Legislative Decree no. 148/2015 fixes at 13 continuous weeks, which may be extended each quarter up to a maximum total of 52 weeks).

In practice, this means that a company should be able to benefit from the *cassa integrazione* (wage guarantee fund) for the new category even if the normally-applicable limits have been exceeded.

Furthermore, once the wage subsidy relating to the new category has been used up, companies may still take advantage of the ordinary wage subsidy scheme, without taking into consideration the period already used for the “COVID-19 emergency”.

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### **Companies eligible for the extraordinary wage guarantee fund but not the ordinary wage guarantee fund**

This situation is not expressly dealt with by the Decree Law.

It remains to be seen whether such companies are eligible for the ordinary wage guarantee fund for the “COVID-19 emergency” or for the exceptional wage guarantee fund (*cassa in deroga*) provided for by art. 22 of Decree Law no. 18/2020.

This issued must be resolved considering that, on one hand, these companies fall outside of the ordinary wage guarantee fund and, on the other, they still take advantage of the system of protection in the context of employment relationships as they benefit from the rules on the extraordinary wage guarantee fund.

The fact that the new category of wage subsidy is financed with public money and not contributions is similarly significant.

## B. Ordinary wage subsidy scheme

The ordinary allowances paid by the *Fondi di solidarietà bilaterali* (bilateral solidarity funds) and the *Fondo di integrazione salariale* (FIS - wage subsidy fund) – consisting of a payment linked to the reduction or suspension of working hours and equal to the amount paid based on the wage subsidy scheme (80% of total remuneration) - may be requested for the “COVID-19 emergency”.

This new category gives companies the right to benefit from the ordinary allowance for periods starting from 23 February 2020 for up to nine weeks, and in any case before the end of August 2020.

The ordinary allowance may be requested by employers with an average of more than 5 employees (including apprentices).

Given that the ordinary allowances paid out by the Funds are subject to time limits, the Decree Law expressly states that allowances received due to the “COVID-19 emergency” are entirely irrelevant and therefore do not limit the possibility of benefitting from the ordinary allowance according to normal rules.

For 2020 only, the “company ceiling” will not apply to the ordinary allowance guaranteed by the FIS (this “ceiling” limits the FIS’ contribution to no more than 10 times the sum of the ordinary contributions owed by each employer).

The application must be submitted online to INPS in accordance with the rules applicable for the Funds.

In relation to the new “COVID-19 emergency” category, employers are exempt from the obligation to pay the additional contribution.

In cases where the solidarity allowance is already being paid by the FIS (based on a trade union agreement that provides for a reduction in working hours to avoid or reduce redundancies), the employer may request the ordinary allowance, which may be paid for a period no longer than 9 weeks and with the benefits described above.

On request by employers, ordinary allowances may be paid directly by INPS, without the employers being required to pay the amounts in advance.

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### **Public financing of ordinary schemes and ordinary allowances for the “COVID-19 emergency”**

The maximum expenditure limit for the above schemes amounts to € 1,347.2 million for 2020. INPS monitors the spending limit and, where the limit is reached, even prospectively, no more applications will be considered.

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### **Alternative bilateral solidarity Funds**

These Funds may be asked to pay the ordinary allowance under the same terms mentioned above (work suspended or reduced due to events connected to the “COVID-19 emergency” for periods starting from 23 February 2020 for up to 9 weeks, and in any case before the end of August 2020).

The costs resulting from payments of the ordinary allowance will be borne by the Italian State budget up to a limit of €80 million for 2020. This amount will be transferred to the alternative Funds via a Decree issued by

the Minister of Labour in agreement with the Minister of the Economy.

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### **Bilateral solidarity Funds in Trentino and Alto Adige**

These Funds may be asked to pay the ordinary allowance under the same terms mentioned above (work suspended or reduced due to events connected to the “COVID-19 emergency” for periods starting from 23 February 2020 for up to 9 weeks, and in any case before the end of August 2020).

### **C. Extraordinary wage guarantee fund and ordinary scheme for the “COVID-19 emergency”**

Companies receiving extraordinary wage subsidies as at 23 February 2020 for any of the admissible reasons (reorganisation, company crisis, solidarity contract) may request the ordinary wage subsidy scheme for the “COVID-19 emergency”.

This arrangement has a maximum limit of 9 weeks and may also be paid for workers on reduced working hours who receive extraordinary wage subsidies.

The ordinary arrangement suspends and replaces the extraordinary wage subsidy scheme already in place.

The ordinary allowance is granted on condition the effects of the previously-authorized extraordinary wage guarantee fund are suspended.

The ordinary allowance is not included when calculating the total maximum duration (24 months in a ‘mobile’ five-year period or 30 months in a ‘mobile’ 5-year period for construction companies and companies operating in the excavation and/or stone materials processing sectors).

Similarly, the period during which companies benefit from the ordinary scheme for the “COVID-19 emergency” is not included in calculations of the specific limits provided for the ordinary wage subsidy scheme.

With reference to the ordinary scheme, companies are not required to pay the additional contribution.

**Public financing.** The above scheme will be paid up to a limit of € 338.2 million for 2020. INPS monitors the spending limit and, where the limit is reached, even prospectively, no more applications will be considered.

### **D. Extraordinary wage guarantee fund for ‘normal’ reasons**

In view of reductions in operations deriving from the emergency situation, an exemption from the “procedural terms” applicable in the trade union consultation phase and in the procedure for granting extraordinary wage subsidies has been provided for companies interested in applying for the extraordinary wage subsidy scheme.

### **E. Exceptional wage guarantee fund**

With reference to employers in the private sector, including the agricultural, fishing and voluntary sectors and religious entities recognised for civil purposes, “for which the protection measures provided for by current regulations on the suspension or reduction of working hours in the context of employment

*relationships do not apply*” (wage guarantee fund and Funds), the exceptional wage guarantee fund may be granted for the suspension or reduction of working hours resulting from the “COVID-19 epidemiological emergency”.

No minimum levels of employment are required to take advantage of this scheme.

Applications for the exceptional wage guarantee fund must be submitted to the Regions and autonomous Provinces, which will manage them in chronological order of submission.

The wage guarantee fund is granted via a decree by the Regions and autonomous Provinces, subject to an agreement with the “most comparatively representative organisations in the country (the wording of the Decree Law is unclear as it makes reference to the “*most comparatively representative trade union organisations in the country for employers*”). This agreement is not necessary for employers with 5 employees or less.

More specifically, the Regions and autonomous Provinces send decrees online to INPS within 48 hours of adoption. These decrees are subject to the established expenditure limits.

The Regions and autonomous Provinces also send INPS a list of the beneficiaries of the fund. INPS then makes the payments, subject to verification of compliance with the expenditure limits.

Employees employed as at 23 February 2020 are eligible for this form of income guarantee.

These workers do not need to have effectively worked for at least 90 days as at the date of submission of the request for the exceptional wage subsidy.

This arrangement lasts up to a maximum of 9 weeks and does not require payment of any additional contribution.

The money is paid directly by INPS.

A notional contribution and the related charges are recognised for workers.

For workers in the agricultural sector, the reduced or suspended working hours are considered equivalent to work for the purposes of calculating agricultural unemployment payments.

The government has allocated € 3,293.2 million to this exceptional wage guarantee fund for 2020 and the expenditure limit will be monitored by INPS.

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### **Bilateral solidarity Funds in Trentino and Alto Adige**

The financial resources dedicated to the exceptional wage guarantee fund, to be assigned to the autonomous provinces of Trento and Bolzano, will be transferred to the bilateral solidarity Funds of Trentino and Alto Adige, which authorise the payments.

### **F. Exceptional wage guarantee fund for Lombardy, Veneto and Emilia-Romagna, and for the Municipalities identified in Annex 1 to the DPCM of 1 March 2020**

Employers in the private sector, including the agricultural sector, with production units situated in Lombardy, Veneto and Emilia-Romagna or in the Municipalities identified in Annex 1 to DPCM of 1 March 2020, and

employers who do not have a registered office or production or operating unit in these Regions or Municipalities, only in relation to workers resident or domiciled in these Regions or Municipalities, for which the protections provided for by current regulations regarding suspension of reduction of working hours (wage guarantee fund and Funds) do not apply, may continue to receive the exceptional wage subsidies under articles 15 and 176 of Decree Law no. 9 of 2 March 2020, until the financial resources set aside are depleted.

## II. LEAVE AND ALLOWANCES

### A. Special leave

With effect from 5 March 2020 and only for this year, parent-workers employed in the private sector with children up to 12 years of age may take advantage of “*special leave*” for a continuous or split period of up to 15 days, receiving an allowance amounting to 50% of their pay (calculated based on rules defined in the provision) and with notional coverage of the contribution.

An essentially identical “*special leave*” (in terms of conditions for application and maximum duration, but with different methods of quantifying the amount) is also available for self-employed workers (registered with the *Gestione Separata* or INPS).

The “*special leave*” may be taken by only one parent per family unit for a total of 15 days, provided the other parent is not unemployed, not working and not a recipient of income support tools.

The above also applies to foster parents.

### B. Conversion of parental leave into special leave

Any period of parental leave taken by employees from 5 March 2020 will be automatically converted and must be treated as the “*special leave*” described above, until it is finished.

### C. Unpaid leave

Working parents (including foster parents) in the private sector, with children between 12 and 16 years of age, are entitled to not work for the entire school closure period, without pay or recognition of notional contributions, may not be dismissed and shall have the right to retain their jobs.

This unpaid leave applies provided the other parent works and does not receive any other form of income support.

### D. Baby-sitting bonus

As an alternative to the “*special leave*”, employees and self-employed workers (regardless of whether they are registered with INPS) are entitled to a bonus to purchase baby-sitting services, up to a maximum of € 600; this bonus will be paid through the *libretto di famiglia* (family record card).

## E. How to apply

The procedures for applying for the “*special leave*” and the “*baby-sitting bonus*” have been established by INPS. The social security authority is authorised to reject applications if the expenditure limits laid down in the provision are exceeded.

## F. Public employees

The same provisions on leave apply to public employees.

## III. SICK PAY

For workers in the private sector only, the new provision treats any time spent in quarantine or in home isolation with active surveillance due to COVID-19 in the same way as ordinary “*sick*” leave in terms of economic treatment, and with no effect on calculations relating to the period during which dismissal is prohibited. By way of derogation from existing rules, the underlying costs (normally borne by the employer) are payable by the State up to a maximum limit on expenditure.

## IV. COMPENSATION FOR SELF-EMPLOYED WORKERS AND PROFESSIONALS

A one-off payment of Euro 600 will be paid for March 2020 to freelance professionals with a VAT registration number, coordinated and continuous collaborators registered with the *Gestione Separata* and self-employed workers registered with the special categories of Ago (provided they do not have a pension). This one-off payment is not calculated as income and is paid by INPS, up to the maximum expenditure limit indicated in the provision.

## V. OTHER ALLOWANCES

Other one-off allowances will be paid for seasonal workers working in the tourism sector and in spas, and for workers in the agricultural and entertainment sectors.

## VI. LAVORO AGILE (SMART WORKING)

Workers in the private sector suffering from serious and proven illnesses, resulting in a reduced capacity to work, are given priority in the approval of requests to adopt agile working methods.

Until 30 April 2020, disabled employees categorised in accordance with art. 3, par. 3, Law no. 104/1992, or employees whose family unit includes a person with such a disability, are entitled to carry out their work using agile working methods (provided this is compatible with the characteristics of the work).



## VI. ADDITIONAL MONTHLY PAID HOURS OF LEAVE UNDER LAW NO. 104/1992

The Decree Law grants companies the possibility of increasing - by 12 - the number of days of monthly paid hours of leave provided for by Law no. 104/1992 covered by notional contributions, for the months of March and April 2020.

## VII. PROVISIONS RELATING TO DISMISSALS

For 60 days from the date of entry into force of these measures, employers may not withdraw from an contract for a justified objective reason pursuant to art. 3 of Law no. 604/1966, regardless of the company's number of employees.

It will not be possible to begin collective dismissal procedures for the same timeframe and those started after 23 February 2020 will be suspended.

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