

MAJOR PROVISIONS IN THE AREA OF LABOUR

comprised in the "Cura Italia" Decree "
supplemented by the Liquidity Decree
(DL no. 23 of 8 April 2020)



In a nutshell

This paper recaps major provision in the area of labour contained in Law Decree No. 18, dated 17 March 2020, so-called "Cura Italia" (Heal Italy) Decree, with, [in turquoise](#), the significant labour provisions in the Liquidity Decree (DL no. 23 of 8 April 2020), on «Urgent measures on access to credit and tax requirements for companies, special powers in strategic industries, actions on health and employment, and extension of time limits in administrative and court proceedings»,

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Exceptional provisions on dismissal for objective business reasons

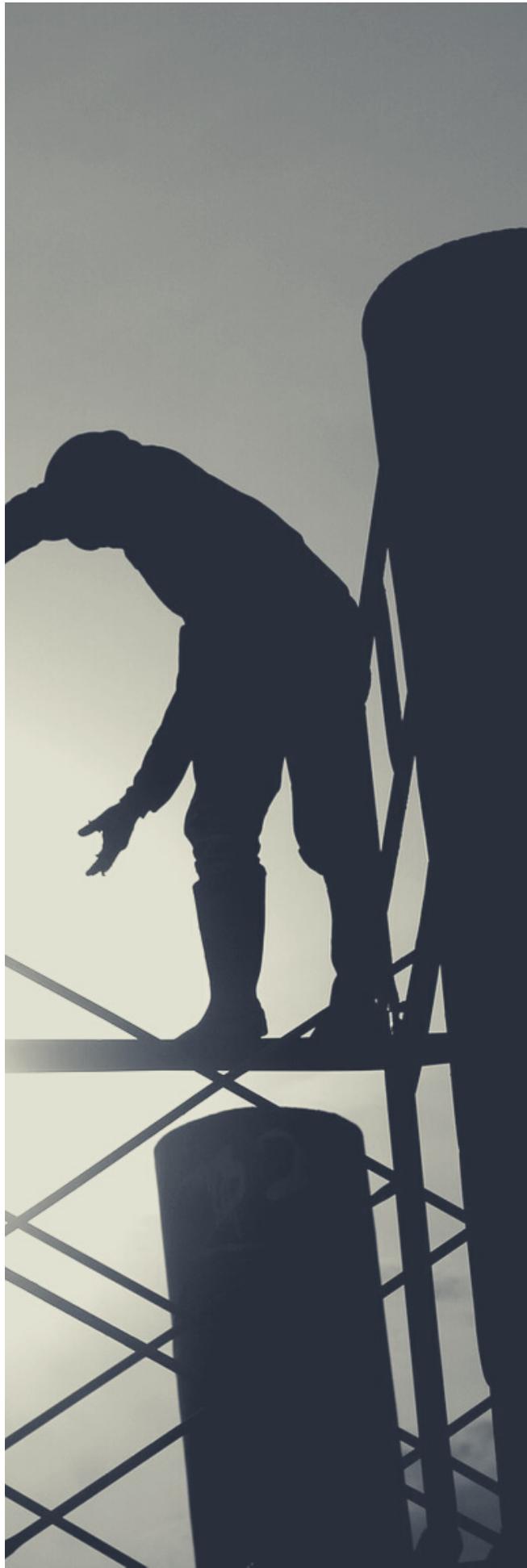
ART 46. - SUSPENSION OF PROCEEDINGS TO DISPUTE DISMISSALS

Collective dismissals and redundancy procedures after CIGS

Starting from the effective date of the Decree (17 March 2020) redundancy procedures in articles 4, 5 and 24, of Law No. 223 of 23 July 1991, are blocked for 60 days and, in the same period, pending proceedings started after 23 February 2020 are suspended.

Individual dismissals for objective business reasons

Until the expiration of the abovementioned time limit, employers, regardless of the number of their employees, cannot terminate employment contracts for objective business reasons under Art. 3, of Law No. 604, dated 15 July 1966.



Access to guarantees of the so-called Liquidity Decree: managing employment levels through trade union agreements

ART. 1, PARA. 1 AND 2, LETT. L, D.L. NO. 23 OF 8 APRIL 2020 - TEMPORARY MEASURES TO SUPPORT THE LIQUIDITY OF BUSINESSES

To guarantee the need for liquidity of businesses based in Italy affected by the COVID-19 outbreak (other than banks and other entities authorized to render lending services), up to 31 December 2020, SACE S.p.A. will secure credits pursuant to EU regulations on state aids and in compliance with specific criteria and conditions listed in the Liquidity Decree, in the event of any form of loans to such companies. Commitments undertaken by SACE S.p.A. under art. 1, para. 1, of D.L. no. 23/2020 are capped at €200 billion.

One of the terms and conditions that apply to the delivery of such securities, the provision under art. 1, para. 2, lett I) of D.L. no. 23/2020 stands out from a labour perspective; it reads «*the company beneficiary of the security undertakes to manage employment levels through trade union agreements*».

The extensive, potentially disruptive literal wording of the provision on a practical level is going to generate a heated debate on the perimeter and contents of employers' commitment to «*manage levels of employment through trade union agreements*» (which may be settled at administrative level or upstream upon conversion of the D.L. 23/2020 into a Law by Parliament).

An initial reading apparently brings light on all cases where, regardless of the size of company operations and the number of terminations, the beneficiary intends to reduce its work force. In other words, the provisions apparently require the consent of the trade unions to any dismissals for objective business reasons by a company that benefitted from securities on loans under Art. 1 of the Liquidity Decree.

If this interpretation were confirmed, the impact would be disruptive because beneficiary companies would not be able, for instance, to complete a collective dismissal procedure without the agreement of the trade unions on the number of dismissals and redundancy selection criteria.

Nor could beneficiaries proceed with individual dismissals, involving more than one employee, for business reasons or its financial conditions, without the prior agreement of the trade unions, expressly because securities on loans are conditional on managing levels of employment through a collective understanding.

Provisions to support businesses

ART. 19 - SPECIAL PROVISIONS ON STANDARD SALARY SUBSIDY AND ORDINARY WAGE ALLOWANCE

Objective conditions

Employers that in 2020 suspend or reduce their working operations for events connected with the COVID-19 emergency.

This applies to employers that may implement the safeguards concerning suspension or reduction of operations while employment is in progress (CIGO- Ordinary Earnings supplement fund, and FIS – Salary subsidy fund, and Bilateral Funds).

Residual accrued holiday

INPS specified that the benefit is not conditional on using up any holiday time accrued by employees and not taken yet.

Eligible employees

Employees working for employers that on 23 February 2020 submitted the application are eligible for standard salary subsidy and ordinary wage allowance, regardless of their seniority with the company.

[As a result of art. 41, para. 1, of the Liquidity Decree, potential beneficiaries include employees hired from 24 February 2020 to 17 March 2020.](#)

Employees working for employers registered with Fondo di Integrazione Salariale (Salary subsidy Fund) with an average headcount of more than 5 are also eligible for the ordinary wage allowance.

INPS specified that beneficiaries include workers that after the date of 23 February 2020 were involved in transfers of business under art. 2112 of the Italian Civil Code and workers involved in a switch between contractors.

Time limits to submit the application

The application needs to be submitted by the end of the fourth month following the one in which the period of suspension or reduction of operation started.

Term

This benefit may be used for periods after 23 February 2020 and for a maximum of 9 weeks and in any event by 31 August 2020.

These periods are not computed in relation to specific time restrictions set out, in general, by the provisions of Leg. Dec. No. 148 of 14 September 2015, expressly referred to by the Decree and, in case of subsequent applications, they are neutralized.

Accumulation with benefits in the prior Decree Law no. 9 of 2 March 2020.

Salary supplement benefits in D.L. no. 9/2020, equal to a maximum of 13 weeks, for specific areas of the country (including Lombardy), may be in addition to salary supplement benefits in D.L. no. 18/2020, equal to a maximum of 9 weeks. A condition for adding up the two benefits is that they do not overlap in time, unless – in such case – beneficiaries are different employees.

Easier activation

Employers are exempted, among others, from the following requirements:

- (i) Disclosure and consultation with the trade unions, under art. 14, Leg. Dec. No. 148/2015 (in any event, disclosure and consultation and joint examination must be completed, including by IT means, in the 3 days following the date of the initial communication);
- (ii) Terms for the procedure for the administrative application under art. 15, Leg. Dec. No. 148/2015 (for the standard salary subsidy) and art. 30, Leg. Dec. No. 148/2015 (for the ordinary wage allowance);
- (iii) Additional contribution under art. 5, Leg. Dec. No. 148/2015.

In the framework of the provisions described above, specifically INPS confirmed that the application need not annex the technical report but merely a list of employees that are beneficiaries of the salary supplement subsidy.

Direct payment by INPS

Upon request of the employer, the standard salary subsidy and the ordinary wage allowance may be paid to eligible employees directly by INPS.

In this last case, INPS specified that the company is not required to provide supporting documentation on specific conditions of financial difficulty.



ART. 20 - STANDARD SALARY SUBSIDY FOR COMPANIES THAT ARE ALREADY APPLYING EXTRAORDINARY EARNINGS SUPPLEMENT FUND

Objective conditions

Employers that – on 23 February 2020 – were applying the extraordinary earnings supplement fund may file an application to activate the standard subsidy under art. 19 of the Decree (see above).

When the standard subsidy is granted, this suspends and replaces any extraordinary earnings supplement fund already in progress.

Term

The benefit may be requested for a term of no more than 9 weeks. The period of standard subsidy is not computed with respect to specific time restrictions set out, in general, by the provisions of Leg. Dec. No. 148 of 14 September 2015, expressly referred to by the Decree.

Special provisions for eligible employees

These may be the same employees that are already beneficiaries of extraordinary earnings subsidies, to fully cover their working time.

Special provisions on extraordinary earnings supplement benefits

In light of the operational constraints resulting from measures aimed to contain the public health emergency, temporarily, to complete the joint examination and the submission of the relevant applications to access extraordinary earnings supplement benefits, the provisions on procedural timelimits in articles 24 and 25 of Leg. Dec. No. 148/2015 do not apply.

ART. 21 - ORDINARY WAGE ALLOWANCE FOR EMPLOYERS THAT HAVE ALREADY IMPLEMENTED SOLIDARITY BENEFITS IN PROGRESS

Objective conditions

Employers registered with FIS (Fondo di Integrazione Salariale) that – on 23 February 2020 – had solidarity benefits in progress may submit an application to activate the ordinary wage allowance under art. 19 of the Decree (see above). When the ordinary wage allowance is granted, this suspends and replaces the solidarity benefit already in progress.

Term

The benefit may be granted for 9 weeks. The period of simultaneous granting of solidarity benefit and ordinary wage allowance under art. 19 of the Decree is

not computed in connection with specific time restrictions set out, in general by certain provisions of Leg. Dec. No. 148 of 14 September 2015, expressly referred to in the Decree.

Eligible employees

These may be the same employees that are already beneficiaries of solidarity benefits, to fully cover all their working hours.



ART. 22 - NEW PROVISIONS FOR EXCEPTIONAL EARNINGS SUPPLEMENT FUND

Conditions

Employers that are excluded from the scope of application of provisions in force on the reduction of and suspension from working hours while employment is in progress (i.e.: CIGO and FIS adn Bilateral Funds), may apply for the activation of Exceptional earnings supplement fund (up to the funding caps allocated in the Decree), in case of events connected with the epidemiologic COVID-19 emergency. This does not apply to employers of domestic household staff.

INPS explained that companies that are not eligible for standard protection have access to Exceptional earnings supplement fund if they may benefit from the Extraordinary earnings supplement fund in case of special events. This explanation is important because certain regional agreements had adopted diverging approaches. The explanation of INPS settled a controversy for commercial companies and travel agencies with a headcount of more than 50.

Residual accrued holiday

INPS specified that the benefit is not conditional on using up any holiday time accrued by employees and not taken yet.

Eligible employees

Eligible employees are the ones on payroll on 23 February 2020.

[As a result of Art. 41, para. 2, of D.L. of the Liquidity Decree, potential beneficiaries include workers hired between 24 February 2020 and 17 March 2020.](#)

Employees are credited with notional social security contribution and ancillary elements.

Term

The benefit may be granted for periods starting from 23 February 2020 for a maximum of 9 weeks.

[Accumulation with benefits in the prior Decree Law no. 9 of 2 March 2020.](#)

[Salary supplement benefits in D.L. no. 9/2020, equal to a maximum of 13 weeks, for specific areas of the country \(including Lombardy\), may be in addition to the salary supplement benefit in D.L. no. 18/2020, equal to a maximum of 9 weeks. A condition for adding up the two benefits is that they do not overlap in time, unless – in such case – beneficiaries are different employees.](#)





Procedural steps

Applications for Exceptional earnings supplement fund are filed with the Region (or Autonomous Province), which processes them on a first come first serve basis.

The benefit is granted by decree of the Region (or Autonomous Province), subject to agreement with the trade unions that are comparatively more representative at national level (the agreement may be entered into electronically).

The decree has to be sent to INPS electronically within 48 hours along with the list of beneficiaries.

As a result of Art. 41, para. 3, of the Liquidity Decree, applications for the Exceptional earnings supplement fund under art. 22 of Decree Law no. 18/2020 are exempt from stamp tax.

Companies with operations in several regions.

Decree no. 3 of the Ministry of Labour adopted together with the Ministry of the Economy and Finance, dated 24 March 2020, specified that if the employer has production units in more than 5 Regions in Italy (Autonomous Provinces included) the Exceptional earnings supplement fund is granted directly by the Ministry of Labour through its function as coordinator of the different procedures. Thus, if this condition is met, companies based in several regions may refrain from starting procedures in each region where they are located and manage a single trade union (electronic) disclosure and consultation procedure at national level and submit to the the Ministry of Labour the application for the Exceptional earnings supplement benefit.

Exceptional provisions

No trade union agreement is required for enterprises that have no more than a maximum of five employees.

With reference to companies with more than 5 employees, INPS specified that the agreement is regarded as accomplished if the electronic simplified disclosure, consultation and joint examination procedure under Art. 19 of Decree no. 18/2020 has been completed. In practice, in light of this explanation, in the case of the Exceptional earnings supplement fund, completing the procedure in the three days after prior notification to the trade unions is sufficient and acceptance of the application need not be conditional on the execution of a trade union agreement.

ART. 18, D.L. NO. 23 OF 8 APRIL 2020 - SUSPENSION OF TAX AND SOCIAL SECURITY PAYMENTS

The Liquidity Decree suspended time limits for paying, among other things, withholding taxes on subordinate employment and income treated as such (Arts. 23 and 24 of Pres. Dec. No. 600 dated 29 September 1973), social security and welfare contributions, and INAIL mandatory insurance premiums falling due in April and May 2020.

The suspension of payment time limits applies on condition that there has been a drop in turnover compared with the same months in the previous tax year, and the drop must not be lower than:

- (i) 33% in March and April 2020, for companies with a turnover not exceeding €50 million;
- (ii) 50% in March and April 2020, for companies with turnover in excess of €50 million.

The suspension of payment time limits also applies to companies that started operations after 31 March 2019 and to non-commercial entities, including non-profit organizations and religious entities recognized for civil law purposes, that exercise institutional activities of a general interest and not as a business.

The new tax and social security payment time limits, with no application of penalties and interest, are set for 30 June 2020. The relevant settlement may be remitted on a single occasion or by instalments in payments of equal amount starting from the month of June 2020.

Any amounts already paid are not refunded.

ART. 30, D.L NO. 23 OF 8 APRIL 2020 - TAX CREDIT FOR THE PURCHASE OF PERSONAL PROTECTION EQUIPMENT FOR WORKPLACES

The tax credit in art. 64, of D.L. no. 18 of 17 March 2020, for costs to sanitize work environments and tools also applies to costs incurred in 2020 to purchase personal protection equipment and other safety devices capable of protecting workers from accidental exposure to biological agents and to ensure interpersonal safety distances.

Tax credits:

- (i) Are equal to 50% of eligible costs supported by documents and incurred in the tax year 2020;
- (ii) Are capped at €20.000 per beneficiary;
- (iii) In their aggregate amount for all taxpayers are capped at €50 million in 2020.

Criteria and procedures to apply and benefit from this tax credit will be defined in a Decree of the Ministry of Economic Development together with the Ministry of the Economy and Finance, that will be issued in the 30 days following the effective date of D.L. no. 18 of 17 March 2020.

Provisions to support employees

ART. 23 - LEAVE AND ALLOWANCE FOR EMPLOYEES OF THE PRIVATE SECTOR REGISTERED WITH THE SEPARATE MANAGEMENT OF SOCIAL SECURITY, SELF-EMPLOYED WORKERS REGISTERED WITH INPS

As a consequence of the suspension of child educational and care services and of schools of all levels under the DPCM dated 4 March 2020, the following provisions apply to working parents of children of 12 years of age or less (or regardless of the age, in case of children with severe disabilities, under art. 4 para. 1 of Law No. 104 dated 5 February 1992 attending schools of all levels or daycare centers).

(i) Parents working in the private sector

They are entitled to benefit from specific leave arrangements for a continuous or fractioned period not exceeding 15 days, receiving an allowance equal to 50% of their salary, with operating procedures that will be set by INPS.

Any parental leave enjoyed by parents during suspension of childcare services and schools under DPCM 4 March 2020 is converted in the leave regulated by art. 23 of the Decree (analyzed in this line of the table) and is not calculated nor remunerated as parental leave.

(ii) Parents registered only with the Separate management of social security (and self-employed parents registered with INPS)

They are entitled to benefit from specific leave arrangements for a continuous or fractioned period not exceeding 15 days, with an allowance equal to 50% of 1/365 of income determined with the method applied to calculate maternity allowance (in case of parents registered with the Separate management), and 50% of conventional daily remuneration fixed annually by the law, based on the type of work (self-employed parents registered with INPS). Operating procedures will be set by INPS.

(iii) Special provisions.

The leave arrangements described in items (i) and (ii) may be taken alternatively by either parent, for a total of 15 days, on condition that the household does not have another parent who benefits from income support tools (for suspension or discontinuance of business operations) or is unemployed or does not work.

Alternatively to taking leave under items (i) and (ii), their beneficiaries may opt for a bonus for the purchase of babysitting services with a cap of €600.



(As a consequence of the suspension of child educational and care services and of schools of all levels under the DPCM dated 4 March 2020, and without prejudice to the foregoing, working parents of children of 12 years to 16 years of age (and on condition that the household does not have another parent who benefits from income support tools for suspension or discontinuance of business operations or is unemployed or does not work):

- are entitled to refrain from going to work for the entire period of suspension of childcare services and schools, without receiving any money or accruing notional social security contributions;
- are entitled to return to their employment (and dismissal is prohibited).

ART. 24 - EXTENSION OF THE TERM OF PAID LEAVE UNDER ART. 33, LAW NO. 104 OF 5 FEBRUARY 1992

The number of days of leave accruing monthly under Art. 33, para. 3, of Law No. 104 of 5 February 1992, has been increased by an additional 12 days.

The additional 12 days may be taken in the months of March 2020 and April 2020.



ART. 26 - URGENT MEASURES FOR THE PROTECTION OF THE ACTIVE SURVEILLANCE PERIOD OF WORKERS OF THE PRIVATE SECTOR

The period spent in quarantine with active surveillance or fiduciary home isolation under Law Decree No. 6 of 23 February 2020:

- (i) is treated like sick leave for the purposes of the economic treatment under applicable provisions (to such effect, the doctor drafts the medical certificate with the details of the measure that triggers quarantine with active surveillance or home isolation with active surveillance);
- (ii) is not included in the calculation of the protected maximum sick leave period.

ART. 27 - ALLOWANCE TO PROFESSIONALS AND WORKERS ENGAGED WITH CONTINUOUS AND COORDINATED COLLABORATION ARRANGEMENTS

Professionals with VAT registration numbers operating on 23 February 2020 and workers engaged with continuous and coordinated arrangements in force on such date, registered for the Separate management of social security under article 2, para. 26, of Law No. 335 of 8 August 1995, who are not recipients of pensions and who are not registered with other forms of mandatory social security, are eligible for an allowance for the month of March 2020 of €600, paid by INPS.

This allowance is not included in the calculation of taxable income under Pres. Dec. No. 917 dated 22 December 1986.

ART. 28 - ALLOWANCE TO SELF-EMPLOYED WORKERS REGISTERED WITH THE SPECIAL MANAGEMENT OF AGO

Self-employed workers that are registered with the special management of AGO active on 23 February 2020, that are not recipients of pensions and that are not registered with other forms of mandatory social security (with the exclusion of Separate management) are eligible for an allowance for the month of March 2020 of €600, paid by INPS.

This allowance is not included in the calculation of taxable income under Pres. Dec. No. 917 dated 22 December 1986.

ART. 39 - PROVISIONS ON AGILE WORK

Disabled subordinate employees in the conditions described in Art. 3, para. 3 of Law No. 104/1992 or subordinate employees with a disabled family member in the conditions in Art. 3, para. 3 of Law No. 104/1992 are entitled to operate in smart working mode on condition that this method is compatible with their work tasks.

Employees of the private sector with proven severe diseases with reduced work capacity have a priority in seeing their requests for smart working accepted.



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