

SUPPORT MEASURES FOR EMPLOYEES:
LEAVE, ALLOWANCES, FACILITATIONS

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Associazione professionale tra

Avv. Stefano Bianchi - Avv. Daniele Carminati - Avv. Claudio Cera - Avv. Enrico Del Guerra - Avv. Mario Di Giulio - Avv. Gian Paolo Di Santo
Avv. Filippo Fioretti - Avv. Marco Giustiniani - Avv. Vittorio Loi - Avv. Francesco Manara - Avv. Nico Moravia - Avv. Mia Rinetti - Avv. Meritxell Roca Ortega
Avv. Marina Santarelli - Avv. Maurizio Vasciminni - Avv. Sven von Mensenkampff - Avv. Roberto Zanchi e Dott. Marco Jannon

Soci Onorari: Agostino Migone de Amicis - Bruno R. Pavia

C.F. - P.I. (V.A.T. N.) 01771720156

1. Premise: the «Covid-19» epidemiological emergency

The «Covid-19»¹ epidemiological emergency currently affecting our Country entails important repercussions on employment relationships and on the business lifecycle.

From a regulatory point of view, the situation is particularly fluid and constantly evolving: it is therefore necessary to keep it continuously monitored, since the provisions that are valid today may no longer be in force tomorrow.

The information provided hereunder is updated to 1 June 2020 and therefore takes into account, *inter alia*, the **Law Decree 19 May 2020 no. 34** (so-called “**Rilancio Decree**”), which has modified, *inter alia*, Law Decree no. 18/2020 (so-called “**Cura Italia Decree**”), already amended upon conversion by Law 27/2020.

Please note that, in addition to the measures adopted at a national level – which are addressed in this document – it is necessary to pay attention to the provisions of the Regions, Prefects and Municipalities, the relevance of which is limited to their respective territories and which cannot be taken into consideration here below.²

2. Leave, time off and absence due to illness and occupational accident

The *Cura Italia* Decree introduces a series of support measures for employees, such as leave, time off and provisions regarding absence from work due to illness and occupational accident, which have been subject to several amendments and integrations both upon conversion by means of Law 27/2020 and by the following Rilancio Decree:

2.1. Special paid leave for working parents

Following the amendments made by the Rilancio Decree, the parental special leave introduced by the *Cura Italia* Decree as a result of the suspension of educational and child-care services as well as of educational activities in schools of all level and grade in favour of working parents, can now be used **until 31 July 2020** and regardless of such suspension, for a continuous or split period in any case **not exceeding 30 days**.

¹ This is the acronym that identifies the respiratory disease caused by the new coronavirus, representing the synthesis of “COrona”, “Virus”, “Disease” and “2019” as year of identification. The virus was instead called “Respiratory syndrome acute severe coronavirus 2” or “SARS-CoV-2”. More information can be found on the website of the Ministry of health: <http://www.salute.gov.it>

² For example, specific restrictive measures for dealing with the emergency have been issued by the Lombardy Region (see orders no. 514, no. 515 and no. 517 dated 21, 22 and 23 March 2020, which have been enacted pending the entry into force of Law Decree no. 19 of 25 March 2020, as well as orders no. 521, no. 522, no. 528, no. 537 and no. 538 dated 4, 6, 11 and 30 April 2020 and orders no. 539, 541 and 547 dated 3, 7 and 17 May 2020).

The parental leave at issue is addressed to parents with children **up to 12 years of age** or, without any age limit, with children affected by serious disabilities pursuant to Law no. 104/1992 enrolled in schools of all level and grade or hosted in day care centres, who are:

- a) **employed** in the private sector, with the right to an allowance equal to 50% of the remuneration calculated pursuant to Legislative Decree no. 151/2011, with coverage by figurative contributions (and conversion of any ongoing parental leave periods);
- b) employees registered to the “**Gestione Separata INPS**” Special Fund , with the right to an indemnity equal, for each indemnifiable day, to 50% of 1/365 of the income identified according to the calculation basis for the determination of the maternity allowance;
- c) **self-employed** workers registered to INPS, with the right to an indemnity equal to 50% of the daily conventional remuneration established annually by law for each indemnifiable day (depending on the type of self-employed work).

The leave has been recognized alternatively to both parents, under the condition that there is no other parent in the family benefiting from income support measures in the event of suspension or termination of the activity or no other parent who is unemployed or not working. With message no. 1621/2020, previously to the amendments of the Rilancio Decree, INPS had clarified that the special paid leave at issue can be enjoyed by only one parent or by both, but not in the same days and always within the overall limit (both individual and as a couple) per family unit (and not for each child).

As an alternative to the special leave, the working parent above may opt for the payment of one or more **bonuses** for the purchase of **baby-sitting** services within the maximum overall limit (increased by the Rilancio Decree) of **€ 1.200**, paid through the so-called family booklet. As alternative, the bonus may be paid directly to the working parent, due to proven enrolment in summer camps, in supplementary childcare services under Article 2 of Legislative Decree 65/2017, in local social-educational services, in centres with educational and entertainment purposes and in childcare supplementary or innovative services. The use of the bonus for the aforementioned supplementary childcare services is, however, incompatible with the use of the nursery bonus under Article 1, Paragraph 355, Law 232/2016, as amended by Article 1, Paragraph 343, of Law 160/2019.

The bonuses at issue are paid also to self-employed workers who are not registered with INPS and, as to employees of the public, private and accredited health sector (doctors, nurses, laboratory technicians, medical radiologists and health workers) they

Same bonuses are granted within the overall maximum limit (also increased by the Rilancio Decree) of € 2.000.

2.2. Right to unpaid time off work for working parents

Employees of the private sector, with **children under the age of 16** (and, therefore, as a result of the amendments made by the Rilancio Decree, also if under the age of 12),

have the right to **abstain from work** for the entire period of suspension of educational services and teaching activities and are also entitled to **keep their job** as there is a **prohibition of dismissal**.

Similarly to the special paid leave mentioned above with respect to working parents with children up to 12 years of age, the right to abstain from work is subject to the condition that, within the family unit, there is no other parent benefiting from income support measures in case of suspension or termination of the activity or any other parent unemployed or not working.

By express provision of the law, the measure at issue does not entitle to the payment of any allowances or figurative contributions.

2.3. Extension of the duration of paid leave pursuant to Article 33, Law no. 104 of 1992

The number of days of paid leave covered by figurative contribution pursuant to Article 33, paragraph 3, Law no. 104/1992 has increased by **another 12 days in total**, which can be used in March and April 2020 and, following the amendments introduced by the Rilancio Decree, by **12 additional days**, which can be used in the months of May and June 2020.

Upon conversion of the *Cura Italia* Decree, Law no. 27/2020 provided that the benefit of extension of the duration of the leave is granted to the personnel of the Police Forces, the Armed Forces, the Prison Police and the National Fire Brigade, including local police of the municipalities, provinces and metropolitan cities, compatibly with the organizational needs of the body to which they belong to and with the prominent needs of public interest to be protected.

2.4. Period of active surveillance treated as sickness

The period spent in quarantine or in home isolation with active surveillance by workers of the private sector is treated as **sickness** for the purposes of the **economic treatment** provided for by the applicable legislation and **cannot** be counted for the purposes of the maximum period of time during which the employee is entitled to keep her or his job when **sick**.

Until **31 July 2020**, for public and private employees who have been recognized as seriously disabled pursuant to Law no. 104/1992 or as affected by immunosuppression or oncological pathologies or who are carrying out related life-saving therapies, the period of absence from work prescribed by the competent health authorities is equated to hospitalization.

By way of derogation from the provisions currently in force, the costs for the employer and for the social security authorities are borne by the **State**, within the spending limits set forth by the emergency legislation.

2.5. INAIL insurance in case of Covid-19 infection at work

In confirmed cases of Covid-19 contracted at work, the certifying doctor draws up the usual occupational accident certificate and sends it electronically to the National Institute for Insurance against Accidents at Work (INAIL), which ensures to the injured person the relevant protection.

INAIL's services are also provided for the period of **quarantine** or fiduciary home isolation of the injured person with consequent abstention from work. The aforementioned occupational accidents are **borne** by the insurance business.

With circular letter no. 13/2020, INAIL has specified that the beneficiaries of this protection are employees and individuals belonging to similar categories, on condition that the subjective requirements provided for by the Presidential Decree no. 1124/1965 are met, as well as the other subjects envisaged by Legislative Decree no. 38/2000 (*i.e.* para-subordinate workers, professional athletes with a subordinate employment relationship, employees belonging to the management category) and other special regulations regarding the insurance obligation and protection.

3. Allowances and bonuses

The *Cura Italia* Decree and, later, the *Rilancio* Decree, have also provided workers with the right to the payment of allowances and bonuses, within cas indicated below:

3.1. Allowances for the month of March 2020

The *Cura Italia* Decree had granted an allowance for the month of March 2020 in the measure of € 600, paid by INPS and not representing taxable income, to the following workers:

- a) **seasonal workers** in the **tourism sector** and thermal establishments who have involuntarily ended their employment relationship in the period between 1 January 2019 and 17 March 2020, provided that they are not benefiting from a pension treatment and are not employed;
- b) **fixed-term agricultural workers**, who, in 2019, carried out at least 50 actual days of agricultural work and are not benefiting from a pension treatment;
- c) **Vat-registered** self-employed workers as of 23 February 2020 and workers who, on such date, have a **cooperation relationship** (so-called "co.co.co."), who are registered with the "*Gestione Separata*" Fund, who are not benefiting from a pension treatment and are not registered with any other mandatory pension fund;

- d) self-employed workers registered with the “**AGO**” **Special Funds**, provided that they are not benefiting from a pension treatment and are not registered with any other mandatory pension fund;³
- e) workers registered with the **Entertainment** Pension Fund, with at least 30 daily contributions paid in 2019, with an income not exceeding € 50,000, who are not benefiting from a pension treatment and are not employed as of 17 March 2020.

3.2. Allowances for the months of April and May 2020

The Rilancio Decree has introduced new allowances, for the months of April and May, in favour of employees damaged by the Covid-19 epidemiological emergency, which, similarly to the allowances granted for the month of March, do not represent taxable income and are paid by INPS. In particular:

- a) self-employed workers registered with the “*Gestione Separata*” fund as well as workers who have a **cooperation relationship** (so-called “co.co.co.”), who are already benefiting for the month of March of the above-mentioned allowance equal to € **600**, have been granted with an allowance of equal amount also for the month of **April 2020**;
- b) self-employed workers registered with the “*Gestione Separata*” fund, who are not benefiting from a pension treatment and are not registered with any other mandatory pension fund, who have suffered from proven losses (*i.e.* reduction of at least 33% of the income of the second two-month period of 2020 compared to the second two-month period of 2019) have been granted with an allowance for the month of **May 2020** equal to € **1.000**;
- c) workers who have a **cooperation relationship** (so-called “co.co.co.”) registered with the “*Gestione Separata*” fund, who are not benefiting from a pension treatment, are not registered with other compulsory pension funds and have terminated their employment relationship on the date of entry into force of the Rilancio Decree, have been granted an allowance equal to € **1.000** for the month of **May 2020**;
- d) self-employed workers registered with the “**AGO**” **Special Funds**, already benefiting for the month of March 2020 of the allowance equal to € **600**, have been granted with an allowance of equal amount for the month of **April 2020**;
- e) **seasonal workers** in the **tourism sector** and **thermal establishments** already benefiting for the month of March 2020 from the allowance equal to € **600**, have been granted with an allowance of equal amount for the month of **April 2020**. The same allowance has been granted to supply of work employees, hired by companies operating in the same sectors, who have involuntarily terminated

³ As indicated by INPS, with circular letter no. 49/2020, these beneficiaries include professional farmers registered with the agricultural “*gestione autonoma*”, assistants and assistants craftsmen, agricultural traders and workers registered with their respective “*gestioni autonome*”, as well as those compulsorily registered with “*gestione autonoma commercianti*” and with the obligatory supplemental pension fund at Enasarco.

their employment relationship in the period between 1 January 2019 and 17 March 2020, who are not benefiting from a pension treatment, from an employment relationship or from the NASPI unemployment allowance, at the date of entry into force of the Rilancio Decree;

- f) seasonal employees of the **tourism sector and of thermal establishments** who have involuntarily terminated their employment relationship in the period between 1 January 2019 and 17 March 2020, who are not benefiting from a pension treatment, from a subordinate employment relationship or from the NASPI unemployment allowance, are granted with an allowance for the month of **May 2020**, equal to **€ 1.000**. The same allowance has been granted, then, in favour of supply of work employees, hired by companies working in the same sectors, who have involuntarily terminated their employment relationship in the period between 1 January 2019 and 17 March 2020, who are not benefiting from pension treatments, from an employment relationship or from the NASPI unemployment allowance, at the date of entry into force of the Rilancio Decree;
- g) workers of the **agricultural sector** already benefiting in the month of March from the allowance under Article 30 of the Cura Italia Decree, equal to € 600, have been granted with an indemnity equal to **€ 500**;
- h) **employees and self-employed workers**, who, as a result of the Covid-19 epidemiological emergency have terminated, reduced or suspended their activity or employment relationship, provided that they do not have an indefinite-term employment relationship, different than the periodical contract and that they are not benefiting from a pension treatment, are granted with an allowance for the months of **April and May 2020**, equal to **€ 600** for each month. Such workers are, namely: (i) seasonal employees belonging to sectors other than that of tourism and thermal establishments, who have involuntarily terminated their employment relationship in the period between 1 January 2019 and 31 January 2020 and who have carried out their working activity for at least 30 days in the same period; (ii) periodical employees who have performed their working activity for at least 30 days in the period between 1 January 2019 and 31 January 2020; (iii) self-employed workers, not in possession of a registered VAT number, not registered with other compulsory pension funds, who in the period between 1 January 2019 and 23 February 2020 have worked under occasional autonomous contracts pursuant to Article 2222 of the civil code and who do not have a contract in force at the date of 23 February 2020, provided that they are already registered at the same date with the “Gestione Separata” fund, with payment in the same period of at least one monthly contribution; (iv) workers in charge of home deliveries with 2019 annual income higher than 5.000, in possession of an active VAT number, registered with the “Gestione Separata” fund and not with other compulsory pension funds;
- i) workers registered with the **Entertainment Pension Fund**, with at least 30 daily contributions paid in 2019, with an income not exceeding € 50,000, who are not benefiting from a pension treatment or an employment relationship at the date of entry into force of the Rilancio Decree, are granted with an allowance equal to **€ 600** for the month of **April and May 2020**.

The abovementioned allowances cannot be cumulated with one another, with the allowances provided for domestic workers (see below), with the allowance provided for by the “last-resort income fund” (see below) or with the allowance for sport workers (see below).

3.3. Allowances in favour of self-employed workers in the municipalities of the former «red areas»

Upon conversion, Law no. 27/2020 included Article 44-*bis* in the *Cura Italia* Decree, granting an additional monthly allowance, equal to € 500 for a maximum period of three months, proportionate to the actual period of suspension of the activity, which does not constitute taxable income and is paid by INPS, in favour of workers with a so-called “co.co.co.” cooperation relationship, of subjects with agency relationships and commercial agency relationships, and self-employed workers or professionals, including holders of business activities, registered with mandatory general social security fund and with its exclusive or alternative forms, as well as with the “*Gestione separata*” fund, and who perform their working activity on the date of **23 February 2020** in the municipalities of the former “**red areas**”⁴ or who are resident or domiciled there on the same date.

3.4. Allowance for domestic workers

The Rilancio Decree has granted an allowance equal to € 500 for the months of April and May 2020 in favour of domestic workers who, at the date of 23 February 2020, have one or more ongoing employment contracts of an overall duration exceeding 10 weekly hours, provided that such workers **are not living together with the employer**. Such allowance cannot be cumulated with other allowances granted in relation to the Covid-19 emergency and is not granted in favour of people benefiting from the emergency income (“*REM*”) or, under certain conditions, to people benefiting from the citizenship income (possibly, a single integration of the citizenship income is made).

3.5. Allowance for sport workers

The Rilancio Decree also introduced an allowance for the months of **April** and **May** 2020, equal to € 600 in favour of sport workers employed through cooperation relationships, granted by the company **Sport e Salute S.p.a.**. Such allowance does not represent taxable income and is not granted in favour of people benefiting from other employment-related income, from the citizenship income, from the emergency income or from the allowances granted as an income support measure under Law Decree 18/2020, as extended and integrated by the Rilancio Decree (see above).

⁴ These are the municipalities identified in «annex 1» to the Prime Ministerial Decree of 1° March 2020, namely: (i) in Lombardy: Bertonico, Casalpusterlengo, Castelgerundo, Castiglione D’Adda, Codogno, Fombio, Maleo, San Fiorano, Somaglia, Terranova dei Passerini; (ii) in Veneto: Vo’.

3.6. The “last-resort income fund”

In order to guarantee income support measures for employees and self-employed workers who, as a consequence of the Covid-19 epidemiological emergency, have ceased, reduced or suspended their activity or their employment relationship, a “last-resort income fund”, of residual application, has been created with the aim of guaranteeing the granting of an **allowance**, whose entitlement criteria and calculation methods are set forth by a decree of the Ministry of Labour. Following the interventions of the Rilancio Decree, the allowance at issue, equal to € 600, has been granted also for the months of April and May 2020.

The ministerial decree of 28 March 2020 defined the entitlement criteria and calculation methods of the allowance in favour of self-employed workers and professionals registered with the private compulsory social security funds.

On this point, Law Decree no. 23 of 8 April 2020 (the so-called «Liquidity Decree») had specified that, for the purposes of the recognition of the allowance, the professionals registered with the funds referred to in Legislative Decrees no. 509/1994 and no. 103/1996:

- a) had to be registered with such fund on an **exclusivity basis** (thereby denying access to this allowance to professionals who were also registered with other pension funds, such as those who also receive employment-related income);
- b) did **not** have to receive a **pension treatment**.

In light of the amendments introduced by the Rilancio Decree, the granting of the allowance at issue **is no longer subject to the condition of the registration**, on an exclusivity basis, with the funds referred to in Legislative Decrees no. 509/1994 and no. 103/1996. Therefore, the only requirement is that of not receiving a pension treatment.

3.7. Bonus for employees in relation to the number of working days carried out at the company’s premises in March 2020

Employees whose overall income did **not exceed € 40,000** in the previous year have been granted with a **bonus**, for the month of **March 2020**, which does not constitute taxable income, equal to € 100, to be proportioned to the number of working days carried out at the company’s premises in the aforementioned month.

As clarified by the Revenue Agency (*Agenzia delle Entrate*) with circular letter no. 8/E of 3 April 2020 and resolution no. 18 of 9 April 2020, the bonus is not due for the days when the worker has not carried out his work at the workplace, having performed his working activity in telecommuting or through smart working modalities, or when he was absent due to any other reason (e.g. holidays, illness, paid or unpaid leave).

The bonus is recognized granted automatically by the employer, who pays it, if possible, starting with the salary of April and, in any case, within the deadline for carrying out the year-end adjustments. The employer, as withholding agent, then recovers the paid bonus with the set off measures under Article 17 of Legislative Decree no. 241/1997.

4. Unemployment allowance applications

The emergency legislation provided for the following measures regarding the presentation of unemployment allowance applications:

4.1. Extension of the deadlines for applying for the NASpI and Dis-Coll unemployment allowances

For the events of involuntary termination of the working activity occurred from 1 January 2020 and until 31 December 2020, the deadlines pursuant to Articles 6, paragraph 1, and 15, paragraph 8, of Legislative Decree no. 22/2015 for the submission of the application for the NASpI and Dis-Coll unemployment allowances have been extended from 68 to 128 days.

The unemployment allowances continue to be granted from the sixty-eighth day following the date of involuntary termination of the employment relationship.

The message no. 1286/2020 and the circular letter no. 49/2020 contain the indications given by INPS with respect to the extension of the deadline at issue.

Following the amendments introduced by the Rilancio Decree, the unemployment allowances which are no longer enjoyed in the period between 1 March 2020 and 30 April 2020, have been extended for **2 additional months** (starting from the date of expiry), on condition that the person concerned is not already benefiting from other income support measures aimed at dealing with the Covid-19 epidemiological emergency.

4.2. Extension of the deadline for the application for agricultural unemployment allowances

In view of the Covid-19 epidemiological emergency, for fixed-term and permanent agricultural workers as well as for those workers similarly considered, wherever resident or domiciled in the National territory, the deadline for submitting applications for agricultural unemployment allowances concerning 2019 has been extended to 1 June 2020.

5. Mobility allowance in derogation

Following the amendments introduced by the Rilancio Decree, employees who have terminated the redundancy fund in derogation in the period between 1 December 2017 and 31 December 2018 and who are not entitled to the NASpI unemployment allowance, are granted with **an allowance equal to the mobility treatment in derogation**, including figurative contribution, **within the maximum limit of 12 months** and, in any case, by 31 December 2020.

The payment of the abovementioned indemnity is provided within the maximum limit of the resources already made available to the Regions and to the Autonomous Provinces

of Trento and Bolzano in light of Article 44, Paragraph 6-*bis*, of Legislative Decree 148/2015.

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