

Legal Report

Preliminary remarks on the provisions of Law Decree no. 104 of 14 August 2020 (so-called “August Decree”) providing urgent measures to support and relaunch the Italian economy



21 August 2020



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Background

On 14 August 2020 the Italian government has enacted a new Law Decree (the “**Decree**”), which contains, amongst others, provisions aimed at supporting and relaunching the economy.

The purpose of this report is to provide a general overview of the main employment provisions set forth in the Decree.

Our team is available to address any specific question you may have.

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1 Additional measures on social benefit plans

The Decree provides the extension of Covid 19 salary integration schemes, already introduced by the previous emergency acts, with additional 18 weeks, also non-continuous, to be used in the period from 13 July 2020 to 31 December 2020.

The first 9 weeks of salary integration (“**First Period**”), are free of charges and can absorb, even partially, the integration periods already applied and authorized since July 12, 2020.

Employers who have used the First Period of salary integration may request additional 9 weeks of treatment (“**Additional Period**”) by paying an additional contribution, to be determined based on a comparison between the company’s consolidated turnover for the first half of 2020 and the corresponding half of 2019¹.

The additional contribution is equal to:

- 9% of the total remuneration that would have been due to the employee for hours not worked during the suspension or reduction of work, in the case of employers with reduction in turnover of less than 20%;
- 18% of the total remuneration that would have been due to the employee for the hours not worked during the suspension or reduction of work, for employers who had no reduction in turnover.

For the purposes of access to the Additional Period of treatment, companies must submit an application to National Social Security Institution (so-called “INPS”) in which they self-certify the existence of the reduction in turnover.

Applications for access to treatment must be submitted, under penalty of forfeiture, by the end of the month following the one in which the period of suspension or reduction of employment started. In the first application, the terms are moved to the 30th day following the entry into force of the Decree.

2 Exemptions from social security contributions for companies that do not apply for supplementary social benefit plans

Private employers, excluding those of agricultural sector, who do not require additional supplementary salary schemes (see Paragraph 1 above) and who

have already received them in May and June 2020, shall be exempt from the payment of social security contributions for an amount up to a maximum of twice the number of hours of supplementary salary schemes already used in May and June 2020, excluding insurance premiums and contributions due to National Institute for the Prevention of Accidents at Work (so-called INAIL), for a **maximum period of four months by 31 December 2020**.

3 Exemptions from social security contributions for open-ended hiring

Until 31 December 2020, employers (with the exception of employers in the agricultural sector) who hire employees with open ended contracts (excluding apprenticeship and domestic service contracts), shall be granted with an exemption to pay social security contributions, **for a maximum period of 6 months** from the hiring date. The exemption is up to a maximum amount of Euro 8,060 per year.

The exemption is also granted where a fixed-term contract is converted to an open-ended contract.

4 Extension of the prohibition to make collective and individual dismissal for justified objective reasons (i.e. reasons related to the production activities, the organisation of the business and its regular functioning)

Starting from 16 August 2020 the situation, whilst awaiting for further clarification, seems to be as follows.

- Employers who apply for the new 18 weeks of Covid 19 salary integration schemes (see Paragraph 1) will be allowed to make collective or individual dismissals for justified objective reasons **after having fully used the 18 weeks** of treatment, also non continuous, between 13 July and 31 December 2020.
- Employers who do not apply for the new salary integration scheme and who have already benefited from the previous treatments in May and June 2020, may be exempted from contributions for a maximum of 4 months (see Paragraph 2). In this case, dismissals **will be allowed at the end of the period of exemption from contributions**, which may vary according to the specific situation of the company at issue.

¹ The additional contribution is not due by employers who have suffered a reduction in turnover of 20% or more and for those who have started business after January 1, 2019.

- Employers who do not apply for the new salary integration schemes, and do not wish to benefit from the contributions exemption, **should not be allowed to undertake collective or individual dismissals for justified objective reasons until 31 December 2020** (i.e. the expiry date of the new salary integration scheme). This based on a prudential interpretation, prevailing so far, of the new rules.
- In any case, collective and individual dismissals are allowed in the following three cases: (a) definitive cessation of business activity with liquidation of the company; (b) bankruptcy without temporary exercise of the activity; (c) company collective agreement, concluded by the comparatively more representative trade unions at national level. The exemption from the prohibition of dismissal already provided for in the previous decrees for employees already employed under a service contract who are re-employed by a new contractor remains unchanged.

The above-mentioned rules are, however, object of debate and some clarifications on the situations actually falling within the ban are expected.

5 Provisions on the extension and renewal of fixed terms contracts

The Decree provides for the possibility, until 31 December 2020, to extend or renew a fixed-term contract, in absence of the reasons provided for by Article 19, paragraph 1, of Legislative Decree no. 81 of 2015, for a maximum period of 12 months, and in compliance with the total duration of fixed-term relationships of 24 months.

The law specifies that renewal or extension without indication of the relevant reasons are allowed only once. This means that further extensions or renewals are permitted, but must be signed in accordance with the ordinary rules.

6 Provisions on the extension of the so-called NASPI and DIS-COLL

The benefits of NASPI (i.e. the new employment social insurance benefit) and DIS-COLL (i.e. the unemployment benefit for workers with an atypical employment contract and to new self-employed) whose period of enjoyment ends in the period between 1 May 2020 and 30 June 2020 shall be extended for a further two months from the day of expiry under certain conditions. The amount recognized for each additional month shall be equal to the amount of the last month's payment due for the original benefit.

