

**PROVISIONS REGARDING  
EXTRAORDINARY AND URGENT MEASURES TO COPE WITH THE  
EPIDEMIOLOGICAL EMERGENCY CAUSED BY COVID-19**

*Updated of March 23, 2020*

**LABOUR LAW ISSUES  
GENERAL ISSUES**

With Message No. 1287 of March 20, 2020, whose full text is available at the following link - [INPS - message no. 1287](#), INPS (the Italian National Social Security Institution) provides the first clarifications and operating instructions about the emergency shock absorbers introduced by the “Cura Italia” Decree Law No. 18 of 2020.

In short:

### **Ordinary redundancy fund (CIGO) with a special single cause “COVID-19 National”**

In relation to previous legislation in force on CIGO, the subjects that may have access to it, do not change: they are companies listed in Article 10 of Legislative Decree No. 148 of 2015, first of all the Industrial Manufacturing companies in every sector and branch.

Commercial companies remain excluded (including those employing more than 50 employees, however have access to the special redundancy fund CIGS).

The application for CIGO with the specific special single cause “Covid-19 National” must be submitted to INPS with the ordinary modalities already in force, within the end of the fourth month following that in which the suspension or reduction of the working activity started.

The employer shall demonstrate the real suspension/reduction of the production activity. The ordinary burdens of proof about the temporary nature of the suspensive event are not provided for, as well as its non-imputability to the employer or to the employees.

No additional contribution is due.

The top-up payment has a maximum duration of nine weeks (even with interruptions) in periods between February 23, 2020 and August 31, 2020 (therefore it apparently seems that the current reason of CIGO may be “converted” in an emergency reason). It should be noted that the limit of “9 weeks” is calculated in relation to individual days of suspension and to the distribution of the weekly working time and hence it can concretely change (see INPS Newsletter No. 58 of April 29, 2009).

The normal limits of enjoyment (namely 52 weeks in the two-year period; 24 months in the movable period of five years and that of 1/3 of the workable hours) are not contemplated and the periods of enjoyment are not taken into account for the purposes of a next different reason of recourse to the CIGO.

Employees working as of February 23, 2020, irrespective of their length of service, benefit from the payment.

By way of derogation from the normal rule, the direct provision paid by INPS may be requested without the need to demonstrate the company’s financial difficulties.

### **Special redundancy fund (CIGS) – conversion into CIGO**

Companies availing themselves of a compensation of the CIGS can request its suspension and request the conversion (for a maximum period of 9 weeks) to the CIGO with a special single cause “Covid-19 National” (and at the end, by means of simplified procedure, get back the CIGS).

The use of CIGO takes place, even in this case, in accordance with the modalities and conditions mentioned in previous point.

The “conversion” of the CIGS into the CIGO is not admitted for companies excluded by the ordinary redundancy fund’s compensation (see above).

### **Exceptional ordinary redundancy fund CIGO D “COVID -19 National”**

Application to CIGO D may be obtained by all employers (unless the employers of domestic workers) who may not apply to CIGO (therefore the commercial companies may have access to it), to FIS (Salary Supplement Fund) and to the solidarity funds, or that have exhausted the top-up payments to which they have generally applied.

The employees working as of February 23, 2020, irrespective of their length of service, benefit from the compensation.

It has a maximum duration of 9 weeks.

It is cumulative with the exceptional redundancy fund created by Emilia Romagna and Lombardy Regions and concerning the municipalities of the original “red areas”.

The application of the shock absorber shall be preceded by trade union agreement between the employer and (local, most representative) Trade Unions executed also electronically, for companies employing more than 5 employees.

Companies employing less than 5 employees are exempted from the trade union agreement.

Doubts still persist about the application of the shock absorber when, despite the invitation of the employer to negotiate, the Trade Unions, effectively, even if without intention, avoid the invitation (not unlikely hypothesis, given the probable massive application of the exceptional redundancy fund).

No additional contributions are due and there is no percentage decrease of the compensation in case of its extension.

The application must be submitted to the Region (or to autonomous Province concerned) competent to instruct – in chronological order of receipt – the same application, to verify that the conditions are fulfilled and to provide the compensation (which consists in a direct disbursement, without employer’s advance payment).

### **Ordinary allowance – Salary Supplement Fund (for companies with more than 5 employees) – Sector solidarity funds.**

It concerns the employees (included the apprentices with professional training apprenticeship, excluded homeworkers and managers, unless, for only those enrolled in the Solidarity Funds, otherwise provided for in the related regulation).

The FIS allowance is refinanced, by reason of the emergency, pursuant to the “Cura Italia” Decree.

Conditions and application modalities are the same of those provided for CIGO.

### Summary of the measures introduced by the Prime Ministerial Decree of March 22, 2020

The provision of the Prime Minister ([Prime Ministerial Decree of 22 March 2020](#)) entered into force on March 23, 2020 and shall be effective (unless extensions) up to April 3, 2020.

The adopted measures are added to those already in force pursuant to Prime Ministerial Decree of March 11, 2020 and to Ministerial Decree of March 20, 2020 of the Ministry of Health (also such provisions are effective up to April 3, 2020)

The provisions adopted with the Prime Ministerial Decree in question are listed hereinafter:

#### **1) Businesses that must be suspended and businesses that may be carried on**

- a) All industrial or commercial productive activities different from those listed in Annex 1 to the Prime Ministerial Decree ([link](#)) are suspended up to 3 April, except if the same can be carried on in remote modalities or smart working.
- b) All (industrial or commercial) activities that, even if not listed in Annex 1, are functional to ensure the continuity of the supply chains of the activities listed in Annex 1 to the Prime Ministerial Decree, are however allowed.
- c) The activities, referred to subparagraph b), if considered as non-functional to those referred to in Annex 1 to the Prime Ministerial Decree may however be suspended by the competent local Prefect;
- d) The continuation (or not) of the retail businesses (the so called small shops or small to medium sized shops and supermarkets) remains governed by the above-mentioned Prime Ministerial Decree of March 11 and Ministerial Decree of March 20 that are already in force.

#### **2) Productive industrial businesses operating on a continuous cycle**

- a) Businesses – obviously different from those already allowed because included in Annex 1) to the Prime Ministerial Decree – whose interruption would gravely damage the plants or would cause accident hazards, are exclusively allowed, but after prior notification to the competent local Prefect of the place in which (each) production unit concerned is established;
- b) After having made the notification, the prefectorial authorization is not necessary. Nevertheless, the Prefect may suspend the businesses if considers that the conditions set out in subparagraph a) are not met.

#### **3) Other operating businesses.**

- a) In accordance with the specific indications set out in letter e) of the Article of the Prime Ministerial Decree in question, the public utility and business services, after prior notification to the competent Prefect (with specific procedure);
- b) Entrepreneurial activities of strategic importance (for the National Economy and Defense) after prior notification to the competent Prefect;
- c) Any business that may be considered as functional to face the emergency;

Professional activities, without prejudice to the precautionary requirements provided for by the Prime Ministerial Decree of March 11, 2020 (*smart working*, where possible, interpersonal distance, individual and collective health and hygiene devices). With reference to professional activities, a more restrictive rule was introduced by Lombardy Region by means of own Decree No. 514 of March 21, 2020 (see Article 3 of Decree Law No. 6 of 2020, for the governance of the relationships between the provisions of the Executive branch and the regional provisions). Recalling the Decree of Lombardy Region and with reference to the territory of the same “the activities of the professional firms are closed, except those related to services that cannot be deferred or urgent services or services subject to deadlines” (see also Article 83 of the Decree Law No. 18 of 2020).

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