LP ADVISORY

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IN QUESTA EDIZIONE

1 DDL Law on Labor within the Italian Budget Law for 2025

To all customers

In the Official Gazette of the Italian Republic No. 303 of 28 December 2024, Law No. 203/2024 on 'Labour Dispositions' was published, effective from 12 January 2025. The most important provisions are lis outlined below.

1. Occupational Health Surveillance and Amendments to Legislative Decree 81/2008 (Article 1)

Significant changes are introduced concerning health and safety on the workplace, specifically regarding health surveillance performed by the occupational health physician. Key provisions include:

1.1 Pre-employment medical examinations

Preventive medical examinations under art. 41, par. 2, of Legislative Decree 81/2008 can now be conducted before employment, in order to assess the worker's fitness for the specific role (letter d, point 1.1).

1.2. Medical examinations following extended absences

For absences exceeding sixty (60) consecutive days due to illness or injury, the occupational health physician will assess the need for a preventive medical examination before the worker's return to

work (letter d, point 1.3). Even if deemed unnecessary, the physician must formalize the fitness assessment for the specific role to be performed by the worker.

1.3. Avoidance of duplicate medical tests

The occupational health physician must consider prior documented clinical, biological, or diagnostic tests in the worker's health and risk file (letter d, point 2) so as to avoid redundant testing, provided it aligns with the objectives of preventive or surveillance medical examinations.

2. Suspension of Wage Guarantee Payments (aka Unemployment Benefits) during concurrent employment (Article 6)

Art. 6 of the Labor Decree amends art. 8 of Legislative Decree 148/2015, redefining the rules for employment by workers receiving wage guarantee funds (ordinary and extraordinary).

Workers who receive wage supplementation treatment may work as employees or be self-employed, but:

2.1. they shall lose entitlement to benefits on days they perform work for an employer other than the one requesting wage integration;

2.2. they must notify the Italian National Institute for Social Security (INPS) prior to employment commencing.

Failure to provide timely notice shall result in the loss of all wage guarantee benefits.

3. Amendments concerning Outsourced Work (Article 10)

Major simplifications and exceptions to fixed-term contract institutions are introduced in the context of outsourced work ("*lavoro somministrato*") with the aim of increasing flexibility and facilitating the use of this form of contract. More specifically, workers hired on a permanent basis as well as those with specific characteristics or employed for special needs - such as seasonal activities, shows, start-ups, replacements for absentees or workers over 50 - will not be considered in the calculation of the quantitative limits for fixed-term outsourced contracts (currently 30% provided for fixed-term workers compared to total permanent contracts).

Additionally, the 24-month duration limit for fixed-term assignments is abolished when the contract between the agency and the worker is open-ended.

4. Seasonal Work – Authentic Interpretation (Article 11)

Article 11 introduces the so-called "authentic interpretative provision" regarding seasonal activities, expanding the relevant definition to include - in addition to the ordinary categories of workers listed in Presidential Decree no. 1525 of 7 October 1963 - all those activities organized to address "intensifications" of work during specific periods of the year. It also encompasses activities meeting technical-production needs or linked to the seasonal cycles of production sectors or markets served by the company, as stipulated in collective agreements entered into by the most comparatively representative organizations.

5. Duration of Probation Periods for Fixed-Terms Employment Contracts (Article 13)

Art. 13 establishes uniform criteria for determining the duration of probationary periods in fixed-term employment contracts, thereby amending Legislative Decree no. 104 of 27 June 2022 (so-called "Transparency Decree").

The new provisions stipulate that, unless more favorable terms are provided by collective bargaining agreements, the duration of the probationary period shall be calculated based on one day of actual service for every fifteen calendar days, starting from the commencement of the employment relationship.
However, minimum and maximum limits for the duration of the probationary period are set as follows:

- for contracts lasting up to six months, the probationary period must not be less than two days or exceed fifteen days.
- for contracts lasting between six and twelve months, the probationary period must range from two days to thirty days.

This amendment aims to ensure greater uniformity and clarity while allowing for the application of more favorable provisions contained in applicable collective bargaining agreements.

6. Smart/Agile Working (Article 14)

Art. 14 reiterates that employers are obligated to notify the Ministry of Labor and Social Policies, within a period not exceeding five (5) days, of the roster of employees engaged in "smart working" arrangements, specifying the commencement and termination dates of the respective periods. More specifically, as a result of the enactment of the Collective Bargaining Agreement, employers shall:

- within five (5) days of the agreement's commencement: transmit, through telematic means, the identity of the employee with whom an agile/smart working agreement has been entered into in accordance with the provisions of Law no. 81/2017;
- within five (5) days of any modification or termination of the agreement: communicate any alterations to the agreement's duration or notify its conclusion.

7. New Hybrid Contract (Article 17)

Art. 17 introduces the possibility for enterprises employing more than 250 individuals and certain categories of self-employed workers to execute hybrid contracts with mixed purposes (so-called "*contratti ibridi a causa mista*"). This contractual arrangement encompasses the following:

- a part-time, long-term employment relationship, with working hours ranging between 40% and 50% of the standard full-time schedule;
- a self-employment agreement, conducted on a freelance basis and certified by the Certification Commissions pursuant to art. 76 of Legislative Decree no. 276/2003, enabling eligibility for the simplified tax regime applicable to self-employment income.

From a fiscal standpoint, for workers entering into such hybrid contracts with employers having a workforce exceeding 250 employees, the impediment to the advantageous flat-rate tax regime set

forth in art. 1, par. 57, subparagraph (d-*bis*) of Law no. 190/2014, shall not apply for the purpose of determining self-employment income, provided that the following conditions are met:

- the part-time employment contract implies working hours between 40% and 50% of the standard full-time schedule;
- the self-employment activity, including coordinated and continuous collaborations, is duly regulated and certified in compliance with the applicable legal framework.

8. Dual Apprenticeship (Article 18)

Article 18 introduces the possibility of converting an apprenticeship for obtaining a professional qualification or diploma into an apprenticeship for advanced training and research, subject to the attainment of the relevant qualification and the corresponding update of the individual training plan. A student who has obtained a secondary education qualification through an apprenticeship contract for a professional diploma or qualification may potentially continue their studies while remaining under an apprenticeship contract with the same employer.

9. Resignation due to Conclusive Facts (Article 19)

The Draft Law introduces the new par. 7-*bis* to art. 26 of Legislative Decree no. 151/2015, governing the consequences of unjustified absences exceeding the periods stipulated by the applicable collective bargaining agreement or, in the absence thereof, a period exceeding fifteen (15) days.
This new regulation seeks to address the issue of "fictitious" unjustified absences, often exploited to pressure employers into initiating termination for the purpose of obtaining NASPI unemployment benefits. By implementing this measure, greater protection is afforded to employers, alleviating procedural and financial burdens while ensuring fairness and accountability in employment relationships.

9.1 Procedure and Obligation for Employers

- Notification to the Labor Inspectorate. In the event of an employee's unjustified absence, the employer is obligated to notify the competent office of the National Labor Inspectorate (INL) for the relevant territory. Such notification should preferably be submitted via certified electronic mail (PEC).
- Verification by the INL. Upon receiving the employer's notification, INL may carry out investigations to verify the accuracy of the report and the circumstances surrounding the employee's absence.

In case the unjustified absence is confirmed, the employment relationship is considered to be terminated by voluntary resignation of the employee "by conclusive facts," without the need to activate either the online telematic resignation procedure or pay the so-called dismissal fee (*ticket di licenziamento*) by the employer.

9.2 Exclusions and Reversal of the Burden of Proof

The mechanism of resignation by "conclusive conduct" does not apply if the employee demonstrates that the absence was caused by:

- force majeure circumstances that prevented communication; or

- employer-related actions or situations that justified the employee's inability to fulfill their obligation to be present.

9.3 Implications for NASPI Unemployment Benefits

In instances where the employment relationship is terminated due to resignation by "conclusive facts", the employee is rendered ineligible for NASPI unemployment benefits, as the requirement of involuntary unemployment is not satisfied.

9.4 Operational Regulation and Legislative Objective

The effective implementation of this provision is contingent upon specific guidelines to be issued by the Ministry of Labor and the National Labor Inspectorate (INL). These guidelines shall establish the procedural framework for notifications and verifications under this regulation.

The overarching aim of this provision is to combat the misuse of unjustified absences, often employed to compel employers to initiate dismissals for the purpose of claiming NASPI benefits. By doing so, the regulation provides enhanced protections for employers, mitigating procedural and financial burdens while promoting fairness and integrity in employment relationships.

10. Telematic Mode for Conciliations (Article 20).

Art. 20 introduces a remarkable simplification in labor-related conciliation procedures by allowing these processes to be conducted via telematic means through audiovisual connections.

This provision aims to reduce costs associated with travel and procedural management and, meanwhile, preserve reliability and transparency in the execution of conciliation proceedings.

The technical specifications governing the conduct of telematic conciliations shall be established through a decree issued by the Minister of Labor and Social Policies, to be promulgated within twelve (12) months of the law's effective date.

11. Deferment of payment of tax debts

Art. 2 of Decree-Law no. 338 of 9 October 1989 contains a new paragraph, no. 11-*bis*, by virtue of which, as of 1 January 2025, INPS and INAIL may allow the payment in installments, up to a maximum number of 60 monthly installments, of amounts due as social security and assistance contributions and insurance premiums (including ancillary charges by law), which have not yet been entrusted to collection agents for recovery.

A special ministerial decree, to be issued within sixty (60) days from the date of entry into force of the Labor Collective, shall identify the cases and methods in which INPS and INAIL may grant deferred payment within the aforementioned maximum number of installments.

Our Firm remains available for any further clarification or needs.

Milan, 29 January 2025

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