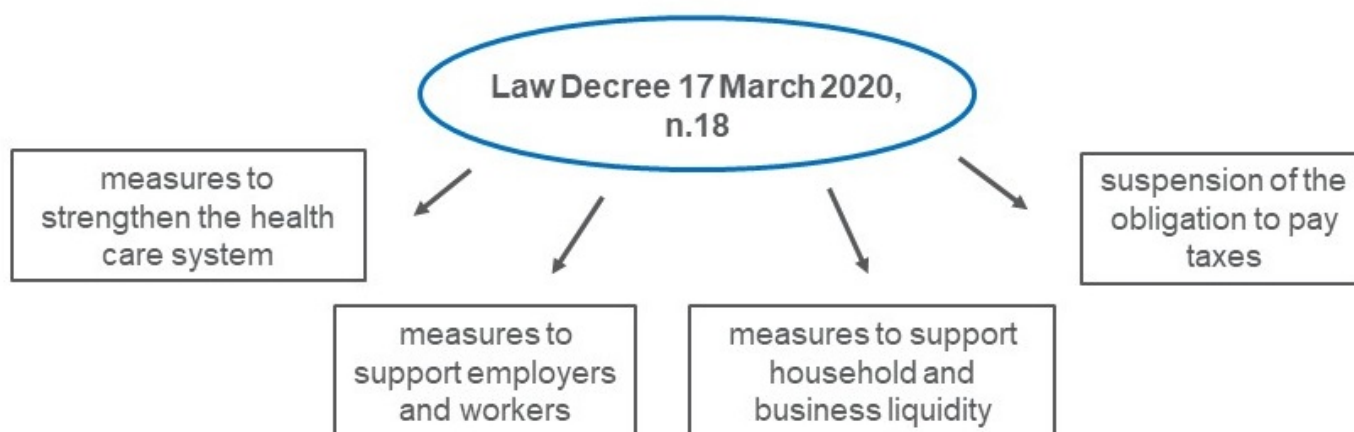


New economic measures introduced by Decree Law no. 18/2020, the so-called "Cura Italia"

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After a long wait, **Law Decree no. 18/2020** (available here) on "**Measures to strengthen the national health service and for economic support for families, employees and businesses related to the COVID-19 epidemiological emergency**" was finally published in the Official Gazette no. 70 of 17 March, 2020.

The new emergency provisions were introduced in order to counter the spread of COVID-19 through a **strengthening of the national health service**, and to prevent the transitional crisis in economic activities induced by the epidemic from having a permanent effect on the national economy, ensuring financial support to families, businesses and workers. To this end, the Decree Law issued on Monday sets out the following measures:



Job-supporting measures play a fundamental role in the new Decree: from the strengthening of social shock absorbers to liquidity support for businesses, from the suspension of "economic" dismissal to the granting of special leave.

In order to provide a complete picture from a labour law point of view, the following is a summary of the main measures having a direct impact on employment relations management.

1. Social shock absorbers for the whole national territory

The Law Decree first of all sets out an increase in the social shock absorbers, increasing income support funds to almost €5 billion. In particular, the measures concern:

> **Ordinary unemployment benefit - CIGO (art. 19):** For employers who were forced to suspend or reduce their

working activity due to events related to the epidemiological emergency, a **simplified procedure** has been introduced for filing a request for ordinary unemployment benefit (CIGO).

Indeed, employers applying for CIGO due to COVID-19 are **exempted** from the obligation to:

1. start a trade union information and consultation procedure (art. 14 of Legislative Decree no. 148/2015);
2. comply with the 15-day term from the beginning of the suspension or reduction of the working activity (art. 15 paragraph 2 of Legislative Decree no. 148/2015);
3. pay the additional contribution equal to 9, 12 or 15% (art. 5 of Legislative Decree no. 148/2015).

However, the obligations of information, consultation and joint examination, which must be carried out also digitally within three days of the request, still stand.

Furthermore, a unique and special motive to deal with the health emergency has been provided: the **motive "Covid-19 emergency"**. The application for CIGO shall therefore contain the above-mentioned motive and may be submitted for periods starting from 23 February, 2020, for a maximum of nine weeks, and in any case before the end of August 2020.

Finally, for the workers receiving the new CIGO, the requirement to have worked at least 90 days in the production unit is waived (provided by art. 1, paragraph 2, of Legislative Decree no. 148/2015): to benefit from this shock absorber it is sufficient that they are employees of the company as of 23 February, 2020.

> Extraordinary unemployment benefit - CIGS (art. 20): Even companies **already operating under extraordinary unemployment benefit (CIGS)** can request CIGO.

Indeed, companies that are undergoing an extraordinary salary integration treatment as of 23 February, 2020, can apply for CIGO with the simplified modalities and with the above mentioned derogations for a period not exceeding nine weeks. The granting of the ordinary treatment suspends and replaces the ongoing extraordinary integration treatment. Consequently, the granting of the CIGO is subject to the interruption of the effects of the previously authorized CIGS.

> Wage Integration Fund - SIF (Art. 19 and 21): The ordinary allowance set out by Art. 19 is granted only for the stated period and, in 2020, also to employees working for employers registered with the Wage Integration Fund (SIF) that employ on average more than five employees. In this way, employers with more than five employees, which do not fall within the scope of the Wage Integration Fund – either ordinary or extraordinary – and who belong to sectors where no agreements for the activation of a Solidarity Fund have been executed, can access an income support instrument in case of suspension of work due to COVID-19.

Furthermore, employers registered with the SIF who have a solidarity allowance in course as of 23 February, 2020, may apply for the ordinary allowance for a period not exceeding nine weeks. The granting of the ordinary treatment suspends and replaces the ongoing solidarity allowance.

> Derogated unemployment benefit - CIGD (art. 22): The Decree extends to all businesses employees –including businesses with less than five employees –not protected by unemployment benefit or Solidarity Funds, the possibility to access the derogated profits unemployment benefit (CIGD) for the duration of the suspension of the employment relationship and in any case for a period not exceeding nine weeks.

In fact, employers in all productive sectors – including agriculture, fisheries and the third sector – who suspend or reduce their activity as a result of the epidemiological emergency, can resort to the CIGD with the new **motive "COVID-19"**. This possibility is extended also to businesses already benefiting from the Extraordinary profits unemployment benefit (CIGS).

The derogated unemployment benefit is granted by a decree from the region or autonomous province where the

relevant production unit is located, **subject to a trade union agreement** that can also be digitally executed with the trade unions at national level. Such an agreement is not required for companies employing up to five employees.

> **Allowance for self-employed individuals (Art. 27):** A one-off allowance of €600 for self-employed workers whose income was lower than €50,000. The indemnity is granted for the month of March 2020 to professionals with a VAT number, coordinated and continuous collaborators (co.co.co.), self-employed workers registered with the General Compulsory Insurance (AGO) (art. 28), as well as to seasonal and tourism workers (art. 29), agricultural workers (art. 30) and entertainment workers (art. 38).

> **Fund for last resort income (Art. 44):** In order to ensure income support measures for employees and self-employed workers who, due to the COVID-19 epidemiological emergency, ceased, reduced or suspended their activity or employment, a €300 million "Fund for last resort income " has been established. This residual fund is aimed at all those excluded from the €600 compensation who were negatively affected by the health emergency. The priority criteria and the procedures for awarding the indemnity are defined by a decree of the Minister of Labour and Social Policies, jointly with the Minister of Economy and Finance.

2. Reduction of working time and income support for employees

In this particular emergency period, Law Decree no. 18 introduced a series of measures primarily aimed at strongly protecting employees affected by the reduction or suspension of work, ensuring them not only economic support measures, but also job security.

> **Dismissal prohibition (art. 46):** As from the date of entry into force of this Decree (i.e. March 17, 2020), companies may not dismiss their employees for the next 60 days. In particular:

1. Collective dismissals: employers will be **precluded from initiating procedures for collective dismissals** (pursuant to Articles 4, 5 and 24 of Law No 223 dated 23 July, 1991) for the next two months, whilst pending procedures initiated after 23 February, 2020, will remain suspended during the same period;
2. Individual dismissals: during the aforementioned two-month period, employers, regardless of the number of employees, shall **not be allowed to proceed with an individual dismissal on the basis of "justified objective reason"** (pursuant to Article 3 of Law No. 604 of 15 July, 1966), despite having suffered negative consequences caused by the health emergency (such as the collapse of orders, the closure of departments or the suspension of production, etc.).

This provision immediately raised numerous discussions on its constitutionality, as it may significantly affect several situations that may have no connection with the current health emergency and, moreover, it would appear to be in conflict with the constitutional principle of freedom of economic initiative, guaranteed by Article 41 of the Constitution. Moreover, this provision (introduced with an emergency legislative measure issued not by parliament but by the executive power) arguably leads to a clear imbalance in the sinallagmatic relation typical of contracts, since the emergency legislator substantially prohibits one of the two contractual parties from the right of withdrawal (which is guaranteed by the Civil Code, subject to verification of its legitimacy).

Finally, until April 30, 2020, absence from work by one of the cohabiting parents of a disabled person **cannot constitute just cause for withdrawal from a employment contract pursuant** to Article 2119 of the Italian Civil Code, provided that the impossibility to take care of the disabled person due to the suspension of the Social Welfare Centres' activities (art. 47) is communicated and justified in advance.

> **Quarantine equals sick leave (art. 26):** The new Decree provides for the **equating of sick leave to the period**

spent in quarantine or in permanent home trust with active supervision for COVID-19, for the purposes of economic treatment and of computation in the relevant contractual period, for employees in the private sector (equalization for the public sector was already included in Law Decree dated 9 March, 2020).

For this period, the employee's doctor must issue the illness certificate stating the details of the measure that originated the quarantine or permanent home trust.

The costs for private workers on sick leave are borne by the state, rather than INPS and employers.

> **Special leaves (art. 23):** In support of working parents –employed or self-employed –whose children are forced home following the suspension of school services, a special parental leave is provided. Indeed, from 5 March, 2020, working parents have the possibility to take a parental leave for 15 additional days:

1. **With 50% salary**, for children not older than 12 years or with disabilities in a situation of proven seriousness;
2. **without pay**, but with a ban on dismissal and the right to remain in employment, for children between the ages of 12 and 16.

Both parents shall alternately be granted leave, for a continuous or fractioned period, for a total of 15 days per month.

As an alternative to parental leave, employees with children under the age of 12 may apply for a so-called "babysitter voucher" up to an overall maximum limit of €600, increased to €1,000 for –public and private –healthcare personnel and public security, defence and rescue personnel employed for COVID-19 epidemiological emergency-related activities (Art. 25).

> **Law no.104 leaves (art. 24):** In the next two months, employees who care for a seriously disabled family member may apply for up to **12 additional days of paid leave** covered by imputed contributions. Therefore, the leaves provided for by Law no. 104 dated 5 February, 1992, may be increased up to a total of 12 additional days in March and April 2020.

> **Right of precedence for agile work (art. 39):** Like the previous emergency measures, the new Decree also reserves a fundamental role for the performance of work in agile working mode (so-called smart-working) pursuant to articles 18 to 23 of Law no. 81/2017. In particular:

1. private workers suffering from serious and proven pathologies, with a reduced working capacity, are given priority in the acceptance of requests to perform work in smart-working mode;
2. employers are required to authorise agile working to disabled employees or employees with a disabled person in their family unit, provided that this is compatible with the characteristics of their work, until 30 April, 2020.

> **Citizenship income (art. 40):** Without prejudice to their receipt of economic benefits, the beneficiaries of the "Citizenship income" will be suspended for two months from the obligations arising from the grant, i.e. the suspension of job interviews and job offers that they are normally mandated to accept.

> **Domestic workers (art. 37):** The new measure suspends the payment of social security and welfare contributions and premiums for compulsory insurance for domestic workers (the so-called COLF family workers) between 23 February and 31 May, 2020. Payment has been postponed to 10 June, 2020, and will be net of penalties and interest.

> **Premiums for workers on site (art. 63):** Workers who continued to work on site during the health emergency are granted a €100 premium for the month of March 2020. This amount is tax-exempt, therefore it does not contribute to income, it shall be related to the number of days of work carried out in the place of work and it is due to employees – both public and private – with a total income not exceeding €40,000.

> **Extension of final terms in social security and welfare matters (art. 34):** From 23 February, 2020, until 1 June, 2020, the deadlines of the final terms relating to social security, welfare and insurance benefits provided by INPS and

INAIL is suspended by right. The statute of limitations, for the same period and for the same matters indicated therein, is also suspended.

3. Support measures for enterprises

In order to support the continuity of businesses' production processes following the Coronavirus health emergency, the Decree sets forth several measures to support businesses:

> **Contributions for safety and strengthening of healthcare facilities (art. 43):** Contributions are provided for businesses to purchase devices and other individual protective equipments.

> **Guarantee Fund for SMEs (Article 49):** The Guarantee Fund for Small and Medium-sized Enterprises (SMEs) has been increased to €1 billion, which will be able to benefit, for a nine-month period, from a guarantee for up to € 5 million in loans for investments and restructuring of debt situations, in compliance with the guarantees and limits set forth by the provision itself.

In addition, further financial support measures are set forth for businesses affected by the epidemiological emergency (Art. 55) and for micro, small and medium-sized enterprises (Art. 56), as well as measures to support businesses' liquidity through guarantee mechanisms (Art. 57).

4. Suspension of payments

Lastly, the new Economic Decree published yesterday in the Official Gazette sets out fiscal measures to support households and businesses:

> First of all, Article 60 sets out that payments to public administrations, including those relating to social security and welfare contributions and premiums for compulsory insurance, expiring on 16 March, 2020, **are extended to 20 March, 2020**;

> In addition, for individuals/entities with fiscal domicile, registered office or operating headquarters in the territory of the state, Article 62 sets out the suspension of tax deadlines, and therefore the freezing of payments of taxes and contributions, between 8 March, 2020, and 31 May, 2020. For businesses, self-employed workers and professionals with revenue lower than €2 million, payments from self-liquidation with deadlines between 8 March, 2020, and 31 March, 2020, are suspended.

Suspended payments may be made, without penalties and interest, in a single instalment by 31 May, 2020, or by up to a maximum of five monthly instalments of equal amount starting in May;

> Lastly, in order to encourage the sanitization of workplaces to contain the risks of contagion from COVID-19, art. 64 grants, for tax year 2020, a **tax credit equal to 50% of the costs of sanitization of the workplace** and equipment, up to a maximum of €20,000.

This tax credit is granted until the maximum amount of €50 million for 2020 has been exhausted.

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