

Parental leave. Interesting changes.



SUMMARY

LAW

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LAW

PARENTAL LEAVE

Changes to parental leave and mandatory paternity leave.

The Work-Life Balance Decree (Decreto Conciliazione Vita Lavoro) introduced a number of changes about parental leave and mandatory paternity leave that came into effect from 13 August 2022.

The following table summarises these changes, highlighting the differences from the previous system and showing the current requirements:

	PARENTAL LEAVE UNTIL 12 AUGUST	PARENTAL LEAVE FROM 13 AUGUST
INDIVIDUAL MAXIMUM DURATION	6 MONTHS FOR A WORKING MOTHER	6 MONTHS FOR A WORKING MOTHER
	6 MONTHS FOR A WORKING FATHER, WHICH CAN BE INCREASED TO 7 MONTHS IF HE USES A PERIOD OF ABSENCE OF NOT LESS THAN 3 MONTHS	6 MONTHS FOR A WORKING FATHER, WHICH CAN BE INCREASED TO 7 MONTHS IF HE USES A PERIOD OF ABSENCE OF NOT LESS THAN 3 MONTHS
MAXIMUM DURATION FOR THE HOUSEHOLD	10 MONTHS IN TOTAL, WHICH CAN BE INCREASED TO 11 MONTHS IF THE FATHER USES A PERIOD OF ABSENCE OF NOT LESS THAN 3 MONTHS	10 MONTHS IN TOTAL, WHICH CAN BE INCREASED TO 11 MONTHS IF THE FATHER USES A PERIOD OF ABSENCE OF NOT LESS THAN 3 MONTHS
MAXIMUM DURATION FOR A SINGLE-PARENT HOUSEHOLD	10 MONTHS	11 MONTHS
CALCULATION OF ALLOWANCE	30% AVERAGE DAILY PAY, EXCLUDING ANY ADDITIONAL MONTHS' PAY	30% AVERAGE DAILY PAY, INCLUDING ANY ADDITIONAL MONTHS' PAY
	HOLIDAYS AND EXTRA MONTHS' PAY (13TH AND 14TH INSTALLMENT) NOT ACCRUED	HOLIDAYS AND EXTRA MONTHS' PAY (13TH AND 14TH INSTALLMENT) ACCRUED IN FULL

PARENTAL LEAVE

	PARENTAL LEAVE UNTIL 12 AUGUST	CPARENTAL LEAVE FROM 13 AUGUST
ALLOWANCE	30% FOR 6 MONTHS	30% FOR 3 MONTHS FOR EACH PARENT + 3 MONTHS ALTERNATING
	UP TO 6 YEARS, WITH NO INCOME LIMIT	UP TO 12 YEARS, WITH NO INCOME LIMIT
	6 TO 8 YEARS ONLY WITH INCOME OF LESS THAN 2.5 TIMES THE MINIMUM PENSION PAYMENT	
	8 TO 12 YEARS, NO ALLOWANCE	
	PERIOD OF OVER 6 MONTHS, NO ALLOWANCE IN ANY CASE	PERIOD OF OVER 9 MONTHS, AN ALLOWANCE PAYABLE ONLY IF INCOME IS LESS THAN 2.5 TIMES THE MINIMUM PENSION PAYMENT
	PATERNITY LEAVE UNTIL 12 AUGUST	PATERNITY LEAVE FROM 13 AUGUST
DURATION	10 DAYS - NOT POSSIBLE BY THE HOUR - DOES NOT NEED TO BE CONSECUTIVE	10 DAYS - NOT POSSIBLE BY THE HOUR - DOES NOT NEED TO BE CONSECUTIVE - DOUBLES WITH A MULTIPLE BIRTH
USE	WITHIN 5 MONTHS OF THE DATE OF BIRTH	FROM 2 MONTHS BEFORE THE DUE DATE UNTIL 5 MONTHS AFTERWARDS, WITH A WRITTEN REQUEST WITHIN 5 DAYS
ALLOWANCE	100%	100%
PROTECTION FOR EMPLOYMENT RELATIONSHIP		PROHIBITION ON DISMISSAL DURING LEAVE AND UP UNTIL THE CHILD TURNS 1

Please note, the Italian Social Security Institute (INPS) circular on this matter has not been issued, but should provide clarifications and operational indications.

EXTENSION REMOTE WORKING

Extension of simplified remote working until 31/12/2022.

Law no. 142 of 2022 extended the simplified remote work regime until 31 December 2022. As such, employers can use the simplified communication until the aforementioned date, without needing to have an individual agreement signed by each side.

The right of so-called fragile employees and working parents with children aged under 14 to remote working has also been extended until 31 December 2022.

Please note that, for the period from 1 September 2022 to 22 September 2022, any irregularities due to continued remote working without an individual agreement are deemed to have been remedied by the retroactive nature of the law.

CONTRIBUTION RELIEF FOR EMPLOYEES

Contribution relief for employees returning from mandatory or optional maternity leave

Employed mothers in the private sector have been granted an exemption from the payment of social security contributions, at the rate of 50% for 12 months starting from the date of return to the workplace after taking mandatory maternity or parental leave. This is applicable for mother who return to work during 2022.

Such contribution relief is solely for the female employee, so the company's labour cost will not change.

The Italian Social Security Institute (INPS) has finally published the circular that makes it possible to apply this exemption from October, with the possibility to adjust for arrears (January-September 2022) until January 2023.

ONE-OFF BONUS

Euro 150 one-off bonus.

A new one-off bonus of €150 is in the pipeline.

This bonus will be paid to employees whose pay (i.e. taxable salary) for the month of November 2022 does not exceed €1,538. In addition, the following categories will also be eligible for the bonus provided their income for 2021 did not exceed €20,000:

- Pensioners
- Self-employed workers
- Seasonal workers
- Domestic workers
- People on continuous, coordinated contracts (Co.co.co)
- PhD students and research fellows
- Entertainment industry workers
- People who receive the guaranteed minimum income allowance (i.e. reddito di cittadinanza)
- People who receive other employment allowances (i.e. Naspi and Dis-Coll)
- People who receive agricultural unemployment allowance
- Anyone who benefited, in 2021, from seasonal workers' allowances in tourism, the spa sector, entertainment or sports.

Along the lines of the €200 bonus in July, the amount, which does not require equivalent financial situation index certification (ISEE), will be paid automatically with pay for November 2022.

In particular:

- a) Employees can receive the bonus by submitting the same written statement used for the July bonus, indicating that they do not receive a pension or other incompatible benefits, and employers recover the amount paid by offsetting it against the amounts owed in the same month in contributions
- b) Pensioners who receive any form of pension or social allowance, unemployed people who receive social security (INPS), people who receive the minimum income allowance (i.e. reddito di cittadinanza) and domestic workers will receive the bonus directly from the Italian Social Security Institute (INPS).

We are still waiting for INPS to issue a circular on this matter.

CHANGES TO EMPLOYMENT CONTRACTS

Changes to employment contracts following the labour ministry circular implementing the transparency decree.

The process for implementing the so-called Transparency Decree (Decreto Trasparenza) has taken an important step forward with the Ministry of Labour issuing Circular 19/2022 on 20 September past. To some degree, this new document contradicts what the National Labour Inspectorate previously said. The new interpretation is more restrictive, thus moving away from the Inspectorate's guidance on potentially using collective agreements as a means of fulfilling the new disclosure requirements.

The focus then shifts to the individual provisions, defining them and setting out the key details that a worker must be informed about. In terms of leave, the Circular makes clear that reference must be made to those periods away from work that are specifically defined by the legislator as "paid leave" (congedi retribuiti). This means that other forms of temporary leave are not included, however they called (e.g. working hours leave, leave of absence etc.)

In terms of pay, it must cover all those elements that are objectively determinable at the time of being hired, as per what is set out in law and the collective agreement. For example, performance bonuses might not be quantifiable at the time, but the employer still has to indicate the elements that will be used to award and pay such bonuses.

In terms of scheduling working time, the information should largely refer to the collective agreement and any specific company agreements on working time. The information must focus on the actual working time that will apply to the employee, on the conditions for this to change, and on the methods and rules governing overtime. For shift work or work scheduled over extended periods (so-called multi-period work), it is only necessary to indicate that the worker is subject to that type of scheduling and to provide details of how the information about shifts/planning will be provided to the worker.

Information about any social security protection offered by the employer must also be provided. For example, if the option to join a supplementary pension scheme exists, this must be indicated.

The Circular also looks in a little more detail at the use of automated decision-making and monitoring systems. This extends to all those tools that, through the collection and processing of data using algorithms, can produce automated decisions. An employer must provide the necessary disclosure when the rules governing the employee's working life, or key

CHANGES TO EMPLOYMENT CONTRACTS

aspects thereof, are subject to automated decision-making processes. For example, if recruitment, appointment or termination of employment are done using a computer system. This does not include, though, any systems that determine when an employee arrives at and leaves work.

As regards the actual trial period for work, it is necessary to indicate what absences will cause the termination of this period to be delayed. However, no mention is made of the methods to be used for proportionally determining a trial period for a fixed-term contract.

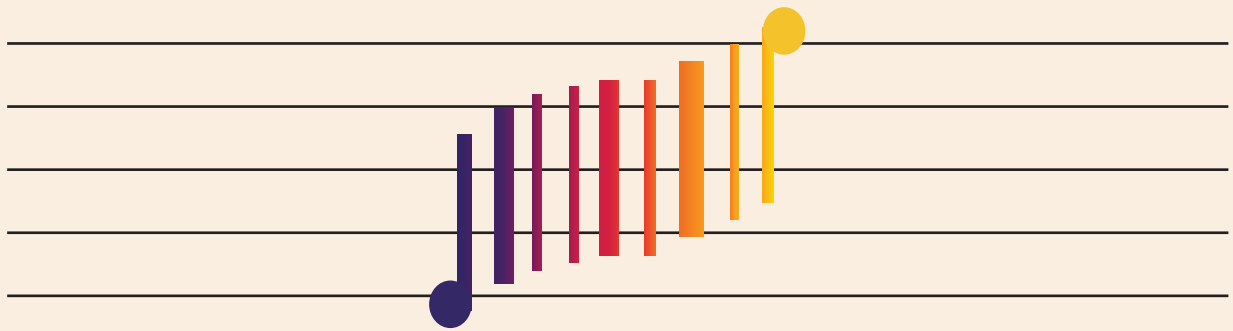
It does reiterate that an employer cannot prevent the employee from having another employment relationship in parallel and that the employer cannot treat the employee less favourably. An employer can only restrict or deny an employee from having another employment relationship when it might be detrimental to health and safety, when it is necessary to ensure the integrity of a public service or when the additional employment would cause a conflict of interest with the primary employment.

In terms of transitioning to forms of employment that are more fixed, stable and secure, the Circular does confirm that this provision is designed to allow workers already at a company on a flexible contract to transition towards contracts of increased duration and stability.

Finally, focusing on measures that protect workers, the Circular makes clear the use of the term “equivalent measures” to dismissal refers to any changes adopted unilaterally by an employer or principal that are disadvantageous to the employee, that have a substantial impact on the key elements of the employment contract, and that are consequent to the exercise of the rights set out in the Decree in question.



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