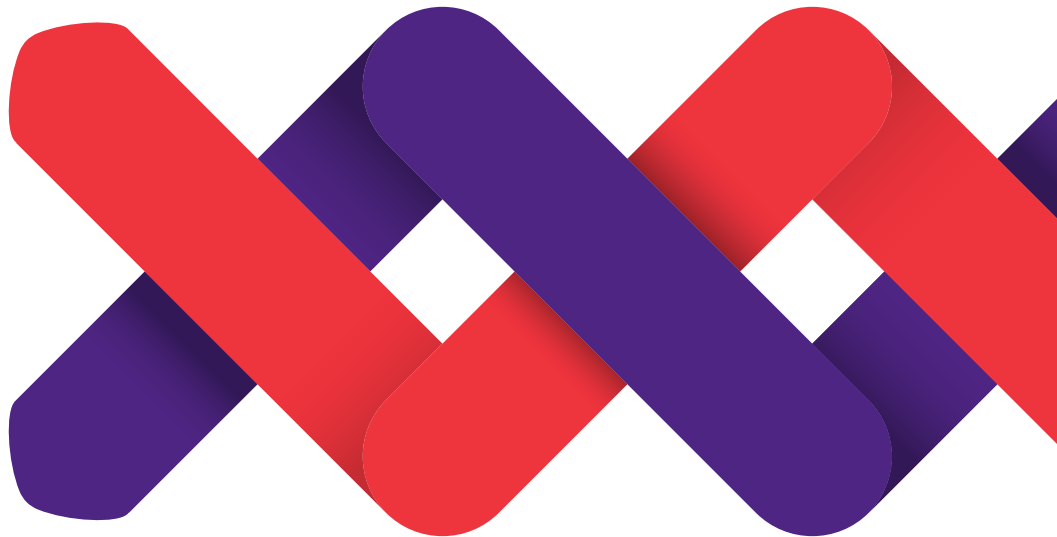


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HR News

Covid-19 Emergency - The latest provisions

Last updated on 22 March 2020



The latest provisions

In order to provide you with immediate and proper information on the latest further dispositions provided by the Italian government to tackle the spread of Covid-19, we are hereby explaining the latest provisions introduced with the Decree of the President of the Council of Ministers dated 22/03/2020, published in the Official Gazette on the same date and having immediate effectiveness.

Since most of our Clients are operating within Lombardy, we are hereby also providing you with information on the Order of Lombardy region no. 514, published on 21/03/2020 and having immediate effect.

As regards the Orders of other regions that include measures concerning labour (Piedmont, Veneto, etc.) please refer to the relevant institutional websites.

Before analysing the content of the above provisions, it must be pointed out that an animated discussion is ongoing between the national Government and the regional institutions, aiming to define – basing on the hierarchy of norms - which provision should prevail on the other with reference to those cases that are regulated by both norms (i.e. the Presidential Decree and the Order of Lombardy). The President of Lombardy, Attilio Fontana, is waiting for the Ministry of Internal Affairs to provide clarifications on this issue, but according to the principal jurisprudence, basing on art. 3 of Law Decree no. 6/2020, which regulates the norms issued to tackle Covid-19, the Government provisions (i.e. Presidential Decree dated 22 March 2020) shall prevail in those cases that are regulated by provisions at both levels.

Below is a summary on the new provisions, focusing on those concerning out activity.

Decree of the President of the Council of Ministers dated 22 March 2020

The Government has further tightened those measures deemed as essential to face the Covid-19 emergency, identifying those businesses that can carry on their activities, due to public utility/ primary services/national strategic interest reasons, provided that all safety measures provided by the shared protocol dated 14 March 2020 are followed.

It is understood that, all those businesses that must close according to the decree can continue their activity through smart working, if possible.

In order not to damage those businesses that shall close, the decree also provides the possibility to conclude those activities that are preliminary to the suspension of business – including the shipment of goods in stock – by 25 March.

Such provisions apply to the whole national territory up to 3 April 2020.

Such measures – particularly those concerning businesses – are considered as supplementary to those introduced with presidential decree dated 11 March 2020, and to those provided by the order of the Ministry of health on 20 March 2020, whose effectiveness is subsequently extended to 3 April 2020.

The decree provides the following:

1. Suspension – in the whole national territory – of manufacturing and commercial activities other than public utility and primary ones, having specific ATECO activity codes, as specifically indicated under Annex 1 of the decree (attached to this letter). Therefore, each employer must assess whether the business, basing on the ATECO activity code, can continue keep carrying out its activity or shall suspend it. It is specified that, for some industries, the performance of working activity is allowed to all of their “micro-classes” (e.g. no. 01 for Agriculture and no 10 for Food industry, while for some other industries, activity is allowed only to some micro-industries (e.g., for macro category 81, activity is only allowed to ATECO sub-code 81.2 concerning cleaning and disinfestation

services). Therefore, we kindly invite you to carefully analyse annex 1 of the Decree and the ATECO table of activities (attached to this letter) and should you be allowed to keep performing your activity, no specific communication shall be sent to public administrations;

2. Possibility to carry on all those activities that are needed to ensure the continuity of those ones included under point a) above, upon prior communication to the prefect of the province where the business is located. The Prefect, however, can suspend activities in case of lack of the required operating conditions, but the decree specifies that activities can continue basing on the communication sent, up to receiving an explicit suspension provision;
3. Continuation of all continuous process activities, upon prior communication to the prefect of the province where the business is located. Such activities can continue if their suspension would cause a serious damage to the plant or a risk of fires. The Prefect, however, can suspend activities in case of lack of the required operating conditions, but activities can continue basing on the communication sent, up to receiving an explicit suspension provision. The Decree specifies that no communication is needed if the activity is aimed at providing a public and primary service;
4. possibility to continue activities in the aerospace and defence industries and activities having a national strategic relevance, upon prior authorization by the Prefect.

The following activities are also allowed:

- professional firms, provided that smart working is adopted, wherever possible;
- all businesses providing public utilities, as well as the essential services listed under Law n. 146/1990;
- all businesses manufacturing, transporting, trading and delivering medicines, healthcare technology and medical-surgical devices, as well as agricultural products and foodstuffs;
- all activities considered in any way functional to face the emergency

Given that many experts have already highlighted that the list identified by the Government can be subject to different interpretations and does not expressly include some activities considered as

essential (e.g. lift assistance), in case of doubts, we suggest to contact our Firm and/or to your trade association, and to submit to your police prefect's office the authorisation notice provided, as a precautionary measure.

We point out in any case that it is expressly provided that the list of businesses which can continue to operate, contained in Annex 1 to the Decree of the President of the Council of Ministers, may be updated through a Decree by the Ministry of Economic Development, once obtained the opinion of the Ministry of Economics.

The communication to be sent to the competent local Prefect's office should indicate:

- the type of activity carried out
- the location of the premises
- the companies or public administrations benefitting from the products and services related to the activities allowed.

In this respect, the Ministry of the Interior has already provided the relevant instructions to all Prefect's offices, which in turn have made available on their websites all information necessary for the companies to comply with the obligations introduced by Decree of the President of the Council of Ministers dated 22 March 2020.

As far as businesses operating in the Milan province are concerned, we deem it useful to inform that the Milan Prefect issued a press release in which it clarified that the communications relevant to the continuation of activities functional to guarantee the essential ones indicated in the list above, of public utilities and of essential services relevant to companies located in the Milan metropolitan city have to be sent to the certified email address protocollo.prefmi@pec.interno.it by their legal representatives, indicating in the subject line of the email "DPCM 22 Marzo 2020 - Comunicazione attività" and indicating where the premises are located, the type of activities and the businesses or public administrations benefitting from the products and services related to the allowed activities. Said communication is also to be sent by legal representatives of manufacturing companies operating on a continuous cycle, indicating the serious detriment or the accident hazard deriving from an interruption of the activity.

Similar press releases have been issued by all other Prefect's offices on the Italian territory.

Order n. 514 of Lombardy Region dated 21 March 2020

Given the continued phase of serious emergency Lombardy is facing due to the spreading of the Covid-19 infection, and considered the need to implement a comprehensive preventive action, the region deemed it proper (acting before the Government) to immediately adopt all suitable containment and management measures, proportionate to the evolution of the epidemiologic situation, identifying suitable precautions and unequivocal operational directives to adequately face situations posing a threat to the safety of the wider community.

The recently issued order contains further measures aimed at limiting people's movements within its territory and reiterating the suspension of retail stores' activities - with the exception of the sale of foodstuff and consumer staples - as well of businesses providing services to individuals (e.g. hairdressers, barbers, beauticians).

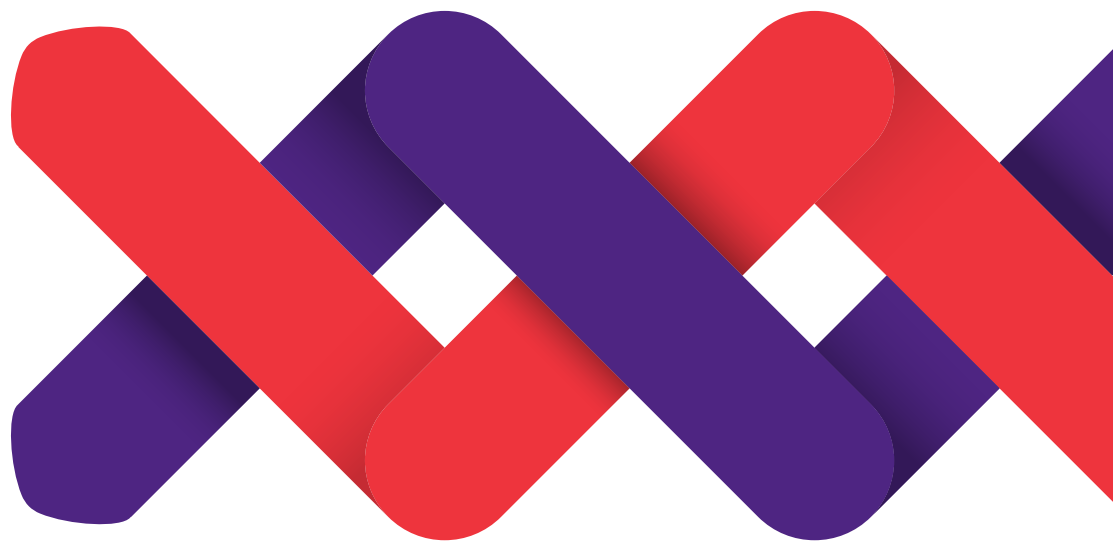
Building sites have also been suspended (with few exceptions), as well as hospitality services (hotels, residences, etc.) and small owner-operated

businesses, with the exception of those providing public utility services or urgent services and services needed to guarantee the functioning of production units still operating.

Banking, financial and insurance services are guaranteed.

Moreover, Lombardy provided the following recommendations with reference to manufacturing activities:

1. maximum adoption of smart working arrangements for all those activities which can be carried out from the employees' domicile or remotely;
2. use of holidays and paid leaves for employees, as well as other incentives provided for under collective bargaining agreements;
3. suspension of all activities in those corporate departments not essential for the manufacturing activity;
4. promotion of sanitisation of workplaces operations, also using forms of temporary layoff arrangements.



Please refer to the contents of the regional order (attached to this letter) for the complete list of recommendations. Please note also that the closure of professional firms' activities has been provided, with the exception of those activities which cannot be postponed or are urgent and subject to deadlines.

As mentioned above, this provision, as well as the one providing for the closure of hotels, is in contrast with the provisions of the Decree of the President of the Council of Ministers applicable nationwide.

Immediate clarifications by the institutions are therefore expected in order to unequivocally clarify, in the light of the different regulatory levels, which activities can actually continue to operate and which are to be closed.

As a final note, with reference to the activation of temporary staff layoff funds for those companies which have suspended or will suspend (wholly or in part) their activities, we inform you that we are progressively contacting all our clients and - given the retroactivity of the provision starting from 23 February 2020 concerning all types of layoff funds provided in Italy (Cig. Fis, Cassa in deroga, Fondi di integrazione salariale, etc.) - there are no issues in accessing said funds.

You can therefore start notifying your employees that they will receive a temporary layoff contribution, once they will have taken all unused holidays. We will assist all our clients asap with the procedures needed to access said funds and all the relevant fulfilments (possible trade union consultation, request to INPS, the National Social Security Institute or to the Region, etc.).

Our Consultants will be available to draft all communications to employees concerning the possible suspension of the working activity, as provided for by the public authorities.

For any further information or query you may have, please contact:

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