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CORRECTIVE DECREES OF THE JOBS ACT

SUMMARY

CORRECTIVE DECREES OF THE JOBS ACT

In September 2016 the Government approved the supplementary and corrective provisions of the 5 decrees which implemented Delegated Law No. 183 dated 10th December 2014, and which comprise the Jobs Act.
In particular, the introduction of Legislative Decree No. 185 dated 24th September 2016 (so-called "Corrective Decree) made amendments and introduced new provisions in the framework of the disciplines contained in the decrees detailed below:

a) Legislative Decree No. 81 dated 15th June 2015.

- Advanced training and research apprenticeship: the Decree (article 45, paragraph 5) envisages that in the absence of regional regulations, the training programmes are to be defined with a decree issued by the Ministry of Labour, together with the Ministry of Economy and Education.

  The agreements already entered into with the Universities, the higher technical education institutes and the other training or research institutions remain valid, until publication of the regional regulation.

- Apprenticeship for professional qualifications and diploma: the possibility of extending apprenticeship contracts (for a maximum of one year) is granted in order to achieve the professional qualification or diploma (article 55, paragraph 2-bis).

b) Legislative Decree No. 148 dated 14th September 2015.

- Redundancy arrangements:

- a deferment of the deadline is envisaged regarding the "CIGO" ("*cassa integrazione guadagni ordinaria" - ordinary redundancy fund*) in order to submit applications to be forwarded in the case of "*non-avoidable events*" which, to-date, must be submitted within the end of the month following the month in which the event occurred (article 15, new paragraph 2);

- new deadlines also regarding the "CIGS" ("*cassa integrazione guadagni straordinaria" - extraordinary redundancy fund*): the suspension or reduction of working hours begins within 30 days from the date the application is submitted (article 2, new paragraph 2);

- the possibility of transforming the so-called "defensive solidarity" employment contracts (an instrument implemented with the trade union's agreement for the purpose of safeguarding employment and through which a reduction of the daily working hours is agreed with the consequent reduction of remuneration), when such employment contracts were entered into before 1/1/16 and in force for at least 12 months, into so-called "expansive solidarity" employment contracts is encouraged (such employment contracts are also implemented with the trade union's agreement and envisage a reduction of the working hours, but having the principal aim of increasing the number of employees) on condition that the overall reduction of working hours does not exceed the reduction already agreed (article 41, paragraph 3-bis). In particular, the new provision has envisaged:

  (i) a wage/salary subsidy in favour of the workers, corresponding to 50% of the wage/salary subsidy measure in force preceding the employment contract's transformation;

  (ii) the obligation to integrate the economic conditions at least up to the measure of the original integration is to be borne by the employer, and also establishes that the integration is non-taxable for Social Security purposes;

- it is foreseen that the "temporary and final provisions" include the possibility of granting a repetition of the "CIGS" ("*cassa integrazione guadagni straordinaria" - extraordinary redundancy fund*) within the limit of 24 months, in the case of agreements already concluded at government level relating to extraordinary redundancy fund contributions, in the cases of significant national interest, on condition that the business plan has envisaged the use of the solidarity employment contract (article 42, paragraph 4-bis);

- the "financial provisions relating to redundancy arrangements" envisage an increase in the duration of the "NASPI" ("*Nuova prestazione di Assicurazione Sociale per l'Impiego - New Social Insurance Provision for Employment*) conditions for workers with a seasonal status in the tourism and health spas productive sector that may extend for up to 4 months (article 43, paragraph 4-bis);

- companies which have already exceeded the maximum duration limits for the "CIGS" (*extraordinary redundancy fund*) and that operate in a complex industrial crisis area (identified in art. 27 of Decree Law (dl.) No. 134/2012, namely, territories subject to economic recession and job losses of national significance, which have obtained recognition of the state of crisis after the region concerned submitted the application) have the opportunity to exploit a further extraordinary redundancy fund contribution up to the maximum limit of 12 months for the "CIGS" on condition that an employment recovery plan is submitted, containing active employment policy programmes agreed with the Region (article 44, paragraph 11-bis).

c) Legislative Decree No. 149 dated 14th September 2015.

Inspection activity

The Corrective Decree has introduced a number of stipulations regarding the rationalisation and simplification of the employment related inspection activity. In particular, the current laws and regulations envisage the creation of a National Labour Inspectorate that supplements the inspection services performed by the Ministry of Labour and Social Policies, by "INPS" (National Social Security Institute) and by "INAIL" (National Insurance Institute for Accidents at Work).

d) Legislative Decree No. 151 dated 14th September 2015.

Mandatory employment of protected categories

The Corrective Decree has amended art. 4 of Law No. 68 of 1999, and envisages that:

- workers who are already disabled prior to entering into the employment agreement, even if not hired on the basis of the mandatory employment of protected categories provision, are to be included in the reserve quota calculation, on condition that they have a reduced capacity to work equal to or greater than 60% (article 4, paragraph 3-bis);
- a daily penalty amounting to € 153.20 is imposed for each worker who is not hired in the event of non-compliance with the quotas relating to hiring persons with a disability. This violation is subject to the warning procedure on condition that the employer submits the recruitment application/signature of the employment contract to the competent offices and within the assigned deadlines, relating to the disabled person registered with the protected categories (article 4, paragraph 4-bis);

Observations: the above-mentioned computation possibility was already partially foreseen, but only referred to workers with a degree of disability at least equal to sixty percent, and had been introduced with Ministry of Labour circular No. 66/2001 and never by an amendment of Law No. 68/99. Whereas, the above-mentioned decree intervenes by amending the legislation; while awaiting a specification of the procedures to be followed, it can be observed how the legislative reform facilitates companies, since it will allow the companies to source an internal labour force, for the purposes of the mandatory employment of protected categories, even when such an internal labour force, following the outcome of pathological events, as frequently occurs, has been declared invalid even only temporarily (take for example, workers who undergo operations as a consequence of oncological pathologies). In these cases, the employer will be able to perform an internal survey and possibly include in the mandatory quota a resource already employed by the company before proceeding with an additional recruitment imposed by law.

Monitoring workers

- the above decree, in implementing Delegated Law No. 183/2014 (the "Jobs Act"), redesigns the discipline relating to the remote monitoring of workers, by amending article 4 of Law No. 300/1970 ("Workers' Statute"). Together with the other implementing decrees, the text envisages updating the set of rules and procedures in the light of the technological innovations which have occurred in the production and business models. More specifically, the conditions legitimising the use of remote monitoring systems are extended, and the protection of company assets is added to the reasons of organisational and production needs and to workplace safety issues. The need for a prior collective agreement entered into with the Unified Trade Union Representatives (RSU) or with the company trade union representatives continues to apply. This agreement can be entered into by the comparatively more representative Trade Union Associations on a national level in the case of companies with production units located in different Provinces of the same Region or in various Regions. Where no agreement is reached the remote monitoring tools may be installed subject to the

authorisation of the Territorial Labour Inspectorate or, alternatively, the authorisation of the Ministry of Labour and Social Policies in the case of companies with production units located in the areas of responsibility of several Territorial Labour Inspectorates.

Electronic resignation

- The resignation form may also be transmitted electronically on behalf of the worker by Labour Consultants and by the territorial offices of the National Labour Inspectorate (art. 26, paragraph 4);
- the provisions of art. 26 do not apply to employment relationships for employees of public administrations (art. 26, paragraph 8-bis).

DRAMIS AMMIRATI E ASSOCIATI is an independent law firm, with headquarters in Milan and Rome, dedicated exclusively to labour law, trade union law and industrial relations and has a consolidated, efficient and flexible organisation that is able to meet the needs of every single client.

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