

newsletter
JULY 2018

**REGULATION
AND PRACTICE**



Studio
Arlati Ghislandi

CONSULENZA
DEL LAVORO E FISCALE

Female victims of gender violence: incentives to employ already starting in 2018

On 27th June 2018, the Gazzetta Ufficiale published Decree 147/11 May 2018, which establishes that from 2018 – pending the available resources – employment incentives for female victims of gender violence, who are already under protection schemes, implemented in accordance with Article 1, paragraph 220 of Law no. 205/27 December 2017, are now available. In particular, social cooperatives that employ women with an open-ended contract from 1st January 2018, but no later than 31 December 2018, will be exempt from paying the overall national insurance contributions owed by the same cooperative, with the exclusion of INAIL accident insurance premiums and contributions, for a maximum total of 350 Euro per month.

Internships with self-employed employers and health and safety obligations

In response to Ruling of the Ministry of Employment, no. 4/22 June 2018, which clarifies the regulations on health and safety in the case of training internships on placements run by self-employed workers who cannot be qualified as employees. For the modalities in which the health and safety in the workplace law applies to students who are on a combined work/study placement, the applicable law can be found in Article 5 of Inter-Ministerial decree no.195 of 3 November 2017, in combination with the provisions of Legislative Decree no.81/2008. In particular, the laws foresee that the Educational Institute is obliged to respect the training obligations, while the health and safety inspection activities are under the responsibility of the local ASL health authority. The obligation to pay the INAIL accident insurance and civil liability insurance, in the presence of the objective and subjective requirements, still remains valid.

DURC: instructions on the new Tax-relief self-certification management system (DPA)

With notice no.2648 of 2 July 2018, the INPS national insurance and social security agency outlined the operative instructions with regard to the verification of the regularity of the contribution payments, in order to benefit from the tax relief incentives. Starting from 9 July 2018, verification of the regular payment of contributions will be made by means of a “Dichiarazione Preventiva di Agevolazione” (Tax Relief Self-Certification Declaration Certificate), i.e. the declaration that the interested employer must send to the INPS national insurance agency when expressing their intention to take part in the incentive scheme. Following the request, INPS will carry out the controls before issuing the regular contributions certificate.

Funding: instructions for accessing the ‘Solidarity Fund’

With Circular no.84 of 28 June 2018, the INPS outlines the regulations, criteria and manner in which the Solidarity Fund for retraining and re-educating professionals, for employment and income support of the employees in receipt of the benefit. More specifically, the institute specifies the instructions for accessing benefits, which is called “contribuzione correlata in presenza di solidarietà espansiva” (correlated contribution in the event of expansive solidarity).

Cash payments and clarification on penalties

With notice no. 5828 of 4 July 2018, the national employment inspection agency provided clarification on the penalty system applied in the event of violation of the laws that prohibit payment in cash. In particular, the notice clarifies the penalties applied to the violation, together with the relative waivers and exceptions, as well as the way the penalties are calculated.

Dismissal and consensual termination: FAQ updates

The Ministry of Employment has updated its FAQs on the way dismissals and consensual termination are validated, outlining the obligations of resigning minors.

For said form of resignation, the resignation notice must be made with the help of one of the parents or legal guardians.

If resignation is issued via one of the authorised subjects before proceeding with the official transmission of the same, both the identity of the employed minor and the parent or legal guardian must be verified.

The end of the Qu.I.R. redundancy pay system and the latest INPS clarifications

In notice no. 2791 of 10 July 2018, the INPS national insurance agency provides indications for employers on the Qu.I.R. Redundancy Pay system, reconfirming that, from the month of July, the previous notice and payment obligations will no longer apply.

However, employers who have access to Qu.I.R. financing must continue to calculate <QUIRFinLiquidata> (QUIRinLiquidation), which contains information on the Qu.I.R. redundancy pay liquidated in the payroll using guaranteed assisted financing – until pay roll liquidation of the severance pay contributions (TFR) matured during the June 2018 pay period, or rather up to the UNIEMENS declaration in September 2018.

Illegal contractors and instructions for inspectors

With Circular no. 10 of 11 July 2018, the national employment inspection agency provided inspectors with instructions on dealing with illegal contractors.

In particular, it clarifies the way the contributions and due retribution is calculated and the praxis to follow for recovering the same from the companies in question.

With regard to retribution recovery and for ascertaining that the subject in question is an illegal contractor, the legislator (Article 29, paragraph 3 bis, Legislative Decree. no. 276/2003) has left it to the free initiative of the worker to establish the working relationship with the effective end user of the services, pursuant to ex-Article 414 of the Italian Code of Civil Procedure, before the Tribunal acting as the Employment Judge. This means that, in absence of the establishment of a work contract with the user from the very start, a verification injunction can be implemented for unpaid retribution, only in the case of an illegal contractor.

Whereas, in terms of contribution recovery, it must be considered that the insurance relationship between the employer and national insurance agency is founded in law and exclusively on the assumption of the establishment of a de facto working relationship, therefore the de facto employer will be liable for paying the social security contributions.