



Agenzia nazionale per l'attrazione
degli investimenti e lo sviluppo d'impresa SpA

Italy's Labour Law



Invitalia is the Italian national agency for inward investments and economic development. Its mission is to promote the country's competitiveness – in particular in the Southern Regions – and support growth in strategic sectors.

Its main objectives are:

- Supporting inward investments*
- Boosting innovation and growth*
- Improving the economic opportunities in the Regions.*

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Italy's Labour Law

New Flexibility for Employers

Italian Labour Law has become a significant factor in attracting foreign investors to Italy. Decree 276/03 introduced major changes to employment rules increasing market flexibility so as to help reduce unemployment.

Two major changes stand out:

- New types of contracts to enable companies to tackle special growth trends for limited periods, and allow them to significantly reduced labour costs over decreased output periods
- New regime for independent contractors now enables job placements only whereby necessary for performing specific projects.

Some such new provisions are already in force and being successfully applied by companies.

Labour is regulated by Italy's Constitution, Civil Code, the Workers' Bill of Rights (Statuto dei Lavoratori), and other relevant laws and decrees. Employment terms and conditions are also periodically fixed by collective labour agreements within the various professional categories.

Italy's New Labour Market

New types of Contracts

Job Sharing

Job Sharing involves two or more employees sharing joint responsibility for a single position. Job sharers can choose their own schedules at their own discretion. Each person's pay is directly proportional to his/her personal performance. Contracts shall be in writing.

Job on Call

Job on Call relates to a professional activity performed on a discontinued or intermittent basis. Job on Call contracts shall be in writing, and either set upon fixed or open terms. Regardless of the professional activity nature, job on call may be performed by employees younger than 25 and older than 45 (also whereby retired). Such contracts shall also make provisions for a stand-by allowance equal to at least 20% of the salary envisaged by the applicable collective labour agreement.

Staff Supply

Staff Supply enables clients of employment agencies to avail of the labour activity performed by workers holding employment agreements with employment agencies. Both clients and employment agencies are jointly liable for payment of employee wage and social security contributions and for compliance with workplace safety regulations in force.

Staff Supply contracts set down the rights and obligations of employment agencies as well as their clients, and can either be open-term or fixed-term contracts.

Open-term contracts (so-called 'staff leasing' contracts) are used frequently for porter and cleaning work, transportation and warehouse services, managerial consultancy services (including human resources management) and call centre management. As to the agreement between the employment agency and the employee, contracts may consist in job sharing, part-time, job on call, training employment and starter's contracts.

Generally speaking, technical, production-related, organisational and stand-in positions require fixed-term contracts. Pursuant to Legislative Decree no. 368 of 6 September 2001, the Italian Ministry of Labour, Health and Social Policy has extended the scope of application of fixed-term contracts.

Ancillary Labour

Ancillary labour covers:

- Voluntary sector
- Occasional work by individuals at risk of social exclusion
- Regularly performed household help work.

Ancillary work may be performed by: a) unemployed for longer than a year; b) housewives, students; retired and/or disabled people, and individuals hosted by recovery communities/rehabilitation centres; c) non-EU workers regularly living in Italy and having lost their jobs.

Training Employment Contracts

Three categories of On-the-Job Training Contracts (Contratti di Apprendistato) are envisaged, covering:

- Training and learning workers' rights and duties

- Apprenticeship leading to a professional qualification following on-site training and professional skill learning
- Training leading to a diploma or other types of professional qualifications.

Starter's Contracts

“Starter's Contracts” (Contratti di Inserimento) cover individual projects for developing workers' skills in specific fields for subsequent reintegration in the job market.

Under Starter's Contracts, workers cannot receive salaries two ranks lower than those envisaged by the applicable collective labour agreements for jobs requiring the same or (equivalent) qualification pursued by Starter's Contracts.

Part-Time Work

“Part-time” work describes a working week of shorter duration than the full working week. It may be horizontal (reduced daily working time), vertical (full time but for limited periods with reference to weeks, months or years) or mixed (a combination of both). Part-time work requires workers' prior consent whereby not specifically provided for by the relevant collective labour agreement.

Secondment

“Secondment” applies whereby an employer, in order to satisfy its own interest, makes one or more employees temporarily available to another subject in order to carry out specified work activities.

Secondment involves the transfer of an employee ('seconded') to a different production unit located at least 50 km away from his/her usual workplace.

Secondment is allowed only for technical reasons or needs related to production, organisation or replacement. The employer remains liable for the legal and economic treatment of the secondee.

Autonomous or “Atypical Workers”

“Project-based Collaboration Contracts” (Contratti a Progetto) are strictly related to one or more specific projects, work plans or development phases, which an independent collaborator manages autonomously aiming to achieve specified results. The collaborator carries out the required activity at his/her own discretion but aiming to successful development of the relevant overall project.

Such contracts shall detail in writing the duration of the relationship and the remuneration package, which shall be proportional to the quantity and quality of the work performed.

Employment Agencies

Italy's Ministry of Labour, Health and Social Policy has established and keeps a register of all authorised employment agencies. A specific regulation has been enacted to set forth the requirements applicable to the agencies in terms of professional skills. Differentiated into various categories by functions, such agencies may operate only whereby authorised by the above Ministry. New rules currently allow setting up multifunctional agencies.

Employment Services

Employment services are public structures that now substitute old job placement offices, in order to help job demand better meet job offer, prevent unemployment, and support people exposed to unemployment risks.

Employment services offer various types of provisions, such as:

- Information and orientation for people looking for a job
- Intermediation between job demand and offer
- Consultancy to companies.

Outsourcing and Transfer of Business

A 'transfer of business' refers to contractual (re)assignments, mergers, lease agreements or usufruct. It may also refer to a partial transfer of business (ramo d'azienda) identified by transferor and transferee at transfer time.

Following a partial or complete transfer of business, employment relationships are then entrusted to the transferee, and employees fully maintain their rights and obligations. Accordingly, the new controller may not terminate or otherwise amend the terms and conditions of the employment contracts related to the transferred business.

Transferor and transferee are jointly liable to employees for any and all debts owed them at the date of transfer (including severance pay, so-called TFR).

The transferor and transferee of a business with at least fifteen employees shall give joint notice to the relevant trade unions, at least twenty-five days prior to its transfer. Notice should specify

the reasons for the transfer, possible consequences for the employees, and any subsequently planned action which may affect them.

Trade Unions may request an assessment of the transfer's impact on the concerned employee(s) to be jointly conducted with both transferor and transferee.

Non compliance with such request constitutes "unfair labour practice" and may cause workers' union representatives to take legal action before the competent Labour Court. The Court may impel the transferor and/or the transferee to fulfil the consultation request.

Employment Regulation

A synthesis of general employment regulations currently in force is hereinafter provided.

Hiring

There is no general requirement for an employment contract to be in writing, although most collective labour agreements envisage it. Fixed-term and part-time contracts shall be in writing. Fixed-term contracts are permissible under certain circumstances, such as for seasonal work or for replacement of temporary vacancies.

Competition and Confidentiality

Employees shall not conduct business in direct competition with their employer, divulge confidential or classified information about their employer's business or production methods, or use such information to cause prejudice to the employer.

Inventions

With reference to inventions created by employees, in accordance with the New Industrial Property Code enacted on 10 February 2005, they belong to the employer as long as they relate to the tasks defined in the employment contract and specific compensation is paid to the employee.

If a specific compensation for the invention is not envisaged by the employment contract and the invention is created in the performance of the employment relationship, the invention – whereby patented – belongs to the employer but a fair compensation shall be paid to the employee.

Whereby the above conditions are not met and the given invention relates to the employer's field of activity, the invention shall belong to the employee, but the employer is granted with an option right to either use the invention on an exclusive/not exclusive basis or to purchase it.

Whereby an agreement is not reached between the employer and the employee on the amount of the fair compensation or invention consideration, the assessment thereof shall be entrusted to an ad-hoc panel of arbitrators.

Pay and Benefits

No minimum wage is set as such, nevertheless the Italian Constitution guarantees the right to fair pay. Collective labour agreements regularly define minimum levels of wages and indemnity benefits.

Working Time

Averagely, 8 working hours per day are established. The maximum working week consists of 48 hours (including overtime) over a reference period of maximum 4 months.

Overtime

Rules on overtime are set by collective labour agreements. If not specified otherwise, overtime cannot exceed 250 hours per year. Failure by the employer to comply with such limits may result in the levy of administrative fines.

Holidays & Vacation

In Italy there are 11 religious and national holiday days. The Constitution guarantees everyone the right to one rest day per week (usually Sundays).

Employees are entitled to an annual vacation period of 4 weeks.

Absence from Work

Sick Leave

Sick employees have the right to retain their position, seniority and, for some categories of workers, regular pay for a period of up to 6 months or more, depending on the applicable collective labour agreement.

Personal Leave

Employees are entitled to 15-day fully-paid leave for getting married and occasional off-days for family responsibilities, including the death of a relative or child's sickness.

Maternity / Parental Leave

Women may take maternity leave with 80% pay in the 2 months before delivery and the 3 months afterwards. Italy's social security system bears the costs. Should a child's mother die or become seriously ill, the father (male employee) may take paternity leave under the same conditions envisaged for maternity leave.

Work contract termination

Dismissal

Under the Italian Law an employee is dismissible for:

- Just Cause (Giusta Causa), meaning a serious breach by the employee of his/her duties or other behaviour that makes continuation of the working relationship unfeasible; or
- Justified Grounds (Giustificato Motivo), namely:
 - A breach by the employee of his/her duties which is not serious enough to constitute Just Cause – e.g. failure to follow important instructions given by the management, material damages to machinery and equipment, low performance (the grounds for dismissal being "subjective reasons")
 - An objective reason, whereby the employer needs to reorganise production or labour force (i.e. making redundancies).

Dismissals shall always be in writing and detail the reasons thereof.

Failure to comply with such provision makes the dismissal ineffective.

Should the employee deem to have been unfairly dismissed, he/she may appeal to the relevant court. The employer shall comply with the following rules:

- If the company employs up to overall 60 workers throughout Italy, or up to 15 in a single working unit, the employer may choose between either reinstating the dismissed employee or paying an indemnity (ranging between two-and-half and six-month pay)
- Under all other circumstances, the employee is entitled to reinstatement and compensation for damages amounting to five-month salary at least.

Failure to reinstate an unfairly dismissed employee results in an award of fifteenmonth salary plus compensation for damages against the employer.

Following dismissal, whatever the cause or status (e.g. executive, white collar, or blue collar), employees are entitled to the following mandatory payments:

- Severance Pay (Trattamento di Fine Rapporto - TFR) – The amount is calculated by dividing each annual gross salary by 13.5. Severance pay is taxable and free of social security contributions
- Other sums – Whereby applicable, employees are entitled to indemnity for unused holidays, permits, and 13th and/or 14th monthly pay
- Notice period – Employees dismissed for reasons other than Just Cause are entitled to a notice period. Employers may exempt the employee from working during the notice period by paying him/her an indemnity equal to the salary payable for the whole notice period. Such indemnity is liable to social security charges.

Collective Dismissal for Redundancy

If redundancy involves at least 5 employees for a 120-day period and an employer with 15 or more employees, the company shall duly consult with trade unions and comply with the “collective dismissal procedure”. Employees made redundant by certain categories of companies (e.g. industrial, employing 15 or more workers), and having at least 12-month seniority in the concerned company, shall receive an unemployment allowance from Italy’s National Social Security Institute (INPS, Istituto Nazionale della Previdenza Sociale) for a specified period.

For each employee made redundant, employers shall pay a financial contribution equal to thirty monthly instalments to INPS. Pending the outcome of any dismissal judiciary proceedings, the employer shall provide advance payment of the above contribution¹.

Social Security & Assistance System

Costs

Adequate means for life needs are guaranteed to every resident (thus including also foreigners working in Italy) in case of accidents, diseases, invalidity, old age, and involuntary unemployment.

¹ For further information: www.inps.it

INPS (the National Institute for Social Security) and INAIL (Workers' Compensation Authority, Istituto Nazionale Assicurazione contro gli Infortuni sul Lavoro) carry out such functions. The two Bodies provide services such as pension, indemnity and allowance for accidents, diseases, termination of work contract in case of reaching age limit or invalidity.

Employee and employer contributions jointly finance social security costs, calculated on gross earnings. Employers pay two-thirds of contributions whilst employees pay the remaining third.

Different calculation methods, contribution rates and terms of payment apply for dependent work or autonomous work.

INAIL manages mandatory insurance to protect employees against work accidents and occupational diseases. In particular, it guarantees economic allowance, sanitary and integrated services, provides information and training to SMEs with regard to workplace prevention, and ensure rehabilitation and indemnity to employees.

Compulsory insurance includes coverage in the event of damages incurred while commuting between the employee's home and workplace, or between different workplaces.

Retirement Provisions

The Italian compulsory state pension system is financed via social contributions paid by the employer during workers' working life, and is based on actuarial fairness. The retirement age ranges between 57 and 65 years.

On 28 July 2004 the Italian Parliament approved a regulation envisaging substantial changes to the pension system then in force.

Starting from January 2008, the reform envisages retirement:

- After 40 years of contributions, or
- At 65 years of age (60 for women).

Such age requirements shall be increased by one year in 2010 and an additional year in 2014.

The reform includes incentives for workers who decide to continue working although eligible for public pension. Such incentives provide for an increase equalling social security contribution – i.e. plus 32.7% of gross salary for almost all categories of workers.

Integrated Pension Funds

Supplementary pension provision in Italy is voluntary for workers and companies alike. The law guarantees freedom for individuals to subscribe to supplementary pension schemes whilst leaving companies free to choose whether to set up their own pension funds. Funds are substantially based on a pre-established contribution rate. Regarding disbursement, beneficiaries can generally withdraw up to 50% as a lump sum, then the entire or remaining amount as an annuity.

On 5 December 2005 the Italian Government approved Legislative Decree N°252 aimed at redefining, as from 1 January 2007, the entire regulation applicable to supplementary pension schemes for private company employees.

The new regulation notably provides for:

- Increase in the amount of financing flows dedicated to supplementary pension schemes
- Homogeneity in the supervision system applicable to the entire supplementary pension sector
- New taxation regime applicable to pension funds
- Monitoring the management of financial resources arising from workers contributions
- New financing system through contribution by the employee of his/her own severance pay (TFR - *Trattamento di Fine Rapporto*). In this respect, as from 1 January 2007 the employee shall be entitled to elect within a six-month term from his/her hiring date, at own discretion, (i) to leave the accrued severance pay within the employing company or (ii) to contribute it to a pension fund. If such six-month period elapses without any election by the employee, the accrued severance pay shall be contributed by the employing company to the pension fund mentioned in the relevant labour agreement based on an implicit consent mechanism, i.e. *silenzio-consensus* (*silenzio-assenso*).

On 6 February 2007 the Italian Government approved Legislative Decree N°28, aimed at enhancing the regulation of supplementary pension funds.

Each pension fund shall define its own investment policy and its members shall be duly informed; on a three-year basis, the fund shall verify whether its investment policy meets subscribers' interest.

Compulsory Hiring of Disadvantaged Persons

Undertakings with 15 or more employees are required to recruit personnel from “protected categories”, such as widows, orphans, refugees, and disabled persons.

Workplace Safety

Consistently with the specific features of job and workplace, employers shall adopt all necessary measures to preserve the psycho-physical integrity of employees.

As per law, employers shall carry out dedicated risk assessments and accordingly ensure adequate prevention and protection systems. Employees and their representatives are entitled to check the effectiveness of the implemented health and safety standards.

Labour Proceedings

Special provisions of the Italian Code of Civil Procedure apply to labour proceedings.

Labour proceedings are faster than ordinary proceedings since allegations and evidence are submitted to the court with the first statement of defence.