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Significant changes to improve the Italian labour market: economic benefits and new rules on dismissal of new hires

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The reform of the Italian labour market

The reform known as the *Jobs Acts*, implemented by several Legislative Decrees and based on the guidelines provided by Law no. 183 of December 10, 2014, is aimed at: (i) improving the flexibility of the labour market by introducing new rules governing dismissals; (ii) introducing economic benefits in connection with new hiring in 2015; (iii) cancellation of certain kinds of contracts in the Italian labour market due to frequent misuses and breaches.

We analyze below the main legislative innovations provided by the new labour reform.

Economic benefits of new hiring

The *Jobs Act* provides economic benefits to the employer related to all hiring of permanent employees carried out in 2015: this incentive lasts up to 36 months and totals a maximum saving of Eur 8060 per year.

The economic benefits apply to the hiring of all employees who were unemployed in the previous 6 months leading up to their hiring and who were not employed on a permanent contract by a company in the same group in the last 3 months of 2014.

This benefit cannot be combined with other tax incentives.

New rules on dismissal

The new rules on dismissal provided by the *Jobs Act* reform are only applicable to employees hired after March 7, 2015. The rules of the previous reform of 2012, known as *Riforma Fornero,* remain applicable to employment contracts in force on the above mentioned date (find more information on *Riforma Fornero* at the following link: http://www.portolano.it/en/2012/07/reform-of-the-italian-labour-market-2/)

The *Jobs Act* rules provide that in the event of unfair dismissal the typical sanction (in cases of companies with more than 15 employees in the same office/city, or more than 60 employees in total in Italy) takes the form of an indemnity payment which ranges from 4 to 24 months' salary, depending not on the decision of the judge but on specific and objective criteria. The criteria for the determination of the indemnity are 2 months' salary for each year of employment, with a minimum indemnity of four months' salary due even in cases where the employment relationship has lasted less than 2 years. This sanction is also applicable if the employee is dismissed by means of a collective redundancy procedure.

Based on the new rules, any order to reinstate an employee is limited to certain scenarios, such as: discriminatory or oral dismissal (regardless of the number of personnel employed by the company), dismissal for cause (*giusta causa*) or a subjectively justified reason (*giustificato motivo soggettivo*) where the alleged breach is subsequently disproved, since it is not true (in cases of companies with the above mentioned headcounts).

The years of employment criterion introduced by the *Jobs Act* is also applicable to the determination of an indemnity of between 2 and 12 months' salary to be paid in cases of dismissal where violations to the dismissal process are involved, and for the determination of the indemnity of between 2.5 to 6 months' salary to be paid in cases of unfair dismissal by small-sized companies (i.e. companies with 15 employees or fewer in the same office/city or with 60 employees or less in total in Italy).

Change of dismissal procedure and the introduction of a fast and simplified conciliation agreement

The Jobs Act reform introduces new rules on dismissal procedure and promotes settlement agreements. As with the other provisions introduced by the Jobs Act governing dismissals, these are also only applicable in cases of the dismissal of employees hired since March 7, 2015.

Based on the new rules, the preliminary procedure introduced by Riforma Fornero governing dismissals for objectively justified reasons shall no longer be relevant and only the delivery of a dismissal letter will be sufficient.

To reduce the workload of the labour courts and to encourage parties to reach early settlements, *the Jobs Act* provides that in cases of dismissal, the employer can, within the 60 day period following a dismissal during which the employee can challenge the decision, offer the employee, by means of a cashier's check, a conciliation amount in order to prevent a possible challenge and consequent dispute before the labour court.

The conciliation amount is tax free and not subject to social security contributions, making it very convenient both for the employer and the employee. However, it is mandatorily calculated based on the employee's seniority: 1 month's salary for each year of employment, with a minimum of 2 months and a maximum of 18.

The offer and its acceptance must take place in appropriate forums, either labour offices (*Direzione Territoriale del Lavoro*) or trade union offices.

The acceptance of the offer entails the termination of the employment relationship and the waiver of the employee's right to challenge the dismissal, but does not extend to all other possible claims arising from the employment relationship such as unpaid severance payments or compensation for damages suffered. In light of this, if the parties want to settle such further claims, they must sign an *ad hoc* settlement agreement.

New rules on consulting and cooperation agreements

The reform, in order to avoid the frequent misuse of certain kinds of consulting agreements (the so called "*contratti a progetto*" and "*contratti a partita IVA*") and also to promote the use of employment agreements, has introduced new significant rules in this context.

Specifically, the parties cannot sign new "*contratti a progetto*" or "*contratti a partita IVA*" and pending contracts will remain in force until their expiration.

New consulting and cooperation agreements will be allowed, but will need to meet certain criteria to comply with the new rules.

First of all, such contracts must refer to workers who personally carry out non-repetitive intellectual activities themselves, and only the functional coordination of the company.

Furthermore, such contracts can only be signed in connection with: (i) the *ad hoc* provision of national collective agreements; (ii) members of company's board of directors; (iii) qualified professionals (e.g. lawyers, tax advisors, engineers, journalists, architects, etc.); (iv) workers of unprofessional sports associations and companies.

Final consideration

Lower economic exposure in cases of dismissal, objective criteria to quantify applicable sanctions no longer subject to judge's discretion in cases of unfair dismissal, and the simplification of dismissal procedures are all changes that will guarantee more flexibility in employment relationships.

Indeed, the *Jobs Act* reform is, as a consequence, improving the labour market by promoting the hiring of new, permanent employees. For this reason, further measures also provide significant economic benefits for new hirings and the so-called "*contratto a progetto*", which was unpopular with both workers and companies due to the high risk of claims, has been abolished.

The content of this article is intended to provide a general guide to the subject matter. Specialist advice should be sought about your specific circumstances.