



EU Posted Worker Directive

A new EU Posted Worker Directive came into effect on **30th July 2020**. All EU countries had until that date to transpose this directive in their national law. Here is a brief overview of the Posted Workers Notification in Italy.

Important points to remember :

1. Maximum work periods and minimum rest periods
2. Minimum paid annual holiday
3. Minimum rates of pay (including overtime rates)
4. Conditions applying to temporary workers
5. Health, Safety and Hygiene at work
6. National Collective Agreements
7. Compulsory Communications
8. Obligations for companies

1

Maximum work periods and minimum rest periods

The provisions and the sanctions regime concerning working time and rest periods are provided for by Legislative decree No 66/2003. The standard number of working hours is 40 per week. However, the collective agreements provide more flexibility and establish maximum weekly working hours that may, in any case, not exceed 48 hours in any seven-day period, including overtime.

Workers are also entitled to 11 consecutive hours of daily rest every 24 hours in addition to an uninterrupted weekly rest period of 24 hours every seven days, generally on Sundays. The above-mentioned uninterrupted weekly rest period is calculated within a period of 14 days and could fall on a week day.

2

Minimum paid annual holiday

The worker is entitled to a minimum of 4 weeks of paid annual holiday. At least two weeks, except as provided for in the collective agreements, are to be taken during the year of accrual and can be taken consecutively if requested by the worker. The remaining two weeks are to be taken during the 18-month period that follows the year of accrual. Payment cannot be taken in lieu of holiday unless employment has terminated.

3

Minimum rates of pay (including overtime rates)

In Italy there is no statutory minimum wage. Collectively agreed minimum wages are established in the national collective agreements for the different industrial sectors by the most representative trade union organizations at national level, in compliance with Article 36 of the Constitution which lays down the right to a fair wage, in proportion to the quality and quantity of the work.

4

Conditions applying to temporary workers

For their entire working period, agency workers are entitled to at least the same pay and the same conditions for equal work as those who are employed directly by the "user" company. The "user" company is committed jointly with the temporary staff provider to pay the worker's salary as well as the relative social insurance contributions.

5

Health, Safety and Hygiene at work

- The receiving company must take the necessary general prevention and protection measures
- The receiving company, as the beneficiary of the service provided, must ensure the safety of the working environment in which the posting takes place
- The receiving company is responsible for setting safety standards, for carrying out risk assessment, training and health surveillance
- The service provider must provide information and training concerning the risks related to the tasks that the worker will be carrying out during the posting

6

National Collective Agreements

In Italy, unlike many other European Countries, there is no statutory minimum wage and so it is the social partners through national collective bargaining that play a key role in fixing wages. It is these agreements that are taken into consideration by judges if a worker claims that his salary is neither sufficient nor in proportion to his work.

As far as concerns social insurance contributions, Article 1, clause 1, of Bill 9/10/1989, No 338, enacted into Law No 389/1989, establishes that, if there is more than one applicable collective agreement in the same product sector, **the wage on which to base the calculation of the social insurance contributions cannot be inferior to the wage established by the collective agreement stipulated by the most representative trade union organizations at national level.**

7

Compulsory Communications

The e-form UNI_DISTACCO_UE must be sent by the service provider by midnight of the day preceding the start of the posting. Any subsequent variations must be transmitted within 5 days of the change being made

Cancellation is possible by midnight of the day preceding the start of the initial posting period. Information transmitted to the Ministry of Labour and Social Policies can be accessed through INL, INPS and through the Italian Institute for Insurance against Accidents at Work - INAIL (Istituto Nazionale per l'Assicurazione contro gli Infortuni sul Lavoro).

Obligations for companies

Make an advance declaration, setting out specific information regarding the posting of the worker(s), by midnight of the day preceding the start of the posting itself and must notify of any subsequent modifications within 5 days of the change being made, as defined in the special Ministerial Decree of October 27th and related annexes.

Maintain for inspection, all the documentation-hard or electronic copies in Italian- relating to the employment of the posted worker (contract of employment, or other document containing the information set down in Articles 1 and 2 of Legislative decree No 152/1997), payslips, timesheets, documents that demonstrate the payment of remuneration as well as certification regarding legislation on applicable social security.

Designate a liaison officer domiciled in Italy to liaise with the competent authorities. Failing this, the registered office or company premises of the Italian employer will be considered the liaison office of the foreign posting company (for the entire period of posting and up to two years following its termination).

Designate a person, not necessarily the same as the one above, who will have the role of legal representative, for the purpose of putting the interested social partners in contact with the service provider for possible collective negotiations; this person does not have to be present at the workplace of the posted worker, but must be available if there is a duly motivated request (for the entire period of posting and up to two years following its termination).

Source: <http://www.distaccoue.lavoro.gov.it/Pages/Home.aspx?lang=eng>.

For more information, please contact us

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