



Italy: COVID-19 operating instructions for businesses

Tax Alert
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Range of issues: precautionary measures to be adopted in the workplace, how to handle suspected cases, and how to suspend workers and use redundancy schemes

The new Coronavirus disease ('COVID-19') is currently spreading throughout the Italian peninsula and is prompting many questions about personnel management and how to safeguard health and safety in the workplace.

Based on the information provided so far by the Italian ministries, KPMG - Studio Associato can provide the following operating instructions, which employers should follow in order to prevent the spreading of contagion from COVID-19 in the workplace.

Because the situation is evolving rapidly it will be necessary, over the next few days, to update these instructions to reflect the spread of the contagion and the information provided by the health and governmental authorities.

Precautionary measures to be adopted in the workplace

The spread of COVID-19 requires businesses in Italy to take immediate steps to prevent, as far as possible, the risk of contagion. Employers – in accordance with article 2087 of the Italian Civil Code – have a duty to adopt full safety measures in order to guarantee the well-being of their employees. Under Legislative Decree no. 81/2008, employers also have a responsibility to collaborate with their company doctor (if they have one) to protect their workers from exposure to 'biological risk'.

Therefore, it would certainly be advisable for businesses to immediately update their Risk Assessment Document (the 'DVR') so that it includes this new biological risk and provides for the supply of personal protection equipment, the installation of antibacterial gel dispensers, and the supply of gloves and/or face masks.

According to the indications given in the Ministry of Health Circular of 3 February 2020, employers must invite their employees to take the usual steps to prevent the spreading of disease: in other words, they should wash their hands frequently, keep surfaces clean, and avoid close and prolonged contact with those who have flu-like symptoms.

Suspected cases

If, at work, a worker comes into contact with a person who qualifies as a 'suspected case', the employer must immediately contact the health service.

While waiting for the health workers to arrive, it is necessary to avoid close contact with the worker and, if there is one, provide him/her with a face mask.

Particular attention must be paid to surfaces which the worker might have touched.

Suspension of workers due to suspected cases

In compliance with the indications given in the Ministry of Health Circular of 21 February 2020, it is obligatory for the following workers to stop work immediately:

1. Workers who have had close contact with confirmed cases of COVID-19. These workers must go into quarantine.
2. Workers who, in the last 14 days, have entered Italy after being in areas of the People's Republic of China struck by the epidemic.
3. Workers in the areas of northern Italy specified below (Law Decree no. 6/2020, Presidential Decree of 23 February 2020, Presidential Decree of 8 March 2020).

Travel for work-related reasons

The most stringent measures have been introduced over the last few days through the Prime Ministerial Decrees of 8 and 9 March 2020. The first imposes a travel restriction in areas of central and northern Italy (the region of Lombardy and the provinces of Modena, Parma, Piacenza, Reggio Emilia, Rimini, Pesaro-Urbino, Alessandria, Asti, Novara, Verbano-Cusio-Ossola, Vercelli, Padua, Treviso and Venice); the second restricts the movement of people everywhere in Italy, allowing travel only for verifiable work-related reasons or health reasons, or serious necessity.

The Government has clarified that there are no restrictions on the mobility of workers or goods, within Italy or between Italy and other countries. Therefore, anyone who needs to travel for work-related reasons, within a province or between different provinces, can do so. In this way those who are healthy, have no symptoms and are not in quarantine are guaranteed the right to work. On the understanding that movement is always for work-related reasons or for serious necessity.

The Ministry of the Interior has issued a directive regarding travel for reasons of serious necessity.

1. Travel is only possible for work-related or health reasons, or serious necessity, to be declared by self-certification. This declaration can also be given on the spot, by filling in forms provided by the police. With no exceptions, people who are in quarantine or who have tested positive for the virus are totally banned from travelling.

2. Compliance with travel restrictions will be checked throughout the transport system and at large transport hubs. On motorways and other main routes, the traffic police will be monitoring compliance by requesting self-certifications. Similar checks will be carried out along other roads, also by the carabinieri and local police officers.
3. With regard to the railways, the railway police will – with the aid of railway personnel, the health authorities and the civil defence – channel passengers through checkpoints as they enter and leave stations so that their state of health can be quickly checked using thermal scanners. Checks will also be carried out by asking passengers for self-certifications.
4. At airports in the zones subject to 'reinforced containment measures', passengers going through departure points will not only be asked for their ticket but also for the self-certification. Similar checks will be carried out coming through arrivals in those zones. Passengers in transit are excluded.
5. In the case of flights departing to Schengen and non-Schengen countries, only passengers resident or domiciled in areas subject to restrictions will be asked to prove a self-certification. In the case of flights from Schengen and non-Schengen countries, passengers will have to justify the purpose of their trip to Italy.
6. The veracity of self-certifications may be checked subsequently.
7. The penalty for those who contravene the travel restrictions is the general penalty imposed by article 650 of the Criminal Code (failure to comply with an official order): a prison sentence of up to three months or a fine of up to EUR206, unless a more serious crime has been committed, such as that indicated in article 452 of the Criminal Code (crime against public health, which occurs whenever anyone acts in such a way as to endanger public health).

Measures that employers must adopt in Italy

In view of all the above, it is advisable to consider the feasibility of smart working and homeworking, or encourage workers to take holidays or leave. The terms of pay and employment for work in normal conditions should continue to be applied.

Given the very particular circumstances, it seems possible to consider that it would be unlawful for an employee to refuse to stop working.

Evaluation of employees who are 'at risk'

Employers must also evaluate employees who suffer from particular conditions or are in a particular state of health (e.g. pregnant women) and may, in this case too, adopt specific measures to safeguard their health, such as smart working. In the event of suspected contagion within the business, the employer must immediately inform (i) the RSPP (the Accident Prevention and Safety Officer) and (ii) the company doctor, who must notify the local health authority. All the worker's personal data must be handled in compliance with data protection rules.

If a business is unable to return to normal business, it might be necessary to resort to temporary 'Cassa Integrazione Ordinaria' layoffs. At the moment there are no forms of ad hoc support to help businesses weather the emergency; however, it is expected that measures will be announced over the next few days to relax certain rules and allow a wider group of businesses to access the ordinary shock-absorber mechanisms.

Travel

Finally, any travelling or transit through at-risk areas must obviously be cancelled.

In the case of workers to be hired or posted abroad, employers must evaluate all risks and adopt appropriate safety measures to keep them out of harm's way, considering all logistical aspects (travel, lodging) and appropriate travel insurance.

Employers should note that the above measures may change and/or be expanded in light of the evolving situation and national and international directives.

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