

CORONAVIRUS OVERCOMING THE DIFFICULTIES

PARENTAL LEAVE FOR THE COVID-19 EMERGENCY, BABY-SITTING BONUS AND PAID LEAVE UNDER SECT. 33, PARA. 3, OF LAW NO. 104/1992: THE OPERATIONAL INSTRUCTIONS OF THE ITALIAN NATIONAL SOCIAL SECURITY INSTITUTE (INPS)

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The Italian National Social Security Institute (INPS) (Memorandum no. 44 of March 24th, 2020 and Memorandum no. 45 of March 25th, 2020) provided operational instructions concerning the special parental leave and the baby-sitting bonus introduced by the Italian Government (Sect. 23 and 25 of Law Decree no. 18 of March 17th, 2020) in order to face the Covid-19 emergency, as well as clarifications as to the increase of the paid leave for those employees caring for persons with serious disabilities, as envisaged by Sect. 33, paragraph 3, of Law no. 104/1992.

Such instructions and clarifications may be summarised as follows.

1. Parental Leave for workers with children no older than 12

1.1 Beneficiaries	<p>The special parental leave to face the Covid-19 emergency may be granted to:</p> <ul style="list-style-type: none">• employees of the private sector (even if they have already crossed the thresholds set by the legislation for the use of the ordinary parental leave by one or both the parents);• self-employed workers enrolled in special pension schemes of the social security administration (in Italian “<i>Gestione Separata</i>” - even if they have already crossed the thresholds set by the legislation for the use of the ordinary parental leave by one or both the parents);• self-employed workers enrolled in the in separate pension schemes for them of INPS (including those female workers who have already crossed the thresholds set by the legislation for the use of the ordinary parental leave);• employees of the public sector. <p>This special parental leave is also granted to foster parents, including the cases of domestic and international adoption provided that on March 5th, 2020 the child had already reached the foster family, as well</p>
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	as the cases of pre-adoptive custody ordered by a Court.
2.2 Duration and terms of use of the leave	<p>This special leave has a maximum duration of 15 days¹, to be used both on a continuous or non-continuous basis. However, in the latter case, the leave may be used on a daily basis only, not on an hourly one.</p> <p>This special leave may be used during the period of stay of the educational services and teaching activities under the Prime Minister Decree of March 4th, 2020. The beneficiaries may also apply for this special leave to cover periods of time preceding the date of the filing of the application, provided however that the beginning of such periods of time does not backdate earlier than March 5th, 2020.</p> <p>This special leave may be alternately used by one or the other parents.</p>
1.3 Requirements	<p>The use of this special leave by either parent is conditional upon being the other parent:</p> <ul style="list-style-type: none"> • not benefitting from income support wages; • unemployed; • voluntarily not working. <p>Moreover, the beneficiaries must not have applied for the granting of the baby-sitting bonus under §2 below.</p>
1.4 Remuneration and Social Security Contribution	<ul style="list-style-type: none"> • Employees of the private sector benefitting from this special leave are entitled to a wage equal to 50% of the maternity indemnity (as contemplated Sect. 23 of Legislative Decree no. 151/2001) <p>Pension entitlements accrue during such leave, at no cost for the employers for social security contributions.</p> <ul style="list-style-type: none"> • Self-employed workers enrolled in special pension schemes of the social security administration (in Italian “<i>Gestione Separata</i>”) benefitting from this special leave are entitled to an indemnity equal to 50% of the daily professional income, to be calculated in accordance with the legal requirements for the calculation of the maternity indemnity. • Self-employed workers enrolled in separate pension schemes for them of INPS benefitting from this special leave are entitled to an indemnity equal to 50% of the conventional daily salary established by the law on an annual basis for each kind of activity.
1.5 How to apply?	<ul style="list-style-type: none"> • Employees of the private sector: applications are to be filed with: (i) the employer; <u>and</u> (ii) INPS; following the ordinary online

¹ The leave is of unlimited duration in case of parents with children with serious disabilities ascertained in accordance with the provisions of Sect. 4, Para. 1, of Law no. 104/1992, provided that such children do attend school or are housed in day care centres.

	<p>procedure which presently is in the process of being upgraded. Meanwhile, the employers must allow the employees to use the special leave and advance the payment of the indemnity under §1.4 above; the employees will then file the relevant application with INPS in due course.</p> <p>Employees who have already crossed the thresholds set by the legislation for the use of the ordinary parental leave may just abstain from working using the Covid -19 leave.</p> <p>If they have already applied for the use of ordinary parental leave or are already using it, they may just continue abstaining from work without submitting a new application for the Covid-19 leave. All the days of ordinary parental leave already taken during the period of stay of the educational services and teaching activities contemplated by the Prime Minister Decree of March 4th, 2020 will be counted as Covid-19 leave by operation of law.</p> <p>With reference to those periods, the employer will have to (i) report the flows of the use of the leave; and (ii) advance the payment of the relevant allowance on behalf of INPS.</p> <ul style="list-style-type: none"> • Self-employed workers enrolled in the so-called “Gestione Separata” pension scheme and self-employed workers enrolled separate pension schemes for them of INPS must file their applications following the ordinary online procedure which presently is in the process of being upgraded. Meanwhile, they are permitted to use the Covid-19 leave. <p>Periods of leave of these kind of workers applied for prior to March 17th, 2020, even if coinciding with the period of stay of the educational services and teaching activities under the Prime Minister Decree March 4th, 2020, will not count as Covid-19 leave, but as ordinary parental leave.</p> <ul style="list-style-type: none"> • Employees of the public sector will have to file their applications with the Administration which they belong to, following the instructions to be given by the same Administration.
<p>1.6 Payment</p>	<p>The wage under §1.4 above may be advanced by the employer and then offset against payments due by the same employer to INPS, or may it be directly paid to the employees by INPS.</p>

2. Baby-sitting bonus

As an alternative option, upon the conditions under §1.3 above, Law Decree no. 18 of March 17th, 2020 contemplates the possibility of benefitting from a baby-sitting bonus to be used during the same period of time up, up to a maximum amount of € 600.00² (even in presence of more than one child aged less than 12 years old).

2.1 Beneficiaries	<p>This benefit may be granted to:</p> <ul style="list-style-type: none">• the same beneficiaries under §1 above; <u>as well as</u>• workers who are not enrolled in the INPS pension system (e.g. workers enrolled in the special pension funds for certain categories of professionals). <p>The children age requirement must be considered as of March 5th, 2020: parents with children who are 12 years old on the date of submission of the relevant application are eligible to benefit from the baby-sitting bonus, provided however that their children were not yet 12 years old on March 5th, 2020.</p> <p>If parents do not live together, the baby-sitting bonus is granted to the one living with the child.</p>
2.2 How to apply?	<p>The relevant application is to be filed with INPS through:</p> <ol style="list-style-type: none">1. the dedicated Web Application on www.inps.it: “<i>Prestazioni e servizi</i>”> “<i>Tuttiiservizi</i>”> “<i>Domande per Prestazioni a sostegno del reddito</i>”> “<i>Bonus servizi di baby-sitting</i>”;2. the INPS Contact Center;3. patronage bodies.
2.3 Payment of the bonus	<p>The baby-sitting bonus will be paid through the so-called family booklets contemplated by Sect. 54-<i>bis</i> of Law no. 50/2017.</p> <p>To this end, the beneficiaries and the baby-sitters are required to register on the platform for occasional work available on INPS’s website (www.inps.it). The relevant procedure may be activated:</p> <ul style="list-style-type: none">• directly by the beneficiaries and the baby-sitters;• through the INPS Contact Center;• through patronage bodies. <p>The beneficiaries may then get the bonus through the activation of the so-called online appropriation of the baby-sitting bonus to be made no later than 15 calendar days as from the receipt of a notice of acceptance of the relevant application. A failure to do so within the</p>

² The maximum amount is € 1.000,00 for employees of the healthcare sector, both public and private. In particular: doctors, nurses, biomedical laboratory technicians, medical radiology technicians and social-medical operators, as well as personnel of the security, defence and public aid sectors engaged against the Covid-19 emergency.

	aforesaid deadline would result in a tacit waiver of the benefit.
2.4 Baby-sitters	Baby-sitters who entitle the beneficiaries to the payment of the bonus are those who were already in employment at the beneficiary concerned, or were terminated in the last 6 months.

3. Abstention from work for the Covid-19 emergency in favour employees of the private sector with children aged in between 12 and 16 years old

Employees of the private sector with children aged in between 12 and 16 years old will be permitted to abstain from working upon the following terms and conditions.

3.1 Requirements	Employees of the private sector may be permitted to abstain from working if the other parent is: <ul style="list-style-type: none"> • not benefitting from income support wages; • voluntarily not working.
3.2 Duration	The employees concerned may abstain from working for the entire period of stay of the educational services and teaching activities contemplated by the Prime Minister Decree of March 4 th , 2020.
3.3 Remuneration and Social Security Contributions	During the period of abstention from work the employees concerned are not entitled to any wage and do not accrue pension entitlements.
3.4 Other conditions	During the period of abstention from work the employees concerned may not be dismissed and are entitled to keep their job position.
3.5 How to apply?	Employees are required to file an application just with the their employer, not with INPS. The employers must then communicate the number of days of leave used by the beneficiaries to INPS by means of UNIEMENS.

4. Increase of the Paid Leave under Sect. 33, Para. 3, of Law No. 104/1992

Eventually, INPS clarified that the increase of the paid leave for those employees caring for persons with serious disabilities as envisaged by Sect. 33, paragraph 3, of Law no. 104/1992 is of **12 days in the aggregate**, to be used during the months of March and April, 2020 (and not for each of them). This means that these additional 12 days will be added to the 6 days of paid leave (3 for the month of March and 3 for the month of April) already contemplated by Law no. 104/1992. Such additional 12 days of paid leave may be used on an hourly basis and

also on a continuous basis within a same month.

30 March 2020

Il presente articolo ha esclusivamente finalità informative e non costituisce parere legale.


This article is exclusively for information purposes, and should not be considered as legal advice.




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