

BonelliErede
Covid-19 Task Force

BonelliErede

**Legislative Decree No. 19 of Mar. 25
and additional updates**

27 March 2020

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Measure	Addressees	Value/duration	Operational guidelines	Notes
– Suspension of all business activities except for those listed in Annex 1 of the decree of the ministry of economic development of 25 Mar. 2020, public utilities and essential services. – Exemption, following notification to the competent prefecture, only for activities needed to ensure the continuity of the activities referred to above, continuous production plants, aerospace and defence activities, and activities of strategic importance for the national economy. (Art. 1, para. 1, points a, d, e, g and h of Prime Ministerial Decree of 22 Mar. 2020)	Companies.	25 Mar.– 3 Apr.	– Ascertain whether the activities you carry out fall within those that may automatically continue or require notification. – Go, if the activities require notification, to the website of the prefecture of the province where the activity is carried out, use the template notification form available there and send it to that prefecture.	– Companies subject to suspension must ship stored goods by 25 Mar. – Companies may carry out exempted activities (barring a subsequent suspension measure issued by the local prefecture) once they notify the local prefecture. – Continuous production plants may continue operations on condition that suspension would: (a) seriously harm the plant, or (b) risk causing an accident.
– Additional Covid-19 containment measures for the entire country or parts of it may be adopted until 31 Jul. (the date the Cabinet declared, on 31 Jan., the state of emergency will end). – The measures are enacted by prime ministerial decrees.	Companies.	Until 31 Jul.	Remain updated on new measures.	Regions and municipalities have the power to adopt more restrictive measures than those introduced by the government.

Measure	Addressees	Value/duration	Operational guidelines	Notes
– Measures can be adopted, pending prime ministerial decrees: – a) by the Ministry of Health in cases of extraordinary need and urgency; – b) by the regions, in relation to supervening circumstances increasing the health risk in the given region. Regions may adopt more restrictive measures than those of the government but not ones that affect business activities or activities of strategic importance for the national economy; and – c) by mayors, in compliance with the governmental measures and the restrictions under the above point b. – Prime Ministerial Decrees of 8, 11 and 22 Mar. 2020 continue to apply in full. All other Covid-19 measures (inc. regional ordinances) still in force continue to apply for a maximum of 10 days. (Art. 1–3 of Law Decree No. 9 of 25 Mar.)				

Maritime and transport law

Liquidity support measures through the banking system

Measure	Addressees	Details	Operational guidelines	Notes
Export credit measures (Art. 53)	Shipyards and companies that benefit from SACE export credit.	SACE S.p.A. is granted a State guarantee of up to EUR 2.6 bn, for operations in the cruise sector resolved on by SACE by the date of entry into force of the decree (17 March).	The State guarantee is issued, taking into account the allocation of the fund referred to in Art. 6, para. 9-bis of Law Decree No. 269 of 30 Sept. 2003, converted with amendments into Law No. 326 of 24 Nov. 2003, and within the limits of available resources, by a decree of the Minister of Economy and Finance at the request of SACE, following consultation with the committee referred to in Art. 3 of the prime ministerial decree of 19 Nov. 2014, which was enacted at the proposal of the Minister of Economy and Finance in consultation with the Minister of Economic Development.	This measure will help unblock also the five ship orders for the Norwegian Cruise Line Holdings group (two ships for NCL, two for Oceania Cruises and one for Regent Seven Seas Cruises), which are waiting only to be formalised by SACE, which will occur by 15 Apr. at the latest.

Miscellaneous

Measure	Addressees	Details	Operational guidelines	Notes
Urgent air transport measures (Art. 79)	Airline companies (carriage of passengers).	Compensatory measures are provided to mitigate the damage caused by the epidemic. Authorisation has been granted for the establishment of a new company wholly owned by the Ministry of Economy and Finance or controlled by a state-owned company (inc. indirectly) to take over Alitalia - Società Aerea Italiana S.p.A. in a.s. and Alitalia Cityliner S.p.A. in a.s.	One or more implementing decrees will be needed – which will constitute the memorandum and articles of association of the newco.	The compensatory measures under para. 2 are subject to European Commission authorisation (under Art. 108(3) of the Treaty on the Functioning of the European Union). The Covid-19 epidemic is formally recognised as a natural disaster and as an exceptional occurrence under Art. 107(2)(b) of the Treaty on the Functioning of the European Union.
Carriage of goods by road and public carriage of passengers (Art. 92, para. 1)	Maritime carriers.	No anchorage fees due to the harbour authorities between the date of entry into force of the decree (17 Mar.) and 30 Apr.		EUR 13.6 m has been allocated to indemnify the harbour authorities against the lost income this year.
Carriage of goods by road and public carriage of passengers (Art. 92, para. 2)	Terminal operators, concession holders of space within the port, stevedoring companies.	Payment is deferred for the concession fees under Arts 16, 17 and 18 of Law No. 84 of 28 Jan. 1994 (legislation on Italian ports) that are due by terminal operators, concession holders and stevedoring companies between the date of entry into force of the decree (17 Mar.) and 31 Jul.	The fees must be paid in full by 31 Dec.	No interest applicable to the deferred payments, and repayment can be made in instalments (each harbour authority will have its own procedure for this).

Measure	Addressees	Details	Operational guidelines	Notes
Carriage of goods by road and public carriage of passengers (Art. 92, para. 3)	Importers, shippers and customs brokers.	Payment is deferred for 30 days for customs duties due between the date of entry into force of the decree (17 Mar.) and 30 Apr. – no interest applicable.		
Carriage of goods by road and public carriage of passengers (Art. 92, para. 4)	Road carriers.	Use for road transport of vehicles due for inspection (by the competent authority) by 31 Jul. is authorised until 31 Oct.	Inspection and testing guidelines are set out under domestic legislation on the safety and good management of vehicles.	

Prime Ministerial Decree of 22 March

Measure	Addressees	Details	Operational guidelines	Notes
Urgent measures to contain the spread of Covid-19 (Art 1, points <i>a</i> and <i>d</i>)	Maritime and air transport operators.	The government (under Art. 1, point <i>a</i>) has suspended all industrial and business activities except for those listed in Annex 1 to the decree. The annex includes carriage of goods by road, sea and air (ATECO codes 49, 50 and 51). Under Art. 1, point d, activities needed to ensure supply chain continuity for the activities referred to in Annex 1 are exempt from the suspension, provided companies notify the prefecture of the province where the activity is carried out. Companies may carry out exempted activities (barring a subsequent suspension measure issued by the local prefecture) once they notify the local prefecture. The prefecture may suspend exempted activities if it considers the conditions under Art. 1, point d, unmet.	The notification to the prefecture must indicate the companies and/or public administrations that are beneficiaries of products/services needed for activities permitted under Art. 1, point <i>a</i> .	Each prefecture will likely issue individual template notification forms (see the Prefecture of Brescia's press release of 24 Mar.). According to indications from Confindustria (neither the government nor other authorities have issued official clarification yet), companies that carry out activities needed for supply chain continuity may also continue to serve foreign customers that: – operate in any of the sectors in Annex 1; – provide public utilities and/or essential services; or – produce/transport/market medicines (and the like) or agricultural/food products. In these cases, companies must first notify the competent prefecture of the foreign customer's details and activity.

Measure	Addressees	Details	Operational guidelines	Notes
Urgent measures to contain the spread of Covid-19 (Art 1, point o)	Transport operators.	The competent national and regional authorities may limit, reduce, suspend or cancel: – air, automotive, railroad and maritime (both tramp and liner) carriage of people and goods; and – local public transport.		
Urgent measures to contain the spread of Covid-19 (Art 1, point dd)	Transport operators.	Anyone who has travelled through or stopped in high-risk areas (as identified by the WHO or the Ministry of Health must notify the national health service.		

Inter-ministerial Decree No. 125 of 19 March

Measure	Addressees	Details	Operational guidelines	Notes
Cruise services offered by passenger ships flying under the Italian flag Art. 2, para. 1	Cruise operators.	Effective from March 19, it has been decided to suspend cruise services offered by passenger ships flying under the Italian flag up to April 3. As from the same date, it is prohibited for all cruise operators of Italian passenger ships engaged in cruise services to take on passengers in addition to those already on board, until the end of the cruise in progress.		Cruise operators only allowed to complete the passages in order to disembark passengers at the end of the cruise.
Foreign flag cruise ships Art. 4	Cruise operators.	Effective from March 19, it has been ordered to stop access for foreign flag cruise ships into Italian ports up to April 3.		

Inter-ministerial Decree No. 127 of 24 March

Measure	Addressees	Details	Operational guidelines	Notes
Reduction of rail passenger services (Art. 1, para. 1)	Transport operators.	Intercity rail passenger services (trains and routes) are further reduced, in accordance with Annex 1 to the decree.		
Entry into Italy (Art. 1, para. 2)	Transport operators.	The exemption from the obligation to undergo 15-day self-isolation for anyone returning from abroad (introduced by Inter-ministerial Decree No. 120) is extended to crew members of means of transport and 'travelling personnel' of transport companies with registered office in Italy.		
Extension of the effectiveness of inter-ministerial decrees (Art. 2)	Transport operators.	The effectiveness of the following inter-ministerial decrees is extended until 3 Apr.: – Decree No. 112: reduction of carriage of passengers by air and of operations at all national airports – Decree No. 113: rescheduling of long-distance train routes and rail passenger services – Decree No. 114: reduction of interregional non-scheduled services – Decree No. 116: reduction of Intercity rail passenger services (trains and routes) – Decree No. 117: suspension of the carriage of passengers to Sardinia – Decree No. 118: strict limitation on the carriage of passengers to Sicily – Decree No. 120: see above – Decreto No. 122: exemption from the obligation to undergo 15-day self-isolation for anyone returning from abroad for healthcare workers and cross-border workers returning to Italy for proven work-related reasons and the consequent return to their residence or domicile; further limitations on the carriage of passengers to Sardinia and Sicily.		

Antitrust law

Antitrust

Area of responsibility	Issues/Opportunities	Possible solutions
Relationships with competitors and with suppliers /distributors.	Possibility (in certain circumstances) of increasing collaboration with other undertakings (in the form of cooperation agreements, commercialisation agreements, purchasing agreements, etc.) to ensure the supply and distribution of essential goods/services at fair prices.	Carry out an in-depth, case-by-case antitrust analysis to verify whether an agreement with other undertakings can be considered immune from antitrust regulations.
Online sales/e-commerce.	Prohibition on using aggressive or misleading practices to sell goods/services (especially online) and on charging excessive prices, especially for as concerns essential goods /services (relating to health and hygiene, food, etc.).	Analyse, on a case-by-case basis, selling practices that could be considered prohibited. Update/adopt compliance programmes.
State aid to support undertakings.	Possibility of accessing State aid schemes authorised by the European Commission.	Verify the existence of authorised State aid schemes and the right to receive the aid.

Tax law

Measure	Beneficiaries	Value/Duration	Operative information	Notes
Bonus for employees (Art. 63)	Employees whose 2019 employment income did not exceed EUR 40k.	Amount: EUR 100 for Mar. The amount is determined based on the days the employee effectively spent at his/her workplace in Mar., on a pro-rata basis.	The bonus is automatically paid by the employer, which can then offset the amount against taxes due.	The credit is not subject to income tax in the hands of the employee.
Tax credit for 2020 for advertising investments (Art. 98, para. 1)	Companies, sole entrepreneurs, professionals and non-commercial entities.	Amount: 30% of the value of 2020 advertising investment (instead of 75% of “incremental” investment under the ordinary regime under Art. 57-bis of Law Decree No. 50 of 24 April 2017).	– The credit can be offset exclusively against taxes due. – The credit cannot be cumulated with any other tax benefits granted for the same expenses. – Expenses must be certified by statutory auditors. – Taxpayers who want to benefit from the credit must file a communication between 1 Sep. and 30 Sep. (communications already filed between 1 Mar. and 31 Mar. under the ordinary regime remain valid).	– The credit is granted for investments in advertising campaigns carried out in the daily and periodical press (inc. online newspapers) and on local television and radio stations. The value of the investments must be at least 1% higher than that for last year. – The implementing regulations are under Prime Ministerial Decree No. 90 of 16 May 2018 (insofar as it is compatible with the new regulations – see Art. 3, which lists the expenses that can benefit from the tax credit). – The credit will be granted to taxpayers based on the overall available resources of the Fund for Pluralism and Innovation, which the prime minister will determine by 30 Sep.

Criminal law¹

¹ The measures on the following pages apply until 4 April and may be extended.

Criminal liabilities related to the new self-certification form²

Content	Penalties	Notes
Confirmation that the holder: – is not subject to quarantine and has not tested positive for Covid-19; – is aware of the regulations restricting personal freedom of movement and of the related penalties; – is aware of the further limitations imposed in the Regions of departure and arrival, also specifying which Regions they are and indicating that the movement falls within one of the permitted cases identified by those Regions. The holder must state the departure point and destination and select one of the following reasons for the journey: – proven work-related needs; – absolute urgency (for travel to another municipality); – situations of necessity (for travel in the same municipality, that are of a daily nature, or are usually made due to the short distances); – health reasons. The form includes space to include any additional details considered useful.	Failure to comply with the rules restricting freedom of movement is punished with a fine of EUR 400–3,000. If the violation takes place through the use of a vehicle, the fine is increased by up to one third. The fine is EUR 280 if paid within five days and EUR 400 if paid within 60 days. The fine is doubled for repeated violation. In addition, a business may be closed from 5 to 30 days.³ For those who, having tested positive for Covid-19, violate the obligation of quarantine,⁴ the criminal penalty under Art. 260 of the Law on Health applies, which now⁵ provides for imprisonment of 3–18 months and a fine of EUR 500–EUR 5,000. If an individual exposes others to the contagion, this penalty does not apply when the most serious crime of negligent epidemic under Art. 452 of the Italian Criminal Code or other more serious crimes against public/individual health apply.⁶ Imprisonment of one–six years applies for those who make false declarations in their self-certification (Art. 495 of the Italian Criminal Code).⁷	Law Decree No. 19 of 2020 has therefore replaced the previously applicable criminal penalty under Art. 650 of the Italian Criminal Code with an administrative penalty. The new administrative penalty also applies if the conduct was carried out before the Law Decree came into force (i.e., before 26 Mar.): in such cases, the administrative fine applies in the minimum amount reduced by half (thus EUR 200). With reference to the new administrative penalty, the Decree is in any case without prejudice to the application of criminal law, where the conduct constitutes a criminal offence.⁸ For violation of Art. 260 of the Law on Health committed before 26 Mar., the previously provided penalties apply (imprisonment of up to six months and a fine of EUR 20.66–413.17).

² The self-declaration form has been amended based on the new provisions introduced by Prime Ministerial Decree of 22 Mar. 2020 and by Law Decree No. 19 of 2020. The columns “Penalties” and “Notes” summarise what has been recently introduced by Law Decree No. 19 of 2020.

³ In the cases referred to in Art. 1, para. 2, letters i), m), p), u), v), z) and aa), of Law Decree 19 of 2020.

⁴ More specifically, it is a violation of the “absolute ban on persons subject to quarantine because they tested positive for the virus” laid down in Art. 1, para. 2, letter e), of Law Decree No. 19 of 2020.

⁵ Penalties have been replaced and increased by Law Decree No. 19 of 2020.

⁶ The possibility of contesting the crime of manslaughter or negligent injuries has been raised from various sources.

⁷ This is indicated by the same self-certification made available by the Ministry of the Interior: in light of caselaw, the falsehood in self-declarations under Arts. 46 and 47 of Presidential Decree 445 of 2000 amounts to the crime referred to in Art. 483 of the Criminal Code.

⁸ The practical application of the provision and the complete reconstruction of the possible regulatory framework will help understand whether the administrative penalty will be added to offences such as false declaration, negligent injury, manslaughter, or negligent epidemic.

Criminal liability related to people moving around and entering Italy

Measures	Exceptions	Penalties	Notes
Moving around Italy⁹ Travel by public or private transport outside the municipality where currently living is prohibited. Returning to domicile, home or residence does not justify travel. Entering Italy¹⁰ Permanent stay: people entering Italy must immediately notify the prevention dept at the local health authority of their entry; they will be subject to health surveillance and 14-day self-isolation. Anyone who shows symptoms associated with Covid-19 must promptly call the local authority's dedicated hotline. Temporary stay: people entering Italy for proven work-related needs for a maximum of 72 hours (extendable by a further 48 hours), must provide a declaration certifying the need for entry. Anyone who shows symptoms associated with Covid-19 must promptly notify the prevention department at the local health authority and self-isolate.	With reference to people moving around Italy, travel is permitted for proven work-related needs, for absolute urgency, for health reasons and (for travel in the same municipality only) for situations of need. Restrictions regarding people permanently or temporarily entering Italy do not apply to: 'travelling personnel'¹¹ employed by companies with registered offices in Italy; crew of means of transport; healthcare workers entering to exercise their profession; cross-border workers, entering and leaving for work or returning to their residence, home or domicile.	Failure to comply with the rules restricting freedom of movement is punished with a fine of EUR 400–3,000. If the violation takes place through the use of a vehicle, the fine is increased by up to one third. The fine is EUR 280 if paid within five days and EUR 400 if paid within 60 days. The fine is doubled for repeated violation. In addition, a business may be closed from 5 to 30 days. For those who, having tested positive for Covid-19, violate the obligation of quarantine, the criminal penalty under Art. 260 of the Law on Health applies, which now provides for imprisonment of 3–18 months and a fine of EUR 500–EUR 5,000. If an individual exposes others to the contagion, this penalty does not apply when the most serious crime of negligent epidemic under Art. 452 of the Italian Criminal Code or other more serious crimes against public/individual health apply. Imprisonment for up to two years in applicable in case of untrue declaration for temporary stay (Art. 483 of the Italian Criminal Code)	Law Decree No. 19 of 2020 has therefore replaced the previously applicable criminal penalty under Art. 650 of the Italian Criminal Code with an administrative penalty. The new administrative penalty also applies if the conduct was carried out before the Law Decree came into force (i.e., before 26 Mar.): in such cases, the administrative fine applies in the minimum amount reduced by half (thus EUR 200). With reference to the new administrative penalty, the Decree is in any case without prejudice to the application of criminal law, where the conduct constitutes a criminal offence. For violation of Art. 260 of the Law on Health committed before 26 Mar., the previously penalties apply (imprisonment of up to six months and a fine of EUR 20.66–413.17).

⁹ Based on Prime Ministerial Decree of 22 Mar., as specified in Ministry of the Interior's circular of 22 Mar.

¹⁰ Based on the decrees of the Ministry of Infrastructure and Transport of 17, 18 and 24 Mar. It is noteworthy that the Decree of 18 March also provides for: on the modalities of maritime transport to and from the Region of Sicily; on further restrictions for rail transport; on ENAC authorisation for private flights.

¹¹ The expression in Italian is *personale viaggiante* and seems to refer to people who work in the transport sector.

Criminal liability related to communications to the prefect¹²

Private sector activities	Obligated person	Penalties	Notes
The following activities can continue: – those indicated in Annex 1, identified based on the ATECO code¹³; – professional activities, without prejudice to Art. 1, point 7, of Prime Ministerial Decree of 11 Mar. 2020; – commercial activities, without prejudice to Prime Ministerial Decree of 11 Mar. 2020 and Order of the Minister of Health of 20 Mar. 2020; – productive activities that would be suspended may still continue if organised remotely; – those that provide public utility services and essential services¹⁴; – those that provide pharmaceuticals, health technology, medical-surgical devices, and agricultural and food products. The following activities can continue only after notifying the prefect:¹⁵ – the functional activities to ensure the continuity of the supply chains of the activities listed in Annex 1, and of public utilities and essential services; – the activities of systems with a continuous production cycle,¹⁶ the interruption of which results in serious damage to the system itself or a risk of accident. The following activities can continue, with the prefect's permission: – aerospace and defence industry activities; – other activities of strategic importance for the national economy.	Legal representative.	If non-authorised activities continue or in case of absence of the necessary authorisation or communication, the administrative fine of EUR 400–3,000 may apply. The fine is doubled for repeated violation. In the cases expressly indicated,¹⁷ the administrative penalty of closure of the business may be imposed for from 5–30 days. The provisional closure of the business for up to five days may also be ordered when the violation is ascertained and where necessary to prevent the violation from continuing or being repeated. If an individual gives untrue statements to the prefect, he/she can be charged with the crime under Art. 483 of the Italian Criminal Code, which envisages imprisonment of up to two years. If the non-authorised activity continues, the abovementioned administrative penalties may apply.	It is not possible to exclude that the individual employee (and his/her employer also as accomplice) may be charged with violations of the provisions restricting people's movement with the application of the related penalties under Art. 4 of Law Decree No. 19 of 25 Mar. 2020 and indicated above with reference to travel and self-declaration. As already mentioned, it is also not possible to exclude, in the case of an individual exposing others to contagion, an offence of negligent or wilful misconduct to the detriment of public health.

¹² Based on Prime Ministerial Decree of 22 Mar. 2020.

¹³ See Decree of 25 Mar. 2020 of the Minister of Economic Development.

¹⁴ Without prejudice to the suspension of the service of opening to the public of museums and other institutions and places of culture referred to in Art. 101 of the Cultural Heritage Code, and services concerning education

where not provided at a distance or remotely within the limits under the law.

¹⁵ On this point, see the part of Administrative Law.

¹⁶ The activity of the facilities aimed at ensuring essential public service is not subject to communication.

¹⁷ In the cases referred to in Art. 1, para. 2, letters i), m), p), u), v), z) and aa) of Law Decree No. 19 of 2020.

Employment law

	Impact on the employment relationship	Operational guidelines	Notes
Authorised activities¹ (Prime Ministerial Decree of 22 Mar. and Decree of the Ministry of Economic Development of 25 Mar.)	Work remotely (i.e. smart working) to the extent possible. For activities that cannot be performed remotely: – adopt the safety measures under “<i>The Shared Protocol on measures to fight and contain the spread of the Covid-19 virus in the workplace</i>” signed on 14 Mar. by the government and the trade unions; – adopt company safety protocols to prevent infection; – supply the proper personal protective equipment (e.g., masks) when it is not possible to keep the safety distance; – limit movement within sites and restrict access to common areas as much as possible; – increase sanitisation at workplaces, using the wage support measures to cover salaries during business suspension; – seek arrangements with the trade unions.	– Notify employees that the business is authorised to continue, and will thus do so, and confirm either of the following: – the need to work remotely; or – the need to work at the workplace; in this case, attach the notice sent to the prefecture (where applicable) and the self-declaration form for employees to use (i.e., tick the box “work-related need to travel”). – Inform employees of the safety measures and other safeguards adopted at the workplace.	The non-adoption of the safety measures can trigger the employer’s civil and criminal liability for any damage resulting from the breach.

¹ Please see the sections on criminal law and administrative law.

	Impact on the employment relationship	Operational guidelines	Notes
Non-authorised activities² (Prime Ministerial Decree of 22 Mar. and Decree of the Ministry of Economic Development of 25 Mar.)	Employees can continue to work remotely. For work that cannot be performed remotely, employers can: – require the employees to use annual leave and other paid leave, prioritising leave carried over until 31 Dec. 2019, or other measures under collective bargaining agreements; – use the measures under the “Cura Italia” decree³ to support employment during the Covid-19 emergency, i.e.: ordinary wages guarantee fund (CIGO); wage subsidy allowance (<i>FIS</i>); and exceptional wages guarantee fund (<i>Cassa Integrazione in deroga</i>), depending on the company, and as implemented by the regions over time.	– Notify employees of either of the following: – the need to work remotely; – the suspension of the business activity, possibly requiring them to use holiday/the wage support measures. – Apply for the wage support measures.	The wage support measures provided for by the “Cura Italia” decree: – are granted for up to nine weeks any time between 23 Feb. and August 2020; – are granted to employees hired on or before 23 Feb.; – do not entail any charges for the employers; – will be granted within the spending limit under the “Cura Italia” decree; – are being implemented, for the exceptional wage guarantee fund, also through agreements between trade unions and between trade unions and the regions. For employees not eligible for the wage support measures, the prohibition to continue working may constitute a temporary impossibility to work not attributable to the employer, with possible subsequent suspension of respective obligations.

² Please see the sections on criminal law and administrative law.

³ Law Decree No. 18 of 17 Mar.

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