

# LP ADVISORY

**NEWSLETTER 03/2024**

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## IN THIS EDITION

1. Information Disabled Declaration

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### **Information Disabled Declaration**

To all the customers

31 January 2024 is the deadline for the telematic transmission of the annual "Information Disabled Declaration", whereby employers with at least 15 employees are required to provide a clear and precise indication of the company staff in force at 31 December 2023 for the purposes of the application of the regulations on the employment of socially or physically disadvantaged or handicapped persons (Law 68/99). The telematic submission is compulsory if, with respect to the last report submitted, changes have occurred in the employment situation such as to modify the obligation or affect the calculation of the reserve quota.

The following is a summary of the compulsory employment regulations and, in more detail, the categories that must be excluded from the calculation base as well as the incentives related to the percentage and type of disability.

#### **Workforce**

Based on the size of their workforce, both private and public sector employers are required to hire a certain percentage of disabled workers. In order to identify the employment size of the company, all workers employed under an employment contract are usually counted. Part-time workers are counted in portion of the working hours actually performed, with reference to the hours provided for in the sector's National Collective Labour Agreement (CCNL), and with

reference to the ordinary working hours carried out in the company, with rounding to the unit of the fraction of hours exceeding 50% of the normal working hours.

### Employment Obligations

Headcount	No. of disabled employees to be recruited
Up to 14 employees	No compulsory employment
From 15 to 35 employees	Workers to be employed: 1
From 36 to 50 employees	Workers to be employed: 2
More than 50 employees	7% of the workforce + persons belonging to protected categories under Art. 18 Law 68/99.

### Exclusions

The following workers, in addition to those already compulsorily employed, are excluded from the calculation:

Excluded workers	Special conditions for exclusion
1. Apprentices/Trainees	
2. Fixed-term contracts of up to 6 months	For contracts with a duration of more than six months, the exclusion shall only apply to employees hired for replacement reasons. Instead, the other cases are calculated <i>pro rata</i>
3. Executives	
4. Temporary workers, members of production and work cooperatives, home workers	
5. Persons hired for activities to be carried out abroad	
6. Construction site personnel working on the site and transport workers (drivers) in the construction sector	
7. Travelling personnel in the road transport sector; Travelling and	

seafaring personnel in the air, sea and land transport and road haulage sector	
8. Personnel directly assigned to operational areas for the orderly operation of transport activities in the ropeways sector; Subsoil and ore handling and transport personnel in the mining sector	
9. "Seconded" personnel. The seconded disabled worker is excluded from the calculation base and counted in the reserve quota of the province of recruitment	
10. Persons who, after their employment, have become unable to perform their duties due to accident or illness	Reduction in working capacity of 60% or more
11. Persons who, after their employment, have become unable to perform their duties due to an accident at work or occupational disease	Degree of disability exceeding 33%
12. Civil invalids employed outside the procedures governing compulsory employment	
13. Orphans and surviving spouses	Already employed as at 18 January 2000

## Agreements

Within 60 days after the employment threshold triggering the obligation is reached, the employer shall submit an application for the employment of the disabled person or, alternatively, submit a request for agreement to the territorially competent Employment Center. It should be noted that entering into an agreement:

- allows, for the duration of the same, the fulfilment of the commitments provided for by the regulations on compulsory employment within the limits agreed therein. Therefore, during the period of validity of the agreement, the companies will be considered to have fulfilled their obligations under Law 68/99 also in relation to participation in public tenders as provided for by art. 17 of the aforementioned law;
- allows for the option of fulfilling this obligation either by directly selecting disabled employees from the labour market or, alternatively, by accepting in the organisation disabled individuals who are identified by the competent offices;
- may also provide for the fulfilment of the employment obligation in the following ways:
  - a) training or orientation traineeships with a view to employment,

- b) recruitment with a fixed-term employment contract,
- c) recruitment with an apprenticeship contract,
- d) probationary period longer than that provided for by the individual CCNL, in any case in compliance with the maximum limit indicated in the ministerial guidelines.

### **Incentives for hiring disabled persons**

The Italian National Institute for Social Security (INPS) grants an incentive to employers hiring a disabled person on an open-ended contract.

The incentive applies to open-ended hirings and for the transformation of fixed-term relationships (including part-time) into open-ended ones. The extent and duration of the incentives are summarised below.

Degree of disability of the recruited worker	Extent of the incentive	Duration of the incentive
Reduction in the ability to work of more than 79% or disabilities classified in the first to third category (Presidential Decree 915/78)	70% of the gross monthly salary taxable for social security purposes for each disabled worker	36 months
Reduction in the ability to work of between 67% and 79% or disabilities classified in the fourth to sixth category (Presidential Decree 915/78)	35% of the gross monthly salary taxable for social security purposes for each disabled worker	36 months
Cognitive and mental disability resulting in a reduction in the ability to work of more than 45%	70% of the gross monthly taxable salary for social security purposes for each employee with cognitive and mental disabilities	60 months

Entitlement to the incentive is subject to:

- the regularity of tax obligations, compliance with the rules provided for the protection of working conditions, compliance with other legal obligations and national collective agreements, as well as regional, territorial or corporate agreements and contracts, if any, entered into by the employers' and workers' trade unions that are comparatively more representative at national level;

- the achievement of a net increase in employment compared to the average number of workers employed in the 12 months preceding the hiring or conversion;
- for the compulsory hiring of disabled workers, the general principles on the enjoyment of employment incentives do not apply. Instead, they apply in case of hiring disabled workers beyond the so-called “*quota di riserva*”. Therefore, if the employer, in order to comply with the obligations of hiring disabled persons, chooses to hire a disabled worker in place of another who has accrued a right of priority to re-employment, the incentive is not granted, since the hiring is made in violation of said right of priority. The incentive is granted in case of permanent employment or fixed-term employment of not less than 12 months and for the entire duration of the contract.

It is possible to combine the incentive with other contributory benefits, provided that the total amount of the incentives does not exceed 100% of the wage costs (gross salary and contribution due) for each period of employment.

### **Penalties**

Failure or delay in sending the information disabled declaration may result in an administrative sanction of Euro 702.43 increased by a further Euro 34.02 for each day of delay.

Our Firm remains at your disposal for any further clarifications or needs as well as for the filling in and sending of the declaration.

Milan, 18 January 2024



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