



Chapter 8

Main employment contracts





CHAPTER 8

MAIN EMPLOYMENT CONTRACTS

There are various types of employment contracts. This chapter illustrates the main characteristics of the most widespread.

Subordinate employment contract

Subordinate employment contracts are entered into when employers hire workers giving them specific duties under the employers' management, in a specific place and in established working hours.

The main characteristics of this employment relationship (weekly working hours, salary, overtime pay, holidays, etc.) are laid down in the National Collective Bargaining Agreement (CCNL - Contratto Collettivo Nazionale del Lavoro) which also sets the minimum pay. The CCNL applied is usually indicated in the employment letter/contract and in the UNILAV communication (Modello Unificato Lavoro – Unified Labour Form). Subordinate employment contracts can be full-time, when the working hours are equal to what provided for by the CCNL, or part-time, if the working hours are reduced. In the latter case, the part-time percentage and the working hours must be indicated in the contract.

Subordinate employment contracts can be:

- **temporary**, in this case the term of the employment relationship is indicated in the contract and can be extended by the employer up to a maximum of 5 times and 36 months.
- **permanent**, in this case no term is provided concerning duration and the employment relationship continues until the employer does not dismiss the worker or the worker resigns.

What to do in the event of dismissal?

Workers who receive a dismissal letter have 60 days to suggest a possible appeal against it.

Said proposal must be submitted in writing and with a suitable means capable of identifying a sure date (recorded delivery letter with advice of delivery, certified e-mail, etc...)



This first act does not require particular formalisms and can be carried out personally or with the aid of a trade union or a lawyer.

Workers can obtain assistance and be put into contact with lawyers with experience in labour laws through the technical offices of the main trade unions.

From the date on which the impugnement is submitted, 180 days have to go by for a possible judicial appeal. The competent judicial body for said appeal is the Labour Judge.

Such act must necessarily be drawn up by a lawyer.

The consequences of an illegal dismissal differ on the basis of the date of employment and size of the company, as well as the reasons of the dismissal.

With regard to labour, there are no conciliative procedures or mandatory mediations. The appointed lawyer evaluates the advisability to activate alternative means to litigations case by case. If members of a cooperative are dismissed contextually and excluded as members, the term for lodging appeal against said exclusion is of 60 days from the actual communication. Therefore, it is necessary to refer to a lawyer as quick as possible.

All workers within 60 days from dismissal are also required to apply for NASPI (unemployment benefit) to INPS. The procedure is carried out via computer and can be done personally or through an aid society.

Contracts through employment agencies

Subordinate employment contracts, besides being entered into directly by the company needing the worker, may also be carried out through employment agencies (e.g. Temporalay, Adecco, Gi Group) to which the company refers in search of personnel.

In this case, the contract is entered into with the employment agency. Workers have the right to general economic and regulatory conditions not inferior to those of employees of the same level hired directly by the company. The company making use of this service binds itself jointly and severally with the employment agency to pay salaries and relevant national insurance taxes.

Employment carried out by a cooperative or another outsourced company

Subordinate employment contracts may not be entered into directly by the company that needs the worker, but through another company to which the main company delegated part of its activities with an outsourcing contract (this is the case for example of logistics cooperatives).



The contractee binds itself jointly and severally with the contractor to pay, within 2 years from the termination of the contract, the salaries and national insurance taxes accrued in the contract.

The contract is legal if the contractee manages the service with its own personnel and means.

Sometimes, behind formal outsourcing contracts there are illegal labour intermediations, that is situations in which, in actual fact, the employee works under the directives of the contractee and is inserted in its corporate organisation, although being formally hired by another subject. In such cases, it is possible to refer to a trade union or to a lawyer to verify the possibility of a dispute within 60 days from the termination of the employment relationship.

Intermittent work contract (job on call)

It is a subordinate employment contract through which employers have the power to call workers who sign a contract according to the employers' needs, that is "on call." Workers are paid only for the actual days of work (unless workers guaranteed their availability to answer calls, in which case they are entitled to an availability bonus).

The cases are regulated in the CCNLs and in specially provided decrees.

This type of contract can, in any case, be entered into with subjects under 24 years of age, as long as the work is carried out within the 25th year of age, or with subjects over 55 years old.

The law establishes that workers can be called for a maximum of 400 days during a three-year period. Said limit is not set in the sectors relating to tourism, commercial businesses and entertainment.

Occasional collaborations

Occasional collaboration contracts can be entered into to carry out work with a limited duration (maximum 30 days a year) and with a maximum remuneration of 5,000 Euros throughout the year.

These contracts do not provide for paid holidays, nor other forms of protection such as sick leaves, leaves of absence, permits, parenthood leaves, maternity leaves.

If the work carried out is in actual fact assimilable to that of an employee, it is advisable to refer to a trade union or a lawyer to verify the situation.

Contracts with subjects holding VAT

Contracts with VAT holders are entered into on the occasion of autonomous and non-subordinate work.

A typical example is a contract for services characterised by the lack of subjection bonds because workers work autonomously, they are not sub-



ject to the contractor's managerial, organisational and disciplinary power. Workers can therefore autonomously organise their work, working hours, modalities, organisation with personal means, in force of the objectives set out by the contract, that is the realisation of a physical or intellectual work. Remuneration is therefore connected not to working hours, but to the results achieved.

Generally speaking, the parties agree on remuneration and on the time frame for realising the work required, either through a service contract or through an assignment letter.

Any job where there is a hierarchical and organisational subjection (workers have set working hours, work with the entrepreneur's means, in places owned by the entrepreneur and receive specific directives from the entrepreneur with which they have to comply with) is to be entered into with a subordinate employment contract and not through payments based on invoices.

For example:

A genuine service contract is a contract through which a craftsman is assigned the duty to realise furniture; said artisan realises the pieces at his/her workshop within the established terms and delivers the work to the contractor. Remuneration is agreed upon on the basis of the pieces of furniture realised.

A pretence contract of this type is when a person is requested to work inside the contractor's company in set working hours for the realisation of an indefinite amount of furniture within a specific time frame. The compensation is agreed upon on the basis of the amount of working hours/days."

Finally, there are specific categories of workers that have to be registered with a professional order and that can be paid, with the exception of rare cases, only through the issue of an invoice with VAT.

Apprenticeship contracts

Apprenticeship contracts are subordinate employment contracts, reserved to workers between 15 and 29 years old, which besides providing a work activity also provide practical and theoretical training.

At the end of the apprenticeship, if none of the parties rescind, the relationship continues as an ordinary permanent subordinate employment contract. Apprenticeship contracts are associated to a training path that – with the exception of a vocational apprenticeship – is organised by a training institution with the involvement of an enterprise.

There are 3 types of apprenticeships:

- 1) Apprenticeship for professional qualification and diploma, higher secondary education degree and higher technical specialisation certificate;
 - it is structured in such a way to connect the training carried out in the company with vocational training and education carried out by



the training institutions that operate within the regional systems of training and education. It is reserved to youngsters between 15 and 25 years old.

- the duration is established by the qualification or diploma to be achieved and cannot last more than 3 years (extended up to 4 years in specific cases).
- the employer must sign a protocol with the training institution with which the student is enrolled, establishing the content and duration of the employer's training obligations.

2) Vocational apprenticeship,

- it is aimed at achieving a professional qualification, for contractual purposes and is addressed to youngsters between 18 and 29 years old (17 if they already have a qualification).
- the intra-confederal agreements and the CCNLs establish, with regard to the professional qualification for the contractual objectives to achieve, the duration and modalities of the training as well as the duration even minimum of the apprenticeship, which cannot last more than 3 years (extended to 5 years for professional figures that characterise the figure of artisan, as identified by the CCNLs).
- The training is carried out under the employer's responsibility and is integrated by the public training offer, aimed at acquiring the basic and transversal competences for a maximum amount of 120 hours, in a three-year period, regulated by the regions and the autonomous provinces.

3) Apprenticeships for higher training and research

- it is an apprenticeship contract aimed at achieving university degrees and higher training, as well as at accessing professional rolls. It is addressed to subjects between 18 and 29 years old, holding a higher secondary education diploma or other educational qualifications considered equivalent by the law for said objective.
- Employers must sign a protocol with the training institution with which the student is enrolled or with the research body, establishing the duration and the modalities of the training at the employers' expense, the number of training credits awarded to each student for the training carried out at the employer's expense. Training outside the company is carried out at the training institution with which the student is enrolled. Regulations and duration of the apprenticeship for research activities or higher training paths are assigned to the regions and autonomous provinces. Lacking regional regulations, the higher training and research apprenticeship is assigned to specific agreements entered into between the single employers or their associations with universities, higher technical institutes and other training or research institutions.



Domestic work

Domestic work is the work carried out by those who provide assistance at home to a single person or to a family unit. Domestic workers are subordinate workers. Domestic workers can be employed with a temporary or permanent contract and may or may not cohabit with the family unit or single individual. The employment letter of domestic workers must indicate their classification - which varies depending on the mansions - the hourly or monthly remuneration, whether or not board and lodging are included, working hours. Employers are required to communicate said employment and specific agreements to INPS through a specific procedure online.

Employers must provide the worker with monthly pay packets and with a CUD (Single Certificate for Employees) at the end of the year. Domestic workers have the same rights of all employees in terms of holidays, ordinary and extraordinary working hours, sickness, maternity.

However, since it is an employment relationship carried out at home, it is important for employers and workers to have a relationship based on trust, considering that it is the only type of employment relationship that provides for unappealable dismissal without specific reasons. Therefore, in the event of sudden dismissal, workers have the right to a notice substitutive indemnity and to what due for contract termination. However, they cannot challenge the legitimacy of the rescission. Domestic workers have the right to unemployment benefit.

What is apprenticeship and how does it work?

Apprenticeships consist in a period of orientation towards work and training. They are not considered a subordinate employment relationship. It is a form of training that allows apprentices to gain direct knowledge of the labour market.

In order to realise training apprenticeship, it is necessary to enter into an agreement undersigned by the promoting body (e.g.: university, public and private high schools, CPLs, employment agencies, public centres for professional training and/or orientation) and the host subject (company, professional firm, cooperative, public bodies). Besides, said apprenticeship has to be provided with training projects drawn up by the host subject and the apprentice, establishing respective rights and duties. It does not provide for a remuneration, while it provides a minimum payment. Therefore, there is no contrast in benefiting from NASPI (unemployment benefit).

Apprenticeships are regulated by the single Regional Laws.

There are different types of apprenticeships:

- "Curricular" apprenticeships, (provided within a formal university or educational apprenticeship path). In this case, the apprentice must be a



student enrolled in an educational course activated by who actually promotes the apprenticeship;

- Training apprenticeships and apprenticeships for the reinsertion or insertion in the labour market. The objective is to insert or reinsert in the labour market subjects lacking a job (jobless and unemployed subjects) or with disadvantages (disabled persons or asylum seekers).
- Training and orientation apprenticeships for foreign citizens of age residing abroad, aimed at completing the vocational training started in the Country of origin. It lasts at least 3 months, with maximum 12 extensions, from the year in which a degree was achieved in the country of origin (these entries are regulated outside the quota provided for by Art. 27 of the Consolidated Act on Immigration).