

## PROCEDURE FOR THE EMERGENCE OF LABOR RELATIONS AND REGULARIZATION

Art.103 paragraph 1 Decree Law n.34 of 19/05/2020

### **INFORMATION SHEET FOR THE EMPLOYERS**

#### **PERIOD AND LIMITS ON LAW ENFORCEMENT**

FROM 1 JUNE 2020 TO 15 JULY 2020

There is no limit to the number of persons who can access the emergency procedure, therefore having the requirements it is possible to access the application for regularization throughout the period provided.

#### **WORKING SECTORS**

TO WHOM THE EMERGENCE/REGULARIZATION PROCEDURE IS RESTRICTED

1. Agriculture, livestock and animal husbandry, fishing and aquaculture and related activities;
2. Personal assistance for themselves or members of their family, even if not cohabiting, suffering from pathologies or disabilities that limit their self-sufficiency;
3. Domestic work to support family needs.

#### **REQUIREMENTS CONCERNING THE EMPLOYMENT STATUS**

THE EMERGENCE/REGULARIZATION PROCEDURE MAY BE ACTIVATED IF

1. It is decided to regularize the position of a worker already in force in one of the three sectors of employment concerned but currently without regular employment contract;
2. It is decided to hire a new worker in one of the three sectors concerned.

#### **WHAT HAPPENS DURING THE EMERGENCE / REGULARIZATION PROCESS**

- a. The worker can immediately perform the work in one of the three work sectors involved in the emergency procedure;
- b. Criminal and administrative proceedings against the employer resulting from irregular employment of workers involved in the emergency are suspended;
- c. Criminal and administrative proceedings resulting to the entry and irregular stay in the territory of the State at the expense of the foreign national shall be suspended.

#### **WHAT MUST BE INCLUDED IN THE APPLICATION SUBMITTED BY THE EMPLOYER**

THE APPLICATION SUBMITTED MUST INCLUDE

1. Indication of the duration of the employment contract;
2. Indication of remuneration treatment that may not be lower than expected in the collective labour agreement.

### WHERE TO SUBMIT THE APPLICATION

The employer and the employee must submit an application online on the website <http://nullaostalavoro.dlci.interno.it/> by authenticating through SPID (Public Digital Identity System).

Following the submission of the application, the SUI (Prefecture Immigration Helpdesk) will proceed to verify the admissibility of the application, with the acquisition of the opinion of the **Police Station**, which verifies whether there are impediments, and the opinion of the **National Labor Inspectorate**, which verifies the adequacy of the employer's income and the proposed employment contract.

If all the requirements are incorporated, the SUI summons the parties to sign the residence contract and completion of the application for a residence permit for employment reason.

### WORKER REQUIREMENTS

The application for emergence / regularization may only concern **foreign nationals who are present on Italian territory before 08 March 2020 and without ever having left the national territory after that date**.

The proof of such presence on the territory can be proved through:

1. Photodactyloscopic measurement (photosignalling) to which the citizen must have undergone before 8 March 2020;
2. Presence Declaration made prior to 08 March 2020 by the foreign national who has entered the country for short periods. This statement is made by the foreign national by the following ways:
  - a) Foreign nationals from *Schengen countries* must have made a declaration of presence to the Official Police in charge (Questore) of the province in which they are located within 8 days of entering Italy;
  - b) Foreign nationals from *non-Schengen countries* must have fulfilled the obligation of declaration of presence by presenting themselves at the border crossing points and must have the uniform Schengen stamp affixed to their travel document/passport.
3. Certifications and Documentations with specified date and coming from public bodies.

The worker shall not be subjected to the emergence procedure if:

1. He is a holder of an expulsion order ordered by the Minister of the Interior (Art. 13 co. 1 D.lgs 286/1998) or ordered by the Prefecture for "perilousness" (Art. 13 co. 3 lett. c D.lgs 286/1998);
2. Has been convicted, even if not definitive, for one of the offences provided for in art.380 of the Code of Criminal Procedure for offences against personal liberty or offences related to drugs, aiding and abetting illegal immigration and emigration or for crimes aimed at the recruitment of persons for prostitution or the exploitation of prostitution or of minors to be employed in illegal activities;
3. Has been issued a warning for the purposes of non-admission in the country;
4. Whether he is deemed a threat to public order or State security.

In order to have access to the emergence/regularization procedure, the employee must have a passport or equivalent title.

## EMPLOYER REQUIREMENTS

The employer can be an **Italian citizen, an EU citizen or a non-EU foreign national, who is solely the holder of an EC Residence Permit for Long Term Residents** (ex Residence Card) as per art. 9 of Legislative Decree 286/1998.

The employer must prove that he has the economic capacity to hire the worker; the relative income limits will be established with a specific Ministerial Decree.

To activate the emergence/regularization procedure, the employer will have to pay a flat-rate contribution of EUR 500 for each worker relating to the costs of procedure.

The employer will then have to pay an additional lump-sum payment as remuneration, contributions and taxes. This amount will be established by a specific Ministerial Decree.

The employer **CANNOT** file an application for emergence if he has been convicted, even if not definitive, in the last 5 years for:

1. Aiding and abetting illegal immigration to Italy and from Italy to other countries;
2. For offences aimed at the recruitment of persons for prostitution or exploitation of prostitution or of minors to be employed in illegal activities;
3. For the offence of imposition or maintenance of a condition of servitude or slavery;
4. For illicit intermediation and exploitation of labour (Art. 603 bis Penal Code);
5. For having employed workers without a residence permit (Art. 22 co. 12 Legislative Decree 286/1998).

### Note

Hiring an irregular worker without a Residence Permit, the proceedings for illegal employment of labour relating to persons involved in emergence procedure are suspended. Such proceedings will be archived even if the procedure should not be successful for reasons not attributable to the employer.

## **CASES OF CLOSURE AND REJECTION OF THE APPLICATION**

### THE APPLICATION MAY BE ARCHIVED AND REJECTED IF

1. The parties (employer and worker) fail to appear without justified reason to the call (motion to dismiss);
2. The employer does not sign the residence contract or does not proceed with the hiring of the worker (rejection of the application), except that the failure to sign or recruitment is not due to force majeure not attributable to the employer.