

CIGS (EXTRAORDINARY WAGE SUBSIDY): DEVELOPMENTS AND CLARIFICATIONS

By way of article 44 of Decree Law no. 109/2018, the *cassa integrazione straordinaria* for closure of business has been reintroduced for 2018, 2019 and 2020, in derogation of the provisions of the so-called Jobs Act which excluded this subsidy commencing from the end of 2018. Circular no. 15, dated 4 October 2018 issued by the Ministry of Labour has provided the relevant clarifications. The CIGS for cessation of business can now be awarded for up to a maximum of 12 months in favour of companies, including those subjects to insolvency procedures, who are terminating their production business or have already terminated that business. In the latter case collective procedures for the dismissal of all employees must not have been concluded.

Article 25 of Decree Law no. 119/2018 amended the previous legislative structure related to CIGS, broadening the possibility of extending it in the case of a:

- i. reorganisation
- ii. company crisis
- iii. stipulation of a so-called *contratto di solidarietà difensivo* (i.e., solidarity contract).

The new rules are valid for 2018 and 2019. Circular no. 16, dated 29 October 2018 issued by the Ministry of Labour has provided the relevant clarifications.

In order to benefit from CIGS, the company concerned must enter into a specific agreement before the Ministry.

It will be necessary to verify whether the scheduled intervention is financially sustainable, in consideration of the limited resources available.

Key Issues

- **CIGS cessation of business** have been reintroduced in derogation of the provisions of the Jobs Act
- it is now possible to **extend CIGS** beyond the previous statutory time-limits, also in case of *contratto di solidarietà difensivo*
- applications for an extension of CIGS are admissible with reference to programmes expiring in 2018
- it is necessary to stipulate an agreement before the government departments
- the grant of the wage subsidy is conditional upon availability of financial resources

CIGS FOR CLOSURE OF BUSINESS

CONDITIONS FOR ACCESS TO THE MEASURE

The conditions for accessing the intervention can be summarised as follows:

- cessation of business, in whole or in part, or a decision relating to that cessation, also pending another CIGS intervention
- transfer of the business to a buyer with the guarantees provided by rules on transfers of going-concerns, providing for the inclusion of a plan intended to retain the greatest possible number of employees
- in case the request for access to the wage subsidy is connected to the re-industrialisation of the production site, the intervention plan can be submitted: (i) by the applicant company, (ii) by the transferee company or (iii) by the Ministry for Economic Development
- CIGS due to cessation of business can be granted in support of wages for redundant employees involved in specific active labour market policies pursued by the Regions concerned.

In any event, it is necessary to verify the financial sustainability of the intervention requested. The resources originally set-aside by the Jobs Act up to 2018 amounted to Euro 150,000,000 in total. Further interventions for 2018, 2019 and 2020 will only be granted within that limit, and there is no provision for additional resources.

AGREEMENT BEFORE THE GOVERNMENT

In order to benefit from CIGS for closure of business, the company concerned must enter into a specific agreement with the Ministry of Labour and the trade unions, concerning:

- a plan for employee suspension which is linked, in terms of timing and procedures: (i) to the proposed transfer of business or (ii) to the re-industrialisation plan or (iii) to the regional active labour market policy
- a plan for the transfer and/or rehiring of employees suspended from employment
- measures for the management of any redundant employee.

The transferor company must provide a detailed indication regarding the transfer of business, providing written documentation, intended in any event for the continuation of that business.

In the case of participation, the Ministry for Economic Development must confirm the prospects of the transfer, although it can, for reasons of confidentiality, omit the name of the third-party buyer.

If interventions are proposed that are intended to bring about the re-industrialisation of the production site, it is necessary to illustrate both the realisation times and the intermediate phases of the project.

In the case of active labour market policies, the Region concerned must specify the individual procedures and the opportunities for new employment of the involved employees.

Prior to signing the agreement, it is necessary to verify that the financial resources available are sufficient to cover the intervention. The quantification of charges is an integral part of the minute of agreement.

Following stipulation of the agreement, the company concerned is obliged to submit an application for CIGS using the Cigsonline e-system.

EXTENSION OF CIGS

Changes to the pre-existing legislative structure involve two key innovations:

- 1) All companies of strategic relevance (including at a regional level), undergoing material employment problems with significant redundancies in the reference territory are able to apply for an extension to the CIGS, beyond the former statutory time-limits. In particular, it is possible to apply for an extension for an additional 12 months of wage subsidies for a reorganisation and an additional 6 months of wage subsidies for a company crisis. Previously, this right was granted to companies with over 100 employees. The Ministry of Labour has clarified that this size requirement was abrogated, since companies with less than 100 employees can have an impact on employment and significant strategic relevance.
- 2) It is possible to extend the CIGS in case of stipulation of the so-called *contratto di solidarietà difensivo*, with the same conditions established for reorganisation and company crisis, and for up to a maximum of 12 months. The extension is conditional upon the following terms:
 - i. the redundancy of certain employees in respect of whom the *contratto di solidarietà difensivo* was entered into with the trade unions for the purposes of a reduction in working hours
 - ii. the presence of a programme of interventions intended to deal with inefficiencies in the management or production structure, with an indication of investments and any vocational training activities for employees.

The Ministry of Labour has specified that CIGS can also be transitionally extended in favour of companies whose recourse to CIGS terminated during 2018, provided that the company has not dismissed redundant employees. In particular, extensions relating to programmes expiring in the three months prior to 29 October 2018 are admissible.

Companies who have reached the maximum period of five-years' subsidy as formerly provided by the law, can also make recourse to the extension.

Also in these cases, it will be necessary to stipulate an agreement with the Ministry of Labour, in the presence of the Region concerned. It is also necessary to verify the financial sustainability of the intervention requested. Resources originally set-aside by the Jobs Act amounted to Euro 200,000,000. Additional interventions will be granted within that limit and no additional resources are provided.

CONCLUSIONS

Employers who intend to apply for CIGS for closure of business, or for an extension to CIGS, must pay particular attention to the specific requirements to be met and the limited financial resources provided for the measures.

Companies that benefit from CIGS must however pay the ordinary monthly contribution of 0.9% of the taxable remuneration for employees involved, as well as an additional contribution, which will increase in line with any increase in use of the CIGS, in consideration also of previous similar measures.

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