



## **Coronavirus Legal Tips – Flash Alert**

Businesses that are not stopping following Prime Ministerial Decree March 22 2020

23 Marzo 2020

## Businesses that are not stopping following Prime Ministerial Decree March 22 2020

The Prime Ministerial Decree March 22 2020 provides for the **complete suspension of all industrial and commercial production<sup>1</sup> activities** until **April 3 2020** and establishes three exceptions to this rule.

The **first** exception is represented by a **list of activities identified through the ATECO codes** (*i.e.* classification of economic activity) in Annex 1<sup>2</sup> to the Prime Ministerial Decree, which may be amended by a Decree of the Ministry of Economic Development (Article 1, letter a).

The **second** exception concerns:

1. activities that provide public utility and essential services under Law No. 146/1990 (Article 1, letter e);
2. activities related to **production, transport, marketing and delivery of pharmaceuticals, health technology, surgical medical devices, agricultural and food products**, as well as all activities necessary to face the emergency (Article 1, letter f);

all of which are always permitted.

The **third** exception is based on different provisions of the Prime Ministerial Decree and can be broken down into the following cases:

- firstly, production activities which, although not included in the above-mentioned Annex 1, **are capable of organising themselves through remote and smart working** (Article 1, letter c);
- secondly, the **activities functional** to ensure continuity of (Article 1, letter d): (1) the **supply chains** of the activities referred to in Annex 1

<sup>1</sup> Professional activities, on the other hand, are not subject to suspension.

<sup>2</sup> ATECO and description: **01** - Growing of crops and production of animal products; **03** - Fishing and aquaculture; **05** - Coal mining; **06** - Extraction of crude oil and natural gas; **09.1** - Support service activities for oil and gas extraction; **10** - Food industries; **11** - Beverage industry; **13.94** - Manufacture of twine, cordage, ropes, cables and netting; **13.95** - Manufacture of non-wovens and articles made from non-wovens (except apparel); **13.96.20** - Manufacture of other technical and industrial textile articles; **14.12.00** - Wrapping of gowns, uniforms and other working clothes; **16.24.20** - Manufacture of wooden packaging; **17** - Manufacture of paper; **18** - Printing and reproduction of recorded media; **19** - Manufacture of coke and refined petroleum products; **20** - Manufacture of chemicals and chemical products; **21** - Manufacture of basic pharmaceutical products and pharmaceutical preparations; **22.1** - Manufacture of rubber products; **22.2** - Manufacture of plastic products; **23.19.10** - Manufacture of laboratory, hygienic and pharmaceutical glassware; **26.6** - Manufacture of irradiation, electromedical and electrotherapeutic equipment; **27.1** - Manufacture of electric motors, generators and transformers and electricity distribution and control equipment; **28.3** - Manufacture of machinery for agriculture and forestry; **28.93** - Manufacture of machinery for the food, beverage and tobacco industries (including parts and accessories); **28.95.00** - Manufacture of machinery for paper and paperboard production (including parts and accessories); **28.96** - Manufacture of machinery for plastics and rubber industry (including parts and accessories); **32.50** - Manufacture of medical and dental instruments and supplies; **32.99.1** - Manufacture of safety equipment and protective clothing; **32.99.4** - Manufacture of funeral boxes; **33** - Repair, maintenance and installation of machinery and equipment; **35** - Electricity, gas, steam and air conditioning supply; **36** - Collection, treatment and supply of water; **37** - Operation of sewerage systems; **38** - Waste collection, treatment and disposal activities; materials recovery; **39** - Remediation activities and other waste management services; **42** - Civil engineering; **43.2** - Electrical, plumbing and other construction and installation activities; **45.2** - Maintenance and repair of motor vehicles; **45.3** - Sale of parts and accessories of motor vehicles; **45.4** - Only maintenance and repair of motorcycles and trade in parts and accessories thereof; **46.2** - Wholesale of agricultural raw materials and live animals; **46.3** - Wholesale of food, beverages and tobacco products; **46.46** - Wholesale of pharmaceutical products; **46.49.2** - Wholesale of books, magazines and newspapers; **46.61** - Wholesale of machinery, equipment, machinery, accessories, agricultural supplies and agricultural tools, including tractors; **46.69.19** - Wholesale of other transport equipment and vehicles; **46.69.91** - Wholesale of scientific instruments and equipment; **46.69.94** - Wholesale of fire and accident prevention equipment; **46.71** - Wholesale of petroleum products and automotive lubricants and heating fuels; **49** - Land transport and transport via pipelines; **50** - Sea and water transport; **51** - Air transport; **52** - Warehousing and support activities for transportation; **53** - Postal services and courier activities; **J (58 to 63)** - Information and communication services **K (64 to 66)** - Financial and insurance activities; **69** - Legal and accounting activities; **70** - Management and management consulting activities; **71** - Architectural and engineering activities; technical testing and analysis; **72** - Scientific research and development; **74** - Professional, scientific and technical activities; **75** - Veterinary activities; **80.1** - Private security services; **80.2** - Services related to security systems; **81.2** - Cleaning and pest control activities; **82.20.00** - Call centre activities; **82.92** - Packaging and wrapping activities for third parties; **82.99.2** - Distribution agencies of books, newspapers and magazines; **84** - Public administration and defence; compulsory social security; **85** - Education; **86** - Health care; **87** - Residential social work activities; **88** - Non-residential social work activities; **94** - Activities of business, employers' and professional organizations; **95.11.00** - Repair and maintenance of computers and peripherals; **95.12.01** - Repair and maintenance of fixed, cordless and mobile phones; **95.12.09** - Repair and maintenance of other communication equipment; **95.22.01** - Repair of household appliances and household articles; **97** - Activities of households as employers of domestic staff.

to the Prime Ministerial Decree; (2) **public utility services**; (3) **essential services** referred to in Law No. 146/1990 are allowed, **provided that the Prefect** of the Province where the productive activity is located **has been notified with reference to businesses and administrations receiving the products and services.**

The same applies to **continuous production cycle plants** whose interruption could result in a serious damage to the plant itself or in a risk of accidents (Article 1, letter g).

In such cases, the Prefect may suspend the above-mentioned activities if he deems that the condition invoked by the business does not exist (i.e. activities "functional to" and serious risk of damage to the plant or risk of accidents in case of interruption). **Nonetheless, until the Prefect adopts the potential suspension measure, the activity is considered legitimately performed based on the notification made.**

Finally, with the **authorisation of the Prefect** of the Province where the production activity is located, activities related to the aerospace and defence industry are permitted, as well as other activities of **strategic importance for the national economy** (Article 1, letter h).

It should be noted that businesses who are now required to suspend their activities have time until **March 25 2020** to **complete all necessary tasks for the suspension**, including the **shipment of goods in stock.**



## **Deloitte Legal**

*For any doubts on legal impact of COVID-19:*

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