§ 58.13.2 – Law 20 May 1970, n. 300.
Rules on the protection of freedom and dignity of workers, trade union freedom and trade union activity in the workplace and rules on employment.

Sector: **National legislation**
Matter: **58. Work**
Chapter: **58.13 layoffs**
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Summary

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§ 58.13.2 – Law 20 May 1970, n. 300. [1]

Rules on the protection of freedom and dignity of workers, trade union freedom and trade union activity in the workplace and rules on employment.

(GU 27 May 1970, n. 131).

Title I

OF THE FREEDOM AND DIGNITY OF THE WORKER

Art. 1. (Freedom of opinion).

Workers, without distinction of political opinion, union or religious faith, have the right, in the places where they work, to freely express their thoughts, in compliance with the principles of the Constitution and the provisions of this law.

Art. 2. (Security guards).

The employer can employ security guards, referred to in articles 133 and following of the consolidated text approved withroyal decree 18 June 1931, n. 773,only for corporate asset protection purposes.

Security guards cannot challenge workers for actions or facts other than those relating to the protection of company assets.

It is forbidden for the employer to appoint the guards referred to in the first paragraph to supervise the work activity, who cannot access the premises in which this activity is carried out, during the performance of the same, except exceptionally for specific and justified needs relating to the tasks referred to in the first paragraph.

In the event of non-compliance by a security guard with the provisions referred to in this article, the Labor Inspectorate promotes his suspension from service to the questore, except for the provision of revocation of the license by the prefect in the most serious cases.

Art. 3. (Supervisory staff).

The names and specific duties of the personnel responsible for supervising work activities must be communicated to the workers concerned.

Art. 4. (Audiovisual systems and other control instruments).[2]

1. The audio-visual systems and other instruments from which the possibility of remote control of the workers' activity also derives can be used exclusively for organizational and production needs, for occupational safety and for the protection of company assets and can be installed subject to a collective agreement stipulated by the unitary union representation or by the company union representatives. Alternatively, in the case of companies with production units located in different provinces of the same region or in several regions, this agreement can be stipulated by the comparatively most representative union associations at national level. In the absence of agreement, the systems and tools referred to in the first period can be installed subject to authorization from the territorial headquarters of the National Labor Inspectorate or, alternatively, in the case of companies with production units located in the areas of competence of several territorial offices, from the headquarters of the National Labor Inspectorate. The measures referred to in the third period are definitive[3] .

2. The provision referred to in paragraph 1 does not apply to the tools used by the worker to render work and to the tools for recording access and attendance.

3. The information collected pursuant to paragraphs 1 and 2 can be used for all purposes connected with the employment relationship provided that the worker is given adequate information on how to use the tools and carry out checks and in compliance with the provisions by the legislative decree 30 June 2003, n. 196..

Art. 5. (Health checks).

Checks by the employer on the suitability and infirmity due to illness or injury of the employee are prohibited.

Control of absences due to sickness can only be carried out through the inspection services of the competent social security institutions, which are required to do so when the employer requests it.

The employer has the right to have the physical fitness of the worker checked by public bodies and specialized institutes governed by public law.

Art. 6. (Personal check-up visits).

Personal inspection visits at work are prohibited except in cases where they are indispensable for the purpose of protecting the company's assets, in relation to the quality of the work tools or raw materials or products.

In such cases, personal visits can only be carried out on condition that they are carried out when leaving the workplace, that the worker's dignity and privacy are safeguarded and that they take place with the application of automatic selection systems referring to the community or to groups of workers.

The hypotheses in which personal visits can be arranged, as well as, without prejudice to the conditions referred to in the second paragraph of this article, the relative methods must be agreed by the employer with the company union representatives or, failing these, with the internal commission. In the absence of an agreement, at the request of the employer, the Labor Inspectorate provides.

Against the provisions of the Labor Inspectorate referred to in the previous paragraph, the employer, the company trade union representatives or, in the absence of these, the internal commission, or the workers' unions referred to in the following article 19 can appeal, within 30 days from the notification of the provision, to the Minister for Labor and Social Security.

Art. 7. (Disciplinary sanctions).[4]

The disciplinary rules relating to the sanctions, the infringements in relation to which each of them can be applied and the procedures for contesting the same, must be brought to the attention of the workers by posting them in a place accessible to all. They must apply what is established in the matter by agreements and employment contracts where they exist.

The employer cannot adopt any disciplinary measure against the worker without having previously contested the charge and without having heard him in his defense[5] .

The worker may be assisted by a representative of the trade union association to which he adheres or gives a mandate[6] .

Without prejudice to the provisions of law 15 July 1966, n. 604, disciplinary sanctions involving definitive changes to the employment relationship cannot be ordered; moreover, the fine cannot be ordered for an amount exceeding four hours of basic pay and suspension from service and pay for more than ten days.

In any case, the more serious disciplinary measures than the verbal reprimand cannot be applied before five days have passed from the notification in writing of the fact that gave rise to it.

Except for analogous procedures provided for by the collective labor agreements and without prejudice to the right to appeal to the judicial authority, the worker to whom a disciplinary sanction has been applied can promote, in the following twenty days, also through the association to which he is registered or grants the mandate, the constitution, through the provincial labor and maximum employment office, of a conciliation and arbitration board, composed of a representative of each of the parties and a third member chosen by mutual agreement or, in the absence of an agreement, appointed by the director of the employment office. The disciplinary sanction remains suspended until the ruling by the Board.

If the employer fails, within ten days of the invitation addressed to him by the employment office, to appoint his own representative within the board referred to in the previous paragraph, the disciplinary sanction has no effect. If the employer appeals to the judicial authority, the disciplinary sanction remains suspended until the definition of the judgement.

No effect of disciplinary sanctions can be taken into account after two years from their application.

Art. 8. (Prohibition of opinion polls).

For the purpose of hiring, as well as during the performance of the employment relationship, the employer is prohibited from carrying out inquiries, even through third parties, on the political, religious or trade union opinions of the worker, as well as on irrelevant facts for the purposes of assessing the worker's professional aptitude.

Art. 9. (Protection of health and physical integrity).

Workers, through their representatives, have the right to monitor the application of the rules for the prevention of accidents and occupational diseases and to promote the research, development and implementation of all appropriate measures to protect their health and their physical integrity.

Art. 10. (Student workers).

Student workers, enrolled in and attending regular courses of study in primary, secondary and professional qualification schools, state, equivalent or legally recognized or in any case authorized to issue legal qualifications, have the right to work shifts that facilitate attendance to courses and preparation for exams and are not obliged to work overtime during the weekly rest periods.

Student workers, including university workers, who have to take exams, are entitled to paid daily leave.

The employer may request the production of the certifications necessary to exercise the rights referred to in the first and second paragraph.

Art. 11. (Cultural, recreational and welfare activities and controls on the canteen service)[7] .

The cultural, recreational and welfare activities promoted in the company are managed by bodies made up of a majority of workers' representatives.

The company trade union representatives, set up in accordance with article 19, have the right to control the quality of the canteen service according to methods established by collective bargaining[8] .

Art. 12. (Institutes of patronage).

The institutes of patronage and social assistance, recognized by the Ministry of Labor and Social Security, for the fulfillment of the tasks referred to inlegislative decree of the provisional Head of State 29 July 1947, n. 804,they have the right to carry out their activity within the company on an equal footing, according to the procedures to be established with company agreements.

Art. 13. (Duties of the worker).

The art. 2103 of the Civil Code is replaced by the following:

"The worker must be assigned to the tasks for which he was hired or to those corresponding to the higher category he has subsequently acquired or to tasks equivalent to the last ones actually performed, without any reduction in remuneration. In the case of assignment to higher tasks, the worker has the right to the treatment corresponding to the activity carried out, and the assignment itself becomes definitive, if the same has not taken place due to the replacement of an absent worker with the right to keep the job, after a period fixed by the collective agreements, and in any case not exceeding three months He cannot be transferred from one production unit to another except for proven technical, organizational and production reasons.

Any agreement to the contrary is null and void."

Title II

OF TRADE UNION FREEDOM

Art. 14. (Right of association and union activity).

The right to form trade union associations, to join them and to carry out trade union activities is guaranteed to all workers within the workplace.

Art. 15. (Discriminatory acts).

Any agreement or deed aimed at:

a) subordinate the employment of a worker to the condition that he joins or does not join a trade union association or ceases to belong to it;

b) dismiss a worker, discriminate against him in the assignment of qualifications or tasks, in transfers, in disciplinary measures, or otherwise cause him prejudice due to his affiliation or trade union activity or his participation in a strike.

The provisions referred to in the previous paragraph also apply to agreements or acts aimed at discriminating against political, religious, racial, language or sex, handicap, age, nationality or based on sexual orientation or personal beliefs[9] .

Art. 16. (Discriminatory collective economic treatments).

The granting of more favorable economic treatments of a discriminatory nature in accordance with article 15 is prohibited.

The magistrate, at the request of the workers against whom the discrimination referred to in the previous paragraph has been implemented or of the trade union associations to which they have mandated, having ascertained the facts, orders the employer to pay, in favor of the pension adjustment fund, of a sum equal to the amount of the more favorable economic treatments unlawfully paid in the maximum period of one year.

Art. 17. (Unions of convenience).

Employers and employers' associations are prohibited from setting up or supporting, by financial means or otherwise, trade union associations of workers.

Art. 18. (Protection of the worker in the event of unlawful dismissal[10]).

The judge, with the sentence in which he declares the nullity of the dismissal because it is discriminatory pursuant to article 3 of thelaw 11 May 1990, n. 108,or ordered in conjunction with the marriage pursuant to article 35 of the code of equal opportunities between men and women, referred to inlegislative decree 11 April 2006, n. 198,o in violation of the prohibitions on dismissal pursuant to article 54, paragraphs 1, 6, 7 and 9, of the consolidated text of the legislative provisions on the protection and support of maternity and paternity, pursuant tolegislative decree 26 March 2001, n. 151,and subsequent amendments, or because it can be traced back to other cases of nullity provided for by the law or determined by an unlawful reason pursuant to article 1345 of the civil code, orders the employer, entrepreneur or non-entrepreneur, to reinstate the worker in the position of work, regardless of the reason formally given and whatever the number of employees employed by the employer. This provision also applies to executives. Following the reinstatement order, the employment relationship is considered terminated when the worker has not resumed service within thirty days of the employer's invitation, except in the case in which he has requested the indemnity referred to in the third paragraph of this item.[11] .

The judge, with the sentence referred to in the first paragraph, also condemns the employer to pay compensation for the damage suffered by the worker for the dismissal of which the nullity has been ascertained, establishing for this purpose an indemnity commensurate with the last global salary of fact accrued from the day of the dismissal until that of the effective reinstatement, after deducting the amount received, in the period of dismissal, for the performance of other work activities. In any case, the amount of compensation cannot be less than five months' salary of the actual global salary. The employer is also condemned, for the same period, to pay social security and welfare contributions[12] .

Without prejudice to the right to compensation for damages as provided for in the second paragraph, the worker is given the right to ask the employer, in lieu of reinstatement in the workplace, an indemnity equal to fifteen months' salary of the last global de facto salary , whose request determines the termination of the employment relationship, and which is not subject to social security contributions. The request for indemnity must be made within thirty days of the communication of the filing of the sentence, or of the employer's invitation to resume work, if prior to the aforementioned communication[13] .

as well as what he could have received by diligently dedicating himself to the search for a new job. In any case, the amount of compensation cannot exceed twelve months' salary of the actual total salary. The employer is also condemned to pay social security and welfare contributions from the day of dismissal until the day of effective reinstatement, increased by interest to the legal extent without applying penalties for omitted or delayed contributions, for an amount equal to the contribution differential existing between the contribution that would have been accrued in the employment relationship terminated by the unlawful dismissal and that credited to the worker as a result of carrying out other work activities. In the latter case, if the contributions relate to other social security management, they are officially charged to the management corresponding to the work activity performed by the dismissed employee, with the relative costs being charged to the employer. Following the reinstatement order, the employment relationship is considered terminated when the worker has not resumed service within thirty days of the employer's invitation, except in the case in which he has requested the indemnity in lieu of reinstatement in the workplace pursuant to the third paragraph[14] .

In the other cases in which the judge ascertains that the details of the justified subjective reason or just cause given by the employer do not apply, the judge declares the employment relationship terminated with effect from the date of the dismissal and orders the employer to pay a 'comprehensive compensation determined between a minimum of twelve and a maximum of twenty-four months of the last total salary in fact, in relation to the worker's seniority and taking into account the number of employees employed, the size of the economic activity, the behavior and of the conditions of the parties, with the burden of specific motivation in this regard[15] .

In the event that the dismissal is declared ineffective due to violation of the motivation requirement pursuant to article 2, paragraph 2, of thelaw 15 July 1966, n. 604,and subsequent amendments, of the procedure referred to in article 7 of this law, or of the procedure referred to in article 7 of thelaw 15 July 1966, n. 604,and subsequent amendments, the regime referred to in the fifth paragraph applies, but with the attribution to the worker of an all-inclusive compensation indemnity determined, in relation to the seriousness of the formal or procedural violation committed by the employer, between a minimum of six and a maximum of twelve months of the final global salary in fact, with the burden of specific motivation in this regard, unless the judge, on the basis of the worker's request, ascertains that there is also a lack of justification for the dismissal, in which case he applies, in place of those provided for in this paragraph, the protections referred to in the fourth, fifth or seventh paragraphs[16] .

The judge applies the same discipline referred to in the fourth paragraph of this article in the event that he ascertains the lack of justification of the dismissal notified, also pursuant to articles 4, paragraph 4, and 10, paragraph 3, of thelaw 12 March 1999, n. 68,for objective reasons consisting in the physical or mental unfitness of the worker, or that the dismissal was ordered in violation of article 2110, second paragraph, of the civil code. He may also apply the aforesaid discipline in the hypothesis in which he ascertains the manifest non-existence of the fact underlying the dismissal for justified objective reason; in the other cases in which it ascertains that the details of the aforementioned justified reason do not apply, the judge applies the discipline referred to in the fifth paragraph. In the latter case, for the purposes of determining the indemnity between the minimum and the maximum envisaged, the judge takes into account, in addition to the criteria referred to in the fifth paragraph, the initiatives taken by the worker to search for a new job and the behavior of the parts inlaw 15 July 1966, n. 604,and subsequent modifications. If, during the proceedings, on the basis of the request formulated by the worker, the dismissal is determined by discriminatory or disciplinary reasons, the relative protections provided for by this article shall apply[17] .

The provisions of the fourth to seventh paragraphs apply to the employer, entrepreneur or non-entrepreneur, who employs more than fifteen workers or more in each site, establishment, branch, office or independent department in which the dismissal took place of five in the case of an agricultural entrepreneur, as well as to the employer, entrepreneur or non-entrepreneur, who employs more than fifteen employees within the same municipality and to the agricultural enterprise which employs more than five employees within the same territorial area, even if each production unit, considered individually, does not reach these limits, and in any case to the employer, entrepreneur or non-entrepreneur, who employs more than sixty employees[18] .

For the purpose of calculating the number of employees referred to in the eighth paragraph, account is taken of workers hired with partial permanent contracts for the portion of hours actually worked, bearing in mind, in this regard, that the calculation of work units refers to the time foreseen by the collective bargaining of the sector. The spouse and relatives of the employer within the second degree in direct line and in collateral line are not counted. The calculation of the employment limits referred to in the eighth paragraph does not affect rules or institutions that provide for financial or credit facilities[19] .

In the event of revocation of the dismissal, provided that it is carried out within the period of fifteen days from the notification of the appeal to the employer, the employment relationship is understood to be restored without interruption, with the worker's right to the remuneration accrued in the previous period upon revocation, and the sanction regimes provided for by this article do not apply[20] .

In the event of dismissal of the workers referred to in article 22, on the joint request of the worker and the trade union to which the latter joins or assigns a mandate, the judge, in any state and level of the judgment on the merits, can order by order, when he deems irrelevant or insufficient evidence provided by the employer, the reintegration of the worker in the workplace.

The order referred to in the previous paragraph can be challenged with an immediate complaint to the same judge who issued it. The provisions of article 178, third, fourth, fifth and sixth paragraph of the code of civil procedure apply.

The order can be revoked with the judgment that decides the case.

In the case of dismissal of workers referred to in article 22, the employer who does not comply with the sentence referred to in the first paragraph or with the order referred to in the eleventh paragraph, not challenged or confirmed by the judge who pronounced it , is also required, for each day of delay, to pay the Pension Adjustment Fund a sum equal to the amount of the salary due to the worker[21] .

Title III

OF TRADE UNION ACTIVITY

Art. 19. (Constitution of company union representatives).

Company union representatives can be set up on the initiative of the workers in each production unit, within the scope of:

to)[22] ;

b) trade union associations that are signatories of collective labor agreements applied in the production unit[23] .

In the context of companies with several production units, the trade union representatives can set up coordination bodies.

Art. 20. (Assembly).

Workers have the right to meet, in the production unit in which they work, outside working hours, as well as during working hours, within the limit of ten hours per year, for which the normal salary will be paid. Better conditions can be established by collective bargaining.

The meetings - which may concern all workers or groups of them - are called, individually or jointly, by the company union representatives in the production unit, with agendas on matters of union and labor interest and according to the order of precedence of the summonses, communicated to the employer.

External managers of the trade union which has set up the company trade union representation may participate in the meetings, with prior notice to the employer.

Further modalities for the exercise of the right of assembly can be established by the collective labor agreements, including corporate agreements.

Article 21. (Referendum).

The employer must allow within the company the holding, outside working hours, of referendums, both general and by category, on matters relating to union activity, called by all company union representatives among the workers, with the right of participation of all workers belonging to the production unit and to the particularly interested category.

Further modalities for carrying out the referendum can be established by collective labor agreements, including corporate ones.

Art. 22. (Transfer of the executives of the company union representatives).

The transfer from the production unit of the managers of the company union representatives referred to in the previous article 19, of the candidates and of the members of the internal commission can only be ordered with the authorization of the union associations to which they belong.

The provisions referred to in the previous paragraph and in the fourth, fifth, sixth and seventh paragraphs of article 18 apply until the end of the third month following that in which the internal commission for candidates in the elections of the commission itself was elected and until at the end of the year following that in which the office ceased for all the others.

Art. 23. (Paid leave).

The managers of the company union representatives referred to in article 19 are entitled to paid leave for the performance of their mandate.

Except for more favorable clauses of the collective labor agreements, at least the following are entitled to the permits referred to in the first paragraph:

a) a manager for each company union representation in the production units that employ up to 200 employees of the category for which it is organised;

b) one manager for every 300 or fraction of 300 employees for each company union representation in the production units that employ up to 3,000 employees of the category for which it is organised;

c) one manager for every 500 or fraction of 500 employees of the category for which company union representation is organized in larger production units, in addition to the number referred to in letter b) above.

The paid leave referred to in this article cannot be less than eight hours per month in the companies referred to in letters b) and c) of the previous paragraph; in the companies referred to in letter a) the paid leave cannot be less than one hour per year for each employee.

The worker who intends to exercise the right referred to in the first paragraph must give written notice to the employer as a rule 24 hours in advance, through the company union representatives.

Art. 24. (Unpaid leave).

The company union managers referred to in article 23 are entitled to unpaid leave for participation in union negotiations or union-related congresses and conventions, for no less than eight days a year.

Workers who intend to exercise the right referred to in the previous paragraph must give written notice to the employer as a rule three days in advance, through the company union representatives.

Art. 25. (Right of posting).

The company trade union representatives have the right to post, on special spaces, which the employer has the obligation to set up in places accessible to all workers within the production unit, publications, texts and press releases relating to matters of trade union interest and of work.

Art. 26. (Union fees).

Workers have the right to collect contributions and to proselytise for their trade union organizations within the workplace, without prejudice to the normal course of business.

(Omitted)[24] .

(Omitted)[25] .

Art. 27. (Locations of company trade union representatives).

The employer in production units with at least 200 employees places a suitable common room within the production unit or in the immediate vicinity permanently available to the company union representatives for the exercise of their functions.

In production units with fewer employees, the company union representatives have the right to use, if they request it, a suitable place for their meetings.

Title IV

MISCELLANEOUS AND GENERAL PROVISIONS

Art. 28. (Repression of anti-union conduct).

If the employer engages in behavior aimed at preventing or limiting the exercise of trade union freedom and activity as well as the right to strike, upon appeal by the local bodies of the national trade union associations that have an interest in it, the magistrate of the place where he is located the behavior denounced, in the following two days, having summoned the parties and having taken summary information, if it deems the violation referred to in this paragraph to exist, orders the employer, with a motivated and immediately enforceable decree, the cessation of the unlawful behavior and the effect removal.

The executive effectiveness of the decree cannot be revoked until the sentence with which the magistrate in function of labor judge defines the judgment instituted pursuant to the following paragraph[26] .

Against the decree that decides on the appeal, within 15 days of the communication of the decree to the parties, opposition is admitted before the magistrate acting as labor judge who decides with an immediately enforceable sentence. The provisions of articles 413 and following of the Code of Civil Procedure are observed[27] .

The employer who does not comply with the decree, referred to in the first paragraph, or with the sentence pronounced in the opposition proceedings is punished pursuant to article 650 of the penal code.

The judicial authority orders the publication of the penal sentence in the manner established by article 36 of the penal code.

(Omitted)[28] .

(Omitted)[29] .

Art. 29. (Merger of company union representatives).

When the company union representatives referred to in article 19 have been formed within the context of two or more of the associations referred to in letters a) and b) of the first paragraph of the aforementioned article, as well as in the hypothesis of a merger of several union representatives, the numerical limits established by article 23, second paragraph, are understood to refer to each of the union associations represented as a unit in the production unit.

When the formation of unitary union representatives follows the merger of the associations referred to in letters a) and b) of the first paragraph of article 19, the numerical limits of the protection granted to the managers of company union representatives, established in application of article 23, according to paragraph, or the first paragraph of this article remain unchanged.

Art. 30. (Permits for provincial and national managers).

The members of the provincial and national governing bodies of the associations referred to in article 19 are entitled to paid leave, according to the provisions of the employment contracts, for participation in the meetings of the aforementioned bodies.

Art. 31. (Expectations of workers called to elective public functions or to hold provincial and national trade union offices).[30]

Workers who are elected members of the national or European parliament or of regional assemblies or are called to other elective public functions may, upon request, be placed on unpaid leave for the entire duration of their mandate[31] .

The same provision applies to workers called to hold provincial and national trade union positions.

The periods of leave referred to in the previous paragraphs are considered useful at the request of the interested party, for the purpose of recognizing the right and determining the amount of the pension to be paid by the compulsory general insurance referred to in the royaldecree-law 4 October 1935, n. 1827,and subsequent amendments and additions, as well as to be paid by entities, funds, funds and managements for compulsory forms of social security in lieu of the aforementioned insurance, or which in any case entail its exemption.

During periods of leave, the interested party, in the event of illness, retains the right to benefits paid by the competent bodies responsible for providing the same benefits.

The provisions referred to in the third and fourth paragraphs do not apply if social security forms are provided for workers for retirement and sickness, in relation to the activity carried out during the leave period[32] .

Art. 32. (Permits for workers called to elective public functions).[33]

Workers elected to the office of municipal or provincial councilor who do not ask to be placed on leave are, at their request, authorized to be absent from service for the time strictly necessary for the completion of the mandate, without any reduction in salary.

Workers elected to the office of mayor or city councilor, or president of the provincial council or provincial councilor, are also entitled to unpaid leave for a minimum of thirty hours per month.

Title V

PLACEMENT RULES

Art. 33. (Placement).[34]

[The placement commission, pursuant to art. 26 of thelaw 29 April 1949, n. 264,it is compulsorily established in the zonal, municipal and fractional sections of the provincial labor and maximum employment offices, when the most representative trade union organizations of the workers request it.

The commission is appointed by the director of the Provincial Labor and Maximum Employment Office, who, in requesting the designation of workers' and employers' representatives, takes into account the degree of representation of the trade union organizations and assigns them a term of 15 days, after which he proceeds ex officio.

The commission is chaired by the director of the zonal, municipal, fractional section, or by one of his delegates, and deliberates by majority of those present. In the event of a tie, the vote of the president prevails.

The commission has the task of establishing and periodically updating the ranking of priorities for job placement, according to the criteria referred to in the fourth paragraph of article 15 of thelaw 29 April 1949, n. 264.

Except in the case in which the nominative request is admitted, the placement section, in choosing the worker to start work, must comply with the ranking referred to in the previous paragraph, which must be exposed to the public in the section itself and must be updated to each closure of the office with an indication of the initiates.

The numerical requests received from companies must also be exposed to the public.

The commission also has the task of issuing the no impediment document for starting work upon acceptance of requests by name or those of any other type which are established by law or by employment contracts. In cases of justified urgency, the start-up is provisionally authorized by the placement section and must be validated by the commission referred to in the first paragraph of this article within ten days. For denials of job placement by nominative request, written reasons must be given in a special report in two copies, one to be kept at the employment section and

the other at the director of the Provincial Employment Office. This written justification must be immediately sent to the requesting employer.

In the event that the commission denies the validation or does not pronounce itself within twenty days from the date of the start-up communication, the interested parties can file an appeal with the director of the Provincial Employment Office, who decides definitively, with the approval of the commission of referred to in article 25 of thelaw 29 April 1949, n. 264.

The work shifts referred to in Article 16 of thelaw 29 April 1949, n. 264,they are established by the commission and in no case can they be modified by the section.

The director of the Provincial Employment Office ex officio cancels the start-up and refusal to start-up measures in contrast with the provisions of the law. Against the decisions of the director of the Provincial Labor Office, an appeal can be made to the Minister for Labor and Social Security.

For the passage of the worker from the company in which he is employed to another, the authorization of the competent employment section is required.

Employers who do not hire workers through employment offices are subject to the sanctions provided for by article 38 of this law.

The rules contained inlaw 29 April 1949 n. 264,remain in force as they are not modified by this law].

Art. 34. (Nominative requests for manpower).[35]

[Starting from the ninetieth day from the entry into force of this law, the nominative requests for manpower to start work are allowed only for members of the employer's family nucleus, for temporary workers and for those belonging to restricted categories of highly specialized workers, to be established by decree of the Minister for Labor and Social Security, having heard the central commission referred to inlaw 29 April 1949, n. 264].

Title VI

FINAL PROVISIONS AND PENALTIES

Art. 35. (Field of application).

For industrial and commercial enterprises, the provisions of title III, with the exception of the first paragraph of article 27, of this law apply to each headquarters, establishment, branch, office or autonomous department which employs more than fifteen employees. The same provisions apply to farms employing more than five employees[36] .

The aforementioned rules also apply to industrial and commercial enterprises which employ more than fifteen employees within the same municipality and to agricultural enterprises which employ more than five employees within the same territory, even if each production unit, considered individually, does not reach such limits.

Without prejudice to the rules referred to in articles 1,8,9, 14, 15, 16 and 17, the collective labor agreements shall apply the principles referred to in this law to shipping companies for seafarers[37] .

Art. 36. (Obligations of holders of benefits granted by the State and of public works contractors).[38]

In the provisions for the granting of benefits granted pursuant to the laws in force by the State in favor of entrepreneurs who professionally exercise an organized economic activity and in the tender specifications relating to the execution of public works, the explicit clause determining the obligation to the beneficiary or contractor to apply or to have applied to the employees conditions not lower than those resulting from the collective labor agreements of the category and of the area.

This obligation must be observed both in the construction phase of the plants or works and in the subsequent one, for as long as the entrepreneur benefits from the financial and credit facilities granted by the State pursuant to the provisions of the law in force.

Any infraction of the aforesaid obligation which is ascertained by the Labor Inspectorate is immediately communicated to the Ministers in whose administration the granting of the benefit or contract has been arranged.

These will adopt the appropriate determinations, up to the revocation of the benefit, and in the most serious cases or in the case of recidivism they will be able to decide the exclusion of the person responsible, for up to five years, from any further granting of financial or credit facilities or from any contract .

The provisions referred to in the previous paragraphs also apply when it comes to financial or credit facilities or contracts granted by public bodies, to which the Labor Inspectorate directly communicates the infractions for the adoption of sanctions.

Art. 37. (Application to employees of public bodies).

The provisions of this law also apply to the work and employment relationships of employees of public bodies who exclusively or mainly carry out economic activities. The provisions of this law also apply to the employment relationships of employees of public bodies, unless the matter is otherwise regulated by special rules.

Art. 38. (Penal provisions).

Violations of articles 2, 5, 6 and 15, first paragraph, letter a), are punished, unless the fact constitutes a more serious offence, with a fine from 300,000 to 3,000,000 lire or with arrest. from 15 days to a year[39] .

In the most serious cases, the penalties of arrest and fine are applied jointly.

When, due to the economic conditions of the offender, the fine established in the first paragraph can be presumed ineffective even if applied to the maximum, the judge has the power to increase it up to five times.

In the cases envisaged by the second paragraph, the judicial authority orders the publication of the penal sentence in the manner established by article 36 of the Penal Code.

Art. 39. (Payment of fines to the Pension Adjustment Fund).

The amount of the fines is paid into the Workers' Pension Adjustment Fund.

Art. 40. (Repeal of conflicting provisions).

Any provision in conflict with the rules contained in this law is repealed.

The conditions of collective agreements and trade union agreements more favorable to workers remain unaffected.

Art. 41. (Tax exemptions).

All deeds and documents necessary for the implementation of this law and for the exercise of related rights, as well as all deeds and documents relating to judgments arising from its application are exempt from stamp duty, registration taxes or any other kind and from taxes.

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[1] The functions of the Labor Inspectorate provided for by this law have been attributed to the Provincial Labor Directorate pursuant to art. 6 of Ministerial Decree November 7, 1996, n. 687.

[2] Article replaced by art. 23 of Legislative Decree 14 September 2015, n. 151.

[3] Paragraph thus amended by art. 5 of Legislative Decree 24 September 2016, n. 185.

[4] The Constitutional Court, with sentence 30 November 1982, n. 204 declared the illegitimacy of the first three paragraphs of this article interpreted in the sense that they are inapplicable to disciplinary dismissals, for which said paragraphs are not expressly referred to by legislative legislation, collective or validly set by the employer.

[5] The Constitutional Court, with sentence 25 July 1989, n. 427 declared the illegitimacy of this paragraph in the part in which its applicability to dismissal for disciplinary reasons inflicted by an entrepreneur who has fewer than sixteen employees is excluded.

[6] The Constitutional Court, with sentence of 25 July 1989, n. 427 declared the illegitimacy of this paragraph in the part in which its applicability to dismissal for disciplinary reasons inflicted by an entrepreneur who has fewer than sixteen employees is excluded.

[7] Listing thus modified by art. 6 ofLegislative Decree 11 July 1992, n. 333.

[8] Paragraph added by art. 6 ofLegislative Decree 11 July 1992, n. 333.

[9] Paragraph replaced by art. 13 of theLaw 9 December 1977, n. 903,already modified by the art. 4 ofLegislative Decree 9 July 2003, n. 216and thus further modified by art. 1 ofLaw 23 December 2021, n. 238.

[10] Listing thus replaced by art. 1 ofLaw 28 June 2012, n. ninety two.

[11] The previous paragraphs from the first to the sixth have thus been replaced by the current paragraphs from the first to the tenth as a result of the art. 1 ofLaw 28 June 2012, n. ninety two.

[12] The previous paragraphs from the first to the sixth have thus been replaced by the current paragraphs from the first to the tenth as a result of the art. 1 ofLaw 28 June 2012, n. ninety two.

[13] The previous paragraphs from the first to the sixth have thus been replaced by the current paragraphs from the first to the tenth as a result of the art. 1 ofLaw 28 June 2012, n. ninety two.

[14] The previous paragraphs from the first to the sixth have thus been replaced by the current paragraphs from the first to the tenth as a result of the art. 1 ofLaw 28 June 2012, n. ninety two.

[15] The previous paragraphs from the first to the sixth have thus been replaced by the current paragraphs from the first to the tenth as a result of the art. 1 ofLaw 28 June 2012, n. ninety two.

[16] The previous paragraphs from the first to the sixth have thus been replaced by the current paragraphs from the first to the tenth as a result of the art. 1 ofLaw 28 June 2012, n. ninety two.

[17] The previous paragraphs from the first to the sixth have thus been replaced by the current paragraphs from the first to the tenth as a result of the art. 1 of Law 28 June 2012, n. 92. The Constitutional Court, with sentence 1 April 2021, n. 59, declared the illegitimacy of the second sentence of this paragraph, in the part in which it provides that the judge, when ascertaining the manifest non-existence of the fact underlying the dismissal for justified objective reason, «may also apply» – instead of «applies also" - the discipline referred to in this article, fourth paragraph. The Constitutional Court, with sentence 19 May 2022, n. 125, declared the illegitimacy of the second sentence of this paragraph, limited to the word "manifest".

[18] The previous paragraphs from the first to the sixth have thus been replaced by the current paragraphs from the first to the tenth as a result of the art. 1 ofLaw 28 June 2012, n. ninety two.

[19] The previous paragraphs from the first to the sixth have thus been replaced by the current paragraphs from the first to the tenth as a result of the art. 1 ofLaw 28 June 2012, n. ninety two.

[20] The previous paragraphs from the first to the sixth have thus been replaced by the current paragraphs from the first to the tenth as a result of the art. 1 ofLaw 28 June 2012, n. ninety two.

[21] Paragraph thus amended by art. 1 ofLaw 28 June 2012, n. ninety two.

[22] Letter repealed by art. 1 ofPresidential Decree 28 July 1995, n. 312.

[23] Letter thus modified by art. 1 ofPresidential Decree 28 July 1995, n. 312,with effect from 28 September 1995. The Constitutional Court, with sentence 23 July 2013, n. 231, declared the illegitimacy of this letter, in the part in which it does not provide that the company trade union representation can also be established in the context of trade union associations which, although not signatories of the collective agreements applied in the production unit, have in any case participated in the negotiation of the same contracts as representatives of the company's workers.

[24] Paragraph replaced by art. 18 of theLaw 23 July 1991, n. 223and now repealed by art. 1 ofPresidential Decree 28 July 1995, n. 313.

[25] Paragraph repealed by art. 1 ofPresidential Decree 28 July 1995, n. 313.

[26] Paragraph thus replaced by art. 2 of theLaw 8 November 1977, n. 847.

[27] Paragraph thus replaced by art. 3 of theLaw 8 November 1977, n. 847.

[28] Paragraph added by art. 6 of theLaw 12 June 1990, n. 146and now repealed by art. 4 of theLaw 11 April 2000, n. 83.

[29] Paragraph added by art. 6 of theLaw 12 June 1990, n. 146and now repealed by art. 4 of theLaw 11 April 2000, n. 83.

[30] For the authentic interpretation of this article, see art. 22 of theLaw 23 December 1994, n. 724.

[31] Paragraph thus replaced by art. 2 of theLaw 13 August 1979, n. 384.

[32] For the authentic interpretation of this paragraph, see art. unique ofLaw 9 May 1977, n. 210.

[33] For the partial repeal of the provisions referred to in this article, see art. 28 of theLaw 27 December 1985, n. 816.The art. 274 ofLegislative Decree 18 August 2000, n. 267he subsequently repealed theLaw 27 December 1985, n. 816.

[34] Article repealed by art. 8 ofLegislative Decree 19 December 2002, n. 297.

[35] Article repealed by art. 8 ofLegislative Decree 19 December 2002, n. 297.

[36] Paragraph thus amended by art. 6 of theLaw 11 May 1990, n. 108.

[37] The Constitutional Court, with sentence 3 April 1987, n. 96, declared the constitutional illegitimacy of this paragraph in the part in which it does not provide for the direct applicability to the aforementioned personnel also of art. 18 of this law; with sentence 31 January 1991, n. 41, declared the illegitimacy of this paragraph in the part in which it does not provide for the direct applicability to the aforementioned personnel also of art. 18 of this law, as amended by art. 1 oflaw 11 May 1990, n. 108;with sentence 23 July 1991, n. 364 declared the illegitimacy of this paragraph in the part in which it does not provide for the direct applicability to the aforementioned personnel of paragraphs 1, 2 and 3 of the art. 7 of this law.

[38] The Constitutional Court, with judgment of 19 June 1998, n. 226 declared the illegitimacy of this article in the part in which it does not provide that, in the public service concessions, the explicit clause determining the obligation for the concessionaire to apply or to enforce conditions not lower than to those resulting from the collective labor agreements of the category and of the area.

[39] Paragraph thus amended by art. 179 of Legislative Decree 30 June 2003, n. 196, starting from 1 January 2004. The art. 179,Legislative Decree 2003/196,was repealed by art. 27 ofLegislative Decree 10 August 2018, n. 101.The amount of the pecuniary sanction referred to in this paragraph was thus raised by art. 113 of theLaw 24 November 1981, n. 689.