



Framework and perspectives

Our latest issue of HReview examines key developments in Italian employment law, with particular attention to the forthcoming renewal of the NCBA for employees of the Tertiary sector, covering over three million workers. The joint platform submitted by trade unions places remuneration, working time and employment stability at the centre of negotiations. Proposed measures include higher minimum pay rates, annual cost-of-living adjustments, stronger safeguards for part-time workers and improved Sunday working conditions. The platform also addresses the impact of artificial intelligence, calling for prior consultation with employee representatives and paid training. These proposals could significantly affect labour costs, workforce organisation and industrial relations, making the negotiations particularly relevant to employers operating in Italy.

The issue also explores other developments affecting HR management and compliance: digital methods for fulfilling employment information obligations, new rules on severance pay allocation and supplementary pensions, and the forthcoming Form 770 filing deadline. Further attention is devoted to corporate liability arising from the use of high-risk AI systems, conflicting case law on resignation by implied conduct and a Constitutional Court ruling extending protection against unlawful dismissal in smaller companies.

Establishment of employment relationships – Information obligations fulfilled by digital means



Digitalisation of employment relationship management allows employers to fulfil the information obligations under art. 1 of Legislative Decree No. 152/1997 electronically, provided transparency, cybersecurity and traceability are ensured.

In its reply to request for clarification No. 2 of 30 September 2026, the Ministry of Labour acknowledges that documents may be made available via digital platforms managed by the employer or an appointed professional, with access restricted to the worker concerned. User identification, accessibility, retention, integrity and traceability must be ensured, together with acknowledgement of receipt where required.

Where a document requires a declaration of knowledge or intent by the worker, authentication alone is insufficient. SPID and the Electronic Identity Card (CIE) may serve for identification, but to have the effect of a private written instrument the document must bear a digital, qualified or advanced electronic signature, which ensures security, integrity, immutability and unequivocal attribution to the signatory. Retention of supporting evidence and the ability to verify integrity remain essential.



Form TFR3: The Ministry's New Compass for Severance Pay Choices



Under the Inter-Ministerial Decree of 4 September 2026, the Ministry of Labour adopted the new "TFR3" form, a non-binding ministerial template that private employers must provide to employees hired after 30 June 2026. The form records the employee's choice on the allocation of accruing severance pay (TFR) and any waiver of the automatic enrolment mechanism in supplementary pension schemes introduced by Law No. 199/2025 (Article 8, Legislative Decree No. 252/2005).

Failure to return the form within 60 days of hiring triggers automatic enrolment in the collective pension scheme set out by the applicable CCNL. As clarified by COVIP (Determination of 19 June 2026), the mecha-

nism applies both to first-time employees and to those already enrolled in supplementary pension schemes, while it does not apply to those who do not join or who have already fully redeemed their accrued position.

The form comprises a declaratory section on the employee's pension status, Section 1 for first-time employees and Section 2 for previously employed workers already enrolled, each setting out the TFR allocation options, and a final employer attestation confirming compliance with the information duties. It is the informational content, rather than the form itself, that is binding: the information may also be conveyed through other tools or texts prepared by the employer.

Unified platform for the renewal of the NCBA for the Tertiary, Distribution and Services Sector

On 28 September 2026, the trade unions signatory to the Tertiary Sector National Collective Labour Agreement (CCNL Terziario – Confcommercio) presented a joint platform for its renewal, covering more than three million workers. The main points are as follows: i) Salary: an increase of €220 on the minimum contractual pay rates at level IV, proportionally adjusted for the other levels, together with annual cost-of-living adjustments and more seniority increments. ii) Working time: part-time work is a central issue, with a requested minimum of 24 weekly hours, stricter rules on elastic clauses (employer-requested changes to part-time schedules) and a "right of reconsideration" allowing employees to withdraw their consent. The unions also seek to limit Sunday work by raising the current 30% premium and to promote permanent employment of fixed-term and agency workers. iii) Innovation: artificial intelligence must be introduced only after prior consultation with employee representatives, with paid training for employees. Finally, the unions propose extending the agreement to franchised stores to counter wage dumping. The negotiations will be an important development for foreign companies operating in Italy to follow closely.



Form 770/2026: the November 2 Deadline and What's New



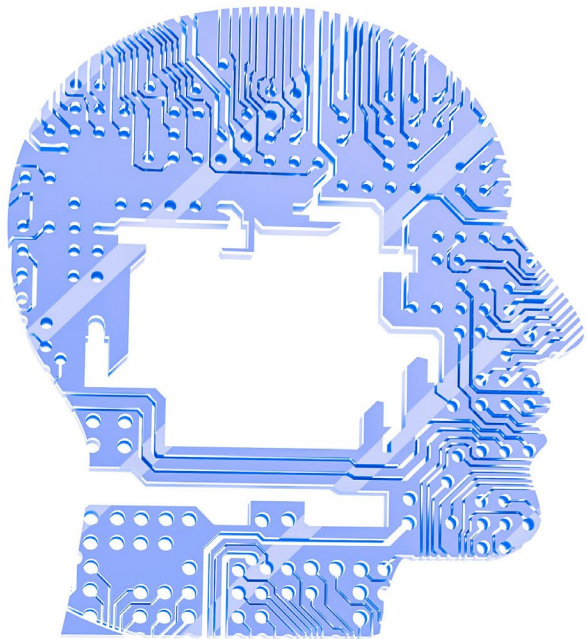
The Italian Revenue Agency has approved Form 770/2026, covering withholding taxes applied and paid in 2025, along with the related instructions (Ruling No. 72221 of 27 February 2026).

The filing deadline is set at 2 November 2026, since 31 October falls on a Saturday and is followed by the 1 November public holiday.

Filing is required of withholding agents, companies and entities, both resident and non-resident, that in 2025 paid income subject to withholding tax, investment income, profits from shareholdings or other financial proceeds, as well as parties subject

to specific reporting obligations. Submission presupposes prior transmission of the Certificazione Unica and, where required, the Certificazione degli utili.

Among the main changes to Section ST are the 5% substitute tax on overtime pay for NHS nurses, the effects of the tax wedge relief, linked to new line SX50, and the "V" code for suspended payments in municipalities affected by the Campi Flegrei bradyseismic crisis.



AI and New Corporate Liability

On 30 September 2026, Article 437-bis of the Criminal Code entered into force, punishing with imprisonment from 1 to 5 years the deployer of a high-risk AI system who, owing to a failure to maintain human oversight of the system's operation, has endangered public or individual life or safety. Under the principle of legality, whereby the breach of an obligation not yet enforceable carries no criminal relevance, the penalty under Article 437-bis may be imposed only once the human oversight obligation in question actually becomes applicable, that is, from 2 December 2027 or from 2 August 2028, depending on the type of high-risk AI system used (Article 113 of EU Regulation 2024/1689).

Deployers would nonetheless do well not to wait for those dates before acting and adapting their organisational and management models. Moreover, the obligation to update the risk assessment document remains in force where the use of a high-risk AI system has brought about significant changes to production processes (Article 29, paragraph 3, of Legislative Decree 81/2008). A breach of that obligation, and the failure to adopt adequate technical and organisational preventive measures, is already punishable by arrest or fine under Article 55, paragraphs 1, 3 and 5(d), of Legislative Decree 81/2008. Furthermore, where such omissions result in a workplace injury, the company may be found at organisational fault and thus incur administrative liability under Article 25-septies of Legislative Decree 231/2001.



Resignation by Implied Conduct: Three Days or Fifteen? Case Law Remains Divided

The rules on resignation by implied conduct, introduced by Law No. 203/2024 under Article 26, paragraph 7-bis, of Legislative Decree No. 151/2015, allow the employer to treat an employee's unjustified, unreported absence beyond the term set by the applicable CCNL, or, absent such provision, beyond 15 days, as resignation, by notifying the competent Labour Inspectorate.

The rule aims to curb the practice of employees who, by absenting themselves without notice, prompted the employer into a disciplinary dismissal in order to access NASpI unemployment benefits, with the related ticket charged to the company.

The provision has nonetheless given rise to divergent readings on the number of days of absence that are relevant.

The Ministry of Labour (Circular No. 6/2025) and the Bergamo Court hold that the statutory 15 working-day term applies, as distinct from the shorter term set by CCNLs for disciplinary dismissal, the two institutes serving different functions: the former presumes an intent to resign, the latter assesses the seriousness of the breach.

The Milan Court instead favours the contractual term, where expressly provided by the applicable CCNL.

The Ravenna Court and the Bologna Court of Appeal confirm the constitutionally-oriented reading, excluding the application of disciplinary safeguards and characterising a breach of the procedure as a contractual default, not a dismissal, entitling the employee to reinstatement of the employment relationship and to the wages accrued.

Pending a settled body of case law, a cautious approach is advisable, applying the longer 15-day term.



Unlawful dismissal – Cap on compensation



By judgment No. 174 of 22 October 2026, the Constitutional Court ruled on the protection applicable in cases of unlawful dismissal of workers recruited before 7 March 2015 by undertakings employing fewer than 15 workers. In particular, the Court declared art. 8 of Law No. 604/1966 unconstitutional, limited to the words 'where employed by an employer employing more than fifteen workers'.

Consequently, in the event of the unlawful dismissal of a worker recruited before 7 March 2015 by an employer employing fewer than 15 employees, the court is free to award compensation exceeding the ordinary maximum limit of six months' remuneration. Where the required length of service is met, compensation may be increased to up to ten months' remuneration for service exceeding ten years and up to fourteen months' remuneration for service exceeding twenty years.

According to the Constitutional Court, the workforce-size requirement had become anachronistic and unreasonably restricted judicial discretion in determining the level of protection. The judgment also seeks to redress the disparity in treatment compared with workers recruited from 7 March 2015 by undertakings employing fewer than 15 employees, for whom judgment No. 118/2025 had already removed the six-month cap provided for by Legislative Decree No. 23/2015, allowing compensation of up to eighteen months' remuneration.

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