“ENTERPRISE IN RULE”
ADVANTAGES AND OPPORUTINITIES

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INTRODUCTION

During the year 2011, too, the profitable collaboration with the Chamber of Commerce, Industry, Handicrafts and Agriculture succeeded in deepening themes aimed at easing the knowledge and the respect of the rules on behalf of foreign entrepreneurs, widening the horizon and encompassing also the advantages and the opportunities of legal working activities.
Through the new publication "L'impresa in regola: vantaggi e opportunità" (The Legal Enterprise: Advantages and Opportunities) it was deemed necessary to go into those aspects bound to the enterprise activity in its process of evolution and progress, focusing the attention also on the negative consequences of irregular work activity, both for the employer and for the worker, as well as on the advantages brought by the legal work conditions.
Therefore, during the year 2011, not only issues such as the "maxi-penalty", that involves the entrepreneurs who hire illegal workers, but also all those facilities connected to the new fiscal regulation for enterprises led by young people, as well as for women's enterprises were taken into exam.

A specific chapter was consecrated to some activities that seem to be carried out mainly by foreign entrepreneurs, such as those of beautician, worker in the field of beauty-care or hairdresser, in particular putting into evidence the rules contained in the "Regolamento Comunale" of Florence (Regulation issued by the Municipality of Florence) as well as the use of cosmetics in full safety.

The accent was stressed, in a particular way, on the safety of products and the materials of toys in order to guarantee the final consumers and the enterprises, and to protect the safety of the youngest consumers.
Counterfeiting continues to be a topical subject: as the web is one of the commercial channels mostly used to sell products, it was deemed right to underline the damages due to parallel and illegal sales *on line* and to those illicit means used to attract the widest number of visitors and buyers.

In order to realize this Guide, the contribution given by the Agenzia delle Entrate, by the Direzione Provinciale del Lavoro, by the Azienda Sanitaria di Firenze, by the INPS, by professionals and experts on patents who collaborate with the Chamber of Commerce, Industry, Handicrafts and Agriculture within the free Service of orientation on trademarks and patents was precious.
It is necessary to underline, at last, that the collaboration among different Bodies, taking part in various procedures, represents, once more, a surplus value which strengthens the system of legality and of integration at the same time, within the framework of the activities carried out by the Public Administration as a whole.
The translation in English represents a further element of attention with regard to the communities that are present in the territory of the province, for a larger diffusion of information about the rules to be respected.
The edition on line on the sites www.prefettura.it/firenze ,

www.immigrazione.regione.toscana.it and www.fi.camcom.it will allow its immediate updating during the year.
I thank all those who gave their contribution to the drawing up of the Guide and, in particular, to the Chamber of Commerce that, by its financial support, made this publication possible.

Paolo Padoin
Prefetto della Provincia di Firenze
The Prefect of the Province of Florence

FIRST PART

IRREGULAR WORK. CONSEQUENCES FOR THE EMPLOYER AND FOR THE EMPLOYEE

WHAT CONCEALED LABOUR MEANS

As far as the retribution, working time and conditions of work are concerned, there is no reference hiring contract.

National work contracts are not respected as far as the minimum wage, workers rights, working time and firing conditions are concerned.

The employer does not pay the taxes due to the INLAND Revenue Office (but the worker is obliged to declare his/her own income).

The employer doesn't pay the social contribution to the State (which , among other things, ensures the future pension for the worker).

The years of effective work can't be cumulated (fact which would enable the worker to retire).

When the work contract forsees fewer working hours than those really carried out as a matter of facts by the worker, the exceeding hours worked are not calculated in the regular salary and therefore the relative contributions are not paid and they are not taken into account for the pension.

The insurance prime, proportional to the risk each worker runs at work and by which INAIL pays to the injured worker an adequate amount in case of professional illness or injury, is not paid to INAIL.

Nevertheless also workers have the right to enjoy free health assistance in case of injury at work or during the track to work, notwithstanding they possess regular visa or permit to stay or they are irregular in Italy.

It is necessary to declare that the accident took place during working time when entering the Hospital.

THE "MAXI-PENALTY" FOR EMPLOYING CONCEALED WORKERS

When it is to be applied

Employing E.U. National or non E.U. National subordinate workers without the previous mandatory communication of hiring to the Center of Employment (Centro per l'Impiego) is punished by an administrative sanction ranging from 1.500 to 12.000 euros plus additional 150 euros for each working day.

The "maxi-penalty" is applied to private employers except for employers of subordinate domestic workers, under condition that the worker is consecrated to the running of family life and not to other activities.

This" maxi-penalty" can be avoided if documents drawn up when organisms of

inspections enter the firm (for i.e. the monthly mailing of an E-mens online on behalf of the employer containing the retribution data of each worker relative to the working period) contain evidence of the regular presence of the worker.

The Procedure

The controls and the contestations of such violations turn to each Organism of Supervision that carry out controls in the fields of labour, income and contributions (Work Inspectors, Carabinieri from the Ministry of Work, Inspectors of Surveillance of the Social Security Bodies, military forces from the Finance, Inspectors from the Agenzia delle Entrate -Revenue Control Office). The sanction must be notified within 90 days since the conclusion of the supervision through a unique report of inspection and notification, reporting the reason and the indication of the sources of evidence on which the control was founded. If the Inspectors of the Work Office trace the presence of a certain number of irregular workers equal or superior to 20% of employed workers when they enter the firm, the Inspectors issue a measure of suspension of the activity starting from 12.00pm o'clock of the day following the inspection, (except for very serious cases that provide for an anticipated suspension). In order to revoke the measure of suspension the employer is supposed to pay the amount of 1.500 Euros and produce all the necessary documents giving evidence of the regularization of the workers.

Within 30 days from the receiving of the notification measure, it is possible to lodge defensive memoires and documents as well as to apply for an audition, in the meaning of Art. 18 of Law 698/81; moreover, within the same terms, it is possible to impugn the reports drawn by the Inspectors of Work, by the Carabinieri of the Nucleo Ispettorato Lavoro (Inspection Work Office) and by the Inspectors of Surveillance from INPS and INAIL before the COMITATO REGIONALE (Regional Commission) for the work relations.

In case the sanction is paid, the bodies of surveillance must draw a report containing the pertaining remarks in case any defensive memoires is lodged to the D.P.L. (LABOUR OFFICE OF THE PROVINCE), competent for venue.

The Labour Office provides for the issuing of a measure of injunction of payment. According to article 16 of the Legislative Decree 124/04, it is possible to impugn the injunction measure, within 30 days from its notification before the Comitato Regionale for work relations.

Mandatory Notice

The supervisory staff that detects irregular labour is obliged to warn the trespasser about the duty to regularize the violation, inviting him to hire the worker within 30 days from the warning and, of course, if it is possible as a matter of facts (for example minors under 16 can't be hired as well as non E.U. Nationals without permit to stay); the defaulting employer has other 15 days to make the payment of sanctions at the minimum rate forseen by law (the daily increase in stable rate is reduced by ¼). In case the worker can't be hired, the regularization must take place through the payment of contribution

fees due to welfare organisms for the days really worked.

If the employer, before the intervention of the supervisory bodies, has spontaneously regularized the worker, he or she shall pay a reduced sanction from 1.000 to 8.000 euros plus 30 euros for each working day.

In case of non-compliance of the warning or in case the payment wasn't done within 15 days from the issuing of the sanction at minimum rate, the trespasser shall have to pay, in the meaning of to article 16 of Law n° 689/81 an amount in reduced measure equal to one third of the maximum statutory fine, or, if more favorable, to the double of the minimum statutory fine, within 60 days from the expiring of the term forseen for the payment of the warning.

hypothesis	**minimum**	**maximum**	**increase**	**warning**	**reducedmeasureART.16 L.689/81**
Irregular workers **At the moment of the intervention of the supervisory inspection**	€ 1.500	€ 12.000	€ 150 For each working day	1.500+ 37.50 €	€ 3.000+ € 50
Regular workers at the moment of the **Intervention of the supervisory inspection**	€ 1.000	€ 8.000	€ 30 For each working day	1.000+ 7.50 €	€ 2.000+ € 10

TAX EVASION

In Italy, concealed and/or irregular workers constitute a phenomenon that entails large consequences at social and economic levels, also in terms of distortion of the market.

The fight against the concealed labour and the corresponding fight against Tax and Contribution Evasion represents therefore a priority to reestablish legality and restore public finance.

It is today possible to trace three main groups of sectors where the phenomenon of concealed work is particularly widespread:

- The traditional sectors of agriculture, building, retail trade, restoration or domestic service;
- The hand-manufactured sector and the commercial services (like in handmade textiles sector).
- Innovative sectors in which the use of electronic and computers communications ease the declarations regarding the activity

Concealed Labour and Tax Evasion are two strictly connected phenomena. The shadow economy is represented, as a matter of facts, by all the production kept hidden to the Public Administration for different reasons: tax evasion, social contribution evasion, non-compliance with administrative rules, violation of the fair competition rules. The reduction of incomes for the State entails at the same time, of course, a reduction of the level of the services that the State itself is able to offer, and this creates a vicious circle, as the government increases taxes to be able to give services, creating therefore an even more fertile ground to evasion and to concealed labour, as more "advantageous". Concealed labour, just in term of tax evasion, takes away from income office almost 100 billion euros each year of taxable money and 48 billion euros of taxes.

As concealed work reduces the costs of an enterprise, it influences also the conditions of competitiveness (that is lower costs of production) and therefore the conditions of free competition. In order to fight against concealed labour the greatest part of the countries member of the E.U. have strengthened the law regarding the penalties to be applied in case of violations of rules regarding taxes and social contributions, designing also more incisive forms of control. In Italy such an intensification of controls was carried out also thanks to the participation of income office authorities and in particular the Revenue Tax Office (Agenzia delle Entrate).

The concealed labourer is obliged to declare the money received

The Labourer who cashes the salary in a hidden way must anyway declare to the Revenue Office the income received.

As a matter of fact, the illicit act accomplished by the employer or income substitute does not cancel or absorb the workers duties (such a principle was established by the Corte di Cassazione, with the recent sentence n°9867/2011 dated may 5th , 2011).

If the employer hasn't complied with the payment of withholding tax also the employee is nevertheless obliged to correspond the due tax.

Concealed retributions considered as presumption of higher income on behalf of the employer

If the inspection result gives evidence that an employer pays salaries to his or her employees in a concealed way, unpaid withholdings will be straight presumed and then the relative penalties endorsed.

The Fiscal Commission of the Province of Florence(Commissione Tributaria della Provincia di Firenze) has nevertheless established, through several sentences, that the financial Administration can, in certain cases, also carry out the type of the so called " analytic- inductive" control (according to article 39, paragraph 1 letter d) of the DPR 600/73) that allows in fact The Financial Administration to use simple, though serious, precise and concordant presumptions, to deduce the presence of activities undeclared and absent in the bookkeeping, clawing back to taxation also higher profits probably resulting from concealed work.

In this case the average labour cost incidence is taken as a reference the total of receipts declared by similar undertakings trading in the same sector and in the same geographical area, contesting therefore a proportional amount of hidden profits, and deducing so in symmetry and proportionally the relative money paid in a hidden way.

Such conclusions were recently confirmed also by the Corte di Cassazione through sentence n° 2593 dated February the third, 2011.

WHY WORKING WITH A REGULAR CONTRACT IS MORE ADVANTAGEOUS

The subordinate worker with a regular contract can draw benefits from several services during the period of validity of the contract itself as well as when the working contract ends because of firing or because it naturally expired.

Benefits and allowances enjoyable during the validity of the contract

During the work contract the worker is entitled to receive, upon specific request, the payment for the **Assegno Nucleo Familiare – (ANF) "family benefit"**, according to the family total revenue and to the components of the family.

The benefit is proportionated to the revenue parameters (at least 70% of the family total revenue must be drawn from subordinate work) and to the number of components of the family.

The benefit is issued directly by the employer.

In case of illness, regularly documented by medical certificate sent to INPS and to the employer, the period of absence is covered by the illness benefit which amounts to 80% of the total monthly wage.

During the contract, the payment of the social security benefit is due upon the

worker request according to the family total revenue and to the number of members constituting the family.

For the woman-worker who becomes pregnant during the period of her working activity, the Law forsees the mandatory abstention from work for 5 months, 2 months before and 3 after giving birth (the worker can also choose and ask the permit to suspend working just one month before giving birth and enjoy four months after the baby birth) with maternity allowance equal to 80% of monthly wage.

Moreover the worker can apply for an anticipated leave (before the 2 mandatory months) in case of a non compatibility with pregnancy or in case of complications of the pregnancy itself.

Also in this case the allowance represents 80% of the monthly wage.

At the end of the mandatory maternity leave the mother worker or also the father worker can apply for a further period of abstention from work for parental leave for a maximum period of six months that can be used also in a parceled way with an indemnity equal to 30% of the monthly wage.

During the first year of life of the newborn baby, a 2 hours daily leave is allowed in case the daily working time is equal or superior to six hours, and 1 hour daily leave in case the daily working time is inferior to six hours.

- The worker who- as a consequence of the expiry of the contract or of firing-, possesses contributions for unemployment for 52 weeks detectable during the two years previous to the work interruption, and who can give evidence of an unemployment allowance referred to a period of at least 2 years before the date of the end of the work, can apply for the ordinary unemployment allowance to INPS , under condition the worker lodges a declaration of " disponibilità" – ready to be employed- to the Centro per l'Impiego (Employment Center).

- If the requisites needed are present a benefit can be allocated for 8 months in case the worker is under 50 and for 12 months in case the worker is over 50.

- The benefit is equal to 60% of retribution for the first six months and to 50% for the following two months and to 40% for the further four months.

- If the worker doesn't possess the conditions necessary for the unemployment ordinary allowance, the latter can, during the solar year following the one the worker ceased the work, apply for a benefit unemployment allowance with reduced requisites for which it is necessary to have carried out subordinate work for at least 78 days in the relative solar year and have enjoyed of an unemployment benefit at least 2 years before the beginning of the year during which the application was lodged (for instance: if the worker intends to lodge the application for the solar year 2011, in the period going from January to March, the contribution of the worker should have been accredited since the date of January the first, 2010.)

THE RIGHT TO ENJOY THE PENSION

The International Agreements with Non E.U Countries

The International Agreements in the field of Social Security were drawn in order to ensure- to a person who goes to a foreign Country to carry out a working activity- the same benefits as those established by the Law of the foreign Country towards its own citizens.

In past times Italy drew mutual agreements and conventions with those Countries traditionally receiving large flows of Italian emigrants; in more recent years, new Conventions were ratified also with those Countries towards which the new emigration of skilled workers for the new economy sectors is addressed, as well as with those Countries which big flows of unskilled workers come from.

The mutual Conventions are juridical acts belonging to the International Law by which two Countries commit themselves to put into effect, each one within its territory, a Social Security and Welfare policy with regards to migrants from another Country in order to guarantee them the free circulation of labour. The mutual agreements, differently from Communitarian Rules, need to be ratified in order to be applied to the national law system of each Country. They are valid only for the signing Countries and operate in an autonomous way with regards to other conventions.

Mutual agreements are based on three main principles:

- **Equal *treatment*** *for* which each Country is committed to ensure to the Nationals belonging to the other member Countries the same treatment and the same benefits as its own Nationals;
- **The keeping of the rights and of advantages** acquired and the chance therefore to obtain the payment of social benefits in the Country of residence also if charged to another Country.
- **The addition of the period of contribution and of insurance**, thanks to which the periods of work carried out in different Countries can be cumulated within the respect and limits of each single national legislation, to enable the realization of the requisites needed to have the right to enjoy the benefits. It is important to precise that each Convention operates in an autonomous way with regards to the other Conventions and it establishes which are the requisites to observe and the benefits to issue among the signing countries.

Italy signed mutual Agreements with the following Countries:

Argentina, Australia, Bosnia Herzegovina, Brazil, Canada-Quebec, South Korea *, Croatia, Israel*, Jersey and the Isles of the Channel, Macedonia, Mexico*, Cabo Verde, Republic of San Marino, Federal Republic of Yugoslavia, Vatican, United States of America , Tunisia, Turkey, Uruguay, Venezuela.

The mutual agreements signed with South Korea, Israel and Mexico do not encompass the addition of the periods of insurance and contribution.

PENSION BENEFITS FOR NON E.U. WORKERS COMING FROM NON-AGREED COUNTRIES

The non E.U. workers that carry out a working activity in Italy enjoy pension retributions

according to the rules established by the Italian Law for all workers in general.

If the working activity was carried out in Italy by non-agreed Countries Nationals, with an unlimited or limited non seasonal work contract, there is the further chance to enjoy a pension retribution, in derogation to the requisite of the minimum contribution established by article 1, c. 20, of Law 335/1995 for non E.U. Nationals going back to their Countries of origin in a definite way, after accomplishing 65 years.

Old age pension

Two different cases must be taken into account, the pension calculated on the basis of the contribution system and the pension calculated on the retribution:

- In the first case non E.U. Nationals hired after January the first, 1996 can enjoy, in case of repatriation, the pension for old age (calculated on the system of contribution) after being 65 even if the established requisites are not yet reached (therefore also if they have less than five years contribution);
- In the second case, the Non E.U. Nationals hired before 1996 can enjoy , in case of repatriation, the old age pension (calculated on the retribution system or on the mixed one) only after being 65 (for both men and women) and after having a 20 years contribution.

Pension for the survivors

If death took place before the worker was 65, the survivors are not supposed to enjoy the pension allowance as the contributions can be considered effective only after that age is reached.

If death took place after the worker was 65, the survivors can enjoy the pension allowance if the conditions established by the present rules for workers in general are present (Circular letter 45/2003 by Inps).

The non E.U. National who acquires the Italian nationality, and who has carried out subordinate work in those Countries that haven't signed Agreements for social security, has the chance to apply for a redemption for the work carried out abroad for a valuable consideration, in the meaning of article 51,c. 2 of Law 153/1969.

Old age pension for self employment workers

It is an economic benefit allocated upon request in favour of those workers registered on the special managements of craftsmen, traders, farmers tenants, farmers sharecroppers, who turned to the age established by law and who duly paid contributions for old age pension and for the insurance as well.

Who is entitled to receive old pension

The workers registered to the special management for self-employment workers, who were already ensured on December the 31st, have the right to enjoy the pension for old age if they prove:

To be 60 years old (women) and 65 years old (men)

20 years of contribution (1040 contributions per week)

Law n° 122/2010 and later Law n°111/2011 and Law n° 148/2011 established to raise the age from 60 to 65 years for women committed in self- employment who need then to have also all those conditions to enjoy the pension linked to the expectation of average life with a raise equal to three months since 2013 with updating every three years established by ISTAT.

Since January the first 2014, it is established there will be a progressive raise , from 60 to 65 years before enjoying the pension, for those self-employed women workers who collect the pension granted by INPS: In particular, the requisite of being 60 will be increased of one month in 2014, of two further months since 2015, of three months since 2016, of four months since 2017, of five months since 2018, of six months since 2019, and so on for each year until the year 2026 when the increase reaches the maximum term of old age and therefore the raise is completely set out.

Workers enrolled in the special managements of self-employment workers, insured after December the 31st, 1995, have the right to enjoy the pension if they prove:

To be 60 (women) or 65 (men).

To have a five years long period of real contributions (that is 260 weeks).

Particular conditions are established for the pensions for old age based on contributions if the worker cumulated at least a 35 years long period of contributions (that are 1820 weeks) or at least 40 years of contributions (that are 2080 weeks)

For old age pensions based on contributions, too, a gradual increase of the age is established as far as the women self-employed workers are concerned; as a matter of facts, it is going on since 2014 and until 2026 when being 65 and proving to possess the requisites for pension linked to the expectation of average life of all the workers: there will be a three months increase since 2016 and the updating established by ISTAT will be following every three years.

How much is due

Law 122/2010 replaced and abrogated the access to the pension for old age through the finestre d'uscita "exit windows" replaced by the differentiation of the moment to get retired.

Since January 2011 all self-employment workers proving to possess the requisites of age and contributions established in order to have the right to enjoy the pension, can obtain the payment of the pension after 18 months .

The date on which the payment of pension falls due is the first day of the month

following the expiry of the months of differentiation.

How much is due

For those workers who were already insured on December, the 31st, 1995, the import of the pension is established by calculus system based on:

The retribution if the worker can account for at least a 18 years of contributions since December the 31st,1995;

a mixed system (with a share calculated on the retribution system and one on the contribution system) if the worker can't account for having 18 years of contributions on the date of December , 31st, 1995.

To those workers who were insured after that date the amount of the pension is determined by the calculus system based on contributions.

The worker is given the opportunity to choose the calculus system based on contributions if the latter doesn't possess contributions for an 18 years long period on December, the 31st, 1995 and has only a 15 years long period of contributions allocated, of which at least five years since January the first, 1996.

Voluntary contribution payments

Voluntary payments can be done by those workers who ceased or interrupted the working activity in order to:

- Make perfect the requisites of insurance and contributions necessary to reach the right to a pension benefit.

In order to obtain the leave to keep on paying voluntarily, the contributor must possess at least one among the following five requisites:

- At least five years of contributions (60 contributions per week or 260 per month) independently from the time of the allocation of the payments done for contributions;
- At least 3 years of contribution during the 5 years that preceded the date of lodging the application. The required requisites can be made perfect by means of real contributions (mandatory, voluntary or redemption), excluding the figurative contributions accredited at any title.
- For self-employment workers (artisans and traders), the amount of the monthly contribution due is determined on the average of the enterprise income declared for IRPEF during the last 36 months of contributions preceding the date of the application lodging.

The retirement bonus for traders

The principle of the retirement bonus can concern and regard, after stopping a trading activity, those who carried out, as holders or assistants, a retail trading activity, also

combined to an activity of administration of food and beverage to the public, or who carried out trading activity in public areas. This right is recognized until December the 31st, 2011, as a matter of facts. The retirement bonus can be allocated to workers possessing the following requisites:

If male, being over 62,

If female, being over 57;

At least 5 years INPS enrollment at the moment of the closure of the trading activity, and relative contributions payment.

The payment of the bonus is subordinated to the following conditions:

Closure of the trading activity;

Reconsignment of the leave for the trading activity;

Cancellation of the holder from the Register of traders and from the Register of Enterprises (Chamber of Commerce)

The payout is due since the first day of the month following the one in which the application was lodged, until the moment of the first month of payment of the old age pension .

According to L.122/2010, since January 2011, the beneficiaries of this benefit of Law, enjoy the right to receive the old age pension treatment after 18 months since they reached the pensionable age and therefore the expiry date of the bonus can be postponed for a period whose maximum length is equal to the above mentioned period. The bonus is not compatible with the working activity.

In presence of the requisites and conditions required, the beneficiary of a pension can apply for the bonus and this latter is therefore compatible also with other kind of pension treatments that might be enjoyed by the applicant.

The amount is equal to the minimum treatment of a pension established for those who are registered to the traders management.

The application for the pension : how and when to lodge it

As far as those beneficiaries residing in Italy are concerned, the application for the pension can be lodged at INPS of the area directly or through a Trade Union, or it can be send by registered post with acknowledgement of receipt.

It must be filled in on an appropriate form available at INPS seats or at Trade Unions Sections or it can be downloaded by the site www.inps.it.

Since February the first, 2012 the lodging of the application is possible only on line.

There will be a transitory period until January the 31st, 2012, during which, it is still possible to send it in the traditional way.

The on-line application for the pension can be done through:

- The Web- on-line services accessible directly by the user by PIN- go through the Institute home page.
- The Trade Unions, Intermediaries of the Institute- through on-line services offered by them.
- Contact Call Center through free phone number 803.164.

The old-age pension for repatriated non E.U. Nationals must be sent to the INPS at PERUGIA SEAT, using the appropriate form (cod.AP50) downloadable by the site www.inps.it

How to receive the pension

INPS pays the pension through the Post Office or the Bank.

- You can have it:

Cash at the desks

Accredited on your bank account

Accredited on your savings book

Through a circular non- negotiable check, emitted by the bank at one's own domicile.

The repatriated non E.U. Nationals old age pensions can be cashed only at the Bank.

FACILITIES FOR THE ENTERPRISE

PROMOTION FOR YOUNG ENTREPRENEURS- TUSCANY REGION

The Regional Law 28/2011(Promotion for young entrepreneurs, for women and workers addressers of social security cushions) modifies and enlarges the operative sphere of the previous law regarding young entrepreneurs (R.L. 21/2008), updating it to the new conditions of the economy and of the labour market determined by the economic crisis going now on.

Beneficiaries

- ENTERPRISES OF YOUNG PEOPLE: under 40 or 40 years old (and no longer 35 as in the previous Law) at the moment of the constitution of the enterprise.
- ENTERPRISES OF YOUNG ENTREPRENEURS WITH PONTENTIAL DEVELOPMENT ON THE BASIS OF AN INNOVATIVE CONTENT : it means that they entail the realization of a new product or service , the development of new forms of techniques for the production, the development of new organizational pattern, the use of innovative techniques of distribution, the use of one's own new patent or the belonging to other subjects.
- ENTERPRISES OF WOMEN : no limit of age is established
- ENTERPRISES COSNTITUTED BY WORKERS WHO ARE ADDRESSERS OF SOCIAL SECURITY CUSHIONS : for a minimum period of six months during the 24 months preceding the application to obtain the facility

Such requisites must concern the holder or the legal representatives and at least 50% of partners who hold at least 51% of the company's capital.

Small and medium enterprises with legal and operational seat in tuscany

- NEWLY CONSTITUTED ENTERPRISES, which means enterprises constituted during the six months preceding the date of the lodging of the application to enjoy the facility or within six months since its constitution. To such enterprises tutoring for the first two years since the starting up of the activity is guaranteed.
- ENTREPRISES IN EXPANSION, that means enterprises constituted during the three years preceding the date of the lodging of the application and that allocate investments in order to consolidate their competitive position (for instance new products or services , access to new markets, efficiency increase, reduction of environmental impact, increase in employment during the following two years etc.)

Types of facilities

- contribution for the reduction of the interest rate applied on business financing and leasing
- grant of guarantee on business financing and leasing
- taking in of minority stakes of the company's capital (only for innovative and young enterprises)

Allocated funds : 12.200.000,00 EUROS, during three years from 2011 to 2013.

Repartition according to the subjects

- Enterprises of young people : 50%
- Enterprises of women : 30%

- Enterprises constituted by workers addressers of social security cushions

Repartition according to the kind of facility

- 90% contributions related to interests and grant of guarantee
- 10% to minority stakes of the company's capital

Ammissible expenses

- For investments in material assets (production facilities, equipment and furnishings, building works or similar, firm installation charges)
- For investments in non- material assets (purchase of patents rights, licenses, machinery, trademarks, starting-up)
- Consulting services
- Promotional activities
- Costs linked to the patent and other rights of industrial property
- Capital circulating and related to investments, in the highest proportion of 40% of the financing obtained through the facility.

Controls

- The investments must be carried out within twelve months since the date of the grant of the financing or since the date of the participation to the investment of the capital at risk. During the following two months the beneficiary must justify the expenses admitted to the facility.
- The granting subject can carry out a supervising activity through random sampling on the beneficiary enterprises to check the truth of declarations made and the state of art of the realization of the investment program.
- **REVOKE OF FACILITIES : WHEN**
- realization of the investment program within 12 months non completed (unless in presence of the application and authorization of extension of terms);
- Realization of the investment program different from the one admitted to financing;
- Lack or lost of the requisites of admissibility;
- False declarations, or untrue or uncertain declarations on the foundation of the application
- Closure of the activity , arrangement with creditors, composition before bankruptcy etc,
- Non-compliances of the beneficiary enterprise

- Partial revoke in case of partial realization of the project of investment.

information can be drawn : Regione Toscana, Teresa Savino, tel. 0554382365; e-mail: teresa.savino@regione.toscana.it.
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NEW TAX REGULATION POLICY FOR ENTREPRISES HOLD BY YOUNG PEOPLE

Art.27 of the Leg. Decree 98/2011 (the correctional manoeuvre) approved on July the 30th, 2011 by the Council of Ministers) introduced new tax regulations for young entrepreneurs and for workers on staff turnover, from January the first, 2012.

In order to ease the constitution of new enterprises by young people or by those who lost their job, the current tax regulations of minimum ratepayers were reformed , that is the withholding tax is decreased from 20 to 5%.

In order to enjoy this tax regulations system it is necessary to have one's Value Added Tax number opened since January the first , 2008; this tax system can be adopted for a maximum term of 5 years ; even for a longer period, but only people under 35 can enjoy, and they shall keep the right only until they become 35.

At last, the activity to be started up must not constitute a simple extension of the previous one, carried out as subordinate work or self-employment, excluding the case in which the previous activity consisted on a period of compulsory practice to practice an art or profession. It is possible to prosecute the enterprise activity carried out previously by another person only if the total amount of revenue does not exceed 30.000 euros.

SECOND PART

HOW TO WORK REGULARLY AS HAIRDRESSER OR BEAUTICIAN (WORKER IN THE FIELD OF BEAUTY CARE)

HAIRDRESSING ACTIVITY

The hairdresser activity is disciplined in the venue of the Comune of Florence, by the regulations contained in the "Testo Unico Regolamento Comunale" for the beauty care activities (hairdresser, beauticians- beauty care workers, tattooing workers and piercing) approved by deliberation of the Municipality Board "C.C." n° 33 dated March, the 30th, 2009 (available on http://www.comune.fi.it/comune/regolamenti/attiv_est.htm)

Joint A of the Regolamento Comunale points out the structural requisites of rooms, equipment and facilities for the hairdressing activity. The hygienic sanitary requisites of joint B describe the running and the hygienic behavior that the dealer must keep in the activity.

A careful reading of joints A and B is encouraged as they provide detailed indications on requisites that must be respected.

We underline that in joint B the correct keeping of the equipment is pointed out. In particular, hair cut scissors, combs, brushes, curlers, napkins etc. must undergo the following procedure after every use :

- remove hair with disposable serviette or clean towel
- wash with hot water and cleanser
- rinse with very hot current water
- dry with disposable serviette or clean towel

In case of manicure or pedicure it is recommended to use disposable instruments , otherwise such instruments must be replaced after every application and use and they must be washed, cleaned , sterilized (using exclusively the heater or steam autoclave.) before using them again.

Articles 7 and 8 of the "Regolamento" deal with regulations regarding the administrative requisites and related to the professional qualifications necessary to carry out such activity, (professional qualification, ordinary partnership or company, the seat of the activity etc.) and the obligation to expose opening and closing time as well as tariffs to the public.

The starting up of a hairdressing activity takes place after having lodged the SCIA (Declaration of having started up the activity) to the Comune where the activity has its seat.

Beauty care activities

- Beauty care activity is disciplined by L.R.T. 28/2004 (regional law concerning the

activities of piercing , tattooing and beauty care, here joint) and by D.P.G.R. 47/R dated October the second, 2007 (later emended by D.P.G.R. 44/R on August, the sixth, 2008 and by D.G.P.R. n°31/R on July the 18th, 2011) (Regolamento di attuazione – rules to put into effect the L.R.T. 28/2004, and Co-ordinate Text" published on BURT n° 36 on July the 27th,2011) together with the Testo Unico Regolamento Comunale di Firenze (Law Text regarding the rules established within the venue of the Municipality of Florence) related to beauty care activities (hairdressing, beauty care, tattooing, piercing) approved by deliberation C.C. n° 33 on March the 30th 2009 (for activities placed within the venue of the Comune of Florence)

L.R.T. 28/2004 (above mentioned regional Law) defines the general requisites to carry out the activity of beauty care, tattooing and piercing. D.P.G.R. n°47/R2007 points out the structural requisites, the hygienic- sanitary ones, the requisites of management and running the activity, the ways to use correctly the equipment, the educational schooling and training in order to obtain the qualification of beauty care worker or" beautician", and of worker destined to tattooing and piercing.

A careful reading of these rules is encouraged as it provides very precise indications on the requisites that must be respected.

Sterilization procedures account for the most important hygienic and sanitary point related to disposable sharp-pointed or cutting instruments. We underline that the Testo Unico Regolamento Comunale di Firenze establishes that disposable sharp or cutting instruments must be sterilized only by autoclave or heater.

If there are rooms or booths where ultraviolet rays are employed, the D.P.G.R. 47/R establishes moreover what follows:

- a placard or notice warning about the presence of sources non ionizing radiation, must placed on the outside

- placards or notices warning about the sides effects as a consequence of the exposure to ultraviolet radiations must be displayed

It is important to know that , in order to carry out the activity of beauty care, tattooing or piercing, it is necessary to be provided with a specific professional qualification, obtained after attending specific classes and passing the final qualification exam that qualifies to practice the profession.

Moreover, the D.Lgs. (Legislative Decree) 59/2010 establishes that for each seat of activity of beauty care, a technician provided with the specific professional qualification is responsible and in charge

The technician responsible must be present when the beauty care activity is taking place . Also for hairdressing activity a technician responsible has to be present during the activity.

Through the inter- ministerial Decree dated may the 15,2011, the Ministry of Health and the Ministry for the Economic Development (GU dated July the 15, 2011) the features and the ways of utilization of the electromechanical apparels used to beauty care purposes are established. The Regione Toscana (Tuscany Region) is evaluating the applicability of such a rule in its venue

The rules establishes specific sanctions in case of violations. The L.R.T 28/2004 declares that :

- Anyone who practices the activity without having lodged the SCIA is punished by a 3.333 euros sanction and the Comune decrees the closure of the activity.
- Anyone who practices the activity without pertaining educational training is punished by a 5.000 Euros fine.
- Anyone who practices the activity without possessing the hygienic sanitary requisites is punished by a 5.000 euros sanction.

So in case of activity which is taking place without having lodged the SCIA the Comune decrees the closure of the activity and a 160 euros sanction is forseen as consequence of the violation to the Testo Unico Regolamento Comunale.

The SCIA must be lodged at the SUAP at the Comune competent for venue.

THE SAFE USE OF COSMETICS

WHAT BEAUTY PRODUCTS ARE

By 'cosmetic product' we mean any substance or mixture- different from drugs- intended to be placed in contact with the external parts of the human body (epidermis, hair system, nails, lips and external genital organs) or with the teeth and the mucous membranes of the oral cavity with a view exclusively or mainly to cleaning them, perfuming them, changing their appearance, protecting them, keeping them in good condition or correcting body odors.

THE LAW

In Italy the production and the sale of cosmetics is disciplined according to Law 713/1986. The Law acknowledged the communitarian directive n° 76/768/CEE issued in order to uniform at a European level the discipline relative to the production and sale of cosmetics.

Law 713/86 disciplines in particular those aspects connected to the composition of cosmetic products; their presentation (meaning by "presentation" the label, the package and any other form of exterior representation of the product), the necessary fulfillments to start the production and the sale or to import cosmetic products.

Joint one of the Law draws a general list for each category of cosmetic products:

Creams, emulsions, lotions, gels and oil for the skin (hands, feet and face, etc.)
Face masks (peeling products are excluded)
Make up powder, after bath powder and body hygiene powder
Toilette soaps deodorant soaps
Parfumes, eaux de toilette and eau de Cologne
Solutions for baths and showers (bath salts , foams ,oils etc.)
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Solutions for baths and showers (bath salts , foams ,oils etc.)
Depilation products
Deodorants and anti-perspirant products

Hair treatment products
Hair colorants, hair bleaching
Hair waving, smoothing and fixing products
Hair styling products
Hair cleaning products (lotions, powders, shampoos)
Hair setting products (lotions, creams and oils)
Shaving products (soaps, foams , lotions)
Make-up and products to remove the make-up
Products intended for the application on the lips
Products for the care of the mouth and the teeth
Products for the care of nails and nail make-up
products for external intimate hygiene, sunbathing products, products for tanning without sun, skin-whitening products and anti-wrinkle products.

FORBIDDEN SUBSTANCES AND SANCTIONS FOR THEIR USE

Law n°713/86 reports the lists of admitted or non- admitted substances in the composition of cosmetics. The lists are continuously up-dated following the indications of technical boards that are involved in this sector at a Communitarian level.

The lists are divided as it follows:

- substances that can't be part of the composition of cosmetics
- substances whose use is allowed in the composition of cosmetics only under certain and limited conditions and terms
- substances provisionally authorised
- dyes that can be contained in the cosmetics products
- colorants provisionally authorised
- preservatives that can be contained in cosmetics
- preservatives provisionally authorized
- Admitted UV filters whose use is authorized in cosmetics
- UV filters provisionally admitted

A cosmetic product whose composition is not in compliance with the indications contained in the lists is irregular and anyone who produces or puts them into the market is punishable with sanctions established by article 7 of Law n°713/86 "Anyone who produces, or possesses for trading use or introduces into the market beauty products that, in the ordinary and predictable conditions of use can be harmful to health, is punished by one to five years imprisonment and by a sanction not inferior to 2.000.000 lire".
These sanctions are not applied to the "dealer who holds, puts on sale or anyway distributes for the use cosmetic products in original packaging, if non-compliance with law prescriptions concern intrinsic requisites or the composition of the products or the conditions inside the container, and if the dealer is not aware of the violation and the packaging does not present any signs of alteration" (art.12, L.713/86).

CUMPULSORY DIRECTIONS ON THE LABEL

As far as the label is concerned, the information to be reported about the cosmetic product must be present directly on the container of the cosmetic and on the box , if there is one**.**

It is mandatory to report:

- The name or the trade name and the legal seat of the producer or of the responsible for the cosmetic product input in the market
- The nominal content (in Italian, in a compulsory way)
- The date of minimum validity, if less than thirty months, or the validity after opening if the expiring date of the intact product overcomes 30 months (written in Italian, in a compulsory way). For those products whose validity is longer than 30 months, in fact, an indication pointing out the period of time during which the product, once opened, can be used without damaging effects for the consumers' health, must be reported. This indication has to be preceded by the symbol of a pot of cream opened
- Precautions for the correct use (in Italian, in a compulsory way)
- In case it is materially impossible to report indications on the pot to direct contact with the cosmetic or on the outer box, the precautions for the correct use of the product must be illustrated on a sheet of directions , or a small band or a small brochure joint. The consumer must be addressed to read such directions by means of abbreviated indication or by means of the symbol of return mark
- the lot of fabrication
- the Country of origin of the products produced in Non U.E. Countries
- the function of the product (in Italian, in a compulsory way)
- the list of ingredients (it can be reported also only on the outer boxing of the product)

In the messages concerning cosmetic products contained in the label or in other publications or in publicity brochures , features different from those of cleaning, perfuming, modifying the aspect, protecting or keeping in good state the outer surfaces of the human body can't be attributed to the products. The cosmetic products have no therapeutic purposes and they can't praise therapeutic benefits.

SAFE USE OF TOYS

The phenomenon of dangerous toys is constantly increasing all over Europe. Just in Italy, in 2010, 8,8 million dangerous toys were seized (55% plus with regards to 2009) and 10.3 million of counterfeited toys (7.6 % less with regards to last year). In order to guarantee consumers and enterprises and safeguard the safety of very young consumers, the European Union issued a directive on safe toys (2009/48/CE on June, the 18th, 2009) acknowledged by Italy by the Lgs. Decree 54/2011, put into effect since July the 20th, 2011 (repelling directive 88/378/CE, acknowledged by Lgs. Decree 313/1991).

This Directive shall apply to products designed or intended, whether or not exclusively ,for use in play by children under 14 years of age (art.1 Legislative Decree.54/2011), excluding, on the other hand, playground equipment intended for public use; toys vehicles equipped with combustion engines, automatic playing machines, toy steam engines, slings and catapults (Joint one contains a list of exclusion of products that are not to be considered as toys, among which videogames and electronic toys).

The Law updates and completes the **safety requisites** of toys in the field of physics and mechanical properties, flammability, chemical and electrical properties, as well as of hygiene and radioactivity (art.9 joint 2). The main news concerns the introduction of specific rules for mutagenic, carcinogenic or toxic substances for reproduction and the interdiction from their use or the obligation of marking for certain allergenic substances and some fragrances. Moreover, some other safety requisites were reviewed , such as those concerning the electric and physical-mechanic properties, and some risks for children's safety and health, with particular regards to chocking by inhalation and as a consequence of air-tubes obstruction which is extended to all toys intended to be put into the mouth, independently from age.

Also the sector concerning the layout of the "warning" was enlarged by the Directive: the obligation to clearly visible and legible warnings is integrated with specific restrictions regarding the consumers, in particular their age and ability. Legislative Decree 54/2011 concerns also the alimentary products "combined with toys", forseeing these latter are separated from food by means of an appropriate packaging or banning the trade of toys that are accessible to children only after eating the eatable part.

The rule also introduces further controls and obligations for economic operators involved in the production and trade of toys (articles 3-8). It was set out, as a matter of facts, a system that involves also the economic operators (retailers) who must contribute to create and keep a data system enabling to detect the toy in all its passages and phases. These measures are intended to fight against counterfeiting CE mark. Products non provided with CE mark could be shown only within exhibitions and trade fairs, under condition the lack of conformity is clearly pointed out. In particular for manufactures and importers of toys, it is mandatory to draw up and retain for ten years the technical documentation and the technical report containing the data on the toys' planning and manufacturing at the disposal of the Supervising Committee Authorities.

In addition to the obligation to put the CE mark on the toy or on its packaging and in case of very little dimensions toys, on direction sheet or on the label, there is a further obligation to put always the mark on the package, when the one put on the toy is not visible by outside the package itself.

Conformity assessment bodies of the toy in the meaning of the European Union (with the aim to obtain the CE Marking) must be accredited by ACCREDIA, the unique national organism to give accreditation in Italy. Surveillance national Authorities for the compliance with the decree are: il Ministero dello sviluppo economico, il Ministero della salute, l'Agenzia delle dogane (Ministry of Economic Development, Ministry of Health and Ministry of Customs). Also the Camere di commercio (Chambers of Commerce), la Guardia di Finanza (Revenue Guard Corps), il Comando Carabinieri for the safeguard of health and the Istituto superiore di sanità (Higher Institute for Health) (art. 29) are

competent as well.

It Is possible to regularize only for formal non conformity and after having shown the duly technical documents. On the contrary in case of risk for consumers health or for CE marking and technical documents absence, it is established that the placing or circulation into the market is forbidden and the merchandise is recalled or withdrawn from the market (recall and withdrawal of toys).

Art.51 of Legislative Decree lays out the penalties. For more serious behavior the placing in the market of products that can jeopardize the consumers safety, sanctions of penal nature, that are:

- six months to one year imprisonment and a sanction going from 10.000 to 50.000 euros in case of non-respect on behalf of some economic operators (manufacturers, importers or distributors) of the prohibition of placing toys that might jeopardize people's health and safety into the market or in circulation on the national territory, as imposed by market surveillance authority.

- one year arrest and a fine going from 10.000 to 50.000 euros for the manufacturer or the importer for placing products in the market in violation of article 3, paragraph one (non-respect of safety requisites in the meaning of article 9 and in joint II) and of art.5, paragraph 2.

Both in case a) and b), the sanctions combined can be applied if "the fact represents a more serious crime".
For the other violations , administrative sanctionss are forseen swinging from 1,500 and 40.000 euros, established by the Chamber of Commerce competent for venue.
Administrative sanctions, are put into effect if the " fact represents a more serious crime".

HOW TO AVOID COUNTERFEITING ON THE NET

One of the commercialized means mostly used for on line sale is the Web.

Internet represents a very attractive sale channel for consumers searching for big business and it is very difficult to be controlled by enterprises and Authorities. On the web the damage affects mainly the Image of the enterprise : non original pieces keep on be sold on the traditional market, by retailers without license, in small local markets. Everyday sites entirely consecrated to parallel and illegal sales are constantly created and often counterfeiters succeed in overcoming also the controls of most reliable portals.

The increasing popularity of the Internet and the growth without rest of commercial opportunities that it offers make the competition aimed at attracting the largest number of visitors on the site of the enterprise every day harder.

It may occur that, sometimes, the means used to reach this goal digress from legality, giving birth to disputes on which also Italian judges were called to deliver sentences. In particular, new cases of marks counterfeiting were considered in very recent case-law

- The illicit use of Meta-Tag. Mega tag is the part of Html source code present on a web page which contains the keywords that the search engine reads and memorizes in the moment it indexes it. The use of someone's else mark can entail an hypothesis of unfair competition and trademark counterfeiting. The principle used is the so called Initial Interest confusion : even when there is not a real risk of confusion between the two sites , the use of someone else trademark in the Meta-Tag determines an initial confusion that leads the user to go and use a certain site, even if, once inside the site, the utilizer immediately realizes he or she is not linked to the site searched for .

  The illicit use of sponsored links. The so called Pay to click services allow to obtain the visibility inside the search engine , through the so called sponsored links. What happens if an enterprise acquires the trademark of a competitor as his or her keyword? In this case, too, words kept hidden are used to address and link the user to his or her own site. The main differences from Meta-Tag are the following : first the site appears in a specific area under the sign " sponsored links" therefore the user understands this is not exactly the straight result of the search, though a Pay to click service can position that site among the first on the ordinary list. In this case it is not an enterprise which modifies its site but rather a third party, that is the holder of the search engine, which makes technical devises that allow this result. Law Courts exclude the responsibility of the holder of the search engine, unless this latter is aware or takes part in clearly not legal facts or circumstances, or this latter is not aware and as soon as becomes aware he doesn't act to withdraw information and make the access impossible.

- The brokerage of on-line sales. On-line auctions, among which the very famous E-Bay, assert to be simple Hosting Providers, that are portals that gather and memorize data, but, to say the truth, they might act as and be taken as active brokers of auctions that take place by means of their own portal. The European Court established a precise principle of responsibility for on-line sale of some counterfeited products: in fact the brokers still are responsible also when the rights of the trademarks are violated to the detriment of clients, if and when it is proved that the brokers did not act immediately to withdraw information and to make the access impossible.

  6) the illegal use of the **Linking**. The so called **Surface linking** is framed when the link is set in order to allow the linking from the starting page to the opening page, that is the Home page of the site of destination. On the contrary, the so called **Deep linking** operates when the link takes the user directly inside the pages of the hooked site, without passing through Home page. **Surface linking** practice is to be considered legal on the basis of the theories of the so called implicit patent and fair use, because, as a matter of facts the user wouldn't be led into confusion about the identification of the holder (and therefore of the products) of the hooked site. **Deep linking** practice can block or make the detection of the owner of the hooked site more difficult so that visitors can deem that the information which is offered derives directly from the owner of the site from which the link starts (art.20, paragraph 3, C.P.I. " the trader can place his / her trademark to goods he/she puts on sale but this latter can't abolish neither the manufacturer's mark nor the mark of the retailer whom the trader received the products and goods from).

  Illicit Framing practice. **Framing** is a particular case of data linking: frames are

employed to divide web pages into different portions in order to allow the visualization of different texts and images within the same page. A doctrine saw not only a possible hypothesis of trademark counterfeiting but also a an hypothesis of plagiarism in such a practice.

The use of Domain Name in function of trademark. The most recent doctrines tend to deem the Domain Name (for example www.fi.camcom.it) and the distinctive signs, as trademarks for instance, equal.

The Enterprise reacts against such counterfeiting practices and behaviours, a phenomenon that invoices 7 billion euros each year. Enterprises constantly update their technological knowledge and acquire new and sophisticated methods with the purpose to chase counterfeiters everywhere.

In order to fight against the diffusion of imitation of their products, some enterprises endowed themselves with task force consecrated to study the Web: such task forces monitor the activity of users , sounding the pictures of the products in search of particular detectors and they buy goods and products at random, putting them under severe lab controls.

So, how should an on-line market holder behave? His or her role is to offer assistance, optimize on-line presentations of on-line offers, but mainly, the holder has to be responsible when he or she becomes aware of the presence of unfair and not clever behaviors or of such conditions to cause violations.

HOW TO BE IN CONFORMITY WITH THE EMPLOY OF INSTRUMENTS OF PRECISION

THE REGULATIONS ON BALANCES

The commercial activities that forsee the definition of the cost of the product according to its weigh must respect the obligations in the meaning of the law concerning the legal metrology: it means that only “legal” weighing instruments approved according to current rules can be employed.

These duties concern not only the trade activities of small shops or gastronomies in the quarter market but also another series of other activities, such as restaurants, taverns, public houses, ice-cream vendors, etc.. Also in these cases, dealers must employ only legal, approved and in order balances and, if required, they must give evidence of it to consumers.

The Supervising bodies for the control of the respect of such rules are the Metric Inspectors of the Chamber of Commerce and the Agents/ Officers of the Judicial Police for the control of violation pertaining their competence.

DIFFERENT TYPES OF BALANCES

The balances used in most of the commercial activities belong to non- automatic weighing instruments. As a matter of fact, the definition of automatic is related to those balances that carry out, in an autonomous way, the different phases of the product weighing, without need of the assistant .

In Italy rules of different sources and period cohabit allowing so also the presence of seemingly heterogeneous instruments. The formal requirements that enable to recognize if the instrument is legal are established principally by the Testo Unico dated August the 23rd , 1890 n°7088 (simple balance , simple balances with equal arms or composed balances with inferior suspension, used commonly by the end of the XIXth century) and by following ministerial decrees that approved more recent models of measurement instruments. The reference data of the ministerial decree of approval had to be reproduced on each sample manufactured in compliance with the registered model; later the industrial production on large scale entailed also the introduction of a registration number to identify each single product. These are the two elements that more easily enable the recognition of a mechanical instrument approved at a national level.

In addition to the above described instruments also non approved balances can be found on the market: they're perfectly in order but the manufacturer can't guarantee they perform according to legal requisites in commercial activities: their use is therefore punished by Law in trading (art.27 of Testo Unico 7088/1890) and the seizure is forseen.

PERIODICAL DUTIES FOR USERS : "PERIODIC CHECK-UP"

All approved instruments used in different commercial activities, must undergo a periodic control that consists in verifying the metrological inalterability by the time of metric instruments to weigh as well as the integrity of punching and of seals established by rules applicable to the instrument. The positive result of the periodical control is tested by the apposition of a green adhesive stamp bearing the date within which the instrument must be checked again and the possible identification of the person who carried out the control. The subjects enable to realize the periodical check are the metrological Officers of the Chamber of Commerce competent for the activity that uses that instrument, and the qualified laboratories that are competent for the venue all over the national territory.

Another duty for users and the most important of all, is the use of legal and duly approved instruments provided with national prime stamps , CE or CEE control and periodical assessment check countermark still valid.

It's the dealer's duty to place the metrical instrument by one's activity, open to the public, in such a way to enable the buyer to have e open and free view of both the pointer and the frontal and lateral part of the instrument itself (art.2 paragraph 1, law 441/81 and art.5, paragraph 1, Ministerial decree 21/12/1984) in such a way to avoid any fraudulent practice in the weighing phase.

NET WEIGHT (LAW N. 441 DEL 5/8/1981)

In the meaning of law n°441 dated August, the 5th, 1981 and further emendations and

integrations, it is mandatory to make the net weight of commercialized goods visible, providing the instruments used in the commercial activities with tare devices, as well as mechanical or electronic devices which are able to:

- Bring back the pointer to the zero of the graduated scale, if the indicating device is provided with pointers on graduated quadrant;
- Clear the figures of the indicator, if this latter consists of a numerical drum, or it is electronic or similar;
- Bring back the mobile parts to the equilibrium position corresponding to the position of the instrument free of charge, if the indicator device differs from the previous ones.

It is necessary to distinguish two different sale contests, for which the indication of net weight is anyway compulsory:

- Loose goods sale: in the meaning of the law, through the words "loose products" sold by weight, we refer to those goods whose weight is stated at the moment of purchase.
- Retail sale of packed products: the product placed on retail sale in a package or in a box which wraps it, completely or partially, without hermetic or seal closure is sold in the respect of law under condition that the package or the box bears the indication of the net weight of the product itself.

In 1986 the terms within which it was necessary to update the instruments already in use expired; therefore it is not possible to use those instruments without tare devices and they must be considered non legal instruments to all effects of law.

SANCTIONS

If metrological duties aren't respected , including the periodical verification, the following violations and sanctions can be framed:

Use of illegal metrical instruments in a relationship with a third party:

This is a breach of the art. 692 of the Penal Code and of art. 55 of the Legislative Decree 507/1999 (about detention and use of illegal measures and weights): "Anyone who, in the practice of a commercial activity, or in a sale open to public, detains weight and measures different from those established by law, or measures and weights infringing regulations set up by law, is punished with the administrative sanction from Euro 103,00 up to Euro 619,00."

Payment on reduced fare: Euro 206,00.

Additional sanction: Seizure of the metrical instrument.

Use and detention of measures and weights with a false mark:

Infringement of the Art. 472 of the Penal Code: “Anyone who uses, causing damage to someone, measures and weights with legal mark counterfeited or altered, or in any way altered, is punished with imprisonment up to 6 years or with the penalty up to Euro 516,00.”

The same sanction is applied to anyone who, carrying out a commercial activity, or in a sale open to public, holds measures and weights with the legal mark which was counterfeited or altered, or in any way altered.

Use of a balance lacking in tare device or with tare device out of order:

Infringement of Art. 2 of the Law 441/98. Sanction (Art. 5, Law 441/98): from Euro 154,94 to Euro 516,46. - Payment on reduced fare: Euro 172,15.

For wholesale trader from Euro 309,88 to Euro 1032,92. – Payment on reduced fare: Euro 344,30.

Additional sanction: Seizure of the metrical instrument.

At last, in case a defective instrument, or an instrument deprived of the conformity approval can affect the determination of the weight, is used, the crime of “ fraud in the running of commerce” can be shaped, in violation of the Art. 515 of the Penal Code. This can involve that “Anyone, in the running of a commercial activity, or in a sale open to public, delivers to the buyer a good, which, as to its origin, quality, provenance or quantity differs from the one declared or agreed, is punished, if the fact doesn’t represent a more serious crime, by imprisonment up to 2 years or by a penalty up to Euro 2065,82.”