

Italy - Additional emergency measures on Covid-19  
22 March 2020



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# Legal Report

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## Background

As a consequence of the ongoing Covid-19 outbreak, the Italian Government is adopting a new set of emergency measures and will publish a new decree (the “**Third Decree**”).

The above measures are basically aimed at ordering a further and wider suspension of a number of businesses, including some manufacturing ones.

Osborne Clarke prepared this memo based on the most updated draft of the Third Decree in order to provide clients with a real-time update of the situation. As such, please note that this document (i) represents obviously a working draft only, (ii) should in no circumstance be considered as a formal opinion provided by Osborne Clarke and (iii) is subject to further update(s) as things will evolve.

Your usual contact at Osborne Clarke will be happy to provide additional support.

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## Contacts

**Riccardo Roversi, Managing Partner**

T: +39 02 5413 1722

[riccardo.roversi@osborneclarke.com](mailto:riccardo.roversi@osborneclarke.com)

**Stefano Lava, Partner**

T: +39 02 5413 1782

[stefano.lava@osborneclarke.com](mailto:stefano.lava@osborneclarke.com)

**Sara Miglioli, Partner**

T: +39 030 2888 643

[sara.miglioli@osborneclarke.com](mailto:sara.miglioli@osborneclarke.com)

**Federico Banti, Partner**

T: +39 02 5413 1740

[federico.banti@osborneclarke.com](mailto:federico.banti@osborneclarke.com)

**Gianluigi Marino, Partner**

T: +39 02 5413 1769

[gianluigi.marino@osborneclarke.com](mailto:gianluigi.marino@osborneclarke.com)

**Giorgio Lezzi, Partner**

T: +39 02 5413 1736

[giorgio.lezzi@osborneclarke.com](mailto:giorgio.lezzi@osborneclarke.com)

**Maria Grazia Medici, Partner**

T: +39 06 3629 5015

[mariagrazia.medici@osborneclarke.com](mailto:mariagrazia.medici@osborneclarke.com)

**Federico Ferrara, Partner**

T: +39 02 5413 1776

[federico.ferrara@osborneclarke.com](mailto:federico.ferrara@osborneclarke.com)

# 1 Manufacturing businesses

## 1.1 General rule

The activity of all manufacturing businesses, with the exception of those included in the list attached to the Third Decree, is suspended from 23 March 2020 and until 3 April 2020.

## 1.2 Exceptions to the general rule

Businesses included in the following list are not suspended:

<b>ATECO CODE</b>	<b>DESCRIPTION</b>
01	Agricultural cultivations and manufacturing of animal products.
03	Fishery and aquaculture
05	Coal Mining
06	Crude oil and natural gas extraction
09.1	Crude oil and natural gas extraction support services
10	Food industries
11	Beverage industries
13.96.20	Manufacturing of other textile articles for technical and industrial uses
13.94	Manufacturing of twine, strings, ropes and nets.
13.95	Manufacturing of non-woven fabrics and products made of that fabric (excluding clothing)
14.12.00	Manufacturing of lab coats, uniform and other work wear.
16.24.20	Manufacturing of wood packaging
17	Manufacture of paper
18	Printing and reproduction of recorded media
19	Manufacturing of coke and petroleum refining products.
20	Manufacturing of chemical products
21	Manufacture of basic pharmaceutical products and pharmaceutical preparations
22.1	Manufacture of rubber products
22.2	Manufacture of products made of plastics
23.19.10	Manufacture of laboratory, hygienic and pharmaceutical glassware
26.6	manufacture of irradiation equipment, electro-medical and electrotherapeutic equipment
27.1	Manufacture of electric motors, generators and transformers and equipment for electricity distribution and control
28.3	Manufacture of agricultural and forestry machinery
28.93	Manufacture of machinery for the food, beverage and tobacco industry (including parts and accessories)
28.95.00	Manufacture of machinery for the paper and paperboard industry (including parts and accessories)
28.96	Manufacture of machinery for the rubber and plastics industry (including parts and accessories)

32.50	Manufacture of medical and dental equipment and supplies
32.99.1	Manufacture of protective clothing and equipment
32.99.4	Manufacture of coffins
33	Repair, maintenance and installation of machinery and equipment
35	Supply of electricity, gas, steam and air conditioning
36	Collection, treatment and supply of water
37	Management of sewage networks
38	Waste collection, treatment and disposal activities; recovery of materials
39	Remediation activities and other waste management services
42	Civil engineering
43.2	Installation of electrical, hydraulic systems and other construction and installation works
45.2	Repair and maintenance of cars
45.3	Trade in automotive parts and accessories
45.4	For the sole activity of repair and maintenance of motorbikes and trade in parts and accessories thereto
46.2	Wholesale of agricultural raw materials and live animals
46.3	Wholesale of food, beverage and tobacco products
46.46	Wholesale of pharmaceutical products
46.49.2	Wholesale of books magazines and newspapers
46.61	Wholesale of machinery, equipment, machinery, accessories, agricultural supplies and agricultural tools, including tractors
46.69.19	Wholesale of other transport means and equipment
46.69.91	Wholesale of scientific instruments and equipment
46.69.94	Wholesale of firefighting and safety articles
46.71	Wholesale of petroleum products and automotive lubricants, heating fuels
49	Land transport and pipeline transport
50	Sea and water transport
51	Air transport
52	Storage and transport support activities
53	Postal and courier services
55.1	Hotels and similar facilities
j (from 58 63)	Information and communication services
K (from 64 66)	Financial and insurance activities
69	Legal and accounting activities
70	Business management and management consulting activities

71	Architectural and engineering firms; testing and technical analysis
72	Scientific research and development
74	Scientific, technical and professional activities
75	Veterinary services
80.1	Private security services
80.2	Services related to surveillance systems
81.2	Cleaning and disinfection activities
82.20.00	Call centre activities
82.92	Third party packaging activities
82.99.2	Distribution agencies for books, newspapers and magazines
84	Public administration and defence; compulsory social insurance
85	Education
86	Healthcare
87	Residential social care services
88	Non-residential social care
94	Activities of economic, employers' and professional organizations
95.11.00	Repair and maintenance of computers and peripherals
95.12.01	Repair and maintenance of landline phone, cordless and mobile phones. cellular
95.12.09	Repair and maintenance of other telecom equipment
95.22.01	Repair of household appliances and household articles
97	Activities of families and households as employers for home staff

The list above is drafted on the basis of the so-called Ateco code (a code which is given to all businesses active in Italy for statistical purposes).

Please check the actual Ateco code of your business (if you not able to retrieve your Ateco code, please send us an email with the VAT number and we will get back to you shortly with the code) in order to understand whether it falls within the scope of application of the exception.

The Third Decree provides that the list can be amended by a decision of the Ministry of Economic Development and we will be monitoring any development in the next few days.

### 1.3 Smart working

A business which is operating in smart working (i.e. all employees are working from home) is entitled to carry on its activity, irrespective of the general rule above.

### 1.4 'Supply chain' rule

Any business, which would be suspended on the basis of the general rule and which does not fall within the scope of application of the exception under paragraph 1.2 or 1.3, is entitled to carry on its activity as long as this is in the 'supply chain' of the excepted businesses.

In this case, the relevant business shall send a notice to the competent Prefetto<sup>1</sup>, stating clearly (i) which are the clients requesting its products or services and (ii) which are the products or services in question. Following such notice, the business is entitled to continue its activity unless the Prefetto issues an order rejecting the notice (but until such date the activity will be conducted lawfully).

We would be happy to help you drafting the relevant notice, if necessary.

#### 1.5 'Continuous cycle' rule

Businesses whose manufacturing process takes place on a continuous-cycle basis, where any stop to such manufacturing process would cause a serious prejudice to the plants or a risk of accidents, are entitled to carry on their activity, subject to the obligation to give notice to the Prefetto.

We would be happy to help you drafting the relevant notice, if necessary.

#### 1.6 Public utility services and basic services

Businesses active in the provision of public utility services or basic services (as defined by Law 146/90) will continue their activity, subject in any case to the order providing that all museums, schools and universities must remain closed and can only provide online services.

#### 1.7 General exception for pharmaceutical products and medical devices

The manufacturing, transport, marketing and delivery of pharmaceutical products and medical devices is allowed, without any restriction.

#### 1.8 General exception for farming and food businesses

The production, transport, marketing and delivery of farming and food products is allowed, without any restriction.

#### 1.9 Defence, aerospace businesses and all 'strategic' businesses

All defence and aerospace businesses, as well any business which is considered strategic for the national economic system, may continue their activity provided they obtain an authorization from the Prefetto.

## 2 Manufacturing businesses. Ongoing activities

The Third Decree provides that businesses subject to the suspension order shall take all steps to ensure that their activity will be stopped within 25 March 2020.

This means that all activities which were ongoing as of the date of the Third Decree, including shipment of finished products, shall be completed within the above deadline.

## 3 Manufacturing businesses. Agreements in force

Our experts would be available to review any existing agreement pertaining to your business, whether it is an agreement for the sale of products or services or a purchase order with any of your suppliers.

There are many circumstances to be taken into account in order to determine the most appropriate strategy, including whether you may use the 'supply chain' exception or claim the existence of a 'force majeure' event, where your supplier is located, whether your customers have accepted standard terms and conditions of supply etc.

## 4 Retail businesses

Retail businesses are still subject to the restrictions provided by the decree dated 11 March 2020 (you can find [here](#) our comment on such decree).

Such restrictions will remain into force until 3 April 2020 (they were originally expected to lapse on 25 March 2020).

## 5 Further restrictions to the freedom of movement of private individuals

The restrictions previously in force are generally confirmed and therefore no transfer is allowed unless for (i) urgent working requirements and (ii) health reasons.

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<sup>1</sup> All references to the Prefetto are to be intended as references to the Prefetto of the province where the relevant business is located.

Private individuals are required not to leave the municipality where they are currently located, irrespective of whether they have their domicile in such municipality. As a consequence any travel necessary to return to the family's main address is no longer allowed.

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