

## Regulating Smart-Working

On 3 November 2016, with 173 votes in favour and 53 abstentions, Italy's Senate approved, after nearly a year of debate, bill no. 2233 containing "*measures for the protection of the self-employed and to promote smart-working for employees*".

The twenty-two articles of the bill will affect more than two million self-employed individuals and consultants and will introduce a series of new measures in their support; but above all, it finally sets out the legal framework of remote working.

In an increasingly changing business environment, the proposal defines, for the first time, "Flexible Working", otherwise called "Smart-Working": a flexible way of working, made possible through digital technology. Not a new type of employment contract, but a different way of performing the working activities, freed from specific locations and working times, bound only by the daily and weekly working time limits provided under the law and relevant collective agreements.

By affirming that work can be carried out partly at the business premises and partly elsewhere, employees who provide services that do not require their physical presence in the company or any special equipment, will be able to achieve a better work-life balance. At the same time, smart-working will help companies increase their competitiveness through a number of benefits: reduction of facilities to be provided and fixed costs, reduction in travel allowances, increased employee productivity and reduction in corporate absenteeism.

The bill approved by the Senate indicates the specific agreement between the employer and the employee as the source of the actual ways to implement flexible working. In particular, such agreement will have to set out rest times, the technical and organisational steps to be taken to ensure that the worker actually logs off from his IT equipment as well as the monitoring procedures, in accordance with art. 4 of the Statute of the Workers. The agreement may be open or fixed term; in the former, the parties may withdraw with 30 days' notice; in case of the latter, parties can withdraw only if there is a just cause.

The remuneration and benefits of the smart-worker must be equivalent to those of the employees performing the same duties, but at the company's premises.

The bill clarifies the uncertainties concerning accidents at work and recognizes the inclusion within such category of accidents during the travel to the workplace, even if the choice of the workplace is based not only on the requirements related to type of work to be carried out, but also on the employee's reasonable needs to combine these requirements with his or her commitments outside work.

Regarding safety at work, the employer will be required to deliver to the employee (and the Health and Safety representative), at least annually, a written notice that identifies both general and specific risks to the work carried out by the employee outside the business premises.

The "Jobs Act for the self-employed" will now be subject to the scrutiny of the *Chamber of Deputies*; the Government hopes to get final approval later this year so that the new rules can take effect from January 2017.

In the meantime, collective bargaining agreements have already implemented, although still in limited cases, forms of *Smart-Working*, either by express reference to the flexible working model (see: National Collective Bargaining Agreement: Food Industries of 5 February 2016; National Collective Bargaining Agreement: Cleaning services - cooperative system of 15 March 2016), or by simply addressing issues of flexibility at work.

Apart from this first attempt to regulate flexibility, therefore, it is already possible to implement smart-working; there are already implementation cases being introduced through collective agreements, following specific agreements with the unions.

This document is delivered for informative purposes only.

It does not constitute a reference for agreements and/or commitments of any nature.

For any further clarification or research please contact:

**Milan**

**Paola Tradati**  
Tel. +39 02 763741  
ptradati@gop.it

**Alessandra Ferroni**  
Tel. +39 02 763741  
aferroni@gop.it

**Nicola Bonante**  
Tel. +39 02 763741  
nbonante@gop.it

**Rome**

**Matteo Fusillo**  
Tel. +39 06 478751  
mfusillo@gop.it

**Saverio Schiavone**  
Tel. +39 06 478751  
sschiavone@gop.it

**Raffaella Betti Berutto**  
Tel. +39 06 478751  
rbetti@gop.it

**Cristina Capitanio**  
Tel. +39 06 478751  
ccapitanio@gop.it

**Rome**

**Milan**

**Bologna**

**Padua**

**Turin**

**Abu Dhabi**

**Brussels**

**Hong Kong**

**London**

**New York**

[www.gop.it](http://www.gop.it)

Smart-working, therefore, while not yet officially regulated by the law, has already been implemented in practice: according to a study by the Milan's *Politecnico* of October 2016, there are already about 250,000 workers (i.e. 7% of the total of employees, executives and managers) working flexibly in terms of place, time and equipment, and currently, smart-working in Italy, despite the lack of regulatory framework, is in place in 30% of large businesses

**INFORMATION PURSUANT TO ARTICLE 13 OF LEGISLATIVE DECREE NO. 196/2003 (Data Protection Code)**

The law firm Gianni, Origoni, Grippo, Cappelli and Partners (hereafter "the Firm") only processes personal data that is freely provided during the course of professional relations or meetings, events, workshops, etc., which are also processed for informative/divulcation purposes. This newsletter is sent exclusively to those subjects who have expressed an interest in receiving information about the Firm's activities. If it has been sent you by mistake, or should you have decided that you are no longer interested in receiving the above information, you may request that no further information be sent to you by sending an email to: [relazioniesterne@gop.it](mailto:relazioniesterne@gop.it). The personal data processor is the Firm Gianni, Origoni, Grippo, Cappelli & Partners, whose