

Dear Clients:

Object: INAIL conforms to principles established by the Court of Cassation.

INAIL National Institutes Against Injuries at work, with circular letter n. 44 of the 23rd of October 2023, has aligned itself with what established by the Court of Cassation en banc. And has thus agreed that the three-year period at its expenses takes place when the provision of the administrative phase is activated.

INAIL ruled that the prescription expired after the termination period foreseen even in the absence of an expressed provision. The Single Consolidated Text establishes the essential requirements and the procedural terms regarding each benefit paid by the Institute.

The aim of the norm is to facilitate the application of its administrative phase, avoiding the judicial assessment on the entitlement of the citizens' rights.

Of extreme importance is the norm referring to the terms of the limitation or prescription of the law, the circular letter n.44 of the 23rd of October offers details regarding this voice and how to obtain specific benefits.

The Circular Inail Letter n. 13 of the 3rd of April 2020, provides specific explanations on the terms and prescription of the benefits. All the benefits provided are subjected to a three-year period validity and each of them must be evaluated according to the suspension foreseen by the COVID emergency legislation, that is why, some cases allow a different term from that provided by the law.

It is the injured worker that must apply for a potential INAIL benefit.

The application for cases foreseen by Article 104 of the Single Text is managed and scrutinized by INAIL within a 150 days and 210 days for cases foreseen by article 83.

Filing for the judicial of appeal can be deposited only after the 150 or the 210 days' time provided for the applications scrutiny. The judicial of appeal can be deposited even if the Institute has not furnished the worker with a provision.

“The prescription foreseen by art. 112 of the present decree remains inactivated during the liquidation of the indemnity” on this issue the Court of Cassation has expressed itself:

First: The right is prescribed for it is subject to a three-year period that takes place by the date affixed on the application, adding 150 or 210 days on grounds of the diverse application. Starting from the due date, the worker can propose the judicial of appeal as foreseen on Article 112, paragraph 3, of the Single Text, and the statute of limitations starts to run again and the right to benefit can be pursued.

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Second: The right is not prescribed because the three-year term starts from the date in which the administrative procedure terminates for effect of the activation of the final provision. Meaning that the term initiates from the date in which the scrutiny of the application has been concluded.

The Court of Cassation, with the Judicial Ruling n. 11928 of the 7th of May 2019, has adhered to the second hypothesis above mentioned. Article 112 of the Single Text establishes that the insured has right to proceed in court after the termination of the 150 or 210 days, and that the tardiness of the Institute's reply is not applicable to the foreseen times.

Failure of an expressed provision makes difficult for the insured to appeal to the judicial authority. Should the insured choose to await the provision taken from INAIL, he/ she needs to know that the INAIL tardiness does not affect the right to proceed in court.

INAIL believes, the prescription cannot be disputed in the above-mentioned cases. "The termination period starts running again after the occurred replication to an insured application. The tardiness of INAIL in replying cannot be of any significance.

Palermo, Rome, 20 November 2023

Mr. Angelo Pisciotta.

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