

**PROTECTION AND LEGAL RIGHTS FOR DISABLED PEOPLE**

**HYPertext**

**FROM CONSTITUTIONAL RIGHTS  
TO FURTHER LEGAL CLAIMS**

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## CONTENTS

- [Preface](#)
- [Introductory Note](#)
- [Italian Constitution](#)
- [Health Rights](#)
- [Learning and Education Rights](#)
- [Determining Disability](#)
- [Rights in Work](#)
- [Workers' Rights](#)
- [Mobility Tourism Sport](#)
- [Further Legal Claims and Other Benefits](#)
- [Legal Protection](#)
- [Tax Relief and Benefits](#)
- [Exemptions from Payment](#)
- [Link List to Legislative Provisions](#)
- [Annexes](#)

## PREFACE

In June 2009, the National Centre for Rare Diseases directed by Dr Domenica Taruscio within the ISS (Istituto Superiore di Sanità, the Italian NHS), cooperated with the Associazione Crescere in Bologna (J.D. Ernesto Stasi) and with the Associazione Prader Willi in Calabria (Dr Domenico Posterino) in order to update and enhance the **Guide “From Constitutional Rights to Further Legal Claims”**, which is edited by Associazione Prader Willi and available for free download in PDF format on the website of the National Centre for Rare Diseases (CNMR): the Associazione Crescere and the Associazione Prader Willi are both non-profit organizations.

This starting project led to the issue of a **summary guide**, which provides hypertext links to legislative provisions and other related documents: is a challenging project which requires constant updating.

The hypertext “From Constitutional Rights to Further Legal Claims” is the result of this project in collaboration with the CNMR.

This hypertext aims at providing user-friendly guidelines about disabilities and rare diseases, since we strongly believe that “legal instruments are also essential tools in order to defeat rare diseases”, as stated by Professor Fulco Lanchester during the opening speech of the Rare Diseases Conference “Malattie Rare: la ricerca tra etica e diritto”, held at the University La Sapienza in Rome on 14<sup>th</sup> February 2006.

The hypertext is divided into different sections according to different topics.

Paragraphs are listed at the beginning of each section; the final section contains a full list of links to legislative provisions referred to in this text, along with explanatory notes.

At the end of each section there is reference to official websites and links to other guidance documents on related subjects.

This hypertext does not impose any legal obligations in itself, nor is it an authoritative statement of the law, although it makes reference to legal documents and official websites.

This hypertext applies to Italy.

The hypertext was translated into English with the sole aim of facilitating a better comprehension.

The translation does not have official status.

## **INTRODUCTORY NOTE**

This hypertext provides abbreviated descriptions of some laws in order to enhance its readability.

For instance, Law n. 104 of 5<sup>th</sup> February 1992 headed “Framework Law to enhance Support, Social Integration and Rights for Disabled People” is simply referred to as “Disability Framework Law”.

This hypertext makes reference to NORMATTIVA, the Italian legislation website managed by the Italian Stationery Office.

The main text contains reference to the legislation in force at present, while the chronological index in the final section provides an overview of the changes in legislation, which are listed by publication date in the Italian Official Gazette.

The following link is to the INPS website (National Social Welfare Institution), which enables the [calculation of ISEE](#) (Revenue Bureau's Evaluation of Financial Situation), according to Legislative Decree n. 109 of 31<sup>st</sup> March 1998, Legislative Decree n. 130 of 3<sup>rd</sup> May 2000 and D.P.C.M. [n. 159 of 5<sup>th</sup> December 2013](#) (*Revision regulation of ISEE*).

[Home](#)

## ITALIAN CONSTITUTION

Art. 2: "The Republic recognises and guarantees the inviolable rights of the person, as an individual and in the social groups where human personality is expressed. The Republic expects that the fundamental duties of political, economic and social solidarity be fulfilled."

Art. 3: "All citizens have equal social dignity and are equal before the law, without distinction of sex, race, language, religion, political opinion, personal and social conditions. It is the duty of the Republic to remove those obstacles of an economic or social nature which constrain the freedom and equality of citizens..."

Art. 24: "All persons are entitled to take judicial action to protect their individual rights and legitimate interests..."

[Home](#)

## HEALTH RIGHTS

**Art. 32 of the Italian Constitution** “The Republic safeguards health as a fundamental right of the individual and as a collective interest and guarantees free medical care to the indigent...”

- [Main Legislation](#)
- [Rare Diseases and Orphan Medicinal Products](#)
- [Transplantation](#)
- [Informed Consent](#)

### Main Legislation

**Law [n. 833 of December 23, 1978](#)** (*National Health Service*)

**Art. 19** – The ASL (Local Health Service) provides prevention, treatment and rehabilitation services.

- Citizens have the right to choose a doctor and to choose in which hospital to go according to the objective organisational limits of the healthcare services.

**Art. 26** – The ASL rehabilitation centres and private rehabilitation centres approved by ASL provide rehabilitation for disabled people.

- Rehabilitation services include prosthetic services. (Ministerial Decree n. 321 of May 5, 2001: “Prosthetic services provided within the National Health Service”)

**Legislative Decree [n. 502 of December 30, 1992](#)** (*New Legislation on National Health Service*)

[Update List](#) at the time of Legislative Decree n. 502/92 of June 16, 2010.

Legislation in force is reported as usual; its several amendments are reported in the Update list, which was updated on 16<sup>th</sup> June 2010 and issued by NORMATTIVA.

Notice Art. 3 (Paragraphs 7 and 8) on social and sanitary integration, Art. 6 on training, Art. 14 on citizens' participation, and Art. 16a on continuing training.

[Law n. 104 of February 5, 1992](#) (*Disability Framework Law*)

**Art. 6 – Prevention and Early Diagnosis** “Prevention, antenatal screening and early diagnosis of disability are performed according to the health care plan ruled by Art. 53 and Art. 54 of Law n. 833 of December 12, 1978 and its amendments...”

**Art. 7 – Health Care and Rehabilitation** “They are performed according to plans which integrate health and social care...involving disabled people, their families and the community. The National Health Service and its approved Centres provide rehabilitation and out-patient health care services at home or in the Centres providing day care or respite services for rehabilitation and education...”

**Art. 11 – Staying Abroad for Medical Treatment** “If medical treatment does not involve going into hospital, disabled people and their carer will receive an allowance for their stay in hotels or structures approved by the medical centre, by way of derogation from Art. 7 and Art. 8 of the Ministry of Health Act of 3<sup>rd</sup> November 1989.”



**Legislative Decree [n. 124 of April 29, 1998](#)**  
*(Exemptions from Payment), Art. 5 on Rare Diseases.*

**Law [n. 3 of January 16, 2003](#)** *(Legal Provisions concerning...)* Title IX on health protection, Art. 42-53: Art. 51 on non-smokers health protection.

**Legislative Decree [n. 196 of June 30, 2003](#)** *(Personal Data Protection Code: Section [7-13](#) on rights concerning personal data, Section [22-26](#) on sensitive data, Section [74-96](#) on exercising rights in specific sectors: Section 74 on car permits and access to town centres, Section 75-94 on health care sector, and Section 95-96 on education)*

**Law [n. 40 of February 19, 2004](#)** *(Provisions on assisted reproductive technologies\*)*

Couples are allowed to use assisted reproductive technologies provided that they are different-sex couples formed by living persons of age, either married or unmarried, who are sterile and of fertile age. Posthumous artificial insemination (dead donor), and donor insemination are therefore not allowed by law (Art. 5). ART are only used in public and private health facilities approved by Regions (Art. 10), according to the guidelines of the Ministry of Health, which are issued at least every three years by ISS, the Italian National Health Service, (Art. 7). Doctors must inform couples about the risks associated with ART in order to grant their informed consent; they must also inform them about adoption opportunities (Art. 6), which are governed by **Law [n. 184 of May 4, 1983](#)** *(On adoption and*

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\* In this context, Assisted Reproductive Technologies (ART) is meant to be the equivalent to the Italian “Procreazione Medicalmente Assistita” (P.M.A.).

custody of children and young people), and its modifications.

Main website: [ISS - ART Registry](#)

*The following link is to a fact sheet on ART and to the presentation on topic “Assisted Reproductive Technologies and Adoption” held by lawyer Maria Teresa Bettelli on 12<sup>th</sup> March 2011 during the seminar “Gli Incontri del Sabato” organized by the Associazione Crescere, which are both free downloadable:*

[La Procreazione Assistita e l'Adozione](#)

*(Assisted Reproductive Technologies and Adoption)*

[National Health Service Plan 2006-2008](#) – Notice in the chapter on strategies point 3.2 on LEA (Essential Level of Assistance), point 3.6 on networks, point 3.8 on social-health integration, and point 4.2 on the Third Sector.

[UNO Convention on the Rights of Persons with Disabilities](#) of December 16, 2006 (*Italian version issued by the Ministry of Labour, Health and Social Policy*), and its [Ratification n. 18 of March 3, 2009](#) (*English official version*), the Decree of the Ministry of Labour and Social Policy [n. 167 of July 6, 2010](#) founding the **National Observatory** and Decree of the President of the Republic [of October 4, 2013](#) published on n. 303 of the Italian Official Gazette on December 28, 2013 (*Plan for Rights of Persons with Disabilities*)

**Law [n. 38 of March 15, 2010](#)** (*Accessing Palliative Care and Pain Relief*)

**Legislative Decree [n. 179 of October 18, 2012](#)**

*converted into Law 221/2012 (Section IV, from Art. 12 to Art. 13, Paragraph 2)*

Law 179/12 (*Urgent Provisions for Growth*) includes provisions implementing and increasing the effectiveness of electronic services' applications also for people belonging to categories at risk of exclusion, such as people in need of social and medical assistance.

These provisions concern:

**1) Electronic Health Records and Healthcare**

**Information Systems** (art. 12). The EHR collect electronic data and documents regarding the social and health condition of patients; these records are generated and maintained by Regions and Autonomous Provinces, complying with the privacy legislation, in order to enhance the following activities and purposes:

- a. Prevention, diagnosis, medical treatment, and rehabilitation;
- b. Scientific study and research in the fields of medicine, biomedicine and epidemiology;
- c. Health care programs, quality assessment of health care and assistance.

Healthcare Information systems and records (*from paragraph 10*) also assure the regular collection of personal, health and epidemiological data in order to survey and classify any source of risk to human health and safety regarding a specific disease or medical condition affecting people within a given group.

**2) Electronic medical prescription and medical history** (Art. 13) which is gradually going to replace paper documentation.

3) In case of [generic drugs](#), mentioning the active ingredient in **the medical prescription** is mandatory (Art. 13, Paragraph 2), whereas the prescription of a specific branded medication is still possible writing a brief explanation of this choice.

## Rare Diseases and Orphan Medicinal Products

Ministry of Health Act [n. 279 of May 18, 2001](#)

[UE Council Recommendation](#) of June 8, 2009 on an action in the field of rare diseases and [Opinion of the European Economic and Social Committee](#)

The Ministry of Health Act n. 279 of May 18, 2001 established [The Italian National Network for Rare Diseases](#) which concerns:

- the establishment of the Italian National Network of Centres of Reference, both regional and interregional, to tackle the problems of prevention, medical surveillance, diagnosis and treatment of rare diseases, granting specific forms of assistance for rare disease patients.

(This includes the Diagnostic, Treatment, and Assistance Procedures (It. PDTA) which have already been established and implemented for certain rare diseases in some Regions, such as in Lazio and above all in Lombardia

(see [Rare Disease Coordinating Center-Lombardia-Diagnosis, Treatment, and Assistance Procedures \(PDTA\) - Profile](#));

- the establishment of the National Registry of Rare Diseases at the Istituto Superiore di Sanità (ISS), which

is expected to receive epidemiological data from regional centres in order to coordinate a national health service action plan for medical surveillance and treatment of rare diseases;

- the creation of a list of rare diseases with an identification code for which patients are diagnosed and treated completely free of charge.

Each rare disease or each group of rare diseases is identified by an identification code.

The Prader-Willi syndrome is identified by identification code RN1310, while code RN0680 identifies the Turner syndrome.

Each part of the code has a specific meaning: R stands for Rare, N refers to the International Classification of Diseases ICD-9 Code, in which N is the 14th letter of the English alphabet and it stands for class 14 indicating genetic disorders; if G is the third code letter the rare disease belongs to a rare disease group, otherwise it is identified by a progressive number.

International Classification Diseases ICD-9 was subscribed by 43 state members of WHO World Health Organisation in 1990 and it is currently being reviewed; the reviewed list should be issued by 2014 and it should also include classification of further rare diseases and conditions which will receive free diagnosis and treatment.

The current version of the list classifies 250 rare diseases. (Section 10-12 of [EU Recommendation of June 8, 2009](#) on Rare Diseases.)

**Law n. 648 of December 23, 1996 - Legislative Decree n. 536/96 (... Medicinal Products) Art. 1.4**

**[Regulation \(EC\) n. 141/2000](#) of the European Parliament and of the Council of December 16, 1999 on **Orphan Medicinal Products****

Detailed information on national and European legislation on orphan medicinal products is available on the National Centre for Rare Diseases website:

**[Centro Nazionale Malattie Rare - I Farmaci Orfani](#)**

*(National Centre for Rare Diseases – Orphan Drugs)*

**National Centre for Rare Diseases website:**

**[www.iss.it/cnmr](http://www.iss.it/cnmr)**

**Help-line Rare Diseases: 800.89.69.49**

*The following link is to the opening speech of the **Rare Disease Day 2009**, held by Dr Laura Mazzanti of S. Orsola-Malpighi Polyclinic in Bologna, which is available for free download in PDF format:*

**[La Giornata delle Malattie Rare 2009](#)**

*(Rare Disease Day 2009)*

*Lucilla: un viaggio nel mondo dei diritti* is a web documentary by the Legislative Assembly of Emilia-Romagna which includes a part on Rare Diseases.

[Lucilla e le Malattie Rare](#) is an ipertext, presented at the Rare Disease Day 2013, concerning sanitary legislation, especially on drugs and orphan medicinal products.

It includes texts, images, videos and slideshows ranging from the European Union to the Emilia-Romagna Regional Health Service.

## **Transplantation**

### **Living-donor Transplants**

According to Art. 5 of the Italian Civil Code: Laws of self-deprivation and disposition are permitted if not implying permanent prejudice to the human body, and if not contrary to the law and morality.

This obligation was amended by the following legislation:

**Law [n. 458 of June 26, 1967](#) (*Kidney Donation*)**

**Law [n. 483 of December 16, 1999](#) (*Legislation on split liver transplant*)**

**Law [n. 167 of September 19, 2012](#) (*Rules allowing living donor split transplantation of lung, pancreas, and intestine*)**

Art. 5 of the Italian Civil Code does not apply to the following:

**Law [n. 52 of March 6, 2001](#)** (*Recognition of the Italian Bone Marrow Donor Registry*)

**Law [n. 219 of October 21, 2005](#)** (*New legislation on transfusions and national production of blood products*), which replaced Law n. 107 of May 4, 1990 (*Law on blood transfusions, blood products and plasma products*)

**Ministry of Health Act [n. 116 of April 16, 2010](#)** published on 26<sup>th</sup> July 2010 in the Official Gazette n. 172 (*Law on living donor transplantation*)

It is also possible to make a donation of bone in occasion of prosthetic hip surgery with the donation of the femur head, that is removed to implant the prosthesis.

At the Rizzoli Institute of Bologna is based the [Cell and Musculoskeletal Tissue Bank](#) (BTM), the most important in our Country. In its website it is possible to find every wider information.

## **Deceased Organ Donation**

**Law [n. 578 of December 29, 1993](#)** (*Law on Death Assessment and Certification*)

**Law [n. 91 of April 1, 1999](#)** (*Law on organ and tissue transplants*)

Organ and tissue transplants are authorized only with the consent of the deceased or his/her family.

To ensure that the removal, storage and use of any tissue is lawful, it is important to establish clearly that



consent has been given.

The giving of consent is a positive act; implicit consent ruled by Art. 4 is not in force yet.

Organ donation is voluntary and free.  
Any form of payment for organ donation is unlawful.

**Directive [EU of May 19, 2010](#)** (*Standards of quality and safety of human organs intended for transplantation*)

For more detailed information provided by the National Italian Transplant Centre within ISS visit the website:

[www.trapianti.salute.gov.it](http://www.trapianti.salute.gov.it).

### **Consent to Treatment**

**Art. 32 of the Italian Constitution:** “No one may be obliged to undergo any given health treatment except under the provisions of the law.”

**Art. 54 of the Penal Code** (*Case of Necessity*) “When someone has been obliged to react in order to save himself/herself or another person from a severe physical danger his/her action is not punishable.”

**[Oviedo Convention](#) of April 4, 1977** (*Italian version from the ISS website*), and its **[Ratification by Law n. 145 of March 28, 2001](#)** (*Official text in French*)

The following **Art. 5-9** of the Oviedo Convention “An intervention in the health field may only be carried out after the person concerned has given free and informed consent to it.” (Art. 5.), except “When because of an emergency situation the appropriate consent cannot be

obtained, any medically necessary intervention may be carried out immediately for the benefit of the health of the individual concerned.” (Art. 8, see also Art. 54 of the Italian Penal Code).

The Convention also covers protection of persons not able to consent, for whom “intervention may only be carried out with the authorisation of his or her representative or an authority...” (Art. 6), and previously expressed wishes (Art. 9).

See also the following judgments of the Court:

- judgment of the Supreme Court n. 2347/2008 in criminal matters;
- judgment of the Supreme Court n. 2847/2010 in civil matters.

[Home](#)

[Back to Top](#)

## LEARNING AND EDUCATION RIGHTS

Art. 34 of the Italian Constitution “Schools are open to everyone...”

- [School Attendance](#)
- [Financial Help](#)
- [School Accessibility](#)
- [Disability Support in Education](#)
- [DSA: Specific Learning Disabilities](#)
- [Accessible Technology and Learning Equipment](#)
- [Physical Barriers](#)
- [School Transport](#)
- [Home and Hospital Education](#)
- [Learning Visits and School Excursions](#)
- [Links and Useful Documents](#)

### School Attendance

Law [n. 104 of February 5, 1992](#) (*Framework Law on Disability*)

Art. 12, Paragraph 1-2 – Inclusion of disabled children in day nurseries, learning and education rights for disabled people attending schools, universities and any other education provider.

Law [n. 53 of March 28, 2003](#) (*Resolution to the Government for Education*)

**Art. 2, c):** “...inclusion of disabled people is established by Law n. 104/92 on reasonable adjustments...”.

**Law [n. 62 of March 10, 2000](#)** (*On School Equality*)

Schools must allow access for disabled pupils.

They should promote the inclusion of disabled children in their admission arrangements and in all aspects of school life, as established by law.

**Law [n. 390 of December 2, 1991](#)** (*Equal rights and fair treatment for disabled students*), **Art. 4** and **Prime Minister’s Decree [n. 14787 of April 9, 2001](#)**.

### **Financial Help**

**Law [n. 118 of March 30, 1971](#)** (*Law protecting invalid civilians*) **Art. 30**.

**Law [n. 390 of December 2, 1991](#)** (*Equal rights and fair treatment for disabled students*) **Art. 4** and **Prime Minister’s Decree [n. 14787 of April 9, 2001](#)** **Art. 8, c. 1** and **7**.

**M.I.U.R. Circ. <sup>□</sup> [n. 6 of January 6, 2009](#)** (*School fees and exemption from payment*)

Pupils attending the first, second and third year course in higher education are exempt from payment of school fees, according to their rights and obligation in education.

As regards further school fees, exemptions depend on pupils’ household income as reported in the Departmental Circular n. 6/09 and by Art. 30 of the Law on invalid civilians:

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<sup>□</sup> Departmental Circular of the Italian Ministry of Education, University and Research (M.I.U.R.).

“Invalid civilians in financial difficulties are totally exempt from tax, including payment of school and university fees, if their impairment affects 2 thirds of their physical or mental ability, according to the application of benefits for orphans, blind persons, invalids and their children.”

As regards university fees, total exemption for disabled students affected by a 2/3 disability was ruled by Art. 8 of the Prime Minister’s Decree n. 14787/01, which demands the establishment of an exemption scheme for students with a disability inferior to 2/3 to the provisions taken by each university.

### **School Accessibility**

**Law [n. 104 of February 5, 1992](#)** (*Framework Law on Disability*) Art. 12-13.

**Decree of the President of the Republic of [February 24, 1994](#)** (*Italian Official Gazette n. 79/94 – Official guidelines ...for disabled pupils*)

**Prime Minister's Decree [n. 185 of February 23, 2006](#)** (*Regulation to determine pupils with disability*)

**[Italian State-Regions Agreement of March 20, 2008](#)** (*Support for disabled pupils*)

**[M.I.U.R Guideline, Protocol n. 4274/09](#)** (*School inclusion of disabled pupils*)

**[M.I.U.R Commitment for School Accessibility - Inclusion](#)** and **[Directives on Special Educational Needs and School Inclusion](#)** of December 2012.

School inclusion of disabled pupils is scheduled as follows:

- **Assessment** of pupils with disability by a specialist or educational psychologist, which should be requested in written form by the parents or legal guardian and documented through specific assessments made by ASL (the Local Health Service) according to Art. 12 and Art. 13 of Law n. 104 of February 5, 1992.

As regards the assessment procedure, the INPS issued Circular n. 17344 of September 17, 2011, giving priority to the inspection of documentation assessing disability, and eventually, whether these meet the related medical and legal criteria, to their validation by their local (INPS) offices. (*Art. 2 of Decree of the President of the Republic of February 24, 1994; Art. 2 of Prime Minister's Decree n. 185/2006; Art. 2 of the Italian State-Regions Agreement of March 20, 2008*)

- The **Functional Diagnosis** which, unlike medical certificates, assesses type and gravity of the impairment together with the potential ability of the disabled pupil in order to rehabilitate him/her. It is carried out by a multidisciplinary team consisting of a specialist, a child neuropsychologist, a rehabilitation assistant and a social worker from ASL (the Local Health Service), according to *Presidential Decree of February 24, 1994, Art. 3, and the Italian State-Regions Agreement of March 20, 2008, Art. 2.*

- The **Functional Dynamic Profile** indicating brief and middle term previsions about the school development of a disabled pupil.

It is the previously mentioned multidisciplinary team

together with school teachers who build up the profile in collaboration with the family of the disabled pupil. (*Presidential Decree of February 24, 1994, Art. 4; Law n. 104/1992, Art. 12,4; Italian State-Regions Agreement of March 20, 2008, Art. 2*)

- The **Individual Educational Plan**, which must be written by health workers assigned by ASL (the Local Health Service) together with teachers from the school council and in collaboration with the parents of the disabled pupil.

The Plan shows how the school will improve the inclusion of a disabled pupil according to data provided by his/her Functional Dynamic Profile and by the individual plan itself. (*Presidential Decree of February 24, 1994, Art. 5; Italian State-Regions Agreement of March 20, 2008, Art. 3*)

- **Controls.** The initial functional dynamic plan will be controlled by ASL, together with the school and the family of a disabled pupil in order to verify what improvements have actually been made.

The plan will be updated at the end of the nursery, primary, and secondary school, and it will be also updated during higher education. (*Presidential Decree of February 24, 1994, Art. 6; Law 104/92, Art. 12,8; Prime Minister's Decree n. 186/2006, Art. 2; Italian State-Regions Agreement of March 20, 2008, Art. 2*)

Parents should give clear and detailed information to the school about their child's special needs (e.g. transport, assistance, nutritional needs, medications and appointments and special equipment).

**Privacy:** information about impairment of disabled pupils is sensitive personal data by [Art. 22 of Law n. 196/2003](#).

In August 2009, the Ministry of Education issued the **“Guidelines for the School Inclusion of Disabled Pupils”**. This document is divided into three sections preceded by an introduction about the importance of school inclusion.

The first section deals with the legislation, the second one explains organization and function of the Institutions of reference, the final section includes practical guidance for schools and families.

The Ministry of Education issued an invitation to tender (ITT) within the project [Nuove Tecnologie e Disabilità – Azione 6](#) (*New Technology and Disability – Action 6*) to schools and education providers who are interested in developing research projects for technology and didactic innovation in order to improve the school inclusion of disabled pupils.

The research projects approved in June 2008, which include the participation of many Italian schools from North to South Italy, led to the development of programs and software for disabled pupils. 25 hardware and software products about many different subjects, from Mathematics to ancient Greek, are currently downloadable free of charge.

The following link to the Ministry of Education, University and Research website provides information about the project and access to the free downloadable products:



[Applicativi per la Scuola elaborati dalle Scuole, da  
Alessandria a Barletta, in favore di situazioni di  
disabilità](#)

*(School Applications for Disabled Pupils projected  
by Italian Schools)*

**Caring for a Disabled Pupil**

*The following link is to a part of the presentation on  
the topic “School inclusion and support”, held by Dr.  
Vincenzo Bellentani on 14<sup>th</sup> June 2008 during the  
seminar “Gli Incontri del Sabato” organized by the  
Associazione Crescere, which is available for free  
download:*

[La Scuola: l'inclusione e il sostegno](#)

*(School inclusion and support)*

*The following link is to the presentation on the topic  
“Functional Diagnosis, Dynamic Functional Profile and  
Individual Educational Plan”, held by Professor Maria  
Cristina Silvestri on 10<sup>th</sup> October 2009 during the  
seminar “Gli Incontri del Sabato” organized by the  
Associazione Crescere, which is free downloadable:*

[Diagnosi funzionale, Profilo dinamico funzionale, Piano  
educativo individualizzato](#)

*(Functional Diagnosis, Dynamic Functional Profile and  
Individual Educational Plan)*

## **Disability Support in Education**

**Law [n. 104, February 5, 1992](#)** (*Framework Law on Disability*) Art.13, paragraphs 3/6

**Ministry of Education, University and Research**  
**[Departmental Circular n. 3390/2001](#)** (*General Assistance for Disabled Pupils*)

**Prime Minister's Decree [n. 14787 of April 9, 2001](#)**  
(*Equal Rights and Fair Treatment for Disabled Students*)  
**Art. 14.**

**National Collective Employment Agreement (the CCNL) of May 16, 2003, Art. 37, Table A:**

Schools provide general assistance through school caretakers, who “help disabled pupils accessing and leaving school environments.” School caretakers also give practical help with personal care tasks, e.g. using sanitary facilities, toileting and personal hygiene for disabled pupils.

**[Italian State-Regions Agreement of March 20, 2008](#)**  
(*Support for disabled pupils*) **Art. 5:**

Special care, care for autonomy and communication are provided by the Comuni (the local authorities) for nursery, primary and secondary schools, they are provided by the Provinces for higher education and by the ASL (the local health service), if paramedical personnel or experts in psycho-sociology are needed.

In May 2013, it was drafted a **[Protocol for Drug Delivery](#)** within educational settings in the Province of Bologna.

Every school has an obligation to employ specialists like learning and teaching assistants for the inclusion and education of disabled pupils. (*Law n. 104/92, Art. 13, paragraphs 3/6*)

Schools generally employ one specialist teacher every two disabled pupils. (*Italian State-Regions Agreement of March 20, 2008, Art. 5*)

### **DSA: Specific Learning Disabilities**

**Ministry of Education, University and Research [Note n. 4099/2004](#)** (*General Guidance on DSA: Specific Learning Disabilities*)

**Ministry of Education, University and Research [Note n. 5744/2009](#)** (*Baccalaureate Examinations 2008-2009: Pupils with DSA: Specific Learning Disabilities*)

**U.S.R. E.R.** <sup>□</sup> **[Memorandum n. 1425/2009](#)** (*Practical Advice on DSA*)

**[Emilia Romagna Governing Council Resolution n. 108 of February 1, 2010](#)** (*Regional Plan for DSA*)

**Law [n. 170 of October 8, 2010](#)** (*Provisions on DSA in school environment*), and its implementing rules in the **Ministerial Decree of [July 12, 2011](#)** including the attached **[Guidelines](#)**.

**Italian State-Regions [Agreement of July 25, 2012](#)** (*DSA Certification*)

People with DSA (Specific Learning Disabilities) have specific difficulties in reading (Dyslexia), writing

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<sup>□</sup> Regional Council Education Department in Emilia Romagna (Italy).

(Graphic Dyslogia and Dysorthography), or in computing (Discalculia or numeracy problems), although they are normally intelligent.

Almost 4% of the Italian Population is affected by DSA.

After two years of discussion, the Law on DSA in the school environment was issued on 19<sup>th</sup> October 2010, it recognizes DSA specifying that people with DSA have normal cognitive capacities and they do not have neurological disorders or sensory deprivation.

The diagnosis of DSA is made by the National Health Service, while the school can help detecting DSA.

The Law on DSA in the school environment aims at granting equal rights and opportunities to people with DSA both in social and professional environments. In this sense, the law plans training courses for the school staff, financing them through *ad hoc* investments, specific teaching methods and a flexible timetable for families.

The power to implement these provisions is conferred on the Ministry of Education, University and Research (MIUR).

Implementing rules have been issued by the MIUR in the Ministerial Decree n. 5669 of July 12, 2011 including the attached [Guidelines](#).

The MIUR had already issued policy provisions concerning Regional Council Education Departments (*Note n. 4099/2004*), and specific operational guidance for Baccalaureate Examinations (*Note n. 5744/2009*).

A new section of the MIUR website has been dedicated to DSA, including related legislation, documents, publications, and projects such as project *Nuove*

*Tecnologie e Disabilità-Azione 6* (see paragraph on School Accessibility).

Following this trend in Emilia Romagna, the Regional Council Education Department (USR) issued operational advice (*Circular n. 1425/2009*), while the Local Council Education Department (USP) in the Province of Bologna adopted the plan described in [Protocol n. 12860/A36b of November 11, 2008](#).

The Region Emilia Romagna issued a regional plan on DSA (Resolution n. 108, February 1, 2010), including one section on DSA in the Resolution n. 1 of 11<sup>th</sup> January 2010 on school certification.

The regional plan and its implementation are available to read on the U.S.R. website, visiting the following section: [CTS Marconi ProDSA](#) which also includes a [Survival Guide for Families](#) using highly readable fonts (the Guide is in Italian).

*Presentation slides on DSA, which are taken from the lecture presented by Professor Maria Cristina Silvestri during the meeting on SLD on 9<sup>th</sup> October 2010 as part of the seminar “Incontri del Sabato” (Saturday Meetings), organized by Associazione Crescere, are available clicking on [this link](#).*

**Reference Website:**

<http://www.istruzione.it/web/istruzione/dsa>

<http://www.aditalia.org>

*The following link is to the presentation on “Specific Learning Disabilities (DSA): juridical, medical, educational, and psychological aspects”, held on 9<sup>th</sup> October, 27<sup>th</sup> November 2010, and 8<sup>th</sup> October 2011 during the seminar “Gli Incontri del Sabato” (text in Italian):*

**[I DSA: aspetti giuridici, medici, psicologici e didattici](#)**

*(Specific Learning Disabilities (DSA): juridical, medical, educational, and psychological aspects)*

### **Accessible Technology and Learning Equipment**

**Law [n. 104 of February 5, 1992](#)** (*Framework law on disability*) Art. 13 b)

**Decree of the President of the Republic [n. 503 of 24 July, 1996](#)** (*Physical barriers in public buildings*) Art. 23, Paragraph 3.

**Law [n. 69 of March 22, 2000](#)** (*Fund for the inclusion of disabled pupils*)

Accessible technology products, teaching and learning equipment must be already available in schools. Special equipment for the inclusion of disabled pupils must be provided to nursery, primary and secondary schools by the Comune (the local authority), and to high schools by the Province.

### **Physical Barriers**

**Law [n. 118 of March 30, 1971](#)** (*Law protecting invalid civilians*) Art. 27.

**Law [n. 104 of February 5, 1992](#)** (*Framework law on disability*) Art. 23 and 24.

**Law [n. 23, February 11, 1996](#)** (*Law on school building*)  
Art. 2 and 3.

**Decree of the President of the Republic [n. 503 of July 24, 1996](#)** (*Regulation concerning provisions for the removal of physical barriers in public buildings, space and environment*)

The removal of physical barriers has been assigned to the Comuni (local authorities) in nursery, primary and secondary schools, and to the Province in high schools (*Law n. 23/96, Art. 3*)

Buildings which have been built or restructured since 28th February 1986 must be accessible to disabled people (*Law n. 41/86, Art. 32*), buildings built before 28th February 1986 must be modernized so that disabled people can have access to them (*Decree of the President of the Republic n. 503/96, Art. 23 "School Building"*).

### **Transport**

**Law [n. 118 of March 30, 1971](#)** (*Law protecting invalid civilians*) Art. 28:

School transport for disabled pupils has been assigned to the Comuni (local authorities).

The Province must provide transport for disabled pupils in higher education and for disabled students.

### **Home and Hospital Education**

**Law [n. 104 of February 5, 1992](#)** (*Framework Law on Disability*) Art. 12, paragraphs 9/10.

**Ministry of Education, University and Research,  
Departmental Circular n. 4308/2004**

**Prime Minister's Decree n. 185 of February 23, 2006**  
*(Regulation to determine pupils with disability)*

Hospitals, private practices and paediatric centres provide schoolrooms for their young patients. Disabled children, even if in day hospital, are included in these schoolrooms, as well as other children who have been hospitalised for over 30 days.

Home education will be provided for pupils who have already been hospitalised because of severe diseases and who cannot attend school because of home therapies for at least 30 days.

**Learning Visits and School Excursions**

**Departmental Circular n. 291/92, Art. 8, Paragraph 2:**

Disabled pupils can be accompanied by a teaching assistant or by any member of the school staff (teachers and school caretakers).

A disabled pupil can also be accompanied by one of his/her classmates aged 18 and over who volunteers.

**Links and Useful Documents**

**Reference page on the Ministry of Education,  
University and Research website:**

**[Ministero dell'Istruzione, Università e Ricerca](#)**

See page: “Diritto allo studio e pari opportunità –  
Alunni con disabilità *(Equal rights and opportunities –  
Pupils with disability)*”



*The following link is to a publication of the **National Institute of Statistics**: the first results of the integration of pupils with disabilities in primary and secondary schools of first grade (2008-2009 and 2009-2010):*

[Indagine sull'integrazione degli alunni con disabilità](#)

*(Survey on school integration of pupils with disabilities)*

*The survey, carried out under a project funded by the Ministry of Labour and Social Affairs in collaboration with the Ministry of Education, University and Research, joined by 77% to 89% of the schools involved.*

In October 2011 the MIUR issued the [Special Needs Education Report 2009-2010](#) enclosing statistics covering the 2009-2010 school year and a summary of the special needs education systems in the main European countries (the Report is in Italian).

[Home](#)

[Back to Top](#)

## DETERMINING DISABILITY

- [Procedure](#)
- [Disability Statement](#)
- [Disability Assessment](#)
- [Statement Review](#)
- [Financial Benefits](#)
- [Links and Useful Documents](#)

Law [n. 118 of March 30, 1971](#) (*Law protecting invalid civilians*)

Law [n. 18 of February 12, 1980](#) (*Disability allowance*)

Law [n. 508 of November 21, 1988](#) (*Supplementary measures supporting invalid civilians*)

Legislative Decree [n. 509 of November 23, 1988](#)  
(*Provisions in order to determine disability*)

Ministry of Health Act [of February 5, 1992](#) (*Official Gazette n. 47/92 – Tables on disability percentages*)

Law [n. 80 of March 9, 2006 – Decree Law n. 4/06](#)  
(*Provisions ... on organization and functions of Public Administration.*) Art. 6.

Ministerial Decree [of August 2, 2007](#) (*Official Gazette n. 225/2007 - Determining diseases and disorders which are exempt from assessment ...*)

Law [n. 102 of August 3, 2009 – Decree Law n. 78/09](#)  
(*Provisions contrasting crisis ...*) Art. 20.

Law [n. 111 of July 15, 2011 - Decree Law n. 98/11](#)  
(*Financial Manoeuvre*) Art. 38 and 18.

Law [n. 183 of November 12, 2011](#) (*Stability Law 2012... changes - Art. 27 l. f)*)

Law [n. 99 of August 9, 2013 – Decree Law. n. 76/2013](#) (*First provisions...*) Art. 10.5 (*Income references*)

### Procedure

The procedure to assess disability, deafness, blindness, and invalidity has been amended since 1st January 2010 by Law 102/2009.

Enforcement of new provisions has not been postponed.

The INPS (National Social Welfare Institution) issued explanatory notes on the new telematic procedure within the [Circular n. 131 of December 28, 2009](#) explained in the INPS [informative notes](#) and in the Government's [news](#).

It will take some time for the new system to run normally.

The new procedure named INVCIV2010 is based upon the use of telematic systems and it is divided into the following stages:

1. Certification of the pathological cause of disability made by a doctor who has been qualified by INPS. The digital certificate will be sent in a specific INPS format supported by its software to INPS. The software assigns a code ICD9 automatically on the base of the diagnosis. ([INPS Form AP68](#))

2. Request for Disability Assessment (*Law n. 104/92; Law n. 68/99*) must be sent to INPS using a specific software.

The request can be submitted either by a benevolent fund or the disabled person, as well as by her/his tutor, its validity expires up to 30 days since the delivery of the digital certificate. (INPS Form [AP66](#) and [AP67](#) )

3. Visit Booking: At the moment of the digital certificate delivery the software produces a receipt and gives the chance of choosing the date of the visit, which must be booked within 30 days, or within 15 days for patients with severe conditions, according to [Ministerial Decree of 2nd August 2007](#) and for oncology patients (*Law n. 6/80*).

If a home visit is needed, this can be requested by the doctor. The visit can also be postponed.

4. Disability Assessment: members of the Medical Commission may vary according to the type of assessment requested, but they include a doctor of the INPS, a social worker and an expert of the ASL, and a neurologist, psychiatrist or psychologist in case of mental impairment.

The person to be assessed can be supported by his/her medical officer and submit documents and certification which may be useful for the assessment.

The assessment report will be issued in a digital INPS format (Format E, according to Resolution n. 189/09), with indication of the code ICD9 and Ministerial Decree of 5<sup>th</sup> February 1992, which is being amended by Art. 20 c.6 of Law n. 102/09.

The table included in the Ministerial Decree of 5<sup>th</sup> February 1992 concerns how disability may affect work capacities ([Legislative Decree n. 509 of November 23, 1988](#) Art. 1, Paragraph 3, Art. 2 Paragraph 2)

5. Check: If the disability request has been accepted but it does not meet unanimous approval by the Medical Commission, the INPS Medical Centre may substantiate it within 10 days or they can appoint a check visit in order to reassess the applicant within 20 days.
6. Duration of the Procedure: it should take maximum 120 days between the submission of the request and the provision of benefits related to its acceptance.
7. Access to Documents: the applicant with a PIN (personal identification number) related to his/her request can follow the whole procedure online.
8. Right of Appeal: Claims for judicial review against INPS is the only possible procedure in order to appeal for a disability request which has been rejected within 180 days, an INPS doctor must be involved in the investigation.  
Further application for a disability assessment cannot be submitted if there is a pending action (*Law n. 69/09, Art. 56, paragraph 2*).

From 1<sup>st</sup> January 2012 claims for judicial review against INPS will be compulsorily preceded by a technical expert's report according to Art. 38 Point 1 of [Legislative Decree n. 98 of July 6, 2011](#) and [Art. 27.f of Law n. 183/11](#).

**NOTICE:** According to Art. 18 Point 22 of [Legislative Decree n. 98 of July 6, 2011](#) Regions can delegate to INPS the assessment procedure.

*(As resolved by Region Campania through provision n. 390 of 31<sup>st</sup> July 2012 and its subsequent executive protocol of 1<sup>st</sup> July 2013).*

The ICD classification identifies approximately 250 rare diseases.

More rare diseases should be included in the reviewed version of the classification which will be issued in 2014, according to the EU Recommendation in the field of Rare Diseases of June 2009; this review is essential, as national systems of benefits and assistance are based on ICD classification. ([Council Recommendation of 8<sup>th</sup>-June 2009](#) on an action in the field of rare diseases, paragraphs 10-12 and II.2.)

*The following link is to the presentation headed “The New Procedure to assess Disability”, which was shown on 15<sup>th</sup> April, 29<sup>th</sup> May 2010 and 4<sup>th</sup> June 2011 and 16<sup>th</sup> June 2012 during the seminar “Gli Incontri del Sabato” organized by Associazione Crescere.*

*The presentation is available for free download:*

[La nuova procedura per l'accertamento dell'invalidità, handicap e disabilità](#)

*(The new procedure to assess disability)*

## **Assessment Response**

The Medical Commission provides a statement which certifies the level of disability and the related rights and benefits.

This statement can be as follows:

1. **“Not disabled”** because of the absence of diseases/disorders or with a reduction in work capacity inferior to 33%;
2. **“Disabled”** with a reduction of work capacity over 33% (*Law n. 118/71, Art. 2*);
3. **“Disabled”** with a reduction of work capacity over 74% (*Law n. 118/71, Art. 2 and 13; Legislative Decree n. 509/88*);
4. **“Disabled”** with total and permanent incapacity for work (*Law 118/71, Art. 2 and 12*);
5. **“Disabled”** with total and permanent incapacity for work and mobility impairment so that a permanent carer is needed (*Law n. 18/80; Law n. 508/88*);
6. **“Disabled”** with total and permanent incapacity for work and in need of permanent care as impairment totally prevents normal day-to-day activities (*Law n. 18/80; Law n. 508/88*);
7. **“Blind”** with chance of vision correction inferior to 1/20 for both eyes (*Law n. 82/70; Law n. 508/88*);
8. **“Blind”** with total visual impairment (*Law n. 382/70; Law n. 508/88*);
9. **“Deaf and dumb”** (*Law n. 381/70; Law n. 508/88*);
10. **“Impaired”** with long-term difficulties in carrying out normal activities (*Law 118/07, Art. 2; Law 289/90 Art. 1*);

11. “**Impaired**” with mobility impairment so that a permanent carer is needed (*Law n. 18/80*);

12. “**Impaired**” in need of permanent care as impairment totally prevents normal day-to-day activities (*Law n. 18/80*).

More detailed information are available in the guidance which is free downloadable on the UILDM HandyLex website:

[Come leggere i verbali di invalidità e di handicap](#)

*(How to understand reports on disability and impairment)*

The guidance also shows benefits and assistance related to each specific conditions.

### **Disability Assessment**

**Law n. 104 of February 5, 1992** (*Framework law on disability*) **Art. 3 and 4.**

Impairment is assessed through the same procedure in use to assess disability.

The Medical Commission (see above, point 4 of the paragraph about “Procedure”) will assess:

- **Impairment**, that is a condition which causes difficulties in inclusion (*Law n. 104/92, Art. 3, Paragraph 1*);
- **Severe disability**, that is a condition which needs permanent care (*Law n. 104/92, Art. 3, Paragraph 3*).

People can be affected by both an impairment and disability.



## Care Plan Review

Checks for the persistence of disability have been assigned to the INPS (*Law n. 102/09, Art. 20 Paragraph 2*).

As regards this, notice [Law n. 80 of March 9, 2005 - Law Decree n. 4/06](#) (*Provisions... organization and function of the Public Administration*), Art. 6:

“People with impairments or diseases and disorders who get the Attendant Allowance are exempt from further assessments in order to check the persistence of their disability”.

Disorders, diseases and impairments for which check visits are excluded are listed in the Decree issued by the Ministry of Economy and Finance in collaboration with the Ministry of Health ([Ministerial Decree of 2<sup>nd</sup> August 2007](#) published in the Official Gazette n. 225 on 22<sup>nd</sup> September 2007).

Medical documentations needed in order to give evidence of a disability and its related benefits are also listed in the decree.”

Moreover, Art. 6 states that “Regions must enforce provisions in order to simplify and standardise procedures of health checks ...to be taken by specific Commissions on the same date and standards for every field that requires legal investigation”.

## **Financial Benefits**

### **Preface**

Administrative procedures for the payment of financial support and benefits will be taken for disabled people who have been assessed eligible for them. Since 2000, regions have been ruling the financial support for invalid civilians, which are provided by the INPS, according to Legislative Decree n. 112/98, Art. 130.

### **Disability Living Allowance**

Since 1992, new tables concerning the levels of disability have been issued according to the Ministry of Health Act of 5<sup>th</sup> February 1992 and Legislative Decree n. 509 of November 23, 1988, which amended Law n. 118 of March 30, 1971.

Invalid civilians with 74% work inability are eligible for Disability Living Allowance.

Eligibility criteria:

- Age between 18 and 65;
- Level of disability between 74% and 99%;
- Italian citizen or foreign citizen with residence permit;
- Annual income up to: see link at the end of this paragraph;
- Unemployed or not employable.

Rate: see link at the end of this paragraph.

The Disability Living Allowance is also paid to eligible disabled people who are part-time employed.

The Disability Living Allowance will be converted to a State Pension for people of retirement age.

### **Invalidity Pension**

Invalid civilians with total and permanent work inability are eligible for Invalidity Pension (Law n. 118 of March 30, 1971), if they are in financial difficulties.

Eligibility criteria:

- Age between 18 and 65;
- 100% disability;
- Italian citizen or foreign citizen with residence permit;
- Annual income up to: see link at the end of this paragraph;

Rate: see link at the end of this paragraph.

People eligible for Invalidity Pension may be also eligible for Attendance Allowance, but they are not eligible for further benefits related to the same condition.

### **Attendance Allowance**

Invalid civilians with a 100% disability due to physical or mental impairment and blind people are eligible for Attendance Allowance by Law n. 18/80, Law n. 508/88, and Art. 1 of Law n. 406 of March 28, 1968.

Eligibility criteria:

- No age limits;
- Citizens whose disability or blindness has been recognized by the medical officer and who are in need

of permanent assistance in order to carry out normal day-to day activities;

- Italian citizen or foreign citizen, either with or without residence permit (Judgment n. 329/2011 of the Italian Constitutional Court declared that art.80 Paragraph 19 of Law 388/00 on residence permit is unconstitutional);
- Not living in a care home whose costs are already paid by public services or institutes.

Rate: *see link at the end of this paragraph.*

Personal income does not affect Attendance Allowance.

Employed people may also be eligible for receiving Attendance Allowance, but people receiving Attendance Allowance are not eligible for further benefits related to the same condition.

### **Pension for partially sighted people**

People with vision capacity up to 1/20 for both eyes even after correction are eligible for a pension for partially sighted people if they are in financial need.

Eligibility criteria:

- No age limits;
- Italian citizen or foreign citizen with residence permit;
- Annual income up to: *see link at the end of this paragraph;*

Rate: *see link at the end of this paragraph.*

Partially sighted people may also be eligible for a SPECIAL ALLOWANCE which is not affected by personal income, according to Law n. 508/88, Art. 3

Rate of the special allowance: see link at the end of this paragraph.

People who receive a pension for partially sighted people are not eligible for further benefits related to the same condition.

### **Blind Person's Allowance**

Blind people aged 18 and over are eligible for this allowance if they are in financial difficulties, according to Art. 8 of Law n. 66/62, while blind people aged under 18 are eligible for Attendance Allowance (Law n. 508/88, Art. 5).

Eligibility criteria:

- Aged 18 and over;
- Be certified blind;
- Italian citizen or foreign citizen with residence permit;
- Annual income up to: see link at the end of this paragraph;

Rate (it may be reduced for blind people living in a care home whose costs are already paid by public service or institutes): see link at the end of this paragraph.

### **Monthly Allowance for Disabled Children**

Disabled children aged up to 18 are eligible for this allowance by **Law [n. 289 of October 11, 1990](#)**

Eligibility criteria:

- Age up to 18;
- Be certified “impaired child with permanent difficulties in carrying out normal activities for his/her age” or “impaired child with deafness who cannot hear in his/her best ear sounds over 60 decibels”;
- Attending local practices or day-care centres, either public or private, which are approved by the ISS and specialized in medical treatment or rehabilitation for disabled people. Attending schools, either private or public (this is due for the whole compulsory school attendance period, provided that leaving school must be notified, as established by Art. 6 letter *d-bis* Paragraph 3 of [Legislative Decree n. 70 of May 13, 2011](#) which modified Art. 2 of Law 289/90), including nursery schools (Decision of the Supreme Court n. 467/02), and training centres;
- Italian citizen or foreign citizen with residence permit;
- Annual income up to: see link at the end of this paragraph;

Rate provided for the rehabilitation period or school attendance: see link at the end of this paragraph.

Disabled children who receive a monthly allowance are not eligible for neither Attendance Allowance or Communication Allowance, as well as the Special Allowance for partially sighted people.

### **Communication Allowance**

Children aged up to 12 are eligible for the Communication Allowance if the quietest sounds they

can hear in their better ear average between 500-1000 and 2000 frequency in Herz, that is over 60 decibels.

Children over 12 are eligible for the Communication Allowance if the quietest sound they can hear is over 75 decibels.

Eligibility criteria:

- No age limits (*see previous indications*);
- Italian citizen or foreign citizen with residence permit;
- Be certified deaf-and-dumb as previously specified;
- No income limits.

Rate: see link at the end of this paragraph.

Children who receive the Communication Allowance may also be eligible for Attendance Allowance but they are not eligible for a Monthly Allowance.

### **Allowance for the Deaf and Dumb**

Deaf-and-dumb people are eligible for this allowance if they are deaf from birth or early childhood and in financial difficulties.

Deaf-and-dumb people whose disability is due either to mental disorders or war or work injury are not eligible for this allowance even if they are in financial difficulties.

Eligibility criteria:

- Aged between 18 and 65;
- Be certified deaf-and-dumb;
- Italian citizen or foreign citizen with residence permit;

- Annual income up to: see link at the end of this paragraph.

Rate: see link at the end of this paragraph.

People who receive this allowance are not eligible for further financial benefits related to the same disability.

This allowance will be converted to a State Pension for deaf-and-dumb people aged 65 and over.

**Allowance rates and income limits related to the financial benefits which have been previously described are regularly updated and readable clicking on the following link:**

**[Allowance Rates and Income Limits 2013](#)**

Exception to the previous legislation concerns the following:

#### **Disabled Workers**

**Law [n. 222 of June 12, 1984](#) – (*Amendments on Disability Pension legislation*)**

Workers, either employees or self-employed, covered by a (compulsory) INPS insurance, who have been assessed a reduced work capacity due to disability, mental or physical impairment which is not the result of civil or military service are liable to the following:

The assessment procedure is telematic, as well as the procedure named INVCIV2010, and it starts filling and filing the simplified form [INPS SS3](#).

After that, the application must be sent according to the



provision stated by [INPS Circular n. 91 of July 2, 2012](#) within 90 days.

Financial benefits are the following:

**Disability Allowance** (Art. 1 of Law 222/84)

Eligibility criteria:

- Age between 18 and 65;
- 5 years of creditable service, at least three of them shall be paid in the five year period prior to the date of application;
- Level of disability over 67%.

The amount of the Disability Allowance is calculated according to the contributory pension scheme since 31<sup>st</sup> December 1995, and according to the retributory (or mixed) pension scheme whether or not a 18 year creditable service has been already paid by the time of the application.

The Disability Allowance will be converted to a State Pension for people of retirement age.

The Disability Allowance is not affected by personal income

Note that as regards social security contributions, both employees who are deaf-and-dumb, as established by Law 381/70, and employees with a certified disability over 74% can apply for a personal credit of 2 months of social security contribution every year of certifiable work that they have done since January 2002, up to a maximum of 5 years of personal credit, according to Art. 80, Paragraph 3 of Law [n. 388 of December 23, 2000](#).

## **Invalidity Pension** (Art. 2 of Law 222/84)

Workers with total and permanent work inability are eligible for Invalidity Pension, as the eligibility criteria, as well as the calculation of the amount, are the same established for the Disability Allowance.

The Invalidity Pension is not dependent on your annual income and, despite the Disability Allowance, any work activities are inconsistent with its payment.

## **Survivor's Pension**

Law [n. 903 of July 21, 1965](#) (*Pension Reform on Social Security*) – Art. 22

Beneficiaries of a survivor's pension, provided that they are both **unable to work** and were **dependant** of a deceased retiree, are the following:

- The children, regardless their age;
- The spouse;
- Unmarried brothers or sisters, provided that they still do not perceive a pension and only in absence of other beneficiaries.

Specific percentages of pension benefits due to each beneficiary are indicated in the same Article.

**Dependant** is a person who has been continually supported by the retiree before his/her death.

**Unable to work** are people whose impairment, either physical or mental, completely prevent them to work profitably, according to Art. 39 of Presidential Decree [n. 818 of April 26, 1957](#).

## Links and Useful Documents

Online Reference: **SuperAble**, website managed by INAIL (the Italian Workers' Compensation Authority), divided into four sections (Italian language and a shorter English version):

[I.C.: Financial Benefits](#)

[I.C.: Eligible People - Assessment](#)

[Disabled Workers](#)

[Useful Information](#)

*The following link is to the presentation “Disability and Starting Work”, held by Dr Fabrizia Capitani, S. Orsola-Malpighi Policlinic in Bologna, on 28th March 2009 during the seminar “Gli Incontri del Sabato” organized by the Associazione Crescere. The presentation is free downloadable:*

[L'invalidità e l'avvio al lavoro](#)

*(Disability and Starting Work)*

*The above presentation also deals with the following topics: assessing disability, work rights for disabled people, exemptions from payment. It makes reference to the legislation of Region Emilia-Romagna, where a law simplification by Art. 6 of Law n. 80/2006, according to Regional Law n. 4 of February 19, 2008 came into force.*

[Home](#)

[Back to Top](#)

## RIGHTS IN WORK

**Art. 4 of the Italian Constitution:** “The Republic recognises the right of all citizens to work...”

- [Social cooperatives, type b\)](#)
- [Special Employment Rights](#)
- [Links and Useful Documents](#)

**Law [n. 381 of November 8, 1991](#)** (*On cooperative societies*)

**Law [n. 104, February 5, 1992](#)** (*Framework law on disability*), Art. 17-19.

**Law [n. 68 of March 12, 1999](#)** (*Provisions on work rights of disabled people*)

**Legislative Decree [n. 276 of October 9, 2003](#)**  
(Implementation of delegation on Occupation and Job Market established by Law n. 30 of February 14, 2003);  
Art. 14 has been abrogated by Law 247/07 and subsequently reinforced by Law 133/08.

### **Social Cooperatives, type b)**

Social cooperatives which aim at including disabled workers and disadvantaged people in sectors, apart from social care, health and education, are ruled by Art. 1b) of **Law [n. 381 of November 8, 1991](#)**, and they are therefore called Social Cooperatives type b).

By Art. 3.4 of the same Law, disadvantaged people include alcoholics, drug-addicts, convicts who have been admitted to non-custodial measures, and so on.

As much as for the targeted employment, the invalidity percentage must be over 45% and certified by a qualified commission, according to the [INPS Circular n. 226/92](#), which also includes further implementation specifications.

At least 30% members of a social cooperative must be disadvantaged people, and no contributions are due for their national insurance.

Note that as regards social security contributions, both employees who are deaf-and-dumb, as established by Law 381/70, and employees with a certified disability over 74% can apply for a personal credit of 2 months of social security contribution every year of certifiable work that they have done since January 2002, up to a maximum of 5 years of personal credit, according to Art. 80, Paragraph 3 of Law [n°388 of December 23, 2000](#).

Social cooperatives have specific features, their members can be:

- not more than 50% volunteers, who are only eligible for reimbursement of expenses, as well as Non-Profit Organizations, and for insurance covering against accidents at work and occupational diseases;
- natural or legal persons.
- professional advisers and counsellors, such as legal advisers, by way of derogation from Art. 10 of Law n. 1815/39.

Normal members must form the majority of members having the right to vote.

Social cooperatives, as well as Non-Profit Organizations, have tax relief on inheritance and gift

tax, etc. Operating profits are tax free, but members cannot share them, since they must be saved or reinvested.

Note that public societies can collaborate with social cooperatives, by way of derogation from the legislation on Public Administration, provided that they comply EU Directives on Public Procurement (*Art. 5*) and that they do not concern the social care, health and education sectors.

Companies can partially comply with the obligatory employment percentage established by Law 68/99 by stipulating conventions for the provision of services to Social Cooperative, type B, according to Art. 14 of Legislative Decree 276/2003.

Social Cooperatives, as well as Non-Profit Organizations, who comply with the legislative standards and requirements qualify to be legally considered Non-Profit Institutions.

Here it is an Italian example of [Statute of Social Cooperative type b\)](#) which includes many possible options, as well as an [initiative](#) (encompassing either a social cooperative type b) and a social cooperative type a)), which was presented during the Prader Willi Regional Meeting of the Emilia Romagna Region on 17<sup>th</sup> September 2011.

## Special Employment Rights

**Target recruitment** is ruled by Art. 2 of [Law n. 68 of March 12, 1999](#).

“Target recruitment of disabled people involves technical equipment and support in order to assess fairly the work ability of people with a disability and include them at work considering their abilities. Target recruitment also involves support schemes, actions and making adjustments to the physical environment, equipment and employees’ behaviour in order to improve the inclusion of disabled people in the workplace.”

It is unlawful for the employer to give a task to a disabled worker which he/she cannot carry out because of his/her disability. (*Law n. 68/99, Art. 10, Paragraph 2*)

Art. 1 of the same Law lists categories of disabled people who are eligible for **obligatory recruitment**:

- disabled people with mental and/or physical impairment, or sensory deprivation which causes over 45% work inability certified by a Medical Commission;
- disabled people with over 33% work inability certified by the INAIL (the Italian Workers’ Compensation Authority);
- blind and deaf-and-dumb people;
- people with a disability due to war injury and invalid civilians.

Disabled people listed above are eligible for obligatory employment by Art. 3 of the same Law. Public and private employers have an obligation to employ disabled people according to the following percentages:

- 50 employees: 7% disabled employees;
- between 36 and 50 employees: 2 disabled employees;
- between 15 and 35 employees: 1 disabled employee.

**Notice:**

Law n. 68/99, Art. 4 on the criteria for calculating the obligatory employment percentages; Art. 7-10 of the same Law on starting up work schemes for disabled employees, and Art. 11-13 on financial benefits for employers recruiting disabled people.

As previously stated above, companies can partially comply with the obligatory employment percentage established by Law 68/99 by stipulating conventions for the provision of services to Social Cooperative, type B, according to Art. 14 of Legislative Decree 276/2003.

Unlike public institutions, private companies having more than one factory/office in Italy can comply with the obligatory employment percentage by employing disabled people only in one of their factories/offices ([art. 5 Law n. 68/99](#) complying with Art. 9 of Legislative Decree n. 138/2011).

Disabled employees may be eligible for the **Attendance Allowance**, even if they are aged over 65 ([Law n. 508 of November 2, 1988](#)).



## Links and Useful Documents

Ministry of Works website:

[Ministero del Lavoro](#)

[Home](#)

[Back to Top](#)

## WORKERS' RIGHTS

Disabled workers and their families share the same employment rights as other workers. However, there are some special rights for disabled workers, they may concern:

- [Paid Leave](#)
- [Other Paid Leaves](#)
- [Night Work](#)
- [Occupational Pension Rights for Disabled Workers](#)
- [Place of Employment](#)
- [Links and Useful Documents](#)

### General Considerations

#### Telematic Application

People employed in the private sector and any worker, including civil servants (INPS Circular n. 114/2008), who receives financial assistance from the INPS (e.g. paid maternity leave, paid parental leave, daily leave, other paid leaves established by Law 104/92), must submit applications only by electronic data transmission as established by INPS Circular n. 171 of December 30, 2011.

Law [n. 104 of February 5, 1992](#) (*Framework law on disability*) Art. 33.

Law [n. 53 of March 8, 2000](#) (*Provisions on maternity support*) Art. 20.

Legislative Decree [n. 151 of March 26, 2001](#)  
(*Consolidated law on maternity support and protection*)  
Art. 42.

[Law n. 183 of November 4, 2010](#) (*Further provisions on work...*) Art. 24.

[INPS Circular n. 41 of March 16, 2009](#)

[INPS Circular n. 155 of December 3, 2010](#)

[INPS Circular n. 45 of March 1, 2011](#) (*Including provisions for INPS employees*)

[INPS Circular n. 171 of December 30, 2011](#)

[Legislative Decree n. 119 of July 18, 2011](#) (*Delegation to the Government for the reassessment of the legislation concerning paid leaves*)

[INPS Circular n. 32 of March 6, 2012](#) and its related Circular n. 1 of February 3, 2012 by the Dipartimento della Funzione Pubblica\*

[INPS Circular n. 159 of November 15, 2013](#) (*Extension of the right to paid leave, as established by Art. 42 point 5 of Legislative Decree n. 151 of 26 March, 2001, for a relative up to the third degree of relationship or a legal tutor living with a person with severe disability*).

### **Paid Leave**

The enforcement of Law n. 183 of November 4, 2010 introduced new provisions on permit by Art. 24, which modified Art. 33 of Law 104/92. These new provisions, which are specifically referred to in the next paragraphs, mainly concern the following topics:

- Reduction of persons who are eligible for a paid leave.

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\* The Dipartimento della Funzione Pubblica is an administrative department in the Italian public administration.

- Abrogation of paid leaves which are provided to parent workers alternatively, since only one parent can claim for a paid leave, apart from parents of children with severe disability.
- Abrogation of the eligibility criteria of cohabitation, continuity and assistance.
- The carers' right to choose the nearest place of employment to the home of their person in need of care.
- Abrogation of benefits in case of not eligibility according to the criteria established by the new legislation.
- Creation of a benefits database by the Dipartimento della Funzione Pubblica\*.

As previously explained (see General Considerations), since 1<sup>st</sup> April 2012 applications for paid leaves and leaves of absence must only be submitted to the INPS by electronic data transmission (e.g. online, by the CAF\*\*, or by calling the Helpline 803 164).

## **A) Parents, Relatives and Tutors**

### **- 2 hours daily leave:**

For working parents, either mother or father alternatively, of children up to three years old with a severe disability certified by an ASL Medical Commission, provided that disabled children do not live in care home or institutes (unless parental assistance

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\* The Dipartimento della Funzione Pubblica is an administrative department in the Italian public administration.

\*\*CAF is the acronym for Centro di Assistenza Fiscale, a kind of Italian service centres providing tax and accountancy advisory.

has been required by the medical staff, according to Art. 3, Paragraph 1)a, and Art. 4, Paragraph 1)b of Legislative Decree 119/2011).

A daily leave is paid at 100% of a normal wage and become an alternative to the Additional Parental Leave or to further leave described below.

*(Law n. 104/92, Art. 33, Paragraph 2; Law n. 53/00, Art. 20; Legislative Decree 151/01, Art. 42; Law n. 183/10, Art. 24)*

**- 3 days monthly leave:**

For parents, and spouse with disabled people who do not live in care home or institutes (unless parental assistance has been required by the medical staff, according to Art. 3, Paragraph 1)a, and Art. 4, paragraph 1)b of Legislative Decree 119/2011), and are certified with severe disability, AND for relatives up to the second degree of relationship in case of people with certified severe disability whose parents or spouse are absent, either dead or divorced, elderly (over 65 year old) or affected by progressive conditions.

*(Art. 6 of Legislative Decree 119/2011 modifying Paragraph 3 of Art. 33 of Law 109/92).*

Parents and adoptive parents can claim for a monthly leave alternatively, while only one, the so-called *Referente Unico*, among other eligible relatives and tutors can claim for a monthly leave.

The criteria of permanency and exclusiveness for carers has been abrogated by Law n. 183/10.

A monthly leave must be taken in the month of reference for three days, either consecutive or not.

A 3 day monthly leave can be paid to one parent even if the other one is not eligible for it.

Parents of children under three years old are also entitled to take a 3 day monthly leave, which can be extended to disabled children aged over 18.

*(Law n. 104/92, Art. 33, Paragraph 3; Law n. 183/10, Art. 24)*

### **Paternal daily leave for fathers married to a housewife**

*(Legislative Decree n. 151/01, Art. 40)*

### **B) Disabled Claimants**

Disabled workers can claim a monthly leave for three days.

*(Law n. 104/02, Art. 33, Paragraph c.6;  
Legislative Decree n. 151/01, Art. 42)*

In this case, if the disabled claimant receives care from a relative, they must take their monthly leave at the same time *(INPS Circular n. 128 of July 11, 2003)*.

Monthly and daily leaves are paid 100% of a normal wage by Law n. 102 of August 3, 2009 and by art 17, Paragraph 23 of the Decree contrasting crisis, which abrogated some limits previously imposed by Art. 71, Paragraph 5 of Law n. 133/08, also known as “Legge Brunetta” *(The Brunetta Act)*.

### **Other Paid Leaves**

#### **- Long-term Parental Leave:**

Parents of children up to 8 years old have the right to apply, alternatively, for a parental leave for 10 or 11 months according to different cases.

*(Legislative Decree n. 151/01, Art. 32)*

Long-term parental leave may be taken for longer periods, up to 3 years.*(Law n. 104/92, Art. 4, Paragraph 1; Law n. 151/01, Art. 33, Paragraph 1)*, for parents of children with severe disability certified by ASL Medical Commission who do not live in care home or special institutes (unless parental assistance has been required by the medical staff).

A 3 year parental leave includes the period of the standard parental leave

*(Art. 3 of Legislative Decree 119/2011, INPS Circular n. 32/212 and Circular of the Dipartimento Funzione Pubblica n. 1/2012)*

A long-term parental leave is paid 30% of the standard wage.

*(Legislative Decree n. 151/01, Art. 34, Paragraphs 1-3)*

As previously explained (see General Considerations), since 1<sup>st</sup> October 2011 applications for parental leaves must only be submitted to the INPS by electronic data transmission (e.g. online, by the CAF\*\*, or by calling the Helpline 803 164).

## **- 2 Year Parental Leave:**

Parents of a disabled child with a certified severe disability who does not live in care home or special institutes (unless parental assistance has been required by the medical staff), can get a 2 year parental leave

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\*\* CAF is the acronym for “Centro di Assistenza Fiscale”, a kind of Italian service centres providing tax and accountancy advisory.

immediately, thanks to Art. 3, Paragraph 106 of the Finance Act 2004 n. 350 of December 24, 2003 which modified Art. 43, Paragraph 5 of Legislative Decree n. 151 of March 26, 2001.

Any parental leave will not be considered in calculations of vacation pay, Christmas bonus, and severance pay.

Priority for a parental leave up to 2 years is given first to the spouse of the disabled person, then, if the spouse is absent or dead, to one parent, including adoptive parents, eventually to one son or daughter, and finally to one brother or sister, living with a disabled person whose parents are dead.

*(Art. 4 of Legislative Decree 119/2011 which abrogated Paragraph 5 of Art. 42 of Legislative Decree 151/2001)*

Relatives who take a parental leave must both live with the disabled person and take up residence in their same house.

Following the Supreme Court judgment n. 19 of January 26, 2009, the INPS issued [Circular n. 41 of March 6, 2009](#), and subsequently [Circular n. 32 of March 6, 2012](#) specifying persons entitled to take a 2 year parental leave, who are listed in priority order.

Following the Supreme Court judgment n. 203 of July 18, 2013, the INPS, with [Circular n. 159 of November 15, 2013](#), established that a relative up to the third degree of relationship or tutor living with the disabled person can be eligible for a 2 year parental leave in case of absence, death or disabling disease of the person who is primarily entitled to the leave.



As previously explained (see General Considerations), since 1<sup>st</sup> January 2012 applications for parental leaves must only be submitted to the INPS by electronic data transmission (e.g. online, by the CAF\*\*, or by calling the Helpline 803 164).

Parental Leave and its extension are also due in case of custody and adoption, either national or international.

*(Legislative Decree n. 151/01, Art. 36-37, and 45).*

Notice that any working parents are entitled to take a 2 year parental leave because of compelling grounds; this type of parental leave is not paid and not included in the calculation of occupational pension rights, although it can be repaid and therefore considered in the calculation related to pension rights.

*(Law n. 53/00, Art. 4, Paragraph 2).*

*Dr Matteo Naldi explained the system of parental leaves and other paid leaves on 14<sup>th</sup> June 2008, during a meeting belonging to the seminar “Gli Incontri del Sabato” organized by the Associazione Crescere. An updated and enhanced version of his presentation is free downloadable clicking on the following link:*

[Il Sistema dei Permessi e dei Congedi](#)

*(Parental leaves and other paid leaves)*

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\*\* CAF is the acronym for “Centro di Assistenza Fiscale”, a kind of Italian service centres providing tax and accountancy advisory.

## Night Work

Employees who officially care for a person with a disability recognized by Law n. 104/92 are entitled to refuse night work.

*(Legislative Decree n. 151/01, Art. 53;  
Resolution of the Ministry of Works n. 4 of February 6,  
2009)*

## Occupational Pension Rights for Disabled Workers

As regards social security contributions, both deaf-and-dumb employees, as established by Law 381/70, and employees with a certified disability over 74% are entitled to claim a 2 month personal credit in every working year they have done since January 2002. These credits will be included in the calculation of their occupational pension benefits up to a maximum personal credit corresponding to 5 years of social security contribution, according to Art. 80, Paragraph 3 of the Finance Act 2001, [n°388 of December 23, 2000](#). Thus, disabled employees can add up to five years of social security contribution in the calculation of their pension benefits.

## Place of Employment

Law [n. 104 of February 5, 1992](#) (*Framework law on disability*), Art. 21 and 33.

Law [n. 183 of November 4, 2010](#) (*Further provisions on work...*) Art. 24.

## A) Parents, Relatives and Tutors

Parents, including adoptive parents, relatives and tutors who are entitled to take a monthly paid parental leave by Art. 33, Paragraph c.3 of Law n. 104/22, are also entitled to get the nearest place of employment to the home of their disabled child or person with a severe disability in need of care, by Art. 24 of Law n. 183/10. They cannot be moved from this place of employment without their consent.

*(Law n. 104/92, Art. 33, Paragraph 5; Law n. 183/10, Art. 24)*

## **B) Disabled Claimant**

Disabled Claimants employed either in the public or private sector are entitled to the same rights which have been described in the preceding paragraph.

*(Law n. 104/92, Art. 33, Paragraph 6)*

Furthermore, by **Art. 21 of Law n. 104/92**:

“Employees engaged in the public sector with a 2/3 disability or with a disability listed in the first category of Table A annexed to Law n. 648/50 are entitled to choose their place of employment among possible work locations and cannot be moved from it without their consent.

They also are entitled to submit a priority application for job transfer”.

## Links and Useful Documents

INPS website: [INPS - Information](#)

[Home](#)

[Back to Top](#)

## MOBILITY TOURISM SPORT

- [Physical Barriers](#)
- [The Mobility Parking Badge](#)
- [Dedicated Parking](#)
- [Air Travel](#)
- [Sea Transport](#)
- [Tourism](#)
- [Sport](#)

### Physical Barriers

**Judgment of the Constitutional Court n. 167/99.:**

“Disabled people are entitled to a right of mobility”.

**Law [n. 118 of March 30, 1971](#) (*Provisions protecting invalid civilians*), Art. 27, last Paragraph:** “Invalid Civilians with mobility impairments have priority in the application for social and government supported private housing which are on the ground floor.”

**Law [n. 13 of January 5, 1989](#) (*On physical barriers in private housing*):** “Provisions enhancing the removal of physical barriers in private buildings”. Public funds are provided by the Regional Public Work Department, once that the Comune (the local authority) has requested them according to the application of a citizen.

**Law [n. 220 of December 11, 2012](#) (*Amendments to Condominium regulations*)**

Art. 27 of Law 220/2012, which is in force since 17<sup>th</sup> June 2013, has modified Art. 2 of Law 13/89, establishing that

the approval by 1/3 of the shares corresponding to the total value of the building and by the majority of the people present to the condominium meeting in its second convocation is not enough in order to approve building renovations concerning physical barriers of apartment blocks.

Art. 5 of Law 220/2012 has modified Art. 1120 of the Civil Code regarding the regulation of renovations in condominium buildings, establishing that it is always required the majority of the shares corresponding to the total value of the building and the majority of people present to the condominium meeting in order to approve provisions concerning physical barriers.

However, state grants for building renovations are still provided by the Assessorato ai Lavori pubblici of the Region, on demand by the Comune which receives an application from involved people.

**Law [n. 104, February 5, 1992](#)** (*Framework law on disability*), **Art. 23**: “Removal of physical barriers for sport, tourist and leisure activities”; **Art. 24**: “Removing or overcoming physical barriers”.

**Decree of the President of the Republic [n. 503 of July 24, 1996](#)** (*Regulation concerning provisions for the removal of physical barriers in public buildings, space and services*).

### **The Mobility Parking Badge\***

**Law [n. 104 of February 5, 1992](#)** (*Framework law on disability*), **Art. 28**

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\* The Mobility Parking Badge is the Italian equivalent to the Blue Badge.

**Decree Law [n. 5 of February 9, 2012](#)** (*Urgent provisions on development and simplification*), **Art. 4**

**Decree of the President of the Republic [n. 151 of July 30, 2012](#)** (*Implementation rules of the New Highway Code concerning facilities, badges, signs and markings to facilitate the mobility of disabled and impaired people*)

Vehicles for the transport of disabled people have access to traffic free zones and dedicated parking places by Art. 381 of the Decree of the President of the Republic 495/92 and its amendments.

Disabled people are entitled to this right, as well as **people with reduction of mobility and blind people.** (*Decree of the President of the Republic [n. 503 of July 24, 1996](#), Art. 12, Paragraph 3*)

“Mobility Parking Badges” have a 5 year period of validity and can be renewed, they are issued by the Comune (the local authority), in which disabled people are residents.

Application for an Orange Badge must be submitted to the Mayor and should annex a certificate written by the Medical Commission in charge of the procedure INVICI2010, which is the same certification required to apply for tax benefits related to vehicles.

The badge design is customised and it should be displayed where it can be clearly read through the windscreen of your vehicle.

The front of the badge should face upwards, showing the wheelchair symbol.

The Mobility Parking badge will be enforced since 15<sup>th</sup> September 2012, it complies with the badge features

established by the European Council Recommendation n. 98/376/EC of 4<sup>th</sup> June 1998 on a parking card for people with disabilities.

The old “Orange Badge” will be still effective up to three years from the implementation of the new mobility parking badge (Art. 3 of the Decree of the President of the Republic [n. 151 of July 30, 2012](#)).

According to Section 74 of **Legislative Decree [n. 196 of June 30, 2003](#)** (*Personal Data Protection Code*), the badge shall not display sensitive data, however personal data of the badge holder can be checked in case of inspection.

### **Dedicated Parking**

According to the Highway Code, the Mayor can issue a public notice in order to assign a free parking place to an Orange Badge holder.

This parking place should be identified by a parking sign which displays the identification code of the Orange Badge holder who is entitled to use it.

### **Air Travel**

[Regulation EC N. 1107/2006 of July 5, 2006](#) (*On the rights of disabled persons and persons with reduced mobility when travelling by air*):

(1) “Disabled persons and persons with reduced mobility have the same right as all other citizens to free movement, freedom of choice and non-discrimination. This applies to air travel as to other areas of life.”



(4) “In order to give disabled persons and persons with reduced mobility opportunities for air travel comparable to those of other citizens, assistance to meet their particular needs should be provided at the airport as well as on board aircraft, by employing the necessary staff and equipment. In the interests of social inclusion, the persons concerned should receive this assistance without additional charge.”

(8) “...A charge levied on each air carrier using an airport, proportionate to the number of passengers it carries to or from the airport, appears to be the most effective way of funding.”

### **Sea Transport**

Legislative Decree [n. 52 of March 8, 2005](#)

*(Implementation of Directive 2003/24/EC of the European Parliament and of the Council on safety rules and standards for passenger ships):*

“The ships should be constructed and equipped in such a way that a person with reduced mobility can embark and disembark easily and safely...”

See Annex III of the same Legislative Decree, applying the guidelines for safety requirements for persons with reduced mobility, including access to ships, signs, means to communicate messages, alarms, and additional requirements ensuring mobility inside the ship such as handrails, corridors, passageways, and elevators.

## Tourism

**Legislative Decree [n. 79 of May 23, 2011](#)** (*Tourism Code*)

Laws concerning disabled people are included in Art. 3 and Art. 36 of the Annexes.

Please notice that **Art. 3** has been declared unconstitutional by judgment n. 80 of April 2, 2012, as its content is under the jurisdiction of the Region.

Art. 3 established as follows:

- By enforcing the UNO Convention of 2006 (Law [n. 18 of March 3, 2009](#)), the State guarantees that disabled people can use services offered by the tourist industry without paying more than other people who use the same services. (*Art. 3, Point 1*);
- Impeding the use of tourism services and accommodation is considered a form of discriminatory action (Law [n. 67 of March 1, 2006](#)), according to Art. 3, Point 3;
- According to Art. 36, *Letter h*, package holiday agreements must specify whether tourism accommodation is equipped for disabled people.

## Sport

**Law [n. 189 of July 15, 2003](#)** (*Provisions for disabled people in order to become involved in sport activities*)

**Law [n. 376 of November 16, 2000](#)** (*Code ruling health and anti-doping in sports*)

**Ministerial Decree of [July 26, 2011](#)** (*Published on n. 208 of the Italian Official Gazette as "Revision of*

*Medicinal Products and Substances considered Doping Substances by Law 376/2000)*

Notice that many medicines may contain drug substances and they must therefore be prescribed by a doctor (Art. 1.4 of Law n. 376/00).

Prohibited substances are, for example, the following: diuretics, hormones, substances acting on the hormonal system, corticosteroids, and beta-blockers.

*As regards this topic, an overview of the presentation slides shown by Dr Gianni Russo of IRCCS (The Scientific Institute for Research, Hospitalization and Health Care San Raffaele in Milan), during the meeting organized by ArfSAG at the Policlinic S. Orsola-Malpighi in Bologna on 5<sup>th</sup> December 2009, is available for free download on the following link:*

[\*La terapia ... e lo sport anche agonistico\*](#)

*(Therapy...and sport, even athletic)*

[Home](#)

[Back to Top](#)

## FURTHER LEGAL CLAIMS and OTHER BENEFITS

- [Right to Vote](#)
- [Children Fund](#)
- [Telephone Expenses](#)
- [Information Technology](#)

### Right to Vote

**Art. 48 of the Italian Constitution:** “All citizens, male and female, who have come of age, are voters”.

**Law [n. 104 of February 5, 1992](#)** (*Framework law on disability*) Art. 29.

**Law [n. 17 of February 5, 2003](#)** (*Dispositions on how to exercise the right to vote...*).

**Law [n. 46 of May 7, 2009](#)** (*Voting rights at home*).

Blind or physically impaired people could be helped in accessing polling stations only by a voter registered at the same polling station. Under Law n. 17 of February 5, 2003, any registered voter can provide aids and help disabled people to access the service.

Every person who cannot reach a polling station can apply for voting at home, by Law n. 46 of May 7, 2009.

### Children Fund

Parents of children who are born or have been adopted **between 2012 and 2014** can apply for a € 5000 loan to be repaid in five years with a subsidised

interest rate

[\(Law n. 147 December 27, 2013, Art. 1 Paragraph 201\)](#)

For more detailed information see the Government's [web site](#).

## Telephone Expenses

[AGCOM \(The Communication Regulatory Authority\):](#)

Deliberation [n. 314/00 of June 1, 2000/CONS](#)

Deliberation [n. 514/07 of October 3, 2007/CONS](#)

A 50% discharge of the monthly telephone expenses can be requested by family with at least one member belonging to one of the following categories: invalid civilians, people who receive a social pension, people over 75 years old, unemployed heads of family. Since 2004, only people with an income up to € 6713.93 according to the ISEE (Revenue Bureau's Evaluation of Financial Situation) are entitled to receive this kind of discharge.

The application should be submitted every year.

Deaf-and dumb people are entitled to a 100% discharge of the telephone expenses.

## Information Technology

**Law [n. 4 of January 9, 2004](#)** (*Provisions to support the access to information technologies for the disabled*), and **Decree of the President of the Republic [n. 75 of March 1, 2005](#)**<sup>□</sup>

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<sup>□</sup> An English translation of the Italian legislation on Accessibility is available for free download on the following link: [PubbliAccesso - Documents in English](#)

**Ministerial Decree [n. 239 of November 14, 2007](#)**

*(Regulation issued by the Ministry of Culture implementing Art. 71a of Law n. 633/41 on copyright)*

Law n. 4 of January 9, 2004, also known as “Legge Stanca” (*The Stanca Act*), aims at improving access to information technologies of public services for disabled people, according to equality principles set by Art. 3 of the Italian Constitution.

Notice Art. 5 “The provisions of the present law also apply to the educational and didactic materials used in all schools and at every level”, and Art. 4.4 “Public and private employers must provide disabled employees with hardware equipment, software tools and assistive technologies which are suitable for their needs and enable them to carry out their duties; this also applies in the event of teleworking. Private employers are subject to the provision as referred to in article 13, subsection 1, letter c) of the law n. 68 dated March 12, 1999”. (See **Law [n. 68 of March 12, 1999](#)** )

Ministerial Decree n. 239 of November 14, 2007 states that “People with sensory deprivation certified according to Law n. 104 of February 5, 1992 are entitled to copy and use materials protected by copyright”. Copy and use of copyright materials is allowed with the previous authorisation of a Supervisory Body.

It should be recalled that the Ministry of Education issued an invitation to tender (ITT) within the project **[Nuove Tecnologie e Disabilità – Azione 6](#)** (*New Technology and Disability – Action 6*) to schools and education providers who are interested in developing research project for technology and didactic innovation

in order to improve the school inclusion of disabled pupils.

The research projects approved in June 2008, which include the participation of many Italian schools from North to South Italy, led to the development of programmes and software for disabled pupils. 25 hardware and software products about many different subjects, from Mathematics to ancient Greek, are currently free downloadable.

The following link to the Ministry of Education, University and Research website provides information to the project and access to the free downloadable products:

[Applicativi per la Scuola elaborati dalle Scuole, da Alessandria a Barletta, in favore di situazioni di disabilità](#)

*(School Applications for disabled pupils projected by Italian schools)*

[Home](#)

[Back to Top](#)

## LEGAL PROTECTION

- [Welfare Services](#)
- [Attorney](#)
- [The Italian Data Protection Authority](#)
- [The Ombudsman](#)
- [Ombudsman for Childhood and Adolescence](#)
- [Legal Protection against Discrimination](#)



## Welfare Services

**Law [n. 104 of February 5, 1992](#)** (*Framework law on disability*), **Art. 40**, paragraph 1: the Comuni (the local authorities) must provide welfare services for the inclusion of disabled people: “personal care service” for people who lack autonomy, home care service, aids for cultural, sport and leisure activities which are listed under Art. 13.

**Law [n. 162 of May 21, 1998](#)** (*Changes in Law n. 104/92, concerning care and assistance for people with severe disability*).

**Law [n. 328 of November 8, 2000](#)** (*Integrated system of aids and welfare services*): “Framework Law for the creation of an integrated system of aids and welfare services”.

Examples concerning aids and welfare services provided by the Policlinic S. Orsola - Malpighi in Bologna are available on the following link:

[Il servizio sociale ospedaliero](#)

*(Welfare services in hospital)*

*The following link is to a PDF version of the “**Guida ai Servizi Sociali**” (Guide to Welfare Services), created by the National Centre for Rare Disease under the direction of Dr Domenica Taruscio in collaboration with Federazione Prader Willi and presented during the seminar “Incontri di Parent Training nella sindrome di Prader Willi” (Prader-Willi Syndrome Parent Training), organized by I.S.S. between September 2008 and February 2009.*

*The Guide is available for free download:*

[\*\*Guida ai Servizi Sociali\*\*](#)

*(Guide to welfare services)*

## **Attorney**

**Law [n. 6 of January 9, 2004](#) (Attorney)**

This Law amended Title XII and Articles 388, 414, 417, 418, 424, 426, 427, 429 of the Italian Civil Code.

Main changes in legislation concern:

- The Title XII “On Mental Impairment and Legal Decision Depriving” was modified in “Provisions for the Protection of People who partially or totally lack Autonomy”.
- This Law aims at “protecting people who lack mental capacity to make their own decisions and carry out normal day-to-day activities, by means of temporary or permanent support”, it should therefore limit the use of legal decision depriving.
- Under Art. 404 and following, an attorney is assigned by decree of the judge supervising a guardianship

selected in the residence of the disabled person.

An attorney makes important decisions for people who are not able to make their own decisions because of mental or physical impairment, either permanent or temporary.

- An attorney has the power to make any decisions according to the conditions and restrictions set by the judge.
- “An attorney has an obligation to report regularly on the life and social conditions of his/her donor to the judge “.
- An attorney is not paid, except for the reimbursement of the approved expenses.
- Testamentary dispositions in favour of an attorney are unlawful, except those concerning a relative up to the fourth degree of relationship, the spouse or civil partner.

*Lawyer Maria Teresa Bettelli and lawyer Annalisa Caligiuri held a presentation on the role and power of attorneys on 6<sup>th</sup> June 2009, during one of the meetings of the seminar “Gli Incontri del Sabato”, organized by the Associazione Crescere.*

*Their presentation is free to download on the following link:*

[L'Amministratore di Sostegno](#)

*(Attorney)*

## The Italian Data Protection Authority\*

Legislative Decree [n. 196 of June 30, 2003](#) (*Personal Data Protection Code*), **Section 153 and following**.

The Italian data protection authority's tasks are set forth in the law (the Data Protection Code 196/2003, which superseded the Data Protection Act 675/1996).

The Italian data protection authority (*Garante per la protezione dei dati personali*) is an independent authority set up to protect fundamental rights and freedoms in connection with the processing of personal data, and to ensure respect for individuals' dignity. Special importance should be attached to the provisions made in respect of health care, employment, banking, insurance, journalism, telecommunications, video surveillance, marketing, and public administrative agencies.

The description above is taken from [the data protection authority's website](#), where you can find the Italian legislation on data protection, general information, information on procedures, and press releases.

You can also find references to the Data Protection Code in the following chapters of this Guide:

- *On health rights, Section [7-13](#) on rights concerning personal data, Section [22-26](#) on sensitive data, Section [74-96](#) on exercising rights in specific sectors: Section 74 on car permits and access to town centres, Section 75-94 on health care sector, and Section 95-96 on education.*

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\* See the [English section of the data protection authority's website](#).

## The Ombudsman

**Law [n. 127 of May 1, 1997](#)** (*Simplification of administrative and control procedures*), Art. 16 (*Ombudsmen of Autonomous Provinces and Regions*)

**Legislative Decree [n. 267 of August 18, 2000](#)** (*Consolidated Law on Local Authorities*), Art. 11 (*Local Government Ombudsman and Provincial Ombudsman*), Art. 136 (*Commissario ad acta*\*)

**Law [n. 42 of March 26, 2010](#) - Decree Law [n. 2 of February 25, 2010](#)** (*Urgent provisions for Regions and local authorities*), Art. 1.

The Ombudsman is in charge of ensuring impartiality and efficiency of public administration, reporting abuses, shortcomings, and delays in administration to the detriment of citizens.

The Regional Ombudsman has the power to replace local authorities which fail to enforce mandatory acts with a Commissario ad acta (art. 136 of Legislative Decree 267/2000)

Further specific ombudsman's tasks are established by the following legislation:

- Art. 25 of Law [241/90](#): on access to public records, relating to the administration by either local, provincial or regional authorities;
- Law [104/92](#): on ensuring assistance, inclusion, civil and legal rights for disabled people. Pursuant to art. 36 of this Law, the ombudsman can decide to bring a

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\* The *commissario ad acta* is a special commissioner established by the Italian Administrative Procedure Code.

civil action to trials for crimes set forth in art. 527 of the Italian Penal Code, Title XII and XIII of Book 2 of the Italian Penal Code, and Law n. 75 of February 20,1958.

As local government ombudsmen have been abolished by Art. 2 paragraph 186 of Law 191/09 and art. 1 of Decree Law 2/10, they will remain in office until the end of their term of office.

On the other hand, it is established by agreement that the provincial ombudsman can also cover the tasks formerly carried out by the local government, thus having an extended territorial scope.

Legislation and tasks of local government ombudsmen before their abolition are explained in the [2009 Report of the Local Government Ombudsman of Bologna](#), who will remain in office until 2014.

General information on Ombudsmen's tasks and authority are available on the website concerning [The European Network of Ombudsmen](#) (versions in every European language)

### **Ombudsman for Childhood and Adolescence**

**Law [n. 112 of July 12, 2011](#)** (*Establishment of the Authority Ombudsman for Childhood and Adolescence*)

**Law [n. 176 of May 27, 1991](#)** (*Implementation of the Convention on the Rights of the Child, New York 1989*)\_

**Law [n. 46 of March 11, 2002](#)** (*Implementation of Additional Provisions set up during the Convention on the Rights of the Child, New York, 2000*)

**Law [n. 77 of March 20, 2003](#)** (*Implementation of the European Convention on the Rights of the Child, Strasbourg, 1996*)

Law 112/2011 set up an **Ombudsman for Childhood and Adolescence**. This kind of national Authority, who already provides services in many countries (see for instance the website of [ENOC](#), The European Network of Ombudspersons for Children), joins the action of other administrative and judicial institutes charged with the protection and promotion of children and under 18 persons.

The Ombudsman for Childhood and Adolescence is charged with the protection of the rights of under 18 persons, as established by both the national legislation and international conventions listed above.

Please, notice especially Art. 3 Paragraph e) of Law 112/2011 on health rights, establishing that the Ombudsman must assure fair opportunity in accessing medical treatment and exercising children's rights to health. Moreover, it established that fair opportunities in education must be granted to under 18 persons undergoing medical treatment and hospitalization.

The Ombudsman also promotes information on children's rights and under 18 persons (Art. 3 Paragraph m) of Law 112/2011)

Following Law 112/2011, some Italian Regions established their own Ombudsman for Childhood. Here are listed some of these Regions, including a link to their website (last update in March 2012)

- [Calabria; Emilia Romagna; Friuli Venezia Giulia, Lazio; Liguria; Marche; Toscana; Veneto; Provincia autonoma di Bolzano.](#)

The Ombudsman for Childhood and Adolescence of Region Emilia Romagna issued an [\*In-depth Article\*](#) (Italian language) introducing the role of his Authority and the legislation on children's rights and protection of under 18 persons with direct link to the original legal texts.

### **Legal Protection against Discrimination**

**Law [n. 67 of March 1, 2006](#)** (*Provisions on legal protection from disability discrimination*)

**Legislative Decree [n. 216 of July 9, 2003](#)**  
(*Implementation of Council Directive 2000/78/CE establishing a general framework for equal treatment in employment and occupation*)

**Legislative Decree [n. 150 of September 1, 2011](#)**  
(*Supplementary provisions to the Code of Civil Procedure*), **Art. 28.**

The Law n.67/2006, which consists of four articles, provides clear and direct provisions on legal protection from direct disability discrimination and harassment, since it is unlawful for service providers to treat disabled people less favourably because they are disabled. Under this Law, disabled people can be represented in court by accredited associations, who are entitled to take "class action" on behalf of their members.



See also provisions against discrimination at work in Legislative Decree n. 216 of July 9, 2003, implementing the Council Directive 2000/78/CE, which are both still in force.

Litigation concerning discrimination are judged in interlocutory proceedings, according to the procedure established by Art. 28 of Legislative Decree n. 150 of September 1, 2011.

[Home](#)

[Back to Top](#)

## TAX RELIEF AND BENEFITS

- [Tax Credits and Deductions](#)
- [Vehicles and Transport](#)
- [VAT](#)
- [IMU \(former ICI\)\\*](#)
- [Links and Useful Documents](#)

### Tax Credit and Tax Deduction

Notice the following distinction:

- a tax credit is a part of expenses expressed in percentage (19%) which is deduced from the gross tax;
- tax deduction consists of expenses which can be deducted from the gross income.

#### Tax Credits:

- People with dependent children get € 950 for children over three, and € 1220 for children under three years old.

Tax credits increase € 400 for dependent children with a disability.

A tax credit may vary according to the personal income and it becomes null for a personal income over € 95000;

- A 50% tax credit is due for expenses incurred, between 26<sup>st</sup> June 2012 and 31<sup>th</sup> December 2014, to remove physical barriers ;

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\* ICI is the municipal tax on immovable property which is applied in Italy.

- Since 1<sup>st</sup> January 2007, carers with a personal income up to € 40000 can get 19% tax credits for their expenses up to € 2100;
- Tax credits for vehicles: see the paragraph “Vehicles and Transport”;
- 19% tax credit for health costs such as medical tests, surgical procedures, and specialists examinations, it is deducted from the personal income tax basis if expenses are over € 129.11; every taxpayer is eligible for this tax credit, which is independent from personal circumstances such as disability or impairment;
- 19% tax credit for the following expenses:
  - 1) Ambulance transport for disabled people, while medical treatment in ambulance are considered health costs and therefore deductible over € 129.11;
  - 2) Costs of wheelchairs and fabric supports such as spinal supports;
  - 3) Costs of artificial limbs;
  - 4) Costs of ramps in order to remove physical barriers outside or inside houses; people who get this tax credit are not eligible for 50% tax credit under Art. 1 of Law n. 449/97;
  - 5) Costs of adapting lifts in order to allow access to wheelchairs;
  - 6) Costs of information technologies and equipment such as touch screens, fax, computers, and hands-free telephone sets designed to improve the inclusion of disabled people and certified as listed by Art. 3 of Law n. 104/92.

Moreover, there is a 19% tax credit on transport costs for disabled people certified according to Art. 3 of Law n. 104/92.

- Since 2002, there has been a 19% tax credit on expenses paid by deaf-and-dumb people certified as established by Law n. 381 of May 26, 1970, for interpreting services, provided that they can show the official receipt documenting the provision of that service in case of tax inspection.

- Expenses of guide dogs for blind people. In this case, there is a 19% tax credit on the personal income tax for expenses of one guide dog up to € 18075.99. This tax credit also applies to the expenses for vehicles used to transport blind people and it can be applied only once every four years, except in case of loss of the dog.

Moreover, € 516.46 is paid as reimbursement of maintenance costs of a guide dog.

Relatives who are dependant from a disabled person are also eligible for a 19% tax credits on the expenses listed above.

### **Tax deductions:**

- Medical costs related either to general practices and specialist practices paid by a disabled person or by his/her family (e.g. care and rehabilitation costs) in case of permanent disability;
- Medical costs paid by disabled people hospitalized in care home and which have been certified by the centre;
- Expenses for social workers, family carers, and personal assistants can be deducted up to € 1549.37.

## Vehicles and Transport

Disabled people with permanent mobility impairment listed by Art. 4 of Law n. 104/92, people with a mental disability who receive an Assistance Allowance by Art. 7, Paragraph 7 of the Finance Law 2001 n. 388/2000, amputated people and relatives who have them in care are entitled to financial benefits on the following categories of vehicles: cars up to 9 seats, goods/passengers cars, motor caravans, side cars, and special vehicles.

Notice that by Art. 30 of Law n. 388/2000 no adaptation to the vehicle is requested in order to get a tax deduction.

Since 2004, dependant people are people with a personal income up to € 2840.51; allowances, pensions and financial benefits provided to invalid civilians are not included in the taxable basis.

Vehicles which belong to companies or institutions do not qualify for financial benefits even if they are used for transporting disabled people.

Financial benefits regarding vehicles may include:

1. **Reduced VAT (4%)** 4% VAT can be applied on the purchase of either new or second-hand vehicles with engine displacement not exceeding 2000 c.c. for petrol-powered, and 2800 c.c. for diesel-powered. Reduced VAT can be applied **only once every four years**, except cases of de-registration from the PRA (*Italian Vehicle Register*), e.g. for end-of-life or stolen vehicles, within four years. (*Finance Ministry Circular n. 197/E of*

*July 31, 1998; Art. 8 of Law n. 449/97).*

Reduced VAT is also applied to costs of vehicle adaptation.

**2. Income Tax Allowances** A 19% tax credit for expenses of purchase or vehicle adaptation can be deducted entirely or divided into four annual rates of equal amount.

A 19% tax credit can be applied to purchase expenses up to € 18075.99, but any insurance reimbursement related to the vehicle must be deducted from this deductible amount.

A 19% tax credit can be also applied to extraordinary costs of vehicle adaptation and repair. (*Art. 11 of Law n. 212/2000; Art. 13a of the Income Tax Law\**)

**3. Vehicle Tax Exemption** One must submit the specific application to the Regional Tax Office in order to get an exemption from payment of the Vehicle Tax, which can be requested once at time for vehicles with engine displacement not exceeding 2000 c.c. for petrol-powered, and 2800 c.c. for diesel-powered.

**4. Registration Exemption** Exemptions from paying vehicle registration can be claimed for the transfer of property of newly purchased vehicles, either new or second-hand.

### **Reduced VAT (4%)**

- Purchase or adaptation of vehicles (*see indications in the preceding paragraph*).

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\* The Italian Income Tax Law is also known by the Italian acronym TUIR.

- Purchase of mobility aids and equipment.
- Purchase of information technologies and equipment in order to enhance the inclusion and autonomy of people with a physical impairment or communication difficulties (*Law n. 30/97*).
- Purchase of prostheses and supports which are specifically used by people with a permanent functional impairment.

### **IMU (former ICI)\* Tax Credits**

As regards the IMU (former ICI), tax credits for disabled people may vary according to the dispositions provided by each Comune (the local authority). Disabled people should therefore ask for information in the Comune where their house is located.

### **Links and Useful Documents**

**Agenzia delle Entrate website:**

**[Agenzia delle Entrate - Guide](#)**

*The following link is to the presentation of the text “**Infermità e Agevolazioni Fiscali**” (Disability and Tax Relief), shown by Dr Giulia Dolcetta on 27th March 2010, during a seminar organized by Associazione Crescere with the participation of ARAD, ANTR and*

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\*ICI is the municipal tax on immovable property which is applied in Italy.

*ArfSAG (Non-Profit Associations).*

*Her presentation is free downloadable:*

[\*Infermità e Agevolazioni Fiscali\*](#)

*(Disability and Tax Relief)*

[Home](#)

[Back to Top](#)



## EXEMPTIONS FROM PAYMENT

### Medicines and Healthcare

Ministry of Health Act [n. 279 of May 18, 2001](#) (*Rare diseases*)

Law [n. 648 of December 23, 1996](#) - Legislative Decree [n. 536/96](#) (*Orphan medicinal products*) Art. 1.4.

Legislative Decree [n. 124 of April 29, 1998](#) (*Exemptions*), **Rare Diseases** are ruled by Art. 5.

The Ministry of Health published a complete guide to dispositions concerning exemptions from payment which is readable on the following link:

#### [\*Esenzioni Ticket\*](#)

*(Exemptions from Payment)*

The following text is the introduction to the guide:

Specialist practices, either diagnostic and therapeutic, for treatment and screening of rare diseases which have been certified are exempt from payment by Ministerial Decree n. 279/2001.

Exemption from payment is also extended to medical examinations and genetic tests which may be necessary in order to diagnose rare diseases on patient's relatives, as these are often caused by genetic disorders.

The application for any exemptions from payment must be submitted to the ASL, along with a certificate of rare disease issued by [one of the Medical Centres approved by the Region](#) where the patient lives.

If there are no approved Medical Centres in the Region of residence, the patient can apply to a Medical

Centre in another Region. Medical assessments of rare diseases must be issued and prescribed in one of the approved Medical Centres, where the Medical Officer who writes the certificate should indicate the best Centre for the treatment of that specific rare disease.

One can apply for more exemptions from payment in case of more than one certified rare disease.

A list of practices exempt from payment is not currently available, as the treatment of rare diseases may vary according to each specific case. The doctor should therefore choose the best treatment among those provided by the medical centres for rare diseases.

The following is the link to the National Centre for Rare Diseases - ISS:

[www.iss.it/cnmr](http://www.iss.it/cnmr)

The National Centre has a **Help-line Rare Diseases**, active from Monday to Friday (9.00-13.00), which provides personalized information about Medical Centres, Associations and exemptions:

**800.89.69.49**

The following is the link to the website of Associazione Crescere, who deals with this topic, making reference to the legislation in force in the Region Emilia Romagna:

[Associazione Crescere-Normativa](#)

Notice that the text of Decree n. 279/2001 is available on the website with explanatory notes of the related legislation.

More detailed information on the topic **Orphan Medicinal Products** either in Italy and abroad can be found clicking on the following link to the official website of the National Centre for Rare Diseases:

[\*Centro Nazionale Malattie Rare - Farmaci Orfani\*](#)

*(National Centre for Rare Disease – Orphan Drugs)*

[Home](#)

[Back to Top](#)

## Link List to Legislative Provisions

Presidential Decree [n. 818 of April 26, 1957](#) (*On Disability, State and Survivor's Pensions*)

Law [n. 903 of July 21, 1965](#) (*Pension Reform on Social Security*)

Law [n. 458 of June 26, 1967](#) (*Kidney donation*)

Law [n. 118 of March 30, 1971](#) (*Law protecting invalid civilians*)

Law [n. 833 of December 23, 1978](#) (*National Health Service*)

Law [n. 18 of February 12, 1980](#) (*Disability allowance*)

Law [n. 184 of May 4, 1983](#) (*On adoption and custody of children and young people*)

Law [n. 222 of June 12, 1984](#) (*Amendments on disability pension legislation*)

Law [n. 508 of November 21, 1988](#) (*Supplementary measures supporting invalid civilians*)

Legislative Decree [n. 509 of November 23, 1988](#) (*Provisions in order to determine disability*)

Law [n. 13 of January 5, 1989](#) (*On physical barriers in private housing*)

Law [n. 289 of October 11, 1990](#) (*Further provisions protecting invalid civilians*)

Law [n. 381 of November 8, 1991](#) (*On cooperative societies*)

Law [n. 390 of December 2, 1991](#) (*Equal rights and fair treatment for disabled students*),

Law [n. 104 of February 5, 1992](#) (*Framework law on disability*)

Ministry of Health Act [of February 5, 1992](#) (*Official Gazette n. 47/92 – Tables on disability percentages*)

Legislative Decree [n. 502 of December 30, 1992](#) (*New health care legislation*)

[Update List](#) at the time of Legislative Decree n. 502/92 of June 16, 2010.

Law [n. 578 of December 29, 1993](#) (*Law on death assessment and certification*)

Decree of the President of the Republic [of February 24, 1994](#) (*Official Gazette n.79/94 - Directives ... for disabled pupils*)

Law [n. 23 of February 11, 1996](#) (*Law on school building*)

Decree of the President of the Republic [n. 503 of July 24, 1996](#) (*Regulation concerning provisions for the removal of physical barriers in public buildings, space and services*)

Law [n. 648 of December 23, 1996 - Legislative Decree n. 536/96](#) (*... Medicinal Products*)

Legislative Decree [n. 124 of April 29, 1998](#) (*Exemptions from Payment*)

Law [n. 162 of May 21, 1998](#) (*Changes in Law n. 104/92*)

Law [n. 68 of 12 March, 1999](#) (*Provisions on work rights of disabled people*)

Law [n. 91 of April 1, 1999](#) (*Law on organ and tissue transplants*)

Law [n. 483 of December 16, 1999](#) (*Legislation on split liver transplant*)

[Regulation \(EC\) n. 141/2000](#) (*Orphan medicinal products*)

Law [n. 53 of March 8, 2000](#) (*Provisions on maternity support*)

Law [n. 62 of March 10, 2000](#) (*On school equality*)

Law [n. 69 of March 22, 2000](#) (*Fund for the inclusion of disabled pupils*)

Law [n. 328 of November 8, 2000](#) (*Integrated system of aids and welfare services*)

Law [n. 376 of November 16, 2000](#) (*Code ruling health and anti-doping in sports*)

Law [n. 388 of December 23, 2000](#) (*Finance Act 2001 – Art. 80: personal credits of social security contribution*)

Ministry of Education, University and Research  
[Departmental Circular n. 3390/2001](#) (*General assistance for disabled pupils*)

Law [n. 52 of March 6, 2001](#) (*Recognition of the Italian bone marrow donor registry*)

Legislative Decree [n. 151 of March 26, 2001](#)  
(*Consolidated law on maternity support and protection*)

[Oviedo Convention](#) of April 4, 1977, and its Ratification by Law [n. 145 of March 28, 2001](#)

Prime Minister's Decree [n. 14787 of April 9, 2001](#) (*Equal rights and fair treatment for disabled students*)

Ministry of Health Act [n. 279 of May 18, 2001](#) (*Rare diseases*)

Law [n. 46 of March 11, 2002](#) (*Implementation of additional provisions set up during the Convention on the Rights of the Child, New York, 2000*)

Law [n. 17 of February 5, 2003](#) (*Dispositions on how to exercise the right to vote...*)

Law [n. 53 of March 28, 2003](#) (*Resolution to the Government for education*)

Law [n. 77 of March 20, 2003](#) (*Implementation of the European Convention on the Rights of the Child, Strasbourg, 1996*)

Law [n. 3 of January 16, 2003](#) (*Legal provisions concerning...*) Title IX on health protection, Art. 42-53: Art. 51 on non-smokers health protection.

Legislative Decree [n. 196 of June 30, 2003](#) (*Personal Data Protection Code: Section 7-13 on rights concerning personal data, Section 22-26 on sensitive data, Section 74-96 on exercising rights in specific sectors: Section 74 on car permits and access to town centres, Section 75-94 on health care sector, and Section 95-96 on education*)

Legislative Decree [n. 216 of July 9, 2003](#) (*Implementation of Council Directive 2000/78/CE establishing a general framework for equal treatment in employment and occupation*)

Law [n. 189 of July 15, 2003](#) (*Provisions for disabled people in order to become involved in sport activities*)

[Ministry of Education, University and Research, Departmental Circular n. 4308/2004](#)

Legislative Decree [n. 276, 9th October, 2003](#)

*(Implementation of delegation on occupation and job market established by Law n. 30 of February 14, 2003)*

Law [n. 4 of January 9, 2004](#) *(Provisions to support the access to information technologies for the disabled)*

Law [n. 6 of January 9, 2004](#) *(Attorney)*

Ministry of Education, University and Research [Note n. 4099/2004](#) *(General guidance on DSA: Specific Learning Disabilities)*

Law [n. 40 of February 19, 2004](#) *(Provisions on assisted reproductive technologies)*

Decree of the President of the Republic [n. 75 of March 1, 2005](#) *(Implementation regulations for Law 4/2004)*

Law [n. 219 of October 21, 2005](#) *(New legislation on transfusions and national production of blood products)*

Prime Minister's Decree [n. 185 of February 23, 2006](#) *(Regulation to determine pupils with disability)*

Law [n. 67 of March 1, 2006](#) *(Provisions on legal protection from disability discrimination)*

Law [n. 80 of March 9, 2006 – Decree Law n. 4/06](#) *(Provisions...on organization and functions of Public Administration)*

[Regulation EC N. 1107/2006 of July 5, 2006](#) *(On the rights of disabled persons and persons with reduced mobility when travelling by air)*

[Ministerial Decree of August 2, 2007](#) *(Official Gazette n. 225/2007 - Determining diseases and disorders which are exempt from assessment ...)*



Ministerial Decree [n. 239 of November 14, 2007](#)  
(Regulation issued by the Ministry of Culture  
implementing Art. 71a of Law n. 633/41 on Copyright)

[Italian State-Regions Agreement of March 20, 2008](#)  
(Support for disabled pupils)

[National Health Service Plan 2006-2008](#)

M.I.U.R. Circ. [n. 6 of January 6, 2009](#) (School fees and  
exemption from payment)

[UNO Convention on the Rights of Persons with  
Disabilities](#), of December 16, 2006, and its Ratification  
[n. 18 of March 3, 2009](#)

Law [n. 46 of May 7, 2009](#) (Voting rights at home)

U.S.R. E.R. [Memorandum n. 1425/2009](#) (Practical advice  
on DSA: *Specific Learning Disabilities*)

Ministry of Education, University and Research [Note n.  
5744/2009](#) (*Baccalaureate Examinations 2008-2009:  
Pupils with DSA: Specific Learning Disabilities*)

[UE Council Recommendation](#) of June 8, 2009 on an  
action in the field of rare diseases and [Opinion of the  
European Economic and Social Committee](#)

Law [n. 102 of August 3, 2009 – Decree Law n. 78/09](#)  
(Provisions contrasting crisis ...)

[M.I.U.R Guideline, Protocol n. 4274/09](#) (School inclusion  
of disabled pupils)

Prime Minister's [Decree](#) n. 41704 of September 10, 2009  
(Children fund)

[Emilia Romagna Governing Council Resolution n. 108 of  
Februar 1, 2010](#) (Regional Plan for DSA: *Specific Learning  
Disabilities*)

Law [n. 38 of March 15, 2010](#) (*Accessing palliative care and pain relief*)

Ministry of Health Act [n. 116 of April 16, 2010](#) (*Law on living donor transplantation*)

Directive [EU of 19<sup>th</sup> May 2010](#) (*Standards of quality and safety of human organs intended for transplantation*)

Decree of the Ministry of Labour and Social Policy [n. 167 of July 6, 2010](#) (*National Observatory*)

Law [n. 170 of October 8, 2010](#) (*Provisions on DSA: Specific Learning Disability in school environment*), and its implementing rules in the Ministerial Decree of [July 12, 2011](#) including the attached [Guidelines](#)

Law [n. 183 of November 4, 2010](#) (*Further provisions on work...*)

Legislative Decree [n. 79 of 23 May, 2011](#) (*Tourism Code*)

Law [n. 106 of July 12, 2011 - Decree Law n. 70/11](#) (*Economic provisions ...Art. 6*)

Law [n. 111 of July 15, 2011 - Decree Law n. 98/11](#) (*Financial Manoeuvre, Art. 38 and 18*)

Ministerial Decree of [July 26, 2011](#) (*Published on n. 208 of the Italian Official Gazette as "Revision of Medicinal Products and Substances considered Doping Substances by Law 376/2000*)

Legislative Decree [n. 119 of July 18, 2011](#) (*Delegation to the Government for the reassessment of the legislation concerning paid leaves*)

Legislative Decree [n. 150 of September 1, 2011](#)  
(*Supplementary provisions to the Code of Civil  
Procedure ... Art. 28*)

Law [n. 148 of September 14, 2011 - Decree Law n. 138/11](#)  
(*Financial Manoeuvre bis ... Art. 9*)

Law [n 183 of November 12, 2011](#) (*Stability Law 2012...  
change - Art. 27 l. f*)

Decree Law [n. 5 of February 9, 2012](#) (*Urgent provisions  
on development and simplification*), Art. 4

Italian State-Regions [Agreement of July 25, 2012](#) (*DSA  
Certification*)

Decree of the President of the Republic [n. 151 of July 30,  
2012](#) (*Implementation rules of the New Highway Code  
concerning facilities, badges, signs and markings to  
facilitate the mobility of disabled and impaired people*)

Law [n. 167 of September 19, 2012](#) (*Rules allowing living  
donor split transplantation of lung, pancreas, and  
intestine*)

[M.I.U.R Commitment for School Accessibility - Inclusion  
and Directives on Special Educational Needs and School  
Inclusion](#) of December 2012

Law [n. 220 of December 11, 2012](#) (*Amendments to  
Condominium regulations*)

Legislative Decree [n. 179 of October 18, 2012](#) *converted  
into Law 221/2012 (Section IV, from Art. 12 to Art. 13,  
Paragraph 2)*

Law [n. 99 of August 9, 2013 – Decree Law. n. 76/2013](#)  
(*First provisions...*) Art. 10.5 (*Income references*)

Decree of the President of the Republic [of October 4, 2013 published on n. 303 of the Italian Official Gazette of December 28, 2013](#) (*Plan for Rights of Persons with Disabilities*)

Prime Minister's Decree [n. 159 of 5<sup>th</sup> December 2013](#) (*Revision regulation of ISEE*)

*We would like to thank the Publisher Giuffrè who allowed us the free access to all legislative materials needed in order to complete this text.*

[Home](#)

[Back to Top](#)

## ANNEXES

### Annex A: (Past Model Document for the Response of the Commission assessing Impairment)

REGIONE _____		<input type="checkbox"/> DEGLI STATI DI INVALIDITA' CIVILE		
AZIENDA U.S.L. di _____		PER L'ACCERTAMENTO: <input type="checkbox"/> DELLE CONDIZIONI VISIVE		
COMMISSIONE DI PRIMA ISTANZA		<input type="checkbox"/> DEL SORDOMUTISMO		
DATA SEDUTA _____		DATA PRESENTAZIONE DOMANDA _____	N° DI PRATICA _____	
PARTE I - DATI ANAGRAFICI - AMMINISTRATIVI	COGNOME E NOME _____	SESSO M <input type="checkbox"/> F <input type="checkbox"/>	MOTIVO PRESENTAZIONE DOMANDA Lavoro (collocamento, variazione, ecc.) <input type="checkbox"/> Pensione <input type="checkbox"/> Assegno di accompagnamento <input type="checkbox"/> Protesi e ausili <input type="checkbox"/> Altro <input type="checkbox"/>	
	LUOGO DI NASCITA (Comune - Provincia - Stato estero) _____	Data di nascita _____	TIPO DI ACCERTAMENTO Ambulatoriale <input type="checkbox"/> Domiciliare <input type="checkbox"/>	
	RESIDENZA ANAGRAFICA _____	STATO CIVILE _____	DOCUMENTO DI RICONOSCIMENTO _____	Primo accertamento <input type="checkbox"/> Accertamento successivo per revisione d'ufficio <input type="checkbox"/> aggravamento <input type="checkbox"/> ricorrenza <input type="checkbox"/> altro <input type="checkbox"/>
	CONDIZIONE PROFESSIONALE O NON PROFESSIONALE _____			
PARTE II - ELEMENTI DIAGNOSTICI DELLA COMMISSIONE	Anamnesi/Eti: _____		M.O.C. A.S.N. SISTEMA NAZIONALE DI RIFERIMENTO PER LA DIAGNOSI E LA TERAPIA	
	Accertamenti disposti: _____			
	Documentazione acquisita: _____			
	Assenza di patologia <input type="checkbox"/> Patologia dipendente da cause di guerra <input type="checkbox"/> Patologia di competenza <input type="checkbox"/> lavoro, servizi (non competente) della commissione			
PATOLOGIA COMPETENTE ACCERTATA Diagnosi _____		PRINCIPALI DISABILITA' RIEVATE Psichiche - Motorie <input type="checkbox"/> - Intellettive <input type="checkbox"/> Sensoriali - Linguaggio <input type="checkbox"/> - Uditivo <input type="checkbox"/> - Vista <input type="checkbox"/> - Tattile <input type="checkbox"/> - Perdita anatomica arti <input type="checkbox"/> - Limitazione funzionale movimenti articolari <input type="checkbox"/> Neurologiche <input type="checkbox"/> Respiratorie <input type="checkbox"/> Cardio-circolatorie <input type="checkbox"/> CAUSE O CONDIZIONI Malformazioni congenite <input type="checkbox"/> Traumi ballocci <input type="checkbox"/> Traumi domestici <input type="checkbox"/> Altre cause violente <input type="checkbox"/> Interventi chirurgici <input type="checkbox"/>		
RIVEDIBILE NEL MESE DI _____				
PARTE III - CATEGORIE DI RIFERIMENTO DELLA COMMISSIONE	LA COMMISSIONE CERTIFICA CHE: AI SENSI DELLA LEGGE: 25.6.1970 n. 381 <input type="checkbox"/> 25.6.1978 n. 382 <input type="checkbox"/> 30.3.1971 n. 118 <input type="checkbox"/> 12.2.1980 n. 18 <input type="checkbox"/>			
	IL RICHIEDENTE E' RICONOSCIUTO:			
	<input type="checkbox"/> NON INVALIDO: assenza di patologia o con riduzione della capacità lavorativa inferiore ad 1/3 (in misura cumulata)			
	<input type="checkbox"/> INVALIDO con riduzione permanente della capacità lavorativa in misura SUPERIORE AD 1/3 (art. 2, L. 118/71) _____ %			
	<input type="checkbox"/> INVALIDO con riduzione permanente della capacità lavorativa in misura SUPERIORE O UGUALE al 40% (art. 2 e 13, L. 118/71) _____ %			
	<input type="checkbox"/> INVALIDO con TOTALE e PERMANENTE INABILITA' lavorativa (art. 2 e 13, L. 118/71) 100%			
	<input type="checkbox"/> INVALIDO con TOTALE e PERMANENTE inabilità lavorativa 100% con impossibilità di scambiarsi senza l'aiuto permanente di un accompagnatore (L. 118/80)			
	<input type="checkbox"/> INVALIDO con TOTALE e PERMANENTE inabilità lavorativa 100% con necessità di assistenza continua non essendo in grado di compiere gli atti quotidiani della vita (L. 118/80 e L. 100/89)			
	<input type="checkbox"/> INFERIORE NON DEMMBALANTE per difficoltà anatomiche a svolgere i compiti o le funzioni proprie della sua età (art. 2 e 17 legge 118/71)			
	<input type="checkbox"/> CIECO con RESIDUO VISIVO non superiore ad un centesimo in entrambi gli occhi con eventuale cecità (legge 384/78) (C.C. _____ DS: _____)			
<input type="checkbox"/> SORDO-COASSOLUTO (L. 118/71)				
<input type="checkbox"/> SORDOMUTO IL SORDO				
<input type="checkbox"/> INVALIDO ULTRASSASSANTACINQUENNE con difetti permanenti a svolgere i compiti e le funzioni proprie della sua età (L. 118/71 art. 2)				
<input type="checkbox"/> INVALIDO ULTRASSASSANTACINQUENNE con diritto all'incassata di accompagnamento (art. 5 D. Lgs. n. 506/86) <input type="checkbox"/> Impossibilità di scambiarsi senza l'aiuto permanente di un accompagnatore <input type="checkbox"/> Non essere in grado di compiere gli atti quotidiani della vita				
PARTE IV - FIRME	IL PRESIDENTE _____	IL MEDICO AZ. USL _____		
	IL SEGRETARIO _____	IL MEDICO AZ. USL _____		
	IL MEDICO SPECIALISTA _____	IL MEDICO DEL LAVORO _____		
		IL MEDICO DI CATEGORIA _____		

Avviare il giudizio istruito, entro 60 giorni dalla data di costituzione, fissata a pena di decadenza, in 2 V. più precise ricorrenze presso la competente autorità giudiziaria (art. 42, comma 3, del decreto legge n° 286 del 2000, con modificazioni, della legge n. 328 del 2001).

Home

**Annex B: (Past Model Document for the Response of the Commission assessing Disability)**

COMMISSIONE ex L. N° 104/92  
 "LEGGE QUADRO PER L'ASSISTENZA, L'INTEGRAZIONE  
 SOCIALE E I DIRITTI DELLE PERSONE HANDICAPPATE"

AZIENDA USL DI		DATA PRESENTAZIONE DOMANDA		N° DI PRATICA			
DATA SEDUTA							
COGNOME E NOME		SESSO M <input type="checkbox"/> F <input type="checkbox"/>	MOTIVO PRESENTAZIONE DOMANDA Lavoro (collocamento, valutazione, ecc.) <input type="checkbox"/>				
LUOGO DI NASCITA (Comune - Provincia o Stato estero)		DATA DI NASCITA	Pensione <input type="checkbox"/>				
RESIDENZA ANAGRAFICA		TIPO DI ACCERTAMENTO Ambulatoriale <input type="checkbox"/> Domiciliare <input type="checkbox"/>					
STATO CIVILE	DOCUMENTO DI RICONOSCIMENTO		Primo accertamento <input type="checkbox"/>				
CONDIZIONE PROFESSIONALE O NON PROFESSIONALE		Accertamento successivo per revisione d'ufficio <input type="checkbox"/>					
		aggravamento <input type="checkbox"/>					
		risoluzione <input type="checkbox"/>					
		(R) <input type="checkbox"/>					
<b>DIAGNOSI</b> ..... ..... .....							
<b>VALUTAZIONE DELL'HANDICAP</b> Handicap relativo a							
		ESISTE		SITUAZIONE DI GRAVITA'			
ORIENTAMENTO		NO	SI	GRAVE	NO SI		
INDIPENDENZA FISICA		NO	SI	GRAVE	NO SI		
MOBILITA'		NO	SI	GRAVE	NO SI		
OCCUPAZIONE		NO	SI	GRAVE	NO SI		
<b>GIUDIZIO FINALE</b> A) SUSSISTONO LE CONDIZIONI DI CUI ALL'ART. 3 COMMA 1): "è persona handicappata colui che presenta una minorazione fisica, psichica o sensoriale, stabilizzata o progressiva, che è causa di difficoltà di apprendimento, di relazione o di integrazione lavorativa e tale da determinare un processo di svantaggio o di emarginazione" NO <input type="checkbox"/> SI <input type="checkbox"/>							
B) SUSSISTONO LE CONDIZIONI DI CUI ALL'ART. 3 COMMA 2): "costituisce la minorazione singola o plurima che abbia ridotto l'autonomia personale, correlata all'età, in modo da rendere necessario un intervento assistenziale permanente, continuativo e globale della sfera individuale o quella di relazione; la situazione assume una connotazione di gravità..." NO <input type="checkbox"/> SI <input type="checkbox"/>							
(Sono barrate le voci che interessano)							
SI RAVVISA L'OPPORTUNITA' DI UN ACCERTAMENTO DI REVISIONE NEL .....							
		Cognome	Nome	Firma	Cognome	Nome	Firma
IL PRESIDENTE		_____			IL MEDICO AZ. USL _____		
IL SEGRETARIO		_____			IL MEDICO AZ. USL _____		
IL MEDICO SPECIALISTA		_____			IL MEDICO DEL LAVORO _____		
		_____			IL MEDICO DI CATEGORIA _____		

Avviso: il giudizio espresso, entro il mese dalla data di comunicazione, fissato a pena di decadenza, va S.V. può proporsi ricorso dinanzi alla competente autorità giudicante (art. 42, comma 3, del decreto legge n° 208 del 2003, con modificazioni, della legge n. 320 del 2003)

[Home](#)