

## LEGISLATIVE DECREE NO. 39 of April 8 2013

**Provisions concerning the non-conferrable status and incompatibility of assignments in public administrations and private entities under public control, according to Article 1, paragraphs 49 and 50, of Law No. 190 of November 6 2012. (13G00081)**

In force on: 29-8-2017

### **Chapter I General principles**

THE PRESIDENT OF THE ITALIAN REPUBLIC

Having regard to Articles 76, 87, 92, 95 and 117 of the Constitution

Having regard to Law No. 190 of November 6 2012, laying down provisions for the prevention and repression of corruption and unlawfulness in public administration and in particular Article 1, paragraphs 49 and 50, which authorizes the Government to adopt one or more legislative decrees intended to amend the current regulations on the assignment of managerial appointments and top administration posts in the public administrations as referred to in Article 1, paragraph 2, of Legislative Decree No. 165 of March 30 2001, and subsequent amendments, and in entities governed by private law subject to public control exercising administrative functions, activities in the production of goods and services for the benefit of the public administrations, or public service management, to be conferred to parties internal or external to the public administrations, which entail administrative and management functions, as well as to modify the current regulation on the incompatibility between such appointments and the carrying out of elected public appointments or the ownership of private interests that may conflict with the impartial exercise of the entrusted public functions.

Having regard to Law No. 400 of August 23 1988, laying down rules for the activities of the Government and organization of the Presidency of the Council of Ministers, and subsequent amendments.

Having regard to Legislative Decree No. 165 of March 30 2001, laying down general rules on the organization of work for those in the employ of the public administrations, and subsequent amendments.

Having regard to the deliberation of the Council of Ministers, adopted at the meeting of March 21 2013.

On the proposal of the Prime Minister of Italy and the Ministry for Public Administration and Simplification.

Issues

the following Legislative Decree:

Article 1

Definitions

1. The provisions contained in this Decree shall be observed for the purposes of conferring top managerial posts and administrative responsibility in the public administrations, public bodies and entities governed by private law under public control,

without prejudice to the provisions of Articles 19 and 23, subsection 2 of Legislative Decree No. 165 of March 30 2001, as well as the other existing provisions regarding temporary leave or leave of absence.

2. For the purposes of this Decree, the following are intended:

a) “Public administrations” means the public administrations referred to in Article 1, paragraph 2, of Legislative Decree No. 165 of March 30 2001, including the independent administrative authorities.

b) “Public bodies” means non-territorial bodies governed by national, regional or local public law – however described – established, supervised and financed by the public administration that confers the assignment, or whose directors are appointed by it.

c) “Entities governed by private law under public control” means companies and other private law bodies that exercise administrative functions, activities in the production of goods or services for the benefit of the public administrations or public service management, subject to control in accordance with Article 2359 of the Italian Civil Code by the public administrations, or bodies in which – even in the absence of a shareholding – powers to appoint senior management or members of the bodies are conceded to the public administrations.

d) “Regulated or financed private law entities” means companies and other bodies governed by private law, including those without legal personality, in respect of whom, the administration conferring the assignment:

1) Carries out main activity regulatory functions that involve the continued exercise of supervisory, control and certification powers, including through the granting of authorizations or concessions.

2) Has a minority share in the capital.

3) Finances the activities through conventional agreements such as public contracts, public service contracts and concession of public goods.

e) “Assignments and positions regulated or financed by private law entities” means the positions of chairman with direct management powers, managing director, managerial positions, the permanent conduct of consulting activities in favour of the entity.

f) “Members of political bodies” means the people who take part, through election or appointment, in political bodies of the state, regional or local administrations, such as the Prime Minister of Italy, Minister, Deputy Minister, State Secretary and Extraordinary Government Commissioner referred to in Article 11 of Law No. 400 of August 23 1988, Member of Parliament, Chairman of the Committee or Mayor, councillor or adviser in the regions, provinces, municipalities and forms of association between local authorities, public bodies, or entities governed by private law under public control, whether national, regional or local.

g) “Non-conferrable status” means the permanent or temporary exclusion of the conferment of appointments provided for in this decree for those who have been convicted or found guilty of the offences provided for in Chapter I of Title II of book two of the Penal Code, those who have carried out tasks or held positions at entities governed by private law regulated or financed by public administrations or carried out professional activities for public administrations, and those who have been members of political bodies.

h) “Incompatibility” means the obligation for the person on whom the assignment is conferred to choose, on pain of removal and within the cut-off deadline of fifteen days, between the permanence of the post and the recruitment and taking up of assignments and

positions in entities governed by private law regulated or financed by the public administration that conferred the assignment and the carrying out of professional activities, or the assumption of the role of member of political bodies.

i) “Top administration posts” means senior positions such as Secretary General, Head of Department and General Manager or similar positions in the public administrations and entities governed by private law subject to public control, conferred on parties internal or external to the administration or the entity that confers the assignment, that does not necessarily involve the exclusive exercise of administrative and management skills.

j) “Internal managerial appointments” means managerial functions, however described, which involve the exclusive exercise of administrative and management skills, as well as managerial functions within offices of direct collaboration, conferred on managers or other employees including the categories of staff referred to in Article 3 of Legislative Decree No. 165 of March 30 2001, belonging to the roles of the administration that confers the assignment or the role of another public administration.

k) “External managerial appointments” mean managerial functions, however described, which involve the exclusive exercise of administrative and management skills, as well as managerial functions within the offices of direct collaboration, conferred on parties who do not possess the rank of public manager or otherwise not employees of public administrations.

l) “Directorships of public bodies and entities governed by private law under public control” means the appointments of Chairman with direct management powers, managing director and other similar roles, of another governing bodies of the entity’s activities, however described, in public bodies and entities governed by private law subject to public control.

#### Article 2

##### Scope of applications

1. The provisions of this Decree shall apply to the assignments conferred in public administrations referred to in Article 1, paragraph 2, of Legislative Decree No. 165 of March 30 2001, including public bodies, as well as entities governed by private law under public control.

2. For the purposes of this Decree on the conferment in local entities of managerial appointments, that of managerial functions to non-executive staff shall be assimilated, as well as those assignments to people with fixed-term contracts, pursuant to Article 110, paragraph 2, of the consolidated text of the laws on the structure of the local entities, as provided for in Legislative Decree No. 267 of August 18 2000.

## Chapter II

### **Non-conferrable status of appointments in the case of conviction for crimes against the public administration**

#### Article 3

Non-conferrable status of appointments in the case of conviction for crimes against the public administration

1. Those who have been convicted – even without judgement ascertained by a final court decision – for one of the offences provided for in Chapter I of Title II of book two of the Penal Code may not be allocated:

- a) Top administration posts in state, regional and local administrations
- b) Directorships of public bodies at national, regional and local level

- c) Internal and external managerial appointments – however described – in the public administrations, public bodies and entities governed by private law under public control at national, regional and local level.
- d) Directorships of entities governed by private law under public control at national, regional and local level
- e) General, medical and administrative manager posts in local health care units of the National Healthcare Service

2. Where the conviction concerns one of the offences referred to in Article 3, paragraph 1, of Law No. 97 of March 27 2001, the non-conferrable status referred to in paragraph 1 is of a permanent nature in cases in which the ancillary penalty of the perpetual ban has been imposed by the public authorities, or that the employment relationship has ceased following disciplinary proceedings or the termination of the self-employment relationship. Where a temporary ban has been imposed, the non-conferrable status has the same duration as the ban. In other cases, the non-conferrable status of assignments lasts five years.

3. Where the conviction concerns one of the other offences provided for in Chapter I of Title II of book two of the Penal Code, the non-conferrable status is of a permanent nature in cases in which the ancillary penalty of the perpetual ban has been imposed by the public authorities, or that the employment relationship has ceased following disciplinary proceedings or the termination of the self-employment relationship. Where a temporary ban has been imposed, the non-conferrable status has the same duration as the ban. In other cases, the non-conferrable status lasts for double the penalty imposed, for a period not exceeding five years, however.

4. In cases referred to in the last sentences of paragraphs 2 and 3, with the exception of events including the suspension or termination of the relationship, for the duration of the period of non-conferrable status, assignments different to those involving the exercising of administration and management duties may be conferred on the role manager. The conferring of assignments relating to offices responsible for the management of financial resources, the acquisition of goods, services and supplies, or the granting or release of grants, contributions, subsidies, financial aid or awarding of economic benefits to public and private entities, or of assignments that entail supervision or control is ruled out in any case. In the event that the administration is not able to confer assignments that are compatible with the provisions of this paragraph, the manager is placed at the disposal of the role without assignment for the non-conferrable status period of the assignment.

5. The non-conferrable status situation also ceases to be valid where a non-definitive ruling of acquittal has been handed down for the same offense.

6. In the event of a conviction, also if not definitive, for one of the offenses referred to in paragraphs 2 and 3 against a party external to the administration, public body or entity governed by private law under public control on which has been conferred one of the assignments referred to in paragraph 1, the assignment and effectiveness of the contract of employment or self-employment contract concluded with the administration, public body or entities governed by private law under public control are suspended. Throughout the period of suspension no remuneration is paid. In both cases the suspension has the same duration as the non-conferrable status set out in paragraphs 2 and 3. Without prejudice to the date on which the contract ended, the administration shall assess the persistence of interest in the execution of the assignment, including in relation to the time spent.

7. For the purposes of this provision, the judgement implementing the penalty pursuant to Article 444 of the Code of Criminal Procedure is equated with the judgement of conviction.

### **Chapter III**

#### **Non-conferrable status of assignments for parties from private law entities regulated or financed by the public administrations**

##### Article 4

Non-conferrable status of assignments in state, regional and local administrations for parties from regulated or financed private law entities

1. To those who, in the previous two years, have carried out tasks or held positions in entities governed by private law or financed by the administration or public body that conferred the position, or have carried out professional activities independently, if these are regulated, financed or in any case remunerated by the administration or body that conferred the position, may not be conferred:

- a) Top administration posts in state, regional and local administrations
- b) Directorships of public bodies at national, regional and local level
- c) External managerial appointments – however described – in the public administrations, public bodies that relate to the specific sector or office of the administration which exercises regulatory and financing powers.

##### Article 5

Non-conferrable status of managerial posts in local health care units for parties from regulated or financed private law entities

1. General, medical and administrative manager posts of local health care units may not be conferred on those who, in the previous two years, have carried out tasks or held positions in entities governed by private law regulated or financed by the regional health service.

### **Chapter IV**

#### **Non-conferrable status of appointments for members of political bodies**

##### Article 6

Non-conferrable status of appointments for members of national level political bodies

1. For the offices of Prime Minister of Italy, Minister, Deputy Minister, State Secretary and Extraordinary Government Commissioner referred to in Article 11 of Law No. 400 of August 23 1988, the prohibitions laid down in Law No. 215 of July 20 2004 shall apply.

2. Supervision of the implementation of the provisions of paragraph 1 is carried out by the Italian Monopolies and Mergers Commission and the Italian Communications Authority, pursuant to the same Law No. 215 of 2004.

##### Article 7

Non-conferrable status of appointments for members of political bodies at regional and local level

1. To those who, in the previous two years, were members of the region's committee or council that confers the appointments, or in the previous year were members of a committee or council of a province or municipality with a population higher than 15,000 inhabitants of the same region or an association between municipalities having the same population in the same region, or have been chairman or managing director of an entity

governed by private law under the public control of the region or one of the local entities referred to in this paragraph may not be conferred:

- a) Top administration posts in the region
- b) Managerial appointments in the regional administration
- c) Directorships of public bodies at regional level
- d) Directorships of entities governed by private law subject to public control at regional level

2. To those who, in the previous two years, were members of the committee or council of the province, municipality or an association between municipalities that confers the appointments, or those who in the previous year were part of a committee or council of a province, of a municipality with a population higher than 15,000 inhabitants or of an association between municipalities having the same population in the same region of the local administration that confers the assignment, as well as those who have been chairman or managing director of entities governed by private law under the public control of the provinces, municipalities and their associations in the same region, may not be conferred:

- a) Top administration posts in the administrations of a province, of a municipality with a population higher than 15,000 inhabitants or an association between municipalities having the same population.
- b) Managerial appointments in the same administrations referred to in letter (a)
- c) Directorships of public bodies at provincial or municipal level
- d) Directorships of an entity governed by private law under the public control of a province, municipality with a population higher than 15,000 inhabitants or an association between municipalities having the same population.

3. Non-conferrable statuses referred to in this Article do not apply to employees of the same administration, public body or entity governed by private law under public control which, when assuming political office, were in charge of assignments.

#### Article 8

##### Non-conferrable status of managerial posts in local health care units

1. General, medical and administrative manager posts in local health care units may not be conferred on those who, in the previous five years, were candidates in European, national, regional or local elections, in constituencies that cover the territory of the local health care unit.

2. General, medical and administrative manager posts in local health care units may not be conferred on those who, in the previous two years, exercised the function of Prime Minister of Italy, Minister, Deputy Minister, State Secretary in the Ministry of Health or other administration of the State, or Director of public bodies or entities governed by private law under national public control carrying out functions of control, supervision or financing of the National Healthcare Service.

3. General, medical and administrative manager posts in local health care units may not be conferred on those who, in the previous year, have exercised the role of parliamentarian.

4. General, medical and administrative manager posts in local health care units may not be conferred on those who, in the previous three years, were part of a committee or council of the region concerned or held the post of Director of a public body or entity governed by private law under regional public control carrying out functions of control, supervision or financing of the regional healthcare service.

5. General, medical and administrative manager posts in local health care units may not be conferred on those who, in the previous three years, were part of a committee or council of a province, of a municipality with a population higher than 15,000 or an association between municipalities having the same population, whose territory is within the territory of the local health care unit.

## **Chapter V**

**Incompatibility between assignments in the public administrations, entities governed by private law under public control and positions in private law entities regulated or financed by the public administrations as well as the performance of professional activities**

### Article 9

Incompatibility between assignments and positions in private law entities regulated or financed as well as between the assignments and professional activities

1. Top administration posts and managerial appointments – however described – in the public administrations, which involve supervisory or monitoring powers on the activities performed by entities governed by private law regulated or financed by the administration that confers the post, are incompatible with the recruitment and maintenance, over the duration of the post, of assignments and positions in private law entities regulated or financed by the administration that confers the post.

2. Top administration posts and managerial appointments – however described – in the public administrations, directorships of public bodies and chairman and managing director posts in the entities governed by private law under public control are incompatible with the carrying out independently, by the appointed person, of a professional activity, if this is regulated, financed or remunerated by the administration that confers the post.

### Article 10

Incompatibility between management positions in local health care units, positions in regulated or financed private law entities and the carrying out of professional activities

1. General, medical and administrative manager posts in the local health care units in the same region are incompatible:

a) With assignments or posts in entities governed by private law regulated or financed by the regional health service

b) With the carrying out independently, by the appointed person, of a professional activity, if this is regulated or financed by the regional health service

2. Incompatibility also exists when the assignments, posts and professional activities referred to in this Article are taken or maintained by the spouse, relative or similar up to the second degree

## **Chapter VI**

**Incompatibility between positions in the public administrations, entities governed by private law under public control and positions of members of political bodies**

### Article 11

Incompatibility between top administration posts, directorships of public bodies and positions of members of governing bodies in state, regional and local administrations

1. Top administration posts in the national, regional and local administrations and the assignments of director of public bodies at national, regional and local level are

incompatible with the position of Prime Minister of Italy, Minister, Deputy Minister, State Secretary and Extraordinary Government Commissioner referred to in Article 11 of Law No. 400 of August 1988, or Member of Parliament.

2. Top administration posts in the regional administrations and directorships of public bodies at regional level are incompatible:

a) With the post of member of the committee or council of the region that conferred the appointment.

b) With the post of member of the committee or council of a province, or of a municipality with a population higher than 15,000 inhabitants or an association between municipalities having the same population in the same region.

c) With the post of chairman or managing director of an entity governed by private law under regional public control.

3. Top administration posts in the administrations of a province, of a municipality with a population higher than 15,000 inhabitants or an association between municipalities having the same population as well as directorships of public bodies at provincial or municipal level are incompatible:

a) With the post of member of the committee or council of a province, of a municipality, or an association between municipalities that conferred the appointment.

b) With the post of member of the committee or council of a province, of the municipality with a population higher than 15,000 inhabitants or an association between municipalities having the same population, included in the same region of the local administration that conferred the appointment.

c) With the position of member of political bodies in entities governed by private law under public control of the region, as well as provinces, municipalities with a population higher than 15,000 inhabitants or associations between municipalities having the same number of inhabitants in the same region.

#### Article 12

Incompatibility between internal and external managerial appointments and positions of members of the governing bodies in the state, regional and local administrations

1. Internal and external managerial appointments in the public administrations, public bodies and entities governed by private law under public control are incompatible with the recruitment and maintenance over the duration of the post, of the position of member of the governing bodies in the same administration or in the same public body that conferred the position, that is to say, with the recruitment and maintenance, over the duration of the post, of the office of chairman and managing director in the same private law body under public control that conferred the position.

2. Internal and external managerial appointments in the public administrations, public bodies and entities governed by private law under public control at national, regional and local level are incompatible with the recruitment, over the duration of the post, of the office of Prime Minister of Italy, Minister, Deputy Minister, State Secretary and Extraordinary Government Commissioner referred to in Article 11 of Law No. 400 of August 23 1988, or Member of Parliament.

3. Internal and external managerial appointments in the public administrations, public bodies and entities governed by private law under public control at regional level are incompatible:



a) With the post of member of the committee or council of the region concerned  
b) With the post of member of the committee or council of a province, of a municipality with a population higher than 15,000 inhabitants or of an association between municipalities having the same population in the same region.

c) With the post of chairman and managing director of entities governed by private law under regional public control.

4. Internal and external managerial appointments, in the public administrations, public bodies and entities governed by private law under provincial or municipal public control are incompatible:

a) With the post of member of the committee or council of the region

b) With the post of member of the committee or council of a province, of a municipality with a population higher than 15,000 inhabitants or an association between municipalities having the same population, included in the same region of the local administration that conferred the appointment.

c) With the position of member of political bodies in entities governed by private law under public control of the region, as well as the provinces, municipalities with a population higher than 15,000 inhabitants or associations between municipalities having the same number of inhabitants in the same region.

#### Article 13

Incompatibility between directorships of entities governed by private law under public control and positions of members of political governing bodies in state, regional and local administrations

1. The appointments of chairman and managing director of entities governed by private law subject to public control, at national, regional and local level, are incompatible with the position of Prime Minister of Italy, Minister, Deputy Minister, State Secretary and Extraordinary Government Commissioner referred to in Article 11 of Law No. 400 of August 1988, or Member of Parliament.

2. The appointments of chairman and managing director of entities governed by private law subject to public control at regional level are incompatible:

a) With the post of member of the committee or council of the region concerned

b) With the post of member of the committee or council of a province or a municipality with a population higher than 15,000 inhabitants or an association between municipalities having the same population in the same region

c) With the post of chairman and managing director of entities governed by private law under public control of the region, as well as the provinces, municipalities with a population higher than 15,000 inhabitants or associations between municipalities having the same number of inhabitants in the same region.

3. The appointments of chairman and managing director of entities governed by private law subject to public control at local level are incompatible with the recruitment, over the duration of the post, of the post of member of the committee or council of a province or a municipality with a population higher than 15,000 inhabitants or an association between municipalities having the same population in the same region.

#### Article 14

Incompatibility between managerial posts in local health care units and positions of members of political governing bodies in state, regional and local administrations

1. General, medical and administrative manager posts in local health care units are incompatible with the position of Prime Minister of Italy, Minister, Deputy Minister, State

Secretary and Extraordinary Government Commissioner referred to in Article 11 of Law No. 400 of August 1988, of director of public bodies or entities governed by private law under national public control carrying out functions of control, supervision or financing of the National Healthcare Service, or Member of Parliament.

2. General, medical and administrative manager posts in the local health care units of a region are incompatible:

a) With the post of member of the committee or council of the region concerned or with the post of director of public bodies or entities governed by private law under regional public control carrying out functions of control, supervision or financing of the regional healthcare service.

b) With the post of member of the committee or council of a province, or of a municipality with a population higher than 15,000 inhabitants or an association between municipalities having the same population in the same region.

c) With the post of chairman or managing director of entities governed by private law under regional public control, as well as the provinces, municipalities with a population higher than 15,000 inhabitants or associations between municipalities having the same number of inhabitants in the same region.

## **Chapter VII**

### **Supervisory measures and sanctions**

#### Article 15

Supervisory measures on compliance with the provisions with regard to non-conferrable status and incompatibility in the public administrations and entities governed by private law under public control

1. The person in charge of the anti-corruption plan of each public administration, public body and entity governed by private law under public control, hereinafter referred to as the “supervisor”, shall ensure – also through the provisions of the anti-corruption plan – that in the administration, public body and entity governed by private law under public control, the provisions of this Decree on the non-conferrable status and incompatibility of assignments are complied with. To this end, the supervisor challenges the person concerned of the existence or onset of situations of non-conferrable status or incompatibility referred to in this Decree.

2. The supervisor shall report the cases of possible violation of the provisions of this Decree to the National Anti-corruption Authority, the Monopolies and Mergers Commission and market for the purpose of carrying out the functions provided for in Law No. 215 of July 20 2004, as well as the Court of Audit, for the assessment of any administrative responsibilities.

3. The measure withdrawing the top administration or managerial post conferred on the person to whom managerial duties have been entrusted – however motivated – is communicated to the National Anti-corruption Authority which, within thirty days, may make a request for review if it is discovered that the withdrawal is related to the activities carried out by the manager in relation to the prevention of corruption. Once that deadline has expired, the withdrawal becomes effective.

#### Article 16

Supervisory measures of the National Anti-corruption Authority

1. The National Anti-corruption Authority monitors compliance by the public administrations, public bodies and entities governed by private law under public control, of

the provisions referred to in this Decree, including with the exercise of powers of inspection and verification of particular individual cases of assignment conferment.

2. The National Anti-corruption Authority, following notification

((by the Presidency of the Council of Ministers, the Department of Public Service)) or the office, may suspend the procedure for conferring the position with its own provision containing observations or remarks on the conferment of the position, as well as reporting the case to the Court of Audit for the assessment of any administrative liability. The administration, public body or entity governed by private law under public control that intends to proceed with the conferment of the position must give reasons for the act taking into account the Authority's observations.

((3. The National Anti-corruption Authority shall provide mandatory opinions on the Ministerial directives and circulars concerning the interpretation of the provisions of this Decree and their application to the various cases of the non-conferrable status of assignments and incompatibility)).

#### Article 17

Invalidity of the positions conferred in violation of the provisions of this Decree

1. The acts of conferment of assignments adopted in violation of the provisions of this Decree and the related contracts are null and void.

#### Article 18

##### Sanctions

1. Members of the governing bodies that have conferred positions declared null and void are liable for the economic consequences of the acts adopted. Members who were absent at the time of voting, as well as the dissenters or abstainers, are exempt from liability.

2. Members of governing bodies that have conferred positions declared null and void may not, for three months, confer their assignments. Their power is exercised for the Ministries by the Prime Minister of Italy and for the public bodies by the administration with responsibility.

3. The regions, provinces and municipalities shall, within three months of the entry into force of this Decree, adjust their own rules by identifying the internal procedures and bodies which may alternatively undertake the conferment of the positions during the period of disqualification of the office-holders.

4. Upon expiry of the time limit referred to in paragraph 3 the substitution procedure referred to in Article 8 of Law No. 131 of June 5 2003 shall apply.

5. The act of determining the breach of the provisions of this Decree is published on the website of the administration or body that confers the assignment.

#### Article 19

##### Removal in the event of incompatibility

1. The performance of the assignments referred to in this Decree in one of the situations of incompatibility referred to in Chapters V and VI entails the removal from office and the termination of the respective contract, employment or self-employment, upon expiry of the cut-off deadline of fifteen days from the notification of the person concerned by the supervisor referred to in Article 15, of the onset of the cause of incompatibility.

2. No changes occur to the provisions providing for the granting of leave of absence for public administration employees in the event of incompatibility.

## Chapter VIII

### Final and transitional rules

## Article 20

### Statement on the groundlessness of causes of non-conferrable status or incompatibility

1. At the time of the conferment of the position, the person concerned submits a statement on the groundlessness of one of the causes of non-conferrable status referred to in this Decree.
2. During the course of the position, every year the person concerned submits a statement on the groundlessness of one of the causes of incompatibility referred to in this Decree.
3. Statements referred to in paragraphs 1 and 2 are published on the website of the public administration, public body or entity governed by private law under public control that conferred the assignment.
4. The statement referred to in paragraph 1 is a condition for the acquisition of the position's effectiveness.
5. Without prejudice to any other liability, the false statement, ascertained by the same administration, respecting the right of defence and the right to be heard of the person concerned implies the non-conferrable status of any position under this Decree for a period of five years.

## Article 21

Implementation of Article 53, paragraph 16, subsection 3, of Legislative Decree No. 165 of 2001

1. For the sole purpose of implementing the prohibitions referred to in paragraph 16, subsection 3 of Article 53 of Legislative Decree No. 165 of March 30 2001, and subsequent modifications, holders of one of the positions referred to in this Decree, including external persons with whom the administration, public body or entity governed by private law under public control establishes a working relationship, whether by employment or self-employment, are also considered employees of the public administrations. Such prohibitions shall apply from the date of the termination of the appointment.

## Article 22

### Precedence on various provisions regarding non-conferrable status and incompatibility

1. The provisions of this Legislative Decree impose rules on the implementation of Articles 54 and 97 of the Constitution and shall take precedence over the various provisions of regional law concerning the non-conferrable status and incompatibility of assignments in public administrations, public bodies and private entities under public control.
2. These are in any case subject to the provisions of Law No. 215 of July 20 2004.
3. The provisions referred to in Articles 9 and 12 of this Decree shall not apply to positions at the companies that issue financial instruments listed on regulated markets and to the positions at their subsidiaries.

## Article 23

### Repeals

1. Paragraph 9 of Article 3 of Legislative Decree No. 502 of December 30 1992 is repealed.

This Decree, bearing the seal of the State, will be included in the Official Collection of all Legislative Acts of the Italian Republic. It shall be the responsibility of all to comply therewith and to ensure that it is complied with.

Given in Rome, April 8 2013

NAPOLITANO

Monti, Prime Minister of Italy

Patroni Griffi, Minister for Public Administration and Simplification

In accordance, the Lord Chancellor: Severino