

Informative Note

New extraordinary measures for the agri-food sector: temporary flexibility of the Fund for the Promotion and Education of Cooperatives and promotion of the Special System for Agricultural Workers provided for by Royal Decree-Law 15/2020

24th April 2020

Regarding the publication of 21st April Royal Decree-Law 15/2020 adopting additional urgent measures to support the economy and employment

On 22nd April 2020, [21st April Royal Decree Law 15/2020 on urgent complementary measures to support the economy and employment](#) ("RDL 15/2020") was published in the Official State Gazette, thus introducing additional measures to those introduced by [17th March Royal Decree Law 8/2020 on urgent extraordinary measures to deal with the economic and social impact of COVID-19](#).

Exceptional measures to make the use of the Cooperative Promotion and Education Fund more flexible on a temporary basis

Among others, Article 13 of RDL 15/2020 provides for the adoption of the following exceptional measures to temporarily relax the use of the cooperative promotion and education fund (the "**Fund**") in order to mitigate the effects of COVID-19:

- I. During the validity period of the alert state and until 31st December 2020, the Fund may be used, in whole or in part, for the following purposes in addition to those already provided for ¹:
 - As a financial resource to provide liquidity to the cooperative. In this case, the part of the Fund earmarked for this purpose must be returned by the cooperative with at least 30% of the freely available results generated each year, up to the amount that the Fund had at the time of the decision on its exceptional application and within a maximum period of ten (10) years. Likewise, the amount of the Fund applied in this respect will not be considered as income, and therefore the provisions of Articles 13.3 and 19.4 of 19th December Law 20/1990 on the Taxation of Cooperatives will not apply.
 - Any activity designed to help curb or alleviate the effects of the health crisis generated by the COVID-19, whether it is carried out through its own actions or through donations to public or private entities.

¹ In accordance with Article 56 of the [16th July 1999 Law 27/1999 on Cooperatives](#), the Fund may be used for the dissemination and promotion of the cooperative movement and its inter-cooperative relations, for the cultural, professional and welfare promotion of the local environment, as well as for the improvement of the quality of life, community development and environmental protection.



II. During the validity of the state of alert, and whenever sessions of the general assembly cannot be held through virtual means, the governing board of the co-operative will be the competent body to apply the Fund in accordance with the provisions of section I above. This power of the governing board may be extended until 31st December 2020 when the protection of the health of the members of the cooperative requires the virtual holding of sessions of the general assembly and the cooperative does not have sufficient means to do so.

Promotion and reinforcement of the current Special System for Self-Employed Farm Workers

Among the wide range of measures adopted by Royal Decree-Law 15/2020, and as shown in the explanatory memorandum of the law itself, it is intended to promote and strengthen the current Special System for Own-Account Workers in Agriculture, included in the Special System for Own-Account or Self-Employed Workers, given the important role played by the agricultural sector during the crisis generated by Covid-19, both in relation to the working population employed, and to the gross domestic product.

In this sense, a reform regarding the requirements for inclusion in the special system is introduced, dispensing with the economic requirements demanded until now, thus facilitating access by small farmers. It is also intended to mitigate the effects that the Covid-19 could have on production, since if it were drastically reduced, it would not be feasible to remain in that system, since the minimum agricultural income requirements would not be met, in accordance with the current configuration.

MAIN MEASURES IMPLEMENTED BY THE RDL 15/2020	
Measures	Content of the measures
<p>Reduction in the contribution in a situation of inactivity in the Special System for Employed Agricultural Workers, established in the general social security system. (Article 25 RD 15/2020)</p>	<p>A 19.11% reduction is applicable to the quotas resulting from the periods of inactivity for the year 2020, for those workers registered in the Special System for Agricultural Employees established in the General Social Security System, who during the year 2019 had made a maximum of 55 working days of contributions.</p>
<p>Flexibility in the requirements for incorporation into the special system for self-employed agricultural workers. (6th Final Provision of the RDL 15/2020)</p>	<p>To amend paragraphs 1 and 2 of Article 324.1 of 30th October Royal Legislative Decree 8/2015, which approves the revised text of the General Law on Social Security ("LGSS") and which establishes the requirements for incorporation into the Special System for Self-employed Agriculture Workers. This amendment seeks to dispense with those inclusion requirements directly linked to employment income, in order to facilitate access to social guarantees for small farmers.</p> <p>In this sense, among the requirements for access to this system, the minimum percentages of income derived from agricultural work will not be taken into account, as was previously required (50% of total income from agricultural activities, and 25% from their own farm), and will therefore be limited to compliance with the following requirements for self-employed agricultural workers over the age of 18.</p> <p>a.- Own agricultural holdings and personally and directly carry out agricultural activities on these holdings, even if they employ employed workers, with the following limit:</p>

	<p>I. In the case of employing workers who pay contributions on a monthly basis, the maximum number of workers allowed is two.</p> <p>II. In the case of employing workers who pay contributions on a daily basis, as referred to in article 255 of the LGSS, the limitation shall be established at 546 working days actually worked from January 1st to December 31st each year.</p> <p>The number of actual days shall be reduced proportionally according to the number of days the self-employed agricultural worker is registered in this Special System during the calendar year in question</p> <p>These limitations are established by each agricultural holding.</p> <p>b.- Likewise, the consideration of agricultural activity is extended to the direct sale of the farmer's own production, without processing or with first processing - limited to the products included in Annex I of Article 38 of the Treaty on the Functioning of the European Union -, which is carried out with the resources of the agricultural holding.</p> <p>In accordance with the above, the management and/or direction of the holding will be considered an agricultural activity.</p>
<p>Verification of the requirements for incorporation into the special system for self-employed agricultural workers (5th Transitional Provision of RDL 15/2020)</p>	<p>In this respect, it is agreed that those incorporations into the Special System for Self-Employed Agricultural Workers, established in the RETA (Special Regime for Self Employed Workers), whose validity on 22nd April 2020 was not effectively verified by the General Treasury of Social Security, will be evaluated in accordance with the requirements established in LGSS article 324.1.</p>

We hope the information is useful and of your interest. At Andersen Tax & Legal we have created a multidisciplinary team to attend to all the questions that may arise on this aspect or in relation to the COVID-19.

For more information please contact:

[Ignacio Aparicio](mailto:ignacio.aparicio@andersentaxlegal.es) | Partner in the Corporate department
ignacio.aparicio@andersentaxlegal.es

[Álvaro Del Castillo](mailto:alvaro.delcastillo@AndersenTaxLegal.es) | Associate in the Employment department
alvaro.delcastillo@AndersenTaxLegal.es

The above comments are for information purposes only and do not constitute professional opinions or legal advice, nor do they necessarily include the opinions of the authors. If you are interested in obtaining additional information or clarification of the content, please contact us by telephone on + 34 963 527 546/34 917 813 300 or by e-mail at communications@andersentaxlegal.es.