

Informative Note

Urgent measures regarding agricultural employment

9th April 2020

7th April Royal Decree-Law 13/2020 of adopting certain urgent measures on agricultural employment

In accordance with the announcement made by the Spanish Government's Minister for Agriculture, Fisheries and Food, *Royal Decree Law 13/2020, of 7 April, adopting certain urgent measures in the field of agricultural employment* ("RDL 13/2020") was published in the BOE on 8 April, as part of the exceptional measures in the field of employment adopted in the wake of the health and social crisis generated by Covid-19.

In this context, a series of measures were adopted in the field of agricultural employment, in view of the sharp fall in the supply of temporary labour usually employed in agricultural work (seasonal workers in the countryside), which, according to the explanatory memorandum to the law, could have several causes:

- on the one hand, the limitations on the transport and movement of persons, agreed on the occasion of the declaration of the state of alert, and which would have repercussions on the journeys of workers who habitually travel from third countries, to provide services as seasonal workers in Spanish fields, during this time of year;
- the precautions and reticence that workers might have in the face of the evolution and advance of the pandemic caused by Covid-19.

This reduction in the number of workers in the countryside could jeopardise the harvesting season for certain seasonal agricultural products such as summer fruits, stone fruits and strawberries, and could also lead to a supply problem at any point in the agri-food chain - retail market/consumers and/or the processing industry.

Therefore, through the implementation of extraordinary measures, for the flexibility of agricultural employment that are provided for in the rule, it is intended to achieve a triple objective, namely:

- To guarantee the supply of agricultural products on the markets: the aim is to secure the labour force (of Community or extra-Community origin), thus guaranteeing the harvesting of seasonal crops in the field, and with it, the supply of the agro-food chain;

In short, to guarantee sufficient workforce to meet the needs of farmers and breeders at the time, the first link in that agro-food chain, ensuring proper production, not only in quantity but also in time;

- maintain the income of the population that most needs it, by implementing an exceptional system of compatibility between the agricultural activity that is the object of these flexibility measures and the receipt of certain subsidies, aids or benefits of a social or labour nature, whether contributory or non-contributory;



- maintaining agricultural activity and improving the social and working conditions of the population: in this respect, the procedures for accessing these aids are expedited or facilitated, and they can be applied for without the need for a password or digital certificate, a responsible declaration by the applicant being sufficient.

To this end, the measures envisaged have focused on favouring groups in a situation of socio-economic vulnerability, giving priority to those people who could have been affected to a greater extent by the economic consequences of the COVID-19, delimiting for this purpose the subjective scope of beneficiaries of these labour flexibility measures. In the same vein, a system of compatibility is envisaged between the economic benefits received from agricultural activity and the various social security benefits, both contributory and non-contributory, from which the above-mentioned groups may benefit, as detailed below:

1.- Beneficiaries of labour flexibility measures

- persons who are unemployed or who have ceased their activity;
- workers affected by measures to suspend contracts or reduce working hours adopted under Article 47 of the Workers' Statute, with particular reference to force majeure;
- immigrant workers whose work permit expired during the state of alert;
- third-country nationals who are in a regular situation between the ages of 18 and 21.

Likewise, people whose homes are close to the places where the work is to be done will be able to benefit from the flexibility measures approved by RDL 13/2020.

In any case, proximity is understood to exist when the worker's home or the place where he or she stays temporarily while the campaign is being carried out is in the same municipal district or in municipal districts bordering the work centre. The Autonomous Communities may adjust this criterion according to the territorial structure, considering the depopulation or dispersion of municipalities

2.- Compatibility/incompatibility with other employment benefits

In accordance with Article 3 of RDL 13/2020, the income obtained by workers from the agricultural activity covered by the rule will not count towards the income limits established for contributory or non-contributory social security benefits, including supplements for minimum contributory pensions. Thus, the remuneration received will be compatible with:

- unemployment benefit or farm income;
- unemployment benefits deriving from suspension for economic, technical, organisational or production reasons, excluding those deriving from the measures provided for in Articles 22, 23 and 25 of 17th March Royal Decree Law 8/2020 of (temporary workforce restructuring plans for force majeure or economic, technical, organisational or production reasons, deriving from Covid-19);
- any other unemployment benefits regulated by Title III of the consolidated text of the General Law on Social Security;

- benefits for cessation of activity, excluding those originating in the measure provided for in Article 17 of 17 March Royal Decree Law 8/2020, which regulates the extraordinary benefit for termination of activity for those affected by the declaration of the state of alarm for the management of the crisis situation caused by the COVID-19;
- any other economic benefit or any other social benefit or aid, granted by any Administration which is incompatible with work or which, without being so, as a result of the receipt of income from work, exceeds the income limits indicated in the regulations corresponding to the type of benefit.

On the other hand, the rule establishes a regime of incompatibilities for specific situations. In this sense, the measures will be incompatible with:

- Social Security economic benefits for temporary disability, risk during pregnancy and risk during breastfeeding;
- pensions for permanent contributory incapacity, except in the cases of compatibility provided for in the revised text of the General Law on Social Security, approved by 30th October Royal Legislative Decree 8/2015;
- the Social Security benefit for the birth and care of a child, although, except for the obligatory period of the biological mother following childbirth, the obligatory period, or the part remaining thereof, may be enjoyed from the day following the end of the benefits provided for in this Royal Decree Law.

3.- Employer's obligations

The Employer shall be obliged to implement sufficient and adequate health and safety measures in the workplace to prevent the spread of Covid-19 among the workers.

4.- Processing of recruitment

Regarding the processing of employment contracts contemplated in the objective and subjective scope of the regulation, they will be managed directly with the competent regional employment services in each town.

In those places where the demand for employment exceeds the supply, the public employment services will prioritize the situation of vulnerable people with the following order of preference:

- persons who are unemployed or who have ceased their activity and are not receiving any kind of benefit or allowance;
- persons who are unemployed or who have ceased their activity and are receiving only non-contributory benefits;
- persons who are unemployed or who have ceased their activity and are receiving unemployment benefits or benefits of a social or occupational nature;
- migrants whose work and residence permits have expired during the period between the declaration of the state of alert and 30th June 2020;

- young third-country nationals, who are in a regular situation, between 18 and 21 years of age.

The Public Employment Service will automatically resume the benefits that had been suspended by automatic processes as a result of the transfer of information between the various public bodies.

In the case of recipients of unemployment benefits for agricultural workers to whom the unified payment system applies, the actual days worked on these contracts will not be considered for the purposes of determining the amount and the days of entitlement consumed.

The minimum remuneration shall be that laid down in the applicable collective agreement, subject in all cases to the limits laid down for the purposes of the Minimum Inter-professional Salary.

Finally, it should be noted that, in accordance with the provisions of the Third Additional Provision, the procedures in the field of Social Security are simplified, establishing the possibility of carrying out procedures without a permanent password or digital certificate for the interested parties, admitting for this purpose the identity declared by the interested party, without prejudice to the verifications that may be made by the managing entity.

On the other hand, it is established that if the interested party does not have or cannot obtain alternative documents that accredit their right, a responsible declaration may be admitted, in accordance with the provisions of article 69 of 1st October Law 39/2015, on the data or documents that the interested party intends to assert, without prejudice to the obligation to subsequently present the documents that accredit the facts or data alleged and the revision of the benefits provisionally recognized.

We hope the information is useful and interesting for you. At Andersen Tax & Legal we have created a multidisciplinary team to deal with all the questions that may arise on this aspect or in relation to the COVID-19.

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