

June, 2019

## ➤ LAW NO. 20,797 ON THE NEW VOLUNTARY REGISTRY OF AGRICULTURAL CONTRACTS

The new **Voluntary Registry of Agricultural Contracts** (the “Registry”), created by Law No. 20,797 (the “Law”) and its regulation (the “Regulation”) began operating on June 6, 2019.

Whoever enters into a term purchase agreement that refers to the first transaction of agricultural products (the “Agricultural Contract”), may voluntarily register its execution, amendments and cancellation in the Registry. Such registration triggers relevant legal consequences for the contracting parties, providing transparency to the agricultural industry, and simplifying compliance and enforceability of Agricultural Contracts.

Agricultural Contracts may be voluntarily and freely registered, whenever they are entered by an agricultural producer and, either: **a)** an intermediary (buys with the intention of reselling); or **b)** an agroindustrial party (processes and utilizes the produce).

Registrable Agricultural Contracts may refer to any vegetable or livestock related produce, already harvested or pending harvest.

### Why would the parties of an Agricultural Agreement choose to register their agreement in the Registry?

During their registration, Agricultural Agreements are:

1. Enforceable against third parties;
2. Produce legal evidence between the parties as to the fact of its execution and its essential terms, and;
3. Grant the rights and impose the obligations set out by the Law and its Regulation, of which we highlight:
  - a. *Legal solidarity in double sales hypothesis:* Should a person/entity different than the buyer in the registered Agricultural Agreement acquire the relevant products; such person/entity will be jointly and severally liable with the selling person/entity, for damages caused to the registered buyer.
  - b. *Speedy resolution of disputes:* Any dispute regarding the interpretation, application or execution of a registered Agricultural Agreement will be substantiated by the rules of the summary procedure.



If you have any questions regarding the matters discussed in this news alert, please contact the following attorneys or call your regular Carey contact.

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- c. *Proof of the Act of God or Force Majeure*: Declarations of emergency or agricultural catastrophe issued by local authorities will be considered as basis for a legal presumption about the occurrence of an Act of God or Force Majeure; softening their burden of proof, in order for a producer to be exempt from liability arising from a breach of contract.

### What is included in the Registry and becomes public?

By including an Agricultural Contract in the Registry, not all their terms and conditions will become public. Although it is possible to upload full scanned agreements to the online platform, the Registry does not require them. Instead, a form has to be completed, with certain “essential mentions” of the contract.

Among such essential mentions, are included: **(i)** the agreement’s parties, **(ii)** the relevant agricultural produce; and **(iii)** the real estate where production occurs.

Price of the Agricultural Contract is not included as an “essential mention” by the Regulation, and therefore, its disclosure is not necessary for registry.

The Registry’s platform operates online at [www.registrodecontratosagricolas.cl](http://www.registrodecontratosagricolas.cl), which is managed by the Ministry of Economy, Promotion and Tourism.

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