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LAWS AND REGULATIONS

PROMULGATED TO GIVE EFFECT TO THE PROVISIONS OF
THE INTERNATIONAL TREATIES ON NARCOTIC DRUGS

PERU

Communicated by the Government of Peru

NOTE BY THE SECRETARY-GENERAL - In accordance with the relevant Articles of the International Treaties on Narcotic Drugs, the Secretary-General has the honour to communicate the following legislative text.

The President of the Republic
Revolutionary Government of Peru

LEGISLATIVE DECREE No. 17505
of 18 March 1969

SANITARY CODE

Introductory Chapter

- I. Health is the main constituent of well-being and is essential to human development and the progress of nations. Health is a legally inalienable possession.
- II. No agreement may be made which is contrary to the Health Norms.
- III. The object of the Health Norms is to safeguard the asset contributed by health.
- IV. The legal regulation of health is governed solely by considerations of public interest.
- V. The Health Authority may not omit to observe and enforce the Health Norms even if they are defective, in which case the principles of law must be applied.
- VI. No-one may be exempted from the obligations imposed by the Health Norms.
- VII. No alien may invoke his national law in matters of health.
- VIII. Property is subject to the Health Norms whenever it constitutes a danger to health.
- IX. Any deliberate act or omission which impairs or threatens the state of health constitutes an offence.
- X. The Ministry of Health is the sole Organ of State competent to settle questions of health, for which it has jurisdiction throughout the territory of the Republic.

BOOK ONE
RELATIONS CONCERNING HEALTH

SECTION ONE

THE HEALTH AUTHORITY

Article 1. The Health Authority is the Organ of State empowered to issue and enforce the Health Norms in respect of persons and material objects.

Article 2. The health objectives of the State shall be attained through the Ministry of Health and through corporate bodies of internal public law, corporate bodies of private law and natural persons in any way concerned with carrying out health work.

The health sector is thus constituted throughout the Republic.

Article 3. The Minister for Health is the highest health authority of the Republic. The Senior Director of the Ministry of Health is responsible for the application of the Health Norms.

Article 4. The Health Norms shall be issued after technical study and with the direct participation of the Health Authority.

Article 5. The judicial, political and administrative authorities are required to render any assistance in matters of health requested of them by the Health Authority, making use for this purpose of the powers and authority vested in them by the relevant laws.

SECTION TWO

POWERS AND COMPETENCE OF THE HEALTH AUTHORITY

Article 6. The Health Authority is hereby granted the necessary powers to take action to promote, protect and restore the health of the population throughout the national territory.

Article 7. The competence of the Health Authority shall be used to safeguard the asset constituted by health, not only by providing services, but by taking action to protect that asset, with power to enforce the provisions of this Code and any Orders made thereunder.

Article 8. The competence of the Health Authority shall comprise:

- (a) knowledge of all problems relating to public and private health and the production of goods and services for their solution;
- (b) power to enforce compliance with the provisions of this Code and with any Orders made thereunder;
- (c) use of the police force to enforce the measures adopted to enable the Health Authority to take action with respect to persons and material objects;
- (d) power to issue and enforce regulations for the protection of public and private health; and
- (e) authority to execute its decisions with the help of any other judicial, political or administrative Authority.

Article 9. Competence and jurisdiction in matters of health belong to:

- (a) the Ministry of Health, at the national level, through the Health Authority; and

(b) the Municipal Councils, at the local level, through their Departments of Health, which shall be technically subordinate to the Health Authority and be subject to the Health Norms. The Regulations shall establish these relations and govern the conduct of the local subordinate body.

Article 10. The Ministry of Agriculture is responsible for the health of plants and animals in so far as its technical activities relate to the production and productivity of agriculture and stock breeding. Where human health is endangered by zoonosis or by activities in the agricultural sector, the Ministry of Agriculture shall be subject to the Health Norms, and co-ordinate their application with the Ministry of Health.

Article 11. All Organs of State are prohibited from issuing provisions or taking action on questions of public or private health without the participation of the Health Authority.

Article 12. It is the duty of the Health Authority to ensure that no regulation issued or action taken by public or private corporate bodies or natural persons ignores, modifies or distorts the Health Norms.

Article 13. The Ministry of Health represents the State in all matters relating to health.

SECTION THREE

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SECTION FOUR

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SECTION FIVE

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SECTION SIX

PHARMACEUTICAL AND COSMETIC PRODUCTS

Article 76. The Health Authority shall supervise the inspection and control of pharmaceutical and cosmetic products.

Article 77. No pharmaceutical or cosmetic product, whatever its nature, formula or use, may be sold or retailed for any reason whatsoever without the permission of the Health Authority.

Article 78. The qualitative and quantitative analyses of pharmaceutical and cosmetic products must correspond to the formula and composition declared by the manufacturers and authorized for manufacture and sale.

Article 79. The technical and professional operation of laboratories manufacturing medicinal and toilet products, chemists' shops, pharmacies, drug stores and medicine cabinets, whatever their nature, origin or function, with the exception of domestic medicine chests are subject to the control of the Health Authority, the provisions of this Code and the Regulations.

Article 80. The marketing of proprietary pharmaceutical products is restricted by the provisions of this Code and by the Regulations and Orders issued thereunder by the Health Authority.

1/ Note by the Secretariat: The sections which are not relevant to narcotics have been omitted.

Article 81. The following are prohibited:

- (a) The manufacture, import, possession, distribution and transfer for any reason whatsoever, of pharmaceutical and cosmetic products which have been contaminated, adulterated, falsified or altered;
- (b) The manufacture or import of any pharmaceutical or cosmetic product without the prior permission of the Health Authority, which shall be granted as provided in the Regulations; and
- (c) Registration of the trademark or patent for any pharmaceutical or cosmetic process or product, without the prior permission of the Health Authority, which may order the cancellation of any such registration, whatever the date on which it was made, if the provisions of this Code and the Regulations have not been, or are not being complied with.

Article 82. The Health Authority shall establish the standards of quality control for pharmaceutical and cosmetic products. Nevertheless, every production laboratory is required to have its own system of quality control for its products, for which it will be held responsible.

Article 83. The Health Authority shall authorize the sale or distribution for any purpose, of pharmaceutical and cosmetic products, provided that they have been duly registered. Nevertheless, in duly authenticated cases, the Health Authority may provisionally authorize the import and sale, without prior registration, of pharmaceutical products for urgent medical use.

SECTION SEVEN

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SECTION EIGHT

INTERNATIONAL RELATIONS CONCERNING HEALTH

Article 100. International relations concerning health comprise: relations of public international law and relations of private international law. In international relations of private law, the Health Norms of local law are regarded as public law.

Article 101. In the relations of the Peruvian State with another State or with any international health body, Peru is represented jointly by the Minister for Health and the Senior Director of the Ministry of Health.

Article 102. The Health Authority is responsible for health protection measures at frontiers, which it may carry out in collaboration with the health authorities of neighbouring countries.

Article 103. It is the duty of the Health Authority to collaborate with foreign health authorities in joint programmes for the prevention of all types of communicable diseases, and to direct its action to preventing them from spreading in the national territory or in foreign territory.

Article 104. The intervention of the health authorities of neighbouring countries in the national territory to protect human health by action co-ordinated with that of the Peruvian Health Authority, does not affect national sovereignty.

Article 105. The Health Authority is responsible for health protection at all sea, air, river, lake or land ports in the national territory, and its authority extends to persons and material objects.

Article 106. The Health Authority is empowered to order the isolation of nationals or aliens and the quarantine of any means of transport, whether national or foreign, for reasons of health.

Article 107. Every international transport undertaking, whatever its legal character - civil or commercial, public or private, national or foreign - is bound by the provisions of this Code and the Regulations and subject to the Peruvian Health Authority.

Article 108. The aforementioned international undertakings are prohibited from, and will be held responsible for, giving passages to persons who have not previously produced the vaccination certificates required by the Peruvian Health Authority and those required by the Health Authority of their country of destination.

Article 109. The international transport undertakings mentioned in article 107 are directly responsible for the entry into the country of persons not in possession of the vaccination certificates required by the Country of origin and those required by the Health Authority in accordance with the Peruvian Health Norms.

Article 110. The international transport undertakings mentioned in article 107 are prohibited from discharging any food product of any kind whatsoever at a Peruvian port unless they produce the following documents:

- (a) a health certificate issued by the Health Authority of the country of origin, attesting that the product carried is fit for human consumption;
- (b) a certificate issued by the Health Authority of the country of origin, attesting that the holds or store-rooms in which the product is carried are in a perfectly hygienic condition; and
- (c) in the case of agricultural or livestock products intended for human consumption or stock breeding, a sanitary certificate issued by the Agricultural Authority of the country of shipment.

Article 111. Officials in charge of transport entering the Peruvian Republic are prohibited from authorizing the disembarkation of persons or material objects before the Peruvian Health Authority at the port of arrival has issued the necessary Sanitary Clearance.

Article 112. The international transport undertakings mentioned in article 107 have no right of action against the Peruvian Health Authority in respect of the period for which the means of transport is detained for purposes of sanitary inspection and treatment.

BOOK TWO

SECTION ONE

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SECTION TWO

DRUG ADDICTION

Article 136. Drug addiction is a public health problem, not only because of the injury suffered by the addict, but because mental contagion, by suggestion, leads to endemic addiction.

Article 137. The Health Authority is required to maintain strict control over the improper use of all drugs and narcotics, which have the same effects on the human organism as the poisons that cause degeneration of the human race and species.

Article 138. The control of drug addiction cannot be limited to use and direct consequences, but must also extend to the associated effects which lead to mental deterioration.

Article 139. It is the bounden duty of the Health Authority to defend and protect human dignity.

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BOOK THREE

OFFENCES AND SANCTIONS

SECTION ONE

HEALTH OFFENCES

Article 185. The following constitute offences against health:

- (a) Refusal to comply with the Health Norms or obstruction of action taken by the Health Authority to defend and protect public or private health;
- (b) Conscious violation of the Health Norms;
- (c) Violation of measures taken to prevent the inception or propagation of an epidemic;
- (d) Conscious spreading of contagious diseases;
- (e) Conscious abandonment of a person, of whatever age, whose life or health is in danger;
- (f) Collective abandonment of the sick by persons in any way responsible for their care;
- (g) Voluntarily self-inflicted serious injuries resulting in loss of a limb, permanent deformity, mental disturbance or other damage to health;
- (h) Hunger strikes;
- (i) Sale, delivery or supply of alkaloids or narcotics without a medical prescription;
- (j) Supplying of drugs of a kind or quality, or in quantities, not corresponding to the medical prescription;
- (k) Unjustified prescribing of alkaloids or narcotics in doses larger than those indicated in the Pharmacopoeia;
- (l) Clandestine introduction of alkaloids or narcotics into the country;
- (m) Possession of any kind of drug without a legitimate reason for possessing or holding it;
- (n) Kidnapping, hiding or substitution of a child;
- (o) Confinement of a mentally healthy person in a clinic or asylum for the insane;
- (p) Use of a vital organ for grafting or transplanting, before the death of the donor;
- (q) Failure to comply with the Health Norms in the use or enjoyment of property;

(r) Letting property for rent without regard to the hygienic and sanitary conditions prescribed for its intended use. A repetition of this offence by a proprietor renders him liable to forfeiture of the property, which shall pass to the State; and

(s) The other cases referred to in the Penal Code and other laws as health offences.

Article 186. The offences referred to in the foregoing article shall be punished by not less than six months' imprisonment with or without hard labour.

Article 187. Anyone who, on his own account or acting on behalf of another, in any way impairs the hygienic or sanitary condition of objects in common use commits an offence against public health.

Article 188. Commission of any of the offences referred to in this section by a public employee or official shall result in automatic termination of his employment or functions and special deprivation of rights for twice the duration of his sentence.

Article 189. Proceedings with respect to commission of the offences referred to in this section shall be instituted by the authorities, unless any information has been laid.

FINAL PROVISIONS

Article 190. The technical and scientific rules governing the procedure and execution of health measures shall be stated in the Sanitary Regulations, which shall be issued in each case by the Ministry of Health, with the direct assistance of his Technical Staff.

Article 191. The Regulations shall classify offences against health and state the corresponding penalties and how they are to be applied.

Article 192. Health norms of an administrative nature shall be stated in the Organic Law on Health and in the General Regulations of the Ministry of Health.

Article 193. The Sanitary Regulations shall be approved by Supreme Decree.

Article 194. The Health Authority shall keep the Sanitary Regulations under constant review, and keep their provisions up to date as required by scientific and technical progress in matters of health.

The partial or total amendment of any Regulation shall be approved by Supreme Decree, with a favourable vote of the Council of Ministers.

Article 195. The Sanitary Code for Foodstuffs, approved by Supreme Decree No. 112-63-D.G.S. of 18 June 1963 shall continue in force.

Article 196. The technical standards for foodstuffs, pharmaceutical products and cosmetics shall be issued exclusively by the Health Authority.

Article 197. The existing Sanitary Regulations shall remain in force in so far as their provisions do not conflict with this Code.

Article 198. Laws and provisions which conflict with this Code are hereby repealed.

Article 199. This Code shall enter into force sixty days after the date of its promulgation.

Done at Government House, Lima, this eighteenth day of March, nineteen hundred and sixty-nine.