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LAWS AND REGULATIONS

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

In accordance with the relevant articles of the international treaties on narcotic drugs and psychotropic substances, the Secretary-General has the honour to communicate the following legislative texts.

CHILE

Communicated by the Government of Chile

NOTE BY THE SECRETARIAT

- (a) Some editing of texts may be done by the Secretariat in the interest of clarity. In this connection, words in square brackets [] have been added or changed by the Secretariat.
- (b) Only passages directly relevant to the control of narcotic drugs or psychotropic substances have been reproduced in this document. Non-relevant parts of laws and regulations have been deleted by the Secretariat; such deletions are indicated by [...].

Decree No. 1358 (DTO-1358)



Identification of statutory instrument: D TO -1358
Date of publication: 17.04.2007
Date of promulgation: 22.12.2006
Organization: Ministry of the Interior, Undersecretariat for Internal Affairs

DECREE No. 1358, SANTIAGO, 22 DECEMBER 2006,

ESTABLISHING RULES REGULATING MEASURES LAID DOWN FOR THE CONTROL OF PRECURSORS AND ESSENTIAL CHEMICALS BY LAW No. 20000 PENALIZING THE ILLICIT TRAFFIC IN NARCOTIC DRUGS AND PSYCHOTROPIC SUBSTANCES¹

Having regard to the provisions of articles 32 (6) and 19 (21) of the Political Constitution of the Republic of Chile, the provisions of Law No. 20000 penalizing the illicit traffic in narcotic drugs and psychotropic substances, the provisions of the United Nations Convention against Illicit Traffic in Narcotic Drugs and Psychotropic Substances, ratified by Chile and published in the Official Gazette of 20 August 1990, and the provisions of Interior Supreme Decree No. 683 of 1990, and

Whereas:

Law No. 20000 establishes as punishable offences the production, manufacture, processing, distribution, transport, marketing, import, export, possession or keeping of precursors or essential chemicals with a view to their use in the preparation of narcotic drugs or psychotropic substances for the purpose of perpetrating, inside or outside the country, any acts regarded as offences under that Law or where the acts referred to were committed without knowledge of the intended use of the precursors or essential chemicals owing to gross negligence;

Law No. 20000 accordingly stipulates that any individuals or corporate entities producing, manufacturing, preparing, importing or exporting precursors or essential chemicals defined as capable of being used in the illicit manufacture of narcotic drugs or psychotropic substances shall be registered in a special register which the Ministry of the Interior shall establish for that purpose and, therefore, only those registered in the special register may conduct the stated operations and activities involving such substances;

The aforementioned register shall be established through the promulgation of regulations;

Those regulations shall specify, inter alia, the list of precursors and essential chemicals defined as capable of being used in the illicit manufacture of narcotic drugs or psychotropic substances, the procedure for applying for registration in the special register, the grounds for suspension or cancellation of registration and the requirements concerning inventories and details of movements of such substances;

I hereby decree as follows:

Controlled chemicals, whether precursors or essential chemicals, capable of being used in the illicit manufacture of narcotic drugs or psychotropic substances

Article one. For the purposes of the present Regulations:

(a) Precursors shall mean chemicals that may be used in the production, manufacture and/or preparation of narcotic drugs or psychotropic substances through the incorporation of their molecular structure in the end product, thus rendering them essential to such processes;

¹ Note by the Secretariat: E/NL.2007/17.

(b) Essential chemicals shall mean chemicals such as solvents, reagents or catalysts which, although not precursors, may be used in the production, manufacture, extraction and/or preparation of narcotic drugs or psychotropic substances.

Without prejudice to the foregoing, essential chemicals and precursors may also be designated controlled chemicals for the purposes of the present Regulations.

Article two. The following shall be classified as controlled chemicals, irrespective of their designation or physical state:

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|--------------------------|--|
| 1. Acetic acid (glacial) | 34. Methyl alcohol |
| 2. Acetic anhydride | 35. Methyl butyl ketone |
| 3. Acetone | 36. Methyl ethyl ketone |
| 4. Ammonia (anhydrous) | 37. Methyl isobutyl ketone |
| 5. Ammonia (solution) | 38. Methyl propyl ketone |
| 6. Amyl acetate | 39. Methylene chloride |
| 7. Amyl alcohol | 40. <i>N</i> -acetylanthranilic acid |
| 8. Anthranilic acid | 41. Norephedrine |
| 9. Benzene | 42. Phenylacetic acid |
| 10. Butyl acetate | 43. Piperidine |
| 11. Butyl alcohol | 44. Piperonal |
| 12. Calcium oxide | 45. Potassium carbonate |
| 13. Carbon sulfide | 46. Potassium hydroxide |
| 14. Carbon tetrachloride | 47. Potassium permanganate |
| 15. Chloroform | 48. Propyl acetate |
| 16. Cyclohexane | 49. Propylene dichloride |
| 17. Cyclohexanone | 50. Pseudoephedrine |
| 18. Cyclohexene | 51. Safrole |
| 19. Ephedrine | 52. Sodium carbonate |
| 20. Ergometrine | 53. Sodium hydroxide (solid) |
| 21. Ergotamine | 54. Sodium hydroxide (solution) |
| 22. Ethyl acetate | 55. Sodium sulfate |
| 23. Ethyl ether | 56. Styrene |
| 24. Ethyl formate | 57. Sulfuric acid |
| 25. Ethylene dichloride | 58. Tetrachlorethylene |
| 26. Gamma-butyrolactone | 59. Toluene |
| 27. Hexane | 60. Trichloroethane |
| 28. Hydrochloric acid | 61. Trichloroethylene |
| 29. Isopropyl alcohol | 62. Turpentine |
| 30. Isopropyl ether | 63. Xylene |
| 31. Isosafrole | 64. 1-phenyl-2-propanone |
| 32. Lysergic acid | 65. 3,4-methylenedioxyphenyl-2-propanone |
| 33. Methyl acetate | |

It is expressly established that the salts and mixtures derived from the use of any precursors or essential chemicals appearing in the list set out above shall also be regarded as controlled chemicals, with the exception of the salts of hydrochloric acid and sulphuric acid.

In accordance with the provisions of Law No. 20000, the present list shall, whenever necessary, be updated by the Ministry of the Interior through the promulgation of the respective supreme decree. For such purposes, the aforesaid Ministry may request information from the relevant bodies.

Special register of users of controlled chemicals

Article three. A special register of users of controlled chemicals shall be established and any individuals or corporate entities producing, manufacturing, preparing, importing or exporting substances classified as precursors or essential chemicals under article two of the present Regulations shall accordingly be registered in the aforementioned register.

The register shall be administered by the Ministry of the Interior with the technical assistance of the National Narcotics Control Board.

For purposes of registration in the register, individuals or corporate entities carrying on any of the activities referred to in the first paragraph of this article shall send to the Ministry of the Interior the particulars set out below together with their registration application:

- (a) Individuals:
- Name, nationality, trade or occupation and address;
 - Location or locations where they conduct their business involving controlled chemicals;
 - Birth certificate;
 - Notarized copy of their identity card;
 - Criminal record certificate not older than thirty consecutive days computed from its date of issue;
 - Notarized copy of the document evidencing the commencement of their business as presented to the inland revenue service in order to carry on any of the aforementioned operations;
 - Residence certificate issued by the relevant authority; and
 - Notarized copy of the up-to-date municipal licence issued by the municipality concerned;
- (b) Corporate entities:
- Notarized copy of their incorporation papers;
 - Current powers of their legal representative or representatives;
 - Certificate of authentication of the corporate entity, issued by the relevant authority and not older than thirty consecutive days computed from its date of issue;
 - Notarized copy of the document evidencing the commencement of their business as presented to the inland revenue service in order to carry on any of the aforementioned operations;
 - Name, nationality, trade or occupation and address of their legal representatives or directors, in regard to whom it shall be necessary to attach the relevant criminal record certificates, which shall not be older than thirty consecutive days computed from their date of issue, and, in the case of non-limited companies, a criminal record certificate, not older than thirty consecutive days computed from its date of issue, in regard to each of the partners;
 - Notarized copy of the tax registration document;
 - Address or addresses of the corporate entity; and
 - Notarized copy of the up-to-date municipal licence issued by the municipality concerned.

Where registration in the special register of users of controlled chemicals is applied for by corporate entities producing, manufacturing, preparing, importing or exporting substances classified as precursors or essential chemicals under article two of the present Regulations and their partners include any other corporate entities, of whatsoever nature or howsoever incorporated, they shall indicate the business name of such other entity or entities and their percentage shareholding therein.

The particulars stated shall be assessed by the Ministry of the Interior with the technical assistance of the National Narcotics Control Board and, following an analysis of each case, the registration of the individual or corporate entity in the special register of users of controlled chemicals shall be accepted or refused. That decision shall be communicated in writing to the party concerned by registered letter sent to

the address specified by the applicant in the application and such notification shall be deemed served as from the third day following receipt thereof at the post office concerned.

The Ministry of the Interior shall accept or refuse such registration within a maximum time limit of 60 working days computed from receipt of the application and relevant particulars. Only individuals or corporate entities registered in the aforementioned register may carry on operations or activities involving controlled chemicals, as referred to in the first paragraph of this article.

Article four. Registration in the special register in the case of individuals may be refused only in regard to those with respect to whom formal investigations have been instituted or a conditional stay of proceedings has been ordered, as provided for in article 237 of the Code of Criminal Procedure, or who have been convicted of any offences punishable under Law No. 20000, Law No. 19366 or Law No. 19913. Registration may also be refused in regard to corporate entities if any of their legal representatives or directors, or partners in the case of non-limited companies, are in any of the situations specified above in relation to individuals.

In order to corroborate the accuracy of the particulars provided by the parties concerned, the Ministry of the Interior may request the cooperation of other public services or bodies and the relevant agreements shall be concluded according to the functions of each of them.

Article five. Individuals or corporate entities registered in the special register of users of controlled chemicals shall, without prejudice to the provisions of article six, update their registration biennially and shall send the documentation indicated below to the Ministry of the Interior between May and June of the year concerned:

Individuals:

- Certificate of residence issued by the relevant authority;
- Indication of the location or locations where they conduct their business involving controlled chemicals;
- Notarized copy of the corresponding up-to-date municipal licence issued by the municipality concerned;

Corporate entities:

- Certificate of authentication of the corporate entity, issued by the relevant authority and not older than thirty days computed from its date of issue;
- Indication of the address or addresses of the corporate entity;
- Notarized copy of the corresponding up-to-date municipal licence issued by the municipality concerned.

The registration of individuals and corporate entities in the register shall be deemed renewed only after they have fulfilled the aforementioned requirements.

Without prejudice to the foregoing, in cases where any amendment is made to the structure of a corporate entity or to the current powers of its legal representative or representatives, or there is a change of any of its partners, except in the case of limited companies, or any of its directors, or where a major development occurs with regard to individuals or corporate entities the knowledge and notification of which are of importance in relation to registration in the register, such situation shall be reported immediately in writing to the Ministry of the Interior.

However, in the event of cessation of business of any registered individuals or corporate entities, such situation shall be reported by them to the registration authority at the latest within one working day following the occurrence thereof.

Article six. Registration in the register shall be suspended if, subsequent to the granting thereof, formal investigations are instituted in connection with any of the offences punishable under Law No. 20000,

Law No. 19366 or Law No. 19913. Registration in the special register of users of controlled chemicals shall similarly be cancelled once a final judgment of conviction becomes enforceable in proceedings instituted in respect of offences punishable under any of the aforementioned statutory instruments.

In such cases, the Ministry of the Interior shall without delay issue the declaratory ruling and the parties concerned shall be notified of the situation.

Article seven. Individuals or corporate entities registered in conformity with the foregoing provisions shall immediately report to the competent authorities any operation to which they are parties and with respect to which they are certain or have grounds to believe that controlled chemicals may be diverted to the illicit manufacture of drugs and shall refrain from carrying out the operation until such notification has been given by them.

They shall be obliged in particular to report any unusual or inexplicable operation, act or transaction, whether occurring once or repeatedly.

Article eight. Controlled chemicals listed in article two of the present Regulations, identified by their names and respective numerical codes, as appearing in the Harmonized Commodity Description and Coding System published by the World Customs Organization (HS code), and the registry number assigned by the Chemical Abstracts Service, American Chemical Society, USA (CAS number), shall be classified in three lists taking into account the stipulations of the United Nations Convention against Illicit Traffic in Narcotic Drugs and Psychotropic Substances of 1988.

Notwithstanding the foregoing, it shall be possible, by amendments to the present Regulations, to include chemicals in or delete chemicals from the lists or to transfer them from one list to another, in accordance with control requirements and needs. Users shall be notified of any such amendments sufficiently in advance of the entry into force thereof.

Article nine. The three lists of controlled chemicals shall be as follows:

List I

Substance	HS code	CAS number
Acetic anhydride	2915.24.00	108-24-7
Ephedrine	2939.41.00	299-42-3
Ergometrine	2939.61.00	60-79-7
Ergotamine	2939.62.00	113-15-5
Isosafrole	2932.91.00	120-58-1
Lysergic acid	2939.63.00	82-58-6
N-acetylanthranilic acid	2924.23.00	89-52-1
Norephedrine	2939.49.00	700-65-2
Piperonal	2932.93.00	120-57-0
Potassium permanganate	2841.61.00	7722-64-7
Pseudoephedrine	2939.42.00	90-82-4
Safrole	2932.94.00	94-59-7
1-phenyl-2-propanone	2914.31.00	103-79-7
3,4-methylenedioxyphenyl-2-propanone	2932.92.00	4676-39-5

List II

Substance	HS code	CAS number
Acetone	2914.11.00	67-64-1
Anthranilic acid	2922.43.00	118-92-3
Ethyl ether	2909.11.00	60-29-7
Hydrochloric acid	2806.10.00	7647-01-0

Methyl ethyl ketone	2914.12.00	78-93-3
Phenylacetic acid	2916.34.00	103-82-2
Piperidine	2933.32.00	110-89-4
Sulfuric acid	2807.00.00	7664-93-9
Toluene	2902.30.00	108-88-3

List III

Substance	HS code	CAS number
Acetic acid (glacial)	2915.21.00	64-19-7
Ammonia (anhydrous)	2814.10.00	7664-41-7
Ammonia (solution)	2814.20.00	1336-21-6
Amyl acetate	2915.39.90	628-63-7
Amyl alcohol	2905.15.00	71-41-0
Benzene	2902.20.00	71-43-2
Butyl acetate	2915.33.00	123-86-4
Butyl alcohol	2905.13.00	71-36-3
Calcium oxide	2825.90.00	1305-78-8
Carbon sulfide	2813.10.00	7783-41-7
Carbon tetrachloride	2903.14.00	56-23-5
Chloroform	2903.13.00	67-66-3
Cyclohexane	2902.11.00	110-82-7
Cyclohexanone	2914.22.00	108-94-1
Cyclohexene	2902.19.00	110-83-8
Ethyl acetate	2915.31.00	141-78-6
Ethyl formate	2915.13.00	109-94-4
Ethylene dichloride	2903.15.00	107-06-2
Gamma-butyrolactone	2932.29.00	96-48-0
Hexane	2901.10.00	110-54-3
Isopropyl alcohol	2905.12.20	67-63-0
Isopropyl ether	2909.19.90	108-20-3
Methyl acetate	2915.39.90	79-20-9
Methyl alcohol	2905.11.00	67-56-1
Methyl butyl ketone	2914.19.00	591-78-6
Methyl isobutyl ketone	2914.13.00	108-10-1
Methyl propyl ketone	2914.19.00	107-87-9
Methylene chloride	2903.12.00	75-09-2
Potassium carbonate	2836.40.00	584-08-7
Potassium hydroxide	2815.20.00	1310-58-3
Propyl acetate	2915.39.90	109-60-4
Propylene dichloride	2903.29.00	78-87-5
Sodium carbonate	2836.20.30	497-19-8
Sodium hydroxide (solution)	2815.12.00	1310-73-2
Sodium hydroxide	2815.11.00	1310-73-2
Sodium sulfate	2833.11.00	7757-82-6
Styrene	2902.50.00	100-42-5
Tetrachlorethylene	2903.23.00	127-18-4
Trichloroethane	2903.19.10	79-00-5
Trichloroethylene	2903.22.00	79-01-6
Turpentine	3805.10.00	8006-64-2
Xylene	2902.43.00	106-42-3

Individuals or corporate entities producing, manufacturing, preparing, importing or exporting any controlled substances appearing in lists I, II and III above shall, when applying for registration in the special

register of users of controlled chemicals, notify the Ministry of the Interior thereof using forms to be supplied to them for that purpose.

The Ministry of the Interior shall, with the technical assistance of the National Narcotics Control Board, act in coordination with the National Customs Service and other public bodies competent to monitor controlled chemicals with a view to ensuring the proper functioning of the system established by the present Regulations.

Inventories and records of movements of controlled chemicals

Article ten. Individuals or corporate entities registered in the special register of users of controlled chemicals shall maintain an inventory showing stocks and movements of such substances, whether appearing in list I, II or III.

The inventory shall clearly indicate the name of the substance, its physical state, the HS code, the CAS number, stocks, initial warehoused volumes, processed volumes, incoming quantities, origin, identification and quantities of end products and their destination. Also, a complete and up-to-date record shall be made of movements of such substances, including information on unprocessed quantities sold, quantities of damaged products, transport documents, waybills and destination details.

The stated information shall, irrespective of the data medium and presentation adopted, include, in local and foreign currency, all operations carried out involving controlled chemicals, which shall be duly supported by documentary evidence thereof showing the transactions effected. Both the inventory and the record of movements of controlled chemicals shall remain in the possession of the registered individual or corporate entity with a view to their examination by the Ministry of the Interior or to their submission whenever so requested by that authority.

Inspections

Article eleven. The Ministry of the Interior may, with the technical assistance of the National Narcotics Control Board, conduct inspections of registered individuals or corporate entities for the purpose of verifying compliance with the provisions of article ten or checking the information received.

The scope of such inspections may include the physical inventory of controlled chemicals, financial accounting documentation and computer systems.

Inspections shall be undertaken without prior notification and in such circumstances and manner as the Ministry of the Interior may determine, with the technical assistance of the National Narcotics Control Board.

Registered individuals and corporate entities shall take all appropriate measures to facilitate the inspection operations conducted by registry officials, who shall at all times have access to premises, documentation, computerized stock systems, records of movements and all documents relating to imports and exports of controlled chemicals. The individual or corporate entity shall, whenever so requested by the authority, provide such assistance as may be necessary for carrying out the inspection.

A report shall be prepared by the registry officials upon completion of the inspection. Such report shall contain a detailed description of all aspects covered by the inspection.

Imports and exports of controlled chemicals

Article twelve. If individuals or corporate entities registered, in the prescribed manner, in the special register of users of controlled chemicals intend to carry out import or export transactions involving any controlled chemicals appearing in list I or II, they shall notify the Ministry of the Interior thereof using forms to be made available for that purpose.

In the case of imports, the notification shall be effected sufficiently in advance so that the Ministry of the Interior may provide timely information if consulted by the authority of the exporting country.

Article thirteen. In the case of exports of chemicals appearing in list I or II set out in the present Regulations, the notification shall enable the Ministry of the Interior to report such transactions to the competent authorities of the importing country, thereby complying with the stipulations of article 12 of the United Nations Convention against Illicit Traffic in Narcotic Drugs and Psychotropic Substances of 1988. If no reply is received from the competent authority of the importing country concerning the lawfulness of the transaction within a maximum time limit of fifteen consecutive days, it shall be presumed that there had been no objection to the transaction.

Article fourteen. In order to carry out transactions involving imports or exports of any substances included in list III, it shall be sufficient to be registered in the special register of controlled chemicals and it shall accordingly not be necessary to give notification as provided for in the preceding articles.

Article fifteen. Since a controlled chemical may be mixed with other chemicals that are not subject to control, either as a commercial product or as a result of being prepared by a producer under a special order, the following criteria shall be adopted for determining the list to which it shall apply:

- (1) If the mixture contains substances in list I, it shall, irrespective of the percentage, be regarded as a substance included in that list;
- (2) If the mixture contains a substance in list II in a percentage greater than 30 per cent, it shall be regarded as a substance included in that list; and
- (3) If the mixture contains two or more substances in list II and their combined percentage is greater than 30 per cent, it shall be regarded as a substance included in that list.

Breaches and fines

Article sixteen. Any breach of the obligations to register, to maintain inventories and keep records of movements, as referred to in article ten, and furnish information thereon whenever so requested by the Ministry of the Interior and to give notification of imports and exports shall be penalized by a fine of between forty and one thousand monthly tax units.

Such fines shall be collected by the Ministry of the Interior administratively, without judicial formalities, following pronouncement of the substantiated administrative act stating the grounds on which the imposition of the penalty was based and the circumstances which determined the amount thereof.

The administrative procedure relating to the imposition of fines shall be subject to the following rules:

- (1) The procedure shall be initiated with the precise formulation of the charges, which shall indicate the facts deemed to constitute the breach, the date of occurrence thereof, the rule breached, if any, and the provisions establishing the breach, the amount of the fine and the time limit for answering the charges;
- (2) Notification shall be effected in writing by registered letter sent to the address of the accused as stated in the register or where the accused's trade or occupation is carried on. Notification shall be deemed served as from the third day following receipt thereof at the post office concerned;
- (3) The accused shall answer the charges within a time limit of ten working days computed from the date of notification;
- (4) Upon receipt of the answer to the charges or upon expiry of the time limit allowed for that purpose, an evidentiary period of not more than thirty and not less than ten working days shall be initiated. The Ministry of the Interior shall arrange any evidentiary measures or formalities requested by the accused

in the answer to the charges unless they are manifestly inappropriate or unnecessary, in which case it shall reject them by means of a substantiated ruling;

- (5) The facts investigated and the liability of the party in breach may be established by any evidence admissible in law, which shall be evaluated *ex aequo et bono*;
- (6) The substantiated administrative act concluding the penalty procedure shall rule on all matters raised in the proceedings, rendering a verdict on each of the defendant's allegations and pleas, and shall state the penalty imposed on the party in breach or declare the defendant acquitted of the charges brought. It shall be pronounced within ten working days following the date on which the last formality ordered in the proceedings was completed;
- (7) Appeals against decisions imposing fines may be lodged in accordance with the provisions of Law No. 19880;
- (8) Any decision imposing a fine shall indicate the available means of administrative and judicial appeal against it in conformity with Law No. 19880, the authorities before which any such appeal shall be lodged and the time limit for appealing.

Article seventeen. The proceeds from fines imposed by reason of the aforementioned breaches shall be deposited in the special fund referred to in article 46 of Law No. 20000 and be used for the purposes stated therein.

Transitional article. Individuals and corporate entities obliged to register in the special register of users of controlled chemicals shall do so within a maximum time limit of sixty working days computed from the date to be specified by the Ministry of the Interior in a publication effected for such purposes in a daily newspaper of national circulation, which date shall not be later than 31 July 2007. If, for reasons not attributable to them, any individuals or corporate entities obliged to register do not apply for registration within the time limit laid down, the Ministry of the Interior may grant an additional period in which to do so, following a substantiated request by the party concerned, provided that such request is submitted within five working days from expiry of the time limit concerned.

However, the rules contained in the present Regulations shall apply to the applicant only after notification by the Ministry of the Interior of acceptance of the applicant's registration in the register.

To be noted, recorded, communicated and published.

Michelle Bachelet Jeria, President of the Republic – Belisario Velasco Baraona, Minister of the Interior

Transcribed for your information.
Yours etc.,

Felipe Harboe Bascuñán,
Undersecretary, Ministry of the Interior