

SUPREME DECREE NO. 22099

REGULATIONS IN APPLICATION OF LAW NO. 1008 ON THE REGIME APPLICABLE TO COCA AND CONTROLLED SUBSTANCES, 28 December 1988

TITLE I

CHAPTER I

Article 1

The aim of the present instrument is to establish regulations in application of the provisions of Law No. 1008 on the Regime Applicable to Coca and Controlled Substances.

Article 2

The objectives are to promote and facilitate the application of the law in accordance with paragraph 1 of article 96 of the Political Constitution of the State.

CHAPTER II

Article 3

The traditional coca cultivation zone, the transitional excess production zone and the illegal production zone are those defined in articles 9, 10 and 11 of Law No. 1008.

CHAPTER III

Article 4

The Under-Secretariat for Alternative Development and Replacement of Coca Cultivation is responsible for controlling the production of coca leaf as well as State coca plant nurseries for exclusive supply to the traditional zone.

Coca plant beds outside State nurseries and in the considered illicit and consequently eradicated. In the punished in accordance with article 46 of Law No. 1008.

Article 5

The Ministry of Rural and Agricultural Affairs shall organize and draw up the rural register of traditional and excess coca bush production zones. Lands which are not registered within one calendar year, counted from the date of the present regulations, shall be deemed areas of illicit production and their crops shall be eradicated without any compensation.

Article 6

The National Council for Agrarian Reform, the National Institute for Land Settlement and the Land Registry Offices of La Paz and Cochabamba shall remit to the Registry Office of the Ministry of Rural and Agricultural Affairs, within 120 days, effective from this date, the names of the beneficiaries by adjudication and/or endowment of lands situated in zones (a) and (b) described in articles 9 and 10 of Law No. 1008, with details of surface areas and changes which have occurred since such adjudication and/or endowment.

Article 7

In accordance with article 29 of Law No. 1008, and in conformity with the Integrated Plan for Development and Replacement (PIDYS), the Under-Secretariat for Alternative Development and Replacement of Coca Cultivation is responsible for determining the volumes of production of coca leaf for licit trade.

Article 8

The distribution and marketing of coca leaf for licit consumption and use shall be under the control of the National Directorate for the Control and Supervision of Coca Leaf, an agency of the Office of the Minister of the Interior, Migration and Justice, to prevent its diversion for illicit purposes.

Article 9

Producers of and/or traders in coca leaf who do not direct their product to the primary markets shall be sanctioned by confiscation and subsequent incineration. The establishment of channels not expressly authorized by the competent legal bodies is prohibited; it is also prohibited to issue bonds, vouchers or receipts not permitted by legal disposition.

CHAPTER IV

Article 10

The Under-Secretariat for Alternative Development is responsible for planning and implementing the programme for the reduction of coca cultivation, in accordance with title I of Law No. 1008, and the design, start-up and execution of the Integrated Plan for Alternative Development and Replacement of Coca Cultivation (PIDYS).

Article 11

The Under-Secretariat for Alternative Development, through its technical bodies, shall undertake the tasks of defining of areas, measurement, land registration, census, licensing and registration of coca producers, and shall direct the regional and local programmes of the Integrated Plan for Development and Replacement.

Article 12

The Under-Secretariat for Alternative Development, through its technical bodies, shall administer and programme the annual targets, the system of economic compensation, and registration and certification of the voluntary reduction of coca cultivation. The said reduction shall be effected in parallel with the programming of local, micro-regional and regional development plans in the framework of PIDYS and in line with the availability of national and international financial resources, in accordance with chapter III of Law

No. 1008.

Article 13

The Integrated Plan for Development and Replacement shall be the operative instrument for applying the rules laid down in Law No. 1008 and shall include programmes for the control of coca production and agricultural reconversion, economic revival, regional development and social participation.

Article 14

Producers shall participate in the various phases and stages of the execution of the Integrated Plan for Development and Replacement. For that purpose, the Under-Secretariat for Alternative Development shall organize regional, micro-regional and local committees of PIDYS.

Article 15

The National Fund for Alternative Development shall be subject to special regulation by the Under-Secretariat for Alternative Development.

Article 16

Producers of coca leaf who voluntarily participate in reduction and replacement programmes shall contact the specialized agency of the Under-Secretariat for Alternative Development, in the framework of PIDYS. Farmers settled in zones (a) and (b) defined in article 8 of Law No. 1008 who do not produce coca may also benefit from the alternative development programmes. Both individuals and groups shall be eligible to benefit from compensation funds, priority being given to economic and social projects.

TITLE II

CHAPTER I

Article 18

The import, export, preparation and marketing of the chemical substances for industrial use listed in schedule V of the annex to Law No. 1008, and those added subsequently, shall be authorized, supervised and controlled by the technical bodies of the National Council against the Abuse of and Illicit Traffic in Drugs.

Raw materials and finished medicines and chemical substances for industrial use which are not licensed shall be subject to seizure.

Article 17

The issue of licences for import and/or export and marketing of raw materials and finished medicaments containing controlled, narcotic and psychotropic substances shall be effected by ministerial decision, pronounced by the Ministry of Social Welfare and Public Health, which shall be communicated to the Special Force to Combat Drug Traffic.

Article 19

Pharmacies authorized by the Ministry of Social Welfare and Public Health for the sale of medicaments containing controlled substances shall dispense their products only against medical prescriptions made out on forms issued by the Ministry, in duplicate, indicating the name and identity card of the patient. One copy shall be sent every thirty days to the Ministry of Social Welfare and Public Health and the other shall be retained by the pharmacy for its records.

Article 20

District customs offices, customs agents and carriers who within 48 hours have not sent detailed reports and documentation on the import and export of products or raw materials containing controlled substances to the Ministry of Social Welfare and Public Health and to the National Council against the Abuse of and Illicit Traffic in Drugs shall be liable to suspension of their functions or activities.

Owners of products containing controlled substances must, prior to their transport, request authorization from the Ministry of Social Welfare and Public Health. Carriers must require such authorization on pain of prosecution for complicity.

Controlled substances and medicines containing such substances which do not satisfy these requirements shall be seized, together with the means of transport and their owners shall be detained for investigation.

Article 21

The Special Force to Combat Drug Traffic shall maintain a national register of natural and legal persons engaged in the import, preparation and marketing of controlled substances, in the form of a data bank containing all the relevant information. Offenders shall be sanctioned according to the law.

Article 22

The Ministry of Social Welfare and Public Health, in cooperation with the Ministries of Industry, Trade and Tourism and of Energy and Hydrocarbons, shall compile an inventory of inward and outward movements and of stocks of drugs causing dependence in laboratories, pharmacies and import houses, and of precursors. They shall draw up statistics on the official and private requirements for such drugs and precursors.

Article 23

Laboratories, pharmaceutical establishments and commercial firms which manufacture, distribute and import drugs or medicines which cause dependence, as well as precursors, shall not possess quantities greater than those authorized.

TITLE III

SOLE CHAPTER

Article 24

In no case may the penalties for trafficking in drugs exceed 30 years' imprisonment, in accordance with article 17 of the Political Constitution of the State.

Article 25

Persons under the age of 16 who have committed offences punishable under Law No. 1008 shall be interned in special centres until they are fully rehabilitated.

Article 26

Possession for immediate personal consumption is understood as limited to the quantity of a drug equivalent to 48 hours' use, determined by two medical experts as defined in article 49 of Law No. 1008. If the quantity is greater, there is a presumption of trafficking.

Article 27

A person who assigns a movable or immovable asset for the purpose of the manufacture, storage, transport, sale or use of any controlled substances therein, and/or tolerates the consumption of controlled substances therein, shall be punished in accordance with article 71 of Law No. 1008.

Article 28

Movable or immovable assets or means of air, river or land transport which have been seized and have not been reclaimed by their owners within 30 days shall become the property of the National Council against the Abuse of and Illicit Traffic in Drugs.

Article 29

For the offences of supply and inducement, the quality and degree of the penalty shall take account of the method, form, quantity, time and place and of extenuating or aggravating circumstances.

Article 30

An offence is committed, which shall be sanctioned in accordance with the laws in force, by an owner or tenant of property or land where:

1. Landing strips exist or are constructed without authorization from the Ministry of Aviation;
2. Aircraft land or take off without authorization from the Ministry of Aviation or without sufficient cause, unless the nearest civil, military or district police authorities are notified immediately;
3. The owners or tenants of places where there are landing strips or airfields authorized by the Ministry of Aviation do not immediately notify the authorities of the take-off or landing of aircraft.

TITLE IV

SOLE CHAPTER

Article 31

The local prosecutors assigned to the local controlled substances courts, district commands of the Special Force and the Under-Secretariat for Social Defence must be professionals qualified in the subject. Officials of the Under-Secretariat for Social Defence have national jurisdiction.

TITLE V

SOLE CHAPTER

Article 32

Records of judicial police action drawn up by the provincial and cantonal authorities, together with any detained persons, must be handed over within 48 hours to the nearest district command of the Special Force.

Article 33

The period to which article 97 of Law No. 1008 refers shall be 48 hours for each detained person, with the purpose of completing the investigations.

Article 34

Records of judicial police action shall include the following documents:

1. Accusation form (source of the information)
2. Arrest form for each detained person
3. Preliminary report
4. Detailed report of the police officer
5. Seizure record
6. Record of weighing of the seized drug
7. Laboratory analysis (if there is a laboratory)
8. Supporting photographs
9. Statements by the accused persons
10. Other documentary evidence
11. Record of confrontation of witnesses, if applicable
12. Final report
13. Note of transmission to the Office of the Public Prosecutor.

TITLE VII

SOLE CHAPTER

Article 35

The State and private enterprises shall not discriminate in the provision of employment to rehabilitated and socially readjusted persons.

Article 36

It is deemed to be in the public interest that non-profit civil societies, associations and foundations should be constituted for prevention, rehabilitation and scientific research in respect of the matters to which this law refers. Their functioning shall be subject to special regulations and to the provisions of the second paragraph of article 136 of Law No. 1008.

Article 37

The National Council against the Abuse of and Illicit Traffic in Drugs, through its competent organs, shall develop plans and programmes for prevention, treatment, rehabilitation and social reintegration, and for combating the illicit consumption of narcotic drugs and psychotropic substances.

Article 38

The Ministries of the Interior, Migration and Justice, National Defence, Aviation, Education and Culture, Information, the Armed Forces, the National Police and the Universities and other public and private institutions shall, in their plans and programmes for curricular studies, include subjects relating to prevention of abuse of narcotic drugs and psychotropic substances.

Article 39

Drug abuse shall be included as a compulsory subject for study in the curricula of education programme from basic to higher level.

Article 40

The National Council against the Abuse of and Illicit Traffic in Drugs shall present to the educational community programmes transmitted through the mass media to provide information on treatment, rehabilitation and social reintegration.

Article 41

An interdisciplinary committee shall be set up in each educational community with the participation of teachers and parents and in collaboration with departmental prevention committees to promote and disseminate comprehensive knowledge of the phenomenon of drug abuse and its treatment.

Article 42

Institutes for treatment and rehabilitation shall be under the control and supervision of the Ministry of Social Welfare and Public Health.

Article 43

The country's health departments shall be responsible for supervising the functioning of the treatment, rehabilitation and social reintegration centres.

Article 44

When Juvenile courts order compulsory internment of minors for treatment and rehabilitation in specialized health centres, administered by the Ministry of Social Welfare and Public Health, the social aspects shall be attended to by the competent bodies.

Article 45

The National Board for Social Solidarity and Development, through its organ for the protection of minors, shall define and implement rehabilitation policies for drug-dependent juveniles in cooperation with the National Council for Prevention and Rehabilitation.

Article 46

Departmental rehabilitation centres for drug-dependent Juveniles shall be established, operating subject to the regulations laid down by the National Council for Prevention and Rehabilitation.

Article 47

Minors under 16 years of age who commit acts defined as offences under Law No. 1008 shall be committed for treatment as decided by the legally appointed specialized authority.

Article 48

The contents and methods of preventive information must be based on a knowledge of national realities in respect of the drug abuse problem and the recommendations of the United Nations and the specialized agencies of the United Nations system.

Article 49

Public information related to problems concerning the illicit traffic in and abuse of drugs shall be in conformity with the norms of Journalistic ethics, aiming at preventive education and avoiding the distortion of facts and values. Violators shall be sanctioned in accordance with article 79 of Law No. 1008.

Article 50

The social communication media shall transmit educational and preventive messages, as provided in the second paragraph of article 142 of Law No. 1008.

Article 51

The public transmission of information showing minors and identifying them with acts related to drug

trafficking or consumption is prohibited.

TITLE VIII

SOLE CHAPTER

Article 52

The National Council against the Abuse of and Illicit Traffic in Drugs shall coordinate international cooperation and shall determine the allocation and use of resources derived from that source through the appropriate bodies, plans and programmes.

Government Palace, city of La Paz, 28 December 1988