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REGULATIONS ON INDUSTRIAL LICENSE PERMITS ISSUE, GRANT AND USE

The Ministry of Industry just issued Executive Decree 293/17, of 30 May 2017, enacting the Regulations on Industrial Permits Issue, Grant and Use (the “Regulations”). Among other issues, the statute addresses and establishes the licensing procedures to be followed in connection with Industrial License Permits required to perform an industrial activity.

The Regulations, which are secondary legislation to the Industrial Activities Law (Law 5/04, of 7 September 2004) and the Industrial Licensing Regulations (Decree 44/05, of 6 July 2005), became effective on 30 May 2017.

Scope

The Regulations apply to the licensing of industrial plants initiated after its effective date and also to any renewals of already existing Permits expiring in the meantime.

The statute implements two Industrial License Permit application forms :

- i. A form for a Temporary Industrial License Permit – for the installation of the plant. This Temporary Permit can only be used in dealings with financial institutions and to clear equipment and raw materials needed to start up the activity in customs, it does not authorize the performance of an industrial activity *per se*;
- ii. Another form for the Industrial License Permit proper – required for the performance of an industrial activity at a certain plant.

Permit Application

The application for an Industrial License Permit for the performance of the activity needs to be made on specific forms.

Following receipt of an application attaching the correct documents, an inspection is carried out. If the inspection’s outcome is satisfactory, an opinion is issued as well as a slip to pay any fees payable for the issue of the Permit. The Industrial License Permit is delivered to the applicant upon payment.

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The following entities have the powers to sign and approve the Industrial License Permit:

- The National Director for Industrial Registration and Licensing (*Director Nacional de Cadastro e Licenciamento Industrial*), for Classes 1 and 2; and
- The Provincial Director for Industry (*Director Provincial da Indústria*) of the area where the industrial plant is located, for Classes 3 and 4.

The Permit is valid for five (5) years as from issue.

The Temporary License Permit is only valid for six months. Applicants need to request issue of the Industrial License Permit for operation during this period, although the application can only be submitted after all works in the facilities are complete. Extension of the Temporary Permit may therefore be requested in a duly reasoned application attaching proof of payment of the corresponding fee, otherwise the whole process will be cancelled.

A few important remarks

For licensing of industrial plants in the food and beverages, medical products, hospital or paramedic materials, arms, ammunition and explosives, and pyrotechnics industries, interested parties may request consultation and mandatory prior opinions directly to the relevant entities – namely, Codex Alimentar, the Ministry of Health, the Ministry of Defense and the Ministry of Home Affairs, respectively.

- Renewal of Industrial License Permits of **existing industrial plants** is subject to a new inspection to be carried out under the Regulations.
- In the event of **closure of the plant** or unjustified non-performance of the activity for more than 180 days, the Industrial License Permit may be cancelled.
- **Failure to comply with** the provisions in the Regulations is an offense punishable with a fine of between 200 UCF and 40 000 UCF, and ancillary penalties may also be assessed.