

OFFICIAL TRANSLATION

NATIONAL DIRECTOR'S RESOLUTION N° 1405/INC

Nº 3455-07

(...)

**APPROVAL OF THE GENERAL REGULATIONS FOR THE APPLICATION OF
ADMINISTRATIVE SANCTIONS FOR INFRINGEMENTS ON
THE CULTURAL HERITAGE OF THE NATION**

NATIONAL DIRECTOR'S RESOLUTION No. 1405/INC

Lima, December 23, 2004

WHEREAS:

By Law No. 28296 "General Law of the Cultural Heritage of the Nation", dated July 22, 2004, Law No. 24047, Law No. 27173 and other norms which contravene this Law were repealed;

Paragraph 22.1 of Article 22nd of Law No. 28296 "General Law of the Cultural Heritage of the Nation" establishes that all public or private works such as new constructions, remodeling works, restorations, expansions, refurbishments, conditionings, demolitions, valuation or any other work on immovable property belonging to the Cultural Heritage of the Nation, require prior authorization from the National Institute of Culture.

Paragraph 49.1 of Article 49th of the aforementioned Law sets forth that, notwithstanding the penalties imposed by the Criminal Code for infringements against the Cultural Heritage of the Nation, and in accordance with the laws on the matter, the National Institute of Culture may impose the relevant administrative sanctions. Furthermore, as set forth in paragraph 50.2 from Article 50th, the fine imposed must not be less than 0.25 TU or more than 1000 TU.

Law No. 27444 – "General Administrative Procedure Law" establishes the sanctioning procedures as the means through which the Administration exercises its sanctioning authority; proving the existence of a transgression susceptible to an administrative sanction and, consequently, imposing the administrative sanction;

Consequently, the need to form a Commission responsible for suggesting administrative sanctions for infringements on the Cultural Heritage of the Nation, as well as the approval of the Regulation for the application of administrative sanctions for infringements against the Cultural Heritage of the Nation in order to conform its application and procedure to the provisions of the applicable law on the protection of the Cultural Heritage of the Nation.

As approved by the Management Division, the General Management and the Office of Legal Affairs;

Pursuant to the provisions of Executive Order No. N 017-2003-ED which approves the Regulation on the Organization and Functions of the National Institute of Culture, Law No. 28296 – "General Law on the Cultural Heritage of the Nation" and Law No. 27444 – "General Administrative Procedure Law";

IT IS RESOLVED:

First – TO ESTABLISH the Commission responsible for proposing administrative sanctions for infringements on the Cultural Heritage of the Nation, for the reasons

presented in the corresponding section of this Resolution.

Second – APPROVE the General Regulation to propose and apply administrative sanctions for infringements on the Cultural Heritage of the Nation, which is part of and attached to this Resolution.

Let it be registered, informed and published.

Luis Guillermo LUMBRERAS SALCEDO, National Director

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PRELIMINARY TITLE

Single Article - INC's SANCTIONING CAPACITIES

INC's sanctioning capacity is set forth by Law No. 28296, General Law of the Cultural Heritage of the Nation. The administrative sanctioning procedures are established in Law No. 27444, General Administrative Procedures Law.

TITLE I

SANCTIONING PROCEDURE OF THE NATIONAL INSTITUTE OF CULTURE

CHAPTER I: GENERAL PROVISIONS

Article 1st. - Scope of Application

This Regulation sets forth the administrative sanctioning procedure which shall be applied in the event of noncompliance with the legal and technical obligations for the protection of the Cultural Heritage of the Nation established by Law No. 28296 "General Law of the Cultural Heritage of the Nation", and other related and complementary provisions.

Article 2nd. - Regulations

The National Institute of Culture will apply the sanctioning principles indicated in Article 230th, General Administrative Procedures Law – Law No. 27444 for any event which contravenes the provisions set forth in these Regulations, Law No. 28296 – General Law of the Cultural Heritage of the Nation, and other provisions related to the protection of the Cultural Heritage of the Nation.

CHAPTER II: Infringements and Sanctions

Article 3rd. - Infringements

3.1. All acts of gross misconduct or willful negligence which breach the laws, regulations, resolutions and other provisions within the sphere of competence of the National Institute of Culture are considered administrative infringements.

Article 4th - Reoccurrence

Reoccurrence takes place when the offender commits the same infringement on the same asset belonging to the Cultural Heritage of the Nation, within two years after the finalization of the sanction imposed on the previous offense.

Article 5th. - Pertinacity

Pertinacity occurs when the offender commits the same infringement on another asset belonging to the Cultural Heritage of the Nation within two years after the finalization of the sanction imposed for the previous offense.

Article 6th. - Reiteration

Reiteration is the repeated noncompliance with the legislations which occurs two or more times within a year, before the offense is detected by the corresponding agency of the National Institute of Culture.

Article 7th. - Verification of the Infringement

Verification that the infringement has ceased does not free the offender from responsibility nor does not in any way nullify or diminish the imposition of the sanction.

Article 8th. - Determination of Responsibility

Administrative responsibility for noncompliance with the laws, regulations, resolutions and other provisions under the jurisdiction of the National Institute of Culture is

subjective. When the infringement involves a group of people, they shall answer jointly for the offenses committed.

Article 9th.- Sanction

The sanction is the punitive judicial consequence, administrative in nature, derived from the verification of an infringement or noncompliance with the provisions that protect the Cultural Heritage of the Nation.

Article 10th.- Purpose of the Sanction

The purpose of the sanction is:

- To contribute to regulate efficiently the appropriate conduct of the people in order to comply fully with the provisions concerning the protection of the Cultural Heritage of the Nation and, in particular, prevent behavior that put the Cultural Heritage of the Nation at risk.
- To ensure that the execution of the punishable behavior does not prove more advantageous for the offender than to comply with the infringed provisions or assume the sanction.
- To fulfill its punitive nature.

Article 11th.- Types of Administrative Sanctions

The following are considered sanctions: fine, seizure and demolition.

- a.- Fine: Financial sanction imposed for breaking the provisions that protect the Cultural Heritage of the Nation.
- b.- Seizure: Confiscation of the cultural assets for infringement of the provisions that protect the Cultural Heritage of the Nation.
- c.- Demolition: The partial or total destruction of the works executed on properties which are part of or belong to the Cultural Heritage of the Nation when there is no prior authorization or when, notwithstanding if the authorization has been granted, the execution of the work has failed to comply with the technical specifications approved by the INC.

Article 12th.- Criteria for the Imposition of Fines

The criteria for the imposition of fines is subject to the value of the asset and the assessment of the damage caused, which will be indicated in an expert report from the corresponding technical area or in the corresponding valuation.

Article 13th.- Maximum Amounts and Adjustment of the Fine

13.1 Fines shall be applied in Tax Units (TU). The limits indicated in the scale of fines for the imposition of financial sanctions shall be from 0.25 TU to 1000 TU.

13.2 In the event that the sanction must be adjusted due to the setting of a range within the scale of fines, the following shall be considered:

- 13.2.1 The nature and seriousness of the infringement.
- 13.2.2 The damage caused
- 13.2.3 Reiteration, Reoccurrence and/or Pertinacity
- 13.2.4 The intentional or negligent nature of the infringement.
- 13.2.5 The direct or indirect benefit gained by the offender from the infringement.
- 13.2.6 Deceit or cover up of the facts or situations.
- 13.2.7 Reparation of the damage or execution of corrective or urgent measures or the rectification of any irregularities, carried out before the term assigned to present the defense has expired.
- 13.2.8 Other similar acts which must be duly supported.

Article 14th.- Payment of the Fine

14.1 The payment of the fine by the offender does not validate the irregular situation; the offender must immediately cease any action or inaction which leads to the sanction.

14.2 The fine imposed does not have a compensatory nature. The compensation is set by court, arbitration, or agreement between the parties involved.

Article 15th. - Acts not considered sanctions

Cautionary and preventive measure which the National Institute of Culture may take, in accordance with its responsibilities and as set forth by Law No. 28296, its regulation as well as other norms, are not considered sanctions.

Article 16th. - Replacement for damages

Notwithstanding the administrative sanctions that may be imposed, the National Institute of Culture, acting ex officio upon request from the affected party or a third party, may impose the necessary measures that would allow for the restoration of the objects or situations affected to their previous state.

Article 17th. - Registry of Sanctions

17.1 A Registry of Sanctions must be prepared to indicate the full name of the offender, the resolution which enforces the sanction, the nature of the sanction imposed, the appeals, and the proceedings.

17.2 The Registry of Sanctions must provide background information for the imposition of new sanctions. The background information indicated in the Registry of Sanctions will be valid for five years as of the date of enforcement of the sanction.

CHAPTER III: ADMINISTRATIVE INFRINGEMENT PROCEEDINGS

Article 18th. - General Provisions

The administrative sanctions and preventive measures detailed in this chapter shall be applied without detriment to the penalties imposed by the Penal Code for crimes against the Cultural Heritage of the Nation and in accordance with the laws on the matter.

Article 19th. - Competent Authorities

Those responsible for executing the administrative infringement proceedings as set forth by this Regulation.

Article 20th. - Investigative Authorities

The Colonial-Republican Historical Patrimony Department, the Department of Archeology, the Department for the Promotion of the Arts, the Department of Museums and Management of the Historical Patrimony and the technical offices of the various offices of the National Institute of Culture in the Regions are the investigative authorities. They are responsible for:

20.1 Executing the corresponding preliminary investigations.

20.2 Initiating the administrative infringement proceedings ex officio.

20.3 Head and execute the investigations corresponding to the administrative infringement proceedings.

20.4 Execute ex officio all necessary actions for the analysis of the facts, collecting all data, information and evidence that are relevant to determine, as the case may be, the existence of a sanctionable offense.

20.5 Issue a technical report detailing the facts which would allow the Sanctioning Authority to rule on the imposition of the corresponding sanction.

20.6 Assess the damage caused, value of the asset, expert valuation and report,

whichever corresponds.

20.7 Rule on the preventive and/or cautionary measures, if applicable.

Article 21st. - Accumulation

The corresponding Investigative Authority, on their own initiative or upon request from the offenders, shall rule on the accumulation of current proceedings that are connected, as well as current proceedings related to the same infringements detected in previous supervisory proceedings.

Said decision is not subject to appeal.

Article 22nd. - Commission responsible for proposing sanctions.

The Commission is responsible for proposing administrative sanctions for infringements on the Cultural Heritage of the Nation after the investigative authority has executed its duties as set forth by Article 20th of this Regulation.

Article 23rd. - Sanctioning Authority

The Office for the Protection of Historical Patrimony and the offices of the National Institute of Culture in the regions are primarily responsible for issuing the resolution that enforces the administrative sanction, which shall be notified to the offender and, if required, to the person that reported the infringement.

Article 24th. - Determination procedure

24.1 Prior to the commencement of the sanction proceedings, investigations, inquiries or inspections may take place to determine if there are circumstances that justify the initiation of said proceeding. In case no circumstances that merit the commencement of the sanction proceedings are found, the preliminary findings shall be filed with the corresponding report.

24.2 The administrative infringement proceedings commence ex officio, as a consequence of the supervision process or due to accusations made by third parties, from notifications issued by any office of the National Institute of Culture that has detected an infringement.

24.3 Once the administrative infringement proceedings have commenced, the offender shall be informed of the charges he is accused of; the offender shall then have 5 working days as of the date of notification to present the corresponding defense.

24.4 The Technical Reports, Visual Inspections and Confirmation and Verification Acts, constitute evidence within the administrative infringement proceedings and the information contained in them is considered true, unless proved otherwise.

24.5 The aforementioned instruments may be replaced or complemented by other evidence which is considered more suitable by the Administration.

24.6 After the term given to the offender since the date of notification has expired, the Investigative Authority shall issue a report ruling on the imposition of the sanction; if the sanction is imposed, the Investigative Authority shall submit the records to the Commission responsible for proposing administrative sanctions in order to proceed accordingly.

Article 25th. - Statute of Limitations

The authority of the National Institute of Culture to determine the existence of administrative infringements and to impose sanctions shall expire 5 years after the commission of the infringement or after it ceased if it was an ongoing activity.

Article 26th. - Appeals

26.1 The motions for reconsideration and appeals shall proceed only against the resolutions which end the proceeding.

26.2 The appeal for reconsideration shall be submitted to the same authority that issued the resolution of the sanctions, together with new evidence.

26.3 The notice of appeal shall be submitted to the same authority that issued the act that is challenged so that it may be referred to superior court so that it issue its ruling on the second and last administrative instance.

Article 27th. - Preventive Measures

27.1 Preventive measures shall be established by the Colonial-Republican Historical Patrimony Department, the Department of Archeology, the Department for the Promotion of the Arts, the Department of Museums and Management of the Historical Patrimony and the offices of the National Institute of Culture in the Regions in the relevant cases.

27.2 The following preventive measures may be applied:

27.2.1 Stoppage

27.2.2 Dismantling

27.2.3 Underpinning

Article 28th. - Cautionary Measures

28.1 Cautionary measures are not sanctions, and do not exclude each other even with sanctions that may be imposed as a consequence of administrative infringement proceedings initiated against the offender. In case a sanction is imposed within the provisions set forth by the Scale of Fines of the National Institute of Culture which involves an act that has been previously set as a cautionary measure, the latter will be rendered null and void.

28.2 Cautionary measures are established and executed independently from the identification of the responsible party, possessor or owner of the assets or activities they are applied on.

28.3 Cautionary measures shall be executed by the Institution's competent authorities after the submission of the corresponding technical report.

Article 29th. - Disposition of Cautionary Measures

Cautionary measures from the infringement proceedings shall be set by the Investigative Authorities or by the delegated bodies.

Article 30th. - Types of Cautionary Measures

The following cautionary measures may be applied:

- Stoppage of the Works
- Removal of Machinery and Accessories
- Confiscation of Assets
- Others set by the Authority

Article 31st. - Procedure for the enforcement of Cautionary Measures in case of Infringements.

The following procedure details the application of cautionary measures in case of infringements:

a) Once the infringement has been identified, authorized personnel from the National Institute of Cultural shall indicate the relevant cautionary measure in the verification act.

The Verification Act shall at least detail, if applicable, the following information:

- Location and identification of the asset belonging to the Cultural Heritage of the nation, which constitutes the subject of the proceeding.
- Identification of authorized personnel
- Infringement and/or unauthorized activity

- Cautionary Measures established
 - Identification and name of the person with whom the proceedings are executed, and if possible the individualization.
 - Identification of the assets which are affected by the measure.
- b) Authorized personnel from the National Institute of Culture who carry out the cautionary measures may request, within the framework of the ruling law, the participation of the Public Prosecutor's Office and/or the Police Force.
- c) The personnel authorized to carry out said measures shall issue a Certificate of Execution of Cautionary Measures once these have been executed.

Article 32nd. - Procedure for the application of cautionary measures in the event of a grave risk or imminent danger.

The procedure for the application of cautionary measures in the event of a grave risk or imminent danger to protect an asset belonging to the Cultural Heritage of the Nation is:

- a) Once the asset and/or activity which may possibly constitute an imminent danger has been identified, the Investigative Authority shall issue the corresponding Technical Report which shall detail the situation of imminent danger to ensure that the need to apply cautionary measures is merited.
- b) The authorized personnel shall notify of the cautionary measure to be taken at the time of its execution.

Article 33rd. - Once the assets that are assumed to be of cultural value have been confiscated for attempted extraction from the country without proper authorization or certification, a Confiscation Report shall be prepared as indicated by clause a) of Article 32nd of this Regulation. The offender shall have five working days to present his defense to the Investigative Authority.

The Confiscation Report shall be submitted to the technical department of the Investigative Authority in order to prepare a Technical Report which will determine if the asset seized belongs to the Cultural Heritage of the Nation; if it does, then the corresponding Resolution of Confiscation shall be issued.

Article 34th. - Actions, means and mechanisms for the application of cautionary measures

In case the works have been temporarily or permanently stopped, the measure shall be executed through the following means, mechanisms or actions which are neither exclusive nor limitative:

- Install placards, signs or notices which identify the measure.
- Place of road blocks or mechanisms the limit, restrict or prevent the execution of any works, activities or construction.
- Set up a security system
- Establish regular supervision mechanisms
- Write situational and status reports
- Execute other necessary mechanisms or actions

In order to carry all actions pertaining to the provisions set forth by the INC, the authorized personnel may enter into archaeological areas or the real estate facilities in order to comply with the dispositions of Law No. 28296.

Article 35th. - Costs and Expenses in the Execution of Cautionary Measures

The costs and expenses generated in the execution of a cautionary measure shall be paid by the offender.

Article 36th. - Assurance of Cautionary Measure

The personnel authorized to carry out the cautionary measures may enforce them as long as is required to ensure their fulfillment; the corresponding report on the matter must be submitted.

Article 37th. - Appeals against Cautionary Measures

The disposition and execution of the cautionary measures may be subject to contestation administratively. Appeals against cautionary measures which are established from the administrative infringement proceedings shall be settled first by the authority that has the power to rule on it, and second by its superior authority.

Article 38th. - Destination of confiscated assets

Assets which have been confiscated due to the execution of cautionary measures shall be stored in the location assigned by the INC. A notification shall be submitted to the interested party and an official document prepared in case the confiscated assets are to be returned

V. PROCEDURE FOR THE EXECUTION AND PAYMENT OF SANCTIONS

Article 39th. - Compulsory Execution

The compulsory execution of sanctions is set forth by the provisions of Law No. 269679 – “Law on Coercive Execution Procedures”, modified by Law No. 28165 and its regulation approved by Supreme Decree No. 036-2001-EF, modified by Supreme Decree No. 069-2003-EF.

Article 40th. - Payment

- 40.1 The ruling TU shall be used to calculate the imposed fine on the date of payment.
 40.2 The offender shall have 15 working days to pay the fine at the place and method set forth by the infringement resolution.
 40.3 The fine may be paid by installments.

CHAPTER VI: SCALE FOR THE APPLICATION OF SANCTIONS

Article 41st.- The sanctions shall be applied in accordance with the following chart:

CHART OF ADMINISTRATIVE SANCTIONS ON INFRINGEMENTS INDICATED IN LAW No. 28296 REGARDING PREHISPANIC ASSETS BELONGING TO THE CULTURAL HERITAGE OF THE NATION.

Art. 49	Infringement	FINE	Sanction
a	Failure of the possessor or owner to register an asset with the INC belonging to the Cultural Heritage of the Nation (in accordance with the provisions of the 1 st Transitory Disposition of Law No. 28296)	FINE	Up To 10 TU
b	Damage caused by the possessor or owner of an asset belonging to the Cultural Heritage of the Nation in cases of gross negligence or willful misconduct declared by the INC.	FINE CONFISCATION	

Damaged caused to prehispanic cultural real estate	FINE	
Serious Infringement In Archaeological-Monumental Complexes	FINE	Up To 1000 TU
Special Cultural Sites	FINE	Up To 1000 TU
Archaeological Sites	FINE	Up To 800 TU
Archaeological Cultural Landscapes	FINE	Up To 1000 TU
Ethnoarchaeological Sites	FINE	Up To 1000 TU
Isolated Archaeological Elements	FINE	Up To 100 TU
Underwater Remains	FINE	Up To 500 TU
Paleontological Remains	FINE	Up To 500 TU
Major Infringement Archaeological-Monumental Complexes	FINE	Up To 700 TU
Special Cultural Sites	FINE	Up To 700 TU
Archaeological Sites	FINE	Up To 500 TU
Archaeological Cultural Landscapes	FINE	Up To 700 TU
Ethnoarchaeological Sites	FINE	Up To 700 TU
Isolated Archaeological Elements	FINE	Up To 75 TU
Underwater Remains	FINE	Up To 300 TU
Paleontological Remains	FINE	Up To 300 TU
Minor Infringement Archaeological-Monumental Complexes	FINE	Up To 300 TU
Special Cultural Sites	FINE	Up To 300 TU
Archaeological Sites	FINE	Up To 300 TU
Archaeological Cultural Landscapes	FINE	Up To 300 TU
Ethnoarchaeological Sites	FINE	Up To 300 TU
Isolated Archaeological Elements	FINE	Up To 50 TU
Underwater Remains	FINE	Up To 100 TU
Paleontological Remains	FINE	Up To 100 TU
Damage caused to prehispanic cultural movable assets	CONFISCATION	
Serious Infringement	FINE	Up To 1000 TU
Major Infringement	FINE	Up To 500 TU
Minor Infringement	FINE	Up To 300 TU
c For the possessor's or owner's attempt to remove an asset belonging to the Cultural Patrimony of the Nation from the country without prior authorization or certification which nullifies its condition of cultural asset.	FINE CONFISCATION	Up To 50 TU
d For the possessor's attempt to introduce a cultural asset from another country into Peru without the document that authorizes its Exit from the country of origin.	FINE CONFISCATION	Up To 50 TU
e For promoting and executing excavations on archaeological sites or cemeteries that alter the immovable assets belonging to the Cultural Heritage of the Nation without INC's authorization.	FINE CONFISCATION of the instruments and means and cargo and transportation used	Up To 1000 TU

f. For executing a public or private work on an immovable asset belonging or linked to the Cultural Heritage of the Nation without INC's prior authorization or for noncompliance with the technical specifications approved by the INC.	DEMOLITION
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CHART OF ADMINISTRATIVE SANCTIONS ON INFRINGEMENTS INDICATED IN LAW No. 28296 REGARDING VICEREGAL AND REPUBLIC ASSETS BELONGING TO THE CULTURAL HERITAGE OF THE NATION

Art. 49	Infringement	FINE	Scale
a	For failure of the possessor or owner to register an asset belonging to the Cultural Patrimony of the Nation with the INC (in accordance with the provisions of the 1 st Transitory Disposition of Law N 28296)	FINE	Up To 5 TU
b	Damage caused by the possessor or owner of an asset belonging to the Cultural Heritage of the Nation in cases of gross negligence or willful misconduct declared by the INC. Damage caused to cultural immovable assets	FINE CONFISCATION	
	Serious Infringement on Monuments		
	1st. Order	FINE	Up To 1000 TU
	2nd. Order	FINE	Up To 500 TU
	3rd. Order	FINE	Up To 200 TU
	Urban-Monumental Environments		
	In Public Spaces	FINE	Up To 1000 TU
	1st. Order	FINE	Up To 800 TU
	2nd. Order	FINE	Up To 200 TU
	3rd. Order	FINE	Up To 100 TU
	Historic Center or Monumental Area		
	In Public Spaces	FINE	Up To 1000 TU
	In real estate of monumental value	FINE	Up To 500 TU
	In surrounding real estate	FINE	Up To 100 TU
	Major Infringement		
	On Monuments		
	1st. Order	FINE	Up To 500 TU
	2nd. Order	FINE	Up To 200 TU
	3rd. Order	FINE	Up To 50 TU
	Urban-Monumental Environments		
	In Public Spaces	FINE	Up To 500 TU
	1st. Order	FINE	Up To 200 TU
	2nd. Order	FINE	Up To 50 TU
	3rd. Order	FINE	Up To 10 TU
	Historic Center or Monumental Area		
	In Public Spaces	FINE	Up To 500 TU

In real estate of monumental value	FINE	Up To 200 TU
In surrounding real estate	FINE	Up To 50 TU
Minor Infringement		
On Monuments		
1st. Order	FINE	Up To 100 TU
2nd. Order	FINE	Up To 50 TU
3rd. Order	FINE	Up To 10 TU
On Urban-Monumental Environments		
In Public Spaces	FINE	Up To 100 TU
1st. Order	FINE	Up To 50 TU
2nd. Order	FINE	Up To 10 TU
3rd. Order	FINE	Up To 5 TU
On Historic Center or Monumental Area		
In Public Spaces	FINE	Up To 100 TU
In real estate of monumental value	FINE	Up To 50 TU
In real estate of surrounding value	FINE	Up To 10 TU
Damage caused to cultural movable assets	CONFISCATION	
Serious Infringement	FINE	Up To 1000 TU
Major Infringement	FINE	Up To 500 TU
Minor Infringement	FINE	Up To 300 TU
c For the possessor's or owner's attempt to remove the asset belonging to the Cultural Patrimony of the Nation from the country without prior authorization or certification which nullifies its condition of cultural asset.	FINE CONFISCATION	Up To 50 TU
d For the possessor's attempt to introduce a cultural asset from another country into Peru without the document that authorizes its exit from the country of origin.	FINE CONFISCATION	Up To 50 TU
e. For altering immovable assets that belong to the Cultural Heritage of the Nation without authorization from the INC.	FINE CONFISCATION of the instruments, means of cargo and transportation used	Up To 1000 TU
Alteration of immovable cultural assets (without authorization from the INC)		
On Monuments		
1st. Order	FINE	Up To 500 TU
2nd. Order	FINE	Up To 250 TU
3rd. Order	FINE	Up To 100 TU
On Urban-Monumental Environments		
In Public Spaces	FINE	Up To 300 TU
1st. Order	FINE	Up To 100 TU
2nd. Order	FINE	Up To 50 TU
3rd. Order	FINE	Up To 10 TU
On Historic Center or Monumental Area		
In area of greater protection		
In Public Spaces	FINE	Up To 100 TU
In real estate of monumental value	FINE	Up To 50 TU
In real estate of surrounding value	FINE	Up To 5 TU

f. For executing a public or private work on an immovable asset belonging or linked to the Cultural Heritage of the Nation without INC's prior authorization or for noncompliance with the technical specifications approved by the INC.	DEMOLITION
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GLOSSARY OF TERMS USED IN THIS REGULATION

I PREHISPANIC

ARCHAEOLOGICAL-MONUMENTAL COMPLEXES

Urban or religious centers whose scale, complexity and integration with the environment confers them with a unique and exceptional value.

SPECIAL CULTURAL

Complexes or remains that may or may not be isolated, that do not possess a great magnitude or complexity, but which possess great significance as exceptional cultural models or unique testimonies of human activity or determined historical periods.

ARCHAEOLOGICAL SITES

Places with evidence of social activities with presence of elements or contexts of an archaeological-historical nature, at surface and subjacent levels.

They may be:

- Archaeological-Monumental constructions that were part of a greater religious or urban center and which remain currently isolated due to external factors.
- Archaeological-Monumental constructions with related archaeological structures for public or domestic use.
- Burial monumental constructions.
- Lithic workshops, camps, refuges, and shelters
- Non monumental architectural complex and settlements, without public buildings.
- Non monumental edifications with isolated or group value.
- Non monumental edifications and remains used for burial purposes.
- Areas used for extraction or transformation that are part of a productive chain, with or without associated architecture.

CULTURAL ARCHAEOLOGICAL LANDSCAPE

Areas or environments which are characterized by man's integration with the land, indicated by exceptional land transformation.

ETNO-ARCHAEOLOGICAL SITES

Areas used historically and to date by native communities.

ISOLATED ARCHAEOLOGICAL ELEMENTS

Remains of human activity from prehispanic, colonial and republican periods, which due to social or cultural situations, are currently isolated or decontextualized.

This may involve all evidence of isolated social activity with the presence or archaeological elements at surface and subjacent levels.

UNDERWATER REMAINS

Movable or immovable material remains from prehispanic, colonial and republican periods found at and under water, lake and river areas.

REMAINS OF PALEONTOLOGICAL INTEREST

Land and underwater areas with paleontological content.

II COLONIAL AND REPUBLICAN MONUMENTS:

Constructions belonging to any period of time which, due to their historical, architectural and/or artistic value, have been considered Monuments through a Resolution or any other legal device.

These may be classified as first, second and third order.

1st. ORDER:

Immovable assets which highly represent a historical period.

They possess undisputed architectural qualities regarding style, composition and construction. They typify a specific social organization or lifestyle. They are part of the collective historical memory.

Their total loss or any alteration to their essential characteristics would produce serious damages on one of the aforementioned values.

2nd. ORDER:

Immovable assets which represent inherent architectural qualities which are important enough to be protected.

3rd. ORDER:

Immovable assets which are architecturally simple but nevertheless belong to the historical context.

URBAN MONUMENTAL ENVIRONMENTS – UME

Urban areas that have features and elements which together possess high urbanistic value. These may be squares, small plazas, streets, boulevards, etc. They are composed of all their public spaces and buildings.

These may be classified as first, second and third order.

1st. ORDER:

Urban spaces which characterize the area.

Elements which are highly representative of a historical period.

Typify a specific social organization or lifestyle. They are part of the collective historical memory. Their total loss or any alteration to their essential characteristics would produce serious damages on one of the aforementioned values.

2nd. ORDER:

Pieces which represent the basic typology of the urban area where they are located and have aesthetic features such as internal structure and height of the building that correspond to said area.

They present inherent architectural and urbanistic qualities which are important enough to be protected.

3rd. ORDER:

Environments which regardless of their simplicity are part of the historical context due to their urbanistic and architectural characteristics.

HISTORICAL CENTERS AND MONUMENTAL AREAS

Monumental areas are sectors or neighborhoods in the city which have features that must be conserved due to their urbanistic value as whole, their historical-artistic value,

and because they contain an important number of Monuments and/or UME.

The Historical Center is the most important monumental area from where the city originated and developed.

The constructions in historical centers and monumental areas may possess monumental or surrounding value.

IMMOVABLE ASSETS WITH MONUMENTAL VALUE

Immovable assets which have not been declared monuments but nevertheless possess architectural or historical value.

IMMOVABLE ASSETS WITH SURROUNDING VALUE

Immovable assets which are new works and lack monumental value.

TITLE II

COMMISSION RESPONSIBLE FOR PROPOSING ADMINISTRATIVE SANCTIONS

CHAPTER I: THE COMMISSION

Article 42nd.- The Commission responsible for proposing administrative sanctions for infringements on the Cultural Heritage of the Nation, hereinafter referred to as the Commission, is the Consulting Authority of the National Institute of Culture and is responsible for proposing the corresponding administrative sanctions against natural or legal entities that fail to observe the provisions set forth by the General Law of the Cultural Heritage of the Nation – Law No. 28296, its regulation and related norms.

CHAPTER II: DUTIES OF THE COMMISSION

Article 43rd.- The Commission is responsible for:

43.1 Proposing administrative sanctions on natural and legal entities that fail to comply with the ruling provisions for the Protection of the Cultural Heritage of the Nation or carry out activities against the Cultural Heritage of the Nation.

43.2 Ruling on the appeals filed against the resolutions imposed by the administrative sanctions.

43.3 Issuing an opinion on matters related to said administrative sanctions.

CHAPTER III: FORMATION OF THE COMMISSION

Article 44th.- La Commission shall be composed of at least 5 professionals and specialists of recognized capacity and experience. They are assigned by National Directorial Resolution.

This Commission is formed by:

1. Director of the Department for the Defense of Historical Patrimony, who shall chair the Commission.

2. An archaeologist

3. An architect

4. Two lawyers

A historian may be incorporated is required by the Commission.

The Commission shall have a Technical Secretary assigned by the Department for the Defense of Historical Patrimony, who shall have a voice but no vote.

The Offices of the National Institute of Culture in the Regions shall, in accordance with the nature of its organizational structure, propose the formation of their Commission which shall be assigned by National Directorial Resolution.

CHAPTER IV: DUTIES OF COMMISSION MEMBERS

Article 45th.- President

The President of the Commission shall:

1. Convene and head ordinary and extraordinary sessions
2. Monitor the fulfillment of this Regulation and the agreements made by the Commission.
3. Have a casting vote in case of draw.
4. Sign the documents issued by the Commission.

Article 46th.- Members in general

The members of the Commission shall:

1. Undersign agreements made by the Commission.
2. Regularly attend Commission meetings.
3. Review, evaluate, support and express their opinions on the corresponding administrative sanctions for cases submitted to the Commission.
4. Express their opinions on various cases and issues presented to the Commission.
5. Propose cases or issues to the Presidency that are relevant to the Commission for analysis and ruling.
6. Sign minutes and attendance register of the meetings held.
7. Request, if convenient, the opinion of specialists on issues that are relevant.
8. Carry out visual inspections if necessary.

Article 47th.- Technical Secretary

The Technical Secretary of the Commission shall:

1. Keep the Minute Book of the meetings which must include all agreements made by the Commission.
2. Present reports prepared by professionals for the Commission's ruling.
3. Prepare the Meeting Agenda.
4. Organize the Commission's files and correspondence.
5. Coordinate the Commission's activities with other authorities of the National Institute of Culture.
6. Inform the president of member absences.

CHAPTER V: QUORUM, VOTE AND AGREEMENTS

Article 48th.- Quorum

The Commission shall be constituted by at least three (3) members, including the President.

Article 49th.- Voting and Abstention

All members of the Commission have full voting rights during the meetings. They must abstain on the following cases if:

1. They have fourth degree kinship or second degree affinity with any of the parties involved or their representatives or attorneys that are involved with the proceeding being reviewed by the Commission.
2. The ruling affects them in any way.

Article 50th.- Agreements

The agreements are made by simple majority. Any member who does not agree with the decision shall issue a technically supported dissenting opinion which shall be attached to the Agreement.

CHAPTER VI: SESSIONS AND ABSENCES

Article 51st.- The Commission shall met once a month and extraordinarily whenever convened by the President.

The President of the Commission shall be replaced by any member decided on by simple majority for the corresponding meeting in case of absence.

Article 52nd.- The Commission shall carry out the meetings in accordance with the following procedure:

1. Agenda:

The Commission's Technical Secretary shall prepare the Agenda of the day for every meeting, including all proceedings that have complete information and the corresponding Technical Report. Prior to the review of the proceeding, the Technical Secretary shall inform the members of the Commission of all technical, administrative and legal observations on the matter.

2. Commencement of Sessions:

At the convened time, the President shall ensure that there is quorum of members to commence the meeting, as set forth by the previous Article. In case 15 minutes have passed since the convened time and there is no quorum, the President or his representative shall take note of this fact on the minute book which shall then be signed by attending members. A new meeting shall then be scheduled.

3. Sessions:

The Sessions shall follow the Agenda for the day which shall be distributed at the beginning of the Session to all Commission members. The proceedings shall be qualified based on the technical documents, technical and/or legal reports and all regulatory aspects that are applicable to the case.

4. Agreements of the Commission:

All agreements shall be made by the majority of the attendees during the voting stage of the session, unless otherwise set forth by the law. The President shall have the casting vote in case of draw. The corresponding minutes shall include the dissenting opinion.

5. Adjournment of the Sessions:

The Sessions may be adjourned:

- a. When all cases included in the Agenda have been reviewed.
- b. When the Commission agrees that the review of cases and issues included in the Agenda shall remain pending.
- c. When during the course of a session a number of members leave and the regulatory quorum is not met.

Cases b and c shall be indicated in the Minute Book to ensure that the pending matters will be discussed before anything else in the following session.

Article 53rd.- Absences

Commission members with three consecutive unjustified absences shall be relieved from their positions.

Article 54th.- Minute Book

The Commission shall keep a Minute Book which shall include all agreements made, the corresponding rulings, the date of each meeting, attendance, dissenting opinions and abstentions.

FINAL PROVISION

Single – The Offices of the National Institute of Culture shall be the first to impose administrative sanctions if they have the pertinent technical and consulting bodies, which shall operate under the provisions of this Regulation.

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(...)

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“Year of the citizens’ duties” - The undersigned, Certifying Officer of *El Peruano* Official Gazette, does hereby certify that the foregoing is a true copy of the Legal Regulation: National Directorial Resolution N° 1405/INC published on May 26, 2005 - Pages N° 293280 to 293288 - edition N.L.N: 4942 - Lima, December 04, 2007 - (seal and signature) Maria APAESTEGUI SILVA - Certifying Officer - *El Peruano* Official Gazette - “EDITORIA PERU”

MINISTRY OF FOREIGN AFFAIRS - OFFICE OF CONSULAR AFFAIRS - AUTHENTICATION N° 122653 - The preceding signature of Maria APAESTEGUI SILVA is hereby authenticated without judging the content of the document. - Lima, December 04, 2007 - (seal and signature) Virgilio Z. ARENAZA PICKMANS - Department of Authentications - Office of Consular Formalities - Round seal: Republic of Peru - Ministry of Foreign Affairs - Office of Consular Formalities - Authentications - (raised seal)