

## Environment - Argentina

Province files bill for approval of new environmental code

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Argentina is a federal country in which each province is entitled to regulate the protection of its own natural resources. The Province of Buenos Aires, where approximately 85% of domestic industry is located and where 40% of the national population resides, is making progress in the implementation of an Environmental Infractions Code.

The Buenos Aires provincial executive power recently filed a bill with the legislative body for discussion and possible approval of the new code. This innovative code will form the first compendium of administrative rules in Argentine law that addresses:

- the protection of natural resources; and
- the calculation of environmental administrative infractions and penalties corresponding to each breach.

The code will also unify environmental protection principles that are currently scattered across provincial regulations, abrogating - completely or partially - approximately 20 provincial laws and decrees. The penalties provided by the law include:

- warnings;
- fines of up to Ps1 million;
- shutdown;
- permit revocation;
- disqualification of the professionals involved;
- arrest of up to 30 days;
- community service; and
- accessory penalties - either remediation or confiscation of goods.

These penalties will be applied in the event that any of the following rules and principles of environmental protection and industrial activity regulation are infringed:

- setting up industries without complying with the law;
- failing to mitigate possible damage to the environment;
- executing work that might affect the environment without authorisation;
- changing the ownership of industries without government approval;
- refusing to be inspected by the proper environmental authority;
- failing to renew environmental permits;
- infringing the rules on hazardous and industrial waste;
- infringing the rules on industrial laundry;
- using polyethylene bags in shops in infringement of the law;
- failing to comply with rules applicable to high-pressure equipment;
- failing to comply with rules applicable to non-ionising radiation;
- infringing the rules on generation and discharge of gaseous and liquid effluents;
- failing to comply with rules on the use of public waters;
- failing to comply with the rules on grain storage in farms;
- infringing the regime governing disturbing noises and vibrations from industrial activities;
- failing to comply with the rules on fire extinguishers; and
- infringing the rules on compulsory environmental insurance.

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The code also provides a specific procedure and creates special courts within the administrative system for environmental matters, known as courts of environmental infractions.

The environmental infractions system will be applied subject to criminal and tortious liability that might correspond to those ruled by these laws. Criminal and civil liability will continue to be judged by ordinary provincial courts.

The code follows the experience of Brazil and Nicaragua in connection with administrative environmental penalties - in line with Law 9605/98 in Brazil and Law 559/95 in Nicaragua.

During the next few months, the code will be debated by the provincial legislative body. Once approved by both houses, it will have to be enacted by the executive power.

The rules will have an impact on industrial activities carried out within the Province of Buenos Aires and represent the first national attempt to unify all administrative environmental infractions through industrial and anthropogenic activities under a single set of rules.

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