

Political Constitution of Peru

TITLE IV THE STRUCTURE OF THE STATE

CHAPTER I THE LEGISLATIVE BRANCH

Article 90

The Legislative Branch shall be vested in Congress, which has a single chamber.

There are 130 congressmen, elected for terms of five years through an election process organized in accordance with the law. Candidates for the presidency may not be among the lists of congressional candidates. Candidates for vice presidencies may simultaneously be congressional candidates.

The law establishes the organization and functional autonomy of the Superintendence of Banking and Insurance.

*The Executive Branch appoints the Superintendent of Banking and Insurance for the period corresponding to his constitutional term of office. Congress ratifies him. To be elected congressman, one must be Peruvian by birth, have attained the age of twenty- five years, and enjoy the right to vote.**

Note: Following transitory provisions are included in Law No. 29402, published on September 8th, 2009:

SPECIAL TRANSITORY PROVISION

Third. The National Election Board allocates four seats for the provinces of Lima, without affecting the existing national apportionment and the other six, in accordance with the law.

TRANSITORY PROVISION

Single. This constitutional reform shall come into effect as of the 2011 electoral process.

Article 91

The following persons may not be elected members of the national parliament if they have not resigned their offices six (6) months before the election:

1. Ministers and Deputy Ministers, and the Comptroller General.
2. Members of the Constitutional Court, the National Council of the Magistracy, the Judicial Branch, the Office of the Prosecutor General, the National Election Board, and the Ombudsman.

3. The President of the Central Reserve Bank, the Superintendent of Banking, Insurance, and Private Pension Fund Management Firms, and the National Superintendent of Tax Administration.
4. Members of the Armed Forces and the National Police on active duty.
5. Other individuals as provided in the Constitution. *

* **Article amended by Law No. 29402, published on September 8th, 2009. Before the amendment, this article stated:**

The Legislative Branch shall be vested in Congress, which has a single chamber.

There are 120 congressmen, elected for terms of five years through an election process organized in accordance with the law. Candidates for the presidency may not be among the lists of congressional candidates. Candidates for vice presidencies may simultaneously be congressional candidates.

To be elected congressman, one must be Peruvian by birth, have attained the age of twenty-five years, and enjoy the right to vote.

* **Article amended by Law No. 28607, published on October 4th, 2005. Before the amendment, this article stated:**

The following persons may not be elected congressmen if they have not left office six months before the election:

1. *Ministers and Deputy Ministers, the Comptroller General, and regional authorities.*
2. *Members of the Constitutional Court, the National Council of the Magistracy, the Judicial branch, the Office of the Prosecutor General, the National Election Board, and the Ombudsman.*
3. *The President of the Central Reserve Bank, the Superintendent of Banking, Insurance, and Private Pension Fund Management Firm*

Article 92

The office of congressman is a full-time job. Therefore, members are prohibited from holding any other office, profession, or occupation during the time in which Congress operates.

The term of office for congressman is incompatible with any other public office, except that of minister and, with prior authorization of Congress, the participation in select committees on international affairs.

The office of congressman is likewise incompatible with positions such as manager, proxy, representative, trustee, attorney, majority shareholder, or member of the board of directors of enterprises that have work, supply, or provision contracts with the State or that manage public revenues or render public services.

The office of congressman is incompatible with similar positions in enterprises that receive concessions from the State during the term of office of the congressman, as well as in enterprises of the financial credit system supervised by the Superintendence of Banking, Insurance, and Private Pension Fund Management Firms.*

Article 93

Congressmen represent the Nation. They are not subject to any binding mandate or interpellation.

They are not responsible to any authority or jurisdictional body for votes cast or opinions

expressed in the exercise of their functions.

Congressmen may not be tried or arrested without prior authorization from Congress or the Permanent Assembly, from the time of their election to a month after terminating their office, except in cases of *in flagrante delicto*, whereupon they are placed at the disposal of Congress or its Permanent Assembly within twenty-four hours to determine whether their imprisonment and prosecution may be authorized or not.

Article 94

** Subparagraph amended by Law No. 28484, published on April 5th, 2005. Before the amendment, this subparagraph stated:*

The President of the Central Reserve Bank, the Superintendent of Banking and Insurance, the Superintendent of Tax Administration, Superintendent of National Customs, and the Superintendent of Private Pension Fund Management.

4. *Members of the Armed Forces and the National Police on active duty.*

** Last paragraph of article 92 amended by Law No. 28484, published on April 5th, 2005. Before the amendment, this paragraph stated:*

The office of congressman is incompatible with similar positions in enterprises that receive concessions from the State during the term of office for the congressman, as well as in enterprises of the financial credit system supervised by the Superintendence of Banking and Insurance.

Congress drafts and passes its own Standing Rules, which have the force of law. It also elects members to serve on the Permanent Assembly and committees, defines the organization and functions of parliamentary groups, manages its finances, approves its budget, appoints and removes its officers and employees, and grants them benefits in accordance with the law.

Article 95

The legislative mandate is non renounceable.

The disciplinary penalties imposed by Congress on its members, when involve suspension from their duties, may not exceed 120 days of the legislative session.

Article 96

Any member of Congress may ask Ministers, the National Election Board, the Comptroller General, the Central Reserve Bank, the Superintendence of Banking, Insurance, and Private Public Fund Management Firms, the regional and local governments, and other institutions as provided by law for any information as he deems necessary.**

The request must be made in writing and be in conformity with the Standing Rules of Congress. Failure to respond results in legal liability.

Article 97

Congress may initiate investigations on any matter of public interest. Upon request, appearances before the committees responsible for such investigations are compulsory, under the same requirements as judicial proceedings.

In order to accomplish their purposes, such committees may have access to any information, which may entail lifting bank secrecy and the confidentiality of tax filings; except for information affecting personal privacy. The conclusions of the committees are not binding to jurisdictional bodies.

Article 98

The President of the Republic is obliged to place at the disposal of the Congress those members of the Armed Forces and the National Police requested by the President of Congress.

The Armed Forces and the National Police shall not enter the premises of Congress without authorization from its President.

Article 99

***First paragraph of article 96 amended by Law No. 28484, published on April 5th, 2005. Before the amendment, this paragraph stated:*

Any member of Congress may ask Ministers, the National Election Board, the Comptroller General, the Central Reserve Bank, the Superintendence of Banking and Insurance, the local governments, and other institutions as provided by law for any information as he deems necessary.

It is the duty of the Permanent Assembly to accuse before Congress: the President of the Republic, members of Congress, Ministers, members of the Constitutional Court, members of the National Council of the Magistracy, the Justices of the Supreme Court, Supreme Prosecutors, the Ombudsman, and the Comptroller General, for any violation of the Constitution or any crime committed during the performance of their duties and for up to five years after they have left office.

Article 100

It is the duty of the Congress, without participation of the Permanent Assembly, to decide whether or not to suspend an accused official or declare him ineligible for public service for up to ten years, or to remove him from office without prejudice to any other responsibility.

During these proceedings, the accused official has the right to defend himself or to be assisted by counsel before the Permanent Assembly and Congress as a whole.

In cases of a criminal indictment, the Prosecutor General files criminal charges with the Supreme Court within five days. The Justice of the Supreme Court responsible for criminal affairs then initiates the criminal proceedings.

Acquittal by the Supreme Court restores political rights to the accused official.

The terms of the prosecutorial accusation and the order to start proceedings may not go beyond or below the terms of the Congress charges.

Article 101

Congress shall elect the members of the Permanent Assembly. The membership shall be proportional to that of the representatives in each parliamentary group and shall not exceed twenty-five percent of the total number of congressmen.

It is the duty of the Permanent Assembly:

1. To appoint the Comptroller General upon recommendation from the President of the Republic.
2. To ratify the appointments of the President of the Central Reserve Bank and the Superintendent of Banking, Insurance, and Private Pension Fund Management Firms.*
3. To approve the supplemental credits, budget transfers, and supplemental allotments during the parliamentary recess.

* *Subparagraph amended by Law No. 28484, published on April 5th, 2005. Before the amendment, this subparagraph stated:*

2. *To ratify the appointments of the President of the Central Reserve Bank and the Superintendent of Banking and Insurance.*
4. To exercise the delegation of legislative powers conferred by Congress.

Matters relating to constitutional reform, approval of international treaties, organic acts, the Budget Act, and the General Account of the Republic Act may not be delegated to the Permanent Assembly.

5. To perform other responsibilities as set forth in the Constitution and the Standing Rules of Congress.

Article 102

It is the duty of the Congress:

1. To pass laws and legislative resolutions, as well as to interpret, amend, or repeal existing laws.
2. To ensure respect for the Constitution and the laws; and to do whatever is necessary to hold violators responsible.
3. To conclude treaties, in accordance with the Constitution.
4. To pass the Budget and the General Account.
5. To authorize loans, in accordance with the Constitution.
6. To exercise the right to amnesty.
7. To approve the territorial demarcation proposed by the Executive Branch.
8. To consent to the entry of foreign troops into the territory, whenever it does not affect, in any manner, national sovereignty.

9. To authorize the President of the Republic to leave the country.
10. To perform any other duties as provided in the Constitution and those inherent in the legislative function.

CHAPTER II THE LEGISLATIVE FUNCTION

Article 103

Special laws may be passed because they are required by the nature of things, but not because of differences between persons. After its entry into force, the law is applied to the consequences of existing legal relations and situations, and it does not have retroactive force or effect, except, in both cases, in criminal matters when such application favors the defendant. A law is repealed only by another law. A law is null by declaration of unconstitutionality.

The Constitution does not endorse the abuse-of-rights doctrine.*

Article 104

Congress may delegate the power to legislate to the Executive Branch through legislative decrees on specific matters and in the term established by the authorizing law.

Congress may not delegate those non delegable matters to the Permanent Assembly.

As to their promulgation, publication, enforcement, and effects, legislative decrees are subject to the same rules governing the law.

The President of the Republic reports to the Congress or the Permanent Assembly on each legislative decree.

Article 105

No bill shall be passed without previous approval of the competent ruling committee, except as provided in the Standing Rules of Congress. Bills sent by the Executive Branch of an urgent nature shall have priority in Congress.

Article 106

Organic acts govern the structure and operation of State bodies as defined in the Constitution, as well as other matters whose regulation by such acts is established in the Constitution.

Bills of organic acts are processed like any other law. In order to pass or amend them, the vote of more than half of the legal number of members of Congress is required.

* **Article replaced by Law No. 28389, published on November 17th, 2004. Before the amendment, this article stated:**

Special laws may be passed because they are required by the nature of things, but not because of differences between persons.

No law has retroactive force or effect, except in criminal matters when such application favors the defendant.

A law is repealed only by another law. A law is null by declaration of unconstitutionality.

The Constitution does not endorse the abuse-of-rights doctrine.