



**DEMOCRATIC REPUBLIC OF TIMOR-LESTE  
GOVERNMENT**

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**Draft  
Decree-Law No. XXXXXXXX  
of XX of XXXXX**

The present legislative initiative is constituted as another representative measure of the commitment from the Government of the Democratic Republic of Timor-Leste to create the best conditions for Timorese companies to assert their competitiveness, their capacity to create and maintain jobs, while strengthening the productivity of the country and the respective exporting capacity, contributing to a robust national economic structure.

The licensing of industrial activity in Timor-Leste has as major objectives the prevention of risks in exploitation, the safeguarding of public health and workers, the safety of people and goods, the quality of the environment and correct spatial planning, within a framework of sustainable development and corporate social responsibility.

In addition, it is now guaranteed that the entire licensing process will be conducted by the entities with competence in industrial matters, which will remain the sole interlocutor for the entrepreneur for the purposes of licensing the installation, alteration and operation of the industrial establishment.

Thus, under the terms of paragraph e) of no. 1 of article 115 and paragraph d) of article 116 of the Constitution of the Republic, the Government decrees the following to be valid as law:

**CHAPTER I  
General Provisions**

**Article ...  
Object**

The exercise of industrial activity in the Democratic Republic of Timor-Leste shall be governed by the norms established in the present document.

**Article ....  
Scope**

1. The present decree-law shall apply to the industrial activities provided for in the annex to the present decree-law, of which it is an integral part.
2. Industrial activities included in commercial establishments or restaurants and drinking establishments are excluded from the scope of application of this decree-law under the terms and within the limits provided for in the respective legal systems.

**Article ...**  
**Definitions**

- a) "Industrial activity" means an economic activity provided for in the Timor-Leste Classification of Economic Activities (CAE) approved by Decree-Law No. 45/2011, of 19 October.
- b) "Temporary industrial activity" is an activity exercised during a period of time not exceeding two years, intended for the execution of a specific one-off purpose, whether or not implanted on a movable structure, and that is not included in the specific regimes of environmental impact assessment, integrated pollution prevention and control, as well as the control of hazards associated with major accidents involving dangerous substances.
- c) "Industrial company", the individual or collective person organized under the terms of the law to exercise, exclusively or not, the industrial activity.
- d) "Supervisory entity" means the entity responsible for supervising compliance with the rules governing the exercise of industrial activity.
- e) "Industrial establishment" means a set of material elements used for the exercise, in the same place and by the same company, of a certain industrial activity.
- f) "Interlocutor and technical manager of the project" means the person or entity appointed by the industrialist for the purposes of demonstrating that the project is in compliance with the applicable legislation and for the purposes of the relationship with the licensing authority and other entities intervening in the industrial licensing process.
- g) "Industrial operating license" means a written decision concerning the authorization or approval for operation of industrial establishments issued by the Directorate General for Industry.
- h) "Installation or alteration licence" means a written decision concerning the authorization to install or alter an industrial establishment, issued by the Directorate General for Industry.
- i) "Industrial project" means the set of activities aiming at:
  - a) Installation of a new industrial establishment;
  - b) Substantial modification, by extension or renovation, of an existing industrial establishment;

**Article**  
**Guiding Principles ...**

1. Industrialists must guarantee respect for the following rules and principles, namely:
  - a) Adopt the best available techniques and principles of energy and ecological efficiency;
  - b) Assess the risk associated with its activity and adopt rules to prevent accidents and minimise their effects;
  - c) Adopt sanitary measures that are legally established for the type of activity, or determined by the competent entities, in order to safeguard public health;

- d) Adopt the necessary measures to avoid safety and pollution risks, so that the operating site is placed in an acceptable state at the time of the industrial establishment's definitive deactivation;
  - e) Adopt prevention and control measures in order to eliminate or reduce the risks susceptible of affecting people and property, guaranteeing safety and health conditions at work, as well as the respect for environmental norms, minimizing the consequences of possible accidents.
2. Whenever any anomaly is detected in the operation of the establishment, the industrialist must take the appropriate measures to correct the situation and, if necessary, suspend operations and immediately communicate this fact to the Directorate-General for Industry.

## **CHAPTER II**

### **Licensing Process**

#### **Article ...**

#### **Licensing**

1. The installation, alteration and operation of industrial establishments shall be subject to licensing by the Directorate-General for Industry.
2. The Directorate-General for Industry shall be the sole interlocutor of the industrial operator and coordinating entity for the purposes of licensing the installation, alteration and operation of industrial establishments.

#### **Article ...**

#### **Location**

1. Any industrial company conducting industrial activities shall be located in an Industrial Park.
2. The obligation to be located in an Industrial Park shall not apply to an Industrial Enterprise that develops industrial activities and is located in an urban area that:
  - a) does not yet have an Industrial Park;
  - b) has an Industrial Park but its industrial blocks are fully occupied;
  - c) or otherwise justifies it;
3. The exemptions from the obligation to be located in an Industrial Park, as referred to in number 1, shall also apply:
  - a) to any small and medium sized industries which do not potentially cause large scale environmental pollution; or
  - b) to any Industry using specific raw materials and/or whose production process requires a specific location.

4. Any Industrial Enterprise which has been exempted as referred to in subsection 2 and any medium-sized Industrial Enterprise as referred to in subsection 3(a) shall be located in allocated industrial zones.
5. The Industries referred to in number 3 shall be defined by the Ministry of Tourism, Trade and Industry.

**Article ...**  
**Installation or change license**

1. Applications for a licence to install or alter shall be submitted to the Directorate-General for Industry, duly instructed under the terms laid down in this statute and in a regulatory statute.
2. For the purposes of licensing, industrial establishments shall fall into a typology to be defined in accordance with their size, with smaller establishments and those whose activity is not especially dangerous to the environment, persons and property being exempt from prior licensing.
3. Should the industrial establishment be subject to a location authorisation, the licensing application may only be considered duly completed with the attachment of the respective application for the location authorisation certificate.
4. The competent authority for issuing the license, within 10 working days, shall forward the project for advice to the entities with responsibilities in the areas of environment, health, hygiene and safety at work or any other entities it deems necessary.
5. The entities referred to in the previous number must issue their opinion within 20 working days, except in the case of projects subject to the environmental impact assessment procedure and the environmental licensing procedure, in which case the time limit is that established in the respective legislation.
6. The licence for the installation or alteration of an industrial facility shall be issued by the Directorate-General for Industry and shall obligatorily include the conditions and requirements imposed by the entities consulted, or any others deemed convenient by the licensing entity.
7. The licence for the installation or alteration of an industrial establishment shall have a duration of one year from the date of its issue and may be renewed for equal periods of time.

**Article...**  
**(Right of Opposition)**

1. The Ministry of Commerce and Industry may oppose the implementation of industrial projects on the grounds of:
  - a) violation of fundamental principles of the public order of Timor-Leste;
  - b) manifest violation of the law or of the principles and objectives of the economic policy;
  - c) danger to national security, public health or environmental balance;

- d) breach of the international commitments of the State of Timor-Leste;
  - e) manifest and proven lack of suitability of the project promoter;
2. The right of opposition shall expire within 30 days from the date of issue of the statement referred to in subsection 2 above and must be exercised by means of a justified written communication to the promoter.
  3. Opposition by the Ministry of Commerce and Industry implies in prohibition to carry out the project, without prejudice to the right of the promoter to resort to normal appeals.

#### **Article ....**

#### **Types and Classification of Industrial Enterprises**

1. Industrial enterprises may be classified into:
  - a) small-scale industry;
  - b) medium-sized industry;
  - c) large-scale industry;
2. The classification as small, medium or large-scale industry is defined on the basis of the amount of investment, production capacity and number of jobs.
3. The number of jobs and value of the investment for small, medium and large-sized industries shall be stipulated by the Ministry of Tourism, Trade and Industry.

#### **Article ....**

#### **Sectoral license for low, medium and high-risk economic activities**

1. Sectoral activity licenses are classified into:
  - a) Low-risk
  - b) medium-risk
  - c) high-risk
2. The government entity (SERVE) responsible for company registration will also issue the authorization for exercising the economic activity, in the form of licensing.
3. However, the application for authorisation to engage in medium-and-high-risk economic activity will have to be forwarded to the respective governmental authority responsible for sectoral licensing, obliging the authority to conduct the necessary assessment of the proposed economic activity with a set of criteria, such as technical, safety, health and environmental aspects.
4. The governmental authority responsible for sector licensing retains the competence for sector licensing and shall monitor the economic activity of business entities and recommend to SERVE the suspension or cancellation of the activity should business entities violate applicable laws and regulations.

#### **Article...**

#### **Operating licence**

1. The operating licence is issued upon verification, by means of an inspection, of the compliance of the installation or alteration of the industrial establishment with the applicable laws and regulations.
2. The operating conditions of industrial establishments shall be subject to re-examination by means of an inspection with the consequent updating of the respective industrial operating license.
3. Without prejudice to the cases provided for in the following paragraph, the operation of an industrial establishment shall begin independently of the issue of the respective license, under the conditions to be defined in a regulatory document and provided that the inspection referred to in paragraph 1 of this Article has already been requested.

#### **Article ... Complaints**

1. Any person may submit duly substantiated complaints to the licensing authority regarding the installation, alteration, operation and deactivation of any industrial establishment.
2. The licensing authority shall take the necessary steps, namely through inspections, to analyse and decide on complaints, guaranteeing the hearing of the interested party and involving or consulting, whenever justified, the entities in charge of safeguarding the rights and interests in question.
3. The licensing entity shall inform the industrial company, the complainant and the entities consulted of the decision taken.
4. The inspections referred to in paragraph 2 may be requested from the licensing entity by any entity with responsibility for safeguarding the rights and interests in question.

### **CHAPTER III The Industrial Cadastre**

#### **Article ... Subjection to the Cadastre**

Industrial enterprises shall be obligated to register with the industrial cadastre services of the Ministry of Tourism, Trade and Industry.

#### **Article ... Registration Mode**

1. Registration shall be made by filling in a specific form of a regulatory model, duly filled in by the interested entity.
2. A proof of registration in the cadastre shall be issued.

#### **Article ... Registrations**

1. The following shall be recorded in the land register.
  - a) Industrial projects against which no opposition has been filed under the terms of Article.
  - b) Industrial projects not subject to prior declaration under the terms of Article ... number ..;
  - c) Acts of alienation, encumbrance or leasing of industrial establishments and, in general, any situations involving transfer of ownership or operation of industrial establishments
  - d) Any alteration to the elements contained in the land registry;
  - e) Whatever else may be determined by law or regulation.
2. The following shall be automatically included in the registration:
  - a) The approval in an inspection of industrial establishments, under the terms of article ..;
  - b) The annual updates of the cadastre;
  - c) Suspension of registration, under the terms of the following Article
  - d) Whatever else is deemed to be of interest by the Ministry of Tourism, Commerce and Industry.

#### **Article ... Cancellation of Endorsement**

1. Unless there are compelling reasons to the contrary, submitted in due time to the Ministry of Tourism, Trade and Industry, the endorsements referred to in paragraphs a) and b) of Section 1 above shall be cancelled if, within one year of their effectiveness, the promoter has not commenced the works necessary for the implementation of the project.
2. Cancellation under the terms of paragraph 1 above implies a prohibition to carry out the project.

#### **Article ... Updates**

1. The industrial register shall be updated annually.
2. For the purposes of the previous sub-article, registered industrial companies shall submit a duly filled in update form of the regulation model to the industrial cadastre services by 31st January of each year.
3. 3. The industrial registry may also be updated, at the request of the company, whenever there are changes in the elements included therein.

#### **Article ... Suspension of Registration**

The inscription in the industrial cadastre shall be suspended, in case of non-compliance with the provisions of paragraph 2 of the previous article, until receipt of the updating form by the industrial cadastre services.

#### **Article ... Cancellation of Registration**

1. Registration in the industrial registry shall be cancelled in the following cases
  - a) Extinction of the company;

- b) Unjustified suspension of the company's industrial activity for a period exceeding one year;
- c) Others foreseen in the law.

**Article ...**

**Regulation**

The Ministry of Tourism, Trade and Industry shall regulate, by Ministerial Order, the industrial registry.

**CHAPTER IV**

**Supervision and precautionary measures**

**Article ...**

**Supervision**

1. It is incumbent upon the Directorate-General for Industry to monitor the provisions of this statute and other regulatory legislation, without prejudice to the competencies attributed to other entities in specific areas.
2. The administrative and police authorities shall collaborate in the inspection of the provisions of the present statute.
3. The industrialist, or any other person responsible for the operation of the establishment, shall allow the surveillance entity to enter its facilities, as well as provide all information and elements requested.

**Article ...**

**Precautionary measures**

Whenever a situation of serious danger to public health, to the safety of persons and goods, to hygiene and safety at the workplace or to the environment is detected, the services of the Directorate-General for Industry shall immediately take the appropriate measures to eliminate or prevent the hazardous situation.

**Article ...**

**Interruption of power supply, water and communications**

The supervisory entity may notify power, water or communications distribution entities to interrupt the supply of these services to any industrial establishment, whenever:

- a) Opposition to the precautionary measures provided for in the previous article;
- b) Breaking of seals affixed on the equipment;
- c) Repeated non-compliance with the measures or conditions imposed for operation.

**Article ....**

**Termination of precautionary measures**

1. Termination of the precautionary measures provided for in article 13 is determined, at the request of the interested party, after an inspection of the establishment carried out by the supervisory entity, during which the situations that gave rise to such measures are



demonstrated to have ceased, without prejudice to the continuation of the criminal and administrative infraction processes already initiated.

2. In the event of interruption of power supply, water supply or communications, these services shall be re-established upon written communication by the supervisory entity to the respective distribution entity.

## **CHAPTER V**

### **Sanctions**

#### **Article ....**

#### **Administrative Offences and Fines**

1. The following shall constitute an administrative offence punishable by a fine ranging from a minimum of [...] to a maximum of [...].
  - a) The installation or alteration of an industrial establishment without the application referred to in Article ... (1) having been made, or without the license referred to in Article ... (8) having been issued;
  - b) (b) the commencement of operation of an industrial establishment in violation of the provisions of paragraph 3 of article ....;
  - c) Non-compliance with the legal and regulatory terms and conditions for operation of the industrial establishment set out in the license referred to in Article ...., paragraph 1, or when such license is re-evaluated under the terms of paragraph 2 of the same article;
  - d) Non-compliance with the provisions of Article ...., paragraph 3;
  - e) Failure by electricity, water or communications distribution entities to comply with the provisions of article .....
2. The minimum and maximum limits fixed in number 1 are doubled in case of recidivism.
3. The amount of the fines shall take into account the nature of the infraction, the damage or risk resulting therefrom, the degree of culpability and record of the offender and his or her economic capacity.

#### **Article ...**

#### **Ancillary fines**

1. The following ancillary sanctions may also be applied, simultaneously with the fine, depending on the gravity of the infraction and the culpability of the agent:
  - a) Forfeiture, in favour of the State, of equipment, machinery and utensils used in the commission of the infraction;
  - b) Loss of the right to subsidies or benefits granted by public entities or services;
  - c) Deprivation of the right to bid for the supply of goods and services, within the scope of public procurement rules;
  - d) Suspension of the operating license;
  - e) Closure of the establishment and facilities.

2. The sanctions provided for in paragraphs b) c) and e) have a maximum duration of [...], counted as from the condemnatory decision.
3. The resumption of activity shall be conditional upon compliance with the provisions of Article .... (1).

**Article ...**

**Competence to impose sanctions**

The processing of administrative offences and the application of fines and accessory sanctions are the responsibility of the inspection entities, within the scope of their respective attributions.

**Article ....**

**Destination of the revenue from fines**

The revenue from fines imposed under the scope of the present statute constitutes the State's own revenue.

**Article ...**

**(Regulation)**

Other provisions regarding the administrative infraction proceedings shall take into account the provisions of the Basic Law on Industry and the respective regulations to be approved.

**CHAPTER VI**

**Taxes**

**Article ...**

**Tax and control costs**

1. Upon application for an inspection for the issuance of an operating license for the installation or alteration of industrial establishments, the industrial operator shall be responsible for the payment of a fee.
2. The amount of the fee referred to in the preceding paragraph shall be fixed by joint decree order of the members of the Government responsible for finance and industry.
3. Expenses to be incurred in the taking of samples, laboratory tests or any other evaluation to assess the conditions under which the activity of an establishment is carried out, as well as any expenses incurred in the provision of expert services, shall be the responsibility of the entities that have promoted such expenses, unless they are a result of legal obligations, or in the event of non-compliance with mandatory technical requirements, in which cases the costs shall be borne by the industrial operator.
4. Expenses related to cutting off and reconnecting electricity, water or communications supply shall be borne by the industrial operator.

**CHAPTER VII**  
**Final and Transitional Provisions**

**Article**  
**Inapplicability**

All legal provisions concerning the licensing of economic activities that contradict the provisions of this statute are deemed inapplicable to the licensing of industrial activities.

**Article**  
**Regulation**

It is incumbent upon the Government to approve the regulatory norms necessary for the proper enforcement of the present statute.

**Article ....**  
**(Entry into force)**

This diploma enters into force on the day following the date of its publication.

Seen and approved by the Council of Ministers, on the ... of ..... of .....,

The Prime Minister,

The Minister of Tourism, Commerce and Industry,

Promulgated on ..., .....,

To be published.

The President of the Republic,