

**DECREE LAW NO. 39/2022**  
**FIRST AMENDMENT TO DECREE-LAW No 5/2011, OF FEBRUARY 9,**  
**ON ENVIRONMENTAL LICENSING**

The matter of environmental licensing is regulated by Decree-Law No 5/2011 of 9 February 2011, which confers on the bodies of the direct administration of the State the main powers relating to the licensing procedure. However, the approval of the Organic Law of the Secretary of State for the Environment, through Decree-Law No 15/2019 of 10 July, led to the need to create an indirect State administration body specifically responsible for ensuring the implementation of legislation on environmental licensing, the National Environmental Licensing Authority, with the nature of a public institute.

In this context, it becomes urgent not only to make the existing legal regime on environmental licensing compatible with the creation of this public institute, but also to guarantee the possibility of submitting any relevant documentation within the scope of the environmental licensing procedure at a local level, whether to delegations or representations of the said National Authority that may be created, or to the government department responsible for the execution of policies for the environment area or to its territorially based decentralised services, or to any other public or private entity with which a contract or partnership may be established for this purpose.

Thus, under the terms of Article 115(1)(b) of the Constitution of the Republic, the Government decrees the following to be valid as law:

**Article 1**

Amendment to Decree-Law No. 5/2011, of 9 February  
Articles 1, 3, 4, 5, 6, 9, 10, 11, 13, 17, 18, 20, 21, 22, 23, 24, 25 and 36 of Decree-Law No. 5/2011 of 9 February shall be amended to read as follows.

**"Article 1**  
**[...]**

[...]:

- a) [...];
- b) "Environmental Authority" means the public legal person, belonging to the indirect administration of the State, responsible for environmental licensing;
- c) (c) "Higher Environmental Authority" means the member of the Government responsible for the execution of policies for the environmental area;
- d) [...];
- e) [...];
- f) [...];
- g) [...];
- h) [...];
- i) [...];
- j) [...];
- k) [...];

- l) "Environmental Inspectorate" means the entity of the indirect administration of the State responsible for environmental control, which is the authority responsible for environmental licensing pursuant to subparagraph (b);
- m) [...];
- n) [...];
- o) [...];
- p) [...];
- q) "Environment" means the totality of physical, chemical, natural resources, biological organisms and living beings, including humans by their behaviour in relation to nature, that influence the continuation and quality of human life of other living beings and quality of ecosystems;
- r) [...];
- s) [...];
- t) [...];
- u) "Project", under the control of the legislation in force in Timor-Leste, shall mean the conceptual descriptive proposition of interventions in the natural environment or landscape, of public or private nature, including the carrying out of construction works and the interventions aimed at the exploitation of natural resources;
- v) [...];
- w) [...];
- x) [...];
- y) [...];
- z) [...];
- aa) [...];
- bb) [...];

### **Article 3**

**[...]**

1. The environmental licensing procedure shall consist of the following stages:
  - a) Definition of the scope of the project;
  - b) [...];
  - c) [...];
  - d) [...].
2. The start of the environmental licensing procedure is considered to be the moment of delivery of the project documents, under the terms of this statute, with the purpose of complying with points a) and b) of the previous number.

### **Article 4**

**[...]**

1. . [...]:
  - a) [...];
  - b) Category B, which comprises the projects that may cause environmental impacts and that are subject to the Initial Environmental Examination (IEA) procedure, based on

the Environmental Management Plan, in accordance with the provisions of this diploma;

- c) Category C, which comprises the projects in which the environmental impacts are negligible or non-existent and are subject to the simplified Initial Environmental Examination (EAI) procedure, in accordance with the provisions of the present diploma.
2. In cases that are otherwise discriminated, the category shall be determined taking into consideration the gravity of the probable impacts:
- a) A project that may raise some or significant adverse impacts falls into the category in Annex I;
  - b) b) A project that is likely to cause adverse environmental impacts falls into Annex II category;
  - c) A project that is not likely to give rise to any environmental impacts or where such possible impacts are negligible and does not fall into the categories of Annexes I and II.
3. [...].
4. [...].

## **Article 5**

**[...]**

- 1. The proponent, for the purpose of defining the scope of the project, shall submit the project documents for consideration by the Environmental Authority, pursuant to this Article.
- 2. [...].
- 3. The submission of documents for the definition of the scope of the project is prior to the Environmental Assessment and is mandatory.
- 4. For the purposes of paragraph 1, the proponent shall submit the project documents, which shall contain the following information:
  - a) [...];
  - b) [...];
  - c) [...];
  - d) [...];
  - e) [...];
  - f) Proposal for classifying the project into a category, in accordance with Annexes I and II of the present diploma;
  - g) [...];

5. [...];

## **Article 6**

**[...]**

1. [...].
2. The opinion of the Environmental Authority shall be made known to the applicant by publication in a notice on its premises, at the offices of the Municipal Authorities and Administrations and additionally, where relevant, by electronic communication to the applicant.
3. [...].
4. The opinion referred to in paragraph 1 shall be binding on the applicant.
5. [...].

## **Article 9**

**[...]**

1. The proponent of a project classified as category A initiates the environmental impact assessment procedure and application for an environmental license with the presentation, under the terms of the present diploma, of the following information and documentation:
  - a) [...];
  - b) [...];
  - c) [...];
  - d) [...];
  - e) [...];
  - f) [...];
  - g) [...];
  - h) [...];
  - i) [...];
2. [...];
3. [...];
4. [...];

## **Article 10**

**[...].**

1. For each category A project, and until 10 days after presentation of the documents referred to in the previous article, the Higher Environmental Authority shall constitute an Evaluation Committee with the purpose of managing the EIA procedure, which has the following duties:

- a) Participate and certify the public consultation and pronounce itself on the proposals, suggestions and comments received to the EIS and the Environmental Management Plans;
  - b) [...];
  - c) [...];
  - d) [...];
  - e) [...].
- 2. The Evaluation Committee comprises, in odd number, up to a maximum of 13 members:
    - a) The members of the collegial advisory body of the Environmental Authority, if any;
    - b) Technicians specialised in the area or sector relating to the project under analysis, designated by order of the supervising Government member, following a proposal by the Environmental Authority.
  - 3. The Evaluation Committee is presided over by the directive body of the Environmental Authority or by the President of the directive body, in the case of a collegiate body.
  - 4. In the event that a department represented is the proponent of the development project in question, the representative of that government department is excluded from the Evaluation Committee, by order of the Supreme Environmental Authority.
  - 5. If it is not possible to ensure an unlimited number of members of the Evaluation Committee due to the exclusion provided for in the preceding paragraph, in case of a tie vote, the Chairman shall have a casting vote.
  - 6. The Evaluation Committee for the project is extinguished by order of the Supreme Environmental Authority.
  - 7. [Former Paragraph No. 4].

## **Article 11**

**[...]**

- 1. It is incumbent upon the Environmental Authority to promote public consultation, which has the following objectives:
  - a) [...];
  - b) [...];
  - c) [...];
  - d) [...].
- 2. [...].

3. Any member of the public may send the Environmental Authority recommendations or reasoned proposals concerning the EIS and the EMP, within the period defined in the previous number.
4. [...].
5. The Environmental Authority promotes the participation of women and people with disabilities in public consultation.

**Article 13**  
**Issuing of a final technical opinion by the Evaluation Commission**

1. [...].
2. The Assessment Committee shall forward to the Environmental Authority the technical opinion, which shall contain one of the following recommendations:
  - a) [...];
  - b) [...].
3. [...].

**Article 17**  
**Stages of the Procedure**

For the purposes of environmental licensing, projects classified as category B or C are subject to an Initial Environmental Examination (IEA) procedure and the granting of an environmental license, which comprises the following stages:

- a) [...];
- b) [...];
- c) [...].

**Article 18**  
**[...]**

1. The proponent of a project classified as category B or C initiates the Initial Environmental Examination procedure, where applicable, and the request for attribution of the environmental license with the presentation, under the terms of this statute, of the following documents and information:
  - a) [...];
  - b) [...];
  - c) [...];
  - d) [...];
  - e) [...];
  - f) [...];
  - g) [...].

2. [...].
3. [...].
4. [...].
5. For category C projects, the documents or information referred to in subparagraphs c) and f) of paragraph 1 are not required, except for compelling reasons invoked by the Environmental Authority and by means of an order.

## **Article 20**

**[...]**

1. Within the scope of a project classified as category B, the Environmental Authority is responsible for submitting a technical opinion to the Higher Environmental Authority, based on the documentary elements submitted by the proponent and on the conclusions of the technical analysis of the environmental assessment, and which proposes:
  - a) [...];
  - b) [...];
2. Within the scope of a project classified as category C, the Environmental Authority shall prepare a simplified technical opinion and present a proposal for an EMP to the applicant that integrates basic practices for the protection of the environment considering the dimension of the proposed project.
3. The acceptance of the EMP referred to in the preceding paragraph by the proponent is made through his signature, which constitutes a statement of commitment to its compliance.
4. [Former no. 2].

## **Article 21**

**[...]**

1. The final decision of the environmental assessment procedure, based on the technical opinion of the Environmental Authority, is the responsibility of:
  - a) The Higher Environmental Authority, for category B projects;
  - b) The Environmental Authority, for category C projects.
2. The decision by the Higher Environmental Authority, within the scope of category B projects, is of the following content
  - a) [...];
  - b) [...].
3. [...];

4. [...].
5. The decision of the Environmental Authority, within category C projects, is as follows:
  - a) the proposal of the EMP and its acceptance by the proponent and the authorisation for the issue of the environmental permit for the project; or
  - b) The non-submission of an EMP proposal and the licensing procedure for the project is terminated.
6. The decision referred to in subparagraph a) of the preceding paragraph is made by order within 10 days of the date on which the technical opinion is issued by the Environmental Authority.

## **Article 22**

**[...]**

1. As a result of a favourable order authorising the issue of the environmental permit for the project, three types of permits are issued in accordance with the category of the project, which are as follows:
  - a) Category A Environmental License;
  - b) Category B Environmental License;
  - c) Category C Environmental Permit.
2. [...]:
  - a) [...];
  - b) Categories B and C - the Initial Environmental Examination, when applicable, and the Environmental Management Plan.
3. The format and content of environmental licences shall be defined in a supplementary statute.
4. [...].
5. [...].

## **Article 23**

**[...]**

1. [...].
2. [...].
3. [...].
4. The proponent, when the respective project is not exempt from the payment of the environmental license fee, must pay it in accordance with the provisions of complementary legislation and within 10 days after receiving the notification.
5. [...].



**Article 24**

**[...]**

1. The environmental permit for Category A, B and C projects has an initial duration of two years.
2. The renewal of the environmental permit is based on compliance with the EMP, and is further conditioned to the following procedures:
  - a) Submission of the application for renewal of the environmental permit by the proponent;
  - b) Analysis of the reports submitted during the inspection and monitoring process and the implementation of the EMP;
  - c) Carrying out an inspection, if necessary;
  - d) Payment of the renewal fee, where applicable.
3. The renewal of the environmental permit is required until the environmental decommissioning phase of the project is completed, as defined in Article 1(h).

**Article 25**

**[...]**

1. [...].
2. [...].
  - a) [...].
  - b) Proposal for the revision of the conditions and restrictions defined in the Environmental Management Plan in the case of category B and C projects.
3. [...].
4. [...].
5. [...].

**Article 36**

**[...]**

1. The penalties provided for in Article 34(5) and Article 35(1)(a), (b), (c), (d) and (e) shall be applied by the Environmental Authority.
2. For the purposes of Article 35(1)(f), the Environmental Authority shall request the competent judicial authority to enforce the respective sanction."

**Article 2**  
**Addition to Decree-Law 5/2011, of 9 February**

Articles 3-A, 4-A and 4-B are added to Decree-Law No. 5/2011, of 9 February, with the following wording.

**"Article 3-A**  
**Submission of documents**

1. The documents for the application for an environmental permit must be submitted to the Environmental Authority, and may be delivered at its headquarters or at its delegations or representations.
2. Subject to the provisions of the preceding paragraph, the documents may be delivered to the premises of the following entities:
  - a) Municipal Authority or Administration of the project locality;
  - b) Government department responsible for implementing policies for the environmental area or its decentralized services on a territorial basis;
  - c) Any other public or private entity with which a contract or partnership is established for that purpose.
3. In cases where the documents are submitted to the entities mentioned in the previous number, they must be forwarded to that entity within three days from the date of submission.

**Article 4-A**  
**Fees**

1. The following fees are due, under the terms of the present diploma:
  - a) Fee for the information phase;
  - b) Fee for the Environmental Impact Assessment stage, for projects classified as category A;
  - c) Fee for the simplified environmental assessment phase, for projects classified as category B;
  - d) Environmental licensing fee;
  - e) Environmental license renewal fee;
  - f) Fee for the amendment of the environmental license.
2. The fee for the information phase has an equal value for all project categories.
3. Projects classified as category C are exempt from the payment of fees, except for the information phase fee.

4. Projects by public entities are exempt from payment of the fees referred to in paragraph 1.
5. The fees shall be paid by the Environmental Authority, under the terms defined in a separate statute.

**Article 4-B**  
**Value of the fee**

The values of the fees referred to in the previous article shall be established by ministerial statute of the Government member with supreme responsibility for the area of the environment."

**Article 3**  
**Republication**

Decree-Law No. 5/2011 of 9 February is republished as an annex to the present statute, which is an integral part thereof, with the current wording and the necessary grammatical and legal corrections.

**Article 4**  
**Entry into force**

This decree-law shall enter into force on the day following its publication.

Approved by the Council of Ministers on 27 April 2022.

The Prime Minister,

\_\_\_\_\_  
Taur Matan Ruak

The Coordinating Minister for Economic Affairs,

\_\_\_\_\_  
Joaquim Amaral

Promulgated on 1 June 2022.

To be published.

The President of the Republic,

\_\_\_\_\_  
José Ramos-Horta

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