



VIII CONSTITUTIONAL GOVERNMENT

Decree-Law No. /

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Commercial Licence Activities

(Drafting in progress).

Taking into consideration of social and economic activities as a challenge toward the globalization in the free market with the higher demand of competition which resulted the economic activities in the region, it is paramount importance for the state to design the public policy for economic development that can stimulate the development of industries and diversified economy to create the revenue, secure the social wellbeing, independent and guarantee the economic sustainability to be competed in the national, regional and international market.

Thus, the Government decrees, pursuant to Article 115(1)(e), and (n) of the Constitution of the Republic, to be valid as law, the following:

CHAPTER I GENERAL PROVISIONS

Article 1 Object

The present decree-law to establish the principal and general rules that apply the licensing to exercise the commercial activities and to approve this rule that inseparable with its attachment with this diploma.

Article 2 Scope and its application

1. The provision that stated in this decree-law only apply to the commercial activities that consider as a high-risk and operated legally its activities in the country or the company that registered individually in Timor-Leste, based on the special legislation.
2. The commercial activities that considered as low risk, or regulate in the special legislation, they are not applied in this current decree-law.

Article 3 Definitions

The effects of this diplomat are the following:

- a. **Licensing Authority:** The Directorate or the Technical Department in the government institutions that issuing the commercial licensing.
- b. **Enterprise:** Commercial company or entrepreneurs with the individual name that has been operated and determined in the area of commerce.
- c. **Establishment:** Any activities that operated anywhere, wherever, principal or provincial post, owner or others, for any commercial activities, independent from its dimension, number of employees, equipment and production factors.
- d. **Study and evaluation on Environmental Impact:** The generic concept on the requirements define that in the decision on environmental viability impact on project execution that already determine based on assessment instrument and environmental management that already stated in this legal diploma in part b), in this article.
- e. **Environmental Licensing:** Written decision that legally address to the proponents to operate the project, shall be granted the warranty for prevention and fully controlled in the environment based on this decree-law that stated in this article part b).
- f. **Project Installation:** Set of design and written documents referred to its installation equipment, raw materials, packaging, administrative and social services and other adequate alternatives that support the operational of commercial activities required;
- g. **SERVE:** Agency for Registration and Verification Service that perform its competences to address the application for licensing and issuing the authorization for commercial activities.

CHAPTER II Principals

Article 4 Information Obligation

SERVA Shall inform the Licensing Authority, through electronic or written notification in maximum deadline of three (3) days, from the date that the company / enterprise submitted their application for commercial licensing.

Article 5 Principal of Lawfulness

The circumstances are the following:

- a) If there is any violation against any legal provision;

- b) Safety / security reason and public orders;
- c) Public health reason;
- d) With the objective to protect the environment;
- e) When violation to quality standard obligation of technologies;

Article 6 **Principal of Liberty**

Any company shall enjoy their liberties through their commercial initiatives without the legal limitation for any good intention.

Article 7 **Principal of Equality**

1. Any commercial activities are guaranteed equally in Timor-Leste to the national or international companies that legally registered in the country based on the law.
2. National or international companies shall be treated equally based on the law.

Article 8 **Principle of Prior Inspection**

1. The inspection will be done from the licensing authority before commencing any commercial activities, unless otherwise provided by law, that has been stated in this law or in special law.
2. The silencing application can be refused when:
 - a) Internal security – to assure the objective of order, the security of the population, protection of the people means, criminality prevention with the objective to maintain the normal function in the democratic institutions, exercise right and liberty from the people and respect for democratic legality.
 - b) Environmental protection;
 - c) Public Health;
 - d) Public Interest or urbanists.
3. The licensing will be refused if a company does not exercise, practices, or action to mitigate the risks based on the legal orders in the country.

Article 9 **Fundamental Principal**

The Administrative Authority with its competence to suspend or cancel the licensing in relation to the commercial activities shall be issued a fundamental motive for suspension or cancel the licensing to SERVE based on the law that has been stipulated.

Article 10 **Duty of Environmental Protection**

No information

**CPAPTER III
Commercial Activities**

**Article 11
Classification for Commercial Establishment**

Classification for commercial establishment shall perform by the Licensing Authority, considering that the evaluation of the environmental impact, dimension, risks, and other factors from the productions.

**Article 12
Licensing**

1. SERVE has the right to receive the application for licensing and refuse to issue the license. As the Licensing Authority, SERVE has the right to authorize, suspend, cancel or issuing the license for commercial activities.
2. Licensing Authority shall pronounce about the application that presented to SERVE within 10 days, it means that after the 10 days, SERVE shall issue the licensing authorization.
3. The application for licensing shall be submitted at the sometime with the request for registration of the company with the statues such company, commercial, individual business.
4. To get other license, it is required to pay the unlike tax fee that has been stated in the special diploma.
5. Remove/issuing a license will be no deadline date, and Licensing Authority would be control and guarantee the inspection.

**CHAPTER IV
Commercial Security**

**Chapter 13
Health and Safety Commercial Hygiene**

Rules for safety and health in the commercial installations are defined in the special legislation, except, regulation on the activities for safety and hygiene under the decree-law no. 28/2011, 20 July, that has been approved on commercialization for food security.

**Article 14
Third Party Complaints**

1. From the third party identified can be submitted their complaint about the risks, incident, or any prejudice in relation to the instalment, alteration or elaboration for any commercial activities, together with the Licensing Authority to define the termination existence to eradicate or minimize the risks in the company.
2. Licensing Authority shall verify and decide about the deadline request that has been stipulated under the law in relation to the commercial activities in annex that been included in this diploma. Consultation with the national entities is important to analyse the documents before taking into any decision.

Article 15 Safety Plan

The place for the instalment of the company / business that operated with the high-risk activities that related to the industry that contaminated with the high-risk that could affect human, plants, animal, means or environment shall have an obligation to be based on their safety plan of the company, oblige to the approval and annual revision from the competent authority with the material reason.

CHAPTER V Supervision, Offence, and Procedure

Article 16 Inspection

1. The licensing authority will perform the inspection to the commercial activities with the high-risk, and the inspection would be done with the other related competent institutions.
2. The licensing authority could request for collaboration with the administrative institutions such as police, inspection and supervision services and other state institution in the country.

Article 17 Offence

1. Based on this diploma, considered as offence with fine, the following are the facts:
 - a) Operating the commercial activities without any authorization from the related institution;
 - b) Operating the commercial activities that legally prohibited or suspended;
 - c) Operating the commercial activities that violates the ethical norms, technology and the quality of environmental protection.
2. The Licensing Authority has the competence to verify the offence and accusation and allow to cooperate with the other competent government institution in the country.

3. The offence that stated in this article, the punishment will be with fine that has been defined in the regulation for commercial activities annexed with this diploma.
4. The deadline of the offence is stated in this article is two (2) years without prejudice the responsibility of applied criminal law.

Article 18

Procedures

The process to find the offences and its application for fine, including to finalise the inspection periodically based on the rules and regulation stated on the law.

CHAPTER VI

Final and Transitional Provision

Article 19

Applicable of the Law

This decree-law will be applicable from 30 days after its publication.

Exercise the Activities Regulation

CHAPTER I GENERAL DISPOSITIONS

Section I Object and Purpose

Article I Object

This administrative rule establishes to support the process of licensing for installation of commerce activities with the higher risk.

Article 2 Goals

The objective of commercial policy is established for safeguard health and public safety, secure the employees through public safety observation requirements, health and hygiene in the workplace including the environmental protection with the aims to promote the national sustainable development in commerce.

Section II Nature and Prior Authorisation

Article 3 Prior the Authorization of Commerce

1. The authorization of commerce activities licensing is only an administrative practice for economic activities and permit the society and entrepreneurs registered individually to operate the commercial activities referred to the prior establishments.
2. The owner for the licensing shall take full responsibility of its civil or criminal acts that prejudiced during exercising the economic activities.
3. The licensing is issued with not date of expiration, and the licence could be suspended, cancel by the Licensing Authority based on this diploma stipulated in the special legislation when there is a prove of violation of duty based on the law.

Article 4 Prior Authorization

Referred to the establishment of Commercial activities starts with the higher risk, it shall be depending on prior to the authorization through issuing the licensing based on the law.

Section III **Health, safety, security, and environmental protection**

Article 5 **Health, safety, security, and environmental protection**

Prior to issue the licensing for commerce activities must be referred to health, safety, security, and environmental protection based on this diploma or the special law.

Article 6 **Risk Prevention**

1. **Drafting in progress.**
2. Apart from licensing requirements stipulated in this diploma, the establishment of commercial activities harms the environment shall be obey to the existing law related on environmental protection.

Section IV **Classification and location for Establishment of Commercial**

The establishment of commerce in this diploma are classified based on its dimension – with its following requirements:

Category	Initial Investment	No. Employees
Big Dimension	Minimal of 1,000,000.00	Minimum of 250
Medium Dimension	From 500,000 to 999,999.99	From 125 to 249
Small Dimension	From 50.000 to 499,999.99	From 25 to 124
Smaller Dimension	Inferior to 49.999.99	To 24

Article 8 **Location**

1. The establishment of commercial activities shall be located in the location that's not given the risks to the population.
2. It is prohibited to stablish the commercial activities with higher-risk, bigger or small to close to where the community is living.

Section V **Registration of Establishment for Commerce**

Article 9 **Registration for Commerce**

1. SERVE has the competence to issue the establishment for commercial licence which shall be based on the documents that accesses by the Licensing Authority and the

other Government Authorities that authorize for the licensing for commerce which stipulated in the law or based on its licensing requirements.

2. The effects of the registration shall be transmitted to SERVE based on the following acts:
 - a) Terminate the approved licensing;
 - b) Extend the license the third party;
 - c) Process of closing the commercial activities;
 - d) Alternation of company's statue that implicating the address of the company and commercial activities;
 - e) A request for cancelling the commercial activities or changing the name of the company to individual or public entrepreneurs.
3. **Drafting in progress.**

CHAPTER II

Process of Licensing

Section I

Article 10

Procedure

1. **Drafting in progress;**
2. The licencing authority has the obligation to issue and process for licensing and do the required inspection and inform to SERVE about the approval for issuing the licensing on commerce activities based on the technical and administrative requirements that stated in the law.
3. The competences stipulated above are delegated to SERVE in the capital or in districts or the national licensing authority. It can be delegated to the public or private institutions when exercising the competences are not against the law.

Article 11

Term Licensing

1. Within 10 days of working hours, the Licensing Authority shall finalize the instruments for processing the licenses then communicate to SERVE about the related process to issue the license or not.
2. Licensing Authority could extend the date of informing as stipulated in this article no. 1, when it is required an inspection, justification, and this extension shall be extended within 5 days of working hours.

Section II

Removal of the licensing process

Article 12

Request

1. Licensing request for commercial shall address to SERVE through its application forms and inform the code for higher risks, along with the localization map and the commercial project when processing the licensing as stated by the law.
2. SERVE shall officially notify the Licensing Authority within 24 hours about the Licensing request application for commercial activities that been submitted. The notification could address electronically or by lists of approval by SERVE.
3. The industrial project mentioned above, it shall be following the rules such as:
 - a) Floor plan photography with a big scale and good quality about the establishment area included the buildings, way to access to the property in the rural or city areas, public road or existing swings;
 - b) Written description of projects mentioned:
 - i) Initial Investment;
 - ii) The Process of manufacturing the products;
 - iii) Row materials are used for manufacturing the products;
 - iv) The capacity of producing the products with norms, characteristics that legally established;
 - v) Appliances, Machinery and Equipment as stated in part b), with its specification;
 - vi) Forecasting the number of employees;
 - vii) Electronic system layout in a project area;
 - viii) Drafting in progress;
 - ix) Drafting in progress;
 - x) Drafting in progress;
 - xi) Applying system to control the wasted waters;
 - xii) Environmental impact studies;
4. Drafting in progress.

Section III

Preliminary Inspection

Article 13

Inspection

The general inspection of licensing for commercial activities shall be based on the agenda, and it is required the presence by representation from the legal authority, society, or individual entrepreneur.

Article 14

Commercial Inspection

1. The related entities that required to do the inspection of licensing for commercial activities with the higher risk as the following:
 - a) One representative from the Licensing Authority;
 - b) One representative from health surveillance or public health organization;
 - c) One representative from fire service institution;
 - d) One representative from General Labor Inspection Office.
2. Drafting in progress.
3. The applicant or the legal representative shall accompany and corporate, if, it is necessary, when the inspection request is addressed.

Article 15

Article 16 Notification

1. Licensing authority shall notify SERVE concerning the license application that been approved (drafting in progress).
2. SERVE shall use its legal competence to remove the license if there is no notification or justification from licensing authority concerning the instrument of processing for issuing the licensing certificates as stated in the mentioned paragraphs.
3. SERVE shall address its official communication to the applicants concerning the approval and remove the license within three (3) days started from the date of issuing the license certificates.
4. When the licensing authority decided not to approve the application request for licensing, the applicant or the company shall address the issue during the final inspection process, and the applicant or the company could request for a new inspection through the opinion is presented in administrative manners.
5. The licensing authority could remove the license, if there is an alteration to complete the related documents to approve - referred the risk that effecting health, public health, and not against the safety of employees, and the environment. The applicants shall address the issue with the recommendation within 30 days, and there would be a punishment according to the law and penalty as canceling the silence.
6. Referred to the mentioned period, Licensing Authority shall proceed the verification based on the condition and the exiting law.

Section IV Verification Routine

Article 17

Verification

Only the Licensing Authority that has the legal competence to do the Verification Routine and it would be realized based on the agenda decided per year. The verification may not be notifying in advance as to confirm the requirement on commercial security, safety, health, and hygiene.

Article 18

Auto Verification

To realize the verification, the auto verification shall be confirmed and present as the following:

- a) Satisfaction of condition referred to the technical-functional of the activities conducted which required clean, good condition, and public safety for workers.
- b) Conducted the observation in writing to the conditions established, if there is any condition are not fulfilled based on the standard;
- c) Perform the service for each complaint;
- d) Any condition requiring for completion the requirements shall be presented within 30 days of working hours.

CHAPTER III

Transmission, eliminate, suspension for commercial activities

Article 19

Communication for transmission

Transmission to establishments which may or may not eliminate, suspension or cancellation for commercial activities shall be addressed to SERVE, which required to re-notifying the licensing authority within 15 days, started on the day registering the information.

CHAPTER IV

Taxation, Penalties and Levies

Section I

Taxation, Penalties and Levies

Article 20

Notification

1. Drafting in progress.
2. Only the Licensing Authorization has the legal competence to cancel a license, however, the related Licensing Authorization shall notify SERVE for consideration to update the system.

Article 21

Penalty

Violation against provision of requirements shall be punished with the following modes:

- a) With a warning letter addressed for first violation;
 - b) When activities are operated without any prior authorization, the penalty fee for medium and big dimensions are **\$xxxx dollars**;
 - c) When activities are operated without any prior authorization, the penalty fee for small dimension will be **\$xxxx dollars**.
 - d) Prior to operating the activities without the authorization referred to the smallest dimension, the penalty fee is **\$xxxx dollars**;
 - e) When no prior authorization for expansion, amendment, for commercial establishment referred to big dimension, the penalty fee **\$xxxx dollars**;
 - f) When the activities are not fulfilling any requirement during the process of verification process for the establishment of the commercial activities for small, big, medium dimensions, the penalty fee **\$ xxxx dollars**;
 - g) The penalty fee **\$xxxx dollars**, when the commercial activities with the smallest dimension does not compliance with the normal requirement on environmental, hygiene, clean, and secured;
 - h) The penalty fee **\$ xxxx dollars**, when there is no communication to return the licensing documents for the establishment referred to big, small, medium, and smallest dimensions.
 - i) With warning rejected for those in breach of the provision in this diploma, for any other violation, the punishment will be unclear;
 - j) For the rest of violation following and referred to the mentioned preceding paragraph, will be punished with the amount of **\$xxx dollars**.
3. The penalty as mentioned in the no.1 above, when it is proved, the commercial activities will be suspended when the verification process found there is any violation against the normal procedures referred to security, safety, health and hygiene.

Article 22 Violation

1. **Drafting in progress.**
2. Reinsurances against violation stipulated in the afore-mentioned articles in this diploma, the number of punishments will be double with the fix amount stated in the articles mentioned. As first reinsurance would be triple, second and third reinsurances would be applied the revoking the licenses.

Article 23 Payment

1. The payment for the punishment shall be proceed within 10 days, start from the day of addressing the notification.

2. When the payment is not proceeding within the mentioned period, the case will differ to the criminal court in the country.

Article 24

Competency to apply the penalties

The amount of tax and levies shall be revised as stipulated in this diploma by the relevant government institution such ministry of finance and the licensing authorities in the country.

Article 25

Complaints and feedback

1. The suction that applies to the offending party as stated in this diploma, the right for defense of offending party shall be granted in any case based on the law.
2. In terminating for the disciplinary sanctions applied shall consider the circumstances of small or big violation – spatially, if the offending party is singular or collective, the scale of disciplinary sanctions will refer to the benefits, violations, or prejudice that stated in the law.
3. The offending party can claim or submit the claim against the disciplinary sanctions based on the exiting law in the country.

CPAPTER V

Final Transitional and Provision

Article 26

This decree-law will be applicable from 30 days after its publication.