



DECREE-LAW No. 32/2014
of 19 November 2014

Legal Regime of Private Security

The Home Security Act provides for the existence of private security as a subsidiary and complementary function to the activity of the security forces. The exercise of private security activity was born and developed in Timor-Leste, becoming an important source of employment.

The importance of this sector in economic life led to the adoption of a Temporary Regime for the Exercise of Private Security, approved by Order no. 03/GABSES/VII/2010, of 6 August, in which the guidelines for the exercise of this activity were outlined.

This Decree-Law thus develops the regulation of private security activity, providing for the obligations and duties of operators and security personnel and the scheme of supervision and sanctions to be applied.

Thus,

The Government decrees the following, under the terms of Article 115(1)(e) of the Constitution of the Republic, to be enforced as law:

CHAPTER I
GENERAL PROVISIONS

Article 1
Purpose and scope

1. This legal diploma regulates the exercise of private security activities.¹
2. Private security activity is subsidiary and complementary to the activity of security forces and services.

Article 2
Private security activity

Private security activity comprises the following services:

- a) The surveillance of movable and immovable property, with a view to protecting persons and property and preventing the commission of crime;

¹ The original text does not number paragraphs and sub-paragraphs. Therefore, the numbering made here is just for ease of reference and is the responsibility of this informal and unofficial translation.

- b) Controlling the entry, presence and exit of persons and preventing the entry of weapons, substances and articles which are prohibited or likely to cause violence inside buildings or places to which the public has restricted or conditional access, in particular public establishments, concert halls and convention centers;
- c) The transportation, storage and distribution of valuables.

Article 3

Obligation to adopt a security system

- 1. The Central Bank, credit institutions and financial companies shall be obliged to adopt a security system in accordance with the provisions of this law.
- 2. Catering and beverages establishments which have rooms or spaces for dancing or where dancing is customary, in particular entertainment venues, bars, discos and nightclubs, must have a security system in accordance with the provisions of this legal diploma.
- 3. The holding of shows, in open or enclosed spaces, depends on the fulfilment of the obligation to have a security system in accordance with the provisions of this diploma.
- 4. The spaces of conditioned access to the public which, due to their characteristics, can be considered of high safety risk are obliged to have a safety system in accordance with the provisions of this legal diploma.

Article 4

Prohibitions

It shall be prohibited, in the exercise of private security activity, to engage in

- a) activities which have as their object the pursuit of objectives or the performance of functions corresponding to the exclusive powers of the sovereign bodies or the judicial or police authorities,;
- b) compromise or endanger the stability and security of the State;
- c) threaten, inhibit or restrict the exercise of rights, freedoms and guarantees or other fundamental rights;
- d) protect goods, services or persons involved in illicit activities.

Article 5

Incompatibilities

Owners, administrators and staff of legal persons providing security services may not engage in private security activities if they have been convicted by a court of final judgment of an intentional crime for which the abstract sentence carries a maximum term of imprisonment of more than 3 years.

CHAPTER II

PROVISION OF PRIVATE SECURITY SERVICES

Article 6

Special duties

- 1. Special duties of commercial companies authorized to provide private security services are:
 - a) report immediately to the competent judicial or police authority any crime of which they become aware in the course of their activities;
 - b) make sure that the actions of surveillance personnel do not lead the public to confuse them with security forces and services;

- c) promote gender equality at work, including through recruitment;
 - d) organize and keep up to date a register of activities, permanently available for surveillance purposes;
 - e) by 31 January of each year at the latest, provide proof of the renewal of civil liability insurance as provided for in Article 9(i);
 - f) notify the National Directorate of Public Assets Security (DNSPP), by the 15th day of the following month in which they occurred, of the changes to the memorandum of association and to the directors, proving that they continue to comply with the requirements of this law;
 - g) verify, at all times, the fulfillment of the requisites foreseen in this law, notifying DNSPP of all occurrences that may affect the normal exercise of its activity in accordance with the law;
 - h) organize and keep up to date individual files of the surveillance staff in service, including a copy of their identification card and criminal record certificate, their professional card number and the date of their entry into service;
 - i) notify DNSPP of the admissions and cessations of surveillance staff and the security director by the 15th day of the following month;
 - j) notify DNSPP, within eight days, of the termination of the activity, for the purpose of cancelling the authorization granted.
2. Undertakings authorized to engage in private security activities and their staff are bound by the obligation of professional secrecy, the breach of which can only be determined in accordance with criminal law and criminal procedure.

Article 7

General duties

1. If security forces or services intervene in places where private security companies also operate, the latter shall make their human and material resources available to and under the direction of the command of those forces.
2. Companies authorized to carry out private security activities shall ensure that staff are present at all times at their premises to ensure contact at all times with surveillance staff, users of services and security forces.

Article 8

Competence

The private security services provided for in article 2 of this legal diploma may only be provided by commercial companies, with the authorization of the member of the Government responsible for the area of security, after all the conditions provided for in this statute have been met.

Article 9

Request for authorization

The request for authorization to exercise private security activities shall be addressed to the member of the Government responsible for the area of security, and shall be submitted to DNSPP for prior analysis, and shall be accompanied by the following documents:

- a) Certificate of incorporation of the company;
- b) Identification of partners, administrators and security director;
- c) A certificate proving the absence of debts to the State, on the part of the commercial company, when already registered, or of the partners, when the company is not yet registered;

- d) Criminal record of each of the partners, administrators and security director;
- e) Description of the safety system and technical means to be used;
- f) Model of the identification card to be used by staff providing security services in accordance with Article 22;
- g) Form of uniform to be used by staff providing security services pursuant to Article 26
- h) Identification of the location of the headquarters and other properties used by the company;
- i) Proof of insurance covering damage caused by surveillance staff in the performance of their duties, in the amount of USD 100,000.00;
- j) Brief summary of the company's history.

Article 10

Other technical security means

The change in the technical means of security shall be substantiated and shall require the approval of the member of government responsible for the area of security.

Article 11

Instruction of the process

1. DNSPP is responsible for the instruction of the authorization process for the exercise of private security activity, as well as for the issuance of authorizations and respective endorsements.
2. DNSPP may, within thirty days from the date of receipt of the application, request additional information and documents necessary for clarification.
3. At the end of the investigation, the case shall be submitted to the member of the Government responsible for the area of security to render a decision within a maximum of sixty days.
4. The order referred to in the preceding paragraph shall be served on the applicant within five working days.

Article 12

Archiving and conservation of documents

The documents mentioned in the previous article and the other documents relating to the partners, directors and supervisory staff shall be filed in an individual case to be kept in DNSPP.

Article 13

Elements of the authorization

1. The authorization shall contain the following information:
 - a) Name of company authorized to carry out private security activities;
 - b) Location of head office, branches and other buildings used by the authorized company;
 - c) Discrimination of security services and authorized technical means.
2. Amendments to the elements of the respective authorization shall be made by means of an endorsement.
3. No transfer or assignment of the authorization granted shall be permitted under any circumstances.
4. DNSPP shall inform PNTL of the issuance of the authorization and any endorsements.

Article 14

Suspension and cancellation of authorization

1. Authorization shall be suspended immediately where it is found that one or more of the conditions laid down in this legal diploma or in additional regulations are no longer met.

2. The suspension shall be lifted as soon as the company provides proof of full compliance with the conditions set out in this statute and other legislation applicable to the exercise of private security activity.
3. Authorization may be cancelled by order of the member of the Government responsible for the area of security, upon proposal of the Director of DNSPP, when this occurs:
 - a) The non-performance of the private security activity for which the company is authorized, for a period exceeding one year;
 - b) The failure to submit by 31 January of each year proof of the renewal of civil liability insurance provided for in Article 9(i);
4. The suspension of authorization pursuant to paragraph 1 for a period of six months or more.
5. Decisions to suspend and cancel authorizations shall be communicated to the PNTL.

CHAPTER III SURVEILLANCE PERSONNEL AND ATTRIBUTES

Article 15 Surveillance personnel

For the purposes of this statute, surveillance personnel shall be considered to be those individuals bound by an employment contract to companies that are authorized to carry out private security activities and that actually perform surveillance functions.

Article 16 Surveillance functions

Surveillance staff, at the places where they are employed, shall perform the following duties, among others:

- a) watch over and protect people and property in places of closed or restricted access to the public, and to prevent the commission of crimes;
- b) control the entrance, presence and exit of people in places of fenced or conditioned access to the public.

Article 17 Security Director

1. Entities providing security services have a security director.
2. The security director is responsible for the preparation, training and performance of surveillance personnel.

Article 18 Requirements for surveillance staff

In addition to the provisions of Article 5, the Security Director and the surveillance staff shall fulfil the following requirements:

- a) Have Timorese nationality;
- b) Have a degree, in the case of the security director, and have compulsory education, in the case of security personnel;
- c) Possess the physical and mental robustness necessary to perform the functions.

Article 19

Duties

The surveillance personnel should:

- a) perform your work with professionalism;
- b) report to the competent authority, as soon as possible, the occurrence of any crime of which he/she is aware;
- c) provide public authorities with all cooperation requested of them.

Article 20

Prohibition of the use of weapons

Surveillance personnel are not allowed to use weapons.

Article 21

Professional training

1. The surveillance staff must have a professional training course, to be provided by the security company with which they have an employment contract.
2. The Director of DNSPP shall approve the content and duration of the course mentioned in the previous paragraph.

Article 22

ID Card

1. The ID Card, used by all staff working for companies providing private security services, corresponds to the model submitted at the time of the authorization request and must be submitted by the company to DNSPP for issue and authentication.
2. The identification card mentioned in the previous number shall contain the name of the security company, number, name of the bearer, position held, date of issuance and signature of the DNSPP director with stamp.
3. The identification card shall be valid for one year from the date of issuance or for the duration of the bearer's employment contract if it is less than one year.
4. The model of the identification card presented by the private security company at the time of the request for authorization is subsequently approved by order of the member of the Government responsible for the security portfolio and published in the Official Gazette.

Article 23

ID Card Issuance

1. For the purpose of issuing the professional card and for each employee intended to be at its service, the private security company shall provide DNSPP with the following information:
 - a) Application duly completed and signed;
 - b) Approved model ID card;
 - c) Photocopy of ID or voter card;
 - d) Criminal record certificate;
 - e) Qualification certificate;
 - f) Medical certificate, issued by the competent authority of the National Health Service, stating there is no illness or deformity which prevents the person from performing the duties engaged for;
 - g) Two color photos, no uniform.

2. Without prejudice to the previous paragraph, when applying for a professional card, the presentation of documents already in the applicant's personal file shall be dispensed with, provided they are still valid.
3. The request for renewal of the professional card shall be made at least sixty days before the expiry date.
4. DNSPP keeps an up-to-date record of cards issued and lost.

Article 24
Professional card loss

It is the duty of the cardholder to inform DNSPP and his/her employer of any loss of the professional card, which must be accompanied by the participation to the police authorities.

Article 25
Issuance of a second copy of the professional card

In the case provided for in the previous article, and after completion of the formality indicated therein, a second copy of the professional card shall be issued, the period of validity of which corresponds to that of the card to be replaced.

Article 26
Uniform

1. The uniform format to be used by surveillance staff shall be produced when the application for authorization is submitted in accordance with Article 9(g) and shall not be of a design or color that can be confused with uniforms worn by defense forces or security forces or any other State body.
2. Entities authorized to provide security services shall submit to DNSPP for approval any change to the uniform format to be used by surveillance personnel.
3. The application for authorization shall be accompanied by a description of the uniform, including the colors, abbreviations and emblems to be placed thereon, as well as the design or photograph.
4. The DNSPP shall consult the relevant bodies and obtain their opinion on the model within 30 days.
5. The decision shall be notified to the applicant when the application for authorization to engage in private security activities is decided on or, in the case of an amendment to the previously approved uniform format, within 45 days.

Article 27
Elements of mandatory use

1. Surveillance staff in the performance of their duties shall be required to use the:
 - a) Uniform;
 - b) ID card visibly affixed.
2. The security company shall make every effort to ensure that the personnel employed by it fully comply with the requirements set out in the previous paragraph.
3. Surveillance staff of the establishments provided for in Article 3(2) may, in view of the characteristics of the site, not wear a uniform.

CHAPTER IV SUPERVISION

Article 28 Competent bodies

The supervision of the activity of companies authorized to carry out private security activities is the responsibility of DNSPP, without prejudice to the competences of security forces and services.

Article 29 Administrative offences and fines

1. The following are considered misdemeanors and punished with a minimum fine of USD 1,000.00 and a maximum fine of USD 25,000.00:
 - a) The pursuit of the prohibited activities provided for in Article 4;
 - b) The provision of security services without the necessary authorization;
 - c) The exercise of surveillance functions by individuals who do not hold a professional card;
 - d) The exercise of security activities without a security director in the company's staff;
 - e) Failure to comply with the obligations laid down in Article 6(1)(a) to (c), (e) and (j) and (2);
 - f) Non-compliance with Article 7(2);
 - g) The use of unauthorized security facilities;
 - h) The maintenance of surveillance staff who do not meet the requirements laid down in Article 18.
2. The following are considered misdemeanors and punished with a minimum fine of USD 500.00 and a maximum fine of USD 2,500.00:
 - a) Failure to comply with the obligations laid down in Article 6(1)(d) and (f) to (i);
 - b) Failure to comply with the obligation laid down in Article 7(1);
 - c) The non-use of uniform by surveillance personnel when on duty.
 - d) Attempting and neglect are punishable.

Article 30 Accessory Sanctions

1. The following additional penalties may be imposed together with the fine:
 - a) Seizure of objects that have been used in the practice of misdemeanor;
 - b) Suspension of the license for a period not exceeding one year;
 - c) A ban on exercising duties or providing security services for a period not exceeding one year.
2. If the act constitutes a criminal offence at the same time, the staff member shall be punished by it, without prejudice to any additional penalties provided for in the administrative offence.

Article 31 Competence

1. DNSPP is competent to compile the administrative offence record and the respective instruction.
2. The imposition of fines and ancillary penalties provided for in this statute are the responsibility of the member of the Government responsible for the area of security.
3. DNSPP is responsible for keeping a record of all entities to which sanctions have been applied.

**CHAPTER V
FINAL AND TRANSITIONAL PROVISIONS**

**Article 32
Complementary Diplomas**

1. The models for applying for authorization to engage in private security activities and for applying for a card shall be approved by a ministerial decree of the Government member responsible for the area of security.
2. A fee shall be payable for the issuance of the authorization, the respective endorsements and the issuance of the staff card, which shall be laid down in an appropriate document.
3. The list of technical security means that may be used by security undertakings shall be approved by ministerial decree.

**Article 33
Legalization period**

Security companies operating in Timor-Leste are given a period of three months to comply with the obligations set forth in this law.

**Article 34
Repeal**

All legislation on security companies shall be repealed on the date of entry into force of this law.

**Article 35
Entry into force**

This decree-law shall enter into force thirty days after the date of its publication in the Official Gazette.

Adopted by the Council of Ministers on 8 July 2014.

The Prime Minister,

Kay Rala Xanana Gusmão

The Minister of Defense and Security,

Kay Rala Xanana Gusmão

Enacted on 13 - 11 - 2014

Be it published.

The President of the Republic,

Taur Matan Ruak