

DECREE LAW NO. 12-2011

of 23 March

REGULATES THE HUMAN CAPITAL DEVELOPMENT FUND

The Government has drawn up an ambitious plan to develop human capital involving a major public investment in multi-annual training and development of human resources addressing the needs of Timor-Leste in this area.

The plan was approved by the National Parliament through the adoption of the General State Budget Law for 2011, which established the Human Capital Development Fund, pursuant to article 32 of Law no. 13/2009 of 21 October.

This is a funding mechanisms appropriate to the nature of multi-annual programmes, whose budgets do not lapse at the end of the respective financial year, thus reducing the tendency for accumulation of expenses at the end of the year and allowing activities related to programmes and projects happening throughout the year to continue uninterrupted, with consequent benefits in terms of budget execution rates, and providing greater security of the obligations assumed by the State through the signing of agreements, programmes and projects aimed at multi-annual training and development of national human capital. The objective of the Fund is therefore to contribute to improving the planning, management and implementation of projects, while simultaneously ensuring greater transparency in government spending in relation to costs of training and human resource development, both through the creation of mechanisms for scrutinising the programmes, projects and activities to be financed by the Fund, and for allowing accountability in relation to the total cost of projects.

Thus,

Pursuant to subparagraph e) of article 115.1 of the Constitution of the Republic and article 9.7 of the Law on the State Budget for 2011, the Government enacts the following to have the force of law:

CHAPTER I

NATURE AND OBJECTIVES

Article 1

Nature and objectives

1. This Decree Law regulates the Human Capital Development Fund hereinafter referred to in short as Fund.
2. The Fund is intended to finance programmes and multi-annual projects for training and human resource development,

Article 2

Objectives

The Fund shall have the following objectives:

- a) Ensure the financing of public investment in the training and development of national human resources;
- b) Ensure security in the negotiation and signing of agreements, programmes and multi-annual projects;
- c) Allow the retention of funds at the end of the Fund's financial year, with the objective of ensuring the continuity of programmes and projects;
- d) Promote transparency and accountability through an improved reporting system and accountability for programme implementation and training projects for human capital development.

CHAPTER II

BOARD OF DIRECTORS

Article 3

Composition

1. The Board of Directors shall be the entity responsible for the operations of the Fund.
2. The Board of Directors shall be composed of the Prime Minister, who presides it over, the Minister of Finance, the Minister of Justice, the Minister of Education, the Secretary of State for Natural Resources and the Secretary of State for Vocational Training and Employment.
3. Other members of Government and relevant entities that are related to the programmes and projects may also take part in the Board of Directors whenever deemed necessary.

Article 4

Mandate

1. It shall be incumbent upon the Board of Directors to, notably:
 - a) Approve and prioritise projects to be financed by the Fund and the respective cost estimates;
 - b) Approve the financing options of each Human Capital Development project;
 - c) Coordinate the preparation and approve the proposed budget of the Fund, to be submitted to the Budget Review Committee;
 - d) Authorise the payments to be processed through the Fund;
 - e) Approve the Reports of Activities and the Report of Accounts of the Fund.
2. The Board may delegate the powers referred to in the preceding paragraph to any of its members.

Article 5

Functioning

1. The Board of Directors shall meet whenever so convened by its Chairperson or by a majority of its members.
2. The Board of Directors shall decide by simple majority of members present, with the Chairperson having the casting vote.
3. In his/her absences or impediments, the Chairperson shall designate his/her substitute from among the other members of the Board.
4. The decisions of the Board shall be substantiated and recorded in minutes.

Article 6

Technical and administrative support

In fulfilling its duties and responsibilities, the Board of Directors shall be supported by the Technical Secretariat for Human Capital Development provided by the Ministry of Education.

CHAPTER III

PROJECTS AND BUDGET

Article 7

Human Capital Development Programmes and projects

The programmes and projects to be included in the Fund shall be proposed by the Ministries and approved by the Board of Directors.

Article 8

Criteria

The choice of programmes and projects to be financed by the Fund shall be based on criteria to be defined by the Board of Directors.

Article 9

Fund Budget

The proposed budget for the Fund shall be presented to the National Parliament together with the proposed State Budget, pursuant to Law no. 13/2009 of 21 October on Budget and Financial Management.

Article 10

Revenues and Expenses

1. The following shall be revenues of the Fund:
 - a) Budget funds allocated annually by the State Budget Law;
 - b) Other revenues allocated by law or contract.
2. Expenses of the Fund shall be all the expenses needed for achieving the purposes of the Fund.

CHAPTER IV

EXECUTION OF THE FUND

Article 11

Official account

1. The Fund shall have an official account with a banking institution headquartered in the national territory in which all revenues shall be credited and all the expenses debited.
2. The establishment of the account referred to in the preceding paragraph shall be authorised by the Minister of Finance.

Article 12

Authorisation of expenditure

1. Execution of expenditures and processing of payments may only occur after authorisation from the Board of Directors for the completion of the project through the Fund in its fiscal year.
2. The payments to be made by the Fund shall be processed by the Ministry of Finance through the official account.

Article 13

Budget amendments

The Board of Directors shall have the power to approve budgetary amendments in appropriations allocated to programmes and projects within the limits of the Fund's total appropriation as approved by the National Parliament with respect to their objectives.

Article 14

Transition balances

The balances calculated at the end of each financial year shall be retained in the official account of the Fund and shall automatically move to the ensuing year.

Article 15

Accounting records

It shall be incumbent upon the Treasury to register the accounting of all revenues and expenses of the Fund in accordance with the classification systems in place.

CHAPTER V

FINAL PROVISIONS

Article 16

Financial control and accountability

Monitoring the implementation of the Fund and respective financial accountability shall be subject to rules contained in Title VI of Law no. 13/2009 of 21 October on Budget and Financial Management, with the necessary adaptations.

Article 17

Regulation

The present statute shall be regulated by Ministerial Decree of the Prime Minister.

Article 18

Entry into force

The present Decree Law shall enter into force on the day after its publication.

Approved by the Council of Ministers on 16 March 2011.

The Prime Minister,

Kay Rala Xanana Gusmao

The Minister of Finance,

Emília Pires

The Minister of Education

Joao Cândia

Enacted on 16.3.11

For publication

The President of the Republic

José Ramos-Horta