

## **DECREE-LAW No. 02/2012**

**of 15<sup>th</sup> December**

### **Statute of Registrars and Notaries**

The present diploma shall proceed to establish the special career for the profession of registrars and notaries, by defining the regime of admission, appointment, career progress and promotion, specific salary status and also by establishing a number of special rights and duties and the specific regime of incompatibilities and impediments related to the nature of the functions and activities they shall undertake.

The implementation of the registration and notary system is one of the Priorities of the Programme of the IV Constitutional Government aimed at guaranteeing safe and secure social economic relations, fewer legal disputes and providing the country with a business environment favourable to its economic and social development.

The National Directorate of Registration and Notary Services integrated in the organic structure of the Ministry of Justice is responsible for promoting and guaranteeing notary and civil, criminal, commercial and registration services, as well as registration services for non-profit legal persons, property and buildings subject to registration.

Notary, as well as registration, are services to be guaranteed to the population by notaries and registrars, and are one of the elements of the justice system that is part of and supports the functioning of the market economy, as an instrument of safety and security of judicial and extrajudicial relations.

As such, as delegates of public confidence and delegates responsible for the management of private interests, registrars and notaries shall perform their duties with independence,

exemption and technical autonomy, and shall strictly obey the law in the performance of their duties. Notaries shall carry out the task of advising the parties, by guaranteeing that their business and declarations of willingness are in compliance with the law. Registrars shall be responsible for undertaking acts which, in other legal systems, are part of the courts' competence, such as the reform of books kept by registrars, any change in names or the correction of records.

The responsibility that the applicable legal regime places on the registration and notary services shall be substantial and demanding. The recent approval of the Civil Code has come to enhance this same responsibility, requiring that the State register multiple legal facts having civil effect. In turn, also in the area of commercial companies the importance of registration and notary services is evident, taking into consideration the fact that most acts related to such companies shall be written down in the commercial registrar.

The specificity, autonomy and technical independence required from the notaries and registrars in the performance of their duties are not part of the general regime governing other public servants, given the special qualifications and high technical preparation required.

That is also why, and in line with the terms and provisions set out in the Government's programme, in the part establishing the need to provide Public Administration with professionals with the appropriate technical qualifications, and who are able to provide services which shall meet the needs of citizens, the admittance to this special career of notaries and registrars requires that they mandatorily attend a specific training course, thus ensuring that notaries and registrars have the necessary preparation and appropriate technical

and ethical knowledge to carry out their activities.

The creation of a special career for notaries and registrars is justified by the acknowledgement of the special responsibilities inherent to the performance of their duties and is aimed at, in addition to dignifying these professionals, imposing specific requirements for admittance to the career and special rights and duties as a means to guarantee the high technical and professional qualification required of them in order to ensure they perform their duties unbiasedly, strictly and professionally.

The National Directorate of Registration and Notary Services was heard.

Thus, the Government hereby decrees that the following shall be considered law under the terms of the provisions set out in sub-paragraph p) of paragraph 1 of article 115 of the Constitution of the Republic, in article 36 of Law no. 8/2004 of 16<sup>th</sup> June, amended by Law no. 5/2009 of 15<sup>th</sup> June and article 38 of Decree-Law no 27/2008 of 11<sup>th</sup> August.

## **CHAPTER I**

### **GENERAL PROVISIONS**

#### **Article 1**

##### **Object**

The present diploma shall define the statute of registrar and notary by defining the regime of admittance in the career, appointment, career progress, promotion and salaries.

#### **Article 2**

##### **Scope**

The present diploma shall apply:

- a) to registrars and notaries in office and in secondment;
- b) to probationary registrars and notaries;

c) to trainee registrars and notaries, with the necessary adjustments.

## **Article 3**

### **Definitions**

For the purposes of the present diploma:

a) *Civil Service Commission* shall mean the State body with powers to, among other things, recruit, appoint, promote and advance public administration employees;

b) *Management Board* shall mean the body in the Legal Training Centre with coordination powers;

c) *Pedagogic and Disciplinary Board* shall mean the body in the Legal Training Centre responsible for pedagogy and discipline;

d) *Trainee notary and registrar* shall mean the candidate approved in the specific training competitive examination until the completion of the theoretical training phase, defined in the specific training regulation;

e) *Academic qualifications* shall mean the academic training conferring the candidate with a graduate degree, post-graduate degree, master's degree or PhD in juridical careers;

f) *General Regime* shall mean the Regime of Careers and of Management and Leadership Positions applicable to all civil servants;

g) *Specific Regime* shall mean the training regulation governing the admission into the career of registrar and notary, to be approved by decree-law.

## **Article 4**

### **Powers of registrars and notaries**

The powers of registrars and notaries shall be established by law.

**CHAPTER II**  
**RIGHTS, DUTIES,**  
**INCOMPATIBILITIES AND**  
**IMEDIMENTS**

**Article 5**

**Rights**

Registrars and notaries shall enjoy the same rights as those set out for civil servants and others which are expressly set out by law, such as:

- a) Guarantee of recycling courses and other training actions suitable for their duties;
- b) Specific identification document approved by the member of Government responsible for the area of justice;
- c) Payment and benefits established by law.

**Article 6**

**Duties**

1. The registrar and notary shall be subject to the same duties as established for other civil servants, to the duties resulting from the code of conduct, as well as from others set out by law.
2. Special duties of the registrar and notary shall be:
  - a) to conduct the services in such a way as to guarantee the smooth running of the Registrar's Office and Notary's Office, whenever they have been assigned to carry out such tasks;
  - b) to provide services to all users requesting such services, except when there exist legal grounds for refusal.
  - c) to display the specific identification document, whenever requested to do so by an interested party;
  - d) to keep professional secrecy on all facts and elements, the knowledge of which results exclusively from the performance of their duties, under the terms of the law;

e) to inform the competent body of fiscal administration of any acts having taken place which result in the constitution of tax obligations and other information set out in the law;

f) to denounce crimes of an economic, financial nature and those related to money laundering, in general, or any other crime which they learn about during the performance of their duties.

**Article 7**

**Incompatibilities**

1. Registrars and notaries shall be forbidden from carrying out any other public or private paid activity, with the exception of teaching, the perception of copyright or others which are especially set out by law, even during their training period.
2. In order to teach, use the perception of copyright or carry out any other activity especially set out by law shall require the authorisation by the member of Government responsible for the area of justice.

**Article 8**

**Impediments**

Registrars and notaries shall be subject to the same impediments as those set out for civil servants, as well as others set out in registration and notary laws.

**Article 9**

**Replacements**

1. Registrars and notaries shall be replaced in case of absence or impediment, preferably by another registrar or notary, in the following order:
  - a) Registrar or notary working in the same service;
  - b) Registrar or notary working in the same district;
  - c) Registrar or notary working in the nearest district;

d) Registrar or notary appointed by the National Director of Registration and Notary Services.

2. In the absence of a registrar or notary available under the terms of paragraph 1 above, the replacement shall be made by the employee in the next higher category, working in the same service, in compliance with the restrictions imposed by law.

### **CHAPTER III**

## **REGISTRAR AND NOTARY CAREERS**

### **Section I**

#### **Structure, filling in vacancies, recruitment, promotion and progress**

#### **Article 10**

##### **Categories**

1. A registrar and notary career shall consist of the following categories:

- a) Probationary Registrars and Notaries;
- b) 3<sup>rd</sup> Class Registrars and Notaries;
- c) 2<sup>nd</sup> Class Registrars and Notaries;
- d) 1<sup>st</sup> Class Registrars and Notaries.

2. The career shall begin at the category of probationary registrar or notary, including the training course set out in the training regulation for registrars and notaries.

3. The appointment to one of the categories does not preclude the cumulative exercise of functions under the terms of the organic structure of such services.

#### **Article 11**

##### **Filling in vacancies and recruitment**

1. Registrars and notaries shall fill the posts of the staff of the Directorate for Registration and Notary Services and in the specific category of their respective careers.

2. Recruiting shall be undertaken by public competition under the terms of the present diploma and specific regulations.

#### **Article 12**

##### **Requirements for admittance to the career**

1. The following requirements are necessary for admittance to the career of registrar and notary:

- a) to have a degree in Law;
- b) to have been considered apt in the specific training provided by the Legal Training Centre;
- c) to meet other requirements set out by law for civil servants.

2. The proof of the requirement referred to in sub-paragraph a) of the above paragraph shall be given by way of the presentation of a university degree diploma or certificate in which are listed the subjects taken throughout the course and their corresponding classifications or alternatively the curricular plan of the course, duly recognised by the Ministry of Education.

3. The documents referred to in paragraph 2 above shall be translated beforehand into one of the official languages, under the terms of the notary law, if they have been drawn up in a foreign language.

4. Timorese citizens may also be admitted to the careers of registrar or notary who have been considered apt in the specific vocational training course recognised by the civil law system of that country.

5. The candidates referred to in the previous paragraph shall have good written and oral knowledge of the two official languages.

### **Article 13**

#### **Specific training course**

The training course to be admitted in registrar and notary careers shall be regulated by Decree-Law.

### **Article 14**

#### **Appointments**

1. The registrar and notary trainees approved in the theoretical training phase shall be provisionally appointed probationary registrars or notaries by the Civil Service Commission, under the terms of the present diploma and specific regulation.

2. Probationary registrars and notaries considered apt in the training phase shall be definitively appointed by the Civil Service Commission to the category of 3<sup>rd</sup> Class registrars or notaries, of scale and index 1.

3. Registrars and notaries who have passed the specific training course abroad and are recognised in that country, shall be appointed 3<sup>rd</sup> Class registrars or notaries, of scale and index 1, by approval in competition, under the terms of the present diploma and the General Regime.

4. The appointments referred to in the paragraphs above shall be subject to their publication in the Official Gazette, without prejudice to other communications set out in specific legislation.

### **Article 15**

#### **Office**

1. Registrars and notaries shall take office before the Director of Registration and Notary Services, at the end of the training course and appointment to the category of 3<sup>rd</sup> Class Registrar or Notary of Scale 1.

2. Registrars and notaries who have passed specific vocational training courses shall take office under the terms

of paragraph 1 above, after publication of the instrument of appointment.

### **Article 16**

#### **Managers**

1. Management positions at Registrar's Offices or Notary Offices shall be preferably filled in by registrars or notaries with at least five years experience, with a minimum classification of "Good" in the five previous years and are considered reputable.

2. For the purposes of the paragraph above the management positions shall be equivalent to the post immediately below that of Director of Registration and Notary Services.

3. The above mentioned appointment shall be made by the member of the Government responsible for the area of justice, at the proposal of the Director of Registration and Notary Services, or by the director should such powers of attorney have been delegated, for a period of four years, renewable.

4. The appointment referred to in the above paragraph shall be subject to publication in the Official Gazette.

### **Article 17**

#### **Promotion and Progress**

Development in the special career of registrar and notary shall take place by way of promotion and progress, under the terms of the current statute.

### **Article 18**

#### **Promotion requirements**

Cumulative promotion requirements shall be:

- a) the existence of vacancies;
- b) Minimum and uninterrupted time of office in the category immediately below, under the terms of the present diploma;

- c) Performance evaluation required for the promotion or career progress, under the terms of the present diploma;
- d) Approval in competition of specific promotion.

### **Article 19**

#### **Promotion conditions**

1. A registrar or notary with at least six years of uninterrupted office in the category below the 2<sup>nd</sup> class category shall be promoted to this category, if such registrar or notary has a minimum classification of “*Good*” in the six previous years and approval in the competitive exam.
2. A registrar or notary with at least nine years of uninterrupted office in the category below the 1st class category shall be promoted to this category, if such registrar or notary has a minimum classification of “*Good*” in the six previous years and approval in the competitive exam.

### **Article 20**

#### **Career progress**

In the categories of registrar and notary the change of scale shall occur after 3 years of office at the scale immediately below with a minimum service classification of “*Good*” or when the classification of “*Very Good*” has been obtained in two successive years.

### **Article 21**

#### **Full exercise of functions**

For the purpose of the present diploma, registrars and notaries in secondment, on holiday, on maternity or paternity leave and have given justified absences under the terms of the law shall be considered in full exercise of functions.

### **Section II**

#### **Mobility of registrars and notaries**

### **Article 22**

#### **Mobility**

1. Mobility of registrars and notaries shall be authorised by the member of Government responsible for the area of justice, at the proposal of the Director of Registration and Notary Services or by this Director when given power of attorney for this effect.

2. For the purposes of the present diploma, mobility shall include the transfer, secondment, exchange or request for additional staff.

### **Article 23**

#### **Transfer**

1. A transfer at the request of the employee may be authorised upon three years of full service.
2. A transfer requested by the service may take place at any time, under the terms of the law.

### **Article 24**

#### **Secondment and request for additional staff**

1. The amount of time provided by the registrar or notary at a seconded post shall for all legal purposes serve as if it were provided at the place of origin, under the conditions of employment.
2. The provisions of paragraph 1 above shall be applicable to the performance of duties by the registrar or notary when additional staff is required elsewhere.

### **Article 25**

#### **Exchange**

The exchange between registrars and notaries shall be permitted under the terms of the law.

## **CHAPTER IV**

### **SALARY**

### **Article 26**

#### **Salary components**

1. Registrars and notaries’ salaries shall correspond to the basic salary of the

corresponding category in Annex 1, which is an integral part of this diploma.

2. The salary of probationary registrars and notaries shall correspond to 50% of the basic salary of the category of 3<sup>rd</sup> class registrar or notary, Scale 1.

3. Besides the basic salary referred to in paragraph 1 above of article 26, the following supplements shall be awarded registrars and notaries:

- a) Allowance for communication expenditure;
- b) Housing allowance;
- c) Instalment allowance;
- d) Travelling expenses.

4. Probationary registrars and notaries shall be awarded the allowances referred to in subparagraphs a), b) and d) of the above paragraph.

#### **Article 27**

##### **Allowance for communication expenditure**

Registrars and notaries shall benefit from a monthly communication allowance for mobile communications of a value corresponding to 9.4% of the basic salary of a 3<sup>rd</sup> Class, Scale 1 registrar or notary.

#### **Article 28**

##### **Housing allowance**

1. Registrars and notaries shall benefit from a housing allowance of a value corresponding to 25.0% of the basic salary of a 3<sup>rd</sup> Class, Scale 1 registrar or notary, except in the case when they may reside in a residence belonging to the State.

2. When due, the housing allowance shall be paid together with the basic salary.

#### **Article 29**

##### **Instalment Allowance**

1. Registrars and notaries shall benefit from an instalment allowance in order to pay for the expenses related to travelling, change and instalment, when there is a definitive change of residence, resulting from the displacement to an administrative district different from the one where their service is located.

2. The value of the allowance shall be established in accordance with the general terms applicable.

#### **Article 30**

##### **Travelling expenses**

When travelling on mission to an administrative district different from the one where the registrar and notary normally perform their duties and in missions abroad, travelling expenses shall be assigned under the general terms applicable.

#### **CHAPTER V**

##### **EVALUATION, INSPECTION AND DISCIPLINE**

#### **Article 31**

##### **Evaluation of registrars and notaries**

1. Registrars and notaries shall be evaluated by the Director of Registration and Notary Services.

2. The evaluation shall be based on the present diploma, the reports of the inspections and on the regime applicable to civil servants.

3. Classifications of “*Very Good*”, “*Good*”, “*Sufficient*” and “*Insufficient*” shall be assigned in relation to the merit shown.

4. The classification of “*Insufficient*” shall result in the immediate initiation of a disciplinary procedure, under the terms of the law.

5. In the absence of an evaluation of registrars or notaries for reasons not

attributed to them, their last classification shall remain valid, unless it is below “*Good*”, in which class they shall be given the classification of “*Good*”.

6. When registrars or notaries do not have a previous classification, it shall always be assumed that the classification is “*Good*”.

### **Article 32**

#### **Inspection and Discipline**

1. Evaluation inspections on the technical and administrative performance of registrars and notaries for the purposes of classification shall be carried out under the terms of the order issued by the member of Government responsible for the area of Justice.

2. By decision of the Director of Registration and Notary Services, the inspection report may result in the initiation of a disciplinary procedure, under the terms of common disciplinary procedures.

3. Registrars and notaries, as well as probationary registrars and notaries, shall be subject to the disciplinary regime applicable to civil servants.

## **CHAPTER VI**

### **TRANSITIONAL AND FINAL PROVISIONS**

#### **Article 33**

##### **Evaluations**

The evaluation system of the general regime shall be applicable to registrars and notaries until the material and human conditions for the establishment of the Inspectorate of Registration and Notary Services are created.

#### **Article 34**

##### **Subsidiary legislation**

The legal regime applicable to civil servants shall apply to registrars and

notaries, as well as probationary registrars and notaries, in all aspects not addressed in the present diploma.

#### **Article 35**

##### **Repeals**

The legal provisions contrary to the present diploma shall be repealed.

#### **Article 36**

##### **Entry into force**

The present diploma shall come into force on the day immediately following its publication.

Approved in Council of Ministers on 14<sup>th</sup> December 2011

The Prime Minister

**Kay-Rala Xanana Gusmão**

The Minister of Justice

**Lúcia M. B. F. Lobato**

Promulgated on 6/2/2012

To be published

The President of the Republic

**José Ramos-Horta**



## ANNEX 1

### Table of salaries for registrars and notaries

#### Salary Scale of Registrars and Notaries

Categories	1 <sup>st</sup> scale	2 <sup>nd</sup> scale	3 <sup>rd</sup> scale
1 <sup>st</sup> class Notary/Registrar	1.30	1.35	1.40
2 <sup>nd</sup> class Notary/Registrar	1.15	1.20	1.25
3 <sup>rd</sup> class Notary/Registrar	1.00	1.05	1.10
Probationary Notary/Registrar	0.50	-	-
100 scale	\$0.00		

#### Salaries of Registrars and Notaries

Categories	1 <sup>st</sup> scale	2 <sup>nd</sup> scale	3 <sup>rd</sup> scale
1 <sup>st</sup> class Notary/Registrar	\$1040	\$1080	\$1120
2 <sup>nd</sup> class Notary/Registrar	\$920	\$960	\$1000
3 <sup>rd</sup> class Notary/Registrar	\$800	\$840	\$880
Probationary Notary/Registrar	\$400	-	-