

**DECREE-LAW 41-2008  
OF 29 October**

**AUCTIONS COMMISSION**

It is incumbent upon the Government to protect State's assets by managing them in a transparent manner in the interest of the common good.

Considering that the importance of the State's movable assets is not always adequately reflected in the manner in which such assets are maintained, which is why the need arises to alienate them;

Taking into account the substantial number of agencies involved given the complexity of the process to identify State's assets, to constitute batches, to organize public sale procedures, to ascertain ownership of assets for alienation, to set selling prices as well as to audit this kind of transactions, it being therefore necessary to establish an executive coordination collective body;

Pursuant to subparagraph k) of article 115.1 of the Constitution, the Government enacts the following to have the force of law:

**CHAPTER I  
ESTABLISHMENT AND COMPETENCES**

**Article 1  
Establishment and statute**

1. The Auctions Commission is hereby established as an executive collective body, to be composed of six members appointed by those Government members in charge of finance and transport.
2. The Government members referred to in the preceding paragraph may alter the number of members of the Commission by means of a Joint Ministerial Statute, with their appointment made by means of a joint instruction.

## **Article 2 Objective**

The objective of the Auctions Commission is to define the criteria and procedures necessary for alienating State's assets with the highest degree of rationality and efficiency, ensuring transparency and safeguarding the superior interests of the State of Timor-Leste.

## **Article 3 Competences**

The Auctions Commission shall have the following competences:

- a) To define the modalities for the sale of State's assets, namely:
  - i) Public sales by sealed bids, which shall be the rule;
  - ii) Private sales;
  - iii) Sales conditioned upon sectors authorised for that effect and which monitor the sales;
- b) To define criteria for separation and formation of batches, namely depending on the nature and classification of the immovable goods;
- c) To determine the rules governing access to public auctions by individuals and companies, bearing always in mind the need to obtain documented confirmation that any interested individual or company pay their taxes and have no fiscal debts;
- d) To establish the modality for presenting sealed bids so as to lend seriousness and transparency to the proceeding, prevent possibility of fraud and safeguard the secret nature of the bids or offers until such time as they are made known to the public;
- e) To organize the process of selling of movable assets that are subject to registration, such as automobiles, with a view to

preventing such assets from being purchased for circulation without their respective registration number and other formalities as required by law;

- f) To issue information notices and advices as well as to conduct studies and put forward proposals of public interest and submit them to the respective Ministers;
- g) To propose to the Minister of Finance the amount deemed necessary for the establishment of a petty cash fund to cover operational expenses, such as expenses with publicity, notices to bidders and publications in newspapers, expenses with transportation of assets to be sold, as well as expenses with conservation, maintenance and security, where applicable. Such fund shall be constituted by a percentage of the proceeds from the sales and shall be audited by the relevant services of the Ministry of Finance.
- h) To propose to the Minister of Finance and the Government member in charge of transport to provide inventoried assets or assets for sale with a relevant social objective;
- i) To define the criteria on the services and venues for presentation and sale of the assets to be sold, including the rules to be observed by those interested in purchasing such assets;
- j) To propose to the Minister of Finance the criteria to be applied in those cases where, in the absence of buyers in the first market phase, the assets are to be submitted to a second market phase with a lower upset price.
- k) To issue certificates relating to documents, petitions or instructions at the request of the parties participating in auctions so long as such requests reflect a legitimate interest on the part of the applicants;
- l) To ensure that the adopted principles and procedures are applied both with the responsible Services and during the sale of State's assets and participate in the opening ceremonies of sealed bids through one of its members at least;

- m) To issue donation certificates and be present at acts for destroying assets inventoried for that end;
- n) To give precedence to national citizens, except where the price of the assets is considered to be very high or where other reasons exist that justify equality of treatment among national and foreign citizens, in accordance with the Joint Ministerial Statute of the Government members in charge of finance and transport defining the criteria and procedures for the sale of State's movable assets.

## **CHAPTER II STRUCTURE AND FUNCTIONING**

### **Article 4 Composition**

The members of the Auctions Commission, which is composed of a chairperson, one deputy-chairperson, and four members, shall come from:

- a) The National Directorate of State Property of the Ministry of Finance, who shall presides it over;
- b) The National Directorate of Taxes of the Ministry of Finance;
- c) The National Directorate of Customs of the Ministry of Finance;
- d) The National Directorate of Land Transports of the Ministry of Infrastructure;
- e) Internal Auditor of the Ministry of Finance;
- f) The Directorate of Administration of the interested Ministry.

## **Article 5**

### **Sessions**

1. The Auctions Commission shall function at the facilities of the National Directorate of State Property where the sessions shall take place, save where the majority of its six members decide otherwise. The number of ordinary sessions shall be defined internally.
2. The chairperson shall convene the extraordinary meetings with a minimum of three working days prior notice, save where a situation of urgency is justified.
3. The Auctions Commission shall decide and approve all the acts by simple majority.

## **Article 6**

### **Articulation and collaboration**

1. With a view to ensuring its efficiency, members of the Auctions Commission shall maintain close articulation and collaboration among themselves in the exercise of their functions.
2. The Auctions Commission may request the collaboration of other national departments and bodies to enable it undertake the functions entrusted to it.

## **CHAPTER III**

### **FINAL PROVISIONS**

## **Article 7**

### **Division of Patrimony and Auctions**

It shall be incumbent upon the Division of Patrimony and Auctions, through the National Director of State Property, to organize and execute the sales of property in accordance with instructions from the Auctions Commission.

**Article 8**  
**Special regimes**

1. The Auctions Commission may intervene or participate in other public acts for sale of merchandise following a judicial order, at the request of the National Directorate of Taxes or at the request of the National Directorate of Customs.

2. Ten percent of the proceeds from auction sales shall be allocated to cover expenses with the organisation, conduct, travel and participation in public auctions and shall be deposited in an account of the State to be defined by means of an agreement to be established with the Treasury and approved by the Minister of Finance.

**Article 9**  
**Entry into force**

The present statute enters into force on the day immediately after its publication in the Official Gazette.

Approved by the Council of Ministers on 2 July 2008

The Prime Minister,

**Kay Rala Xanana Gusmão**

The Minister of Finance,

**Emília Pires**

The Minister for Infrastructure,

**Pedro Lay da Silva**

Promulgated on 17/10/08

For publication

The President of the Republic,

**José Ramos-Horta**