

Decree-Law no.8/2009

Of January 15

Regime of Awarding Scholarships to the Children of Combatants and Martyrs of the National Liberation

Under the terms of no. 3 of article 11 of the Constitution of the Democratic Republic of Timor-Leste, the State guarantees special protection to the orphans and other dependents of those who devoted their lives to the struggle for independence and national sovereignty.

In March 2006, the National Parliament passed Law no.3/2006, of April 12, that defines the Statute of the Combatants of the National Liberation.

The material dimension of the above mentioned Law defines the implementation of measures specifically targeting the family members of those who fought for national independence, establishing, in no. 3 of article 26, that adult orphans attending full-time secondary or university education are entitled to a scholarship, the amount and conditions of which are to be defined by the Government.

Finally, article 30 of Decree-Law no.15/2008, of June 4, extends the right to a scholarship to the "orphans of any age, attending full-time junior, secondary or university education.

In this sense, the 4th Constitutional Government will now define the criteria for awarding scholarships, the criteria for establishing monthly amounts, according to the educational level and cycle, and the application process.

Taking into consideration the States real financial capacities to guarantee the sustainability of this measure, but also the intention to value school achievement, the Government chose to impose the numerous clauses system, which is to be established annually by order of the Government member in charge of matters concerning the Combatants of the National Liberation.

Therefore, following the legal regime established by Law no. 3/2006, of April 12, and under the combined terms of items o) and p) of no. 1 of article 115 and of item d) of article 116 of the Constitution, the Government decrees the following, to take effect as law:

CHAPTER I

GENERAL DISPOSITIONS

Article 1

Object

The present document defines the conditions and applicable regime for the awarding of the Scholarships foreseen in no. 3 of article 26 of Law no. 3/2006, of April 12, and in article 30 of Decree-Law no. 15/2008, of June 4.

Article 2

Scope

1. The present document provides for the students enrolled, in the school year to which the scholarship pertains, in state or private education establishments, licensed or accredited by the Ministry of Education, in the junior, secondary and higher (university or technical) levels, with the exception of the first year of junior school, who are children of the Combatants of the National Liberation:
 - a. who died because of their participation in the struggle for the national liberation;
 - b. who are beneficiaries of the Special Subsistence Pension or of the Special Retirement Pension, foreseen in the legislation mentioned in article 1, after these have died.
2. The present document also provides for the students enrolled, in the school year to which the scholarship pertains, in education establishments abroad, recognized by the Ministry of Education, in the higher levels, either university or technical, that fulfils the other conditions established in number 1.
3. As regards higher university education, the present document only provides for the students enrolled in bachelor or master courses, in the establishments foreseen in the previous numbers.

Article 3

Scholarship

1. A scholarship is a pecuniary payment, of a fixed value, meant to subsidize part of the expenses related to attending an educational level, for the period of one school year.
2. The purpose of the scholarship is to contribute to the financial expenses with food, transportation, school books and material, enrolment fee and monthly fee.
3. The value of the scholarship is fully paid for by the State and is not refundable.

CHAPTER II
SCHOLARSHIP REGIME

Article 4

Statute of the scholar

Awarding a scholarship under the terms of the present document grants the beneficiary the statute of scholar of the Ministry of Social Solidarity.

Article 5

Nature of the bond

Awarding a scholarship creates only the obligations foreseen in the present document.

Article 6

Exclusivity regime

1. The performance of a scholar is carried out in a regime of exclusive commitment; any other paid function or activity, whether state or private, is forbidden, except during the periods corresponding to the interruptions of academic activities.
2. For purposes of what is established in the previous number, the periods of interruption of academic activities are those featured on the school calendar approved every year by the Ministry of Education.
3. In the school year in question, a scholar may not benefit from any other scholarship, except when there is an agreement between the respective funding entities.

Article 7

Amount of the scholarship

Every year, the amount of the scholarship to be granted to the scholar will be established by regulation by the Government member in charge of matters concerning the Combatants of the National Liberation, and, regarding each of the educational levels and cycles it concerns, it will take into account:

- a) The average cost of enrolment, monthly fees, taxes and other amounts pertaining to the issue of diplomas and qualification certificates, in state education establishments;

- b) The average cost of using public transports, during the school term, for trips between the students usual residence during the school term and the education establishment he/she attends;
- c) The average cost of the student's food expenses during the school term;
- d) The average cost of school books and materials needed to attend a state education establishment.

Article 8

Number of scholarships to be awarded

1. The number of scholarships to be granted each school year is defined by regulation by the Government member in charge of matters concerning the Combatants of the National Liberation, taking into account the number of applications received per educational level, the number of scholarships awarded and success rates of the scholars in the previous year, as well as the States financial capacity in the fiscal year in question.
2. The number of scholarships to be awarded is defined per educational level and cycle and a specific number of scholarships may be defined for students who are in the conditions foreseen in no. 2 of article 2.

Article 9

Awarding scholarships

1. Scholarships are awarded to students who, at the time of the application foreseen in article 13 of the present document, are enrolled in the school class or academic grade higher than the one they attended the previous year, up to the limit of the number of scholarships annually determined under the terms of article 8.
2. Scholarships are granted for a period of one school year.

Article 10

Payment

1. The scholarship is processed annually in a number of instalments to be defined by regulation by the Government member in charge of matters concerning the Combatants of the National Liberation and, administrative conditions permitting should be processed monthly.

2. Payment of the scholarship is made through a bank transfer into the account indicated in the application.

CHAPTER III

SCHOLARS a RIGHTS AND DUTIES

Article 11

Scholars a right

1. Scholars covered by the present document have the right to:
 - a) Receive payment of the scholarship on time;
 - b) Suspend activities funded by the scholarship in case of illness or family assistance, when they are duly proved;
 - c) Receive from the funding entity all the information they may request concerning their status;
 - d) All the other rights stemming from the present document.
2. The suspension referred to in paragraph b) of the previous number does not imply suspension of payment of the scholarship for the corresponding time.

Article 12

Scholar's duties

The scholars covered by the present document should convey to the Government organ in charge of matters concerning the Combatants of the National Liberation the incidental verification of any reason determining the cancellation of the scholarship under the terms of article 21 of the present document.

CHAPTER IV

PROCEDURE

Article 13

Public announcement of scholarships

1. Tenders to grant scholarships are publicized through a public notice and, whenever necessary and appropriate, made public through the media.
2. The notices will mention:

- a) The number of scholarships to be granted per educational level, the length and the beneficiaries of the scholarship;
- b) Instructions, deadline and where to hand in applications;
- c) When, how and where results will be made public;
- d) The applicable legislation.

Article 14

Applications

1. National citizens who meet the conditions foreseen in the present document may apply for a scholarship.
2. Applications are presented through an application form, together with the documents required, addressed to the director of the particular service of the Government organ in charge of matters concerning the Combatants of the National Liberation, or to whomever this competency is delegated.
3. Applications are presented through a model form approved by the government organ in charge of matters concerning the Combatants of the National Liberation.
4. Applicants are responsible for the veracity of the information they supply and the documents they deliver.

Article 15

Documents supporting applications

Without prejudice of what will be established in the respective notice, the scholarship application form foreseen in the present document must be accompanied by the following documentation:

- a) Identification document of the applicant;
- b) Birth certificate testifying the progeny relationship between the applicant and the National Liberation Combatant;
- c) Registration number of the National Liberation Combatant, mentioned in article 2;
- d) Declaration under oath, signed by the applicant, that he/she will carry out the scholarly functions in a regime of exclusive commitment and that, in the school year in question, he/she does not benefit from any other scholarship, under the terms of article 6 of the present document;
- e) Document proving enrolment for the school year in question;

- f) Documents proving the applicants school achievement regarding the year prior to the application, discriminating academic results and final average;
- g) Bank account information of the applicant or of his/her respective guardian.

Article 16

Minority

1. If the applicant for the scholarship referred to in the present document is under 17 years of age, the application form and the declaration under oath, mentioned in the previous articles, must be filled in and signed by his/her guardian.
2. In the cases the previous number refers to, the application must also be accompanied by a copy of the guardian's identification document.
3. For purposes of the present document, a guardian is a person who has custody of minors, exercising parental rights or guardianship over them, under the terms of the specific legislation.

Article 17

Exclusion from the competition

Applicants are excluded from the competition if they:

- a) Do not meet the conditions foreseen in article 2 of the present document.
- b) Did not obtain school achievement in the previous year;
- c) Have a professional occupation or benefit from another scholarship, under the terms foreseen in article 6 of the present document;
- d) Do not submit the documents mentioned in article 15 of the present document, with exception of those concerning the bank account;
- e) Have submitted application forms which are filled in incorrectly or incompletely, so that they cannot be correctly systematized;
- f) Submit false documents;
- g) Send their application through a different route from the one indicated in the tender notice of the competition.

Article 18

Categorizing the admitted applicants

The admitted applicants are categorized by educational levels and cycles, downwardly, according to the average of their classifications in the previous year.

Article 19

Tiebreaker criterion

1. In the case of a tie regarding the average classification mentioned in the previous article, prevalence will be given in the ordering list to the applicant who is not a beneficiary of the Survival Pension foreseen in the legislation referred to in article 1.
2. When it is the last place in the final classification list of scholarship attribution that is at stake, and if the criterion established in the previous number does not allow applicants to be ordered in different positions, a number of scholarships corresponding to the number of applicants in a tie situation will, subsidiary and exceptionally, be awarded.

Article 20

Final classification lists

The final classification lists, approved by the director of the particular service of the Government organ in charge of matters concerning the Combatants of the National Liberation, are made known through a notice to be affixed in the place mentioned in the tender advertisement.

CHAPTER V

TERMINATION AND CANCELLATION OF THE SCHOLARSHIP

Article 21

Cancellation of scholarship

1. A scholarship may be cancelled, upon a grounded decision, whenever there is:
 - a) Rendering of false declarations on matters that are relevant to the scholarship being awarded;
 - b) Submission of false documents;

- c) A serious or repeated violation of the duty of exclusive commitment, referred to in article 6 of the present document;
 - d) Acceptance of another scholarship, in the school year in question, in violation of the regime established in no. 3 of article 6;
 - e) School abandonment during the school year in question;
 - f) An excess over the maximum number of missed classes allowed in the educational level being attended, whenever applicable.
2. The cancellation of the scholarship is carried out with reference to the period of payment following the one during which the facts determining it occurred.
 3. Instalments paid after the moment determining the cancellation of the scholarship are considered unduly paid, under the terms established in the previous numbers.
 4. The entity in charge of processing the scholarships must notify the loss of this right within 30 business days from the knowledge of the facts determining it; it must also request, within the same period of time, the return of any unduly paid instalments.

Article 22

Termination

Scholars benefit from the status foreseen in article 4 of the present document, from the moment it is granted until:

- a) The conclusion of the school year regarding which the scholarship is granted;
- b) The moment the scholarship is cancelled under the terms of the previous article.

CHAPTER VI

TRANSITORY AND FINAL DISPOSITIONS

Article 23

Retroactive effects

Without prejudice of what is established in article 25 of the present document, the regime of scholarship awarding applies to the students enrolled in the 2008-2009 school year.

Article 24

Co-operation

The governmental entities and administrative services of the state and private education establishments should co-operate with the particular service of the Government organ in charge of matters concerning the Combatants of the National Liberation in the implementation of this decree.

Article 25

Entry into force

The present decree comes into force the day after its publication.

Approved by the Council of Ministers on December 3, 2008

The Prime Minister,

(Kay Rala Xanana-Gusmão)

The Minister of Social Solidarity

(Maria Domingas Alves)

The Minister of Finances,

(Emilia Pires)

Promulgated on 18-12-2008

For publication

The President of the Republic,

(José Ramos-Horta)