

DEMOCRATIC REPUBLIC OF EAST TIMOR
GOVERNMENT

DECREE-LAW NO. 15/2008

OF

PENSIONS OF THE COMBATANTS AND MARTYRS
OF THE NATIONAL LIBERATION

The Statute of the Combatants of the National Liberation (Law no. 3/2006, of April 12) represented a historical step towards acknowledging the contribution of those who fought for the liberation of our Homeland, as consecrated in article 11 of the Constitution of the Democratic Republic of East Timor, which, besides defining the obligation to fulfil the duties implied in the statute, grants the combatants of the national liberation a set of rights, namely the attribution of financial and social benefits.

This Law granted the Government the competency to process, attribute and regulate pensions, in accordance with the State's institutional capacity and financial possibilities, as stipulated in Article 37.

The current document regulates the different types of pensions foreseen in the Statute of the Combatants of the National Liberation, identifying the respective criteria for the attribution of such pensions, as well as the amounts and the processes of how to apply for them.

Aiming to guarantee the potential beneficiaries legal access and certainty, it also establishes the role of the governmental organ in charge of processing the pension requests.

Therefore,

The Government decrees, under the terms of paragraph j) of no. 1 of article 115 of the Constitution of the Republic and of article 36 of the Law no. 3/2006 of April 12, to be effective as law, the following:

CHAPTER I
GENERAL DISPOSITIONS

Article 1

Object

The object of the present document is to define eligibility, amounts and requisites for initiating the process of attribution of pensions to the combatants and martyrs of the national liberation.

Article 2

General principles

1. Regulation of the benefits is carried out according to the principles of objectivity, transparency, financial rationality and legal certainty.
2. Processing of the requests of benefits is based on the principles of legitimacy, accessibility and procedural simplicity, taking into account the administrative reality of the Country.
3. The benefits conferred by the afore mentioned pensions in the present document and presented in Appendix I of this document, of which it is an integral part, require certification of the individual data by the competent entities, as defined in article 5.

CHAPTER II
ON THE PENSIONS

SECTION I
GENERAL REMARKS

Article 3

Recognition

The right to the benefits foreseen in this document depends on the recognition of the applicant as combatant of the national liberation, according to the requisites defined in Law no. 3/2006, of April 12, henceforth designated "Statute".

Article 4

Validation

The beneficiary acquires the right to apply for the corresponding pension based on the validation of the registration data, under the terms of no. 1 of article 12, as well as on

what is established in paragraph a) of article 4 and in article 19 of the Statute. Ultimate validation of the beneficiaries' data is the responsibility of the Former Cadres of the Structures of the Timorese Resistance.

Article 5

Confirmation of Individual Data and other data regarding militancy

1. The confirmation of the length of full-time participation in the Armed Front, Clandestine Front and Diplomatic Front, of time of Prison and Exile, of age, of level/degree of the last rank/position occupied or of the rank/position and of the quality of 'Martyr', is attested by certificate issued by the Data Base of the Combatants of the National Liberation and signed by the President of the Homage Commission and by the respective specific Organ of the Government.
2. For the confirmation foreseen in the previous paragraph, the Committee of Homage and the respective specific Organ of the Government use registration data, validation/confirmation of former heads of the Resistance Organizations and 'classification of ranks and positions', as defined by the Presidential Decrees nos. 51/2006 and 8/2007, of October 6 2006 and February 23 2007, respectively, pertaining to Appendix II which is an integral part of this document.

Article 6

Suspension of the pension

The right to the pension is suspended whenever there is a serious and grounded complaint or denouncement regarding the applicant or beneficiary.

Article 7

Transmission

Financial benefits may only be transmitted in the terms expressly foreseen in the Statute.

SECTION II

SPECIAL SUBSISTENCE PENSION

Article 8

Definition

The special subsistence pension is a financial benefit conferred to combatants of the national liberation, taking into consideration their level of incapacity, age, number of years of full-time participation and level/degree of the last rank occupied.

Article 9

Categories

The special subsistence pension has the following categories:

- a) Special subsistence pension due to disability with incapacity for work, under the terms of no. 1 of article 24 of the Statute;
- b) Special subsistence pension for the elderly aged 55 or over, under the terms foreseen in no. 3 of article 24 of the Statute.

Article 10

Beneficiaries of the special subsistence pension due to incapacity for work

1. The beneficiaries of the special subsistence pension due to incapacity for work are combatants of the national liberation with a mental or physical disease caused by their participation in the national liberation struggle and determines their incapacity for work.
2. The right to the pension does not depend on time of participation in the struggle or age.

Article 11

Beneficiaries of the special subsistence pension for the elderly

The beneficiaries of the special subsistence pension for the elderly are citizens aged 55 or over when they apply for the pension, who participated full-time in the struggle for a period over 8 and under 15 years.

Article 12

Combatants of the Clandestine Front and of the Diplomatic Front

1. The Combatants of the Clandestine Front and of the Diplomatic Front who devoted their lives exclusively to the Resistance and had no normal, paid, academic or work activity during the period of the Struggle, according to no. 3 of article 23 of the Statute, are in the same conditions as the Armed Front Combatants as regards Pension payment.
2. Classification and comparison of the combatants of the Clandestine Front and Diplomatic Front exclusively devoted to the Struggle is carried out by the former heads of the Resistance Structures/Organizations, in close articulation with the State's real financial capacities.

Article 13

Amount of the pension

1. The amount of the pension is stated in Appendix I.

2. The amount of the pension varies according to the last rank/position occupied in the struggle, under the terms of Appendix II.
3. In the cases where the Combatant occupied a rank/position higher than the latest, the higher one will be considered.

Article 14

Medical assistance and school support

1. The beneficiary, spouse and children under 18 years of age of the beneficiaries of the special subsistence pension are entitled to free medical and medicinal assistance from the State health services.
2. Children under the age of 18 have free access to public schools.
3. Access to the rights foreseen in the previous paragraphs require specific regulation elaborated by the Government.

Article 15

Application for the special subsistence pension

Requests of this pension must be processed at the headquarters of the Sub-District of applicants' birthplace or place of residence, with the following documents:

- a) A specific form to be filled in, which is available at the incumbent services or District Administrations;
- b) National Liberation Combatant Special Identification Card or Registration Certificate, in accordance to article 5;
- c) Elector Card;
- d) Disabled individuals with incapacity for work, along with the above mentioned documents in a), b) and c), must also present a medical statement issued by the competent authorities, under the terms of the following article, based on a medical examination, identifying the nature of the incapacity and the impossibility to work.

Article 16

Medical examination to obtain a statement of physical and/or mental incapacity for work

1. The statement of physical and/or mental incapacity for work must be issued by doctors registered with the Ministry of Health, in accordance with the applicable legislation.
2. The statement of mental incapacity must be issued by a doctor specialising in mental health.

3. The statement must be based on a medical examination of the applicant for the pension and must be accessible in the national health services all over the Country.

SECTION III

SPECIAL RETIREMENT PENSION FOR THE VETERAN COMBATANT OF THE NATIONAL LIBERATION

Article 17

Definition

The special retirement pension is a financial benefit conferred to veteran combatants of the national liberation, taking into account the roster regarding the number of years of full-time participation and the level/degree of the last rank occupied.

Article 18

Categories

The special retirement pension has the following categories:

- a) Special retirement pension roster 1 – for veteran combatants of the national liberation who participated full-time in the Struggle for 20 years or over;
- b) Special retirement pension roster 2 – for veteran combatants of the national liberation who participated full-time in the Struggle for 15 to 19 years.

Article 19

Beneficiaries of the special retirement pension

The beneficiaries of the special retirement pension are veteran combatants of the national liberation who participated full-time in the national liberation struggle for 15 years or longer, as defined in no. 1 of article 25 of the Statute.

Article 20

Combatants of the Clandestine Front and of the Diplomatic Front

The provisions of article 12 apply to the present section.

Article 21

Amount of the pension

1. The amount of the pension is stated in Appendix I of this document.

2. The amount of the pension varies according to the length of full-time participation and the last rank/position occupied in the national liberation struggle, under the terms of Appendix II.
3. In the cases where the Combatant occupied a rank/position higher than the latest, the higher one will be considered.

Article 22

Applying for the special retirement pension

1. Applications for this pension must be processed at the headquarters of the Sub-District of applicants' birthplace or place of residence, with the documents mentioned in paragraphs a), b) and c) of article 15.
2. Applications may be processed immediately, according to the amounts declared in appendix I of the Decree Law, even for those – civil servants or State agents – who are still in the active workforce, without having to wait for retirement.

SECTION IV

SURVIVAL PENSION

Article 23

Definition

The survival pension is a financial benefit aiming to provide the families of national liberation martyrs with financial assistance.

Article 24

Categories

1. Any citizen with one of the family ties acknowledged in the Statute to a deceased or missing national liberation combatant is entitled to the survival pension, as widow/er, direct descendant, direct ascendant or sibling.
2. The survival pension is only conferred to one heir per Martyr and ceases with his or her death or when the orphan reaches the age of 24.
3. The family tie of the heir of the national liberation martyr is proved by a Declaration issued by the Chief of 'Suco' and certified by the District Administrator, after consultation with the Martyr's family to identify the pension beneficiary.
4. When the Chief of 'Suco' cannot do so due to lack of information, the family tie is proved by another community leader or by a former leader of the resistance organization where the deceased or missing combatant fought.

Article 25

Beneficiaries of the survival pension

1. The beneficiaries of the survival pension are:
 - a) Widows or widowers who have not remarried;
 - b) Orphans under 24 years of age;
 - c) Elderly parents over 55 years of age, who did not collaborate with the enemy against the interest of national liberation;
 - d) Siblings of the national liberation martyrs, who were tortured, exiled or imprisoned for over a year, due to their brother's or sister's militancy, and who are considered Combatants of the National Liberation;
 - e) The heir of national liberation combatants benefitting from the special subsistence pension and the special retirement pension, after they pass away.
2. Only the families of martyrs who were not traitors and did not collaborate with the enemy can be entitled to the survival pension.

Article 26

Preference

In accordance with no. 6 of article 26 of the Statute, the order of preference among the survival pension beneficiaries, where the first in order of priority excludes the others and thus successively, is the following:

- a) Widow/er;
- b) Son/Daughter;
- c) Father or Mother;
- d) Brother/Sister.

Article 27

Amount of the pension

1. The amount of the pension is stated in Appendix I.
2. The amount of the pension varies according to the last rank/position occupied in the struggle, under the terms of Appendix II.
3. In the cases where the Combatant occupied a rank/position higher than the latest, the higher one will be considered.

Article 28

Cessation of the right to the survival pension

The survival pension ceases with the death of the beneficiary and, in the case of orphans, when they reach 24 years of age.

Article 29

Exclusion of the succession of the survival pension

The subsistence pension cannot be passed on after the death of the beneficiary.

Article 30

School support

Orphans of any age, attending full-time junior, secondary or university education, are entitled to a scholarship, the amount and conditions of which are to be defined by the Government.

Article 31

Applying for the survival pension

Applications for this pension must be processed at the headquarters of the Sub-District of applicants' birthplace or place of residence, with the following documents:

- a) A specific form to be filled in, that is available at the incumbent services or District Administrations;
- b) Elector Card;
- c) Declaration of the Chief of 'Suco', signed by the District Administrator, attesting the family ties with the deceased or, when the former cannot do so due to lack of information, the family ties are witnessed by a former head of the resistance organization where the martyr fought;
- d) Besides the family ties with the deceased, this declaration must mention that the beneficiary is the sole heir and legitimate representative of the heirs of the national liberation martyr, according to the decision made by the family council, thus eliminating the duplication of beneficiaries;
- e) In the case of orphans and parents, a Birth or Baptism Certificate must also be submitted;
- f) As regards parents and siblings, these must submit the National Liberation Combatant Special Identification Card or the Registration Certificate, under the terms of no. 3 of article 2.

CHAPTER III
ON HOW PENSIONS ARE PROCESSED

Article 32

General principles

1. In accordance with the institutional and financial capacities of the Government, speed and simplicity are guaranteed in processing the applications for pensions regulated in this document.
2. Access to the Government organ in charge of processing financial benefits is guaranteed to the pension applicants, whether directly or through the State Administration of each District.
3. The organism in charge of processing applications will organize and carry out promotion and information campaigns all over the Country.

Article 33

Tax exemption

The process of requesting and attributing benefits, as well as the issue of the declarations necessary for that purpose, are not subject to the payment of taxes.

SECTION I

ENTITY IN CHARGE

Article 34

Entity in charge

1. The Government organ in charge of matters pertaining to the national liberation combatants, in close co-operation with the Homage Commission, is the organ responsible for the administrative procedure for processing the benefits contained in this document.
2. In order to guarantee access to these services, the District and Sub-District administrations work as delegations of the entity responsible for contacting the beneficiaries, namely as regards pension applications.

Article 35

Duty of co-operation

Government entities and authorities, as well as bank institutions, should co-operate, with zeal, equity and speed, with the organ in charge of processing the benefits contained in this document.

SECTION II
ON THE PROCEDURE

Article 36

Procedure

1. The procedure for attributing the benefits regulated in this document depends on the application and elaboration of the request on behalf of the applicant.
2. The procedure must be initiated at the headquarters of the Sub-District of the National Liberation Combatant's birthplace or place of residence.
3. The procedure is formally started when the applicant has submitted all the documents necessary for initiating the procedure.
4. In the case of physical or mental impossibility or when the applicant is under 16 years of age, he or she may be represented by someone else, through a power of attorney signed by the community leader and certified by the District authority, after consultation with the applicant's family.

Article 37

Verification of information

While processing the request of any of the benefits regulated by this document, the entity in charge has the right to check the veracity of the documents submitted.

SECTION III
DECISION ABOUT THE REQUEST

Article 38

Notices

A list of the potential beneficiaries of the pensions object of this document, duly verified, validated and signed by Former Cadres of the Timorese Resistance, is publicized for 20 days, by means of notices displayed at the headquarters of the Sub-District of the National Liberation Combatants' birthplace and place of residence.

Article 39

Claims

1. The applicant who feels wronged has the right to submit a written claim about the proposed decision regarding his or her request.
2. This claim is addressed to the Government organ with the incumbence of matters relating to the Combatants of the National Liberation, which may re-

elaborate the decision, after consultation with the Former Cadres of the Timorese Resistance, who are in charge of the final validation of the data.

3. The claim must be within twenty days from the publication date of the notices mentioned in article 38 and must be accompanied by well-grounded reasons and proof that justify the reversal of the decision.
4. The decision about the claim must be delivered up to thirty days after the claim is submitted and will be made public through a notice to be displayed at the headquarters of the Sub-District of the candidate's birthplace and place of residence.

Article 40

Hierarchical and legal appeal

1. The pension applicant who feels wronged by the decision or result of the claim process has the right to submit a hierarchical appeal.
2. The hierarchical appeal is addressed to the Head of Government.
3. The hierarchical appeal must be submitted within 20 days from the publication date of the notices mentioned in articles 38 and 39 and must be accompanied by well-grounded reasons and proof that justify the reversal of the decision.
4. The decision regarding the hierarchical appeal must be delivered up to thirty days after the latter is submitted and will be made public through a notice to be displayed at the headquarters of the Sub-District of the candidate's birthplace and place of residence.
5. The decision pertaining to the hierarchical appeal is subject to legal appeal.

Article 41

Notification of the final decision

1. The final decision is notified through notices displayed at the headquarters of the Sub-District of the National Liberation Combatant's birthplace and place of residence, mentioned in the Register, and published in the II Series of the official gazette.
2. Notices are displayed for a period of at least thirty days.
3. The Government promotes the publication of this process in the media through advertisements on television, the radio and in the written press.

Article 42

Allegations of false information

1. Any person can make a claim, to the entity in charge of processing the application for the benefit, about the falsehood of the information brought to the process.

2. Whoever alleges that false information was given must present well-grounded reasons and proof by filling in a specific form which is available at the Sub-District administrations.
3. Upon consultation with the Former Cadres of the Resistance, the entity in charge may reject the complaint if there is lack of proof when the complaint is processed.
4. The deadline for submitting the complaint is twenty days after the publication of the notices.

SECTION IV PAYMENT OF BENEFITS

Article 43

Payment of pensions

1. The right to the pensions object of this document dates back to January 1, 2008.
2. Payment of the pensions mentioned in this document is due within 30 days of the completion of the process and in the absence of complaints or claims regarding the legitimacy of the beneficiary;
3. Payment of the pensions is effected through a bank transfer into the beneficiary's account in the Commercial Banks of the Districts under supervision of the Banking and Payments Authority and with the co-operation of the Bank Institutions.

CHAPTER IV INFRACTIONS AND SANCTIONS

Article 44

General principles

1. Single persons are accountable for the infractions mentioned in this document.
2. Accountability for the infractions foreseen in this document does not exclude criminal accountability under the terms of the applicable penal law.

Article 45

Infractions

1. Giving false information within the process that determines a benefit is an infraction to the present document, if such behaviour does not imply a penal violation.

2. The violation of duties by Combatants of the National Liberation, foreseen in article 31 of the Statute, is also an infraction.
3. The infractions foreseen in the previous paragraphs are punished with a fine of up to 500 dollars and imply losing the benefits mentioned in the Statute and in this document, in accordance with article 19 of the Statute.
4. Procedures for charging fines are to be regulated by the Government.
5. After hearing the Consultative Council of the National Liberation, it is incumbent upon the specific Government Organ to impose the sanctions regarding infractions to the present document.

CHAPTER V

TRANSITIONAL AND FINAL DISPOSITIONS

Article 46

Budget

1. The functioning of the administrative system and of the benefits conferred to the combatants of the national liberation and their relatives is fully foreseen in the State's general budget.
2. The Government may create a special fund administered by the Ministry of Finances, assigned to the management and payment of the benefits regulated by this document.
3. The Government may distinguish, with a pension amount superior to that established in Appendix I of the present document, prominent figures for their merit in the Struggle for Liberation and Independence of East Timor.

Article 47

Entry into force

The present document comes into force on the day following its publication.

Seen and approved by the Council of Ministers on March 26, 2008.

The Prime Minister,

(Kay Rala Xanana-Gusmão)

The Minister of Social Solidarity

(Maria Domingas Fernandes Alves)

Promulgated on

To be published. 8-05-2008

The President of the Republic

José Ramos-Horta

Appendix I

A – For Former, Living Combatants who participated full-time in the Struggle for National Liberation

I – Special Subsistence Pension – Elderly over 55 years of age and 8 to 14 years’ full-time participation and war disabled/incapacitated for work

Roster (Years of Full-Time Participation)	Levels/Degrees of the last Rank/Position occupied	Monthly Pecuniary Value of Pension
8 to 14	G1	120.00
	G2	100.00
	G3	85.00

II – Special Retirement Pension of the Veteran Combatant of the National Liberation

Roster (Years of Full-Time Participation)	Levels/Degrees of the last Rank/Position occupied	Monthly Pecuniary Value of Pension
15 to 19	G1	340.00
	G2	295.00
	G3	255.00
20 to 24	G1	550.00
	G2	450.00
	G3	340.00

B – For Martyrs of the National Liberation

III – Survival Pension – Legitimate heir of Combatants Martyrs of the National Liberation – Widows/Widowers (who have not remarried), Orphans, Elderly Parents or Siblings (as long as they fulfil the requirements mentioned in paragraph c) of no. 2 of Art. 26 of Law 3/2006) who were Combatants of the National Liberation

Levels/Degrees of the last Rank/Position occupied	Monthly Pecuniary Value of Pension
G1	200.00
G2	150.00
G3	120.00

Appendix II

Classification of Ranks and Positions, according to no. 3 of Article 29 of Law 3/2006, of April 12, included in the **Decrees of the President of the Republic, Numbers 51/2006 and 8/2007, of October 6, 2006, and February 23, 2007, respectively:**

Degree 1 – Higher Military Ranks	Degree 1 – Higher Civilian Positions
Commander in Chief of the FALINTIL Vice-Commander in Chief of the FALINTIL Chief of General Staff of the FALINTIL Deputy Chief of General Staff of the FALINTIL Collaborator of the Chief of General Staff of the FALINTIL Chief of Council of the Executive Committee of the Struggle (CEL) – Armed Front Political-Military Advisor Shock Brigade Commander (1 st and 2 nd) Red Brigade Commander (1 st and 2 nd) Region Commander (1 st and 2 nd) Sector Commander (1 st and 2 nd)	President of the Republic Prime-Minister Minister Vice-Minister Political Commissioner Political Deputy Secretary of the Directive Commission of the FRETILIN Member of the Directive Commission of the FRETILIN Secretary of the Internal Political Front (FPI) – CNRT Secretary of the Executive Committee of the Struggle (CEL) – Clandestine Front – CNRM, CNRT Vice-Secretary of the Internal Political Front (FPI) – CNRT Commissioner Delegate (DK) Commissioner Collaborator (KB) Region Secretary Region Vice-Secretary
Degree 2 – Intermediate Military Ranks	Degree 2 – Intermediate Civilian Positions
Collaborator of the Shock Brigade Collaborator of the Sector Command Collaborator of the Operational Command (COMDOP) Zone Commander (1 st and 2 nd) Zone Collaborator Unit Commander Guerilla Commander Commander of the Company of Concentrated Forces Company Commander (1 st and 2 nd) Collaborator of Unit Command Group Commander	Commissioner Assistant Sub-Region Secretary Sub-Region Vice-Secretary Zone Secretary Zone Vice-Secretary Political Assistant Head of Mass Organizations (OPMT, OMT, OPJT, OPTT) Member of the Executive Committee of the Struggle (CEL) – Clandestine Front Collaborators
Degree 3 – Lower Military Ranks	Degree 3 – Lower Civilian Positions
Company Collaborator Drill Commander Section Commander Squad Commander Nucleus Commander Militia Commander (MIPLIN) Commander of the Self-Defence Forces (FAD) Cell Head Soldier/Guerilla	Zone Assistant (CEZO – Zone Executive Committee) Delegates Area Secretary NUREP (Nucleus of Popular Resistance) Secretary – Suco CELCOM (Combatant’s Cell) Secretary – Village Activist Head of Cashiers / Couriers Cashiers / Couriers