

DECREE-LAW No 19/2008**of 19 June****SUPPORT ALLOWANCE FOR THE AGED
AND THE DISABLED**

The Section 56 of the Constitution of the Democratic Republic of East Timor states that every citizen is entitled to social security and assistance. Sections 20 and 21 of the constitutional text strengthened this entitlement as to the protection of every senior or disabled citizen.

Most East Timorese live presently in poverty, and those who are unable or less able to work, such as the Aged and the Disabled, are particularly vulnerable.

East Timor plans to adopt an integrated social protection system, but these two population clusters have not yet been granted any sort of specific social aid, so they need a quick remedy to enable them to minimize their social vulnerability.

In fact, the Program of the Fourth Constitutional Government aims to grant pensions to the Aged, the Disabled and other vulnerable layers of the Timor population.

The support allowance, which this statute refers to, consists in a sum of money paid from the State Budget to meet the basic needs of the Aged and the Disabled living in East Timor.

According to this statute, the support allowance cannot be added up to other sums of money paid for social protection from the State Budget to the same beneficiary, which have a permanent nature and whose amount is higher than the amount of that one, whether they arise from the contributory regimes of social security system or from the non-contributory ones.

This statute also defines the criteria involving the allowance grant, its amount and the possibility of this one's revision, the procedure ruling the application supporting documents, the decision and the decision impugnation, as well as the role of the organ in charge for the processing.

Consultations with the concerned departments have been undertaken, due to the needed coordination between the ministry with jurisdiction over social protection and those with jurisdiction over health, finance and state administration, with regard to the issuance of medical certificates, the payment process and the creation of branches for the responsible entity, respectively.

Thus,

In terms of Section 115, paragraph j) and Section 116, paragraph d) of the Constitution of the Republic, the Government decrees, to be applicable as a law, the following:

CHAPTER 1

GENERAL PROVISIONS

Section 1 Object and Nature

1. This statute defines and regulates a support allowance for the Aged and the Disabled, briefly called as support allowance, which aims to meet the basic needs of those target groups.

2. The support allowance is a flat sum of money paid on a periodic basis.

Section 2 General principles

1. The grant of the support allowance is ruled by the principles of objectivity, transparency, equality and legal certainty.

2. The grant of the allowance shall take into consideration the special needs and the lack of money of the candidate.

Section 3 Legal definitions

This statute lays down the following definitions:

- a) "Community leaders", the parish/suco chiefs;
- b) "Beneficiary", the one who is entitled to the support allowance;
- c) "Candidate", the one who comes up in the application for the support allowance in that capacity, as long as there is no final decision;
- d) "Paying entity", the public or private body which performs the task of paying the support allowance, in accordance with the beneficiary's option;
- e) "Responsible entity", the specialized organ of the ministry with jurisdiction over social protection;
- f) "Aged", Age 60 and up;
- g) "Total impairment", inability to perform any kind of work activity, taking into consideration the physical, sensory or mental capabilities, the health condition, the age, the professional skills and the remaining work ability;
- h) "Permanent impairment", inability to work which is expected to last until the moment when people are entitled to apply for the support allowance for age-related grounds;
- i) "Social solidarity institution", a public or private, non-profit legal entity approved by the ministry with jurisdiction over social protection in accordance with the applicable law, and whose purpose of activity is to provide services to the Aged and the Disabled;
- j) "Disabled", a person wearing a mental or physical condition of any origin which implies a total and permanent inability to work;
- k) "Social protection allowance", a sum of money granted by the social solidarity institutions or the public administration services to those who, accordingly to the applicable plan, scheme, regulation or regime, are deemed as benefit holders;
- l) "Periodic grant", a sum of money regularly put at the beneficiary's disposal by the responsible entity;
- m) "Grant unduly paid", a sum of money paid without a legal basis or a legitimate title on the receiver's side;

n) "Applicant", the one who fills out and delivers the application form for the support allowance at the responsible entity's branches.

CHAPTER 2 ON THE SUPPORT ALLOWANCE

Section 4 Personal scope of application

The Aged and the Disabled Timorese citizens who live in East Timor and meet the requirements laid down in this statute are entitled to the support allowance.

Section 5 Eligibility requirements for the support allowance as to a senior citizen

In order to be eligible for the support allowance, every senior applicant shall meet the following requirements as a whole:

- a) To be a Timorese citizen;
- b) To live in East Timor's territory for a period of at least one year before the date the allowance application is entered;
- c) To be at age 60 or above.

Section 6 Eligibility requirements for the support allowance as to a disabled citizen

1. In order to be eligible for the support allowance, every disabled applicant shall meet the following requirements as a whole:

- a) To be a Timorese citizen;
- b) To live in East Timor's territory for a period of at least one year before the date the allowance application is entered;
- c) To be at age 18 or above;
- d) To wear a mental or physical condition of any origin that implies a total and permanent inability to work.

2. The acknowledgement of the applicant's inability to work shall take into account the medical knowledge and resources available in the country.

3. The inability to work is weighted up according to the physical, sensory and mental capabilities, the age, the professional skills and the remaining work ability of the candidates.

Section 7 General eligibility requirements for the support allowance

In order to be eligible for the support allowance, every applicant shall also meet the following requirements as a whole:

- a) To allow the responsible entity to disclose and access the relevant information needed to make him or her eligible for the support allowance, namely advertising those data at the local community level

and checking out that information with other state entities;

b) To duly fill out the application form for the support allowance;

c) To provide any documentary evidence requested by the responsible entity, in terms of this statute.

Section 8

The support allowance amount

1. The amount of the support allowance may be modified by joint regulation of the members of Government with jurisdiction over social protection and finance.

2. The amount of the support allowance shall not exceed one third of the minimum wage accorded for the current year to civil service employees and shall not be lower than the previous one.

Section 9

Non-accumulative benefits

1. The support allowance cannot be added up to other sums of money paid for social protection from the State Budget to the same beneficiary, which have a permanent nature and whose amount is higher than the amount of that one, whether they arise from the contributory regimes of social security system or from the non-contributory ones.

2. Whenever the beneficiary is entitled to any other social protection allowance which has a permanent nature and whose amount is higher than the support allowance one, he or she shall apply for before the deadline stated in the applicable regulation.

3. Each beneficiary is entitled to just one support allowance, though he or she meets the eligibility requirements foreseen under both Sections 5 and 6.

4. In this case, the applicant's age shall prevail.

5. The responsible entity shall convert the allowance entitlement when the disabled beneficiary turns 60.

Section 10

The entitlement acquisition

The support allowance entitlement is acquired from the month subsequent to the one in which the application was received, provided that all its supporting documents have been delivered in terms of Section 18, no 2 and the eligibility requirements pursuant to this statute have been met.

Section 11

The entitlement suspension and resumption

1. The support allowance entitlement is suspended when the following events occurred:

a) Non-compliance with the duties prescribed in Section 13, no 1, paragraph d) for a period of more than 60 days after the notification of the interested party;

b) Being the beneficiary sentenced to prison by means of a definitive court decision;

c) Being the beneficiary put into a social solidarity institution.

2. The suspension of the support allowance entitlement starts the month subsequent to the one in which the determining facts have occurred, without detriment to its resumption.

3. The payments made after the suspension should have taken place in terms of the previous number shall be deemed as unduly performed.

4. The responsible entity shall notify of the entitlement suspension within 30 working days after the determining facts have been known and, within the same deadline, shall ask for the unduly made payments to be returned.

5. In case the beneficiary does not return those payments, the responsible entity will keep the sum due after the entitlement resumption.

6. The resumption of the support allowance entitlement takes place the month subsequent to the one in which the determining facts for the suspension have ceased, and the beneficiary shall give notice thereof to the responsible entity.

Section 12

The entitlement loss

1. The support allowance entitlement ceases namely in the following cases:

a) When the beneficiary has died;

b) When the beneficiary has lost his or her Timorese citizenship;

c) When the beneficiary has moved abroad;

d) When the beneficiary's total and permanent inability to work has ceased, due to a change in his or her health condition;

e) When the deadline which is stated in Section 9, no 2 was exceeded, whether or not the beneficiary applied for any other social protection allowance;

f) When the beneficiary does not comply with the duties prescribed in Section 13, no 1, paragraph d) for a period of more than 120 days after his or her notification;

g) When the beneficiary has given inaccurate information which has made possible the support allowance has been granted or maintained to him or her.

2. The loss of the support allowance entitlement comes into effect the month subsequent to the one in which the determining facts have occurred.

3. The payments which were made after the loss of the support allowance entitlement should have taken place in terms of the previous number shall be deemed as unduly performed.

4. The responsible entity shall notify of the entitlement loss within 30 working days after the determining facts have been known and, within the same deadline, shall ask for the unduly made payments to be returned.

Section 13
The beneficiary duties

1. The support allowance beneficiaries shall comply with the following duties:

- a) To notify of their loss of Timorese citizenship;
- b) To notify of any change in address;
- c) To notify of any change in health condition which makes that their total and permanent inability to work ceases;
- d) To provide any documentary evidence requested by the responsible entity, including life certificates and medical certificate renewal;
- e) To notify that they applied for any other social protection allowance.

2. The duties prescribed in the previous number shall be complied with within 30 working days after the date on which the facts or the notification from the responsible entity have occurred.

CHAPTER 3
ON THE SUPPORT ALLOWANCE
PROCESSING

Section 14
General principles

1. The processing of the allowance application is ruled by the principles of objectivity, accessibility, procedural simplicity, celerity, impartiality, cooperation between administration and the individuals, and efficiency, taking into consideration the country's administrative reality.

2. The access to the responsible entity for the processing is assured for applicants, in terms of Subchapter 3 below.

3. The verification of the criteria stated in this statute shall take into account the procedural accuracy, but without neglecting the current reality of the means within reach for most applicants.

4. The processing is carried out in one of two official languages.

Section 15
Fee exemption

The processing of the allowance applications which is regulated by this statute is exempted from any fee or tax payment.

SUBCHAPTER 1
ON THE RESPONSIBLE ENTITY

Section 16
The responsible entity

1. The ministry with jurisdiction over social protection, through its specialized organs, is the responsible entity for the administrative procedure whose purpose is to grant the allowance foreseen under this statute.

2. In order to assure the access to the services, the responsible entity shall have a branch in every district.

3. One of the responsible entity's functional responsibilities is to informally find out if the applicant or the beneficiary is entitled to any other social protection allowance.

4. In the cases foreseen under the previous number, the responsible entity shall inform the applicant or the beneficiary regarding any other social protection allowance which he or she is entitled to and shall notify the applicable entities of the situations which have arisen.

Section 17
Cooperation

1. The Government entities and the community leaders shall cooperate, in implementing this statute, with the responsible entity for the processing mentioned in the previous section.

2. The responsible entity shall promote the connection between the distinct ministries, so that the eligibility requirements for the support allowance and the conditions to keep it can be verified.

3. The community leaders shall notify the responsible entity of the situations they have become aware of which may lead to the entitlement suspension or loss, in terms of this statute.

SUBCHAPTER 2
ON THE APPLICATION

Section 18
The procedure start

1. The granting of the support allowance depends upon the submission of an application addressed to the responsible entity.

2. The application is deemed to be ready for assessment when all needed documents have been delivered.

3. The responsible organ for the processing shall explain to the applicant why and for what he or she has to obtain certain documents or statements, and may render his or her task easier by delivering him or her the appropriate forms.

4. The procedure may start at any of the responsible entity's branches, irrespective of the district where the applicant lives.

5. The responsible entity shall give the applicant a receipt confirming the delivery of the application and of the presented documents.

Section 19
The support allowance application

1. The support allowance application is presented in an appropriate form filled out and signed by the applicant.

2. The statements expressed in the application shall be based on true facts.

3. The support allowance application form shall be included in the Procedures Handbook referred to in Section 49 below.

4. The following supporting documents shall be enclosed with the support allowance application:

- a) A copy of the candidate's voter's card;
- b) A visa from his or her community leader which certifies that he or she is living in East Timor for a period of at least one year before the date the allowance application is entered.

5. Without detriment to what is prescribed in the previous number, a medical certificate confirming a total and permanent inability to work shall also be enclosed with the allowance application which is presented for disability grounds.

6. Without detriment to what is prescribed in the numbers 4 and 5 above, the following supporting documents shall also be required together with the support allowance application whenever the beneficiary is not the same person as the one who applies for the support allowance:

- a) A copy of the applicant's voter's card;
- b) A copy of a power of attorney, in case the applicant is the beneficiary's personal representative;
- c) The required documentation, in terms of Section 21 and 36 below, which enables someone to apply to and receive the allowance, in case the beneficiary has no personal representative.

7. The community leader shall issue the statements and visas referred to in this statute only when the facts they certify are true.

Section 20 **The medical certificate**

1. The disability state shall be proved by delivery of a certificate confirming a total and permanent inability to work.

2. The certificate confirming a total and permanent inability to work is issued by doctors who are registered in the ministry of health listings, according to the applicable law.

3. The certificate form mentioned in the previous number shall be included in the Procedures Handbook referred to in Section 49 below.

4. The certificate is based on a medical examination of the candidate to a pension, which may be done at any National Health Service institution in whatever district.

5. The support allowance beneficiaries shall request the renewal of the medical certificate referred to in the previous section whenever the responsible entity asks for.

Section 21 **The legitimacy to apply**

1. Those who meet the requirements prescribed in this statute as well as their personal representatives have legitimacy to apply for the support allowance.

2. The legitimacy to apply for the support allowance may also be extended to someone else, provided that a medical certificate is presented confirming that:

- a) The candidate is temporarily or permanently physically unable to go to a responsible entity branch;
- b) The candidate is mentally unable to manage his or her own being and assets.

3. In what concerns the paragraph a) of the previous number, the person who is appointed by the candidate by means of a power of attorney made before this one's community leader and signed by the candidate has legitimacy to apply for the allowance.

4. In what concerns the paragraph b) of no 2, the person who regularly assists the candidate, namely caring for him or her and performing his or her household chores, has legitimacy to apply for the allowance.

5. The assistance regularly given to the candidate is certified by written declaration signed by his or her community leader.

Section 22 **The deadline for the application processing**

The support allowance application shall be handled within one month after the date the application has been deemed to be ready for assessment, in terms of Section 18, no 2.

Section 23 **The rejection of the support allowance application**

1. In case the application has not been duly filled out or any of its required supporting documents has not been enclosed with it, the applicant shall be invited to make up for the existing flaws.

2. Without detriment to what is prescribed in the previous number, the responsible entity shall try to informally make up for the slightest flaws.

3. The support allowance application shall be rejected when the applicant, though invited to make up for the existing flaws in terms of no 1, did not manage to do so within 60 days.

4. The applications whose beneficiary or applicant is not identified or has no legitimacy to apply in terms of Section 21 shall be preliminarily rejected.

Section 24

The information verification

1. In processing the support allowance application, the responsible entity is entitled to check the veracity of the enclosed documents and of the information referred to in the application.
2. Ways to information verification include advertising the individuals' data at the local community and authority level and information check with other state authorities.

SUBCHAPTER 3 ON THE APPLICATION DECISION

Section 25 The decision

1. The decision on the support allowance granting belongs to the responsible entity for the application processing.
2. The decision shall be notified within 45 days after the date the application was deemed to be ready for assessment, in terms of Section 18, no 2.
3. In case of rejection, the decision shall be duly supported.

Section 26 The decision impugnation

1. Anyone who proves to have a direct and legitimate interest in being or not being granted the allowance is entitled to impugn the decision referred to in the previous section.
2. A legitimate interest in being or not being granted the allowance is deemed to exist whenever the impugnation request granting or rejection has an immediate, legal effect on the applicant's side or that of the person whom he or she represents.
3. A legitimate interest in being or not being granted the allowance is deemed to exist whenever the entitlement or interest upon which the impugnation is based is protected under this statute as a candidate's concrete entitlement or interest.
4. The entitlement which is granted under the previous number may be exercised, as the case may be, by means of:
 - a) A recheck;
 - b) An appeal.
5. The entitlement to impugn does not affect the entitlement to a judicial remedy.
6. Both the recheck and the appeal are lodged by means of a request stating all reasons and eventually accompanied by documentary evidence.
7. The request referred to in the previous number may be delivered at any of the responsible entity's branches, irrespective of the district where the

requester lives and shall be immediately forwarded to the organ which it is addressed to.

Section 27 The recheck

1. A recheck of the responsible entity's decision may be lodged within 30 days after announcements have been put up.
2. The recheck is addressed to the responsible entity.
3. The recheck suspends the time-limit for appeal and for judicial remedy.
4. The recheck suspends the decision effect.
5. The recheck assessment and decision has a 30-day deadline.

Section 28 The appeal

1. An appeal of the responsible entity's decision may be lodged within 30 days after announcements have been put up.
2. The appeal is addressed to the highest superior of the decision author, unless the decision-making power has been delegated or sub delegated.
3. The appeal suspends the time-limit for judicial remedy.
4. The appeal suspends the decision effect.
5. The appeal assessment and decision has a 30-day deadline.

Section 29 The affected parties' notification

Once the recheck or the appeal has been lodged, the competent organ for deciding on it may notify those who could be affected by their granting, so that they may allege within 20 days whatever they think proper on the request and its reasons.

Section 30 The intervention of the decision author

The competent organ for deciding on the appeal may ask the appealed decision author to express his or her views on the appeal within the deadline referred to in the previous section.

Section 31 The impugnation rejection

The recheck or the appeal request shall be rejected in the following cases:

- a) When the requester has no legitimacy;
- b) When the entering deadline has been exceeded;
- c) When any cause preventing the recheck or the appeal from being decided on has occurred.

Section 32
The impugnation decision

1. The competent organ for deciding on the recheck or the appeal may, without depending on the requester's demand, confirm, revoke, modify or replace the allowance decision.
2. The competent organ for deciding on the recheck or the appeal may, if needed be, totally or partially annul the administrative procedure and order the gathering of new documentary evidence and the execution of additional proceedings.
3. The supported decision shall be notified within 30 days after the recheck or the appeal.
4. In the case mentioned in no 2, the decision deadline shall be increased up to 90 days.

SUBCHAPTER 4
ON THE PENSION PAYMENT

Section 33
The payment method

1. The support allowance payment is made by direct credit straight into an account which the applicant shall identify.
2. The allowance payment may also be made by cash, in special situations which the Procedures Handbook referred to in Section 49 below shall define.

Section 34
The payment periodicity

1. The allowance is paid on a monthly basis in the cases foreseen under the previous section, no 1.
2. The allowance is paid on a quarterly basis in the cases foreseen under the previous section, no 2.

Section 35
The payment timing

1. In case there has been no recheck or appeal, the first payment shall occur once the deadlines for lodging a recheck or an appeal respectively prescribed under Section 27, no 5 and Section 28, no 5 have been reached.
2. The recheck and the appeal suspend the allowance payment until they have been decided or the deadline for deciding has been reached.
3. The first payment shall include retroactive amounts since the month subsequent to the one in which the application has been received, provided that all supporting documents have been enclosed with it.

Section 36
The legitimacy for receiving the pension

The support allowance is paid to people with legitimacy for applying in terms of Section 21 above, once their applications have been approved.

SUBCHAPTER 5
ON THE DOCUMENTATION

Section 37
Archive and database

1. The archive which is composed of forms and other relevant documents referred to in this statute is deemed to be an official archive and a state property.
2. The database which is based on the archive referred to in the previous number is also deemed to be an official database and a state property.
3. The responsible entity for the allowance processing is also competent to create and run the archive and the database referred to in the previous number.
4. The data belonging to the archive and the database are classified data and may only be used to confirm their veracity, provided that their disclosure has been allowed by the applicant for that purpose.

Section 38
The beneficiary card

1. Each beneficiary shall be granted an identification card containing his or her personal data and photo.
2. The card referred to in the previous number identifies the allowance beneficiary in any contact he or she will have with the responsible entity or the paying entity.
3. In case the beneficiary needs a representative, the identification card shall also contain his or her personal data and photo.

CHAPTER 4
ON THE STATUTE INFRINGEMENTS AND SANCTIONS

Section 39
General principles

1. Individuals shall be liable for the infringements foreseen under this statute.
2. Infringements liability foreseen under this statute shall not exclude criminal and disciplinary liability, in terms of the applicable law.

Section 40
The infringements

Violation of what is stated in Section 19, no's 2 and 7 above constitutes infringement of this statute, in case given or stated information which does not correspond to true facts has led to an unduly pension granting or maintenance.

Section 41
The sanctions

1. Infringements of this statute will be sanctioned with a fine of up to US\$ 90.

2. Infringements of this statute will also imply that all amounts unduly received as a pension shall be returned.

Section 42
The fine payment

In case money is lacking to pay a fine and the responsible entity allows to, the amounts in debt may be deducted from coming pensions or paid through light, monthly instalments.

Section 43
On the procedure toward imposing a sanction

The procedures which lead to impose a sanction are provided under a Government regulation.

Section 44
The competence to impose a sanction

The Government member with authority over social protection has competence to impose sanctions for the infringements foreseen under this statute.

CHAPTER 5
FINAL AND TEMPORARY PROVISIONS

Section 45
Special needs and lack of money

1. Specific regulation will define the criteria for assessing the candidate's special needs and lack of money as referred to in Section 2, no 2.

2. Regulation referred to in the previous number may imply the revision of decisions related to current beneficiaries, but cannot affect the entitlement to already paid grants.

Section 46
The initial pension amount

The initial support allowance amounts to US\$ 20.

Section 47
The documentary evidence

1. Until the end of 2008, and in case the applicant has no voter's card or his or hers contains any inaccuracy which may lead not to grant an allowance, the support allowance application may be accompanied by a copy of Timorese passport, of UNTAET identification card, of the registry certificate or of the certificate of baptism.

2. The documents referred to in the previous number may be replaced by a declaration of the candidate's community leader.

3. The declaration referred to in the previous number shall be reported in the application itself or in an appendix thereto.

4. The community leader's declaration is exempted from any fee or tax payment.

Section 48
The notifications

The notifications foreseen under this statute are made by means of putting up announcements in the candidate's parish/suco.

Section 49
The Procedures Handbook

This statute is complemented by a Procedures Handbook which will be approved, within a 60-day deadline after that one's approval, by joint dispatch of the members of Government with authority over state administration and planning policy, social solidarity, finance and health.

Section 50
The start of the allowance granting process

The process of granting support allowances starts until the end of 2008, and allowances referring to preceding months may be paid, in case the proportion between the number of beneficiaries and the approved budget allows it.

Section 51
Entry into force

This statute shall enter into force on the day after its publication date.

Approved by the Council of Ministers on 7 May 2008.

The Prime Minister,

Kay Rala Xanana Gusmão

The Minister for Social Solidarity,

Maria Domingas Fernandes Alves

Promulgated at the Council of Ministers on 7 May 2008.

To be published.

The President of the Republic,

José Ramos-Horta