

DEMOCRATIC REPUBLIC OF TIMOR-LESTE
GOVERNMENT

DECREE-LAW No. 03/2006

OF

**REGIME OF OCCUPATION OF SPACES AND AREAS OF THE AIRPORTS
PUBLIC DOMAIN**

With the creation of the Public Company for the Administration of Airports and Air Navigation of Timor-Leste (ANATL E.P.), bestowed with financial administrative autonomy and its own patrimony, the Government established that this public company is in charge of exploring and developing airports and air navigation infra-structures.

The spaces, areas, offices, equipment and other elements pertaining to airports and air navigation infra-structures form an integral part of the airports public domain belonging to ANATL.

Therefore, the use, occupation or practice of any activity in the fields of the airports public domain must be subject to licensing.

In this sense, the legal regime must be defined for licensing the private use of the assets of the State's public domain that belong to the patrimony of ANATL E.P., as well as the conditions for using them, taking into consideration, on the one hand, the safekeeping of the public interest and, on the other hand, the pursue of the objectives defined by the Government as regards air transport.

Therefore, the Government decrees, under the terms of paragraph k) of no. 1 of article 115 and paragraph d) of article 116, of the Constitution of the Republic, to be effective as law, the following:

CHAPTER I

General provisions

Article 1

Scope

The present document applies to the occupation of land, buildings and other installations of the airports public domain, and to the practice of any activity in the area of national airports and aerodromes.

Article 2

Airports public domain

The land, buildings and other immovable assets destined as support installations for civil aviation in national airports and aerodromes are an integral part of the airports public domain.

Article 3

Use of the airports public domain

1. The private use, for any purpose, of spaces, areas, land, buildings, offices or any other installations, as well as the practice of any activity in national airports and aerodromes, are subject to licensing by the entity in charge of their management and/or exploration.
2. Fees are due for the private use of land, buildings or installations of the airports public domain, as well as for the practice of any activity in the spaces within the area of the national airports and aerodromes.
3. The licensing of aircraft handling shall be the subject of special regulations.
4. The development plan and private use of spaces of the airports public domain shall be approved by the Council of Ministers under proposal of the incumbent Ministry.

CHAPTER II

Licensing regime

Article 4

Licensing

Licensing for the private use of land, buildings or installations of the airports public domain or in the spaces within the area of the national airports and aerodromes falls upon the Administration of Airports and Air Navigation of Timor-Leste, E.P., herein after referred to as ANATL E.P., which is in charge of the administration and exploration of national airports and aerodromes.

Article 5

Licenses

1. The granting of licenses shall, as a rule, be preceded by a public competition to choose the best proposals as far as ANATL E.P.'s financial interest and the public interest of airports exploration are concerned.
2. Regardless of the competition, licenses will be granted regarding the occupation and the use of:

- a) Land, buildings, offices, installations and other sites destined for the practice of activities that are directly and immediately related to supporting the departure and arrival of aircrafts, as well as to the boarding, landing and handling of passengers, cargo or post;
- b) Land, buildings, offices, installations and other sites destined for the practice of activities of supplying fuel and lubricants, and of supplying, repairing and maintaining aircrafts and others of an identical nature;
- c) Land, buildings, offices, installations and other sites designed for public services;
- d) Land, buildings, offices, installations and other sites designed for entities who carry out activities that are recognised as being of public interest;
- e) Sites designed for publicity purposes through affixation of public notices, for installing automatic machines and for other activities and equipment of an identical nature;
- f) Sites with an area of less than 10m², regardless of the purpose they are designed for.

Article 6

Exemption from competition

Carrying out a public competition may be dispensed with through a grounded decision made by ANATL E.P., namely when:

- a) The last competition carried out for the same purpose had no candidates or when the proposals received were considered unacceptable;
- b) The land, buildings and installations to be licensed are designed for activities that are complementary to or extensions of others that have already been the object of previous licensing;
- c) The land, buildings and installations to be licensed are designed for activities that are already being carried out and it is clearly **convenient** for the commercial exploration of the airport to simultaneously have several entities licensed for the same purpose;
- d) Land, buildings and installations, the importance or urgency of which render submission to a competition inconvenient.

Article 7

Admission to the competition

1. ANATL E.P. will make known the conditions for being admitted to the competition, by way of a notice published in two of the top-selling newspapers or with the highest national expression in Timor-Leste.

2. The programme of the competition will establish the selection criteria that are to be used according to their importance or, if necessary, the score given to each one of them.

Article 8

Form and contents of the license

Licenses are written in both official languages of Timor-Leste and must mandatorily include:

- a) The applicant's identity;
- b) The land, buildings and installations that are the object of licensing;
- c) The purpose or activity for which the license is destined;
- d) The amount of the fee to be paid monthly for the license;
- e) The duration of the license;
- f) Any other specific conditions of the licensing, namely those relating to possible compensation resulting from the return, to ANATL E.P., of buildings and equipment that are inseparable from the land and installations that are the object of licensing.

Article 9

Duration of the licenses

1. Licenses are granted for a definite period up to the maximum limit of three years.
2. Licenses may be granted for up to 15 years when involving investments to be carried out by their holders in the construction and/or improvement of buildings, installations and/or acquisition of equipment whose payment justifies a period longer than three years.
3. The licenses mentioned in the previous articles may be successively extended if ANATL E.P. so authorizes and if the respective holders, until 90 days prior to the end of the period in force, apply for an extension.
4. The licenses destined for the installation of public services are not subject to time limits.

Article 10

Form of exercise

Licensed activities should be exercised in a continued manner and without interruptions, with exception of those interruptions that result from the very nature and function of the specific activity or in case of accident or unforeseeable circumstances.

Article 11

Restrictions

1. Holders of licenses may not construct, build upon or modify the land, buildings and installations that are the object of their licenses without previous written authorization by ANATL E.P., to whom they must hand over a written plan and the construction plan, as well as the conditions and deadlines for carrying out the work.
2. ANATL E.P. may condition the authorization of the plan to the introduction of duly justified changes that are deemed necessary in light of the interest of airports exploration and safety.
3. ANATL E.P. and its agents are in charge of supervising the execution of the approved construction plan.

Article 12

Responsibility

1. Holders of licenses are responsible for the conservation and safety of the licensed land, buildings and installations and of other assets entrusted to them, and for all the damage and changes caused upon them which cannot be imputed to the normal wear caused by their use.
2. ANATL E.P. considers the holders of licenses accountable also for their staff's actions and omissions, occurring in the exercise of their respective functions, which cause damage to the airports and their installations or to their performance.
3. Holders of licenses must inform ANATL E.P. immediately, in writing, of all the facts or actions of third parties that constitute a threat or violation of their rights.

Article 13

Inspection and supervision

1. The licensed sites and installations and other assets entrusted to holders of licenses, as well as the practice of their own activity, are subject to inspection and supervision by ANATL E.P., to whom access and cooperation cannot be denied.
2. Holders of licenses are subject to the inspection and supervision by customs, police and safety services in airports.
3. In the area of the airports, holders of licenses and their staff are subject to all the identity rules and controls or to others established by the competent entities.

Article 14

Intransmissibility

1. Unless ANATL E.P. expressly authorizes to do so, the rights and duties bestowed upon the holders of licenses, as well as the work they have carried out, may not, in any manner, be transferred to third parties.

2. Without prejudice of what is established in the previous number, transmission by death of the license holder is allowed, but ANATL E.P. may overturn the license if the inheritance remains undivided for more than 120 days or if, within 30 days from the day the heir is informed, he or she does not possess the capacity and idoneity that were the grounds for granting the license.
3. Violation of what is established in no. 1 causes the annulment of the act of transmission.

Article 15

Prohibition to constitute guarantees

1. The rights stemming from the granted licenses, as well as the constructions made by their holders, cannot be the object of guarantee or seizure, mortgage or any other similar injunction without the previous authorization of ANATL E.P., which is meant to check the existence of the requisites of capacity and idoneity of the beneficiary of the guarantee, seizure or mortgage.
2. Violation of what is established in the previous number brings about the annulment of the constitution of a mortgage, seizure or any other guarantee, without prejudice of other sanctions that may apply to the case.

Article 16

Revocation

1. Granted licenses may be revoked, at any moment, fully or partially, based on the public interest of airports exploration.
2. In the case of revocation, and unless the contrary is expressly agreed upon, holders of licenses are reimbursed for the expenses that not yet been paid in full and which represent investments in assets that are inseparable from the land or the installations that were the object of licensing.
3. Extending the period of a license under the terms of no. 2 of article 9 extinguishes the duty to reimburse all the investments made during the period in question.

Article 17

Reduction of the area or change of location

1. Whenever the public interest of airports exploration so requires, ANATL E.P. may determine a reduction in the area of the land, buildings and installations that are the object of licensing, or a change of their location.
2. Within 15 days from the date on which ANATL E.P.'s decision is communicated to the respective license holders, these may waive their rights or proceed with their activity by means of a revision of their fee.
3. In either of the cases mentioned in the previous number, the license holders are entitled to reimbursement under the terms of no. 2 of article 16.

Article 18

Suspension or cancellation

1. In the case of non-compliance with any of the conditions of the licenses on behalf of their holders, ANATL E.P. may determine the suspension or cancellation of such licenses.
2. In the case of cancellation, the installations or assets that, by law or agreement, are subject to that regime as established in the respective license will be gratuitously returned to ANATL E.P.

Article 19

Reversion

1. When the license period is over, ANATL E.P. succeeds immediately as holder of all the assets that cannot be separated from the installations, buildings or occupied land, without prejudice of the expired license holders' duty to deliver these in their original state.
2. The reversion mentioned in the previous number is gratuitous and free of any other formalities.

CHAPTER III

Fees

Article 20

Occupation and exploration fees

1. An occupation fee is charged for the private use, for any purpose, of land, buildings, installations or other areas of national airports and aerodromes.
2. Regarding the minimum areas necessary for their installation, the State public services installed in the area under the jurisdiction of airports and aerodromes are exempt from occupation fees.
3. An exploration fee is charged for the practice of any commercial activity in those national airports and aerodromes that do not charge aeronautical fees, and will be calculated according to the amount of business carried out by applying a percentages value.
4. The regime, amount and manner of charging the occupation and exploration fees mentioned in this document are established in a specific document.

CHAPTER IV

Final provisions

Article 21

Transitional regime

The entities that, on the day the present document comes into force, are authorized, in any manner, to carry out commercial activities in national airports and aerodromes, must apply to the airports management body for the issuance of a license within ninety days of the entry into force of this document, under penalty of the automatic expiry of the existing precarious authorizations, contracts or licenses.

Article 22

Revocatory rule

The laws and regulations covered by the present document that were received in the internal legal order under the terms of article 165 of the Constitution are hereby revoked.

Article 23

Entry into force

1. The principles and rules consigned in the present document are applicable to all the occupations and activities practiced in the area of public airports and aerodromes, regardless of the date of their respective license, occupation or activity exploration, even if they are only precarious.
2. The present document comes into force 90 days after its publication

Approved by the Council of Ministers on October 20, 2005

The Prime Minister,

(Mari Bim Amude Alkatiri)

The Minister of Transportation and Communication

(Ovídio de Jesus Amaral)

Promulgated on February 3, 2006

To be published.

The President of the Republic

(Kay Rala Xanana-Gusmão)