

DECREE-LAW no. 3/2012

of 15th December

**Regulation governing Training for
New Registrars and Notaries**

The present regulation proceeds to define the rules and conditions to which the competition to enter the special career of registrars and notaries and their respective training is subject.

Entrance into the special career of registrar and notary depends on approval by way of public recruitment competition and the obligation to attend specific training, thus ensuring that such notaries and registrars are duly qualified, have the appropriate technical knowledge and proper ethical preparation, essential to the performance of their duties, with the necessary autonomy and technical independence.

The empowerment and training of notaries and registrars is also an essential condition for the implementation and operation of registration and notary services. This is due to the special responsibilities of the duties these professionals must fulfil, namely as an instrument of safety of extrajudicial relations and as an instrument to reduce social conflict.

Thus, the Government hereby decrees that the following shall be considered law under the terms of the provisions set out in sub-paragraph p) of paragraph 1 of article 115 of the Constitution of the Republic.

CHAPTER I

GENERAL PROVISIONS

Article 1

Object

1. The present diploma shall regulate the competition for the recruitment and training of new registrars and notaries.

2. Regarding the competition, selection and recruitment, and everything that is not specifically regulated in the present diploma, the provisions of the general regime shall apply.

CHAPTER II

**COMPETITION FOR ENTRANCE
AND RECRUITMENT IN THE
SPECIAL CAREER**

Section I

**Competition, jury and selection
method**

Article 2

Recruitment Competition

1. Filling positions in the special career of notaries and registrars shall be undertaken by way of public recruitment competitions.

2. The applicants approved within the scope of the aforementioned competition shall be summoned to attend a training course for entrance into the special career of notaries and registrars, depending on the existing vacancies and the classification obtained, under the terms of the provisions set out in the present regulation.

Article 3

Entrance Requirements

Entrance requirements to the recruitment competition for the special career of notaries and registrars shall be as follows:

- a) To have obtained a degree in law;
- b) To have both written and oral knowledge of Portuguese and Tetum;
- c) To have the other general requirements for access to a public administration position.

Article 4

Powers to authorise the holding of recruitment competitions

The powers to authorise the holding of a recruitment competition for the special career of notaries and registrars shall be in the hands of the Civil Service Commission, this commission being in a position to, in general terms, delegate to the member of Government responsible for the area of Justice.

Article 5

Jury

1. The jury of the recruitment competition shall be responsible for taking all the measures required for the competition from the date it is to be held to the drawing up of the final classification list.

2. Notwithstanding the provisions set out in paragraph no. 1 above, the jury may request that the Legal Training Centre provide the necessary support for the holding of the recruitment competition, notably drafting and correcting the knowledge tests and conducting the interviews.

3. The recruitment competition jury shall consist of three full members and three replacements appointed by the body with the powers to authorise that the recruitment competition be held at the proposal of the member of government responsible for the area of Justice.

4. At the same act the President and the member who shall replace him in his absence or when otherwise engaged shall be appointed.

5. The members of the jury shall have a university degree in law and shall be chosen, whenever possible, from among notaries and registrars.

Article 6

Selection methods

In the recruitment competition for the entrance into the special career, the following methods of an eliminatory nature shall be used:

- a) Knowledge test;
- b) Professional selection interview.

Article 7

Knowledge Test

1. The purpose of the knowledge test shall be to assess the legal and linguistic knowledge of the applicants required for the performance of their duties as notaries and registrars.

2. The knowledge test shall be a written test covering theory and practice and shall be divided into two examinations which shall consist of:

- a) Solving practical questions related to constitutional law and administrative law;
- b) Solving practical questions on civil law and corporate law and a topic to be developed in writing on corporate law or civil law.

3. The examinations referred to in paragraph 2 above shall last for three hours and 30 minutes each examination, and shall be sat on two different days.

4. The knowledge test shall be assessed, preserving the anonymity of the candidates and classified on a scale from 0 to 20, in consideration of the linguistic and legal knowledge shown.

5. The candidates may avail themselves of the legislation indicated for such purpose on the recruitment competition notice.

6. Those candidates obtaining a minimum average arithmetic mark of 10 from both examinations comprising the knowledge test shall be admitted to the professional selection interview.

Article 8

Professional selection interview

1. The professional selection interview shall last for no longer than 60 minutes, and is aimed at assessing in an interpersonal, objective and systematic manner:

- a) The professional and personal skills of the candidate;
- b) Notions of ethics and code of conduct;
- c) Extent of knowledge of the official languages;
- d) Extent of knowledge of civil law and corporate law;
- e) The candidate's personal reason for wanting to enter the special career.

2. The candidate shall be assessed on a scale of 0 to 20.

Article 9

Final Classification

The final classification of the recruitment competition shall correspond to the arithmetical average of the classifications obtained in the knowledge test and the professional selection interview.

Section II

Procedure

Article 10

Recruitment competition notice

The recruitment competition shall be opened by way of the publication of the competition notice in general terms, which shall include the following elements:

- a) The number of candidates to be admitted;
- b) The general and specific requirements to be admitted in the competition;

c) The body, place and delivery date, form of submission of applications and official documents required;

d) The selection methods, their eliminatory nature and the indication of their phases;

e) The composition and identification of the jury;

f) Date and place on which the knowledge test shall be held;

g) Indication of the nature, form and duration of the tests and legislation required for them to be held;

h) Indication of the assessment and weighting criteria of the selection methods, as well as the final classification system, including the corresponding form of classification;

i) Form of publishing the list of the final order of the candidates.

Article 11

Submission of documents

1. The documents submitted by the candidate shall be proof that the necessary legal requirements have been met for recruitment.

2. Academic and professional qualifications shall be proven by way of a photocopy of the corresponding certificate or other reliable document, legally recognised for that purpose.

3. The certificate of qualifications shall include a description of the subjects taken in the university course and the corresponding classification or, alternatively, the curricular plan of the respective course, duly recognised by the Ministry of Education.

4. The documents referred to in this article shall be previously translated into one of the official languages, under the terms of notary legislation, if they have been drawn up in a foreign language.

Article 12

Appraisal of the applications

1. Once the deadline for the submission of applications has elapsed, the jury shall, within the following ten working days, verify the information submitted by the candidates, namely whether the legal requirements have been met and the documents required for their admission have been submitted.
2. In the event there is no case for exclusion of any candidate in the five working days following the conclusion of the procedure set out in paragraph one above, the candidates shall be summoned and the procedure regarding the use of the selection methods shall commence.
3. In the event any candidates have been excluded, they shall be notified within the five working days following the conclusion of the procedure set out in paragraph 2 above, in order to express their opinion.
4. The notification referred to in the above paragraphs shall be undertaken individually by way of sending a letter with a copy of the list, or by any other reliable means.

Article 13

Notification of accepted candidates and use of the selection methods

1. Each accepted candidate shall be summoned, within a time limit of five working days, to take the knowledge test by way of individual notification, indicating the place, date and time at which such test shall take place.
2. Candidates approved in the knowledge test shall be notified individually, by any reliable means, for the professional selection interview.

Article 14

Publishing of the results of the selection methods

1. The publishing of the results obtained through each interim selection method shall be effected by way of a list, in alphabetical order, displayed in a visible and public place on the premises of the Legal Training Centre.
2. The candidates approved in the knowledge tests shall be summoned individually to the interview, being sent a letter including a copy of the list, or by any other reliable means.

Article 15

Final classification list

1. The final order of the candidates who complete the procedure shall be undertaken according to the classification scale from 0 to 20, as a result of the weighted arithmetical average of the quantitative classifications obtained at each selection method.
2. The final classification list shall be drawn up within a time limit of 10 working days after the last selection method is held.
3. The final classification list shall be displayed in the Legal Training Centre, each one of the candidates being individually notified by letter with a copy of the list or by any other suitable means.

Article 16

Admitted to training

1. Those candidates who obtain a minimum average classification of 10 in the knowledge test and professional selection interview shall be admitted to the training course.
2. The approved candidates shall be placed in descending order in accordance with their respective classifications, the better classified

candidates being admitted to the training course until the vacancies announced on the recruitment competition notice have been filled.

Article 17

Complaints

Complaints regarding the exclusion to the competition, classifications obtained at each selection method and the final classification shall be addressed to the jury within a time limit of five working days after the corresponding notification, within the scope of the general terms.

Section III

Filling positions in the special career

Article 18

Appointment

1. The candidates to registrars and notaries admitted to the training course under the terms of article 16 shall be contracted as trainee registrars and notaries.
2. Trainee registrars and notaries approved in the training course referred to in paragraph 1 above shall be placed in the special career of notaries and registrars in the category of probationary registrars and notaries, depending on the classification obtained in such course and on the existing vacancies, under the regime of provisional appointment for the period of one year.
3. At the end of the period referred to in paragraph 2 above, probationary registrars and notaries shall be definitively appointed or exonerated, depending on whether or not they have shown an aptitude for the performance of such duties.

CHAPTER III

TRAINING IN REGISTRATION AND NOTARY SERVICES

Section I

General Provisions

Article 19

Training components

The training course on registration and notary services shall be of a theoretical and practical nature, consisting of:

- a) General theory;
- b) Specific theory;
- c) Probationary period.

Article 20

Coordination of the training course

1. The theory shall be coordinated by the Legal Training Centre in articulation with the National Directorate of Registration and Notary Services.
2. The probationary period shall be coordinated by the National Directorate of Registration and Notary Services in articulation with the Legal Training Centre.
3. For the theoretical and probationary phases an official shall be appointed for their corresponding pedagogic coordination by the member of government responsible for the area of Justice, these powers however may be delegated to the National Director of the Legal Training Centre and the National Director for Registration and Notary Services, respectively.

Article 21

Training programme

The training programme shall be approved, in any of the phases, by the competent body of the Legal Training Centre, and shall consist of:

- a) The subjects of the course and training modules;

- b) Place of training;
- c) Evaluation and corresponding development factors;
- d) Timetable;
- e) Description of duties.

Section II

Theoretical phases

Article 22

Objectives of the training course

1. The training course in registration and notary services aims at promoting the development of the candidates' skills through learning contents and topics concerning the performance of the duties of registrars and notaries.
2. The specific objectives of the training course in registration and notary services are, notably:
 - a) To deepen and update the knowledge acquired during the candidates' university courses applied to registration and notary legislation;
 - b) To provide trainees with the necessary technical and ethical knowledge;
 - c) To strengthen trainees' skills in the use of the official languages.

Article 23

Impediments of trainees

Trainee registrars and notaries shall be forbidden to practise or intervene in registration or notary acts.

Article 24

Phases and duration of theoretical training

1. The theoretical training component shall consist of:
 - a) a general theoretical phase with a duration of 12 months;
 - b) a specific theoretical phase with a duration of 6 months.

2. Theoretical training may be reduced to a specific theoretical phase of no less than 12 months by order of the member of government responsible for the area of Justice.

Article 25

Trainers

1. Trainers shall generally be recruited from among registrars, notaries and teachers of law, other jurists of recognised merit and officials from other public or private bodies.
2. The trainers shall be responsible for:
 - a) Guiding the classes;
 - b) collaborating in the drafting of the programme and support texts in the subjects they are responsible for.

Article 26

Assessment

1. At the end of each one of the theoretical training phases the trainees shall be assessed by the trainers and classified on a scale from 0 to 20, in accordance with the training plan.
2. The trainees may be dispensed from assessment in complementary subjects, seminars, conferences or debates.
3. In the classification of the trainees in each discipline or training module, the following factors shall be taken into account, namely:
 - a) Tests, examinations, oral and/or written work;
 - b) Classroom participation and interest shown for the subject;
 - c) Ability to expressly themselves orally and in writing and the effort made to improve this ability;
 - d) Attendance and punctuality.
4. The trainee who obtains a classification of less than 10 at the end of any of the theoretical training phases

shall be excluded from the following phase.

5. The classification of each phase shall be organised in a list drawn up in descending order in accordance with the value obtained by each trainee and subject to the approval of the Pedagogic and Disciplinary Council.

Article 27

Attendance

1. The trainees shall be under the duty to attend and be punctual and their absences must be justified.

2. Trainers shall control presences by way of signed attendance sheets collected immediately after the beginning and before the end of each class, seminar, conference or debate or of each day of performance of their duties.

3. The National Director of the Training Centre shall, after having heard the trainer, depending on the cases, decide on whether the absences can be considered justified and may delegate this power to the trainers.

4. Justified absences, when they represent more than 20%, and unjustified absences, when they represent no more than 5%, of the total number of hours of the general theoretical phase, are one of the trainees' assessment factors and may determine whether they pass the training course or not.

5. Unjustified absences of a number equal to or higher than 5% of the total number of hours of the general theoretical phase shall determine the termination of training under the terms of article 30 and the return of the amount received as a scholarship under the terms of article 32.

6. Justified absences of a number higher than 10% and unjustified absences of a number of no higher than 3% of the

total number of hours of the specific theoretical phase shall constitute one of the trainees' assessment factors and may determine whether they pass the training course or not.

7. Unjustified absences of a number equal to or higher than 3% of the total number of hours of the specific theoretical phase shall determine the termination of training under the terms of article 30 and the return of the amount received as a scholarship under the terms of article 32.

8. The training programme may specify a number of absences different from the number referred to in the previous paragraphs for assessment purposes in each curricular unit, by taking into consideration their importance in relation to the training.

Article 28

Holidays

1. During the period of theoretical training, holidays shall be taken in accordance with the approved training plan and the academic calendar of the Legal Training Centre.

2. The holiday period shall not interrupt the training.

Article 29

Contractual regime

1. During the theoretical training phases the trainees shall not be contractually bound to Public Administration as they are contracted under the scope of a scholarship contract from the Ministry of Justice.

2. The contractual clauses, as well as the monthly amount to be assigned to the scholarship shall be defined by joint order of the members of government responsible for the areas of Justice and Finance, once the Civil Service Commission has been heard.

Article 30

Disciplinary regime

1. The disciplinary regime of the Legal Training Centre and, subsidiarily, the disciplinary regime of Public Administration employees or agents shall apply to the trainees of registration and notary services.
2. The National Director of the Legal Training Centre shall be responsible for assessing disciplinary responsibility and applying disciplinary sanctions.
3. Notwithstanding the provisions set out in paragraph 2 above, the application of sanctions which determine the definitive exclusion of trainees shall be of the responsibility of the Pedagogic and Disciplinary Council.

Article 31

Exclusion from training

1. Exclusion from training may be determined by deliberation of the Pedagogic and Disciplinary Council at the proposal of the National Director of the Legal Training Centre, when the trainee reveals obvious disinterest in or behaviour incompatible with the dignity of the duties of a notary or registrar.
2. Before excluding the trainee, the Pedagogic and Disciplinary Council shall proceed to hear such trainee.

Article 32

Withdrawal

1. The trainee may request to the National Director of the Legal Training Centre to withdraw from attending training, such request being submitted to the deliberation of the Pedagogic and Disciplinary Council.
2. Aware of the reasons presented in the request to withdraw and of other pertinent circumstances, the Pedagogic and Disciplinary Council may exceptionally authorise the trainee withdrawing to attend the course

immediately following the one he has withdrawn from, upon assessment by way of a written test of the level appropriate to such trainee.

Article 33

Return of the grant

The trainee excluded from training or who has unjustifiably withdrawn from training shall undertake to return to the State the full amount received under the form of a scholarship.

Article 34

Classification list

Once the theoretical training has finished, the trainees who have passed shall enter their respective special career in the category of probationary registrars or notaries by way of their classification in descending order, resulting from the arithmetical average of the classifications obtained in the theoretical phases.

Article 35

Validity of the pass in the training course

The pass in the training course shall be valid for six months as of the date of publication of the classification list.

Section III

Probationary period

Article 36

Duration

Once trainee registrars and notaries have successfully passed the theoretical training, they shall enter the special career and shall be admitted to undergo a probationary period with a duration of 12 months, under the guidance of trainer registrars and notaries.

Article 37

Nature and objectives

The probationary period aims at providing trainees with suitable training, especially of a practical nature, in the performance of the duties of registrars and notaries, geared mainly towards:

- a) The deepening and application of the knowledge acquired in the theoretical training phase and addressing the specific duties of a registrar or notary;
- b) The enhancement of the trainee's sense of responsibility and his ability to ponder and take decisions;
- c) Filling the gaps detected in terms of legal training and that prove to be relevant for the performance of his duties.

Article 38

Monitors

1. Monitors shall be appointed from among the registrars and notaries at the proposal of the National Director of Registration and Notary Services.
2. the monitors shall be responsible for:
 - a) Guiding the probationary period;
 - b) Collaborating in the drafting of the programme for this period;
 - c) Undertaking any other acts set out in the present diploma.

Article 39

The location of the probationary period

1. The probationary period of registration and notary services shall take place at registry offices and notary offices, in accordance with the approved plans.
2. The probationary period shall be held in countries with a total or partial civil law system, under the terms of the protocol to be established between the

Ministry of Justice and its counterpart bodies in other countries.

Article 40

Placement of probationary registrars and notaries

1. Within 10 days as of the date of publication of the classification list referred to in article 33, the trainees who have successfully passed the theoretical phases shall indicate in order of preference which career and registry office or notary office they would like to be placed at.
2. The member of government responsible for the area of Justice, at the proposal of the Director of Registration and Notary Services shall draw up the placement proposal of the trainees, always taking into account the preferences they have shown.
3. In the event of a coincidence in the choice of placement, the trainee with the better arithmetical average in the final classification obtained in the theoretical training phases shall have priority.
4. The proposed placement of the probationary registrars and notaries shall be sent to the Civil Service Commission for appointment purposes.

Article 41

Acts of probationary registrars and notaries

1. Probationary registrars and notaries shall carry out the tasks which are given to them and shall proceed to study issues of a theoretical nature indicated to them by their monitor.
2. The probationary registrars and notaries may be authorised to intervene in notary or registration acts by the Director of the Registration and Notary Services.
3. The authorisation referred to in paragraph 2 above shall be limited to

those acts practised in the service where the probationary registrar or notary has been placed.

Article 42

Regime of probationary period

Probationary registrars and notaries shall be subject to the Statutes governing the Special Career of Registrars and Notaries and to the general regime applicable to Public Administration employees.

Article 43

Assessment

1. In the classification of the probationary registrar or notary the following factors shall be taken into account, namely;

- a) Language skills;
- b) Performance
- c) Ability demonstrated to perform the duties of notary or registrar.

2. Probationary registrars and notaries who obtain an average mark equal to or higher than 10 shall be considered apt.

3. At the end of the probationary period, the probationary registrar and notary shall draw up a final report on the activities undertaken throughout such period.

4. The report shall be accompanied by photocopies of the main legal acts drawn up by the trainee.

5. The report on the probationary period shall be accompanied by information from the monitor on the probationary registrar or notary's aptitude to perform the duties proposed, taking into account the assessment criteria as set out in paragraph 1 above, as well as:

- a) The conduct of the probationary registrar and notary when performing his duties;
- b) His relationship with other colleagues and with the public;

c) His zeal and respect for the code of ethics shown throughout the probationary period.

Article 44

Confirmation of the results

The member of government responsible for the area of Justice shall be responsible for confirming the results of the assessment of the probationary period, such power may be delegated by him to the National Director of Registration and Notary Services.

Article 45

Final list

1. Once the results of the assessment had been confirmed a list containing the arithmetical average of the assessments of the theoretical phases and probationary period shall be drawn up and shall mention the mark and name of the trainees who are apt and inapt to perform such duties.

2. The classification list shall be displayed in the Legal Training Centre.

Article 46

Exclusion of probationary registrars and notaries

Those probationary registrars and notaries considered inapt shall be excluded from the career by the Civil Service Commission, based on the corresponding assessment reports.

Article 47

Training Certificate

1. The trainees who have successfully passed shall receive a training certificate issued by the Legal Training Centre.

2. The certificate referred to in the paragraph above shall refer to the institution, the training, final assessment mark and name, nationality and date of birth.

CHAPTER IV
EXCEPTIONAL REGIME

Article 48

Access to training

1. Civil servants and Public Administration agents who have graduated in law, placed in the services of the Ministry of Justice, may access the first training course.
2. The present exceptional regime shall comply with the training plans approved by the Pedagogic and Disciplinary Council.

Article 49

Attendance regime

1. Civil servants and Public Administration agents when they attend the training course as trainee registrars and notaries on study leave, with effects as of the date of the onset of the training course.
2. The leave referred to in paragraph 1 above shall be made official by way of an application to the member of government responsible for the area of Justice submitted within a time limit of ten days from the publication of the present diploma.
3. During the training course referred to in paragraph 2 above, the trainees shall be bound to the Ministry of Justice by way of a scholarship agreement.

Article 50

Payment to trainees

During the theoretical phases the trainees shall receive a scholarship in accordance with the salary of their category.

Article 51

Inapt trainees

Trainees and probationary registrars and notaries considered inapt shall return to their original post, by way of authorisation of the Civil Service Commission, at the proposal of the Director of Registration and Notary services.

Article 52

Withdrawal

Trainees may withdraw from the training course under the terms of the present diploma.

CHAPTER V

TRANSITIONAL AND FINAL PROVISIONS

Article 53

Expenses

Any expenses resulting from the application of the present diploma shall be borne by the State Budget and other revenues allocated to this purpose under the terms of the cooperation agreements entered into by the Ministry of Justice.

Article 54

Entry into force

1. The present diploma shall produce effects as of the day immediately following its publication.
2. The present diploma shall produce retroactive effects for the trainees under the exceptional regime, with the necessary adjustments.

Approved in Council of Ministers on
14th December 2011

The Prime Minister

Kay-Rala Xanana Gusmão

The Minister of Justice

Lúcia M. B. F. Lobato

Promulgated on 6/2/2012

To be published

The President of the Republic

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