

DEMOCRATIC REPUBLIC OF TIMOR-LESTE

GOVERNMENT

DECREE-LAW NO. 4/2004

Of 11 February 2004

ON WATER SUPPLY FOR PUBLIC CONSUMPTION

Potable water is an exhaustible and vulnerable resource, essential to the sustenance of life and to the development of the environment and bears an economic value in all of its concurrent uses. It is therefore constitutionally incumbent upon the State to preserve and to enhance such economic value.

The Constitution further recognises the ownership of the State over natural resources as well as their social values, and establishes that the natural resources must be utilised in a fair and equitable manner, in accordance with the national interest.

Recognising that the process of managing and saving water, in which women play a core role, must be based upon the participation of all leading stakeholders, the users, the economic agents and the services in charge of water supply, a regime of water distribution for public consumption that welcomes the traditional systems of water distribution and that regulates the responsibilities of the State in this domain has been established.

Thus, pursuant to Article 115.3 of the Constitution of the Republic, the Government enacts the following that shall have the force of law:

CHAPTER I General Provisions

Article 1 Definitions

For the purposes of the present decree-law, the following terms shall have the following meanings:

“Urban Area” means the capital city and the chief towns of each District or Sub-district of Timor-Leste.

“Technical Assistance” means the supply of minor equipment for significant repairs to a water supply system run by the community. However, nothing in this definition implies that the Water and Sanitation Service will take over the operational and maintenance responsibilities of a water supply system that falls within the limits of a settlement, a hamlet or a community.

“Consumers” means the beneficiaries of the water supply.

“Public Consumption” means the use of water in domiciles, commercial establishments or industrial units utilised or explored by the consumer.

“Authorised Personnel” means the person or persons appointed, in writing, by the Water and Sanitation Service to perform the functions and tasks laid down in this decree-law.

“Supply Point” means the point at which the water supply system is connected to the water resource that constitutes the source of supply of the system.

“Connecting Point” means:

- i) the point at which the water metre supplied by the Water and Sanitation Service is connected to the water piping system originating from the consumer’s premises; or
- ii) the intersection between the line originating from the consumer’s premises and the water piping system that supplies water to the consumer and that is connected to the water transmission and distribution piping system, where no metre exists.

Article 2

Scope and Purpose of the Decree-Law

The present decree-law shall create and establish the conditions for water distribution for domestic use.

Article 3
Universal Service

1. It shall be incumbent upon the State to ensure the existence and availability of a universal water distribution service.
2. The universal water distribution service shall be secured by the State or by the communities through the creation of water management groups.
3. The existence of water management groups shall not prejudice the right of the State to intervene in areas located outside of urban areas.

Article 4
Objectives

1. The water supply system shall aim to ensure that the Timorese communities have access to water supply services that are essential to public health.
2. In order to secure the objectives defined in subsection 1 above, the Water and Sanitation Service shall:
 - a) supply water for public consumption in urban areas in an appropriate, secure and sustainable manner;
 - b) recover from consumers, in the long run, the totality of the costs borne by the Water and Sanitation Service in terms of water supply; and
 - c) facilitate, at the national level, the appropriate, secure and sustainable water supply for public consumption outside of urban areas by means of water supply systems run by the communities.

CHAPTER II

Water supply system

Article 5

Definition

The water supply system shall be the system that is aimed at water distribution and it shall comprise the transmission and distribution piping system, water metres, water pumps to draw water along the transmission and distribution piping system, valves, water treatment plants, public fountains, as well as premises for the storage of water.

Article 6

Coordination with Other Organs of Government

In order to ensure that the objectives of this decree-law are attained, it shall be incumbent upon the Director of the Water and Sanitation Service to cooperate with and to regularly consult those in charge of governmental services with jurisdiction over the following sectors:

- a) water resources, so as to ensure that the plans, strategies, programmes and activities of these services will be carried out in a coordinated fashion;
- b) development of water management plans, including the District administrations, so as to ensure that these plans will secure optimal benefit for the Timorese people's health, for agriculture and for the environment; and
- c) economic development of Timor-Leste, so as to ensure that the plans, strategies and programmes of these services will optimise economic benefits and profits for Timor-Leste.

Article 7

Water and Sanitation Service Report

1. The Water and Sanitation Service shall present an annual report of its activities relating to the management of the water supply system within 60 days after the closure of the fiscal year.
2. The annual report shall be made available to the general public and shall contain, for the fiscal year under review:
 - a) a chapter on the auditing of revenues and expenditures;
 - b) a chapter displaying and describing those activities that were carried out and that have had greater significance; and
 - c) a chapter containing a description of all revenues received.

3. Every fiscal year the Water and Sanitation Service shall make an assessment of the goods under its control or possession.

Article 8
Register of the Water supply system

1. The Water and Sanitation System shall develop a register of water supply systems for urban areas.
2. The register shall comprise the following components:
 - a) a description of the water supply system;
 - b) the network of the water supply system and of the transmission and distribution piping systems;
 - c) the location and description of the water storage premises, of the water treatment plants and of other relevant equipment that are part of the water supply system.
3. The register shall be accessible for consultation in the Head Office of the Water and Sanitation Service and in the District offices during normal working hours.
4. The Water and Sanitation Service shall develop a register of the water management groups.

Article 9
Standardised Piping Features

1. The Water and Sanitation Service shall establish the technical norms governing:
 - a) the placing of pipes to supply water; and
 - b) the pipes to be used in the water supply process.
2. The Water and Sanitation Service shall ensure compliance with the rules laid down under subsection 1 above.
3. The norms and guidelines established by the Water and Sanitation Service shall be published in the Official Gazette and shall be widely divulged.

CHAPTER III

Water Distribution in Urban Areas

SECTION 1

Water supply system in Urban Areas

Article 10 Management

1. The Water and Sanitation Service shall manage the water supply system in urban areas and shall be subject to the principles and methods of an efficient management.
2. The water supply system in urban areas means the system spanning from the supply point to the connecting point.
3. The description of the water supply system in urban areas and of its components shall be approved by ministerial order upon recommendation by the Water and Sanitation Service and it shall comprise:
 - a) a map of the urban area;
 - b) a map indicating the approximate location of all transmission and distribution pipes; and
 - c) a map indicating the supply point.

Article 11 Water Supply Zones

1. The Minister of Transport, Communications and Public Works shall approve the water supply zones upon recommendation by the Water and Sanitation Service.
2. A ministerial order establishing a water supply zone must include a map of the water supply zone.

3. Maps of all water supply zones shall be made available to the public in the Head Office of the Water and Sanitation Service and in their District offices during normal working hours.

SECTION II

Supply

Article 12 Supply Obligations

1. The Water and Sanitation Service shall oblige itself to continue supplying water to persons to whom it was already supplying water prior to the entry into force of this decree-law.
2. Without prejudice to the provisions of Article 13 below, the Water and Sanitation Service, in a water supply zone, shall oblige itself to establish the connection of the water supply system to any consumer who has paid the entire sum of the connection fee.
3. The Water and Sanitation Service shall secure the supply of water to consumers on a regular basis and with appropriate quality so as to avoid economic damage and losses to consumers.

Article 13 Connection to Water supply system

1. The Water and Sanitation Service may establish conditions, limitations or restrictions of a technical nature to a consumer prior to connecting the consumer's premises to the water supply system.
2. The Water and Sanitation Service shall not be obliged, nor shall it be required, to establish a connection to the water supply system where the consumer's premises are located outside of the water supply zone.
3. Except as otherwise provided for in Article 18 below, the Water and Sanitation Service may refuse to establish the connection of a consumer to the water supply system in a water supply zone in the

event where the connection may, in any way, jeopardise its obligation to secure an effective supply of water in the zone in question.

4. The Water and Sanitation Service shall notify the consumer, on well-founded grounds, of the reasons for its refusal to establish a connection to the water supply system pursuant to the provisions of Article 13.3 above.

Article 14

Suspension of Connection to the Water supply system

1. The Water and Sanitation Service may suspend the connection of a consumer to the water supply system where the consumer:
 - a) has failed to pay the connection or reconnection fees;
 - b) has failed to pay fees in relation to water services;
 - c) has interfered with or damaged the connection of his or her premises to the water supply system, including any water metres or any portion of the water supply system.
 - d) has established a connection to the water supply system that has not been authorised by the Water and Sanitation Service; and
 - e) has failed to comply with the technical norms and instructions of the Water and Sanitation Service.
2. The Water and Sanitation Service shall notify the consumer, in writing, that the water supply will be suspended, and the suspension may occur within a period of 10 days from the date of the issuance of the notification if, in the meantime, the consumer does not prevail over the reason that gave rise to the suspension of the water supply.
3. Reconnection to the water supply system, after it has been suspended due to failure on the part of the consumer, shall require the payment of a reconnection fee.
4. After the payment of the reconnection fee, the Water and Sanitation Service shall be obliged to re-establish the connection to the water supply system during normal working hours and within five working days after its payment.

Article 15
Discontinuation of Connection to the Water supply system

1. The Water and Sanitation Service may reduce, restrict or interrupt the quantity of water supply to any consumer where:
 - a) there is a lack of water;
 - b) the reduction, restriction or discontinuation is necessary in order to avoid future occurrences of lack of water;
 - c) there are security concerns, and in order to secure the maintenance or repair of infra-structure, premises and equipment or in order to undertake improvement works; and
 - d) it has been notified by the Health Services that the water being supplied is contaminated and that it poses a threat to public health.
2. The Water and Sanitation Service shall reduce, to the extent possible, the frequency and duration of reductions, restrictions or discontinuations of supply, as well as limit them, to the extent possible, to periods and times during which they are likely to cause as little inconvenience as possible to consumers.
3. The Water and Sanitation Service shall, to the extent possible and by means of a public notice, make known the date and time of predictable suspensions.
4. Where the Water and Sanitation Service has to reduce the water supply in accordance to the provisions of Article 15.1, this reduction shall affect all consumers in the same proportion.

Article 16
Fee Policy on Water Services

Upon recommendation by the Water and Sanitation Service, the Minister of Transport, Communications and Public Works and the Minister of Planning and Finances shall promote a fee policy for the provision of services, taking into account the principles and objectives of this decree-law, as well as the following factors:

- a) the sustainable use of the water resources of Timor-Leste;
- b) the economic situation of Timor-Leste;

- c) the need to guarantee the minimum supply of water to the impoverished populations of Timor-Leste; and
- d) the need to secure the payment of the operational and maintenance costs of the water supply system.

Article 17
Schedule of Fees and Charges

- 1. Upon recommendation by the Water and Sanitation Service, the Minister of Transport, Communications and Public Works and the Minister of Planning and Finance shall establish the fees, including the reconnection fee, for water supply services.
- 2. Fees may be applicable to the provision of services by the Water and Sanitation Service both inside and outside of a water supply zone as well as to community-run water supply systems fed by a water supply system run by the Water and Sanitation Service.
- 3. Fees may vary in accordance with the use or dimension of premises, the rates for water use, water supply zones and types of services provided by the Water and Sanitation Service.
- 4. The joint ministerial order of the Minister of Transport, Communications and Public Works and of the Minister of Planning and Finance establishing fees and charges shall indicate the calculation method to be employed, and shall not have retroactive effects.
- 5. The joint ministerial order referred to in paragraph 4 above may:
 - a) establish reimbursement procedures of fees that were unduly paid by consumers or by categories of consumers;
 - b) establish the period of validity of the fee;
 - c) establish a date for the application of the fee; and
 - d) establish a date, a method and a place where the fee shall be paid.

Article 18
Payment for the Maintenance and Improvement
of the Water supply system

1. Whenever the Water and Sanitation Service deems that the carrying out of any new undertaking may prompt a malfunction to the water supply system in an urban area, it shall request the person in charge of the undertaking to make a contribution towards the maintenance and improvement of the water supply system affected by this undertaking.
2. The amount of the contribution to be requested shall be calculated on the basis of:
 - a) the difference between the costs that the Water and Sanitation Service would have spent on the maintenance of a particular portion of the water supply system and on the basis of the estimated maintenance costs; or
 - b) the cost for the improvement of the water supply system, calculated by the Water and Sanitation Service.
3. The Water and Sanitation Service shall, within a period of 30 days after having become aware of the undertaking, inform the person in charge of the undertaking of its intention to collect the contribution laid down in Article 18.1 above and the notification shall contain an estimate of the contribution to be paid.
4. The person in charge of such undertaking may appeal to the Minister of Transport, Communications and Public Works against the decision by the Water and Sanitation Service.
5. Any person from whom a payment of the contribution is requested pursuant to the provisions of the present Article may request the Water and Sanitation Service that his or her payment be made in instalments over a period that shall under no circumstance exceed 12 months.
6. Any contribution due pursuant to the provisions of the present Article shall be considered an execution debt for purposes of a judicial execution requested by the Water and Sanitation Service.

Article 19
Settlement of Disputes with Consumers

1. Upon recommendation by the Water and Sanitation Service, the Minister shall approve rules for the settlement of disputes arising from the provision of water services.
2. Rules for settling disputes may neither restrict nor revoke any rights that a consumer may have under the terms of the present decree-law or the law.
3. The rules for settling disputes with consumers shall be governed by the following principles:
 - a) exemption of costs for the person who initiates a dispute;
 - b) impartiality in the proceeding and decision; and
 - c) joint decision-making by arbiters external to the Water and Sanitation Service.
4. Any decision that is not judicially reversed and that is rendered in the framework of the settlement of disputes with consumers shall be binding on the Water and Sanitation Service.

SECTION III Monitoring

Article 20 Right of Entry into Domicile

1. The consumer shall authorise the entry of authorised personnel, during their normal working hours, into his or her domicile for the following purposes:
 - a) to carry out inspections on the water supply system;
 - b) to ensure that the consumer is complying with the provisions established by law, in this decree-law, as well as with the technical norms and instructions issued by the Water and Sanitation Service;
 - c) to remove any substances or material deemed to have the capacity to contaminate the water in the supply system;
 - d) to perform the tasks required by the Water and Sanitation Service or the duties that are part of running the water supply system; or

- e) to perform duties or tasks that may be related, in any way, to the implementation of this decree-law.
2. In using the powers conferred upon them, the authorised personnel shall:
 - a) cause the least possible damage or losses, without prejudice to the duty to restore the situation;
 - b) not remain in the consumer's domicile for a longer period of time than that which is deemed to be reasonably necessary;
 - c) remove from the site all tools, equipment, utensils or materials used to carry out their job, upon completion thereof;
 - d) leave the site in the same condition, to the extent possible, in which it was found;
 - e) cooperate with the owner to the extent possible.
 3. The authorised personnel, at the request of the consumer, shall present an identity card and, in the event that he or she does not carry an identity card on him or her, he or she may not remain in the site without an authorisation from the consumer.
 4. The consumer may only deny entry into his or her domicile for credible reasons and, in this case, he or she must indicate a new date and time so that the authorised personnel can carry out their tasks in accordance with Article 20.1 above and he or she shall be expressly prohibited from hindering it.
 5. The consumer who fails to comply with the provisions of Article 20.4 above commits a contravention, which corresponds to a fine ranging from US \$25 to US \$100.

CHAPTER IV

Water Distribution Outside of Urban Areas

Article 21

Community-Run Water supply system

1. The water supply system outside of urban areas shall be managed by water management groups, which shall be appointed by the community, without prejudice to the right of the State to intervene.
2. Where no water management groups exist, the water supply system shall be managed directly by the community.
3. The Water and Sanitation Service shall provide assistance to the community with the aim of establishing a water management group.

Article 22

Water Management Groups

1. The water management groups established in accordance with the present decree-law shall not have juridical personality.
2. The water management groups shall be established in accordance with the customary rules and uses in force in this domain.
3. The procedure shall include a document signed by the local leaders and by the leader of the water management group.
4. The document shall include, at least, the following information:
 - a) the way the water management group operates;
 - b) the obligations to which the water management group is subject, which must necessarily include the obligation to supply water to whoever intends to be admitted as a member of the group;
 - c) the names of the leader and of the managers of the water management group;
 - d) the procedures for changing the manner in which the water is supplied to members of the water management group;
 - e) the type of payment for the water services;
 - f) the mode for settling disputes;
 - g) the management of revenues originating from water services; and
 - h) the distribution of water to members of the water management group.

5. The leader of the water management group shall be responsible for the drafting of the document prescribed in Article 22.3 above.
6. A water management group shall be constituted through the required document laid down in Article 22.3 above.
7. The Minister of Transport, Communications and Public Works and the Minister of Planning and Finance shall establish the maximum fees that can be charged by the water management groups while taking into account the complexity of the water supply system.

Article 23

Management of the Water supply system

1. The water management groups shall be responsible for the supply of water to the communities in an appropriate, secure and sustainable manner.
2. The management of the water supply system outside of urban areas shall be governed by customary rules and uses and, in particular, by the:
 - a) traditional methods of selecting leaders, group members or groups that will manage water in a village or community;
 - b) traditional methods of defining the amounts of fees or charges to be paid by the water supply services;
 - c) traditional methods of settling the allocation of water between hamlets and communities; and
 - d) traditional modalities for settling disputes.
3. The Water and Sanitation Service shall monitor and evaluate the global effectiveness of the water management groups in order to enable the attainment of the objectives of this decree-law.
4. Whenever it deems necessary, the Water and Sanitation Service may monitor and evaluate the functioning of each water management group.

Article 24

Water Distribution Inside and Outside of Communities

1. The water management groups shall follow the customary rules and uses for distributing water between and inside of communities.
2. The Water and Sanitation Service shall provide technical assistance in order to facilitate water distribution between communities.
3. The Water and Sanitation Service may assist communities in settling disputes.

Article 25
Technical Assistance

1. The Water and Sanitation Service shall co-ordinate the technical assistance provided to water management groups.
2. Where the Water and Sanitation Service shall have the financial capacity and the necessary equipment, it may assume responsibility for constructing, managing and maintaining a complex and main piping system which shall provide water to a water supply system managed by various hamlets or communities.
3. For purposes of the provisions of Article 25.2 above, the hamlets or communities shall pay a fee to the Water and Sanitation Service in order to cover the administration and maintenance costs of the main piping system.
4. The Water and Management Service shall make provision in its annual budget for funds to be earmarked for technical assistance to water management groups.

CHAPTER V

Execution Statutes

Article 26
Ministerial orders

1. Under the recommendation of the Water and Sanitation Service, the Minister of Transport, Communication and Public Works may

publish ministerial orders for execution of the present decree-law on the following issues:

- (a) connection and discontinuation of the water supply system;
- (b) billing of fees in relation to water services;
- (c) metring of the water consumed;
- (d) powers to discontinue water supply conferred upon the Water and Sanitation Service;
- (e) water metres;
- (f) norms with which the water metring system must comply;
- (g) establishment of a register of persons or domiciles benefiting from water services, including water metres;
- (h) establishment of a register containing detailed information on debts owed to the Water and Sanitation Service; and
- (i) the profile required for a person to carry out tasks or duties in the water supply system or to connect or disconnect the water supply system.

2. The ministerial orders published in accordance with the provisions of the present decree-law may:

- a) be applicable over specific periods of time;
- b) be applicable to specific zones of Timor-Leste; and
- c) establish procedures for the reimbursement of fees that were unduly paid by consumers or by categories of consumers.

3. Ministerial orders for execution of the present decree-law shall be made available for consultation in the Head Office of the Water and Sanitation Service starting from the date on which they are published.

CHAPTER VI

Sanctions

Article 27

Contraventions and Penalties

1. The commission of the following acts shall constitute a contravention:

- a) interference with equipment of the Water and Sanitation Service;
 - b) obstruction of access of authorised personnel to assets that constitute property of the Water and Sanitation Service;
 - c) rerouting of water supply to a consumer, for whatever purpose, without an authorisation from the Water and Sanitation Service in accordance with the provisions of the present decree-law;
 - d) the establishment of a non-authorized connection to the water supply system of the Water and Sanitation Service; or
 - e) the use of electric pumps to draw water from the public piping system;
 - f) the selling of water originating directly from the water supply system; and
 - g) the charging of fees by the water management groups higher than those prescribed in Article 22.7 of the present decree-law.
2. The contraventions provided for in the present decree-law shall be punishable with a fine ranging from US\$50 to US\$500 or from US\$100 to US\$1,000, depending on whether the contravention was committed by an individual or corporate body.
 3. Notifications for payment of contraventions provided herein shall be considered an execution title for purposes of judicial execution required by the Water and Sanitation Service and shall not prejudice the civil responsibility of the offender.

Article 28

Processing and Application of Fines

1. The application of fines provided for in this decree-law shall be the competency of the Director of the Water and Sanitation Service.
2. The initiation and conduct of any proceeding in respect of a contravention shall be the competency of the Water and Sanitation Service.
3. The amount of fines paid shall accrue to the benefit of the State.

Article 29

Right to Appeal

A decision by the Water and Sanitation Service may be appealed against to the Minister of Transport, Communications and Public Works.

Article 30
Probationary Value of the Records
of the Water and Sanitation Service

The information contained in the records of the Water and Sanitation Service shall constitute sufficient proof of the underlying facts until they are judicially reversed.

CHAPTER VII

Final Provisions

Article 31
Revocation and Transitional Provisions

1. All previous legislation conflicting with the provisions of the present decree-law is hereby repealed.
2. Provisions of the previous law relating to the technical and regulatory norms shall remain in force until the entry into force of new technical norms and regulatory provisions.
3. Notifications issued under UNTAET Directive No. 2000/6 on fees in relation to water services, connection fees and reconnection fees shall be regarded as having been issued under this decree-law.

Article 32
Entry into Force

The present decree-law shall enter into force on the day following the date of its publication.

Approved by the Council of Ministers on 9 January 2004.

The Prime Minister

[Signed]
(Mari Bim Amude Alkatiri)

The Minister of Transport, Communications and Public Works

[Signed]
(Ovídio de Jesus Amaral)

Promulgated on 22 January 2004.

To be published. -

The President of the Republic

[Signed]
(Kay Rala Xanana Gusmão)