

**DEMOCRATIC REPUBLIC OF TIMOR-LESTE
NATIONAL PARLIAMENT**

**LAW No. 5/2004
28 APRIL 2004**

THE STATUS OF MEMBERS OF PARLIAMENT

PREAMBLE

Members of Parliament are officeholders of an organ of sovereignty and represent the entire people of Timor-Leste irrespective of the constituencies by which they have been elected. Consequently, Members of Parliament perform a function of paramount importance in the pluralistic and participatory Democracy, and distinguish themselves by the role they play and by the necessary powers and rights they hold, as well as by the responsibilities that are required of them.

It is definitely imperative to guarantee the free exercise of their mandate and put conditions in place to enable Members of Parliament to carry out actions the legitimacy of which is grounded in the authority conferred upon them by the Constitution, the Law and the Rules of Procedure of the National Parliament.

Thus, with a view to protecting and guarding Members of Parliament from and against specific influences or interests of a professional or other nature, in order to guarantee a detached and independent exercise of their mandate, and pursuant to Sections 92 and 95.2(j) of the Constitution of the Democratic Republic of Timor-Leste, the National Parliament enacts the following that shall have the force of law:

**CHAPTER I
Mandate**

**Article 1
Nature and scope of the mandate**

Members of Parliament are representatives of the entire people, irrespective of the national or district constituency by which they have been elected.

**Article
Start and end of term of office**

1. The term of office of Members of Parliament shall start with the first session of the National Parliament after election and shall cease with the first session after the subsequent election, without prejudice to suspension or individual termination of the term of office.

2. In the first legislative term, the term of office of Members of Parliament started, on an exceptional basis, with the transformation of the Constituent Assembly into a National Parliament, under the terms of Section 167 of the Constitution.

Article 3 **Verification of powers of Members of Parliament**

1. The powers of Members of Parliament shall be verified by the National Parliament through a parliamentary committee expressly established for that purpose.
2. The competent parliamentary committee shall be established by decision of the National Parliament.

Article 4 **Suspension of term of office**

Suspension of term of office is determined by:

- (a) the announcement that an application for temporary substitution for substantiated reasons, filed by a Member of Parliament under Article 5 of the Rules of Procedure of the National Parliament and Article 5 of the present law, has been granted;
- (b) an ongoing criminal proceeding under Article 8 of the Rules of Procedure and Article 11 of present law;
- (c) the occurrence of any of the cases provided for in Article 13 of this law.

Article 5 **Temporary substitution for substantiated reasons**

1. A Member of Parliament who, for substantiated reasons, needs to absent himself or herself for over three (3) consecutive days may file, through his or her political party, a request for early justification for absences and for temporary substitution under Article 5 of the Rules of Procedure.
2. Substantiated reasons refer to relevant reasons pertaining to a Member of Parliament's life and interests, namely illness, transport difficulties, wedding, maternity or paternity, bereavement, professional activity, parliamentary trip or work and his or her party's political work.
3. Temporary substitution for maternity or paternity reasons shall not entail forfeiture of remuneration or any other benefits provided by law.

Article 6 **End of suspension**

- 1 Suspension of a Member of Parliament from office shall end with:
 - (a) his or her reinstatement;

- (b) a communication by the Member of Parliament to the Speaker of the National Parliament;
- (c) a communication by his or her parliamentary group or by the relevant body of his or her political party;
- (d) an absolutory or similar decision;
- (e) cessation of any functions inconsistent with those of Member of Parliament.

2. All powers of the last Member of Parliament on the respective list who was then holding such office shall automatically cease forthwith with the resumption of functions by the Member of Parliament who was suspended.

Article 7 **Resignation from office**

1. A Member of Parliament may resign by means of a substantiated notice in writing.
2. The notice of resignation shall be signed by the Member of Parliament concerned and delivered personally to the Speaker of the National Parliament or, where such is not feasible, the written notice shall bear a signature certified by a notary public.
3. The notice of resignation shall, however, not be processed without prior notice to the chairperson of the parliamentary group or to the relevant body of the political party to which the Member of Parliament concerned belongs.
4. Resignation shall take effect once the Chair has announced it at a plenary session of the National Parliament.

Article 8 **Forfeiture of office**

1. A Member of Parliament shall forfeit his or her office who:
 - (a) unjustifiably fails to take his or her seat at the National Parliament until the fifth plenary session held after his or her election;
 - (b) fails to attend five consecutive plenary or committee sessions or fails to attend fifteen interspersed plenary or committee sessions without good excuse;
 - (c) joins a political party other than that to which he or she was affiliated when he or she was elected;
 - (d) is convicted by a court of law of felony punishable by actual imprisonment exceeding two years.
2. For the purposes provided for in paragraphs (a) and (b) of the previous subarticle, the situations enumerated in Article 5.2 of this law are considered to be good excuse.
3. Participation by a Member of Parliament at meetings of international organisations or bodies of which the Democratic Republic of Timor-Leste is or may become a member in the future shall be considered a good excuse, if such participation is deemed to be of

interest to the country and provided justification is presented prior to the occurrence of such absences.

4. Forfeiture of office shall be declared by the Chair, once the facts behind such forfeiture have been confirmed.

5. A Member of Parliament has the right to be heard and appeal to the plenary session against a decision made by the Chair within the ten (10) subsequent days, and shall remain in office until such a time as the plenary session makes a final decision by secret ballot.

6. A decision by the plenary session of the National Parliament confirming the notice of forfeiture of office may be appealed against to the Supreme Court of Justice.

Article 9 Substitution of Members of Parliament

1. In the event of vacation or suspension of office, a Member of Parliament shall be replaced by the first unelected candidate on the respective list following the order of precedence, in accordance with the electoral law.

2. Temporary impediment on the part of a candidate called in to serve as a Member of Parliament shall determine the rise of the candidate that comes next in the order of precedence.

3. Once the impediment has ended, the candidate shall be reinstated into his or her ranking on the list for future substitutions.

4. There shall be no substitution where there are no unelected candidates, permanent or alternate, on the list of the Member of Parliament to be substituted.

5. The substitution provided for under this article, as well as the acknowledgment of temporary impediment of the unelected candidate and of its end, shall require a request by his or her parliamentary group leadership or by the competent body of his or her political party.

CHAPTER II Immunities

Article 10 Nonliability

Members of Parliament are neither civilly, criminally nor disciplinarily liable for votes cast or opinions expressed while exercising their functions.

Article 11
Inviolability

1. No Member of Parliament shall be arrested or placed in pre-trial custody, except for felony punishable with a prison sentence exceeding five years, following authorization from the National Parliament.
2. In the event of an ongoing criminal proceeding against a Member of Parliament and the latter is finally indicted, the National Parliament shall decide whether or not such Member of Parliament should be suspended from office, for prosecution purposes.
3. Suspension referred to in the previous subarticle shall be requested by the competent judge in a document addressed to the National Parliament, and a decision thereon shall be taken by secret ballot and by an absolute majority of the Members of Parliament present, preceded by an opinion to be issued by the competent committee.
4. A decision not to suspend a Member of Parliament shall take immediate effect with regard to the suspension of the periods of limitation on the object of the indictment as provided for in the criminal law.

CHAPTER III
Conditions for exercising the mandate of a Member of Parliament

Article
Conditions for exercising the functions of Member of Parliament

1. Members of Parliament shall be assured conditions appropriate for the effective exercise of their functions, notably in terms of:
 - (a) transport, for the indispensable contact with voters, to carry out parliamentary work rather than party activities;
 - (b) adequate office space and working conditions at the National Parliament Headquarters;
 - (c) social security, notably medical and medication assistance, and payment of fees for inpatient hospital care within Timor-Leste;
2. All public entities are subject to the general duty to cooperate with Members of Parliament in the exercise of their functions or as a result therefrom.
3. State or public administration services and other services subordinate thereto, including local governments, shall, upon proper request, and to the extent such does not affect the operation of such services, provide Members of Parliament with conditions for the exercise of their functions, notably by providing official information and publications or by making available to them, for a definite period of time, facilities for working meetings.

4. District and subdistrict administrators, as well as suco and village chiefs, shall make available to Members of Parliament, at the request of the latter, adequate facilities and means to allow them to contact people.

Article 13 Incompatibilities

1. While serving their term as a Member of Parliament, the following persons may not exercise their respective functions:

- (a) the President of the Republic;
- (b) judges;
- (c) ambassadors;
- (d) state officials and other officials employed by public corporate bodies;
- (e) members of the National Electoral Committee;
- (f) the Ombudsman of Human Rights and Justice;
- (g) cabinet members and officials of the President's Office or others enjoying equivalent legal status;
- (h) officials of international organisations and of foreign States;
- (i) board of directors members of public enterprises or of companies having public capital or the majority of its shares are held by the State, and officials of autonomous public institutes.

2. The provision of paragraph (d) of the previous subarticle shall not cover officials exercising teaching functions in the education system.

Article 14 Impediments

1. A Member of Parliament is forbidden:

- (a) to engage in any action in a judicial forum as a plaintiff in civil proceedings against the State;
- (b) to serve as an expert or arbitrator in exchange for remuneration in any proceeding to which the State or any public corporate body is a party;
- (c) to be a manager in a public utility;
- (d) to appear or otherwise participate in commercials;

2. The impediments enumerated in paragraph (b) of subarticle 1 above may not be enforced by the National Parliament if a decision is taken on the grounds of public interest.

Article 15 Compensation for damage

1. A Member of Parliament who, in the exercise of his or her functions or as a result therefrom, is a victim of an act that constitutes an offence against life, freedom, physical integrity or property, shall have the right to a fair compensation.

2. Acts that entail compensation shall be the object of an enquiry ordered by the Speaker of the National Parliament, who shall decide the compensation amount, except insofar as such damage is covered by other means.

Article 16 **Rights of Members of Parliament**

1. A Member of Parliament may not serve as a jury member, witness or expert without authorization from the National Parliament, which may or may not be granted after the Member of Parliament has been heard in that respect by the competent committee.

2. The absence of a Member of Parliament from an official act or proceeding extraneous to his or her functions by reason of a meeting or task of the National Parliament shall always constitute a good excuse for the postponement of such act or proceeding.

3. A Member of Parliament may not invoke the excuse provided for in the previous subarticle more than once in connection with such official act or proceeding.

Article 17 **Other rights**

1. A Member of Parliament shall, provided he or she is actually exercising his or her functions, also enjoy the following rights:

- (a) military service deferment;
- (b) civil mobilisation deferment;
- (c) free access, construed to be freedom of movement in public places of limited access by exhibiting his or her special ID card;
- (d) special ID card, valid for the duration of his or her term of office.

2. A Member of Parliament shall be entitled to a diplomatic passport for the purpose of official ex-country travels.

- (a) The diplomatic passport shall be granted by legislative term and shall be renewed in each legislative session;
- (b) the diplomatic passport shall be returned to the Speaker of the National Parliament upon completion of the official ex-country travel and kept in the personal file of the respective Member of Parliament;
- (c) the loss or theft of a diplomatic passport shall be forthwith reported to the Speaker of the National Parliament.

3. A Member of Parliament who has held office for twenty-four months, consecutive or interspersed, and who is actually exercising his or her functions, shall be entitled to import a light passenger or a combination cargo-passenger vehicle per legislative term, exempt from import taxes, notably customs duties, selective excise tax, sales tax and any other customs charges, and the following criteria shall be observed:

- (a) the term served as a Member of the Constituent Assembly shall be credited towards the time of service as a Member of Parliament;
- (b) a vehicle imported with the exemptions provided for above may not be ceded, donated, conveyed or encumbered within three years after its permanent import;
- (c) a breach of the provision of the previous paragraph shall entail the payment of import taxes due upon the permanent import of a motor vehicle, and the corresponding deduction for use by its owner shall be made in accordance with the following table:

MOTOR VEHICLES	Percentage deduction
Less than one year.....	10%
More than one and less than three years....	30%
More than two and less than four years.....	40%

Article 18
Official travels and medical assistance

1. In the exercise of his or her functions or as a result thereof, a Member of Parliament shall be entitled to transport and subsistence allowance as established by law.
2. The National Parliament shall meet any expenses arising from any medical emergency assistance provided to a Member of Parliament while on an official trip, either inside the country or overseas, considered to be of interest to the National Parliament by the Conference of Parliamentary Groups Representatives.

Article 19
Security of tenure

1. A Member of Parliament shall not be prejudiced in his or her placement or permanent job for having held the office of Member of Parliament.
2. A Member of Parliament shall be entitled to be released from any professional activities, public or private, for the duration of the legislative term, provided that he or she remains in office.
3. In the case of a temporary job bound by law or contract, the commencement of functions of a Member of Parliament shall suspend the counting of such time period.

Article 20
Subsidy in case of disability

1. Where, in the exercise of his or her functions, or as a result thereof, a Member of Parliament becomes physically or mentally disabled to perform such functions, he or she shall be entitled to a monthly subsidy, the amount of which shall be equal to 75% of the

monthly remuneration earned by a Member of Parliament who is actually exercising his or her functions.

2. The monthly subsidy shall apply for the duration of such disability.

Article 21 **Survival pension**

1. If in the event of death during the actual exercise of his or her functions, or a result therefrom, a Member of Parliament is not entitled to the monthly life pension provided for in article 22, a survival pension shall be granted to the surviving spouse or underage or disabled descendants.

2. The survival pension amount shall be equal to 75% of the net monthly remuneration earned by a Member of Parliament in the actual exercise of his or her functions.

3. The provisions of this article shall be forthwith applicable to cases that have occurred or that might occur during the first legislative term.

Article 22 **Monthly life pension**

For the purposes of the present law, the monthly life pension shall be regulated by a specific law.

Chapter IV **Final and transitional provisions**

Article 23 **Revocation clause**

Article 10 of the Rules of Procedure of the National Parliament is hereby revoked.

Article 24 **Entry into force**

The present law shall come into force on the day following the date of its publication in the Official Gazette.

Approved on 10 March 2003.

The Speaker of the National Parliament,

[Signed]
Francisco Guterres “Luo-Olo”

Promulgated on 15 April 2004.

To be published.

[Signed]

Kay Rala Xanana Gusmão