DEMOCRATIC REPUBLIC OF TIMOR-LESTE NATIONAL PARLIAMENT

LAW No. 10/2005 Of 10 August

PUBLIC HOLIDAYS AND OFFICIAL COMMEMORATIVE DATES

The list of public holidays is laid down in UNTAET Executive Order No. 2000/1, of 10 July, with legal effect on civil servants by virtue of Section 4 of UNTAET Directive No. 2000/4, of 30 June (as superseded by Articles 51 and 121 of Law No. 8/2004, of 5 May – The Statute of the Civil Service).

A holiday is, by definition, a day devoted to rest and the commemoration of a historic or religious event, providing an opportunity to deepen human relationships. Thus, the dates that should be considered holidays are primarily intended to exonerate employees from their duty to report to work, without forfeiting their wages and other work entitlements.

The public holydays in force in Timor-Leste were adopted within a context of transition to independence under the auspices of the United Nations which ended on 20 May 2002. Therefore, there is now a need to vest such public holidays with legitimacy arising from the country's reacquired sovereignty and the people's will represented by the National Parliament as a law-making organ of sovereignty.

Amending the list of holidays, thus clarifying the doubts that have been raised regarding the legal characterisation of some festive or commemorative dates and the scope, objective and subjective, of their application, is therefore justified.

Thus, pursuant to Section 92 and Subsection 95.1 of the Constitution, the National Parliament enacts the following to have the force of law:

Article 1 Scope of Application

This Law, which applies to all working regimes of the public and private sectors, lays down the legal regime for holidays, official commemorative dates, and time-off from work.

Article 2 Public Holidays

1. The following are designated as public holidays observed every year on a fixed date:

- (a) 1 January New Year's Day
- (b) 1 May Labour Day
- (c) 20 May Independence Restoration Day
- (d) 30 August Popular Consultation Day
- (e) 1 November All Saints' Day
- (f) 2 November All Souls' Day

- (g) 12 November National Youth Day
- (h) 28 November Proclamation of Independence Day
- (i) 7 December National Heroes' Day
- (j) 8 December Day of the Immaculate Conception the Patroness of Timor-Leste
- (1) 25 December Christmas Day

2. The following are public holidays observed every year on a variable date:

- (a) Good Friday as part of the Christian celebrations of Easter
- (b) Idul Fitri which marks the end of Ramadan for Muslims
- (c) Feast of the Body of God;
- (d) Idul Adha as the sacrifice day for Muslims.

3. The exact dates of the holidays provided for in subarticle 2.2 above are set annually in the month of January of the year to which they refer, by the Cabinet member responsible for labour.

4. A public holiday is equated with an actual workday, and employees are exonerated from reporting to work, without forfeiting the corresponding work entitlements or benefits.

5. An employee who, for whatever reason, is required to work on a public holiday is entitled to compensation, under conditions to be established by the Government in a regulatory decree.

6. Subarticles 2.4 and 2.5 above do not apply to employees scheduled to work on holidays by virtue of work in shifts or the need to provide essential public services.

Article 3 Celebrations of the Proclamation of Independence Day

It is a civic duty of all citizens, particularly students, civil servants and state agents, to participate in the celebrations and commemorative ceremonies of the Proclamation of Independence Day taking place in public services or teaching establishments, whether public or private.

Article 4 Local Holidays

There may be local holidays to be enacted by the competent organs of the local government under conditions to be defined by law.

Article 5 Official commemorative dates

1. The following are official commemorative dates observed on a fixed date:

(a) 1 June International Children's Day;

- (b) 20 August Day of the Armed Forces for the National Liberation of Timor-Leste (FALINTIL);
- (c) 3 November National Women's Day;
- (d) 10 December International Human Rights Day.

2. The following are official commemorative dates observed every year on a variable date:

- (a) Ash Wednesday;
- (b) Good Thursday, as part of the Christian celebrations of Easter;
- (c) The Day of Ascension of Jesus Christ into Heaven.

3. The dates provided for in subarticle 5.1 and 5.2 are not considered holidays and may, however, be the subject of time-off from work, under article 7.

Article 6 Null Provisions

Any provisions set forth in individual employment contracts or instruments of collective labour regulation establishing holidays other than those provided in the present law shall be null and void.

Article 7 Time-Off from Work

1. Time-off from work is the general prerogative of employees or a particular group of employees from a certain service, business or agency to not report to work or to leave work during a period of their daily working hours, through prior authorisation from their superior, without forfeiting wages and any work entitlements or benefits.

2. Time-off from work may be granted:

(a) on the occasion of a commemorative date;

(b) by virtue of a national event or relevant fact relating to the service, business or agency for which the employees are working;

(c) to allow an employee professing a religion the festive dates of which are not contemplated in this Law to observe such dates as public holidays or official commemorative dates.

3. Time-off allows the employees concerned, who wish to take it, to be absent from work for a fixed period of time, but it does not impede others to report to work, if they so wish.

4. Time-off is granted in writing and publicised by affixing a copy thereof to the notice board at the workplace and notified in advance, if possible, to all employees concerned.

5. The written notice of time-off from work shall indicate the universe of the employees concerned and the duration for which they are released from work.

6. The following entities have power to grant time-off:

(a) the respective employer, in relation to employees from the private sector or those bound by an individual employment contract;

(b) the President of the Republic, in relation to employees and agents posted to the support services of the Office of the President;

(c) the Speaker of the National Parliament, in relation to employees attached to the support services of the National Parliament;

(d) the Prime Minister, in relation to employees and agents of the ministries or services under his or her tutelage, including institutes and agencies under indirect state administration;

(e) the Superior Council for the Judiciary, in relation to court staff, and the Superior Council for the Public Prosecution, in relation to staff working under the orders and directives of the organs of the Public Prosecution Service;

(f) the Ombudsman for Human Rights and Justice, in respect of staff working in the Office of the Ombudsman for Human Rights and Justice.

7. The entities enumerated in subarticle 7.6 above have discretionary power to elect to grant or to not grant time-off from work and no claim or appeal shall be lodged against such a decision.

Article 8 Transitional Provision

Pending the determination, by decree-law or government decree, of the compensation referred to in subarticle 2.5 of this Law and subarticle 51.2 of Law No. 8/2004, of 16 June, subarticle 13.7 of UNTAET Regulation No. 2002/5, of 1 May, remains fully in force with respect to employees from the private sector.

Article 9 Revocatory Clause

The following provisions are hereby repealed:

- (a) Article 4 of UNTAET Directive No. 2000/4, of 30 June, as amended by UNTAET Directives Nos. 2001/9, of 18 July, and 2002/2, of 5 March;
- (b) UNTAET Executive Order No. 2000/1, of 10 July.

Article 10 Entry into Force

The present law comes into force on the day following the date of its publication.

Approved on 19 July 2005.

The Speaker of the National Parliament

[Signed] Francisco Guterres 'Lú-OLo'

Promulgated on 29 July 2005.

To be published.

[Signed] Xanana