

DEMOCRATIC REPUBLIC OF TIMOR-LESTE

NATIONAL PARLIAMENT

LAW No. /2007

1ST Amendment to Law No. 6/2006

Pursuant to item 5 of article 65 and paragraph h), item 2, of article 95, of the Constitution of the Democratic Republic of Timor-Leste, the National Parliament decrees the following to have the force of law:

Article 1

Article 4 of Law 6/2006 of 28 December shall read as follows:

“Article 4 Active electoral capacity

1. Active electoral capacity shall be granted to all Timorese citizens over 17 years of age residing in the national territory.
2. In order to be able to exercise the right of vote it shall be a mandatory condition to be registered in the voter registration.
3. Voters who possess a voter card or the Timorese passport and find themselves hospitalized or being held at penitentiary institutions are entitled to vote by means of the itinerant voting process.
4. The itinerant voting process shall take place within the hospital or penitentiary institution facilities where the voter is located, and shall take place according to a schedule previously established by the management of the institution in accordance with STAE, and it shall take place within the timeframe of the conventional voting process.
5. The itinerant voting process shall be subject to its own regulations and procedures.”

Article 2

Article 13 of Law 6/2006 of 28 December shall read as follows:

“Article 13
Election criterion

1. The conversion of votes into mandates shall observe the proportional representation system in accordance with the *Hondt* highest average method, and shall comply with the following rules:
 - a) The total number of valid votes received for each list shall be counted;
 - b) The number of valid votes counted for each list shall be divided, successively, by 1, 2, 3, 4, 5, etc., and the quotients shall be sorted in a descending order, forming a series with as many terms as the number of mandates allocated to the single electoral cycle;
 - c) Mandates shall be attributed to the lists corresponding to the terms of the series established according to the rule provided for in paragraph b), and each list shall receive the number of mandates corresponding to the number of terms in the series;
 - d) Where there is only one mandate left to distribute, and the next terms of the series are equal and belong to different lists, that mandate shall be attributed to the list with the least number of votes.
2. Lists obtaining less than 3% (three percent) of the total of valid votes, blank votes excluded, shall not be entitled to attribution of mandates.”

Article 3

Article 39 of Law 6/2006 of 28 December shall read as follows:

“Article 39
Ballot papers

1. Ballot papers shall be rectangular in form and large enough to fit in the indication of all the candidacies and shall be printed in white, smooth, non-transparent paper.
2. Each ballot paper shall contain the name, acronym, flag or symbol of the political party or party coalition, in accordance with the sample approved by the CNE, under proposal of STAE, and the flag and the symbol shall be in color.”

Article 4

Article 40 of Law 6/2006 of 28 December shall read as follows:

“Article 40

Identification of the voter

1. The presentation of the updated voters' card shall constitute a necessary condition for exercising the right of vote.
2. Voters who have lost their voters' card shall request STAE to issue a duplicate up to two months before the election day.
3. Where a voter does not possess his or her updated voters' card on the election day, he or she shall be allowed to exercise his or her right of vote by presenting the old voters' card or the Timorese passport.

Article 5

Article 42 of Law 6/2006 of 28 December shall read as follows:

“Article 42 Non-polling in a polling center or polling station

1. Polling shall not be held in a polling center or polling station if:
 - a. the polling center or polling station cannot be constituted, if any disturbance occurs that determines the interruption of the electoral operations for more than two hours, or if a calamity occurs on the election day;
 - b. a calamity occurs within the 3 days prior to the election day;
2. The impossibility of carrying out the elections shall be reported to the CNE district representative immediately after any of the cases mentioned in the previous item is identified.
3. The interruption of the voting process for more than 2 hours shall establish the closing of the polling station and the dispatch of the ballot boxes, sealed, containing the votes received until that moment, to the district tabulation center.
4. For the situations provided for in sub-paragraph a) of paragraph 1, voters shall be directed to the nearest polling center or station.
5. For the situation provided for in sub-paragraph b) of paragraph 1, STAE shall transfer, under the consent of the CNE district representative, the polling center or station to a safer place.”

Article 6

Article 43 of Law 6/2006 of 28 December shall read as follows:

“Article 43
Voting method

1. The voter shall mark his or her choice by putting a cross in the blank square appearing in the line corresponding to the list for which he or she opted for or by piercing the same square, as established in a specific regulation.
2. After this, the voter shall fold the ballot paper with the printed part inside before inserting it into the ballot box.”

Article 7

Article 45 of Law 6/2006 of 28 December shall read as follows:

“Article 45
Doubts, complaints, and protests

1. Any voter or any of the candidacies’ agents shall be allowed to raise doubts and present complaints or challenges relating to electoral operations.
2. Doubts, complaints and challenges presented during the polling or after it has been completed shall be immediately reviewed by the electoral officers and, in case of need, the latter may consult STAE.
3. Complaints presented according to the previous item shall be the object of a decision approved by a minimum of three electoral officers.
4. Decisions shall be communicated to the complainants, who, if so wish, shall be allowed to address the complaints to the CNE, to be submitted in the respective polling center or polling station accompanied by all the documents relating to that polling centre.
5. Complaints presented at district tabulation centers during the counting and tabulation process shall be submitted for the CNE appreciation.”

Article 8

Article 46 of Law 6/2006 of 28 December shall read as follows:

“Article 46
Counting of votes and initial tabulation

1. After closing of polling centers and polling stations and review of doubts, complaints, and protests, ballot boxes shall be closed, sealed, and transported to the districts, for the district tabulation center, followed by electoral officers, candidacies' agents, and, if they are present, by national or international observers and media professionals.
2. The counting of votes shall take place at respective district centers and be conducted by the district tabulation center immediately upon the arrival of ballot boxes.
3. The counting of votes at district tabulation centers shall proceed without allowing the identification of tabulation results per polling station.
4. The counting of votes shall be continuous, being interrupted from 10:00 PM to 7:00 AM to give time for electoral officers to rest.
5. After the conclusion of operations provided for by items 1 and 2 of this article, and after doubts and protests presented are reviewed and complaints are decided upon, a minute shall be prepared reporting all relevant occurrences, which shall then be immediately sent to the national tabulation center.”

Article 9

Article 47 of Law 6/2006 of 28 December shall read as follows:

“Article 47 District tabulation center

1. A district tabulation center shall be composed of one member of CNE, who shall preside over it, one STAE district representative, a half of the presiding officers of district polling centers or polling stations, who are nominated by a draw, and a half of STAE *brigada* brigadists pertaining to the respective district.
2. Agents of candidacies and, where they exist, observers and media professionals, shall be allowed to watch the district tabulation process.
3. The district tabulation center shall submit its respective minute to the CNE, through the most secure means, immediately after the conclusion of counting and tabulation operations, accompanied by null votes and votes upon which protests and complaints have been launched, if any, and a copy of the minute shall be sent to STAE.
4. The PNTL shall be responsible for ensuring the security of the district tabulation centers, pursuant to item 2 of article 36.”

Article 10

Article 49 of Law 6/2006 of 28 December shall read as follows:

“Article 49 Appeals

1. The provisional tabulation of national results published by the CNE shall be subject of appeals, to be presented within 48 hours after its display, to the quorum of judges of the Supreme Court, who shall immediately notify the interested parties and rule on it within the same period of time.
2. After the timeframe provided for in item 1 above has expired without any appeal being filed, the CNE shall forward the minutes of national tabulation results to the Supreme Court together with the minutes of district tabulation as well as any other documents it deems important, with a clear indication that no appeal has been filed.”

Article 11

Article 63 of Law 6/2006 of 28 December shall read as follows:

“Article 63 Non-compliance with other obligations

Any person who does not comply with any obligations arising from the present law or electoral regulations, or who does not undertake the acts necessary for its immediate compliance, or who unjustifiably delays its compliance, shall, in the absence of other applicable legal provision, be punished with coercive detention of up to one year or fine of up to 500 US dollars.”

Article 12

Article 66 of Law 6/2006 of 28 December shall read as follows:

“Article 66 National and international observers

1. Electoral observer shall mean an individual representing a national or international organization who requests his or her registration with STAE and is accepted as such.
2. The functions of an observer shall, namely, be the following:

- a) Follow up on the unfolding of the voting operations from the installation of the polling center or polling station up until its closure;
 - b) Follow up the transportation of ballot boxes and other items from the polling center or polling station to the district tabulation station;
 - c) Follow up on the process of counting of votes and tabulation of results;
 - d) Prepare a report of the observation whenever so requested.
3. The acquisition of the status of national or international observer and the performance of the respective functions shall be in compliance with rules contained in a code of conduct to be prepared by STAE and approved by the CNE.”

Article 13
Addition to the electoral offences

To Title V, ELECTORAL OFFENCES, the following articles shall be added:

“Article 64
Undue utilization of name or symbol

Any person who during the campaign makes use of other candidacy’s name or symbol with harmful or defamatory intentions shall be punished with coercive detention of one month or fine from 50 to 150 US dollars.

Article 65
Campaigning after expiration of period for campaigns

Any person who, in the day of the election or two days before it, carries out electoral campaign by any means shall be punished with coercive detention from 6 months to 1 year or fine from 250 to 500 US dollars.

Article 66
Sales or consumption of alcoholic beverages

Any person who, in the day of the election, sells, supplies, buys, serves or consumes alcoholic beverages at a polling center or within less than 100 meters from it shall be punished with coercive detention from 3 to 6 months or fine from 150 to 250 US dollars.

Article 67
Abuse of public or equivalent functions

Any citizen invested with public powers, an employee or agent of the State or of any other public or private entity who forcibly suggests or influences voters to chose a determined candidacy by abusing of their functions or in the exercise of them, shall be

punished with a coercive detention from 2 to 3 years or fine from 1,000 to 2,000 US dollars.

Article 68

Terminating or threaten to terminate from the job

Any person who terminates or threatens to terminate a person from his/her job, prevents or threatens to prevent a person to get employment, applies or threatens to apply any abusive sanction in order to make that person to vote or not to vote, because that person voted or not for a determined candidacy or because that person abstained from voting or to take part in the electoral campaign, shall be punished with coercive detention from 1 to 2 years or fine from 500 to 1,000 US dollars.

Article 69

Electoral corruption

1. Any person who, because of the election, offers, promises or grants public or private employment or any other advantage to one or more voters or, in agreement with those, does the same to a third person, even when such advantage is disguised as monetary compensation given to a voter or disguised as electoral campaign expenses, shall be punished with coercive detention from 1 to 2 years or fine from 500 to 1,000 US dollars.
2. A voter who accepts any of the benefits above mentioned shall be punished with coercive detention from 6 months to 1 year or fine from 250 to 500 US dollars.

Article 70

Fraudulent insertion of ballot papers and deviation

Any person who introduces ballot papers in the ballot box in a fraudulent way, before or after the beginning of polling, or insert anything but the ballot paper in it, or who takes possession of a ballot box with ballot papers inside that were not counted or who takes possession of one or more ballot papers in any moment, from the opening of the polling center to the tabulation of results, shall be punished with a coercive detention from 1 to 2 years or a fine from 500 to 1,000 US dollars.

Article 71

Refusal to receive complaints

The presiding officer of a polling station who unjustifiably refrains from receiving a complaint shall be punished with coercive detention from 1 to 2 years or fine from 500 to 1,000 US dollars.

Article 72

Absence of the police

In case police presence is required and is unjustifiably not provided the responsible for that absence shall be punished with coercive detention from 1 to 2 years.

Article 73
Slanderous report

Any person who intentionally accuses, without foundations, any other person of practicing any of the offences herein provided shall be punished with coercive detention from 3 to 6 months or fine from 150 to 250 US dollars.

Article 74
Unreliable complaints

Any person who unreliably presents a complaint or challenge decisions from electoral bodies by making use of clearly groundless complaints shall be punished with coercive detention from 6 months to 1 year or fine from 250 to 500 US dollars.

Article 75
Possession of weapons

Any person who, not in the exercise of their legal obligation, carries weapons into a polling station shall be punished with coercive detention from 6 months to 1 year or fine from 250 to 500 US dollars.”

**Article 14
Revocations**

Article 5 of Law No. 6/2006 of 28 December is revoked.

**Article 15
Renumber**

Article 64 and 69 of Law No. 6/2006 of 28 December shall be renumbered Article 76 and 81, respectively.

Entry into force

The present law shall enter into force on the day after its publication.

Approved on 16 May 2007.

By the Speaker of the National Parliament,

[signed]

Jacob Fernandes

Promulgated on 29 May 2007 by the President of the Republic Dr. Jose Ramos Horta

For publication.