

LAW No. 34 of 14 April, 1972.

Law on the Magistrate of Accounts.

THE PRESIDENT
OF THE SUPREME REVOLUTIONARY COUNCIL

TAKING NOTE of the approval of the Supreme Revolutionary
Council;

HEREBY PROMULGATES

the following Law:

Article 1

The Magistrate of Accounts

The Magistrate of Accounts shall be appointed by decree of the President of the Supreme Revolutionary Council, in accordance with the laws and regulation in force.

He shall exercise control over the financial management and accounts of the state, in the manner provided in the Financial and Accounting Procedure of the State, the Accounting Regulations, the Stores Regulations and any other relevant laws and regulations.

The Office of the Magistrate of Accounts shall be placed under the Presidency of Supreme Revolutionary Council and shall have jurisdiction over the whole territory of the Somali Democratic Republic.

Article 2

Deputies Magistrate of Accounts

The Deputies of the Magistrate of Accounts shall be appointed by decree of the President of the Supreme Revolutionary Council, in conformity with the provisions of the Civil Service law, and shall exercise the functions delegate to them by the Magistrate of Accounts and by the laws and regulations.

In cases of absence or impediment of the Magistrate of Accounts, his functions shall be exercised by the Deputy who is highest in grade or most senior in office.

Article 3

Staff of the Magistrate of Accounts

The appointment and conditions of service of the staff of the Magistrate of Accounts shall be governed by the Civil Service Law.

The Magistrate of Accounts may be assisted by persons who do not belong to his establishment, but are seconded from other government bodies or from the Armed Forces.

Article 4

Guarantees

In the exercise of the functions assigned to them by the laws and regulation in force, the Magistrate of Accounts, his Deputies and his staff shall be entirely independent and shall not be subject to any influence or interference which is not contemplated by law.

Article 5

Prior Control over Public Expenditure

The Magistrate of Accounts shall exercise prior control over the legality of the acts of the Public Administration involving financial obligations on the part of the State in the manner and subject to the terms and conditions laid down in the laws and regulations.

Article 6

Post-Audit on Public Expenditure

The Magistrate of Accounts shall exercise post-audit on the ordinary and development budget, with a view to ascertaining:

- a) that all the funds have been expended for the purposes for which they were allocated and that all expenditure conforms to the relevant legal norms and provisions.
- b) that the public money has been spent according to criteria of economy, in line with the principles of scientific socialism.

Article 7

Control over State Revenue

The Magistrate of Accounts shall examine and verify all transactions pertaining to State revenue and shall ascertain that all appropriate measures are taken to ensure the correct collection and crediting of revenue, in the manner and subject to the norms laid down in the relevant laws, regulations, directives and instructions.

Article 8

Control over State Property

The Magistrate of Accounts shall examine and verify all transactions concerning the movable and immovable property of the State.

Article 9

*Control over Local Administration, Autonomous Agencies
and Enterprises with State Participation*

The Magistrate of Accounts shall exercise, subject to no preliminary formality, his control and audit functions on the management of funds and property belonging to Local Administrations, Autonomous Agencies and Enterprises with State participation, at any time deemed opportune by him, with a view to ascertaining whether any irregularity punishable under the penal Code or under the legislation governing public finance and accounts has been committed.

Article 10

*Audit of Annual Accounts
and Yearly Report by Magistrate of Accounts*

The Magistrate of Accounts shall audit the annual accounts transmitted to him by the Secretary of State for Finance, under article 26 of the Financial and Accounting Procedure of the State.

The Magistrate of Accounts shall, not later than 31 May each year, prepare a report on the results of the audit of the annual accounts and shall transmit it to the Secretary of State for Finance together with a certified copy of the annual accounts.

Where the Secretary of State fails to submit the report in the manner and within the time-limits provided for in Article 27 of the Financial and Accounting Procedure of the State, the Magistrate of Accounts shall transmit it to the President of the Supreme Revolutionary Council forthwith.

Article 11

*Power of the Magistrate of Accounts to report to
the President of the Supreme Revolutionary Council*

The Magistrate of Accounts may at any time submit a report to the President of the Supreme Revolutionary Council on matters relevant to the exercise of his functions.

Article 12

Audit of Accounts

The Magistrate of Accounts shall audit the accounts submitted by the Accountant General together with his written observations thereon and, where he is satisfied that the accounts are proper, he shall approve them.

Where he detects any irregularity, he shall direct further inquiries to be made by his own staff and shall, if appropriate, institute proceedings before the Supreme Court to determine the accounting responsibility of the official or agent involved.

Article 13

Reporting of Administrative and Accounting Irregularities

Where he has reason to believe that losses have been incurred or that irregularities have been committed, in the collection, issue, custody, sale, transfer or delivery of stamps, securities, money, stores or other State property or in the management of the relevant accounts, the Magistrate of Accounts shall inform the Secretary of State for Finance forthwith. Where no action, which is deemed necessary by him, is taken on his report, he shall inform the President of the Supreme Revolutionary Council, in conformity with Article 11 of this law.

Article 14

Advisory Functions

The Magistrate of Accounts may, on request or a his own initiative, submit opinions or clarifications on specific matters falling within his field of competence.

Article 15

Reporting of Offences

Where the Magistrate of Accounts, in the course of his control and audit activities, ascertains that an act constituting an offence has been committed in the management of public money or of property belonging to the State, Autonomous Agencies, Local Administrations and Enterprises with State participation, he shall without delay, draw up a report and file it with the Attorney General having jurisdiction on the subject-matter.

On receipt of the report from the Magistrate of Accounts or from a representative who is a member of the Magistrate of Accounts' staff, the Attorney General shall initiate proceedings, in conformity with Arts. 69, 70 and 71 of the Criminal Procedure Code.

Article 16

Proceedings not to be terminated

Notwithstanding the provision contained in Art. 70 (b) (2) and Art. 72 of the Criminal Procedure Code, the Proceedings instituted in respect of the offences referred to in paragraph 1 of Article 15 above shall not be terminated.

Where the Attorney General, having examined the report, is not satisfied that the evidence submitted is sufficient to prove that the offence has been committed and that it has been committed by the accused, he shall request in writing further investigations to be undertaken by the office of the Magistrate of Accounts from which the report was received, stating the nature of the missing evidence and any other circumstances which may cause the Attorney General to refrain from initiating penal proceedings.

Article 17

Powers of the Magistrate of Accounts

1. In the exercise of his functions, and subject to no prior formality, the Magistrate of Accounts or his representative shall have the following powers:

- a) he shall have access to any public or private premises used in connection with the management of public funds or other State property, and examine ledgers, books, accounting documents, cash, stamps, securities, stores and other State property entrusted to the custody of public employees or private individual;
- b) he may request any person to appear in his office or any local branch of the same for interrogation or clarification on matters falling within the competence of the Magistrate of Accounts;
- c) he may inspect, withhold, or seize any accounting documents, administrative acts, public or private deeds, or any other document which may constitute evidence that a breach of the laws and regulations governing the management of public finance has been committed.

2. All persons shall be required to cooperate with the Magistrate of Accounts in the exercise of his functions.

3. In the exercise of his functions the Magistrate of Accounts may, in cases of necessity, request the assistance of the Police.

Article 18
Regulations

Regulations for the proper implementation of this law shall be issued by decree of the President of the Supreme Revolutionary Council.

Article 19
Abrogation

Any Law or provision contrary to or inconsistent with this law is hereby abrogated.

Article 20
Entry into Force

1. This law shall come into force on the day of its publication in the Official Bulletin of the Somali Democratic Republic.

2. It shall be included in the Official Compilation of laws and published in the Official Bulletin.

3. All persons shall be required to observe it, and cause others to observe it, as a law of the Republic.

Mogadishu, 14 April 1972.

Maj. Gen. Mohamed Siad Barre
THE PRESIDENT
of the Supreme Revolutionary Council