

FINANCIAL AND ACCOUNTING PROCEDURE OF THE STATE

THE PRESIDENT OF THE REPUBLIC

HAVING SEEN: Article 62 of the Constitution
HAVING SEEN: The Law of 19 September, 1961, No. 20 authorizing the Government to enact a law governing the Financial and Accounting Procedure of the State
HAVING HEARD: The Council of Ministers,
ON THE PROPOSAL: OF Minister of Finance

DECREES:

The attached text of the Financial and Accounting Procedure of the State is hereby approved and shall enter into force on the day following the date of its publication in the Official Bulletin.

FINANCIAL AND ACCOUNTING PROCEDURE OF THE STATE

PART 1

ADMINISTRATION OF THE PROPERTY OF THE STATE

ARTICLE 1 **(Public Property)**

1. The following property shall belong to the State:
 - a. The shore and ocean beaches, harbors, inlets, roadsteads, wet docks, maritime canals, salt water lakes connected with the ocean,
 - b. Natural lakes, rivers and streams including those underground,
 - c. Fortifications, military harbors and airfields and in general any construction permanently utilized for the national defense.
2. The following property shall belong to the State, unless it belongs to a public body, or other juridical person, or physical person:
 - a. Canals and other artificial bodies of water,
 - b. Natural springs, wells, public bathing places, aqueducts and fountains,
 - c. Roads, streets and squares, highways, civil airfields, telegraphic and wireless installations, telephone and radio telephone installations, tracks and caravan routes for public use, halting places for caravans and cattle, cemeteries and markets,

- d. Immoveable property and objects declared to be of historical archeological or artistic interest,
- e. Places and buildings permanently utilized for public worship of the Islamic faith.

Article 2
(Other State Property)

The following property shall also belong to the State:

- a. Immoveable property which does not belong to anybody,
- b. Mineral resources,
- c. Barracks and armaments,
- d. State buildings, with their appurtenance, utilized for public offices or services,
- e. Any other property or right belonging to the State by virtue of law, succession gift, purchase or transfer.

Article 3
(Legal Status)

No one shall acquire ownership of State Property by prescription. The State property referred to in Article 1 shall be inalienable.

Article 4
(Administration)

1. The property of the State shall normally be administered by the Minister of Finance.
2. Except as otherwise provided by law, State property assigned to a particular Government service shall be administered by the Minister in charge of such service.

Article 5
(Records)

1. The Minister of Finance shall maintain up-to-date records of the immoveable property of the State
2. Each Minister shall maintain up-to-date records of the State's stores assigned to the Ministry.

Article 6

(Property Assigned to the President of the Republic and to the National Assembly)

The administration of property assigned to the President of the Republic and to the National Assembly and the maintenance of records relating to them shall be within the competence of the said authorities.

*Article 7
(Responsibility of Officers)*

Every officer shall be personally and pecuniary responsible for the State property under his control or in his custody.

**CHAPTER II
CONTRACTS AND DIRECT WORKS**

*Article 8
(Contracts)*

1. Every contracts shall be subject to prior authorization of the competent Minister,
2. Each Minister may directly make purchases and conclude other contracts by means of private negotiation or open competitive bids, provided that the amount does not exceed Sl. Sh. 6,000,000 this limit shall not exceed by awarding successive contracts of the same type during the same financial year.
3. Contracts exceeding Sl.Sh. 6,000,000 shall be awarded by the Tender Board after open competitive bids in accordance with the regulations. However where provided in the regulations, the Tender Board may authorize the award of contracts otherwise than by open competitive bids, or by any agency or person so empowered by it.
4. The composition of the Tender Board shall be laid down in the regulations.
5. Following the award of the contract by the Tender Board, the competent Minister, or his duly authorized representative, unless intervening circumstances make it undesirable, shall arrange for the preparation and signature of the contract, provided that, where the amount involved exceeds Sl.Sl. 500,000, the prior approval of the Council of Minister shall be necessary.

6. All contracts, entered into within the territory of the Republic, shall be initialed by the representative of the Administration and the other parties concerned, and submitted to the Magistrate of Accounts for registration together with any other document relating to the contract and with the approving decree of the competent Minister. A contract shall come into effect after the registration of the decree by the Magistrate of Accounts and the signature of the contract itself by the parties.

The document authorizing an Agent to enter into contracts on behalf of the public Administration outside the territory of the Republic shall be subject to prior registration by the Magistrate of Accounts.

7. Any person who has been negligent or guilty of willful default in the execution of previous contracts may be disqualified from entering into future contracts.
8. The Minister concerned shall have the authority to determine the amount of liquidated damages as provided in a contract and to make a settlement of controversies relating to the said contract where the amount does not exceed SL.SH. 40,000; where the amount exceeds SL.SH. 40,000, the said authority shall vest in the Council of Ministers.

Article 9
(Direct Works)

Works to be carried out directly by the technical services of the Public Administration shall be governed by special regulations.

PART II

FINANCIAL AND ACCOUNTING PROCEDURE OF THE STATE

CHAPTER 1

THE BUDGET

Article 10
(The Financial Year)

The financial year shall begin on the first day of January and end on the thirty first day of December.

Article 11
(Preparation)

1. The Minister of Finance, on the basis of proposals, supported by justifications made by each Minister and of data gathered by officers of the Ministry of Finance, shall prepare, not later than the 30th of September of each year, the draft estimated budget for the following financial year.
2. In the draft estimated budget, there shall also be shown:
 - a. The emoluments of the President of the Republic and the amount for the running of his establishment,
 - b. The estimated expenditure relating to the National Assembly.

Article 12
(Contents and Classification)

1. All the estimated revenue and expenditure of the State shall be shown in gross in the budget.
2. All revenues shall be utilized without distinction for the requirements of all public services, except as otherwise provided by law.
3. Revenue and expenditure shall be divided into heads and sub-heads.

Article 13
(Approval)

1. The draft estimated budget approved by the Council of Minister together with a written Statement of the Minister of Finance, shall be presented to the National Assembly at least two months before the end of the financial year preceding the year to which such draft estimated budget relates.
2. Subject to the provisions of Article 15 below, the National Assembly shall approve by law the estimated budget not later than the thirty first of December of the said financial year.

Article 14
(Special Budget)

1. The Government may prepare, in the manner and with in the time limits established in the preceding articles, a special budget for economic and social development and special expenditure, to be presented to the National Assembly together with the ordinary budget.
2. The special budget shall include:

- a. As revenue: all sums available for the purposes referred to in paragraph 1, including sums provided in the ordinary budget, the proceeds of internal and external loans, contributions given by other States or international organizations and any other sums.
 - b. As expenditure: expenditure relating to projects undertaken for the said purposes, based on the availability of funds.
3. Where the full amount shown in the special budget, in respect of a project not started or completed, has not been utilized in a financial year, the balance shall be available for the same project without having to be shown in the special budget of the following financial year.

Article 15
(Vote on Account)

1. Where the draft estimated budget has not been approved by the thirty first of December, a vote on account may be authorized by law, for periods the total of which shall not exceed three months.
2. The vote on account shall be based on the draft estimated budget presented to the National Assembly.
3. During the Period of the vote on account, the warrants authorizing expenditure shall be limited to one twelfth of the total expenditure shown under each sub-head of the draft estimated budget, for each month covered by the authorization.
4. Where expenditures have a fixed date a payment, which falls with the period of the vote on account, the total amount due may be paid, not with standing the limitation referred to in the previous paragraph. Where the date of payment falls outside the said period, the amount shall not be utilized.

Article 16
(Variations)

1. Where a financial year it is necessary to make variations consisting of new expenditures or the virement of sums from one head or sub-head to another, the said variations shall be approved by law.
2. Where variations involving new or larger State expenditures are made, the law shall specify the means for meeting such expenditure.

3. In the law approving the budget, the National Assembly may confer on the Government the power to make virement between sub-head within the same head.

CHAPTER 11 REVENUE OF THE STATE

Article 17 (Definition of Revenue)

The revenue of the State shall consist of all sums that the State has a right to collect, by virtue of law, decree, regulation or otherwise.

Article 18 (Revenue to be shown in the Budget)

All estimated revenue shall be shown in the budget. However, the State shall have the right to collect, and the competent officers and agents have the duty to assess and collect, those items of revenue, which may have been shown in the budget.

Article 19 (Classification and Revenue Collectors)

The detailed classification of revenue and the list of offices whose duty it shall be to assess, collect and pay in revenue shall be established each year by decree of the Minister of Finance.

Article 20 (Payment of Revenue)

1. The revenue of the State shall be collected in cash.
2. Not certificate of credit or other credit due by the State shall be offset against a debit due to State except where authorized in writing by the Minister of Finance.
3. Revenue collectors shall issue receipts for all sums collected.

Article 21 (Paying in and Accounting for Revenue)

1. Revenue collectors shall pay in their collections of revue daily, in cash, money orders or assign circular, to the nearest Accounting Officer, or to Bank where so authorized by the Accountant General, except as

provided for in the regulations. They shall also render accounts as provided in the regulations.

2. Without prejudice to any criminal liability as may arise, the regulations may establish the penalties to be imposed on Revenue collectors for failure, delay or other irregularities in the paying in of revenues collected, or in the rendering of accounts.

CHAPTER III STATE EXPENDITURE

Article 22 (Definition of Expenditure)

State expenditure shall be the payments, which are charged against the budget.

Article 23 (Authority to make Commitments and to Incur Expenditure)

1. Ministers may make commitments and incur expenditure within the limits established in the budget, subject to the availability of funds. However, the Council of Ministers, on the proposal of the Minister of Finance, may reserve expenditures in the approved budget, except for payments, which the Government is legally bound to make.
2. Commitments may normally be entered into for the current financial year. However, where a commitment extends over more than one year, payments relating thereto shall be limited to amounts provided therefore in the budget of the current financial year.

Article 24 (Vouchers)

Vouchers shall be supported by such documents as are necessary to justify the payment, and shall be in the form prescribed in the regulations.

CHAPTER IV ANNUAL ACCOUNTS

Article 25 (Contents)

The Annual accounts shall contain such accounts, data and information as may be necessary to show the results of the management of the budget, a comparison between the estimated and the actual revenues and expenditures and any other information prescribed in the regulations.

Article 26
(Preparation and Audit)

The Annual Accounts shall be prepared by the Minister of Finance and shall be submitted to the Magistrate of Accounts for audit in accordance with Article 90 of the Constitution, not later than the 30th of April of the year following that to which the said Annual Accounts relate.

Article 27
(Approval)

The Annual accounts, approved by the Council of Ministers and accompanied by a report of the Minister of Finance and a report of the Magistrate of Accounts on his audit, shall be presented to the National Assembly for approval, not later than the 30th June following year to which the Annual Accounts relate.

CHAPTER V
ADMINISTRATIVE AND ACCOUNTING CONTROL

Article 28
(Organs of Control)

The control over the accounts shall be exercised by the Accountant General of the Ministry of Finance and by the Magistrate of Accounts.

Article 29
(The Accountant General)

1. The office of the Accountant General shall be directed by the Accountant General, who shall be assisted by an adequate staff.
2. Sections of the office of the Accountant General may be established in any Ministry, Region or District.

Article 30
(Duties of the Account General)

The Accountant General shall:

- a. Manage the accounts of the State,
- b. Control the accounts of each Ministry,
- c. Exercise supervision over the correctness of the receipts and payments of public money, the management of cash and stores, the handling of public money, securities, stamps and other moveable property of the State,
- d. Exercise any other duty that may be attributed to him by law or regulations.

Article 31
(Magistrate of Accounts)

The composition and organization of the office of the Magistrate of Accounts and the guarantees of the independence of its members shall be governed by a separate law.

Article 32
(The Duties of the Magistrate of Accounts relating to the Accounts of the State)

The Magistrate of Accounts shall:

- A. Exercise prior control over the legality of government acts involving financial obligations of the part of the State.
- B. Exercise post-audit on the budget.
- C. Audit the accounts referred to in Part III of this Decree,
- D. Exercise any other supervisory or audit duty that may be attributed to him by law or regulation.

Article 33
(Registration of Acts of Government)

1. Acts of the government and of other organs of the Public Administration involving financial obligations of any kind shall require the prior registration by the Magistrate of Accounts.
2. The following acts shall be exempt from registration: acts having legislative force or of a political nature, acts done in the exercise of the

constitutional prerogative of the Head of the State in accordance with Articles 52 paragraph 2, 53, 61, 62, paragraph 2, 63, 64, 75, 78 paragraph 2 and 4 and 99 of the Constitution.

Article 34
(Payment Vouchers)

1. Each payment voucher shall be subject to prior approval by the Accountant General and shall be registered by the Magistrate of Accounts.
2. (The registration) of payment vouchers issued under a warrant already registered by the Magistrate of Accounts shall be effected only where the Accountant General has refused his approval of the payment.
3. The approval by the Accountant General and the registration by the Magistrate of Accounts shall constitute the control over the legality of the payment voucher issued under a registered warrant.

Article 35
(Procedure for Registration)

1. The original and copies of the documents relating to every act subject to registration shall be transmitted to the Magistrate of Accounts.
2. Where the Magistrate of Accounts is satisfied of the legality of the act, he shall return without delay the original duly registered; otherwise he may withhold or refuse registration and shall transmit his observations in writing to the originating office.

Article 36
(Registration with Reserve)

1. Where registration is withheld, denied or omitted, the Council of Ministers may request registration with reserve stating the grounds therefore.
2. The Magistrate of Accounts shall transmit without delay to the President of the National Assembly copies of the documents relating to acts registered with reserve together with his observations.
3. Registration with reserve shall not be permitted in the following cases:

- a. Where a commitment or a payment voucher exceeds the amount provided in the sub-head in the budget or is chargeable to a different sub-head,
 - b. Where the appointment, recruitment, or promotion of an officer in the civil service is not within the limits of the approval establishment.
4. Any controversy relating to the denial of registration with reserve shall be within the exclusive jurisdiction of the Supreme Court.

PART III
ACCOUNTING RESPONSIBILITY

Article 37
(Obligation to render Accounts)

Every officer or agent of the Public Administration who handles funds or property of the State or who is entrusted with collections or payments on behalf of the State shall render accounts.

Article 38
(Accounting Responsibility)

Without prejudice to any other liability as may arise, an officer or agent who makes a payment without proper authority shall be liable therefore to surcharge.

Article 39
(Procedure for rendering Accounts)

The accounts together with the supporting documents shall be submitted to the Accountant General in the manner and within the time limits prescribed by regulation.

Article 40
(Verification and Audit)

1. The Accountant General, having examined and verified the accounts, shall transmit them to the Magistrate of Accounts, together, with any written observations he may have thereon.
2. The Magistrate of Accounts shall audit the accounts. Where he is satisfied that the account are proper, he shall approve them; otherwise, after raising such queries as may be necessary, he may, according to

law, institute proceedings before the Supreme Court to determine the accounting responsibility of officer or agent.

Article 41
(Accounts prepared ex-Officio)

1. Where an account has not been presented within the prescribed time, the Accountant General shall prepare it ex-officio and shall request the officer or agent concerned to countersign it.
2. The account prepared ex-officio shall be deemed to have been countersigned by the officer or agent where he has not complied with the request to do so within the time prescribed by the Accountant General.
3. The audit of the accounts prepared ex-officio shall be governed by the provisions of the preceding article so far as applicable.

PART IV
MISCELLANEOUS AND FINAL PROVISIONS

Article 42
(Public Loans)

Without prejudice to the provisions of Article 12 of the law on the Somali National Bank regarding advances, public loans may be raised when so authorized by law.

Article 43
(Regulations)

Regulations for the implementation of this Decree shall be made by Decrees of the President of the Republic on the proposal of the Minister of Finance, having heard the Council of Ministers.

Article 44
(Abrogation)

Any provision contrary or inconsistent with this Decree is hereby abrogated.

DECREE OF THE PRESIDENT

Article 1

(Amendment of the Financial and Accounting Procedure of the State)

The text of the financial and accounting procedure of the State attached to Decree No. 2 of 29 December, 1961, is hereby amended as follows:

Article 30

(Duties of the Accountant General)

The Accountant General shall be responsible for:

- I. Managing the accounts of the State,
- II. Advising Minister on the accounting system for their Ministers,
- III. Bringing to the notice of the Minister of Finance any Case in which the accounting system in use in a Ministry is, in his opinion, unsatisfactory,
- IV. Managing the Accounting Service in consultation with the Director General of Establishment and Personnel and the Directors General of Ministries,
- V. Exercising any other duty that may be attributed to him by law or regulation or entrusted to him by the Minister of State for Finance.

4. Article 32 (a) is amended to read:

Exercise prior control over the legality of Government contracts,

5. Article 33 is deleted and replaced by the following:

Article 33

Contracts entered into on behalf of the Government and of other organs of the Public Administration. Shall require prior registration by the Magistrate of Accounts.

6. Article 34 is deleted

Article 2

Entry into Force

This Decree shall enter into force on the date of its publication in the Official Bulletin.