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PARTE PRIMA
ATTI LEGISLATIVI ED AMMINISTRATIVI

FIRST PART
ADMINISTRATIVE AND LEGISLATIVE ACTS

LAW n. 36 of 26 April 1973.

FOREIGN SERVICE LAW.

THE PRESIDENT
OF THE SUPREME REVOLUTIONARY COUNCIL

TAKING NOTE of the joint approval of the Supreme Revolutionary Council and the Council of Secretaries;

HEREBY PROMULGATES

the following Law:

Article 1

*Establishment and abolition of Diplomatic Missions
and Consular Posts*

Diplomatic Missions and Consular posts shall be established or abolished by Decree of the President of the Supreme Revolutionary Council, on the proposal of the Secretary of State for Foreign Affairs having heard the Supreme Revolutionary Council and the Council of Secretaries

Article 2

Limits of jurisdiction

The limits of jurisdiction of a Diplomatic Mission or a Consular post shall be established by the institutional Decree of the President of the Supreme Revolutionary Council on the proposal of the Secretary of State for Foreign Affairs having heard the Supreme Revolutionary Council and the Council of Secretaries.

Article 3

Diplomatic Missions

Diplomatic Missions shall consist of:

- (a) Embassies;
- (b) Permanent Mission to International or Regional Organization;
- (c) Extraordinary Missions.

Article 4

Functions of Diplomatic Missions and Consular Posts

1. The function of a diplomatic mission consist inter alia in:
 - (a) representing the sending State in the receiving State;
 - (b) protecting in the receiving State the interests of the sending State and of its nationals, within the limits permitted by international law;
 - (c) negotiating with the Government of the receiving State;
 - (d) ascertaining by all lawful means conditions and developments in the receiving State, and reporting thereon to the Government of the sending State;
 - (e) promoting friendly relations between the sending state and the receiving State, and developing their economic, cultural and scientific relations. (Article 3 of Vienna Convention on Diplomatic Relations of 1961).
2. The functions of Consular posts consist in:
 - (a) protecting in the receiving State the interests of the sending State and of its nationals, both individuals and bodies corporate, within the limits permitted by international law;
 - (b) furthering the development of commercial, economic cultural and scientific relations between the sending State and the receiving State and otherwise promoting friendly relations between them in accordance with the provisions of the Vienna Convention on Consular Relations of 1963;
 - (c) ascertaining by all lawful means conditions and developments in the commercial, economic, cultural and scientific life of the receiving State, reporting thereon to the Government of the sending State and giving information to persons interested;
 - (d) Issuing passports and travel documents to nationals of the sending State, and visas or appropriate documents to persons wishing to travel to the sending State;

- (e) helping and assisting nationals, both individuals and bodies corporate, of the sending State;
- (f) acting as notary and civil register and in capacities of a similar kind, and performing certain function of an administrative nature, provided that there is nothing contrary thereto in the laws and regulations of the receiving State;
- (g) safeguarding the interests of nationals, both individuals and bodies corporate, of the sending State in cases of succession mortis causa in the territory of the receiving State, in accordance with the laws and regulations of the receiving State;
- (h) safeguarding, within the limits imposed by the laws and regulations of the receiving State, the interests of minors and other persons lacking full capacity who are nationals of the sending State, particularly where any guardianship of trusteeship is required with respect to such persons;
- (i) subject to the practices and procedures obtaining in the receiving State, representing or arranging appropriate representation for nationals of the sending State before the tribunals and other authorities of the receiving State, for the purpose of obtaining, in accordance with the laws and regulations of the receiving State, provisional measures for the preservation of the rights and interests of these nationals, where, because of absence of any other reason, such nationals are unable at the proper time to assume the defence of their rights and interests;
- (j) transmitting judicial and extra-judicial documents or executing letters rogatory or commissions to take evidence for the courts of the sending State in accordance with international agreements in force or, in the absence of such international agreements, in any other manner compatible with the laws and regulations of the receiving State;
- (k) exercising rights of supervision and inspection provided for in the laws and regulations of the sending State in respect of vessels having the nationality of the sending State, and of aircraft registered in that State, and in respect of their crews;
- (l) extending assistance to vessels and aircraft mentioned in sub-paragraph (K) of this Article, and to their crews, taking statements regarding the voyage of a vessel, examining and stamping the ship's papers, and, without prejudice to the powers of the authorities of the receiving State, conducting investigations into any incidents which occurred during the voyage, and settling disputes of any kind between the master, the officers and the seamen in so

far as this may be authorized by the laws and regulations of the sending State;

- (m) performing any other functions entrusted to a consular post by the sending State which are not prohibited by the laws and regulations of the receiving State or to which no objection is taken by the receiving State or which are referred to in the international agreements in force between the sending State and the receiving State. (Article 5 of the Vienna Convention on Consular Relations of 1963).

Article 5

Ranks

The diplomatic service shall have the following ranks:

- (a) Head of Mission which shall be divided into:
 - (i) Ambassador;
 - (ii) Chargè d'Affairs.
- (b) Counsellors;
- (c) Secretaries;
- (d) Attaches.

Article 6

Precedence

Officials engaged in the Diplomatic Service as well as those at Headquarters shall, depending on their grade and status, have precedence in the following order:

- 1) The Director General of the Ministry of Foreign Affairs;
- 2) Directors of Departments of the Ministry;
- 3) Ambassadors;
- 4) Heads of Consular Missions (Consul Generals or Consuls) Counsellors of Missions and Heads of Services;
- 5) The First Secretary;
- 6) Commercial Attache, Cultural Attache and Press Attache;
- 7) Administrative Attaches;
- 8) Technical Staff and others.

Article 7

Status of Military Attaches

For protocol purposes, Military Attaches shall, in their capacity as members of the Diplomatic Mission, occupy a position second in rank to the Head of Mission. Such officers however, shall

be independent in the discharge of their special function, but they are bound to report on their work to the Head of Mission.

Article 8

Functions of Diplomatic Officers

The following shall be the functions of diplomatic officers;

- (a) Head of Mission who may be an Ambassador or Chargè d'Affaires shall exercise the functions attributed to a Head of Unit within the meaning of Civil Service Law (Law No. 29 of 1st April 1970), as subsequently amended, in so far as the diplomatic mission is concerned, and shall in particular be responsible for the Mission and supervision and coordination of its overall activities;
- (b) First Counsellor (Political): shall act as Deputy Head of Mission and shall deal directly with all political matters in close liaison with the Head of Mission. He shall also take charge of the Mission during the absence or impediment of the Head of Mission. He may be also assigned any special duties commensurate with his position;
- (c) The Secretaries referred to sub-para. (c) of the last preceding Article shall carry out such function as may be assigned by the Secretary of State for Foreign Affairs;
- (d) Administrative Attache shall be responsible for all financial matters and day to day administration of the Mission including supervision of the local staff;
- (e) Technical Attache shall deal with the specific duties assigned to him by the parent Ministry under the direct supervision of the Head of Mission; and
- (f) Where necessary, other Counsellors and Attaches may be appointed and assigned specific duties of permanent or temporary nature.

Article 9

Consular Posts

Consular posts shall consist of:

- a) Consulate General;
- b) Consulates.

Article 10

Ranks of Consular Post

1. Ranks of Consular Posts shall be as follows:
 - a) Consul General;
 - b) Consul;

- c) Honorary Consuls;
- d) Vice-Consul; and
- e) Consular Attache.

2. Honorary Consuls shall be appointed by the President of the Supreme Revolutionary Council on the recommendation of the Secretary of State for Foreign Affairs and shall be paid honorarium such as may be determined by the Secretary of State for Foreign Affairs in consultation with the Secretary of State for Finance.

Article 11

Functions of Consular Officers

The functions of Consular officers shall be as follows:

- (a) Consul General shall be responsible for the supervision and coordination of all activities of the Consulate posts;
- (b) Consul shall be the deputy of the Consul General and shall deal with all Consular affairs;
- (c) Vice-Consul shall assist the Consul General and the Consul in their work;
- (d) Consular Attache shall be responsible for all financial and administrative matters of the Consular post including supervision of the local staff;
- (e) Where there is no Consulate General, a Consulate may be established.

Article 12

Chargè d'Affaires a. i. of a Diplomatic Mission

In the absence or impediment of the Head of a Mission, the First Counsellor (Political) shall act as Chargè d'Affaires a. i. In case the First Counsellor is unable to act as such, the officer most senior in rank shall act in that capacity.

Article 13

Chargè d'Affaires of a Consular Post

In the absence or impediment of the Consul General, the Consul shall act as Chargè d'Affaires. In case the Consul is unable to act as such, the Consular Officer most senior in rank shall act in that capacity.

Article 14

Foreign Service Allowance

1. A foreign service officer serving in a Diplomatic Mission or a Consular post shall receive, such foreign service allowance as

may be prescribed by decree of the President of the Supreme Revolutionary Council on the proposal of the Secretary of State for Foreign Affairs in consultation with the Secretary of State for Finance.

2. Such an allowance shall be payable from the day when an officer reports for duty at his post.

3. When an officer leaves his post on transfer, recall, leave or retirement, foreign service allowance shall be payable upto the last day prior to his departure from his station of duty.

4. Foreign service allowances shall be established by decree of the President of the Supreme Revolutionary Council on the proposal of the Secretary of State for Foreign Affairs in consultation with the Secretary of State for Finance.

Article 15

Allowances between postings

A Foreign Service Officer serving in a diplomatic Mission or Consular post shall receive foreign service allowance starting from the day of his departure from his post to the new one.

Article 16

Grant of leave and foreign service allowance during leave

1. A Foreign Service Officer may be granted 15 days local leave annually which he may spend in the country of his residence and the remaining 15 days carried forward to his next tour of service.

2. After completion of 2-3 years service abroad, a Foreign Service officer may be granted home leave thus availing himself of the deferred leave referred to in para. 1 above in which case the Government shall pay the rent of his residence for a period of one month.

Article 17

Foreign Service allowance while on duty

A Foreign Service Officer returning to the Republic on duty shall receive his full foreign service allowance for a maximum period of one month.

Article 18

Entertainment Allowance

1. Diplomatic and Consular posts shall be allotted annually an entertainment allowance to be determined by the Ministry of Foreign Affairs. Such an allocation shall be accounted for by the

Head of a Mission or a Consular post to the Ministry of Foreign Affairs, in consultation with the Ministry of Finance.

2. An element of entertainment allowance shall be included in the annual budget for the Ministry of Foreign Affairs. The accounting procedure for this purpose shall be established in consultation with the Ministry of Finance.

Article 19

Excess Baggage allowance

Where Foreign Service Officers are proceeding to a post abroad on transfer or on first appointment or are leaving a post on retirement or on an appointment to the Republic of when an officer or employee dies whilst serving abroad, the cost of transporting the personal effects of such officer shall be allowed within the following limits:

(a) BY AIR

- (i) Diplomatic service officers including Heads of Missions (married and accompanied by families) 30 Kgs.
- (ii) Diplomatic service officers including Heads of Missions (not married) 15 Kgs.

(b) BY SEA OR LAND

- (i) Diplomatic service officers including Heads of Mission (married and accompanied by their families) 80 Cubic feet
- (ii) Diplomatic service officers including Heads of Missions (not married) 40 Cubic feet

Article 20

Specialization and knowledge of foreign languages and culture

1. A Foreign Service officer may be required to acquire a specialized knowledge in one major subject or field during his service abroad.

2. Proficiency in the language and the culture of the country to which a foreign service officers has been accredited will be advantageous to his future career in the foreign service.

Article 21

Medical and surgical treatments

1. A diplomatic, consular officer and staff serving abroad shall be entitled to free medical and surgical treatment.

2. The same benefits shall be extended to wives and children (not over 15 years of age) of diplomatic, consular officers and staff referred to in the preceding paragraph.

The officers, staff and their families (as defined above) shall be insured in accordance with the regulations of the host countries.

Article 22

Travel of wife and dependent children

When travel is on an appointment to a diplomatic or Consular post, transfer or retirement, the entitlement shall cover a wife and dependent children not over 15 years of age.

Article 23

Residential accomodation

Diplomat or Consular Officers serving in Diplomatic Missions and Consular Posts may be provided with furnished accommodation suitable to their ranks and requirements, either rented or owned by the Republic with corresponding reduction of other allowance.

Article 24

Appointment to and dismissals from the Foreign Service

1. Appointment and dismissals to and from the Foreign Service shall be governed by the provisions of the Civil Service Law.

2. The President of the Supreme Revolutionary Council in exceptional cases according to exigency of the service after having heard the proposals of the Secretary of State for Foreign Affairs may appoint any member of the Civil Service, the Armed Forces or any other individual possessing the necessary and requisite qualifications to the Foreign Service.

Article 25

The posts of Ambassador shall normally be A-3. In exceptional cases, Ambassadors may be promoted to A-2 on grounds of merit or seniority.

Article 26

Promotions

Promotions shall be on the basis of merit, seniority, qualifications, record of service or suitability of which shall be granted by the Civil Service Law.

Article 27

Personal Record

For the purpose of determining promoting, the Ministry of Foreign Affairs shall maintain a dossier which shall contain:

- (a) a personal record maintained upto-date containing personal and family particulars, qualifications and experience and a history of his personal career;
- (b) annual Confidential Reports on his performance.

Article 28

Procedure for promotion

Promotions in the Foreign Service shall be governed by the Civil Service Law.

Article 29

Effect of bad report

Promotion of any member of the service obtaining a bad report shall not be made in the same year in which the said report was submitted about him.

Article 30

Retirement on basis of mediocrity

Any member of the Foreign Service whose performance has been adjudged « poor » for three consecutive years shall be retired from the service in accordance with the Civil Service Law.

Article 31

Transfers

An Ambassador returning home after the expiry of his assignment abroad may hold such posts in the Ministry of Foreign Affairs as Chief of a Department or may be assigned to any other post in the Headquarters as the Secretary of State for Foreign Affairs may direct in accordance with the existing laws.

Article 32

Period of Service

An officer in a diplomatic Mission or a Consular post shall not be transferred without serving in that post for a minimum of two years from the day he assumed his functions unless the interest of the service necessitates otherwise.

Article 33

Period of service abroad

Any member in the service shall not serve outside the Republic for more than three years. He shall then be transferred to Headquarters where he will serve for a minimum period of two years unless the interest of the service requires otherwise.

Article 34

Notice period prior to transfer

A diplomatic or consular officer who is transferred from one diplomatic Mission or Consular post to another or from one diplomatic Mission or Consular post to Headquarters shall be given at least one month's notice except in case of urgency.

Article 35

Grades and distribution of posts

1. The Foreign Service will comprise four divisions:

Division A — Diplomatic, Consular equivalent to the professional and administrative class in the Civil Service.

Division B — Executive and Senior Technical class in the Civil Service.

Division C — Clerical.

Division D — Messengers, etc.

2. The grades and pay scales in the above four divisions shall be similar to those fixed by law for the equivalent grades in the Civil Service.

Article 36

Local employment by Somali Missions Abroad

1. The local employment of people of Somali origin shall be governed by the provisions of the Somali Labour Code.

2. The local employment of foreigners shall be done on contract basis taking into consideration the provisions of the Somali Labour Code and the conditions of employment prevailing in the host countries.

Article 37

Prohibitions

1. A diplomatic or Consular officer and member staff shall not:

(a) Commit any act which may throw suspicion to his integrity or loyalty to the State.

- (b) Publish or cause to publish any material concerning the activities of the State or make any public statement except with prior approval of the Head of the Mission or the Director General of the Ministry of Foreign Affairs if such an officer is at Headquarters.
- (c) Disclose secret information which he has obtained by virtue of his official capacity to any person except to public servant whose duty is to receive such information. This prohibition shall continue even after the diplomatic or Consular officer ceases to be a member of the diplomatic or Consular service.
- (d) Accept or wear foreign medals and decorations except with the prior permissions of the Secretary of State for Foreign Affairs or other higher authorities.
- (e) Accept valuable gift or testimonial except with the prior approval of the Head of the Mission and the Secretary of State for Foreign Affairs in the case of the Head of Mission.
- (f) Engage in political activities in the Republic or abroad if such activity conflicts with the functions of his post in the Diplomatic or Consular Service or with the policy of the Government.
- (g) Engage in any trade or business nor take part in the registration or management of any commercial or industrial company except in the performance of his duties.
- (h) Engage himself in any occupation or undertaking which may in any way conflict with his official duties.
- (i) Engage in speculation nor make any investment likely to embarrass or influence the discharge of his official duties.
- (j) Borrow any money which would otherwise place himself under pecuniary obligation to any person, firm or bank whom he is likely to have official dealings without the approval of the Head of Mission.
- (k) Any member of the diplomatic staff or consular post or staff at the Headquarters who deserts his office or leaks information of a secret nature shall be subject to procedure under the National Laws.

2. A diplomatic or Consular officer and member staff shall not permit any member of his family or relatives to do any of the above acts.

3. The penalties provided under the Civil Service Law shall apply for any contravention of this Article.

Article 38

Personal behaviour

1. In addition to the prohibition in the last preceding Article, diplomatic or Consular officer or staff shall not:

- (a) manage his private affairs in such a manner as to incur habitual indebtedness or to bring disgrace to the diplomatic or consular service;
- (b) attempt to bring in his favour or against any other member of the diplomatic or Consular service any political pressure of other outside influence to bear upon any superior authority in respect of his service;
- (c) permit any member of his family or relatives breach of the professional conduct.

2. The provisions of professional conduct prescribed above shall equally apply to officers seconded to the diplomatic and Consular service and all officials of the Ministry of Foreign Affairs.

Article 39

Prohibition to serve a Foreign institution

1. Wives of diplomatic and Consular officers shall not, in whatever capacity, serve a foreign Embassy, firm or any other foreign institution without the prior authority of the Secretary of State for Foreign Affairs.

2. Subject to the exigency of service and existence of vacancies, wives of diplomatic and consular officers may be employed in diplomatic and consular posts with the exception of the wives of Heads of Missions.

Article 40

Secret documents

For the purposes of this Law, all documents and copies thereof which are considered by the Government authorities to be confidential shall be deemed to be secret for the purposes of this law.

Article 41

Regulations

The President of the Supreme Revolutionary Council may, on the proposal of the Secretary of State for Foreign Affairs, issue regulations for the proper implementation of this Law.

Article 42

Entry into force

1. This Law shall come into force immediately.
2. It shall be included in the official Compilation of Laws and Decrees of the Somali Democratic Republic 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 State.

Mogadishu, 26 April 1973.

Major Gen. Mohamed Siad Barre
PRESIDENT
of the Supreme Revolutionary Council

PARTE SECONDA
DISPOSIZIONI, COMUNICATI, AVVISI, VARIE

N. N.
