

# **THE REPUBLIC OF SOMALILAND**

## **MEDIA LAW<sup>1</sup>**

**(LAW NO: 27/2004)**

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## **MEDIA LAW (LAW NO: 27/2004)<sup>2</sup>**

Preamble<sup>3</sup>

**The Somaliland House of Representatives:**

**Having seen:** Article 32 of the Constitution which guarantees the freedom of expression, specifically including by way of illustration:

*"Every citizen shall have the freedom, in accordance with the law, to express his opinions orally, visually, artistically or in writing or in any other way."*  
Article 32(1)

*"The press and other media are part of the fundamental freedoms of expression and are independent. All acts to subjugate them are prohibited, and a law shall determine their regulation."* Article 32(3)

**Recognizing:** That the establishment, advancement and development of an effective and free media are necessary for the realization of the exercise of freedom of expression and for democracy;

**Having considered:** That the freedom of the press not only provides a vehicle for citizens to express their opinions but also plays a permanent role in the protection of the rights of all persons, and in the advancement of democratic traditions; whilst at the same time providing opportunities to express informed views about the various significant issues and to state opinions about how the affairs of the nation are conducted

### ***Part I***

#### **GENERAL PRINCIPLES AND DEFINITIONS**

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**Article 1: Title**

This law shall be known as the "Media Law."

**Article 2: Definitions**

For the purposes of the application of this law the words set out below shall have the meanings appearing opposite them.

**(a) Governmental Information:**

Information that includes without limitation data and content included in any registries, written and/or electronically stored documents, drawings, maps, writings, charts, photographs, films, microfilms, microfiche, audio recordings, video recordings, graphs, correspondence, computer tapes and disks and other recordations, memoranda, minutes, and documents reviewed by or submitted to the government of the Republic of Somaliland or any court, tribunal, agency, or official thereof; and any other electronically stored information, and in any and all media whether now known or hereafter devised.

**(b) Illegitimate Child:**

Means a child whose father is unknown.

**(c) Journalist:**

Means any person who is engaged in the activities of the Press, as defined in Art. 2, § e hereof.

**(d) Personal Data:**

Information about identifiable individuals consisting of the individual's race, ethnicity, marital status, health, financial status, and other contact information; provided that the individual who is the subject of the information has not been deceased for more than twenty (20) years before the applicant made the request.

**(e) The Press:**

Entities, regardless of size, format, or nationality, engaged in the seeking of facts, information, opinions, and news, collecting them and/or writing, creating, or transforming or recording them into articles, columns, investigations and analyses or any other format and preparing programs and commentaries, drawing of cartoons, photography, press publication and the review and writing of headlines via any and all media in any format whether now known or hereafter devised, and other work and tasks related thereto.<sup>4</sup>

**(f) Private Residence:**

(1) Any property occupied privately or for a non-public function such as premises for businesses that are neither open to the public nor performing a governmental function, including its garden and its surrounding buildings, but excluding neighboring yards or open car parking area in front of it, or the partitions surrounding the property, or the roads in its vicinity used by the public.

(2) Hotel guest rooms, but not all of the other parts of hotels.

(3) Rooms in hospitals or health centers which are used for treating or resting patients.

**(g) Publication:**

Content that is published, disseminated, transmitted, displayed, or otherwise communicated in any and all media whether now known or hereafter devised.<sup>5</sup>

**(h) Rape:**

Means the act of raping or committing other sexual assault or attempting such act.

***Part II***  
***FREEDOM OF THE PRESS***

***Article 3 : Freedom of the Press***

**(a)** The freedom of the press is recognized and enshrined in the Constitution of the Republic of Somaliland and is a respected and valued human right in Somaliland.

**(b)** No restraints can be imposed on the Press except as expressly authorized herein.

**(c)** Any acts that can be construed as amounting to censorship are prohibited, except as expressly authorized herein.<sup>6</sup>

**(d)** Journalists may but shall not be required to form professional organizations.<sup>7</sup>

**(e)** Every Somaliland citizen has a right to engage in or carry on any press activity, either solely or jointly with others.

**(f)** Freedoms of knowledge, thought, the press, expression, communication and access to information are rights of the citizen which enable him or her to express his or her thoughts orally, in writing or in pictorial or in drawing form or by any other means of expression, whether now known or hereafter devised. These rights are guaranteed to every citizen by Article 32 (1 & 3) of the Constitution of the nation and by the provisions of this law. In rare instances, the scope of this right can be limited, as required in a democratic society but only as authorized herein

**(g)** The law assures the protection of the press, and it provides the legal guarantees necessary for journalists to practice their profession, to enjoy

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freedom of expression and immunity from interference so long as they are acting in a lawful manner consistent with the provisions of this law.

**Article 4 Independence of the Press**

Journalists shall have full freedom to practice their vocation, except as expressly restrained herein or by other valid and binding law. The recognition of this right is premised in part on the benefits of a free press to society, to the contribution to the formation of public opinion. Journalists shall undertake their various activities without contravening the Islamic creed,<sup>8</sup> or the principles of the Constitution of Somaliland. No obstacles may be placed in the way of its activities except in accordance with the provisions of this or other valid and binding law.

**Article 5 Discretion in Publication and Newsgathering**

journalists shall be free to publish or to refrain from publication in their sole discretion and to gather news and information from its sources, provided that journalists may not knowingly and intentionally or recklessly falsify publications or violate this or other valid and binding laws.

**Article 6 : Discretion to Publish Content of Others**

The press and journalists may accept content submitted by the public or in their sole discretion may refuse to publish such writings.

**Article 7 : Discretion to Refuse to Prepare or Publish and to Make Comments**

Journalists have the right to refuse to prepare, investigate, or publish content that is in conflict with their beliefs or views or offends their conscience as

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journalists. Journalists also have the right ... to make comments, as they see fit, so that they can express their opinions regardless of differences in opinion or points of view held by others.

***Article 8 Discretion to Report on Other Countries***

Journalists have the right to gather news and information and/or report on any local or international event regardless of the nature of relations between the country in which that event occurs and the Republic of Somaliland.

**Article 9 : Protection from Retaliation**

No journalist shall be dismissed or suffer other adverse personnel action based on his or her journalistic conduct unless he or she has violated this or other valid and binding law.

***Part III  
PROTECTION OF CONFIDENTIAL SOURCES  
FROM COMPULSORY DISCLOSURE***

***Article 10: Right to Gather News from Confidential Sources***

Journalists have the right to obtain news and other information from confidential sources and to publish or not publish such news or information.

***Article 11 : Protection from Compulsory Disclosure of Confidential Sources***

Journalists have the right to preserve and protect the confidentiality of the information obtained from and the identity of their sources, unless the party seeking to compel disclosure thereof proves to the satisfaction of a court all of the following:

**(a)** the information sought from the source is highly relevant to dispositive issues in the pending case and is critical to a determination of

dispositive issues such that the case “rises or falls” based on the information;  
and

**(b)** the information sought from the source is not available from alternative sources, the search for which has been exhausted.

***Part IV***  
***ACCESS TO INFORMATION***

***Article 12: Presumptive Right of Access to Governmental Information***

, Persons and entities, including without limitation journalists, have the right to review and obtain copies of Governmental Information, and officials possessing such items shall make it possible for journalists to expeditiously examine, inspect, make copies of, publish the contents of, and otherwise make use of such matters.<sup>9</sup>

**Article 13 Permissive Exemptions From Presumptive Access to Governmental Information**

Access to Governmental Information may be denied when such information consists of:

**(a)** Details of secret military weapons, defense tactics, strategies and forces, or military operations for the defense of the country;

**(b)** Secret and confidential matters of foreign policy related to defense and military alliances;

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**(c)** Governmental Information provided to, or received from, another State with which it was agreed to keep the information confidential before such information was provided or received,

**(d)** Governmental Information whose disclosure would cause serious prejudice to:

(1) The prevention or detection of crime;

(2) The apprehension or prosecution of offenders;

(3) The administration of justice; or

(4) The identity of a confidential source of information to which law enforcement personnel have promised confidentiality.

**(e)** Information that, if disclosed, would reasonably be expected to endanger the life or physical safety of an individual;

**(f)** Personal Data, the disclosure of which would be an unreasonable invasion of privacy of such individual, unless that Personal Data is relevant to a public duty, function, or position held by that individual.

**Article 14 : Mandatory Exemptions From Presumptive Access to Governmental Information**

Notwithstanding the provisions of Articles 13 hereof, requests for Governmental Information must not be denied if:

**(a)** Such Governmental Information is still possessed by the Body and dates back to more than twenty (20) years;

**(b)** Such Governmental Information is already publicly available.

**(c)** The subject of Personal Data whose information would be subject to the provisions of this act consents to the disclosure thereof.

**Part V**  
**ORGANIZATION OF THE ACTIVITIES OF THE**  
**PRESS AND JOURNALISTS<sup>10</sup>**

**Article 15: Right to Assemble**

Journalists may but are not required to protect their rights through a union or other professional organization and/or by the legal means provided for in the Constitution and guaranteed by the law.<sup>11</sup>

**Article 16 : Ownership of Entities Distributed Press Content**

The right to own entities that distribute or disseminate press content is guaranteed by the Constitution in accordance with the provisions of this law for all citizens and other natural persons and legal entities (including without limitation private companies and public corporations), political parties, international organizations, Government Ministries and ies]

**Article 17 : Recourse to Courts**

Journalists shall have direct recourse to the judicial bodies in accordance with the laws to enforce their rights hereunder.

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**Part VI  
PROHIBITION ON IMPRISONMENT AND CONFISCATION**

**Article 18: Prohibition on Imprisonment**

No journalist shall be imprisoned for undertaking press activities or based on publication of content unless such sentence is imposed based on a violation of another valid and binding law in effect prior to the act in relation to which the journalist is charged, the conviction for which authorizes the imposition of a prison sentence .

**Article 19 : Prohibition on Confiscation**

No publication or newsgathering materials, regardless of whether such newsgathering materials led to or resulted in any publication, shall be confiscated unless there has been a violation of this or other valid and binding law.

**PART VII  
RESPONSIBILITY OF THE PRESS  
AND JOURNALISTS**

**Article 20 : Taxes and Customs Charges**

The press and journalists are liable, in the same way as are others under valid and binding law, for the payment of taxes and customs charges relating to the importation of items and equipment for the press but no levy may be imposed on a press entity or journalists that exceeds that imposed on other entities or persons engaged in other enterprise.

**Article 21 : Prohibition on Trespassing**

Journalists shall not engage in unlawful trespass, provided however, that they may:

(a) trespass if they reasonably and in good faith believe or reasonably knew that such action was necessary to protect persons from an imminent threat of harm to public health or safety;<sup>12</sup> Or

(b) for the purpose of seeking an interview of a person within the Private Residence, provided further that the journalist vacates such Private Residence if consent to entry is refused.

**Article 22 : Listening Devices**

Unless otherwise required for the protection of the public interest or protection of their lawful interests, journalists shall not record or publish material obtained through the use of secret listening devices or through eavesdropping of private telephone or other electronic conversation or through secret eavesdropping, wiretapping, or recording of private conversation.<sup>13</sup>

**Article 23 : Pretence**

Journalists shall not obtain or seek news or take photographs or engage in other video recordation whilst using false or erroneous names.<sup>14</sup>

**Article24 : Methods of Obtaining News**

Journalists shall not obtain or seek news, information or pictures by means of threats to physical safety or by physical coercion.

**Article 25 : Interviewing and Taking Pictures of Children**

Journalists shall not knowingly interview or disclose, through text or photos, the identity of children under 15 years of age so as to discuss with them matters concerning the welfare of these or other children without the consent of the latters' parent or legal guardian as set out in international laws relating

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to the rights of children, absent imminent threat of harm to public health or safety.<sup>15</sup>

**Article 26: Rape Victims and Illegitimate Children**

The press shall not identify rape victims or pregnancy outside marriage and shall avoid disseminating any information that could compromise the anonymity of these persons, unless such person consents to the disclosure thereof, or the children of such persons.<sup>16</sup>

**Article 27 : Restrictions on Publication<sup>17</sup>**

Journalists shall be refrain from circulating, printing, or publishing:

**(a)** Any document or information that constitutes a matter of national security, the disclosure of which would jeopardize the national public interest and endanger the lives of persons; and/or

**(b)** incitement to engage in violence or terrorism.<sup>18</sup>

PART VIII.

NARIONAL MEDIA BOARD.

Art.28. Establishment

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There is established a Board to be known as the National Media Board. Art. 29. Composition of the Board.

29.1. The Board shall consist of thirteen members of which:

- (a) two distinguished scholars to be appointed by the Minister of information;
- (b) three representatives nominated by the Journalist union
- (c) two to be nominated by the associations of proprietors newspapers, radios and television stations.
- (d) One distinguished lawyer to be nominated by Somaliland law Society.
- (e) two members of the public who shall be persons of proven integrity and good repute to be nominated by the parliament
- (f) One prominent writer or poet to be nominated by Writers Union
- (g) One distinguished religious scholar to be nominated by Minister of Religious Affairs
- (h) One

29.2. At least four members of the board shall be women.

Art.30. The term in office of the Board members

30.1. Members of the Board shall hold office for a period of five years, and shall be eligible for re-nomination..

30.2. A member of the Board may resign his or her office at any time. The resignation shall be in writing addressed to the Board and a notification of the resignation shall be promptly communicated to the authority which initially nominated him or her. The member shall continue to serve until his replacement approved by the parliament, for a period not exceeding three months .

Art.31. remuneration.

Members of the Board shall be paid remuneration and allowances determined by Board itself and approved by the parliament.

Art.32. Legal status of the Board.

32.1 The Board shall be a body corporate with perpetual succession and a common seal and may sue and be sued in its corporate name.

32.2. The Board may acquire, hold, manage and dispose any property, movable or immovable and enter into contract or other transaction and do any thing which may, in law, be entered into or done by a body corporate.

Art.33. Objects of the Board.

The functions of the Board shall be:

- (a) to promote , generally the flow of information.
- (b) To encourage, train, equip and enable journalist to play their role in society.
- (c) To establish and maintain professional standards for journalists
- (d) To regulate the conduct and promote discipline of journalists.
- (e) Register and accredit journalists
- (f) To register, monitor and oversee media entities.
- (g) To arbitrate the dispute between (i) the public and the media (ii) the state and media.
- (h) To exercise disciplinary control over journalist, editors and publishers.
- (i) To establish and maintain mutual relationship with international journalists organizations and other organizations with a view to enhancing the objects of the Board.
- (j) To exercise any function that may be authorized or required by the law.

Art. 34. Reporting of the Board.

The Board shall, within three months after the end of each year, submit annual report on all of it activities, to the Parliament (both houses) and the Council of Ministers, simultaneously.

Art. 35. Meetings of the Board.

35.1. Regular meetings of the Board

The Board shall meet for the discharge of its duties at least once a month, or upon a request by at least one-third of the Board members. Meetings of the Board shall take place at the headquarters of the Board, unless otherwise agreed upon.

35.2. Time and place of the meetings

The time and place of the meeting shall be notified to the members at least ten days before the meeting, except in the case of an emergency, a shorter notice may be given.

35.3. The first meeting

In its first meetings the Board shall elect amongst its members, the chairperson, the vice-chairperson, the secretary and treasurer, who shall form the executive committee of the Board.

35.4. Chairing of the meetings

The chairperson shall preside all meeting of the Board and in his absence the vice-chairperson. In the absence of both the meeting shall appoint one of its members to preside the meeting. The validity of the proceedings of meeting shall not be affected by the absence of the chairperson and the vice-chairperson.

35.5. Quorum

Seven members of the Board shall form the quorum.

35.6. Voting

Decisions of the Board meeting shall be determined by simple majority of members present. In the case of equality of votes the chairperson or person presiding the meeting shall have the casting vote.

35.7. Procedures

Subject to the provisions of this act, the Board may regulate its own procedures.

35.8. Minutes of the meetings

The Secretary of the Board shall cause to be recorded and kept minutes of all meetings in a form approved by the Board. The minutes shall be submitted to the Board for confirmation at its next meeting, and when so confirmed shall be signed by the Chairperson and the Secretary in the presence of the other members present at the meeting.

35.9 Disclosure of interest.

If a member of the Board who is present at a meeting of the Board at which a matter is the subject of consideration and in which that member or a member of his immediate family is directly or indirectly interested in a private capacity, he or she shall, as soon as practicable after the commencement of the meeting, disclose that interest, and shall not take part in any consideration or discussion, or vote on any question relating to that matter. The disclosure of interest made by the member shall be recorded in the minutes of the meeting.

Art. 36. The funds of the Board.

36.1. The funds of the board shall consist of;

- (a) grants from the government
- (b) fees and other charges paid for services rendered by the Board
- (c) grants, gifts and donations from other sources acceptable under the law
- (d) loans from public or private banks

36.2. All the finance of the Board shall be managed through a Fund to be established by the Board. The

Board shall operate a bank account in a bank determined by the Board in a manner decided by the Board.

36.3 The financial year of Board shall coincide with that of the Government of Somaliland. The Board shall keep proper books of accounts, prepare annual financial statements of accounts for the proceeding financial year not later than three months after the end of financial year.

36.4 The books and accounts of the Board shall be submitted to the Auditor General within three months after the end of each financial year, to be audited.

36.5 The Auditor General , after auditing accounts of the Board, shall lay the report before the parliament within three months.

Art. 37. Regulation of public practice.

37.1. The Board shall establish and keep a General Register of Journalists in Somaliland.

37.2. Any person practicing journalism in Somaliland shall be entered into the General Register of Journalists.

37.3. A person entered into the General Register of Journalists shall be issues with a practicing certificate upon the payment of the prescribed fees.

37.4. No person shall practice journalism unless he or she is in possession of a valid practicing certificate issued by the Board.

37.5. A person is deemed to practice journalism if he or she is paid for the gathering, processing,, publication, or dissemination of information.

37.6. Any person who contravenes clause 4. of article 10. commits an offence and is liable upon conviction of a fine not exceeding three million Somaliland shillings, and incase of failure to pay the fine to imprisonment for a period not exceeding three months.

Art.38. Registration and oversight of media entities.

38.1.A proprietor of a media entity shall, against the payment of the prescribed fees, register his organization with Board the following particulars:

- (a) His name, and address with a proof of his identity.
- (b) The name, address and scope of activities of the media entity
- (c) The value of money invested in the business
- (d) The name address, and a proof his qualifications including his practicing certificate issues by the Board, of the editor.
- (e) Any such particular as may be prescribed by the Board.

38.2. The proprietor shall notify the Board within thirty days of its coming to his notice any change in any of the particulars referred in the above provision (11.1).

38.3. Any person who contravenes the aforementioned provisions (11.1. and 11.2) commits an offence and is liable upon conviction to a fine not exceeding three million Somaliland shillings, and in case of failure to pay the fine , to imprisonment for a term not exceeding three months.

38.4. A proprietor and editor of a media entity shall :

- (a) ensure that what is published or broadcasted or disseminated in any other way is not against public morality
- (b) retain a copy of each newspaper published by the entity and a copy of each supplement to it for a period of not less that ten years, and in the case of electronic media, retain a record of all that is broadcasted by a radio or television station for a period of not less than sixty days.

Art.39. Disciplinary Committee

39.1. There is established a disciplinary committee, hereafter to be called The Committee, within the Board.

39.2. The Committee shall compose of five member elected by the Board amongst it members, not including the Chairperson, Secretary and the treasurer of the Board. At least one lawyer shall be a member of The Committee.

39.3. The Committee shall have a Chairperson and a secretary, and three members of the Committee shall form a quorum.

39.4. A complaint or an allegation against a journalist, which if proven would constitute professional misconduct, may be made to The Committee by any person and such complaint or allegation shall be in writing.

39.5. The Secretary of the Committee shall, upon the receipt of a complaint within a week refer the matter to The Committee, which shall fix a date for the hearing of the complaint.

39.6. The Committee shall give the journalist against whom the complaint or allegation is made an opportunity to be heard and shall furnish him with a copy of

The complaint and any other relevant documents at least ten days before the date fixed for the hearing.

39.7. A person appearing as a party before the Committee may, at any stage of the proceedings, appoint an advocate to represent him.

39.8. For the purpose of any complaint the Committee may administer oaths or affirmations.

39.9. For the purpose of carrying out its duties the Committee may interview and correspond with any person as it may deem necessary.

Art.40. Decisions of the Committee

40.1. After hearing the journalist to whom the complaint relates and after considering the evidence adduced, the Committee may (i) dismiss the complaint if

no ground for a disciplinary action is proved, or (ii) if a ground for disciplinary action is proved, impose any or combination of the following penalties:

- (a) The journalist be admonished or be required to apologize to the aggrieved party in the manner specified by the Committee including the same boldness of lettering on the page where the article appeared in newspaper
- (b) The practicing certificate of journalist be suspended for a period not exceeding six months
- (c) The journalist be convicted to a fine not exceeding three million SL shillings.
- (d) The media organization which published the matter that led to the complaint pays compensation to the person who suffered loss or injury as a result of the misconduct.

40.2. A journalist or complainant aggrieved by the decision of the Committee may

Against such decision to Court within thirty days from the date on which the  
of the Committee was delivered to that journalist or complainant.

40.3. Where the Committee suspends the journalist, the journalist shall not , while

Appeal is pending under this section, be entitled to practice.

40.4. The Board shall be responsible for the implementation of the Committee's

Decision.

40.5. The Committee may , on receiving new facts relating to a case of a

journalist on suspension revoke the suspension.

**IX  
MISCELLANEOUS PROVISIONS**

**Article 41: The Duty to Cooperate with the Press and Journalists**

(a) The officers of the government shall co-operate with and assist the press and journalists so as to advance the principle of the right of public to receive information.

(b) The government shall encourage the press and journalists and shall, as far as possible, assist it/them.

**Article 42: Repeal**

Any law, decree, circular, or order which is in conflict with this law shall become null and void when this law comes into force.<sup>19</sup>

**Article 43: Implementation of this Law<sup>20</sup>**

(a) This law shall come into force on its signature by the President, after its approval by Parliament, and it shall be published in the Official Bulletin.<sup>21</sup>

(b) In any disputes about the interpretation and meaning of any provisions of this law, the English language text shall be considered as the official one.

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