

REPUBLIC OF SOMALILAND
MINISTRY OF NATIONAL PLANNING AND DEVELOPMENT

BY LAWS FOR THE COMPLETION AND CLARIFICATION OF THE NGO LAW

The Minister of National Planning and Development

- Having seen:** The NGO Law (Act No: 43/2010) which Somaliland Legislative Councils approved on the 2nd of October 2010.
- Having seen:** The Presidential Degree No: 0082/112010 issued on 10th of October 2010 in which the Somaliland President signed the execution of this Act.
- Having had:** A series of meetings with members from National and International NGOs, UN Agencies and donors in which the general principles of the Act and its implementation were discussed.
- Having listened to:** The concerns raised by the National and International NGOs, UN Agencies and donors on certain Articles of the NGO Law.
- Having considered:** The concerns and queries raised by officials from National and International NGOs as well as UN Agencies and members from donors.
- Having realized:** That there is no substantial disagreement or concerns over the spirit of the provisions of the Act, but questions were made on the explanation, interpretation, clarification, and translation of some Articles.
- Having understood:** The importance of providing clarification on certain Articles of the NGO Act and completing its administrative guidelines and instructions without violating the spirit of those Articles in order to facilitate the understanding and compliance of the Act.
- Confident:** That these By Laws are not violating the spirit of the NGO Act, but they elaborate and help the execution of the Act.
- Having seen:** Article 45 of the NGO Law (Act No: 43/2010); which obliges the Minister of the National Planning and Development to issue the By Laws of the NGO Act required to complete and execute the NGO Act.

**HAS ISSUED THESE BY LAWS FOR COMPLETION AND CLARIFICATION OF THE NGO
LAW (Act No: 43/2010)**

Article One:

“Donor ”

1. In the NGO Act, unless the context otherwise requires, a donor means an organization which could be a government, a regional body, a consortium, a UN agency, a charitable organization, a company, an individual or any other legal entity that provides funds for projects of a development and humanitarian nature.

Article Two

“Implementer”

2. In the NGO Act, unless the context otherwise requires, a project implementer can be anyone who enters into an agreement with a Donor to carry out a specific program in Somaliland.

Article three

“Correspondences” (Article 8(2) (c))

3. While not violating the substance of Article 8(2) (c), copies of written, official correspondences between an International NGO and its line-ministries or other Government institution/s shall be given to the Ministry of National Planning and Development **only** when these official correspondences relate to disputes, complaints and/or any material change to LOAs.

Article Four

“ Common Coffe r” (Article 28(1))

4. Contribution to the common coffe r as stated in Article 28(1) is **optional**.

Article Five

“Fund from a Non-resident Donor ” (Article 30(4))

5. Without violating the substance of Article 30(4), the donor that an International NGO should have an agreement with and secure funds from is as defined in Article 1 of these By Laws.

Article Six

“Founders” (Article 30)

6. If the founders stated under Article 30 of the NGO Act are, for one reason or another, not available, the current **Executive Directors** of the NGO shall replace.

Article Seven

“ LOA” (Article 33)

7. The Ministry of National Planning and Development shall co-sign all LOAs between International non-governmental organizations and their partners or line-ministries in the country.

Article Eight
“Assets” (Articles 32(2) & 36(1))

- 8.1. Under Article 32(2) if an NGO is dissolved or terminates its activities or its permit is revoked in accordance with the NGO Law, the NGO should transfer its physical project assets to the Ministry of National Planning and Development. However, where an implementing agency has, in its agreement with the donor an obligation to dispense of project assets in a way which contradicts the provisions of Article 36(3) of the Act, the agreement with the donor will control dispensation of the INGO’s assets, provided proof of such agreement is provided and its terms are included in the LOA signed with its counterpart.
- 8.2. Under Article 36(1) an NGO should submit a list of its assets with its annual report to the Ministry of National Planning and Development.

Article Nine
(Project Implementation) (Article 35(3))

9. In accordance with Article 35(3), an international NGO shall not become an executing agency for another INGO or UN agency in the country unless there are no national partners with the required capacity. However, where multiple INGOs or UN agencies have submitted a project proposal to a donor, and it has been approved by the donor, and where the proposal or agreement with the donor contains a clear allocation of funding, the partners to the proposal will not be interpreted as implementing on behalf of each other. Rather, each of the partners to the proposal will be interpreted as implementing their portion of the overall project on behalf of the donor. The partners will be individually responsible for reporting, in accordance with Article 38 of the Act, only their portion of the given agreement.

Article Ten
(Taxation of UN Staff) (Article 37(1))

10. The UN Charter, and the 1946 Convention on the Privileges and Immunities of the United Nations shall apply in determining taxation of UN staff.

Article Eleven
Implementation of the NGO law (Law No: 43/2010)

- 10.1. These By Laws shall be supplementary to the NGO Law No: 43/2010, which is going to guide and regulate the activities of NGOs
- 10.2. All government institutions, NGOs, NGOs Consultative Committees, national and regional Registrars and all other concerning authorities should put the provisions of this law into practice, and abide by them.

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