

# REPUBLIC OF SOMALILAND



## Legislation on the Prohibition of the Use, Stockpiling, Production and Transfer of Anti- personnel Mines and on their Destruction



# ANTI-PERSONNEL MINE BAN ACT 2007

## An Act on the Prohibition of the Use, Stockpiling, Production and Transfer of Anti-personnel Mines and on their Destruction in the Republic of Somaliland

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## ANTI-PERSONNEL MINE BAN ACT 2007

### An Act on the Prohibition of the Use, Stockpiling, Production and Transfer of Anti-Personnel Mines and on their Destruction in the Republic of Somaliland

#### PART I – PRELIMINARY GENERAL POINTS

##### *Article 1 - The meaning of Words*

**‘anti-handling device’** means a device intended to protect a mine and which is part of, linked to, attached to or placed under the mine and which activates when an attempt is made to tamper with or otherwise intentionally disturb the mine;

**‘anti-personnel mine’** means a mine which effectively explodes by the presence, proximity or contact of a person, including other victim-activated explosive devices and anti-vehicle mines with the same effect, whether with or without anti-handling devices; components of anti-personnel mines that are designed, modified or adapted to form a weapon acting like antipersonnel mines and anti-vehicle mines that can be triggered by the pressure or weight of a person are considered anti-personnel mines.

**‘mine’** means a munition designed to be placed under, on or near the ground or other surface area and to be exploded by the presence, proximity or contact of a person or a vehicle;

**‘mined area’** means an area which is dangerous due to the presence or suspected presence of mines;

**‘Convention’** means the Convention on the Prohibition of the Use, Stockpiling, Production and Transfer of Anti-Personnel Mines and on their Destruction, 18 September 1997.

**‘The Office,’** means the Office of the Vice-President of the Vice-President of the Republic of Somaliland with responsibility for this Act;

**‘transfer’** means either the physical movement of anti-personnel mines into or from the territory of the Republic of Somaliland or the transfer of title to and control over the mines, but does not involve the transfer of territory containing emplaced anti-personnel mines.

##### *Article 2 – The name of the Act*

This Act shall be called the Act of The Prohibition of the Use, Stockpiling, Production and Transfer of Anti-Personnel and Their Destruction.

##### *Article 3 – The Interpretation*

The provisions of this Act shall be interpreted in a manner consistent with the Islamic Law, the Law of this Country and the International Law.

#### **Article 4 – Enforcement of the Act**

This Act shall be enforced on;

1. Every Somaliland citizen, who resides inside or outside the country.
2. Every foreigner who resides in the country legally.
3. All the foreign companies and non-governmental agencies that are registered and work in the country.

### **PART II - PROHIBITIONS AND OFFENCES**

#### **Article 5 - Prohibited conduct**

1. Except as provided in Article 8 of this Act, no person shall:
  - (a) use an anti-personnel mine;
  - (b) develop or produce an anti-personnel mine;
  - (c) acquire an anti-personnel mine;
  - (d) possess, retain or stockpile an anti-personnel mine;
  - (e) offer, sell, import, export or transfer to anyone, either directly or indirectly, an anti-personnel mine.
2. Except as provided in Article 8 of this Act, no person shall assist, encourage or induce, in any way, anyone to engage in conduct referred to in subsection (1) above.

#### **Article 6 - Offences and Penalties**

1. Unless the General Law on Penalties or other Criminal Law specified indifferent manner, any person who contravenes sections in Article 5 shall be guilty of an offence and liable upon conviction to:
  - a) in the case of an individual, or a group imprisonment for a term between 1-3 years or to a fine between one million to two million shilling ( 1,000,000 – 2,000,000 Sh.SI);
  - b) in the case of a body corporate, an NGO or government official a fine between five million to ten million shillings (5,000,000 – 10,000,000 Sh.SI.).
2. Where an offence under Article 5 which is committed by a corporate body is proved to have been committed with the consent and connivance of, or to be attributable to any negligence on the part of, any director, manager, secretary or other similar officer of the corporate body, or any person who was purporting to act in such capacity, he as well as the body corporate shall be guilty of that offence and shall be liable to be proceeded

against and punished in accordance with subsection (1)(a), that's when the act is committed in their property, their vehicles or other equipment or other locations under their jurisdiction.

3. Unless the General Law on Penalties or other Criminal Law specified indifferent manner, any person who shall assist, encourage or induce, in any way, anyone to engage in conduct referred to in Article 5 shall be liable to be proceeded against and punished in accordance with subsection (1) (b) of this Article.
4. Unless the Act provides indifferently, all those mentioned in Article 8 of this Act, who acts illegally by, offering, transferring or selling to someone who uses, trades, transfers, by possessing, retain or stockpile anti-personnel mine, or through negligence it falls in the hands of someone who carries out the acts mentioned in article 5, shall be liable to be proceeded against and punished in accordance with subsection (1)(a).
5. Any ruling that's subject to the punishments of this Act, it includes the transfer of the antipersonnel mine or component part used or otherwise involved in the commission of the offence be forfeited to the office that's authorised for the destruction of mines.

#### ***Article 7 - Extra-territorial application***

1. Article 5 extends to conduct outside the territory of the Republic of Somaliland of residents of the Republic of Somaliland and bodies corporate incorporated under the laws of the Republic of Somaliland.

#### ***Article 8 - Exceptions: conduct which is permitted***

1. Articles 5 and 6 are excepted to the possession, retention or transfer of an anti-personnel mine by a member of the Somaliland armed forces, the Police force, a court official, a customs official, a member of the Somaliland Mine Action Centre (SMAC) or any other such person appointed by the Office of the Vice-President by notice in writing in the course of that person's duties for the purpose of:
  - a) the conduct of criminal proceedings;
  - b) rendering an anti-personnel mine harmless;
  - c) retaining an anti-personnel mine for future destruction;
  - d) delivering an anti-personnel mine to an office or a base for destruction or stockpile; and
  - e) executing on behalf of the agency, manager, or those mentioned above who are by law responsible.

2. Also Articles 5 and 6 are excepted to, all persons or high ranking, (such as the military or police officers carrying weapons) where the office has lawfully given the person permission to use it for:
  - Research or
  - Education
3. The Ministry of Defence and Mine Action Agencies shall request the amount of mine they need as provided in subsection (2), and the permission will be granted by the National Mine Action office responsible for mines, at the same time the request received from the Ministry of Defence and Mine Action Agencies can be granted, changed or even refused

### **PART III- MINE ACTION**

#### ***Article 9 - Notification of Anti-Personnel Mines***

1. Any person who knowingly possesses an anti-personnel mine otherwise than in accordance with Article 8, must, without delay, notify the Somaliland police, armed forces, or the mine action agency to make the necessary arrangement for its pick up and destruction.
2. Somaliland police, armed forces or authorised mine action agencies may enter premises, where it's suspected or known that anti-personnel mine and/or explosive remnant of war are present and take possession of them.
3. Somaliland police, the armed forces or any others mentioned in subsection (2) must carry a court warrant.
4. If its clear to the Somaliland police or the mine action agency that the warrant would cause the failure of the anti-personnel mine and/or explosive remnant of war being found, they can enter the premise that's suspected without warrant.

#### ***Article 10 - Destruction of Anti-Personnel Mines***

1. The Office shall ensure the destruction of:
  - a) all stockpiled anti-personnel mines owned or possessed by the Republic of Somaliland or that are under its jurisdiction or control, as soon as possible but not later than four years after the entry into force of this Act;
  - b) all anti-personnel mines in mined areas under the jurisdiction or control of the Republic of Somaliland; as soon as possible but not later than ten years after the entry into force of this Act;
  - c) all anti-personnel mines notified or delivered for destruction.

2. When anti-personnel mine is found or caught, the central office of mine action must be informed and after recording it gives the permission for its destruction.
3. During the destruction of anti-personnel mine, a representative from the office of mine action who has knowledge of mines must be present.
4. The anti-personnel mine must be destroyed in a place that will not cause harm to the public or the environment.

#### ***Article 11 - Marking, monitoring and protection***

1. All areas known or suspected to be mined must ensure that such area is perimeter-marked and protected by fencing or otherwise employ such means as are necessary to notify civilians of the presence of anti-personnel mines until all anti-personnel mines contained therein are destroyed, as soon as possible.
2. The marking shall at least be to the standards set out in the Protocol on Prohibitions or Restrictions on the Use of Mines, Booby-Traps and Other Devices, as amended on 3 May 1996, annexed to the Convention on Prohibitions or Restrictions on the Use of Certain Conventional Weapons Which May Be Deemed to Be Excessively Injurious or to Have Indiscriminate Effects.
3. Every area that's known or suspected to be mined must be surveyed, where the survey is a general one that can be used by any clearing mine action agency.
4. A mined area or the anti-personnel mine when found must be identified, protected and recorded.

#### ***Article 12 - Victim assistance and mine risk education***

1. The Office shall take every possible measure to provide medical care, rehabilitation and socio-economic reintegration to mine victims.
2. The Office shall inform civilians how to live safely in mine contaminated environments in order to minimise the risk of mine-related injuries. Such measures shall be further elaborated in relevant regulations and policies.
3. The Office shall investigate the accidents caused by landmines, the cause of the accident; if anyone is responsible they should pay for the victims' treatment and compensation or pay the compensation according to the Islamic Law.
4. The Office shall make sure the national staff of mine action agencies who become who are injured at work must receive medical treatment, compensation and payment for their reintegration to the society from their employers.

## **PART IV – MONITORING AND TRANSPARENCY**

### ***Article 13 - National monitoring***

The Office shall monitor the implementation of the Act, the work plan of the Act, and all activities under their jurisdiction.

### ***Article 14 - Fact-finding missions***

1. Relevant independent international organisations are authorised by the Office to conduct fact-finding missions on the territory of the Republic of Somaliland to monitor and verify compliance with the present Act.
2. The Office shall facilitate such fact-finding missions by:
  - (a) taking the necessary measures to receive, transport and accommodate the members of the mission;
  - (b) ensuring the security of the mission to the maximum extent possible during their presence;
  - (c) allowing the mission to bring equipment necessary to gather information;
  - (d) enabling the mission to speak with all relevant persons who may be able to provide information;
3. In the event that the Republic of Somaliland accedes to the Convention, then the associated provisions for the establishment of international fact-finding missions under Article 8 of the Convention will apply.
4. It is not permitted for the fact-finding missions to violate the sovereignty of the Republic of Somaliland.

### ***Article 15 - Transparency measures***

The Office shall report to the Parliament on the progress made towards implementing the present Act and the progress of landmine problem in the country annually. The annual implementation report shall provide detailed information on:

1. The total number of anti-personnel mines in the country, the total destroyed, the total of all stockpiled anti-personnel mines, owned or possessed by the Republic of Somaliland, or under its jurisdiction or control, places that are mined, what has been done to them, what damage they caused and any other information that's related to the mine.
2. To the extent possible, the location of all mined areas that contain, or are suspected to contain, anti-personnel mines under the jurisdiction or control of the Republic of



Somaliland, to include as much detail as possible regarding the type and quantity of each type of anti-personnel mine in each mined area and when they were placed;

3. The status of programs for the destruction of anti-personnel mines in accordance with this Act and the Convention, including details of the methods which will be used in destruction, the location of all destruction sites and the applicable safety to public and environmental standards to be observed;
4. The types and quantities of all anti-personnel mines destroyed after the entry into force of this Act, to include a breakdown of the quantity of each type of anti-personnel mine destroyed, in accordance with this Act.
5. the technical characteristics of each type of anti-personnel mine currently owned or possessed by the Republic of Somaliland, giving, where reasonably possible, such categories of information as may facilitate identification and clearance of anti-personnel mines; at a minimum, this information shall include the dimensions, fusing, explosive content, metallic content, colour photographs and other information which may facilitate mine clearance; and
6. the measures taken to provide an immediate and effective warning to the population in relation to all mined area or suspected mined areas, and to provide mine risk education and victim assistance.

#### ***Article 16 – Collection of mines owned***

1. The Office shall bring out a campaign after the entry into force of this Act, informing the population to hand over and inform all mines that they own or know its existence in a period of three months.
2. The Office is ordering all persons mentioned in Article 8 of this Act, to let it be known that all information regarding all mines that's kept by their mine action agencies or those used for work, in order to obtain a licence under this Act.
3. When the period mentioned in subsection (1) of this Article is over, the Office shall with the assistance of the Police force investigate all suspected areas and persons who possess mines.
4. When the Office obtains information related to subsection (3) of this Article, after following the Articles of investigation, banning, seizing items of crime mentioned in this Act such as offences and penalties, banning and the seizing of any mines that's possessed without owning a licence given by the Office as mentioned in this act or not owned by the Police or Military force.

## **PART V - INFORMATION-GATHERING POWERS**

### ***Article 17- Obtaining information and documents***

The Office may, by written notice serve on any person, require him or her to give the Office such information or documents as is specified in the notice if the Office has reason to believe that he has information.

### ***Article 18 - Failure to Comply and Providing False Information***

Any person who without reasonable excuse fails to comply with a notice served on him or her by the Office, or knowingly makes a false or misleading statement in response to a notice served on him or her, shall be guilty of an offence and liable, to the offences and penalties mentioned in this Act.

### ***Article 19 - Civil matter Responsibility and Compensation***

1. The mine action agencies cannot give unreliable information, regarding mines.
2. If a mine action agency brings out inaccurate information saying that a mined area has been cleared and it no longer possesses danger to the public, following that information any person that's injured by a mine in that area it's the responsibility of that organisation to give full report of the damage caused.
3. Any mine action agency that do not put a sign or block off a suspected mine area, will be responsible for any damage caused in that area as a civil matter.

### ***Article 20 – Act binding***

This Act will come into force when both houses of Parliament (the House of Representatives and the House of Elders) approve and the President signs.