

**PUNTLAND STATE OF SOMALIA**

**MINISTRY OF INTERIOR, LOCAL GOVERNMENT AND  
RURAL DEVELOPMENT**

**Land Dispute Tribunal (LDT) Regulation**

**2017**

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## PART ONE

### CHAPTER ONE: GENERAL PROVISIONS

#### Article 1: Short title, Extend and Commencement

- a) This Regulation may be cited or named as the regulation of Land Dispute Tribunal of Puntland 2017.
- b) The regulation amends and revises the Regulation of Urban Land Dispute Resolution of Puntland – Regulation No. 7/2016.
- c) It extends to the whole of Puntland.
- d) The provisions of this regulation shall come into force on such date as the regulation is signed by the Minister and by notification is published in the official bulletin of Puntland.

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#### Article 2: Objective

The objectives of this Regulation shall be:

- 1) To establish Land Dispute Tribunals (LDTs) in all districts;
- 2) To set up a uniform system for settlement of all urban land disputes;
- 3) To build up a system that enhances government's authorities to regulate the land for public purposes and to establish necessary procedures.
- 4) To develop an efficient and effective urban land dispute settlement mechanism system that minimizes illegal land grabbing.

#### Article 3: Interpretations

In this Regulation, unless the context requires otherwise:

**“District Executive Committee”** means ...

**“Local District Council”**: refers to the territory by which local council members are elected from.

**“Sale”**: means the sale of urban land, excluding the validity of the sale contract of urban land.

**“Minister”**: means the The Minister of Interior, Local Government and Rural Development/ Public Works.

**“Ministry”**: means the Ministry of Interior, Local Government and Rural Development/ Public Works.

**“Ordinary Courts”** means the regional and district courts, courts of appeal and the Supreme Court.

**“Urban land”** means land located in urban areas, defined as “the space characterized by parcelled land and continuous built up areas in which there is actual or planned provision of infrastructure and services such as roads, electricity, draining and water supply systems and sanitation”.

**Peri urban land** means land located in urban expansion areas defined as “areas adjoining urban zones, scarcely built up and with low population density, to be reserved for urban expansion in the next twenty years.

“Tribunal” means a Land Disputes Tribunal established under section 4

**Article 4: Scope of Application**

This regulation shall apply to:

- 1) Establishment and operations of Land Dispute Tribunals in Puntland; and
- 2) Adjudication and resolution of disputes over urban and peri-urban land as defined in this Regulation and in accordance with the jurisdiction set out in Article 6.

**PART TWO**

**CHAPTER TWO:  
ESTABLISHMENT AND JURISDICTION OF LAND DISPUTE  
TRIBUNALS**

**SECTION ONE: ESTABLISHMENT OF THE LAND DISPUTE TRIBUNAL**

**Article 5: Independence of the LDT**

- 1) The LDT shall be fully independent in the administration of all cases that come in its jurisdiction.
- 2) No governmental institution, the Court and non-governmental institution may interfere, influence or direct the LDT in the administration of land disputes.
- 3) The Independency vested under Sub Article 1 of this Article shall not be used to take any act or decision amounting violation to this Regulation, any other relevant laws of Puntland or the code of Conduct to be established under this Regulation.

**Article 6: Establishment of Land Dispute Tribunals**

- 1) The Minister shall, subject to the provisions of this Regulation, establish a tribunal to be called Land Dispute Tribunal in each district;
- 2) The Tribunal established under subsection (1) of this article shall exercise jurisdiction within the district in which it is established.
- 3) An LDT established under Sub Article 1 of this Article shall have a legal personality and shall be an administrative Tribunal with the authority to issue final administrative decisions over the dispute of urban land in accordance with the provisions of this Regulation.

**SECTION TWO: JURISDICTION OF THE LAND DISPUTE TRIBUNAL**

**Article 7: Jurisdiction of Land Dispute Tribunals**

- 1) The LDT has jurisdiction over administrative cases concerning disputes over urban and peri-urban land within the Districts.
- 2) The LDT adjudicates disputes over ownership, possession, tenure, use, sale and transfer of land.
- 3) The LDT should refer its decisions to the relevant District court for enforcement.

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- 4) The Jurisdiction of the LDT excludes all lands that:
  - a. ~~a~~Are the subject of a previous dispute on the same issue by the same parties that has already been decided by a court;
  - b. are not an urban or peri-urban land, to be established as a matter of fact;
  - c. are used for Range, grazing or farmland;
  - d. ~~a~~Are subject to ongoing arbitration or mediation.
1. If the LDT hears and decides over a dispute relating to any land mentioned in Article 4 (1) of this Regulation, such decision of the LDT shall be considered null and void.

#### Article 8: Powers and Authority of the Land Dispute Tribunals

Each established LDT shall have the authority to:

- a) Review and verify evidences submitted to it by parties of cases;
- b) By its own discretion investigate, obtain and review evidence it deems necessary to reach a fair decision in a timely manner and in compliance with this Regulation.
- c) Issue summons to any person who should be a witness or should be joined to a case before it;
- d) Make decisions about how to resolve the dispute that will be considered final unless appealed to the Supreme Court;
- e) Make temporary injunctions to preserve the status quo of the land;
- f) Request the District Court to enforce these decisions;
- g) Exercise other powers and authorities given under this Regulation or any relevant powers vested in the first Instance courts by the applicable laws.

#### Article 9: Referral of cases between LDT and Ordinary Courts

- 1) Ordinary Courts shall refer the cases which fall under the jurisdiction of the LDT whenever:
  - a. the criminal case before the court primarily relates to an issue which falls under the Jurisdiction of the LDTs; or
  - b. civil case before court primarily relates to an issue falling within the jurisdiction of the LDTs
- 2) LDTs shall refer cases to the Courts to determine entire dispute or a particular issue or issues in the case, whenever:
  - a. a criminal issue arises from the case before the LDTs;
  - b. when the major issue of the dispute before the LDT that the need to be determined before any other issues in the case relates to civil matter which fall outside the jurisdiction of the LDT; or
  - c. the subject matter of the dispute is outside the jurisdiction of the LDT.

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**PART THREE:**  
**CHAPTER THREE**  
**ORGANIZATIONAL STRUCTURE AND FUNCTIONS OF LAND  
DISPUTE TRIBUNALS**

**Article 10: Composition of LDT**

- 1) LDT shall consist of five members of whom at least two shall be women.
- 2) Members shall be appointed in accordance with the terms provided under this Regulation.
- 3) The LDT members are:
  - a. One person from the Ministry, who will act as Chairperson
  - b. One person from the Local Government Authority who will act as Deputy Chairperson;
  - c. One customary elder;
  - d. One religious Leader.
  - e. One person from civil society who will act as Secretary.
- 2) Each Tribunal shall have a secretariat with sufficient number of supporting staff to be employed in accordance with Article 27 of this Regulation.

**SECTION ONE: APPOINTMENT AND CRITERIA OF TRIBUNAL MEMBERSHIP**

**Article 11: Appointment Procedure for members of the Tribunal**

- 1) The Ministry will invite no less than three civil society organisations to appoint nominees to sit on the Tribunal on the date these Regulations come into force and thereafter on a yearly basis.
- 2) When Chairperson and Deputy Chairperson positions on the LDT become vacant, the Ministry of Interior, the local government and one or more civil society organisations invited to nominate by the Ministry shall nominate two potential Members of the Tribunal: one male and one female.
- 3) In selecting a suitable nominee for the Tribunal, the respective Ministry must comply with the criteria for Tribunal membership prescribed in Article 14 of this Regulation.
- 4) If the concerned authorities or civil society organisations fail to nominate members that comply with the criteria under Article 14 of this regulation, written notification explaining the reasons of the failure must be provided to the Ministry.
- 5) The Ministry has the final authority to approve the members nominated by the concerned authorities.
- 6) The Ministry will ensure members of LDT includes at least two women.
- 7) Once the Ministry has approved the nominated members, the Minister will issue a ministerial level decree in accordance with Article 28 (3) of the **Urban Land Management Law No 17/01**

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## Article 12: Criteria for Membership of the Tribunal

- 1) Any person to be appointed as a Tribunal Member, must be:
  - a. A Citizen of Puntland;
  - b. Be the age of thirty years or above;
  - c. Be a person of good reputation who is known to be honest and trustworthy;
  - d. A resident in the local District Council for which the LDT is established; and
  - e. A person who has not served or been subjected to a criminal sentence by a court, in the last five years
- 2) In the addition to the conditions in Sub Article (1) of this Article, each nominated Member also must fulfil the following education and experiences criteria:
  - a. The Chairperson nominated by the Ministry of Interior should be a qualified lawyer, possessing a law degree from a recognized university, who has served as judge, legal practitioner or advocate for at least three years.
  - b. The Deputy Chairperson nominated by the Local Authority should be a government officer with minimum of three years of experience in land issues;
  - c. The Secretary nominated by civil society should have a relevant university degree and at least five years' experience in issues relating to land;
  - d. The customary and religious elders should be respected amongst their communities and have extensive experience in resolving land disputes;
  - e. The member of civil society must have had at least three years' experience in dealing with issues relating to land disputes.
- 3) The The Minister shall issue directives determining the number of members and criteria for Tribunal membership for Local districts which could not find persons fulfilling the above criteria for Tribunal membership provided in Sub Article (2) of this Article.

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## Article 13: The Oath of Land Dispute Tribunal Members

Members of Tribunal shall swear an oath in accordance with the Puntland Constitution before the commencement of the work with the presence of regional court chairperson.

## Article 14: Term of Office

- 1) The Term of Office of the Members of the Tribunal shall be the same of the term as the local government.
- 2) The above term of office of the Members may be extended for another term of the same length subject to fulfillment of the conditions of appointment of the membership, unless there is a justifying reason to reject re-appointment of members

- 3) The Concerned Minister or Authority shall, upon receipt of request from the the Minister, re-appoint or newly appoint of a Tribunal member.
- 4) Should a member cease membership before the end of the term of office of the LDT, such vacant seat shall be filled in compliance with appointment criteria and procedure of membership of the Tribunal.
- 5) The newly appointed member will serve the remaining term of office of the Tribunal.

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#### Article 15: Loss of membership

- 1) A member shall be deemed vacated to have membership of the LDT if he or she:
  - a. Passes away;
  - b. Resigns from office by submitting one month written notice to the Minister;
  - c. Is removed from office by the Minister due to:
    - i) physical or mental infirmity, making the person unable to discharge the functions of the office;
    - ii) failing to attend 5 planned hearing sessions of the LDT in which he/she is a member;
    - iii) Disciplinary measures imposed in accordance with Article 17 of this Regulation or any other relevant regulations.

#### Article 16: Code of Conduct and Disciplinary measures

- 1) The Puntland High Judicial Council shall be the responsible institution to hold members of the LDT's accountable for their actions relating to hearing and determination of land dispute cases in accordance with relevant provisions of the Judicial Code of conduct and disciplinary rules applicable to judges in Puntland.
- 2) Members of the LDT shall abide by the Puntland Judicial Code Conduct.
- 3) A member of the LDT who violates the provisions of the abovementioned code of conduct shall be liable and be subjected to disciplinary measures including dismissal.
- 4) Receiving, investigating and hearing complaints of misconduct and imposing of disciplinary measures against members of the LDT shall be carried out by the High Judicial Council in accordance with the Law on the Organisation of the Judiciary.
- 5) The High Judicial Council shall submit decisions imposing disciplinary measures against LDT members to the minister for enforcement.
- 6) Upon receiving decisions of the High Judicial Council submitted under Sub Article 1 of this Article, the Minister shall immediately enforce such decisions.

#### Article 17: Immunity of the LDT Members

- 1) LDT Members shall enjoy immunity during their term of office.
- 2) Without prior authorization of the Minister, no member of the LDT may be arrested or taken before a court for a reason relating to exercise his/her functions and duties of the LDT
- 3) A member of the LDT may be arrested if caught *in flagrante* committing an offense punishable with an imprisonment.

#### **Article 18: Remuneration of the LDT Members**

- 1) Members of the LDT are entitled to membership allowance and case hearing allowance taking into account financial situation of the district by which the LDTs are established.
- 2) The **district executive committee** shall determine and issue directives on the scale of allowances payable to members of LDTs.

#### **SECTION TWO: FUNCTIONS OF THE LDT**

##### **Article 19: Internal Structure**

Each LDT to be established under this Regulation shall have the following internal structure:

1. Chairperson;
2. Deputy Chairperson;
3. Secretary;
4. LDT Panels; and
5. Secretariat with sufficient number of supporting staff.

##### **Article 20: Duties and Responsibilities of the Chairperson**

- 1) The Chairperson of each LDT shall always be the member nominated by the Ministry of Interior.
- 2) Functions and duties of the Chairperson include:
  - a. Leading and supervising day to day operations and overall management of the LDT;
  - b. Appoint and assign members to LDT Panels to hear specific cases;
  - c. Propose and approve expenditure of the LDT;
  - d. Coordinate and maintain the relationship of the LDT and other partner organizations;
  - e. Proposing recruitment and dismissal of subordinate staff for the LDT;
  - f. Placement of newly recruited subordinate staff;
  - g. Preparing and consolidating periodical performance reports of the LDT; and submitting the same to the Minister.
  - h. To assign, supervise, and to hold accountable subordinate staff of the LDT;
  - i. Ensuring effectiveness of the case hearing processes of the LDT;
  - j. Undertaking other duties vested under this Regulation, bylaws or other relevant and applicable laws.

##### **Article 21: Duties and Responsibilities of the Secretary and Deputy Chairperson**

- 1) The Secretary and Deputy Chairperson of the LDT shall be the member nominated by the Local Authority.
- 2) Functions and duties of the Secretary and Deputy Chairperson shall be:
  - a. To act as the Chairperson in the absence of the latter; and
  - b. To undertake other duties assigned by the Chairperson or vested under this Regulation.

- a. To receive or refuse case applications ,verifying its conformity with LDT jurisdiction according to article 6as well as with the particulars prescribed by article 28, 1.
- b. To be administration and finance officer of the LDT;
- c. To lead and manage, under the supervision of the Chairperson, operation of the secretariat and subordinate staff of the LDT:
- d. To be responsible for holding and safekeeping all records and documents relating to the administration and financial matters of the LDT;
- e. To be responsible for holding, maintaining and safekeeping of registers, records, case files and all documents of land disputes filed and rendered by the LDT;
- f. To maintain, protect, safe-keep and register office equipment and property of the LDT;
- g. Prepare expenditure plan of the LDT, and execute the same upon approval;
- h. Prepare periodical performance reports of the LDT and individual subordinate staff members of the LDT and submit the same to the Chairperson; and
- i. Undertake other duties vested under the Regulation of the LDT or by the Chairperson.

#### **Article 22: DT Panels**

- 1) The LDT Panel shall be the number of members from the LDT assigned by the Chairperson to hear a particular case.
- 2) LDT Panel to be appointed under Sub Article (1) above could be one person, a panel of three or the full bench of five.
- 3) If the panel is three members, at least one must be a woman.
- 4) A one-person Tribunal will consist of the Chairperson or Deputy Chairperson and will only be convened for simple cases. An issue will be considered simple where the outcome is obvious and the party disputing that outcome has not advanced any arguments that would be reasonably considered to lead to any other conclusion.
- 5) A decision about whether to have a panel of three or a full bench will be based on the weight of the dispute as may be determined by the Chairperson of the LDT, taking into account price and size of the disputed land and such other matters that may complicate the nature of the dispute.
- 6) Every LDT Panel shall be presided by one of its members. Each LDT Panel consisting of three members shall be presided by a member appointed by the Chairperson to preside the panel. The Chairperson shall be the member presiding in the case of a full bench.
- 7) The Role and responsibilities of the Presiding member of each LDT Panel shall be to:
  - a. preside case hearing sessions of the LDT Panel;
  - b. ensure that appointments fixed for hearing sessions of the case of the Panel are duly observed by the parties to the dispute as well as Panel members; and
  - c. ensure that the proceedings, claims, witness and evidences presented by the parties are reduced in written, and are properly recorded and filed in the concerned case file folder-

#### **Article 23: LDT Subordinate staff**

- 1) The LDT shall have subordinate staff such as: clerks, Bailiffs and cleaners; the Local

Government of the District by which the LDT is established shall, upon receipt of a staffing need request form Chairperson of the LDT, ensure employment of staff of the LDT.

- 2) Recruitment of subordinate staff of the LDT shall be carried out in accordance with the Local Government Personnel Administration Regulation;
- 3) The Clerk shall be responsible for keeping and maintaining all documents transferred to him/her to keep safe, holding case files, writing documents, and registration of all documents signed by the LDT in accordance with the provisions of this Regulation;
- 4) Bailiffs are responsible for serving documents to parties of the cases, and administrative documents issued by the Office of the LDT;
- 5) The Local Government of each District shall be responsible for payment of salary and allowances to the subordinate staff;
- 6) Subordinate staff of the LDT shall be accountable to the Chairperson of the LDT.

#### **Article 24: LDT Premises and Facilities**

- 1) The Working Premises of the LDT shall be at the headquarters of the Local Government of District, and shall have a working office in the Office of the Administration of the Local Government.
- 2) The Local Government of the District, where a LDT is established, shall be responsible for providing the necessary furniture and equipment as well as funds that the LDT may require to properly operate and discharge its duties.

### **CHAPTER THREE: MANAGEMENT AND HEARING OF CASE**

#### **Article 25: Procedure for case institution and adjudication**

1. Land dispute applications shall be instituted by presenting a claim to the LDT secretary in accordance with the provisions of 68,117,119 of Somali Civil Procedure Code.
2. Notwithstanding the provisions of sub-article (1) Every presented claim shall contain;
  - a. Name and place of the LDT.
  - b. Name and the defendant's place of residence.
  - c. Name and the plaintiff's place of residence.
  - d. A summary of the material facts of the case.
3. The secretary shall only approve the application if it is filed in the manner contained in article of (1) (2) of this article and the case is under jurisdiction of LDT.
4. The secretary shall have the right to deny application if particulars of the application are completed in accordance with prescribed manner.

### **CHAPTER FOUR: APPEAL**

#### **Article 26: Appeal**

- 1) Any party who is aggravated by a final decision of the LDT has a right to appeal to the Supreme Court within thirty (30) days starting from the date the LDT read out the decision.
- 2) The party wishing to lodge an appeal against decisions of the LDT shall submit to the Secretary of the LDT a memorandum of appeal addressed to the Supreme Court.

- 3) The memorandum of appeal shall be filed in accordance with provisions of Civil procedure code
- 4) Notwithstanding the provisions of the Sub (1) the Memorandum of appeal to be submitted under sub Article 3 of this Article shall state:
  - a. An indication that appeal is addressed to the Supreme Court;
  - b. Referral number of the decisions against which the appeal is lodged;
  - c. Names, address and details of the appellant and respondents, and their advocates; and
  - d. Grounds for rejecting the decisions of the LDT.
- 1) Upon receiving the memorandum of the appeal, the Secretary shall:
  - a. Record the appeal in the Appeal Case Register of the LDT;
  - b. Prepare and produce in writing lists of documents included in the concerned case file; and
  - c. Within seven days from the date received the memorandum of appeal, prepare and send to the Supreme court a copy of all documents of the case file folder (hearing records, documentary evidences and all written orders issued by the LDT in hearing the case) concerning the decision of the LDT lodged the appeal.

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#### **Article 27: The Authority of the Supreme Court**

- 1) The Supreme Court, in the exercise of its appellate jurisdiction over final administrative decisions of the LDT, shall have power to take or to order the LDT to take and certify additional evidence and whether additional evidence is taken or not, to confirm, reverse, amend or vary in any manner the decision or order appealed against.
- 2) Judgment of The Supreme Court over final decisions of the LDT shall be final.
- 3) The Supreme Court shall send copies of appeal judgment it rendered over final administrative decisions of the LDT to the concerned LDT to execute.

### **CHAPTER FIVE: EXECUTION OF DECISIONS AND JUDGEMENTS**

#### **Article: 61 Executions of Decisions of the LDT**

- 1) The LDT shall execute in accordance with the provisions of this Article:
  - a. its final decisions which are not appealed to the Supreme Court, and
  - b. the judgment of the Supreme Court over final decisions of the LDT.
- 2) Once an LDT has written its final decision, the Secretary should admit the decision along with an order that the parties execute the decision to the District Court.

### **CHAPTER SIX: MISCELLANEOUS PROVISIONS**

#### **Article 28: Collaboration between the LDT Members and other Government Institutions**

1. Members of the LDT shall have a close working relationship with the executive committees of local governments by which they are established, they shall work together on the effectiveness and to cover the budget of the LDT;
2. The LDTs shall have a working relationship with the police officers, regional governors, and district chairpersons when executing decisions issued by the LDTs and final judgments from the High Court;
3. The Mayor, after the nomination of the LDT members shall by decree publish and require regional governors, mayors, police officers, to collaborate with the LDT members and assist them to effectively implement their duties, and order to assist in the execution of their duties;
4. Land Dispute Tribunals will encourage and support the payment of land related tax;
5. Land Dispute Tribunals will recognize, respect and give consideration to the legal authority of local governments and their mandate to administer, provide, register and plan urban land when applied the legal authority in accordance with the law.
6. Any conflict between the committee and its closely working institutions shall be resolved through amicable solution based on negotiation and dialogue, and where such dialogue and negotiation fails shall be resolved by the Minister.

#### **Article 29: The relationship between Ministry of Interior and Land Dispute Tribunals**

1. Without prejudice to the independence of Land Dispute Tribunals, the Land Dispute Tribunals will be under the administration of the Ministry of Interior.
2. The Ministry will be responsible for the development and establishing Land Dispute Tribunals members such as:
  - a. The deploying members and building offices for LDTs;
  - b. Supervising and supporting the functions of the LDTs;
  - c. Training and capacity building for LDT's members;
  - d. Improving working facilities and building offices for the Land Dispute Tribunals;
  - e. Creating enabling environment where all stakeholders can work together
  - f. Resolving conflict between Land Dispute Tribunals which are not related to the LDT's Code of Conduct as stipulated under sub-Article 1 of Article 17.

#### **Article 30: The relationship between Ministries and the Members they nominated**

1. The LDT members nominated by the concerned Ministries will be independent of the work of their respective ministries during their tenure in the LDT work;
2. The Ministry cannot assign the member it nominated work other than LDT work and will not interfere his/her work of adjudication;
3. The Ministry cannot change the nominated member unless it is in accordance with these Regulations;

4. Land Dispute Tribunal's members can submit quarterly reports to their respective Ministries when that report is requested and such reports shall be signed by Land Dispute Tribunal Chairperson.

**Article 31: Amendment**

- 1) The Minister may amend the provisions of these Regulations, after consultation with the Chairpersons of the LDTs, regional and local governments and independent legal advisors;
- 2) Any amendment with regard this regulation shall be signed by the Minister and be published in the official bulletin of Puntland.