

Ku dhaqan Xafiis D.

FAAFINTA

الرسمية

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RASMIGA AH

الجريدة

BULLETIN

EE JAMHUURIYADDA SOOMAALIYA

Sanadka 5aad

FAAFIN SANADLE

Muqdisho

2017

Waaxda Maamulka Faafinta Rasmiga ah
Ee Xafiiska Garyaqaanka Guud ee Dawladda

Uruurinta Sharciyada iyo Wareegtooyinta ee Jan-December 2017

Qiimaha waa \$XXX Dollar, lambar waliba – **RUKUNKA:** Sanaddii waa \$XXX Dollar, Soomaaliya gudaheeda – Dibaddeedana waa \$XXX Dollar. Rukunka la weydiisto waqtiga loo gooyay wuxuu ka bilaabmaa 1 Janaayo. Qiimaha Qoritaanku F.R halkii sadar iyo wixii ka yar waa \$XXX Dollar – Rukunka iyo Qoritaanku waxaa la weydiistaa Laanta Maamulka Faafinta Rasmiga ah – Lacagta waxaa lagu bixiniyaa Xafiiska Canshuuraha ee Wasaaradda Maaliyadda.

KOBNIIN

BOGGA KOOWAAD

SHARCI

W.M

BOGGA LABAAD

XEER

BOGGA SEDDEXAAD

TALOOYIN, ISGAARSIIN, OGAYSIIS, IWM

SANADKA

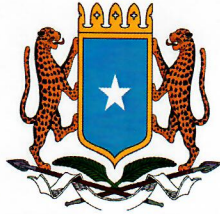
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EE JAMHUURIYADDA SOOMAALIYA

Sanadka 5aad

Muqdisho,

Lr. 5

**Laanta Maamulka Faafinta Rasmiga ah
Ee Xafiiska Garyaqaanka Guud ee Dawladda**

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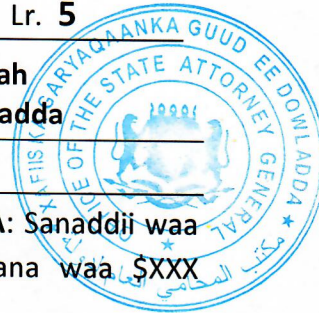
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TALOOYIN, ISGAARSIIN, OGAYSIIIS, IWM

SANADKA

2017



ANSIXINTA HESHIISKA ISU CELINTA MAXAABIISTA XUKUMAN EE
SOOMAALIYA IYO INDIYA

MADAXWAYNAHA J.F.S

Markuu Arkay: Qodobka 87aad, Faqaradda 1aad iyo Faqaradda 2aad ee Dastuurka KMG

Markuu Arkay: Qodobka 90^{aad}, Xarafka 'q' ee Dastuurka KMG

Markuu Arkay: Warqadda Guddoomiyaha Golaha Shacabka Ref: 0363/1/B-10/17, Taariikh: 14/10/2017 kuna saabsan Ansixinta Heshiiska Isucelinta Maxaabiista Xukuman ee Soomaaliya iyo Indiya uuna u soo gudbiyay Madaxweynaha JFS si uu ugu rogo Sharci.

Markuu Tixgeliyay: Baahida loo qabo in la ansixiyo Heshiiskaas

WUXUU SOO SAARAY XEERKAAN:

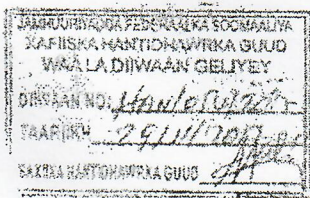
Qodobka 1aad

Laga bilaabo Marka uu Madaxweynaha JFS saxiixo Sharcigan, waxaa la ansixiyay Heshiiska isucelinta Maxaabiista Xukuman ee Soomaaliya iyo Indiya.

Qodobka 2aad

Waxa uu sharcigaan dhaqan gelayaa isla markii uu Madaxweynuhu saxiixo, waxaana lagu soo daabici doonaa Faafinta Rasmiga ah ee Jamhuuriyadda Federaalka Soomaaliyeed.

MUQDISHO: 27/11/2017



Madaxweynaha J.F.S
Maxamed Cabdullaahi Maxamed (Farmaajo)



Jumhuuriyadda Federaalka Soomaaliya

Qodobka 1-aad:
Qeexitaan

HESHIIS DHEXMARAY XUKUUMADDA JAMHUURIYADDA FEDERAALKA SOOMAALIYA IYO XUKUUMADDA HINDIYA OO KU SAABSAN ISU-GUDBINTA MAXAABIISTA XUKUMAN

b) Dofka xukuman loo guddinayo ama loo gudbiyey si uu muddada xukunka ama muddada u baxsan uu uga dhaqmo qaybaha;

c) "Xukumid" waxa loola jeeda ciqab kasta ama muddo xaqiqaadka-darbid oo ay amray maxkamada oo ah muddo go'an ama xabsi dar'm si waqtiga xadka awoodeed ka adan fal-dambiyeedka;

d) "Dof kaxaynta" waxa loola jeeda dof ka jira xukunada xabsi si waqtiga go'an ay gacayd maxkamad fal-dambiyeed oo ay ku jiraan maxkamada lagu abuuray sida shaqiga ah ee maxkamada gacayd ka ah Qaranka heshiiska gacayd

Xukuumadda Jamhuuriyadda Federaalka Soomaaliya iyo Xukuumadda Jamhuuriyadda Hindiya, oo hadda kadib loogu yeerayo Qaramada heshiiska galay; Iyadoo daneynaya in ay fududeeyaan in dadka xukumani dhaqan-celinta bulsho ku qaataan dalalka ay u dhasheen;

Iyadoo tixgelinaya in himiladaas la hirgeliyo si loo siiyo muwaadiniinta shisheeye, kuwaas oo lagu helay laguna xukumay sabab la xiriirta gelitaankooda fal-dembiyeed, fursada in ay muddada xabsiyadooda ku dhex qaataan bulshadooda; Waxay ku heshiiyeen sida soo socota:

Qodobka 1-aad:

Qeexitaano

Si waafaqsan ujeedooyinka Heshiiskan:

- a) **“xukun”** waxaa loola jeedaa go’aan ama amar maxkamad meel-marsiisa xukumid;
- b) **“Qaranka qaabilaya”** waxaa loola jeedaa Qaranka qofka xukuman loo gudbinayo ama loo gudbiyey si uu muddada xukunkiisa ama muddada u harsan uu ugu qaato halkaas;
- c) **“xukumid”** waxaa loola jeedaa ciqaab kasta ama muddo xoriyad-ka-qaadid oo ay amartay maxkamada oo ah muddo go’an ama xabsi daa’im si waafaqsan xadka awoodeedka ku aadan fal-dembiyeedka;
- d) **“qof xukuman”** waxaa loola jeedaa qof ku jira xukumaansho xabsi si waafaqsan go’aan ay gaartay maxkamad fal-dembiyeed oo ay ku jiraan maxkamadaha lagu abuuray sida sharciga ah ee markaas dhaqan-galka ka ah Qaramada heshiiska galay;

- e) “Qaranka gudbinaya” waxaa loola jeedaa Qaranka xukunku uga dhacay qofka la gudbinayo ama la gudbiyey;

Qodobka 2-aad:

Mabaadi'da Guud

1. Qof lagu xukumay xuduudda mid kamid ah Qaramada Heshiiska galay waxaa loo gudbin karaa xuduudda kale ee Qaranka Heshiiska galay si waafaqsan qodobada Heshiiskan si uu ugu qaato xukunka lagu riday isaga. Isla halkaas, wuxuu u sheegan karaa Qaranka wax gudbinaya ama Qaranka wax qaabilaya rabitaankiisa ku aaddan in la gudbiyo si waafaqsan Heshiiskan.
2. Gudbinta waxaa codsan kara qof kasta oo xukuman oo ah muwaadin u dhashay mid kamid ah Qaramada Heshiiska galay ama qof kasta oo mudan in uu wakiil ka noqdo si waafaqsan sharciga Qaranka Heshiiska galay isagoo u gudbisanaya codsi Qaranka Heshiiska galay iyadoo la raacayo qaabka u degsan Xukuumadda Qarankaas Heshiiska galay.

Qodobka 3-aad:

Hay'adaha Dhexe

1. Hay'adaha u xilsaaran hirgelinta Heshiiskan ee ay wada galeen Qaramada Heshiiska waxay yihiin:
 - Dhinaca Jamhuuriyadda Hindiya: Wasiirka Arrimaha Gudaha,
 - Dhinaca Jamhuuriyada Federaalka Soomaaliya: Wasiirka Cadaaladda.

2. Haddii ay dhacdo in Qaramada Heshiiska midkood bedelo hay'adihiisa awoodeed, wuxuu ku wargelinayaa Qaranka kale sidaas iyadoo loo marayo maadooyinka diblomaasiyadeed

Qodobka 4-aad: Shuruudaha Gudbinta

1. Qofka xukuman ee lagu gudbinayo si waafaqsan Heshiiskan waxaa laga rabaa shuruudaha soo socda:
 - a. in qofku ahaado muwaadin u dhashay Qaranka qaabilaya;
 - b. in aan ciqaab dil ah lagu ridin qofka xukuman;
 - c. in xukunku yahay kama-dambays;
 - d. in aysan jirin dacwado fal-dambiyeed oo u yaal qofka xukuman Qaranka gudbinaya taas oo joogitaankiisa loo baahan yahay;
 - e. in aan qofka xukuman lagu helin fal-dambiyeed-la-xiriira sharciga ciidamada;
 - f. waqtiga helitaanka codsiga gudbinta, qofka xukuman waa in xarigiisa ay ka harsan tahay ugu yaraan lix bilood ama uu xukunkiisu yahay xabsi daa'im;
 - g. in falalka ama ka-baaqsiyada ee qofkaas looga xukumay Qaranka gudbinaya ay yihiin kuwa ciqaab lagu mutaysanayo fal-dembi ahaan Qaranka qaabilaya, ama noqonaya fal-dambiyeed haddii lagu galo xuduudiisa;
 - h. gudbinta gacan-ku-haynta qofka xukuman ee Qaranka qaabilaya waa in aysan noqon mid dhaawacaysa madax-bannaanida, amniga ama dan kasta oo kale oo muhiim u ah Qaranka gudbinaya;
 - i. oggolaanshaha gudbinta waxaa bixinaya qofka xukuman ama, haddii marka la eego da'diisa, xaaladiisa jireed ama maskaxeed uu Qaramada Heshiiska midkood u tixgeliyo

lama-huraan, in qof kasta oo kale mudan yahay in uu u dhaqmo wakiilkiisa si waafaqsan sharciga Qaranka Heshiiska galay, iyo

j. in Qaranka gudbinaya iyo kan qaabilaya ay isla oggol yihiin gudbinta.

2. Haddii ay jiraan arrimo gaar ahaaneed, Qaranka gudbinaya iyo kan qaabilaya waxay oggolaan karaan gudbin xitaa haddii muddada xukunka ee u harsan qofka xukuman ay ka yar tahay lix bilood.

Qodobka 5-aad:

Waajibka isu-gudbinta macluumaadka

1. Haddii qofka xukuman uu u muujiyey daneyn Qaranka gudbinaya in lagu gudbiyo sida uu qabo Heshiiskani, Qaranka gudbinaya wuxuu u dirayaa macluumaadka iyo dokumentiyada soo socda Qaranka qaabilaya haddii aysan Qaranka qaabilaya iyo kan gudbinaya hore go'aan uga gaarin in aysan oggolayn gudbinta:

- a. magaca iyo jinsiyadda, taariikhda iyo goobta dhalashada ee qofka xukuman iyo cinwaankiisa, haddii ay jiraan, Qaranka qaabilaya oo uu wehliyo nuqul baasaboorkiisa ah ama wax kastoo kale oo ah dokumentiyo aqoonsi ee shakhsiyeed, iyo muunado-fareed qofka xukuman, intii suurta-gal ah;
- b. hadal-qoraal ku aaddan xaqiiqooyinka uu xukunku ku saleysnaa;
- c. dabecada, waqtiga iyo taariikhda bilowga xukunka;

- d. nuqul tasdiiqsan ee xukunka iyo nuqul ku saabsan qodobada sharciga ee xukunka looga gaaray qofka xukuman;
 - e. warbixinada caafimaad, bulsho iyo wixii kale la xiriira tixraaca iyo dabeecada qofka xukuman, haddii ay la xiriirto natiijada codsiyiisa ama go'aaminta xaalada xanibaadiisa;
 - f. wixii kale oo macluumaad ah ee Qaranka qaabilaya uu caddeeyo in loo baahan yahay, si uu awood ugu helo in uu tixgeliyo suurta-galnimada gudbinta iyo in uu awood u helo in uu ku wargeliyo qofka xukuman raadreebyada dhammeystiran ee gudbintiisa sida uu qabo sharcigiisu;
 - g. codsiga qofka xukuman in la gudbiyo ama qof mudan in uu isaga wakiil ka noqdo si waafaqsan sharciga Qaranka gudbinaya;
 - h. hadal-qoraal muujinaya muddada xukunka ee uu hore u dhammeystay, oo ay wehliyaan macluumaadka dhegaysiga dacwadiisa ka hor xariga, muddo dhimid, ama saameyn kasta oo la xiriirta meel-marsiinta xukunka; iyo
 - i. hadal-qoraal ka socda Qaranka gudbinaya oo oggolaanaya gudbinta qofka xukuman;
2. Si waafaqsan ujeedooyinka awoodidda go'aan in la sameeyo codsi ku aaddan Heshiiskan, Qaranka qaabilaya wuxuu u dirayaa macluumaadka iyo dokumentiyada soo socda Qaranka gudbinaya haddii aysan Qaranka qaabilaya ama kan gudbinaya hore u go'aansan in aysan oggolaan doonin gudbinta:

- a. Hadal-qoraal ama dokumenti muujinaya in qofka xukuman uu yahay muwaadin u dhashay Qaranka qaabilaya;
- b. nuqul la xiriira sharciga Qaranka qaabilaya oo tilmaamaya in falalka ama kabaaqsiyaha ee ku aaddan xukunka lagu riday Qaranka gudbinaya uu yahay mid looga aqoonsan yahay fal-dembiyeed sida uu qabo sharciga Qaranka qaabilaya, ama uu noqonayo fal-dembiyeed haddii lagu galo xuduudiisa;
- c. hadal-qoraal saameynta sharci ama xeer-nidaamiye kasta oo la xiriira waqtiga iyo meel-marinta xukunta ee Qaranka qaabilaya kadib gudbinta qofka xukuman oo ay ku jiraan, haddii ay haboon tahay, hadal-qoraal ku aaddan waxyeelada faqradda 2aad ee Qodobka 9aad ee Heshiiskan gudbintiisa;
- d. rabitaanka Qaranka wax qaabilaya in uu oggolaado gudbinta qofka xukuman iyo qabashada in uu maamulo qeybta harsan ee xukunka ee qofka xukuman; iyo
- e. wixii kale oo macluumaad ah ama dokumenti ee Qaranka wax gudbinaya uu u arko lama-huraan.

Qodobka 6-aad:

Codsiyo iyo jawaab-celino

1. Codsiyada gudbinta waxaa lagu sameynayaa qoraal dokumenti qeexan, haddii uu jiro, iyadoo lagu hagaajinayo Hay'adda Dhexe ee Qaranka wax gudbinaya oo la sii marsiinayo marinada diblomaasiyadeed Hay'adda Dhexe ee Qaranka qaabilaya. Jawaab-celinada waxaa lagula xiriirayaa marino sidaas oo kale ah.

2. Qaranka qaabilaya wuxuu si dhaqso ah ugu wargelinayaa Qaranka gudbinaya go'aankiisa ku aaddan in uu oggol yahay ama uusan oggolayn gudbinta laga codsaday.

Qodobka 7-aad:

Oggolaanshaha iyo xaqiijintiisa

1. Qaranka gudbinaya wuxuu xaqiijinayaa in qofka looga baahanyahay in uu bixiyo oggolaansho gudbinta si waafaqsan faqradda 1(i) ee Qodobka 4^{aad} ee Heshiiskan, uu ku sameeyey si iskiis ah iyo aqoon buuxda oo ku aaddan raad-reebyada qaanuun ee ka dhalan kara halkaas. Habraaca bixinta oggolaanshahaas waxaa lagu dhaqayaa sharciga Qaranka gudbinaya.
2. Qaranka gudbinaya wuxuu siin karaa fursad Qaranka qaabilaya in uu xaqiijiyo in oggolaanshaha lagu bixiyey si waafaqsan shuruudaha ku xusan faqradda 1^{aad} ee isla Qodobkan.

Qodobka 8-aad:

Saameynta gudbinta ee Qaranka qaabilaya

1. Hay'adaha awoodda leh ee Qaranka qaabilaya waxay sii wadayaan meel-marsiinta xukunka iyadoo la marayo maxkamad ama amar-maamuleed, sida loogu baahan karo ee sharcigiisa dalka, si waafaqsan shuruudaha ku xusan Qodobka 9^{aad} ee Heshiiskan.
2. Si waafaqsan xeerarka Qodobka 11^{aad} ee Heshiiskan, meel-marsiinta xukunka waxaa lagu dhaqayaa

sharciga Qaranka qaabilaya iyo in Qarankaas oo keliya uu awoodi karo in uu qaado dhammaan go'aanada ku haboon.

Qodobka 9-aad:

Sii-wadid meel-marsiin xukun

1. Qaranka qaabilaya waxaa ku waajib ah dabecada qaanuun iyo muddada xukunka sida uu go'aamiyey Qaranka gudbinaya.
2. Haddii xukunku yahay mid dabecadiisa ama muddadiisa, ama labadaba, aan la saan-qaadi karin sharciga Qaranka qaabilaya, in Qaranka uu, si wehlisa oggolaanshihii hore ee Qaranka gudbinaya, oo ku saleysan maxkamad ama amar maamuleed, u bedelo xukunka xukun ku tilmaaman isaga sharcigiisa ee faldembiyeed la mid ah. Si ku aaddan dabecadiisa iyo muddada, xukunka la qabatimay waxay, intii suurta-gal ah, waafaqayaa kan lagula riday xukunka Qaranka gudbinaya. Wuxuu, si kastaba, uusan uga darayn, ha ahaato dabecadiisa ama muddada, xukunka uu ku riday Qaranka gudbinaya.

Qodobka 10-aad:

Saameynta dhammeystirka xukun ee Qaranka gudbinaya

Marka Qaranka qaabilaya uu wargelinayo Qaranka gudbinaya sida ku xusan faqradda 1(a) ee Qodobka 13^{aad} ee Heshiiskan in xukunka la dhammeystiray, wargelintaas waxay ku yeelanaysaa saameyn gudashada xukunka ee Qaranka gudbinaya.

Qodobka 11-aad:

Dib-u-eegista Xukunka iyo cafis, dembi-dhaaf iyo xisaabin

1. Qaranka gudbinaya kēligiis ayaa go'aaminaya codsi kasta oo la xiriira dib-u-eegista xukunka.
2. Mid kasta oo kamid ah Qaramada heshiiska galay ayaa bixin kara cafis, dembidhaaf ama xisaabin xukunka si waafaqsan dastuurkiisa ama shuruucdiisa kale.

Qodobka 12-aad:

Dhammaadka meel-marsiinta xukunka

1. Qaranka gudbinaya wuxuu dhaqso u wargelinayaa Qaranka qaabilaya wax kasta oo go'aano ah oo lagu gaaray xuduudiisa ee la xiriirta dhammeynta meel-marinta xukunka ama qeyb kamid ah.
2. Qaranka qaabilaya wuxuu dhammeynayaa meel-marinta xukunka ama qeyb kamid ah sida ugu dhaqsaha badan ee uu ku wargeliyey Qaranka gudbinaya ee wax kasta oo go'aan ama tallaabo ah oo laga dhaxlay xukunka ay joogsatay meel-marsiintiisu.

Qodobka 13-aad:

Macluumaadka meel-marinta xukunka

1. Qaranka qaabilaya wuxuu ku wargelinayaa Qaranka gudbinaya:

- a. goorta meel-marinta xukunka la dhammeystiray; ama
 - b. haddii qofka la xukumay uu ka baxsaday xabsiga ka hor inta meel-marinta xukunka aan la dhammeystirin. Arrimahaas oo kale Qaranka qaabilaya wuxuu qaadayaa tallaabooyin uu ku xaqiijinayo xarigiisa si ku aaddan ujeedooyinka gudashada muddada uga harsan xukunkiisa iyo in la yareeyo in lagu helo gelidda fal-dembiyeed sharci la xiriira ee Qaranka qaabilaya.
2. Qaranka qaabilaya wuxuu u gudbinayaa warbixin gaar ahaaneed oo khuseysa meelmarinta xukunka, haddii uu sidaas weydiisto Qaranka gudbinaya.

Qodobka 14-aad:

Hakasho

1. Haddii Qaramada Heshiiska midkood la galo qorsheyaal ku aaddan gudbinta dadka xukuman Qaranka kasta oo saddexaad, Qaranka kale ee Heshiiska wuxuu sameynayaa iskaashi in uu fududeeyo hakashada ay ku dhexmarayaan xuduudiisa dadka xukuman oo lagu gudbinayo si waafaqsan qorsheyaashaas, marka laga reebo in uu diido in uu bixiyo hakashada:
 - a. haddii qofka xukuman uu yahay ruux kamid muwaadiniintiisa; iyo
 - b. haddii codsigu waxyeelaynayo madax-bannaanidda, nabadgelyada, deganaanshaha dadweynaha ama dan kale oo muhiim u ah Qaranka Heshiiska ku jira.
2. Qaranka Heshiiska ku jira ee ku-talo-jira in uu fuliyo gudbinta waa in uu hore ugu wargeliyaa Qaranka kale ee Heshiiska gudbintaas.

Qodobka 15-aad:

Kharashyo

Kharashyo kasta oo lagu galay hirgelinta Heshiiskan waxay saraan tahay Qaranka qaabilaya, marka laga reebo dhammaan kharashyada lagu galay xuduuda Qaranka gudbinaya. Qaranka qaabilaya wuxuu, si kastaba, weydiisan karaa ama raadsan karaa in uu dib uga helo kharashyada gudbinta qofka xukuman ama ilo kale.

Qodobka 16-aad:

Afka

Codsiyada iyo dokumentiyada waxtarka leh waxay ku qornaanayaan Ingiriis ama waxaa ku xirnaanaya turjumaad Ingiriis ah.

Qodobka 17-aad:

Baaxadda Hirgelinta

Heshiiskani wuxuu ku dabaqmayaa meel-marinta xukunada ku dhacay ka hor ama kadib markuu dhaqan-galo Heshiiskani.

Qodobka 18-aad:

Hadal-qoraalka Khilaafaadka

1. Hay'adaha Dhexe waxay ku dadaalayaan in ay si wadajir ah u xalliyaan khilaaf kasta oo ka dhasha fasirsadda, dabaqaada ama hirgelinta Heshiiskan.
2. Haddii Hay'adaha Dhexe ay ku guul-darraystaan in ay xalliyaan khilaafka si wadajir ah, waxaa lagu xallinayaa marinada diplomaasiyadeed.

Qodobka 19-aad:

Wareejinta Dadka Xukuman

Wareejinta qofka la gudbinayo ee Qaranka gudbinayaa u gudbinayo Qaranka qaabilaya waxay ka dhacaysaa goob ay isla oggolaadeen Qaranka gudbinaya iyo Qaranka qaabilaya.

Qaranka qaabilaya ayaa xil ka saaran yahay safarka maxbuuska looga qaadayo Qaranka gudbinaya isagoo sidoo kale mas'uul ka ah gacan-ku-haynta qofka xukuman markuu ka baxo xuduuda Qaranka gudbinaya.

Qodobka 20-aad:

Wax-ka-bedelo

Wax-ka-bedel kasta ama dib-u-habayn kasta oo lagu sameeyo Heshiiskan ay ku heshiiyeen Qaramada Heshiiska wuxuu u dhaqan-galayaa si la mid ah sida Heshiiska oo kale.

Qodobka 21-aad:

Qodobo Gebegabo ah

1. Heshiiskani wuxuu u baahan yahay ansixin. Dhinac kasta oo ah Qaranka Heshiiska galay wuxuu dhanka kale ku wargelinayaa sida ugu dhaqsaha badan, si qoraal ahaan, iyadoo la marsiinayo marinada diblomaasiyadeed, arrinta ku aaddan dhammeystirka habraacyadiisa qaanuun ee loo baahan yahay si loo dhaqan-geliyo Heshiiskan. Heshiiskani wuxuu dhaqan-gelayaa maalinta kowaad ee bisha labaad ee taariikhda u dambeysa ee wargelinta.

2. Heshiisku wuxuu meelmar ahaanayaa mudo aan cayinayn. Waxaa, si kastaba, dhammeyn kara mid kamid ah Qaramada Heshiiska galay isagoo bixinaya wargelin qoraal ka joojinaya ciddii la gashay heshiiskaas. Joojintu waxay hirgelaysaa lix bilood kadib taariikhda wargelintaas.

3. Ka sokow dhammaad kasta, Heshiiskani wuu soconayaa in uu ku dabaqmo meelmatinta xukunada maxaabiista ee lagu wareejiyey sida uu qabo Heshiiskani ka hor taariikhda uu dhammaadkaasi saameynta yeesho.

Markhaati hortiiis, saxiixayaasha hoose, iyagoo ka wakiil ah Xukuumadahooda ay khuseyso, waxaa saxiixeen Heshiiskan.

Waxaa lagu fuliyey taariikh

laba nuqul oo isku mid ah oo mid walba ku qoran yahay afafka Hindiga iyo Ingiriiska, dhammaan qoraalado waa isla mid. Haddii ay dhacdo in laysku khilaafdo fasiraadda nuqulka af Ingiriiska ayaa jiraaya.

Dhanka Xukuumadda

Dhanka Xukuumadda

Jamhuuriyada Federaalka

Jamhuuriyadda Hindiya

Soomaaliya

Magac:

Magaca:

Mansab:

Mansab:

**AGREEMENT BETWEEN THE GOVERNMENT OF THE FEDERAL
REPUBLIC OF SOMALIA AND GOVERNMENT OF INDIA
ON THE TRANSFER OF SENTENCED PERSONS**

The Government of the Federal Republic of Somalia and the Government of the Republic of India, hereinafter referred to as the Contracting States;

Desiring to facilitate the social rehabilitation of sentenced persons into their own countries; and

Considering that this objective should be fulfilled by giving foreign nationals, who have been convicted and sentenced as a result of their commission of a criminal offence, the opportunity to serve their sentences in their own society;

Have agreed as follows:

ARTICLE 1

Definitions

For the purpose of this Agreement:

- (a) "judgment" means a decision or order of a court or tribunal imposing a sentence;
- (b) "receiving State" means a State to which the sentenced person may be, or has been, transferred in order to serve his sentence or remainder thereof;
- (c) "sentence" means any punishment or measure involving deprivation of liberty ordered by a court or tribunal for a determinate period of time or for life imprisonment in the exercise of its criminal jurisdiction;
- (d) "sentenced person" means a person undergoing a sentence of imprisonment under a judgment passed by a criminal court including the courts established under the law for the time being in force in the Contracting States;
- (e) "transferring State" means the State in which the sentence was imposed on the person who may be, or has been transferred.

ARTICLE 2

General Principles

1. A person sentenced in the territory of one Contracting State may be transferred to the territory of the other Contracting State in accordance with the provisions of this Agreement in order to serve the sentence imposed on him. To that end, he may express to the transferring State or the receiving State his willingness to be transferred under this Agreement.

2. Transfer may be requested by any sentenced person who is a national of a Contracting State or by any other person who is entitled to act on his behalf in accordance with the law of the Contracting State by making an application to the Contracting State and in the manner prescribed by the Government of that Contracting State.

ARTICLE 3

Central Authorities

1. Authorities in charge of the implementation of this Agreement for the Contracting States are:

- For the Republic of India: Ministry of Home Affairs.
- For the Federal Republic of Somalia: Ministry of Justice

2. In case either Contracting State changes its competent authorities, it shall notify the other State of the same through diplomatic channels.

ARTICLE 4

Conditions for transfer

1. A sentenced person may be transferred under this Agreement on the following conditions:

- (a) the person is a national of the receiving State;
- (b) the death penalty has not been imposed on the sentenced person;
- (c) the judgment is final;

(d) no criminal proceedings are pending against the sentenced person in the transferring State in which his presence is required;

(e) the sentenced person has not been convicted for an offence under the military law;

(f) at the time of receipt of the request for transfer, the sentenced person still has at least six months of the sentence to serve or is undergoing a sentence of life imprisonment;

(g) that the acts or omissions for which that person was sentenced in the transferring State are those which are punishable as a crime in the receiving State, or would constitute a criminal offence if committed on its territory;

(h) transfer of custody of the sentenced person to the receiving State shall not be prejudicial to the sovereignty, security or any other essential interest of the transferring State;

(i) consent to the transfer is given by the sentenced person or, where in view of his age or physical or mental condition either Contracting State considers it necessary, by any other person entitled to act on his behalf in accordance with the law of the Contracting State; and

(j) the transferring and receiving States agree to the transfer.

2. In exceptional cases, the transferring and receiving States may agree to a transfer even if the remaining period to be served by the sentenced person is less than six months.

ARTICLE 5

Obligation to furnish information

1. If the sentenced person has expressed an interest to the transferring State in being transferred under this Agreement, the transferring State shall send the following information and documents to the receiving State unless either the receiving or the transferring State has already decided that it will not agree to the transfer:

- (a) the name and nationality, date and place of birth of the sentenced person and his address, if any, in the receiving State along with a copy of his passport or any other personal identification documents, and Fingerprints of the Sentenced Person, as possible;
- (b) a statement of the facts upon which the sentence was based;
- (c) the nature, duration and date of commencement of the sentence;
- (d) a certified copy of the judgment and a copy of the relevant provisions of the law under which the sentence has been passed against the sentenced person;
- (e) a medical, social or any other report regarding the antecedents and character of the sentenced person, where it is relevant for the disposal of his application or for deciding the nature of his confinement;
- (f) any other information which the receiving State may specify as required, to enable it to consider the possibility of transfer and to enable it to inform the sentenced person of the full consequences of transfer for him under its law;
- (g) the request of the sentenced person to be transferred or of a person entitled to act on his behalf in accordance with the law of the transferring State;
- (h) a statement indicating how much of the sentence has already been served, including information on any pre-trial detention, remission, or any other factor relevant to the enforcement of the sentence; and
- (i) A statement from the Transferring State agreeing to the transfer of the Sentenced Person.

2. For the purposes of enabling a decision to be made on a request under this Agreement, the receiving State shall send the following information and documents to the transferring State unless either the receiving or the transferring State has already decided that it will not agree to the transfer:

- (a) a statement or document indicating that the sentenced person is a national of the receiving State;
- (b) a copy of the relevant law of the receiving State which provides that the acts or omissions on account of which the sentence has been imposed in the transferring State constitute a criminal offence according to the law of the receiving State, or would constitute a criminal offence if committed on its territory;
- (c) a statement of the effect of any law or regulation relating to the duration and enforcement of the sentence in the receiving State after the sentenced person's transfer including, if applicable, a statement of the effect of paragraph 2 of Article 9 of this Agreement on his transfer;
- (d) the willingness of the receiving State to accept the transfer of the sentenced person and an undertaking to administer the remaining part of the sentence of the sentenced person; and
- (e) any other information or document which the transferring State may consider necessary.

ARTICLE 6

Requests and replies

1. Requests for transfer shall be made in writing in the prescribed proforma, if any, and addressed by the Central authority of the transferring State through diplomatic channels to the Central Authority of the receiving State. Replies shall be communicated through the same channels.
2. The receiving State shall promptly inform the transferring State of its decision whether or not to agree to the requested transfer.

ARTICLE 7

Consent and its verification

1. The transferring State shall ensure that the person required to give consent to the transfer in accordance with paragraph 1(i) of Article 4 of this Agreement, does so voluntarily and with full knowledge of the legal consequences thereof. The procedure for giving such consent shall be governed by the law of the transferring State.

2. The transferring State shall afford an opportunity to the receiving State to verify that the consent is given in accordance with the conditions set out in paragraph 1 of this Article.

ARTICLE 8

Effect of transfer for the receiving State

1. The competent authorities of the receiving State shall continue the enforcement of the sentence through a court or administrative order, as may be required under its national law, under the conditions set out in Article 9 of this Agreement.

2. Subject to the provisions of Article 11 of this Agreement, the enforcement of the sentence shall be governed by the law of the receiving State and that State alone shall be competent to take all appropriate decisions.

ARTICLE 9

Continued enforcement of sentence

1. The receiving State shall be bound by the legal nature and duration of the sentence as determined by the transferring State.

2. If the sentence is by its nature or duration, or both, incompatible with the law of the receiving State, that State may, with the prior consent of the transferring State, by court or administrative order, adapt the sentence to a sentence prescribed by its own law for a similar offence. As to its nature and duration, the adapted sentence shall, as far as possible, correspond with that imposed by the judgment of the transferring State. It shall, however, not aggravate, by its nature or duration, the sentence imposed by the transferring State.

ARTICLE 10

Effect of completion of sentence for the transferring State

When the receiving State notifies the transferring state under paragraph 1(a) of Article 13 of this Agreement that the sentence has been completed, such notification shall have the effect of discharging the sentence in the transferring state.

ARTICLE 11

Review of Judgment and Pardon, amnesty or commutation

1. The transferring State alone shall decide on any application for review of the judgment.
2. Either of the contracting States may grant pardon, amnesty or commutation of the sentence in accordance with its constitution or other laws.

ARTICLE 12

Termination of enforcement of sentence

1. The Transferring State shall promptly notify the Receiving State of any decisions taken in its territory which entails terminating the enforcement of the sentence or part thereof.
2. The receiving State shall terminate enforcement of the sentence or part thereof as soon as it is informed by the transferring State of any decision or measure as a result of which the sentence ceases to be enforceable.

ARTICLE 13

Information on enforcement of sentence

1. The receiving State shall notify the transferring State:
 - (a) when the enforcement of the sentence has been completed; or
 - (b) If the sentenced person escapes from custody before enforcement of the sentence has been completed. In such cases the receiving State shall take measures to secure his arrest for the purposes of serving the remainder of his sentence and to render him/ her liable for committing an offence under the relevant law of the receiving State.
2. The receiving State shall furnish a special report concerning the enforcement of the sentence, if so required by the transferring State.

ARTICLE 14

Transit

1. If either Contracting State enters into arrangements for the transfer of sentenced persons with any third State, the other Contracting State shall cooperate in facilitating the transit through its territory of the sentenced persons being transferred pursuant to such arrangements, except that it may refuse to grant transit;

(a) if the sentenced person is one of its own nationals;

(b) if the request may infringe upon the sovereignty, safety, public order or any other essential interest of the Contracting State.

2. The Contracting State intending to make such a transfer shall give advance notice to the other Contracting State of such transit.

ARTICLE 15

Costs

Any costs incurred in the application of this Agreement shall be borne by the receiving State, except costs incurred exclusively in the territory of the transferring State. The receiving State may, however, demand or seek to recover all or part of the costs of transfer from the sentenced person or from some other source.

ARTICLE 16

Language

Requests and supporting documents shall be in English or shall be accompanied by a translation into English.

ARTICLE 17

Scope of Application

This Agreement shall be applicable to the enforcement of sentences imposed either before or after the entry into force of this Agreement.

ARTICLE 18

Settlement of Disputes

(1) The Central Authorities shall endeavor to mutually resolve any dispute arising out of the interpretation, application or implementation of this Agreement.

(2) If the Central Authorities are unable to resolve the dispute mutually, it shall be resolved through diplomatic channels.

ARTICLE 19

Handing Over of Sentenced Persons

The handing over of the transferred person by the transferring State to the receiving State shall occur at a place to be agreed upon between the transferring and receiving State. The receiving State shall be responsible for the transport of the prisoner from the transferring State and shall also be responsible for custody of the sentenced person outside the territory of the transferring State.

ARTICLE 20

Amendments

Any amendment or modification to this Agreement agreed to by the Contracting States shall come into force in the same manner as the Agreement itself.

ARTICLE 21

Final Provisions

1. This Agreement shall be subject to ratification. Each Contracting State shall notify the other as soon as possible, in writing, through diplomatic channels, upon the completion of its legal procedures required for the entry into force of this Agreement. The Agreement shall come into force on the first day of the second month of the date of the last notification.

2. The Agreement shall remain in force for an indefinite period. It may, however, be terminated by either of the Contracting State by giving a written notice of termination to the other Contracting State. The termination shall take effect after six months of the date of such notice.

3. Notwithstanding any termination, this Agreement shall continue to apply to the enforcement of sentences of prisoners who have been transferred under this Agreement before the date on which such termination takes effect.

In witness whereof the undersigned, being duly authorized thereto by their respective Governments, have signed this Agreement.

Done at on the day of, in two originals each in Hindi and English languages, all texts being equally authentic. In case of differences in interpretation the English text shall prevail.

For the Government of
The Federal Republic of
Somalia

Name :

Designation :

For the Government of
The Republic of India

Name :

Designation :