

LAWS OF SOUTHERN SUDAN

EXAMINATION COUNCIL ACT, 2011

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LAWS OF SOUTHERN SUDAN

EXAMINATION COUNCIL ACT, 2011

In accordance with the provisions of Article 59 (2) (b) read together with Article 85 (1) of the Interim Constitution of Southern Sudan, 2005, the Southern Sudan Legislative Assembly, with the assent of the President of the Government of Southern Sudan hereby enacts the following-

CHAPTER I

PRELIMINARY PROVISIONS

1. Title and Commencement.

This Act may be cited as the "Examination Council Act, 2011," and shall come into force on the date of its assent by the President.

2. Repeal and Saving.

Any provisions of the existing Legislation which are governed by this Act are hereby repealed; *provided that*, all proceedings, orders and regulations taken or made thereunder, except to the extent they are cancelled by or are otherwise inconsistent with the provisions of this Act, shall remain in full force or effect, until they are repealed or amended in accordance with the provisions of this Act.

3. Purpose.

The purpose of this Act is to cover all matters concerned with establishment of an independent examination council in Southern Sudan and to administer and manage examinations in all the ten states to ensure uniform standards.

4. Authority and Application.

This Act is drafted in accordance with the provisions of Article 55 read together with Article 41 of the Interim Constitution of Southern Sudan, 2005, which grants the Government of Southern Sudan authority over Education, Science, Art and Culture and other matters relating to Education and their conditions.

5. Interpretation.

In this Act unless the context otherwise requires, the following words and expressions shall have the meanings assigned to them respectively—

“Council” means a group of personnel assigned to conduct affairs of examinations and other national assessments according to this Act;

“Committee” means a group of personnel assigned to conduct some examinations for certain education cycle, or perform other related functions as directed by the Council;

“Chairperson” means the Chairperson of the Council;

“Examination Materials” means question papers and other testing materials offered to a candidate in an examination;

“Candidate” means a Learner or any other person who has been accepted and registered to sit the Council’s examinations at a specified time and centre;

“Certificate” means a document authoritatively signed and issued by the Council showing results obtained by a particular candidate in an examination in a particular year;

“Diploma” means a signed document issued by the Council showing results obtained by a candidate in a professional examination, given by a post school institution;

“Director General” means a Director General for Ministry of Education, Science and Technology or Director General of State Ministry of Education;

“Government” means the Government of Southern Sudan;

“Head Teacher” means the director responsible for the management of a school;

“Learner” refers to female or male of any age pursuing education in a formal, non-formal or informal, public or private education setting;

“Minister” means the Minister for General Education;

“Ministry” means the Ministry of General Education;

“Parent Teachers Association” refers to a body of teachers and parents that mobilizes resources from the community on behalf of a primary and secondary school, and participates in passing the school’s annual plans and budget;

“Primary School” means level of schooling beginning from the age of six which comprises eight years from primary one through primary eight;

“Secretary” means the Secretary General of the Council;

“Secondary school” means a level of schooling above primary and below tertiary education;

“State” refers to any of the ten states established by the Interim Constitution of Southern Sudan, 2005;

“State Officials” mean officials in the ten States of Southern Sudan involved in conducting examinations as directed by the Council;

“Technical school” means an educational institution that provides, in addition to academic subjects, knowledge and skills in technical, scientific or industrial professional areas;

“Tertiary education” means education at post-secondary level at a university, college, or other institutions of higher learning; and

“Vocational education” means a course of study providing practical skills and professional education in a vocational school or institute.

CHAPTER II

ESTABLISHMENT OF THE COUNCIL

6. Establishment of the Council.

An examination council is hereby established and shall be known as the Southern Sudan Examinations Council which shall be governed and administered in accordance with the provisions of this Act.

7. Status of the Council.

The Council shall be an autonomous body corporate, with perpetual succession and a common seal and shall, subject to the provisions of this Act, be capable in its corporate name of suing and being sued—

- (a) taking, purchasing or otherwise acquiring, holding, changing and disposing of property, movable or immovable;
- (b) borrowing and lending money; and
- (c) doing or performing all such other things or acts for the proper performance of its functions under this Act, which may lawfully be done or performed by a body corporate.

8. Seal of the Council.

- (1) The Council shall have a common seal.
- (2) The seal of the Council shall be authenticated by the signature of the Chairperson or of any other two members of the committee authorised by resolution of the Council generally or especially to act in that behalf.
- (3) Every document purporting to be an instrument made or issued by or on behalf of the Council and to be sealed with the seal of the Council shall be authenticated in the manner provided by subsection (1) or shall be signed or executed by the Chairperson or other members of the committee authorised to act in that behalf.
- (4) Every document purporting to be a certificate such as mentioned in subsection (3) shall be received as evidence and be deemed, without further proof, to be so made or issued or to be such a certificate, unless the contrary is shown.
- (5) The common seal of the Council shall be kept in such custody as the Council may direct and shall not be used except on the order of the Council.

9. Council Logo.

All official documents and letters of the Council shall carry a logo authenticated by the signature and stamp of the Chairperson or any member of the Council authorised to act on his or her behalf.

CHAPTER III

FUNCTIONS, POWERS AND PROCEDURES OF THE COUNCIL

10. Powers of the Council.

The Council shall have all the power necessary or expedient for the performance of its functions under this Act and in particular, the Council shall have power to—

- (a) make rules regulating the conduct of examinations under the scope of the Council's management and administration;
- (b) conduct examinations and confer diplomas, certificates and prizes in accordance with any law in force;
- (c) set up examination calendar and time schedules for various examination papers;
- (d) conduct Primary, Secondary, Technical/Vocational, Business and other post secondary education examinations;
- (e) award certificates to successful candidates and those who have gone through the cycles: primary, secondary and others;
- (f) invite bodies or any person outside Southern Sudan to conduct examinations under the auspices of the Southern Sudan Examination Council and award certificates and diplomas to successful candidates of such examinations;
- (g) The Council, in consultations with the Minister shall release examination results to schools and institutions within a reasonable time, or delay or withhold the release of an examination results to the public for a reasonable cause;
- (h) the Council shall be responsible for equating foreign certificates to that of Southern Sudan Examinations Council;
- (i) the Council shall do or may permit any of the Southern Sudan University or organisations, or individuals to carry out research on examinations;
- (j) charge such fees for any examinations, courses, seminars or conferences conducted or held as may be approved by the Council;
- (k) charge such amounts for any publications sold or distributed as may be approved by the Council;
- (l) charge such amounts for services provided as may be approved by the Council;
- (m) control, supervise and administer the assets of the Council in such manner and for such purposes as shall best promote the purposes for which the Council is established. taking, purchasing or otherwise acquiring, holding, charging and disposing of both movable and immovable property;
- (n) appoint the Secretary General, and other members of staff on terms and conditions it deems necessary;
- (o) delegate to any member, State Officer, or committee of the Council any

functions covered in this Act, except the power which requires resolutions of the Council;

- (p) entering into any contract or other transactions;
- (q) raise or borrow money when necessary to sustain its activities or off-set any balance or deficit;
- (r) invest any money on suitable project approved by the Council;
- (s) acquire land upon which to construct Council offices, examination printing, storage or staff residential areas or any desired improvement;
- (t) derive capital or income from any property owned or held; and
- (u) doing or performing all other things or acts necessary for the proper performance of its functions under this Act.

11. Functions of the Council.

- (1) The Council shall determine the general policies, principles and institutional relationships of the Council with other Government Institutions and the States.
- (2) The Council shall be charged with the administration and management policy of the Council and shall be responsible to see that the same is carried out by the Council.
- (3) The executive authority of the Council to control and manage the Council shall, subject to the general or specific directions given to the Secretary of the Council by the Council, be under the control and management of the Director.

12. Powers of the Chairperson.

The Chairperson shall have functions and powers as follows—

- (a) preside over all meetings of the Council;
- (b) ensure that all members are given fair chances at proceedings;
- (c) maintain order and discipline at meetings;
- (d) Summarize all the discussions and resolutions of the meetings;
- (e) delegate members of the Council to non-Council meetings;
- (f) represent the Council in meetings with national and international organisations, including UN organisations; and
- (g) relate and consult with the Ministry on examination matters of national and international interests.

13. Powers of the Secretary General.

A Secretary General shall be appointed as the chief administrator and secretary of the Council in the performance of the day to day activities, and shall be answerable to the Council for the performance of his or her functions and duties.

14. Procedures of the Council.

- (1) The Council shall meet as often as it deems necessary and shall, in any case, meet at least once in every two months.

- (2) Meetings of the Council shall be convened by the Chairperson, or in his or her absence the Deputy Chairperson; *provided that*, it shall be mandatory to convene a meeting within seven (7) days of a request for such a meeting by not less than two Members.
- (3) The Chairperson, in his or her absence the Deputy Chairperson, shall preside at all meetings of the Council.
- (4) The quorum for meetings of the Council shall be three (3) Members.
- (5) A decision at a meeting of the Council shall be adopted by a simple majority of the Members present and voting, except as otherwise decided by the Council. In case of equality of votes, the Chairperson shall have a casting vote.
- (6) The Secretary shall attend all meetings of the Council as a non-voting member.
- (7) Minutes of the meetings shall be kept in proper form of each meeting of the Council and shall be confirmed by the Council at the next meeting and signed by the Chairperson.
- (8) The Council may invite any person to attend a meeting of the Council for the purpose of advising it on any matter under discussion; *provided that*, the person so attending shall have no right to vote.

CHAPTER IV

COMPOSITION OF THE COUNCIL

15. Composition of the Council.

The Council shall consist of—

- (a) the Chairperson to be appointed by the President of the Government of Southern Sudan;
- (b) the Secretary;
- (c) representatives of the Ministry as follows—
 - (i) Director General for General Education;
 - (ii) Director General for Administration and Finance;
 - (iii) Director General for Technical /Vocational Education;
 - (iv) Director General for Higher Education;
 - (v) Director of Quality Assurance and Innovations;
 - (vi) Director of Teacher Education;
 - (vii) Director of Curriculum Development Centre; and
 - (viii) The ten state Secretaries for Examinations.
- (d) Representatives from other Ministries, including the Ministry of Finance and Economic Planning, the Ministry of Labour, Public Services & Human Resource Development, and the Ministry of the Internal Affairs as represented by the Southern Sudan Police Services;
- (e) The Vice Chancellors of the three public universities in Southern Sudan;

- (f) Heads of other post secondary institutions to be appointed by the Minister including Teacher Training College, Technical or Vocational Education College and Business Education College;
- (g) Representative of Head of Primary Schools in Southern Sudan to be elected by Primary Head Teachers Association;
- (h) Representative of Secondary School Head in Southern Sudan to be elected by Head Teachers Association;
- (i) representative to be nominated by Teacher Service Commission;
- (j) Two other members of the Public to be appointed by the Minister;
- (k) representative of the Parent Teachers Association; and
- (l) representative of General Teachers' Union.

CHAPTER V

THE COUNCIL'S COMMITTEES AND THEIR FUNCTIONS

16. Committees.

- (1) The members of major committees of the Council including the Chairperson shall be drawn from the members of the Council.
- (2) The Council shall have the following committees—
 - (a) Finance and General Purpose Committee;
 - (b) the Primary School Examinations Committee;
 - (c) the Secondary School Examinations Committee;
 - (d) the Technical and Business Education Examination Committee;
 - (e) Research Committee; and
 - (f) any other committees as the Council may deem necessary.

17. Finance and General Purposes Committee.

- (1) Finance and General Purposes Committee shall consist of the following members—
 - (a) the Chairperson of the Examination Council;
 - (b) the Director of Quality Assurance and Innovations;
 - (c) a representative from Southern Sudan Public Universities;
 - (d) a representative of Primary School Head teachers;
 - (e) a representative of Secondary School Head Teachers;
 - (f) a representative of head of Teachers training institutions; and
 - (g) the Director General of Finance and Administration of the Ministry.
- (2) The Finance and General Purpose Committee shall—
 - (a) coordinate the management affairs of the Council and give recommendations on the following:
 - (i) Terms and conditions of service of Council officers, permanent and temporary employees including: setters, examiners and moderators;
 - (ii) determines fees structure in consultation with the Ministry; and
 - (b) prepare the budget estimates of incomes and expenditures of the Council.

18. Primary, Secondary and Vocational School Examination Committees.

- (1) The Primary School Examination Committee shall consist of the following members—
 - (a) the Director General for General Education;
 - (b) the Director of Curriculum Development Centre;
 - (c) the Director for Quality Assurance and Innovations;
 - (d) a representative of Primary School Head teachers;
 - (e) a representative of Secondary School Head Teachers;
 - (f) a representative of Principals of Primary Teachers' Training institutions;
 - (g) a representative of Parent Teacher Associations; and
 - (h) three State Directors for Examinations.

- (2) The Secondary School Examination Committee shall consist of the following members—
 - (a) the Director General for General Education;
 - (b) the Director of Curriculum Development Centre;
 - (c) the Director for Quality Assurance and Innovations;
 - (d) a representative of Primary School Head teachers;
 - (e) representative of the universities;
 - (f) the Director of Teacher Education; and
 - (g) three State Directors for Examinations.

- (3) The Technical and Business Examinations Committee shall consist of the following members—
 - (a) the Director General for Technical and Vocational Education;
 - (b) the Director of Curriculum Development Centre;
 - (c) a representative of heads of technical institutions;
 - (d) one Head of Business institutions;
 - (e) one representative from the Universities, Faculty of Engineering;
 - (f) one representative of Polytechnics and community colleges; and
 - (g) three State Directors for Examinations.

- (4) The following functions and procedures shall apply to Primary, Secondary, Technical and Business examinations committees—
 - (a) recommend and make arrangements for examination subjects to be set;
 - (b) recommend examinations calendar;
 - (c) approve suitable setters, moderators, supervisors, invigilators, examiners and other seasonal employees of the Council;
 - (d) ensure maximum security arrangements for storage, transport and delivery of examination papers, other examinations materials and candidates' transcripts;
 - (e) recommend registration methods of candidates and examination centres;
 - (f) recommends appropriate arrangements for conduct of Council examinations in schools and other institutions;
 - (g) ensure the maintenance of standards appropriate in all subjects; and
 - (h) approve reports on examination for dissemination to the public.

19. Research and Evaluation Committee.

- (1) The Research and Evaluation Committee shall consist of the following members—
 - (a) the Chairperson of the committee to be appointed by the Council;
 - (b) one representative from Higher Education;
 - (c) Director of Curriculum Development Centre;
 - (d) one Head of a tertiary institution who shall be a member of the Council;
 - (e) one representative from the universities;
 - (f) a representative of Primary School Head teachers who shall be a member of the Council;
 - (g) a representative of Secondary School Head Teachers who shall be a member of the Council; and
 - (h) three state Directors for Examinations
- (2) The following functions and procedures shall apply to Research and Evaluation Committee—
 - (a) advise the Council on research proposals submitted by research staff of the Council, Universities and other Institutions;
 - (b) facilitate the work of Research officers;
 - (c) advise and make various committees aware of the findings of research done at the Secretariat;
 - (d) review and evaluate examination result statistics and recommend improvement of appropriate techniques; and
 - (e) evaluate general and specific conduct of examinations.

CHAPTER VI

FINANCE, AUDIT AND REPORTING

20. Operational Principle.

The Council shall manage its finances in accordance with sound financial principles and best practices and shall in that respect and ensure that its revenues are sufficient to meet its expenditures, including payment of operational cost.

21. Sources of Funding.

- (1) The Council's operations shall be funded by an approved and allocated budget approved in accordance with the Public Finance Management and Accountability law and other sources and shall include, but not limited to—
 - (a) such sums as shall be appropriated annually by the Legislative Assembly, for the Council's activities;
 - (b) such monies or other assets as may accrue to or vest in the Council by way of grants, bequests, donations, gifts, subscriptions, rents, interest or royalties from the Government, any foreign government, international agency, or any other person;

- (c) fees paid by candidates for examinations, or other charges paid for other assessments through Heads of Institutions;
 - (d) such other sums and assets as may vest in or accrue to the Council, whether in the course of discharging its functions or otherwise; or
 - (e) any other source of funding which may be approved by the President.
- (2) The Council shall prepare and submit for approval and annual budget proposal, in accordance with Public Finance Management and Accountability law and respect to the Government budget process, for the following financial year. Such budget proposal shall be subject to review, revision and approval by the Assembly.

22. Bank Accounts.

The Council shall open and maintain bank accounts as may be necessary for the performance of its functions and duties in accordance with the Public Finance Management and Accountability law.

23. Surplus Funds.

Funds belonging to the Council, not immediately required for any purpose provided for in this Act, may be invested in a in accordance with the Public Finance Management and Accountability law.

24. Accounts.

- (1) The Chairperson shall keep and maintain proper books of accounts and records of all funds received and spent by the Council during the financial year.
- (2) The Chairperson shall prepare and submit a financial report to the Board, not later than three months from the end of the previous financial year. The report shall include—
- (a) a financial statement of income and expenditure during the financial year;
 - (b) a statement of assets and liabilities of the Authority for the financial year, prepared in accordance with generally accepted accounting principles; and
 - (c) a financial audit report.

25. Audit.

- (1) The Chairperson shall ensure that, for each financial year the accounts of the Council are audited by the Auditor-General or such other audit firm approved by the Auditor-General in writing and authorised by the Board.
- (2) The Board shall ensure that within four months from the end of the financial year, or such other period as the Government may require in writing, an audited statement of accounts, in accordance with the provisions of section 24 above, is submitted to the President and the Ministry of Finance and Economic Planning.

- (3) The Auditor-General shall have access to all the books of accounts, vouchers and other records, and shall be entitled to any information and explanation required in relation to those and any other records of the Council.

26. Annual and Other Reports.

- (1) In addition to the Financial Audit Report, required by section 24 above, within four months after the end of each financial year, or such other period as designated by the Government in writing, the Council shall also prepare an Annual Report of its activities during that financial year.
- (2) The Annual Report shall, inter alia, include the following information—
 - (a) a copy of the auditor’s report;
 - (b) a statement of financial performance and of cash flows;
 - (c) the budget for the coming financial year;
 - (d) a description of the activities of the Council during the previous year;
 - (e) an analysis of the extent to which it has met its objectives of the previous year;
 - (f) an evaluation as to the extent to which the advice and directives of the Council have been complied with;
 - (g) its objectives for the coming year; and
 - (h) any recommendations on the matters governed by this Act.
- (3) The Council shall publish and disseminate widely the Annual Report, along with its audited accounts. In the event the Council fails to distribute the Annual Report, it shall be distributed by the Ministry of Finance and Economic Planning.
- (4) The Board shall submit to the Office of the President and the Assembly such other reports on its activities or any other matter that may from time to time be required.

CHAPTER VII

MISCELLANEOUS PROVISIONS

27. Confidentiality.

Members, the Managing Director, and employees shall protect the activities of the Council and shall not divulge or publish any information about the Council unless he or she has been officially authorized to do so by the Chairperson.

28. Offences and Penalty.

- (1) A person is considered to have committed an offence, if he violates any of the following acts—
 - (a) Gains unauthorised access to examination materials and reveals the content to anybody;

- (b) Maliciously distorts any content of an examination paper, or damages an examination apparatus, specimen or any other material;
 - (c) Presents himself/herself with the intention of sitting the Council's examinations for a registered candidate;
 - (d) Alters the work, data, scores and other information of a candidate with the intention of passing or failing the candidate;
 - (e) With intent to gain employment, or admission to an institution, forged a Council's certificate or diploma;
 - (f) Sells or buys or steals the Council's certificate or diploma; or
 - (g) Withholds any information prejudicial to examination security and proper function of the Council.
- (2) Whoever commits any of the acts described in subsection (1) above is guilty of an offence and upon conviction shall be punished in accordance with the provisions of Chapter XXIV of the Penal Code Act, 2008.

29. Contracts and Cooperation Agreements.

The Council may enter into contracts, or affiliation or cooperation agreements with, *inter alia*, the Sudan National Examinations, Uganda National Examinations Council, Kenya National Examination Council, and any other required and international bodies, when deemed necessary, in such matters pertaining to standards and any issues related to assessment, printing and certification.

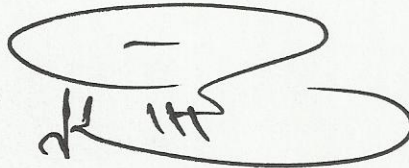
30. Regulations.

The Minister shall make such rules and regulations as may be necessary for the effective and efficient implementation of the provisions of this Act.

Assent of the President of the Government of Southern Sudan

In accordance with the provision of Article 85 (1) of the Interim Constitution of Southern Sudan, 2005, I, Gen. Salva Kiir Mayardit, President of the Government of Southern Sudan, hereby Assent to the Examination Council Act, 2011 and sign it into law.

Signed under my hands in Juba, this 7th day of the month of JULY in the year 2011.

A handwritten signature in black ink, consisting of a large, stylized 'S' shape with a horizontal line through it, and some smaller, less distinct characters below it.

**Gen. Salva Kiir Mayardit
President
Government of Southern Sudan
GoSS/ Juba.**