

LAWS OF SOUTH SUDAN

PASSPORTS AND IMMIGRATION ACT, 2011

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LAWS OF THE REPUBLIC OF SOUTH SUDAN

PASSPORTS AND IMMIGRATION ACT, 2011

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PASSPORTS AND IMMIGRATION ACT, 2011

In accordance with the provisions of Article 59 (2) (b) read together with the provisions of 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 “Passports and Immigration Act, 2011” and shall come into force on the date of its signature by the President.

2. Repeal and Saving

Any provisions of existing legislation that are governed by the provisions of this Act are hereby repealed; provided that all proceedings, orders and regulations taken or made under the provisions of such existing legislation, except to the extent they are repealed by or are otherwise inconsistent with the provisions of this Act, shall remain in full force, until they are repealed or amended in accordance with the provisions of this Act.

3. Purpose

This Act is to provide a legal framework governing the issuance of Passports of the Republic of South Sudan, Visas, and Residence Permits for Aliens, the deportation of Aliens from South Sudan, and other matters related thereto.

4. Authority and Application

The Act is drafted in accordance with the provisions of Article 208 (7) of the Interim Constitution of Southern Sudan, 2005, which

implicitly gives the Government legislative power over Passports and Immigration and its provisions shall apply throughout South Sudan.

5. Interpretation

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

“**Alien**” means a person who is not a South Sudanese National;

“**Aliens Committee**” means the committee established by the Minister in accordance with section 29 of this Act;

“**Competent Authority**” means any official authorized and delegated by the Minister to exercise any of his or her powers under the provisions of this Act;

“**Competent Court**” means the court of the Judiciary of South Sudan with competent jurisdiction to consider appeals against administrative decisions of the institutions of the Government;

“**Constitution**” means the Interim Constitution of Southern Sudan, 2005;

“**Diplomatic Passport**” means a passport issued to diplomatic personnel of a country in accordance with its laws and applicable International Conventions;

“**Director**” means the Director in charge of the Directorate of Nationality, Passports and Immigration;

“**Directorate**” means the Directorate of Nationality, Passports and Immigration of the Ministry of Interior established in accordance with Chapter II of this Act.

“**Entry**” means entry, re-entry or return to South Sudan;

“**Foreign Passport**” means a Passport issued by a foreign state or international organization;

“**Government**” means the Government of South Sudan;

“**Inspector General**” means the Inspector General of the South Sudan Police Service.

“**Minister**” means the Minister of Interior;

“**Ministry**” means the Ministry of Interior;

“**Ordinary Passport**” means a Passport other than a Diplomatic Passport issued by the Directorate to a South Sudan National;

“Passport” means any type of travel document issued by a state or international organization, entitling its holder to travel outside the boundaries of his or her own state or, in case of a stateless person, to travel to a destination other than the country of domicile;

“President” means the President of the Republic of South Sudan;

“Resident Permit” means an official permit to reside in South Sudan granted by the Directorate in accordance with Chapter V of this Act;

“South Sudan” means the territory, including airspace and territorial waters of South Sudan as established in the Constitution;

“South Sudanese National” means a person who is a South Sudanese national within the meaning provided under the Constitution and who satisfies the eligibility criteria provided under the Nationality Act, 2011;

“Transit Passenger” means person travelling through South Sudan on transit from one foreign country to another, and whose residence in South Sudan does not exceed the period prescribed by the Minister; and

“Visa” means an official permit to enter South Sudan granted by a competent Authority to an Alien.

CHAPTER II

THE DIRECTORATE OF NATIONALITY, PASSPORTS AND IMMIGRATION

6. Establishment of the Directorate

- (1) There shall be established a Directorate within the Ministry of Interior a Directorate to be known as the Directorate of Nationality, Passports and Immigration referred hereafter as the Directorate, which shall be headed by the Director.
- (2) The Director shall be appointed and removed by the Minister in consultation with the Inspector General of South Sudan Police.

7. Functions and Duties

The Directorate shall—

- (a) issue Passports to South Sudanese Nationals;
- (b) grant of landing permits to Aliens arriving without Visas;
- (c) register Aliens upon arrival into South Sudan;
- (d) impound, revoke or cancel South Sudanese Passports and Visas; or
- (e) perform and exercise other functions, duties, or powers conferred to police personnel in accordance with the Police Services Act, 2009, the Code of Criminal Procedure, 2008, and any duties or powers which may be delegated by the Minister or the Inspector General.

CHAPTER III

PASSPORTS

8. Types of Passports

- (1) The types of South Sudan Passports shall be as follows-
 - (a) Diplomatic passports;
 - (b) Special passports;
 - (c) Ordinary Passports; and
 - (d) Emergency Travel Document.

- (2) Notwithstanding the types of Passports referred thereunder, the provisions of subsection (1) above, the Minister and or the Minister for Foreign Affairs, as the case may be, may issue emergency or temporary traveling permits and any other permits to South Sudanese National on such grounds or situations as may be prescribed in the regulations.

9. Diplomatic and Special Passports

- (1) The Diplomatic and Special Passports may be issued to South Sudanese nationals upon the direction of the Minister for Foreign Affairs.

- (2) The Diplomatic and Special Passports shall remain valid for such periods as the Minister for Foreign Affairs may prescribe in the regulations.

- (3) The Minister for Foreign Affairs in consultation with the Minister may prescribe and design forms for Diplomatic and Special Passports and may, with the consent of the Minister for Finance and Economic Planning, prescribe issuance fees of the Diplomatic and Special Passports referred to under the provisions of subsection (1) above.

10. Ordinary Passports

- (1) South Sudanese Nationals shall be entitled to Ordinary Passports, upon submission of application in accordance with the regulations.
- (2) The Minister may issue Ordinary Passports, which shall be valid for such periods as may prescribed in the regulations.

11. Endorsement of Passports

The Minister may endorse the names of any Country on an existing valid passport which the holder is not authorized to visit.

12. Refusal, Withdrawal and Cancellation of Passports

- (1) The Directorate, upon the direction of the Minister for Foreign Affairs, shall withdraw or cancel a Diplomatic or Special Passport, in accordance with the regulations.
- (2) The Directorate may, at any time, cancel or refuse to issue an Ordinary Passport if it is approved that—
 - (a) The applicant or holder thereof provided false information in the application; or
 - (b) the holder has renounced his or South Sudanese Nationality.
- (3) When a passport has been cancelled under the provisions of subsection (1) and (2) above, the holder or other person in physical possession of it shall surrender the same to the Directorate.

CHAPTER IV

ENTRY INTO AND DEPARTURE FROM THE SOUTH SUDAN

13. Points of Entry and Exit

- (1) No person shall enter or depart from the South Sudan, except through the points of entry and exit which shall be prescribed from time to time by the Minister with approval of the National Security Council.
- (2) Except as provided in section 16 below, no alien shall enter South Sudan unless he or she is in possession of a valid visa.

14. Grant of Visa

- (1) A visa shall be granted to an alien by a Competent Authority, and shall where practicable, be endorsed on his or her passport.
- (2) A visa shall be granted to an alien who—
 - (a) has a valid passport for the period of his or her stay in South Sudan;
 - (b) can demonstrate sufficient financial resources to cover his or her personal expenses while in South Sudan and the return to the country of origin; and
 - (c) has valid certificates of inoculation or immunization as the Minister of Health may from time to time prescribe.

15. Refusal or Cancellation of Visa

Without prejudice to the provisions of section (14) above, a visa shall not be granted to an alien who—

- (a) is suffering from a contagious disease, as may be prescribed by the Minister of Health, mental infirmity or temporary insanity, unless the visa is applied for by the guardian of such a person for the purpose of treatment or

- convalescence of such condition;
- (b) had previously been declared an undesirable alien or deported from South Sudan. However, the Minister may authorize the grant of a visa to the applicant at his or her discretion on any other reasonable ground;
- (c) is not in possession of such valid certificates of inoculation or immunization as the Minister for Health may from time to time prescribe;
- (d) may likely endanger public security, a breach of peace or harm relations with foreign states by his or her presence in South Sudan;
- (e) is reasonably suspected to be a trafficker in illegal drugs;
- (f) is reasonably suspected to be entering South Sudan for the purposes of prostitution, homosexuality lesbianism or human trafficking; or
- (g) is registered on the non-entry control list of the Ministry.

16. Refusal of Departure from South Sudan

South Sudanese Nationals and aliens holding non Diplomatic Passports may not be allowed to depart South Sudan if—

- (a) Such person has been formally charged with a criminal offence that has not yet been cleared before the courts; and
- (b) The South Sudanese National is a minor and not in the company of his or her parents or guardians, or traveling without their written consent in the manner prescribed by the regulations.

CHAPTER V

RESIDENCE IN SOUTH SUDAN

17. Exemption

The Minister may, by order, exempt a person from any or all of the provisions of this Chapter, or any of the regulations thereto, including but not limited to the following—

- (a) aliens holding foreign diplomatic passports;
- (b) aliens who stay or intend to stay for a period not exceeding three (3) months in South Sudan; or
- (c) aliens or South Sudanese nationals, or group aliens from an adjacent country to South Sudan to enable them enter into South Sudan for a period not exceeding fourteen (14) days.

18. Aliens with Residence Permits

Except as provided in this Chapter, aliens with valid residence permits shall be permitted to reside in South Sudan.

19. Special Residence Permits

- (1) Special residence permits may be granted to the following—
 - (a) Aliens who have been continuously residing in South Sudan for a period of not less than three (3) years; or
 - (b) Aliens who lawfully stayed in South Sudan for more than five years and are carrying out scientific, technical and commercial activities deemed by the Minister to be of value to South Sudan.
- (2) A Special residence permit shall be valid and renewable for another five year periods.

20. Ordinary and Temporary Residence Permits

- (1) Ordinary Residence Permits may be granted to the

following—

- (a) Aliens who have been continuously residing in South Sudan for not less than five years; or
 - (b) Aliens lawfully residing in South Sudan for more than two years and are carrying out scientific, technical or commercial activities deemed by the Minister to be of value to South Sudan.
- (2) An Ordinary Residence Permit shall be valid and renewable for two year periods.
 - (3) Aliens not eligible for special or ordinary residence permits may be granted temporary residence permits.
 - (4) A temporary residence permit shall be valid and renewable for periods not exceeding twelve months.

21. Forfeiture of Residence Permits

- (1) An Alien who has been granted a special or ordinary residence permit shall forfeit it if he or she has been continuously absent from South Sudan for a period exceeding six months, unless he or she has obtained a return visa to re-enter before departure.
- (2) If the period of continuous absence of an alien with a special or ordinary residence permit exceeds one year, the residence permit shall be forfeited, notwithstanding the grant of a visa. This forfeiture, however, shall not prejudice the right of the alien to apply for a new residence permit.
- (3) The provisions of sub-sections (1) and (2) above, shall not apply to an alien who is absent from South Sudan on a mission on behalf of the Government.

22. Cancellation of Residence Permits

If the grounds on which a special or ordinary residence permit was granted cease to exist, the residence permit may be cancelled.

However the existence of new grounds on which such residence permit might be granted or continue to be valid, a residence permit may continue to be valid if deems fit by the Director or the Minister.

23. Scope of Residence Permits

A residence permit shall extend to the alien, his or her spouse or spouses, children and dependents.

CHAPTER VI

REGISTRATION OF ALIENS

24. Exemption

Tourists entering South Sudan for a period not exceeding three months shall be exempted from the provisions of this Chapter.

25. Registration of Aliens

- (1) After entering South Sudan an alien shall within three (3) days report to the nearest Competent Authority to register his or her presence in South Sudan in accordance with the regulations.
- (2) A hotel, lodge or guest house in South Sudan shall be required to keep a register of the arrival and departure of any alien guest as may be prescribed by the regulations.
- (3) A person or body that employs an alien shall notify the relevant Competent Authority of such employment within three days from the date of employment of the alien, and shall on the termination of employment, forward a declaration to that effect within forty eight hours from the date of such termination.

26. Loss of Passport or Identity Card

An Alien shall report to the competent authority the loss of his or her passport or identity card within forty eight hours of such loss.

CHAPTER VII

DEPORTATION OF ALIENS

27. Grounds for Deportation of Alien

Except as provided for in this Chapter, the Minister may deport an alien from South Sudan if the alien—

- (a) is declared by the Minister to be an undesirable after consultation with aliens committee;
- (b) has breached any of the conditions upon which permission to reside in South Sudan was granted;
- (c) is recommended for deportation or convicted, under the provisions of Section 31 of this Act;
- (d) has entered South Sudan in violation of the provisions of this Act; or
- (e) remain in South Sudan in violation of the provisions of this Act.

28. Deportation upon Recommendation by the Court

- (1) A court, which has convicted an alien of an offence punishable with imprisonment for a period exceeding six months, may in addition order or recommend to the minister the deportation of the alien.
- (2) The minister may refer the recommendation provided under subsection (1) to the Aliens Committee for advice.

29. The Aliens Committee

- (1) The Minister shall establish the Aliens Committee, which shall consult and advise him or her on matters pertaining to aliens.
- (2) The Aliens Committee shall be composed of the following members—
 - (a) Inspector General, who shall be the Chairman;

- (b) Director General, who shall be Secretary;
 - (c) Undersecretary of Nationality, Passports and Immigration
 - (d) Under-Secretary of the Ministry of Justice;
 - (e) Under-Secretary of the Ministry of Foreign Affairs;
 - (f) Representative from the Directorate of Public Security of the Ministry of Interior;
 - (g) Representative of the General Intelligence Bureau (GIB);
 - (h) Representative of the Internal Security Bureau (ISB); and
 - (i) Any other persons the Minister may decide to include.
- (3) The procedures and conduct of business of the Aliens Committee shall be determined by the regulations.

30. Finality of the Decision of the Minister

The decision of the Minister declaring an alien an undesirable alien or to deport the alien on advice of Alien Committee shall be final.

31. Procedure for Deportation

- (1) An alien who is to be deported under this Chapter may be arrested and placed in custody in accordance with the law, until deportation.
- (2) Notwithstanding the provisions of sub-section (1) the Minister may order the alien to be restricted to a particular place in lieu of custody, provided that the alien shall appear at the nearest police station at such times as the minister may specify, until deportation.

CHAPTER VIII

MISCELLANEOUS PROVISIONS

32. Delegation of Powers

- (1) The Minister may delegate all or some of his/ her powers, other than those provided under Sections 11, 16, 21, 27, and 36 of this Act to a Competent Authority.
- (2) The Minister may delegate some of his/her powers to the head of the appropriate South Sudan mission abroad.

33. Duties of Masters, Captains and Drivers

- (1) The master of a vessel, the captain in command of an aircraft or the driver of a vehicle shall, upon arrival at the first point of entry into South Sudan, present to the Competent Authority a list of the crew and passengers.
- (2) The master, captain or driver shall draw the attention of the Competent Authority to passengers who have no Passports or whose Passports are suspected of being invalid or irregular.
- (3) The master, captain or driver shall notify the Competent Authority if a member of the crew or a transit passenger has failed to re-embark.
- (4) The master, captain or driver shall be obligated to allow the Competent Authority to enter the vessel, aircraft or vehicle to conduct an inquiry concerning any crew member or passenger.
- (5) The master or captain shall, at the request of the Competent Authority, receive an Alien without a valid Visa or Passport back into the vessel or aircraft and remove them from South Sudan.

34. Duty to Give Particulars

A person entering or leaving South Sudan shall provide all the relevant particulars requested by the Competent Authority.

35. Authority to Arrest Aliens Illegally Entering South Sudan

A Competent Authority or police officer may—

- (a) arrest without warrant an alien who enters or remains in South Sudan in violation of the provisions of this Act; or
- (b) refuse entry to an alien who attempts to enter South Sudan in violation of the provisions of this Act, and enforce his or her removal from South Sudan at the point of entry, in the manner provided by law.

36. Personal Exemption

The Minister may grant a personal exemption from the provisions of this Act or related regulations to—

- (a) the heads or other dignitaries of foreign governments or international organizations;
- (b) political refugees and asylum seekers; and
- (c) other persons on the grounds of courtesy, reciprocity or for other special reasons.

37. Immunity and Exemption from Liability

- (1) No Legal proceedings shall be instituted and or liability be imposed against the Director, Deputy Director, Officers and other personnel of the Directorate for any action or omission made while in performance of their official functions, duties or powers, provided that such actions or omissions were performed in good faith.
- (2) The Director, Deputy Director, Officers or any other personnel referred to under the sub-section (1) above, may be investigated, arrested or detained, if he or she has committed a criminal offence related to the official

functions, duties and powers assigned to them by the provisions of this Act.

38. Offences and Penalties

- (1) Any person who fraudulently obtains a passport, visa, residence permit, or any other document issued under this Act is guilty of an offence and, upon conviction, shall pay a fine not exceeding 2,000 SSP or imprisonment not exceeding two years or both.
- (2) Any person who illegally enters South Sudan is guilty of an offence and, upon conviction, shall be liable to a fine not exceeding 2,000 SSP or imprisonment not exceeding two years or both.
- (3) Any person who violates any other provision of this Act is guilty of an offence and, upon conviction, shall be liable to a fine not exceeding 500 SSP and/or imprisonment not exceeding six months.
- (4) Any person convicted for a second time of an offence under the provisions of subsection (3) shall, in addition to any other penalty, have his or her Passport cancelled, and shall be deprived of the right to obtain a new passport for a period of five years, or such other lesser period as the Minister may deem appropriate.
- (5) Any person, who facilitates the illegal entrance of or shelters an alien in South Sudan is guilty of an offence and, on conviction, shall pay a fine not exceeding 500 SSP and/or imprisonment not exceeding six months or with both.

39. Authority to Institute Criminal Proceedings

Any Public Prosecutor from the Ministry of Justice shall have power to institute criminal proceedings for offences committed under this Act.

40. The Competent Court

Appeals against the decisions of the Minister, Directorate or Competent Authority under the provisions of this Act shall lie to the Competent Court.

41. Regulations

The Minister may make such rules, regulations and procedures as may be appropriate and necessary for the effective 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 Passports and Immigration Act, 2011 and sign it into law.

Signed under my hand in Juba, this ^{7th}----- day of the month ^{JULY}----- of in the year 2011.

A handwritten signature in black ink, consisting of a large, stylized 'S' shape with a horizontal line through it, and the initials 'SKM' written below it.

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