

LAWS OF SOUTH SUDAN

THE HIGHER EDUCATION ACT 2012

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HIGHER EDUCATION ACT, 2012

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LAWS OF SOUTH SUDAN

HIGHER EDUCATION ACT, 2012

In accordance with the provisions of Article 55 (2) 3(b), read together with the provisions of Article 85 (1) of the Transitional Constitution of the Republic of South Sudan, 2011; the National Legislative Assembly with the assent of the President of the Republic of South Sudan hereby enacts the following:

CHAPTER I

PRELIMINARY PROVISIONS

31. Title and Commencement.

This Act may be cited as The Higher Education Act 2012, and shall come into force on the date of its signature by the President.

32. Repeal and Saving.

Any existing legislation in the Republic of South Sudan that governs the same matters as set forth in this Act are hereby repealed or ceased to operate, provided that all proceedings, orders, actions or regulations issued or appointments made in accordance with provisions of the repealed laws, except to the extent they are cancelled by or are otherwise inconsistent with provisions of this Act, shall continue in force until they are expressly repealed or amended in accordance with provisions of this Act.

33. Purpose.

The purpose of this Act is to provide for the establishment of the regulatory framework for Higher Education and to create a demanding and rewarding environment in which individuals may realize their creative intellectual potential through high level training.

34. Authority and Application.

(1) This Act is drafted in accordance with the provisions of Articles (29), (38) and (52), read together with the provisions of schedule (A) paragraph (39) and (47), and provisions of schedule (c) paragraph (2) of the Transitional Constitution of the Republic of South Sudan, 2011, which confers upon the National Government the powers of co-ordination of services or the establishment of minimum standards or uniform norms in respect of any

matter or service referred to in schedule B or C, read together with schedule D of the Transitional Constitution of South Sudan.

(2) Provisions of this Act apply throughout South Sudan on matters related to Higher Education.

35. Interpretations.

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

“Accreditation” - means acceptance and confirmation evidenced by the grant of a charter that a University meets the requirements and standards of academic excellence set by the National Council for Higher Education;

“Chancellor” - means the president of the Republic of South Sudan as provided under section 21 of this Act;

“Chairperson” – means the Chairperson of the National Council of Higher Education;

“Council” – means the National Council for Higher Education established in accordance with the provisions of section 8 (1) of this Act;

“Deputy Minister” – means the Deputy Minister of the Ministry of Higher Education;

“General Secretariat” – means the General Secretariat of the National Council for Higher Education established in accordance with provisions of section 15 (1) of this Act;

“Government” – means the National Government of the Republic of South Sudan;

“Governing Council” – means the Governing Council constituted in accordance to the provisions of section 18 (4) of this Act;

“Higher Education”- means Education concerning Academic Programs in Universities and Colleges;

“Institutions of Higher Education” – means all Institutions of Higher Education established in accordance with section 18 (1) of this Act;

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

“Permanent Committee” – means Permanent Committee established by the National Council for Higher Education as provided by the provisions of section 17 (1) (a) of this Act;

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

“Private University” – means a University established by an Act under this Act, the appropriator of which is a person, firm or organization other than Government, and basically maintained out of funds other than Public funds;

“Public University” – means a University established by an Act and largely maintained from Public funds;

“Secretary General” – means the Secretary General of the National Council for Higher Education appointed in accordance with the provisions of section 15 (3) of this Act;

“Scientific Committee” – means Scientific Committee established by the National Council for Higher Education as provided by the provision of section 17 (1) (a) of this Act;

“Under Secretary” – means the Undersecretary of the Ministry of Higher Education; and

“University Council” – means the University Council constituted in accordance with the provisions of this Act.

CHAPTER II

THE STRATEGIC AND GENERAL OBJECTIVES

36. Strategic Objectives.

- (1) The strategic objectives underlying this Act includes stimulation and promotion of the Higher Education system in order to meet the learning needs of South Sudanese Nationals, develop and transmit appropriate skills and create relevant and useful knowledge for all.
- (2) To build a highly skilled human resources in order to stimulate, direct and utilize the creative and intellectual energies of the entire population of the Country.

37. General Objectives.

The Higher Education system shall strive to achieve the following:

- (a) modernize Higher Education that includes supporting its capacity and better utilization of its resources, developing its methodologies, technologies and ensuring that Higher Education can play its role effectively;
- (b) cater for knowledge and scientific research, translate, apply and improve its method, quality of its curricula and link them to social and economic needs of the Country;
- (c) continuous training of vital elements of society to build human resources and spur social economic and cultural progress;
- (d) serve the society through social and economic initiatives and protect the environment;
- (e) promote unity, peace and social harmony between communities through research, outreach, women and youth activities and inculcate the culture of peace;
- (f) promote extra-curricula activities to foster racial, cultural, and religious tolerance and harmony among students;
- (g) promote cooperation, linkages and exchange of Programmes with international universities and institutions in various fields of academic studies including, research, science and technology;

- (h) cooperate with relevant Government institutions to identify problems or negative consequences of social transformation resulting from development and find solutions through studies and scientific research.
- (i) promote international cooperation in joint scientific research with other foreign Universities and research institutions.

CHAPTER III

THE NATIONAL COUNCIL FOR HIGHER EDUCATION

38. Establishment.

- (1) There shall be established a body to be known as the National Council for Higher Education, referred to hereinafter as the “Council”.
- (2) The Council shall be the Policy making body, and shall report to the President on matters related to Higher Education General Policies.
- (3) The Council shall be a body corporate with perpetual succession, a common seal and a logo and shall be capable of being sued or be sued in its corporate name.
- (4) The seat of the Council shall be within the capital of South Sudan.

39. Composition.

- (1) The Council shall be constituted by the order of the President in consultation with the Minister as follows:
 - (a) The Minister of Higher Education - as the Chairperson;
 - (b) The Deputy Minister of Higher Education as a member;
 - (c) Minister in the Office of the President;
 - (d) National Minister of Finance and Economic Planning;
 - (e) National Minister of Labour;
 - (f) National Minister of General Education;
 - (g) Governor of the Central Bank of South Sudan;
 - (h) All Vice Chancellors of Public Universities;
 - (i) Ten Members representing Academia of Public Universities;
 - (j) Five members representing Private Universities;
 - (k) Ten members representing civil society organizations; and
 - (l) The Secretary General of the Council.
- (2) Without limiting the provisions of sub-section (1) of this section, appointment and eligibility requirements for the members of the Council shall be prescribed in the rules and regulations issued in accordance with this Act.

40. Tenure of the Council.

Members of the Council shall serve for a term of four years commencing from the date of appointment, but may be reappointed to another term of similar duration.

41. Loss of Membership.

- (1) A member of the Council shall cease to be a member in any of the following situations:
 - (a) Upon a written resignation;
 - (b) When relieved by the President upon recommendation by the Minister;
 - (c) When the member is convicted of an offence involving dishonesty or moral turpitude;
 - (d) Upon medical unfitness; or
 - (e) Upon death.

- (2) Where a vacancy occurs, the Secretary General shall notify the authority which appointed the member vacating the Council within one month and the authority concerned shall appoint another person (s) in that member's place.

42. Functions and Powers of the Council.

- (1) The Council shall perform and exercise the following functions and powers to achieve its objectives:
 - (a) Develop and formulate Higher Education and scientific research policies in the Country;
 - (b) Approve the establishment of and accrediting Institutions of Higher Education in achieving the goals and objectives of this Act;
 - (c) Preserve and protect the autonomy of Higher Education institutions;
 - (d) Promote activities that contribute to social, cultural, economic and moral growth and progress at Universities and Colleges;
 - (e) Determine required standards of admissions and enrolment into Institutions of Higher Education;
 - (f) Determine the equivalence of all types of academic and professional qualifications of degrees, diplomas and certificates obtained elsewhere with those awarded by South Sudan Institutions of Higher Education for recognition in South Sudan;
 - (g) Determine required minimum qualifications for recruitment of academic staff of the Institutions of Higher Education and their terms of service;
 - (h) Determine the financial support to the Institutions of Higher Education;
 - (i) Certify that a Private Institution of Higher Education has adequate resources, accessible infrastructure and competent staff for the courses to be offered;

- (j) Ensure that adequate facilities and opportunities for welfare, career guidance and counseling are provided by the Institutions of Higher Education;
 - (k) Formulate policies and regulations to govern distribution and management of Government and other scholarships due to public institutions of Higher Education;
 - (l) Prepare an annual report on the performance of the Council and Institution of Higher Education for presentation to the President and publicity in the gazette;
 - (m) Publish a special registry for Institutions of Higher Education;
 - (n) Constitute Specialized Committees from among its members or from outside to undertake special task and resolutions passed by the Council;
 - (p) Sign contracts for acquisition and possession of movable and immovable properties;
 - (q) Formulate and publish internal rules and regulations for the conduct of its business; and
 - (r) Perform any other function incidental to the objectives of this Act or relating to Higher Education in South Sudan or that may be conferred upon by the Minister or the President in accordance with this Act.
- (2) The Council may delegate any of its functions and powers other than the approval of the budget or any powers required by this Act to be exercised by Resolution of the Council to any member, officer in the Ministry of Higher Education, Research, Science and Technology or Specialized Committees of the Council.

43. Meetings and quorums of the Council.

- (1) The Council shall hold regular meetings twice a year
- (2) Without prejudice to the provisions of subsection (1) above, the Council may hold extra-ordinary meetings on the request of 1/3 of its members or upon invitation by either the chairperson or the President.
- (3) The quorum of the Council shall be by single majority of its members
- (4) The Chairperson shall preside over the meetings of the Council and in his/her absence; the Deputy Minister shall chair the meeting.

44. Functions and Powers of the Chairperson.

The Chairperson shall perform and exercise the following functions and powers:

- (a) Presides over meetings of the Council;
- (b) Submits to the President, names of Chairpersons of the University Council, Vice Chancellors and their Deputies duly nominated for appointments;
- (c) Approves the appointments of officers and employees of the Council on conditions to be determined by the Council; and

- (d) Performs and exercises such other functions and powers that may be provided by this Act.

45. The General Secretariat.

- (1) The Council shall establish the General Secretariat to be headed by the General Secretary.
- (2) The General Secretary shall be appointed by the President upon the recommendation of the Minister.
- (3) The General Secretary shall fulfill the following requirements:
 - (a) Be a holder of a PhD or a University professor or a distinguished scholar;
 - (b) Have at least ten years experience as academic employee or administrator in the field of higher Education; and
 - (c) Have such other qualifications and experiences as the National Council may determine.
- (4) The instrument of the appointment of the Secretary General shall specify the terms and conditions of service.

46. Functions and Powers of the Secretary General.

Subject to the provisions of this Act, the Secretary General shall:

- (a) Be the Secretary of the National Council;
- (b) Be responsible for the general administration and supervision of the staff of the National Council and its operations;
- (c) Be responsible for the management of the funds, property and business of the National Council;
- (d) Be the accounting officer of the National Council; and
- (e) Be the custodian of the seal, registry and documents of the National Council

47. Permanent and Specialized Scientific Committees of the Council.

- (1) The National Council shall establish permanent and Specialized Scientific Committees, to assist it in the performance of its functions and shall be composed as follows:

a) Permanent Committees.

- (j) Admission, Evaluation and Accreditation.
- (ii) External Relations and Training.
- (iii) Technical and Technological Education.
- (iv) Administration and Finance.
- (v) Planning, budgeting and grants.
- (vi) Private and Foreign Higher Education.

b) Specialized Scientific Committees.

- (i) Engineering Sciences.
 - (ii) Technical and Technological Education.
 - (iii) Agriculture, Veterinary and Natural resources.
 - (iv) Medicine and health Sciences.
 - (v) Economics and Social Sciences.
 - (vi) Law.
 - (vii) Education and Humanities.
 - (viii) Environmental Science.
- (2) The functions and powers of the Specialized Committees and the General Directorates referred to under sub-section (1) above shall be specified by rules and regulations issued pursuant to this Act.

CHAPTER IV

INSTITUTIONS OF HIGHER EDUCATION

48. Establishment of Institutions.

- (1) Institutions of Higher Education shall be established in accordance with the provisions of this Act and shall be classified as follows:
- (a) Public Institutions of Higher Education which shall comprise Public Universities and Colleges; and
 - (b) Private Institutions of Higher Education which shall comprise Private Universities and Colleges.
- (2) Both Public and Private Institutions of Higher Education shall be established by an Act.
- (3) Notwithstanding the provisions of section 18 (1) and (2) of this Act, Institutions of Higher Education may establish branches any where within South Sudan to realize their objectives subject to approval by the Minister upon recommendation of the Council.

- (4) An Institution of Higher Education established in accordance with the provisions of this Act shall have a governing Council constituted by the Minister with recommendation of the Council.
- (5) Notwithstanding the generality of subsection (4) above, each governing Council may formulate its own rules and regulations as the case may be.
- (6) An Institution of Higher Education may be de-registered in accordance with the provisions of this Act and implementing rules and regulations.
- (7) An Institution of Higher Education may establish colleges, centers or institutes upon recommendation by the Council, and approval of the Minister.

49. Freedom of Thought and Scientific Research.

Institutions of Higher Education shall enjoy freedom of thought and scientific research to realize their objectives as specified in this Act, and to contribute effectively towards deepening human knowledge and skills.

50. Chancellor of Public Institutions of Higher Education.

- (1) The President shall be the Chancellor of Public Institutions of Higher education and shall exercise the following functions and powers:
 - (a) Confirm appointments of Chairpersons of University Councils, Vice Chancellors and Deputy Vice Chancellors of Public Institutions of Higher Education;
 - (b) Perform an overall supervisory role over the affairs of each public university and confer academic credentials and awards; and
 - (c) Conduct visitation of the public universities.
- (2) Without prejudice to subsection (1) (b), the President may delegate the Vice Chancellor or any person he or she may so wish to conduct any duties on his or her behalf.

CHAPTER V

FINANCE, ACCOUNTS AND AUDIT

51. Sources of funding.

The main sources of funding for the Ministry of Higher Education, Research, Science and Technology and the Institutions under its jurisdiction shall include but not limited to the following:

- (a) Financial allocation made by government which shall constitute at least (5%) of the Total National Annual Budget;

- (b) Contribution by civil society organizations, NGOs, and friendly governments in the form of scholarships;
- (c) Grants, pledges, donations, gifts or other foreign aid approved by the Council; or
- (d) Investments made by Higher Education.

52. Utilization of the Funds.

The Councils fund shall be utilized to meet the following:

- (a) Administrative and operational expenses of the Council;
- (b) To promote and support developmental projects, programs and activities in fulfillment of the objectives of the Council;
- (c) sponsor and/or support National training and Research programs in the Higher Education Sector;
- (d) purchase movable and immovable properties appropriate and necessary for the efficient and effective delivery of services; and
- (e) To meet any other uses as may arise or incidental to the carrying out of the functions of the Council.

53. Bank Accounts.

The Council shall open a Bank Account in the Central Bank of South Sudan and any other Bank that the Council shall determine.

54. Accounts.

- (1) The Council shall keep books of Accounts for all funds received and expended in each financial year.
- (2) The Chairperson shall prepare and submit the financial report to the Council at the end of each Financial year, and the report shall include but not limited to:
 - (a) Financial statement of income and expenditure of the Council;
 - (b) Statement of assets and liabilities of the Council; and
 - (c) Audited financial report of the Council.

55. Audit.

- (1) The Accounts of the Council and Institutions of Higher Education shall be subject to auditing by the National Audit Chamber every financial year.
- (2) The Auditor General shall have access to all books of Accounts, vouchers and other related records of the Council.
- (3) The Council shall ensure that at the end of each Financial year or such other period as the Government may require in writing an audited statement of accounts in accordance with the provision of section 26 of this Act is submitted to the National Legislative Assembly.

56. Annual Financial Statement and Report of the Secretary General.

- (1) The Secretary General shall prepare the annual financial statement of Accounts for the immediate preceding financial year not later than 3 (three) months in the following year.
- (2) The annual report shall include the following:
 - (a) Financial statement, budget performance and the balance sheet;
 - (b) Description of the financial activities of the Council during the previous financial year;
 - (c) Analysis of the report to show whether the Council met its objectives in the previous year;
 - (d) Projections of the Council for the next financial year; and
 - (e) Any other proposals or recommendations on matters the Council deems necessary.
- (3) The Council shall publish the annual report in the gazette as well as disseminate it widely.
- (4) The Secretary General shall submit to the Chairperson such other reports on the activities of the Council or other matters that might from time to time be required.

57. Exemption from Custom Duties and Taxes.

Public Institutions of Higher Education shall be exempted from custom duties and taxes imposed by the government, provided that they meet all the necessary conditions set by the Ministry of Finance and Economic Planning of the Republic of South Sudan.

CHAPTER VI

MISCELLANEOUS PROVISIONS

58. Administrative and Executive positions.

- (1) Administrative and Executive positions in Institutions of Higher Education shall be by nominations and appointments.
- (2) The Chairpersons of the University Council, the Vice Chancellors and Deputy Vice Chancellors of the University shall be nominated by the Minister, and appointed by the Chancellor.
- (3) The Deans of the Colleges/Faculties shall be appointed by the Vice Chancellor in consultation with the Chairperson of the University Council.

- (4) Head of Departments shall be appointed by the Deans in consultation with the Vice Chancellor.

59. Supremacy of the Act.

- (1) The provisions of this Act shall have precedence and priority over provisions of other Laws and in the event of conflict with respect to the Institutions of Higher Education, the provisions of this Act shall prevail.
- (2) Without limiting the generality of subsection 1 of this Act, Institutions of Higher Education that were established prior to the coming into force of this Act shall conform to the provisions of this Act and implementing rules and regulations issued pursuant to it.

60. Rules and Regulations.

The Minister, upon the resolution of the Council shall make rules and regulations necessary and appropriate for the effective and efficient implementation of this Act.

ASSENT OF THE PRESIDENT OF THE REPUBLIC OF SOUTH SUDAN

In accordance with the provision of Article 85 (1) of the Transitional Constitution of the Republic South Sudan, 2011, I, Gen. Salva Kiir Mayardit, President of the Republic of South Sudan, hereby Assent to the Higher Education and Exports Act 2012 and sign it into law.

Signed under my hand in Juba, this 24th day of the month of MAR in the year 2012.

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

Gen. Salva Kiir Mayardit
President
Republic of South Sudan
RSS/ Juba.