

LAWS OF SOUTH SUDAN

POLITICAL PARTIES ACT, 2012

Act No.33

JUBA, 29th February, 2012

Printed by:
Ministry of Justice
Republic of South Sudan
Juba

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LAWS OF SOUTH SUDAN

POLITICAL PARTIES ACT, 2012

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

CHAPTER I

PRELIMINARY PROVISIONS

1 Title and Commencement.

This Act may be cited as " Political Parties Act 2012" and shall come into force on the date of its signature by the President.

2 Repeal and Saving.

Any existing legislation in South Sudan which governs Political Parties is hereby repealed or shall cease to operate; provided that all proceedings, orders and regulations taken or made thereunder, except to the extent they are inconsistent with provisions of this Act, shall remain in effect until they are expressly repealed or amended in accordance with the provisions of this Act.

3 Purpose.

This Act provides for a legal frame work to regulate Political Parties, and establishes a Political Parties Council to register and regulate Political Parties and all matters incidental thereto.

4. Authority and Application.

- (1) This Act is drafted in accordance with provisions of Schedule (A) (31) read together with Article 25 (2) of the Transitional Constitution of the Republic of South Sudan, 2011 which grants to the National Government exclusive legislative and executive powers over regulation of Political Parties.
- (2) The provisions of this Act shall apply to all Political Parties that will register in the Republic of South Sudan in accordance with section 17 of this Act.

5. Interpretation.

In this Act, unless the context otherwise requires:

“Constitution” means the Transitional Constitution of the Republic of South

Sudan, 2011;

- “Competent Authority”** means the National or state government agency or person authorized to carry out a particular function or to perform a particular duty under the context of a particular provision of this Act;
- “Council”** means the Political Parties Council established under the provisions of section (8) of this Act;
- “Council of State”** means council of States of the Republic of South Sudan;
- “Court”** means Supreme Court;
- “Competent court”** means the court specified by the president of the Supreme Court to be competent to rule on contraventions and appeals presented in accordance to this Act;
- “General Secretariat”** means the General Secretariat established in accordance with provisions of section 14 (1) of this Act;
- “Merger”** means the coming together or political union of two or more political parties in accordance with this Act;
- “National Assembly”** means South Sudan National Assembly;
- “Political Affiliation”** means being a registered member of a political party;
- “Political Party”** means a political organization registered in accordance with the provisions of this Act;
- “Republic”** means republic of South Sudan;
- “State Assembly”** means one of the state assemblies in the Republic of South Sudan; and
- “Supreme court”** means supreme court of South Sudan.

CHAPTER II

REGISTRATION OF POLITICAL PARTIES

6 Regularization of Political Parties.

- (1) The previously registered Political Parties in Sudan shall submit their constitutions to the Council within 90 days from the date the Council commences its duties and shall be re-registered in accordance with the provisions of section 16(f) of this Act.
- (2) Notwithstanding the foregoing provision, registration shall be an on going process and any political party not previously registered, shall be registered in accordance with the provisions of this Act.
- (3) A political party registered in accordance with this Act, shall pay in respect of the registration such fees as the Council shall by constitutional instrument determine.
- (4) A fee paid under subsection (3) is not refundable.

- (5) A political party shall upon registration under this Act be a body corporate with perpetual succession and a common seal, may sue and be sued in its corporate name, and shall have the power to acquire, hold, manage or dispose of movable or immovable property.
- (6) No Political Party shall, except as provided for in subsection (1) of this section, engage in political work or other activities at national or state level unless it is registered in accordance with the provisions of this Act.
- (7) Notwithstanding the provisions of sub-section (2), the Council may issue a permit for a Party to engage in political meetings for the purpose of meeting the requirements of section 16 (2) (f).

7. Mergers of Political Parties.

- (1) A political party may merge with another political party.
- (2) A political party shall not merge with another political party unless the merger is in accordance with the constitution, rules and procedures of the concerned political parties.
- (3) The decision to merge shall be in writing and shall be duly executed by the political parties' officials authorized to execute agreements on behalf of the political parties.
- (4) The governing body of each political party that intends to merge under this Act shall—
 - (a) determine the constitution, rules, regulations and the principles which shall form the basis of the merger and the registration of the new political party; and
 - (b) sign the merger agreement and the particulars for the new political party to be registered under this Act.
- (5) The merger agreement signed under subsection (b) shall be deposited with the Registrar within twenty-one days of the signing of the agreement.
- (6) The political parties which have merged into a new political party under this section shall stand dissolved upon registration of the new political party.
- (7) Where a political party merges with another political party, a member of the political party that has merged with another political party who is a member of the Council of States or a member of the National Legislative Assembly or of a State Assembly, and who does not desire to be a member of the political party formed after the merger shall remain in the Council of State or the National Assembly or the State Assembly as the case may be and may join another political party or choose to be an independent member for the remainder of the term.

CHAPTER III
THE COUNCIL

8. Establishment of the Council, its Headquarters and Tenure.

- (1) There shall be established under the provisions of this Act, an independent Council to be known as the “Political Parties Council.” It shall have legal personality, official seal and the ability to sue and be sued in its own name.
- (2) The Headquarters of the Council shall be located within the National Capital.
- (3) The term of office of members of the Council shall be five years and may be eligible for renewal upon re-appointment by the President after consultation with the political parties.

9. Independence of the Council.

In performing its functions, the Council shall be administratively, financially and technically independent and shall submit regular reports to the National Legislative Assembly on the progress of its work which shall be public.

10. Membership of the Council.

- (1) The Council shall be comprised of a full-time Chairperson and eight (8) part-time members who shall be nominated by the President of the Republic after consultation with all the previously registered political parties.
- (2) Members of the Council shall be persons known for their integrity, honesty, objectivity, experience and shall have no partisan affiliations.
- (3) The Chairperson and members of the Council shall be approved by a resolution adopted by a two-third majority of the members of the National Legislative Assembly and following approval shall be appointed by the President.
- (4) Before assuming their functions, the Chairperson and members of the Council shall take oath before the President of the Republic as provided in section 32 of this Act.
- (5) The emoluments and benefits of the Chairperson and members of the Council shall be determined by the National Legislative Assembly.

11. Powers and Functions of the Chairperson of the Council.

The chairperson of the Council shall have the following functions:

- (a) preside over meetings of the Council;
- (b) maintain its order and represent it within and outside South Sudan;
- (c) supervise the financial and administrative matters of the Council;

- (d) call meetings of the Council; and
- (e) sign, regulations, resolutions and correspondence of the Council.

12. Meetings of the Council.

- (1) The Council shall hold regular meetings, at least once every month or when necessary, and may convene special or extraordinary meetings at the invitation of the Chairperson or upon request of one-third of its members.
- (2) The quorum for meetings and resolutions of the Council shall be five of its members.
- (3) Meetings of the council shall be transparent with minutes available to the public upon filing request for them.
- (4) The Council shall issue regulations to organize its work and rules of procedure.

13. Functions of the Council.

- (1) The Council shall have the following functions:
 - (a) register and de-register political parties in accordance with the provisions of this Act;
 - (b) issue certificates of registration to Political Parties;
 - (c) indicate in the register that changes have taken place within a Political Party;
 - (d) maintain records of registered Political Parties; and
 - (e) prepare the annual budget proposal for the Council and submit it to the National Council of Ministers for consideration and approval by the National Legislative Assembly.
- (2) In carrying out the functions referred to in subsection (1) of this section, the Council shall have the following powers:
 - (a) receive complaints from party members relating to application of this Act and/or the Constitution of any Political Party;
 - (b) investigate and take decisions concerning such complaints;
 - (c) demand that all Political Parties comply with the Transitional Constitution of the Republic of South Sudan, 2011, laws, regulations and obligations set forth in this Act.

14. The General Secretariat.

- (1) There shall be established a General Secretariat for the Council to be chaired by a Secretary General appointed by the Council. The Secretary General shall be a person known for his or her integrity, experience and high efficiency. The emoluments and benefits of the Secretary General shall be determined by the Council.
- (2) The Secretary General shall report to the Council.

- (3) The Secretary General shall register Political Parties in accordance with the resolution issued by the Council.
- (4) The powers of the Secretary General shall be provided for in the regulations issued under this Act.

CHAPTER IV

ESTABLISHMENT OF POLITICAL PARTIES

15. Right to establish Political Parties.

- (1)
 - (a) Political parties may be founded to further purposes which are not contrary to the laws and constitution of the Republic
 - (b) Any South Sudanese national who has attained the age of 18 years shall have the right to participate in the establishment of a Political Party and to become a member or to join any Political Party.
 - (c) A political party may, subject to the constitution and this Act, sponsor candidates for public elections
 - (d) No person shall be forced or prevented against his/her will to join a political party
 - (e) No person shall belong at the same time to more than one political party
 - (f) No party shall be formed on ethnic, gender, religious, regional or other sectional divisions
- (2) Notwithstanding the provisions of subsection (1) of this section, and subject to provisions of Articles 139 (1) (l), (m) and 151 (l) of the Transitional Constitution of the Republic of South Sudan 2011, the following persons shall not be members of any Political Party:
 - (a) members of organized armed forces and law enforcement agencies;
 - (b) Justices and Judges of the Judiciary of South Sudan;
 - (c) Legal Advisors and Public Attorneys in the Ministry of Justice;
 - (d) Civil Servants at all levels; and
 - (e) Diplomats of the Ministry of Foreign Affairs.

16. Obligations of Political Parties.

- (1) A political party shall:
 - (a) maintain records of its meetings, conferences and resolutions taken at meetings including names of the members present and manner of voting;
 - (b) submit comprehensive statements of accounts for all resources and expenditure for auditing and shall retain the said statements of accounts for at least five years and a copy shall be provided to the Council.
- (2) Every Political Party shall abide by the following conditions:
 - (a) membership shall be open to any South Sudanese national who agrees to comply with the goals and principles of a Political Party;

- (b) its manifesto shall not contravene provisions of the Transitional Constitution of the Republic of South Sudan, 2011;
- (c) its leaders shall be democratically elected at all levels and shall provide for proportionate representation of women on a basis to be established by each party;
- (d) its funding shall be transparent and open to the public;
- (e) have a constitution approved by its founders at its founding meeting. At such meeting the party shall elect the highest Political Party leadership and approve the list of names of its founders;
- (f) shall be qualified to be fully registered if—
 - (i) it has recruited as members, not less than five hundred registered voters from each of more than at least eight states;
 - (ii) the members referred to in paragraph (a) reflect regional and ethnic diversity, gender balance, representation of minorities, youth and special categories groups;
 - (iii) the political party shall have in its national governing body at least one member from each state.
 - (iv) the political party shall have branches in all the ten states and is, in addition organized in not less than eight states.
 - (v) the composition of its governing body reflects regional and ethnic diversity, gender balance and representation of minorities and special categories groups;
 - (vi) it has demonstrated that members of its governing body meet the requirements of the Constitution and the laws relating to ethics;
 - (vii) observe democratic principles in its political activities and respect peaceful transfer of power;
 - (viii) the means to achieving its goals shall not include establishment of covert or overt military formation or cells within the party itself, armed forces or establishment of any paramilitary forces;
 - (ix) not engage in or incite violence or promote hatred among ethnic, religious or racial groups in the Republic of South Sudan; and
 - (x) not be a branch of any Political Party outside South Sudan.

17. Submission of Documents.

- (1) A Political Party shall submit the following documents to the Council:
 - (a) three approved copies of its constitution and rules or by-laws;
 - (b) list of names of its political leaders;
 - (c) copy of the approved list of founders including particulars of each of them as required by regulations issued under the provisions of this Act; and
 - (d) an approved copy of minutes of the founding meeting.

- (2) The Council shall issue a receipt confirming that a Political Party has submitted the documents referred to in subsection (1) of this section.
- (3) The Council shall submit to the Ministry of Justice a summary of the key documents of every registered Political Party which shall be published in the official gazette.
- (4) The Council shall publish an acknowledgement of receipt of the documents referred to in subsection (2) of this section in two daily newspapers within fifteen days from the date of submission.
- (5) The Council shall check the documents submitted by a Political Party for the purpose of registration and if the Council establishes that the documents are in accordance with provisions of this Act, it shall issue a resolution for registration of a Political Party within fifteen days from the date of receiving the documents.
- (6) A Political Party shall acquire legal personality from the date of its registration.
- (7) The Council shall issue, on the basis of the resolution referred to in subsection (5) of this section, a certificate showing that a party is registered and such registration shall be published in the official gazette of Government and in two daily newspapers.
- (8) In case the contents of the documents submitted by any Political Party pursuant to provisions of this section:
 - (a) contravene any provision of the Transitional Constitution of the Republic of South Sudan, 2011, this Act or the regulations issued under it;
 - (b) are incomplete or fail to include required information; or
 - (c) carry incorrect dates of establishment of the Political Party,
 the Political Party shall be given fifteen days to correct such irregularities in its documents and only after the documents have been corrected shall the Council issue a resolution registering such Political Party.
- (9) In case a Political Party fails to comply with the requirements set forth under subsection (8) of this section within the prescribed period, the Council shall notify such Political Party of its failure to comply and its non-registration in writing.
- (10) A Political Party whose registration is rejected by a resolution may file an objection against the resolution before the court.

18. Constitutions of Political Parties.

- (1) Political Parties shall have constitutions and regulations containing objectives, programmes, organizational structures and financial administration organs which shall not be inconsistent with provisions of the Transitional Constitution of the Republic of South Sudan or this Act and applicable regulations. Specifically, Political Parties' constitutions shall include the following minimum requirements:

- (a) name of the Political Party;
 - (b) address of its Head Quarters;
 - (c) the goals and objectives the Political Party seeks to achieve;
 - (d) conditions for membership, procedures for joining the Political Party, resignation, dismissal and rights and obligations of its members;
 - (e) organizational structures and the manner in which organs and leaders are to be selected and how meetings of the party are convened; and
 - (f) the manner in which its funds and properties are to be managed and the entity in which such funds and properties are to be vested in the event of dissolution.
- (2) No Political Party shall have a name identical to that of the other Political Party in the Country.

19. General Conference.

- (1) Every Political Party shall hold a General Conference at least once every four years.
- (2) The Political Party shall inform the Council in writing at least three (3) weeks prior to holding its General Conference.

20. Exclusion from Contesting Elections, Suspension of Activities, Dissolution, De-Registration of a Political Party.

- (1) A Political Party may have its activities suspended or be de-registered if the Party itself informs the council in writing stating that the Party has taken a decision to suspend its activities or to dissolve itself under its constitution and rules.
- (2) A Political Party shall be excluded from participating in an election, suspended or dissolved by decision of two third majority of the Council upon the Council establishing that, the Political Party has contravened the provisions of Article 25(3) of the Constitution or provisions of section 16 of this Act or article 25 (3) of the Transitional Constitution.
- (3) The Political Party suspended, excluded or dissolved in accordance with provisions of subsection (2) of this section, may within 30 days from the date of the decision of the Council, file an objection before the Court.
- (4) The political parties council may de-register a political party:
 - a) If the political party dissolves itself in accordance with sub-section 1 above
 - b) If the political party contravenes the provisions of Article. 25 (3) of the constitution or the provisions of section 16 of this Act.
- (5) A person who is a member of a political party that has been suspended and is a member of a the Council of states, National assembly and state assembly, shall continue as a member of the Council of States, National assembly or state assembly as the case may be for the unexpired term.

CHAPTER V

EMBLEM OR LOGO

21. Emblem or Logo of a Political Party.

- (1) Every Political Party shall have a suitable logo or emblem for use in its activities and publications provided that the logo shall not be identical to any logo of another Political Party registered and approved by the Council.
- (2) The Council shall not hinder the continued registration or use of a Political Party's logo or require its removal from the records except upon request by the Political Party itself, in compliance with an order of the court, or upon final dissolution of the Political Party.

CHAPTER VI

FINANCIAL PROVISIONS

22. Financial Sources of the Political Party and Expenditure.

- (1) The financial resources of a Political Party shall consist of the following:
 - (a) member subscriptions;
 - (b) contributions and donations from national non-governmental entities, corporations, companies and individuals provided that such contributions and donations shall be registered with the Council and be made public;
 - (c) revenue from investments of its funds resulting from activities specified by this Act; and
 - (d) support by Government as approved in the general budget.
- (2) The resources of a Political Party shall not be disposed of or spent except in the areas specified by its constitution, rules and regulations.
- (3) A Political Party shall not accept any financial donation or contributions from any foreign person or from any foreign body.
- (4) Notwithstanding the provisions of subsection (1) of this section, government funding to the Political Parties shall be made after the general elections in proportion to votes received by a political party in the elections.

23. Business.

- (1) A political party shall not carry on business activities in its name.
- (2) Notwithstanding the provisions of subsection (1), a Political Party may invest in cultural activities; own property, newspapers and participate in mass media activities.

CHAPTER VII

IMMUNITIES AND EXEMPTIONS

24. Immunity of Political Party Premises.

Any premises of a Political Party shall not be searched except by permission from the competent court and in accordance with procedure provided by law.

25. Establishment of Charitable Organizations.

A Political Party may establish charitable or non-profit organizations and may cooperate with organizations with similar objectives and goals within the country or abroad provided the cooperation shall be in compliance with provisions of this Act and provided that the Political Party itself shall not be funded from such charitable work.

26. Newspapers, Information and Meetings.

- (1) Political Parties shall have the right to issue and publish newspapers, bulletins, magazines and publications and other mass media or communications in accordance with the law.
- (2) Political Parties shall have the right and freedom to hold internal meetings, organize social, cultural, political and sporting activities and to stage peaceful processions or marches in accordance with the law.

27. Exemption from Tax.

After consultations with competent authorities at national and state levels, the Council shall specify, in the rules and regulations issued under this Act, the bases of exemption from tax of activities of Political Parties at each level.

CHAPTER VIII

GENERAL PROVISIONS

28. Accessibility of the Record.

Upon payment of the fees specified in the rules and regulations issued under this Act, any person may request the Council to allow him or her to go through the records of any Political Party and to review its key documents.

29. Resolution of Disputes.

- (1) Should any dispute arise between the Council and a Political Party over the constitutionality or legality of any matter relating to the party's constitution or activities,

either the Council or the Political Party may submit the matter to the court for consideration and appropriate decision.

- (2) If the dispute is over the name of any registered Political Party, the Council shall help to settle the matter amicably and if it should fail to settle it amicably, the dispute shall be referred to court.
- (3) The court decision shall be final.

30. Accounts and Auditing.

- (1) The Council shall establish its own accounting unit to function in accordance with sound and internationally accepted accounting standards.
- (2) The National General Audit Chamber or any legal Accounting firm duly authorized by it shall audit the accounts of the Council and shall submit a report to the National Legislative Assembly.

31. Authority to issue Rules and Regulations.

The Council shall make rules and regulations necessary for the proper implementation of this Act.

32. Oath of Office.

Prior to assuming office, the Chairperson and members of the Political Parties Council shall take the following oath of office before the President of the Republic:

“ I,having been appointed to the Political Parties Council, swear by Almighty God to abide by the Transitional Constitution of the Republic of South Sudan, 2011 and the law. I shall be faithful, truthful and shall perform my duties honestly and impartially “So Help Me God.”

33. Offences and penalties.

Any person who violates any of the provisions of this Act, commits an offence.

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 of South Sudan, 2011, I, Gen. Salva Kiir Mayardit, President of the Republic of South Sudan, hereby Assent to the Political Parties 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 I M' written below it.

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