

LAWS OF SOUTH SUDAN

APPROPRIATION ACT, 2016/2017

DECEMBER /2016

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LAWS OF SOUTH SUDAN

APPROPRIATION ACT, 2016/17

An Appropriation Act enacted by the National Legislature to provide for the control and management of the Republic of South Sudan revenue and expenditures from the Consolidated Fund intended for the benefit of the citizens of South Sudan, from 1st July 2016 to 30th June 2017.

CHAPTER ONE

PRELIMINARY PROVISIONS

1. TITLE AND COMMENCEMENT.

This Act may be cited as “The Appropriation Act 2016/2017” and shall come into effect upon its signature by the President.

2. DEFINITIONS.

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

“Accounting Officer” means the individual designated by this Act to make all payment requests, and provide all necessary accountability, for the expenditures of a Government Spending Agency; and shall have the meaning assigned to it under the Public Financial Management and Accountability Act, 2011;

“ARCISS” refers to The Agreement on the Resolution of the Conflict in the Republic of South Sudan

“Budget line” means an expenditure classification defined in the Approved Budget through the allocation of a specific three-digit expenditure code;

“Chapter” means one of the five main expenditure categories of Wages & Salaries, Use of Goods & Services, Transfers, Capital expenditures and Other expenditures, as defined in the Approved budget through the allocation of a specific two-digit expenditure code;

“Consolidated Fund” means the central group of revenue, expenditure and reserve accounts, maintained by the National Ministry of Finance and Planning in the Bank of South Sudan, for receiving public revenue and meeting public expenditure;

**“GRSS” Refers to Government of the Republic of South Sudan;
“Spending Agency” means any Government entity receiving an appropriation under this Act;**

“Legislature” Means the Transitional National Legislative Assembly and the Council of States

“Minister” means the National Minister of Finance and Planning in the Government of the Republic of South Sudan;

“Ministry” means the National Ministry of Finance and Planning in the Government of the Republic of South Sudan; and

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

CHAPTER TWO

APPROPRIATIONS

3. APPROPRIATIONS FROM THE CONSOLIDATED FUND.

(1) The total estimates of the National Budget for the Fiscal Year 2016/2017 amount to Thirty Eight Billion Seventy Four Million Thirty Five Thousand and Thirty Nine South Sudanese pounds only (SSP 38,074,035,039);

In other words the above total estimated expenditure is referred to as the Resource Envelop for FY 2016/2017 to be realized from the following funding:

- i. Sixteen Billion Four Hundred Ninety four Million South Sudanese pounds only (SSP 16,494,000,000); from national revenue (oil & non -oil revenues);**
- ii. Two Billion and Forty One Million South Sudanese pounds only (SSP2, 041,000,000); from external grants;**
- iii. Three Billion Seven Hundred Sixty Nine Million South Sudanese pounds only (SSP 3,769,000,000); from net financing of treasury bills and external loans.**

(2). The resource envelope is appropriated as follows-

(a) Twenty Six Billion Eight Hundred Thirty Million Forty Three Thousand Five Hundred and Fifty Four South Sudanese pounds only;

(SSP 26,830,043,554) appropriated to Government Spending Agencies from Government's own resources;

(b) One Billion Four Hundred Three Million Eight Hundred Forty Seven Thousand Six Hundred and Seventy Seven South Sudanese pounds only

(SSP 1,403,847,677) appropriated to the Emergency Contingency Fund;

(c) One Hundred Fifty Five Million South Sudanese pounds only

(SSP 155,000,000) appropriated to interest payments;

(d) Four Billion Six Hundred Eighty Five Million One Hundred Forty Three Thousand Eight Hundred and Eight South Sudanese pounds only

(SSP 4,685,143,808) appropriated to Government Spending Agencies from external loan and grant funds;

(e) Four Billion Five Hundred Million South Sudanese pounds only (SSP 4,500,000,000) appropriated to the Peace Budget (ARCISS Implementation Fund).

3) Expenditures from the Consolidated Fund are authorised for the period of 1st July 2016 to 30th June 2017 for each Spending Agency on a chapter by chapter basis, as set forth in the attached schedule.

4) Payments for salaries to public service employees, use of goods, services costs and capital expenditures shall be in accordance with the Public Finance Management & Accountability Act 2011, Public Service Laws and this Appropriation Act, 2016/17.

(5) Scales and procedures shall be in accordance with the Public Services Laws and Regulations.

(6) Payment requests against a Spending Agency's appropriation shall be submitted to the National Ministry of Finance and Planning by the designated Accounting Officer, as specified in the Approved Budget. No other individual is authorised to submit a payment request on behalf of a Spending Agency. In the event the designated Accounting Officer is out of station or otherwise unavailable, a senior official within the Spending Agency may be nominated by the head of the Spending Agency to act on behalf of the designated accounting officer.

4. EMERGENCY CONTINGENCY FUND

(1) Spending from the Emergency Contingency Fund shall be for the purpose of providing for National Emergencies, up to the amount appropriated in Section 3 (2) b of this Act.

- (2) National Emergencies shall be defined as the consequences of epidemics, unforeseen Acts of nature or war which could not have been anticipated at the time of preparing the National Budget, and for which spending cannot be postponed without detriment to public interest.**
- (3) Spending from the Emergency Contingency Fund shall be authorized by a resolution arising from a meeting of the Council of Ministers at which the Minister of Finance and Planning is in attendance.**
- (4) Each expenditure authorised by the Council of Ministers from the Emergency Contingency Fund shall be charged by the Ministry of Finance and Planning to the Government Spending Agency responsible for executing the expenditure. The Spending Agency shall be responsible for providing a detailed breakdown of the expenditure to the Ministry, according to chapter, budget line and activity code. The Ministry shall also assign the expenditure a specific fund code, in order to identify that it is funded from the Emergency Contingency Fund, rather than the Spending Agency's appropriated budget.**
- (5) Whenever an expenditure is made from the Emergency Contingency Fund, the balance of appropriated funds available to the Fund shall be reduced accordingly.**
- (6) A report on the use of Funds from the Emergency Contingency Fund shall be laid before the Assembly by the Minister within 1 month of expenditure.**
- (7) In the event that the funds appropriated to the Emergency Contingency Fund are exhausted, the Minister shall submit a supplementary expenditure request to the National Legislature for its replenishment, consistent with the provisions of Section 7 of this Act.**

5. PEACE BUDGET (ARCISS IMPLEMENTATION FUND)

- (1) Spending from the Peace Budget (ARCISS Implementation Fund) shall be for the purpose of providing for the implementation of the Agreement, up to the amount appropriated in Section 3 (2) (e) of this Act.**
- (2) Proposals for spending from the peace budget (ARCISS Implementation Fund) shall be proposed by the accounting officer responsible for the Spending Agency under which the proposed expenditure is to be executed.**
- 3) Proposals for spending from the Peace Budget (ARCISS Implementation Fund) must be accompanied by:**
 - a. A legal opinion from the Minister of Justice referencing the provisions of the Agreement that provide for the proposed expenditure.**

6. LIMITS TO EXPENDITURE

Expenditures issued by the 1st Undersecretary of Finance must not exceed Thirty Three Billion Three Hundred Eighty Eight Million Eight Hundred Ninety One Thousand Two Hundred and Thirty one South Sudanese pounds only (SSP 33,388,891,231);

- (1) No expenditure from this budget or commitments against the Consolidated Fund may be made except as authorised by this Act.**
- (2) No funds except as provided under subsection (3) of this section shall be transferred from one chapter to another during the financial year, or from one Spending Agency to another without the approval of the National Legislature through a Supplementary Appropriation Act.**
- (3) The Minister may transfer funds against an approved budget upon a request of an individual agency between budget lines within a chapter, as long as expenditure internal transfers against the different budget lines do not exceed 20% of the category being reduced.**
- (4) The Ministry of Finance & Planning will establish cash limits for expenditures by Government Spending Agencies. These cash limits shall be set on the basis of revenue availability, according to the revenues that have been deposited into the Consolidated Fund, and expenditure priority, within the limits of the appropriations approved for each Spending Agency in this Act.**
- (5) In the event that the estimates of resources and revenues in the Approved Budget are not expected to be realized in full during the Financial Year, the Minister shall inform the Council of Ministers and the President accordingly. The Minister shall either recommend that the President causes a financial Act to be submitted to the National Legislature to raise additional revenues or make a request for an allocation from the reserve funds, where available, or recommend to the Legislature that the appropriated budget ceilings be adjusted downward in line with the shortfall. In this case, the monthly cash limits shall sum to less than the annual estimates or resources and revenues.**
- (6) The Government shall not finance a budget shortfall by reducing reserve funds where available or raising funds through Government borrowing, whether domestic or external, without the approval of the National Legislature.**
- (7) No payments shall be made except in conformity with the Public Finance Management & Accountability Act, 2011.**
- (8) All expenditures must be charged against the relevant code of a Spending Agency, according to the appropriate chapter and budget line.**

- (9) Surplus funds over revenue estimates and funds out of the legal reserve shall not be spent save by a Supplementary Appropriation Act.**

7. SUPPLEMENTARY EXPENDITURE.

- (1) Whenever new circumstances occur, or a matter of public concern proves not to have been satisfactorily addressed by the Approved Budget, the President may during the financial year cause a supplementary expenditure request to be submitted to the National Legislature. The Minister shall prepare all such submissions on behalf of the President.**
- (2) All requests for supplementary expenditures submitted shall clearly detail the source of financing for the supplementary expenditure. Sources may include a reduction in the appropriations of other Spending Agencies, or allocation from reserve funds where existing, or new revenue raising measures detailed through a Revenue Law.**
- (3) Requests for supplementary appropriation shall not exceed five per cent(5%) of the total appropriated budget, unless approved by the National Legislature in the event of a national emergency.**
- (4) Once a supplementary appropriation has been approved, the appropriation of the relevant Spending Agency shall be adjusted accordingly, on a chapter by chapter basis, according to the relevant budget line and activity code.**
- (5) Where supplementary appropriations are financed through an allocation from reserve funds, reserve funds will be reduced accordingly, and the appropriation of the Spending Agency increased by the same amount. Expenditures shall not be charged against reserve funds.**
- (6) The Minister of Finance and Planning shall not borrow, guarantee, or raise a loan on behalf of the Republic of South Sudan to finance supplementary expenditures except as authorized by the National Legislature.**
- (7) (1) Supplementary expenditures shall not be incurred before the approval of the Legislature has been obtained, except when financing the following items detailed in Article 90 (5) of the Transitional Constitution of the Republic of South Sudan, 2011:**
- a) emoluments of the President;**
 - b) expenses of the State House;**
 - c) budget of the Judiciary;**
 - d) National Government contractual financial obligations;**
 - e) repayment of National Government external debts under any loan agreements;**
 - f) payment of any money the National Government is required to pay under a court order arising out of litigation or as a result of an arbitration award or any other settlement having similar legal effect; and**

g) Any other expenses as shall be regulated by law.

(2) The minister shall report to the house quarterly on the expenditure of any of the items under sub-section 7 above.

(8) When supplementary expenditures are incurred according to subsection (1) of section 12 of this Act, the Minister, within one month of the expenditure having been incurred, shall lay an explanation before the National Legislature which details the nature of the supplementary spending and it's financing.

8. CONTRACTUAL OBLIGATIONS.

(1) No Spending Agency receiving appropriations under this Act shall enter into any contractual arrangement for consultancy services, goods and works without following procurement procedures laid down in the Public Financial Management and Accountability Act 2011.

(2) All spending units shall record as obligations against appropriated funds any orders for purchase of goods or services at the time the order is placed, or the purchase of goods for which contracts are signed.

(3) The Minister shall during the financial year submit all contracts to the National Legislature for approval before incurring any payment from the consolidated fund.

9. PROGRESS REPORT.

(1) The Minister shall present a quarterly progress report, on revenue and expenditure to the Council of Ministers of the Transitional Government of National Unity (TGoNU) and to the National Legislature.

10. PENSION FUNDS.

(1) The Ministry of Finance Planning shall maintain a Pension Account into which an employee (5% of basic salary and cost of living allowance) and employer (11% of basic salary and cost of living allowance) contributions of eligible Republic of South Sudan employees shall be deposited.

(2) The Pension Account shall be managed by a Pension Management Board established by a Pension Law.

(3) Expenditures from the Pension Account shall only be for purposes of provision of post service benefits or other retirement entitlements of former Government employees.

11. CARRY OVER INTO 2017/2018.

(1) Programmes and project appropriated for more than one year life span at the end of the financial year shall be paid out of consolidated reserve funds as national government contractual obligation.

- (2) Appropriated funds not expended by 30th June 2017 shall not be carried over into 2017/2018 to the credit of the Ministry to which they were appropriated.**
- (3) All appropriated funds except Constituency Development Fund money not expended by 30th June 2017 shall automatically revert to the Consolidated Fund and forms part of the General Reserve.**

12. BUDGET DELAY

Where the procedure of adopting the general budget and the appropriation Act is delayed beyond the beginning of the financial year, expenditure shall continue, pending adoption of the general budget, in accordance with the estimates approved for the previous year; as if the same has been appropriated by law for the new year"

CHAPTER THREE

PENALTIES

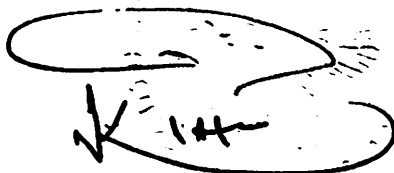
13. PENALTIES.

- (1) Every accounting officer of any Spending Agency receiving appropriation under this Act, who causes unauthorized re-allocation between appropriations, shall be required to refund to the Treasury the amounts unlawfully reallocated. Should such accounting officer fail to refund the amounts wrongfully allocated, he or she shall bear the penalty provided under sub-section (2) of this section.**
- (2) Any Accounting officer or government employee of any Government Spending Agency engaging in or promoting practices with the intent of-**
- (a) personally enriching himself or herself, or his or her family, business or other associates, in respect of public funds, appropriated under this ACT,**
 - (b) overspending allocated budgets against the provisions of this Act, commits an offence; and if convicted, in addition to any other Penalties which the Court may decide under the Penal Code Law or any other law, shall refund to the Treasury the amount dishonestly used and the employee shall not occupy any future public office that may involve dealing with financial matters.**

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 Appropriation Act, 2016/17 and sign it into law.

Signed in Juba this 20th day of the month of DEC. in the year 2016.

A handwritten signature in black ink, consisting of a large, stylized 'S' and 'K' followed by 'MAYARDIT', all enclosed within a hand-drawn oval.

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