

**ACTS SUPPLEMENT**

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**Act 3**                                      *Judicial Service Council Act*                                      **2008**

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**JUDICIAL SERVICE COUNCIL ACT, 2008**

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**LAWS OF SOUTHERN SUDAN****JUDICIAL SERVICE COUNCIL ACT, 2008**

**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 Judicial Service Council Act, 2008” and shall come into force from the date of its signature by the President.

*Signed on  
26th  
January,  
2008*

**2. Repeal and Saving.**

The High Judicial Council Act, 2003 is hereby repealed and any other existing legislation which governs the provisions of this Act shall cease to operate in Southern Sudan, provided that, all proceedings, orders and regulations taken or made thereunder, except to the extent that they are cancelled by or are otherwise inconsistent with the provisions of this Act, shall remain in force or effect, until they are repealed or amended in accordance with the provisions of this Act.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 provide for the establishment and governance of an independent council to promote an effective and efficient Judiciary in Southern Sudan and foster a high standard of professional ethics and any other issues related thereto.

### 4. Authority and Application.

This Act is drafted in accordance with the provisions of Articles 126(9) and 146(2) of the Interim Constitution of Southern Sudan, 2005, which provides for the establishment of an institution or Commission as the Government of Southern Sudan deems necessary to promote the welfare of its people, Good Governance and achievement of the ends of justice.

### 5. Interpretations.

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

“**Assembly**” means the Southern Sudan Legislative Assembly;

“**Auditor General**” means the Auditor General of the Government of Southern Sudan;

“**Member**” means a member of the Judicial Service Council;

“**Chairperson**” means the head of the Council;

“**Judiciary**” means the Judiciary of Southern Sudan (“JoSS”);

“**Judiciary Act**” means the Southern Sudan Judiciary Act, 2008;

“**Government**” means the Government of Southern Sudan (GoSS)

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

“**President**” means the President of the Government of Southern Sudan.

“**Secretary General**” means the chief administrator of the Council appointed in accordance with the provisions of section 13 of this Act.

- (2) Terms not specifically defined herein, which are defined in the Judiciary Act as may be in force from time to time, shall have the same meanings set forth in that Act unless the context is inconsistent, and except where it is otherwise expressly provided.

## CHAPTER II

### ESTABLISHMENT, FUNCTIONS AND POWERS OF THE COUNCIL

#### 6. Establishment of the Council.

- (1) The Judicial Service Council hereinafter called the “Council” is hereby established to promote the effective operation and functioning of the Judiciary.
- (2) The Council shall be independent and impartial, and shall exercise its powers and perform its functions without fear, favour or prejudice in the interest of and maintenance of an effective and efficient Judiciary in Southern Sudan and adherence to a high standard of professional ethics.

#### 7. Functions and Powers of the Council.

The functions of the Council shall be to—

- (a) approve the general policy of the Judiciary;
- (b) approve the annual budget of the Judiciary;
- (c) recommend to the President of the Government of Southern Sudan, appointments of—
  - (i) President of the Supreme Court;
  - (ii) Deputy President of the Supreme Court;
  - (iii) Justices of the Supreme Court;
  - (iv) Presidents of the Courts of Appeal; and
  - (v) Justices of the Courts of Appeal.

- (d) deliberate, examine and decide on the recommendations of the President of the Supreme Court to appoint or remove Judges in accordance with Article 136(1) and (2) of the ICSS and the provisions of the Judiciary Act, 2008;
- (e) consider appeals from Justices and Judges not included in the promotion list as provided in the Judiciary Act; and
- (f) recommend appointments, promotions and removal of Justices and Judges in accordance with the provisions of the Judiciary Act.

## **8. Powers of the Council.**

- (1) The Council shall have the power to—
  - (a) call upon whoever it deems necessary for assistance on matters submitted to it;
  - (b) require such information from GoSS and State Institutions and/or other bodies, as may be necessary to perform its functions under the ICSS and this Act;
  - (c) make recommendations to the President with respect to disciplinary measures regarding the President of the Supreme Court or the Deputy President;
  - (d) confirm, dismiss, amend or return the findings of Boards of Discipline pertaining to Justices and Judges;
  - (e) perform any other function assigned to it by law.
- (2) The Council may delegate to the President of the Supreme Court any of its powers and functions; provided that, the Council shall not delegate its functions over appointments, promotions and removal of Justices and Judges.
- (3) When the Council convenes to exercise its powers under subsection (1) (c) above, it shall be chaired by the Vice President of the Government of Southern Sudan, and the sitting shall not be attended by the person whose case is under consideration.

## 9. Composition of the Council.

The Council shall be comprised of the Chairperson and eight (9) members, as follows—

- (a) the President of the Supreme Court, Chairperson;
- (b) the Minister of Legal Affairs and Constitutional Development, member;
- (c) the Deputy President of the Supreme Court, member.
- (d) the Minister of Finance and Economic Planning, member;
- (e) the Chairperson of the Legislation Legal Affairs Committee of Southern Sudan Legislative Assembly, member;
- (f) the Dean of Faculty of Law, University of Juba, member;
- (g) the President of the Southern Sudan Bar Association, member;
- (h) two Justices of the Supreme Court according to the order of their seniority, members; and
- (i) the Secretary General of the Council *exofficio* member, as Secretary.

## 10. Procedures of the Council.

- (1) The Council shall determine the general policies, principles and its institutional relationships with other institutions.
- (2) The Council shall meet as often as necessary, but in no event meet quarterly, every three months. The Council may hold an extraordinary meeting on a call by the Chairperson or on the request of one third of the members.
- (3) All deliberations of the Council shall be in *camera*.
- (4) The Council's resolutions shall be passed by simple majority of the members present and when there is a tie, the Chairperson shall have a casting vote.

- (5) In the absence of the chairperson, the Deputy President of the Supreme Court shall preside over the meeting.
- (6) The Chairperson 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 the right to participate in the deliberations of the Council, but with no right to vote.

**11. Oath of the Chairperson and Members.**

To assume office, the Chairperson and members of the Council shall take the following oath before the President—

“I ....., do hereby swear by the Almighty God/solemnly affirm that, as the Chairperson or member of the Judicial Service Council, I shall be faithful, diligent and honest in discharging my duties and responsibilities and strive to exercise the powers and functions vested upon me by the Judicial Service Council Act, with integrity, dignity and in the best interest of the people of Southern Sudan to the best of my ability; so help me God/God is my witness”.

**CHAPTER III**

**ADMINISTRATION OF THE COUNCIL**

**12. Responsibilities of the Chairperson.**

The Chairperson shall be the highest authority, who shall preside over the Council meetings and shall oversee the overall operations of the Council.



**13. Secretariat.**

- (1) The Council shall have a Secretariat to manage the administrative operations of the Council.
- (2) The Secretariat shall be headed by a Secretary General, who shall be appointed by the Council on the recommendation of the Chairperson from among the Justices of the Supreme Court.

**14. Support Staff.**

- (1) The Chairperson shall recruit and employ such support staff of the Council on the recommendation of the Secretary General, as is necessary to facilitate its functions under this Act.
- (2) All aspects of recruitment and employment of the support staff of the Council, including but not limited to recruitment, employment, payment, promotion, and termination of service shall be governed by the provisions of Public Service law, rules and regulations.

**CHAPTER IV****FINANCIAL PROVISIONS****15. Operational Principle.**

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

**16. Sources of Funding.**

- (1) The main source of funding for the Council shall be its annual budget allocation, approved in accordance with the budgetary procedures established by the Government of Southern Sudan.

- (2) Each year, the Council shall submit for approval a budget, in accordance with the Government budgetary process for the next fiscal year.
- (3) Without prejudice to the provisions of subsection (1) above, the Council may obtain additional funds from any other source with the approval and through the Ministry of Finance and Economic Planning.

**17. Bank Accounts.**

- (1) The Council shall open and operate bank accounts as may be necessary for the performance of its functions.
- (2) The Secretary General or his or her designee shall ensure that any money received by or on behalf of the Council is safely kept and deposited in the bank account as soon as practicable.
- (3) The Secretary General or his or her designee shall ensure that no money is withdrawn from, or paid out of, any of the Council's bank accounts without prior authorisation from the concerned authority.

**18. Audit and Annual Report.**

- (1) The Council shall keep and maintain accounts and records of all the funds received and spent by it during the fiscal year, and within four months after the end of each fiscal year, or such other period as decided by the Government in writing, shall prepare an audited statement of accounts prepared by the Auditor General, in accordance with the generally accepted accounting principles and standards.
- (2) In addition to the audit report required by subsection (1), above, within four months after the end of each fiscal year, or such other period as may be decided by the Government in writing, the Council shall also prepare an annual report of its activities during that financial year.

**CHAPTER V**

**MISCELLANEOUS PROVISIONS**

**19. Official Seal and Logo.**

- (1) The official seal and logo of the Council shall be in a form to be determined by the Council.
- (2) The official seal when affixed to any document shall be authenticated by the signature of the secretary general or any other person whom he or she may authorise.

**20. Regulations.**

The Council shall make and issue rules and regulations for the proper, efficient and effective implementation of the provisions of this Act.

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