

LAWS OF SOUTH SUDAN

LAW REVIEW COMMISSION BILL, 2012

Bill No. 56

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LAW REVIEW COMMISSION ACT, 2012

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LAWS OF SOUTH SUDAN

LAW REVIEW COMMISSION ACT, 2012

In accordance with the provisions of Articles 55(3)(b), 110(n), and 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

1. Title and Commencement

This Act shall be cited as the “Law Review Commission Act, 2012” and shall come into force on the date of its signature by the President.

2. Repeal and Saving

Any provisions of existing legislation which are governed by this Act are hereby repealed; provided that, all proceedings, orders and regulations taken or made thereunder, except to the extent they are cancelled by or otherwise inconsistent with provisions of this Act, shall remain in full force and effect, until such time as they shall be lawfully repealed or amended in accordance with the provisions of this Act.

3. Purpose

The purpose of this Act is to establish the Law Review Commission and provide for its functions and responsibilities.

4. Authority and Application

This Act is drafted in accordance with provisions of Articles 52, 137 and 142 of the Transitional Constitution of the Republic of South Sudan, 2011, which grant the Government legislative powers to establish the Law Review Commission.

5. Interpretations

In this Act, unless the context otherwise requires:

“Assembly”	means the National Legislative Assembly;
“Chairperson”	means the Chairperson of the Commission;
“Commission”	means the Law Review Commission;

“Deputy Chairperson”	means the Deputy Chairperson of the Commission;
“Executive Director”	means the Executive Director of the Commission;
“Member”	means a member of the Commission, including the Chairperson and Deputy Chairperson;
“Ministry”	means the Ministry of Justice;
“Secretariat”	means the Secretariat of the Commission.

CHAPTER II

ESTABLISHMENT OF THE COMMISSION

6. Establishment

- (1) There shall be established an independent commission to be known as the Law Review Commission.
- (2) The Commission shall be an integral part of the Government and shall exercise its powers and perform its functions and duties independently and impartially.
- (3) The Commission shall be accountable to the public through the Assembly and the President.
- (4) The Commission shall, in discharging its functions, coordinate and collaborate with the Ministry with respect to promoting, preserving and advancing the rule of law.

7. Functions and Duties

- (1) The Commission shall be engaged in improving, modernizing and reforming the laws of South Sudan, including, but not limited to, the following:
 - (a) identifying and recommending revisions to the laws of South Sudan to:
 - (i) remove inconsistencies and anomalies in the law;
 - (ii) incorporate provisions of international conventions and treaties to which South Sudan is party into the domestic legislation of South Sudan; and
 - (iii) harmonize the laws of South Sudan with the Bill of Rights in the Constitution
 - (b) examining the administration of justice, especially access to justice by the poor, women and other vulnerable groups; independence of the judiciary; and the role of public prosecutors and advocates generally; and making proposals for reform;

- (c) coordinating and collaborating with the Ministry on issues relating to law reform and legislative review processes;
 - (d) promoting public participation in law reform through seminars, conferences, workshops and lectures;
 - (e) entering into cooperation agreements with other law commissions;
 - (f) setting up committees to assist in the performance of its functions;
 - (g) appointing advocates, social scientists, other professionals and staff as the Commission may from time to time require.
 - (h) perform and exercise such other functions and powers as may be delegated or assigned by the President, Assembly and applicable law.
- (2) Any committee set up under paragraph (1)(f) shall be headed by a Member and shall be comprised of such persons as the Commission may determine.
- (3) The Commission may delegate any of its functions to the Chairperson or a committee, subject to limitations as it may decide.

8. Projects of the Commission

A project on any of the functions and powers stipulated in Section 7 of this Act may be initiated either by the Commission on its own initiative or at the request of another Government organ, institution or agency, which shall include estimates of the cost.

CHAPTER III

GOVERNANCE OF THE COMMISSION

9. Composition of the Commission

- (1) The Commission shall consist of the Chairperson, Deputy Chairperson and three additional Members, who shall be appointed by the President, upon approval by a simple majority of the members of the Assembly.
- (2) At least twenty-five percent of the Members shall be women.

10. Eligibility and Appointment

- (1) Members shall be persons of **high morals and integrity and shall have the necessary qualifications, experience and expertise.**
- (2) Without prejudice to the generality of subsection (1), a person shall be eligible for appointment to serve as a Member if such person:
 - (a) is a South Sudanese citizen;
 - (b) is of sound mind and high character;
 - (c) is at least thirty-five years of age;
 - (d) is not an un-discharged bankrupt or insolvent;
 - (e) has not been convicted of an offence; and
 - (f) is serving or has served as:

- (i) a Justice of the Supreme Court or the Court of Appeal of the Judiciary;
 - (ii) a lecturer of any college of law at any recognised university with at least fifteen years of experience;
 - (iii) Counsel General or Senior Legal Counsel in the Ministry; or
 - (iv) an advocate who has qualified, been duly licensed and practiced law for a period of not less than fifteen years.
- (3) A person appointed in accordance with subsection (2), while an employee of another public institution, shall be given a reasonable opportunity to resign from that employment; provided that, however, a Member appointed from the Judiciary or the Ministry shall not be required to:
 - (a) relinquish such post; or
 - (b) perform such person's duties in the Judiciary or the Ministry.

11. Declaration of Assets

Members appointed in accordance with Section 10 of this Act shall declare their assets and liabilities, including those of their spouses and children, in accordance with applicable law.

12. Term, Resignation and Removal

- (1) Term of office of the Chairperson and Deputy Chairperson shall be five years, and the term of office of other Members shall be four years, and they may be eligible for reappointment for another identical term.
- (2) A Member may resign by a letter addressed to the President through the Chairperson; if the Chairperson is resigning, the Chairperson shall submit such letter directly to the President.
- (3) The President shall remove Members from office upon a resolution passed by a two-thirds majority vote of the Assembly on the following grounds:
 - (a) ineligibility for appointment under Section 10 of this Act;
 - (b) inability to perform the functions of the office;
 - (c) gross misconduct;
 - (d) absence without permission or sufficient cause from three consecutive meetings of the Commission;
 - (e) convicted of an offence.
- (4) A Member who is removed from office, resigns or dies shall be duly replaced under the same conditions, and in the same manner, as provided in this Act.

13. Meetings of the Commission

- (1) The Commission shall meet as often as it deems necessary. Extraordinary meetings of the Commission may be called upon the motion by the Chairperson or upon request by two Members.

- (2) The Chairperson, and in the absence of the Chairperson, the Deputy Chairperson, shall preside over meetings of the Commission.
- (3) Quorum for meetings of the Commission shall be a simple majority of the Members.
- (4) Decisions of the Commission shall be by simple majority of the Members present, and in case of a tie, the Chairperson shall have a deciding vote.
- (5) **The Commission may summon any person to provide information on any matter before it.**
- (6) Commission meetings shall be conducted *in camera* unless the public interest dictates that the meeting be open to the public.
- (7) The Commission may establish specialized committees as may be necessary for such matters as it deems necessary.

14. Validity of Past Actions of a Member

A Member's past actions shall remain valid regardless of the manner in which that Member was appointed to the Commission.

CHAPTER IV

MANAGEMENT AND STAFF

15. The Secretariat

The day-to-day operations of the Commission shall be carried out by its Secretariat, which shall have the Executive Officer as its head, chief administrator and financial officer and other staff to be recruited by the Commission in accordance with the law.

16. Functions and Duties of the Executive Director

- (1) Day-to-day management of the Secretariat shall be vested with the Executive Director.
- (2) **To be appointed as Executive Director, a person shall be of high integrity and in possession of the necessary academic qualifications and relevant experience and competencies suitable for a person in senior management.**
- (3) The Executive Director, assisted by other management staff, shall be administratively and financially answerable before the Commission.
- (4) The Executive Director shall present budgets and audited financial statements to the Commission at least thirty days before the end of the Government's financial year.

- (5) Without prejudice to the generality of subsection (1), the Executive Director shall perform any other functions and duties as may be assigned by the Commission.
- (6) All management staff shall be appointed by the Commission upon recommendation of the Executive Director, and their salaries, allowances and benefits shall be determined in accordance with the law.

17. Restriction on Outside Employment

Members, the Executive Director and other employees of the Commission shall not be employees of any public or private office during employment with the Commission, except as provided under Section 10(3) of this Act.

18. Oath

Members shall, before assuming office, take the following oath of office before the President:

*“I.....do hereby swear by the Almighty God/solemnly affirm/, that as, I shall be faithful and shall bear true faith and allegiance to South Sudan and shall diligently and honestly discharge my duties and responsibilities and strive to foster the development and welfare of the Republic of South Sudan and its people; that I shall obey, preserve and defend the Constitution and abide by the law; and that I shall protect and promote unity of the people of South Sudan and consolidate the democratic decentralized system of government and preserve and protect the integrity and dignity of the people of South Sudan; **SO HELP ME GOD/ GOD IS MY WITNESS.**”*

19. Exemption from Liability

Members, the Executive Director, and other employees of the Commission shall not be liable for any act or omission committed in the exercise or performance of their official functions and duties; *provided that*, such act or omission was committed in good faith.

CHAPTER V

FINANCE, AUDITING AND REPORTING

20. Operational Principle

The Commission shall manage its finances in accordance with the Public Financial Management and Accountability Act, 2011, this Act, and the regulations.

21. Sources of Funding

- (1) The Commission's operations shall be funded by a budget approved in accordance with the Public Finance Management and Accountability Act, 2011.
- (2) The Commission shall prepare and submit for approval an annual budget proposal, in accordance with Public Financial Management and Accountability Act, 2011, and the Government's budget process. Such budget proposal shall be subject to review, revision and approval by the Assembly.

22. Accounts

- (1) The Executive Director shall keep and maintain proper books of accounts and records of all funds received and spent by the Commission during the financial year.
- (2) The Executive Director shall prepare and submit a financial report to the Commission, not later than one month after the end of the financial year.

23. Audit

- (1) Each financial year, the Commission shall cause the audit of the accounts of the Commission by the Auditor-General or such other audit firm approved by the Auditor-General.
- (2) The Auditor-General shall summon any person with relevant information to furnish them before it in accordance with applicable law. .

CHAPTER VI

MISCELLANEOUS PROVISIONS

24. Official Seal and Logo

The official seal and logo of the Commission shall be in a form to be decided by the Commission.

25. Confidentiality

To protect the confidentiality of its activities, the Members, Executive Director, and employees of the Commission shall not divulge any information related to the Commission, without prior consent of the Commission.

26. Transitional Provision

Members and other staff of the Commission who were duly appointed before this Act came into force shall continue to hold office on such terms and conditions as envisaged in their appointment letters as if they were appointed in accordance with and on the same terms, conditions and remunerations provided under this Act.

27. Regulations

The Commission shall issue regulations as may be necessary for the effective implementation of the provisions of this Act.
