

LAW OF SOUTH SUDAN

NON-GOVERNMENT ORGANIZATIONS ACT, 2015

In accordance with Articles 55(2) and (3) (b) 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 “Non-Governmental Organizations Act, 2015” and shall come into force on the date of its assent by the President.

2. Repeal and Saving.

The Non-Governmental Organizations Act, 2003, is hereby repealed; provided that any orders, regulations, appointments or decisions made and any actions taken under the repealed Act shall remain in force unless repealed by or inconsistent with this Act.

3. Purpose.

The purpose of this Act is to provide for establishment of a regulatory framework for the registration, co-ordination and monitoring of operations of non-governmental organizations in the Republic of South Sudan, and for other related matters.

4. Authority and application.

- a. This Act is in accordance with Article 52 and Schedule (A), paragraph 51 of the Transitional Constitutional of the Republic of

South Sudan, 2011, which confer on the National Government authority to regulate non-governmental, civil society and faith-, based organizations.

- b. The Provisions of this Act shall apply throughout the territory of the Republic of South Sudan.

5. Interpretation.

In this Act, unless the context otherwise requires:

“**Commission**” means the Relief and Rehabilitation Commission enshrined by section (8) of this Act;

“**Chairperson**” means the Chairperson of the Relief and Rehabilitation Commission;

“**Civil Society**” means a non-governmental and a non Profit organization that has presence in the public Life, expressing the interests and values of their members or others, based on ethical, cultural, scientific, religious or philanthropic Considerations;

“**Community- based organization**” means a Public or private, nonprofit including religious entity, which is representative of a community or a significant segment of a community, and is engaged in meeting human, educational, environmental or public safety community needs.

“**Country agreement**” means an agreement entered into by an International non-governmental organization and the Government, intended to regulate the entry and carrying out of voluntary projects by the organization in the Republic of South Sudan;

“**Executive Director**” means the Executive Director of the Commission appointed under section 12 of this Act;

“**Government**” means the Government of the Republic of South Sudan;

“**Humanitarian or environmental emergency**” means emergency that threatens human Life or the environment as a result of natural or man-made factors;

“**International Non-Governmental Organization**” means any non-governmental or semi-governmental organization established in a foreign

country and registered in South Sudan in accordance with section 18 of this Act;

“National Non-Governmental Organization” means any National Non-Governmental Organization registered in accordance with section 17 of this Act;

“Minister” means the National Minister responsible for humanitarian affairs and disaster management;

“Ministry” means the National Ministry responsible for Humanitarian Affairs and Disaster Management;

“Non-governmental organization” means a not-for-profit voluntary organization formed by two or more persons, not being Public bodies, with the intention of undertaking voluntary or humanitarian projects;

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

“Reconstruction, Rehabilitation and Resettlement” includes, but is not limited to, projects and activities aimed at removal of damage resulting from a humanitarian or environmental emergency;

“Register” means the register of non-governmental organizations kept pursuant to Chapter IV;

“Registered” in relation to a non-governmental organization means listed in the register;

“Registrar” means the Registrar of non-governmental organizations appointed under section 15 of this Act;

“Regulations” means regulations made by the Minister under section 33 of this Act;

“State” means a state of the Republic of South Sudan;

“State government” means a government of a state of the Republic of South Sudan provided for by Chapter I of Part Eleven of the Transitional Constitution of the Republic of South Sudan, 2011;

“Voluntary or humanitarian project” means the undertaking of any voluntary or humanitarian activity by organization individually or in collaboration with the Republic or jointly with other organizations;

“Voluntary or humanitarian work” means any voluntary activity carried out by a non-governmental organization individually or in collaboration with the Government or with a State government or with other organizations in the field of Welfare, Social research, health relief, agriculture, education, civic education, human rights, good governance, industry, the supply of amenities or any similar field, including reconciliation, reconstruction, rehabilitation and resettlement.

CHAPTER II

PRICIPLES AND OBJECTIVES OF VOLUNTARY AND HUMANITARIAN WORK

6. Principles governing voluntary and humanitarian work.

Non-governmental Organizations shall, in doing voluntary or humanitarian work, observe the following principles:

- a. Non-discrimination of the nationals on the basis of race, gender, ethnicity, political affiliation or religious belief;
- b. Fairness in selection of geographical areas for allocation of projects, taking into consideration areas with greater need of support;
- c. Accountability to beneficiaries, donors and relevant public institutions responsible for delivery of services in the areas, and other entities to be specified in the regulations;
- d. Sustainability of the programmes by creating conditions that enable the local communities to be self-reliant in the management of programmes;
- e. Participation by local communities and beneficiaries;
- f. Capacity Building for South Sudanese nationals involved in the work of organizations;

- g. Respect for the sovereignty of the Republic of South Sudan, its institutions and laws.

7. Objectives of non-governmental organizations.

The objectives of non-governmental organizations involved in voluntary or humanitarian projects shall include:

- a. Emergency relief to communities affected by any natural or man-made disaster;
- b. Prevention, mitigation and management of risks to people or the environment resulting from any such disaster;
- c. Co-ordination of relief with reconstruction, rehabilitation and resettlement and development projects;
- d. Co- ordination with relevant public institutions in formulating and implementing relief and reconstruction, rehabilitation and resettlement programmes;
- e. Rehabilitation of economic and social infrastructure affected by disaster;
- f. Consultation with beneficiaries and any relevant Government institution or state government in determination of relief and reconstruction, rehabilitation and resettlement priorities;.
- g. Building local capacity of the Government institutions, including state governments, in policy formulation, implementation and in other critical areas of development.

CHAPTER III

POWERS AND FUNCTIONS OF RELIEF AND REHABILITATION COMMISSION

8. Powers of Commission

- a. The current Commission known as the “Relief and Rehabilitation Commission,” referred hereinafter as the “Commission” to be entrusted with the discharge of the functions provided under this Act.
- b. Without prejudice to the provisions of the Non-Governmental organization act 2015. The Commission shall be accountable to the Minister in charge of Humanitarian Affairs with respect to the discharge and exercise of its functions and powers provided under the provisions of this Act.

9. Functions of the Commission.

The Commission shall perform the following functions:-

- a. Promotion of the awareness level, and depth rooting of the correct concept for voluntary humanitarian work in coordination with other bodies.
- b. Training on the management of disasters at all levels in coordination with other bodies.
- c. Mobilization of resources, formulation and development of comprehensive lists for the abilities in the situation of disasters and appearance of need for the utilization of such resources.
- d. Initiation of projects and the determination of the targeted humanitarian aid needs for prevention of the effects of natural or non natural disasters in coordination with the competent bodies.
- e. Undertake to provide strategic storage for emergencies to meet the necessary needs.
- f. Coordination with international bodies in the situations of disasters, and facilitation of their entrance to conduct their work.
- g. Mobilization of internal or external efforts, and the coordination with the relevant authorities in the reconstruction of affected areas, and the resettlement of the displaced persons.
- h. Coordination, follow up and evaluation of every voluntary and humanitarian work programs carried out by Non-Governmental Organizations in South Sudan.

10. Appointment of the Chairperson.

The Commissioner shall be appointed by the President upon the recommendation of the Minister of the Ministry concern for Humanitarian affairs to be the Chairperson of the Commission

11. Functions of the Chairperson.

The Chairperson shall be accountable to the Minister, with respect to the implementation of the policies and plans of the humanitarian work, and shall perform the following functions

- a. Collection and evaluation of data and indicators that warn of the likeliness of eruption of disaster, and notification of the competent authorities thereof.
- b. Coordination and organization of the humanitarian aids operations for the affected areas.
- c. Conduct studies and research aimed at prevention of eruption of emergency situations, and coordination with the relevant competent bodies.
- d. Conduct necessary surveys for determining the priorities in the field of humanitarian aid.
- e. Mobilization of internal and external efforts, and coordination with the relevant authorities with the objective of prediction of disasters or its prevention or mitigation of its effects, and the rehabilitation and reconstruction of the affected areas.
- f. Supervision, monitoring and evaluation of the activities of Non-Governmental Organizations;
- g. Establishment and management of the strategic reserve of relief materials for addressing the basic needs in the situations of emergency.
- h. Organization and coordination of the work and program of the organizations within the geographical and sectarian limits and assumption of the monitoring responsibility, evaluation and follow up for every voluntary and humanitarian work programs, and resolution of any conflict arising from its causes or with any other body.
- i. Conducting the preliminary investigation with any organization to ascertaining of any legal contraventions, and determine the necessary legal proceedings with respect to the contraventions with the relevant competent justice bodies, when necessity required.

- j. Submission of all the administrative departments and units in the Commission.
- k. Any other function specified under this Act or regulations issued thereof, or assigned or delegated by the Minister.
- l. The Chairperson may delegate any of his or her functions to any person or committee constituted by him or her on such conditions and guidelines, that he or she deems appropriate.

12. Appointment of the Executive Director

- a. The Minister shall, in accordance with Public Service rule and regulations, appoint the executive Director who shall be the chief Executive officer of the relief and Rehabilitation Commission and shall be responsible for the day to day activities of the Commission.
- b. The Executive Director shall be reporting to the Chairperson of the Relief and Rehabilitation Commission.

13. Functions of the Executive Director

The Executive Director shall have the following

- a. Implement the approved policies and Programs of the Commission
- b. Supervise and direct the staff of the Commission
- c. Propose plans and programs for approval by the Commission
- d. Serve as the secretary and an ex officio member of the Commission
- e. Perform any other such functions and duties as may be assigned and delegated by the Chairperson of the Commission.

14. Database

The Relief and Rehabilitation Commission shall establish and maintain a database of non- governmental organizations and their activities in South Sudan and containing such other information as may be necessary or appropriate for understanding and promoting contribution of non-governmental organizations to the National development.

CHAPTER IV

REGISTRATION OF NON-GOVERNMENTAL ORGANIZATIONS

15. Appointment of the Registrar.

The Minister shall after consulting the Chairperson of the Commission, appoint an experienced and qualified legal counsel seconded from Ministry of Justice to be the Registrar of Non-governmental Organizations.

16. Functions of the Registrar.

The Registrar shall have the following functions:

- a. Register all non-governmental organizations that apply and are eligible for registration in accordance with this Act;
- b. Monitor the operations of registered non-governmental organizations to ascertain their conformity with their instruments of establishment and the provisions of this Act;
- c. For sufficient cause, to reject or revoke the registration of non-governmental organization in accordance with this Act;
- d. Maintain a database of instruments of establishment and other basic documents registries and periodic reports of non-governmental organizations;
- e. Perform any other functions that may be assigned to him or her by the commission.

17. Registration generally.

- a. Subject to section 19 of this Act, every Non-Governmental Organization shall be registered in the manner specified under this section;
- b. An application for registration shall be submitted to the Registrar in the prescribed form;
- c. An application for registration shall be made by the Chief executive officer of the proposed organization and shall specify:

- I. Other officers of the organization;
 - II. The head office and postal address of the organization;
 - III. The sectors of the proposed operations;
 - IV. State, county and payam locations of the proposed operations;
 - V. The proposed annual budget;
 - VI. All known or probable sources of funding for the organization;
 - VII. The national or international incorporation or affiliation and certificates of incorporation;
 - VIII. The proposed duration of activities;
 - IX. Such other information as the commission may require in respect of the organization.
- d. The Minister may, by notice in the official gazette, exempt any Non-Governmental Organization from registration, as he or she may deem necessary.
- An application for registration under this section shall be accompanied by:
- I. The prescribed fee;
 - II. Copies of documents showing incorporation or affiliation;
 - III. A certificate copy of the constitution document of the proposed non-governmental organization;
- e. The Registrar shall refer to the commission every application for registration;
- f. No non-governmental organization shall operate in South Sudan unless it has been dully registered with the commission stipulate under section 8, of this Act and has a valid permit issued by the commission and remains registered under this Act;

- g. A Non- Governmental Organization registered under this Act is not by virtue of registration, entitled to diplomatic or consular privileges or immunities.

18. Registration of International Non-Governmental Organizations.

- a. Any International Non-Governmental Organization shall be registered on meeting the following additional requirements:
 - I. Country Agreement with Ministry responsible for Humanitarian Affairs on behave of the Government;
 - II. Opening of bank account in South Sudan
 - III. The application for registration shall include the names and addresses of all its directors;
 - IV. The application shall be accompanied by a copy of its organizational structure;
 - V. The application shall include the name and contact details of a person authorized to sign documents on behalf of the Non-Governmental Organization and a certified copy of such authorization.
- b. For the purpose of registration, the International Non-Governmental Organization shall fulfill the following requirements:
 - I. The application shall be accompanied by its certificate of registration or incorporation certified in the country of origin;
 - II. The application shall include a description of the voluntary or humanitarian work it intends to carry out in South Sudan;
 - III. The application shall include evidence of the organization's financial capacity to perform the proposed work.

19. Certificate of registration

- a. A certificate of registration is a conclusive evidence of authority to operate throughout South Sudan or in the parts of South Sudan as are specified in the certificate;
- b. A certificate issued under this Act may contain such terms and conditions as the commission may consider appropriate in any particular case;
- c. A registered Non-Governmental Organization, by virtue of such registration, be a body corporate able in its name to:
 - I. Sue and be sued;
 - II. Take, purchase or otherwise acquire, charge or dispose of moveable and immovable property;
 - III. Enter into contracts; and
 - IV. Perform all such other things or acts as necessary for the proper performance of its functions and which may lawfully be done or performed by a body corporate.
- d. A registered non-governmental organization shall not by virtue only of such registration, be entitled to diplomatic or consular privileges or immunities

20. Exemption from registration.

- a. The United Nations, its specialized agencies, and International Committee of the Red Cross and Red Crescent shall be exempted from registration under this Act, provided that a county agreement is in effect with the Ministry responsible for voluntary and humanitarian work;
- b. The Ministry, by notice in the official gazette, may exempt any non-governmental organization from registration, or from

- particular requirements for registration, as the Ministry, on the advice of the commission, may consider necessary or appropriate.
- c. Every Community-base organization shall register at the State or County in which it operates.

21. Refusal or renewal of registration.

- a. The registrar may after due enquiry, refuse registration or renewal of registration of any non-governmental organization if:
 - I. its intended activities appear to contravene the principles set out in section 6 of this act;
 - II. its application for registration or renewal contains incorrect information;
 - III. it fails to satisfy the registration or renewal requirements in section 18 or 19 and 22 of this Act, as the case may be; or
 - IV. Its intended activities contravene an existing Law of the Republic of South Sudan.
- b. If the registrar proposes to refuse an application for registration, or renewal of a certificate of registration, he or she shall:
 - I. Give written notice to non-governmental organization, with reasons for the decision; and
 - II. Give the organization an opportunity to be heard, orally or in writing, as to why the application should be allowed.
- c. The Registrar shall notify in writing the non-governmental organization whose application for registration or renewal has been refused, giving reasons for the decision,
- d. The decision of the Registrar may be petitioned to the commission, within ten days from the date of receipt and if not satisfied with decision of the commission, after being heard as provided for in

subsection (b) (I) and (II) of this section, the non-governmental organization may, within fifteen days, petition the Minister, whose decision shall be final,

- e. Notwithstanding subsection (IV) of this section, a non-governmental organization whose applicant for registration or renewal has been rejected may petition for judicial review of the decision of the Minister to court of competent jurisdiction.

22. Renewal of permit.

- a. A registered Non- Governmental Organization may renew its permit on annual basis
- b. A registered Non- Governmental Organization shall be renewed after submission of performance reports
- c. A registered NGO permit shall be renewed after submission of consolidated list of assets
- d. Where a Non-Governmental Organization applies for renewal of permit or registration at least two weeks before the expiry of its permit or certificate, and submits the prescribed fee, the organization may continue to operate as though it has a valid permit, unless the registrar communicates otherwise.

23. Investigation of Non-Governmental Organizations.

- a. The Registrar may, on his or her own, initiative, or upon a petition, conduct necessary investigations into the affairs of a non-governmental organization to establish whether:
 - I. The registration or renewal of permit was obtained by fraud or false statement;
 - II. The organization has contravened the provisions of this Act or the regulations or any other applicable law or any condition of the registration certificate, or the principles set out in section 6;

- III. The organization has failed without justification to perform its activities for a period of one Year or more;
 - IV. The organization has used humanitarian aid for obtaining unlawful gains;
 - V. The organization has submitted a resolution from its governing body seeking the endorsement of its voluntary dissolution or cancellation of its registration.
- b. The Registrar may, after establishing any of the circumstances mentioned in subsection (a) of this section recommend to the commission for the following actions:
- I. Draw the attention of the organization to contravention of this Act or any other applicable law or any condition of the certificate of registration;
 - II. Issue a warning to the organization about such contravention;
 - III. Suspend the activities of the organization for a period not exceeding six months;
 - IV. Prohibit any individual involved in a contravention of this act or any other applicable Law or any condition of the certificate of registration from being actively involved in the formation or operation of a non-governmental organization for a period not exceeding one Year;
 - V. Revoke the registration certificate of the organization.
- c. If the registrar proposes to take action in respect of a non-governmental organization under paragraph (III) or (v) of subsection (b) other than revocation at the request of the organization he or she shall:
- I. Give written notice to the non-governmental organization, with reasons for the decision; and

- II. Give the organization an opportunity to be heard, orally or in written, as to why the registration should not be suspended or revoked.
- d. If the registrar proposes to take action in respect of an individual under paragraph (iv) of subsection (b) he or she shall:
 - I. Give a written notice to the individual, with reason for the decision; and
 - II. Give the individual an opportunity to be heard, orally or in written, as to why the action should not be taken.

CHAPTER V

NETWORKING OF NON-GOVERNMENTAL ORGANIZATIONS

24. Offices and networks of organizations.

- a. Registered Non-Governmental Organizations may, after notifying the Chairperson of the commission, establish offices in any state of South Sudan in accordance with the regulations.
- b. Registered Non-Governmental Organizations with similar objectives may establish networks among themselves and with other regional and international organization to exchange experiences and promote their professional skills in the mobilization of efforts to promote voluntary or humanitarian work.

25. National forum and union.

- a. Registered National Non-Governmental Organizations may establish a national forum or union for exchange of information and experiences and promotion of voluntary and humanitarian work;
- b. A Civil Society or Community-based organization proposing to undertake voluntary or humanitarian work at the state or county

level shall register in the State or County in which it operates in accordance with the regulations.

CHAPTER VI FINANCIAL PROVISIONS

26. Financial Statement of the Commission.

- a. The financial Year of the Commission shall be the period of twelve months beginning from 1st July to 30th June; the following Year
- b. Where there is a change in the financial Year, and for the purpose of transition from said financial Year, the period of the time shall, where it is less or more than twelve, be financial Year for the purpose of this Act.
- c. The commission shall cause to be kept all proper books and records of accounts of its income, expenditure, assets and Liabilities;
- d. The Executive Director shall, within three months from the end of each financial Year, submit to Auditor General the accounts of the commission, together with:
 - I. A statement of the commission's financial activities, income and expenditure during the Year; and
 - II. A statement of the assets and liabilities of the commission existing at the end of the Year.
- e. The Minister shall present the report of the Auditor General:-
To the Council of ministers as soon as reasonably practicable; and
To the Assembly within 30th days after receiving the report, if the Assembly is not sitting, within fourteen days after the convening of the next sitting.

CHAPTER VII: Miscellaneous Provisions

27. Offences and penalties.

- a. A non-governmental organization that performs any voluntary or humanitarian work in South Sudan when there is not in effect in relation to that organization, a valid registration certificate issued under this Act, commits an offence and is liable on conviction to a fine of ten thousand South Sudanese Pounds.
- b. An individual who knowingly involves in the operation of a non-governmental organization, when there is not in effect in relation to that organization; a valid registration certificate issued under this Act, commits an offence and is liable on conviction to a fine of five thousand South Sudanese Pounds.
- c. A member of the executive body of non-governmental organization shall be presumed to be knowingly involved in the operation of the organization unless he or she proves otherwise.

28. Access to Non-governmental organization information.

Any person may, upon payment of the prescribed fee, and as provided by the regulations, obtain information about any registered non-governmental organization held by the Registrar.

29. Exemption from duties and taxes.

The Minister responsible for finance may, on the recommendation of the Minister in writing, exempt any registered non-governmental organization from the payment of customs duties and taxes on specified assets and equipment imported or purchased for the purpose of the voluntary or humanitarian work of the organization.

30. Alteration and Termination of activities of an Organization.

Any registered non-governmental organization registered in accordance with the Provisions of this Act shall obtain prior written approval of the registrar to engage in activities other than those agreed with the Government as set out in its certificate of registration.

31. Employment by Non-governmental organizations.

- a. Subject to this section, and the Laws governing employment of the Labour in South Sudan, a non-governmental organization may hire national or International personnel as its employees;
- b. Any non-governmental organization so hiring shall:
 - I. Give priority to South Sudan nationals for employment and promotion opportunities;
 - II. Not discriminate against any applicant or employee on the ground of race, religion, gender or political affiliation;
 - III. Ensure that not less than 80 percent of the total number of staff employed in the organization are South Sudan nationals in all level (Managerial, middle and junior level);
 - IV. Without prejudice to subsection b (III) above, where the organization is registered specifically to provide technical support to Government institutions, undertake research or carry out similar activities, the total number of South Sudanese employees shall not be less than 55 percent;
 - V. Engage Professional staff from oversea only if there are no qualified South Sudanese Professionals available;
 - VI. Ensure that all overseas employees who have work permits and any other documents required by Law;
 - VII. Abide by Legal requirements in respect of safety at the work place, and any minimum wages requirement set by the Government from time to time;
 - VIII. Deduct personal income tax from wages of South Sudanese consultants and transfer it to the Government.

32. Dissolution and Withdrawal of a non-governmental organization.

- a. A non-governmental organization may at any time, withdraw from any voluntary or humanitarian project, sector or state for any reason, but shall before withdrawal, give written notice to the commission, governmental authority in the area of its operation, and the beneficiaries, giving reasons for its withdrawal.
- b. A non- governmental organization withdrawing from any voluntary or humanitarian project, sector or state shall file the notice issued under subsection (a) with the registrar not less than ninety days before the intended withdrawal, unless special circumstances exist.

33. Regulations.

- a. The Minister may upon the recommendation of the commission, makes regulations for the implementation of this Act.
- b. The regulations may include, but are not limited to such matters as:
 - I. Prescribed fees in connection with registration;
 - II. Prescribed forms for use in connection with registration;
 - III. The procedure for renewal of a registration certificate;
 - IV. The establishment of networking offices by organizations;
 - V. The registration of Non-Governmental Organizations operating in states and counties, including the appointment of registrar for the purpose;
 - VI. The inspection of the register by members of the Public;
 - VII. The keeping and auditing of accounts of non-governmental organizations;
 - VIII. Periodic reporting by non-governmental organizations

34. Transitional provision.

Upon coming in to force of this act, all Non-Governmental Organizations registered under the repealed Non- Governmental organizations Act, 2003, shall within three month apply for renewal of the registration under 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 of South Sudan, 2011, I, Gen. Salva Kiir , President of the Republic of South Sudan, hereby Assent to the Non- Governmental organizations Act,2015 and signed into Law.

Signed under my hand in juba, this -----day of the month of -----in the year, 2015.

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