

LAWS OF SOUTH SUDAN

DIPLOMATIC AND CONSULAR SERVICE ACT 2011

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DIPLOMATIC AND CONSULAR SERVICE ACT 2011

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LAWS OF THE REPUBLIC OF SOUTH SUDAN
DIPLOMATIC AND CONSULAR SERVICE ACT 2011

In accordance with the provisions of Articles 55(2)(3)(b) together with Article 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 1

PRELIMINARY PROVISIONS

1. Title and Commencement.

This Act may be cited as the “Diplomatic and Consular Service Act, 2011”, and shall come into force upon the date of its signature by the President.

2. Repeal and Saving.

Any existing legislation in the Republic of South Sudan that governs the same matters as set forth in this Act , are hereby repealed or cease to operate; provided that all proceedings, orders actions or regulations issued or appointments made in accordance with the provisions of the repealed laws, except to the extent they are cancelled by or are otherwise inconsistent with the provisions of this Act , shall continue in force until they are repealed or amended in accordance with the provisions of this Act .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 establishment of a regulatory framework to govern and regulate the functions, duties and powers of Diplomatic and Consular services and related matters.

4. Authority and Application.

(1) This Act is drafted in accordance with provisions of Article (52) read together with provisions of Schedule (A) paragraph (3) of the Transitional Constitution of the Republic of South Sudan, 2011 which grants the National Government authority to legislate over foreign affairs and international representation.

(2) The provisions of this Act shall apply to:

- (a) Members of the Diplomatic and Consular Service;
- (b) The Administrative Attachés, unless the context otherwise provides.
- (c) The Technical Attaché's and Directors of cultural and commercial Centre as stipulated under provisions of this Act ; and
- (d) Any person assigned duties related to a Diplomatic or Consular function within the limits required by such duties unless the appointment order provides otherwise.

(3) In matters that are not provided expressly under the provisions of this Act , or rules and regulations with respect to the conditions of some of the members of Diplomatic and Consular Service, the members of Diplomatic and Consular Service shall be governed by the provisions of the Civil Service Act, 2011 and any regulations and rules issued thereunder.

5. Interpretation.

In this Act, unless the context otherwise requires the following words and expressions shall have the meaning assigned to them respectively:

“Administrative Attaché”

Means any public official assigned to perform clerical or administrative or accounting function in the Ministry headquarter or in the Diplomatic and Consular missions or in the centres, whether from the Ministry or seconded from any Ministry or Institution;

“Centres”

mean the specialized commercial, cultural or information centres, or any other centre, which the Minister of Foreign Affairs and International Cooperation may establish, on the advice of or in consultation with the Competent Minister;

“Competent Authority” means the relevant authority in charge of the competent national unit or organ attached to the Diplomatic or Consular Mission abroad;

“Competent Minister” means the Minister in charge of the relevant national Ministry or unit or organ;

“Consular Mission” means any South Sudan mission accredited to any country, regional or International organization, in accordance with the Vienna Convention on Consular relations 1963, or in accordance with established International norms and practice;

“Council” means the Advisory Council of the Ministry;

- “Diplomatic Institute”** means the institute of Diplomatic studies established by and affiliated to the Ministry of Foreign Affairs and International Cooperation;
- “Diplomatic Member”** means the member of the mission or the public official who is a member of the Diplomatic Mission or Consular post;
- “Diplomatic Mission”** means any South Sudan mission accredited to any country, regional or international organization abroad, in accordance with the Vienna Convention on Diplomatic Relations 1961 or in accordance with the provisions of International Law or established International Diplomatic norms and practices;
- “Head of Mission”** means the member of the Diplomatic Mission or Consular post charged with the duty of acting in that capacity;
- “Minister”** means the Minister of Foreign Affairs and International Cooperation;
- “Ministry”** means the Ministry of Foreign Affairs and International Cooperation;
- “Mission”** Means a body composed of government officers representing interests and welfare of their state who have been posted abroad and operate within the jurisdiction of another state;
- “Other titles of the Diplomatic and Consular Mission”** Mean the titles of the Diplomatic and Consular Service which are below the post of ambassador;
- “President”** means the President of the Republic of South Sudan;
- “Representation Jurisdiction”** Means the region “or the area” of the host state, organization or organizations where the mission is accredited;
- “Special Mission”** means any envoy sent by the President of the Republic abroad on an ad hoc basis to negotiate and execute a specific assignment “within a defined period”;
- “State”** means the Republic of South Sudan;
- “Technical Attaché”** means the public or an official in the organized forces, attached to any of the Diplomatic or Consular missions, to carryout technical work in the Jurisdiction of the representation;
- “Technical Department”** means any technical unit attached to any Diplomatic Mission or Consular post, and includes the defence, commercial, cultural or information attaches;
- “Temporary Mission”** means any Diplomatic or Consular mission whose purpose or time is specified in the order of its establishment, and shall be governed by the provisions of both the Vienna Conventions of

1961 and 1963 on Diplomatic and Consular Relations, respectively, or the provisions of International law or established International norms and practice; and
“Undersecretary” means the Undersecretary of the Ministry of Foreign Affairs and International Cooperation.

CHAPTER II

THE ADVISORY COUNCIL

6. Establishment of the Council.

- (1) There shall be established within the Ministry a body to be known as the Advisory Council, which shall be constituted by order of the Minister, under his or her chairmanship. Membership to the Council representatives of governmental and civil society institutions working in the field of foreign relations in addition to resource persons of experience in the field of Diplomacy and International relations chosen by the Minister.
- (2) The Minister may engage on a temporary capacity in the work of the Council, any qualified person whom he or she deems fit. He or she may also call upon any person to furnish specific information or report on any specific topic or subject related to Diplomacy and international relations.
- (3) The Council shall establish its own internal rules to organize and regulate its work.

7. Functions and duties of the Council.

- (1) The Council shall advise the Minister either upon his or her request or on its own motion, on matters of foreign policy and may evaluate performance and recommend measures for improving diplomatic or foreign policy performance by the Ministry.
- (2) The Council shall coordinate between the Ministry and other Ministries, Government agencies and institutions that work in the field of external relations regarding foreign policy, diplomacy and international relations.

8. The Institute for Diplomatic Studies.

There shall be established within the Ministry an affiliated institute to be known as the Institute for Diplomatic Studies, referred hereinafter as the Institute which shall be entrusted to realize the following objectives:

- (a) To train and upgrade the skills of personnel in the various fields of specializations connected with diplomacy and international relations;
- (b) To train and appraise spouses of diplomats and officials who are seconded to work in the Ministry, to provide them with basic information and skills, etiquette and expected conduct within Diplomatic service prior to their deployment to Diplomatic stations abroad;
- (c) To conduct research and specialized studies and publish periodical reports, that focus on national, regional and international developmental issues;
- (d) To convene conferences, symposiums, seminars, workshops related to the Diplomatic and international political affairs;
- (e) To admit and engage working personnel and students from within and outside the Ministry in its programmes;
- (f) To cooperate and exchange visits and expertise with relevant or equivalent institutions at home and abroad and organize admission of associate students from friendly and sisterly countries to the training and learning programmes at the institute; and
- (g) To ensure that the Ministry keeps abreast with new frontiers of diplomacy, International law, International Relations and Foreign policy developments.

9. Appointment and Tenure of the Director.

- (1) The Institute shall be administered by the Director to be appointed from among specialists and personnel possessing demonstrable expertise in the field of diplomacy in accordance with provisions of the Diplomatic Institute's procedures and Regulations.
- (2) The Director shall be appointed and removed by the Minister and shall be under the administrative technical and financial supervision of the Minister

CHAPTER III

THE DIPLOMATIC AND COUNSULAR MISSIONS

10. Establishment of Diplomatic and Consular Missions.

- (1) Establishment and abolition of a Diplomatic and Consular mission shall be by an order to be issued by the President upon recommendation of the Minister.
- (2) The Diplomatic and Consular missions shall include the following:
 - (a) the Embassies;
 - (b) the Permanent Mission at the regional and International Organizations;
 - (c) the Temporary Missions; and
 - (d) The Consulate.
- (3) The representative Jurisdiction of the Diplomatic Mission shall include the region of the country, countries or organizations to which the Diplomatic Mission is accredited. The Jurisdiction of the Diplomatic representation shall be specified in an order issued by the Ministry.
- (4) The Minister may designate any Embassy, when he or she deems appropriate, with the functions of the permanent mission at any given diplomatic representation area, regional or international organization.

11. Functions and Powers of Diplomatic Missions.

- (1) The Diplomatic Mission shall perform and exercise the following Functions and powers:
 - (a) to represent the Republic of South Sudan in the Jurisdiction of the Diplomatic representation;
 - (b) to protect the interest of the Republic of South Sudan and its subject in the Jurisdiction of the Diplomatic representation, in accordance with the provisions of the Vienne Conventions on Diplomatic and Consular Relations, 1961 and 1963 respectively, and the established International Diplomatic norms and practices;
 - (c) to monitor the internal situations and developments in the Jurisdiction of the diplomatic representation in accordance with the laws and established International Diplomatic norms and practices and to report on such developments;

- (d) to provide information and obtain report by lawful means and not otherwise;
 - (e) to develop political relations between the Republic of South Sudan and the host Country; and
 - (f) to nurture, promote and uphold existing friendly relations between the Republic of South Sudan and the host Country, sub-regional, regional and international organizations in economic, cultural and scientific spheres.
- (2) Where there is no Consular mission in the Jurisdiction of the Diplomatic representation, or in case the Consular mission does not cover the entire designated Diplomatic representation, the Diplomatic Mission shall carry out such Consular functions within the appropriate limits; provided that, upon approval by the Minister, a Consular section may be established within the mission to render the necessary Consular services.
- (3) Without limiting the generality of the provisions of section 17, 18, 19, of this Act, the Diplomatic Mission may carry out economic, commercial, informational and cultural duties, provided that such functions are not assigned to any attaché or specialized centre, and that it is done in coordination and collaboration between the Ministry and the relevant competent Institutions.

12. Heads of Diplomatic Missions.

- (1) A Diplomatic Mission at the level of an Embassy shall be headed by a Diplomatic member, who shall be appointed by the President, upon the recommendation of the Minister, and shall be assigned the title of Ambassador Extra-ordinary and Plenipotentiary or a Permanent representative, as the case may be.
- (2) The Head of Diplomatic Mission accredited to a particular country or countries and accredited at the same time as a Permanent Representative to regional or International body or organizations may hold both titles referred to under the provisions of sub-section (1) of this section.
- (3) The Diplomatic Mission at the level of a Charge d' Affaires shall be headed by the Diplomatic member appointed by the Minister, who shall be assigned in this case, the title of Charge d' Affaires.
- (4) The Diplomatic member immediately below the Ambassador in the order of seniority in the Diplomatic Mission, shall assume charge of the mission, as Charge d' Affaires, *Ad Interim* (a.i), when the head of the mission is outside the Jurisdiction of representation. In this case the Headquarters of the Ministry shall be immediately notified.

(5) The Diplomatic member immediately below the Ambassador, in order of seniority, shall be assigned the title of Deputy Head of Mission if he or she has grade of Ambassador or Minister Plenipotentiary or Counsellor.

13. Functions and Powers of Heads of Mission.

(1) The Head of Mission shall assume the following responsibilities and functions and shall be assisted by members of the Diplomatic Mission to:

- (a) represent the Republic of South Sudan within the diplomatic representation area where he or she is assigned.
- (b) implement the foreign policy of the State, in conformity with the programmes determined by the Ministry within the Jurisdiction of the representation;
- (c) be responsible for South Sudan interest in the representation area;
- (d) report to the Ministry's Headquarter, on political, economic, cultural, social, industrial and other development taking place within the diplomatic representation area and advice as appropriate;
- (e) negotiate and sign agreements on behalf of the Government of South Sudan, after consultations with the Ministry;
- (f) supervise and organize the performance of the Diplomatic Mission including the performance of different sections and attaché subordinate thereto; and
- (g) supervise the Consular missions and all the centres situated within the Diplomatic representation.

(2) The Head of the Diplomatic Mission shall exercise the following powers:

- (a) to appoint the head of the Consular section from among the Diplomatic members of the Diplomatic Mission, and assign to him or her the title of the Consul;
- (b) to specify the necessary sections that may be appropriate to be established within the mission, in order to undertake, inter alia, the functions of the political, commercial, cultural, and information representation and appointment of the heads of the sections from the Diplomatic members of the mission;
- (c) To appoint and terminate service of the local staff in the mission in accordance with the regulations and conditions of service laid down by the Ministry, taking into consideration at the same time, the prevailing labour laws in the host country or state;
- (d) To distribute the functions and responsibilities amongst the members of staff of the mission; and

- (e) To delegate any of his or her powers or functions to any of the members of the Diplomatic staff for the diligent execution of the five core functions of the Diplomatic Missions.

14. Permanent Missions at Regional and International Organizations.

The specified provisions related to the Diplomatic Missions, provided under the provisions of this Act, shall be applicable to the permanent missions at the regional and international organizations.

15. Temporary and Special Missions.

(1) Temporary missions may be established by decree of the President on the recommendation of the Minister. The decree shall specify the duties of the Temporary Mission; provided that the Head of the Mission and members of the Temporary Mission shall possess high levels of diplomatic expertise, efficiency and skills and shall demonstrate a high level understanding of the nature, conditions and circumstances surrounding the Temporary Mission.

(2) The President may appoint any qualified person from within or outside the Diplomatic or Consular services and entrust him or her with any Diplomatic or Consular mission tasks for a particular purpose.

16. Functions and Powers of Consular Missions.

The Consular mission shall perform and exercise the following functions and powers within the Jurisdiction of the Diplomatic representation:

- (a) protecting the interest of the Republic of South Sudan in the host State;
- (b) promoting commercial, economic and cultural relations;
- (c) protecting and promoting the interests of South Sudan Nationals resident in the host Country; and
- (d) any other such functions or powers that do not conflict with the provisions of this Act.

17. The Head of Consular Mission.

(1) The Consular mission at the level of Consular General shall be headed by a Diplomatic member whose rank shall not be less than that of a Counsellor, to be appointed by the Minister and shall be assigned the title of the Counsellor General.

- (2) The Diplomatic Mission at the level of a Consular shall be headed by a Diplomatic member, who shall be appointed by the Ministry and assigned the title of the Consul.
- (3) The Diplomatic member immediately below the Consul General, in order of seniority, shall hold the title of the Deputy Consul General.

18. Functions and Powers of the Head of Consular Mission.

- (1) The Head of the Consular Mission shall perform the following functions and be assisted in discharging of those duties by other members of the Consular Mission:
 - (a) To implement the consular aspects of the foreign policy of the Republic of South Sudan in the consular representation area, in accordance with the implementation programmes and guidelines related to the affairs of the Consular mission within the Jurisdiction drawn up by the Ministry;
 - (b) To take care of the interests of South Sudanese communities living in the area of jurisdiction and cooperating with their social organizations in finding solutions to their problems, extending support and encouragement to their cultural, social and sporting activities with the aim of connecting them to their homeland; and
 - (c) Prepare monthly and periodical reports to the Ministry on different affairs of the Consulate.
- (2) The Head of the Consular mission shall exercise all necessary powers in discharge of his or her functions and duties, including but not necessarily limited to the following:
 - (a) To identify and set up the required sections within the Consulate and to identify suitable individual from among the Diplomatic members of the Consulate to head them;
 - (b) To assign Consular ranks to the diplomatic and technical staff in the Consulate in accordance with provisions of this Act; and
 - (c) To delegate any of his or her powers to the Diplomatic or Technical Attachés in the Mission.

19. Offices of the Technical Attachés.

- (1) Establishment of Technical Attachés offices abroad shall be by order of the Minister in consultation with the concerned Ministry. The Technical Attaché shall be part of the Diplomatic or Consular Mission to which he or she may be attached.

- (2) The Technical Attachés shall perform their duties under the supervision of the Head of the Diplomatic or Consular Mission to which they are attached, without affecting the technical nature of their functions or the right of their parent Ministries or Governmental units with respect to exchanging or directing correspondence and communications or receiving instructions, guidance or directives of such Ministries or Governmental units.
- (3) The technical attaches may send their reports to the Ministry or to their parent Ministries or Governmental units through the head of the Diplomatic or Consular mission; provided that the Minister may exempt some technical units from sending their reports back to their parent Ministry, through the head of the mission.
- (4) Movement of the technical attaches outside the Jurisdictions of the Diplomatic or Consular representation shall take place in accordance with existing rules and regulations.

20. Functions and Duties.

- (1) The Technical and Administrative Attachés shall be considered members of the Diplomatic or Consular service for the whole period of their service abroad and shall be entitled to the same emoluments and privileges provided in respect of their positions in accordance with provisions of this Act and the regulations issued thereunder. They shall continue to enjoy their accrued rights and privileges while in service abroad as well as those to which they are entitled in South Sudan.
- (2) For purposes of discipline the technical attaches shall be subject to the provisions of the specific laws of their respective units that seconded them.

21. Centres.

- (1) The Minister may, after consultation with the competent Minister, establish centres within the Jurisdiction of the Diplomatic representation abroad, for purposes of developing economic, cultural, and commercial and information relations. The centres shall be under direct supervision of the head of the Diplomatic or Consular mission.
- (2) The centre shall be managed by an official seconded by his or her parent Institution or organization for that purpose, and shall be known as the Director of the Centre. The Minister may also designate a member of the Diplomatic staff to temporarily assume the management of the centre.
- (3) Unless the Minister otherwise directs, the Directors of the centres shall be considered members of the Diplomatic service during their entire tenure abroad.

They shall continue to enjoy the same privileges and remuneration to which they are entitled during their service abroad, as provided for under provisions of this Act and regulations, upon their returning to South Sudan.

- (4) Notwithstanding the affiliation of the centres to the Diplomatic or Consular missions, within which Jurisdiction they are located, the Minister may issue an order specifying the functions of each Centre, after consulting the Competent Minister.
- (5) For purposes of discipline, the Directors shall be subjected to the provisions of this Act, or the specific laws of the competent authority, that seconded them or to the national civil service laws, as the case may be.

CHAPTER IV

POSTS TITLES OF THE DIPLOMATIC AND CONSULAR SERVICE

22. Arrangement of the Posts and Titles.

- (1) Posts and Titles of the Diplomatic and Consular Service shall be arranged in the following order:
 - (a) Ambassador;
 - (b) Minister Plenipotentiary;
 - (c) Counsellor;
 - (d) First Secretary;
 - (e) Second Secretary; and
 - (f) Third Secretary.
- (2) The Diplomatic and Consular titles in the Diplomatic and Consular missions, shall be ranked and assigned in the following manner:
 - (a) **Consul General:** Shall be assigned that title in accordance with the provisions of section 15 (2) of this Act;
 - (b) **Deputy Consul General:** Shall be assigned that title by the Head of the Consular Mission, in accordance with the provisions of this Act;
 - (c) **Consul:** Shall be assigned that title by the Head of the Diplomatic Mission, in accordance with the provisions of this Act;
 - (d) **Deputy Consul:** Shall be assigned that title by the Head of the Diplomatic Mission, in accordance with the provisions of this Act.

23. Grades of the posts of the Diplomatic and Consular Service.

Notwithstanding provisions of other law, the ranking of posts of the Diplomatic and Consular service shall be as follows:

- (a) Ambassador: His or her grade shall be determined by the order of the appointment or promotion, provided that it shall not be lower than a Grade three;
- (b) Minister plenipotentiary: Grade Four;
- (c) Counsellor: Grade Five;
- (d) First Secretary : Grade Seven;
- (e) Second Secretary: Grade Eight; and
- (f) Third Secretary: Grade Nine.

CHAPTER V

APPOINTMENT AND PROMOTION IN DIPLOMATIC AND CONSULAR POSTS

24. Appointment Eligibility Conditions.

No person shall be appointed in the Diplomatic and Consular services unless he or she fulfils the following eligibility requirements:

- (a) be a South Sudanese;
- (b) be of a sound mind;
- (c) be a university graduate not exceeding 30 years of age at the time of joining the Diplomatic service as third secretary;
- (d) be of good conduct and reputation;
- (e) be a holder of at least a Bachelor Degree or its equivalent from a recognized higher institution of learning, or university preferably in the relevant disciplines of law, economics, social studies or languages;
- (f) be able to meet medical fitness requirements;
- (g) be able to pass the competitive professional written examination, and an interview for the post to be conducted by the Ministry in collaboration with Ministry of Labour, Public Service and Human Resources Development;
- (h) the Ministry shall oversee and supervise the recruitment process.; and
- (i) upon the recommendation of the Minister, the President may exempt any person from the requirements of subsections (e) and (g) above.

25. The Appointment and Promotion to the Post of Ambassador.

- (1) The President shall on the recommendation of the Minister appoint any person in the post of Ambassador;

- (2) Notwithstanding the provisions of sub-section (1) of section 25 of this Act, the appointment to a post of Ambassador shall not be limited to members of the Diplomatic or Consular service”.
- (3) Notwithstanding subsection (2) above The President when necessary, may appoint persons who are renowned experts in their fields of study, or persons having relevant specialised experience; internationally or regionally to serve as Ambassadors;
- (4) The Presidential Decree announcing the appointment shall specify the grade of the appointed Ambassador and the functions which the appointee is expected to carry out at the headquarters of the Ministry or at the Diplomatic or Consular Mission abroad in accordance with provisions of this Act and the regulations issued pursuant to it.
- (5) The appointment of non-career diplomats as Ambassadors to Foreign Service shall be subjected to scrutiny, vetting and approval by the Foreign Affairs and International Cooperation Committee of the National Legislative Assembly.

26. Appointment and Promotion in other Diplomatic and Consular Service Posts.

- (1) Third Secretaries shall be appointed by the order of the Minister, in accordance with the appointment eligibility criteria referred under the provisions of section (24) of this Act, and the guidelines prescribed by the Ministry.
- (2) The appointment to other Diplomatic and Consular posts above the post of Third Secretary shall be filled and occupied by promotion to the immediate post, by order of the Minister.

27. Powers of the President to appoint Non Diplomatic Personnel to the Post of Ambassador.

Notwithstanding the provisions of section (26) of this Act, the President may, with or without the recommendation of the Minister, appoint non diplomatic personnel to the post of Ambassador, provided that their number shall not exceed 20% of the number of Ambassadors deployed annually. The appointment decree shall specify the duration of their respective assignments.

28. The Oath.

- (1) An Ambassador shall before assuming his or her duties for the first time take the following Oath, before the President:

I -----swear in the name of God Almighty that I shall pay full allegiance to the Republic of South Sudan and committed to faithfully represent it abroad, and observe the provisions of the Constitution and applicable laws, perform my duties without fear or favour and keep the secrets of my post, never disclose, disseminate or let known any information obtained during the course of my tenure to any unauthorized person except as may be justified by law. I shall represent the policies and positions of the Republic of South Sudan with honesty and will strongly defend and protect its interests. So help me God”.

- (2) All the occupiers of other Diplomatic, Consular services, Technical and Administrative Attaches posts, shall take the same Oath of office referred to under the provisions of sub-section (1) of this section, before the Minister; while the “Administrative Attaches” shall take the same Oath of office before the Undersecretary.
- (3) If the oath of office cannot be administered before the competent authority, it may be administered temporarily in writing and then sent to headquarters of the Ministry until it becomes possible to be administered before the competent official referred to under provisions of sub-sections (1) and (2) above of this Act.

29. Probation Period.

- (1) Newly appointed Third Secretaries shall spend a probation period of nine (9) months, during which they shall undergo an intensive training in the field of diplomacy and International relations. After completion of the prescribed course, they shall be confirmed into the permanent service.
- (2) The Institute shall prescribe appropriate courses and examinations that Third Secretaries shall be required to take in order to be confirmed into the permanent Diplomatic service.

30. Promotion to other Diplomatic and Consular Posts.

- (1) The Ministry shall prescribe in the regulation the appropriate conditions and guidelines to govern the process of promotions in the Diplomatic or Consular service posts.
- (2) For purposes of promotion and transfer, an annual performance evaluation report shall be prepared, and a score of at least 75% on the annual performance evaluation report shall be considered as the basis of promotion.
- (3) No promotion shall be made to other Diplomatic and Consular posts without first passing the professional examinations to be prescribed by the Undersecretary; provided that the performance report of any member intended to be promoted in the preceding two years shall not be at or below the degree of poor performance and the immediately preceding performance report shall not be graded lower than the grade of good.

31. Transfer to Diplomatic and Consular Missions Abroad.

- (1) The Ambassador, as Head of the Diplomatic Mission, may be transferred by the President upon recommendation of the Minister in accordance with the provisions of section 10 (1) and (2) of this Act.
- (2) Diplomatic members shall be transferred to Diplomatic and Consular Missions abroad in accordance with regulations and procedures issued pursuant to provisions of this Act.
- (3) Transfers abroad of a Diplomatic member shall not be prejudiced for reason of closeness of his or her age of compulsory retirement from service unless the regulations provide otherwise.

32. Secondment for Work Abroad.

The Minister may, after consultation with the Competent Minister, accept the secondment of an employee or an officer in the organized forces to serve in any of the Missions abroad in the following posts:

(a) Technical Attaché

Who shall be in charge of any technical function in the Diplomatic or Consular missions, and his or her ranking in the Diplomatic list of the Mission shall be determined in accordance with the seniority and organizational structure and the particular circumstances of the Diplomatic or Consular Mission.

(b) Director of the centre:

Who shall be in charge of any Centre that may be established. The order of his or her appointment shall always specify his or her seniority, to guide the mission in placing him or her in the rightful position within the Diplomatic list of the mission.

(c) The Administrative Attaché:

- (i) to carry out the various administrative, secretariat or accountancy functions in any Diplomatic or Consular mission or centre; and
- (ii) the employees and officers in the organized forces referred to under sub-section (1) above, shall fulfil the eligibility requirements stipulated under section (22) of this Act.

33. Secondment from and to the Ministry.

- (1) The Minister may, upon request by a concerned Minister or authority, accept secondment of any Government employee to serve at the Ministry headquarters.
- (2) The period of secondment shall be specified in the secondment agreement, upon expiration of which, the official may return to his or her respective Ministry or may be assigned to the Ministry permanently.

34. Secondment to International Organizations and other Countries.

- (1) The President may, upon recommendation of the Minister, second any Ambassador to serve in any regional, International organization and other Countries.
- (2) The Minister may second a member of the Diplomatic or Consular mission to any regional or International organization as deemed appropriate.
- (3) The secondment order shall specify the period of secondment, the possibility of renewal and the period after which the person shall return to the home Ministry.
- (4) The Ministry shall create extra nominal posts for the seconded personnel.

CHAPTER VI

CONDITION OF SERVICE, EMOLUMENTS AND PRIVILEGES FOR MEMBERS OF DIPLOMATIC AND CONSULAR SERVICE

35. Conditions of Service and Compensation for Members of Diplomatic and Consular Services Abroad.

- (1) Members of Diplomatic and Consular service and administrative and the technical attachés shall be governed by the Civil Service Act, 2011 and regulations issued pursuant to it.
- (2) Without prejudice to the generality of the provisions of sub-section (1) above of this Act, regulations shall specify the professional and Diplomatic service emoluments and privileges for the members of Diplomatic and Consular services and other technical and administrative attachés.
- (3) In the event of accident involving a member of Diplomatic Mission or any member of his or her family or properties while still serving in the mission abroad, the diplomat shall be compensated in accordance with applicable regulations.
- (4) In the event of death of any member of the administrative or technical attaché, or director of a Centre of a Diplomatic or Consular mission while still in service abroad, and without prejudice to any other post – service benefits, provided under any applicable law, the family of the deceased shall receive compensation as shall be determined by the Public Service law and regulations.
- (5) In the event of death of any member of the Diplomatic or Consular Mission, and without prejudice to any other post-service benefits, provided under any applicable law, the family of the deceased shall receive compensation equal to two years of his or her last and insert gross salary.
- (6) A South Sudanese who is a holder of dual nationality shall not serve in the country of the second nationality.

36. Increments, Allowances and Privileges.

- (1) Notwithstanding the provisions of any applicable law, the President may upon recommendation of the Minister approve such allowances or privileges to the staff of the Ministry after consultation with the Minister of Finance and Economic Planning and of Public service and labour respectively.

(2) Members of Missions shall be entitled to annual increments, allowances and privileges necessary and appropriate for the nature of the Mission, which shall be approved by the President upon recommendation of the Minister and after consultation with the Ministers of Finance and Economic Planning and of Public Service and Labour respectively. Such allowances and privileges to include but not limited to the following:

- (a) allocation of car;
- (b) education allowance for the children;
- (c) comprehensive medical insurance;
- (d) customs duties exemption for a car upon return home after the expiration of the tenure of duty abroad; and
- (e) exemption, of personal effects, from customs duties at every 4 years.

(3) In the event that the tenure of duty of the Diplomatic Member is cut short for reason beyond his or her control he or she shall be entitled to the same privileges provided under the provisions of sub-section (2) above of this Act.

37. Termination of service.

The service of any Diplomatic Member shall be terminated for any of the following reasons:

- (a) failure to meet the eligibility requirements for confirmation into permanent Diplomatic service;
- (b) obtaining an average or poor performance in the annual performance evaluation reports in two consecutive years, or failure to pass in two separate sittings of the professional examination, in which case, the termination of service shall be upon recommendation of the examination Committee to be constituted by the Minister for that purpose; and
- (c) marrying a foreigner during the service.
- (d) dismissal from service upon a decision of a competent board of discipline or indictment by a competent court in an offence related to honesty or moral turpitude;
- (e) loss of South Sudanese Nationality in accordance with the law;
- (f) absence from work for consecutive forty five (45) days without official permission, of which absence shall be considered as resignation;
- (g) appointment to a constitutional or political position;
- (h) voluntary retirement;

- (i) physical or mental incapacity;
- (j) attainment of mandatory retirement age in accordance with the provisions of the applicable law;
- (k) final transfer to another Ministry or Government Institution;
- (l) Resignation; and
- (m) death.

CHAPTER VII

CODE OF CONDUCT AND DISCIPLINE

38. Code of Conduct.

- (1) The Minister shall issue appropriate and necessary rules to govern the ethical conduct and professional requirements of members of the Diplomatic and Consular services.
- (2) Diplomatic Member is prohibited from engaging in the following:
 - (a) disclosure of confidential information obtained during the service, whether directly or indirectly, to any person unless such a person is a public official and the nature of his or her duty requires access or use of such information. This prohibition shall continue after the termination of the service of the Diplomatic Member;
 - (b) improper custody of confidential documents, unauthorized publications, or mishandling, disposal and leakage of such classified documents”;
 - (c) indulgence in any commercial activity or employment or participation in the management of any company or partnership during his or her tenure abroad or getting employment in any post that conflicts with his or her official assignment, or improper use of his or her position for material benefits;
 - (d) accepting employment in the service of a foreign government without the prior permission from the President or the Minister as the case may be, even if he or she was on leave without pay;
 - (e) acceptance of any gifts with the exception of nominal or symbolic gifts;
 - (f) carrying foreign medals, insignias or merit titles or their equivalent unless prior consent of the President has been obtained;

- (g) participating in activities of any political party or partisan political position during his or her tenure in office in the Diplomatic post;
- (h) expressing of any official statement that conflicts with the Government policy; and
- (i) publishing any books, article or disclosure of any information or delivering of service related to his or her work in the Diplomatic or Consular mission, except with the approval of the Ministry; provided that such publication or disclosures may not affect the right of the member to publish, disclose or disseminate such an information or opinions on matters which are not in conflict with the Government policy and interests.

(3) In addition to the foregoing provisions of section 38 (1) of this Act, all national laws that regulate the duties and rights of employees in the Government service shall apply to the members of the Diplomatic and Consular services.

(4) The provisions of this Act, with respect to the Code of Conduct and Discipline shall apply to Technical Attachés and Directors of Centres.

39. Disciplinary Procedures.

(1) Any Diplomatic member shall be subject to disciplinary action if he or she refuses or ignores, fails to obey or comply with any law or regulations in force or disregards any order from his or her superior; refuses or neglects to discharge his or her duties, or demonstrates by action or omission an intention to act or behave, contrary to the conduct required of a person in his or her position. The Diplomatic Member may also be disciplined for engaging in activities or conduct that are incompatible with his or her official standing, or contravenes the established Diplomatic norms and practices, or where he or she abstains from or abandons his or her work; or where he or she is convicted by a competent court of an offence related to dishonesty or moral turpitude, or commits any act that contravenes the provisions of section 38(1) of this Act.

(2) Disciplinary action against the Diplomatic Member shall be instituted in accordance with the Civil Service Act, 2011.

40. Immunity.

Unless otherwise caught committing an offence for which the police may arrest without warrant, no criminal proceedings may be instituted against a Diplomatic Member at the headquarters of the Ministry for any act that may constitute an offence

if committed in the course of discharging his or her duty, except with the permission of the Minister or any person delegated in that behalf.

41. Penalties.

Any Diplomatic Member who contravenes or violates any of the provisions of section (36) (2) of this Act, may be subject to any of the following penalties:

- (a) Reprimand and deduct the basic salary for a period not exceeding (30) thirty days; provided that there shall be no withholding of salary when the Diplomatic member is abroad except upon approval of the Undersecretary;
- (b) Denial of the annual increment of salary once or for two consecutive years;
- (c) Demotion from current grade to one step to lower;
- (d) Obligatory dismissal from service in case of conviction for embezzlement of public funds or conviction for an offence related to dishonesty or moral turpitude;
- (e) If the penalty is the withholding of the basic salary or increment, the date of commencement and expiration of the penalty and the date of entitlement to the next increment shall be explicitly specified in the order;
- (f) For purposes of application of provisions of this section, the salary means the basic salary, increments and allowances;
- (g) The Head of the Diplomatic or Consular Mission may suspend and bar a member from entering the Embassy upon compelling condition that justifies such an action and shall promptly notify the headquarters. The Undersecretary upon receipt of notification shall evaluate the matter, and may approve continuation or lifting of the suspension thereafter” and
- (h) The Undersecretary may suspend from service any diplomat for a period not exceeding sixty (60) days, in accordance with provisions of section 37 of this Act. In the case of a diplomat who is serving at the headquarters of the Ministry; such suspension may be without pay.

CHAPTER VIII

MISCELLANEOUS PROVISIONS

42. Appointment of South Sudan Honorary Consuls.

- (1) The President may on recommendation of the Minister appoint honorary Consuls in the countries where there are substantial numbers of South Sudan subjects and interests but where there is no resident Diplomatic or Consular Mission.

(2) The Honorary Consul shall be treated in accordance with established Diplomatic norms and practices. The President may, upon recommendation of the Minister, grant such consul reasonable gratuities in return for his or her service.

(3) The functions of the Honorary Consuls of South Sudan abroad shall be determined in the Presidential Appointment Order.

(4) The appointment of the Honorary Consul abroad, shall not be subject to requirements and conditions of recruitment into the Diplomatic and Consular service and the person may be a South Sudanese or non-national; provided that he or she shall be otherwise eligible, of good conduct and reputation and having not been convicted of a criminal or administrative offence involving dishonesty or moral turpitude.

43. Endorsement of the Appointment of the Honorary Consuls in South Sudan.

The Minister shall endorse the appointment of Honorary Consuls of foreign countries in South Sudan regardless of whether they are South Sudanese or foreigners.

44. Privileges for Honorary Consul.

The privileges of the honorary Consul shall be determined in the appointing order.

45. Interest Caretaker.

The President may, on the recommendation of the Minister, appoint a Diplomatic or Consular mission of any friendly country to take care of the interests of South Sudan in a country where there is no South Sudan Diplomatic or Consular representation.

46. Diplomatic Passports.

Subject to provisions of the Passports and Immigration Act, 2011, the issuance of Diplomatic, Special and Official passports shall be the exclusive competence of the Minister; provided that regulations may prescribe procedures, the terms and conditions for issuance of such passports.

47. Consular Charge.

1. The Minister shall in consultation with the Minister of Finance, issue regulations prescribing the rates of the Consular Charges to be levied by the Diplomatic and Consular missions abroad for the Consular services rendered and prescribe situations where the service are to be rendered free of charge.
2. The revenues collected on Consular charges shall be deposited to Public Treasury of Ministry of Finance and Economic Planning.

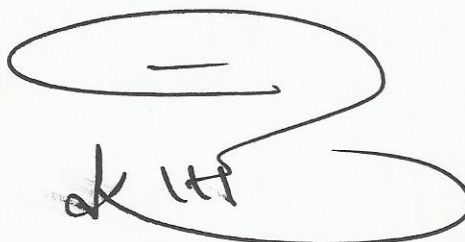
48. Regulation.

- (1) The Minister may issue appropriate necessary regulations, rules and procedures for the effective and efficient implementation of provisions of this Act, in consultation with the relevant competent Government units.
- (2) Notwithstanding the provisions of sub-section (1) of this section, the National Council of Ministers, upon the recommendation of the Minister, together with the Minister of Finance and Economic Planning and the Minister for Public Service and Labour, respectively, may issue such regulations and rules related to emoluments and privileges of the members of the Diplomatic and Consular missions abroad.
- (3) Notwithstanding the provisions of section (44) of this Act, the Minister may, with the approval of the National Council of Ministers, make regulations setting out the procedures governing issuance of Diplomatic, Special and Official passports.
- (4) The Minister may, with the approval of the Minister of Finance and Economic Planning, issue regulations in respect of the following matters:
 - (a) compensations of the members of the Diplomatic and Consular service in situations of death, physical injuries or property loss that result from occurrences abroad;
 - (b) Consular fees and other service rendered and charges to be collected by the Diplomatic and Consular Missions.
- (5) The Minister may, when he or she deems appropriate, issue guidelines or other regulations for the implementation of provisions of this Act, including but not limited to the following:
 - (a) procedures and conditions governing pensions, gratuities professional examinations, appointments, training and promotions;
 - (b) conditions governing transfers, leave and secondments;
 - (c) diplomatic, consular and administrative performance at the headquarters of the Ministry and at the Diplomatic and Consular missions; or
 - (d) Disciplinary proceedings.

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 South Sudan, 2011, I, Gen. Salva Kiir Mayardit, President of the Republic of South Sudan, hereby Assent to the Diplomatic and Consular Service Act, 2011 and sign it into law.

Signed under my hands in Juba, this 17th day of the month of JAN in the year, 2012.

A large, stylized handwritten signature in black ink, consisting of a large loop at the top and a smaller loop at the bottom, with the initials 'SK MH' written in the center.

Gen. Salva Kiir Mayardit

President

Republic of South Sudan

RSS/ Juba.