

**Laws of South Sudan**

**Legal Counsels Service Regulations,2022**

## Legal Counsels Service Regulations, 2022.

**In exercise of the powers conferred upon me under the provisions of Section 65 of the Ministry of Legal Affairs and Constitutional Development Organization Act, 2008, I hereby issue the following Regulations**

### CHAPTER I

#### PRELIMINARY PROVISIONS

##### 1. Title and Commencement

These regulations shall be cited as the “Legal Counsels Service Regulations, 2022” and shall come into force on the date of its signature by the Minister.

##### 2. Purpose

These Regulations is to govern recruitment, transfers, leave, allowances, terms and condition of service of all Legal Counsels in the Ministry.

##### 3. Authority and Application

- (1) This Regulations are issued in accordance with the provisions of section 65 of the Ministry of Legal Affairs and Constitutional Development Organization Act, 2008.
- (2) The Regulations shall apply to all matters relating to the Legal Counsels in the Ministry.

##### 4. Interpretations

In this Regulations, unless the context otherwise requires:

“Act”	means the Ministry of Legal Affairs and Constitutional Development Organization Act, 2008;
“President”	means the President of the Republic of South Sudan.
“Ministry”	means the Ministry of Justice and Constitutional Affairs;
“Minister”	means the Minister for Justice and Constitutional Affairs;
“Deputy Minister”	means the Deputy Minister for Justice and Constitutional Affairs;
“Undersecretary”	means the Undersecretary for Justice and Constitutional Affairs;
“Grade”	means one of ranking, post or scale to which the Ministry by nominal roll has classified and arranged.

- “Legal Counsel”** shall include the Undersecretary, Directors, Legal Advisors, Public Attorneys, and other professional staff in the Ministry;
- “Family”** shall include:
- (a) Husband or wives of the Legal Counsel
  - (b) Children, brothers and sisters of the legal Counsel who are wholly depending on such Legal Counsel for livelihood.
  - (c) Children, brothers and sisters of the legal Counsel who are unable to earn for their living because of physical or mental disability.
  - (d) Parents of the legal Counsel who depend for their living, on such Legal Counsel.
- “Reinstatement”** means restoration of Legal Counsel to his or her previous post.
- “Promotions”** means upgrading of legal counsel to the next immediate higher post, grade or scale in the Ministry;
- “Transfers”** means a periodic administrative deployment or assignment of Legal Counsel from one area, directorate, Legal Administration or government institution to another.
- “Secondment”** means temporary administrative attachment or deployment of Legal Counsel to Government institution, private institution, regional, international organizations or to the South Sudan Missions, for a specific period.

## CHAPTER II

### RECRUITMENTS AND APPOINTMENTS OF LEGAL COUNSELS

#### 5. Advertisement of Positions

- (1) All vacant positions in the Ministry shall be advertised, except the vacancies which are to be filled through promotions.
- (2) All advertisement shall be for the period of two (2) weeks, through recognized media and on the Notice Board in the Ministry.

#### 6. Eligibility to Apply

A South Sudanese who is a holder of degree or higher qualification in law, from recognize university or institution of higher education, shall be eligible to apply to fill the advertised position.

#### 7. Terms and Conditions for Appointment

- (1) The Ministry may appoint such number of Legal Counsels as may be necessary for the discharge of the functions of the Ministry.
- (2) A South Sudanese who qualified for appointment as Legal Counsel under sub- section (1) shall be:
  - (a) A graduate of law
  - (b) An Advocate;
  - (c) Judge or Justice;
  - (d) Teaching staff of recognized law school.
  - (e) Legal practitioners.
- (3) The Ministry shall comply with the values and principles under the Constitution in the appointment of the Legal Counsel.
- (4) The Ministry shall deploy legal counsels to all South Sudan Missions abroad, States, Administrative Areas and all government institutions.
- (5) No person shall act as a legal counsel unless he or she has been appointed in the Ministry.

## **8. Reinstatement**

- (1) Subject to the provisions relating to the appointment under the Act, a legal counsel may be reinstated in his or her previous position.
- (2) Notwithstanding the provisions of subsection (1) of section (8), a legal Counsel shall not be reinstated in the Ministry if he or she has:
  - (a) resigned
  - (b) terminated for gross misconduct;
  - (c) retired
  - (d) terminated for health reasons.
- (3) Without prejudice to the provisions of sub-section (2)(d) of Section (8), a legal Counsel may be reinstated if he or she has presented a certificate issued by the Medical Commission proving his or her ability to perform the work.

## **9. Execution of Appointments and Reinstatements**

The Undersecretary or the Head of the Directorate of Administration and Finance shall execute the reinstatement to all positions.

## **10. Probation and confirmation of Services**

- (1) Assistant Legal Counsels appointed in the Ministry shall be under probation for the period of one (1) year.
- (2) An Assistant under probation shall not be entitled to:
  - (a) promotion
  - (b) secondment and
  - (c) leave without pay.
- (3) Assistant legal counsel shall be confirmed in permanent service, after successful completion of probation period and good performance report.

## **11. Commencement of Permanent Service**

Upon confirmation of the Assistant Legal Counsel in the permanent service, he or she shall be considered as permanent in the service with effect from the date of his or her appointment.

## **12. Legal Counsel Identity Card**

- (1) A legal counsel at his or her appointment, or reinstatement shall be issued with an identity card.
- (2) An identity card issued to a legal counsel shall be an official document and shall be accepted and respected by all institutions.

## **CHAPTER III**

## **PROMOTIONS**

### **13. Determination of Promotions**

The Minister, Deputy Minister and Undersecretary shall determine the vacant position for promotion in the Ministry.

### **14. Order of Promotions**

- (1) Promotions to the position of the Counsel General, Senior Legal Counsel and First Legal Counsel shall be by the Decree of the President upon the recommendation of the Minister.
- (2) Promotions to the positions of Second Legal Counsel shall be by the Order of the Minister.
- (3) Promotions to other grade of the Legal Counsels shall be by the Order of the Undersecretary and after approval by the Minister.

### **15. Bases for Promotions**

- (1) Promotions shall be based on existing vacancies in the approved nominal roll.
- (2) Without prejudice to Section 47 of the Act, Promotions of legal counsel shall be in accordance with the conditions of his or her appointment and the current grade of the legal counsel, considering the years spent in the position as follows:
  - (a) Open fair process, seniority and merit, process which include efficiency; qualification and experience in the field of work.
  - (b) Evaluation of performance, among other matters, annual and bi-annual review of agreed targets;
  - (c) Attitude towards work and his or her colleagues and
  - (d) Leadership qualities and satisfactory performance.

- (3) Promotion of any Legal Counsel shall be initiated at the departmental level for consideration by the promotion committees.
- (4) Promotions shall be made by selection with due regard to seniority.

#### **16. Criteria for Selection and Evaluation for Promotions**

- (1) Subject to the provisions of Section 47 of the Act, selection and evaluation of legal counsels for promotions shall be based on merits as follows:
  - (2) 65% for performance according to performance reports, with a minimum of two reports.
  - (3) 20% for education qualifications from recognized universities as follows:
    - (a) PhD degree with 5% points.
    - (b) Master's degree with 3%.
    - (c) Post graduate diploma with 2%.
    - (d) Bachelor of Laws (LLB) with 15%.
  - (4) 10% for Experience as below:
    - (a) 3 % for seniority in service and
    - (b) 7% for seniority in grade.

#### **17. Eligibility for Promotions**

A Legal Counsel may compete for Promotions if:

- (a) he or she spent the minimum period for Promotions provided in the Act and
- (b) his or her performance report is good.

#### **18. Administrative Arrangement for Promotions**

- (1) The Directorate of Administration and Finance shall prepare the following information:
  - (a) Confirmation of existence of the vacant positions for Promotions;
  - (b) Preparation the list of Legal Counsels eligible for Promotions;
  - (c) avail the confidential files and performance reports for the last three years.

- (d) lists of Legal Counsels on secondment and those on leave without pay in accordance with Section 48 of the Act.
- (2) the information referred to in sub-section (1) above shall be forwarded to the Undersecretary for verification and approval.

## **19. Formation of Promotions Committees**

- (1) The Minister shall form a committee headed by the Deputy Minister, membership of the Undersecretary and three (3) most Senior Counsels General, to recommend for promotions to the post of Counsel General.
- (2) The Minister shall form a Committee of three (3) Counsels General, to recommend for, promotions to the post Senior and First Legal Counsels.
- (3) The Undersecretary shall form a Committee of five (5) members, headed by a Senior Legal Counsel and membership of one (1) Senior Legal Counsel and three (3) First Legal Counsels, to recommend for promotions to the rest of the position.
- (4) All the Promotions committees shall include two (2) officials from Human Resource and Records Management departments in the Ministry as a member.

## **20. Procedures for Promotion Committees**

- (1) The Promotions committee shall:
  - (a) shortlist eligible legal counsels for Promotions to vacant position; and
  - (b) determine marks for each candidate on the prescribed form.
- (2) Where the promotion points tallied, the Committee shall:
  - (a) arrange the competitor's seniority based on the obtained marks;
  - (b) if the competitors are tallied in the marks, the Committee shall resort to the performance appraisal marks and
  - (c) if the competitors marks tallied, the Committee shall resort to the seniority based on the previous grade of the competitors.

## **21. Commencement of Promotions**

- (1) The Promotions shall commence from the date of the decision or from the date specified in the decision.



- (2) In case of Promotions of the Legal Counsel who is on study leave, secondment, or leave without pay, the Promotions shall commence from the date of resumption of his or her duties in the Ministry.

## **22. Rights to Appeal**

Any Legal Counsel who is aggrieved by the promotion's decisions may appeal to the Minister, Deputy Minister or the Undersecretary as the case may be within a period of fifteen (15) days from the date of publication of the order of promotion or from the date the decision came to his or her knowledge.

## **23. Exceptional Promotions**

The Minister in consultation with the Deputy Minister and the Undersecretary, may promote a legal counsel on exceptional circumstances based on his or her appraisal performance.

# **CHAPTER IV**

## **TRANSFERS**

### **24. Reasons for Transfers**

Transfers are made for the following reasons:

- (a) To deliver legal services to the all levels of the Government and South Sudan Missions abroad.
- (b) Enhancement of delivery of legal services
- (c) Exchange of knowledge and experiences and
- (d) Administrative rotation

### **25. Condition for Transfers**

- (1) Conditions for transfer of the legal counsels in the Ministry shall be as follows:
- (a) Counsel General in a period not exceeding four (4) years
  - (b) Senior and First Legal Counsels, in a period not exceeding three (3) years from the date of his or her last transfer.
  - (c) The Second, Third and Legal Counsel in a period not exceeding two (2) years.

- (2) Notwithstanding the provisions of subsection (1) above, Assistant Legal Counsel on probation period shall not be transferred, except for public interest.

## **26. Eligibility for Transfer**

A Legal Counsel shall be eligible for transfer if he or she has been in service at the Ministry for a period not exceeding two (2) years.

## **27. Power to make Transfers**

- (1) Transfers of Counsel Generals, Senior and First Legal Counsels shall be made by the Minister in consultations with the Deputy Minister and the Undersecretary.
- (2) Transfers of Second, Third, Legal and Assistant legal Counsel shall be made by the Undersecretary after consultations with the Deputy Minister and the Minister.

## **28. Transfers Committee**

- (1) The Minister in consultations with the Deputy Minister and the Undersecretary shall make transfers of Counsel Generals.
- (2) The Minister shall constitute a committee headed by the Undersecretary for transfers of Senior and First Legal Counsels.
- (3) The Undersecretary shall constitute a Committee to be headed by the most Senior Counsel General to recommend for transfers of the rest of the grades.

## **29. Execution of Transfers Orders**

- (1) Legal Counsels are required to execute the Transfers order without failure in accordance with date specified in the order.
- (2) In the event the legal counsel refused to execute the transfer order he or she shall be subjected to disciplinary action.

## **30. Review of Orders of Transfers**

- (1) The transferred Legal Counsel may submit an appeal to the Minister, the Deputy Minister and the Undersecretary as the case may be, to review the transfers order within the period specified for execution of the order.
- (2) A decision in respect of the appeal for review referred to in sub-section (1) above, shall be made within a period not exceeding two (2) weeks from the date of the submission of the appeal.

- (3) If the decision is not made within one week from the date of submission of the appeal, the order of transfers shall be deemed final.

### **31. Transfers Guidelines**

- (1) Transfers of the Legal Counsels shall be made in accordance with the following guidelines:
  - (a) the Head of Directorate of Administration and Finance shall provide the Transfers Committee with a list containing names of Legal Counsels, their present place of work and their positions.
  - (b) the Directorate of Administration and Finance, shall prepare annually the form of desires of the Legal Counsel, place of work, date of resumption of work, places where he or she worked, the State or Legal Administration where he or she desires to work and the reasons accompanied with the recommendation of his or her direct responsible superior.
- (2) When making Transfers, the following shall be observed:
  - (a) fair deployment of the Legal Counsels to all levels of the Government and South Sudan Mission abroad.
  - (b) specialization, work interest, conditions of the Legal Counsels and his or her position.
  - (c) Assistant Legal Counsels who are on probation period shall not be transferred, except for public interest.
- (3) A copy of orders of transfers shall be given to the Directorate of Administration and Finance for implementation.

### **32. Handing over**

- (1) Upon transfer a legal counsel shall hand over the office including all pending cases and government assets to his or her successor.
- (2) In the event the legal counsel refused to implement the handing over, he or she shall be subjected to disciplinary action.

### **33. Transport on Transfer**

A Legal Counsel shall be entitled on his or her transfer, for transportation with his or her family and amenities, on the expenses of the Government by the available means of transport to be determined by the Undersecretary.

## CHAPTER V

### SECONDMENT

#### 34. Reasons for Secondment

A legal counsel maybe seconded to government institution, private sector, South Sudan Missions abroad or national, regional and international organizations to provide legal services for specified period.

#### 35. Types of Secondment

- (1) The secondment to all government, Missions abroad and private companies to which the government is a shareholder shall be made upon the decision of the Ministry.
- (2) A secondment maybe made by the Ministry, upon the request by the organization or private sector, to which the legal counsel is to be seconded.

#### 36. Procedure for Secondment

- (1) A Legal Counsel may be seconded to any government institutions, private companies to which the government is a shareholder, South Sudan Missions abroad or national, regional and international organizations shall be for the following conditions:
  - (a) has been in service for a period of two (2) years.
  - (b) Be on secondment for the period of two (2) years subject to renewal for another one term.
  - (c) shall be administratively and technically under supervision of the Ministry.
- (2) At the end of the secondment or where the secondment is terminated, a Legal Counsel shall return to the Ministry.

#### 37. Termination of Secondment

- (1) The institution or organization may terminate secondment of the Legal Counsel if his or her performance is unsatisfactory or the need of the work is no longer required.
- (2) The institution or the organization to which the legal counsel is seconded shall notify the Ministry at least one month prior to the termination.

- (3) The Ministry may terminate the secondment of the Legal Counsel for unsatisfactory performance or for interest of the work.
- (4) The Ministry shall notify the institution or the organization to which the legal counsel is seconded of the termination of secondment at least in one month prior to the termination.

### **38. Power to Approve or Renew Secondment**

The Minister upon recommendation of the Deputy Minister and the Undersecretary, shall approve, renew or terminate a Legal Counsel secondment.

## **CHAPTER VI**

### **LEAVES**

#### **39. Annual Leave**

- (1) A Legal Counsel shall be entitled for annual leave every year and a cash of gross one month salary, in accordance with Public Service Act,2012.
- (2) While granting the leave, interest of work shall be a paramount consideration by the approving authority.

#### **40. Study Leave**

The Minister, the Deputy Minister, the Undersecretary and the Director of Administration and Finance, as the case may be, may grant a Legal Counsel a Study leave pursuant to the conditions and regulations as follows:

- (a) the study course shall not affect the work in the concerned directorate, department or unit;
- (b) performance appraisal shall not be less than excellent or very good and
- (c) has spent five (5) years of service in the Ministry.

#### **41. Leave with pay**

- (1) Notwithstanding the generality of the provisions of section 39 of this Regulations, all Legal shall be entitled to the following categories of leave with pay:
  - (a) Sick leave
  - (b) Maternity leave and
  - (c) Leave to attend spouse's delivery.

- (2) The Minister shall be responsible for determination of leave with pay for Counsel Generals, Senior Legal Counsels and First Legal Counsels and make decisions on maximum period of such leave.
- (3) The Undersecretary shall after consultations with the Minister and the Deputy Minister determine leave with pay and maximum duration of leave, based on the position occupied by a Legal Counsel.
- (4) The Director of Administration and Finance shall after the determination by the Minister or the Undersecretary, pay a compensation to such Counsel Generals, Senior Legal Counsel, First Legal Counsel or other grades of the Legal Counsels.

#### **42. Leave without Pay**

- (1) A Legal Counsel may be granted leave without pay upon his request and for convincing and acceptable reasons for a period not exceeding five (5) years.
- (2) A legal Counsel shall continue holding his or her post during the leave without pay.
- (3) The power to approve the leave without pay shall be by the decision of the Minister in relation to the Counsel Generals, Senior and First Legal Counsels and by the decision of the Undersecretary in relation to the rest of the grades.

#### **43. Leaves Records**

The Ministry shall keep complete record of all types of the leaves which the Legal Counsel enjoys

## **CHAPTER VII**

### **ANNUAL INCREMENTS AND ALLOWANCES**

#### **44. Annual Increments**

- (1) Assistant Legal Counsel shall be granted an annual increment after his or her confirmation in the service
- (2) A legal counsel in the permanent service shall be entitled automatically for annual increment for each year in service.

- (3) A Legal Counsel who is on secondment or leave without pay, shall be granted a nominal annual increment on the date of his or her entitlement.
- (3) The Head of Directorate of Administration and Finance shall sign the notification of each annual increment.
- (4) The Ministry shall notify the Legal Counsel in writing of each annual increment to be granted or deprived if such legal counsel is under disciplinary penalties.

#### **45. Post-Graduate Allowances**

- (1) A Legal Counsel, who holds a post graduate degree before or during service, shall be granted a monthly academic qualification allowance, outside the salary scale in accordance with the rates specified in the condition of service of the Ministry.
- (2) If the Legal Counsel holds a higher academic qualification, the allowance shall be raised to the equivalent rate.

#### **46. Uniform Allowance**

A Legal Counsel shall be entitled to uniform allowance of six (6) months basic salary, once a year in accordance with this Regulations.

#### **47. Social Allowances**

A married Legal Counsel shall be entitled to monthly social allowance, in accordance with the rates specified by the Ministry.

#### **48. Meal Allowance**

A Legal Counsel shall be entitled to a monthly meal allowance in accordance with the rates specified in the cola of his or her salary sheet.

#### **49. Hardship Allowance**

A Legal Counsel who is assigned to perform a work in areas associated with hardship shall be entitled to hardship allowance.

#### **50. Mission Allowance**

A Legal Counsel who is assigned duties outside his or her work place shall be entitled to mission allowance in accordance with the laws and Regulations.

#### **51. Hospitality Allowance**

Heads of the Directorates and Heads of the State's Legal Administration, shall be entitled to monthly hospitality allowance, in accordance with laws and Regulations.

#### **52. Acting Allowance**

- (1) A Legal Counsel who is acting to perform an additional duty to his or her duties of the higher grade shall be entitled to acting allowances in accordance with the Regulations.
- (2) Acting allowance shall be the difference between the basic salary of the higher post and the substantive basic salary of the acting Legal Counsel plus benefits allowances.

#### **53. Reference Allowance**

A Legal Counsel shall be entitled annually to reference allowance of six (6) months basic salary in accordance with this Regulations.

#### **54. Cash Substitute Allowance**

A Legal Counsel shall annually be entitled to the cash substitute, equal to six (6) months basic salary in accordance with this Regulations.

#### **55. Foreign Air ticket Allowance**

The Undersecretary, Counsel General and Senior Legal Counsel shall be entitled for foreign air ticket of six (6) months basic salary in accordance with this Regulations.

#### **56. Incentive**

The Minister upon recommendation of the Deputy Minister and the Undersecretary, as the case maybe, grant a Legal Counsel, who performs excellent work an incentive in accordance with this Regulations.



## CHAPTER VIII

### RESIGNATION AND TERMINATION FROM SERVICE

#### 57. Resignation

- (1) A Legal Counsel may submit a written resignation to the Minister or the Undersecretary as the case may be.
- (2) Notwithstanding the provisions of sub-section (1) above, the resignation shall be presumed to have been accepted, after expiry of ninety (90) days from the date of its submission, and the service shall be terminated on that date.
- (3) On the health grounds, a Legal Counsel may resign his or her post if the Legal Counsel is:
  - (a) unable to perform his or her duties due to serious infirmity;
  - (b) of unsound mind or declared by Medical Commissioner to be unfit.

#### 58. Early Retirement

A legal counsel who has served for a period of at least twelve years of service may apply for early retirement.

#### 59. Absence from Work

A Legal Counsel who remains absent from work for consecutive forty-five days, shall be presumed to have resigned.

#### 60. Failure to Execute Order of Transfer

A Legal Counsel may be terminated if he or she refuse to execute the decision of the transfer, without lawful excuse, after expiration of thirty (30) days from the date of execution of the transfer order.

#### 61. Execution of Order for Termination of Service

The Directorate of Administration and Finance, shall execute the order for termination from service of the Legal Counsels.

## MISCELLANEOUS PROVISIONS

### 62. Conducive Work Environment

The Ministry shall ensure conducive work environment to all Legal Counsels so as it may improve work performance, efficiency and effectiveness.

### 63. Training

- (1) Legal Counsels shall be entitled for professional training annually
- (2) The training shall include continuous legal training, examination for qualification to bar and any other training as the Ministry may deem fit.

### 63. Rules and Orders

The Minister may issue rules and orders, for the efficient and effective implementation of these Regulations.

Issue under my hand on .....this day of .....2022

**Justice. Ruben Madol Arol**  
**Minister**  
**Ministry of Justice and constitutional Affairs**  
**Republic of South Sudan**  
**Juba**