

LAWS OF THE NEW SUDAN

PASSPORTS AND IMMIGRATION ACT, 2003

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(PROVISIONAL ORDER)

Laws of the New Sudan

Passports And Immigration Act, 2003

An Act to provide for the grant of New Sudan Passports and to control entry into, exit from and residence in the New Sudan and matters related to and connected therewith.

Chapter One

Preliminary

1. ***Title and Commencement:-*** This Act may be cited as Passports and Immigration Act, 2003 and shall come into effect on the date of signature.
2. ***Repeal and Saving:-***
 - i) Passports and Immigration Act, 1994 is hereby repealed.
 - ii) All acts, orders and regulations done or issued under the repealed Act, shall, unless and until specifically cancelled, or amended remain in force, and shall be deemed to have been done or issued in accordance with the provisions of this Act.
3. ***Definitions:-***

In this Act, unless the context otherwise requires, the following words and expressions shall carry the meanings attached to them:-

“Alien” means a person who is not a New Sudan National.

“Commissioner” means the Commissioner for Interior.

“Competent authority” includes any official authorized by the Commissioner to exercise any of his powers under this Act.

“Entry” includes re-entry.

“Foreign Service Passport” includes diplomatic passports, special passports and passports for a mission.

“Passport” means any kind of travel document issued by a state or international authority, entitling its holder to travel beyond the boundaries of his own state or, in the case of a stateless person, to travel to a destination other than the Country of domicile.

“Ordinary Passport” means a passport other than a foreign service passport.

“New Sudan National” means a person who is a New Sudan National within the meaning of the Nationality Act, 2003.

“Transit passenger” means a traveler passing through the New Sudan on transit from one foreign country to another and whose stay in the New Sudan does not exceed such a period as the Commissioner may from time to time prescribe.

4. Delegation of Powers:-

i) The Commissioner may delegate all or any of his powers under this Act, other than his powers under sections 9, 13, 19, 28 and 34, to a competent authority.

ii) The Commissioner for Interior may delegate all or any of his powers in respect of matters required to be done outside the New Sudan, to the head of the appropriate New Sudan diplomatic mission abroad.

Chapter Two

Passports

5. Classification of Passports:-

The New Sudan Passports shall be classified as follows:-

i) Ordinary Passports.

ii) Foreign Service Passports classified as follows:-

a) Diplomatic passports.

b) Special passports.

c) Mission passports.

6. Issuance, Validity And Renewal Of Foreign Service Passports:-

i) Foreign service passports may be issued by the Commissioner for Interior on request from Commissioner for Foreign Affairs to such New Sudan Nationals or classes therein as he may prescribed by regulations.

ii) Foreign service passports shall remain valid for such periods, and may be renewed for such further periods as the Commissioner may prescribe.

iii) The Commissioner for Interior may prescribe and design forms for foreign service passports and may with the consent of the Commissioner of Finance and Economic Planning, prescribe the fees, if any, payable for the issuance and renewal thereof.

7. Issue of Ordinary Passports:-

i) Any New Sudan National not holding a valid passport issued under the preceding section, shall be entitled to an ordinary New Sudan Passport, permitting him to travel outside the New Sudan.

ii) Ordinary passports shall be issued by the Commissioner of Interior. They shall be valid for such periods and renewable for further periods as the Commissioner may prescribe.

8. Endorsement of Passports.

i) Every passport shall be endorsed with the names of foreign Countries which the holder is authorized to visit.

ii) The passport holder shall not be entitled to visit any other Country, notwithstanding that such a Country or any other Country issues him a passport or a permit authorizing him to visit such a Country.

iii) The Commissioner may endorse the names of additional Countries on an existing valid passport.

9. Refusal, Withdrawal and Cancellation of Passports:-

i) The Commissioner may at anytime, refuse the issuance, withdrawal or cancellation of any passport, issued by him, if he is satisfied that:-

a) the applicant for or holder thereof, may not be, fit or qualified to hold such passport;

b) he is of a bad character; or

c) his travel abroad is likely to prejudice the national interests of the New Sudan or of its public security; or

d) he is in breach of the provisions of section 8 (ii) above.

ii) When a passport is declared withdrawn or cancelled, under subsection (i) above, the holder or any other person in physical possession of the passport, shall forthwith, surrender the same to the Commissioner for destruction

iii) Any decision, by the Commissioner, on the issuance, renewal, withdrawal or cancellation of a passport shall be final and not subject to review by any court of law.

Chapter Three

Entry Into And Departure From The New Sudan

10. Points of Entry, Exit and Visa:-

i) No person shall enter or depart from the New Sudan, except through the points of entry and exit to be prescribed from time to time by the Commissioner and published in the Gazette.

ii) Save as hereinafter provided, no alien shall enter the New Sudan unless he is in possession of a valid entry visa.

iii) An entry visa shall be granted by a competent authority, and shall where practicable, be endorsed on the alien's passport.

iv) An entry visa shall not be granted unless the alien is in possession of a passport which:-

a) is valid for the whole of the period granted for his stay in the New Sudan; and

b) entitles him to return to the Country issuing such passport or entitles him to travel to another Country other than the New Sudan.

11. Refusal or Cancellation of Entry Visa:-

1) Any entry visa may be refused, or, if granted may be cancelled at the discretion of the Commissioner and without disclosure of reasons.

2) Without prejudice to the provisions of the preceding subsection, an entry visa shall not be granted to any alien who:-

a) is an idle person or vagabond in accordance with the provisions of the Penal Code 2003.

b) does not possess or is not in a position to obtain the means of supporting himself and dependents who desire to enter with him, or

c) is suffering from a contagious disease, mental infirmity or temporary insanity.

Provided that any entry visa may be granted in such cases if:-

3) the entry is for the purpose of treatment or convalescence, and

ii) the alien has adequate financial security, to cover the expenses of his residence in the New Sudan and of his return to his country of origin, and

- iii) the Commissioner of Health consents for his entry.
- d) is not in possession of such valid certificates of inoculation or immunization as the Commissioner for Health may from time to time prescribe, or
- e) would, if in the New Sudan, be a fugitive or criminal, or
- f) has previously been declared to be an undesirable alien or had been deported from the New Sudan, but the Commissioner may in any particular case authorize the grant of an entry visa to such alien, or
- g) is likely, that his presence in the New Sudan, may prejudice public security or breach of peace or injuriously affect relations with foreign states, or
- h) is a trafficker or reasonably suspected to be a trafficker in hashish, opium, narcotics or any other stupefying drugs, or
- i) enters the New Sudan for the purposes of prostitution, homosexuality lesbianism or white slave trafficking; or
- j) is registered in the non-entry control list of the Secretariat of Interior.

12. Exit Visa:-

- 1) Any person leaving the New Sudan shall be in possession of a valid exit visa.
- 2) An exit visa shall be granted by the competent authority and shall where practicable, be endorsed on the passport of the person to whom it refers.
- 3) No exit visa shall be granted to:-
 - a) an alien in possession of temporary residence permit and accused of a criminal offence not yet tried.
 - b) an alien in possession of a special or ordinary residence permit, accused of a criminal offence not yet tried.
 - c) an alien indebted to the Civil Authority of the New Sudan for any sum of money.
 - d) A New Sudan national, accused of a criminal offence.

- e) a person convicted more than once, for smuggling.
 - f) a person against whom there is reasonable ground of suspicion that his activities in a foreign country may taint the good name of the New Sudan or injure its relations with that country.
 - g) a person found to be unable to pay the cost of his journey to any intended destination including the cost of his stay there and return to the New Sudan.
 - h) an infant who has not reached the age of 18 years, save with the consent of his parents or guardians.
- 4) The following persons shall not require an exit visa in order to leave the New Sudan:-
- a) holders of foreign diplomatic passports.
 - b) officials of the United Nations and other recognized International bodies.
 - c) visitors staying in the New Sudan for not more than three months.
 - d) any other person or class of persons, from time to time, exempted, from such requirement by regulation made under this Act.

13. Local Exemption For Temporary Purposes:-

The Commissioner may by order exempt from all or any of the provisions of this Chapter, or of any regulations made thereto:-

- a) any person or class of persons being nationals of or residents in, any neighboring country so as to enable them to enter and remain in an adjacent frontier county of the New Sudan for a period not exceeding 14 days so as to enable them re-enter such county at the expiration of such period.
- b) any person or class of persons being nationals or residents in a frontier county who leave such county for neighboring country to enable them re-enter such county at the expiration of such period.

Chapter Four

Residence In The New Sudan

14. Prohibition of Residence Without Permit:-

Subject to the provisions of this Chapter, no alien shall reside in the New Sudan without a valid residence permit.

15. Classification of Residence Permits:-

Residence permits in the New Sudan shall be classified as follows:-

- 3) special permits,
- ii) ordinary permits, and
- iii) temporary permits.

16. Special Residence Permits:-

- a) special residence permits may be granted to the following:-
 - i) aliens who have been continuously resident in the New Sudan for a period of not less than 15 years.
 - ii) aliens who lawfully entered and stayed in the New Sudan for a period in excess of five years, and are carrying out scientific, technical or commercial work or providing services, which the Commissioner, on the advice of the Secretariat or department concerned, considers to be of value to the New Sudan.
- b) A special residence permit shall be valid for a period of five (5) years and renewable for similar periods.

17. Ordinary Residence Permits:-

- a) Ordinary residence permit may be granted to the following:-
 - i) aliens who have been continuously resident in the New Sudan for a period not less than five years.
 - ii) aliens who lawfully entered and stayed in the New Sudan for a period exceeding two years and are carrying out scientific, technical or commercial work or providing services which the Commissioner on the advice of the Secretariat or department concerned, considers to be of value to the New Sudan.
- b) An ordinary residence permit shall be valid for a period of two years and renewable for similar periods.

18. Temporary Residence Permits:-

a) Aliens not eligible for special or ordinary residence permits may be granted temporary residence permits.

b) Temporary residence permits shall be valid for a period not exceeding 12 months and may be renewed for further periods not exceeding 12 months in each renewal.

19. Forfeiture of Residence Permits:-

1) An alien who has been granted a special or ordinary residence permit, shall forfeit that permit if he is continuously absent from the New Sudan for a period of more than six months, unless he has obtained a re-entry visa from the Commissioner before departure from the New Sudan or before the expiration of such period.

2) The Commissioner may grant or refuse such re entry visa, at his discretion.

3) If the period of continuous absence exceeds one year, notwithstanding the grant of re-entry visa, the residence permit shall be forfeited, but without prejudice to the right of the alien to apply for a fresh residence permit of the kind appropriate to the circumstances at the time.

4) The provisions of subsection (3) of this section shall not apply in case of an alien who is absent from the New Sudan on a mission on behalf of the Civil Authority of the New Sudan.

20. Cancellation of Residence Permits:-

If the grounds on which a special or ordinary residence permit was granted cease to exist, the permit in question shall be cancelled, provided that if new grounds on which such residence permit might be granted, continue to exist, the said residence permit may, if the Commissioner agrees thereto, continue to be valid.

21. Scope of Residence Permits:-

A residence permit covers the alien, wife or wives, children and dependents.

3) Exemption:-

Tourist staying for a period not exceeding three months in the New Sudan are exempted from taking residence permits.

Chapter Five

Report By Aliens To Competent Authority

23. Report by Aliens:-

- a) Every alien, on entering the New Sudan shall, report himself to the nearest competent authority and shall write a declaration concerning his identity, the purpose of his visit, the length of his residence permit, the place of ordinary residence, the date of residence and such other particulars as set out in the prescribed form thereof and shall produce his passport, entry visa and any other documents supporting such particulars.

- b) The owner or manager of any hotel, lodge or guest house in the New Sudan shall:-
 - i) require any alien guest, upon arrival at the hotel, lodge, guest house or private residence, to complete the prescribed form, to be signed together with the necessary particulars of the alien's visit, and shall deliver such form within 24 hours to the nearest competent authority. The owner or manager of the hotel, lodge or guest house shall notify the competent authority of the alien's departure, within 24 hours of the same.

 - ii) enter the names of aliens residing in the hotel, lodge, guest house or private residence, in the record prescribed by the competent authority showing all the required particulars.

 - iii) allow any person sent by the competent authority to inspect and examine that record.

- d) Any person who accommodates an alien or arranges a place for his residence, shall notify the competent authority within (24) Twenty four hours of the arrival of the said alien.

- e) Everyone who employs an alien shall forward to the competent authority, within whose area the place of work lies, a declaration within three days from the date of employment of the alien, and shall on the termination of employment, forward a declaration to that effect within 48 hours from the date of such termination

- f) Every alien who wishes to visit any other area within the New Sudan shall obtain permission from the central aliens registration office or the registration office in his area and shall report to the competent authority within 24 hours of his arrival in the new area.

24. Registration of Aliens:-

Every alien resident in the New Sudan for more than three months shall apply to the registration officer of aliens, for registration, in the area in which he resides. The registration officer shall upon completion of registration, issue the alien with an identity certificate.

3) Loss of Passport or Identity Certificate:-

Every alien shall report to the police, the loss of his passport or identity certificate, within 48 hours from the discovery of that fact.

Chapter Six

Deportation Of Aliens

26. Grounds for Deportation:-

Subject as hereinafter mentioned:-

a) Any alien who is declared by the Commissioner to be an undesirable alien shall be deported from the New Sudan.

b) The Commissioner may deport from the New Sudan any alien who:-

i) commits a breach of any of the conditions subject to which permission to reside in the New Sudan was granted.

ii) is recommended, for deportation or convicted, under section 27 of this Act.

c) Any alien who:-

i) enters the New Sudan without a visa or permission, or

ii) remains in the New Sudan after such permission has expired or has been cancelled,

In addition to any other penalty to which he may be liable under this act, shall be recommended to be deported from the New Sudan by the court trying him.

27. Establishment and Procedures Aliens Advisory Board:-

a) The Commissioner shall set up a Board to be known as the "Aliens Advisory Board" to which he may refer for advice, any case in which he proposed to declare an alien to be an undesirable alien, or in which he proposes to deport an alien in possession of a valid special or ordinary residence permit.

b) The Aliens Advisory Board shall be constituted as follows:-

i) The Attorney General or his representative (Chairman).

- ii) Under Secretary-Secretariat of Interior or his representative (Secretary)
 - iii) A representative of Secretariat of Foreign Affairs (Member).
 - iv) Director of Passports, Immigration and Nationality Administration (Member).
 - v) Two representatives from Directorate of Public Security in the Secretariat of Interior (Members).
- c) The quorum for the meetings of the Board shall be four.
- d) In considering the case of such an alien, the Board shall consider all the relevant facts and shall in particular have regard to the following:-
- i) whether the alien is or is likely to become a burden on the New Sudan by reason of lack of funds or any other lawful means of subsistence.
 - ii) whether his presence in the New Sudan is likely to prejudice relations with other states; the security, the economic welfare, and public security or good order of the New Sudan.
 - iii) whether his presence in the New Sudan is likely to endanger public health or public morality.
 - iv) whether he has been recommended for deportation by a court of law after conviction of an offence punishable with more than six months imprisonment.
 - v) whether he has been convicted of an offence in the New Sudan involving moral turpitude.
- e) An alien whose case is referred to the Board may appear in person or through his representative, agent or advocate, before the Board.
- f) Before declaring the alien, whose case has been referred to the Board, as an undesirable alien, or making a deportation order, in his case, the Commissioner shall take into consideration, the advice of the Board, but shall not be bound thereby. Provided that in certain special cases, the Commissioner shall take a decision after consultation with the Chairman.
- g) The Board shall sit in private and its recommendations shall be confidential and shall not be published.

- 28. Recommendation for Deportation Made by a Court of Law:-**
1) Any Court which convicts an alien of an offence punishable with imprisonment for six months or more may, in addition to any other penalty, recommend to the Commissioner that the alien be deported.
2) The Commissioner may refer any such recommendation to the Aliens Advisory Board for advice.
- 29. Commissioner's Decision to be Final.**
The declaration of the Commissioner that the alien is an undesirable person or his decision to deport him shall be final and conclusive not subject to review by any court of Law.
- 30. Procedure on Deportation:-**
1) An alien whose deportation has been recommended by a court or whose deportation order has been issued by the Commissioner, may be arrested and imprisoned pending his deportation.
2) An alien may, in lieu of imprisonment, be ordered by the Commissioner to reside in a specified place and report daily or at such specified intervals as the Commissioner may order, to the local police station till the date of his deportation.
3) The Commissioner may direct that any money or property in the New Sudan belonging to the alien ordered to be deported, be used for payment of expenses of his deportation and maintenance of his dependents, if any.

Chapter Seven

- 31. Arrest of Aliens Entering the New Sudan Without Permission:-**
A competent authority or Police may:-
a) arrest without warrant any alien who enters or remains in the New Sudan without permission, and detain him in the police custody or release him on bail pending his trial or deportation.
b) refuse entry to any alien who attempts to enter the New Sudan without permission, and enforce his removal from the New Sudan at the point of attempt to enter, in such manner as may be deemed appropriate.

c) arrest without warrant any transit passenger who discontinues his journey without permission, and detain him in the police custody or release him on bail until he is either brought before a court or removed from the New Sudan by the representative of the shipping or transport company, or airline on whose ship vehicle or aircraft he was passing on transit, and in such case, the said representative shall be liable to the New Sudan Civil Authority, for costs incurred as a result of his arrest, detention and removal.

Procedures, Offences And Penalties

32. Offences and Penalties:-

- 1) Without prejudice to any other penalty to which he may be liable under the Penal Code or any other Law in force, any person who for the purpose of obtaining for himself or any other person, a passport, entry or exit visa, residence permit, or any other document issued under this Act; or any renewal or replacement of such document, makes any statement which is false in any material particular, which he either knows or believes to be false commits an offence and shall on conviction be liable to imprisonment for a term not exceeding 2 years or with fine not exceeding Ls.300, or both.
- 2) Any person who violates any of the provisions of this Act, or any regulations made hereunder, commits an offence and shall on conviction be liable to imprisonment for a term not exceeding six months or with fine not exceeding Ls.60 or with both.
- 3) Any person convicted for a second offence under section 32 (2) shall, in addition to any other penalty, have his passport withdrawn or cancelled, and shall be deprived of the right to recover or obtain a new passport for a period of five years or such other lesser period as in any particular case, the Commissioner may think fit.
- 4) Any person who enters the New Sudan by illegal means commits an offence and shall on conviction be liable to imprisonment for a term not exceeding two years or with fine not exceeding Ls.300 or with both.
- 5) Any person who facilitates the illegal entry into the New Sudan, of an alien or who shelters such a person, commits an offence and shall on conviction, be liable to imprisonment for a term not exceeding six months or fine or with both.

Chapter Eight

Miscellaneous

33. Duties of Captains, Pilots and Drivers:-

i) A Captain of a ship, a pilot in command of an aircraft or a driver of a vehicle shall on arrival to the New Sudan, present to the competent authority a list of the crew and passengers with all the necessary particulars.

ii) The Captain, pilot or driver in command shall draw the attention of the competent authority to the case of any passenger who has no passport or whose passport is suspected of being invalid or irregular.

iii) If a member of the crew or a transit passenger who is booked to continue his journey on the same ship aircraft or vehicle fails to re-embark, the Captain, pilot or driver shall surrender to the competent authority, the passport of such person, if it is in the custody of the Captain, pilot or driver.

34. Entry on Ship, Aircraft or Vehicle by Competent Authority:-

A competent authority may enter a ship aircraft or vehicle for the purposes of completing inquiries concerning any alien.

35. Captain or Pilot to Remove Persons without Entry Permits:-

The Captain, Pilot or driver shall at the request of a competent authority receive back into the ship, aircraft or vehicle and remove from the New Sudan, any alien not in possession of a valid permit to enter the New Sudan.

36. Duty to Give Particulars:-

Any person entering or leaving the New Sudan shall give all the relevant particulars as may be requested by the competent authority.

37. Regulations:-

1) The Commissioner may make regulations for the efficient and effective implementation of the provisions of this Act.

2) Without prejudice to the generality of subsection (1) above, the Commissioner may by such regulations:-

i) prescribe forms for passports, entry and exits visas, residence permits, hotels, and guests houses visits.

ii) with the consent of the Commissioner for Finance and Economic Planning, prescribe fees for the issuance or renewal of any of the above mentioned documents.

iii) regulate the issue of identity certificates to registered aliens, the exemption of specified class or classes of aliens from registration and any other matters of concern thereto and connected therewith.

iv) provide for the exemption of transit areas of ships, aircrafts, vehicles and passengers from the provisions of this Act and subject to such conditions, as he may from time to time prescribe.

37. Personal Exemption:-

The Commissioner may grant a personal exemption from all or any of the provisions of this Act or regulations made hereunder to:-

- 1) The heads or other dignitaries of foreign Governments or International Organizations; and
- 2) Political refugees from foreign Countries; and
- 3) Any other persons or body of persons whom the Commissioner on grounds of courtesy, reciprocity or for special reasons, considers fit to be granted such exemption.

Given under my hand this _____ Day of _____ in the year 2003 A.D

Dr. John Garang deMabior

Chairman

SPLM/CANS