LAWS OF THE NEW SUDAN

THE FORESTRY COMMISSION ACT, 2003

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(PROVISIONAL ORDER)

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(PROVISIONAL ORDER)

LAWS OF THE NEW SUDAN

THE FORESTRY COMMISSION ACT, 2003

CHAPTER ONE

PRELIMINARY

1. TITLE AND COMMENCEMENT:-

This Act may be cited as The Forestry Commission Act, 2003 and shall come into effect on the date of Signature.

2. Repeal and Saving:-

(i) The Forestry Commission (Provisional Order), 2000 is hereby repealed.

(ii) All acts, orders and regulations done or made under the repealed Act shall continue in force till repealed, or amended in accordance with the provisions of this Act.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 assigned to them: -

"Commission": means The Forestry Commission established under Section 4 of this Act.

"Commissioner": means the Commissioner for Agriculture, Forestry and Animal Resources.

"SPLM": means the Sudan People's Liberation Movement.

"CANS": means Civil Authority of the New Sudan.

"LC": means the Leadership Council of SPLM and CANS.

"Chairman": means the Chairman of SPLM and CANS.

"Commission for Economy": means the Commission for Economic Production, Human Resource Development and Physical Infrastructure.

"*Attorney General*" means the Commissioner for Legal Affairs and Constitutional Development.

CHAPTER TWO

ESTABLISHMENT AND FUNCTIONS OF THE COMMISSION

4. Establishment of the Commission:-

There shall be established under this Act a Forestry Commission here in after referred to as "the Commission".

5. Functions of the Commission:-

(i) The Commission shall be responsible for the regulation, management and utilisation of forests and forestry resources of The New Sudan and the co-ordination of policies in relation to them.

(ii) Without prejudice to the provisions of sub-section (i) of this section, the Commission shall: -

a) advise on national policy and practices related to forests, forestry resources and associated economic activities;

b) make a comprehensive database information on national forests and forestry resources for decision making by the relevant authorities.

c) recommend research and training priorities consistent with the national forestry policy;

d) collate, analyse and disseminate information of forests, forestry resources and associated resources;

e) publish journals and periodicals on research findings in the forestry sector;

f) educate the public on the effective and efficient utilisation of forests, forestry resources and matters concerning forests generally;

g) receive, assess and advise on the approval and implementation of investment proposals and projects involving forests and associated resources;

h) monitor and co-ordinate the operations of agencies charged with the implementation of the New Sudan policies on the management and utilisation of forests and forestry resources;

i) co-operate and liaise with the national, regional and international organizations and agencies on matters of forests, conservation, utilization and environmental issues generally;

j) advise on land use and development affecting forests, forestry and associated resources;

k) advise the commissioner on matters concerning forests, forestry and associated resources; and

l) perform such other functions as are incidental to the specified functions.

6. Departments of the Commission:-

(i) The Commission shall have such departments as may be determined in consultation with the Commissioner and the Commission for Economy.

(ii) Each department shall have as its head a Director who shall be appointed by the Chairman on the recommendation of the Commission for Economy.

7. Accountability of the Commission:-

The Commission shall be answerable to the Chairman of the Commission for Economy through the Commissioner.

CHAPTER THREE

COMPOSITION, APPOINTMENT, QUALIFICATION OF MEMBERS AND RELATED PROVISIONS.

8. Composition of the Commission:-

The Commission shall be composed of:-

a) a chairman who shall not be a Commissioner or Deputy Commissioner.

b) the Chief Administrator referred to in section 13 (1) of this Act.

c) five persons with sufficient knowledge and experience in forests, forestry and associated resources, inclusive of representative of the Attorney General of the New Sudan.

9. Appointment of Members: -

(1) The members of the Commission shall be appointed by the Chairman on the recommendation in consultation with the Commissioner.

(2) Subject to the other provisions of this Act, members of the Commission shall be appointed on such terms and conditions as the Chairman may determine.

(3) Members of the Commission shall hold office for four years and may on the expiration of that period be re-appointed for further terms.

(4) A member nominated by an authority as its representative on the Commission shall cease to be a member if the Chairman revokes his appointment on the

recommendation of the relevant authority by a letter addressed to him and copied to the chairman of the Commission.

(5) The chairman of the Forestry Commission shall notify appropriate institutions on vacancies, which occur in the membership of the Commission.

(6) Where the chairman or any member of the commission is incapacitated by illness or any other reasons from performing the functions of his office, the Chairman may, in consultation with the appropriate institutions, appoint another person to perform the functions of the member until that member is able to resume his duties.

10. Qualifications for Membership of the Commission:-

(1) No person shall qualify to be a member of the commission if:-

a) he had been adjudged or otherwise declared:-

i) bankrupt under any law in force in the New Sudan and has not been discharged; or

ii) he is insane or suffering from any other incapacity.

b) he had been convicted:-

i) for high treason or for an offence involving fraud, dishonesty or moral turpitude; or

ii) for any other offence punishable with death or imprisonment for a term not less than ten years.

c) he had been found by the report of a commission or board of inquiry to be incompetent to hold public office or is a person in respect of whom the commission or board of inquiry has found that, while being a public servant he acquired assets unlawfully or defrauded the CANS or abused his office, or willfully acted in a manner prejudicial to the interest of the, CANS and the findings have not been set aside on appeal or judicial review; or

d) he is under sentence of death or imprisonment imposed on him by any court; or

e) he is otherwise disqualified by a law for the time being in force.

11. Loss of Membership:-

Without prejudice to the provisions of section 10 above a member of the Commission shall cease to be a member if:-

a) he looses his professional qualifications;

b) he absents himself from four consecutive meetings of the Commission without sufficient reasons;

c) he is dead;

d) he resigns;

e) removed from office by the Chairman.

12. Meetings of the Commission:-

(1) The Commission shall meet quarterly at a time and place to be determined by its chairman.

(2) The quorum for a meeting of the Commission shall be half plus one (1/2 + 1) of the membership of the Commission.

(3) The chairman of the Commission shall chair all the meetings of the Commission and in his absence the chief administrator shall act.

(4) The validity of the proceedings of the Commission shall not be affected by a vacancy in its membership or any defect in the appointment of a member.

(5) Issues before the Commission shall be decided by simple majority of the members present and voting.

(6) The chairman or the Commission shall, in case of a tie, have a casting vote.

(7) The Chairman of the Commission may convene an extra ordinary meeting on his own initiative or a written request signed by not less than three members of the Commission.

(8) Except as otherwise provided in this Act the Commission shall lay down rules of procedure of its meetings.

(9) The Commission may co-opt ex-officio members as advisers at its meetings.

CHAPTER FOUR

ADMINISTRATION AND FINANCE.

13. Appointment of Chief Administrator:-

(1) The Commission shall have a Chief Administrator who shall be appointed by the Chairman on the recommendation of the Commissioner in consultation with the appropriate authorities.

14. Functions of the Chief Administrator:-

The Chief Administrator:-

(i) Shall hold office on such terms and conditions as the Chairman may determine.

(ii) Shall be responsible for the day-to-day administration of the Commission.

(iii) Shall be responsible for the organisation and control of the staff of the Commission.

(iv) May delegate any of his functions to an officer of the Commission and shall not be relieved from ultimate responsibility for the discharge of delegated functions.

(v) Shall act in the absence of the Chairman of the Commission.

15. Appointment of the Secretary:-

(1) The Commission shall have a Secretary who shall be appointed by the Chairman in accordance with the recommendation of the Commissioner given in consultation with the appropriate authorities.

16. Functions of the Secretary:-

The Secretary of the Commission shall:-

(i) Subject to the directives of the chairman of the Commission, arrange the business, record and keep minutes of the meetings of the Commission.

(i) Perform such other functions as the chairman of the Commission or the Chief Administrator may assign to him and shall be assisted in the performance of his functions by any of the staff of the Commission the Chief Administrator may direct.

(iii) Be an Ex-officio member of the Commission.

17. Appointment of Support Staff:-

(1) There shall be appointed by the Commissioner such other staff and employees as the Commission may recommend for the effective implementation of the policies and programmes of the Commission.

(2) The staff and employees of the Commission shall be public servants.

(3) Public servants may be transferred or seconded to the Commission.

18. Finance, Budget and Accounts of the Commission: -

(1) The Budget of the Commission shall consist of funds provided by CANS as approved by the Secretariat of Finance and Economic Planning.

(2) The funds received shall be paid into a bank account approved by the Commissioner for Finance and Economic Planning.

(3) The Commission shall keep proper books of Accounts and records in forms approved by the Secretariat of Finance and Economic Planning.

(4) The books and accounts of the Commission shall be audited annually by the Auditor General.

(5) The Commission shall, within two months after the expiration of each financial year, submit to the Commissioner an annual report on the activities and operations of the Commission and shall include:-

a) A copy of the audited accounts of the Commission together with the Auditor General's report on it; and

b) Such other information as the Commissioner may require.

(6) The Commissioner shall within one month after receiving the annual report submit it to the appropriate authorities who shall in turn submit the same to the Chairman.

19. Allowances and Incentives of the Members.

The Chairman and other members of the Commission shall be paid allowances and incentives as may be prescribed.

CHAPTER FIVE

MISCELLANEOUS

20. Power to make Rules and Regulations:-

The Commissioner may in consultation with the appropriate authorities make rules and regulations on:-

a) investment projects related to forestry and forest resources;

b) the management, development and utilization of forestry resources;

c) forest conservation; and

d) any other matters as may be necessary to carry the provisions of this Act into effect.

Given under my hand this---------- day of ---------- Year 2003 A.D.

Dr. John Garang de Mabior

Chairman SPLM/CANS

New Sudan.