

# **LAWS OF SOUTH SUDAN**

## **THE CIVIL AVIATION AUTHORITY ACT, 2012**

Act No. 34

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# LAWS OF SOUTH SUDAN

## THE CIVIL AVIATION AUTHORITY ACT, 2012

In accordance with the provisions of Article 55 (2) (3) (b) read 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 I

#### PRELIMINARY PROVISIONS

##### **1 Title and Commencement.**

This Act may be cited as “The Civil Aviation Authority Act, 2012” and shall come into effect on the date of its signature by the President.

##### **2 Repeal and Savings.**

Any provisions of existing legislation in South Sudan which are governed by this Act are hereby repealed or cease to operate in South Sudan; provided that all proceedings, orders and regulations taken or made there under, except to the extent they are revoked by or are otherwise inconsistent with the provisions of this Act, shall remain in force or effect until they are repealed or amended in accordance with provisions of this Act.

##### **3 Purpose.**

The purpose of this Act is to provide a regulatory framework for a Civil Aviation Authority in South Sudan and to establish an autonomous institution to supervise, promote, develop and regulate the Civil Aviation industry and to provide a system for assuring aviation safety and security of aerodromes and airstrips and compliance with aviation standards and international best practices.

##### **4 Authority and Application.**

- (1) This Act is drafted in accordance with the provisions of Article 142 read together with the provisions of Schedule (A), paragraphs 12 and 27 of the Transitional Constitution of the Republic of South Sudan 2011, which grants the National Government the exclusive legislative and executive powers over international and inter-state transport, including roads, airports, waterways, river ports and railways.
- (2) Provisions of this Act shall apply throughout South Sudan on all matters related to-Civil Aviation.

## 5 Interpretation.

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

**“Accident Investigation”** means the procedures applied when an air accident occurs and includes collection, analysis and assessment of the data related to such accidents;

**“Aerodrome”** means a specific area on land or water (including any buildings, installations and equipment) intended to be used either wholly or in part for the arrival, departure or surface movement of aircraft;

**“Aircraft”** means any machine that derives support from the atmosphere through reactions of the air currents other than the reaction of the air against the earth’s surface;

**“Air Navigation:”** means navigation facilities, including but not limited to equipment, network and surveillance systems in which communication with an aircraft or aircrafts, airports and airstrip is maintained;

**“Air Traffic”** means all aircrafts in flight or operating in the maneuvering area of an aerodrome or airstrip;

**“Air Strip”** means any specific area with specific coordinates and marks on land, above buildings, on sea, petroleum platforms or on board vessels intended for the safe landing or take-off of aircrafts, in which all standards and requirements for the safety of air traffic are provided;

**“Assembly”** means the National Legislative Assembly of the Republic of South Sudan;

**“Authority”** means the National Civil Aviation Authority established under section 6(1) of this Act;

**“Aviation Charges Regulations”** means the regulations issued under the provisions of this Act;

**“Board”** means the Board of the authority established pursuant to section (10) of this Act;

**“Chief Executive Officer”** means the Chief Executive Officer of the Authority appointed pursuant to section (19) of this Act;

<b>“Domestic Passenger”</b>	means any passenger who leaves for or arrives from an airport within South Sudan;
<b>“International Passenger”</b>	means any passenger who leaves for or arrives from an airport outside South Sudan;
<b>“License”</b>	means the certificate or authorization granted or approved by the Authority to personnel or entity operating in the field of Aviation;
<b>“Minister”</b>	means the National Minister responsible for Transport;
<b>“Ministry”</b>	means the National Ministry responsibly for Transport;
<b>“MCTOM”</b>	means the Maximum Certified Take-off Mass permissible for the take – off of an aircraft which is stated in the certificate of airworthiness or flight manual;
<b>“National Government”</b>	means the National Government of the Republic of South Sudan;
<b>“National Aviation Security Programme”</b>	means the processes adopted for ensuring the security and safety of Civil Aviation and prevention against Acts of unauthorized interference with aviation practices;
<b>“National Safety Programme”</b>	means the programmes adopted to ensure safety, security and efficiency of aviation transport;
<b>“Night Operations”</b>	means the aircraft movements from sunset to sunrise;
<b>“Organization”</b>	means the International Civil Aviation Organization established in accordance with the Chicago Convention of 1944;
<b>“Owner of an Aircraft”</b>	means any person or entity under whose name an aircraft is registered;
<b>“President”</b>	means the President of the Republic of South Sudan;
<b>“Service Provider”</b>	means any person or entity that provides services for the Airport or Air Navigation or Air Transport or Training in the Aviation Sector;
<b>“Territory of the State”</b>	means the land areas or territorial waters and the air space of the Republic of South Sudan; and
<b>“Transit Passenger”</b>	means a passenger who arrives at any airport or airstrip in South Sudan and continues on that trip at the same or any other airport or airstrip.

## **CHAPTER II**

### **ESTABLISHMENT, FUNCTIONS, DUTIES AND POWERS OF THE CIVIL AVIATION AUTHORITY**

#### **6 Establishment of the Authority.**

- (1) There shall be established in South Sudan an autonomous body to be known as the Civil Aviation Authority, hereafter referred to as “the Authority”.
- (2) The Authority shall be an autonomous corporate body, capable of suing and being sued in its own name, with its own corporate seal and logo and shall have perpetual succession. It shall have the power to borrow money, acquire and dispose of property, and do or perform such other Acts as may lawfully be done or performed by any corporate entity.
- (3) The seat of the Authority shall be in the capital city of South Sudan and it may establish branch offices within and outside South Sudan.

#### **7 Functions and Duties of the Authority.**

- (1) The Authority shall be responsible for management, supervision and control of Civil Aviation operations in South Sudan.
- (2) For purposes of discharging the functions and responsibilities referred to under subsection (1) above, the Authority shall carry-out the following duties:
  - (a) control and regulate Civil Aviation in South Sudan;
  - (b) establish general policies for the air transport sector and promote its progressive development;
  - (c) supervise the air transport sector and implement sector-wide policies;
  - (d) negotiate bilateral or multi-lateral aviation agreements on Air Transportation and cooperate with authorities in other countries to ensure proper implementation and effective Air Transport services in South Sudan;
  - (e) examine relevant International Air Transport Agreements and provide recommendations for adoption amendments or changes to such agreements;
  - (f) represent South Sudan in Civil Aviation and international Air Transport conferences and meeting and support domestic implementation of decisions or recommendations reached at such conferences;
  - (g) approve and licenses Aviation Service Providers, Aviation operators, Aviation Academies, Aviation Training Institutions and Aviation clubs;
  - (h) approve and issue licenses for establishment of Public or Private Aerodromes or Airstrips in accordance with the law and approved Government master plan;



- (i) establish air transport insurance policies, procedures and systems for protecting the rights of passengers and promoting the safety of air transport in general and supervise Aviation Institutions;
- (j) supervise and monitor Air Navigation Services and exercise exclusive control over the airspace above the territory of South Sudan;
- (k) ensure that service providers maintain control over air traffic to ensure safe flow of aircraft movement;
- (l) approve and license the establishment, operations and management of Aeronautical Navigational Services and international frequencies allowed for aviation communications and networks and Navigational Instruments, including equipment of Aeronautical Navigation used in the field of Civil Aviation;
- (m) supervise and monitor the use of Aeronautical Meteorology services for Civil Aviation purposes;
- (n) supervise the National Civil Aviation security and safety programmes for South Sudan;
- (o) implement approved standards in relation to Civil Aviation and supervise implementation of those standards;
- (p) prevent unlawful interference with Aviation Institutions in South Sudan and protect their interests;
- (q) recruit and retain qualified National cadres or expatriate technical staff to develop the Civil Aviation industry in South Sudan;
- (r) train and develop skills to build capacities of the staff of the Authority;
- (s) establish and promote programmes for safety management and accident prevention and supervise and monitor execution of such programmes; and
- (t) perform such other functions and duties that are necessary or appropriate for efficient and effective implementation of the provisions of this Act.

### **CHAPTER III**

#### **GOVERNANCE OF THE AUTHORITY**

##### **8 The Governing Structures of the Authority.**

- (1) The Authority shall have the following Governing Structures:
  - (a) the Board; and
  - (b) the Executive Management.

##### **9 Establishment of the Board.**

There shall be established a Board to be known as “The Board of Directors of the Civil Aviation Authority”:-

## **10 Composition and Tenure of the Board.**

- (1) The Board shall comprise of a Chairperson appointed by the president and six other qualified and competent individuals selected and recommended by the Minister in consultation with stakeholders for appointment by the president. The Chief Executive Officer shall be an ex-officio and secretary of the Board
- (2) Members of the Board may hold other offices or engage in other work but shall be required to commit adequate time to attend to the business of the Authority. They shall discharge the functions of the Authority on a part-time basis. Appointment to serve on the Board of the Authority shall not prejudice a Board member's terms and conditions of other employment or work obligations such a Board member might have.
- (3) The Chairperson and Members of the Board shall hold office for a period of four (4) years commencing from the date of appointment and may be eligible for reappointment for one subsequent term of similar duration.
- (4) The list of Members of the Board constituted in accordance with the provisions of sub-section (1) of this section shall be published in the official gazette.
- (5) Members of the Board maybe paid a sitting allowance and such reasonable travel expenses as shall be approved by the Minister.

## **11 Eligibility of Appointment.**

- (1) A Member of the Board shall fulfill the following eligibility requirements:
  - (a) be a South Sudanese national;
  - (b) shall not have been convicted of any offence involving fraud, dishonesty or moral turpitude over the last five (5) years; and
  - (c) Shall not have been dismissed from service due to disciplinary administrative misconduct or poor performance.

## **12 Vacancy on the Board.**

The post of any member of the Board shall become vacant due to any of the following reasons:

- (a) physical or mental incapacity;
- (b) resignation;
- (c) removal;
- (d) being convicted of an offence punishable by imprisonment or fine; or
- (e) death;

## **13 Removal or Resignation of a Member of the Board.**

- (1) The president may remove any member of the board upon recommendation of the minister for any of the reasons set forth in section 12 of this Act.
- (2) A member of the Board may be removed from office after giving such a member written notice and a reasonable opportunity to reply and be heard.
- (3) Without limiting the generality of sub-sections (1) and (2) above, a member of the board may be removed on any of the following grounds:
  - (a) where the member is an un-discharged bankrupt or where such member has made arrangements with creditors in proceedings for bankruptcy;
  - (b) where the member is declared to be of unsound mind in accordance with applicable law and proof from the medical commission;
  - (c) where the member has ceased to meet the qualifications for membership as provided for under this Act;
  - (d) proven in competency;
  - (e) gross misconduct;
  - (f) absence from board meetings for three consecutive meetings without permission or sufficient cause;
  - (g) having been convicted of an offence involving fraud, dishonesty or moral turpitude; and
  - (h) A member of the board may resign from the board by submitting a written letter of resignation addressed to the minister through the chairperson of the board.
- (4) Where a seat on the board becomes vacant because of death, resignation, termination or removal, the minister shall recommend another person for appointment by the president to fill the seat under the same requirements as provided for under sections 10 and 11 of this Act.

#### **14 Functions and Powers of the Board.**

- (1) The board shall carry out all the functions and duties of the authority specified in section 7 of this Act and shall have the general powers of administration and establishing policy directions for the Authority to ensure effective achievement of its purposes.
- (2) In addition to general management and supervision of the Authority and giving policy direction, the Board shall exercise the following powers:
  - (a) Develop internal regulations for the smooth management of the Authority;
  - (b) Initiate the process of recruiting the Chief Executive Officer of the management and recommend to the minister concerned for appointment by the President;
  - (c) Advise the minister on matters of Civil Aviation;

- (d) Provide direction and supervision over the affairs of the Authority;
- (e) Supervise administrative and technical functions of the authority;
- (f) Approve the strategic plans of the Authority;
- (g) Review and approve the budget of the Authority;
- (h) Develop work plans and evaluate periodic performance of the Authority;
- (i) Determine the organizational and management structures of the Authority;
- (j) Issue internal regulations for proper management of the affairs of the Authority and for conducting board meetings;
- (k) Review and consider periodic reports of the Authority as presented by the Executive Management;
- (l) Exercise such incidental powers that are proper for the efficient and effective implementation of the provisions of this Act and in accordance with applicable law.
- (m) Restrict or prohibit flying, grounding, closing of aviation facility and any other actions for aviation safety;
- (n) Right to detain aircraft for just cause either directly or using an established process that can be applied in a timely manner;
- (o) Right to prohibit any person from exercising the privileges of any aviation license, approval, certificate or document for just cause;
- (p) Protection of aircraft (or wreckage) involved in an accident or parts thereof;
- (q) Powers to seize documents, for purposes of accidents/incident investigation, enforcement investigation, in accordance with the law;
- (r) Protection of information collected for purposes of safety improvement and investors including cockpit recorders, flight data recorders, air traffic services recorders;
- (s) Making of regulatory instruments such as orders/directives, implementation standards, in support of regulations promulgated by the minister;
- (t) Appeals;
- (u) Issuing of exemptions;
- (v) Search and rescue;
- (w) Aviation security, programmes, committees; and
- (x) Coordination with other government bodies and agencies, such as those providing search and rescue service and support thereto, survey department if it is involved in charts development.

## **15 Disclosure of Interest.**

A member of the board, who has any direct or indirect interest in any matter or business before the board, shall disclose the nature of such interest and its relationship with the subject matter before the board. The board may decide, after considering the disclosure, that the member concerned shall not participate in any of the discussions before the board nor in decision-making by the board in relation to that subject matter.

**16 Conducting the Regular Business of the Board.**

- (1) The board shall hold ordinary meetings not less than three (3) times each calendar year; provided that, upon invitation by the chairperson or upon a written request signed by two thirds of the members, the board shall hold an extraordinary or “special” meeting.
- (2) The quorum for board meetings shall be by simple majority (50% + 1) of the total number of members of the board.
- (3) Decision of the board shall be by a simple majority vote of the members present.
- (4) In the event of a tie vote, the chairperson shall have the casting vote.

**17 Delegation of Powers.**

- (1) The board may also delegate any of its powers or functions to the chairperson or any board member or Chief Executive Officer of the Authority or committee established for a specific purpose (e.g., issuing certificates, approvals, licenses or revocation of either of these).
- (2) The terms, conditions and limitations on the powers delegated under this section shall be set forth in the instrument of delegation and the board may by resolution expand or abridge any powers delegated pursuant to provisions of this section

**18 Executive Management.**

- (1) The Authority shall have executive and administrative management staff who shall be responsible for discharging the day-to-day functions of the Authority.
- (2) Management staff shall be headed by the Chief Executive Officer who shall be the Chief Administrator of the Authority and shall report directly to the Board.
- (3) The management staff of the Authority shall comprise of individuals of integrity, high moral character and reputation; who shall be appointed by the board.

**19 Appointment of the Chief Executive Officer.**

- (1) The Chief Executive Officer shall be appointed by the board. The instrument of appointment of the Chief Executive Officer shall include terms and conditions of service and shall be approved by the board.
- (2) The salary and emolument of the Chief Executive Officer shall be determined by the board with the consent of the minister concerned.

**20 Functions and Duties of the Chief Executive Officer.**

- (1) The Chief Executive Officer shall be responsible for running the day-to-day affairs of the Authority assisted by such deputies and other staff of the Authority as the board shall appoint.
- (2) The Chief Executive Officer shall be responsible for financial administration and technical performance of the Authority.
- (3) The Chief Executive Officer shall carry out the following specific functions:
  - (a) implement decisions of the board;
  - (b) appoint and confer powers on inspectors who shall have unrestricted and unlimited access to aircraft and aviation facilities to perform their duties;
  - (c) develop the budget of the Authority and present it to the board for consideration;
  - (d) execute official directives of the Authority upon approval by the board;
  - (e) represents the Authority at international, regional and state-level meetings on matters of Civil Aviation;
  - (f) execute the approved budget of the Authority in accordance with approved schedules of payments and allocations as determined by the board and in accordance with the rules and procedures prescribed in the Public Finance Management and Accountability Act; and
  - (g) supervise the staff of the Authority and develop proper administrative and disciplinary procedures and manuals to be approved by the board;
  - (h) perform such other functions of the Authority as the chairperson of the board may from time-to-time require.
- (4) The Chief Executive Officer may delegate any of the above functions to any person on the management staff of the Authority; provided that the Chief Executive Officer shall remain answerable to the Board for proper execution of all assigned functions.

## **21 Eligibility for Appointment of the Chief Executive Officer.**

- (1) The Chief Executive Officer shall be selected from among persons of integrity, high moral character and reputation and shall meet the following requirements:
  - (a) be a South Sudanese national;
  - (b) be known for integrity and high moral character;
  - (c) shall not have been convicted of any offence involving fraud, dishonesty or moral turpitude over the past five (5) years; and
  - (d) shall not have been dismissed from service due to indiscipline, misconduct or poor performance.
- (2) In addition to the requirements set-forth under sub-section (1) above, the Chief Executive Officer shall possess the following specific qualifications:

- (a) be a person registered in accordance with the requirements for registration of professional Engineers in South Sudan preferably in the field of Civil Aviation Engineering or be a member of a local, regional or international Civil Aviation professional society; and
- (b) shall have not less than ten (10) years of professional experience in Civil Aviation.

**22 Terms of Service of the Chief Executive Officer.**

- (1) The Chief Executive Officer shall hold office at the pleasure of the board and under the terms specified in the instrument of appointment.
- (2) The board shall conduct an annual performance appraisal of the Chief Executive Officer.

**23 Recruitment of Staff and Organizational Structure of the Authority.**

- (1) The Chief Executive Officer shall recruit the staff of the Authority whose names shall be presented to the board for consideration and approval.
- (2) The Chief Executive Officer shall prepare a detailed organizational structure reflecting current staffing of the Authority and requirements for the following year which shall be made part of the financial report to be considered and approved by the board.
- (3) The Chief Executive Officer shall conduct general staff assessments and performance appraisal of each staff of the Authority and shall make observations and recommendations in an annual staff evaluation report which shall be submitted to the board for consideration not less than a month before the financial year.

**24 Declaration of Assets.**

Not later than three (3) months after assuming office, the Chief Executive Officer, senior staff of the Authority and all members of the board shall make confidential declaration of their assets and liabilities including those of their spouses and children in accordance with the regulations on Declaration of Assets and other applicable laws.

**25 Oath.**

Prior to assuming their respective offices, members of the board and the Chief Executive Officer of the Authority shall take the following oath or affirmation before the president; and the other senior staff shall take their oath before the minister concerned:

*"I....., do hereby swear by the Almighty God, [or Solemnly affirm] that as [a Member of the Board, Chief Executive Officer or Employee, as the case may*

*be] of the South Sudan Civil Aviation Authority, shall be faithful, and shall diligently, honestly and with integrity discharge my functions and carry-out the duties of the Authority with integrity and dignity and in the best interest of the people of South Sudan; I shall respect and uphold all the rules, regulations and instruments made by the Authority and refrain from disclosing, without authorization, the confidential information of the Authority by reason of my employment or service to the Authority, so help me God”.*

## **26 Restriction on Outside Employment.**

The Chief Executive Officer and staff of the Authority shall be employed on a full-time basis and shall not engage in other private or commercial businesses that conflict with or compete with activities that are performed by the Authority or receive remuneration of any kind from any other person or source other than the Authority.

## **CHAPTER IV**

### **AIRCRAFT ACCIDENT, INCIDENTS, OBJECTIVES AND INVESTIGATIONS**

## **27 Aircraft Accident and Incident Investigations.**

- (1)** In the event of occurrence of any air accident or incident, the primary responsibility for carrying out necessary investigations shall be with the Minister and the department within the Ministry responsible for Accident and Incidents Investigations. The Authority may, in consultation with the Minister, constitute a joint Investigation Committee to promptly examine the accident or incident and report its findings to Government. The Terms of Reference for any such Committee and its rules of procedure shall be set forth in the instrument constituting its appointment.
- (2)** The minister may establish a department within the Ministry of Transport to be responsible for Aircraft Accident and Incident Investigations which shall work with the Authority in the event of occurrences of accidents.
- (3)** With respect to aircraft accidents or incidents, the department may work jointly with the Authority to perform the following functions:
  - (a)** assist in aircraft accident and incident investigations;
  - (b)** report to the minister such aircraft accidents and incidents;
  - (c)** establish laboratory for aircraft accident and incident investigations;
  - (d)** provide search and rescue services;
  - (e)** retrieve aircraft black boxes and secure the scene of aircraft accident or incident;
  - (f)** maintain proper records of aircraft accident and incident occurrences and investigations;



- (g) disseminate aircraft safety information to air operators and the Authority; and
- (h) perform other functions as may be assigned by the minister or the Authority for effective and efficient discharge of its functions.

**(4) Terms and conditions for investigation**

- (a) The competent body shall have unrestricted authority over the conduct of the investigation. It appoints an investigator-in-charge for each investigation anew.
- (b) The investigation shall include:
- (c) The gathering, recording and analysis of all available information on that accident or incident:
  - (i) If appropriate, the issuance of safety recommendations
  - (ii) If possible, the determination of the causes; and
  - (iii) The completion of the final report.
  - (iv) Any judicial or administrative proceedings aiming to apportion blame or liability shall be separate from the investigations conducted under this Act.

**(5) Search and Rescue Operations**

- (a) For purpose of Search and Rescue operations, the Authority shall:
  - (i) declare a loss or disappearance of any Aircraft that is said to have occurred within any area or areas declared by the minister as the official Search and Rescue area;
  - (ii) provide auxiliary services for search and rescue or support of any aircraft in distress or lost within the territory of South Sudan regardless of the flag flown or the nationality of such aircraft;
  - (iii) carry out Search and Rescue operations in the territory of South Sudan or outside, whenever requested, and co-operate with relevant aviation agencies within and outside South Sudan.

**28 Objectives of Investigations.**

- (a) Under this Act the sole objective of the investigation of an accident or incident shall be the prevention of accidents and incidents. It shall not be the purpose of such an investigation to apportion blame or liability
- (b) The investigation of accidents and serious incidents is conducted by a competent body designated by the minister in charge of transport. The minister in charge of transport determines the seat and the organization of the competent body.
- (c) The competent body shall be functionally and organizationally independent from the aviation authorities in charge of airworthiness, licensing, operation of aircraft, maintenance, licensing of personnel, air traffic control and the operation of aerodromes and from all natural and legal persons possibly having colliding interests.

- (d) Instructions as to the initiation of an investigation, the content and the scope of the investigation as well as to the final investigation report and to the safety recommendations shall not be issued to the competent body. Instructions issued nonetheless shall not be complied with by the competent body.

## **CHAPTER V**

### **FINANCE, ACCOUNTS AND AUDITS**

#### **29 Operational principle.**

The Authority shall manage its finances in accordance with sound accounting principles and best practices. The board shall have primary responsibility to ensure that its approved budget is sufficient to meet its expenditures including all operational costs. The Chief Executive Officer shall ensure compliance with requirements of the Public Finance Management and Accountability Act.

#### **30 Financial Year of the Authority.**

The Financial year of the Authority shall be the twelve (12) months period commencing on the 1<sup>st</sup> day July and ending on the 30<sup>th</sup> day of June 30<sup>th</sup> of the following year.

#### **31 Sources of Funding of the Authority.**

- (1) Operations of the Authority shall be funded through an approved budget allocation by the National Government.
- (2) The Authority shall prepare its annual budget proposal and shall submit it for approval by the minister not later than three (3) months before commencement of the Government's budget process.

#### **32 Bank Accounts.**

The Authority shall open and maintain a bank account at the Bank of South Sudan and may maintain other accounts at any other recognized Commercial Banks within or outside South Sudan as may be deemed appropriate or necessary and upon the approval of the board and the minister.

#### **33 Accounts and Book Keeping.**

- (1) The Chief Executive Officer shall maintain comprehensive books of accounts and records of the Authority.

- (2) The Chief Executive Officer shall prepare and submit to the board a financial report not later than three months from the end of a financial year and the report shall, among others, include the following:
  - (a) a financial statement of income and expenditure during the financial year;
  - (b) a statement of assets and liabilities of the Authority for the financial year prepared in accordance with generally accepted accounting principles;  
and
  - (c) a financial audit report.

#### **34 Audit.**

- (1) The board shall ensure that for each financial year, the accounts of the Authority are audited by the Auditor General or other audit firm approved by the Auditor General.
- (2) The board shall submit the audited statements of accounts to the minister four (4) months before the end of the financial year or at such other intervals as the minister shall require.
- (3) The Auditor-General shall have access to all the books of accounts, vouchers and other supporting documents and shall be entitled to additional information or explanations and may require other records of the Authority when needed.

#### **35 Annual and Other Reports.**

- (1) The Authority shall, in addition to the audited statements of account referred in this Act, also prepare an annual report of its activities during that fiscal year ended. The Annual Report of the Authority shall be approved by the Board and shall be submitted to the minister no later than three (3) months prior to the Government fiscal year end.
- (2) The Annual Report shall, *inter alia*, include the following information with respect to the activities of the Authority:
  - (a) a statement of final account that shall indicate financial performance, cash flow, budget and statement of balance;
  - (b) a copy of the report of the Auditor- General;
  - (c) a report on progress of the work of the Authority during the fiscal year ended including a synopsis of future programmes and work plans;
  - (d) a comprehensive performance evaluation report indicating compliance with the Board's directives during the fiscal year ended;
  - (e) variances in financial and administrative management of the Authority;
  - (f) a report on the status and conditions of airports, airstrips and an overall assessment of the status and conditions of the Civil Aviation sector in South Sudan;
  - (g) a review of technical adequacy, competitiveness and cost effectiveness of Civil Aviation services in South Sudan; and

- (h) other information and reports as the minister may require in writing.
- (3) The Authority shall make its annual report and audited accounts public.

### **36 Charges and Fees.**

- (1) Subject to consultations with the Ministry of Finance and Economic Planning, the Authority shall establish appropriate fees, charges and levies for any services performed or licenses issued by the Authority or for the use of its properties.
- (2) All fees, charges and levies established by the Authority shall be made part of the regulations that are issued pursuant to this Act and any fee-schedule, statement of charges or levies that are established in accordance with this Act shall be annexed to the regulations issued pursuant to this Act.
- (3) Fees, charges and levies shall come into effect on the date specified therein, in any event, not less than thirty (30) days from the date of publication in the official gazette.
- (4) The aircraft owner, operator or the pilot-in-command of an aircraft or ground handling agent shall be responsible for payment of the prescribed fees and charges to the airport or airstrip authorities before departure or upon landing of an aircraft.
- (5) The Authority may, in accordance with any applicable law, institute legal proceedings against any person or debtor who owes the Authority an amount due or payable under the provisions of this Act, and such person or debtor fails to pay within the specified time and upon written demand by the Authority.

### **37 Revision of Aviation Charges or Fees.**

The charges or fees prescribed under section 36 of this Act shall be reviewed at the end of each fiscal year in consultations with the Ministry of Finance and Economic Planning, provided that any revised fees shall be published in the official gazette and in at least two (2) newspapers with nation-wide circulation.

## CHAPTER VI

### CONTROL OVER AND USE OF THE SOUTH SUDAN AIRSPACE AND AERODROMES

#### **38 Air Space control.**

The Authority, on behalf of the Republic of South Sudan, shall have full and exclusive control over the South Sudan airspace.

#### **39 Use of South Sudan Airspace.**

South Sudan airspace shall be used by aircraft as provided by this Act and other related legislations.

#### **40 Eligibility to operate aircraft in South Sudan airspace.**

- (1) Aircraft listed below may fly in the South Sudan airspace, (provided that they are airworthy):
  - (a) South Sudan state aircraft;
  - (b) South Sudan civil aircraft registered with the South Sudan Civil Aviation Authority;
  - (c) Aircraft authorized to fly in the South Sudan airspace pursuant to agreements signed by South Sudan Authorities;
- (2) Any aircraft not listed in sub-section (1) above, is subject to the authorization of the Authority to fly in South Sudan airspace.

#### **41 Use of aerodromes.**

- (1) Aircraft are permitted to depart and land only at designated aerodromes. Aircraft engaged in international air traffic are permitted to depart and land only at designated customs airports.
- (2) Aircraft are permitted to depart and land outside designated aerodromes, only with consent of the landowner or any other entitled person and prior permission of the respective ANS provider.
- (3) Sub-section (2) above does not apply to landings due to safety reasons in case of emergency and/or distress. In this case the crew of the aircraft shall promptly notify the respective Air Traffic Services provider and provide the landowner with the name and the address of the aircraft operator.
- (4) A take-off after a technical landing shall only be permitted upon clearance of the respective Air Traffic Services provider

#### **42 Prohibition and Restriction of flight, air route and aerodrome.**

- (1) South Sudan authorities may for reasons of public order and security or for military purposes, as a temporary or lasting measure, prohibit or restrict flights in the whole or certain part of the South Sudan airspace or over certain regions thereof.

- (2) The South Sudan authorities may also determine the air route to be followed and aerodromes to be used by aircraft entitled to fly in South Sudan airspace and by other aircraft.

## **CHAPTER VII**

### **SECURITY**

#### **43. Competent Authority.**

- (1) Unless otherwise provided under this Act, the South Sudan Civil Aviation Authority (SSCAA) is the responsible authority for Civil Aviation Security.
- (2) The SSCAA is in charge of:
  - (a) Establishing and implementing appropriate measures in order to prevent unlawful acts interfering with civil aviation operations;
  - (b) Initiating and implementing the National Civil Aviation Security Programme in accordance with;
    - (i) The National Civil Aviation Security Training Programme;
    - (ii) The National Civil Aviation Security Quality Control Programme,
  - (c) Approving the Aerodrome Security programmes set up by air carriers and operators of aerodromes;
  - (d) Controlling the implementation of the provisions made in the Aerodrome Security Programmes by the air carriers and operators of aerodromes;
  - (e) Coordinating the activities of the military forces of the Republic of South Sudan, state security institutions, police and customs services, air carriers and operators of aerodromes;
  - (f) Performing background checks of personnel as provided for under this Act;
  - (g) In fulfilling these functions the CAA shall seek and consult the minister of Interior, the minister of Transport and any other minister where appropriate;

## CHAPTER VIII

### OFFENCES AND PENALTIES

#### 44. Offences and Penalties.

- (1) No person shall:
  - (a) operate an Aerodrome or Airstrip within the territory of South Sudan without first obtaining authorization and license from the Authority;
  - (b) advertise or cause to be advertised anything or solicit for business within the premises of any Airport or Airstrip of the Authority without first obtaining express authorization and license from the Authority;
  - (c) Write, scribe, paint or affix profane, obscene or abusive words or any picture, depiction or representative character intended to insult, defame or injure any person or entity, or place any such material on any premises owned or occupied by the Authority or on any aircraft or airport or airstrip in South Sudan;
  - (d) engage in any act likely to obstruct the free movement of aircrafts or interfere with the operation of any machine or equipment operating at any airport or airstrip in South Sudan or unlawfully land, park, or move any parked aircraft without the express knowledge or consent of the Authority or owner of such aircraft; and
  - (e) pollute the airspace or release harmful or waste products into the Airspace of South Sudan or release human or animal waste products into the Airport or Airstrip yards.
- (2) Any person who contravenes the provisions of section 43 (2) above commits an offence and shall be punishable by law.

## CHAPTER IX

### MISCELLANEOUS PROVISIONS

#### **45. Performance Agreement.**

- (1) The Authority shall enter into a Memorandum of Understanding (MOU) with the ministry concerned with respect to management of Civil Aviation and delivery of related services within South Sudan.
- (2) The MOU, shall set forth key outputs that the Authority shall be required to achieve in any fiscal year as presented in the form of performance indicators and targets.
- (3) The minister may require an independent report on implementation of the MOU.

#### **46 Exclusive Powers of the Authority.**

Except where expressly provided by law or by way of an express delegation of powers by the Authority, no person or authority shall exercise the powers or carry-out any of the functions conferred upon the Authority under this Act in relation to regulating, supervising and controlling the Civil Aviation industry in South Sudan.

#### **47 Confidentiality.**

- (1) The Authority shall treat any material containing private identified information about any individual which is acquired in the course of performing its functions or in the exercise of its powers under this Act, as confidential and shall ensure the security of all such information in accordance with established regulations.
- (2) No information of the type referred to under subsection (1) above shall be disclosed without the consent of the person to whom it relates, except to the extent that disclosure is expressly authorized or required by law or where it appears to the Authority to be necessary under the following limited circumstances:
  - (a) to enable the Authority to perform its functions or exercise its powers pursuant to applicable law;
  - (b) in the interest of supporting investigations, detection, prevention or prosecution of a crime;
  - (c) in connection with discharging an international duty or obligation under treaty or convention to which South Sudan is party;
  - (d) to assist, in public interest, any authority that appears to the Authority to exercise functions corresponding to some or all of those performed by the Authority within or outside South Sudan; or
  - (e) to comply with the lawful orders of any courts in or outside South Sudan



- (3) Any information that is communicated to the Authority by a committee of government shall be considered and treated as confidential if that committee so requests; and board members and all personnel of the Authority shall maintain the confidentiality and security of such communications.
- (4) member of the board or employee of the Authority shall not acquire, hold or maintain (whether directly or indirectly) any office, employment, consultancy arrangement or business inside and outside South Sudan where he or she shall be required to use or disclose information acquired as a board member or employee of the Authority in the performance of the duties of such office, employment, consultancy, arrangement or business after ceasing to be a board member or employee of the Authority. If the former board member or employee of the Authority acquires such interests involuntarily, then he or she shall divest from such interest within a period of sixty (60) days from the date of acquisition of such interest.
- (5) Whoever discloses information or causes or permits the disclosure of information in a manner which he or she knows or has reasons to believe it to be in contravention of the provisions of section (47), (2) and (4) above, commits an offence and shall, upon conviction, be liable to pay a fine not exceeding twelve thousand South Sudanese pounds (SSP 12,000.00) or be sentenced to imprisonment for a period not exceeding six months or both.

#### **48 Assumption of Powers, Assets and Property.**

Upon the coming into force of this Act the functions, duties and powers in relation to Civil Aviation that were previously performed by Directorate of Civil Aviation in South Sudan and the assets and property shall be transferred to the Authority.

#### **49 Environmental Protection.**

- (1) For the purposes of environmental protection, the Authority shall:
  - (a) in consultations with relevant Government and international agencies, establish minimum standards for all aircraft and machinery used in air transportation within its jurisdictional authority;
  - (b) ensure protection of the environment against any adverse effects of aviation; and
  - (c) develop emergency plans designed to control or respond to natural disasters or hazards in the field of aviation or air transportation.

#### **50 Transfer of Assets and Liabilities.**

- (1) The powers, functions and duties which were vested in the Directorate of Civil Aviation immediately before the coming into effect of this Act shall be transferred and vested in the Authority.

- (2) The properties, assets and interests in relation to Aviation which immediately before the coming into force of this Act were vested into or enforceable against the Sudan Civil Aviation Authority, with respect to the assets and property located in South Sudan, shall upon the coming into effect of this Act, be transferred to and vested in the Authority.
- (3) Any lawful act carried out by or done on behalf of or in the name of the Directorate of Civil Aviation prior to the coming into effect of this Act shall be deemed to be the act of the Authority.
- (4) Any lawful action done, proposed to be done or committed to be done by any person acting in good faith or on behalf of the Directorate of Civil Aviation prior to coming into force of this Act, shall be deemed to be acted or done, proposed or committed by the Authority.

## **51 Inventory of Assets.**

The Authority shall maintain an inventory of all its assets including movable and immovable that are under its management in such format and with such identification details as may be approved by the board.

## **52 Property of the Authority in Custody of Employees and Other Persons.**

- (1) Where an employee dies or leaves the service of the Authority while in possession of any property or assets of the Authority, it shall be the duty of such employee or legal representative of such a person to deliver any such property or assets to the Authority.
- (2) In the event that the property or asset of the Authority referred to in subsection (1) above is not delivered to the Authority the Chief Executive Officer shall issue a written notice to the person having possession of the assets and property of the Authority to deliver them promptly to the Authority; and if such property is not delivered as requested in the notice, the Chief Executive Officer, may without prejudice to other methods of recovery, apply to a competent court for appropriate orders to recover the assets and property of the Authority.

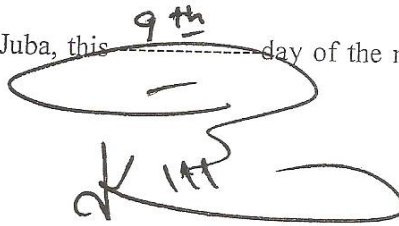
## **53 Regulation.**

- (1) The minister concerned may issue such rules, regulations and procedures as are necessary and appropriate for effective and efficient implementation of the provisions of this Act.
- (2) Without limiting the generality of sub-section (1) above, the minister concerned shall issue regulations relating to the following matters:
  - (a) safety rules and use, maintenance and licensing of Airports, Airstrips and aircrafts or airplanes in South Sudan; and
  - (b) charges, fees and levies on services or facilities provided by the Authority.

**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 Civil Aviation Authority Act, 2012 and sign it into law.

Signed under my hands in Juba, this <sup>9<sup>th</sup></sup> day of the month of ~~MARCH~~ in the year 2012.

A handwritten signature in black ink, consisting of a large, stylized 'K' followed by 'IIR' and a long horizontal stroke.

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