

LAWS OF SOUTHERN SUDAN

The Ministry of Information and Broadcasting Organization Bill, 2008

(May 2008)

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In accordance with the provisions of Article 57(2)(b), read together with Article 85(1) of the Interim Constitution of Southern Sudan, the Southern Sudan Legislative Assembly, with the assent of the President of the Government of Southern Sudan, hereby enact the following:

Chapter I Preliminary Provisions

Section 1. Title and Commencement

This Bill may be cited as the “Ministry of Information and Broadcasting Organization Bill, 2008,” and shall come into force on the date of its signature by the President.

Section 2. Repeal and Saving

Any provisions of existing legislation which are governed by this Bill, except for legislation at the National level implementing the provisions Schedule (A) of the Interim Constitution of Southern Sudan (“ICSS”), are hereby repealed; *provided that*, all proceedings, orders, regulations and appointments taken or made thereunder, except to the extent they are repealed by or are otherwise inconsistent with the provisions of this Bill, shall remain in force or effect, until they are repealed or amended in accordance with the provisions of this Bill.

Section 3. Purpose

The purpose of this Bill is to provide for the establishment and governance of the Southern Sudan Ministry of Information and Broadcasting, as a means to promote the general welfare, economic growth, stability, and security of Southern Sudan, through provision of direction in the areas of information and broadcasting, focusing on information exchange and education through an expanding and prospering media sector, consistent with those and other national objectives, and any other issues related thereto.

Section 4. Authority and Application

- (1) This Bill is being enacted under the powers granted by paragraph 4 of Schedule (B) of the ICSS, which grants to the Government of Southern Sudan (“Government”) the exclusive legislative powers relating to the structures of the Government for delivery of services at all levels of Government.

- (2) The provisions of this Bill do not apply to information and broadcasting matters that are subject to the exclusive supervision of the National Government.

Section 5. Interpretations

In this Bill, unless the context otherwise requires, the following words and expressions shall bear the meanings assigned to them:

“Assembly” means the Southern Sudan Legislative Assembly;
“Director General” means the person appointed as the head of a Directorate, in accordance with the provisions of this Bill;
“Directorate” means any of the administration units of the Ministry established by this Bill or other law;
“Government” means the Government of Southern Sudan;
“ICSS” means the Interim Constitution of Southern Sudan;
“INC” means the Interim National Constitution;
“Minister” means the Minister of Information and Broadcasting;
“Minister of Legal Affairs” means the Minister of Legal Affairs and Constitutional Development;
“Ministry” means Ministry of Information and Broadcasting;
“President” means the President of the Government of Southern Sudan;
“Procurement process” means the process observed in securing goods or services, and includes procurement planning, preparation of bidding documents, bidding process, bid evaluation, and contract award;
“State” means any of the ten States in Southern Sudan;
“Under Secretary” means the Chief Administrator of the Ministry appointed in accordance with the provision of this Bill; and,
“Vice President” means the Vice President of the Government of Southern Sudan.

Chapter II

Establishment, Functions and Powers of the Ministry

Section 6. Establishment of the Ministry

- (1) There is hereby established the Southern Sudan Ministry of Information and Broadcasting, (hereafter called the “Ministry”).
- (2) The Ministry shall be headed by the Minister, and administered by an under Secretary and its organizational structure shall include Directors General, officers and support staff as more fully set forth in Chapter IV of this Bill.
- (3) The Ministry shall have its head office in the Capital of Southern Sudan, and will coordinate with the Ministries of Information in the ten States of Southern Sudan, to fulfil its obligations under the INC, the ICSS and this Bill.

Section 7. Functions and Powers of the Ministry

The functions and powers of the Ministry shall include:

- (a) the development, recommendation and eventual implementation of media and information policies and programs for Southern Sudan, designed to achieve media sector and public information objectives established by the Government and the Assembly;
- (b) the coordination and effective administration of the media and information policies and programs of the Government;
- (c) the promotion of multi-level cooperation among the National Government, the Government, states, and local governments, as well as other interested persons to achieve public information and media-related objectives;
- (d) the promotion of technological advances in public information dissemination and media, through research and development or otherwise;
- (e) providing general leadership to identify and solve problems in the fields of public information and media;
- (f) the investigation and enforcement of the provisions of this Bill, subject to the limitations herein;
- (g) the functions and powers more fully detailed in Chapter III of this Bill, and,
- (h) such other functions and powers as may be assigned to the Ministry by the President or other law.

Section 8. Sector Policy and Institutional Framework

In performing its functions and duties, the Ministry shall observe the following policies and principles:

- (a) it is Government policy to guarantee freedom of the press, guarantee freedom of expression, and promote growth and development of the independent media sector in Southern Sudan;
- (b) it is also Government policy to give all individuals the tools necessary to participate in development, reconstruction, and peace-building in Southern Sudan through access to information, education and entertainment; and,
- (c) as a way and means to realise this vision it is the intent of the Government to vest its executive power in the Ministry.

Section 9. Authority to Investigate

- (1) The Minister shall have the power to investigate any existing or potential breach of media and access to information laws of Southern Sudan or any order of the Minister.

- (2) The investigation may be undertaken on the initiative of the Minister, government entity or on a complaint by a third party. All complaints shall state the facts that are the subject of the violation.
- (3) The Minister may dismiss a complaint, without investigation, if the Minister determines that the complaint does not state reasonable grounds for investigation and/or action. However, the Minister may not dismiss a complaint because of the absence of direct damage to the complainant.
- (4) If the investigation reveals a breach of the media and access to information laws of Southern Sudan or of an order of the Minister, the Minister shall take appropriate action, reasonably necessary to compel compliance with this Bill, through the levying of fines in accordance with a public schedule or similar sanction.
- (5) The Minister may take action only after giving the breaching party notice of the investigation and an opportunity to respond.
- (6) The Minister shall make a written report of each investigation, and provide a copy of the report to the party being investigated. The report shall include the findings, conclusions, and the order of the Minister. The Minister may have the reports published for public use. A published report of the Minister is competent evidence of its contents.

Section 10. Enforcement

- (1) The Minister shall seek the assistance of the Minister of Legal Affairs to bring a proceeding to enforce the provisions of this Bill, the media and access to information laws of Southern Sudan, or an order of the Minister.
- (2) The Minister shall submit the complete file of the alleged breach of law to the Minister of Legal Affairs.
- (3) The Minister of Legal Affairs, at the request of the Minister, may bring an action in an appropriate court for equitable relief to redress a violation by any person of a provision of order or regulation issued under any of those provisions. Such court shall have jurisdiction to determine any such action and may grant such relief as is necessary or appropriate, including mandatory or prohibitive injunctive relief, interim equitable relief, and punitive damages.
- (4) A person injured because of a breach of the media and information laws or an order of the Minister may bring a civil action to seek damages or otherwise enforce that order under this subsection.

Chapter III

Directorates of the Ministry

Section 11. Establishment of Directorates

- (1) Pursuant to the provisions of this Bill, the Directorates as set forth in this Chapter are hereby established within the Ministry, to facilitate the effective and efficient exercise and performance of the Ministry's functions and powers.
- (2) Each Directorate shall be administered by a Director General, who shall be responsible for the development and implementation of policies and procedures for operation of the Directorate, which includes the preparation and submission of periodic and annual reports to the Under Secretary.
- (3) The functions and powers of the Ministry and the Directorates are collective and accumulative in nature. As such, they may be exercised by one or more of the Directorates, or exercised utilizing external resources in the fulfilment of the Ministry's functions and powers, in accordance with a directive of the Minister or Under Secretary, as the case may be.
- (4) The Ministry may establish additional Directorates or terminate the operations of existing Directorates, as deemed necessary to manage and otherwise fulfil its responsibilities under the ICSS and this Bill.

Section 12. Directorate of Information

- (1) Within the Ministry, there is hereby established the Directorate of Information which shall be responsible for disseminating information regarding Government decisions and activities, and shall take efforts to establish an enabling environment in which independent media can develop and flourish in Southern Sudan. The Directorate shall be headed by the Director General of Information.
- (2) Without prejudice to the generality of subsection (1), above, the functions and powers of the Directorate of Information shall include the following:
 - (a) drafting appropriate legislation that enables the development of a vibrant media sector in Southern Sudan and guarantees access to public information;
 - (b) facilitating execution of interim broadcast licensing procedures, through coordination of an interim broadcast licensing committee to be established and organized by the Minister;
 - (c) facilitating establishment of an Independent Broadcast Authority;
 - (d) supporting journalism and media associations in Southern Sudan in developing self-regulatory mechanisms to promote

- standards of professional journalism, at the request of such associations;
- (e) facilitating accreditation of foreign journalists through establishment of a Foreign Journalist Accreditation Office;
 - (f) disseminating government press releases, press statements, and organization of public education campaigns;
 - (g) organising public events that engage the people of Southern Sudan in dialogue with their government, and offer independent media outlets with opportunities to cover Government activities. These public events will include press conferences, public rallies, media interviews, and public celebrations;
 - (h) developing public information facilities, including a Government Public Information Centre, Regional Public Information Centres, an interactive Ministry website, and an interactive Government website;
 - (i) developing strategies that encourage Government use of internet-based communication to improve collection and dissemination of information to constituents in Southern Sudan;
 - (j) establishing and strengthening a Southern Sudan News Agency;
 - (k) examining the viability of establishing a Government Printing House;
 - (l) building public education capacity in Government Institutions and in State governments;
 - (m) seeking opportunities to support development of Media and Communications training in Southern Sudan; and,
 - (n) such other functions and powers that may be assigned to it by the Minister or Under Secretary, or which are necessary to fulfil the Directorate's obligations.

Section 13. Directorate of Radio and Television

- (1) Within the Ministry, there is hereby established the Directorate of Radio and Television which shall develop an independent Southern Sudan Broadcast Service that acts as a public medium, broadcasting programmes for instructional, educational, and cultural purposes. The Directorate shall be headed by the Director General of Radio and Television.
- (2) Without prejudice to the generality of subsection (1), above, the functions and powers of the Directorate of Radio and Television shall include the following:
 - (a) preparing the Southern Sudan Television and Radio Services for the transition to an independent Southern Sudan Broadcasting Corporation;
 - (b) developing radio and television services that provide Southern Sudanese audiences with news, information, culture, sport, education and entertainment programming;

- (c) developing programming that addresses the needs of un-served and underserved audiences, particularly minorities, the elderly, women, children and youth;
- (d) expanding the broadcast transmission footprint of the Southern Sudan Television and Radio Services throughout Southern Sudan;
- (e) improving Southern Sudan Television and Radio production, broadcast and transmission facilities;
- (f) supporting the development of public service broadcasting at the State level, including provision of transmission engineering advisory services;
- (g) expanding broadcast channels to include satellite-based transmission services; and,
- (h) such other functions and powers that may be assigned to it by the Minister or Under Secretary, or which are necessary to fulfil the Directorate's obligations.

Section 14. Directorate of Administration and Finance

- (1) Within the Ministry, there is hereby established the Directorate of Administration and Finance which shall provide administrative and financial management to support the program activities of the Directorate of Information and the Directorate of Radio and Television. The Directorate shall be headed by the Director General for Administration and Finance.
- (2) Without prejudice to generality of subsection (1) above, the functions and powers of the Directorate of Administration and Finance shall include:
 - (a) facilitating development of Ministry financial budgets and administration of budgetary controls;
 - (b) managing financial accounting of government resources, including administration of financial management rules, regulations and controls;
 - (c) implementing an audited accounting program for the resources and programs of the Ministry;
 - (d) managing human resource development functions, including recruitment of personnel, orientation, processing of civil service documentation;
 - (e) ensuring adherence to human resource and development rules and regulations;
 - (f) establishing and managing Ministry furniture, equipment and supply inventory system;
 - (g) facilitating procurement of goods and services to support Ministry activities;
 - (h) developing self-assessments, program evaluations, and system and process improvements in an effort to continuously improve the quality of administrative programs, products and services;
 - (i) producing and organizing data necessary for ultimate submission to the Assembly; and,

- (j) such other functions and powers that may be assigned to it by the Minister or Under Secretary, or which are necessary to fulfil the Directorate's obligations.

Chapter IV

Establishment of Autonomous Agencies

Section 15. Establishment of Autonomous Agencies

- (1) The Ministry shall be responsible for identifying the need and appropriateness of establishing autonomous agencies to achieve the policies and principles of the Ministry as stated in Section 8 of this Bill.
- (2) In determining the need and appropriateness of establishing an autonomous agency, the Ministry shall consider the provisions of this Bill, international best practices regarding regulation of an effective and efficient broadcast media sector, and the needs of Southern Sudan.
- (3) At such time as the Ministry determines that it is appropriate and necessary to establish an autonomous agency, it shall recommend to the Council of Ministers their establishment and assist in the preparation and promotion of specific legislation for their creation.

Chapter V

Administration and Supervision of the Ministry

Section 16. Powers and Functions of the Minister

- (1) The Minister shall be the head of the Ministry of Information and Broadcasting, and his or her decisions with respect to the Ministry shall prevail therein.
- (2) Without prejudice to the generality of subsection (1), above, the Minister shall also be responsible for:
 - (a) collaborating and establishing good working relations with counterparts at the International, National and State levels in fulfilment of their respective constitutional obligations;
 - (b) performing any public or political role and provide leadership in public affairs to achieve the policy objectives of the Government;
 - (c) acting as the official spokesperson of the Government of Southern Sudan; and,
 - (d) performing any other functions or powers assigned to him or her by law or delegated by the President.

Section 17. Responsibilities of the Minister

- (1) The Minister shall be individually answerable to the President, the Council of Ministers and the Assembly for the performance of the Ministry.
- (2) The Minister shall be bound by collective decisions of the Council of Ministers.

Section 18. Appointment and Removal from Office

- (1) The Minister shall be appointed and removed from office by the President, in consultation with the Vice President.
- (2) To assume office, the Minister shall take the following oath before the President:

“I....., do hereby swear by the Almighty God/solemnly affirm/, that as a minister in the Government of Southern Sudan, I shall be faithful and bear true allegiance to Southern Sudan and shall diligently and honestly discharge my duties and responsibilities and strive to foster the development and welfare of its people; that I shall obey, preserve and defend the Constitution and the Interim National Constitution and abide by the law; and that I shall protect and promote the unity of the people of Southern Sudan and consolidate the democratic decentralized system of government and preserve the integrity and dignity of the people of Southern Sudan; so help me God/ and God is my witness”.

Section 19. Vacancy of the Office of the Minister

- (1) The office of the Minister shall fall vacant in any of the following cases:
 - (a) acceptance of a written resignation by the President;
 - (b) removal from office by the President after consultation with the Vice President;
 - (c) removal from office by the President on the ground of mental infirmity or physical incapacity based on an official medical report;
 - (d) resolution of “no confidence” from the Assembly, pursuant to Article 120 (2) of the ICSS; and,
 - (e) death.

Section 20. Restriction on Outside Employment

During his or her tenure in office, the Minister shall neither practice any private profession, transact commercial business, nor receive remuneration or accept employment of any kind from any source other than the Government.

Section 21. Appointment, Removal and Functions of the Under Secretary

The Ministry shall have one or more Under Secretaries who shall be appointed to and removed from office by the President after consultation with the Minister.

Section 22. Functions of Under Secretary

The Under Secretary shall:

- (a) direct the management and serve as the Chief Executive Officer of the Ministry in the performance of day-to-day activities;
- (b) supervise the implementation of Ministry policies of the technical, administrative and financial matters;
- (c) issue circulars and orders, and make decisions relating to the policies of the Ministry;
- (d) report regularly to the Minister;
- (e) act as chief co-ordinator of policies of all Directorates of the Ministry;
- (f) make recommendations on all matters concerning the functions and duties of the Ministry;
- (g) establish regular programmes for the internal and external training of all Ministry staff;
- (h) establish rules and procedures for inspection, supervision and implementation of programmes;
- (i) assist the Minister in the performance of his or her duties,
- (j) be answerable to the Minister in the performance of his or her functions and duties;
- (k) perform any other duties that may be assigned to him or her by the Minister; and,
- (l) perform such other functions as are required of Under Secretaries and Executive Officers under the Government of Southern Sudan Public Service Act.

Section 23. Appointment and Removal of Directors General

The Ministry shall have Directors General who shall be appointed to and removed from office on recommendation of the Minister and approval of the Council of Ministers.

Section 24. Functions of a Director General

A Director General shall:

- (a) serve as the Chief Executive Officer of his or her individual Directorate, and be responsible for the day-to-day activities of such Directorate;
- (b) be answerable to the Minister and the Under Secretary in the performance of his or her functions and duties;

- (c) supervise the implementation of Ministry policies of the technical, administrative and financial matters with respect to his or her Directorate;
- (d) make recommendations on all matters concerning the functions and duties of his or her Directorate and its relationship with other Directorates and stakeholders;
- (e) establish rules and procedures for the operation of his or her Directorate in compliance with Ministry policies and programmes; and,
- (f) perform any other duties that may be assigned to him or her by the Minister or the Under Secretary.

Section 25. Officials and Support Staff

- (1) The Ministry shall be entitled to employ officials and support staff as may be necessary to perform and fulfil its functions and duties.
- (2) All aspects of the employment of Ministry officials and support staff, including, but not limited to recruitment, employment, payment, promotion, and termination, shall be governed by the provisions of “The Southern Sudan Public Service Act, 2008,” Southern Sudan civil service laws, rules and regulations.

Section 26. Outsourced Functions

The Minister shall have the power to engage expert and professional advisors and institutions on a fixed term contract basis to perform partial functions of the Ministry. Where such a contract substantively covers the functions of one or more permanent staff positions in the Ministry organisational chart, the term of the contract may be for not more than three months within one year.

Chapter VI Media Advisory Committee

Section 27. Establishment of a Media Advisory Committee

- (1) There shall be established an Advisory Committee to the Minister whose members shall consist of media professionals, representatives of academia, research institutions and technical groups.
- (2) The Advisory Committee shall comprise of up to six (6) members, at least two (2) of whom shall be women.
- (3) The Advisory Committee shall meet at least four (4) times per year, or more frequently as the Minister may determine.

Section 28. Functions and Duties of the Advisory Committee

The functions and duties of the Media Advisory Committee shall be to:

- (1) advise the Minister on media-related issues, policies and events;
- (2) act, as directed by the Minister, as a liaison between the Ministry and media professionals;
- (3) evaluate and report to the Minister on the quality of information and services provided by the Ministry; and,
- (4) assist the Ministry in the implementation of the Ministry programmes and projects as appropriate and as determined by the Minister.

Chapter VII

Funding and Audits

Section 29. Sources of Funding

- (1) The Ministry's main source of funding shall be those funds obtained through an annual budget, approved in accordance with the budget procedures established by the Government.
- (2) Without prejudice to the provisions of subsection (1), above, and subject to "the Southern Sudan Public Financial Management and Accountability Act, 2008" the Ministry may collect additional funds from the following sources:
 - (a) grants from local or foreign bodies,
 - (b) financial support from international donor agencies;
 - (c) commercials and advertising income;
 - (d) Southern Sudan News Agency subscription fees;
 - (e) broadcast license application fees; and,
 - (f) any other sources that may be set forth in legislation or forthcoming regulations.
- (3) Each year, the Ministry shall submit for approval a budget, in accordance with the Government budget process, for the following fiscal year. Such budget shall be subject to the review, revision and approval of the Assembly.

Section 30. Maintenance of Funds

- (1) All funds collected by the Ministry, through the budget process or otherwise as per Section 29, subsection (2), shall be deposited into a Ministry account established in the Bank of Southern Sudan.
- (2) Subject to "The Southern Sudan Public Financial Management and Accountability Act, 2008" or any other relevant legislation, no funds shall be spent by the Ministry or removed from the Ministry's accounts which are contrary to the appropriations approved by the Assembly through the budget process or otherwise.

- (3) All additional funds collected by the Ministry shall revert to the Southern Sudan Consolidated Fund pursuant to the applicable budget.

Chapter VIII Miscellaneous Provisions

Section 31. Delegation of Authority

The Minister, Under Secretaries, and Directors General may delegate any authority granted to them under this Bill or other law, except where a provision of this Bill or other law expressly provides that such authority may not be delegated.

Section 32. Subsidiary Regulations

The Minister may issue subsidiary regulations for efficient and effective implementation of the provisions of this Bill, and achievement of higher level of performance in the Ministry.