

LAWS OF THE NEW SUDAN

NATIONALITY ACT, 2003

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(PROVISIONAL ORDER)**

Laws of the New Sudan

Nationality Act, 2003

An Act to provide for the New Sudan Nationality and matters connected to and related hereunder.

Chapter 1

PRELIMINARY

Section 1. Title And Commencement:-

This Act may be cited as the Nationality Act 2003 and shall come into force upon signature by the Chairman.

Section 2. Repeal:-

The New Sudan Nationality Act 1994 is hereby repealed provided all proceedings, orders and regulations laid or made there under shall be valid till repealed or amended in accordance with the provisions of this Act.

Section 3. Definition:-

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

“*Alien*” Means a person who is not a New Sudan National;

“*Certificate of Naturalization*” means a certificate issued to an Alien certifying a grant of New Sudan Nationality.

“*Child*” Means a child and includes step or adopted child.

“*Commissioner*” Means The Commissioner for Interior.

“*Parents*” Means parents, father or mother and includes step father or mother.

“*CANS*” Means Civil Authority of the New Sudan.

“*Minor*” Means a person who has not attained the age of 18 years.

“*Guardian*” In relation to a child, means the father of that child and where the mother has been given custody of the child by order of a competent court, or the father is dead, or the child is born outside marriage and resides with the mother, means the mother of the child.

“*New Sudan*” Means Land, Airspace and Territorial waters under the control of the Civil Authority of the New Sudan comprised of Equatoria, Bahr El Ghazal, Upper Nile, Nuba Mountains and Fung Regions and any subsequent areas that may come under its control.

“*Domicile*” Means a place where a person ordinarily resides and to which he returns as his place of permanent abode and not the place where he resides for a special or temporal purpose only.

Section 4.

A person shall for the purposes of this Act, be of full capacity, if he has attained the age of 18 years and of sound mind.

Chapter 2

NATIONALITY BY DESCENT

Section 5.

- (1) A person born before the commencement of this Act shall be a New Sudan national by Decent if:-
- a) (i) he was or his parents, his grand and great grand parents were born in the New Sudan; and
 - (ii) he belongs to one of the tribes of the New Sudan.
 - (iii) he at the coming into force of this Act is domiciled in the New Sudan and has been so domiciled since April 1994 and his ancestors in the direct male line lived before that date or have all been domiciled; or
 - b) he has acquired and maintained the status of a New Sudan national by an uninterrupted domicile.
- (2) A person born after the commencement of this Act, shall be a New Sudan national by decent if his father was a New Sudan national by naturalization at the time of his birth.
- (3) A person who is or was first found as a deserted infant of unknown parents shall, until the contrary is proved, be deemed to be a New Sudan national by descent.

Section 6.

- (1) The Commissioner for Interior may delegate all or some of his powers other than his powers under sections 9, 10, 11, 14, 15, 19, and 23 of this Act.
- (2) The Commissioner for Interior may delegate all or any of his powers in respect of matters requiring to be done outside the New Sudan to the head of appropriate New Sudan diplomatic mission abroad.

Section 7.

The Commissioner shall, on application of any national of the New Sudan by descent under the provisions of this Act, and upon payment of the prescribed fees, issue to such applicant a Nationality Certificate in the prescribed form.

Section 8.

There shall be kept and maintained in the prescribed form, a register of persons issued with New Sudan Nationality Certificates by descent.

Chapter 3

NATURALIZATION

Section 9.

The Commissioner may, grant a Certificate of Naturalization as a national of the New Sudan to an alien who makes an application in the prescribed form and satisfies the following conditions:-

- a) he is of full capacity.
- b) he has been domiciled in the New Sudan for a period of ten years immediately preceding the date of the application.
- c) he has an adequate knowledge of the New Sudan National Languages or if he has no such adequate knowledge, has resided continuously in the New Sudan for more than twenty years.
- d) he is of good conduct and character.
- e) he intends if naturalized, to continue to reside permanently in the New Sudan, and
- f) if he is a national of any foreign country under the law of that country, he has validly and effectively in accordance with the law of such a country renounced and divested himself of the Nationality of that country.

Section 10.

- (1) No Certificate of Naturalization shall be granted to any person under the preceding section until the applicant has taken the oath of allegiance in the form set out in the attached schedule.
- (2) A person to whom a Certificate of Naturalization has been granted under this section, shall have the status of a national of the New Sudan by Naturalization as from the date of that Certificate.
- (3) The Commissioner may, upon application in that behalf, include in the certificate of Naturalization the name of any minor of whom the applicant is the guardian; such minor shall, as from the date of such inclusion, have the status of a New Sudan national by Naturalization.

Section 11.

The Commissioner may grant a Certificate of Naturalization as a national of the New Sudan to an Alien woman who makes an application in the prescribed form and satisfies that:-

- a) she is a wife of a male New Sudan national.
- b) she has resided with her husband in the New Sudan for a continuous period of not less than five years.
- c) she has validly and effectively in accordance with the law of the country of which she was a national, renounced and divested herself of the nationality of that country.

Section 12.

The refusal of the Commissioner to grant a Certificate of Naturalization as a New Sudan national shall be final and shall not be contested in any court, but the Commissioner on his discretion may at any subsequent time grant such a Certificate.

Section 13.

There shall be kept and maintained, in the prescribed form, a register of persons who are granted the New Sudan Nationality by Naturalization.

Chapter 4

LOSS OF NATIONALITY

Section 14.

(1) Where the Commissioner is satisfied that a national of the New Sudan, who is of full capacity, has:-

- a) acquired the Nationality of a foreign country by any voluntary or formal act other than marriage, or
 - b) made a declaration renouncing his New Sudan Nationality, provided however that, the Commissioner may refuse to accept such a declaration if it is made during the continuance of any war in which the New Sudan is engaged, or
 - c) after the commencement of this Act, taken or made an oath, affirmation or other declaration of allegiance to a foreign country, or
 - d) entered or continued in the service of a foreign country in contravention of expressed provision of any law in that behalf.
- The Commissioner may order that such person shall cease to be a New Sudan national.

(2) Any person aggrieved by the decision of the Commissioner, may challenge that decision in the Court of Appeal.

Section 15. Where the Commissioner is satisfied that a national of the New Sudan by Naturalization:-

- a) has obtained his Certificate of Naturalization by fraud, false representation or concealment of any material fact, or
- b) has, during any war in which the New Sudan is or has been engaged, unlawfully traded or communicated with the enemy or with subjects of any enemy state, or has been engaged in, or associated with, any business that was to his knowledge carried on in such a manner as to assist an enemy in that war, or
- c) has, within five years after the date on which he was naturalized, been sentenced in any country to imprisonment for a term not less than one year for an offense involving moral turpitude, or
- d) has shown himself by act or speech to be disloyal to or shame to the New Sudan, when outside the New Sudan, or
- e) has been convicted of any offense involving disaffection to the New Sudan when in the New Sudan, or
- f) has resided outside the New Sudan for a continuous period of five years unless:-
 - i) he has so resided by reason of his service under the CANS or of his service with an international organization of which the New Sudan is a member, or
 - ii) has so resided as the representative of or employee of a person, company or firm resident or established in the New Sudan, or
 - iii) In the case of a wife or minor of a person referred to in paragraphs (i), (ii), such a wife or child has so resided with such a person, or
 - iv) he has, at least once in every year during that period, given notice in the prescribed form of his intention to retain his New Sudan nationality.

The Commissioner of Interior may by order, deprive that person of his New Sudan Nationality.

Section 16.

- (1) Before making an order under section 14 the Commissioner may give to the person in respect of whom the order is proposed to be made, a notice in writing informing him of the ground on which the order is to be made, and that he may apply to have the case referred to the Court of Appeal.
- (2) If in accordance with the provision of the proceeding sub-section, and within a period of six months of the date of the notice such person so applies, the Commissioner may refer the case to the Court of Appeal.
- (3) The person in respect of whom an order is proposed to be made under this section, shall be entitled to appear before the Court of Appeal personally or through an advocate or duly authorized agent.

Section 17.

Where the Commissioner orders that any person ceases to be a national of the New Sudan, or be deprived of his Nationality, such order shall have effect from the date the Commissioner or the Court passes it accordingly.

Section 18.

When a person ceases to be a national of the New Sudan or has been deprived of his Nationality, he shall not thereby be discharged from any of the obligations, duties or liabilities in respect of acts or things done or committed before he ceased to be a national of the New Sudan or been deprived of the Nationality.

Section 19.

- (1) When the guardian of a minor ceases to be a national of the New Sudan under section 14 of this Act, that minor shall cease to be a national of the New Sudan only if he is or thereupon became a National under the law of a country, other than the New Sudan,
- (2) Where a person is deprived of his New Sudan Nationality under section 15 of this Act, the Commissioner may, by order, direct that any minor of whom that person is the guardian shall cease to be a national of the New Sudan, provided that such minor may, within one year after attaining majority, make a declaration that he wishes to become a New Sudan national, and thereupon he should again become a national of the New Sudan.

Section 20.

The Commissioner shall cause to be published in the Gazette the names and the addresses of the persons who have lost or who have been deprived of their New Sudan nationality under this Act.

Chapter 5

MISCELLANEOUS

Section 21.

Any reference in this Act to the status or description of father of a person at the time of that person's birth shall, in relation to a person born after death of his father be construed as a reference to the status or description of the father at the time of the father's death; and where the death occurred before, and the birth after, the commencement of this Act, the status or description which would have been applicable to the father had he died after the commencement of this Act shall be deemed to be the status or description applicable to him at the time of his death.

Section 22. Any person who:-

- a) for the purposes of this Act, knowingly makes a false representation or false statement in a particular material, or

- b) uses another person's Nationality Certificate of Naturalization or Descent to impersonate that of other person, or
- c) knowingly permits his Nationality Certificate of Naturalization or Descent to be used to personate himself, or
- d) having been deprived of the New Sudan Nationality under *section15* fails, upon being so demanded by the Commissioner, to surrender his Certificate of Naturalization;

commits an offense, and shall on conviction be liable to imprisonment for a term not exceeding five years or fine or both.

Section 23.

The Commissioner may make general regulations for carrying into effect the provisions and objectives of this Act; and in particular may by such regulations provide for:-

- a) the forms to be used and the registers to be maintained under this Act;
- b) the administration and taking of oath of allegiance under this Act, and the manner in which such oath shall be taken and recorded;
- c) payment of fees in respect of any registration, the making of any declaration or the grant of any certificate authorized to be made or granted by this Act, and in respect of the administration and registration of an oath.

Issued under my hand this _____ day of _____ 2003 A.D

Dr. John Garang de Mabior
Chairman
SPLM/CANS

THE SCHEDULE

OATH OF ALLEGIANCE

I Do hereby swear
by The Almighty God (or do so solemnly affirm) that I will bear true faith and
allegiance to the Constitution of the New Sudan as by law established and that I
will faithfully observe the laws of the New Sudan and fulfill my duties as a New
Sudan National.