

In the name of Allah, the Gracious, the Merciful

THE ASYLUM Regulation Act 2014

Be it hereby enacted, according to 2005 National Interim Constitution, by the National Council and signed by the President of the Republic, the following Act:-

Chapter One
Preliminary Provisions

Title and Commencement

1. This Act shall be cited as “The Asylum Regulation Act 2014”, and shall come into force as from the date of signature.

Repeal and Saving

2. The 1974 Asylum Act shall be repealed provided that all regulations and procedures rendered under its auspices shall be valid till such time they are repealed or amended in accordance with the provisions of this Act.

Definitions

2. In this Act unless the context otherwise requires:-

***“Refugee means any alien who is owing to a well-founded fear of being persecuted for reasons of race, religion, nationality, membership of a particular social group or political opinion, or owing to external aggression, occupation, foreign domination or events seriously disturbing public order in either part or the whole of his country of origin or nationality, is outside the country of his nationality and is unable or unwilling, owing to such fear, to avail himself of the protection of that country; or not having a nationality and being outside the country of his former habitual residence as a result of these events, and he is unable or unwilling, because of this fear to return to that country and* he is registered in accordance with this Act.**

“Asylum” means protection and assistance granted to persons qualifying for refugee status in accordance with the provisions of this Act and in accordance with the 1951 United Nations Convention relating to the Status of Refugees and the 1969 OAU Convention Governing the Specific Aspects of Refugee Problems in Africa.

“Asylum seeker” means any alien who has expressed his wish to seek the international protection, whose claim has not yet been finally decided in Sudan according to section 7 of this Act.

*Cancellation of refugee status “means the revocation of the status obtained by illegal or illegitimate means

- *Revocation of refugee status “means procedure materializing when reasons for asylum cease to exist
- “Travel Document” means the travel document issued to a refugee, in accordance with Section 16.
- “Commission” means the Commission for Refugees established under section 24/1 of this Act.
- “Commissioner” means the Commissioner for Refugees appointed under section 26.
- “United Nations Convention” means the 1951 United Nations Convention relating to the Status of Refugees, done at Geneva in July 1951, as well as the Protocol Relating to the Status of Refugees, adopted in New York in January 1967.
- “OAU Convention” means the Organization of the African Union Convention Governing the Specific Aspects of the Refugee Problem in Africa, adopted in Addis Ababa on 10 September 1969.
- “High Commissioner” means Representative of the United Nations High Commissioner for Refugees in Sudan.
- “Voluntary repatriation” means voluntary return of a refugee to his country of nationality or habitual residence.
- “Resettlement” means the resettlement of a refugee or asylum seeker to a country other than that of origin or habitual residence.
- “Central Registry” means the registry that contains the data of the refugees and asylum seekers in Sudan and their places of residence.
- “Appeal Council” Means the council established in accordance with the provision of article 12(1) to review appeals submitted by refugees and asylum seekers against the rejection of refugee applications, cancellation and revocation of refugee status.
- Refugee family** means **his spouse, his minor children and his parents if they are dependant on him.**
- “Separated minor” means a child under 18 years of age who is separated from both parents or from his previous legal or customary primary care-giver and may therefore include a child who is accompanied by other adult family members.
- “Unaccompanied minor” means a minor less than 18 years of age who is separated from both parents and other relatives and is not being cared for by an adult who, by law or custom, is responsible for doing so.

“Ministry
Minister

Means the ministry of Interior
Means the Minister of Interior

Chapter Two
Asylum Regulation
Criteria for Granting Refugee Status and Procedures

Granting of Refugee Status is a Humanitarian Act

4. (1) The granting of refugee status to any person under this Act shall be considered as a peaceful and humanitarian act and shall not be considered as a hostile act towards the country of origin of that person or any other country.

Exclusion from Refugee Status

5. No person shall be granted refugee status if there are serious reasons for considering that:
- (a) he has committed a crime against peace, a war crime or a crime against humanity, as defined in the international instruments drawn up to make provision in respect of such crimes;
 - (b) He has committed a serious non-political crime outside Sudan prior to his admission to the Sudan as a refugee;
 - (c) He has committed acts contrary to the purposes and principles of the United Nations Organization, the African Union or the Arab League.

Cessation of Refugee Status

6. A person shall cease to be a refugee if:
- (a) He voluntarily re-availed himself of the protection of the country of his nationality; or
 - (b) Having lost his nationality, he has voluntarily reacquired it; or
 - (c) He has acquired a new nationality and enjoys the protection of the country of his new nationality; or
 - (d) he has voluntarily re-established himself in the country which he left or outside which he remained owing to fear of persecution; or
 - (e) he can no longer, because of the circumstances in connection with which he was recognized as a refugee have ceased to exist, continue to refuse to avail himself of the protection of his country of nationality; or
 - (f) If he has no nationality, and because of the circumstances in connection with which he has been recognized as a refugee has ceased to exist he is able to return to the country of his former habitual residence.

Application for Asylum

7. (1) Any person who wishes to seek international protection as a refugee in Sudan shall present himself within 30 days after his entry into Sudan to the nearest office of the Commission or official authority. The official authority shall refer the person immediately to the nearest office of the Commission.

(2) The Commissioner or his delegate may accept an asylum application that has been lodged after 30 days according to the merits of each case referred to in subsection(1).

(3) An asylum seeker shall be granted a temporary asylum seeker identity card for a term of three months; the Commission shall renew it for a similar term while waiting for the decision on the application for asylum, and shall specify the place of residence of the asylum seeker.

Mass Asylum

8. notwithstanding the provisions of section (7) The Commissioner and after consultation with the Minister may grant asylum to a group of large number of persons that arrive in Sudan If:

- a) Information on their country of origin indicates that these persons need international protection.
- b) If conducting an individual refugee status determination is not possible,

Adjudication of the Asylum Application

9. (1) The Commissioner or his delegate shall examine the asylum application as soon as possible within a term not exceeding three months from the date of the submission of the asylum application. The adjudication of asylum applications will be done in a manner consistent with the basic procedural standards specified by regulations:

(2) If the asylum application is accepted, the asylum seeker and his dependants enjoying derivative status as refugees shall be registered in the central registry.

Cancellation of Refugee Status

10. (1) The Commissioner may cancel refugee status in the following cases:

- (a) If a person recognized as a refugee has fraudulently misrepresented or omitted material facts which, would have changed, the decision of recognizing that person as a refugee; or
 - (b) If new evidence has become available that such a person should have not been recognized as a refugee.
- (2) The Commissioner or his delegate shall consider every case individually and he may conduct any investigation or query he may deem necessary.
- (3) After considering all the evidence, the Commissioner or his delegate shall:
- (a) Cancel the recognition of the refugee concerned if it is established that, at the time of recognition, the person was not entitled to refugee status; and
- The person concerned must be notified of the decision, together with reasons, within a period of 30 days of the date of the decision.
- (4) Where recognition as a refugee is cancelled that person and the members of his family who have been granted derivative refugee status shall be deemed not to have been recognized as refugees. Provided that nothing in this subsection shall prevent a member of the family of the person concerned from applying for asylum individually and being considered as a refugee.

Revocation of Refugee Status

11. *(1) The Commissioner, shall have the power to revoke refugee status where any of the conditions articulated in section 6 is applied on the concerned person
- (2) The Commissioner or his delegate shall consider every case individually and he may conduct any investigation or query he may deem necessary.
- (3) After considering all the evidence, the Commissioner or his delegate shall revoke the refugee status of the person concerned that must be notified of the decision, together with reasons thereof within a period of 30 days from the date of the decision.
- (4) Where the recognition of refugee status is revoked, that person shall lose recognition as a refugee. However his family members who have been granted derivative refugee status shall remain unaffected.

Establishment of Council of Appeal and Procedures

- 12 (1) The Minister and by recommendation of the commissioner shall appoint a council or councils of appeal in each state or in some states. Each council shall be formed of not less than three persons who are knowledgeable on refugee law and refugee conventions. The decisions of the council of appeal shall be final.
- (2) Any refugee or asylum seeker wishes to appeal the rejection of his application for asylum , or a decision of revocation or cancelation of his refugee status may appeal such decision to the council of appeal within thirty days from the date the decision was notified to him.

(3) Notwithstanding the provisions of subsection (2) the commissioner may consider the application for appeal after the elapse of the abovementioned period if the reasons for that delay which mentioned in the application of appeal are reasonable.

(4) The persons whose application for asylum is finally rejected shall be subjected to the laws applicable on aliens.

Chapter Three **Refugee's Rights and Obligations** **Refugee's General Rights**

13. (1) Subject to this Act, every person who has been granted refugee status shall be entitled to the rights contained in the United Nations Convention and OAU Convention. Notwithstanding the forgoing generally, refugees shall be accorded the same treatment as nationals regarding:

- (a) Public relief and assistance, where such a system exists;
- (b) Right to basic education;
- (c) Right to rationing where such a system exists;
- (d) Right of litigation before all courts;
- (e) Right to practice religion and freedom with regards to religious education of children.

(2) Refugees shall be accorded treatment as favorable as possible, and not less favorable than that accorded to aliens generally in the same circumstances with regard to right to :

- (a) Education other than elementary education;
- (b) Affiliation to nonpolitical associations
- (c) Housing;
- (d) Obtain permission for movement and residence,

- (e) Self-employment; and liberal profession;
- (f) Ownership of movable property.
- (g) *The right to own immovable property if the approval of the Council of Ministers is obtained.

(3) Asylum seekers shall be accorded the same treatment accorded to refugee stipulated in sub-section (1).

(4) Where the provisions of this Act are applied, refugees and asylum seekers shall not be discriminated against on grounds of race, religion or country of origin

Refugee Obligations

14. (1) every refugee shall respect the constitution, laws, and regulations in force in the Republic of Sudan and shall maintain the public order; and respect the values, traditions, and the feelings of the Sudan's society. Without prejudice to the generality of the foregoing, refugees shall be obliged not to carry out any activity which:

- (a) Is against the national security and public order;
- (b) Is contrary to the objectives and principles of the United Nations, or of the African Union, or of the Arab League; or of any organization to which Sudan is a party.
- (c) is subversive political activity from inside Sudan, against his country of origin or any other state;

(2) Any refugees shall:

- (a) Not leave the place which is specified for his residence unless permission from the Commission or from its delegate is obtained and, approved by the competent authorities in accordance with the rules and procedures specified by the regulations;
- (b) Carry a valid refugee identity card, and present it when required.

Registration of Moveable Property

- 15. Upon registration of the refugee all his moveable property which he has brought with him to Sudan shall be registered. He may take it out with him when he returns to his country of origin or when he finally moves to another country.

Obtaining a Refugee Travel Document

- 16. Subject to the Passports and Immigration Act in force, and to the United Nations Convention the Passports Department with the recommendation of the commissioner- unless contradicted by compelling reasons related to the national security or public order- shall issue a travel document to any refugee requests that in accordance with the form attached to the United Nations Convention.

Obtaining a Refugee Identity Card

- 17. (1) The Commission shall issue a refugee identity card to any refugee whose application has been accepted and who has been registered in the central registry. The identity card shall bear the serial number that was entered in the central registry according to the form prescribed by the regulations.
- (2) The identity card shall be granted for a term not less than one year, subject to renewal in accordance with the regulations

Refugee Work Permission

18. (1) subject to the provisions of the labour laws in force the refugee shall be permitted to work after obtaining a work permit from the competent labour office. The labour office shall send a copy of the work permit to the commission and the ministry within two weeks from the date of its issuance.
- (2) Notwithstanding the provisions of subsection (1) the refugee shall not obtain a work permit for jobs and industries related to the security or the national defence of the country prescribed by regulations.
- (3) Notwithstanding the provisions of subsection (1) the Commissioner or his delegate by the request of the competent authorities or the owners of the agricultural schemes may permit the refugees to work in these schemes after taking the measure necessary for transporting and returning refugees, and the safeguards for acquiring their entitlements.

Reunification of the Refugee Family

19. The Commission in coordination with the High Commissioner shall endeavour to facilitate the reunification of the refugee family inside and outside of Sudan.

Tax Charges

20. (1) No duties, charges or taxes, of any description whatsoever, which is deferent or higher than those which are or may be levied on nationals in similar situations, shall be imposed on refugees.
- (2) Laws and regulations related to fees in connection with the issuance of administrative documents including identity cards.

Chapter Four **Durable Solutions**

Voluntary Repatriation

21. (1) The repatriation of the refugee to his country of origin should be voluntary.
- (2) Any refugee shall have the right to repatriate to his country of origin at any time.
- (3) An organized repatriation shall not take place unless the refugee expresses in writing his wish for return.
- (4) The Commission in coordination with the High Commissioner, and the refugee's country of origin shall follow the procedures necessary for the voluntary repatriation.
- (5) If a large number of refugees wish to return, a tripartite agreement may be signed in consultation with the concerned parties referred to in subsection (4).

Resettlement

22. (1) The High Commissioner shall Resettle the refugee *or the asylum seeker to another country in a spirit of cooperation with the Commission
- (2) Notwithstanding the provision of subsection (1) The Commission and other state authorities shall provide support and facilitation for the resettlement of any refugee carried out by the Representative of the High Commissioner, that includes protecting that refugee until he departs Sudan.

Naturalisation

23. The laws and regulations that regulate the acquisition of Sudanese nationality by naturalization shall be applied to refugees officially recognized in Sudan.

Chapter Five **Commission and Commissioner**

Establishment of the Commission

24. (1) A commission shall be established. It shall be called “Commission for Refugees” . It shall have corporate personality, public seal, and the right of litigation in its own name.
- (2) All the assets and properties of the Office of the Commissioner for Refugees shall devolve to the Commission for Refugees.
- (3) The seat of the Commission shall be in the national capital,
- (4) The Commission shall be under the auspices of the minister, and he may issue general directions of a public nature thereto, and the Commission shall act according to such directions.

Competencies and powers of the Commission

25. (1) The Commission shall be a governmental counterpart of the High Commissioner.
- (2) The Commission shall be responsible for all matters relating to refugees in Sudan. States may not intervene in such matters in any manner save in what has expressly provided for in this law.
- (3) The Commission shall monitor the situation of the Sudanese refugees abroad, encourage and facilitate their repatriation in coordination with the other relevant bodies.
- (4) Without prejudice to the generality of the provisions of sub-section (2), the Commission shall have the following power and competencies:
- (a) Providing protection to refugees in coordination with the competent authorities,

- (b) Oversee the provision and implementation of services to refugees in coordination with the High Commission, its partners, and the civil society organizations
- (c) Prepare and implement the plans for the development of the refugee affected areas in coordination with the relevant states,
- (d) Propose the annual budget and submit it to the competent authority for Approval
- (e) Receive and verify the asylum applications and make decision thereon,
- (f) Take any legal procedures necessary for the implementation of the provisions of this act.

Appointment of the Commissioner and his entitlements

26. (1) The Commissioner shall be appointed by a decision of the Council of Ministers upon the recommendation of the Minister from qualified, experienced and a highly competent persons. The appointment decision shall specify his entitlements and privileges.

Functions and Powers of the Commissioner

27. The Commissioner shall be the first executive official of the Commission, and he shall undertake the tasks related to the administration, evaluation and supervision of the employees thereof. Notwithstanding the foregoing the Commissioner shall have the following powers, and competences:
- (a) Coordinate with the representative of the High Commissioner and the other relevant specialized agencies for protecting, assisting refugees and finding durable solution for the refugee problem. ,
 - (b) Supervising the implementation of the Sudan obligations in accordance with the international and the regional convention related to refugees
 - (c) Sign agreements relating to the services for refugees, and development of the refugee affected areas in coordination with the relevant entities, and international, regional and the voluntary organizations working in the field of asylum, after obtaining the approval of the minister,
 - (d) Submits regular and ad hoc reports on commission activities to the Minister,
 - (e) Provides technical advice to the state authorities on issues relating to refugees,
 - (f) Establishes a central registry contains comprehensive data on refugees in Sudan and their places of residence,
 - (g) Establishes departments and branch offices in the states, and specify their functions and powers,
 - (h) appointment of Assistant Commissioners to head the Branch offices in the states
 - (i) Delegate the power to adjudicate applications of refugee status to any person or a committee.
 - (j) Any other functions assigned thereto by the Minister.

Chapter Six
Deportation and Detention of Refugees and Asylum Seekers

Deportation

28. (1) Before the decision of the final rejection of the asylum application is made the asylum seeker shall not be subjected to measures such as rejection at the border, return or expulsion, which may force him to return to or stay in a territory where his life or physical safety or liberty is at risk.

(2) The refugee shall not be deported in any manner whatsoever to the frontiers of a state where his life or freedom would be threatened on account of his race, religion, nationality, membership of a particular social group or political opinion.

(3) Notwithstanding the provision of subsection 2 the minister in consultation with competent authorities if necessary may order the deportation of a refugee or asylum seeker in the following conditions:

a) Has been convicted with a serious crime that affects the national security or the economy of the state, or any other crime of similar threat.

b) If his presence in Sudan constitutes danger to the national security or public order as per the recommendations of national competent security organs.

4) If the minister decides to deport any refugee or asylum seeker in accordance with subsection (3) the following should be considered:

a) The refugee being ordered deported should be confined to a particular location under the supervision of the legally competent authorities till such time deportation is finalized.

b) Grant the refugee being subject to deportation the opportunity to seek acceptance by another country that may accept him as a refugee within three months of the deportation order that may be renewed for a final similar period.

c) The refugee or his representative and the high commissioner shall be notified of the deportation order within a week of the issuance of such order.

d) The refugee may choose a representative to pursue admittance to another country and to follow up on the procedures with the commission and UNHCR.

Non-Penalization for Illegal Entry

29. notwithstanding section (7) No penalties on account of their illegal entry or presence shall be imposed on asylum seekers who, are coming directly from a territory where their life or freedom was threatened, entering or are present in the territory of Sudan, provided that they present themselves to the nearest office of the Commission or the nearest official authority at the border within one month, In doing so they are to have a legitimate reason for illegal entry or presence.

Detention of a Refugee

30. (1) any competent authority detains any refugee or asylum seeker shall notify the Commissioner immediately of such detention and the reasons thereof for the purpose of cognizance and follow up. No information concerning the detention shall be disclosed unless consultations and coordination are being made with these competent authorities.

- (2) Any District Attorney taking criminal procedures against any refugee or asylum seeker shall immediately inform the Commissioner or his representative and the Courts shall inform the Commission of the judgment passed against such refugee or asylum seeker.
- (3) The competent authorities shall give the Commission access to meet with and follow up on refugees and asylum seekers held in detention.
- 4) Notwithstanding the provisions of subsections 1,2 and 3 COR and UNHCR are to maintain coordination in respect of refugee detention.

Chapter Seven Contraventions Crimes and penalties

31. (1) Any person who employs any refugee who does not have a work permit in Sudan issued by the Ministry of Labour or the competent labour office or knowingly harbour any refugee who is not authorized to reside in such place shall be deemed to have committed a contravention and shall be punished if convicted with imprisonment of a term not exceeding two years or with fine or with both. .
- (2) Any person who transports any unauthorized refugee or asylum seeker out of camps or in between cities shall be deemed to have committed a crime and shall be punished, when convicted, with imprisonment of a term not exceeding 5 years or with fine or with both. In addition to that the court may confiscate the transportation means
- (3) A refugee shall be deemed to have committed a misdemeanour and shall be fined by the court in any of the following cases:
 - (a) Leaves the place designated for his residence without permission.
 - (b) Does not carry a valid refugee identity card.
 - (c) Works in a profession, craft, commercial and agricultural activities without having obtained work permission from the competent authority.
- (4) A refugee shall be deemed to have committed a crime if he carries out any subversive political, military or media related activity antagonistic to the country of origin or any other country and shall be punished with imprisonment of a term not exceeding two years, fine or both.

Chapter Eight Power to establish camps and passing of regulations Establishment of camps

(32) The Minister may order and in accordance of a recommendation by the commissioner:

- a) Establish camps for refugee and asylum seekers
- b) Closure and consolidation of refugee and asylum seekers' camps.
- c) To relocate refugees and asylum seekers from one state to another if necessary.

Power to render regulations:

33. (1) The Minister, on the recommendation of the Commissioner, may pass the necessary regulations for the implementation of the provisions of this Act.

- (2) Without prejudice to the generality of the foregoing, the regulations may stipulate the following:
- (a) Rules regulating the registration and adjudication of asylum applications and r appeal.
 - (b) Procedure for cancellation and revocation of refugee status
 - (c) statistics of refugees in Sudan;
 - (d) format of the refugee identity card;
 - (e) regulatory provisions for refugee camps, maintaining order and security, and for urban refugees;
 - (f) Provide services for refugees.

Attestation

The National Congress herewith attests to the passing of 2014 Asylum Regulation in its session number 19 convened on 6 the January 2014, the joint committee of the two councils emphasizes that this Act shall not affect states interests.

ANNEX

Pending Issues

1. **Chapter Three, Section 18 – Permission of the Refugee to Work**
Realistic arrangements which comply with Convention obligations need to be agreed with Ministry of Labour and any other relevant agencies – a task force of relevant government agencies and UNHCR should propose policy in this area.
2. **Chapter Five – Establishment of the Commission**
This chapter needs to be substantively reviewed and discussed.
3. **Chapter Six, Section 31 - Non-penalisation for Illegal Entry**
UNHCR proposes to maintain non-penalization for illegal entry for refugees “provided they present themselves without delay”, without any further qualification in this section.
4. **Chapter Six, Section 32(1) – Detention**
“Any competent authority whenever it detains any refugee or asylum seeker shall notify the Commission immediately of such detention and the reasons thereof for the purpose of cognizance and follow up. No information concerning the detention shall be disclosed unless consultation and coordination are being made with these competent authorities”.
UNHCR considers that the second sentence is not consistent with the first. Modalities need to be agreed by relevant government agencies regarding disclosure of information to the Commission and the High Commission about detention of refugees and asylum seekers.
5. **Chapter Seven, Section 35: Contraventions and crimes**
UNHCR considers that refugees should be subject to the general laws of Sudan on the various issues in this section (e.g. criminal law relating to smuggling/trafficking), rather than this Asylum Bill providing for specific penalties which apply only to refugees or persons who assist refugees (e.g. employers of refugees). The penalties for refugees and persons who assist them also need to be the same penalties as for other persons. Otherwise this section would be regarded as discriminatory against refugees and would not accord with Convention obligations. A task force of relevant government agencies and UNHCR should propose policy in this area, including taking account of new initiatives such as the recent workshop on trafficking and the need for legal reform. The proposed task force to consider employment issues relating to refugees can also look at the issue of contravention of procedures for employment of refugees.
6. **Reservation on freedom of movement**
UNHCR proposes that Sudan’s reservation to Article 26 of the UN Convention concerning freedom of movement of refugees be reconsidered by the Government of Sudan with a view to withdrawal of the reservation.