

The National Judicial Service Commission Act, 2005

Be it hereby passed, by the National Assembly, and signed, by the President of the Republic, in accordance with the provisions of the interim Constitution of the Republic of the Sudan, 2005, the following Act:-

Title and commencement

- 1- This Act may be cited as the, “National Judicial Service Commission Act, 2005” and shall come into force, as from the date of signature.

Repeal and saving

- 2- Chapter II, of the Judiciary Act, 1986 shall be repealed. Nevertheless there shall remain valid all the measures, made there under, until revoked, or amended.

Interpretation

- 3- In this Act, unless the context other wise requires:-

“Act”,	means the Judiciary Act, 1986,
“Chief Justice”,	means the Chief Justice of the Republic of the Sudan,
“Commission”,	means the National Judicial Service Commission, established under the Provisions of section 4.

Establishment and constitution of the Commission

- 4- The President of the Republic, after consultation with the Presidency, shall establish a commission, to be known as the, “National Judicial Service Commission” and constituted as follows:-
- (a) the Chief Justice, chairman;
 - (b) President of the Supreme Court of Southern Sudan, members;
 - (c) deputies of the Chief Justice, members;
 - (d) the National Minister of Justice, member;
 - (e) the Minister of Finance and National Economy, member;
 - (f) the person responsible for the legal affairs, of the Government of Southern Sudan, members;
 - (g) Chairman of the Legal Committee, at the National Assembly, member;
 - (h) Chairman of the Legal Committee, at the Council of States, member;
 - (i) Chairman of the Legal Committee, at the Assembly of the Southern Sudan, member;
 - (j) Dean of the Faculty of law, at the University of Khartoum, member;
 - (k) two representatives of the Bar Association, one of them shall be from Southern Sudan, members;
 - (l) Three members, from those possessed of experience and competence, to be appointed by the President of the Republic.

Tasks and functions of the Commission

- 5- (1) The Commission shall undertake the overall management of the National Judiciary. It may exercise the following functions, to:-
- (a) approve the general policy of the Judiciary;
 - (b) approve the budget of the National Judiciary;
 - (c) recommend appointment of Justices of the Constitutional Court;
 - (d) recommend, to the President of the Republic, to appoint the Chief Justice, and deputies thereof;
 - (e) recommend, to the President of the Republic, to appoint Justices of the National Supreme Court, and all judges of the Sudan;
 - (f) approve the recommendation of the Chief Justice, to remove justices and judges, in accordance with the law;
 - (g) recommend promotion of Justices and Judges, in accordance with the law.
- (2) The Commission shall organize the relation, between the National Judiciary, and the Judiciary of Southern Sudan, and the Judiciary in the states; provided that the same shall, with respect to the Southern Sudan, be made in consultation with the President of the Supreme Court of Southern Sudan.
- (3) The Commission shall exercise any other tasks, or functions, as the law may delegate thereto.

Powers of the Commission

- 6- The Commission, for the sake of exercising the tasks and functions thereof, shall have the following powers, to:-
- (a) call whoever it may seek the help thereof, in the matters submitted thereto;
 - (b) require such data and papers, as may be necessary for the exercise of the functions thereof, from government bodies, and otherwise;
 - (c) authorize the Chief Justice, to exercise any of the tasks and functions thereof, provided for in the Act; otherwise than cases of appointment, promotions and removal;
 - (d) make such regulations, as may be necessary for organization of the business and meetings thereof .

Meetings and decisions of the Commission

- 7- (1) The Commission shall hold a periodical meeting every four months. It may hold an emergent meeting, on call of the Chairman thereof, or one-third of its members, where necessity requires the same.
- (2) The quorum, for meetings of the Commission, shall be constituted by the attendance of more than half the members thereof.
- (3) All deliberations of the Commission shall be secret.
- (4) The Commission shall pass its resolutions and recommendations, by the majority of opinions of the present member. Upon equality of votes, the Chairman shall have a casting vote.
- (5) In such cases, as in which the Chief Justice may be absent, from the meetings of the Commission, chairmanship shall be assumed by the most senior of deputies of the Chief Justice.

Budget of the Commission

- 8- The Commission shall have an independent budget, to be approved by a decision of the President of the Republic, upon recommendation of the Commission.

Secretariat general of the Commission

- 9- (1) The Commission shall have a Secretariat General, under the presidency of a Secretary General, to be appointed by the Commission, from among Justice of the Supreme Court.
(2) The regulations, made by the Commission, shall specify formation of the Secretariat General and the functions thereof.

Interim provision

- 10- Notwithstanding the provisions of section 2, and pending constitution of the Commission, in a accordance with the provisions of section 4, the High Judiciary Council, established under the (repealed) Chapter II, of the Judiciary Act 1986, shall exercise the tasks and functions of the Commission.