

# Laws of South Sudan

## Refugee Status Eligibility Regulations, 2017

Reviewed Final Draft Text  
Directorate of Legislation  
Ministry of Justice and Constitutional Affairs

Date: 07 April 2017



Laws of South Sudan  
Refugee Status Eligibility Regulations, 2017

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Refugee Status Eligibility Regulations, 2017

Pursuant to powers conferred upon by provisions of section 46 (2) (d) and (e) of the Refugee Act, 2012, the Minister hereby issues the following Regulations:

Chapter I  
Preliminary Provisions

**1. Title and commencement**

These Regulations may, be cited as the “Refugee Status Eligibility Regulations, 2017” and shall come into force on the date of its signature by the Minister.

**2. Repeal and Saving**

- (1) All provisions of any existing Regulations, Rules, Guidelines or procedures which are governed by provisions of these Regulations are hereby repealed.
- (2) Notwithstanding provisions of sub - regulation (1) of this Regulation, all orders, approvals, directives, decisions or status granted shall, remain in force and valid, unless they are otherwise inconsistent with or until amended or repealed in accordance with provisions of these Regulations.

**3. Purpose**

The purpose of these Regulations is to provide for the establishment of regulatory framework, to set out procedures, guidelines and formulate appropriate and necessary forms for Refugee application, grant or rejection of status certificate or any other relevant matter thereof.

**4. Application**

The provisions of these Regulations shall, apply to all Refugees and asylum seekers defined under the Refugee Act, 2012, or other procedures otherwise require by the Minister, for purpose of National Security or any other reasons he or she may deem necessary.

**5. Interpretation**

In these Regulations,

- (1) All words and expressions defined under the Refugees Act, 2012, shall have the same meanings herein.
- (2) unless the context otherwise requires-

“Act”	means the Refugee Act, 2012;
“Chairperson”	means the Chairperson of Eligibility Committee, appointed in accordance with provisions of section 16 (1) (a) of the Act,
“Categories at Risk”	means categories of asylum-seekers or refugees including unaccompanied minors, mentally or physically disabled, pregnant women, elderly persons, stateless persons and any other group considered in need of special assistance or protection;
“Child”	means any natural person under the age of eighteen years; as provided under the Child Act, 2009.
“Court”	means the High Court; of Judiciary of South Sudan.
“Combatant”	means any member of regular armed forces or an irregular armed group or any person who has been participating actively in military activities and hostilities or any person who has undertaken activities to recruit or train military personnel or has been in command or decision-making position in any armed organization, regular or irregular;
“Dependant”	means the spouse of any refugee or asylum-seeker, any unmarried dependent child or any destitute, elderly or infirm member of family of the refugee or asylum - seeker;
“Refugee Reception Centre”	means any location designated for the reception of asylum-seekers and refugees;
“Registration Officer”	means any officer designated to register any asylum - seeker or refugee.
“Refugee Status Determination Officer”	means any officer designated to conduct individual refugee status determination;
“Refugee Status Determination Reviewing Officer”	means senior protection officer responsible for reviewing refugee status determinations assessment report of asylum seekers designated by the Commission, who shall present

his or her assessment reports of asylum seekers to the Eligibility Committees for hearing.

“Secretary of Eligibility Committee” means the Commissioner or any authorized technical representative of Commission in the meeting of Eligibility Committee.

“Separated Child” means any child separated from both parents, or from their previous legal or customary primary caregiver, not necessarily from other relatives. And may, include children accompanied by other adult family members;

“Unaccompanied Child” means any child or minor who has been separated from both parents and other relatives and is not being cared for by any adult responsible for his or her care by law or custom.

## Chapter II Eligibility Committee

### 6. Composition of Eligibility Committee

- (1) Pursuant to Section 16 of the Act, the Eligibility Committee shall, compose of nine (9) members appointed from various Ministries, and Institutions, which shall be presided over by representative of Ministry of Justice as its chairperson.
- (2) Notwithstanding sub regulation (1) of this regulation the UNHCR may attend meeting of the Eligibility Committee in advisory capacity at its discretion.
- (3) Each Ministry or Institution represented in the eligibility committee shall, appoint Alternate member to attend eligibility committee sessions in absence of appointed representative in any particular session.
- (4) Members appointed to the Eligibility Committee shall, be persons with experience, qualifications and expertise, and their capability to properly perform the functions and duties of their office.
- (5) No person shall, qualify for appointment as member of the Eligibility Committee unless he or she is:
  - (a) South Sudanese citizen; or
  - (b) not convicted of any offence related to honesty or moral turpitude or for the last five years.

- (6) Gender parity shall, be ensured to the extent possible, as provided for under Article 16, (4) (a) of the Constitution.

#### **7. Tenure of Eligibility Committee**

Any member of the Eligibility Committee shall, hold office for period of three (3) years commencing, from date of appointment and may, be eligible for another subsequent similar period of office, provided that he or she remains in the Ministry or Institution.

#### **8. Vacancy in Eligibility Committee**

- (1) Any member of the Eligibility Committee may, resign his or her membership by tendering written notice to the Minister.
- (2) Any member of the Eligibility Committee may, be removed from office by the Minister for any of the following reasons:
  - (a) Inability to perform the functions of his or her office arising from mental or physical infirmity;
  - (b) Misbehavior or misconduct;
  - (c) Incompetence; or
  - (d) Failure to attend three consecutive meetings of the committee without justifiable reasons.

#### **9. Filling of Vacancy of Eligibility Committee**

- (1) The Secretary of Eligibility Committee shall, within fourteen (14) days after occurrence of vacancy arising from death, resignation or removal from office of any member of Eligibility Committee, notify the Minister of the vacancy.
- (2) The Minister shall, within forty five (45) days after consultation with the Minister or head of the Ministry or Institution whose representative has vacated the office, appoint suitable person to serve for the remainder period of office of the member in respect of whom the vacancy has occurred.
- (3) The Eligibility Committee may, continue to perform or exercise its functions and powers notwithstanding the occurrence of vacancy in its membership.

#### **10. Powers, Functions and Duties of Eligibility Committee**

The Eligibility Committee, subject to provisions of the Act shall:

- (a) oversee and regulate the work of Refugee Status Determination officers;
- (b) make decision on written recommendations of Refugee Status Determination officer within, ninety (90) days of receipt of recommendations;
- (c) liaise with representatives of the Office of United Nations High Commissioner for Refugees (UNHCR) on any matters it deems appropriate;



- (d) decide any matter of law referred to by Refugee Status Determination officer;
- (e) advise the Minister on matters relating to refugee status determination; and
- (f) make recommendations to the Minister for his or her action on cases of:
  - (i) expulsion or extradition;
  - (ii) cessation of refugee Status; and
  - (iii) where any refugee or asylum seeker requires assistance to find alternative country of asylum.

#### 11. Meetings of Eligibility Committee

- (1) The Eligibility Committee shall, convene its ordinary meeting monthly, on such time, date and venue as may be specified by the Chairperson.
- (2) The Chairperson may, at any time, convene special or extra - ordinary meeting of Eligibility Committee on his or her own motion or upon request in writing by 1/3 one third of its members, within fourteen (14) days.
- (3) Notice of Eligibility Committee meetings shall, be given in writing to each member, at least, seven (7) working days before date of the meeting.
- (4) The Chairperson shall, preside at every meeting of Eligibility Committee. In the absence of the Chairperson, the Vice Chairperson shall, preside over the meeting.
- (5) The Commissioner or his or her representative shall, be an *ex-officio* member of Eligibility Committee and shall serve as Secretary to the Eligibility Committee.
- (6) Records of proceedings of every meeting of eligibility committee shall, be recorded in English and be kept by the Secretary.

#### 12. Notice of Decision of Eligibility Committee

- (1) The Commissioner or his designated representative shall, within fourteen (14) working days after the date of or her decision of the Eligibility Committee, notify the applicant in writing of the decision on such form to be specified by the Commission.
- (2) Where application for refugee status is rejected by Eligibility Committee, the Eligibility Committee shall, state the reasons for rejection in writing on such form to be specified by the commission.

#### 13. Quorum

- (1) The quorum for convene of any meeting of Eligibility Committee shall, be attainable by five members present, including presiding member.

- (2) Decisions at any meeting of Eligibility Committee shall, be passed by simple majority member of members present (50 +1) and in the event of equal votes, the Chairperson or presiding member shall have casting vote.

#### 14. Disclosure of Interest

- (1) Any member of Eligibility Committee, who has direct or indirect interest in any case or matter being heard or determined by the Eligibility Committee, or in any other matter to be considered by the Committee shall, disclose the nature and extent of his or her interest at any meeting of the Eligibility Committee.
- (2) Any disclosure made under sub - regulation (i) of this regulation shall, be recorded in minutes of that particular meeting.
- (3) Any member who makes disclosure under sub - regulation (i) of this regulation shall not:
  - (a) be present or attend any deliberation of Eligibility Committee, with respect to that matter; or
  - (b) take part in any decision making of the Eligibility Committee, with respect to that matter.
- (4) For purposes of determining quorum, any member withdrawing from any meeting or who is not taking part in any meeting under sub- regulation (1) of this regulation shall, be considered as being present.

#### 15. Appointment of Subcommittees

- (1) Pursuant to Section 20 of the Act, the Eligibility Committee may, appoint Subcommittees to exercise and perform such powers and duties of Eligibility Committee as it may, delegate, assign or refer to the Subcommittee from time to time.
- (2) Powers and duties referred to under sub - regulation (1) of this regulation may, include but not limited to, oversight, regulation and review of the adjudication of individual asylum claims, in various refugee-hosting locations.
- (3) The decision to appoint any Subcommittee shall, be determined on basis of needs, available resources and staffing capacity.
- (4) Persons to be appointed to Subcommittee shall, possess such necessary experience, qualifications and expertise, and their capability to properly perform functions and duties of their office.
- (5) The composition of any Subcommittee, and duration of its tenure shall, be specified in writing at the time of its appointment.

### Chapter III Appeals Board

#### 16. Composition of Appeals Board

- (1) The Appeals Board shall, compose of five members to be appointed by the Minister as follows:
  - (a) Chairperson; and
  - (b) Four other members at least one of whom shall be qualified senior advocate.
- (2) Persons appointed under sub - regulation (1) of this regulation shall preferably, have experience, qualifications and expertise in the field of Refugee Law.

#### 17. Tenure of Appeals Board

The membership of Appeals Board shall, be three years, commencing from date of appointment and may be eligible for re - appointment, for another subsequent similar tenure of office.

#### 18. Vacancy in Appeals Board

- (1) Any member of Appeals Board may, resign by tendering written notice of his or her resignation to the Minister.
- (2) Any member of Appeals Board may, be removed from office by the Minister, for:
  - (a) inability to perform the functions of his or her office, arising from physical or mental infirmity;
  - (b) misbehavior or misconduct;
  - (c) incompetence; or
  - (d) failure to attend three consecutive meetings of the Board, without justifiable reasons.

#### 19. Filling of Vacancy in Appeals Board

- (1) The Secretary shall, within fourteen (14) days after the occurrence of any vacancy arising from the death, resignation or removal from office notifies the Minister of the vacancy.
- (2) The Minister shall, within forty five (45) days, appoint suitable and eligible person to serve for remainder of tenure of office of member in respect of whom the vacancy has occurred.
- (3) The Appeals Board may, continue to discharge its responsibilities set out under the Act, and these regulations, notwithstanding occurrence of vacancy in its membership.

## **20. Secretary of Appeals Board**

The Minister shall, upon appointment of members of Appeals Board under Section 21 of the Act, designate one among the members to be the Secretary of the Appeals Board.

## **21. Functions of Secretary**

- (1) The Secretary of Appeals Board shall, have such functions, including but not limited to the following:
  - (a) receiving appeals to the Appeals Board;
  - (b) communicating submitted decisions of Appeals Board to the appellants; and
  - (c) communicating the decisions of Appeals Board to the Eligibility Committee
- (2) The Secretary shall, be assisted in carrying out administrative and technical functions by such qualified individuals employed by the Ministry, and assigned by the Minister for this purpose, as provided for in Section (22) (7) of the Act.

## **22. Meetings of Appeals Boards**

- (1) The Chairperson shall, convene every meeting of the Appeals Board at time and place as the Appeals Board may determine
- (2) The Chairperson may, at any time, convene special meeting of the Appeals Board and shall also call any meeting within (14) days, if requested to do so in writing by any member of the Appeal Board.
- (3) Notice of Appeals Board meeting shall, be given in writing to each member at least seven (7) working days before the day of the meeting
- (4) The Chairperson shall, preside at every meeting of the Appeals Board
- (5) In absence of the Chairperson, members of the Appeals Board present at the meeting shall, choose one person among them to preside over the meeting.

## **23. Quorum**

- (1) The quorum for convene of any meeting of the Appeals Board shall, be attained by presence of three members
- (2) Decisions at any meetings of the Appeals Board shall, be passed by majority of the members present and in case equal votes the chairperson shall have the casting vote.

## **24. Minutes of Appeals Boards**

The Secretary shall, record minutes of all meetings of the Board in the form approved by the Appeals Board.

## **25. Disclosure of Interest**

- (1) Any member of the Appeals Board, who is in anyway directly or indirectly interested in any appeal being heard or determined by the Appeals Board, or in any other matter which is to be considered by the Appeals Board, shall, disclose the nature of his or her interest at the meeting of the Appeals Board.
- (2) Any disclosure made under sub regulation (1) of this regulation, shall be recorded in the minutes of that meeting.
- (3) Any member who makes any disclosure under sub regulation (1) of this regulation shall not take part in deliberations and decision making process of the Appeals Board with respect to that matter.
- (4) For purposes of determining of any quorum, any member withdrawing from any meeting or who is not taking part in any meeting under sub regulation (3) shall be considered as being present.

## **26. Powers, Functions and Duties of Appeals Board**

- (1) The Appeals Board shall:
  - (a) make decision on the appeal, within sixty (60) days of receipt of the appeal; and
  - (b) liaise with representatives of United Nation High Commission of Refugee (UNHCR) on any matters it deems appropriate;
- (2) The Appeals Board may, after hearing an appeal:
  - (a) confirm decision of the Eligibility Committee;
  - (b) refer the matter back to the Eligibility Committee, for further consideration and decision;
  - (c) order rehearing of the application by the Eligibility Committee, taking into consideration newly available facts and evidence or legal procedural irregularities which form the basis of the appeal; or
  - (d) dismiss the appeal.

## **27. Grounds for Dismissal of Appeal**

The Appeals Board shall, dismiss any appeal on grounds that, the appeal is time-barred and the appellant failed to show any justifiable cause for delay.

## **28. Notification of Decision of Appeals Board**

The Secretary of Appeals Board shall, within fourteen (14) days after the Board has made its decision, communicate the decision to the Appellant and Eligibility Committee.

## 29. Appeals Board Meetings

The records of every meeting of the Appeals Board shall, be recorded in English and kept by the Secretary.

## Chapter IV Reception and Registration

### 30. Reception of Asylum - Seeker

- (1) The Commissioner may, establish such Refugee Reception Centers in South Sudan, in consultation with Eligibility Committee, as he or she may - deems necessary, for proper and effective exercise and performance of functions and duties prescribed or conferred upon such centers by the Act.
- (2) Any authorized officer shall, receive any asylum - seeker found within territory of South Sudan and shall, direct him or her to the nearest Refugee Reception Centre or United Nation High Commission for Refugee Office (UNHCR), as provided for under Section 23 (3) of the Act.

### 31. Application for Refugee Recognition

- (1) Any asylum - seeker, who has entered territory of South Sudan and desires to remain within South Sudan as refugee may, present him or herself to the Registration Officer at the designated Reception Centre or United Nation High Commission Refugee Office (UNHCR), within three months from the date subsequent to date of entering in to South Sudan or within reasonable of time as may be established by the Commission.
- (2) Notwithstanding the provisions of sub regulation (1) of this regulation, any person who is already lawfully in South Sudan shall be eligible to apply for asylum and refugee recognition and shall declare his or her legal status at the time of application.
- (3) The Registration Officer shall, receive that person and immediately register him or her as asylum seeker as may be practicable, and shall not exceed (30) days after initial reception.
- (4) The asylum - seeker and every member of his or her family shall, be allowed to remain in South Sudan until the final determination of his or her application for refugee recognition by the Eligibility Committee, Appeal Board, or the competent Court, as the case may be. Whoever, the right to remain in South Sudan shall not, constitute entitlement to residency permit.
- (5) Where members of the same family are seeking refugee status, each adult member of the family may, lodge his or her application for refugee status.

- (6) Notwithstanding sub - regulation (4) of this regulation, any family seeking asylum shall not, be separated upon arrival in South Sudan. Dependent family members may, also be entitled to derivative status as provided for in Section 31 (1) of the Act.
- (7) The Commission shall, upon registering the application for refugee recognition, issue identification document to the asylum seeker certifying his or her status as person seeking refugee recognition in South Sudan, and the issued document may be non as Asylum Seeker Certificate valid for period of one (1) year, commencing from date of registering the application for refugee recognition, and may be renewable as may be prescribed by applicable law or regulations.

### **32. Combatants**

- (1) The Commissioner shall, ensure the establishment of screening mechanisms at designated entry points or Refugee Reception Centers, to separate combatants from civilians.
- (2) Any combatant or person engaged in rebellion or other military activity against State or non State actors shall, before being admitted into South Sudan for purposes of seeking refugee status, renounce the rebellion or other military activity by filling such form as may be specified by the commission.
- (3) Any applicant for refugee status who is in possession of firearm shall, at the time of applying for refugee status, surrender the firearm to the Commission or authorized person by the Commission, who shall hand over all collected firearms to the police.
- (4) Every Immigration officer at the boarder entry of South Sudan shall, screen every person seeking refugee status of firearms before he or she is granted entry.
- (5) Where any person seeking refugee status, upon satisfaction of requirement and conditions by verifiable information has, prior to his or her entry into South Sudan, acting individually or collectively, committed an act of terrorism resulting in the death or injury of another person or damage to public or private property, that person shall, be placed under temporary detention pending his or her repatriation to his or her country of origin or habitual residence.
- (6) Where any person refuses to surrender any firearm as required by this Regulation, he or she shall not be allowed entry into South Sudan or to apply for refugee status.

### **33. Unaccompanied Children and Adoption of Refugee Children**

- (1) Any unaccompanied or separated child may, apply for asylum in his or her own right using such Form as may be specified by the commission. The registration officer shall, give priority to asylum applications of unaccompanied or separated children.
- (2) Any unaccompanied minor who applies for refugee status shall, immediately be placed as may be practicable, in appropriate care giving arrangement by the Government in co-operation with United Nation High Commission Refugee (UNHCR).

- (3) The Commission shall, ensure that legal representative is appointed to represent the case of unaccompanied child, with respect to examining his or her application for refugee recognition in south Sudan.
- (4) The Commission shall, allow the presence of legal representative of unaccompanied child at the personal interview and other stages or procedure for examining application of the child for refugee recognition.
- (5) The Commission may, refrain from appointing legal representative where, the unaccompanied child is 16 years old or older, unless he or she is unable to pursue his or her application for refugee recognition without legal representative.
- (6) The refusal of unaccompanied child or his or her legal representative to undergo medical examination on age determination shall not, prevent the Commission from taking any decision on his or her application for refugee recognition. However, the decision shall not be based solely on that refusal.
- (7) The best interest of unaccompanied child shall, be primary consideration by the Commission or any other determining authority when examining and making any decision on his or her application for refugee recognition.
- (8) Any application for adoption of refugee child, by citizen or non - citizen shall, be considered by the High Court and shall only be granted where the court is satisfied that there are special circumstances that justify the making of adoption order.
- (9) The High Court shall, before making adoption order, satisfy itself that in addition to the consent of parents or guardian, the Commissioner has endorsed the application in writing.
- (10) Registration officers shall, remain sensitive to, and priorities categories at risk as defined under regulation 5 of these Regulations including but not limited to persons with disabilities, older persons and single female heads of households.

#### **34. Disclosure of Information and Surrender of Documents**

Any asylum-seeker shall:

- (a) provide to the extent possible, all information required in such form as may be specified by the Commission;
- (b) provide, where available, any additional information and supporting documentations, to assist in verification of the information furnished in such form as may be prescribed by the Commission;
- (c) produce any identification document in his or her possession, copy of which may be retained by the Commission;
- (d) surrender upon receipt of asylum - seeker, certificate, any permit issued to him or her under the Passports and Immigration Act, 2011, for cancellation; and
- (e) comply with fingerprinting and photographing requirements prescribed to facilitate registration.



### 35. Confidentiality

- (1) All information and records of any asylum - seeker or refugee shall be confidential.
- (2) Any member of the Eligibility Committee, employee or agent of the Commission shall, not disclose any information pertaining to any asylum - seeker or refugee to any third party except, in the course of his or her duty under the Act, and with consent of the Commissioner.
- (3) Where any member of the Eligibility Committee, employee or agent of the Commission, discloses any information under this Regulation, he or she shall, make note of the disclosure in records of the asylum-seeker or refugee concerned; and
- (4) Any asylum - seeker or refugee, who seeks information from his or her own records, shall, be provided with copies of documents he or she submitted to the Commissioner.

## Chapter V Adjudication and Appeals

### 36. Process of Adjudication on Refugee Status

- (1) The Commissioner shall, determine an application for refugee status made under Section 23 of the Act, within ninety (90) days of receipt of the application.
- (2) the Commissioner shall, after having receipt application under sub regulation (1) of this regulation, put in place:
  - (a) fair and transparent system for conduct of individual refugee status determination and appeal interviews;
  - (b) facilities to be used for refugee status determination that, preserve the right of asylum-seekers to confidentiality; and
  - (c) Designated Refugee Status Determination Officers to conduct eligibility interviews.

### 37. Hearing by Refugee Status Determination Officer

- (1) Pursuant to provisions of Section 24 (1) of the Act, as provided under these Regulations, designated Refugee Status Determination Officer shall, conduct non-adversarial hearing to elicit information bearing on the asylum-seeker eligibility for refugee status and ensure that, the asylum-seeker fully understands procedures, his or her rights and responsibilities and evidence presented.
- (2) Any Refugee Status Determination Officer shall, be appointed according to his or her qualifications, experience and knowledge of refugee matters, which shall make them suitable and capable to perform properly functions and duties of his or her office.
- (3) The Refugee Status Determination Officer shall, ensure that, written report is made of every personal interview with any asylum - seeker, containing essential information

regarding his or her application for refugee recognition, and keep the interview transcript as part of the record of every personal interview.

- (4) The Refugee Status Determination Officer may, at the conclusion of hearing, make the following preliminary recommendations:
  - (a) recognize refugee status and grant asylum;
  - (b) reject the application as manifestly unfounded, fraudulent or abusive;
  - (c) reject the application as unfounded; and
  - (d) refer the application or any question of law to the Eligibility Committee.

### **38. Burden of Proof and Evidence**

- (1) The asylum seeker shall, bear the burden of proof to establish that, he or she is refugee as defined in Section 7 of the Act.
- (2) In the absence of documentary evidence, the credible testimony of any asylum seeker in consideration of conditions in the country of origin may, suffice to establish eligibility for refugee status.

### **39. Eligibility Determinations**

- (1) The eligibility of any asylum seeker for grant of refugee status, in accordance with the Act shall, be made on case by case basis, taking into account the specific facts of the case and conditions in the country of nationality or habitual place of residence. In specific circumstances, eligibility for refugee status may be determined on group basis as provided for in Section 30 of the Act, and elaborated on in regulation 46 of these Regulations.
- (2) In making determination on eligibility, the Refugee Status Determination Officer may:
  - (a) request further information or clarification from the asylum seeker;
  - (b) consult with and invite United Nation High Commission for Refugee (UNHCR) representative to provide information and, with permission of the asylum seeker, provide UNHCR representative with any information requested by the UNHCR to facilitate this process;
  - (c) consider information on country conditions from reputable sources; and
  - (d) refer any question of law to the Eligibility Committee.
- (3) Any authorized officer shall, make special arrangements to assist asylum-seeker who falls under one of the categories at risk with the registration process.
- (4) The any asylum - seeker shall, be informed in the language he or she reasonably understands of his or her rights and obligations under the Act and these Regulations during procedures of submission, interviewing, deciding and appeal of his or her application for refugee recognition.

- (5) Any asylum - seeker shall, be provided with interpreter, where appropriate and necessary, during stages of submission, examination, and determination on his or her application for refugee recognitions.
- (6) Any asylum - seeker shall, be given access to UNHCR in accordance with provisions of Geneva Conventions, Protocols and the Act on the Status of Refugees, who shall also be given access to any organization that provide counseling and legal assistance to asylum - seekers and refugees in South Sudan on behalf of UNHCR.

#### **40. Documents for Refugee Status Determination Interview**

- (1) The individual file of any asylum seeker shall, contain all records received or produced by the Commissioner.
- (2) Any asylum seeker may, present any document that supports his or her asylum claim to the Refugee Status Determination Officer.
- (3) Any original documents presented for purposes of the claim of asylum seeker shall, be copied and returned to asylum seeker and duplicate copies shall, be filed in the file of asylum seeker.
- (4) Any refugee determination officer shall, raise any irregularity in documents presented by an asylum seeker at interview and shall, give the asylum seeker the opportunity to explain the irregularity.
- (5) All documents and decisions relating to any asylum seeker, applying for derivative refugee status as member of family of refugee shall, be recorded in the file of principal asylum seeker.

#### **41. Submission of Preliminary Recommendation for Review**

The Commission shall, submit record of proceedings and copy of preliminary recommendation to the Eligibility Committee, within thirty (30) days commencing from date of hearing applicant, for review and final decision.

#### **42. Appeals to Appeals Board**

- (1) As provided for in Section 25 (1) of the Act, any applicant aggrieved by decision of the Eligibility Committee may, appeal to the Appeals Board in writing within, thirty (30) days after receipt of the notice of the decision of the Eligibility Committee.
- (2) Notwithstanding sub regulation (1) of this regulation, and as provided for in Section 25 (2) of the Act, the Appeals Board may, hear an appeal filed after the expiry of thirty (30) days if, the Appellant has shown justifiable cause for having filed late appeal.
- (3) Any appeal to the Appeals Board arising out of decision of the Eligibility Committee or designated Sub Committee shall, be made in the manner provided for in such form to be specified by the Commission.

- (4) The appeal shall, be submitted to Secretary of the Appeals Board.
- (5) The Appeals Board may, require presence of the Appellant at hearing of the appeal.
- (6) Any person appearing before the Appeals Board shall, have right to be represented at hearing by advocate or any other person appointed by him or her upon request.

#### 43. Procedures of Appeals Board

- (1) On the day of the hearing, the Appellant or his or her legal representative shall, be given opportunity to present any additional information and legal or procedural irregularities which form basis of the appeal.
- (2) The Appeals Board may, invite UNHCR representative to make oral or written representations on behalf of the Appellant.
- (3) The Appeals Board may, request the attendance of any person who in its opinion, is in position to provide the Appeals Board with information relevant to the appeal.
- (4) The Appeals Board may, on its own motion, make such further inquiry and investigation into the matter being dealt with as it may deem appropriate.

#### 44. Appeal for Judicial Review

- (1) Any Appellant may, appeal against any unsatisfied decision of the Appeals Board to the High Court, for judicial review, with regard to findings and interpretation of the law, within thirty (30) days. Commencing from date of receiving the decision of Appeal Board, as provided under section 22 sub (3).
- (2) The Appeal shall, be submitted in writing to the Commission, and the authorized officer shall be responsible for forwarding of the written appeal on behalf of the refugee to authorized officer in the High Court within fifteen (15) days.
- (3) The High Court shall, undertake to fix date for hearing of the appeal, within fifteen (15) days of receipt of application from the Commission, and the Commission shall, undertake to notify the Appellant of the designated hearing date, in writing.
- (4) The Appellant shall, undertake to present him or herself before the High Court on the designated hearing date. If the Appellant may not be able to be present on the designated date, the Commission shall, be duly informed to enable it request postponement of the hearing. If the Appellant fails to attend the hearing, without prior notification, the Commission, may, consider the Appellant to have withdrawn his or her appeal.

#### 45. Accelerated Procedures

Any Refugee Status Determination officer may, accelerate procedures for asylum under these Regulations, if the asylum-seeker is:

- (a) an unaccompanied or separated child;

- (b) in confinement;
- (c) awaiting deportation orders;
- (d) identified as person at risk; or
- (e) having medical emergency.

#### 46. Group Recognition and Temporary Protection

- (1) Subject to provisions of Section 30 of the Act, the Commission shall, advise the Minister on the granting of group recognition through *prima facie* approach or temporary protection in response to:
  - (a) large-scale influxes of asylum-seekers or other similar humanitarian crises;
  - (b) complex or mixed cross-border population movements;
  - (c) fluid or transitional contexts, for example, at the beginning of crisis where the exact cause and character of the movement may, be uncertain;
  - (d) Other exceptional and temporary conditions in the country of origin necessitating international protection and which prevent return in safety and dignity.
- (2) The Commission may, consult with UNHCR to develop recommendations for *prima facie* recognition or temporary protection, taking into consideration readily apparent, objective circumstances in the country of origin or, in the case of stateless asylum-seekers, in their former place of habitual residence.
- (3) Upon the decision of the Minister, The Commission shall, assist in drafting of the Decision on *prima facie* group recognition or temporary protection to be issued as Ministerial Order.
- (4) The Commission shall, be responsible for establishing comprehensive screening and registration procedures, for identification of individuals to be included in group-based processing. Registration procedures and shall:
  - (a) facilitate screening out of potentially excludable individuals including armed combatants;
  - (b) capture sufficient information on the individual applicant and members of his or her family, to determine their membership in the beneficiary class;
  - (c) include counselling, provision of information and advice to new arrivals; and
  - (d) provide mechanisms for the identification of persons, with specific vulnerabilities or protection needs.
- (5) Refugees recognised on *prima facie* basis and asylum-seekers granted with temporary protection shall, be informed accordingly and issued with the relevant documentation to certify their status that:
  - (a) *prima facie* refugees shall, receive standard refugee ID document;
  - (b) persons granted temporary protection shall, receive certificate of temporary protection valid for one year.

- (c) the decision to end *prima facie* group recognition or temporary protection shall, be communicated in the same manner as the original decision, was made.
- (6) The commission shall, undertake periodic review of the decision to adopt *prima facie* group recognition or temporary protection approach for particular groups and shall make recommendations to the Minister on ending the *prima facie* group recognition or temporary protection approach, after careful consideration of the situation in the country of origin.
- (7) The decision to end *prima facie* group recognition or temporary protection shall, be communicated in the same manner as the original decision, and in this respect:
- (a) ending of *prima facie* approach shall not, affect the refugee status of those who have already been recognized under this approach, however, newly arriving asylum seeker in categories previously covered by *prima facie* approach may, claim refugee recognition through individual status determination procedures.
- (b) Temporary protection may, be ended if it is determined that the voluntary return is reasonable and may be carried out in safety and dignity. Alternatively, temporary protection may be replaced by another form of protection, including transition to refugee status, as may be appropriate and ending of temporary status shall not preclude an individual applying for consideration and recognition through individual status determination proceedings.

## Chapter VI Identification and Travel Documents for Refugee

### 47. Registration of Refugee

- (1) Where any person is granted refugee status under the Act, and these Regulations, the Commissioner shall, register the name and particulars of the person in Register of refugees maintained by the Commissioner, including members of his or her family where applicable.
- (2) The Commissioner shall, allocate to every person registered under sub regulation (1) of this regulation with refugee number which shall be maintained by the person as long as he or she remains as refugee in South Sudan.

### 48. Independent Registration Age

Any person, who was, registered as dependent may, on attaining eighteen years of age, present him or herself to the Commissioner for independent registration.

#### 49. Issuance of Identification Documents

- (1) The Commissioner shall, issue to every person granted refugee status, and every member of his or her family aged sixteen and above, an individual identification document in the form of refugee identity card.
- (2) The identity card shall, contain the following information:
  - (a) identity number of the refugee;
  - (b) name of the refugee, gender, date and place of birth;
  - (c) country of citizenship of refugee or his or her former place of habitual residence;
  - (d) recent photograph of refugee; and
  - (e) any other information as may be specified by the Commissioner.
- (3) The identification document shall, be valid for period to be specified by the Commissioner and but not be less than two (2) years. And sample of the identification document shall, be specified in such form as may be specified by the Commission.

#### 50. Identity Card

- (1) Any person applied for refugee status shall, produce his or her identity card for inspection, whenever required by immigration officer or police officer, as provided for, under applicable Code of Criminal Procedures.
- (2) The identity card referred to in sub-regulation (1) of this regulation, shall be surrendered to the nearest immigration officer or police officer:
  - (a) before the holder final departure from South Sudan;
  - (b) when refugee status ceases or withdrawn;
  - (c) when the holder acquires citizenship of South Sudan; or
  - (d) where the holder is dead, by the person in possession of the identity card, within thirty (30) days after the death of the holder.
- (3) Upon receipt of identity card surrendered under the provisions of sub-regulation (1) of this regulation, the Commissioner shall, update the Register of Refugees provided for, in regulation 43, of these Regulations, to reflect closure of the individual case, and reasons for closure shall be clearly indicated in the register.

#### 51. Loss of Identity Card

- (1) the holder of the identity card shall, where an identity card is lost, destroyed or damaged shall, report the loss, destruction or damage to the nearest police station or immigration office.
- (2) the holder shall, give details of identity card and detailed account of circumstances under which the loss, destruction or damage occurred, and the police officer in charge or immigration officer shall, issue temporary document valid for sixty (60) days to the holder notifying the loss, destruction or damage of the identity card; and

- (3) Where an identity card reported lost and is not found within thirty (30) days, is damaged or destroyed, the Commissioner shall issue new identity card to the person within thirty (30) days.

## 52. Travel Documents

- (1) Any recognized refugee shall be entitled to Convention Travel Document as provided for in Section 35 of the Act.
- (2) Any refugee shall, apply in person and writing, to the Commissioner for Convention Travel Document and shall, submit the following documents in support of application:
  - (a) copy of his refugee identity card;
  - (b) two recent or her colour passport photographs;
  - (c) reason for travel; and
  - (d) any other relevant documents.
- (3) The parent or guardian of child shall, apply for Convention Travel Document on behalf of the child.
- (4) The Commissioner shall, consider each application on its own individual merits and shall, upon approval, forward names and particulars of the refugee to the Department of Nationality, Passports and Immigration, to facilitate the issuance of Convention Travel Document to the refugee.
- (5) the Convention Travel Document shall:
  - (a) allow the holder to travel from and return to South Sudan during validity of document; and
  - (b) be valid for period of two years and may be renewable by the Commissioner; or where the refugee is outside South Sudan, by the representative of the Republic of South Sudan.
- (6) Upon application for the renewal of Convention Travel Document, the refugee shall, submit:
  - (a) his or her current Convention Travel Document;
  - (b) copy of his or her valid refugee identity card; and
  - (c) two recent colour passport photographs, if new Convention Travel Document is to be issued.
- (7) Any refugee may, apply for replacement of his or her Convention Travel Document where his or her document has been stolen, lost or damaged. In case of theft, police report shall be submitted as supporting documentation with the application.
- (8) The Commissioner may, cancel or withdraw Convention Travel Document where:
  - (a) travel document was obtained through fraud;
  - (b) holder of the Convention Travel Document ceases to be refugee; or



- (c) compelling reasons of national security or public order apply.
- (9) The Commissioner shall, keep register of all Convention Travel Documents issued, renewed, replaced, cancelled or withdrawn.
- (10) Any sample of identification document shall, be specified in such form as may be specified by Commission.

## Chapter VII Withdrawal of Refugee Status

### 53. Withdrawal Initial Assessment

- (1) Pursuant to provisions of Section 39 of the Act, the Commissioner or Refugee Status Determination Officer, as the case may be, shall undertake inquiries, issuance of notice to the refugee that withdrawal proceedings are being considered and require him or her to make written representations or attend interview in person or through representative.
- (2) The Commissioner or the Refugee Status Determination Officer, as the case may be, shall interview the Refugee and grant him or her an opportunity to respond in person or representative to any allegations of misrepresentation or concealment and to present new evidence if any, in relation to refugee status
- (3) The refugee shall, be given opportunity to present new evidence in relation to his or her refugee status and evidence of continued fear of persecution in the country of origin at the time of withdrawal interview.
- (4) Where refugee has been duly notified of withdrawal proceedings and may, not attend withdrawal interview, determination to cancel his or her recognition as refugee shall, be made on the basis of information available to the Commissioner.
- (5) The Commissioner or the Refugee Status Determination Officer, as the case may be, shall prepare and submit written preliminary assessment and recommendation, in manner similar to first instance of refugee status determination process, to the Eligibility Committee for review and decision

### 54. Assessment of Withdrawal

Any assessment of withdrawal of refugee status shall, include:

- (a) detailed transcript of the withdrawal interview, if the refugee attended the interview;
- (b) assessment of the credibility of the refugee;
- (c) assessment of all the evidence presented;
- (d) determination whether the grounds for withdrawal have been established; and

- (e) recommendation that, the refugee status of the refugee be maintained or withdrawn.

#### **55. Withdrawal of Refugee Status**

- (1) Subject to provisions of Sections 17 and 39 of the Act, the Eligibility Committee may, withdraw refugee status if , there is evidence that:
  - (a) at the time of his or her refugee status determination interview the asylum seeker was disqualified under section 8 of the Act;
  - (b) the time of his or her recognition by the Eligibility Committee, the asylum seeker might have been disqualified by requirement of applicable law
  - (c) the recognition might have been granted erroneously, as result of misrepresentation or concealment of facts that were material to refugee status determination, relating to nationality or qualification of refugee status of such and individual under the Act; or
  - (d) The recognition is granted due to error of facts or law made by decision – maker.
- (2) The withdrawal of any person refugee status shall be:
  - (a) carried out using the same standards and due process that apply to refugee status determination procedures; and
  - (b) determined on individual basis.

#### **56. Notice of Withdrawal of Refugee Status**

Subject to provisions of Section 39 of the Act, the Eligibility Committee shall, notify the refugee whose recognition as refugee is to be withdrawn of the:

- (a) intention to withdraw the recognition of that person as refugee;
- (b) reasons for the commencement of proceedings for withdrawal of recognition; and
- (c) procedures to be followed in the process.

#### **57. Decision on Withdrawal of Recognition**

The Eligibility Committee shall, give written notice to refugee of the decision to withdraw his or her Status and reasons thereof.

#### **58. Withdrawal of Independent Status**

- (1) Withdrawal of refugee status shall, result in the withdrawal of status for members of family of the refugee.
- (2) Any member of family of refugee whose refugee status has been withdrawn may, independently apply for refugee status as individual.

## Chapter VIII Cessation of Refugee Status

### 59. Cessation of Refugee Status

- (1) The Minister may upon recommendation of Eligibility Committee pursuant to provisions of section 17 (d) (ii) of the Act, revoke refugee status for any category of refugees identified under Section 9 of the Act.
- (2) Any declarations of cessation for any such category of persons may not, preclude an individual from applying for refugee status on the basis of individual claim.

### 60. Notice of Cessation

- (1) The Commissioner or Refugee Status Determination Officer, as the case may be, shall notify any refugee referred for cessation proceedings of the reasons for the cessation and shall furnish him or her with information regarding the procedure.
- (2) Any refugee shall, be permitted to submit to the Commissioner evidence relating to the need for continued protection in South Sudan, within ninety (90) days from the date of notification.
- (3) If any refugee has been duly notified of the cessation procedures but failed to request or attend cessation interview or otherwise present evidence relating to the need for continued protection within ninety (90) days of the notice, his or her refugee status shall cease.

### 61. Cessation Interview

- (1) The refugee status determination officer shall, give the refugee opportunity to respond to the grounds for applying cessation and to provide evidence relevant to his or her claim against cessation.
- (2) The Commissioner or Refugee Status Determination Officer shall, apply the provisions of Regulation 53 of these Regulations, relating to preliminary assessment and recommendations in case of cessation.

### 62. Cessation Assessment

Any cessation assessment shall, include:

- (a) summary of evidence relevant to the grounds for cessation, including assessment of the reliability of evidence and credibility of the refugee; and
- (b) determination whether, the evidence supports the finding that, the individual is no longer in need of refugee protection.

### **63. Notification of Cessation of Refugee Status Decision**

- (1) The Eligibility Committee shall, upon decision of the Minister, cause the Commission to notify in writing any refugee whose refugee status has ceased, of the decision to terminate his or her refugee status and shall, inform the refugee of the:
  - (a) effect of cessation on his or her previously granted refugee status;
  - (b) cessation of the status of any person who received derivative status; and
  - (c) right to appeal against the decision to the Appeals Board, within fourteen (14) days of receipt of the decision.
- (2) Appeals against the decision of the Minister referred to under sub regulation (1) of this Regulation shall be, by application to the competent court for judicial review of administrative decisions, as provided under applicable Civil Producers Act.

## **Chapter IX Integration and Reunification of Refugees**

### **64. Integration of Refugee in Host Communities**

- (1) The Commissioner shall, ensure to the extent possible that, refugee is integrated into communities where refugee camps are established or refugees are settled.
- (2) For purposes of sub-regulation (1) of this regulation, the Commissioner shall, sensitize host communities of presence of refugees and any other matters relating to their co-existence with each other.

### **65. Integration of Refugee Matters in Development Plans**

The Commissioner shall, liaise with the national, local and regional planning authorities for, purposes of ensuring that, refugee concerns and related matters are taken into consideration in the initiation and formulation of sustainable development and environmental plans.

### **66. Affirmative Action to Vulnerable Groups**

The Commissioner shall, in cooperation with the UNHCR and other organizations involved in assistance of refugees, ensure that special attention is given to women, children and persons with disabilities.

### **67. Access to Employment**

- (1) Any person granted refugee status, and in possession of valid identity card issued by the Commissioner shall, be entitled to seek employment as provided for, in Section 33 (f) of the Act.

- (2) Procedures and principles regulating employment of applicants or beneficiaries of international protection shall, be governed by the Ministry of Labour in consultation with the Minister.
- (3) The provisions of other applicable laws regarding jobs and professions prohibited to foreigners shall, be reserved. And Refugees shall, benefit from the most favorable treatment accorded to foreign residents under the Passports and Immigration applicable law.

#### **68. Access to Land**

- (1) Any refugee residing in designated refugee settlement shall not, have free access to use land for purposes of cultivation or pasturing, except where such permission has been provided in accordance with Lands or other applicable laws of South Sudan.
- (2) Any refugee shall, have no right to sell, lease or otherwise distribute land that has been allocated to him or her strictly for individual or family utilization.
- (3) Any refugee shall not, acquire or hold freehold land in South Sudan.
- (4) Any refugee resides outside designated refugee camp as tenant may, legally acquire or dispose off his or her occupancy or leasehold interests in land, as generally provided for to aliens under applicable laws of South Sudan.

#### **69. Refugee Attaining Citizenship**

- (1) Any person holding refugee status in South Sudan may, become eligible to apply for citizenship in South Sudan, in accordance, with the Nationality applicable law.
- (2) The period of legally required residence, as defined by Section 10 (c) of the Nationality Act, shall, be considered as commencing from the date of registration with the Commission or UNHCR.
- (3) Any person with refugee status who acquires South Sudan citizenship shall, cease to be refugee.

#### **70. Voluntary Organizations in Assistance of Refugees**

- (1) The Commissioner shall, in consultation with UNHCR representation, develop guidelines to structure activities of registered voluntary organizations involved in assistance of refugees.
- (2) The Commissioner shall, in collaboration with UNHCR representation, ensure that regular co-ordination meetings are held with all voluntary organizations involved in assistance of refugees.
- (3) The Commission shall, in consultation with UNHCR, issue guidelines on the involvement of registered voluntary organization in the assistance of refugees and any voluntary

organization not registered in accordance with provisions of applicable law and these regulations shall not, be involved in the assistance of refugees in South Sudan.

#### **71. Reunification of Refugees**

Any recognized refugee may, apply to the Commissioner for permission for his or her family members, who reside outside South Sudan, to enter and reside in South Sudan for the purpose of family reunification and the Commissioner shall, facilitate family reunification of refugees in South Sudan, upon satisfaction of required conditions by the refugee.

### **Chapter X Expulsion and Extradition**

#### **72. Grace period after Rejection of Application**

- (1) Where application has been rejected and the applicant has exhausted his or her right of appeal in relation to the application and refugee status has not been granted, the applicant shall be allowed to stay for period not exceeding three months, to enable him or her seek asylum or admission to any country of his or her choice.
- (2) Notwithstanding sub-regulation (1) of this regulation, any person unlawfully continues to stay in South Sudan shall, be dealt with under applicable South Sudan Passports and Immigration law or other applicable laws.

#### **73. Expulsion and Extradition**

- (1) Subject to provisions of Section 43 of the Act, the Minister may order the expulsion of any recognized refugee from South Sudan, where the Minister considers such expulsion to be necessary or desirable in interests of national security or public order.
- (2) Prior to issuing any deportation order, the refugee shall be informed in writing of the intention to order his or her expulsion. The refugee shall, have fifteen (15) days to appeal the order either individually, through representative appointed by him or her, or through representative of UNHCR.
- (3) The appeal shall, be submitted through the Commissioner to the High Court for judicial review, and the High Court shall, make determination on the representation made by the refugee within thirty (30) days of its receipt.
- (4) Where the High Court up holds the decision of the Minister, deportation order shall, be issued as prescribed in such forms as may be specified by the Commission.
- (5) The Minister shall allow such refugee reasonable period to the extent possible not exceeding three months, within which to seek legal admission into another country.

- (6) The Minister shall, reserve the right to apply during the period referred to under sub - regulation (5) of this regulation, such internal measures as he or she may, deem necessary or desirable, in the interests of protecting national security or maintaining public order
- (7) Any refugee may, be permitted to effect his or her own removal under an expulsion order.
- (8) Any refugee shall, be extradited in the same manner and for the same offences as any citizen of South Sudan may be extradited; however, any refugee shall not be extradited to any country where he or she is likely to suffer persecution on any of the grounds stated in the Act.
- (9) Subject to provisions of Section 44 of the Act, the Minister may, order the extradition of any refugee in accordance, with the provisions of the applicable extradition law.
- (10) Any request for extradition may, be granted only if the offence that gave rise to extradition request was committed in the territory of the requesting country and that country is not the country of origin or habitual place of residence of the refugee.

#### 74. Offences and Penalties

- (1) Any person who gives false or misleading information:
  - (a) on an application for refugee status;
  - (b) during or on appeal;
  - (c) to refugee reception officer, Registration Officer, Refugee Status Determination Officer, Eligibility Committee or Appeals Board; or
  - (d) on any document for purposes of attaining refugee status, his or her application shall be rejected on grounds of lack of credibility.
- (2) Any person who offers or sells his or her asylum seeker or refugee status documents to another person, commits an offence and shall be punishable upon conviction to fine not exceeding 2000 SSP Two Thousand South Sudanese Pounds or imprisonment for period not exceeding two years or both.
- (3) Any person, who discloses information relating to the asylum seeker or refugee status of another person, without consent of the person concerned, commits an offence, and shall, upon conviction be punishable with fine not exceeding 5000 SSP five thousand South Sudanese Pounds or imprisonment for period not exceeding six months or both.
- (4) Any person, who forges any document provided for under these Regulations, commits an offence and shall, upon conviction be punishable with fine not exceeding 2000 SSP Two Thousand or imprisonment for period not exceeding two years or both.
- (5) Any person, who fails to disclose that, the person who has applied refugee status has provided false information to the Eligibility Committee commits an offence and shall upon conviction, be punishable with fine not exceeding 1000 SSP one thousand SSP or imprisonment for a period not exceeding six months or both.

- (6) Any person who has been granted refugee status and commits an offence in the country of asylum shall, be tried in accordance with applicable laws of South Sudan.

#### **75. Transitional Provisions**

- (1) Any person, who has in the process of applying for refugee status or who became refugee immediately before the coming into force of these Regulations shall, be taken as having applied for refugee status or having become refugee under these Regulations.
- (2) The Minister may, issue further directives and standing orders necessary for execution of these Regulations or for effective implementation of the Act, provided that, such regulations shall, conform to provisions of the Act and Constitution.



Issued under my hand and seal this day ...17.....of month ...June.....in the year 2017AD.

Sign:



Hon. Michael Chiengjiek Gei  
Minister  
National Ministry of Interior  
ROSS - Juba



