

ANNEX NO.3

In the name of Allah the Merciful, the Compassionate

INDEX

CHAPTER I - PRELIMINARY PROVISIONS

1. Title of the Act
2. Repeal and exclusion
3. Definitions
4. Exclusion

CHAPTER II - OBJECTIVES OF TRADE UNIONS AND FEDERATIONS

5. Objectives of trade union organizations
6. Legitimacy of the activity of federations and trade unions

CHAPTER III - TRADE UNION STRUCTURE

7. Composition of trade union structure
8. Legal personality
9. Trade unions at enterprise level
10. Prohibition on membership of more than one trade union organization
11. Affiliation with local, regional and international federations
12. Trade union organs

CHAPTER IV - ADMINISTRATION OF TRADE UNION ORGANIZATIONS

13. Statutes
14. Trade union cycle
15. Convocation to the General Assembly
16. Freezing of membership and activity
17. Simultaneous membership of a trade union and an occupational federation
18. Rejection of an application for membership
19. Expulsion of members

CHAPTER V - FINANCIAL PROVISIONS

20. Accounts and audit
21. Submission of copies of the audited accounts
22. Submission of statements to the Public Registrar
23. Social service and solidarity funds

CHAPTER VI - FULL-TIME TRADE UNIONS ACTIVITY AND SAFEGUARDS FOR COMMITTEE MEMBERS

24. Full-time trade union activity
25. Safeguards for committee members
26. Safeguards for the members of trade union organizations
27. Deduction of dues
28. Trade union leave

CHAPTER VII - THE PUBLIC REGISTRAR AND PROCEDURES FOR THE ESTABLISHMENT OF TRADE UNION ORGANIZATIONS

- 29. The Public Registrar and his decisions
- 30. Procedures for the establishment of trade union organizations
- 31. Preliminary procedures for federations
- 32. Establishment of the trade union or federation
- 33. Cases of refusal of registration
- 34. Cancellation of election procedure
- 35. Dissolution of a federation, trade union, trade union body or subsidiary body and its committees

CHAPTER VIII - GENERAL PROVISIONS

- 36. Penalties
- 37. Authority issuing regulations

In the name of the Merciful, the Compassionate

Trade Unions Act of 2010

(28 January 2010)

CHAPTER I

PRELIMINARY PROVISIONS

Title of the Act

1. This Act shall be called "Trade Unions Act of 2010".

Repeal and exclusion

2. (1) The Trade Unions Act of 2001 shall be repealed.
(2) In spite of the repeal referred to in paragraph (1) above, all regulations and orders promulgated by virtue of this Act shall continue to be effective until they are repealed or amended by virtue of this Act.

Definitions

3. For the purpose of this Act and unless otherwise indicated, the term:
 - **"Federation"** means the organization which comprises the Sudan Workers Trade Unions Federation, the Southern Sudan Workers Trade Union, the federation of the State and the federation of the county/district.
 - **"National Federation"** means the trade union organization which comprises the trade unions, the Southern Sudan Union and the federations of the States at the national level.
 - **"Southern Sudan Workers Trade Union"** means the trade union organization which comprises all the trade unions and federations of the states and districts of South Sudan.
 - **"State Federation"** means the trade union organization comprising the federations of the counties/districts at the state level.
 - **"Federation of the county/district"** means the trade union organization at the county/districts level.
 - **"Trade union organization"** means the federation, trade union, trade union body or subsidiary body or trade union unit.

- “**General Assembly**” means the highest authority of the trade union organization, which comprises all the members or their representatives:
- “**Employer**” means any person who employs more than one worker against remuneration in the form of a salary or wage or in any other form.
- “**Preparatory committee**” means any committee that is established in accordance with the provisions of this Act in order to undertake the preparatory work for the establishment of the trade union organization before such an organization acquires legal capacity.
- “**Executive committee**” means the committee established in accordance with the provisions of this Act to run the administration of the trade union Body or subsidiary body.
- “**Central committee**” means the central committee that is established in accordance with the provisions of this Act to run the administration of the trade union or federation.
- “**Public Registrar**” means the Public Registrar of trade union organizations, appointed by virtue of article 29(1).
- “**Enterprise**” means any worksite run by a person who employs a group of workers against any form of remuneration, irrespective of whether the work is performed in the government sector, the mixed or the private sector.
- “**General trade union**” means the trade union organization comprising workers in any given sector or enterprise, the objective of which is the organization of labour relations between the workers and the employers or between any category of workers and another.
- “**Trade union body**” means any trade union organization stemming from the general trade union.
- “**Subsidiary body**” means any trade union organization stemming from a trade union body.
- “**trade union unit**” means any subsidiary trade union organization at a lower level than a subsidiary body.
- “**Minister**” means the Minister designated by the President of the Republic.
- “**Worker**” means any natural person who works against any form of remuneration and comprises the employees and professional, technical and manual workers.
- “**Electoral college**” means any electoral college [in an election] which is contested by any category of workers.
- “**Statutes**” means the statutes referred to in article 13.

Exclusion

4. The following categories are excluded from the scope of the provisions of this Act:
 - (a) members of the armed forces, the Sudan People's Liberation Army, Joint Integrated Units, police and prison guards forces and any other regular force;
 - (b) Judges of the national judiciary and the judiciary of South Sudan.
 - (c) Legal advisers of the National Ministry of justice and the Ministry of Legal Affairs and Constitutional Development in South Sudan.

CHAPTER II

OBJECTIVES OF TRADE UNIONS AND FEDERATIONS

Objectives of trade union organizations

5. Trade unions and federations, in their capacity as civil, voluntary, democratic, independent and permanent organizations, have the following objectives:
 - a) Defending the rights of their members, representing their interests and improving their standard of living and social welfare and their representation in all matters concerning labour affairs.
 - b) Upgrading the intellectual and technical skills of their members, raising their cultural, social and economic level, making adequate efforts to attain an increased level of productivity and improved performance, to defend national values and national integrity, to consolidate democracy and to realize balanced development in all parts of Sudan.
 - c) Undertaking to realize economic and social development, as well as establishing social justice and solidarity.

Legitimacy of the activity of federations and trade unions

6. (1) The activity of federations and trade unions shall be legitimate in regard to all means employed by them to realize the objectives for which they were established, including strikes, in accordance with the provisions of this Act and their statutes. Such activity shall not entail any civil or criminal responsibility.
 - (2) Without prejudice to paragraph (1) above, no member of a federation or a trade union shall be exempted from civil or criminal responsibility if he commits an act that causes damage to others.

CHAPTER III

TRADE UNION STRUCTURE

Composition of trade union structure

7. (1) The trade union structure shall be composed of the following trade union organizations:
 - (a) the National Federation and the Southern Sudan General Federation, as well as the federations of the states and counties/districts;
 - (b) the trade unions or any trade union bodies composing them, as well as any subsidiary bodies or any units belonging to those subsidiary bodies.
- (2) taking the trade union structure into account, women, wherever they are located, shall account at least 25 per cent of any trade union structure established at any level.

Legal personality

8. Trade union organizations obtain legal personality by virtue of the law as from the date of their registration in accordance with the provisions of this Act.

Trade unions at enterprise level

9. (1) The workers shall form an electoral college in any one of the following categories: employees, professionals, technicians or manual workers.

(2) The electoral college of any category of workers shall elect its representatives in the subsidiary body or trade union body, as appropriate. Its representation shall be proportionate to the number of its members in the enterprise.

(3) The trade union organization in the enterprise shall be composed of the different categories of workers. The statutes shall define the manner in which it shall be composed and the proportions of its composition.

Prohibition on membership of more than one trade union organization

10. It shall not be permitted to be a member of more than one trade union organization.

Affiliation with local, regional and international federations

11. (1) Any federation or trade union shall have the right to affiliate with any local, regional or international federation, provided that such affiliation is based on a decision of its general assembly and the approval of the National Federation.

(2) The general registrar shall, after consultation with the National Federation, define the trade union he deems appropriate for the affiliation of any category of workers that is not listed in the classification included in the regulations.

Trade union organs

12. (1) The National Federation shall have a general assembly comprising representatives of the trade unions affiliated to it, who shall be elected by the central committees of their trade unions, in addition to representatives of the Southern Sudan Workers Trade Union and the federations of the states, who shall be elected by their central committees. The National Federation shall also have a central committee to be composed in the manner prescribed by the statutes.

(2) The Southern Sudan Workers Trade Union shall have a general assembly comprising representatives of the federations and trade unions of the states of South Sudan and shall have a central committee to be composed in accordance with the statutes and regulations of the Southern Sudan Workers Trade Union.

(3) Every general trade union shall have a general assembly and a central committee comprising representatives of its trade union bodies, to be elected among its members by the executive committees of these organs in accordance with the statutes of the trade union.

(4) Every trade union body shall have a general assembly and an executive committee comprising representatives of its subsidiary bodies, to be elected among its members by the executive committees of these bodies in accordance with the statutes of the trade union concerned.

(5) Every subsidiary body shall have a general assembly composed of all its members, representatives of the units or representatives of the electoral colleges, as appropriate. It also shall have an executive committee in accordance with the statutes of the trade union.

(6) The federation of a State shall have a general assembly comprising representatives of trade union and subsidiary bodies and the federations of the counties/districts in the State. It shall also have a central committee composed in accordance with the statutes of the federation of the State.

(7) The federation of a county/district shall have a general assembly composed of representatives of the trade union and subsidiary bodies in the county/district in accordance with the statutes of the federation of the State.

CHAPTER IV

ADMINISTRATION OF TRADE UNION ORGANIZATIONS

Statutes

13. Subject to the provisions of this Act, every trade union or federation shall have statutes, containing the following information in particular:
- (a) the title, headquarters and the legally representative of the organization;
 - (b) the objectives, taking into account the goals indicated in section 5 of this Act;
 - (c) the requirements for membership and conditions of withdrawal of membership;
 - (d) the rights and obligations of the members;
 - (e) the sources of funding the trade union organization and the manner in which they shall be invested and disposed of;
 - (f) the terms of reference of the general assembly and the rules governing its functioning;
 - (g) the manner in which its administration bodies are established, the requirements for and duration of membership, terms of reference, applicable rules, the manner in which its members are elected and officials are appointed and the manner in which the records of its meetings are kept.
 - (h) the number or percentage of representatives of the trade union bodies in the general assembly and the number or percentage of the representatives of the subsidiary bodies, the trade union units and the electoral colleges in the general assembly of the trade union body, subject to the provisions of the regulations;

- (i) the manner in which the general assembly/assemblies, whether regular or extraordinary, of the trade union bodies and its subsidiary bodies, are convened, and the terms of office, powers and procedures governing the functioning of every assembly;
- (j) the number of members of the central committee and that of the members of the executive committees of the trade union bodies and their subsidiary bodies;
- (k) the organization of relations between the federation and the trade union, or between the trade union and its trade union bodies, subsidiary bodies and trade union unit;
- (l) the determination of the dues that may be collected from members, exemptions and the determination of the percentage to be paid out of the total amount of dues to the subsidiary bodies, the trade union bodies, the trade union and the federation;
- (m) the preparation of the annual budget and procedures for its approval, preparation of the closing accounts and the manner in which they are adopted, the property inventory and handover, inventory of assets and indication of the beginning and the end of the financial year;
- (n) the manner in which the statutes shall be amended;
- (s) the manner in which the organization shall be dissolved.

Trade union cycle

14. (1) The trade union cycle of a trade union organization shall be five years.
- (2) The beginning and the end of the trade union cycle shall be determined by the National Federation after consultation with the Public Registrar by virtue of a regulation that it shall issue to this effect.

Convocation to the General Assembly

15. The central committee of the federation or trade union or the executive committee of the trade union body or subsidiary body shall address a convocation to an extraordinary general assembly of the organization if this is requested by one-third of the number of units of which the organization is composed or of its members.

Freezing of membership and activity

16. The central committee of a federation or a trade union or the executive committee of the trade union body, as required, may issue a decision to freeze the activity of any committee of the units composing it if the latter infringe the provisions of the statutes of the federation or trade union or refuse to abide by a decision of higher organs of the federation, trade union or trade union body, provided that the organization which has frozen the activity of the unit shall convene an extraordinary general assembly of the organization of which the activity of the committee has been frozen, to be held within two months as from the date of the issuance of the decision explaining the motives of that decision, failing which the decision on freezing shall automatically be invalid and without effect.

Simultaneous membership of a trade union and an occupational federation.

17. Any worker may simultaneously be a member of a trade union organization established by virtue of this Act and of any occupational federation of which he fulfills the membership requirements.

Rejection of an application for membership

18. No application for membership or request for withdrawal of membership of a trade union by a person who meets its membership requirements shall be rejected. The statutes of the trade union organization shall determine the conditions for doing so [the translator: ensuring this right] at all levels.

Expulsion of members

19. (1) No member may be expelled from a trade union, trade union body or trade union unit except by virtue of a decision issued by the central or executive committee, as required, provided that such a decision is taken by a two-thirds majority vote of the members in a valid meeting and after the member has been given a hearing by it in accordance with the procedure laid down in the statutes.
- (2) The member mentioned in paragraph (1) above shall have the right to appeal that decision before the general assembly, whose decision shall be final.
- (3) The central committee of the trade union or federation, or the executive committee of the trade union bodies, subsidiary bodies or units, has the right to revoke the membership of any of its members if the latter has committed any act that would justify such an action in accordance with the statutes of the organization, provided that the decision is issued by a two-thirds majority vote of the members, in a valid meeting and after the member has been given a hearing by it. The member may appeal the decision before the general assembly, whose decision shall be final.

CHAPTER V

FINANCIAL PROVISIONS

Accounts and audit

20. (1) The treasurer of the federation or trade union shall present, at the intervals laid down in the statutes or at the request by the accounts committee of the organization concerned, a statement showing all monies spent as from the date on which the final report on accounts has been submitted and indicating the balance remaining, and shall produce any other statements or documents.
- (2) The federations, trade unions and their units shall have their accounts audited periodically by auditors accredited by the Public Registrar. A copy of the audited accounts shall be deposited with the Public Registrar.

(3) Concealing or attempting to conceal any document or statement or impeding an investigation undertaken by the competent authorities shall be deemed a violation of the provisions of this Act.

(4) If the Public Registrar has reasonable grounds for believing that there has been a violation or an illegal action regarding the funds or properties of the trade union organization, he may take the necessary legal action to bring to trial any person involved.

(5) For the purposes of this Act, the funds of the trade unions are deemed to be private.

(6) Notwithstanding paragraph (5) above, for the purpose of the Penal Code of 1991 or any other code that might replace it, the funds of the trade unions are deemed to be public and shall be subject to the control of the general assembly and the Public Registrar.

Submission of copies of the audited accounts

21. The central committee of the trade union or federation shall supply the general assembly with copies of the audited accounts at the regular meetings laid down in the statutes and shall file a copy thereof with the Public Registrar.

Submission of statements to the Public Registrar

22. The central committees of the trade unions and federations shall submit to the Public Registrar all the required statements of the organization concerned on the date he determines.

Social service and solidarity funds

23. Trade union organizations may establish social service and solidarity funds in favour of their members, provided that regulations are issued governing them and, once they have been approved by the general assembly, deposited with the Public Registrar. The regulations must include the name of the fund, the organizing body running it, its objectives, the amount of individual dues, financial resources and the manner in which they are raised, disbursement appropriations, the system of administration of the fund and the manner in which its funds are kept and disposed of.

CHAPTER VI

FULL-TIME TRADE UNION ACTIVITY AND SAFEGUARDS FOR COMMITTEES'

MEMBERS

Full-time trade union activity

24. (1) All the members of the executive board of the Sudan Workers Trade Unions Federation and the Southern Sudan Workers Trade Union, three members of the central committees of the public trade unions and three members of the federation of the workers of the State concerned shall be authorized to engage in full-time trade union activity. Similarly,

one member of the executive committees of the trade union bodies and federations of the counties/districts whose membership is not less than one thousand members and not more than five thousand, as well as two members of only the executive committees of the trade union bodies and federations of the counties/districts whose membership exceeds five thousand shall be authorized to engage in full-time trade union activity, provided that a decision to this effect is issued by the Public Registrar.

(2) The employer shall pay the members engaged in full-time trade union activity their full salaries, wages, allowances and bonuses during their full-time trade union activity, as if they were actually working. The period of full-time trade union activity shall be calculated as effective service.

Safeguards for committee members

25. An employer shall not be allowed to:

- (a) transfer any member of the central or preliminary committees of the federations or trade unions or those of the executive or preliminary committees of the trade union bodies and subsidiary bodies from their posts, unless he has the consent of both the federation and the Public Registrar, in order to: (i) assign him to work outside the workplace in which he was employed before being elected as a member of any of these committees, if the post he is transferred to is outside the headquarters of the organization or if the transfer deprives him from membership in the committee; (ii) transfer him from a subsidiary body, region or occupation to another during the trade union cycle, if he is elected in accordance with these principles and according to the statutes of the trade union;
- (b) to impose any sanction on any of the members mentioned in paragraph (a) above on grounds of trade union activity.

Safeguards for the members of trade union organizations

26. An employer shall not be allowed to incite any worker, using monetary inducement or academic support or assistance or in kind or by any other means, to join or to refrain from joining any trade union organization. Neither shall he be permitted to interfere by any means in the business or the administration of any organization with the aim of bringing it under his control, or to impose any sanction on any member of trade union organizations on grounds of his having carried out a decision of the trade union.

Deduction of dues

27. Notwithstanding any other provision of any other act that is contrary to this provision, the employer shall, on a written request by the central committee, based on a decision of the general assembly, deduct from the wages of any worker who is a member of the trade union, the federation or the social service or solidarity fund, the amount of his monthly due and shall transfer it to the committee concerned during the first half of the following month.

Trade union leave

28. (1) The employer shall approve an application for paid trade union leave through:
- (a) the central committee of the trade union or federation for any of their members, provided that the total duration of the leave does not exceed one month per year;
 - (b) the executive committee of the trade union body or subsidiary body for any of their members, provided that total duration of the leave does not exceed two weeks per year.
- (2) Trade union leave shall be applied for the following purposes only:
- (a) attending international and extraordinary committees;
 - (b) attending trade union committees with the employer;
 - (c) carrying out general trade union activities which, by their nature, require trade union leave;
 - (d) travelling to establish trade unions or trade union bodies and subsidiary bodies;
 - (e) participating in local, regional and global trade union conferences;
 - (f) attending studies on labour affairs at national and global levels.

CHAPTER VII

**THE PUBLIC REGISTRAR AND PROCEDURES FOR THE ESTABLISHMENT OF TRADE
UNION ORGANIZATIONS**

The Public Registrar and his decisions

29. (1) The President of the Republic, on the recommendation of the Minister, shall appoint a general registrar for the trade union organizations who shall have the rank of general adviser in the Ministry of Justice, as well as a deputy Public Registrar who shall have the rank of senior Adviser.
- (2) The Public Registrar shall apply the code of civil procedure of 1983 regarding any matter in dispute referred to him.
- (3) The decisions of the Public Registrar with regard to the implementation of the provisions of this Act are deemed to be binding judicial decisions and shall be implemented in the same manner as the provisions of the code of civil procedure in force.
- (4) any decision issued by the Public Registrar may be appealed before the National Supreme Court within 30 days of its issuance.

Procedures for the establishment of trade union organizations

30. (1) Workers wishing to establish a trade union in accordance with the provisions of this Act shall constitute a preliminary committee comprising representatives of all colleges and units of the trade union to be established. The preliminary committee shall draw up and approve the draft statutes of the trade union. Unless they are adopted by the general assembly of the trade union, no amendments to the statutes, after their approval, whether in the form of deletion, addition or repeal, shall be accepted once the statutes have been approved.
- (2) The preliminary committee shall submit to the Public Registrar, within two months of the date of its constitution, a request to deposit [the statutes], enclosing three copies of the statutes of the trade union, as well as the lists of its bodies and subsidiary bodies, provided that all the members of the preliminary committee shall sign one copy of the statutes.
- (3) The Public Registrar shall draw up an official report concerning the deposit of the statutes of the trade union and the related documents, provide the preliminary committee with a receipt of the deposit of the statutes of the trade union and publish a brief summary of the latter in one of the daily newspapers within one week of the date of deposit.
- (4) The preliminary committee shall call for general elections of all colleges and units comprising the trade union on the date determined by the regulations.

preliminary procedures for federations

31. (1) The preliminary committee of a federation comprises the central committees of the trade unions wishing to establish a federation, in accordance with the provisions of this Act. The committee shall draw up and approve the statutes of the federation. Unless they are adopted by the general assembly of the federation, no amendments to the draft statutes, whether in the form of deletion, addition or repeal, shall be accepted once they have been approved.
- (2) The preliminary committee of the federation shall submit to the Public Registrar, within two months of the date of its election, a request to deposit the statutes, enclosing three copies of the statutes, as well as the lists of its trade union members, provided that all the members of the preliminary committee shall sign one copy of the statutes.
- (3) Upon receiving the request for deposit [of the statutes] submitted to him in accordance with subsection (2), the Public Registrar shall follow the procedures laid down in this section.
- (4) The central committees of the trade unions affiliated to the federation shall elect their representatives who shall constitute the general assembly of the federation in accordance with the statutes.

Establishment of the trade union or federation

32. (1) Pending the issuance of the decision of registration, the trade union organization may provisionally exercise its trade union activity as from the date of the approval by the Public Registrar of the request to deposit the statutes and the [related] documents and the receipt of deposit.

(2) The Public Registrar shall issue a decision on completion of the registration of the trade union or the federation within one month of the date of deposit. If the registration is completed, the trade union shall obtain legal personality and continue to exercise its activity in accordance with the provisions of this Act and the statutes.

(3) In the event of an amendment to the provisions of the statutes or in the statements contained therein, the central committee of the trade union or the federation shall deposit the amendment with the Public Registrar by virtue of a request submitted within one month as from the date of the amendment, provided that it shall only become effective as from the date of deposit and after the Public Registrar has decided to adopt it in accordance with the provisions of this Act.

Cases of refusal of registration

33. The Public Registrar shall refuse registration of any trade union or federation in any of the following cases:

- (a) if the composition of the trade union is contrary to the provisions of this Act;
- (b) if the proposed name of the trade union resembles that of an already established trade union in a manner that leads to confusion;
- (c) if there is an established trade union which adequately serves the same objectives as those which the proposed trade union aims to promote.

Cancellation of election procedure

34. (1) On the basis of an appeal submitted by a member of the trade union alleging improper conduct of the elections, and after having carried out the necessary investigation, the Public Registrar may issue a decision cancelling elections held in any trade union organization if he is convinced that the elections were not properly conducted. In that case he may order the holding of new elections.

(2) The Public Registrar may suspend the election procedures conducted in any trade union organization if he receives a request to that effect or if he considers that the elections are not conducted in accordance with sound principles and standards. In that case he may ask the committee in charge of the elections to submit a report to him concerning the election procedures.

Dissolution of a federation, trade union, trade union body or subsidiary body and its committees

35. The Public Registrar may issue a decision dissolving a federation, trade union, trade union body or subsidiary body or trade union unit in any of the following cases:

- (a) if the federation, trade union, trade union body or subsidiary body or trade union unit is constituted in a manner contrary to the provisions of this Act or the regulations issued by virtue of this Act;

- (b) if the federation, trade union, trade union body or subsidiary body or trade union unit was established by means of fraud or false pretences;
- (c) if the federation, trade union, trade union body or subsidiary body or trade union unit does not in fact exist;
- (d) if the committee was established in a manner contrary to the the provisions of this Act or the regulations issued by virtue of this Act or the statutes of the federation or trade union;
- (e) if the committee failed to implement the obligations for which the organization was established;
- (f) if the committee has violated the provisions of this Act or those of any other Act concerning labour relations.

CHAPTER VIII

GENERAL PROVISIONS

Penalties

36. Any person contravening the provisions of this Act shall be liable to imprisonment for a period not exceeding six months or to a fine or both.

Authority issuing regulations

37. The Minister may, on the recommendation of the Public Registrar and after consultation with the General Federation, issue the regulations required for the implementation of the provisions of this Act, including regulations on the organization of trade union elections and trade union activity.