

LAWS OF SOUTHERN SUDAN

THE PRISONS SERVICE ACT, 2011

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LAWS OF SOUTHERN SUDAN

THE PRISONS SERVICE ACT, 2011

In accordance with the provisions of Article 59 (2) (b) read together with Article 85 (1) of the Interim Constitution of Southern Sudan, 2005, the Southern Sudan Legislative Assembly, with the assent of the President of the Government of Southern Sudan hereby enacts the following-

CHAPTER I PRELIMINARY PROVISIONS

1. Title and Commencement.

This Act may be cited as “The Prisons Service Act, 2011” and shall come into force on the date of its signature by the President.

2. Repeal and Saving.

The Prisons Act, 2003 and any other provisions of an existing legislation in Southern Sudan which are governed by provisions of this Act are hereby repealed or cease to operate in Southern Sudan; provided that, all proceedings taken, orders issued and regulations made thereunder, shall remain in force or effect, until they are repealed or amended in accordance with the provisions of this Act.

3. Purpose.

This Act provides for the establishment of a decentralized professional prison service. Its mission shall be correctional, reformative, rehabilitative and dispensation of Justice. It shall respect the will of the people, rule of law, human rights and dignity.

4. Authority and Application.

(1) This Act is drafted in accordance with the provisions of Articles 55 and 163 (6) and paragraphs 2 and 9 of Schedule B of the Interim Constitution of Southern Sudan, 2005 which grants the Government of Southern Sudan the authority over the types of activities provided for in this Act.

(2) This Act shall apply to—

- (a) all Prisons Service personnel;
- (b) all prisoners lawfully detained in any type of prison institution throughout

- Southern Sudan; and
- (c) any other person in relation to which the Minister may make an order in relation to this Act.

- (3) The provisions of this Act shall apply to any Prisons Service personnel who, though suspended from work, has not been dismissed from the Prisons Service.

5. Interpretations.

In this Act, unless the context otherwise requires the following words and expressions shall bear the meanings assigned to them hereunder—

“Constitution” means the Interim Constitution of Southern Sudan, 2005;

“Convicted Prisoner” means a person who is sentenced to a term of imprisonment by a competent Court;

“Court” has the meaning assigned to it under the Code of Criminal Procedure Act, 2008;

“Dependant” means the spouse, parents and children of a person and, where applicable, anyone for whom the person is financially responsible;

“Director” means the Officer appointed by the Director General to administer a function or institution of the Prisons Service;

“Director General” means the Officer appointed by the President in charge of the Prisons Service;

“First Offender” means a Prisoner who is admitted to a prison institution for the first time;

“Headquarters Director” means the Officer appointed by the Director General to administer a function of the Prisons Service at the headquarters;

“High Risk Prisoner” means a prisoner who poses a high security risk to a prison institution;

“Government” means the Government of Southern Sudan (GOSS);

“Juvenile Prisoner” means a Prisoner who is under eighteen years of age;

“Leadership Rank” means an Officer of the rank of Lieutenant Colonel or above;

“Low Risk Prisoner” means a prisoner who requires a minimum amount of supervision;

“Magistrate” has the meaning assigned to it under the Code of Criminal Procedure Act, 2008;

“Medium Risk Prisoner” means a prisoner who requires less supervision than a high risk prisoner but may not be taken outside a prison institution without supervision;

“Minister” means the Minister of Internal Affairs;

“Ministry” means the Ministry of Internal Affairs;

“Officer” means a Prisons Service personnel appointed by the President as an officer under section 13 of this Act;

“Officer in Charge” means the senior Officer in Charge of a prison institution at any given time;

“President” means the President of the Government of Southern Sudan;

“Prisoner” means a person placed in the custody of the Prisons Service by an order from a competent authority;

“Prison Director” means the Officer appointed by the Director General to be in charge of a prison institution;

“Prison Institution” means a place declared to be a prison institution and includes the whole or part of a building, place or vehicle, but excludes military detention facilities;

“Prisons Service” means the Prisons Service of Southern Sudan established under this Act;

“Prisons Service Executive Council” means the Council established under section 34 of this Act;

“Prisons Service Personnel” means any member of the Prisons Service;

“Private” means a prison Service personnel other than an other non-commissioned office;

“Public Prosecution Attorney” has the meaning assigned to it under the Code of Criminal Procedure Act, 2008;

“Remand Prisoner” means a person who is detained awaiting trial in a prison institution by an order from a competent Court or authority;

“Security Committee” means a committee established in accordance with the provisions of Article 166 (1) of the Constitution;

“Senior Non-commissioned Officer” means a Non-commissioned Officer from the rank of Sergeant to Warrant Officer; and

“State Director” means an Officer appointed by the Director General to be in charge of the Prisons Service within a State.

CHAPTER II

ESTABLISHMENT AND FUNCTIONS OF THE PRISONS SERVICE

6. Establishment.

There shall be established in Southern Sudan a prisons service to be known as the “Prison Service of Southern Sudan”, in accordance with the provisions of Article 163 of the Constitution.

7. Functions.

The Prisons Service shall—

- (a) enforce judicial decrees, orders and sentences;
- (b) manage and operate prison institutions;
- (c) maintain security in prison institutions;
- (d) administer, safe custody, health and welfare of prisoners; and
- (e) any other functions and duties assigned by the Minister, this Act and regulations and while discharging the foregoing duties, respect the rule of law, uphold human rights and dignity.

8. Declaration of Prison Institutions.

- (1) The Minister may, on the recommendation of the Director General, by written order—
 - (a) declare the whole or part of a building, place or vehicle to be a prison institution;
 - (b) assign a name to that prison institution; or
 - (c) remove the designation previously given to any prison institution.
- (2) In any legal document in which it may be necessary to describe a particular prison institution, a description of the prison institution by reference to the name assigned by the Minister shall be a sufficient description.
- (3) The regulations shall provide for the type of prison institutions in Southern Sudan.

9. Director General and Deputy Director Generals.

- (1) The Prisons Service shall be headed by a Director General and a Deputy Director General, both of whom shall be appointed by the President on the recommendation of the Minister.
- (2) The Director General shall be accountable to the Minister for the professional administration, financial management, operation and general performance of the Prisons Service.
- (3) In the absence of the Director General, the Deputy Director General shall assume the functions and duties in sub-section (2) above of this section and in the absence of both the Director General and the Deputy Director General, the next most senior officer shall assume the functions and duties therein.
- (4) The Director General may, by written order, delegate any of his or her powers to any appropriate Prisons Service Personnel.

10. Directors.

- (1) There shall be the following categories of Directors—
 - (a) Headquarters Directors who shall be responsible for functional directorates within the Prisons Service;

- (b) State Directors who shall be responsible for the administration of all prison institutions within their respective States; and
 - (c) Prison Directors are responsible for the administration of the prison institutions directly under their respective authority, including the management, control and security of the prison institution and the safety and welfare of all persons held in that prison institution, as well as the staff and visitors.
- (2) Any Director may, by written order, delegate any of his or her powers to any appropriate Prisons Service personnel.

CHAPTER III

STAFF ADMINISTRATION

11. Ranks of Prisons Service Officers.

(1) The ranks of Prisons Service Officers shall be as follows—

- (a) General;
- (b) Lieutenant General;
- (c) Major General;
- (d) Brigadier;
- (e) Colonel;
- (f) Lieutenant Colonel;
- (g) Major;
- (h) Captain;
- (i) Lieutenant; and
- (j) 2nd Lieutenant

(2) The ranks of Non-Commissioned Officers and Privates of Prisons Service shall be as follows—

- (a) Warrant Officer;
- (b) Sergeant Major;
- (c) Sergeant;
- (d) Corporal;
- (e) Lance Corporal; and
- (f) Private.

12. Appointment of the Director General and Deputy.

- (1) The President shall upon the recommendation of the Minister appoint the Director General and the Deputy Director General from Officers, at the rank of Major General and above, in the Prisons Service.
- (2) The Director General shall, in consultation with the Minister, appoint Directors.

- (3) The regulations shall provide for the competences, powers, emoluments and privileges of the Director General, the Deputy Director General, and the Directors.

13. Appointment of Officers.

- (1) The President shall, on recommendation of the Minister, appoint Officers to the Prisons Service after completion of the prescribed training.
- (2) The officers appointed by the President shall service for two years on probation after which and on satisfactory performance of their functions and duties, they shall be eligible for confirmation and join the list of permanent Prisons Service Officers.

14. Confirmation of Officers for Permanent Service.

- (1) The regulations shall provide for the terms and conditions for the Officers on probation to be confirmed for permanent service by the Minister.
- (2) The Minister may, upon recommendation by the Director General and after appraisal of the case, terminate the service of an Officer under probation if it is proved that he or she is not qualified to serve in the Prisons Service.

15. Determination of Seniority of Officers.

- (1) Seniority of Officers having the same rank shall be determined according to their date of appointment and promotion to the specified rank.
- (2) When appointing or promoting two or more Officers to the same rank at the same date and list, seniority shall be determined according to their date of recruitment or length of service or the appearance of their respective names in the appointment or promotion order or at the discretion of the appointing authority taking into consideration regional balance.
- (3) A separate Officers seniority lists shall be made, as according to the directives of the Director General, as follows-
 - (a) unified seniority list of Officers;
 - (b) specialists seniority list; and
 - (c) seniority list of Non-Commissioned Officers and privates.
- (4) Other Levels of the Prisons Service may have their own lists of seniority of Officers Non- Commissioned Officers and Privates provided that such lists do not contradict the unified seniority list.
- (5) No Officer shall be transferred to another list of seniority unless he or she meets the conditions for such transfer as prescribed by regulations.

16. Promotion of Prisons Service Personnel.

- (1) The Director General shall form promotion committees at all levels of the Prisons Service.
- (2) The Promotion Committees shall make appraisals and submit their recommendations to the Director General for consideration. Promotions in the Prison Service shall best on Examinations and training in various unit of the Service.
- (3) Promotions to the Leadership Ranks shall be made by the President on the recommendation of the Minister in consultation with the Director General.
- (4) Promotions from the ranks of Lieutenant up to the rank of Lieutenant Colonel shall be made by the Minister on the recommendation of the Director General.
- (5) Promotions of non-commissioned Officers and privates shall be made by the Director General upon the recommendation of the Directors.
- (6) Promotions may be made according to the available vacancies.
- (7) Officers shall be selected for promotion pursuant to the provisions of this Act, and in accordance with regulations issued thereunder.

17. Transfer of Prisons Service Personnel.

- (1) The Director General shall issue orders for the transfer of Officers between different units and directorates of prison institutions at all levels of the Prisons Service.
- (2) Transfer of Officers, non-commissioned Officers and privates shall be made according to the orders issued by the Director General.
- (3) A State Director shall issue orders for the transfer of Officers non-commissioned officers and privates in his or her State or County to and from different locations in that State or County.

18. Termination of Service of Prisons Service Personnel.

- (1) The service of Prisons Service Personnel shall be terminated by the President, on recommendation of the Minister, for any of the following reasons-
 - (a) attainment of sixty years of age, unless extended to sixty-five years by the appointing authority;
 - (b) voluntary retirement on pension according to the Officer's request;
 - (c) optional retirement according to the relevant laws;
 - (d) decision by a medical commission that the Officer is no longer fit to serve in the Prisons Service;
 - (e) renouncing his or her Sudanese nationality;

- (f) retirement for inadequate discharge of his or her professional, technical, administrative, operational, or command responsibilities;
 - (g) death;
 - (h) if convicted of a crime pertaining to honor, trust, or honesty, or imprisoned if the public interest so requires; or
 - (i). If the President as the Commander-in-Chief so directs.
- (2) Upon completion of service, all Prisons Service Personnel shall return all items or equipment issued to them, unless otherwise approved by the Director General.

19. Discharge of Officers.

- (1) The President may, upon a recommendation by the Minister, discharge any Officer from service for a reasonable cause or on the request of the Officer.
- (2) An Officer who applies for discharge shall not cease to perform his or her functions and duties until a decision on the approval of his or her application is taken and issued.
- (3) An Officer having the rank of Colonel and above, who has completed the time limit required for promotion to the higher rank, without being promoted due to non-existence of vacancies, may apply for retirement on pension. In case his or her application is accepted, entitlements shall be calculated according to the higher rank for which he or she was due for promotion.

20. Secondment and Duty Assignment.

- (1) The President may appoint any Officer for any public post, other than in the Prisons Service, upon the recommendation of the Minister, with the discretion to return him or her to the Prisons Service or retire him or her on pension at the end of duty in such public post, provided that his or her post-service benefits and entitlements with the Prisons Service shall be accumulated while serving in such other post.
- (2) Prisons Service Personnel may be seconded internally or externally. The regulations shall provide for terms and conditions of such secondment.

21. Creation of Prison Service Vacancies.

- (1) The Minister shall approve the annual vacancies in the Prisons Service according to a recommendation by the Director General.
- (2) Vacancies shall be determined, and allocated, to different prison divisions according to the Prisons Service regulations and professional standards.

22. Filling of Vacancies.

The Director General may fill vacancies through recruitment, promotion or transfer to the vacancies in the posts of non-commissioned Officers and privates in accordance with the orders and regulations.

CHAPTER IV

FINANCIAL ADMINISTRATION

23. Prisons Service Budget.

- (1) The Director General shall prepare, in consultation with the Prisons Service Executive Council, a budget and shall be responsible for its implementation after the requisite approval.
- (2) Each State Director shall prepare, in consultation with the Prisons Service Executive Council, a budget for the State prison institutions and shall be responsible for its implementation after the requisite approval.
- (3) The directorates of the Prisons Service at the headquarters shall prepare budgets and be responsible for them after the requisite approval.
- (4) The Ministry of Finance and Economic Planning and ensure that the Prisons Service budget is provided for..
- (5) The Director General may determine financial enterprises which the Prisons Service may engage in to generate revenue and shall report any such revenue to the Minister.

24. Responsibility for Properties.

Prisons Service personnel shall individually and collectively be responsible for all Prisons Service properties, movable or immovable, which are under their responsibility, including equipment under their personal control.

25. Salaries and Privileges of the Prisons Service.

- (1) The President shall determine, upon a recommendation by the Minister, rights, emoluments and privileges of Prisons Service personnel that will enable them better perform their functions and duties.
- (2) When determining salaries and privileges, due consideration shall be given to the duties assigned, threats, and dangers that the Prisons Service Personnel will face.
- (3) The regulations shall define organizational structures, privileges, entitlements, allowances, and increments for the whole Prisons Service in addition to the grades and the manner in which this shall be addressed at recruitment, promotion, secondment, assignment, transfer and approval thereof.
- (4) Periodic allowances of Officers, non-commissioned Officers and privates shall be made in accordance with the regulations and orders.

- (5) No salaries, wages, or other entitlements shall be withheld except in the case of repaying a debt to the Government, or execution of a judgment passed by a competent Court, provided that the amount withheld shall not exceed one-quarter of the salary.

26. Post-Service Benefits.

Post-service benefits and the modalities for payment shall be determined by the regulations.

27. Medical Care, Accommodation and Transportation.

- (1) The Government shall provide medical care for Prisons Service personnel and their dependants.
- (2) The Government shall provide medical care for Prisons Service personnel for any injury they sustain during service or while performing their functions and duties within or outside Southern Sudan as defined by laws and regulations.
- (3) The Government shall provide appropriate accommodation for Prisons Service personnel. The regulations shall indicate the grade for eligibility for accommodation and accommodation allowances.
- (4) The Government shall provide transportation for Prisons Service personnel and their dependants in accordance with the regulations.

28. Leave.

- (1) Prisons Service personnel shall be entitled to leave, in accordance with the regulations.
- (2) Prisons Service personnel may be denied his or her right to leave or any official holiday if the work circumstances deem this necessary; provided that he or she shall be awarded financial compensation in lieu thereof, as provided for in the regulations.

29. Other Privileges and Remunerations.

- (1) The regulations shall define additional remunerations and privileges to be enjoyed by Prisons Service personnel.
- (2) Notwithstanding the provisions of sub-section (1) above-
 - (a) a Prisons Service Officer retiring at the rank of Lieutenant General and above shall keep his or her title without adding the word “retired” thereto; and
 - (b) any Prisons Service Officer reaching the age of fifty years, retired or in the service, shall be exempted from the payment of Government fees and taxes.

30. Immunities and Limitations on Liability.

Subject to the provisions of Chapter VII of this Act-

- (1) Any act done by Prisons Service personnel in good faith with due care and attention, and without prejudice, in the discharge of his or her functions and duties under this Act or any other law, regulation, order, rule or instruction of a competent authority or person authorized to issue the same, shall not constitute an offence;
- (2) No Prisons Service personnel shall be arrested for or charged in connection with acts committed in the course of his or her official duty, except with a written authorization obtained from the President in the case of Officers, or a written authorization from the Minister or Director General in the case of non-commissioned Officers and privates;
- (3) The Prisons Service, its members, or any other person obliged under the law to assist the Prisons Service in discharging its duties, shall not be responsible for payment of compensation or blood money resulting from the good faith execution of duty under any law or regulation, lawful order or instruction issued by a competent authority, or person authorized by law to issue the same;
- (4) The Government shall pay compensation or blood money on behalf of any Prisons Service personnel in cases of accidental or unintentional death caused during the discharge of his or her functions or duties; and
- (5) When a Prison Service personnel commits an offence, in the discharge of his or her functions and duties, an act which would endanger his or her own safety by reprisal, the Director General shall take all reasonable precautions to ensure the safety of the Prisons Service personnel.

31. Audit.

- (1) The Director General shall direct that an internal finance audit of the Prisons Service records take place at least once a year and shall provide it to the Minister.
- (2) Without prejudice to the provisions of sub-section (1) above, accounts of Prisons Service shall annually be audited by the Auditor General.

32. Annual Reports and Other Reports.

- (1) The Director General shall direct that an annual report be undertaken for the operations of the Prisons Service and shall provide it to the Minister together with the Auditor General's report.
- (2) The Director General shall direct that other reports are developed on any aspect of the Prisons Service at any time.

CHAPTER V

GOVERNANCE

33. Prisons Committee.

- (1) There shall be a Prisons Committee whose members shall be appointed by the Minister on the recommendation of the Director General.
- (2) Without prejudice to the provisions of sub-section (1) above, the Prisons Committee shall be constituted of the following by virtue of their positions—
 - (a) the Director General - Chairperson;
 - (b) a representative of the Ministry of Legal Affairs and Constitutional Development as a Member and ;
 - (c) representatives of the relevant Ministries and Institutions.
- (3) The functions and duties of the Prisons Committee shall be—
 - (a) assisting the Prisons Service in obtaining and maintaining international best practices in prisons management and operations;
 - (b) formulating policies for the strategic direction of the Prisons Service;
 - (c) advocating for appropriate funding for the Prisons Service;
 - (d) monitoring human rights standards and performance within the Prisons Service;
 - (e) developing prisoner treatment programs with the aim of improving their conditions in the prison institutions; and
 - (f) any other functions or duties as may be determined by the Prisons Committee or the Minister.
- (4) The Prisons Committee shall meet at least every three months at a time and place to be determined by the Chairperson. No meeting shall take place in the absence of a quorum of six members at each meeting.
- (5) Each member of the Prisons Committee shall, prior to participating in any decision taken by the Committee, disclose in writing to the Chairperson any interest which may be in conflict with the functions of the Prisons Committee.

34. Prisons Service Executive Council.

A Prisons Service Executive Council shall be established to assist the Director General in leading the Prisons Service and shall be comprised of—

- (a) Director General - Chairperson;
- (b) Deputy Director General - Deputy Chairperson;
- (c) Headquarters Directors - Members; and
- (d) State Directors - Members.

35. Official Visitors.

- (1) The Minister or any person directed by the Minister, the Public Prosecution Attorney, Magistrate or Court, or a representative of the Southern Sudan Human Rights Commission, as the case may be, may enter a prison institution at any time, inspect the same and get acquainted with the conditions of the Prisoners.
- (2) The Director General or any other person, whom he or she may authorize, may approve any other person to enter a prison institution at any time.
- (3) An official visitor to a prison institution may-
 - (a) enter a prison institution at any time during working hours, except when the Officer in Charge declares an emergency at the prison institution;
 - (b) inspect any section of the Prison Institution;
 - (c) access a place where the official visitor may interview a prisoner out of hearing of other persons;
 - (d) inspect and copy any document that relates to a complaint that the official visitor is investigating, other than a document that is subject to a legal professional privilege; or
 - (e) investigate a complaint made by a prisoner about an act or omission by any Prisons Service personnel.
- (4) The Officer in Charge of a prison institution shall give an official visitor all reasonable help to exercise the above rights and powers.
- (5) If a prisoner indicates to Prisons Service personnel that he or she wants to see an official visitor, the Prisons Service personnel shall—
 - (a) record that fact in an official visitor register; and
 - (b) advise an official visitor of that fact when the official visitor next visits the prison institution.
- (6) A prisoner shall not be required, and shall not be asked, to tell the Prisons Service personnel why he or she wants to see an official visitor.
- (7) An official visitor shall provide the report which he or she produced upon his or her visit, to the Director General.

CHAPTER VI

STAFF DISCIPLINARY BOARDS

36. Jurisdiction of Disciplinary Boards.

- (1) There shall be established at the Prisons Service, disciplinary boards for discipline of Prisons Service personnel.
- (2) Disciplinary Boards shall decide on acts and omissions by any Prisons Service personnel subject to the provisions of this Act, which are considered criminal acts or violations of the provisions therein or any other legislation or regulations, if committed while discharging official functions and duties.
- (3) Without prejudice to the provisions of sub-section (1) above, the Minister, upon the recommendation of the Director General, may refer any criminal case to any competent Court if that will serve the ends of justice.

37. Types of Disciplinary Boards.

The types of Disciplinary Boards shall be as follows-

- (a) Summary Disciplinary Board;
- (b) Non-Summary Disciplinary Board;
- (c) Disciplinary Board of Appeal; and
- (d) Supreme Disciplinary Board.

38. Formation of Disciplinary Boards.

- (1) A Summary Disciplinary Board shall be composed of one Officer of higher rank than the accused, by an order issued by the Director General, Deputy Director General or a Director.
- (2) A Non-Summary Disciplinary Board shall be composed of three Officers having a rank not lower than Major and not lower than the rank of the accused, by an order issued by the Director General, Deputy Director General, Director of Administration or State Director.
- (3) The Disciplinary Board of Appeal shall be composed of three legal Officers, by an order issued by the Director General. The order establishing the Disciplinary Board shall name the chairperson, and the ranks of its members shall not be lower than the rank and seniority of the chair of the Non-Summary Disciplinary Board.
- (4) The Supreme Disciplinary Board shall be composed of three officers one of whom shall be legal Officer, by an order issued by the Director General. The order establishing the Disciplinary Board shall name the chairperson, and the ranks of its members shall not be lower than the rank and seniority of the chair of the Disciplinary Board of Appeal.

- (5) Regulations and orders shall provide for the procedures to be followed before Disciplinary Boards and procedures for the appeal, confirmation, and examination in line with the provisions of the Code of Criminal Procedure Act, 2008 and the Code Evidence Act, 2006.
- (6) The accused shall be entitled to legal representation at all stages of the disciplinary process.
- (7) The accused may challenge the composition of any Disciplinary Board before the proceedings commence.

39. Administrative and Judicial Supervision over Disciplinary Boards.

The Director for legal affairs shall assume legal and administrative supervision over Disciplinary Boards.

40. Powers and Competences of Summary and Non-Summary Disciplinary Boards.

- (1) Summary Disciplinary Boards shall decide on violations provided for in the regulations and award penalties determined for such violations.
- (2) Non-Summary Disciplinary Boards shall decide on crimes and contraventions provided for in this Act or in any other law. The Disciplinary Boards may award any penalty or punishment pertaining to these contraventions or crimes.

41. Competences and Powers of the Disciplinary Board of Appeal.

- (1) The Disciplinary Board of Appeal shall entertain any appeal by any Prisons Service personnel against any of the decisions of a Summary or Non-Summary Disciplinary Board.
- (2) When considering any appeal, the Disciplinary Board of Appeal may-
 - (a) affirm the finding and sentence;
 - (b) quash the finding and sentence;
 - (c) affirm the finding and cancel, mitigate, or change the sentence to any other lesser penalty stipulated by the law;
 - (d) refer the case to the Board for retrial and reconsideration of sentence according to certain directives;
 - (e) refer the case to another competent Court; or
 - (f) cancel the judgment and annul the procedures.
- (3) Decisions of the Disciplinary Board of Appeal may be appealed to the Supreme Disciplinary Board.
- (4) While an appeal is being considered, no disciplinary action shall be executed against the appellant Prisons Service personnel.

42. Competences and Powers of the Prisons Service Supreme Disciplinary Board.

- (1) The Prisons Service Supreme Disciplinary Board shall entertain any appeal by any Prisons Service personnel against any decision of the Disciplinary Board of Appeal.
- (2) When considering any appeal, the Prisons Service Supreme Disciplinary Board may-
 - (a) affirm the finding and sentence;
 - (b) quash the finding and sentence;
 - (c) affirm the finding and cancel, mitigate, or change the sentence to any other lesser penalty stipulated by the law;
 - (d) refer the case to the Disciplinary Board of Appeal for reconsideration according to certain directives;
 - (e) refer the case to another competent Court; or
 - (f) cancel the judgment and annul the procedures.
- (3) Decisions of the Prisons Service Supreme Disciplinary Board shall be final and binding.
- (4) While an appeal is being considered, no disciplinary action shall be executed against the appellant Prisons Service personnel.

43. Joint Trials.

Any two or more persons accused of committing a crime or contravention may be jointly tried before a Summary or Non-Summary Disciplinary Board provided that such matter shall not prejudice the defence of any of the persons being jointly tried.

44. Ineligibility for Membership of Disciplinary Board.

The following individuals shall not be eligible to be members of any Disciplinary Board—

- (a) the Prisons Service personnel carrying out the investigation in the case;
- (b) the complainant or any of the witnesses; and
- (c) any person having an interest in the case.

45. Power to Terminate Disciplinary Board Proceedings.

The Director General may, or upon a request by any party, order for the documents of any case at any time following the end of the investigation, and before passing of the judgment, and make a decision terminating the legal procedures against any Prisons Service personnel for public interest . This decision shall be final and binding.

46. Cancellation of Punishment.

The President may cancel or stay any punishment issued by any Disciplinary Board.

47. Summary Disciplinary Measures Against Prisons Service Personnel

Prisons Service personnel may be subject to summary discipline before any senior officer. The regulations shall specify powers, competences, and discipline modalities, specified by this Act.

48. Suspension from Service.

- (1) Any Officer may suspend any Prisons Service personnel under his or her rank from service, where the same is charged with contravening the provisions of this Act or any other law. Suspension orders shall be issued in writing.
- (2) The regulations shall specify procedures for the suspension from service without pay, with pay or with half pay, and the manner of its implementation and duration thereof.

CHAPTER VII

OFFENCES BY PRISONS SERVICE PERSONNEL

49. Use of Criminal Force Against Prisons Service Personnel.

- (1) Any Prisons Service personnel, who uses criminal force against any other Prisons Service personnel, or assaults him or her, or attempts such act while aware, or has a reasonable cause to believe, that the person he or she is assaulting is a Prisons Service personnel, commits an offence and shall on conviction be sentenced to imprisonment for a term not exceeding three years, or with a fine, or with both, and may also be dismissed from the service.
- (2) If the victim is of a Leadership Rank or senior non-commissioned Officer, the term of imprisonment may be extended for a period not exceeding five years, or he or she may be ordered to pay a fine, or both, and may also be dismissed from the service.

50. Offences Against Prison Institution and Public Funds.

- (1) Any Prisons Service personnel, who intentionally commits an offence, while on duty or fails to safe-keep properties or funds entrusted thereto, commits an offence and shall, on conviction, be sentenced to imprisonment for a term not exceeding seven years or with fine or with both and may also be dismissed from the service.
- (2) Any Prisons Service personnel, who harbors an information or conspires to cause or causes, attempts to cause, or participates in a riot or disobedience inside a prison institution, commits an offence and shall, on conviction, be sentenced to imprisonment for a term not exceeding three years, or with fine or with both and may also be dismissed from the service.

- (3) Any Prisons Service personnel, who conspires to cause, causes, attempts to cause, or aids or abets the escape of a prisoner, commits an offence and shall, on conviction, be sentenced to imprisonment for a term not exceeding seven years or with fine or with both and may also be dismissed from the service.
- (4) Any Prisons Service personnel, who intentionally disregards his or her duty commits an offence and shall, on conviction, be sentenced to imprisonment for a term not exceeding three years or with fine or with both and may also be dismissed from the service.

51. Disobedience of Orders.

Any Prisons Service personnel, who refuses to obey any order issued by a senior officer during the course of his or her duty, without any reasonable excuse, whether this order is issued in writing or verbally, commits an offence and shall on conviction be punished with a reprimand upon the first offence. And upon subsequent offence shall be sentenced to imprisonment for a term not exceeding one year, or with fine or with both and may also be dismissed from the service.

52. Disposal of Weapons, Ammunition and Accoutrements.

Any Prisons Service personnel, who disposes, without justification, of any weapons, ammunition, accoutrements, machinery, uniforms, or equipment which has been entrusted to him or her for his or her use, or for the use of the Service, commits an offence and shall on conviction be sentenced to imprisonment, for a term not exceeding five years or with fine or with both and may also be dismissed from the service.

53. Desertion.

Any Prisons Service personnel, who absents himself or herself from duty, without reasonable excuse, for a period exceeding thirty days, shall be deemed a deserter, and shall be sentenced to imprisonment for a term not exceeding one year or with fine or with both and may also be dismissed from the service.

54. False Information or Accusation.

Any person who is subject to the provisions of this Act, who intentionally makes false accusation against any Prisons Service personnel or other person, or gives false information or report, commits an offence and shall, on conviction, be sentenced to imprisonment for a period not exceeding one year or a fine or with both and may also be dismissed from the service.

55. Conduct Unbecoming of Prisons Service Personnel.

Any person governed by the provisions of this Act, who deliberately utters statements reflecting disobedience or disrespect to his or her senior officer or to the Prisons Service, commits an offence and shall, on conviction, be punished with a reprimand, and may also be dismissed from the service.

56. Unlawful Dealings with Prisoners.

Any person governed by the provisions of this Act, who smuggles or attempts to smuggle a prohibited item or any material prohibited by law into a prison institution, or who intentionally gives a prisoner any of these items, commits an offence and shall, on conviction, be sentenced to imprisonment for a term not exceeding five years or with fine or with both and may also be dismissed from the service.

57. Partiality in Discharge of Functions and Duties.

Any Prisons Service personnel who shows partiality in the discharge of his or her functions and duties commits an offence and shall, on conviction, be punished with a reprimand upon the first offence and subsequent offence, shall be sentenced to imprisonment for a term not exceeding one year or with fine or both and may also be dismissed from the service.

58. Summary Offences.

The regulations shall provide for summary offences committed by prisons Service Personnel and related punishments.

59. Multiplicity of Offences and Effect on Punishment.

Any Prisons Service personnel who, commit multiple offences during one episode of criminal conduct, shall be subject to a maximum punishment of the penalty for the most serious of the offences which he or she committed.

CHAPTER VIII

GENERAL PRISONER MANAGEMENT

60. Admission of Prisoners.

A person shall not be detained in a prison institution unless the Officer in Charge has been given—

- (a) a warrant from a competent authority for the person's detention; or
- (b) a written order of a Court that requires the person to be imprisoned.

61. Duties of Officer in Charge on Admission of a Prisoner.

- 1 When a prisoner is admitted to a prison institution, the Officer in Charge shall—
 - (a) keep a complete and secure record of the following information—
 - (i) the identity, age and sex of the prisoner;
 - (ii) the location of the prisoner's family, chief and tribe;
 - (iii) reasons for the commitment and the authority therefore;
 - (iv) details of known physical and/or mental health problems, including drug and alcohol abuse and any obvious injury;
 - (v) the day of admission and release; and
 - (vi) details concerning any appeal process.

- (b) inform the prisoner, in a language that he or she understands, about his or her rights and duties under this Act, including the following—
 - (i) conduct constituting a disciplinary offence;
 - (ii) type and duration of disciplinary sanctions that may be inflicted;
 - (iii) the authority competent to impose such sanctions; and
 - (iv) the authority competent to consider appeals
 - (c) arrange for the prisoner to be medically examined as soon as possible after he or she is admitted to the prison institution; and
 - (d) inform a relative, friend or legal or consular representative of the prisoner's whereabouts.
- (2) Upon admission to a prison institution, every convicted Prisoner shall have the right to appeal against his or her finding and sentenced and shall be assisted to do so by Prisons Service personnel.
 - (3) The regulations shall provide for any further procedures to be followed by the Officer in Charge when admitting a prisoner.
 - (4) Upon admission to the prison institution, the admission board shall determine a convicted prisoner's security classification as provided for in this Act and in the regulations made under this Act.

62. Prisoner Records.

- (1) The Prisons Service shall establish a record that contains details of every prisoner who is detained in a prison institution.
- (2) The record shall contain information about the prisoner including—
 - (a) details of the warrant or order that authorize the prisoner's detention;
 - (b) the offence for which the prisoner was convicted and the date of expiry of the prisoner's sentence of imprisonment;
 - (c) the offence for which a remand prisoner has been placed on remand and the date and location of the next court appearance;
 - (d) information about the prisoner's identity, including fingerprints, photographs, observations through external physical examination and the taking of measurements;
 - (e) a short description of items in the prisoner's possession on arrival at the prison institution; and
 - (f) the name and contact details of a person that the prisoner nominates to be notified of his or her whereabouts.

63. Accommodation.

A prisoner shall be placed in accommodation that—

- (a) is of such size, and is equipped with adequate lighting, ventilation, sanitary installations, bedding, clothing and other equipment, as is necessary for the preservation of the prisoner's physical and mental health;
- (b) is organized in a way that is culturally appropriate; and
- (c) meets all other requirements provided for in the regulations.

64. Separation of Prisoners.

- (1) Prisoners shall be separated as follows—
 - (a) convicted prisoners shall be kept separate from remand prisoners, where facilities allow;
 - (b) male prisoners shall be kept separate from female prisoners;
 - (c) juvenile prisoners shall be kept separate from adult prisoners and shall be provided with the necessary requirements for their care and treatment;
 - (d) mentally ill prisoners shall be kept separate from other prisoners;
 - (e) prisoners who, for medical reasons, shall be kept separate from other prisoners; and
 - (f) prisoners who, for the good order and security of the prison institution, shall be kept separate from other prisoners.
- 2 Prisons Service personnel shall not have physical contact with a prisoner of the opposite sex, except in the presence of a Prisons Service personnel of the same sex as that of the prisoner.

65. Female Prisoners and their Children.

- (1) Where practicable, female prisoners who are pregnant shall be taken to deliver their babies in hospitals and if a child is born in a prison institution, every effort shall be made to secure the assistance of a mid-wife or traditional birth attendant and no mention of the same shall be made in any registry.
- (2) A baby born in a prison institution has a right to be suckled and cared for by his or her mother for two years.
- (3) The Prisons Service shall be responsible for food, clothing, health care and facilities for the sound development of any child for the period such child remains in a prison institution with his or her mother.
- (4) After the age of two, the child shall be handed over to the person who is responsible for the child according to law, unless the Prison Director allows the child to remain in the prison institution on reasonable grounds, including if—
 - (a) a medical officer considers it is in the best interests of the child's physical or mental health to remain with his or her mother; or
 - (b) the child has no near relatives.
- (5) The regulations shall provide for the conditions in which a child may remain in a prison institution, including obtaining a birth certificate when the child is born in the prison institution.

66. Juveniles.

- (1) A juvenile prisoner shall—
 - (a) be subject to compulsory education, where available, and shall attend and have access to educational programmes of the same quality and nature to other education programmes available outside the prison institution;
 - (b) have access to social services, religious care, recreational programmes and psychological services, where available; and
 - (c) be permitted to remain in contact with their families through additional visits and by other means.
- (2) The regulations shall provide for any other requirements to ensure the welfare of juvenile prisoners.

67. Food, Water and Nutrition.

- (1) A prisoner shall—
 - (a) be provided with nutritional food, adequate for his or her health and strength, at regularly spaced intervals throughout the day; and
 - (b) have unrestricted access to clean drinking water.
- (2) The regulations shall provide for other requirements, including the quantity, quality and type of food and nutrition to be provided.

68. Health and Medical Care.

- (1) A prisoner shall be entitled to adequate health care services based on the principles of primary health care.
- (2) The regulations shall provide for other requirements, including referral of prisoners to medical facilities and examinations outside the prison institution.

69. Prisoner Work.

- (1) A convicted prisoner shall be deployed in a program of rehabilitative or productive labour, where available.
- (2) The regulations shall provide for matters relating to such programs.

70. Exercise and Recreation.

- (1) A prisoner shall be allowed at least one hour each day of walking or other suitable exercise in the open air.
- (2) The Prisons Service shall provide means for physical education, including cultural and recreational activities.

- (3) Periods of exercise may be restricted in the case of security concerns.

71. Religion.

A prisoner shall, subject to any restrictions necessary to maintain security, have the opportunity to—

- (a) pray privately and gather to pray;
- (b) read religious books; or
- (c) meet other requirements of their religion as often as that religion requires.

72. Education and Vocational Training.

- (1) A prisoner shall enjoy the right to education and vocational training.
- (2) The regulations shall provide ways, means and curriculum for education and vocational training.

73. Access to Legal Services.

- (1) A prisoner shall be entitled to consult on any legal matter with a legal practitioner of his or her choice and in a manner which preserves legal confidentiality between the prisoner and his or her legal practitioner.
- (2) The regulations shall provide for the manner in which such access to legal services may take place, including any restrictions necessary for the safe custody of prisoners.

74. Visits and Communication.

- (1) The Director General shall promote positive contacts between prisoners and their families and the communities.
- (2) A prisoner shall be permitted, at reasonable times, to receive visits from—
 - (a) family members and friends;
 - (b) a medical practitioner;
 - (c) a legal practitioner;
 - (d) a qualified representative of his or her religion;
 - (e) a representative of the State of which the prisoner is a national;
 - (f) where the prisoner is a foreign national, consular representatives; or
 - (g) a representative of a competent international organisation accredited by the Director General whose mission involves the protection and promotion of prisoner rights and prison standards.
- (3) Any Prisons Service personnel may require a visitor to submit to a search before entering any prison institution, provided that any search shall be conducted by Prisons Service personnel of the same sex as the visitor. The search may include examining any item being brought into or out of a prison institution by the visitor, and stopping and searching any vehicle coming into or out of a prison institution.

The Officer in Charge may refuse admission to the prison institution to any person who is not willing to be searched.

- (4) The regulations shall provide for the modalities of visits to any prison institution, including visiting hours, the location of visits, search procedures etc.
- (5) Conjugal visits may be allowed after confirmation by the Prisons Service of a legally valid marriage between the prisoner and the visiting spouse. The regulations shall prescribe how such visits will take place.
- (6) Prisoners shall have the right to send and receive written correspondences. Except for legal correspondences between a prisoner and his or her legal representative which shall be considered privileged and confidential, all written correspondences to or from a prisoner shall be subject to inspection and approval by the Prison Director.

75. Death or Serious Injury or Illness in Prison.

- (1) If a prisoner dies, the Prison Director shall notify—
 - (a) the medical officer for the prison institution where the prisoner was being detained;
 - (b) the Officer in Charge of the police station nearest to the place where the prisoner died;
 - (c) the State Director or Director responsible for that prison institution;
 - (d) the Director General;
 - (e) the Director of Public Prosecution, if a remand prisoner;
 - (f) the Court which issued the prisoner's warrant of imprisonment or detention; and
 - (g) the person nominated by the prisoner as his or her contact person and/or the next of kin of the prisoner.
- (2) The Prison Director shall keep records, of the particulars provided for in the regulations, of the prisoner's death, including obtaining a certificate of death from the competent medical authorities, and shall provide a copy of all documentation to the Director General.
- (3) The regulations shall provide for the release of the prisoner's body to his or her relatives or any other person.
- (4) If the Prison Director believes, on the advice of a medical Officer, that a prisoner is seriously ill or injured, he or she shall immediately notify the person nominated by the prisoner as his or her contact person and/or the next of kin of the prisoner.

76. Transfer of Prisoners.

- (1) The Director General may, by written order, direct that a prisoner be transferred to any other prison institution in Southern Sudan.
- (2) A State Director may, by written order, direct that a prisoner be transferred to another prison institution within the same State.

- (3) All Prisoners to be transferred shall be examined by a medical officer prior to being transferred.
- (4) Where practicable, a Prisoner shall be transferred to the Prison Institution closest to the place where he or she is to reside after release.
- (5) The regulations shall provide for the modalities of transfer of Prisoners between Prison Institutions.

CHAPTER IX

PRISONER RIGHTS AND RESPONSIBILITIES

77. Prisoner Rights.

Every prisoner shall have the right to—

- (a) adequate and nourishing food and clean drinking water;
- (b) regular and adequate medical care;
- (c) privacy;
- (d) adequate clothing;
- (e) bedding;
- (f) keep personal effects;
- (g) basic sanitation;
- (h) education, vocational training and reading materials;
- (i) all necessary individual assistance that is required in view of a prisoner's age, sex and personality;
- (j) regular recreation and exercise;
- (k) practice any religion;
- (l) where possible, be detained as close as possible to family and to have regular contact with family and guardians;
- (m) defend himself or herself if accused of an infringement of a disciplinary offence in the prison institution;
- (n) appeal;
- (o) make requests or complaints;
- (p) access legal counsel; and
- (q) receive visitors.

78. Complaints by Prisoners.

- (1) A Prisoner shall, on admission and on a daily basis, be given the opportunity of making complaints or requests to the Prison Director or any authorised Prisons Service personnel who shall—
 - (a) record all such complaints and requests and any steps taken in addressing them;

- (b) address complaints and requests promptly and inform the prisoner of the outcome; and
 - (c) if the complaint concerns an alleged assault, ensure that the prisoner undergoes an immediate medical examination and receives appropriate treatment.
- (2) If a Prisoner is not satisfied with the response to his or her complaint or request, may present his or her concerns to the Prison Director. If the prisoner is not satisfied with the response of the Prison Director, he or she may present his or her concerns to any official visitor who visits a prison institution under this Act.

CHAPTER X

MANAGEMENT OF CONVICTED PRISONERS

79. Classification of Convicted Prisoners.

- (1) In each prison institution, there shall be an admission board consisting of the Prison Director, and such other persons as the Prison Director may determine, which shall interview every convicted prisoner to determine his or her security classification.
- (2) The admission board shall classify the prisoner into one of the following security classifications-
 - (a) high security risk;
 - (b) medium security risk; or
 - (c) low security risk,
- (3) When determining a prisoner's security classification, the admission board shall have regard to—
 - (a) the nature of the offence that the prisoner has been convicted of;
 - (b) the risk of the prisoner escaping, or attempting to escape, from custody;
 - (c) the risk of the prisoner committing a further offence, and the impact that the commission of a further offence is likely to have on the community; or
 - (d) the risk that the prisoner poses himself or herself, to other persons in the prison institution and to the good order and security of the prison institution.
- (4) Condemned and remand prisoners shall be classified as high security risk.
- (5) The admission board shall review a prisoner's security classification at regular intervals, having regard to the matters mentioned in sub-section (3) above. If the security classification determines that a prisoner is a—
 - (a) high risk prisoner, his or her classification shall be reviewed at least every six months;

- (b) medium risk prisoner, his or her classification shall be reviewed at least every twelve months; or
 - (c) low risk prisoner, his or her classification may be reviewed at any time.
- (6) The admission board shall inform the prisoner of the outcome of the review of his or her security classification. The decision of the admission board shall be final.

80. Guaranteed Prisoners.

- (1) There shall be a category of prisoners known as guaranteed prisoners who are—
- (a) low risk prisoners;
 - (b) first offenders;
 - (c) prisoners who have been determined by the Prison Director as having a record of good conduct during their term of imprisonment; or
 - (d) Prisoners who meet any other circumstances determined by the Director General.
- (2) Guaranteed prisoners shall have the opportunity to work or attend an educational facility outside the prison institution without an escort, on conditions to be determined by the regulations.
- (3) Juvenile prisoners shall not be considered guaranteed prisoners.
- (4) A female prisoner may be considered a guaranteed prisoner if she is married and has the consent of her husband, or if she is single, has the consent of her father or brother.

81. Appeals by Convicted Prisoners.

The Prison Director shall ensure that convicted prisoners are given every opportunity and assistance to appeal against their sentences.

82. Execution of Condemned Prisoners.

- (1) Death sentences shall be executed in State and Central Prison Institutions in Southern Sudan, unless the Director General determines that the execution should take place at another location.
- (2) The execution of a death sentence shall not be delayed more than twenty-four hours after the prisoner is informed that the execution will take place.
- (3) The execution of a death sentence shall not be carried out on—
- (a) a pregnant prisoner;
 - (b) a lactating prisoner, until after two years of lactation;
 - (c) a prisoner who was sentenced as a juvenile;
 - (d) a prisoner who is suffering from a mental or physical illness as determined by a medical practitioner from the Ministry of Health; or
 - (e) a prisoner who is seventy years of age or above.

- (4) For the purpose of sub-sections (2) and (3) above, the Prison Director shall inform the Supreme Court, the Director General and the State Director as the case may be, in writing, of the reason(s) for a delay in execution.
- (5) The Prison Director shall be responsible for the execution of a death sentence and a medical practitioner shall attend the execution and shall be responsible for certifying the death.
- (6) The Prison Director shall inform the Supreme Court, the Director General and the State Director, as the case may be, in writing, after the execution of the death sentence.

CHAPTER XI

MANAGEMENT OF REMAND PRISONERS

83. Use of Personal Property.

- (1) Remand prisoners shall be permitted to wear their personal clothing, provided that such clothing is clean and in an acceptable condition.
- (2) The Prison Director shall determine items of personal property that a remand prisoner may keep in the prison institution.
- (3) Remand prisoners shall be permitted to retain legal documents relating to the charges against them in the prison institution.

84. Visits.

Remand Prisoners shall be allowed to communicate with and receive visits from—

- (a) family members and friends, with the approval of the authority which authorized detention; or
- (b) legal representatives, at any time, within the working hours of the prison institution.

85. Conveyance to Court.

The Prisons Service shall not be obliged to convey remand prisoners to the courts, hospitals or other locations outside the prison institution they shall be escorted by Police Service personnel, but may do so in case of emergency or when authorized by the Prison Director.

86. Expired Remand Warrants.

- (1) The Prison Director shall prior to the expiration of a remand warrant, inform the authority which authorized detention in writing of the imminent expiration of the warrant.

- (2) If an extension of a remand warrant is not delivered to Prisons Service personnel, the Prison Director shall immediately transport the prisoner to the nearest police station.

87. Work.

Remand prisoners shall not work, but shall keep their immediate area clean.

CHAPTER XII

RELEASE OF CONVICTED PRISONERS

88. General Principles.

- (1) The Prison Director shall release a convicted prisoner whose sentence has expired.
- (2) The release of prisoners on pardon, remission, commutation of sentence or any other conditional release shall be in accordance with the provisions of the Code of Criminal Procedure Act, 2008.

89. Release for Compassionate Reasons.

The President may, on the recommendation of the Minister, release any prisoner who is terminally ill or has a serious disability which threatens his or her life, or the prisoner attains the age of seventy years. A recommendation under this section shall be taken by the Minister after consultation with a medical committee to be specified in the regulations.

90. Release on Remission

- (1) The Prison Director may release any prisoner who is sentenced to more than six months, who has served more than three-quarters of that sentence and has proved his or her good conduct during the period of the sentence. The remaining period of the sentence shall be deemed to have elapsed.
- (2) The regulations shall provide for the conditions under which remission shall take place.

CHAPTER XIII

PRISONER DISCIPLINE

91. Disciplinary Actions.

- (1) The Director General shall determine disciplinary offences by prisoners, and punishments for those offences.
- (2) A prisoner shall be disciplined for any disciplinary offence in accordance with the law.

- (3) A prisoner shall be fully informed of the alleged disciplinary offence and given an opportunity to present his or her defence, including the right of appeal to a competent authority.
- (4) No prisoner shall be punished more than once for the same disciplinary offence.
- (5) The Prison Director shall keep complete records of all disciplinary proceedings in prison institutions.
- (6) All disciplinary measures in prison institutions constituting cruel, inhuman or degrading treatment or punishment that may compromise the physical or mental health of a prisoner is strictly prohibited.
- (7) Reduction of diet or medicines and denial of contact with family members and friends is prohibited.
- (8) The Prison Director shall determine whether a breach of prison discipline has occurred and shall determine the punishment.

92. Appeals Against Disciplinary Action.

- (1) If a prisoner wishes to appeal the outcome of a disciplinary proceeding, he or she may present his or her appeal to the Director concerned.
- (2) If the prisoner is not satisfied with the outcome of an appeal under sub-section (1), he or she may appeal to the Director General and the decision of the Director General shall be final.
- (3) While an appeal is being considered, no disciplinary action shall be taken against a prisoner.

93. Criminal Offences

The Prison Director shall refer any prisoner who commits a criminal offence to a competent Court.

CHAPTER XIV

PRISON SECURITY

94. Powers of Prison Personnel to Arrest, Search and Seize.

- (1) Any Prisons Service personnel may arrest any person-
 - (a) for whose arrest he or she has a warrant or whom he or she is directed to arrest by a Public Prosecution Attorney, Magistrate or Court;
 - (b) who has escaped from his or her lawful custody;

- (c) who obstructs a Prisons Service personnel while in the execution of his or her official duty;
 - (e) who is required to appear by a proclamation published under section 97 of the Code of Criminal Procedure Act, 2008; or
 - (f) who committed or is suspected to have committed an offence for which the police may arrest without a warrant.
- (2) After arresting a person under sub-section (1) above, the Prisons Service personnel shall, as soon as reasonably practicable, take the person to the police.
 - (3) A Prisons Service personnel may search any person arrested under sub-section (1) above and seize any prohibited items held by that person.

95. Searching of Prisoners.

- (1) Prisons Service personnel may search any prisoner, provided that the personnel undertaking the search shall be of the same sex as the prisoner being searched.
- (2) When a search of a prisoner requires the removal of his or her clothing, the search shall be conducted out of the view of other prisoners and by two or more Prisons Service personnel of the same sex of the prisoner.

96. Searching for Escapees.

The Prison Director may authorize Prisons Service personnel, as part of their official duties, to search for escapees in the community.

97. Use of Force by Prisons Service Personnel.

- (1) Prisons Service personnel may use all lawful means to detain in safe custody all prisoners and, subject to the restrictions of this Act or any other law, may use reasonable force to achieve this objective where no other means are available.
- (2) A minimum degree of force shall be used and the force shall be proportionate to the objective.
- (3) When a Prisons Service personnel uses force, he or she shall report that use of force to the Prison Director.
- (4) Where the use of force involves the discharge of a firearm, the Prison Director shall report that use of force in writing as soon as practicable to the Director concerned.
- (5) The Prison Director may authorize the use of mechanical restraints, handcuffs and leg restraints to maintain the good order and security of the prison institution.

98. Use of Non-Lethal Force.

The Prisons Service personnel may use non-lethal weapons, such as batons, tear gas or trained dogs when ever necessary if available.

99. Use of Firearms.

- (1) Prisons Service personnel may use firearms where it is the only practicable way of ensuring the good order and security of the prison institution, and only in the following circumstances—
 - (a) when a prisoner is escaping or attempting to escape and refuses to return when called upon;
 - (b) when a prisoner is breaking or attempting to break part of a prison institution and continues to break when called upon to desist;
 - (c) when a Prisoner is engaged in riotous behaviour in a prison institution and refuses to desist when called upon;
 - (d) when a prisoner is endangering the lives of, or is likely to inflict grave injury on, a Prisons Service personnel other prisoners or any other person; or
 - (e) when the Officer in Charge authorises the use of firearms to prevent forceful entry to the prison institution.
- (2) A Prisons Service personnel before he or she uses a firearm shall—
 - (a) give a clear warning of the intention to use the firearm if the act or omission does not stop;
 - (b) give sufficient time for the warning to be observed; and
 - (c) use the firearm in a way that causes the least injury to escapee and anyone.
- (3) Firearms shall not be carried in a prison institution while prisoners are unlocked.
- (4) At any time when a Prisons Service personnel is not on duty, his or her firearm and ammunition, other than where issued for personal use, shall be secured at the prison institution armory.

100. Prohibited Items.

The Director General shall determine in writing those items which are prohibited in a prison Institution and shall specify them in the standing orders.

CHAPTER XV

MISCELLANEOUS PROVISIONS

101. Solidarity and Insurance Funds.

- (1) The following funds shall be established in the Prisons Service—
 - (a) Social Insurance Fund;
 - (b) Hero's Families Support Fund;
 - (c) Social Solidarity Fund; and
 - (d) Any other fund established by the Director General.

- (2) Any fund established under this Act shall be a body corporate and with their own stamps and seals, with powers to develop and invest funds and assets to achieve their goals, and shall have the right to sue and be sued in its own name.
- (3) Prisons Service funds are established to support insurance efforts for the Prisons Service and its members in the job of pensioners, families of Prisons Service martyrs, injured or missing members.
- (4) Funds, properties, entitlements and obligations of the following bodies shall be transferred to the Southern Sudan Prisons Service social support funds—
 - (a) deductions from Southern Sudan Prisons Service entitlements;
 - (b) share of the Southern Sudan Prisons Service in the Social Insurance Fund;
 - (c) share of the Southern Sudan Prisons Service fund investments.
- (5) The Director General shall issue orders, instructions, and regulations to organize activities of the Funds.

102. Membership on Security Committees.

- (1) The Director General or his or her delegate may be a member of the Security Committee.
- (2) The Prisons Service may be a member of the State, County and Payam Security Committee.

103. Flag, Logo, Numbers and Badges.

- (1) The Prisons Service shall have its own flag and logo.
- (2) The Prisons Service personnel shall have numbers and a unified badge.
- (3) The regulations shall provide for specifications and use of the Prisons Service flag, logo and badges.

104. Prohibition of Legal Proceedings against Leadership Ranks, Non-commissioned Officers and Officers in Charge for Acts resulting from the Execution of Orders.

Prisons Service personnel shall not take legal proceedings against his or her senior officer, his or her non-commissioned Officer, or his or her Officer in Charge before any Court, following the end of his or her service, for whatsoever he or she has undergone in implementing orders issued to him or her while in the service.

105. Standing Orders.

Subject to regulations issued pursuant to the provisions of this Act, the Director General may issue standing orders and instructions to organise and control of duties of the Prisons Service.

106. Prisons Service Identity Cards.

- (1) Every Prisons Service personnel shall be issued an identity card to be carried by him or her at all times.
- (2) The identity card is an official document which stands as identification evidence and which shows powers assigned to its holder. All Government institutions and units shall recognize and accept it.

107. Oath.

Every Prisons Service personnel, when appointed into the Service shall take the following oath of allegiance—

“I,----- swear/affirm by the name of the Almighty God/ that I shall dedicate my life to the service of my motherland and people of Southern Sudan, by faithfully protecting and defending the Constitution and laws of Southern Sudan and honestly discharging my duties as a Prison Officer under this Act and to execute any order issued to me by my superior or any other law to the best of my abilities, so help me God/God is my witness.

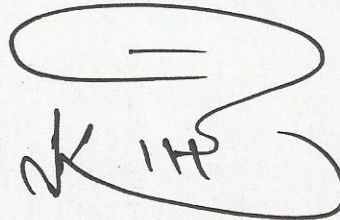
108. Regulations.

The Minister shall on the recommendation of the Director General, issue regulations for effective and efficient implementation of the provisions of this Act.

Assent of the President of the Government of Southern Sudan

In accordance with the provision of Article 85 (1) of the Interim Constitution of Southern Sudan, 2005, I, Gen. Salva Kiir Mayardit, President of the Government of Southern Sudan, hereby Assent to the Prisons Service Act, 2011 and sign it into law.

Signed under my hands in Juba, this 7th day of the month of JULY in the year 2011.

A handwritten signature in black ink, consisting of a large, stylized 'S' shape with a horizontal line through it, and the letters 'K I R' written below it.

**Gen. Salva Kiir Mayardit
President
Government of Southern Sudan
GoSS/ Juba.**