

LAWS OF SOUTHERN SUDAN

**THE SOUTHERN SUDAN EMPLOYEES
JUSTICE CHAMBER
ACT, 2011**

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ARRANGEMENT OF SECTIONS

CHAPTER I

PRELIMINARY PROVISIONS

1. Title and Commencement.
2. Repeal and Saving.
3. Purpose.
4. Authority and Application.
5. Interpretations.

CHAPTER II

ESTABLISHMENT, FUNCTIONS AND PRINCIPLES

6. Establishment of the Chamber.
7. Functions, Duties and Powers of the Chamber.

CHAPTER III

THE BOARD AND GOVERNANCE OF THE CHAMBER

8. The Board, Functions and Duties.
9. Composition of the Board.
10. Eligibility and Appointment.
11. Declaration of Assets.
12. Tenure, Resignation and Removal.

CHAPTER IV

BOARD PROCEDURES, COMMITTEES AND DIRECTORATES

13. General Policies.
14. Board Proceedings.
15. Disclosure of Interests.
16. Validity of Proceedings.
17. Committees and Directorates of the Board.

CHAPTER V

MANAGEMENT AND STAFF

18. Functions and Duties of the Chairperson.
19. Functions and Duties of the Deputy Chairperson.
20. Functions and Duties of the Executive Director.
21. Remuneration of the Chairperson, Deputy Chairperson, Executive Director, Members and Members of the Circuit.
22. Restriction on Employment.
23. Organisational Chart and Support Staff.
24. Outsourced Functions.
25. Oath.
26. Exemption from Liability.

CHAPTER VI

INVESTIGATION, HEARING, DETERMINATION, CIRCUITS AND RELATED MATTERS

27. Role of the Chamber.
28. Powers of the Chamber.
29. Jurisdiction.
30. Availability of Resort to Court Not Prejudiced.
31. Remedies.
32. Remedy Reduced If Contributing Behaviour by Civil Service Employee.
33. Applicable Provisions If Reinstatement is ordered.
34. Procedure.
35. Raising Grievance.
36. Lodging of Applications.
37. Chamber to Consider Mediation and Conciliation.
38. Investigations to be conducted in Private.
39. Power to Compel Attendance and Require Production of Evidence.
40. Failure to Attend or Produce Document.
41. Power to Proceed if Any Party Fails to Attend.
42. No Invalidity for Want of Form.
43. Power to Dismiss Frivolous Cases.
44. Representation and Cross-Examination.
45. Privilege.
46. Inspection of Public Premises.
47. Determinations.
48. Establishment of Circuits.
49. Constitution of Circuits.
50. Investigators.
51. Consultation with the Southern Sudan Civil Service Chamber on Jurisdiction and Transfer of Grievances.

CHAPTER VII

FINANCE, AUDIT AND REPORTING

- 52. Operational Principle.
- 53. Sources of Funding.
- 54. Bank Accounts.
- 55. Surplus Funds.
- 56. Accounts.
- 57. Audit.
- 58. Annual and Other Reports.

CHAPTER VIII

MISCELLANEOUS PROVISIONS

- 59. Right to Collect and Maintain Information.
- 60. Collaboration and Coordination with the Ministry of Legal Affairs.
- 61. Official Seal and Logo.
- 62. Confidentiality.
- 63. Regulations.

LAWS OF SOUTHERN SUDAN

THE SOUTHERN SUDAN EMPLOYEES JUSTICE CHAMBER 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 Southern Sudan Employees Justice Chamber Act, 2011,” and shall come into force on the date of its signature by the President.

2. Repeal and Saving.

Any provisions of existing legislation in Southern Sudan, which are governed by this Act, are hereby repealed or cease to operate in Southern Sudan; *provided that*, all proceedings, orders and regulations taken or made thereunder, except to the extent they are cancelled by or are otherwise inconsistent with the provisions of this Act, shall remain in force or effect, until they are repealed or amended in accordance with the provisions of this Act.

3. Purpose.

The purpose of this Act is to provide for the establishment and governance of an independent Chamber to consider and determine grievances from Southern Sudan civil service employees; and certain issues related thereto.

4. Authority and Application.

(1) This Act is drafted in accordance with the provisions of Article 145(1) of the Constitution, which provides for the establishment of the Chamber.

(2) The provisions of this Act shall apply throughout Southern Sudan in all matters related to the functions of the Southern Sudan Employees Justice Chamber as provided in this Act.

5. Interpretations.

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

“Assembly” means the Southern Sudan Legislative Assembly;
“Auditor-General” means the head of the Southern Sudan Audit Chamber;
“Board” means the Chamber Board of Directors;
“Chairperson” means the Chairperson of the Board who is also the Chief Executive of the Chamber;
“Chamber Circuit” means the arm of the Chamber established under section 50 below of this Act,
“Chamber” means Southern Sudan Employees Justice Chamber established by Article 145(1) of the Constitution and section 6 of this Act;
“Civil Service Employee” means an employee of the Civil Service as defined in this Section;
“Civil Service laws” means the laws and regulations concerning the Civil Service as may be in effect from time to time;
“Civil Service” means the Civil Service established in accordance with Article 141 of the Constitution and shall include: the Government civil service, and other Government public institutions and corporations; *but shall exclude* the legislature, the judiciary, the regular forces, the state and local government services except as set forth in this Act, and public universities;
“Civil Service-wide Employment and Workplace Policies of the Southern Sudan Civil Service Chamber” means policies, other than those enacted in Civil Service laws, in development, produced or implemented pursuant to Article 144 of the Constitution;
“Constitution” means the Interim Constitution of Southern Sudan, 2005;
“Deputy Chairperson” means the second highest authority of the Chamber;
“Executive Director” means the Chief Administrator of the Chamber;
“Government” means the Government of Southern Sudan (“Government”);
“Investigator” means an employee of the Chamber with responsibilities set forth in section 49 below of this Act;
“Member” means a Member of the Board, appointed in accordance with the provisions of this Act, and unless the context otherwise requires, shall include the Chairperson and Deputy Chairperson;
“President” means the President of the Government;
“Support staff” means the support staff employed by the Chamber.

CHAPTER II

ESTABLISHMENT, FUNCTIONS AND PRINCIPLES

6. Establishment of the Chamber.

- (1) The Southern Sudan Employees Justice Chamber (hereinafter called “the Chamber”) is hereby established as an autonomous chamber in Southern Sudan, to be responsible for considering and determining grievances from Southern Sudan Civil Service Employees.
- (2) The Chamber shall operate as an integral part of the Government, but shall be independent and impartial, and shall exercise its powers and perform its functions in an open, objective, transparent, impartial, non-discriminatory and accountable manner without fear or favour, in the interest of the maintenance of fair employment relationships in the Civil Service and adherence to a high

standard of professional ethics.

- (3) The Chamber shall have the powers of a body corporate and shall have the right to—
 - (a) acquire, hold and dispose of movable and immovable property;
 - (b) sue and be sued; and
 - (c) do all acts and things a body corporate may lawfully do.
- (4) The Chamber shall be accountable to the public through the Assembly and the President.
- (5) The Chamber shall have its head office in Juba, the Capital of Southern Sudan, and may establish branch offices as it deems necessary, to fulfil its obligations under the Constitution and this Act.

7. Functions, Duties and Powers of the Chamber.

- (1) The functions, duties and powers of the Chamber shall be—
 - (a) without prejudice to the right of resorting to courts or exhausting the proceedings of the Southern Sudan Public Service Chamber, to consider and determine any grievances from Civil Service Employees that do not concern matters that may impact on the Civil Service-wide workplace or employment policies of the Southern Sudan Civil Service Chamber;
 - (b) to investigate thoroughly, promptly and impartially grievances referred to in subsection (1)(a) above;
 - (c) to mediate or conciliate, or provide for mediation and/or conciliation of grievances referred to in subsection (1)(a) above;
 - (d) to advise parties to a grievance referred to in subsection (1) (a) above about the procedures to follow;
 - (e) to provide for the transfer of grievances and disputes the Chamber does not have jurisdiction to hear to the competent jurisdiction;
 - (f) to provide capacity building trainings for Civil Service Employees in the areas of employment and employees rights;
 - (g) to publicise the functions, duties and activities of the Chamber and the help it renders to the Civil Service;
 - (h) to present to the President recommendations or proposed remedies it deems appropriate to ensure justice;
 - (i) to facilitate the establishment of staff forums; and
 - (j) to assist State governments to establish employee justice chambers.
- (2) The Chamber may engage in such other functions and duties and exercise such other powers as entrusted to it by or under the Constitution, the President, the provisions of this Act and or any other law.

CHAPTER III

THE BOARD AND GOVERNANCE OF THE CHAMBER

8. The Board, Functions and Duties.

- (1) The legal authority of the Chamber shall vest in its Board of Directors (hereinafter called the “Board”), which shall be the highest administrative and executive authority of the Chamber.
- (2) Decisions of the Board shall be made in a transparent manner, independent of political, industrial and other influences.
- (3) The functions and duties of the Board shall be to—
 - (a) set policies, objectives and guidelines for the Chamber;
 - (b) set priorities and annual performance targets for the Chamber;
 - (c) review and evaluate the performance of the Chamber;
 - (d) assess and approve the annual reports and accounts of the Chamber;
 - (e) oversee the process of realising the vision and strategic goals of the Chamber;
 - (f) mobilise resources for the activities of the Chamber as set out in this Act;
 - (g) protect independence and autonomy of the Chamber; and
 - (h) approve the annual budget of the Chamber for submission to the Assembly.

9. Composition of the Board.

- (1) The Board shall comprise of the Chairperson, Deputy Chairperson, Executive Director and two Members all appointed by the President.
- (2) In the composition of the Board and the Chamber at least twenty-five percent of the aggregate membership of the Chamber shall be women.

10. Eligibility and Appointment.

- (1) The Chairperson, Deputy Chairperson, Executive Director and the Members shall be selected from persons of high moral reputation and integrity, and shall possess the necessary qualifications, expertise and experience in matters related to exposing and preventing corruption and promoting the integrity of Government Institutions, having regard to gender balance.
- (2) Without prejudice to the generality of subsection (1), above, a person shall be eligible for appointment as the Board Chairperson, the Deputy Chairperson or a Member if he or she meets the following additional requirements—
 - (a) be a Sudanese citizen;
 - (b) be of sound mind and high character;
 - (c) be at least thirty years of age;

- (d) not employed in the civil service or any other branch of Government;
 - (e) not a holder of an official office, or an employee of a political party;
 - (f) not a holder of an elected position at any level of government;
 - (g) possesses the skills and knowledge relevant to the work of the Chamber or qualifications deemed relevant to the position;
 - (h) not an undischarged bankrupt or insolvent; and
 - (i) not been convicted of an offence involving dishonesty or moral turpitude.
- (3) Any individual appointed to serve as the Chairperson, Deputy Chairperson, and Executive Director or as a Member shall be given a reasonable opportunity to take the necessary steps to meet the eligibility requirements of the provisions of this section.

11. Declaration of Assets.

The Chairperson, Deputy Chairperson, Members, and any senior Civil Service officials employed by the Chamber shall, upon assumption of their offices, make confidential declarations of their assets, liabilities and income including those of their spouses and children in accordance with the applicable law.

12. Tenure, Resignation and Removal.

- (1) The tenure of office of the Chairperson and Deputy Chairperson shall be five years, and the tenure of office of a Member shall be four years, subject to renewal and re-appointment for one additional term.
- (2) A Member may resign by a letter addressed to the President through the Chairperson. In case of the Chairperson, he or she shall submit his or her letter of resignation directly to the President.
- (3) The President may remove the Chairperson, Deputy Chairperson or a Member from the Chamber or upon a resolution passed by a two-thirds majority vote of the Assembly, after a hearing. A hearing under this section shall be held in accordance with the Assembly's Conduct of Business Regulations; provided that the concerned Member shall be given an opportunity to respond to the allegations.
- (4) Reasons for removal under subsection (3) above, shall include—
 - (a) ineligibility for appointment under section 10 above of this Act;
 - (b) inability to perform the functions of his or her office due to mental infirmity or physical disability;
 - (c) gross misconduct;
 - (d) incompetence and inefficiency;
 - (e) absence without permission or sufficient cause from three consecutive Board meetings;
 - (f) conviction of an offence involving dishonesty, fraud or moral turpitude; or
 - (g) death.

- (5) Where the Chairperson, Deputy Chairperson or a Member is removed from office, resigns or dies, he or she shall be duly replaced under the same conditions, and in the same manner, as provided under Section 10 above of this Act.

CHAPTER IV

BOARD PROCEDURES, COMMITTEES AND DIRECTORATES

13. General Policies.

The Board shall lay down the general policies of operations, with standards of conduct for its Members and support staff which shall not be inconsistent with the standards and codes of conduct contained in Civil Service laws. Its policies of operations and standards of conduct shall be public.

14. Board Proceedings.

- (1) The Board shall meet as often as it deems necessary and shall, in any case, meet for the discharge of its functions at least four times a year.
- (2) The Chairperson may, at anytime, convene an extraordinary meeting of the Board and shall also call a meeting within ten calendar days upon a request for an extraordinary meeting by at least two Members.
- (3) The Chairperson, and in his or her absence the Deputy Chairperson, shall convene and preside at all the meetings of the Board, and in the absence of both, the Members present at the meeting shall elect one of their Members to preside at that meeting.
- (4) Notice of a Board meeting shall be served to each Member in writing, by post or e-mail. When necessary, notice may also be made by phone, provided that, a verbal notice is followed by a written notice.
- (5) The quorum for meetings of the Board shall be a simple majority (half of all the members plus one).
- (6) For determination of quorum, a member withdrawing from a meeting under section 15(3) below shall be considered present.
- (7) The decisions of the Board shall be by consensus and in lieu of that, by simple majority of the members present and voting and in case of a tie, the chair shall have a casting vote.
- (8) The Board may, whenever necessary, invite any person to provide specific expertise during its meeting, who shall have no right to vote on any matter considered at the meeting.
- (9) The meetings of the Chamber shall not be open to the public unless decided

otherwise by the Chairperson on ad hoc basis.

15. Disclosure of Interests.

- (1) A Member who has a direct or indirect interest in a contract made or proposed to be made by the Board or in any other matter to be considered by the Board, shall disclose the nature or extent of his or her interest at the meeting, before the matter is discussed or considered by the Board.
- (2) A disclosure made under subsection (1), above, shall be recorded in the minutes of the meeting.
- (3) A Member, who makes a disclosure under subsection (1), above, shall not participate in the deliberations or take part in any decision of the Board with respect to that matter.

16. Validity of Proceedings.

The validity of proceedings of the Board shall not be affected by a vacancy in its membership or by any defect in the appointment or disqualification of a Member.

17. Committees and Directorates of the Board.

- (1) The Board may set up committees or directorates to facilitate the operations of the Chamber, and to advise the Board on matters as it may determine.
- (2) The Board may also dissolve any committee or directorate which has fulfilled its functions.
- (3) Any committee or directorate set up under subsection (1), above, shall be headed by a Board Member and shall comprise of such persons as the Board may determine.
- (4) The terms and conditions of service of members of any committee or directorate set up under this section shall be subject to the Civil Service laws and regulations.
- (5) The Board may delegate any of its functions to a committee or directorate set up by it subject to limitations as it may deem appropriate.
- (6) Subject to any directives by the Board, a committee or directorate set up under this section shall regulate its own proceedings.

CHAPTER V

MANAGEMENT AND STAFF

18. Functions and Duties of the Chairperson.

- (1) Management of the Chamber shall be the direct responsibility and duty of the

Chairperson as its Chief Executive. The Chairperson shall be assisted in his or her day-to-day management responsibilities and duties by the Deputy Chairperson and the Executive Director.

- (2) Without prejudice to the generality of subsection (1), above, the Chairperson shall have administrative, financial and technical powers required for the performance of the functions and duties of the Chamber, including, but not limited to—
- (a) representing the Chamber in official functions and occasions, in Southern Sudan, nationally, regionally and internationally;
 - (b) performing the role of Chief of Circuit as set forth in section 49 below of this Act;
 - (c) initiating policies and framework documents of the Chamber;
 - (d) approving project and programme activities proposed by the committees and/or directorates;
 - (e) monitoring the use of the funds of the Chamber;
 - (f) providing periodic reports to the President and the Assembly;
 - (g) appointing, within budgetary limitations, the officers and supporting staff of the Chamber in accordance with Civil Service laws and regulations;
 - (h) initiating internal policies and procedures including the job-descriptions of the supporting staff and the organisational chart referred to in section 23 below of this Act;
 - (i) monitoring and evaluating the performance of the Chamber; and
 - (j) performing any other functions and duties as may be prescribed by law or the President.

19. Functions and Duties of the Deputy Chairperson.

The Deputy Chairperson shall be the second highest authority in the Chamber who shall be responsible for—

- (a) assisting the Chairperson in undertaking the general activities of the chamber, and providing input into the preparation of budgets of the Chamber and ensuring that budgets are submitted to the appropriate authority for approval;
- (b) supervising the heads of units of the Chamber;
- (c) receiving reports from the heads of units and report on them to the Chairperson;
- (d) under delegation of the Chairperson, representing the Chamber at Southern Sudan, national and international meetings and occasions;
- (e) assisting the Chairperson in ensuring proper coordination and cooperation among various Chamber units;
- (f) preparation of project proposals, concept papers and reports;
- (g) ensuring an effective system of communication to meet the personnel and operational needs of the Chamber;
- (h) reviewing and provide advice to work plans presented to the Board by heads of units;
- (i) participating in the Chamber's deliberations on—
 - (i) appointment, promotion and discipline of support staff of the Chamber;
 - (ii) tenders and purchase orders;
 - (iii) grants and gifts presented to or by the Chamber; and

- (j) any other functions and duties assigned by the Chairperson.

20. Functions and Duties of the Executive Director.

- (1) The Executive Director shall assist the Chairperson in overseeing the day-to-day operations of the Chamber.
- (2) Without prejudice to the generality of subsection (1), above, the Executive Director shall perform any other functions and duties that may be assigned to him or her by the Chairperson or Deputy Chairperson, including, but not limited to—
 - (a) serving as the Chief Executive Administrator responsible for the day to day implementation of the decisions of the Board and general supervision of the staff;
 - (b) supervise generally the implementation of the provisions of this Act;
 - (c) control the operations and staff of the Chamber;
 - (d) with the approval by the Deputy Chairperson, submit, three months before the beginning of each new financial year, to the Board a work plan for the next financial year, setting out as a minimum all major objectives and activities of the Chamber for the year, as well as estimates of expenditure and revenue related to the work plan;
 - (e) present a report within three months after each financial year to the Board with regard to the activities of the Chamber in the preceding financial year; and
 - (f) perform any other functions and duties that may be assigned to him or her by the Chairperson.

21. Remuneration of the Chairperson, Deputy Chairperson, Executive Director, Members and Members of the Circuit.

- (1) The Chairperson shall have the status of a state minister, but shall, for the purposes of protocol, be senior to a state minister, and shall be entitled to all the rights, privileges and benefits accorded to that position.
- (2) The Deputy Chairperson shall have the status of the Secretary General of the Government, and shall be entitled to all the rights, privileges and benefits accorded to that position.
- (3) The Executive Director and other Members of the Chamber shall have the status of an undersecretary, and shall be entitled to all the rights, privileges and benefits accorded to that position.
- (4) Members of the Circuit shall be paid remuneration, transport, accommodation and other expenses whenever they sit or meet.

22. Restriction on Employment.

The Chairperson, Deputy Chairperson, Executive Director, Members of the Board and support staff shall not practice any private profession, transact commercial business, or receive remuneration or accept employment of any kind from any source other than the Chamber.

23. Organisational Chart and Support Staff.

- (1) The Chairperson shall engage such other officers and support staff with the consent of the Board on such terms as he or she may consider necessary or desirable for the efficient and effective performance of the functions and duties of the Chamber.
- (2) On annual basis, the Chairperson shall prepare a detailed organisational chart reflecting the Chamber's staffing requirements for the next financial year, which shall be subject to the approval of the President.
- (3) The organisational chart shall be developed in consultation with the Ministry of Finance and Economic Planning and the Ministry of Civil Service and Human Resource Development, and shall take into consideration the needs of the Chamber and the financial limitations of the Chambers funding.
- (4) All aspects of employment of the support staff of the Chamber, including but not limited to recruitment, employment, payment, promotion, and termination, shall be governed by the provisions of the Southern Sudan Civil Service laws and regulations.

24. Outsourced Functions.

The Chairperson shall have the power to engage such other officers and employees with the consent of the Board on fixed term contracts to perform the functions and duties of the Chamber. Where such a contract substantively covers the functions and duties of one or more permanent staff positions in the organisational chart, the terms of the contract may be for not more than three months in any one year period.

25. Oath.

The Chairperson, Deputy Chairperson and any Member of the Chamber shall, before assuming his or her duty, take the following oath or affirmation before the President:

"I....., do hereby swear by the Almighty God/solemnly affirm that as the Chairperson/Deputy Chairperson/Member of the Southern Sudan Employees Justice Chamber, I shall be faithful, and shall diligently and honestly discharge my functions and duties and shall strive to exercise the powers vested upon me by the Southern Sudan Employees Justice Chamber Act, with integrity and dignity in the best interest of the people of Southern Sudan; and shall respect and abide by all the rules, regulations and instructions thereunder; and that I shall not without due authority disclose or make known any information, matter or thing that comes to my knowledge by reason of my employment in the Chamber so help me God/God is my witness".

26. Exemption from Liability.

No Member of the Board, Circuits, officer or support staff of the Chamber, shall be subject to liability for any act or omission committed in the exercise or performance

of his or her functions and duties with the Chamber; *provided that*, such acts or omissions are committed in good faith.

CHAPTER VI

INVESTIGATION, HEARING, DETERMINATION, CIRCUITS AND RELATED MATTERS

27. Role of the Chamber.

- (1) The Chamber is an investigative body that has the role of resolving grievances lodged with the Chamber concerning employment relationship problems of Civil Service Employees arising out of alleged violations of Civil Service laws, *other than* grievances concerning matters that may impact on the Civil Service-wide workplace or employment policies of the Southern Sudan Public Service Chamber.
- (2) The Chamber may resolve grievances—
 - (a) by conciliation or mediation; or
 - (b) by establishing the facts and making a determination according to the substantial merits of the case, without regard to technicalities.
- (3) The Chamber shall, in carrying out its role—
 - (a) comply with the principles of natural justice;
 - (b) support successful employment relationships; and
 - (c) generally further the objectives of this Act.
- (4) The Chamber may accept, admit, and call for such evidence and information as in equity and good conscience it thinks fit, whether strictly legal evidence or not.

28. Powers of the Chamber.

The Chamber may, in investigating any matter—

- (a) call for evidence and information by way of summons or otherwise from the parties or from any other person;
- (b) require the parties or any other person to attend an investigation meeting to give evidence;
- (c) interview any of the parties or any person at any time before, during, or after a hearing;
- (d) in the course of investigation, fully examine and re-examine any witness; and
- (e) subject to the provisions of this Act, follow whatever procedure the Chamber deems appropriate.

29. Jurisdiction.

- (1) Except as provided in subsection (5) below, the Chamber has jurisdiction to make determinations concerning grievances lodged with the Chamber—
 - (a) by or on behalf of a Civil Service Employee;

- (b) against the lodging Civil Service Employee's Civil Service employer or former Civil Service employer; and
 - (c) concerning employment problems affecting the lodging Civil Service Employee arising out of alleged violations of Civil Service laws by the Civil Service employer, former Civil Service employer or representatives thereof.
- (2) Except as otherwise provided in subsection (5) below, the jurisdiction set forth in subsection (1) above includes grievances—
- (a) disputing the interpretation, application, or operation of the Civil Service laws concerning employment matters that affect the employment of the lodging Civil Service Employee;
 - (b) regarding a violation of the Civil Service laws concerning employment relationship matters that affect the employment of the lodging Civil Service Employee;
 - (c) concerning any exercise, refusal to exercise, or proposed or purported exercise of a statutory power or statutory power of decision by a Civil Service employer or its representative conferred by Civil Service laws if that exercise, refusal to exercise, or proposed or purported exercise of the statutory power or statutory power of decision is or gives rise to an employment problem affecting the lodging Civil Service Employee;
 - (d) claiming that the Civil Service Employee has been unjustifiably dismissed;
 - (e) claiming that the Civil Service Employee's employment, or 1 or more conditions of the Civil Service Employee's employment, including any condition that survives termination of the employment, is or are or was, during employment that has since been terminated, affecting the Civil Service Employee, or disadvantaging him or her by some unjustifiable action by the Civil Service Employee's Civil Service employer;
 - (f) claiming that the Civil Service Employee has been discriminated against in the Civil Service Employee's employment;
 - (g) claiming that the Civil Service Employee has been subject to duress in the Civil Service Employee's employment in relation to membership or non-membership of a union or Civil Service Employees organisation;
 - (g) concerning the recovery of wages or other money; or
 - (n) concerning the enforcement of orders made by way of determinations under this Act.
- (3) In considering the question of whether a dismissal or an action was justifiable, the Chamber shall determine the issues, on an objective basis, by considering whether the employer's actions and how the employer acted violated the spirit of the Civil Service laws and regulations, and what a fair and reasonable employer would have done in all the circumstances at the time the dismissal occurred or action was taken.
- (4) The Chamber has jurisdiction to make determinations under and to exercise such other functions and powers as are conferred upon it by this Act or any other law.

- (5) The Chamber does not have jurisdiction to make a determination about any matter or grievance relating to—
 - (a) matters that may impact on the Civil Service-wide workplace or employment policies of the Southern Sudan Civil Service Chamber; or
 - (b) the fixing of terms and conditions of employment.

30. Availability of Resort to Court Not Prejudiced.

- (1) Except as provided in this Act, once a grievance is lodged with and accepted by the Chamber, no other court has jurisdiction in relation to matters claimed in the grievance that, under Section 29 above, are within the jurisdiction of the Chamber, until those matters are determined by the Chamber or otherwise settled.
- (2) A party to a grievance proceeding who is dissatisfied with a determination delivered by the Chamber concerning that grievance as being wrong in its finding of fact or law may appeal against the determination to the competent higher jurisdiction, with the leave of that competent higher jurisdiction.

31. Remedies.

Where the Chamber determines that a Civil Service Employee has made out a legitimate grievance, it may, in making a determination in relation to the grievance, issue orders for any one or more of the following remedies—

- (a) reinstatement of the Civil Service Employee in his or her former position or his placement in a position not disadvantageous to him or her;
- (b) the reimbursement to the Civil Service Employee of a sum equal to the whole or any part of the wages or other money lost by him or her as a result of the grievance;
- (c) the payment to the Civil Service Employee of compensation by the Civil Service employer, including compensation for—
 - (i) humiliation, loss of dignity, and injury to the feelings of the Civil Service Employee; and
 - (ii) loss of any benefit, whether or not of a monetary kind, which the Civil Service Employee might reasonably have been expected to obtain if the personal grievance had not arisen.

32. Remedy Reduced If Contributing Behaviour by Civil Service Employee.

Where the Chamber determines that a Civil Service Employee has a personal grievance, the Chamber may, in deciding both the nature and the extent of the remedies to be provided in respect of that personal grievance, consider the extent to which the actions of the Civil Service Employee contributed towards the situation that gave rise to the personal grievance; and whether those actions so require, may reduce the remedies that would otherwise have been awarded accordingly.

33. Applicable Provisions If Reinstatement is ordered.

- (1) Where the remedy of reinstatement is provided by the Chamber, the Civil Service Employee shall be reinstated immediately or on such date as is

specified by the Chamber and, despite any challenge to or appeal against the determination of the Chamber, the provisions for reinstatement remain in force pending the outcome of those proceedings unless the Circuit otherwise directs.

- (2) The Chamber may if it deems appropriate, on the application of a Civil Service Employee who has raised a personal grievance with his Civil Service employer, make an order for the interim reinstatement of the Civil Service Employee pending the hearing of the grievance.
- (3) The order for interim reinstatement may be subject to any conditions that the Chamber deems appropriate. The Chamber may at any time rescind or vary any order made under this section.

34. Procedure.

- (1) Subject to the provisions of this Act, or any rules and regulations thereunder, the procedures for considering grievances shall be as the Chairperson may direct.
- (2) The Chamber, in exercising its powers and functions, must—
 - (a) act in a fair and reasonable manner having regard to its investigative role; and
 - (b) act in a manner having regard to the need to avoid any unnecessary cost to the Chamber.
- (3) Paragraph (1)(a) above does not require the Chamber to allow the cross-examination of a party or person, but the Chamber may, in its discretion, permit such cross-examination.
- (4) The Chamber may meet with the parties at such times and places as are from time to time fixed by a member of the Chamber or an officer of the Chamber.
- (5) The Chamber may exercise its powers in the absence of one or more of the parties.
- (6) The Chamber may take evidence on oath, and for that purpose administer oath to witnesses.
- (7) The Chamber has discretion to initiate, continue or discontinue an investigation.
- (8) The Chamber is not bound by its own precedent when reaching its conclusions or making recommendations.

35. Raising Grievance.

- (1) Every Civil Service Employee who wishes to lodge a grievance with the Chamber shall, subject to the provisions of subsections (3) and (4) below, raise the grievance with his or her employer within a period of 45 days with effect from the date on which the action alleged to amount to a grievance occurred or

came to the notice of the Civil Service Employee, whichever is the later, unless the employer consents to the grievance being raised after the expiration of that period.

- (2) For the purposes of subsection (1) above, a grievance is raised with an employer as soon as the Civil Service Employee has made, or has taken reasonable steps to make, the employer or a representative of the employer aware that the Civil Service Employee alleges a grievance and he or she wants the employer to address it.
- (3) Where the employer does not consent to the personal grievance being raised after the expiration of the 45-day period, the Civil Service Employee may apply to the Circuit for leave to raise the grievance after the expiration of that period.
- (4) No action may be commenced in a Chamber in relation to a grievance more than 3 years after the date on which the grievance was raised in accordance with the provisions of this section.

36. Lodging of Applications.

Proceedings before the Chamber shall be commenced by the lodging of a grievance in an application in the prescribed form.

37. Chamber to Consider Mediation and Conciliation.

- (1) Where any matter comes before the Chamber for determination, the Chamber—
 - (a) may direct that mediation or conciliation be used before the Chamber determines the matter, unless the Chamber considers that the use of conciliation—
 - (i) will not contribute constructively in resolving the matter; or
 - (ii) will not, in all the circumstances, be in the public interest; or
 - (iii) will undermine the urgent or interim nature of the proceedings;and
 - (b) may, in the course of investigating any matter, consider from time to time, as the Chamber deems appropriate, whether to direct the parties to use mediation or conciliation.
- (2) Where the Chamber gives a direction under paragraph (1)(a) or paragraph (1)(b) above, the parties shall comply with the direction and attempt in good faith to reach an agreed settlement of their differences.
- (3) The Chamber may direct Investigators to act as mediators or conciliators in relation to a grievance before the Chamber, or the Chamber may act as mediator or conciliator itself, with or without the use of Investigators as its representative in the mediation or conciliation.

38. Investigations to be conducted in Private.

- (1) Pursuant to Article 26 of the Constitution investigations are to be conducted in private unless the Chamber is satisfied that it is in the public interest to conduct a public inquiry.
- (2) Without limiting the factors that it may take into account in determining whether or not it is in the public interest to conduct a public inquiry, the Chamber shall consider the following—
 - (a) Article 26 of the Constitution;
 - (b) the benefit of exposing to the public, and making it aware, of conduct;
 - (c) the seriousness of the allegation or complaint being investigated;
 - (d) any risk of undue prejudice to a person's reputation (including prejudice that might arise from not holding an inquiry); and
 - (e) whether the public interest in exposing the matter is outweighed by the public interest in preserving the privacy of the persons concerned.

39. Power to Compel Attendance and Require Production of Evidence.

- (1) In conducting investigation into a grievance, the Chamber shall have the power to issue summonses or orders—
 - (a) ordering any person or agency to produce, within a specified period and time, any documents relevant to the investigation in his or her possession or in custody of any person under his or her control or at a location determined by the Chamber; and
 - (b) ordering witnesses within a reasonable period and time to attend in person at a certain place and requiring them to provide any information or to answer any questions, and or produce documents in their possession that are relevant to the investigation.
- (2) Any summons or order served under subsection (1) above shall—
 - (a) state the nature of the grievance under investigation;
 - (b) explain the possible consequences of not complying with the notice; and
 - (c) indicate the steps that should be taken by the recipient of the notice if he wishes to make a claim within subsection (3), below.
- (3) A claim by a person that—
 - (a) he or she is unable to comply with a notice under subsections (1)(a) and (b); or
 - (b) it is not reasonable in all the circumstances to require him or her to comply with such notice, shall be determined by the Chamber, and the Chamber may revoke or vary the notice on either ground.
- (4) In deciding whether to revoke or vary a notice on the ground mentioned in paragraph (3)(b) above, the Chamber shall consider the level of importance of the information requested.

40. Failure to Attend or Produce Document.

- (1) A person who—
 - (a) fails to appear before the Chamber in accordance with any summons issued under Section 39(1) above;
 - (b) having appeared before the Chamber, refuses to take oath or make an affirmation, or having been sworn or affirmed, refuses without lawful excuse to answer any question or produce any document;
 - (c) knowingly gives any false or misleading information to the Chamber; or
 - (d) causes an obstruction or disturbance in the course of any proceeding before the Chamber,shall be deemed to have committed the relevant offense or offences stated in Chapters IX and X of the Penal Code Act 2008.
- (2) In the event that any person fails to obey the Chamber's order issued under section 39(1) above, the Chamber shall seek the aid of the Ministry of Legal Affairs and Constitutional Development to enforce the order and secure compliance therewith.

41. Power to Proceed if Any Party Fails to Attend.

If, without a reasonable excuse, any party to proceedings before the Chamber fails to attend or be represented, the Chamber may proceed as if that party had duly attended or been represented.

42. No Invalidity for Want of Form.

No proceedings, determination or order of the Chamber shall be invalid for want of form, or be void or in any way vitiated by reason of any informality or error of form, or by reason that such proceedings should have been taken by or before the Public Service Chamber; *provided that*, such actions were taken in good faith.

43. Power to Dismiss Frivolous Cases.

- (1) The Chamber may, in any proceedings, at any time dismiss any matter before it which it thinks frivolous or trivial.
- (2) In any such case the order of the Chamber may be limited to an order against the party bringing the matter before the Chamber for payment of costs and expenses.

44. Representation and Cross-Examination.

- (1) The Chamber shall give a reasonable opportunity for every person giving evidence at a grievance hearing, including any party, to be legally represented.
- (2) A person or a person's representative may, with the leave of the Chamber, examine or cross-examine any witness on any matter that the Chamber considers relevant.

45. Privilege.

A person may not under section 39(1) above, be required to answer any question or give, produce or provide any evidence, information or document if he or she would not be required to do so if the proceedings of the investigation were civil or criminal proceedings in a court. Where the Chamber disputes an exercise of privilege under this section the Chamber may seek an appropriate order in a court of law.

46. Inspection of Public Premises.

- (1) A member of the Chamber or an officer of the Chamber authorised in writing by the Chairperson may, at any time—
 - (a) enter and inspect any premises occupied or used by a Civil Service employer in that capacity subject to investigation in relation to a grievance, and
 - (b) inspect any document or other thing in or on the premises, and
 - (c) take copies of any document in or on the premises.
- (2) The Civil Service employer shall make available to the Chamber or authorised officer such facilities as are necessary in exercise of the powers conferred upon the Chamber by this section.
- (3) Officers authorised under subsection (1) above to enter and inspect premises shall carry and produce identification documents when inspecting premises under this section.

47. Determinations.

In recording its determination on any matter before it, the Chamber, for the purpose of delivering speedy, informal, and practical justice to the parties,

- (a) shall—
 - (i) state relevant findings of fact;
 - (ii) state and explain its findings on relevant issues of law;
 - (iii) express its conclusions on the matters or issues it considers require determination in order to dispose of the matter; and
 - (iv) specify what orders (if any) it is making, but
- (b) need not—
 - (i) set out a record of all or any of the evidence heard or received;
 - (ii) record or summarise any submissions made by the parties;
 - (iii) indicate why it made, or did not make, specific findings as to the credibility of any evidence or person; or
 - (iv) record the process followed in investigating and determining the matter.

48. Establishment of Circuits.

- (1) The Chamber shall establish Chamber Circuits which may be required to exercise the Chambers powers and undertake its functions and duties set forth in Article 145(2) of the Constitution, section 47(a) through section 47(d)

above, inclusive of this Act and section 27 through section 51 inclusive of this Chapter, on the Chamber's behalf.

- (2) Except as provided in this Act, the Chamber shall determine the functions and duties and the powers of the Chamber Circuits, their procedures, and methods of performance.
- (3) The Chamber Circuits shall prepare and submit to the Chairperson of the Chamber monthly reports setting forth the types, numbers and dispositions grievance proceedings they have had before them in the month and setting forth any other activities they have engaged in for the month.

49. Constitution of Circuits.

- (1) A Chamber Circuit shall consist of—
 - (a) one Circuit member called the Chief of the Circuit; and
 - (b) at least two other members who shall be called members of the Employees Justice Circuit.
- (4) The Chairperson or the Deputy Chairperson or both, as the case may be, may sit as members of any Circuit. If either the Chairperson or the Deputy Chairperson sits as a member of the Circuit, he or she will sit as the Chief of the Circuit, unless both sit as members of one Circuit, in which case the Chairperson is to sit as Chief of Circuit.
- (5) The Chamber Circuits shall be constituted by the Chairperson.

50. Investigators.

- (1) The Chairperson may from time to time designate such number of Chamber support staff to act as Investigators as may be required.
- (2) Investigators shall have the following functions and duties—
 - (a) subject to Circuit oversight, scrutinise and decide for each grievance lodged whether Circuit have jurisdiction and coverage to consider the grievance;
 - (b) oversee the transfer of grievances to the appropriate jurisdiction;
 - (c) clarify the grievance documentation; and
 - (d) present preliminary reports to the Circuit on the grievance and that shall include—
 - (i) recommendations on whether the Circuit should order interim reinstatement; or
 - (ii) recommendations on whether the Circuit should direct mediation or conciliation;
 - (e) facilitate Circuit proceedings;
 - (f) execute specific or general directions from the Circuit in relation to gathering evidence and conciliation of grievances; and
 - (g) carry out such other functions and duties as may be directed from time to time by the Chairperson of the Chamber.

51. Consultation with the Southern Sudan Civil Service Chamber on Jurisdiction and Transfer of Grievances.

- (1) The Chamber shall from time to time meet with the Southern Sudan Civil Service Chamber to discuss and reach general concurrence on the scope of matters in grievances that may impact on the Civil Service-wide employment and workplace policies of the Southern Sudan Civil Service Chamber.
- (2) In exercising his or her functions set forth in subsection 50 (2) (a) (b) above of this Act, the Chairperson shall transfer to the Southern Sudan Civil Service Chamber all matters that come within the scope agreed in subsection (1) above. The Chamber through the Investigators shall maintain a list of such transfers and the matters in the grievances transferred under this Section.
- (3) The Chamber shall meet with the Southern Sudan Civil Service Chamber, on a basis mutually agreed, to carry out the following—
 - (a) the Chamber is to table the list maintained under subsection (2) above;
 - (b) if necessary, the parties by concurrence shall refine and update the scope of matters that may impact on the Civil Service-wide employment and workplace policies of the southern Sudan Public Service Chamber agreed under subsection (1) above; and
 - (c) the parties shall resolve any concerns over the performance or mechanism of grievance transfer from the Chamber to the Southern Sudan Public Service Chamber and the status of specific transfers.

CHAPTER VII

FINANCE, AUDIT AND REPORTING

52. Operational Principle.

The Chamber shall manage its finances in accordance with sound financial principles and best practices and shall in that respect and ensure that its revenues are sufficient to meet its expenditures, including payment of operational cost.

53. Sources of Funding.

- (1) The Chamber's operations shall be funded by an approved and allocated budget approved in accordance with the Public Finance Management and accountability law and other sources and shall include, but not limited to—
 - (a) grants, donations and bequests from local or foreign bodies;
 - (b) financial support from international donor agencies;
 - (c) monies received for goods and services provided under this Act;
 - (d) sums as may be appropriated by the Assembly in the Government annual budget; or
 - (e) any other source that may be approved by the President.
- (2) The Chamber shall prepare and submit for approval an annual budget proposal, in accordance with Public Finance Management and Accountability law and respect to the Government budget process, for the following financial

year. Such budget proposal shall be subject to review, revision and approval by the Assembly.

54. Bank Accounts.

The Chamber shall open and maintain bank accounts as may be necessary for the performance of its functions and duties in accordance with the Public Finance Management and Accountability law.

55. Surplus Funds.

Funds belonging to the Chamber, not immediately required for any purpose provided for in this Act, may be invested in a in accordance with the Public Finance Management and Accountability law.

56. Accounts.

- (1) The Chairperson shall keep and maintain proper books of accounts and records of all funds received and spent by the Chamber during the financial year.
- (2) The Chairperson shall prepare and submit a financial report to the Board, not later than three months from the end of the previous financial year. The report shall include—
 - (a) a financial statement of income and expenditure during the financial year;
 - (b) a statement of assets and liabilities of the Chamber for the financial year, prepared in accordance with generally accepted accounting principles; or
 - (c) a financial audit report.

57. Audit.

- (1) The Chairperson shall ensure that, for each financial year the accounts of the Chamber are audited by the Auditor General or such other audit firm approved by the Auditor General in writing and authorised by the Board.
- (2) The Board shall ensure that within four months from the end of the financial year, or such other period as the Government may require in writing, an audited statement of accounts, in accordance with the provisions of section 56 above, is submitted to the President and the ministry responsible for finance.
- (3) The Auditor General shall have access to all the books of accounts, vouchers and other records, and shall be entitled to any information and explanation required in relation to those and any other records of the Chamber.

58. Annual and Other Reports.

- (1) In addition to the financial audit report, required by section 57 above, when required by the ministry responsible for finance, the Chamber shall also

prepare a report of its activities during that financial year. The report required under this subsection shall be known as the annual report.

- (2) The annual report shall, inter alia, include the following information—
 - (a) a copy of the auditor’s report;
 - (b) a statement of financial performance and of cash flows, budget performance and balance sheet;
 - (c) the budget for the coming financial year;
 - (d) a description of the activities of the Chamber during the previous year;
 - (e) an analysis of the extent to which it has met its objectives of the previous year;
 - (f) an evaluation as to the extent to which the advice and directives of the Chamber have been complied with;
 - (g) its objectives for the coming year; and
 - (h) any recommendations on the matters governed by this Act.
- (3) The Chamber shall publish and disseminate widely the Annual Report, along with its audited accounts. In the event the Chamber fails to distribute the annual report, it shall be distributed by the ministry responsible for finance.
- (4) The Board shall submit to the Office of the President and the Assembly such other reports on its activities or any other matter that may from time to time be required.

CHAPTER VIII

MISCELLANEOUS PROVISIONS

59. Right to Collect and Maintain Information

- (1) The Chamber shall collect and maintain information, including but not limited to statistics, financial, employment and performance reports or other reports that it requires in order to fulfil its responsibilities under this Act or any other relevant legislation.
- (2) The Chamber shall collect personal data only pursuant to the law.
- (3) In handling information collected, the Chamber shall safeguard commercial secrets and other confidential information.

60. Collaboration and Coordination with the Ministry of Legal Affairs.

- (1) The Chamber shall collaborate with the Ministry of Legal Affairs and Constitutional Development in the enforcement of the provisions of this Act.
- (2) At such time as the Chamber identifies a violation of the provisions of this Act, it shall coordinate with the appropriate police service and the Ministry of Legal Affairs and Constitutional Development to facilitate the issuance of a citation, effect an arrest, or to take other appropriate action.

61. Official Seal and Logo.

- (1) The official seal and logo of the Chamber shall be in a form to be decided and determined by the Board.
- (2) The official seal when affixed to any document shall be authenticated by the signature of the Chairperson or such other person whom he or she may authorise.

62. Confidentiality.

To protect the confidentiality of its activities, the Deputy Chairperson, Executive Director, Members, officers and support staff of the Chamber shall not divulge or publish any information about the Chamber without a prior written authorisation by the Chairperson.

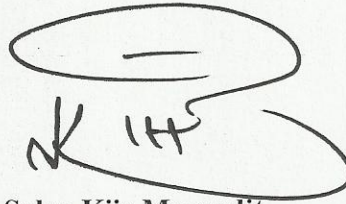
63. Regulations.

The Chamber shall make such rules and regulations as may be necessary for the 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 Southern Sudan Employees Justice Chamber 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 H' written below it.

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