

LAWS OF SOUTHERN SUDAN

**THE SOUTHERN SUDAN WAR DISABLED,
WIDOWS AND ORPHANS COMMISSION ACT, 2011**

LAWS OF SOUTHERN SUDAN

THE SOUTHERN SUDAN WAR DISABLED, WIDOWS AND ORPHANS COMMISSION ACT, 2011

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 DUTIES

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

CHAPTER III

THE BOARD AND GOVERNANCE OF THE COMMISSION

8. The Board Functions and Duties.
9. Composition of the Board.
10. Eligibility for Appointment to the Board.
11. Oath of the Chairperson, Deputy Chairperson and Members.
12. Declaration of Assets.
13. Tenure, Resignation and Removal.

CHAPTER IV

BOARD PROCEDURES, COMMITTEES AND DIRECTORATES

14. General Policies.
15. Board Proceedings.
16. Disclosure of Interest.
17. Validity of Proceedings.
18. Board Committees and Directorates.

CHAPTER V

MANAGEMENT AND STAFF

19. Functions and Duties of the Chairperson.
20. Responsibilities of the Deputy Chairperson.
21. Remuneration of the Chairperson, Deputy Chairperson and the Members.
22. Restriction on Outside Employment.
23. Organizational Chart and Support Staff.
24. Exemption from Liability.

CHAPTER VI

FINANCE, AUDIT AND REPORTING

25. Operational Principle.
26. Sources of Funding.
27. Bank Accounts.
28. Surplus Funds.
29. Accounts.
30. Audit.
31. Annual and Other Reports.

CHAPTER VII

MISCELLANEOUS PROVISIONS

32. Official Seal and Logo.
33. Confidentiality.
34. Regulations.

LAWS OF SOUTHERN SUDAN

THE SOUTHERN SUDAN WAR DISABLED, WIDOWS AND ORPHANS COMMISSION 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 War Disabled, Widows and Orphans Commission 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which are governed by this Act, with the exception of national Legislation that governs the same matter, are hereby repealed or cease to operate in Southern Sudan; *provided that*, all proceedings, orders and regulations taken or made thereunder, except to the extent they are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 the Act.

3. Purpose.

The purpose of this Act is to provide for the establishment and governance of an independent commission authorised to formulate and promote policies and legislations for the protection, care and welfare of persons with war related disabilities, widows and orphans as well as advise the Government of Southern Sudan on most effective modalities for the implementation of such policies and programs.

4. Authority and Application.

(1) This Act is drafted in accordance with the provisions of Article 146 (2) of the Interim Constitution of Southern Sudan 2005 (“ICSS”), which grants the Government the authority to establish other institutions and commissions compatible with its powers as it deems necessary to promote the welfare of its people, good governance and justice.

- (2) The provisions of this Act shall apply throughout Southern Sudan in all matters related to the functions of the War Disabled, Widows and Orphans Commission 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—

“**Army**” means the Sudan Peoples’ Liberation Army;

“**Assembly**” means the Southern Sudan Legislative Assembly;

“**Auditor-General**” means the head of the Southern Sudan Audit Chamber;

“**Board**” means the Commission’s Board of Directors;

“**Chairperson**” means the Chairperson of the Board who is also the Chief Executive of the Commission;

“**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;

“**Commission**” means the Southern Sudan War Disabled, Widows and Orphans Commission;

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

“**Deputy Chairperson**” means the second highest authority of the Commission, and the Chief Administrator of the Commission;

“**Disabled**” means a person whose disability was directly caused by the 1983 – 2005 SPLA Armed Conflicts in Southern Sudan;

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

“**Government Institution**” means—

- (a) Government, or any Government Ministry, the Bank of Southern Sudan, or any department, institution or undertaking thereof;
- (b) any State government, department, institution of the State or undertaking thereof;
- (c) any local government authority; or
- (d) any authority, board, commission, corporation, committee or other body, whether paid or unpaid, which is invested with or is performing, whether permanently or temporarily, functions and duties of public nature,

“**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;

“**Orphan**” means a child whose parent’s death was directly caused by the 1983 – 2005 SPLA Armed Conflict in Southern Sudan;

“**President**” means the President of the Government;

“**State**” refers to any of the ten states established by the Constitution;

“**Support staff**” means the support staff employed by the Commission; and

“**Widow**” means a woman whose husband’s death was directly caused by the 1983 – 2005 SPLA Armed Conflicts in Southern Sudan.

CHAPTER II

ESTABLISHMENT, FUNCTIONS AND DUTIES

6. Establishment of the Commission.

- (1) The Southern Sudan War Disabled, Widows and Orphans Commission, (hereinafter called “the Commission”), is hereby established as an autonomous Commission to formulate promote and implement policies and activities for the protection, care and welfare of persons with war related disabilities, widows and orphans as well as advise the Government on the most effective modalities for implementation of such policies and programs.
- (2) The Commission shall operate as an integral part of the Government. It shall be independent and impartial, and shall exercise its powers and perform its functions and duties without any fear or favour.
- (3) The Commission 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 Commission shall be accountable to the public through the Assembly and the President.
- (5) The Commission shall have its head office in Juba, the Capital of Southern Sudan, and may establish branch offices, as it deems necessary, to fulfill its obligations under the Constitution and this Act.

7. Functions, Duties and Powers of the Commission.

- (1) The functions and powers of the Commission shall be to—
 - (a) formulate and promote policies and legislations for the protection, care and welfare of persons with war related disabilities, widows and orphans, and shall take in to consideration the best interests of the war orphans;
 - (b) serve as an advisor to the Government on most effective modalities for implementation of such policies and programs;
 - (c) empower the war disabled, war widows and war orphans socially, economically and politically;
 - (d) implement activities for war vulnerable groups, including lobbying and advocating for persons with war related disabilities, widows and orphans, protecting their rights, providing capacity building for such persons as well as assisting with education from basic to tertiary levels;
 - (e) work in collaboration with relevant Government Institutions to advocate for the protection, care and welfare of the persons with war related disabilities, war widows and war orphans;

- (f) represent the Government in national, regional and international war disabled, widows and orphans forums;
 - (g) develop such other programs that shall empower the target groups;
 - (h) establish network with such other agencies and institutions with similar mandate; and
 - (i) work for the adoption of administrative measures and special programs for the war disabled, war widows and war orphans where Government services are being allocated for the people.
- (2) The Commission 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 COMMISSION

8. The Board Functions and Duties.

- (1) The legal authority of the Commission shall vest in its Board of Directors, hereinafter called the “Board”, which shall be the highest administrative and executive authority of the Commission.
- (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 Commission;
 - (b) set priorities and annual performance targets for the Commission;
 - (c) assess and approve the annual reports and accounts of the Commission;
 - (d) review and evaluate the performance of the Commission;
 - (e) oversee the process of realizing the vision and strategic goals of the Commission;
 - (f) mobilise resources for the implementation of the activities of the Commission as set out in the Act;
 - (g) protect independence and autonomy of the Commission; and
 - (h) approve the annual budget of the Commission for submission to the Assembly in the General Annual Budget.

9. Composition of the Board.

- (1) The Board shall comprise of the Chairperson, Deputy Chairperson and three Members.
- (2) In the composition of the Board and the Commission at least twenty-five percent of the aggregate membership shall be women.

10. Eligibility for Appointment to the Board.

- (1) The Chairperson, Deputy Chairperson 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 war disabled, widows and orphans having regard to gender balance.
- (2) Without prejudice to the generality of subsection (1), above, a person shall be eligible for appointment to serve as the Chairperson, Deputy Chairperson or a Member only if he or she meets the following additional requirements—
 - (a) a Sudanese citizen;
 - (b) be of sound mind and high character;
 - (c) be at least forty 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 Commission 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 who has been appointed to serve as the Chairperson, Deputy Chairperson or as a Member shall be given a reasonable opportunity to take any necessary steps to meet the eligibility requirements of the provisions of this section.

11. Oath of the Chairperson, Deputy Chairperson and Members.

The Chairperson, Deputy Chairperson and any Member of the Commission 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 War Disabled, Widows and Orphans Commission, I shall be faithful, and shall diligently and honestly discharge my functions and duties and shall strive to exercise the powers and functions vested in me by the Southern Sudan War Disabled, Widows and Orphans Commission 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 Commission, so help me God/God is my witness".

12. Declaration of Assets.

The Chairperson, Deputy Chairperson, Members, and any other senior public service officials employed by the Commission shall, upon assumption of their offices, make confidential declaration of their assets and liabilities including those of their spouses and children in accordance with the applicable law.

13. 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, and may be renewed for another term.
- (2) A Member may resign by a letter addressed to the President through the Chairperson. In case of the Chairperson, he shall submit a letter of resignation directly to the President.
- (3) Notwithstanding sub-section (1) above, the President may remove the Chairperson, Deputy Chairperson or a Member from the Commission.
- (4) Reasons for removal under subsection (3) above, shall include—
 - (a) ineligibility for appointment under the section 11 above, of this Act;
 - (b) inability to perform the functions and duties 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 he or she was appointed in accordance with the provisions of section 10 above of this Act.

CHAPTER IV

BOARD PROCEDURES, COMMITTEES AND DIRECTORATES

14. General Policies.

The Board shall lay down the general policies of operations, with standards of conduct for its Members and support staff. Its policies of operations and standards of conduct shall be public.

15. 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 and duties 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, the verbal notices are followed by notices in writing.
- (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 16(3) shall be considered as present.
- (7) The decisions of the Board shall be made 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, but shall have no right to vote on any matter considered at the meeting.
- (9) The meetings of the Commission shall not be open to the public unless decided otherwise by the Chairperson on ad hoc basis.

16. Disclosure of Interest.

- (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 of the Board, before the matter is discussed or considered.
- (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.

17. 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.

18. Board Committees and Directorates.

- (1) The Board may set up committees or directorates to facilitate the operations of the Commission, and to advise the Board on matters as it may determine.
- (2) The Board may also dissolve any committee or directorate which has accomplished its tasks.

- (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 Public Service laws and regulations.
- (5) The Board may delegate any of its functions and duties to a committee or directorate set up by it subject to limitations as it may decide.
- (6) Subject to any directives by the Board, a committee or directorate set up under this section may regulate its own proceedings.

CHAPTER V

MANAGEMENT AND STAFF

19. Functions and Duties of the Chairperson.

- (1) The Chairperson shall be the highest authority in the Commission and its Chief Executive. The Chairperson shall be assisted in his or her day-to-day management functions and duties by the Deputy Chairperson.
- (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 work of the Commission, including, but not limited to—
 - (a) representing the Commission in official functions and occasions, in Southern Sudan, nationally, regionally and internationally;
 - (b) initiating policies and frame work document of the Commission; approving the projects and programme activities proposed by the committees and/or directorates;
 - (c) monitoring the use of the funds of the Commission;
 - (d) providing periodic reports to the President and the Assembly;
 - (e) appointing, within the budgetary limits, the officers and support staff of the Commission in accordance with the Public Service laws and regulations;
 - (f) initiating internal policies and procedures including job descriptions of the support staff and the organizational chart referred to in section 23 of this Act;
 - (g) monitoring and evaluating the performance of the Commission; and
 - (h) performing any other functions and duties as may be prescribed by any other law.

20. Responsibilities of the Deputy Chairperson.

- (1) The Deputy Chairperson shall be the second highest authority in the Commission who shall assist the Chairperson in overseeing the day-to-day operations of the Commission.
- (2) Without prejudice to the generality of subsection (1) above, the Deputy Chairperson shall perform any other functions and duties that may be assigned to him or her by the 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 supervision of the staff;
 - (b) supervise generally the implementation of this Act;
 - (c) 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 Commission for the year, as well as estimates of expenditures and revenue related to the work plan;
 - (d) present a report within three months after each financial year to the Board with regard to the activities of the Commission in the preceding financial year; and
 - (e) perform any other functions and duties that may be assigned to him or her by the Chairperson.

21. Remuneration of the Chairperson, Deputy Chairperson and the Members.

- (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 other Members of the Commission shall have the status of an undersecretary, and shall be entitled to all the rights, privileges and benefits accorded to that position.

22. Restriction on Outside Employment.

The Chairperson, Deputy Chairperson, 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 Commission.

23. Organizational 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 Commission.

- (2) On annual basis, the Chairperson shall prepare a detailed organisational chart reflecting the Commission's staffing requirements for the next financial year, which shall be subject to the approval of the Board.
- (3) The organisational chart shall be developed in consultation with the Ministry of Finance and Economic Planning and the Ministry of Public Service and Human Resource Development, and shall take into consideration the needs of the Commission and the financial limitations of the Commissions funding.
- (4) All aspects of employment of the support staff of the Commission, including but not limited to recruitment, employment, payment, promotion, and termination, shall be governed by the provisions of the Southern Sudan Public Service laws and regulations.

24. Exemption from Liability.

No Member, officer or support staff of the Commission, shall be subject to any liability for any act or omission committed by him or her in the exercise or performance of his or her functions and duties with the Commission; *provided that* such acts or omissions are committed in good faith.

CHAPTER VI

FINANCE, AUDIT AND REPORTING

25. Operational Principle.

The Commission 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.

26. Sources of Funding.

- (1) The Commission'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; and
 - (e) any other source that may be approved by the President.
- (2) The Commission shall prepare and submit for approval and 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.

27. Bank Accounts.

The Commission 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.

28. Surplus Funds.

Funds belonging to the Commission, 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.

29. Accounts.

- (1) The Chairperson shall keep and maintain proper books of accounts and records of all funds received and spent by the Commission 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 Authority for the financial year, prepared in accordance with generally accepted accounting principles; and
 - (c) a financial audit report.

30. Audit.

- (1) The Chairperson shall ensure that, for each financial year the accounts of the Commission 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 30 above, is submitted to the President and the Ministry of Finance and Economic Planning.
- (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 Commission.

31. Annual and Other Reports.

- (1) In addition to the Financial Audit Report, required by section 30 above, when required by the Ministry of Finance, the Commission 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 Commission 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 Commission have been complied with;
 - (g) its objectives for the coming year; and
 - (h) any recommendations on the matters governed by this Act.
- (3) The Commission shall publish and disseminate widely the Annual Report, along with its audited accounts. In the event the Commission fails to distribute the Annual Report, it shall be distributed by the Ministry of Finance and Economic Planning.
- (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 VII

MISCELLANEOUS PROVISIONS

32. Official Seal and Logo.

- (1) The official seal and logo of the Commission 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 any other person whom he or she may authorise.

33. Confidentiality.

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

34. Regulations.

The Commission 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 War Disabled, Widows and Orphans Commission Act, 2011 and sign it into law.

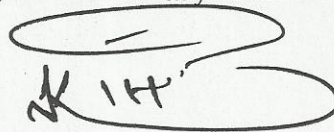
Signed under my hands in Juba, this-----day of the month of -----in the year 2011.

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

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 War Disabled, Widows and Orphans Commission 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.



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