



Laws of South Sudan

The National Elections Act, 2012

Act. No. 39

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By the National Legislative Assembly

Laws of South Sudan

The National Elections Act, 2012

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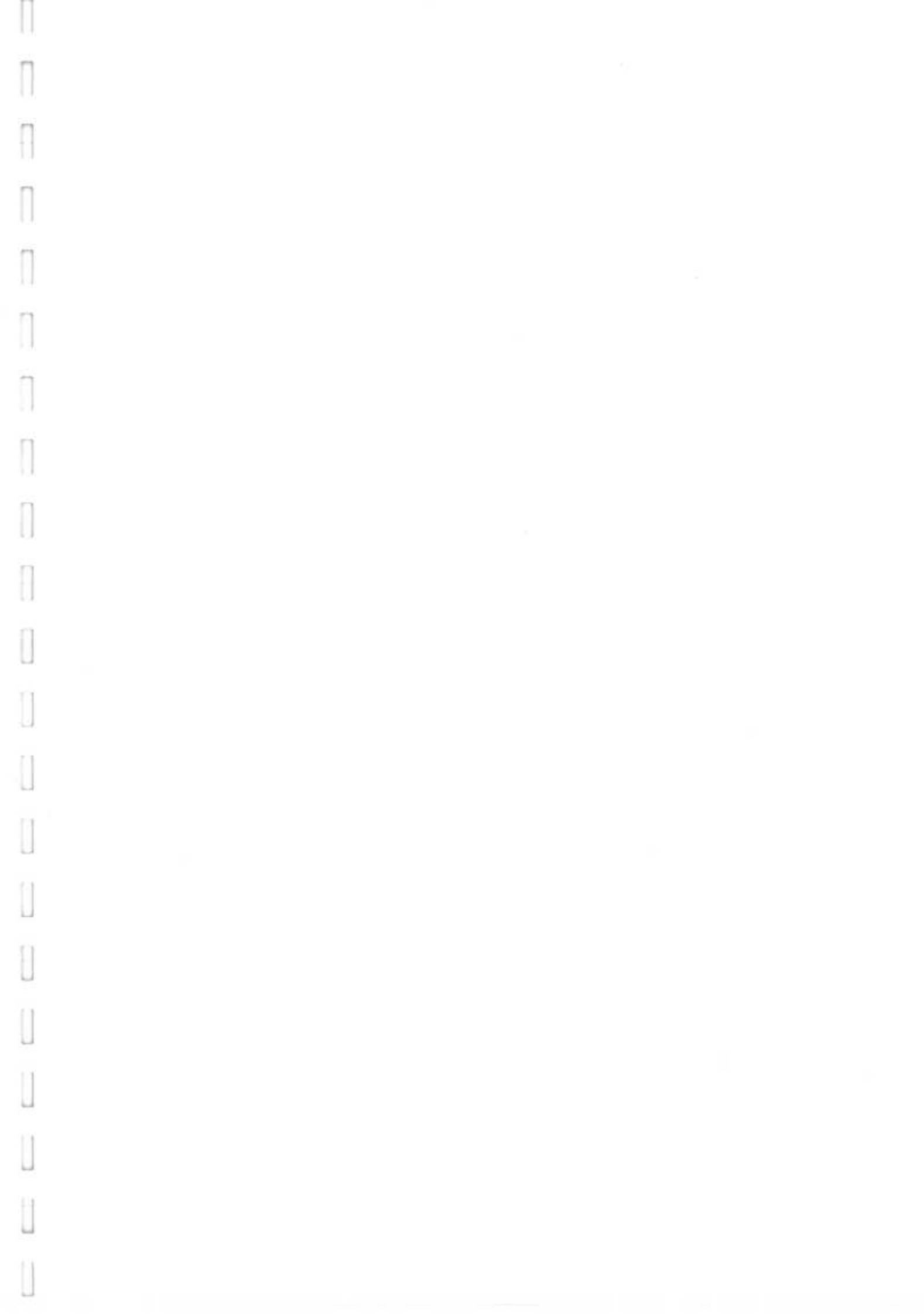
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Laws of South Sudan

The National Elections Act, 2012

In accordance with the provisions of Articles 55[2, 3(b)], read together with the provisions of Article 101(f) of the Transitional Constitution of the Republic of South Sudan 2011, the National Legislative Assembly, with the assent of the President hereby enacts the following:

PART I: PRELIMINARY PROVISIONS

1. Title and Commencement

This Act may be cited as “The National Elections Act, 2012”, and shall come into force on the date of its signature by the President.

2. Repeal and Saving

Any provision of existing law that is governed by the provisions of this Act is hereby repealed; provided that any proceedings, order and regulation taken or made under the provisions of such existing legislation, except to the extent they are repealed by or are otherwise inconsistent with the provisions of this Act, shall remain in full force until repealed or amended in accordance with the provisions of this Act.

3. Purpose

The purpose of this Act is to establish a legal framework for conducting democratic, peaceful, free and fair elections and referenda in South Sudan.

4. Authority and Application

This Act is drafted in accordance with the provisions of Articles 26(2) and 197 read together with Schedule (A)(30) of the Transitional Constitution of the Republic of South Sudan, 2011, which grants to the National Government exclusive legislative and executive powers over regulation of elections and referenda at all levels of Government.

5. General Principles for Democratic Elections

- 1) The Act shall be construed, interpreted, and applied in a manner that is consistent with the following principles:
 - a) the authority to govern derives from the will of the people, and their will must be demonstrated through genuinely democratic elections, conducted by adult suffrage and a secret ballot;
 - b) every citizen has the right to participate in government directly, as well as through freely chosen representatives, which includes the opportunity, without political discrimination or unreasonable restriction, to stand for office, as well as to freely cast a ballot; and

- c) the exercise of the right to democratic elections cannot be realized without the exercise of related fundamental human rights, including the right to freedoms of opinion and expression, including the right to seek, receive and impart information, association, assembly, movement, equality before the law and due process of law, including equal protection of the law and to an effective remedy for violations of rights, as well as to life, liberty and security of the person.
- 2) The administration and conduct of elections shall be open, transparent, and impartial.
- 3) Voting shall be by secret ballot, based on direct, universal adult suffrage.
- 4) Government authorities shall ensure an electoral environment in which political parties and candidates are free to express and convey their messages to the public and have an adequate opportunity to do so, including equitable access to and fair treatment by the mass media, as well as the freedom and opportunity to organize peaceful assemblies and other demonstrations of public support and to move freely throughout the country to seek votes.
- 5) Government authorities shall ensure that the electorate is able to receive adequate and accurate information upon which to make an informed political choice and be free to exercise that choice without fear, intimidation or bribery.

6. **Transparency of Election Processes**

- 1) Preparation, administration, and conduct of elections shall be transparent and open. The activities of the National Elections Commission shall be transparent and open.
- 2) The National Elections Commission shall inform the public about its work, formation of electoral constituencies, polling stations, their location, working hours, and acquaint citizens with electoral rolls, political parties, and candidates participating in elections, and provide information about voting and the results of the voting.

7. **Interpretation**

In this Act, unless the context otherwise requires:

“Ballot Paper” Means the paper officially issued by the Commission to the voter for polling in any elections or referendum conducted under provisions of this Act;

“Boma” Means the basic administrative unit below the Payam, comprised of a number of villages;

“Chairperson” Means the chairperson of the National Elections Commission selected and appointed under section 10(4) of this Act;

<i>“Chief electoral officer”</i>	Means a person appointed under section 10(4) of this Act;
<i>“Commission”</i>	Means the National Elections Commission established under section 8 of this Act;
<i>“Competent Court”</i>	Means the Court of competent jurisdiction designated by the chief justice to rule on matters presented for adjudication in accordance with the provisions of this Act;
<i>“Constituencies”</i>	Means the basic electoral units into which South Sudan is divided for the purposes of the election of the President of the Republic, Governors of the States, members of the National Legislative Assembly, members of the States National Legislative Assemblies and referenda;
<i>“Constitution”</i>	Means the transitional constitution of the Republic of South Sudan, 2011;
<i>“County”</i>	Means an administrative unit below the state consisting of Payams;
<i>“Court”</i>	Means the supreme court of South Sudan;
<i>“Elections”</i>	Means taking the opinion of voters according to the constitution and this Act;
<i>“Elections conduct;”</i>	Means doing or refraining from doing any act or carrying out any procedure relating to the elections;
<i>“Electoral Dividend”</i>	Means the result obtained by dividing the total population of that state by the number of seats allocated for geographical constituencies in the State;
<i>“Geographical Constituency”</i>	Means the geographical area comprising the voters for election of the President, Governors and members of the National Legislative Assembly or States Legislative Assemblies, provided that the number of citizens in that constituency shall neither exceed nor be less than the national dividend except as provided under this Act;

<i>“High Committee”</i>	Means the committee formed at the state level under section 25 of this Act;
<i>“Legislative Assemblies”</i>	Includes the National Legislative Assembly and States Assemblies;
<i>“Municipality”</i>	Means a council established in an urban area in accordance with the provisions of the Local Government Act.
<i>“National Dividend”</i>	Is obtained by dividing the total population of South Sudan by the figure which represents sixty percent(60%) of members of the National Legislative Assembly;
<i>“Party List”</i>	Means a closed party list containing 15% of the total number of members of any legislative assembly nominated by a political party;
<i>“Payam”</i>	Means an administrative unit below the county
<i>“Permanent Constitution”</i>	Means the constitution to be enacted in accordance with the provisions of this constitution
<i>“Political Party”</i>	Means a political party registered under the political parties Act, 2012;
<i>“Population Census”</i>	Means the census which shall be conducted in accordance with the constitution and this Act;
<i>“Power of the seat”</i>	Means the result obtained by dividing the total valid votes for the party list or women list for proportional representation in the legislative assembly concerned by the number of list seats designated for that legislative assembly;
<i>“President”</i>	Means the President of the Republic of South Sudan;
<i>“ Presiding Office”</i>	Means a person appointed under section 32 of this Act;

<i>“Qualifying percentage”</i>	Means the qualifying standard to compete in election for a seat in the legislative assemblies through proportional representation on party or women list;
<i>“Referendum”</i>	Means the process of taking the opinion of all voters on any matter related to national or public interest that is referred to them in accordance with Art. 195 of the constitution;
<i>“Regulations”</i>	Means the regulations issued under this Act;
<i>“Secretariat”</i>	Means the secretariat of the National Elections Commission provided for under section 21 of this Act;
<i>“Voter”</i>	Means a person who is eligible to vote in election or referendum under section 33 of this Act;
<i>“Women party list”</i>	Means a separate closed list for women representation;
<i>“Boma”</i>	Means the basic administrative unit below the Payam, comprised of a number of villages.

PART II: THE ELECTORAL COMMISSION

8. Establishment of the Commission

- 1) There shall be established within one month of adoption of this Act, an independent Commission to be known as “The National Elections Commission” in accordance with the provisions of Article 197(1) of the Constitution. The Commission shall have independent corporate personality, the right to sue and be sued in its own name and it shall have its own corporate seal.
- 2) The Commission shall establish High Committees in all the states of South Sudan.
- 3) The seat of the Commission shall be in the national capital.

9. Independence of the Commission

- 1) The Commission shall be financially and administratively independent and shall perform its functions with integrity, transparency, impartiality without interference from any person or authority.

- 2) Members and employees of the Commission shall perform their functions according to law. They shall be independent and shall not be influenced by Government, state or public officers, political parties, candidates or any other person or body.

10. Composition of the Commission and its Membership

- 1) The Commission shall comprise of nine members to be appointed by the President in accordance with Article 197(3) of the Constitution. Members of the Commission shall be confirmed by a vote of not less than two-thirds of the National Legislative Assembly. Selection of the Commission members shall be after consultation with women and civil society groups.
- 2) Each member of the Commission shall be:
 - a) a South Sudanese national;
 - b) of proven integrity, independent, competent, non-partisan and impartial;
 - c) not less than thirty-five (35) years of age;
 - d) literate, with at least a secondary school leaving certificate or equivalent;
 - e) not convicted over the past seven years, of a crime involving dishonesty or moral turpitude or contravention of the election conduct, even if he or she enjoys pardon; and
 - f) a person who has not been a candidate in general elections or an agent of a candidate for three years prior to becoming a Commissioner.
- 3) The term of office of Commissioners shall be six years renewable by the President for one additional term only with approval of two-thirds of the National Legislative Assembly; provided that the conditions for eligibility as set forth under this section shall continue to be complied with.
- 4) The Chairperson, Deputy Chairperson, and Chief Electoral Officer of the Commission shall be appointed by the President from amongst the appointed members of the Commission and each of their respective tenures may be extended by one additional year at the end of each term they serve.
- 5) The Chairperson, Deputy Chairperson, and Chief Electoral Officer shall work on a full-time basis. All other members shall work on part-time basis only, except for periods when the Chairperson or Deputy Chairperson deem it necessary for particular members to work on a full-time basis and in accordance with the applicable rules and regulations established pursuant to this Act.

11. Vacancy on the Commission

- 1) A post on the Commission shall become vacant for any of the following reasons:
 - a) decision made under Section 12 of this Act;
 - b) acceptance by the President of a letter of resignation by a Commissioner;
 - c) acceptance by the Court of a certified official medical report of mental infirmity or physical incapacity; or

- d) death.
- 2) Whenever the post of any member becomes vacant for any of the reasons specified in Sub-section (1) of this section, selection of the successor member of the Commission shall be made within a period not exceeding thirty (30) days and the replacement shall be according to the same procedures and under the same conditions as set forth in Section 10 of this Act.

12. Termination of Membership or Removal

- 1) Membership of the Commission may terminate for any of the following reasons:
 - a) repeated absence for five consecutive ordinary meetings without permission or without an acceptable excuse, proof of which shall be contained in a report to be submitted by the Chairperson or Deputy Chairperson to the President; and
 - b) being convicted of a crime involving fraud, dishonesty or moral turpitude, proof of which shall be contained in a report submitted by the Chairperson or Deputy Chairperson to the President.
- 2) The President may remove the Chairperson, Deputy Chairperson, or any member of the Commission from office upon the recommendation of two-thirds of the members of the Commission. Recommendation for removal shall be on grounds of proven partiality, incapacity to perform as a Commissioner, or gross misconduct related to the functions, powers, or procedures of the Commission. The recommendation shall be delivered to the President by the Chairperson or Deputy Chairperson of the Commission.

13. Oath of the Members of the Commission

Members of the Commission shall take the following Oath before the President:

"I....., as a member of the National Elections Commission, swear by Almighty God that I will perform my duties and responsibilities as Commissioner faithfully, impartially and independently without fear or favour and shall observe the Constitution and laws of the Republic of South Sudan; so help me God."

14. Functions and Powers of the Commission

- 1) The Commission shall take necessary steps to assure that all citizens, without discrimination, are able to exercise and enjoy their political rights to nominate and be nominated for elections and to freely express their will in a secret ballot during every periodic election or referendum that is conducted under the provisions of the Constitution and this Act.
- 2) Without limiting the generality of Sub-section (1) of this section, the Commission shall assume the following functions and powers:

- a) regulate and supervise elections of the President, Governors, the Legislative Assemblies, Council of States, Commissioners, mayors, and rural and urban councils;
- b) regulate and supervise any referendum to be carried out according to the Constitution, without prejudice to Article 97(4)(b) of the Constitution;
- c) prepare, revise, update, approve, and maintain the Electoral Register;
- d) conduct comprehensive electoral voter education and civic education programs on matters related to promotion of democratic elections;
- e) determine the geographical constituencies and conduct elections and referenda in accordance with provisions of this Act;
- f) issue general rules for regulating elections and referenda and take the necessary executive measures related to conducting and regulation of elections;
- g) develop the procedures and guidelines relating to regulation of election campaigns and prepare the electoral symbols and lists and prescribe the procedures for accrediting agents and observers;
- h) determine measures, processes and schedules for establishing local centres of registration and polling and determine the measures for controlling and managing the process to ensure free, orderly, peaceful and just performance of electoral registration and polling;
- i) control the sorting and counting of ballot papers and the tallying of final results including orderly declaration of elections or referenda results;
- j) postpone any electoral procedure or event for any election or referendum when warranted by the situation in accordance with provisions of this Act and determine new dates for carrying out such events;
- k) cancel the result of an election or referendum centre where the Commission determines that serious irregularities are impacting the votes of that centre, subject to appeals as provided for under this Act;
- l) where irregularities in the centre or centres have resulted in cancellation of the total votes, the Commission shall after an order by the Court, rectify the irregularities or repeat the elections or referendum in the affected centre or centres within a maximum period of sixty (60) days;
- m) distribute the forms and formats to be used in the elections or referendum process; prepare the documents necessary for the elections or referendum; and determine the procedures and periodic schedules for secondment of candidates, evaluate and approve such candidates, determine the procedure for withdrawal of nominations, and publish the approved final list of candidates;
- n) take necessary actions against any person or group that engage in corrupt or illegal practices or any person or groups that participate in election misconduct, and take appropriate action against any official or worker where it is established that such official or worker is guilty of

- infringement of electoral laws or any provision of this Act or regulations;
- o) establish and maintain liaison and cooperative linkages with political parties;
 - p) form such committees as are necessary to help the Commission in the performance of its functions and determine their functions, powers and working procedures;
 - q) establish branch offices within the states of South Sudan and determine the functions and powers of such offices;
 - r) recruit officers and staff for registration and polling and specify the functions and powers of such staff and how they are supervised;
 - s) adopt and oversee its annual budget that shall include budgets for elections and referenda processes;
 - t) approve the organizational chart of the Commission and its Secretariat and determine the emolument for the Secretary General and other staff, terms and conditions of service of employees of the Commission and submit the organizational and staffing structure of the Commission to the President for approval;
 - u) provide oversight over all matters and procedures related to registration, voting, sorting, counting, tallying and declaration of election results;
 - v) declare dates for elections or referenda polling and issue electoral calendars;
 - w) perform such other duties and functions as are necessary or incidental to the peaceful conducting of free and fair elections in a democratic system; and
 - x) supervise and oversee elections of other registered and incorporated bodies in the country upon being requested to do so by such bodies.
- 3) Responsible for conducting or supervising referenda and elections to any elective body or office established by this constitution and any other elections as prescribed by an Act of the assembly.
 - 4) The Commission may delegate any of its powers or functions to the Chairperson, Deputy Chairperson or any of its members and may delegate its powers to any committee formed or office established under such terms and conditions as it deems appropriate.

15. Announcement of the Date of Elections

- 1) Whenever an election is to be held, the Commission shall announce and publish in the Gazette and the print media a notice of the holding of the election at least six months before the date of the election.
- 2) Upon announcement of the date of elections by the Commission, the President shall, within three months to the elections date, dissolve the National Legislature, State Legislative Assemblies, the national government, and state governments.
- 3) Any civil servant or member of the organized forces, including the national security service, who intends to nominate him or herself to run for the position

of President, Governor, or member of the national or state legislatures in any election under this Act, shall resign from such position before submitting his or her candidature or nomination to the Commission.

- 4) The President and the Vice President shall remain in their positions during the elections period until taking over of the next president.
- 5) The President elect shall assume office of the President within 24 hours upon being declared the winner by the election commission. The President elect assumes office by taking and subscribing the oath of allegiance for execution of the functions of the office according to the constitution.
- 6) The President shall hold office for a term beginning on the date on which the President was sworn in and ending when the person next elected President is sworn in.

16. Meetings of the Commission

- 1) The Commission shall hold regular ordinary meetings and may hold extraordinary meetings at the invitation of the Chairperson or at the request of one third of the members.
- 2) The quorum for meetings of the Commission shall be deemed complete by presence of at least one-half of its members.
- 3) Decisions of the Commission shall be by majority votes of the members present and in the event of a tie vote, the Chairperson shall have a casting vote provided that a quorum was registered.
- 4) Decisions of the Commission shall be made readily available to the public at the Commission office and on the Commission's website in the manner approved by the Commission, at least within seven days of taking the decision; provided that the Commission may decide not to publicize certain decisions when the decision not to publicize is endorsed by a majority of its members.
- 5) The Commission shall adopt internal regulations for conducting its business and shall adopt procedures for its meetings as well as a code of conduct for its members and staff.

17. Functions of the Chairperson

The Chairperson shall be responsible for the business of the Commission and shall:

- a) Chair the meetings of the Commission;
- b) represent the Commission at official events and functions;
- c) follow-up the implementation of decisions of the Commission;
- d) supervise the Secretary General and staff of the Commission;
- e) Submit the budget of the Commission to the Minister of Finance and Economic Planning who shall forward it to the National Legislative Assembly for approval; and
- f) perform such other duties as may be assigned to her or him by the Commission.

18. Functions of the Deputy Chairperson

The Deputy Chairperson shall perform the functions of the Chairperson in his or her absence and shall perform the functions delegated to him or her by the Chairperson.

19. Functions of the Chief Electoral Officer

- 1) Without prejudice to roles of the Chairperson, Deputy Chairperson and the Commission, the Chief Electoral Officer shall be responsible for organising and administering elections and referenda.
- 2) Notwithstanding the criteria in Section 10(2) of this Act, appointment of the Chief Electoral Officer shall be based upon qualifications in terms of demonstrable skills and experience in organizing and managing elections.
- 3) Functions of the Chief Electoral Officer may be vested in another member of the Commission by the President upon recommendation of two thirds of the members of the Commission.

20. Immunity of Members of the Commission

Except as provided in this section, no criminal proceedings shall be taken against any member of the Commission during performance of their duties pursuant to this Act, except in cases where such member of the Commission is caught in the process of committing a crime for which the police may arrest without a warrant.

21. The Commission Secretariat and its Functions

- 1) The Commission shall have a Secretariat to be headed by a Secretary General to be appointed by the Chairperson and approved by a simple majority vote of the members of the Commission. The Secretariat shall include such number of employees as shall be approved by the Commission in accordance with the approved organizational chart of the Commission.
- 2) The Secretariat shall be responsible for running the administrative, management and financial affairs of the Commission and shall provide support to the functions of the Chief Electoral Officer.
- 3) Additional functions and duties of the Secretariat shall be set forth in regulations issued pursuant to this Act.

22. Secretary General and other staff of the Commission

- 1) The Commission shall have a Secretary General to lead and support its administrative structure. He or she shall be a civil servant appointed by the Commission in consultation with the National Public Service Commission upon such terms and conditions as may be determined by the Commission in consultation with the National Minister for Public Service and specified in the letter of appointment.
- 2) The Secretary General shall be a person of high moral character and proven integrity, possessing the relevant qualifications and proven ability in the field of public administration and qualified to be appointed to level of the office of Under Secretary.

- 3) The Secretary General shall, subject to the provisions of Sub-sections (1) and (2), above, perform such functions as may be assigned to him or her by the Commission.
- 4) The Secretary General may be removed by the Commission for:
 - a) inability to perform the functions of his or her office arising out of physical or mental incapacity;
 - b) misbehaviour or misconduct;
 - c) proven partiality towards a candidate or candidates; or
 - d) incompetence.
- 5) The Commission shall also have such other officers and employees as may be necessary for the discharge of its functions.
- 6) The officers and employees referred to in Sub-section (5) shall be appointed by the Commission in consultation with the National Public Service Commission and shall hold office upon such terms and conditions as shall be determined by the Commission in consultation with the National Public Service Commission.
- 7) The National Ministry of Labour, Public Service, and Human Resources may on request by the Commission second civil servants to the service of the National Elections Commission.

23. Terms of Employment

If an officer in the service of the Commission was, immediately before his or her appointment to the service of the Commission, an officer in the public service, his or her service as an officer of the public service shall be counted as service with the Commission for purposes of:

- a) leave;
- b) pay in lieu of leave; and
- c) calculating pension, gratuity and other past service benefits.

24. Funds of the Commission and Audit

- 1) All funds of the Commission shall be administered and controlled by the Secretary General who shall be the accounting officer and shall be answerable to the Commission in accordance with the provisions of this Act.
- 2) The Commission shall independently manage its funds but in accordance with provisions of the Public Finance Management and Accountability Act.
- 3) Accounts of the Commission shall be audited annually in accordance with the Provisions of the South Sudan Audit Chamber Act.

**PART III:
ADMINISTRATION OF THE ELECTIONS**

CHAPTER ONE: *HIGH COMMITTEES AND REGISTRATION OF RETURNING OFFICERS*

25. Formation of High Committees, their Functions and Powers

- 1) The Commission shall form High Committees in accordance with the provisions of Sub-section (3) of this section and shall appoint the Heads and members of such High Committees at states levels.
- 2) Each High Committee shall be comprised of five members who shall be persons known to be of high integrity, independent, experienced, non-partisan and impartial. Members of the High Committees shall comply with the requirements set forth in Section 10(2) of this Act.
- 3) Appointment of members of the High Committee shall be on recommendation by the Chairperson of the Commission and approved by simple majority of all members of the Commission taking into account consultation and representation of women and the youth.
- 4) The tenure for High Committee members shall be six years, renewable for one additional term only, by the Chairperson of the Commission and with approval of two thirds of the members of the Commission.
- 5) Chairpersons and Deputy Chairpersons of the High Committees shall be appointed by the Chairperson of the Commission and approved by simple majority of all members of the Commission.
- 6) The Chairperson and Deputy Chairperson of the High Committee shall work on a full-time basis. All other members shall work on a part-time basis, but may be engaged on a full time basis as the Commission deems necessary.
- 7) Subject to Article 97(4) of the Constitution, the High Committees shall be responsible to the Commission in administering and supervising the elections and referendum at the state levels.
- 8) In exercising its functions the High Committees shall be answerable to the Commission.
- 9) The High Committees shall perform all functions and powers related to the elections or referendum assigned to them by the Commission and published in the official Gazette.

26. Termination or Removal of a Member of the High Committee

- 1) Membership from a High Committee shall terminate for any of the following reasons:
 - a) repeated absence from five consecutive ordinary meetings without permission or without an acceptable excuse, proof of which shall be contained in a report submitted by the Chairperson or Deputy Chairman of the High Committee to the Commission; or
 - b) being convicted for a crime involving fraud, dishonesty or moral turpitude, proof of which shall be contained in a report submitted by

the Chairperson or Deputy Chairperson of the High Committee to the Commission.

- 2) Membership from a High Committee may be terminated by a vote of two thirds majority of the members of the Commission after an investigation conducted by a committee formed by the Chairperson of the Commission.

27. Appointment and Functions of Constituency Returning Officers

- 1) The Commission shall, by notice in the official Gazette and in the print media appoint a Returning Officer for each electoral constituency and the person appointed shall be a person of high moral character and proven integrity, whose main responsibility is to maintain the impartiality of the elections.
- 2) The constituency Returning Officer shall carry out the following functions:
 - a) administer and supervise all election/referendum activities in his/her constituency on behalf of both the relevant High Committee and the Commission; and
 - b) establish in consultation with the state Returning Officer, polling centres and stations and appoint officers there-to.

28. Removal and Termination of the services of a Returning Officer

- 1) The office of a Returning Officer shall become vacant if the holder:
 - a) dies;
 - b) becomes physically or mentally infirm;
 - c) becomes incompetent;
 - d) is absent from his or her duties without permission from the Commission;
 - e) has since his or her appointment, behaved in a corrupt manner in relation to his or her functions and duties as a Returning Officer.
- 2) When the office of a Returning Officer becomes vacant, under Sub-section (1) of this section, the successor shall be appointed within seven days.
- 3) A Returning Officer may be removed from his or her position if that officer:
 - a) is proved to be partial in the performance of his or her functions and duties;
 - b) dishonestly demands or accepts any money, gift or other consideration in order to influence him or her in carrying out his or her functions and duties or as a reward for having done or refrained from doing anything in carrying out his or her duties, commits an offence and shall on conviction be liable to a fine not exceeding SSP 1,000 or to imprisonment for a term not exceeding two years or both.

29. Appointment and Duties of Assistant Returning Officers

- 1) The High Committee shall in writing appoint an Assistant Returning Officer who shall be a resident of the constituency subject to approval by the Commission. Notice of the appointment shall be published in the official Gazette and the print media.

- 2) A Returning Officer may, in writing, delegate any of his or her duties to the assistant returning officer.

30. Removal of an Assistant Returning Officer

- 1) An assistant Returning Officer may be removed on the same grounds as a Returning Officer from office by the High Committee which appointed him or her with the approval of the Commission.
- 2) Where the Returning Officer dies or is removed, the assistant Returning Officer shall act until a successor is appointed.
- 3) Where an assistant Returning Officer dies, becomes disqualified or incapable of acting or refuses to act or is removed from office for any other reason, the High Committee shall appoint a substitute within seven days with approval of the Commission.

31. Establishing Polling Stations and Polling Centres

- 1) Each Returning Officer may, with the approval of the Commission, establish within his or her electoral constituency as many polling stations as are convenient for the casting of votes, taking into account the distances to be travelled by voters to polling stations, the number of voters in the constituency and the geographical features of the constituency.
- 2) Where the circumstances require, the Returning Officer may, under Sub-section (1) above, establish a polling centre at which are located more than one polling station; except that in that case, the Returning Officer shall ensure that steps are taken to inform voters as early as possible of the particular polling station at which they are required to vote, that the polling stations are separated by a sufficient distance and that the circumstances are such as to guarantee orderly voting without confusion.
- 3) Once the location of the polling station is established, it shall have ballot boxes that shall not be moved or transferred. In the case of pastoralist communities, mobile polling centres, shall be established when necessary.

32. Appointment and Replacement of Presiding Officers and their Assistants

- 1) Each Returning Officer:
 - a) shall appoint one Presiding Officer and not more than three Polling Assistants for each polling station;
 - b) may at any time before the polling day remove any Presiding Officer or Polling Assistant for good cause; and
 - c) may select not more than four Counting Officers for each constituency to assist him or her in counting the votes cast by voters on the polling day.
- 2) Where a Presiding Officer dies after his or her appointment or is unable to act as Presiding Officer on the polling day, the Returning Officer may appoint

another person in his or her place as Presiding Officer; and if no such appointment is made, the eldest Polling Assistant shall act as the Presiding Officer.

CHAPTER TWO: *THE GENERAL ELECTORAL REGISTER*

33. Eligibility to Vote

Eligible voters shall satisfy the following conditions:

- a) be a South Sudanese national;
- b) be at least eighteen (18) years of age;
- c) be registered in the Electoral Register; and
- d) be of sound mind.

34. Conditions for Registration and Participation in Election or Referendum

- 1) Registration in the Electoral Register is a basic right and a responsibility of every citizen who satisfies the required conditions.
- 2) Without prejudice to the generality of Sub-section (1) of this section, a South Sudanese resident in South Sudan shall, at the time of application for inclusion in the Electoral Register, satisfy the following conditions:
 - a) has been a resident in the geographical constituency for a period not less than three months before the date of closure of the Electoral Register or originates from the geographical constituency
 - b) has a personal identification document or a certificate authenticated at the County or the native or traditional administrative authority, as the case may be as an eligible voter;
 - c) has not been registered in any other geographical constituency; and
 - d) be at least eighteen (18) years of age at the date of polling as determined by the Commission prior to registration.
- 3) A South Sudanese national residing outside South Sudan and in possession of a South Sudanese passport, who satisfies the conditions set forth in Section 34 of this Act, shall have the right to apply for registration or for inclusion in the Electoral Register for election of the President or Referendum in accordance with the provisions of this Act and the regulations.
- 4) Determination that a voter is not of sound mind shall be made by a Competent Court based on a certified report of mental infirmity or physical incapacity issued by a duly qualified physician.
- 5) Regulations issued pursuant to this Act shall prescribe the methods and means of registration and period of appeal.

35. Preparation, Update, and Display of the Electoral Register

In order to update the Electoral Register, the Commission shall:

- a) prepare the register of voters in the territory of the Republic of South Sudan and abroad in the manner and time prescribed by the provisions of this Act and the regulations;
- b) revise the Electoral Register by addition, deletion or amendment before any elections or referendum takes place in accordance with this Act;
- c) make available the Electoral Register by public display at the places of registration or at the most accessible location to permit wide opportunity for revision of registered voters' details and objections to entries;
- d) ensure civic and voter education to support public participation and examination of the exercise of updating the voter registration;
- e) specify the time and period for displaying the Electoral Register during which registered voters may apply to correct details of their entries or change their places of residence; and
- f) receive Submissions for additions, deletions or amendments to the Electoral Register at the place of display.

36. Objections to Details of the Provisional Electoral Register

- 1) The Commission shall:
 - a) provide a free electronic copy of the provisional Electoral Register to the political parties upon request; and
 - b) avail the provisional Electoral Register for inspection by any person upon application in the form prepared by the Commission and after payment of the prescribed fee.
- 2) Any registered voter in any geographical constituency may submit a written objection at the location of display, within seven days of the date of publication of the provisional Electoral Register, or request to correct the details of her/his entry or to challenge the registration of another person if that person:
 - a) is dead;
 - b) has moved to another country and has renounced South Sudanese Nationality;
 - c) will not have attained the age of eighteen (18) by the date of polling, determined at registration;
 - d) has not resided for three months in the geographical constituency if he/she does not hail from the constituency;
 - e) was not a South Sudanese during registration;
 - f) has been registered in another geographical constituency; or
 - g) is not of sound mind.
- 3) Any registered voter in a geographical constituency whose name is absent from the provisional Electoral Register may submit a written objection at the place of display, within seven days from the date of publication of the provisional Electoral Register in accordance with this Act.

- 4) Any person within a geographical constituency who is denied registration may submit a written objection at the place of registration or display in accordance with this Act
 - a) during registration; or
 - b) at the place of display, seven days from the date of publishing the provisional Electoral Register.
- 5) Objections made against the provisional Electoral Register shall be determined within five days of the date of Submission. Determination on objections shall be by a Committee appointed by the Returning Officer in each geographical constituency with the approval of the Commission.
- 6) The Returning Officer shall, within fifteen (15) days following determination of all objections, publish a list of the names of the persons whose details were corrected, inserted or deleted from the Electoral Register, for inspection at the site of Submission in accordance with Section 35e) of this Act:
 - a) registrants shall have the right to appeal against the decisions regarding correction, insertion or deletion of names, within fifteen (15) days following publication of the list, by submitting a signed certificate in support of his or her right of registration in accordance with this Act; and
 - b) the Competent Courts established for each geographical constituency shall consider appeals within seven days and shall make orders directing the Returning Officer to amend the Electoral Register in accordance with its ruling.
- 7) Immediately after the end of publication and objection provided for under Sub-section (5) of this section, the Returning Officer in each state shall submit to the Commission all the amendments to the Electoral Register including any Court decisions.

37. The Final Electoral Register

- 1) After making the final revisions following receipt and consideration of any objections or appeals, the Commission shall review and approve the final Electoral Register for the elections and shall publish it well in advance of the date of polling. No further objections may be entertained after the Commission has published the final Electoral Register for the elections.
- 2) The Commission shall:
 - a) provide a free electronic copy of the final Electoral Register to the political parties if they so request; and
 - b) avail the final Electoral Register for inspection by any person on application in the form prepared by the Commission after payment of the prescribed fees.

PART IV:
DEMARCATIION OF THE BOUNDARIES AND DETERMINATION OF THE
NUMBER OF MEMBERS ELECTED TO REPRESENT GEOGRAPHICAL
CONSTITUENCIES IN THE STATE LEGISLATIVE ASSEMBLIES

38. Determination of Number of Geographical Constituencies for Legislative Assemblies in each State

Immediately following publication of the results of each population census and in accordance with provisions of this Act and the Regulations, the Commission shall determine, based on population size:

- a) the average population for geographical constituencies for each Legislative Assembly; and
- b) the boundaries of the geographical constituencies in each state for election of members of each Legislative Assembly.

39. Calculation of the National Dividend and Determination of the Number of Geographical Constituencies in each State for the National Assembly Elections

- 1) The Commission shall calculate the national dividend by dividing the total population of South Sudan by the figure which represents sixty percent (60%) of members of the National Assembly that shall be elected through geographical constituencies.
- 2) The Commission shall divide the total population of each state by the national dividend specified in Sub-section (1) of this section to determine the number of National Assembly geographical constituencies in each state taking into account the considerations set forth in Section 41 of this Act.

40. Calculation of the Electoral Dividend for each State and Determination of Elected Seats in the Legislative Assembly of a State through Geographical Constituencies

- 1) The Commission shall calculate the Electoral Dividend for each state by dividing the total population of that state by the number of seats allocated for the geographical constituencies in order to determine the number of voters in each geographical constituency.
- 2) The Commission shall determine the number of geographical constituencies in each State to represent sixty percent (60%) of the total number of seats in the State Legislative Assembly in accordance with section 61 of this Act.
- 3) In determining the geographical constituencies, the Commission shall take into account the considerations set forth in Section 41 of this Act.

41. Considerations for Demarcation of the Boundaries of Geographical Constituencies

- 1) The Commission shall demarcate the boundaries of geographical constituencies for elections to Legislative Assemblies and shall ensure that:
 - a) no geographical constituency boundary shall cross State boundaries;
 - b) the total population in each geographical constituency shall not deviate from the electoral dividend or the national dividend applied in each case by more or less than ten percent, except under exceptional circumstances, as determined and published by the Commission, where a fifteen percent (15%) deviation may be applied;
 - c) consideration shall be given to geographical features, population distribution and physical movements, as well as local administrative boundaries;
 - d) consultations shall be conducted with local civil society groups and communities to ensure the acceptability of constituencies alongside a boundary awareness civic education program;
 - e) the National Elections Commission shall review the names and boundaries of constituencies at intervals of not less than eight years and not more than 12 years provided that any review shall be completed at least twelve months before a general election;
 - f) if a general election is to be held within twelve months after the completion of a review by the Commission, the new boundaries shall not take effect for purposes of that election;
 - g) Subject to clauses a), b), c), and d), the names and details of the boundaries of constituencies determined by the Commission shall be published in the Gazette and the print media; and
 - h) a member of the constituency affected by the boundaries review may apply to the Competent Court for review of the decision of the Commission under this section.
- 2) The National Bureau of Statistics shall avail logistical and technical resources as requested by the Commission in support of the Commissions activities under Sub-section (1), with costs incorporated within the Commission budget.

42. Publication of the Preliminary Report of Boundaries of Geographical Constituencies

- 1) Following design of the boundaries of geographical constituencies in each State, the Commission shall prepare a preliminary boundary delimitation report. Such a report shall include:
 - a) number of seats to represent each State for geographical constituencies in the Legislative Assemblies;
 - b) description of the final boundaries of each geographical constituencies in each state; and

- c) standardised constituency maps in line with the descriptions referred to in sub-section 1(b) of this section.
 - 2) The report prepared under Sub-section (1) shall be published promptly in the Official Gazette and the print media. The Commission shall submit the preliminary report immediately to the President, Governors, members of the National and State Legislative Assemblies, Council of States and political parties.
 - 3) The bodies mentioned in Sub-section (2) of this section may submit objections or alternative proposals in writing to the Commission within thirty (30) days from the date of receipt of the preliminary report.
 - 4) After expedient consideration of any objections and incorporating any amendments the Commission deems appropriate, it shall publish its decisions or any amendments to the preliminary report in the Official Gazette and in the print media. The Commission shall submit its decisions and any amendments to the preliminary report to the President, Governors, members of the National and State Legislative Assemblies, Council of States and the political parties.
- 43. Appeal Against the Preliminary Report on Demarcation of Geographical Constituencies Boundaries**
- 1) Any objection to the Commission's preliminary report published under Section 42(2) of this Act may be made within fourteen days from the date of publication.
 - 2) Any appeal to the Commission's decisions and any amendments to the preliminary report published under Section 43(3) may be made to the Court within fourteen days from the date of publication.
 - 3) The Court shall decide on any submitted appeals within fourteen days, and its decision shall be final; provided that, where the Court deems it necessary it may extend the deadline in individual cases and publish a new deadline.
- 44. Publication of the Final Report of Boundaries of Geographical Constituencies**
- The Commission shall prepare a final report and constituency maps based upon any decisions taken by the Courts pursuant to Section 43(3) of this Act which shall include the number of seats to represent each State from each state's geographical constituencies in the Legislative Assemblies, and the final boundaries of the geographical constituencies in all States. The Final Report shall be published promptly in the Official Gazette and in the print media.

**PART V:
NOMINATIONS, WITHDRAWAL OF NOMINATIONS AND APPEALS**

**CHAPTER ONE: *NOMINATION FOR ELECTION OF THE PRESIDENT OF THE
REPUBLIC AND GOVERNORS OF THE STATES***

45. System of Election

- 1) The President of South Sudan or Governor of a State shall be elected by a voter who shall cast one vote each for the offices of the President of South Sudan and Governor of a State. A candidate shall be declared elected if he or she obtains fifty percent (50%) of the valid votes plus one vote or more.
- 2) In circumstances where no candidate according to sub-section (1) of this section has secured the required number of votes, the Commission shall hold a second round election between the two candidates with the highest number of valid votes from the respective election within sixty (60) days of the original polling date. The candidate with the majority of valid votes in the second round election shall be declared the winner.

46. Eligibility and Conditions for Nomination

- 1) To be eligible as a candidate for election as President or Governor, a person shall meet the following qualifications:
 - a) be a South Sudanese by birth;
 - b) be of sound mind;
 - c) be at least forty (40) years of age;
 - d) be literate; and
 - e) not have been convicted of an offence involving fraud, dishonesty or moral turpitude.
- 2) The Commission may request such evidence as it deems necessary for purposes of establishing the eligibility requirements specified in Sub-section (1) of this section.
- 3) Any eligible voter may nominate a person of his or her choice for the office of President or Governor in accordance with this Act.
- 4) A person may only be nominated to one of the offices of either President or Governor.

47. Secondment of Nominations

- 1) A person nominated for the office of President under this sub-section shall be seconded by ten thousand registered voters from at least seven States, with no less than two hundred voters from each State.
- 2) A person nominated for the office of Governor under sub-section 3 of section 46 of this Act shall be seconded by five thousand registered voters from at least half of the counties within the State concerned, with no less than one hundred voters from each county.
- 3) The Commission shall publish and disseminate the forms for collection of signatures thirty (30) days prior to nominations according to regulations. The form shall include:
 - a) the full name of the seconded candidate;
 - b) the full name of the registered voter;
 - c) the residential address of the voter;
 - d) the date and place of birth of the voter; and
 - e) the signature of the voter.

48. Application for Nomination to the Office of President or the Governor

- 1) The application for nomination of a candidate for election as President or a Governor shall be submitted by a Political Party, the candidate or by any other person duly authorized by the candidate directly to the Commission at the time, date and place specified. The period for Submission of nominations shall be seven days.
- 2) The seven days for submission of nomination applications shall start not more than ninety days and not less than sixty (60) days before polling day. The Commission shall publish notice of the nomination day in the Gazette and in the print media, at least fifteen (15) days prior to the date of the nomination period.
- 3) The application for nomination shall be submitted on the form and in the format prepared by the Commission, which shall include the information as specified in the regulations together with a deposit, to be made to the Commission of:
 - a) ten thousand (10,000) South Sudanese Pounds for nomination to the office of the President; and
 - b) two thousand (2,000) South Sudanese Pounds for nomination to the office of the Governor.
- 4) Deposits under sub-sections (3)(a) and (3)(b) of this section shall be refunded if the candidate secures more than ten percent (10%) of the valid votes cast in the election, or if the candidate withdraws at any time not later than forty-five days prior to polling day.
- 5) Every candidate nominated under sub-section (1) of this section shall submit a signed certificate of his or her assets and liabilities for the year prior to the

date of nomination including the assets of spouses and children in the form specified by the Commission.

49. Invalidation of Nomination

The application submitted in accordance with Section 48(3) of this Act shall be deemed invalid if the person nominated is not eligible to be a candidate for the relevant office under the eligibility requirements set forth in this Act.

50. Inspection of Nominations

- 1) The Commission shall publish, within seven days from close of nominations, a list of names of the persons who applied to be nominated under Section 48(1) of this Act, including the names of those who proposed them, the Political Party to which they are affiliated, and whether they intend to contest as independent candidates. The list shall be made available to all those persons and political parties mentioned in it and shall be published in the Official Gazette and displayed at Commission High Committee offices to enable public inspection of the list and Submission of objections if any.
- 2) The regulations shall specify the period for publication of the list and Submission of objections mentioned in Sub-section (1) of this section and the manner in which objections shall be expeditiously addressed.
- 3) The Commission shall inspect the applications for nomination of candidates for election as President or Governor and ensure compliance with the procedures laid down in this Act. If an application fails to comply fully with provisions of this Act, the Commission shall reject such application, give its reasons in writing and inform the relevant independent candidate or Political Party.
- 4) On the day immediately after completion of the period for ruling on objections as determined by regulations, the Commission shall publish in the Official Gazette and display at all Commission offices, a list of nomination applications that were accepted and those which were rejected, indicating the reasons for rejection.

51. Appeals Against Rejection of Nomination Application

- 1) A person whose application to be a candidate has been rejected, or the persons or Political Party which proposed that person's nomination may appeal to the Court against the decision of the Commission within seven days from the date of publication of the Commission's decision in accordance with this Act. .
- 2) The Court shall decide on any appeal within a period of seven days from the date of receipt of the appeal and make its decision public. The decision of the Court under this sub-section shall be final. The Court may for this purpose issue any order on any related matter.

52. Publication of the Final List of Candidates for the Office of the President or the Governor

The Commission shall publish in the Official Gazette and in the print media the final list of candidates nominated, after all appeals and objections to the Court have been decided, and shall ensure that the published final list of candidates is disseminated widely across the Republic of South Sudan and abroad for the elections to the office of the President, and across the state for the elections to the office of the Governor.

53. Allocation of Electoral Symbols and Order on the Ballot

- 1) For the purpose of elections, a candidate or list on behalf of a particular party shall use the symbol proposed by that party and approved by the Commission. Independent candidates shall have the right to choose symbols from the symbols provided by the Commission which shall be allocated according to the order of completing nomination applications as provided for in this Act.
- 2) Any symbol approved or proposed by the Commission shall not:
 - a) be similar to the name, abbreviated name, distinguishing mark, logo or symbol of any other Political Party or any other candidate;
 - b) be the flag of the Republic of South Sudan or any of its states; and
 - c) contain anything which portrays the propagation of or incitement to violence or hatred or discrimination against any group of the population.
- 3) The Party lists and Women lists shall use the symbol of the party that nominated them.
- 4) Order on ballots shall be determined through a lottery conducted by the Commission with free access to observers, the media, party agents and candidates.

CHAPTER TWO: *WITHDRAWAL OF NOMINATION, DEATH AND DECLARATION OF ELECTED CANDIDATES FOR THE ELECTION OF PRESIDENT OR GOVERNOR*

54. Withdrawal of Nomination

- 1) Any duly nominated and accepted candidate may withdraw his or her nomination within a period not less than forty-five days prior to polling day; provided that the candidate shall notify the Commission of his or her withdrawal in a signed written form that shall, for party nominees, be endorsed by his or her party.
- 2) A candidate that withdraws his or her nomination in accordance with Sub-section (1) of this section shall be refunded the deposit made at the time of Submission of his or her nomination application.

- 3) No candidate shall withdraw his or her nomination after expiration of the period specified in Sub-section (1) of this section and all duly nominated and accepted candidates shall appear on the ballot paper and any vote cast for any of them on polling day shall be deemed valid.

55. Death of a Candidate

- 1) If, after declaration and publication of the final list of candidates but before or during polling day a candidate dies, the Commission shall postpone polling for that seat and appoint a new date for nominations.
- 2) Where new nominations are to be held under Sub-section (1) of this section, the previous nomination applications shall continue to be valid.
- 3) Where new dates for nomination are appointed under Sub-section (1) of this section, the Commission shall appoint a new date for polling within sixty (60) days of the last day of nominations.

56. Declaration of Unopposed Candidates

Where a candidate on the close of nominations is the sole candidate nominated and duly accepted by the Commission, or is the sole candidate nominated and duly accepted after withdrawal of all other candidates, the Commission shall declare that candidate elected unopposed within forty eight hours from the closing date and time of the nominations period or the deadline for withdrawals in accordance with this Act.

57. Postponement of the Elections of the President and or the Governor

- 1) The Commission may postpone election of the President or Governor of a State by notice to that effect, if it becomes impossible to conduct the election by reason of proven occurrence of an imminent danger that may threaten the entire country or a State, or any part thereof, or in the event of declaration of a state of emergency according to Article 189 of the Constitution in all the country, or a state or in any part thereof; provided that the Commission shall fix a new date for elections, as soon as possible, which shall not exceed sixty (60) days from the original date established for such elections.
- 2) Pending holding of the postponed elections as provided for under sub-section (1) of this section, the incumbent holder of the office shall continue in his or her office as caretaker and his or her tenure shall automatically be extended until the elected President or Governor takes the oath of office.

58. Removal of a Governor in the Event of a Crisis in the State

- 1) The President may, in accordance with the Constitution, remove a state Governor in the event of a crisis in the state that threatens national security and territorial integrity, upon declaration of a state of emergency within that state in accordance with Article 189 of the Constitution.

- 2) The President shall appoint a state caretaker Governor who shall prepare for elections within sixty (60) days in the state where the Governor has been removed.

59. Snap Elections to Elect a Governor following a Vote of No Confidence

- 1) In accordance with Article 164(4) of the Constitution and the State Constitutions, each State Legislative Assembly may adopt a vote of no confidence in the Governor if supported by a three-quarters majority of all its members.
- 2) Should the State Legislative Assembly adopt a vote of no confidence in the Governor in accordance with Sub-section (1) of this section, the President shall call the electorate in the state for a snap election of the Governor within sixty (60) days, in accordance with this Act and the Constitution.
- 3) Pending the election to be conducted as stipulated under Sub-section (2) of this section, the President shall appoint a steering administration for the state concerned.
- 4) The Governor elected in snap elections shall serve for the remainder of the original tenure of the Governor who was subjected to a vote of no confidence.
- 5) Should the Governor that was subjected to a vote of no confidence be re-elected, the State Legislative Assembly shall be deemed to have been dissolved. A new state Assembly shall be elected within sixty (60) days to complete the tenure of the dissolved assembly.
- 6) A vote of no confidence in the Governor shall not be adopted unless the Governor has been in office for at least twelve (12) months.

CHAPTER THREE: COMPOSITION OF LEGISLATIVE ASSEMBLIES AND THE SYSTEM OF ELECTION OF THEIR MEMBERS

60. Composition of the National Legislature and Election of its Members

- 1) The National Legislature shall be composed of the National Legislative Assembly and the Council of States in accordance with Article 54(1) of the Constitution.
- 2) The National Legislative Assembly shall be composed of members elected as follows:
 - a) sixty percent (60%) of members of the National Legislative Assembly shall be elected to represent geographical constituencies in the Republic of South Sudan;
 - b) twenty-five percent (25%) of women members shall be elected on the basis of proportional representation at the national level from closed party lists; and
 - c) fifteen percent (15%) of members shall be elected on the basis of proportional representation at the national level from closed party lists.

- 3) There shall be four representatives from each State in the Council of States elected by members of the State Legislative Assembly. One representative shall be a woman. Every member of the State Legislative Assembly shall have four votes one of which must be cast for a woman. The top four candidates with the highest number of valid votes shall be declared elected.
- 4) The Commission may establish additional guidelines for matters related to the procedure for election of the members of the Council of States.
- 5) The total number of members of the National Legislative Assembly shall be two hundred fifty (250) men and women.
- 6) Pursuant to article 97(4) of the Constitution, the President shall appoint representatives from Abyei to the national legislature of South Sudan taking into account its population size.

61. Composition of the State Legislative Assemblies and Election of its Members

The total number of members of the States Assemblies for the whole country shall be four hundred (400) men and women to be apportioned to states by the Commission in accordance with the population size of each state:

- a) sixty percent (60%) of the members shall be elected to represent geographical constituencies at the level of the state concerned;
- b) twenty-five percent (25%) of women members shall be elected on the basis of proportional representation at the state level from closed women lists; and
- c) fifteen percent (15%) of the members shall be elected on the basis of proportional representation at the state level from closed party lists.

62. Method of Electing Members of Legislative Assemblies to Represent Geographical Constituencies

- 1) Except as provided under Section 60(3) of this Act, a voter shall cast one vote for one candidate listed on the ballot paper of the voter's geographical constituency.
- 2) The candidate with the highest number of valid votes in the geographical constituency shall be declared the winner.
- 3) If two or more top candidates receive equal valid votes, all ballots shall be recounted. If equal valid votes are confirmed, there shall be a second election between the tied candidates within sixty (60) days of polling.

63. Method of Electing Members of the Legislative Assemblies to Represent Party Lists and Women Lists

Without prejudice to the provisions of Sections 60(2) and 61, the method of electing forty percent (40%) of the members of the national and state legislative assemblies by proportional representation shall be as follows:

- a) a voter shall cast one vote for one Party List of their choice from those listed on the Party List ballot that contains fifteen percent (15%) of the total seats of the legislative assembly concerned;
- b) a voter shall cast one vote for one Women List of their choice from those listed on the Women List ballot that contains twenty-five percent (25%) of the total seats of the legislative assembly concerned;
- c) the Commission shall calculate the electoral dividend for each of the Party Lists and Women Lists in the legislative assembly concerned to determine the number of candidates to be elected from each list;
- d) the qualifying threshold to compete for a seat in the legislative assemblies shall be the list that gets not less than four percent (4%) of the valid votes of the voters for the Party and Women lists;
- e) the Commission shall divide the seats designated to the Party Lists or the Women Lists as the case may be on the basis of the number of votes obtained by each list related to the strength of the seat after excluding the lists that do not obtain the qualifying percentage set forth in Sub-section (1)(d) of this section;
- f) where the results of the divisions calculated in Sub-section (1)(e) of this section do not lead to filling the total number of seats of the legislative assembly concerned, the Commission shall allocate the remaining seats on the basis of the largest divisors as detailed by the rules;
- g) the seats designated to the Party Lists and Women Lists shall be won by the candidates of those lists in the order that their names appear in the list concerned from top to bottom.
- h) Each party shall keep a woman list and party list reserve of 2 to 3 names in same order of priority as in (g) ready to replace an elected party member who dies, becomes incapacitated or crosses to another party before the next election.

PART VI:

NOMINATION FOR MEMBERSHIP OF LEGISLATIVE ASSEMBLIES

CHAPTER ONE: *NOMINATION FOR MEMBERSHIP OF THE COUNCIL OF STATES*

64. Eligibility for Nomination to Membership of the Council of States

- 1) To be eligible for nomination as candidate for the election of members of the Council of States, a person shall meet the following qualifications:
 - a) be a South Sudanese;
 - b) be at least twenty-one (21) years of age;
 - c) be of sound mind;
 - d) be literate;
 - e) not have been convicted during the seven years prior to nomination of an offence involving fraud, dishonesty or moral turpitude; and

- f) not be a member of the National Assembly or its Government, or a member of a State Legislative Assembly or its Government, or a member of the National Council of Ministers; provided that the nomination of any such person may be accepted if he or she submits his or her resignation of that office before submitting the nomination application to the Commission in accordance with this Act and the Regulations.
- 2) The Commission may request such evidence as it deems necessary of the qualifications specified in Sub-section (1) of this section.
- 3) Any eligible voter may nominate a person of his or her choice for membership to the Council of States.

65. Requirements for Nomination to Membership of the Council of States

- 1) A person nominated under Section 63(3) shall be seconded by not less than two members of the State Assembly from the state concerned.
- 2) The Commission shall publish and disseminate the forms for collection of signatures, thirty (30) days prior to nominations, according to regulations. The form shall include:
 - a) the full name of the seconded candidate;
 - b) the full name of the member of that State Assembly;
 - c) the residential address of the member of that State Assembly;
 - d) the date and place of birth of the member of that State Assembly; and
 - e) the signature of the member of that State Assembly.

66. Application for Nominations to Membership of the Council of States

- 1) The application for nomination of a candidate for election as a member of the Council of States shall be submitted by a Political Party, the candidate or by any other person duly authorized by the candidate, to the High Committee at the time, date and place specified by the Commission. The period for Submission of nominations shall be seven days.
- 2) The seven days for the Submission of nomination applications shall start not more than forty-five (45) days before polling day. The Commission shall publish notice of nomination days in the Gazette and in the print media at least fifteen (15) days prior to the date of nomination.
- 3) The application for nomination shall be submitted on the form and in the format prepared by the Commission, which shall include the information as specified in the regulations, together with a deposit, to be made to the Commission of five hundred (500) South Sudanese Pounds for nomination to the office of the Council of States.
- 4) Deposits under sub-section (3) shall be refunded if the candidate secures more than ten percent (10%) of the valid votes cast in the election or if the candidate withdraws at any time not later than forty-five (45) days prior to polling day.

67. Invalidation of Nomination

The application submitted in accordance with Section 65(1) of this Act shall be regarded as invalid if the person nominated is not eligible to be a candidate for the relevant office or has not met the requirements set forth in Section 64(2) of this Act or other requirements of this Act.

68. Inspection of Nominations

- 1) The Commission shall publish, within three days from the close of nominations, a list of the persons who applied to be nominated, including the names of the persons who proposed them, the Political Party to which they are affiliated, and whether they intend to contest as independent candidates. The list shall be made available to all those persons and political parties mentioned in it, shall be published in the Official Gazette and other mass media, and be displayed at the High Committee offices in the States, and the State Legislative Assembly to enable public inspection of the list and Submission of objections if any.
- 2) The regulations shall specify the period for publication of the list and submission of objections mentioned in sub-section (1) of this section and the manner in which objections shall be expeditiously addressed.
- 3) The Commission shall review all applications for nomination of candidates for election of members to the Council of States in accordance with the procedures laid down in this Act. If an application fails to comply fully with provisions of this Act, the Commission shall reject such application, give its reasons in writing and inform the relevant independent candidate or Political Party.
- 4) On the day immediately after completion of the period for ruling on objections as determined by regulations, the Commission shall publish in the Official Gazette and the print media and display at all Commission offices in the State concerned, a list of nomination applications that were accepted and those that were rejected indicating the reasons for rejection.

69. Appeals against rejection of Nomination Application

- 1) A person whose application to be a candidate has been rejected, or the person or Political Party that proposed that person's nomination, may appeal to the Court against the decision of the Commission within seven (7) days from the date of publication of the Commission's decision.
- 2) The Court shall decide on any appeal within a period of seven days from the date of receipt of the appeal and shall make its decision public. The decision of the Court under this sub-section shall be final. The Court may for this purpose issue any order on any related matter pending before it.

70. Publication of the Final List of Candidates for Membership to Council of States

Immediately after all appeals and objections to the Court have been decided, the Commission shall publish in the Official Gazette and the print media at the State Legislative Assembly of the state concerned and may disseminate the final list of candidates nominated pursuant to Section 63 of this Act by any other means it deems appropriate.

CHAPTER TWO: *WITHDRAWAL OF NOMINATION, DEATH, AND DECLARATION OF ELECTED UNOPPOSED CANDIDATES FOR ELECTION TO THE COUNCIL OF STATES*

71. Withdrawal of Nomination

- 1) Any duly nominated and accepted candidate under Section 66 may withdraw his or her nomination within a period not less than forty-five (45) days prior to polling day, provided that the candidate shall notify the Commission of the withdrawal in a signed written form that shall, for party nominees, be endorsed by his or her party.
- 2) A candidate who withdraws his or her nomination in accordance with Sub-section (1) of this section shall be refunded the deposit made at the time of Submission of his or her application for nomination.
- 3) No candidate shall withdraw his or her nomination after expiration of the period specified in Sub-section (1) of this section, and the names of all duly nominated and accepted candidates shall be included on the ballot paper and any vote cast for any of them on the polling day shall be deemed valid.

72. Death of a Candidate

- 1) If after declaration and publication of the final list of candidate but before or during polling day, a candidate dies, the Commission shall postpone polling for that seat and appoint a new date for nominations.
- 2) Where new nominations are to be held under Sub-section (1) of this section, the previous nomination applications shall continue to be valid.
- 3) Where new dates for nomination are appointed under Sub-section (1) of this section, the Commission shall appoint a new date for polling within thirty (30) days of the last day of nominations.

73. Declaration of Unopposed Candidates

Where a candidate on the close of nominations is the sole candidate nominated and duly accepted by the Commission, or is the sole candidate nominated and duly accepted after withdrawal of all other candidates, the Commission shall declare that candidate elected unopposed within forty-eight (48) hours from the closing date and time of the nominations period or the deadline for withdrawals in accordance with Section 61(1) of this Act.

CHAPTER THREE: *NOMINATIONS OF CANDIDATES FOR ELECTION AS MEMBERS OF LEGISLATIVE ASSEMBLIES TO BE ELECTED FROM GEOGRAPHICAL CONSTITUENCIES, PARTY LISTS AND WOMEN LISTS*

74. Eligibility for Election as a Member of Legislative Assemblies

- 1) Any person to be eligible as a candidate for election as a member of any of the Legislative Assemblies shall meet the following requirements:
 - a) be a South Sudanese;
 - b) be of sound mind;
 - c) be at least twenty-one (21) years of age;
 - d) be literate; and
 - e) not have been convicted during the seven years prior to nomination of an offence involving fraud, dishonesty or moral turpitude.
- 2) The Commission may request such evidence as it deems necessary for purposes of establishing the qualifications and requirements provided for in sub-section (1) of this section.

75. Requirements for Nomination for Geographical Constituencies

- 1) Any Political Party or registered voter in a geographical constituency may nominate any person who is eligible in that constituency to be a candidate for membership to the Assembly; provided that such person shall be qualified for nomination according to the provisions of this Act.
- 2) A candidate affiliated to a Political Party shall be seconded by that party through its endorsement of that person's candidature which shall be signed by the party official and approved by the Commission. The candidature of independent candidates shall be seconded as follows:
 - a) a candidate for the National Legislative Assembly shall be seconded by not less than one hundred voters registered in the geographical constituency; and
 - b) a candidate for the State Legislative Assembly shall be seconded by not less than twenty-five (25) voters registered in the geographical constituency.
- 3) The Commission shall design and disseminate the forms for the collection of signatures thirty (30) days prior to nominations, which shall include:
 - a) the full name of the seconded candidate;
 - b) the full name of the registered voter;
 - c) the residential address of the voter;
 - d) the date and place of birth of the voter; and
 - e) the signature or thumbprint of the voter.
- 4) The Commission shall verify the number of registered voters seconding each independent candidate during the period provided for inspection and submitting objections to nominations as provided for in this Act.

76. Eligibility to Stand as an Independent Candidate

- 1) Any person is eligible to stand as an independent candidate for election if the person:
 - a) is not a member of a registered political party and has not been a member for at least three months before the date of election; and
 - b) has been registered as a voter in the constituency where he or she intends to contest elections.
- 2) Any person to be eligible as an independent candidate for election as a member of any of the Legislative Assemblies shall meet the conditions set out under Section 73(1).

77. Submission of Application for Nominations to Membership of Legislative Assemblies for Geographical Constituencies

- 1) The application for nomination of a candidate for election as a member of any of the Legislative Assemblies for a geographical constituency in any state shall be submitted by a Political Party, the candidate or by anyone duly authorized, to the Commission at such time, date and place as specified by the Commission.
- 2) Not less than seven days shall be appointed by the Commission for Submission of nominations; provided that the period for Submission of nominations to the Legislative Assemblies shall not be more than sixty-five (65) days and not less than fifty (50) days before polling day. The Commission shall publish the notice appointing the period for submission of nominations in the Official Gazette and in the print media at least fifteen (15) days prior to start of the nomination period.
- 3) The application for nomination shall be submitted on the forms and in the format prepared by the Commission, which shall include the information and annexes as specified in the rules.
- 4) A person applying for nomination to the geographical constituencies shall submit to the Commission a deposit of:
 - a) one hundred (100) South Sudanese Pounds for the nomination for membership to the National Legislative Assembly; and
 - b) fifty (50) South Sudanese Pounds for the nomination for membership to the State Legislative Assembly.
- 5) The deposit provided for under this section shall be refunded if the candidate secures more than ten percent (10%) of the valid votes cast in the election or if the candidate withdraws at any time not later than forty-five (45) days prior to polling day.
- 6) Where a person applying for nomination as a candidate for election from a geographical constituency has been endorsed by a Political Party, the person shall include with his or her application a certificate signed by that Political Party confirming its secondment of his or her candidature.

- 7) A person shall not be nominated on a Party List or Women Party List and nominated for a geographical constituency at the same time.
- 8) A person shall only be nominated to contest an election from one geographical constituency of any Legislative Assembly

78. Application for Nomination to Membership of the Legislative Assemblies by the Political Parties through Party Lists and Women Lists on the Basis of Proportional Representation

- 1) Any Political Party may submit an application for nomination of a Party List or Women List for election as members of any of the Legislative Assemblies on the basis of proportional representation. Separate applications for nominations for a Party List or Women List shall be submitted by a person so authorised by that Political Party at the time, date, and place specified by the Commission.
- 2) No less than seven days shall be appointed by the Commission for nominations provided that the period for submission of nomination to membership of the Legislative Assemblies by Political Parties through Party lists and Women lists shall not be more than sixty-five (65) days and not less than fifty (50) days before polling day. The Commission shall publish notice of nomination period in the Gazette and any other means of publication at least fifteen (15) days prior to the start of nominations.
- 3) The two lists referred to in sub-section (1) of this section shall include as many names of nominees as there are seats to be elected for the Party Lists and Women Lists by proportional representation for the Legislative Assembly concerned so that the Party List nominated by a Party represents fifteen percent (15%) of total membership and the Women list nominated by the Party represent twenty-five percent (25%) of total membership.
- 4) The application for nomination provided for under this section shall be submitted on the forms and in the format prepared by the Commission, which shall include the information and annexes as specified in the rules.
- 5) A Political Party that applies to nominate a Party List and Women List under this section shall submit to the Commission a deposit of:
 - a) two hundred (200) South Sudanese Pounds for each candidate on the proposed lists for the National Assembly; and
 - b) one hundred (100) South Sudanese Pounds for each candidate on the proposed lists in each state for State Legislative Assembly.
- 6) The deposit provided for under this section shall be refunded if the list secures not less than four percent (4%) of the total valid votes cast for lists in the election, or if the Political Party withdraws the list at any time thirty (30) days prior to polling day.

79. Invalidation of the Nomination for Legislative Assemblies

- 1) An application for nomination for membership to any of the Legislative Assemblies shall be regarded as invalid if the person is not eligible to be a candidate, has not met the criteria set forth in Section 74(1), Sub-sections (a) to (e) inclusive, or any of the other requirements set forth in this Act.
- 2) Where the invalid nomination is within a list, the invalidly nominated person shall be removed from the list. The remainder of the list shall be valid as long as candidates remain on the list.

80. Inspection of Nomination Application for Membership of the Legislative Assemblies

The Commission shall inspect the applications for nominations for election to any of the Legislative Assemblies in accordance with the procedures set forth in Section 77(1) of this Act. If an application fails to comply fully with provisions of this Act the Commission shall reject the application, giving its reasons in writing, and shall inform the relevant independent candidate or Political Party.

81. Appeals Against a Decision of the Commission to Reject Nomination Applications

- 1) A candidate or Political Party may appeal to the Competent Court against a decision of the Commission to reject or accept a nomination.
- 2) Any appeal under sub-section (1) of this section shall be made within seven days from the date of publication of the Commission's decision to reject or accept a nomination.
- 3) The Competent Court shall decide on any appeal submitted according to Sub-section (2) within a period of seven days from the date of receipt of the appeal and shall make its decision public. The Competent Court may for this purpose issue any order in any related matter pending before it. The decision of the Competent Court shall be final.

82. Publication of the Final List of Candidates for Membership of Legislative Assemblies

- 1) The Commission shall publish in the Gazette and in the print media the final list of candidates for geographical constituencies and Party Lists and Women Lists for Election to any of the Legislative Assemblies in accordance with objections and appeals decisions immediately after all appeals to the Competent Court have been decided upon.
- 2) The Commission shall ensure that the published final list of candidates under sub-section (1) of this section is disseminated widely in each state by whatever means it deems appropriate.

- 3) The Commission shall at the same time and date declare and publish in the Official Gazette and in other means of publication, the period for electoral campaigns, which shall be not longer than fifty (50) days and no less than thirty (30) days and shall end one day prior to polling day.
- 4) The Commission shall at the same time and date declare and publish in the Official Gazette and in the print media, the times and date of polling for elections to a Legislative Assembly and shall ensure that this information is disseminated widely across the Republic of South Sudan and the states concerned where the election is to be held; provided that the date of polling shall not exceed sixty (60) days from the end of the nominations process.

CHAPTER FOUR: *WITHDRAWAL OF NOMINATION, DEATH AND DECLARATION OF THOSE ELECTED UNOPPOSED FOR ELECTION TO MEMBERSHIP IN LEGISLATIVE ASSEMBLIES*

83. Withdrawal of Nominations for Election to a Legislative Assembly

- 1) Any duly nominated candidate in a geographical constituency may withdraw his or her nomination no later than thirty days (30) days prior to polling day.
- 2) Where a person decides to withdraw under Sub-section (1) of this section, he or she must inform the Commission by a written notice signed by the candidate personally and verified by local authorities.
- 3) Any Political Party which submitted an application for nomination to a Party List or a Women List which was accepted as correct by the Commission may withdraw that list no later than thirty (30) days prior to polling day.
- 4) Where any candidate nominated by a Political Party on a Party List or Women List for election to any Legislative Assembly dies or withdraws at any time prior to the close of polling, the Political Party shall inform the Commission of the name of the new candidate to replace the dead candidate on the list; provided that the named candidate shall meet the eligibility requirements set forth in this Act. A candidate who withdraws from a Party list or a Women list shall inform the Commission and the Political Party submitting his or her name of their withdrawal through a written notice signed personally by the candidate and endorsed by his or her Political Party.
- 5) Any candidate or Political Party that withdraws their nomination within thirty(30) days prior to polling day shall be refunded the financial deposit made at the time of nomination.
- 6) Candidates and political parties may not withdraw their nomination after expiration of the period provided for in this section. The names of all candidates and lists duly nominated and accepted who have not withdrawn during that period shall be included on the ballot paper and any vote cast for any of them on polling day shall be deemed valid.

84. Death of a Candidate for Membership of any of the Legislative Assemblies in a Geographical Constituency

- 1) If any candidate in a geographical constituency who is on the final list of candidates dies before the close of polling, the Commission shall postpone the polling for that seat in that constituency and appoint a new date for nominations.
- 2) Where new nominations are to be held under Sub-section (1) of this section, the remaining candidates' previous applications for nomination shall continue to be valid.
- 3) Where new dates for nomination are appointed under Sub-section (1) of this section, the Commission shall appoint a new date for polling within sixty (60) days of the last day set for the new nominations.

85. Declaration of Candidates Elected Unopposed for the Election to Legislative Assemblies in Geographical Constituencies

Where a candidate is the sole candidate nominated at the close of nominations and is duly accepted by the Commission to contest a geographical constituency, or is the sole candidate following the accepted withdrawal of all other candidates, the Commission shall declare that candidate elected unopposed within forty-eight (48) hours from the close of the period for nominations or the deadline for withdrawals set forth under this chapter.

CHAPTER FIVE: *ELECTION OF LOCAL GOVERNMENT BODIES*

86. Local Government Elections

- 1) In accordance with the provisions of Section 15(2) of this Act and Sections 48(2), 49, 53(2), and 54 of the Local Government Act, 2009, the Commission shall in consultation with the President, determine and announce the election date for conducting elections for the following:
 - a) County Commissioners;
 - b) City Mayors; and
 - c) Urban and Rural Councils.
- 2) The Commission shall make rules and procedures for the elections organized under this section in accordance with this Act and any other relevant legislation.

PART VII:
ELECTORAL CAMPAIGN, POLLING, POSTPONEMENT OF ELECTIONS AND
REFERENDA, AND ANNOUNCEMENT OF RESULTS

CHAPTER ONE: *ELECTORAL CAMPAIGN*

87. Electoral Campaign Programme

- 1) The Commission shall determine and announce the period during which electoral campaigns shall take place and publish that period in the Official Gazette and the print media; provided that the campaign period shall not exceed fifty (50) days and shall end one day prior to polling day.
- 2) No person, party or group shall be permitted to carry out any activity related to a campaign during the 24 hours preceding the start of polling, or during the polling according to rules.

88. Electoral Campaign Period

- 1) During the electoral campaign period, every public officer or public authority as the case may be shall treat any candidate and Political Party in an impartial manner and without favour to any of them, in order to guarantee equal opportunities between them.
- 2) Subject to the provisions of this Act and any other law and regulation applicable in South Sudan, any candidate or Political Party shall enjoy complete and unrestricted freedom of expression in the exercise of his or her campaigning rights, the presentation of campaign programmes, and access to information through any means in accordance with this Act and the rules.
- 3) Any party, organisation, group, individual or any media or information channel that incites hatred, discrimination, hostility or violence or misleads public opinion, commits an offense punishable in accordance with the provisions of this Act or other applicable law.
- 4) All candidates, parties and other groups participating in campaigning shall abide by codes of conduct as developed by the Commission.

89. Regulations for the Electoral Campaign

- 1) Any candidate or Political Party in an election shall access and use any means of communication media for purposes of electoral campaign activities.
- 2) Any state owned media shall provide free media services to the Commission for the purpose of distribution amongst all parties and independent candidates to support campaigning.
- 3) The Commission shall issue regulations on equal access and usage of public media for any candidate and Political Party participating in an election.
- 4) The Commission shall issue regulations to prevent any kind of discrimination between candidates and political parties in the media coverage of the electoral campaign.
- 5) The Commission shall, in coordination with the media regulatory body, and in consultation with all political parties participating in the elections, prepare a

- comprehensive programme to guarantee and regulate the equal use of media and communication for purposes of their electoral campaign.
- 6) Subject to any other law, during the campaign period, any candidate or Political Party may publish campaign materials in the form of booklets, pamphlets, leaflets, magazines, newspapers, or in any other form; provided that such publications shall specify the particulars to identify the Political Party, candidate or candidates concerned and shall include the name and address of the publisher of such material.
 - 7) Any candidates or Political Party may use any electronic media for campaign activities, including audio visual, internet, e-mail or other similar means; provided that none shall use these means to hinder or obstruct the campaigns of other political parties or candidates.
 - 8) Any candidates or Political Party shall not act or use statements that are intended to obstruct the electoral campaigns of any other candidate or Political Party.

90. Monitoring of the Campaigning Media

- 1) The Media Regulatory body shall monitor the way in which campaigning activities are conducted within the media and the behaviour of the media during any election and referendum to ensure compliance with this Act and laws applicable within South Sudan and as provided in the regulations issued by the Commission.
- 2) The Media Regulatory body shall, after consultation with Political Parties and civil society, establish a Campaign Media Committee at least one hundred and twenty (120) days prior to the date of polling to conduct the monitoring responsibilities referred to in Sub-section (1) of this section.
- 3) The Campaign Media Committee shall comprise of; the Chairperson, Deputy Chairperson and five members nominated by the Media Regulatory body. Members of the Campaign Media Committee shall be appointed by the Commission upon approval of a two-thirds majority.
- 4) The Commission shall maintain a supervisory role over the Campaign Media Committee in accordance with regulations.
- 5) The Campaign Media Committee activities shall be supported by the Media Regulatory Body and funded by the National Elections Commission budget.
- 6) The Campaign Media Committee shall design a schedule one week prior to the start of campaigning to allocate evenly free media time referred to under this Act, between the Political Parties and independent candidates in accordance with regulations and rules passed by the Commission.
- 7) The Commission shall review the schedule designed under sub-section (6) of this section and provide approval by a two thirds majority.
- 8) The Campaign Media Committee shall submit a report detailing its findings to the Commission on the first and third Monday of every month, starting from fourteen (14) days preceding the start of the electoral campaign until the declaration of final results.

- 9) The Campaign Media Committee shall be dissolved by an order issued by the Commission.

91. Funding of Electoral Campaigns and its Sources

- 1) No candidate or Political Party shall receive financial or material support, donations or other forms of support for their election campaign activities from any foreign countries or any foreign body.
- 2) Any candidate or Political Party may receive financial support for their election campaign activities from the following sources:
 - a) members of the Political Party;
 - b) contributions made by the candidates; or
 - c) donations or contributions that the Political Party or individual candidate may collect from other South Sudanese sources approved by the Commission.
- 3) Any donation or contribution exceeding twenty thousand (20,000) South Sudanese Pounds shall be disclosed in writing to the Commission by the Contributor and the Recipient.
- 4) Notwithstanding the provisions of the preceding sub-sections of this section, Government funding to the Political Parties shall be made after the general elections in proportion with votes received by a political party in the elections.
- 5) Prior to the start of campaigning, the Commission shall fix a ceiling for expenditure by the Political Parties and individual candidates on their electoral campaign activities based on the type and number of elections being contested.
- 6) Where reasonable circumstances exist that may affect the costs of the electoral campaign for a constituency the Commission may increase the ceiling for all Political Parties and candidates contesting in that Constituency.

92. Use of Electoral Campaigns Funds

Funds collected for electoral campaign shall be used to:

- a) develop the means and technical capabilities that enable the Political Party or the individual candidate to prepare and disseminate their electoral campaign programs;
- b) cover the expenses incurred relating to the collection of signatures of voters to endorse their nomination as provided for under this Act;
- c) design, produce and publish campaign materials such as notices, posters, booklets and other materials and their dissemination in any manner, including through electronic, written and audio-visual media means;
- d) pay the gratuities and salaries of persons employed by the Political Party or the individual candidate to carry out electoral campaign activities;
- e) pay the rent of headquarters and offices used for the electoral campaign purposes;
- f) payment for stationery, fuel, vehicle and transport means, rent and media coverage costs for the electoral campaign purposes; and

- g) any other reasonable expenses necessary for implementation of electoral campaign activities.

93. Prohibition on Use of State Resources for Electoral Campaign

- 1) No candidate or Political Party contesting an election may use without any charge any state resources or human resources or public material except for the public media, prior to the start of the electoral campaign period. Any charge levied shall be proportionate to the services rendered and shall be applied to all Political Parties and candidates equally and without discrimination.
- 2) The Commission shall receive and address complaints regarding violations under sub-section (1) of this section according to regulations issued under this Act.

94. Final Accounts of the Electoral Campaign

- 1) Each candidate or Political Party shall submit to the Commission final accounts of their electoral campaigns incomes and expenditures within a period not exceeding thirty (30) days from the official declaration of the final results of elections or referendum.
- 2) The final accounts to be submitted under sub-section (1) of this section shall be detailed and shall identify all funds and other resources collected or utilized in the electoral campaign and its types and the methods of expenditure; provided that such accounts shall be legally audited according to professional auditing practices.
- 3) The National Audit Chamber shall provide formats for submission of statements of accounts. Such formats shall be distributed to candidates and political parties upon submission of nominations to the Commission.
- 4) The National Audit Chamber shall review the accounts to ensure that disclosed expenditures do not contravene this Act. The National Audit Chamber shall submit to the Commission a report within a period not exceeding sixty (60) days from the deadline set by the Commission for submitting the campaign expenditure reports.

CHAPTER TWO: *POLLING AND ITS PROCEDURES*

95. Distribution of Elections Materials

Not later than seventy-two (72) hours before polling day, the Commission shall provide each High Committee in the states with:

- a) sufficient number of ballot papers for each polling centre for registered voters in that centre plus a reserve as determined by the electoral Commission;
- b) a statement showing the number of ballot papers supplied under sub-section (a) of this section with the serial numbers indicated in the statement; and

- c) ballot boxes, polling booths, forms required for polling, counting, complaints, indelible ink, stationery and other materials necessary for conducting the poll.

96. Forms and Contents of Ballot Papers

- 1) The Commission shall decide technical symbols and colours of the ballot papers specified for the Presidential and gubernatorial elections, elections for the National Legislative Assembly, elections for state legislative assemblies and in the referenda.
- 2) A ballot paper shall contain the following particulars:
 - a) name of the state;
 - b) number of the constituency;
 - c) three names of each candidate;
 - d) an appropriate space for the voter to mark his or her choice by indicating an [X] or [✓] or placing a thumbprint for a candidate or political party voted for.
- 3) Every ballot paper printed by the Commission shall be authenticated by a security mark to be determined by the Commission.
- 4) The ballot papers shall be bound or stitched in books containing such number of ballot papers as may be suitable for supplying the polling stations, taking into account, the number of voters registered in each polling station.
- 5) The Commission shall send to all polling stations ballot boxes, the number of which shall be determined by the number of voters registered in each polling station.

97. Sealing Ballot Boxes

- 1) Before voting commences, the polling station Presiding Officer shall open the ballot boxes in accordance with their serial numbers in front of his or her assistants, agents of candidates, and the station's electoral observers, to confirm their emptiness.
- 2) Same boxes are then closed and sealed in a way to be determined by the Commission. They are not allowed to be opened unless when starting the vote count after polling.

98. Nullification of the Ballot Papers

Ballot papers shall be nullified in the following cases:

- a) if not signed by the polling station's Presiding Officer and sealed with the station's stamp;
- b) if the voter has signed on the ballot paper;
- c) if a candidate has written or put a sign on the ballot paper;
- d) if a voter has ticked names of more than one candidate or political party;

- e) if the voter has changed the names of the candidates or political parties; and
- f) if the ballot paper contains erasing or information not related to the voting.

99. Where a Voter Spoils Ballot Paper

A voter who has dealt with the ballot paper delivered to him or her in such a manner that it has become impracticable to use it, shall return it to the Presiding Officer who shall:

- a) deface it by making two diagonal lines across it and writing the word "*spoiled*" on it; and
- b) deliver another ballot paper to the voter.

100. Distribution and Safe Keeping of Election Materials

- 1) Within three days before polling day, every Returning Officer shall furnish each Presiding Officer in the constituency with:
 - a) a sufficient number of ballot papers to cover the number of voters likely to vote at the polling station for which the Presiding Officer is responsible;
 - b) a statement showing the number of ballot papers supplied under Sub-section (a) of this section with the serial numbers indicated in the statement; and
 - c) any other necessary materials for the voters to mark the ballot papers and complete the voting process.
- 2) The Returning Officer shall be responsible for the safe custody of the election documents used in the constituency in connection with an election until the documents are destroyed in accordance with the directions of the Commission, but the Commission shall not give such directions before the settlement of disputes if any arising from the election.
- 3) A Returning Officer shall, on receipt of each ballot box:
 - a) take every precaution for its safe custody;
 - b) examine the seal affixed to the ballot box, with a view to ensuring that the box is properly sealed; and
 - c) if the box is not in good order, record his or her observations and affix a different seal supplied by the Commission.

101. Publication of List of Polling Centres and Stations and Candidates Lists

- 1) The Commission shall publish in the Official Gazette and available mass media the date and time of polling for the elections to the office of the President and Governor.
- 2) The Commission shall disseminate all relevant information about the candidates and the date and time of polling across South Sudan and abroad for

the election of the President, and across the states for the election of Governors.

- 3) Subject to provisions of Sub-section (1) of this section, the Commission shall publish, at least fifteen (15) days before polling day, in any available media or by other reasonable means, a notice that shall include:
 - a) the list of polling centres and stations in each geographical constituency as accurately as possible;
 - b) the names of candidates nominated for election in each geographical constituency in the same order that they appear on the ballot papers; and
 - c) the Party Lists and Women Lists for purposes of proportional representation.
- 4) The Commission shall provide copies of each list mentioned in Sub-section (3) of this section to all Returning Officers.
- 5) All Returning Officers shall ensure that the lists mentioned in Sub-section (4) of this section are published widely in their geographical constituencies and in all the polling centres.

102. Polling Centre and Voting Time

- 1) Every polling centre shall:
 - a) be located in the same location where the voter registered to vote, unless prevented for security reasons, seasonal changes or migrations;
 - b) be located on an open ground or in large premises that voters can access and depart easily;
 - c) remain in the same place for the duration of polling and announcement of results at the polling centre; and
 - d) be located in a place equipped to allow access by persons with special needs and the elderly to exercise their right to vote.
- 2) Polling centres shall consist of one or more polling stations within which registrants shall be allocated and polling and counting shall take place for allocated registrants of that centre in respective polling stations.
- 3) At any polling centre, polling shall commence at the time and date specified by the Commission and shall continue without interruption until closing time.
- 4) If at the official time of closing the poll provided for in sub-section (3), there are voters still queuing at the polling centre, the polling centre shall be kept open to enable them to vote; provided that this measure shall only apply to only those voters who are present at the polling centre at the closing time and no other voter arriving at the polling centre after the official closing time shall be allowed to vote.
- 5) The polling time shall not be extended except under the provisions of sub-section (4) of this section save by permission of the Commission in accordance with this Act and regulations.

103. Polling Procedures

- 1) Subject to the provisions of this Act, the Commission shall enact necessary regulations for conducting polling and the details of its procedures; provided that polling for any election or referendum shall take place on one day only, except where the Commission decides to extend such period at particular polling stations for exceptional reasons and in such a manner that guarantees the free and secret vote for all voters.
- 2) Regulations mentioned under sub-section (1) of this section shall detail all procedures relating to opening and closing of polling, verification that ballot boxes are empty before commencement of polling, polling reports, the rights and duties of observers and agents, polling procedures for the illiterate and those with special needs, cases of error in filling the ballot paper, and other polling procedures as necessary.
- 3) Any person accredited under this Act shall have the right to enter the polling centre at any time and remain there during the polling process, as provided by regulations.
- 4) The persons mentioned in sub-section (3) of this section shall not interfere with the functions of polling officials or speak to any voter casting the vote during their presence at the polling centre.
- 5) The Presiding officer of each polling station shall have the right to order expulsion of the persons mentioned in sub-section (3) of this section whenever such person contravenes provisions of this Act or commits any act that hinders the polling process.

104. Interruption and Postponement of Polling

- 1) If polling at any polling is interrupted by riot, violence or other occurrences that interferes with the polling process, the Presiding officer of the concerned polling station shall immediately stop the polling, announce its postponement and inform the Returning Officer for that geographical constituency.
- 2) In case polling is postponed in accordance with sub-section (1) of this section, the Presiding officer of the concerned centre shall, when the reason for postponement no longer exists, resume the polling and extend it for a period equal to the period of postponement and inform the Returning Officer for that geographical constituency.

CHAPTER THREE: *SORTING AND COUNTING OF VOTES AND DECLARATION OF RESULTS*

105. Sorting and Counting Votes at the Polling Station

- 1) Votes shall be sorted and counted at the polling station immediately after the Presiding officer of the polling station declares the polling closed, except in exceptional circumstances and following authorisation of the Returning Officer of the concerned constituency.

- 2) The process of sorting and counting votes shall continue without interruption and shall not be stopped or postponed overnight before all votes in all ballot boxes have been sorted and counted. The Returning Officer shall provide necessary lighting and other requirements to ensure completion of the vote sorting and counting without interruption.
- 3) Any person accredited under this Act shall have the right to attend all processes of vote sorting and counting in the station until completion, without interference in the functions of the officers conducting the sorting and counting or attempting to influence them as provided by regulations.
- 4) The polling officer of the polling station shall have the right to order expulsion of any person who contravenes the provisions of this Act or regulation or a person who commits any act that hinders the sorting and counting process.
- 5) If a referendum is conducted simultaneously with any other elections, the ballot boxes for a referendum shall be sorted first.
- 6) When more than one election is conducted on the same day, the sorting and counting of the ballot boxes for the different elections shall be made in the following sequential order, as the case may be:
 - a) the President;
 - b) the National Legislative Assembly;
 - c) the Governors; and
 - d) the State Legislative Assembly.
- 7) The Presiding officer of the polling station shall, in the presence and under the supervision of any person accredited under this Act, open the ballot boxes one after the other and empty their contents onto the counting table and shall sort out and count the votes in the manner provided for in the regulations, assisted by members of the polling station.
- 8) The Chief of the polling station shall prepare a report on the sorting and counting of each ballot box which shall be personally signed by the Presiding officer of the polling station and by any accredited agent present who is willing to sign the report.
- 9) The report under sub-section (8) of this section shall include the following details:
 - a) the name and number of the concerned geographical constituency;
 - b) the name and number of the polling centre and station;
 - c) the number of registered voters in that polling station, the number of voters who voted, the number of received ballot papers, the number of used and unused ballot papers, and the number of spoilt ballot papers; and
 - d) the total number of valid and invalid votes, the total number of valid votes cast for each candidate, Political Parties or list, and the number of blank votes.
- 10) Votes cast for each candidate, Political Parties and list, as appropriate, shall be recorded in figures and words, and the record shall be signed by the Presiding

officer of the polling station and by any accredited party agents present who is willing to sign before declaration of the result.

- 11) The regulations shall specify the procedures to submit and record any complaint during the counting of votes and declaration of results.
- 12) The Presiding officer of the polling station shall declare the results at the polling centre providing a copy of the sorting and counting report to be published at the polling centre.

106. Invalid Votes

A cast vote shall be invalid and shall not be counted for any of the candidates or political parties if:

- a) the voter's choice cannot be reasonably ascertained without any doubt; or
- b) the voter has put a mark which shows his or her identity.

107. Declaration of Results

- 1) The Presiding officer of the polling station shall, immediately after completion of the sorting and counting of votes cast in every ballot box or after completion of the recount of votes, declare the results of the sorting and counting and display a copy of that report at a conspicuous place in or outside the polling centre.
- 2) The Presiding officer of the polling station shall immediately after the completion of the tasks provided for under sub-section (1) of this section, personally prepare and submit the following documents to the Commission in accordance with regulations:
 - a) copies of the sorting and counting report;
 - b) a report on the conduct of polling and sorting in his or her polling station;
 - c) all the forms used in the sorting and counting of votes and aggregation of results;
 - d) the forms of declaration of the sorting and counting results; and
 - e) all used and unused ballot papers, and all polling, sorting and counting materials.
- 3) Any accredited agent of a candidate or a Political Parties may, before the Presiding officer of the polling station declares the results, request him or her to implement a recount of the votes.
- 4) The Presiding officer of the polling station shall order the recount of votes following requests under Sub-section (3) of this section if one or more of the following criteria are met, or may decide for a recount on his or her initiative:
 - a) the difference in the number of votes between a candidate and another or any list and another is less than five percent;
 - b) the total number of valid and invalid and blank votes cast is not equal to the number of the voters who have actually voted, or if there are any

- other differences in any other totals on the sorting and counting report according to the rules; and
- c) the Presiding officer of the polling station has reasons to believe that:
 - (1) the sorting and counting of votes have been interfered with, or
 - (2) that there was a mistake in the calculation or finalisation of the results of sorting or counting, or
 - (3) that some ballot papers were accounted for by mistake due to being wrongly placed in a different ballot box to which they belong.
 - 5) The accredited agent whose request for recounting under sub-section (2) of this section is not accepted by the Presiding officer of the polling station, shall have the right to submit a written objection to the Presiding officer of the polling station who shall attach such an objection to the sorting and counting report and other documents to be submitted for aggregation under this Act.

108. Aggregation and Declaration of Results

The Commission shall issue regulations to specify the procedures and the manner for aggregation and declaration of results at the Polling Station, Centre and the Commission.

109. Attendance of Candidates, Agents, Observers and Representatives of the Political Parties and Mass Media at the Aggregation and Declaration of Results

Any person accredited under this Act shall have the right to attend the aggregation and declaration of results at all stages.

110. Dissemination of Provisional Results

The Commission shall issue regulations providing for immediate dissemination of provisional results including those aggregated by the Commission. The provisional results, aggregated results and names of any centres cancelled shall be published in the Official Gazette and the available mass media and displayed at all Commission offices.

111. Objections Against Provisional Elections and Referendum Results

- 1) Any candidate or Political Parties that participated in an election or referendum shall have the right to submit a written objection against the provisional results of a polling centre or elections or referendum as declared by the Commission under this Act in accordance with regulations.
- 2) The objection provided for under Sub-section (1) of this section shall be submitted at any Commission office for the attention of the Commission within seven days of the declaration of provisional results.
- 3) Objections made against the provisional results shall be dealt with in ten days from the date of receipt of such objections by the Commission, except where the Commission declares an extension for the purpose of ensuring correct adjudication.

- 4) The Commission shall publish and disseminate decisions on objections under Sub-section (3) of this section within three days of the Commission ruling on such objections, ensuring that the decisions are disseminated widely at all Commission offices and by mass media.

112. Appeals against Decisions of the Commission on Election and Referendum Results

- 1) Any candidate or Political Parties that participated in an election or referendum shall have the right to appeal against the decisions made by the Commission under this Act.
- 2) The appeal under Sub-section (1) of this section shall be submitted to the Court within seven days from the date of the decision of the Commission. The Court shall make its decision on the appeal within ten days from its submission, and its decision shall be final.

113. Cancelled Centres and Re-conduct of Polls

- 1) Subject to section 14(2)(i) of this Act, the Commission may request the Court for a re-conduct of polls in centres cancelled due to electoral irregularities, where the votes cancelled are sufficient to alter the final results of that election.
- 2) The Court shall on the basis of the evidence provided by the Commission, expeditiously issue an order to re-conduct the poll.
- 3) After issuance of an order by the Court, the Commission shall take corrective measures and re-conduct the elections or referendum in the affected centres in a maximum period of sixty (60) days from the date of the Court Order and in accordance with this Act.
- 4) The Commission shall not declare final results for the election in question until polls are re-conducted and results aggregated in accordance with this Act.

114. Declaration of the Final Results of Elections

- 1) The Commission shall, immediately after the end of the period specified for submission of appeals and decision with regard to election results under this Act, and after taking into consideration any ruling made in this respect by the Court, prepare and declare the final results of the elections or referendum, within a period not exceeding forty eight hours.
- 2) Such declaration shall include all the details as specified in the regulations made pursuant to provisions of this Act.
- 3) The Commission shall publish the final results in the Official Gazette and available mass media and shall ensure their widest possible dissemination.

115. Grounds for Invalidation of Election of a Candidate

The election of a candidate shall be invalidated only after the Commission has satisfied itself of any of the following circumstances:

- a) non-compliance by the candidate with provisions of this Act in a manner that may affect the results of the elections;
- b) the person elected is different from the one who won the election; or
- c) the candidate has, either individually or through another person with his or her knowledge and consent, engaged in corrupt practices or committed any offence under this Act.

116. Appeal Against the Decision to Invalidate an Election

- 1) Any person aggrieved by a decision of the Commission to invalidate an election may submit an appeal to the Court within seven days from the date of receiving the decision. The Court shall decide on the appeal within fourteen (14) days from the date of submission of the appeal, and its decision shall be final.
- 2) Submission of the appeals under Sub-section (1) of this section shall not prevent the winning candidate from taking the required oath for assuming the office to which he or she was elected.

CHAPTER FOUR: *PROVISIONS FOR THE COUNCIL OF STATES ELECTIONS*

117. Electoral Campaign, Polling and Announcement of Results for the Council of States

The Council of States campaigning, polling and announcement of results shall be conducted in accordance with regulations set forth by the Commission.

118. Election Campaign Program

The Commission, shall announce in the Official Gazette and put in the print media, at the same time and date, the period during which electoral campaigns shall take place in accordance with this Act; provided that the electoral campaign period shall not be more than fourteen days and shall end one day prior to polling day.

119. Rights and Duties of Candidates and Political Parties during the Electoral Campaign

The Commission shall organise and host a program for candidates to address the respective State Assemblies in accordance with regulations.

120. Polling

- 1) Persons elected to the respective State Assemblies shall be considered eligible and registered as voters eligible to vote in the Council of States elections in their respective state in accordance with Article 58(1)(a) of the Constitution.

- 2) Ballots shall be issued to allow voters to mark all four votes on the same ballot in a simple and coherent fashion.

121. Aggregation and Declaration of Results

- 1) The Commission shall issue regulations and procedures in advance of polling to determine the manner of aggregation and declaration of results at designated Polling Centres, High Committees and the Commission.
- 2) Notwithstanding the provision of Sub-section (1) of this section, the Commission shall aggregate results at the Polling Centre by:
 - a) counting the total votes allocated to each candidate;
 - b) where there is a tie for the female candidate or the fourth place candidate the Commission shall conduct a runoff between those candidates within twelve hours and the candidate with the most votes shall be declared the winner.

122. Objections Against Provisional Elections and Referendum Results

- 1) Every candidate who participated in the Council of States election shall have the right to submit a written objection against the provisional results of a polling centre as declared by the Commission under this Act in accordance with regulations.
- 2) The objection provided for under sub-section (1) of this section shall be submitted to the State High Committee for the attention of the Commission within three days after declaration of the provisional results.
- 3) Objections made against the provisional results shall be decided upon by the Commission within five days, except where the Commission declares an extension for the purpose of ensuring correct adjudication.
- 4) Within three days of the end of the decision period the Commission shall ensure that the decision is published at all Commission offices.

123. Appeals against Decisions of the Commission on Provisional Election Result

- 1) Every candidate who participated in the Council of States election shall have the right to appeal against the decisions made by the Commission under Section 122(4) of this Act.
- 2) The appeals provided for under sub-section (1) of this section shall be submitted to the Court within three days from the date of declaration of the objections outcome by the Commission. The Court shall make its decision on the appeal within seven days from its submission, and its decision shall be final.

**PART VIII:
REFERENDUM**

124. Reference to Referendum

The Commission shall refer to the people for referendum any matter of national or public interest referred to it by the President or by the National Assembly pursuant to a resolution passed by more than half of its members, in accordance with the provisions of Article 195 of the Constitution.

125. Procedures and Regulations for the Referendum

- 1) The Commission shall fix the date of referring a matter to referendum, allowing enough time to give opportunity for the public to be acquainted with that matter, and within a period not less than one hundred and eighty (180) days from the date when the matter was referred to the Commission.
- 2) In accordance with Section 34(3) of this Act, all registered voters inside and outside South Sudan shall have the right to vote in a referendum.
- 3) The details for organising and conducting referenda and the procedures for collecting opinions and declaring results shall be specified in the regulations issued pursuant to this Act.
- 4) The matter submitted to referendum would achieve the confidence of the people by obtaining more than half of the number of valid votes cast.
- 5) Any resolution that has achieved the consent of the people by referendum shall have an authority above any other legislation. It shall not be annulled save by another referendum.

**PART IX:
VACANT SEATS**

126. By-Elections for the Office of the President

In accordance with Article 102(2) of the Constitution, if the office of the President falls vacant, the post shall be assumed by the Vice President pending elections that shall be conducted by the Commission within sixty (60) days from the date of occurrence of the vacancy.

127. By-Elections for Governorships

If the seat of a state governor falls vacant, the post shall be assumed by a caretaker governor appointed by the President pending elections that shall be conducted by the Commission within sixty (60) days from the date of occurrence of the vacancy.

128. By-Elections for the National Legislative Assembly

- 1) In accordance with Article 64 of the Constitution, by-elections shall be held for elected seats in the National Legislative Assembly that fall vacant by the

Commission, within sixty (60) days from the date of occurrence of the vacancy.

- 2) Where seats filled through appointment by the President under section 60(6) of this Act fall vacant, these seats shall be filled through appointment by the President.
- 3) Notwithstanding the provisions of sub-section (1) of this section, the vacancy of a list-based seat will be filled by the next available candidate from the same list to which that seat was originally allocated, according to the order of the winning list. Where there is no available next candidate from the winning list of the party, the vacancy shall be filled by the party having the winning list with an individual from its members who meets the eligibility criteria for the winning list from a reserve list determined according to priority within party rules.

129. By-Elections for the Council of States

In accordance with Article 64(2) of the Constitution, by-elections shall be held by the Commission for elected seats to the Council of States that fall vacant within sixty (60) days from the date of occurrence of the vacancy.

130. By-Elections for the State Legislative Assembly

- 1) The Commission shall hold by-elections for elected seats in the State Legislative Assembly which fall vacant within sixty (60) days from the date of occurrence of the vacancy.
- 2) Notwithstanding the provisions of Sub-section (1) of this section, the vacancy of a list-based seat will be filled by the next available candidate from the relevant list according to the order of the list and regulations. Where there is no available next candidate from the winning list of the party, the vacancy shall be filled by the Party having the winning list, from a reserve list determined according to priority within party rules.

PART X:

CORRUPT AND ILLEGAL PRACTICES AND ELECTORAL OFFENCES

CHAPTER ONE: *CORRUPT PRACTICES*

131. Bribery

- 1) For purposes of this Act, a person shall be deemed to be practicing “bribery” if that person offers or gives to any person:
 - a) money, gifts or financial inducements;
 - b) employment, employment-opportunities or preferential treatment for employment of that person;
 - c) properties, bonds, securities or shares;
 - d) contracts or preferential treatment in the award of contracts; or

- e) other material benefit.
- 2) A person shall be deemed to have committed the corrupt practice of bribery, directly or indirectly, if that person:
 - a) bribes or attempts to bribe another person as mentioned in sub-section (1) of this section with intention to:
 - (1) prevent another person or his or her family from exercising his or her right to vote or to sign a petition requesting a referendum; and
 - (2) influence the electoral choice, conduct or behaviour of another person.
 - b) solicits or demands a bribe for his or her own benefit or for the benefit of another person with the intention to:
 - (1) prevent any other person or his or her family from exercising his or her right to vote or to sign a petition requesting a referendum; and
 - (2) influence the other person's electoral choice, conduct or behaviour.

132. Undue Influence

- 1) For purposes of this Act, "Undue Influence" shall mean:
 - a) use of or threat to use violence, or threat of serious detrimental consequences against the person or another person;
 - b) abduction or the threat of abduction;
 - c) intimidation or the threat of intimidation against any person or other persons;
 - d) destruction of or damage to property or the threat of destroying or damaging property; or
 - e) sexual harassment or the threat of sexual harassment.
- 2) A person shall be deemed to have committed the corrupt practice of undue influence if that person engages in activities intended to:
 - a) prevent a family member or another person from exercising the right to vote or to sign a petition requesting a referendum; or
 - b) coerce any a family member or another person directly or indirectly with intent to influence electoral choice, conduct or behaviour.

133. Other Corrupt Practices

A person shall be deemed to have committed "Other Corrupt Practice" if such a person intentionally:

- a) falsifies details on the Electoral Register of another person or on the forms used to support an application for nomination for an election;
- b) falsifies details related to the appointment of another person as an agent for a candidate or Political Parties in an election or in a referendum;

- c) publishes or prints the Electoral Register or any part of it which contains false or incorrect information or does so without the consent of the Commission;
- d) falsifies, removes or destroys an Electoral Register or part of it or directs another person to do so;
- e) falsifies the information recorded on any counting forms, statement of results, aggregation of results, preliminary declaration of results or final declaration of results with intention to alter the outcome of an election or a referendum;
- f) falsifies or directs other persons to falsify ballot papers;
- g) produces or retains ballot papers without the consent of the Commission;
- h) steals or procures or conspires with others to steal any ballot papers, ballot boxes, official seals, the Electoral Register or parts thereof, voter identifications, counting forms, statement of results, aggregation of results, preliminary, provisional or final declaration of results with intention to affect the outcome of an election or a referendum;
- i) includes any details, or destroys or defaces or changes any ballot paper, counting forms, statement of results, aggregation of results, preliminary or final declaration of results, at any time before or during voting or counting and aggregation of votes, with intention to affect the outcome of an election or a referendum, unless authorized to do so under this Act;
- j) destroys or defaces a written complaint or objection or its supporting information or changes, replaces a written objection or complaint without the written consent of the objector or the complainant, or removes a complaint or objection attached to or included in a statement of results, counting forms or aggregation and declaration of results or a polling centre protocols; or
- k) collects, completes, or alters ballot papers, or distributes ballot papers which have been completed or altered.

134. Obstruction of Election Officials

Any person who obstructs any election official while performing his or her duties under this Act by disrupting the registration of voters in any manner, disrupting the display and inspection of the Electoral Register or obstructs the objection or appeal procedures, nomination of candidates, electoral campaign, polling, sorting, counting, transportation, declaration of results, or any other electoral related activity, shall be deemed to have committed the corrupt practice of obstruction of an election official.

135. Impersonation

Any person who impersonates or attempts to impersonate another person, whether living or dead or a fictitious person by signing a petition for a referendum, applying to register in the Electoral Register or registering therein, or reporting to vote or voting

in the name of another person, shall be deemed to have committed the corrupt practice of impersonation.

CHAPTER TWO: ILLEGAL PRACTICES

136. Infringement of Secrecy of the Ballot

- 1) A person shall be deemed to have committed the illegal practice of “Infringement of the secrecy of the Ballot”, if that person:
 - a) asks another person about the way he or she has voted;
 - b) induces that person to reveal how he or she has voted;
 - c) attempts to see how another person has voted;
 - d) places any mark on the ballot paper that reveals the identity of the voter;
 - e) asks or induces a companion of a voter to reveal how that person has voted; or
 - f) obtains knowledge by unlawful means on how a voter has voted.
- 2) Without prejudice to the provision of sub-section (1) of this section, people with special needs may be assisted to cast their vote in accordance with regulations.

137. Obstruction of Participants in an Election or a Referendum

- 1) Unless duly authorized under this Act, a person shall be deemed to have committed the illegal practice of “Obstruction of Participants in an Election or a Referendum,” if that person, by whatever means, obstructs:
 - a) any person with intent to prevent that person from registering on the Electoral Register, signing a petition for a referendum or nomination or from conducting, attending an electoral campaign activity or rally, or from polling;
 - b) any candidate or Political Party contesting an election or a referendum or their agents with intention to prevent the holding of a public meeting or rally or other electoral campaign activity;
 - c) any agent with the intention of preventing that agent from performing his or her legal responsibilities towards a candidate or Political Party to contribute in an election or referendum according to the provisions of this Act; or
 - d) any *bona fide* journalist or representative of the media duly accredited by the Commission while legitimately fulfilling their duties whether before, during or after an election or referendum or a campaign activity.
- 2) Any duly accredited observer in the legitimate fulfilment of the rights and responsibilities of that observer under this Act and regulations whether before, during or after an election or referendum, and until the expiry date of the accreditation.

138. False Statements or Defamation

A person shall be deemed to have committed an illegal practice of “false statement or Defamation” if that person:

- a) signs statements on a nomination form or in support of a nomination which the person knows to be false;
- b) Submits an application to be registered in the Electoral Register which he or she knows either to be wholly false or the details of which are false;
- c) signs a petition for a referendum when not entitled to do so;
- d) makes any oral or written statement about a Political Party or a candidate which he or she knows to be false or has reason to believe to be false with intent to mislead voters, election officials or the Commission;
- e) signs an oath of identity which he or she knows to be either wholly false or the details of which are false; or
- f) defames another person before, during or after the end of elections or referendum in writing or orally, knowing that such statements are false or has reasons to believe that such statements are false and with intent to mislead voters.

139. Failure to Make a Return

An election official, who fails, without a lawful justification, to furnish the results of an election or referendum in the specified manner and within the required time under this Act and applicable regulations, shall be deemed to have committed an illegal practice.

140. Misuse of State Resources

Except as provided for under Section 93(1) of this Act, a candidate shall be deemed to have committed an illegal practice if that candidate uses any government resources for the purpose of carrying out his or her electoral campaign.

141. Prohibited Activities in an Election or Referendum

A person shall be deemed to have committed an illegal practice if that person:

- a) being a public official, a representative or official of a public owned media, contravenes the obligation to treat all candidates and political parties in the elections or referendum equally;
- b) uses electronic devices or other means relating to the elections or referendum in any manner that contradicts provisions of this Act or with intent to affect the conduct of election or referendum process or its results;

- c) being an accredited agent or observer, refuses to produce proof of personal identity;
- d) obstructs voters in the exercise of their right to vote; or
- e) does not enable accredited observers to observe electoral activities or perform their duties.

CHAPTER THREE: *ELECTORAL OFFENCES*

142. Limitation of the Freedom of Expression

- 1) A media outlet that fails to inform the readers, viewers or listeners that the space or airtime used to publish electoral campaign materials has been paid for by the owners of such materials shall be deemed to have committed an electoral offence.
- 2) Any state owned media outlet shall be deemed to have committed an electoral offence if it fails to provide all candidates and Political Parties with equal space or airtime to present their election campaign programmes in accordance with the programme prepared by the Commission.

143. Failure to Abide by Campaign Funding Requirements

A candidate or Political Party shall be deemed to have committed an electoral offence if such candidate or Political Party fails, without lawful justification, to provide the Commission with full and thorough account of all incomes and expenditures during the campaign on the form approved by the Commission within thirty (30) days of declaration of the final results of an election or referendum.

144. Offences During Voting

A person shall be deemed to have committed an electoral offence where that person:

- a) destroys or spoils the ballot paper intentionally or refuses to leave the polling centre or station or to obey the instructions of polling officials;
- b) continues to stay, without permission, inside the polling centre or station during the election process;
- c) defaces or destroys any public notice concerning the elections before or during the polling process; and
- d) defaces or destroys any public notice, party list or any other document displayed at the polling centre or destroys any other asset of the polling centre before, during or after the polling process.

145. Offences During the Sorting, Counting and Aggregation of Results

A person shall be deemed to have committed an electoral offence if that person:

- a) removes the published notice of results posted at the polling centre before the seventh day from the date of its publication; or

- b) stays, without authorisation, in the polling centre during counting or stays in a location established for aggregation of results without authorisation.

146. Punishment under this Chapter

Unless otherwise provided by other law, any person who contravenes the provisions of this chapter shall, on conviction by the Competent Court, be punished with imprisonment for a term that shall not exceed two years and not less than six months, or with fine to be determined by the Competent Court, or both.

**PART XI:
GENERAL PROVISIONS**

147. Agents and Observers

- 1) Elections and referenda shall be conducted under international, regional and local observation.
- 2) The following groups are eligible to be accredited as observers for elections and referenda Subject to regulations:
 - a) judges;
 - b) legal counsellors at the Ministry of Justice;
 - c) former public service employees or persons from the community who are known for their integrity and honesty;
 - d) civil society organizations;
 - e) members of press and mass media organs; and
 - f) political parties.
- 3) The National Government, in coordination with the Commission, shall invite foreign countries and international or regional organizations that apply and are accepted by the Commission to attend and observe any election or referendum and to propose their own representatives and observers, provided that the Commission shall officially accredit such observers in accordance with applicable regulations.
- 4) Any candidate or Political Party may nominate observers who shall be referred to as “party agents” to represent the candidate or Political Party and may request their confirmation as provided by regulations. The person nominated under this sub-section shall be identified as a party agent and shall have the right to submit, verbally or in writing, any questions or objections to the registration, polling, and sorting committees.
- 5) Accredited observers and party agents shall be provided with access to registration, polling, and aggregation sites.
- 6) The Commission shall make rules to determine how suitable space for party agents and observers at the sites mentioned in sub-section (5) of this section

shall be assigned in order to permit the observers and party agents to perform their duties easily and safely.

- 7) The Commission shall make necessary rules to regulate the accreditation of party agents and observers and shall ensure that accreditation commences in advance of voter registration.
- 8) All party agents and observers shall abide by their respective codes of conduct as issued by the Commission in accordance with regulations.

148. Functions of the Observers

- 1) The observer accredited by the Commission may personally exercise the following functions:
 - a) observe the election and referendum process including registration of voters, candidate nomination, campaigning, polling, sorting and counting of votes, all aggregation proceedings, and complaints processes in order to monitor the fairness of the procedures;
 - b) visit the geographical constituencies and election sites at any time without previous notice;
 - c) attend all stages of the polling, sorting and counting and, in particular, be present at the opening and closing of the ballot boxes; and
 - d) assess the election process, and write reports to that effect.
- 2) Observation committees and individual observers shall not interfere in any manner in the work of the elections committees or election officials; provided that they may formulate questions verbally or in writing.

149. Revocation of Observers' Confirmation

- 1) The Commission may at any time revoke the accreditation of any national or international observer by a consensus vote of its members if it is satisfied that the observer has engaged in any activity in contravention of this Act or applicable regulations.
- 2) If it becomes impossible to reach consensus as required by sub-section (1) of this section, then the Commission shall decide on the revocation by absolute majority.
- 3) Any observer aggrieved by the decision of the Commission may appeal to the Court for expedient dispute resolution. The Commission shall comply with the decision of the Court.

150. Postponement of Elections in Some of the Geographical Constituencies

- 1) The Returning Officer with approval of the Commission may postpone the elections in some geographical constituencies in a state due to occurrence of riots, violence or natural disasters that hinder the elections or for other

compelling reasons which make it impossible to conduct the elections on the fixed date.

- 2) The Returning Officer shall, with approval of the Commission, establish a new date for elections in such constituencies; provided that such date shall not be more than sixty (60) days after the date originally designated for conducting the elections.

151. Funding of Elections and Referenda

- 1) The Ministry of Finance and Economic Planning shall appropriate necessary funds into the accounts of the Commission to fund the running costs of the Commission and the costs of organizing and conducting National and state elections and national referenda.
- 2) State Governments shall provide financial resources necessary for organising and conducting referenda at the state level.

152. Power to Seek Technical Aid and other Assistance from the Public Sector and Means of Transportation

Where necessary and in consultations with the National Council of Ministers, the Commission may, in conducting an election or referendum, seek technical or other forms of assistance and aid from the public sector with respect to use of transportation means or other logistical support.

153. Vesting

All rights, properties and liabilities of the Election Committees established under the National Elections Act, 2008 to conduct elections in Southern Sudan in April 2010, shall vest in the Commission.

154. Annual Report

At the end of every financial year, the Commission shall publish an annual report on its activities and expenditures and shall make the report available publically.

155. Preservation and Destruction of Electoral Materials

- 1) The Commission shall regulate the storage and destruction of electoral materials and information.
- 2) The Commission shall retain ballots for a period of six months from the date of announcement of final results after which the Commission shall destroy them in accordance with regulations.

156. Punishments

Subject to the provisions of section 133 of this Act and without prejudice to any higher punishment prescribed by other law, any person who contravenes the provisions of this Act shall, upon conviction, be imprisoned for a term not exceeding two years or be fined at the discretion of the Competent Court, or both.

157. Special powers of the Commission

- 1) Where during the course of an election, it appears to the Commission that by reason of any mistake, miscalculation, emergency or unusual or unforeseen circumstances, any of the provisions of this Act, or any law relating to the election, other than the constitution, does not accord with the exigencies of the situation, the Commission may, by particular or general instructions, extend the time for doing any act, increase the number of election officers or polling stations or otherwise adapt any of those provisions as may be required to achieve the purposes of this Act or that law to such extent as the Commission considers necessary to meet the exigencies of the situation.
- 2) The Commission shall in exercising the special powers under this section inform all political parties and independent candidates of any action taken.

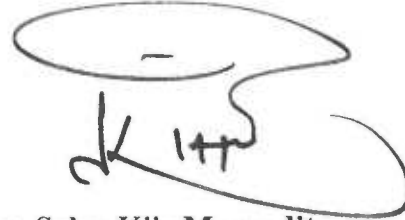
158. Power to Make Regulations, Rules and Orders

The Commission shall issue regulations, rules, decisions, orders, and procedures for proper implementation of the provisions of this Act.

ASSENT OF THE PRESIDENT OF THE REPUBLIC OF SOUTH SUDAN

In accordance with the provision of Article 85(1) of the Transitional Constitution of the Republic of South Sudan, 2011, I, Gen. Salva Kiir Mayardit, President of the Republic of South Sudan, hereby Assent to the National Elections Act, 2012 and sign it into law.

Signed under my hand in Juba, this 6th day of the month of JULY in the year 2012.

A handwritten signature in black ink, appearing to be 'Salva Kiir', enclosed within a large, loopy oval shape.

Gen. Salva Kiir Mayardit
President
Republic of South Sudan
RSS/Juba