

LAWS OF SOUTH SUDAN

THE NATIONAL ELECTIONS ACT, 2012 (AMENDMENT) ACT, 2023

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In accordance with the provisions of Articles 55 (2) (3) (b) of the Transitional Constitution of the Republic of South Sudan, 2011 (as amended), the Transitional National Legislature, hereby enacts the following:

PART I

PRELIMINARY PROVISIONS

1. **Title and Commencement.**

1. Title and Commencement

This Act shall be cited as the “**National Elections Act, 2012 (Amendment) Act, 2023**” and shall come into force on the date of its signature by the President.

2. Section 2 is amended by deleting and substituting to read as follows:

2. Repeal and Savings

Any provision of existing law that is governed by the provisions of this Act is hereby repealed; provided that any proceedings, order and regulation taken or made under the provisions of such existing legislation, except to the extent they are repealed by or are otherwise inconsistent with the provisions of this Act, shall remain in full force until repealed or amended in accordance with the provisions of this Act.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. Section 3 is amended by deleting and substituting to read as follows:

3. Purpose

The purpose of this Act is to provide for the establishment of a legal framework for conducting periodic, transparent, genuine, democratic, peaceful, free and fair elections and referenda at all levels of government in the Republic of South Sudan.

4. Section 4 is amended by deleting, adding and substituting to read as follows:

4. Authority and Application

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

5. Section 7 of the Act is amended by renumbering it as Section 5, deleting, substituting and adding new definitions to read as follows:

5. Interpretations

- “Accreditation”** Means a process of vesting authority on a person or institution to represent a party or a candidate or a group of domestic or international electoral observers in witnessing the electoral process;
- “Adult”** Means an individual who has attained the age of eighteen (18) years;
- “Agent”** Means a person nominated by a candidate or Political Party to represent the candidate or Political Party who shall have the right to submit, verbally or in writing, any questions or objections to the registration, polling, and sorting processes;
- “Ballot Box”** Means a designated container with a slot on the top sufficient to accept a ballot paper in an election or in a referendum but which prevents access to the votes cast until the closing of the voting period;
- “Campaign Period”** Means the period specified as such in this Act or in the notice issued by the Commission in relation to an election;
- “Constituencies”** 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, Chief Administrators, members of the Transitional National Legislative Assembly, members of the State Legislative Assemblies, members of the Administrative Area Legislative Council, Local Government and referenda;

“Constitution”	Means the Transitional Constitution of the Republic of South Sudan, 2011 (as amended);
Discarded Ballot	Means a ballot that is not used in the vote or not inserted in the ballot box because it is spoiled and has been put by the presiding officer in a separate envelope as required by law.
“Elections”	Means taking the opinion of voters according to the Constitution and this Act in Presidential, Gubernatorial, National Assembly, State Assemblies, Council of States, and Local Government elections;
“Election Material”	Includes ballot boxes, ballot papers, counterfoils, envelopes, packets, statements and other documents used in connection with voting in an election and includes information, resources and equipment for voting, the voting compartments, instruments, seals and other materials and things required for the purpose of conducting an election or a referendum;
“Electoral System”	Means the methods and rules that determine how elections and referenda are conducted and of counting votes to determine the outcome of elections by translating votes into seats won by parties and candidates.
“Exhibition Period”	Means the period before voting when the voter register is published and made public at the polling centres and polling stations for verification by voters;

“Legislative Assemblies”

Includes the Transitional National Legislative Assembly and State Assemblies;

“Marginalized group”

Means a group of people who because of laws or practice are disadvantaged on the basis of race, sex, pregnancy, marital status, health status, ethnic or social origin, colour, age, disability, religion, conscience, belief, culture, dress, language or birth;

“National Dividend”

Means the number obtained by dividing the total population of South Sudan by the seats which represents fifty percent (50%) of members of the Transitional National Legislative Assembly;

“National Gazette”

Means the official national gazette of the Republic of South Sudan;

“Observer”

Means a person or an organisation accredited by the National Elections Commission to observe an election or a referendum;

“Petition”

Means an election petition to the Court or competent court under the Constitution and this Act;

“Political Party”

Means a political party registered under the Political Parties Act, 2012 (Amendment) Act, 2022;

“Polling Centre”

Means a location which accommodates a number of polling stations;

“Polling Station”

Means a location where casting of votes takes place in accordance with this Act;

“Proportional Representation”

Means an electoral system used to elect candidates based on multi-member constituencies and includes election of party lists, women lists, youth lists and persons with disabilities lists in proportion to the number of votes they receive.

“Publication”

Means display on the Commission website, mass media and in public places including polling stations, broadcast on South Sudan Broadcasting Corporation and local radio;

“Referendum” Means the process of taking the opinion of voters on any matter related to national or public interest that is referred to them in accordance with Article 195 of the Constitution; and

Rejected Ballot Means a ballot with improper markings or has more than one mark, where the intent of the voter cannot be ascertained, or the voter can be identified by their mark like a thumbprint, signature, name of the voter or one with a mark crossing through two or more "boxes" of two or more candidates.

“Returning Officer”

Spoilt Ballot Means a person responsible for administering and supervising an election or referendum activity in a geographical area.

Means a ballot left blank by a voter, marked with identifiable marks such as signature, thumbprint where those are not allowed, smudged ink or marked in such a way that it is not clear who is being voted for or defaced, crossed out, cancelled, protest vote, torn, soiled or otherwise deemed as invalid because of the above reasons;

6. Section 5 of the Act is amended by restructuring, renumbering the section and adding new sub-sections (6) and (7) to read as follows:

6. 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 will of the people shall be the basis of authority of government expressed through periodic and genuine elections.
 - (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 realised without the exercise of related fundamental human rights, including the right to freedom of expression, the right to seek, receive and impart information, association, assembly, movement, equality before the law

and due process of law, 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) Credible, open, transparent, and impartial administration and conduct of elections
- (3) Voting shall be by secret ballot, based on direct, universal and equal adult suffrage.
- (4) Government authorities shall ensure an electoral environment in which political parties and candidates are free to campaign 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 has equal and unfettered access to 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) Government authorities shall ensure that women are encouraged to participate and all the necessary protection provided for them to be free to exercise their choice without fear and actively participate in the elections.
- (7) Government shall ensure that at least thirty-five (35%) women participation at all levels of governance is observed.

7. Section 6 of the Act is amended by restructuring and renumbering it to read as follows:

7. Transparency of Election Processes

- (1) Preparation, administration, and conduct of elections shall be professional, credible, 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.

PART II
THE ELECTIONS COMMISSION

8. Section 8 of the Act is amended by adding a new sub-section (4) to read as follows:

8. Establishment of the Commission

(4) No later than twelve (12) months into the Transitional Period, the President shall, in consultation with the parties to the Agreement and with the approval of the Transitional National Legislative Assembly, reconstitute a competent and impartial National Elections Commission to conduct elections.

9. A new section 9 is added to the Act and subsequent sections renumbered to read as follows:

9. Conduct of Elections

(1) The reconstituted National Elections Commission shall organise elections for the President, the National Assembly, State Governors, State Assemblies, Chief Administrators, Administrative Areas Legislative Councils and Local Government sixty (60) days prior to the end of the Transitional Period and shall ensure that the outcome is broadly reflective of the will of the electorate.

(2) The reconstituted National Elections Commission may request the assistance of the United Nations and the African Union in the following areas:

(a) establishment of the subsidiary electoral management bodies at the state level;

(b) establishment of procedures for the voter registry and targeted voter registration;

(c) procurement of electoral material;

(d) capacity building;

(e) polling and elections security arrangements;

(f) tallying and counting;

(g) announcement of election results;

(h) complaints procedures; and

(g) support to civic education and voter outreach.

(3) The Commission may also request additional technical assistance from any other regional or international partners as it deems necessary.

(4) The Commission shall organise and conduct civic education at least six months prior to the conduct of elections and shall give special consideration to marginalized groups.

10. Section 9 of the Act is amended by renumbering, deleting and substituting sub-section (2) to read as follows:

10. Independence of the Commission

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

11. Section 10 of the Act is amended by renumbering, rephrasing the title, deleting, substituting and restructuring to read as follows:

11. Composition and Appointment of Members of the Commission

(1) The Commission shall be composed of nine members to be appointed by the President in accordance with Article 197A of the Constitution, upon confirmation by a vote of not less than two thirds of the members of the Transitional National Legislative Assembly.

(2) Each member of the Commission shall be:

- (a) a South Sudanese;
- (b) an adult;
- (c) of proven integrity, independent, competent, non-partisan and impartial;
- (d) a trained and experienced administrator or manager with at least 10 years' experience;
- (e) literate, with at least a post-secondary school diploma;
- (f) not convicted of a crime involving dishonesty or moral turpitude or contravention of the election conduct, even if she or he enjoys pardon; and
- (g) 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) Notwithstanding the provision of sub-section 2 (e) above, the Chairperson and Deputy Chairperson shall have a minimum of an undergraduate degree in any of the following fields:

- (a) law;
- (b) public administration;
- (c) governance.
- (d) electoral matters

(4) The term of office of members of the Commission shall be six years renewable once upon satisfactory performance by the President with approval of two-thirds of members of the Transitional National Legislative Assembly; provided that the conditions for eligibility as set forth under this section shall continue to be complied with.

(5) The status of the Chairperson, Deputy Chairperson, and Chief Electoral Officer shall be similar to that of a Minister, Deputy Minister and Under-Secretary respectively.

(6) All members of the Commission shall work on a full-time basis and shall be entitled to emoluments and privileges as shall be determined by the Salaries and Remunerations Commission and paid from the Consolidated Fund.

(7) The Commission shall be composed of at least thirty five (35%) per cent women representation and take into consideration equitable representation of the youth, civil society, persons with disabilities and professional groups.

(8) Notwithstanding the provisions of this Act or any other law, during the Transitional Period, the President shall nominate and appoint members of the Commission in consultation and agreement with the First Vice President and the four Vice Presidents in accordance with the procedure set out in the First Schedule.

12. Section 11 of the Act is amended by deleting the preposition “on” in the title of the section and replacing it with “in” and further deleting and substituting sub-section (1) (a), repealing paragraph (c) and deleting and substituting sub-section (2) and renumbering the section to read as follows.

12. Vacancy in the Commission

(1) A position in the Commission shall become vacant for any of the following reasons:

(a) decision made under Section 13 of this Act; or

(2) Whenever a position 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 11 of this Act.

13. Section 12 of the Act is amended by rephrasing the title, restructuring sub-sections (1), (a), adding a new paragraph (c) and (2) and renumbering the section to read as follows:

13. Termination or Removal of Members

(1) Membership of the Commission may be terminated for any of the following reasons:

(a) absence for five consecutive ordinary meetings without lawful excuse, proof of which shall be contained in a report submitted by the Chairperson or Deputy Chairperson to the President;

(c) removal due to incompetence arising from mental infirmity or physical incapacity.

(2) The President may remove the Chairperson, Deputy Chairperson, or any member of the Commission from office by a resolution of two-thirds of the members of the Commission and approval by two-thirds of members of the Transitional National Legislative Assembly provided that during the Transitional Period, the President shall consult and agree with the First Vice President and the four Vice Presidents. Recommendation for removal shall be on grounds of proven partiality, incapacity to perform as a Chairperson, Deputy Chairperson, or Commissioner or for 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 or any other member authorised by the Commission by resolution.

14. Section 14 of the Act is amended by repealing sub section (2) paragraph (k), restructuring paragraphs (a), (b), (c), (d), (e), (m), (r) and (u) and adding new subparagraphs (aa), (bb), (cc), (dd) and (ee) and (3) and renumbering the section to read as follows.

15. Functions and Powers of the Commission

(2) Without limiting the generality of sub-section (1) of this section, the Commission shall have the following functions and powers:

(a) regulate, conduct and supervise elections of the President, Governors, the Legislative Assemblies, Council of States, Chief Administrators, Legislative Councils, Commissioners, mayors, and rural and urban councils;

(b) regulate, conduct and supervise any referendum to be carried out according to the Constitution, without prejudice to Article 97 (4) (b) of the Constitution;

(c) conduct continuous registration of voters;

(d) prepare, revise, regularly update, approve, and maintain a current and comprehensive Register of voters;

(e) conduct and coordinate provision of continuous comprehensive civic and voter education based on a common voter education curriculum in collaboration with other agencies and non-state actors;

(m) design and 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 seconding candidates, evaluate and approve such candidates, determine the procedure for withdrawal of nominations, and publish the approved final list of candidates;

(r) recruit and train officers and staff for registration and polling and specify the functions and powers of such staff and how they are supervised;

(u) provide oversight over all matters and procedures related to registration, voting, sorting, counting, tallying, candidate nomination, electoral complaints and declaration of election results;

(z) settle electoral disputes, including disputes relating to or arising from nominations but excluding election petitions and disputes subsequent to the declaration of election results;

(aa) regulate the amount of money that can be spent by or on behalf of a candidate or party in respect of any election;

(bb) develop a code of conduct for candidates and parties contesting in elections;

(cc) register candidates for election;

(dd) regulate the process by which political parties nominate candidates for elections;

(ee) facilitate observation, monitoring and evaluation of elections;

(3) Responsible for conducting or supervising referenda and elections to any elective body or office established by the Constitution and any other elections as prescribed by an Act of the Transitional National Legislative Assembly.

15. Section 15 of the Act is amended by renumbering, restructuring sub-sections (1), (3) and (4) to read as follows:

16. Announcement of the Date of Elections

(1) Whenever an election is to be held, the Commission shall determine and announce the date in accordance with the Constitution and publish in the Official Gazette or two newspapers with nationwide circulation and on the Commission website and mass media, a notice of the holding of the election at least six months before the date of the election.

(3) Any civil servant or member of the organized forces, including the national security service, who intends to run for any position in the elections under this Act, shall resign from such position at least six months before submitting his or her candidature or nomination to the Commission.

(4) The President, the First Vice President and the four Vice Presidents shall remain in their positions during the elections period until taking over of the next president.

16. Section 16 of the Act is amended by renumbering, rephrasing the title of the section and deleting, substituting and restructuring to read as follows:

17. Meetings and Conduct of Business of the Commission

Subject to any regulations made by the Commission, the meetings and conduct of business and affairs of the Commission shall be as prescribed in the Second Schedule.

17. Section 17 of the Act is amended by renumbering the section, restructuring sub-section (e) to read as follows:

18. Functions of the Chairperson

(e) Submit the budget of the Commission to the Minister for Finance and Planning who shall forward it to the Transitional National Legislative Assembly for approval; and

18. Section 19 of the Act is amended by restructuring sub-section (2) and renumbering the section to read as follows:

20. Functions of the Chief Electoral Officer

(2) Notwithstanding the criteria in Section 12 (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.

19. Section 22 of the Act is amended by renumbering, adding a new sub-section (4) and renumbering sub-sections (5), (6), (7), and (8) to read as follows:

23. Secretary General and other Staff of the Commission

(4) The Secretary General shall be responsible for running the administrative, management and financial affairs of the Commission and shall provide support to the Chief Electoral Officer.

(5) 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) misconduct;
- (c) proven partiality towards a candidate or candidates; or
- (d) incompetence.

(6) The Commission shall have such other officers and employees as may be necessary for the discharge of its functions.

(7) The officers and employees referred to in sub-section (6) shall be appointed by the Commission in consultation with the Public Service Commission and shall hold office upon such terms and conditions as shall be determined by the Commission.

(8) The Ministry of Public Service and Human Resource Development may on request by the Commission second civil servants to the service of the National Elections Commission.

20. Section 24 of the Act is amended by renumbering the section, adding and restructuring sub-sections (2) and (3) to read as follows:

25. Funds of the Commission and Audit

- (2) The Commission shall independently manage its funds in accordance with the provisions of the Public Financial Management and Accountability Act, 2011.
- (3) Accounts of the Commission shall be audited annually in accordance with the provisions of the National Audit Chamber Act, 2011.
21. The Act is amended by deleting the word “the” between the words “of” and “Elections” in the title of PART III to read as follows:

PART III

ADMINISTRATION OF ELECTIONS

CHAPTER ONE

HIGH COMMITTEES AND REGISTRATION OF RETURNING OFFICERS

22. Section 25 of the Act is amended by renumbering the section, rephrasing its title and deleting, substituting and adding new sub-sections to read as follows:

26. Formation of High Committees

- (1) The Commission shall form high committees and appoint the heads and members of such high committees at state levels.
- (2) Each high committee shall be composed of five members including a state returning officer who shall be:
- a) of high integrity;
 - b) non-partisan;
 - c) impartial; and
 - d) have at least a secondary school leaving certificate or its equivalent;
 - e) have experience of at least five (5) years in management or administration.
 - f) must not have been convicted of a crime involving moral turpitude or contravention of electoral conduct; and
 - g) must not have been a candidate in general elections or an agent of a candidate for three years prior to becoming a member.

(3) The Commission shall, on a competitive basis, appoint members of the high committee by a decision of two-thirds of members of the Commission.

(4) The Commission shall ensure that at least thirty-five percent of its members are women. In constituting the High Committee, the Commission shall consider equitable representation of youth and persons with disabilities.

(5) The tenure for High Committee members shall be six years, renewable for one additional term, by the Commission with approval of two thirds of the members of the Commission.

(6) The Chairpersons and Deputy Chairpersons of high committees shall be appointed by the Commission with approval of two-thirds of all members.

(7) 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.

(8) The status, emoluments and benefits of staff shall be determined by the Commission in consultation with the Salaries and Remunerations Commission.

23. The Act is amended by adding a new Section 26A to read as follows:

26A. Functions and Powers of the High Committee

(1) Subject to Article 97 (4) of the Constitution, the high committee shall be responsible to the Commission in administering and supervising the elections and referenda at the state level.

(2) The High Committee shall perform all functions and powers related to the elections or referenda assigned to it by the Commission and published in the Official Gazette or two newspapers with nationwide circulation and announced on the Commission website and in mass media.

(3) The head of the High Committee shall perform the following functions:

- (a) chair the meetings of the High Committee;
- (b) represent the High Committee at official events and functions;
- (c) follow up the implementation of decisions of the High Committee;
- (d) supervise the members of the High Committee;
- (e) submit the budget of the High Committees to the Commission; and
- (f) perform any other duty as may be prescribed by law.

24. Section 26 of the Act is amended by renumbering, substituting and restructuring subsection (1) and (2) to read as follows:

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

(1) Membership of a High Committee shall terminate for any of the following reasons:

(a) absence for five consecutive ordinary meetings without lawful 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 by a competent court 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 of a High Committee may be terminated by the Commission as a result of gross misconduct after an investigation conducted by a committee formed by the Commission.

25. Section 27 of the Act is amended by renumbering the section, substituting and restructuring subsection (1) and (2) to read as follows:

28. Appointment and Functions of Constituency Returning Officers

(1) The Commission shall, by notice in the Official Gazette or two newspapers with nationwide circulation and announcement on the Commission website and in mass 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 or referendum activities in his or her constituency on behalf of the Commission; and

(b) propose for approval, by the State High Committee, locations for voter registration and polling.

26. Section 28 of the Act is amended by renumbering the section, substituting and restructuring sub-section (1) and (3) (b) to read as follows:

29. Removal and Termination of the Services of a Returning Officer

(1) The office of the Returning Officer shall become vacant if the holder:

(a) dies;

(b) is removed for any of the following:

(i) inability to perform functions due to physical or mental infirmity;

(ii) fails to perform;

(iii) is absent from work without permission from the Commission;

(iv) engages in misconduct including corruption, dishonesty and impartiality.

(3) A Returning Officer may be removed from his or her position if that officer:

(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.

27. Section 29 of the Act is amended by renumbering, substituting and restructuring sub-section (1) and (2) and renumbering the section to read as follows:

30. 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 or two newspapers with nationwide circulation and announced on the Commission website and in mass media.

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

28. Section 31 of the Act is amended by renumbering, substituting and restructuring sub-section (1) and (2) and adding new subsections (3), (4), (5) and (6) to read as follows:

32. Establishment of Polling Stations and Polling Centres

(1) The High Committee shall recommend to the Commission polling stations for establishment 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 High Committee may, under sub-section (1), establish a polling centre with one polling station.

(3) The polling stations shall be separated by sufficient distance to guarantee orderly voting without confusion.

(4) In the design and location of polling stations, special consideration shall be given to marginalized groups including women, elderly and persons living with disabilities.

(5) The High Committee shall ensure that steps are taken to inform voters of the particular polling station at which they are required to vote.

(6) The Commission shall by notice at least sixty (60) days prior to an election specify to the voters the polling stations where they will vote.

CHAPTER TWO
THE GENERAL ELECTORAL REGISTER

29. Section 33 of the Act is amended by renumbering the section, deleting and substituting paragraphs (a) and (b) to read as follows:

34. Eligibility to Vote

Eligible voters shall satisfy the following conditions:

(a) be a South Sudanese citizen;

(b) be an adult;

30. Section 34 of the Act is amended by renumbering the section, substituting and restructuring sub-sections (2) (d) and (3), and adding new sub-sections (4), (5), (6) and (7) and renumbering sub-section (5) to read (8) as follows:

35. Conditions for Registration and Participation in Election or Referendum

(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:

(d) be at least eighteen (18) years of age at the date of registration as determined by the Commission by use of national identity card, birth certificate or any other means as provided in the regulations.

(3) A South Sudanese national residing outside South Sudan and in possession of a South Sudanese passport, who satisfies the conditions set forth in this Section, shall have the right to apply for registration or for inclusion in the Electoral Register for Elections or Referendum in accordance with the provisions of this Act and the regulations.

(4) The regulations shall provide for out of country voting for South Sudanese in the Diaspora.

(5) 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.

(6) A voter who wishes to transfer registration from the area registered in to another electoral area, shall notify the Commission in the prescribed manner not less than ninety days preceding an election.

(7) Upon receipt of the notification above, the Commission shall transfer the voter's registration particulars to the register of the preferred constituency not later than sixty days preceding the election.

(8) A prisoner shall have the right to participate in an election or referendum in accordance with this Act.

(9) Regulations issued pursuant to this Act shall prescribe the methods and means of registration and period of objection.

31. Section 35 of the Act is amended by renumbering and deleting and substituting paragraph (e) to read as follows:

36. Preparation, Update and Display of the Electoral Register

(e) the voter register shall be published not later than six (6) months prior to the holding of elections for registered voters to confirm accuracy of the entries; and

32. Section 36 of the Act is amended by renumbering the section and deleting and substituting paragraph (b) and adding a new paragraph (c) to read as follows:

37. Objection to Details of the Provisional Electoral Register

(b) avail the provisional Electoral Register for inspection by any person upon application in the prescribed form.

(c) within ninety days from the date of the notice for a general election, open the register of voters for inspection for a period of at least thirty days.

33. A new section 37A is added to the Act to read as follows:

37A. Audit of the Final Register of Voters

The Commission may, at least six months before a general election, conduct an audit of the Register of Voters using the voter register for the purpose of—

(a) verifying the accuracy of the Voters Register; and

(b) recommending mechanisms of enhancing the accuracy of the Register.

34. Section 37 of the Act is amended by renumbering, modifying the provision and restructuring it by deleting (1) and (2) (b) to read as follows:

38. 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 not later than six months prior to the holding of elections. No further objections may be entertained after the Commission has published the final Electoral Register for the elections.

(2) The Commission shall:

(b) avail the final Electoral Register for inspection by any person on application in the prescribed form.

PART IV

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

35. Section 39 of the Act is amended by renumbering and restructuring sub-section (1) to read as follows:

40. 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 fifty percent (50%) of members of the National Assembly to be elected through geographical constituencies.

36. Section 40 of the Act is amended by renumbering and restructuring sub-section (2) to read as follows:

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

(2) The Commission shall determine the number of geographical constituencies in each State to represent fifty percent (50%) of the total number of seats in the State Legislative Assembly in accordance with section 61 of this Act.

37. Section 41 of the Act is amended by restructuring sub-section (1) paragraphs (d) and (g) and renumbering the section to read as follows:

42. Consideration for Demarcation of the Boundaries of Geographical Constituencies

(d) Consultations will be conducted with local civil society groups and communities with due consideration for representation and participation of women,

youth, persons with special needs and persons with disabilities to ensure the acceptability of constituencies alongside a boundary awareness civic education program;

(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 Official Gazette or two newspapers with nationwide circulation and announced on the Commission website and in the mass media; and

38. Section 42 of the Act is amended by renumbering and deleting and substituting sub-sections (2) and (4) to read as follows:

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

(2) The report prepared under sub-section (1) shall be published promptly in the Official Gazette or two newspapers with nationwide circulation and announced on the Commission website and in mass media. The Commission shall submit the preliminary report immediately to the President, Governors, members of the National and State Legislative Assemblies, Chief Administrators, members of the Administrative Area Legislative Councils, Council of States, Local Government Authorities and political parties.

(4) After expedient consideration of any objections and incorporating any amendments, the Commission deems appropriate, the Commission shall publish its decisions or any amendments to the preliminary report in the Official Gazette or two newspapers with nationwide circulation and announce on the Commission website and in mass media. The Commission shall submit its decisions and any amendments to the preliminary report to the President, Governors, Chief Administrators, members of the National and State Legislative Assemblies, Council of States, members of the administrative area legislative councils, Local Government Authorities and the political parties.

39. Section 43 of the Act is amended by renumbering, rephrasing the title of the section and adding and substituting sub-sections (1), (2) and (3) to read as follows:

44. Objection Against the Preliminary Report on Demarcation of Geographical Constituency Boundaries

(1) An objection to the Commission's preliminary report published under Section 43 (2) of this Act may be made within fourteen (14) days from the date of publication.

(2) An objection to the Commission's decisions and any amendments to the preliminary report published under Section 43 (2) may be made to a Competent Court within fourteen (14) days from the date of publication.

(3) The Competent Court shall decide on any submitted objection against the decision of the Commission within fourteen (14) days.

(4) An appeal against the decision of the Competent Court shall be made to the Court within fourteen (14) days from the date of decision of the Competent Court. The Court shall determine the appeal within fourteen (14) days and its decision shall be final.

40. Section 44 of the Act is amended by renumbering, deleting and substituting to read as follows:

45. 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 pursuant to Section 44 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 or two newspapers with nationwide circulation and announced on the Commission website and in mass media.

PART V

NOMINATIONS, WITHDRAWAL OF NOMINATIONS AND APPEALS

CHAPTER ONE:

**NOMINATION FOR ELECTION OF THE PRESIDENT OF THE REPUBLIC,
GOVERNORS OF THE STATES AND THE CHIEF ADMINISTRATORS.**

41. Section 47 of the Act is amended by renumbering, deleting and substituting sub-sections to read as follows:

48. 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 51 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;
- (e) the signature of the voter or thumb print; and
- (f) unique voter registration number.

42. Section 48 of the Act is amended by renumbering and rephrasing the title, deleting substituting and restructuring the sub-sections to read as follows:

49. Application for Nomination for Elections to the Office of President, the Governor or Chief Administrator

(1) The application for nomination of a candidate for election as President, Governor or Chief Administrator 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 (90) days and not less than sixty (60) days before polling day. The Commission shall publish notice of the nomination day in the Official Gazette or two newspapers with nationwide circulation and announce on the Commission website and in mass media, at least fifteen (15) days prior to the date of the nomination.

(3) The application for nomination shall be submitted in 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 determined in the rules and regulations.

(4) The deposit under sub-section (3) shall only be refunded if the candidate withdraws before the nomination date.

(5) A political party shall hear and determine all intra party disputes arising from political party nominations within thirty days.

(6) Notwithstanding sub-section (1), in the case of any other election, the Commission shall by notice in the prescribed form, specify the day or days upon which political parties shall nominate candidates to contest in legislative assemblies, Council of States or local government authority elections in accordance with its constitution or rules, which shall be at least sixty (60) days before such election; and

(7) 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.

43. Section 49 of the Act is amended by renumbering, deleting the figure 48 (3) and replacing it with the figure (53) (3) to read as follows:

50. Invalidation of Nomination

The application submitted in accordance with Section 49 (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.

44. Section 50 is amended by renumbering, deleting and substituting to read as follows:

51. Inspection of Nominations

(1) The Commission shall publish, within fourteen (14) days from close of nominations, a list of names of the persons who applied to be nominated under Section 49 (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 or two newspapers with nationwide circulation and announced on the Commission website and in mass media 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 political party or independent candidate.

(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 or two newspapers with nationwide circulation and announce on the Commission website and in mass media and display at all Commission offices a list of nomination applications that were accepted and those which were rejected, indicating the reasons for rejection.

45. Section 51 of the Act is amended by renumbering, rephrasing the title, deleting and substituting it to read as follows:

52. Challenging Rejection of Nomination Applications

(1) A person whose application for candidacy has been rejected, or the persons or political party which proposed that person's nomination may challenge the decision in the Court within seven days from the date of publication of the Commission's decision in accordance with this Act.

(2) The Court shall decide 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.

46. Section 52 is amended by deleting and substituting the provision to read as follows:

53. Publication of the Final List of Candidates for the Office of the President, the Governor or Chief Administrator

The Commission shall publish in the Official Gazette or two newspapers with nationwide circulation and announce in the mass media and publication on the Commission's website, the final list of candidates nominated, after all 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.

47. The Act is amended by adding new sections 55, 56 and 57 immediately after Section 54 and renumbering subsequent sections to read as follows:

55. Submission of Party Lists

(1) A political party that nominates a person for an election under this Act shall submit to the Commission a membership list of the party:

(a) in the case of a general election, at least one hundred and twenty (20) days before the date of the election; and

(b) in the case of a by election, forty-five (45) days before the date of the by election.

(2) Independent candidates may submit their names to the Commission subject to section (1) (a) and (b) above.

(3) The Commission shall publicise the membership lists as received from the political parties and independent candidates.

(4) For purposes of sub-section (1), the Commission may, by notice in the Official Gazette or two newspapers with nationwide circulation or mass media, issue regulations prescribing guidelines to be complied with in preparation of the lists.

56. Submission of Party Nomination Rules

(1) A political party shall submit its nomination rules to the Commission at least six months before the nomination of its candidates.

(2) An amendment to the nomination rules shall only be effective ninety days after submission of the amendments to the Commission.

(3) Upon receipt of the nomination rules from a political party under sub-section (1), the Commission shall, within fourteen days, review the rules to ensure compliance with the prescribed regulations and—

(a) issue the political party with a certificate of compliance; or

(b) require the political party to amend the rules to ensure such compliance within fourteen days.

(4) For purposes of sub-section (3), the Commission shall, by notice in the Official Gazette or mass media, issue rules and regulations prescribing guidelines to be complied with and the process by which political parties nominate candidates for nomination in accordance with the Constitution and the law.

57. Nomination of Independent Candidates

(1) A person qualifies to be nominated as an independent candidate for presidential, gubernatorial, legislative assemblies, council of states or local government elections if that person—

(a) has not been a member of a political party for at least three months preceding the date of the election;

(b) has submitted to the Commission, at least sixty (6) days before a general election, a duly filled nomination paper in such form as may be prescribed by the Commission;

(c) has at least ninety days before the date of a general election or at least twenty-one days before the date appointed by the Commission as the nomination day for a by-election, submitted to the Commission the name and symbol that the person intends to use during the election; and

(d) is selected in the manner provided for in the Constitution and by this Act.

(2) The Commission shall publish in the Official Gazette or two newspapers with nationwide circulation or announce on the Commission website and in mass media the names of persons intending to contest in the election as independent candidates at least fourteen days before the nomination day.

CHAPTER TWO

WITHDRAWAL OF NOMINATION, DEATH AND DECLARATION OF ELECTED CANDIDATES FOR THE ELECTION OF PRESIDENT, GOVERNOR OR CHIEF ADMINISTRATOR

48. Section 57 of the Act is amended by deleting, substituting, restructuring and renumbering to read as follows:

60. Postponement of Presidential, Gubernatorial or Chief Administrator Elections

(1)The Commission may postpone election of the President, Governor of a State or Chief Administrator of Administrative Area by notice to that effect:

(a) 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;

(b) 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, Governor or Chief Administrator takes the oath of office.

49. Section 59 of the Act is amended by rephrasing the title of the section and renumbering it and adding new sub-sections (7) and (8) to read as follows:

62. Snap Presidential, Gubernatorial or Chief Administrator Elections following a Vote of No Confidence

(7)The position of the President may fall vacant in accordance with Article 102 (1) of the Constitution.

(8)The Commission will in the event of sub-section (7) above announce the date and conduct of new presidential elections in accordance with the Constitution and this Act.

CHAPTER THREE

COMPOSITION OF LEGISLATIVE ASSEMBLIES AND ELECTION OF MEMBERS

50. Section 60 is amended by substituting, restructuring, paragraphing subsection (2), (3) (4) and (5) of the Act to read as follows:

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

(2)

(a) Fifty percent (50%) of members of the National Legislative Assembly shall be elected to represent geographical constituencies in the Republic of South Sudan;

- (b) Thirty-five percent (35%) of women members shall be elected on the basis of proportional representation at the national level from closed party lists;
- (c) Fifteen percent (15%) of members shall be elected on the basis of proportional representation at the national level from the closed party lists.
- (3) There shall be five representatives from each State and two representatives from each Administrative Area in the Council of States elected by members of the state legislative assembly and the Administrative legislative council respectively.
- (4) The elected President shall appoint five percent (5%) of the three hundred and thirty two (332) members of the National Legislative Assembly.
- (5) The total number of members of the National Legislative Assembly shall be three hundred and thirty two (332) representatives.
- (6) The Commission shall establish additional guidelines for matters related to the procedure for election of the members of the Council of States.

51. Paragraphs (a) (b) and (c) of Section 61 of the Act are amended to read as follows:

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

- a) Fifty percent (50%) of members of the National Legislative Assembly shall be elected to represent geographical constituencies in the Republic of South Sudan;
- b) Thirty-five percent (35%) of women members shall be elected on the basis of proportional representation at the national level from closed party lists;
- c) Fifteen percent (15%) of members shall be elected on the basis of proportional representation at the national level from the closed party lists.

52. Section 63 of the Act is amended, substituted, rephrased and restructured to read as follows:

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) (a) and 61, the method of electing fifty percent (50%) 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 thirty-five percent (35%) 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

53. Section 65 of the Act is amended by deleting, substituting and renumbering it to read as follows:

64. Requirements for Nomination to the Council of States

(1) A person nominated under Section 69 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;
- (e) the signature or thumb print of the member of that State Assembly; and
- (f) unique voter registration number

54. Section 66 of the Act is amended by deleting, substituting and restructuring it and adding new sub-sections (5), (6) and (7) to read as follows:

65. Application for Nomination to 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 or two newspapers with nationwide circulation and announcement on the Commission website and in mass 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 specified in the rules and regulations.

(4) Deposits under sub-section (3) shall be refunded if the candidate withdraws at any time not later than thirty (30) days prior to polling day.

(5) A political party shall not change the candidate nominated to the Council of States after the nomination of that person has been received by the Commission. Provided that in the event of the death, resignation or incapacity of the nominated candidate or of the violation of the electoral code of conduct by the nominated candidate, the political party may after notifying the candidate that the party seeks to substitute, where applicable, substitute its candidate before the date of presentation of nomination papers to the Commission.

(6) A political party shall hear and determine all intra party disputes arising from political party nominations within thirty (30) days.

(7) Notwithstanding sub-section (1), in the case of any other election, the Commission shall by notice in the prescribed form, specify the day or days upon which political parties shall nominate candidates to contest in a presidential, gubernatorial, assembly, state, administrative area or local government election in accordance with its constitution or rules, which shall be at least sixty days before such election.

55. Section 68 of the Act is amended by renumbering, deleting, substituting and restructuring to read as follows:

66. Inspection of Nominations

(1) The Commission shall publish, within fourteen (14) 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 which shall be made available to all those persons and political parties mentioned in it shall be published in the Official Gazette or two newspapers with nationwide circulation and announced on the Commission website and in 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) 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 or two newspapers with nationwide circulation and announce on the Commission website and in mass 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.

56. Section 69 of the Act is amended by rephrasing the title of the section and deleting and substituting and renumbering it to read as follows:

67. Challenges Against Rejection of Nomination for Election to the Council of States

(1) A person whose application for nomination to be a candidate has been rejected, or the person or political party that proposed that person's nomination, may challenge the rejection in a competent court within seven (7) days from the date of publication of the Commission's decision.

(2) The Competent Court shall decide within a period of seven days from the date of receipt and shall make its decision public. The decision of the Competent Court under

this sub-section shall be final. The Competent Court may for this purpose issue any order on any related matter.

57. Section 70 of the Act is amended by deleting, adding, renumbering and restructuring it to read as follows:

68. Publication of the Final List of Candidates to the Council of States

Immediately after all challenges and objections to the competent court have been decided, the Commission shall publish in the Official Gazette or two newspapers with nationwide circulation and announce on the Commission website and in mass media at the State Legislative Assembly of the state concerned and may disseminate the final list of candidates nominated pursuant to Section 66 of this Act by any other means it deems appropriate.

CHAPTER TWO

WITHDRAWAL OF NOMINATION, DEATH, AND DECLARATION OF UNOPPOSED CANDIDATES FOR ELECTION TO THE COUNCIL OF STATES

58. Section 71(1) of the Act is amended by deleting, substituting and renumbering it to read as follows:

69. Withdrawal of Nomination

(1) Any duly nominated and accepted candidate under Section 75 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.

59. The title of Chapter Three is amended and paraphrased to read as follows:

CHAPTER THREE

NOMINATION OF CANDIDATES FOR ELECTION AS MEMBERS OF LEGISLATIVE ASSEMBLIES TO BE ELECTED FROM GEOGRAPHICAL CONSTITUENCIES, PARTY LISTS AND WOMEN LISTS.

60. Section 75 of the Act is amended by deleting, substituting and renumbering it to read as follows:

70. 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.

(3) The candidature of independent candidates shall be seconded as follows:

(a) a candidate for the Transitional 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.

(4) 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;

(e) the signature or thumbprint of the voter;

(f) a unique voter registration number.

(5) 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.

61. Section 77 of the Act is amended by renumbering, restructuring and adding new subsections (8), (9) and (10) to read as follows:

71. Submission of Application for Nomination 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 or two newspapers with nationwide circulation and announce on the Commission website and in mass media at least fifteen (15) days prior to start 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 and annexes as specified in the rules.

(4) A person applying for nomination to the geographical constituencies shall submit to the Commission a deposit specified in the regulations

(5) 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.

(6) A person shall not be nominated on a Party List, Women List and nominated for a geographical constituency at the same time.

(7) A person shall only be nominated to contest an election from one geographical constituency of any Legislative Assembly.

(8) A political party shall not change the candidate nominated for elections for a geographical constituency after the nomination of that person has been received by the Commission; provided that in the event of the death, resignation or incapacity of the nominated candidate or of the violation of the electoral code of conduct by the nominated candidate, the political party may after notifying the candidate that the party seeks to substitute, where applicable, substitute its candidate before the date of presentation of nomination papers to the Commission.

(9) A political party shall hear and determine all intra party disputes arising from political party nominations within thirty (30) days.

(10) Notwithstanding subsection (1), in the case of any other election, the Commission shall by notice in the prescribed form, specify the day or days upon which political parties shall nominate candidates to contest in a presidential, gubernatorial, assembly, state election, local government election in accordance with its constitution or rules, which shall be at least sixty (60) days before such election.

62. Section 78 of the Act is amended by repealing sub-section (6) and deleting, adding and substituting sub-sections (2), (3) and (5) to read as follows:

72. 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

(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, 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 Official Gazette or two newspapers with

nationwide circulation and announce on the Commission website and in mass media 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, 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, Women list nominated by the Party represents thirty – five percent (35%) of total membership.

(5) A political party that applies to nominate a Party List and Women List under this section shall submit to the Commission a deposit specified in regulations.

63. Section 80 of the Act is amended by rephrasing the title and deleting and substituting to read as follows:

73. Inspection of Application for Nomination for 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 79 (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.

64. Section 81 of the Act is amended by rephrasing its title and deleting, substituting and restructuring it to read as follows:

74. Objection Against a Decision of the Commission to Reject Nomination Application

(1) A candidate or Political Party may lodge a challenge with a Competent Court against a decision of the Commission to reject or accept a nomination within seven days from the date of publication of the Commission's decision to reject or accept a nomination.

(2) The Competent Court shall decide on any objection submitted according to sub-section (1) within a period of seven days from the date of receipt 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.

65. Section 82 of the Act is amended by modifying the title of the section by deleting the words "Membership of" and deleting, substituting sub-sections (1), (3) and (4) to read as follows:

75. Publication of the Final List of Candidates for Legislative Assemblies

(1) The Commission shall publish in the Official Gazette or two newspapers with nationwide circulation and announce on the Commission website and in mass 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.

(3) The Commission shall at the same time and date declare and publish in the Official Gazette or two newspapers with nationwide circulation and announce on the Commission website and in mass media, the period for electoral campaigns, which shall be no 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 or two newspapers with nationwide circulation and announcement on the Commission website and in mass 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

66. Section 83 of the Act is amended by repealing sub-section (5) and deleting, substituting, restructuring and renumbering the section to read as follows:

76. Withdrawal of Nominations for Election to a Legislative Assembly

(1) A 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) A political party which submitted an application for nomination to a Party List and 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 and 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 and 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.

(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.

67. Section 84 of the Act is amended by renumbering and restructuring it to read as follows:

77. Death of a Candidate for Elections in 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.

68. Section 85 of the Act is amended by rephrasing the title of the section to read as follows:

78. Declaration of Candidates Elected Unopposed to Legislative Assemblies in Geographical Constituencies

69. The title of Chapter Five is amended by deleting the word "Bodies" and replacing it with the word "Authorities" to read as follows

CHAPTER FIVE

ELECTION OF LOCAL GOVERNMENT AUTHORITIES

70. Section 86 of the Act is amended by renumbering, restructuring and adding new sub-sections (1), (2), (3), (4) and (6) to read as follows:

79. Local Government Elections

(1) The Government of the Republic South Sudan shall be based on a decentralized democratic system of Governance, where the Government institutions are hierarchically patterned constitutionally into three levels of Government, at the National, State, Administrative Area and Local level.

(2) Each State in South Sudan shall be divided into a number of Local Government Councils in accordance with the provisions of the Constitution and the Local Government Act, 2009.

(3) The boundaries of each Local Government Council shall be demarcated in accordance with the provision of the Local Government Act, 2009.

(4) The authority of every Local Government Council shall be exercised through its democratic representative authorities of Government established in accordance with the provisions of Local Government Act, 2009

(5) 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 determine and announce the date for the following elections:

(a) County Commissioners;

(b) City Mayors; and

(c) Urban and Rural Councils.

(6) The National Elections Commission shall issue an order establishing a committee (s) to set the necessary rules and regulations for conducting elections at the Local Government Level.

PART VII

ELECTORAL CAMPAIGN, POLLING, POSTPONEMENT OF ELECTIONS AND REFERENDA, AND ANNOUNCEMENT OF RESULTS

CHAPTER ONE

ELECTION CAMPAIGN

71. Section 87 of the Act is amended by renumbering, restructuring it and adding a new sub-section (2) to read as follows:

80. Election Campaign Programme

(1) The Commission shall determine and announce the period during which election campaigns shall take place and publish that period in the Official Gazette or two newspapers with nationwide circulation and announce on the Commission website and in mass media; provided that the campaign period shall not exceed seventy (70) days and shall end one day prior to polling day.

(2) Subject to the provisions of sub-section (1) of this section, the Commission shall determine the period and the manner of the electoral campaign and make public that information. The Commission shall forward copies of the publication to each of the High Committees.

(3) 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 the rules and regulations.

72. Section 88 of the Act is amended by rephrasing the title, deleting, substituting and restructuring the section to read as follows:

81. Rights and Duties of Candidates and Political Parties during the Election Campaign

(1) During the elections 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 opportunity between them.

(2) Subject to the provisions of this Act, regulations and any other law applicable in South Sudan, any candidate or political party shall enjoy complete and unrestricted freedom of expression in the exercise of his or her campaign rights, the presentation of campaign programmes, and access to information through any means in accordance with this Act and the rules.

(3) No person shall use any expressions that constitute incitement to public disorder, hate speech, insurrection or violence, or threaten with the resort to any such actions or to war.

(4) Any party, organisation, group, individual or any media or information channel that incites hatred, discrimination, hostility or violence, commits an offense punishable in accordance with the provisions of this Act or other applicable law.

(5) All candidates, parties and other groups participating in campaigning shall abide by codes of conduct developed by the Commission.

73. Section 89 of the Act is amended by renumbering, restructuring and adding a new subsection (9) to read as follows:

82. Regulation of Election Campaigns

(1) A candidate or political party in an election shall access and use any means of communication media for purposes of electoral campaign activities.

(2) All 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 of media coverage of the electoral campaign. The rules shall specify the measures to guarantee the rights of all candidates and political parties on the basis of equality and equal opportunities and to prevent any form of discrimination between them in the coverage of the electoral campaign.

- (5)The Commission shall, in coordination with the media regulatory body, and in consultation with all political parties and candidates 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)A 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)A candidate 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)A candidate or political party shall not act or use statements that are intended to obstruct the electoral campaigns of any other candidate or political party.
- (9) The Commission shall issue rules and regulations that aim at ensuring unhindered access to venues for campaigns by the general public.
74. Section 90 of the Act is amended by rephrasing the title of the section, renumbering and restructuring it to read as follows:

83. Monitoring of Campaign Activities by the Media

- (1)The media regulatory body shall monitor the way in which campaign activities are conducted within the media and the behaviour of the media during an election or referendum to ensure compliance with this Act and any other law applicable in 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 be composed 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 with approval of two-thirds of all members.
- (4)The Campaign Media Committee shall be composed of at least thirty-five percent (35 %) women.
- (5)The Commission shall maintain a supervisory role over the Campaign Media Committee in accordance with regulations.

(6)The Campaign Media Committee activities shall be supported by the media regulatory body and funded by the National Elections Commission budget.

(7)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.

(8)The Commission shall review the schedule designed under sub-section (6) of this section and approve by two thirds majority.

(9)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.

(10) The Campaign Media Committee shall be dissolved by an order issued by the Commission.

75. Section 91 of the Act is amended by rephrasing the title, renumbering and restructuring to read as follows:

84. Funding of Election Campaigns

(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)A candidate or political party may receive financial support for their election campaign activities from the following sources:

(a) members of the political party;

(b) contribution made by the candidate; or

(c) donations or contributions that the political party or individual candidate may collect from other sources approved by the Commission.

(3) Any donation or contribution exceeding a ceiling to be determined by the Commission 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 before the general elections, whereas any further funding by the government after election shall be based on the voters' proportion.

(5) Prior to the start of campaigning, the Commission shall fix a ceiling for expenditure by 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.

76. Section 92 of the Act is amended by deleting, substituting and renumbering to read as follows:

85. Use of Election Campaign Funds

Funds raised for election 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.

77. Section 93 of the Act is amended by rephrasing the title and renumbered to read as follows:

86. Prohibition of Use of State Resources for Election Campaigns

78. Section 94 of the Act is amended by rephrasing the title of the section, deleting, adding and substituting sub-sections (1) and (2) to read as follows:

87. Final Accounts of the Election Campaigns

(1) Each candidate or political party shall submit to the Commission final accounts of their election campaigns income 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 election campaign and its types and the methods of expenditure; provided that such accounts shall be legally audited according to professional auditing practices.

79. The title of Chapter Two of the Act is amended by deleting the word “polling” after the conjunction “and” and before the word “procedures” to read as follows:

CHAPTER TWO POLLING AND POLLING PROCEDURES

80. Section 96 of the Act is amended by:

- (I) renumbering the section to read: **Section 88. Forms and Contents of Ballot Papers**
- (II) adding the word “Transitional” before the words “National Legislative Assembly in sub-section (1) and adding the words “local authorities elections” after the words “state legislative assemblies” and administrative area legislative council and before the conjunction “and”.
- (III) in subsection 2 (c); by deleting the word “three” and adding the words “the full name” before the words “name of each candidate”
- (IV) adding a new sub-section (3) to read: “The Commission may in addition to the requirements of sub-section (2) above, introduce additional requirements for images or symbols of candidates.
- (V) renumbering sub-sections (3), (4) and (5) accordingly.

81. Section 97 sub-section (2) of the Act is amended by deleting and substituting the sub-section and renumbering the section to read as follows:

89. Sealing Ballot Boxes

(2) The boxes shall be closed and sealed in a manner to be determined by the Commission. They shall not be opened until the vote counting starts.

82. Section 98 paragraph (c) of the Act is amended by deleting the article “the” from the title and adding the word “unauthorised” after the word “put” and before the article “a” to read as follows:

90. Nullification of Ballot Papers

A ballot paper shall be nullified in the following cases:

- (c) if a candidate has written or put unauthorised sign on the ballot paper.

83. Section 99 of the Act is amended by rephrasing the title of the section to read as follows:

91. Spoiled Ballot Paper

84. Section 100 of the Act is amended by rephrasing the title of the section to read as follows:

92. Distribution and Custody of Election Materials

85. Section 101 of the Act is amended by renumbering the section, deleting the conjunction “and” from the title, deleting and substituting sub-sections (2), (3) paragraph (c) to read as follows:

93. Publication of Lists of Polling Centres, Stations and Candidates

(1) The Commission shall publish in the Official Gazette or two newspapers with nationwide circulation and announce on the Commission website and mass media the date and time of polling for the elections.

(2) The Commission shall disseminate all relevant information about the candidates and the date and time of polling across South Sudan and abroad.

(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 any other reasonable means, a notice that shall include:

(c) the party list, women list, youth list and persons with disabilities for purposes of proportional representation.

86. Section 102 (1) (d) of the Act is amended by adding the word “women” to read as follows:

94. Polling Centre and Voting Time

(1) Every polling centre shall:

(d) be located in a place equipped to allow access by women, persons with disabilities and persons with special needs to exercise their right to vote.

CHAPTER THREE

SORTING AND COUNTING OF VOTES AND DECLARATION OF RESULTS

87. Section 105 of the Act is amended by deleting, adding and substituting sub-sections (2), (3), (6), (8), (11) and (12) and renumbering to read as follows:

95. Sorting and Counting Votes at the Polling Station

(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 the necessary lighting and other requirements to ensure the completion of the vote sorting and counting without interruption.

(3) Any person accredited under this Act, including confirmed candidates, agents, observers and representatives of mass media 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 the rules and regulations.

(6) When more than one election is conducted on the same day, the sorting and counting of ballot boxes for different elections shall be made in the following sequential order, as the case may be:

- (a) President;
- (b) National Legislative Assembly;
- (c) Governors;
- (d) Chief Administrators;
- (d) State Legislative Assembly;
- (e) Administrative Legislative Council
- (f) County Commissioners/Mayors; and
- (g) Councillors.

(8) The Presiding Officer shall prepare and sign a report on the sorting and counting of each ballot box of the polling station which shall be signed by any accredited agent present who is willing to sign the report.

(11) The rules and 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 station providing a copy of the sorting and counting report to be published.

88. Section 107(1) and (3) of the Act is amended by deleting, substituting and renumbering and adding new paragraphs (a) and (b) in sub-section (3) to read as follows:

96. 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, fill the declaration of results form and announce the results and display a copy of that form at a conspicuous place in or outside the polling station.

(3) Any accredited agent of a candidate or a political party shall:

(a) sign a declaration of results; and

(b) obtain a signed copy of the form.

89. Section 108 of the Act is amended by adding the words “rules and” before the word “regulations” to read as follows:

97. Aggregation and Declaration of Results

The Commission shall issue rules and regulations to specify the procedures and the manner for aggregation and declaration of results at the polling station, polling centre and the Commission.

90. Section 110 of the Act is amended by deleting the word “provisional” from the title and replacing it with the word “Election”, deleting and substituting the section to read as follows:

98. Dissemination of Election Results

The Commission shall issue regulations to provide for dissemination of election results including those aggregated by the Commission. The results shall be published in the Official Gazette or two newspapers with nationwide circulation and announced on the Commission's website and in mass media and displayed at all commission offices.

91. Section 111 of the Act is repealed.

92. Section 112 of the Act is repealed.

93. Section 113 of the Act is repealed.

94. Section 114 of the Act is amended by renumbering, deleting and substituting subsections (1) and (3) to read as follows:

99. Declaration of Final Election Results

(1) The Commission shall, immediately after counting declare the final results of the elections or referendum, within a period not exceeding forty-eight (48) hours

(3) The Commission shall publish the final results in the Official Gazette or two newspapers with nationwide circulation and announce on the Commission website and in mass media and shall ensure their widest possible dissemination.

95. Section 115 of the Act is repealed.

96. Section 116 of the Act is repealed.

97. The title of Chapter Four of Part VII of the Act is amended by deleting the words “provisions for the” before the word “Council” to read as follows:

CHAPTER FOUR

COUNCIL OF STATES ELECTIONS

98. The title of Section 117 and its provision is amended by renumbering, deleting and substituting to read as follows:

100. Election Campaign, Polling and Announcement of Results for the Council of States

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

99. Section 118 of the Act is amended by deleting and substituting the provisions to read as follows:

101. Election Campaign Programme

The Commission shall publish in the Official Gazette or two newspapers with nationwide circulation and announce on the Commission website and in mass 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 (14) days and shall end one day prior to polling day.

100. Section 119 of the Act is amended by deleting the word “Electoral” in the title and replacing it with the word “Election” to read as follows:

102. Rights and Duties of Candidates and Political Parties during Election Campaign.

101. Section 122 of the Act is repealed.

102. Section 123 of the Act is repealed

PART VIII
REFERENDUM

103. Section 124 of the Act is amended by renumbering, adding the “Transitional” between the article “the” and the word “National” and the word “Legislative” before the word “Assembly” to read as follows:

103. 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 Transitional National Legislative Assembly pursuant to a resolution passed by more than half of its members in accordance with the provisions of Article 195 of the Constitution.

104. Section 125 of the Act is amended by renumbering, deleting and adding sub-sections (2) and (3) and renumbering the section to read as follows:

104. Procedures and Regulations for the Referendum

(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 rules and regulations issued pursuant to this Act.

PART IX
VACANT SEATS

105. Section 127 of the Act is amended by renumbering, deleting and rephrasing the title of the section to read as follows:

105. Gubernatorial By-Election

106. Section 128(2) of the Act is amended by renumbering, deleting the figures 60 (6) and replacing with figures 65 (6) to read as follows:

106. By-Election for the National Legislative Assembly

(2) Where a seat filled through appointment by the President under section 63 (6) of this Act falls vacant, the seat shall be filled through appointment by the President.

107. The Act is amended by deleting the title of PART X and substituting it with the title "ELECTION OFFENCES", further deleting the headings of Chapter One, Chapter Two and Chapter Three and deleting the words "corrupt practice" and "illegal practice" whenever they appear under the PART and replacing them with the words "election offence" to read as follows:

PART X

ELECTION OFFENCES

108. Section 132 (1) of the Act is amended by adding a new paragraph (f) and renumbering the section to read as follows:

107. Undue Influence

(1) For purposes of this Act, "Undue Influence" shall mean:

(f) Soliciting for sexual favours and exploitation or gender-based violence.

109. Section 136 (2) of the Act is amended by adding the words "and persons with disabilities" after the word "needs" and before the word "may" to read as follows:

108. Infringement of Secrecy of the Ballot

(2) Without prejudice to the provision of sub-section (1) of this section, people with special needs and persons with disabilities may be assisted to cast their vote in accordance with regulations.

110. Section 140 of the Act is amended by rephrasing the title, deleting and substituting it to read as follows:

109. Misuse of Public Resources

A candidate shall be deemed to have committed an offence if that candidate uses any public resources for the purpose of carrying out his or her electoral campaign.

111. Section 146 of the Act is amended by rephrasing the title of the section and deleting, substituting and restructuring to read as follows:

110. Penalties Under this Part

(1) Unless otherwise provided by other law, any person who contravenes the provisions of this Part shall, on conviction by a competent court, be sentenced to imprisonment for a term that shall not exceed one year or with a fine to be determined by the competent court or both.

(2) The Commission may disqualify any candidate on the basis of committing an election offence.

112. The Act is amended by adding a new Part XI and new sections (152), (153), (154), (155) (156), (157), (158), (159), (160), (161), (162), (163) and (164) and subsequent parts and sections renumbered to read as follows:

PART XI

ELECTION PETITIONS

CHAPTER ONE

PETITIONS FOR PRESIDENTIAL, GUBERNATORIAL OR CHIEF ADMINISTRATOR ELECTIONS

111. Petitions for Presidential and Gubernatorial Elections

(1) Any dispute regarding the propriety of the conduct and results of Presidential, Gubernatorial and Chief Administrator elections shall be referred to the Court for determination. The decision of the Court shall be final and binding.

(2) A Presidential, Gubernatorial or Chief Administrator election petition shall be brought before the Court.

(3) A petition to challenge the validity of a Presidential, Gubernatorial or Chief Administrator election shall be filed within twenty-eight (28) days after the date of declaration of the results of the election and served within seven days of presentation;

(4) A Presidential, Gubernatorial or Chief Administrator election petition may be filed by any one or more of the following persons, namely —

(a) a person who voted or had a right to vote at the election to which the petition relates;

(b) a person claiming to have had a right to be returned or elected at such election;

(c) a person alleging himself to have been a candidate at such election.

(5) Every such petition shall be accompanied by a statement setting out the name and description of the petitioner and the relief sought, and by affidavits verifying the facts relied on, and shall be made in accordance with the rules of the Court.

(6) The Court shall hear and determine a presidential election petition within fourteen (14) days and the decision of the Court shall be final.

(7) Gubernatorial or Chief Administrator petitions shall be determined within three (3) months. The decision of the Court shall be final.

112. Grounds for Filing a Presidential, Gubernatorial or Chief Administrator Election Petition

The grounds upon which a Presidential, Gubernatorial or Chief Administrator election petition may be filed include;

(a) The validity of the conduct of the election

(b) The validity of the qualification of the Candidate

(c) Non-compliance with the provisions of the Constitution and written law that substantially affected the result of the election

113. Relief sought in Presidential, Gubernatorial or Chief Administrator Election Petitions

All or any of the following relief to which the petitioner may be entitled may be claimed in a Presidential, Gubernatorial or Chief Administrator election petition, namely —

(a) A declaration that the election is invalid;

(b) A declaration that the declaration of the person as winner was invalid;

(c) A declaration for a scrutiny or recount of the votes;

(d) where an unsuccessful candidate is found on a scrutiny to have had a majority of lawful votes, a declaration that, a candidate was duly elected and ought to have been declared the winner;

114. Service of Petitions in Presidential, Gubernatorial or Chief Administrator Elections

(1) Notice in writing of the presentation of a petition challenging a presidential or gubernatorial election, accompanied by a copy of the petition, and shall be served personally upon a respondent or respondents within seven days of the date of filing.

(2) Where the respondent cannot be found, service may be done by other means to be determined by court and conducted through substituted service.

115. Security for Costs in Presidential, Gubernatorial or Chief Administrator Election Petitions

(1) A petitioner shall deposit security for the payment of costs that may become payable by the petitioner not more than ten days after the presentation of a petition under this Act.

(2) A person who presents a petition to challenge an election shall deposit such amounts as shall be determined by the Commission in the rules and regulations.

(3) Where a petitioner does not deposit security as required, or if an objection is allowed and not removed, no further proceedings shall be heard on the petition and the respondent may apply to the Court for an order to dismiss the petition and for the payment of the respondent's costs.

116. Procedure of the Court on Receipt of a Presidential, Gubernatorial or Chief Administrator Election Petition

Upon receipt of a petition, the Court shall peruse the petition and—

(a) if it considers that no sufficient ground for granting the relief claimed is disclosed therein may reject the petition summarily; or

(b) admit the petition for hearing.

117. Scrutiny in Presidential, Gubernatorial or Chief Administrator Election Petitions

(1) The Court may, on its own motion or on application by any party to the petition, during the hearing of an election petition, order for a scrutiny of the voting process to be carried out in such manner as the Court may determine.

(2) The scrutiny in (1) above shall comprise of a court supervised investigation into the validity of the votes cast.

118. Declaration of Presidential, Gubernatorial or Chief Administrator Election as Null and Void Following an Election Petition

The election of a Presidential, Gubernatorial or Chief Administrator candidate shall be declared to be null and void on an election petition on any of the following grounds which may be proved to the satisfaction of the Court, namely —

(a) that by reason of general bribery, general treating or general intimidation, or other misconduct or other circumstances, whether similar to those before enumerated or not, the majority of electors were or may have been prevented from electing the candidate whom they preferred;

(b) non-compliance with the provisions of this Act relating to elections, if it appears that the election was not conducted in accordance with the principles laid down in the Constitution and written law and that such non-compliance substantially affected the result of the election;

(c) that a corrupt or illegal practice was committed in connection with the election by the candidate or with his knowledge and consent or by an election agent of the candidate or with the knowledge and consent of an election agent of the candidate;

(d) that the candidate was at the time of his election a person disqualified for election

119. Costs

(1) The Court shall award the costs of and incidental to a petition and such costs shall follow the cause.

(2) The Court shall issue rules on costs.

120. Certificate of the Court as to validity of a Presidential, Gubernatorial or chief administrator Election Petition

The Court shall, at the conclusion of the hearing of an election for Presidential, Gubernatorial or Chief Administrator Elections, determine the validity of any question raised in the petition, and shall certify its determination to the Commission and notify the relevant Speaker.

121. Procedure for New Presidential, Gubernatorial or Chief Administrator Elections Following a Petition

(1) Where a Presidential, Gubernatorial or chief administrator election is invalidated by the Court on a petition, the Commission shall publish a notice in the Official Gazette or two newspapers with nationwide circulation and announcement on the Commission website and in mass media, within seven days from the determination of the Court —

(a) indicating that the presidential, gubernatorial or chief administrator election has been invalidated and that no candidate has been elected as president;

(b) announce the date for new election;

(c) publish the names and political parties of the candidates to participate in the new election.

(2) The Commission shall not conduct fresh nominations for a new election

(3) An eligible candidate for a Presidential, Gubernatorial or Chief Administrator election pursuant to the Constitution may withdraw from the election by notice in writing to the Commission, and —

(a) where there are more than two remaining candidates in the election after the withdrawal, the election shall proceed as scheduled;

(b) where only one candidate remains after the withdrawal, the remaining candidate shall be declared elected forthwith as the President-elect, Governor-elect or Chief Administrator-elect without any election being held.

122. Issuance of Certificate by the Court on the Result of the Petition

The Court shall issue a certificate of the result of its ruling to the Commission following the determination of an election petition.

CHAPTER TWO

PETITIONS FOR NATIONAL LEGISLATIVE ASSEMBLY, STATE ASSEMBLIES, COUNCIL OF STATES, ADMINISTRATIVE AREA LEGISLATIVE COUNCIL, AND LOCAL GOVERNMENT ELECTIONS

123. Filing of Petitions for National Legislative Assembly, State Assemblies, Administrative Area Legislative Council, Council of States and Local Government Elections.

(1) Petitions in elections of the National Assembly, State Assemblies, Administrative Area Legislative Council, Council of State and Local Government elections shall be tried by a Competent Court.

(2) An election petition under sub-section (1) above, may be filed by any one or more of the following persons, namely —

(a) a person who voted or had a right to vote at the election to which the petition relates;

(b) a person claiming to have had a right to be returned or elected at such election;

(c) a person alleging himself to have been a candidate at such election.

(3) A petition shall be filed within twenty-eight (28) days after the date of the declaration of the results.

(4) Every such petition shall be accompanied by a statement setting out the name and description of the petitioner and the relief sought, and by affidavits verifying the facts relied on, and shall be made in accordance with the rules of the Competent Court.

(5) Within 120 days after the filing of petition, under sub-section (3), the Competent Court shall hear and determine the petition and its decision shall be final.

124. Grounds for Filing Election Petitions for Elections of the National Assembly, State Assemblies, Administrative Area Legislative Council, Council of States and Local Government

The grounds upon which an election petition for elections of the National Legislative Assembly, State Assemblies, Administrative Area Legislative Council, Council of States, and Local Government may be filed include:

- (a) the validity of the conduct of the election;
- (b) the validity of the qualification of the Candidate; and
- (c) non-compliance with the provisions of the Constitution and written law that substantially affected the result of the election

125. Relief Sought in Petitions for Elections of the National Assembly, State Assemblies, Administrative Area Legislative Council, Council of States and Local Government Elections

All or any of the following relief to which the petitioner may be entitled may be claimed in a petition, namely —

- (a) a declaration that the election is invalid;
- (b) a declaration that the declaration of the person as winner was invalid;
- (c) a declaration for a scrutiny or recount of votes;
- (d) where an unsuccessful candidate is found on a scrutiny to have had a majority of lawful votes, a declaration that the candidate was duly elected and ought to have been declared the winner.

126. Service of Petitions Challenging Elections of the National Assembly, State Assemblies, Administrative Area Legislative Council, Council of States and Local Government Elections

(1) Notice in writing of the presentation of a petition challenging election in the National Assembly, State Assemblies, Administrative Area Legislative Council, Council of States and Local Government elections, accompanied by a copy of the petition, may be served personally upon a respondent or respondents within seven days of the date of filing.

(2) Where the respondent cannot be found, service may be done by publication in mass media.

127. Security for Costs in Petitions of the National Assembly, State Assemblies, Administrative Area Legislative Council, Council of States and Local Government Elections

(1) A petitioner shall deposit security for the payment of costs that may become payable by the petitioner not more than ten days after the presentation of a petition under this Part.

(2) A person who presents a petition to challenge an election shall deposit such amounts as shall be determined in the regulations.

(3) Where a petitioner does not deposit security as required, or if an objection is allowed and not removed, no further proceedings shall be heard on the petition and the respondent may apply to the Competent Court for an order to dismiss the petition and for the payment of the respondent's costs.

128. Procedure of the Court on Receipt of a Petition in Elections of the National Assembly and State Assemblies, Administrative Area Legislative Council, Council of States and Local Government Elections

Upon receipt of a petition, the Competent Court shall peruse the petition and—

(a) if it considers that no sufficient ground for granting the relief claimed is disclosed therein may reject the petition summarily; or

(b) fix a date for the trial of the petition.

129. Scrutiny in Petitions Challenging Elections of the National Assembly, State Assemblies, Administrative Area Legislative Council, Council of States and Local Government Elections

(1) The Competent Court may, on its own motion or on application by any party to the petition, during the hearing of an election petition, order for a scrutiny of the voting process to be carried out in such a manner as the Court may determine.

(2) The scrutiny in (1) above shall comprise of a court supervised investigation into the validity of the votes cast.

130. Nullification of National Assembly, State Assemblies, Administrative Area Legislative Council, Council of States and Local Government Elections.

A Competent Court shall only declare an election null and void for non-compliance with any written law relating to that election if it appears that —

(a) the election was conducted in contravention of the principles laid down in the Constitution and in that written law; and

(b) the non-compliance substantially affects the result of the election.

131. Costs

(1) A competent court shall award the costs of and incidental to a petition and such costs shall follow the cause.

(2) The competent court shall issue rules on costs.

132. Certificate of court as to Validity of National Assembly, State Assemblies, Administrative Area Legislative Council, Council of States and Local Government Elections.

A competent court shall at the conclusion of the hearing of an election petition in National Assembly, State Assemblies, Council of States, Administrative Area Legislative Council and Local Government elections determine the validity of any question raised in the petition, and shall certify its determination to the Commission and notify the relevant Speaker.

133. Procedure for New Elections Following a Petition in National Assembly, State Assemblies, Council of States, Administrative Area Legislative Council and Local Government Elections.

(1) Where a National Assembly and State Assemblies, Council of States, Administrative Area Legislative Council or Local Government election is invalidated by the Competent Court on a petition, the Commission shall publish a notice in the Gazette or mass media, within seven days from the determination of the Court —

(a) indicating that the election has been invalidated and that no candidate has been elected as president;

(b) announce the date for new election;

(c) publish the names and political parties of the candidates to participate in the new election.

(2) The Commission shall not conduct fresh nominations for a new election.

(3) An eligible candidate for an election under (1) above may withdraw from the election by notice in writing to the Commission, and —

(a) where there are more than two remaining candidates in the election after the withdrawal, the election shall proceed as scheduled;

(b) where only one candidate remains after the withdrawal, the remaining candidate shall be declared the winner without any election being held.

113. The title of Part XII of the Act is amended by deleting the word "General" and replacing it with the word "Miscellaneous" to read as follows.

PART XII

MISCELLANEOUS PROVISIONS

114. Section 147 of the Act is amended by rephrasing the title, deleting, substituting, renumbering, restructuring it and adding a new sub-section (2) to read as follows:

134. Observers and Agents

- (1) Elections and referenda shall be observed by local, regional and international observers.
- (2) Competent and impartial local, regional and international observers shall be invited and accredited by the Commission to monitor the conduct of the entirety of the electoral process in accordance with the provisions of this Act.
- (3) 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 and Constitutional Affairs;
 - (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.
- (4) 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.
- (5) Any candidate or political party may nominate "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 have the right to submit, verbally or in writing, any questions or objections to the registration, polling, and sorting committees.
- (6) Accredited observers and agents shall be provided with access to registration, polling, and aggregation sites.
- (7) The Commission shall make rules to determine how suitable space for agents and observers at the sites mentioned in sub-section 5 of this section shall be assigned in order to permit the observers and agents to perform their duties easily and safely.

(8) The Commission shall make necessary rules to regulate the accreditation of agents and observers and shall ensure that accreditation commences in advance of voter registration.

(9) All agents and observers shall abide by their respective codes of conduct as issued by the Commission in accordance with regulations.

115. Section 149 of the Act is amended by modifying the title by deleting the word “confirmation” and replacing it with the word “accreditation” and adding the word “competent” in sub-section (3) to read as follows:

135. Revocation of Observers Accreditation

(3) Any observer aggrieved by the decision of the Commission may appeal to the Competent Court for expedient dispute resolution. The Commission shall comply with the decision of the Court.

116. The title of section 155 of the Act is amended by deleting the word “Electoral” and replacing it with the word “Election” to read as follows:

136. Preservation and Destruction of Election Materials

117. A new section is added to the Act immediately after section 182 and subsequent sections renumbered to read as follows:

137. Settlement of Disputes

(1) The Commission shall be responsible for the settlement of electoral disputes, including disputes relating to or arising from nominations but excluding election petitions and disputes subsequent to the declaration of election results.

(2) An electoral dispute under sub-section (1) shall be determined within ten days of the lodging of the dispute with the Commission.

(3) Notwithstanding sub-section (2), where a dispute under sub-section (1) relates to a prospective nomination or election, the dispute shall be determined before the date of the nomination or election, whichever is applicable.

118. Section 156 of the Act is repealed.

119. The Act is amended by renumbering section 157 to read as follows:

138. 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.

120. Section 158 of the Act is amended by rephrasing the title, deleting, adding and renumbering to read as follows:

139. Regulations

The Commission shall issue regulations for proper implementation of the provisions of this Act.

FIRST SCHEDULE

[Section 11, National Elections Act, 2012 (Amendment) Act, 2023]

PROCEDURE FOR APPOINTMENT OF MEMBERS OF THE COMMISSION DURING THE TRANSITIONAL PERIOD

- (1) The President shall in consultation and agreement with the First Vice President and the four Vice Presidents appoint a selection committee composed of parties and stakeholders to the Agreement for membership of the Commission.
- (2) The selection committee shall, within seven days of its appointment, invite parties to submit applications from qualified persons.
- (3) The selection committee shall consider the applications, shortlist and interview the applicants for the positions of Chairperson, Deputy Chairperson, Chief Electoral Officer and members of the Commission.
- (4) After conducting interviews under clause (3) above, the selection committee shall select one (1) person each qualified to be appointed as Chairperson, Deputy Chairperson, Chief Electoral Officer and six (6) persons qualified to be appointed as members of the Commission and shall forward the names to the President for nomination and appointment.
- (5) The President shall, upon receipt of the names under clause (4) above, nominate one person each for appointment as the Chairperson, Deputy Chairperson, Chief Electoral Officer and six (6) persons to be members of the Commission and forward the names to the Transitional National Legislative Assembly for approval. The Assembly shall approve the names of nominees within thirty (30) days.
- (6) The President shall appoint the approved persons within fourteen (14) days of approval by the Transitional National Legislative Assembly. The appointment shall be published in the Official Gazette or two newspapers with nationwide circulation and announced on the Commission website and in mass media.

SECOND SCHEDULE

[Section 17, National Elections Act, 2012 (Amendment) Act, 2023]

CONDUCT AND REGULATION OF MEETINGS OF THE COMMISSION

1. The Commission shall hold regular ordinary meetings as often as may be necessary for the carrying out of its business but it shall meet at least once every calendar month.
2. A meeting of the Commission shall be held on such date and at such time as the chairperson shall decide.
3. The chairperson shall, on the written application of one-third of the members, convene an extraordinary meeting of the Commission.
4. Unless otherwise agreed by a majority of members of the Commission, at least fourteen days' written notice of every meeting of the Commission shall be given to every member of the Commission.
5. The quorum for meetings of the Commission shall be deemed complete by presence of at least half of the existing members of the Commission, provided that the quorum shall not be less than five members;
6. The chairperson shall preside at every meeting of the Commission at which he or she is present and in the absence of the chairperson, the deputy-chairperson, shall preside and in the absence of both the chairperson and the deputy chairperson, the members present shall elect one of their members who shall, with respect to the meeting and the business transacted there at, have all the powers of the chairperson.
7. Decisions of the Commission shall be by consensus of all the members present and in lieu of consensus, by a simple majority vote. In the event of a tie, the chairperson shall have a casting vote.
8. The Commission shall cause minutes of all proceedings of meetings of the Commission to be entered in books for that purpose
9. Decisions of the Commission shall be made readily available to the public at the Commission office and the Commission's website in the manner approved by the Commission, at least within seven (7) 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.
10. Subject to clause 5, no proceedings of the Commission shall be invalid by reason only of a vacancy among the members thereof.
11. The Secretary General shall be the secretary at all meetings of the Commission.
12. Except as provided by this Schedule, the Commission may regulate its own procedure and code of conduct for its members and staff.
13. Disclosure of Interest
 - (a) Any person present at a meeting of the Commission or any committee at which any matter is the subject of consideration and in which matter that person is directly or

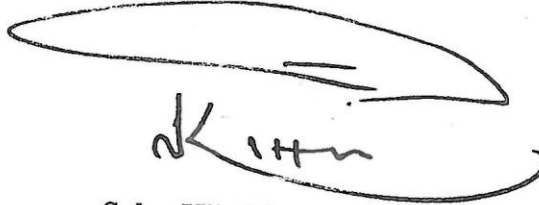
indirectly interested in a private capacity, that person shall as soon as is practicable after the commencement of the meeting, declare such interest and shall not, unless the Commission or committee otherwise directs, take part in any consideration or discussion of, or vote on any question touching such matter.

- (b) A disclosure or interest made under sub-clause (a) above, shall be recorded in the minutes or the meeting at which it is made.
- (c) A person who contravenes subclause (a) commits an offence and upon conviction is liable to a fine not exceeding three million South Sudanese Pounds or to imprisonment to a term not exceeding seven years or to both such fine and imprisonment.
- (d) No member or staff of the Commission shall transact any business or trade with the Commission.

Assent of the President

In accordance with provisions of Article 85 (1) of the Transitional Constitution of the Republic of South Sudan, 2011(as amended), I, Salva Kiir Mayardit, President of the Republic of South Sudan, hereby assent to the National Elections Act, 2012 (Amendment) Act, 2023 and sign it into law.

Signed under my hand in Juba this 25th day of the month of SEPT. in the year, 2023.

A handwritten signature in black ink, consisting of a large, stylized 'K' followed by 'iir' and 'Mayardit' in a cursive script. The signature is enclosed within a large, hand-drawn oval.

**Salva Kiir Mayardit
President
Republic of South Sudan
Juba**