

LAWS OF SOUTHERN SUDAN

PUBLIC GRIEVANCES ACT, 2011

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LAWS OF SOUTHERN SUDAN

PUBLIC GRIEVANCES ACT, 2011

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

CHAPTER I

PRELIMINARY PROVISIONS

1. Title and Commencement.

This Act may be cited as the "Public Grievances Chamber Act 2011," and shall come into force on the date of its signature by the President.

2. Repeal and Saving.

Any provisions of the existing Legislation which are governed by this Act, with the exception of National Legislation that governs the same matter, are hereby repealed; *provided that*, all proceedings, orders and regulations taken or made thereunder, except to the extent they are cancelled by or are otherwise inconsistent with the provisions of this Act, shall remain in full force or effect, until they repealed or amended in accordance with the provisions of this Act.

3. Purpose.

The purpose of this Act is to provide for the establishment of an independent Chamber to redress public grievances and remove patent injustices and prevent injuries suffered by citizens in relation to institutions of the Government of Southern Sudan. Furthermore it strives to improve the performance of the Government Institutions by ensuring their efficiency and propriety.

4. Authority and Application.

This Act is drafted in accordance with the provisions of Article 151 of the Interim Constitution of Southern Sudan, which grants the Government of Southern Sudan the Authority to establish the Public Grievances Chamber with its power as its deem necessary to promote justice and good governance.

5. Interpretations.

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

“Assembly” means the Southern Sudan Legislative Assembly;
“Auditor-General” means the head of the Southern Sudan Audit Chamber;
“Chamber” means the Southern Sudan Public Grievances Chamber;
“Chairperson” means the head of the Chamber;
“Constitution” means the Interim Constitution of Southern Sudan, 2005;
“Deputy Chairperson” means the second highest authority in the Chamber;
“Employee” means the supporting staff employed by the Chamber;
“Grievance” means a formal complaint made on the basis of something that somebody feels is unfair;
“Government Institutions” means Government institutions the Council of Ministers, Commissions, Chambers, Departments, other Administrative units of the Government, Government-owned corporations, States and local government institutions, legislatures and public sector companies;
“Government” means the Government of Southern Sudan;
“Internal Auditor” means the qualified person who oversees the proper accounting at the Chamber funds;
“Member” means a member of the Chamber Board appointed in accordance with the provisions of this Act, and unless the context requires otherwise shall include the Chairperson;
“President” means the President of the Government;
“Public” includes any class or section of the public or everyone in the community as a whole;
“Public Grievances” means any such grievances involving patent injustice, injuries or wrong that gives ground for complaint as may be presented to the Chamber against Government Institutions and/or individual official(s), after exhausting all the ways of administrative channels; and
“State” refers to any of the ten states established by the Constitution.

CHAPTER II

THE SOUTHERN SUDAN PUBLIC GRIEVANCE CHAMBER

6. Establishment of the Chamber.

- (1) The Public Grievance Chamber (hereinafter called “the Chamber”) is hereby established as an independent agency of the Government to consider complaints relating to grievances suffered by citizens in relation to Government Institutions in Southern Sudan.
- (2) The Chamber shall have an independent organizational structure, and shall be funded by a separate budget. The structure of the Chamber shall be established in accordance with the provisions of this Act.
- (3) The Chamber shall perform its functions in an independent, open, objective, transparent, and non-discriminatory manner and accountable manner, as more specifically provided by this Act.

7. Functions of the Chamber.

- (1) The functions of the Chamber shall be—

- (a) to address Public Grievances;
 - (b) to consider complaints relating to grievances suffered by citizens in relation to Government Institutions;
 - (c) to make recommendations or propose remedies to the President;
 - (d) to make recommendations to the Assembly any measures it deems appropriate to ensure efficiency, justice or probity;
 - (e) without prejudice to the jurisdiction of the judiciary, the Chamber shall work all over Southern Sudan to remove patent injustice, clear away grievances and assure efficiency and purity in practice;
 - (f) to consider complaints relating to grievances suffered by citizens in relation to Government Institutions;
 - (g) to inspect the performance of the Government Institutions, in such a way as may avail the scientific evaluation and reveal the aspect of failure and achievement;
 - (h) to verify the most ideal utilization of the available material and human capabilities;
 - (i) to ascertain the effect of just application of such laws and regulations as may govern and organize the Administrative activity and the relation of employees therein;
 - (j) to administer the investigation of any such aspects of shortcomings and defects, as may be revealed by any of the measures the control activity;
 - (k) to consider any consistent general complaints, by individuals, where the same in whole constitutes a phenomenon of general defect in the performance of any of the Government Institutions; and
 - (l) such other functions as may be assigned thereof by the President or the Assembly.
- (2) The Chamber shall consider grievances only after exhausting all means and stages of litigation by the complainant.
- (3) With respect to the generality of the foregoing functions, the Chamber shall decide in co-ordination with the various Government Institutions on the following issues—
- (a) such general Grievances as may relate to the Government Institutions;
 - (b) such patent injustices, as may result from judicial decrees, or as may transcend from such decrees, without affecting the finality thereof;
 - (c) such injuries, as may arise out of abuse of power or corruption by Government Institutions of Southern Sudan or Ministers, Governors, on condition that all available legal and administrative avenues are exhausted;
 - (d) any such application of which may lead to patent injustice, and submission of a memorandum of the same the competent bodies; and
 - (e) any such other Grievances, as treatment thereof may not have been possible, and patent injustice has resulted for the same.

8. Powers of the Chamber.

- (1) The powers of the Chamber pursuant to this Act include—
 - (a) the issuance of regulations, administrative rules, forms and instructions for the implementation of this Act;

- (b) the purchase, holding, management and disposal of any property whether moveable or immovable;
- (c) enter into contracts or other transactions as may be expedient to forward the functions and goals of the Chamber;
- (d) the establishment of such units and directorate as may be necessary to fulfil the obligations of the Chamber;
- (e) require information, deeds and documents, relating to any subject, as may be transferred there to, by any of the Government Institutions;
- (f) summon any such person, as it may deem the appearance thereof before it necessary, to question him or her for determining any subject submitted there before;
- (g) direct Government Institutions concerned, to take the necessary protective administrative measures;
- (h) form specialized committees and think-tanks to formulate strategies to prevent or avert catastrophic manmade or natural disasters;
- (i) study the proposed budget of the Chamber, and submit the same to the President;
- (j) propose the terms of service of employees of the chamber, and submit the same to the President; and
- (k) submit reports and recommendations thereof, in accordance with Article 151(3) of the Constitution or propose remedies to the President. The Chamber may on its own motion recommend to the Assembly any measures it deems appropriate to ensure efficiency, justice or probity in the performance of the Southern Sudan governmental institutions.

CHAPTER III

THE CHAIRPERSON, DEPUTY CHAIRPERSON AND BOARD MEMBERS

9. Appointment and Qualifications of Chairperson & Deputy Chairperson.

- (1) The Chairperson and Deputy Chairperson shall be appointed by the President.
- (2) The Chairperson and Deputy Chairperson shall—
 - (a) be a citizen of Sudan;
 - (b) be of sound mind or high character;
 - (c) be at least forty years of age;
 - (d) be literate and;
 - (e) not have been convicted of an offence involving honesty or criminal turpitude for which he or she has not been pardoned.
 - (f) does not hold an elected position at any level of the Government.
 - (g) possesses the skills and knowledge relevant to the position; and
 - (h) is not an undischarged bankrupt or insolvent.

10. Benefits and Terms of Service.

- (1) The Chairperson shall have the status of a state minister, and shall be entitled to receive such salary and benefits that accompany that position.

- (2) The Deputy Chairperson shall have the status of an undersecretary of the Government and shall be entitled to receive such salary and benefits that accompany that position.
- (2) The Chairperson and Deputy Chairperson shall be required to terminate any business activities and financial interests in enterprises which may conflict with the activities with the Chamber.
- (3) The Chairperson and Deputy Chairperson shall comply with the provisions of the Chamber's standards of conduct.
- (4) The Chairperson's and Deputy Chairperson's term shall each be for a period of five (5) years from the date of the appointment, unless otherwise lawfully removed from office in accordance with the provision of this Act by the President.

11. Removal and Resignation.

- (1) The Chairperson, Deputy Chairperson and the Members of the Chamber may be removed from office, on the grounds of professional incompetence or misconduct by the President; specific grounds for removal or mandatory resignation of the Chairperson, Deputy Chairperson and the Members shall include, without being limited to, the following—
 - (a) death;
 - (b) mental or physical incapacity;
 - (c) disqualification under the provisions of this Act;
 - (d) declaration of bankruptcy or insolvency;
 - (e) unexcused absence from three consecutive official and ordinary meetings of the Chamber;
 - (f) conviction of a criminal offense; or
 - (g) beneficial financial gains obtained from any of the activities of the Chamber.
- (2) The Chairperson and Deputy Chairperson may resign from the Chamber upon the delivery of one month written resignation to the President.

12. Appointment of Board Members.

- (1) Members of the Board shall be nominated by the Chairperson, acting in consultation with the President, and shall be subject to confirmation by the Assembly. During the period that the nomination is under consideration by the Assembly, the nominee may serve on the Board with full authority.
- (2) The list of nominees for the initial Board shall be submitted to the Assembly for consideration as soon as practicable after the entry into force of this Act.

13. Members' Terms of Service.

- (1) The Members shall—

- (a) be a citizen of Sudan;
 - (b) be of sound mind or high character;
 - (c) be at least forty years of age;
 - (d) be literate and;
 - (e) not have been convicted of an offence involving honesty or criminal turpitude for which he or she has not been pardoned;
 - (f) does not hold an elected position at any level of the Government.
 - (g) possesses the skills and knowledge relevant to the position; and
 - (h) is not an undischarged bankrupt or insolvent.
- (2) The Board Member's term shall be for a period of four (4) years from the date of the appointment, unless otherwise lawfully removed from office in accordance with the provisions of this Act. The number of terms a Board Member may serve is restricted to two terms.
- (3) Upon a two-thirds vote, the Board shall remove a Member on the grounds of professional incompetence or misconduct. Specific grounds for removal or mandatory resignation of a Member are the same as apply to the Chairperson and Deputy Chairperson.
- (4) At least twenty-five (25%) of the Members shall be women.
- (5) A Member may resign from the Board upon the delivery to the Chairperson of not less than one (1) month written notice thereof.

14. Oath.

The Chairperson, Deputy Chairperson and all Members of the Chamber shall, before assuming his or her duty, take the following oath or affirmation before the President—

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

15. Restriction on Outside Employment.

The Chairperson, Deputy Chairperson and the Members shall not practice any private profession, transact commercial business, or receive remuneration or accept employment of any kind from any source other than the Government and shall be required to work for the Chamber on a fulltime basis. Accordingly, as a condition for accepting the appointment, the Chairperson, Deputy Chairperson and the Members shall, if applicable, resign from public or elected office or other employment.

16. Chamber Employees.

Chamber employees shall be recruited, appointed, disciplined and dismissed in accordance with the provision of the Civil Service law and regulations.

17. Exemption from Liability.

No Member of the Board, nor officer or support staff of the Commission, shall be subject to liability for any act or omission committed in the exercise or performance of his or her functions and duties with the Commission; *provided that*, such acts or omission are committed in good faith.

CHAPTER IV

CHAMBER BOARD AND DECISION MAKING

18. Operations of the Chamber's Board.

- (1) The Chamber's legal authority shall reside in its Board. Decisions of the Board shall be made in a transparent manner, independent of outside political, industrial or other influence.
- (2) The Board shall be comprised of the Chairperson, the Deputy and three (3) Members.
- (3) A simple majority of existing Members shall constitute a quorum to conduct the business of the Board.
- (4) Each Member, including the Chairperson, shall have one vote, and the votes of a majority of the voting Members shall be required to dispose of any item of business. In the event of a voting deadlock, the Chamber shall cast a second, deciding vote.
- (5) The Board shall meet as often as necessary, but not less than once each calendar month, to conduct its activities. The Board's meetings shall be open to the public unless decided otherwise by the Board either as part of its administrative guidelines or on an ad hoc basis.
- (6) The Board is authorized to adopt written policies which delegate certain tasks and functions to the staff of the Chamber.
- (7) Summaries of the proceedings of all Board meetings shall be made available for public review.

CHAPTER V

AUTHORITY AND PRINCIPLES OF CHAMBER'S OPERATIONS

19. Operating Policies and Standards of Conduct.

- (1) As soon as practical from the entry into force of this Act, but in no event more than 180 days, the Chamber shall adopt its own internal rules of operations, including, but not limited to, hiring and employment policies that are non-discriminatory and which are based on written job descriptions. All administrative rules adopted by the Chamber shall be made available to the public for inspection.
- (2) As soon as practical from the entry into force of this Act, but in no event more than 180 days, the Chamber shall adopt standards of conduct for its Members and staff designed to ensure that they perform their duties honestly and capably, avoiding actual or apparent conflicts of interest. Such standards of conduct shall include specific prohibitions on the acceptance of any beneficial financial gain from any activity of the Chamber, including, but not limited to, cash, stocks, real estate, gifts, travel or personal services.

20. Public Hearings.

- (1) The Chamber may initiate public hearings on all substantive matters, either on its own initiative or upon the written request from the President.
- (2) The hearings held by the Chamber shall be public, unless the Chamber otherwise decides, due to the confidential nature of any matters to be addressed in such hearings.
- (4) The Chamber shall adopt specific rules and procedures to govern public hearing. The Chamber shall make its public hearing procedures available to the public.
- (5) Comprehensive written records shall be taken from all hearings held by the Chamber.

21. Claims, Resolution of Disputes and Right of Appeal.

The Chamber shall adopt procedures to effectively address comments and/or complaints from affected parties, persons with legitimate interests and the public generally.

22. Right to Collect and Maintain Information.

- (1) The Chamber shall collect and maintain information, including but not limited to statistics, financial, employment and performance reports or other reports that it requires in order to fulfill its responsibilities under this Act or any other relevant legislation.

- (2) The Chamber shall collect personal data only pursuant to the law.
- (3) In handling information collected, the Chamber shall safeguard commercial secrets and other confidential information.

23. Investigations and Offenses.

- (1) The Chamber may investigate any facts, conditions, practices or matters which it finds necessary or proper to determine whether any person has violated or is about to violate this Act, other applicable laws, or any rule issued thereunder or to carry out any other lawful responsibility of the Chamber.
- (2) In conducting any such investigation, a Member of the Chamber Board or any officer designated by the Board shall have the power to call witnesses, compel their attendance, take evidence and require the production of books, papers, contracts, agreements, and other records relevant to the inquiry.
- (3) In the event that any person fails to obey Chamber's order, the Chamber may invoke the aid of any court of competent jurisdiction or public attorney to enforce the order and secure compliance therewith.

24. Procedure for Filing Complaints or Registering a Grievance with the Chamber.

Any aggrieved person may make a complaint in writing to the Secretary of the Chamber giving specific details of his or her grievances or as the case may be. The complaint should be duly supported by the following—

- (a) Supporting documents like the application etc. made by the complainant to the departments or Public Body or the organization specified above and the inaction or the wrong actions taken by the concerned official or office on the same;
- (b) A copy of order passed by any of the officials of these departments/bodies (but not being the orders of any civil or criminal courts, tribunals, judicial or quasi-judicial authorities) giving cause for grievance to the complainant; and
- (c) A duly sworn affidavit on plain paper has to be filed by the complainant confirming the correctness of facts or allegations made by him or her in the application and also containing a declaration that the subject matter of the complaint is not sub-judicial before any court of law or judicial or quasi-judicial authority.

25. Matters not to be considered by the Chamber.

Notwithstanding section 24 above, the Chamber is not obliged to take up cases of the following types—

- (a) Where the complaint made is anonymous and contains vague and superfluous allegations;
- (b) Where the matter is already subject matter of a proceeding in any court of law, tribunal or a judicial or a quasi-judicial authority; or
- (c) Where the complainant has not exhausted the channels available to him within the concerned ministry, department or organization.

26. Contraventions and Sanctions.

- (1) Every person who refuses or delays or fails to comply with, without reasonable grounds, as to the execution of decisions of the Chamber, shall be deemed, to have committed a contravention. The Chamber may take such action as may deem fit, in order to execute such decision, without prejudice, to any such other measures, as may be provided for in any other law. The existing institutions of order and justice shall assist the Chamber to ensure that its orders are strictly complied with.
- (2) The Chamber may by regulation fix penalties for failure to produce material or information, for obstruction of an investigation and noncompliance with orders and decisions of the Chamber as well as misleading the Chamber.
- (3) Any Government Institution or Official that fails to produce material(s) or information, obstructs investigation and/or fails to implement orders and decisions of the Chamber and/or any person that provides false information or documents that misleads the Chamber shall be deemed to have committed an offense and shall be liable, upon conviction, to imprisonment for time not exceeding one year or a fine equivalent to One Thousand Sudanese Pounds or both.

27. Protection of Complainants.

Any intimidation or threats or physical assault by any official(s) of Government institutions on complainant(s) as a result of the orders and/or decisions of the Chamber in relation to the grievances raised shall be considered an offense liable, upon conviction in court of law, to a maximum of three months imprisonment, or a fine equivalent to Five Hundred Sudanese Pounds or both, in addition to necessary compensation as may be determined by law.

CHAPTER VI

FINANCE, AUDIT AND REPORTING

28. Operational Principle.

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

29. Sources of Funding.

- (1) The Commission's operations shall be funded by an approved and allocated budget approved in accordance with the *Public Finance Management and Accountability* law and other sources and shall include, but not limited to—
 - (a) grants, donations and bequests from local or foreign bodies;
 - (b) financial support from international donor agencies;
 - (c) monies received for goods and services provided under this Act;

- (d) sums as may be appropriated by the Assembly in the Government Annual Budget; and
 - (e) any other source that may be approved by the President.
- (2) The Commission shall prepare and submit for approval and annual budget proposal, in accordance with Public Finance Management and Accountability law and respect to the Government budget process, for the following financial year. Such budget proposal shall be subject to review, revision and approval by the Assembly.

30. Bank Accounts.

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

31. Surplus Funds.

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

32. Accounts.

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

33. Audit.

- (1) The Chairperson shall ensure that, for each financial year the accounts of the Commission are audited by the Auditor-General or such other audit firm approved by the Auditor-General in writing and authorised by the Board.
- (2) The Board shall ensure that within four months from the end of the financial year, or such other period as the Government may require in writing, an audited statement of accounts, in accordance with the provisions of section 32 above, is submitted to the President and the Ministry of Finance and Economic Planning.

- (3) The Auditor-General shall have access to all the books of accounts, vouchers and other records, and shall be entitled to any information and explanation required in relation to those and any other records of the Commission.

34. Annual and Other Reports.

- (1) In addition to the Financial Audit Report, required by section 33 above, when required by the Ministry of Finance, the Commission shall also prepare a report of its activities during that financial year. The report required under this subsection shall be known as the Annual Report.
- (2) The Annual Report shall, inter alia, include the following information—
 - (a) a copy of the auditor's report;
 - (b) a statement of financial performance and of cash flows, budget performance and balance sheet;
 - (c) the budget for the coming financial year;
 - (d) a description of the activities of the Commission during the previous year;
 - (e) an analysis of the extent to which it has met its objectives of the previous year;
 - (f) an evaluation as to the extent to which the advice and directives of the Commission have been complied with;
 - (g) its objectives for the coming year; and
 - (h) any recommendations on the matters governed by this Act.
- (3) The Commission shall publish and disseminate widely the Annual Report, along with its audited accounts. In the event the Commission fails to distribute the Annual Report, it shall be distributed by the Ministry of Finance and Economic Planning.
- (4) The Board shall submit to the Office of the President and the Assembly such other reports on its activities or any other matter that may from time to time be required.

CHAPTER VII

MISCELLANEOUS PROVISIONS

35. Official Seal and Logo.

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

36. Confidentiality.

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

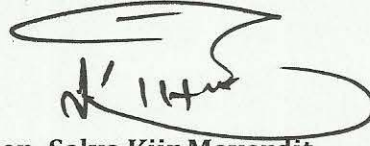
37. Regulations.

The Chamber shall make such rules and regulations as may be necessary for the effective and efficient implementation of the provisions of this Act.

Assent of the President of the Government of Southern Sudan

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

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



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