

# **THE NATIONAL ELECTIONS ACT 2008**

(Act No. XI of 2008)

Be it hereby enacted by the National Assembly, in accordance with the Interim National Constitution of the Republic of the Sudan 2005, and signed by the President of the Republic, the following Act:

## **Chapter One** **Preliminary Provisions**

### **Title and Commencement**

1. This Act shall be cited as "**The National Elections Act 2008**", and shall come into force as from the date of signature. Signed on  
15/7/2008

### **Repeal**

2. (1) The General Elections Act 1998 is hereby repealed.  
(2) The Prohibition of the Corrupt Practices Act 1994 is hereby repealed.

### **Interpretation**

3. In this Act unless the context otherwise requires:  
"Referendum" means the process of taking the opinion of all voters in case of reference of any matter relating to the national or public interest for referendum in accordance with Article 217 of the Interim National Constitution of the Republic of the

Sudan 2005, excluding the referendum referred to in sections 183(3) and 220 of the same Constitution,

**“Secretariat General”**

means the Secretariat General of the National Elections Commission provided for under section 15,

**“The Elections”**

means taking the opinion of the voters according to the Interim National Constitution of the Republic of the Sudan 2005 and this Act,

**“Political Party”**

means the Political Party registered under the Political Parties Act 2007,

**“Geographical Constituency”**

means the Geographical area comprising the voters for the election of the President of the Republic, the President of the Government of Southern Sudan, the Governors and also for the election of the membership of the National, Southern Sudan or state legislative Assemblies, provided that the number of citizens in the constituency shall not be more or less than the electoral or national dividend except as per the conditions provided for in this Act,

<b>“Constitution”</b>	means the Interim National Constitution of the Republic of the Sudan 2005,
<b>"Chairperson"</b>	means the Chairperson of the National Elections Commission appointed under section 6(4),
<b>“Chief of the Polling Committee”</b>	means the person appointed under section 20(3),
<b>“Chief of the Polling Centre”</b>	means the person appointed under section 20(3),
<b>“The Electoral Register”</b>	means the General Electoral Register which shall include the names of persons entitled to vote and participate in the referendum according to the provisions of the Constitution and this Act,
<b>“Election Conduct”</b>	means doing or refrain from doing any act or carry out any procedure relating to the elections or referendum,
<b>"Election Officer"</b>	means the person appointed under section 20(1),
<b>“Member”</b>	means the member of the National Elections Commission provided for under section 6(1),
<b>“Electoral Dividend”</b>	means the dividend obtained from the result of the division of the total number of the Southern Sudan population by the number of seats designated in the Legislative Assembly of Southern

Sudan to represent the geographical constituencies or the dividend obtained from the result of the division of the number of population of each state by the number of seats designated in its Legislative Assembly to represent the geographical constituencies in the state, as the case may be.

**“National Dividend”**

means the result of the division of the whole number of the population of the Sudan by the number of seats designated to the National Assembly to represent the geographical constituencies as specified in section 35,

**“Rules”**

means the rules made under the provisions of this Act,

**“Returning Elections Officer”**

means the person appointed under section 20(1),

**“High Committees”**

means the High Committees provided for under section 18,

**“Branch Committees”**

means Branch Committees for any elections or referendum formed according to section 19,

**“Legislative Assemblies”**

includes the National Legislature, the Southern Sudan Legislative Assembly and the states Legislative Assemblies,

**“Court”**

means the National Supreme Court,

<b>“Competent Court”</b>	means the Court specified by the head of the National Judiciary or the President of the Southern Sudan Supreme Court, as the case may be, to be competent to rule on appeals and contraventions presented in accordance with the provisions of this Act,
<b>"Commission"</b>	means the National Elections Commission established under the provisions of section 4(1),
<b>“Voter”</b>	means a person who is eligible to vote in the elections and participate in the referendum, and registered in the Electoral Register as provided for under sections 21 and 22,
<b>“Ballot Paper”</b>	means the paper officially issued by the Commission for polling by the voter for any elections or referendum to be conducted under the provisions of this Act,
<b>"Competent Judge"</b>	means the judge specified by the head of the National Judiciary or the President of the Southern Sudan Supreme Court to chair the committee to consider the objections against the details of the electoral register provided for in section 24(2).
<b>"Party List"</b>	means the state closed general party list containing 15% of the

total number of the members of any Legislative Assembly and nominated by the party.

**"Women List"**

means the state separate closed list relating to women which contains 25% of the total number of any Legislative Assembly and nominated by a political party.

**"Qualifying Percentage"**

means the standard qualifying to compete for obtaining a seat in Legislative Assemblies in case of election through the proportional representation by state party or state women lists.

**"Power of the Seat"**

means the dividend obtained from the result of the division of the total valid votes for all the lists of the proportional representation of the Legislative Assembly concerned by the number of seats designated in the Legislative Assembly concerned, whether for a party list or women list, as the case may be.

## **Chapter Two**

### **The Commission**

#### **Establishment of the Commission and Seat thereof**

4. (1) There shall be established, within one month after the adoption of this Act, a Commission to be known as “The National Elections Commission” having corporate personality and a public seal of its own.
- (2) The Commission shall establish High Committees at the Southern Sudan level of government and in all the states of the Sudan.
- (3) The seat of the Commission shall be in Khartoum.

#### **Independence of the Commission**

5. The Commission shall be financially, administratively, and technically independent, and shall perform its functions and duties independently, impartially and transparently without interference from any body in its affairs, business or functions, or limitation of its powers.

#### **Composition of the Commission and its Membership**

6. (1) The Commission shall be composed of nine members to be selected and appointed by the President of the Republic, with the consent of the First Vice-President according to Article 58(2) (c) of the Constitution and approval of two thirds of the members of the National Assembly, taking into consideration inclusiveness of representation to include the representation of women and other civil society groups.

- (2)** Each of the persons stated in subsection (1) above shall:-
- (a)** be a Sudanese,
  - (b)** be independent, competent, non-partisan and impartial,
  - (c)** be not less than thirty five years of age,
  - (d)** be of sound mind,
  - (e)** be literate, preferably University degree holder at least, or whoever in the status of a Court of Appeal Judge,
  - (f)** have not been convicted in the previous seven years of a crime involving honesty or moral turpitude or contravention of the election conduct , even if s/he enjoys amnesty,
  - (g)** not be a candidate in general elections, or agent of a candidate throughout her/his term of membership in the Commission,
- (3)** The tenure of office in the Commission shall be six years renewable for one additional term only by the Presidency of the Republic, provided that the conditions provided for under this Act are satisfied.
- (4)** The Chairperson and the Deputy Chairperson of the Commission shall be appointed by the President of the Republic with the consent of the First Vice President, from among the members of the Commission who were selected and appointed according to sub-section (1) above.
- (5)** The Chairperson and the Deputy Chairperson shall work on a full time basis.



### **Vacancy of the Post**

7. (1) A post in the Commission shall fall vacant for any of the following reasons:-
- (a) decision made under section 8,
  - (b) acceptance of the resignation by the Presidency of the Republic,
  - (c) certified mental infirmity or physical incapacity by an official medical report,
  - (d) death,
- (2) Whenever the post of any member falls vacant for any of the reasons provided for under sub-section(1), selection of the successor of such member shall be made in a period not exceeding thirty days, following the same procedures and conditions provided for under section 6(1).

### **Lapse of Membership or Removal**

8. (1) Membership of the Commission may lapse by a decision of the Presidency of the Republic for any of the following reasons:
- (a) repeated absence for five ordinary consecutive meetings without permission or an acceptable excuse, based on a report submitted by the Chairperson or his Deputy, as the case may be, to the Presidency of the Republic,
  - (b) conviction for a crime involving honesty or moral turpitude, based on a notification made by the Chairperson or Deputy Chairperson, as the case may be.

- (2) The Presidency of the Republic may remove upon a decision thereof the Chairperson, Deputy Chairperson or any other member of the Commission from office, for partiality or incapacity related to the functions, powers, and procedures of the Commission, such incapacity or partiality shall be assessed by a committee to be formed by the head of the Court upon the request by the Chairperson of the Commission or Deputy Chairperson, as the case may be, with the approval of two thirds of the members, from Judges whose grades are not less than Supreme Court Judge, and the decision of such committee shall be submitted by the Chairperson or Deputy Chairperson, as the case may be, to the Presidency of the Republic,

### **Oath of the Members of the Commission**

9. Members of the Commission shall take the following Oath before the President of the Republic :-

“I ....., as a member of the National Elections Commission, swear by Almighty God to perform my duties and responsibilities faithfully, impartially and independently without fear or favour to any body, and to observe the Constitution and the law and God is my witness”.

### **Functions and Powers of the Commission**

10. (1) The Commission shall ensure and guarantee the enjoyment by all citizens without discrimination the exercise of their political rights to nominate and freely express their will in secret ballot

in every periodic elections or referendum to be conducted under the provisions of the Constitution and this Act.

**(2)** Without prejudice to the generality of sub-section (1), the Commission shall be the only body to assume the following functions and powers:-

- (a)** regulation and supervision of the elections of the President of the Republic, President of the Government of Southern Sudan , Governors and the Legislative Assemblies,
- (b)** regulation and supervision of any referendum to be made according to the Constitution, without prejudice to Articles 183(3) and 220 of the Constitution.
- (c)** prepare, revise, approve and keep the Electoral Register,
- (d)** determine the geographical constituencies and conduct the elections in accordance with the provisions of this Act,
- (e)** issue the general rules of elections and referendum and take the necessary executive measures,
- (f)** lay down the procedures relating to the regulation of the candidates' election campaigns and prepare the electoral symbols lists thereto, and regulate the procedures for the accreditation of agents and observers,
- (g)** determine the measures and arrangements and periodical schedules and the local centres for registration and polling, and the measures to ensure the order, freedom, justice and secrecy in the

performance of registration and polling and the control measures to guarantee the same,

- (h)** control the sorting and count of the ballot cards and the arrangements of the final results, and declaration of the elections or referendum results,
- (i)** postpone any procedure of elections or referendum for any compelling situation according to this Act and determine new dates thereto,
- (j)** cancel the result of elections or referendum by a decision of the Court if it is proved that there was corruption in the correctness of the procedure in any centre or geographical constituency, provided that the Commission shall rectify the incorrectness and reorganize the conduct of elections or referendum in the affected centres or constituencies in a maximum period of sixty days in accordance with this Act,
- (k)** disseminate 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 periodical schedules for the secondment of candidates, evaluate and approve them and determine the procedure of withdrawal of nomination and publication of the approved final list of candidates,
- (l)** take the necessary action against any person who commits any corruptive and illegal practices and contravention of the election conduct, and take the appropriate action against any official or worker

- whenever it discovers that such official or worker has infringed any of the provisions of this Act or rules and regulations made hereunder,
- (m)** establish and maintain liaison and co- operation with political parties,
  - (n)** form the necessary committees to help in the performance of its functions, and determine their functions and powers and working procedures,
  - (o)** establish its executive offices in Southern Sudan and all the states of Sudan and determine their functions and powers,
  - (p)** recruit officers and staff of the registration and the referendum and specify their functions and powers and supervise them,
  - (q)** adopt its annual current budget and the budgets for elections and referendum process,
  - (r)** approve the organizational chart of the Commission and the Secretariat General, and determine the emoluments of the Secretary General and the terms and conditions of service for the employees, and submit the same to the Presidency of the Republic for approval,
  - (s)** deal with any requirements, matters or procedures necessary for registration, voting, sorting or referendum,
  - (t)** perform any other functions necessary to conduct the elections or referendum.
- (3)** The Commission may delegate any of its powers or functions to the Chairperson, his Deputy, any of its members or to any

committee formed or office established thereby with such terms and conditions as it may deem appropriate.

### **Meetings of the Commission**

11. (1) The Commission shall hold regular ordinary meetings, and may hold an extraordinary meeting at the invitation of the Chairperson or at the request of one third of the members.
- (2) The quorum of the meeting of the Commission shall be deemed complete by the presence of more than half of its members.
- (3) The decisions of the Commission shall be taken by majority votes of the members present. If the votes are equal the Chairperson shall have a casting vote provided that the quorum is present.
- (4) The decisions of the Commission shall be made public in the manner approved by the Commission, provided that it may decide not to publicize certain decisions with the approval of the majority of its members.
- (5) The Commission shall adopt internal regulations for the organization of its business and procedures of its meetings.

### **Functions of the Chairperson of the Commission**

12. The Chairperson shall be the responsible person for the business of the Commission and without prejudice to the generality of the foregoing the Chairperson shall have the following functions:-
  - (a) chair the meetings of the Commission,
  - (b) represent the Commission before others,

- (c) follow-up the implementation of the decisions of the Commission,
- (d) supervise the Secretariat General,
- (e) submit the annual budget as approved by the Commission to the Presidency of the Republic,
- (f) any other duties which may be assigned to her/him by the Commission.

### **Functions of the Deputy Chairperson of the Commission**

13. The Deputy Chairperson of the Commission shall perform the functions of the Chairperson in her/his absence, and shall perform the functions delegated to her/him by the Chairperson,

### **Immunity of the Chairperson His Deputy and Members**

14. No criminal proceedings shall be taken against the Chairperson, the Deputy Chairperson, or any member of the Commission, in the performance of their duties according to this Act, except in a situation where any of them was caught in the commission of a crime, and after obtaining a written permission from the President of the Republic.

### **The Secretariat General and its Functions**

15. (1) The Commission shall have a Secretariat General headed by a Secretary General to be appointed by a decision of the Chairperson with the approval of two thirds of the members. The Secretariat General shall include a number of employees

according to the approved organizational chart to enable the Commission to perform its duties.

- (2) The Secretariat General shall be responsible for running the executive, administrative and financial business of the Commission.
- (3) The regulations shall detail the functions and duties of the Secretariat General.

### **Budget and Accounts of the Commission**

- 16. (1) The Commission shall have an independent budget to be prepared according to the relevant principles observed by the State. Such budget shall be approved by the Commission and submitted to the Presidency of the Republic for inclusion within the Annual General Budget of the State.
- (2) The Commission shall keep regular accounts and registers for the revenues and expenses set according to the adopted accountancy rules.
- (3) The Commission shall apply the Financial and Accounting Procedures Act 2007, and the regulations made there under.

### **Audit of the Commission Accounts**

- 17. The National Audit Chamber or whoever it may delegate and under its supervision shall audit the accounts of the Commission at the end of every financial year, and also after the end of any elections or referendum process, for tabling it before the National Assembly.



**Chapter Three**  
**Administration of the Elections**

Section one

**High Committees, Branch Committees,  
Registration And Elections Officers**

**Formation of High Committees,  
their Functions And Powers**

- 18. (1)** The Commission shall form the High Committees in accordance with sub-section (2) and appoint the heads and members of the High Committees at the Southern Sudan, and the states Levels.
- (2)** Each High Committee shall be composed of five members known to be independent, experienced, non-partisan and impartial, provided that they comply with the conditions provided for in section 6, with the exception of the approval of two thirds of the members of the National Assembly.
- (3)** Subject to Articles 183(3) and 220 of the Constitution, the High Committees shall be responsible to the Commission in administering and supervising the elections and referendum at the Southern Sudan, and the states levels.
- (4)** High Committees shall be totally independent from legislative Assemblies and executive bodies of the National Government, Government of Southern Sudan and states Governments, as the case may be.
- (5)** The High Committees in Southern Sudan and the states shall perform all functions and powers related to the elections or referendum delegated thereto by the Commission by an order to be published in the Official Gazette.

### **Formation of Branch Committees**

- 19.** The High Committee may, upon approval of the Commission, form temporary branch committees in each geographical constituency, or a referendum or election centre, and determine, in writing, their functions and powers.

### **Registration and Elections Officers and Officials**

- 20. (1)** The Commission shall appoint:-
- (a)** Returning Elections Officer at the level of Southern Sudan and in each state, and election officers at the level of each geographical constituency to undertake the organization, revision and maintenance of the electoral register,
  - (b)** officials to assist in the preparation and revision of the electoral register as it deems necessary.
- (2)** The Returning Elections Officer at the level of Southern Sudan and in each state and the election officers at the level of the geographical constituencies shall organize the conduct of polling, sorting and counting of elections and referendum, according to the provisions of this Act and the rules made hereunder and the directions of the Commission.
- (3)** The Commission shall, before the start of every election or referendum, appoint a Chief for every polling centre in each geographical constituency, and a Chief for every branch polling centre within each polling centre, to carry out the polling, sorting and counting processes according to the provisions of this Act and the rules.

Section Two  
**The General Electoral Register**  
**Eligibility of the Voter**

21. The voter shall satisfy the following conditions to be :-
- (a) Sudanese,
  - (b) eighteen years of age,
  - (c) registered in the Electoral Register,
  - (d) of sound mind,

**Conditions of Registration and Participation  
in the Election or Referendum**

22. (1) Registration in the electoral register is a basic right and an individual responsibility of every citizen who satisfies the required legal conditions.
- (2) Without prejudice to the generality of sub-section (1) a Sudanese resident inside the Sudan shall, at the time of application for inclusion in the register, satisfy the following conditions:-
- (a) be a resident in the geographical constituency for a period not less than three months before the date of closure of the register,
  - (b) have a personal identification document or a certificate authenticated from the People's Committee at the Locality or the native or traditional administrative authority, as the case may be,
  - (c) have not been registered in any other geographical constituency.

- (3) A Sudanese resident outside the Sudan and possesses a Sudanese passport and a valid resident visa in the country where she/he resides, and satisfies the conditions provided for under paragraphs (a), (b) and (d) of section 21, shall have the right to apply for registration or inclusion in the electoral register for election of the President of the Republic or Referendum, in accordance with the Rules.
- (4) No voter shall be eligible to participate in the election or referendum unless she/he was registered three months before the date of elections or referendum.
- (5) The Rules shall prescribe the methods and means of registration and the period of appeals.

### **Organization of the Electoral Register**

- 23.** To organize the Electoral Register, the Commission shall :
- (a) prepare the register of voters at the level of the Republic of the Sudan or abroad in the manner and time as prescribed by the rules,
  - (b) revise the Electoral Register by addition, deletion or amendment once per annum, or three months before any elections or referendum takes place, according to the provisions of this Act,
  - (c) make the Electoral Register available for public display to allow for revision of voters' details and objections to entries,
  - (d) specify the period for the display of the register during which voters may apply to correct the details of their entries or change their place of residence.

## **Objections Against the Details of the Electoral Register**

- 24. (1)** Any registered voter in a geographical constituency may submit a written objection within seven days from the publication of the electoral register to correct the details of her/his entry or to challenge the registration of another person if the person :-
- (a)** is dead, or
  - (b)** has moved to another location, or
  - (c)** has not attained the age of eighteen,
  - (d)** has not completed three months in the concerned geographical constituency'
  - (e)** is not a Sudanese at the time of registration,
  - (f)** has been registered in another geographical constituency,
  - (g)** is not of sound mind.
- (2)** The objections made against the electoral register shall be dealt with within five days of the date of submission thereof, by a Committee chaired by a competent judge and formed by the Returning elections officer in each geographical constituency with the approval of the Commission.
- (3) (a)** the Returning Elections Officer shall, within fifteen days immediately after determination of all objections, publish a list of the names of the persons whose details were corrected or to be deleted from the electoral register for inspection.
- (b)** the voters referred to herein above shall have the right to object, within the specified period in paragraph (a), against the decision of correction or deletion by

- submitting a signed certificate declaring the person's right of registration as shall be specified by the rules,
- (c) the Returning Elections Officer shall amend the details corrected or re-enter the deleted name of the voter in the register.
- (4) The Returning Elections Officer shall immediately after the end of the publication and objection period provided for under subsection (3) in the state concerned submit to the Commission the names of persons whose details s/he recommends be corrected or deleted.

### **The Final Electoral Register**

25. (1) The Commission shall, after making the final revisions following the receipt of the results of any objections, prepare and approve the final electoral register for the elections and shall publish it three months before the date of polling. No further objections may be entertained after the Commission has published the final electoral register for the elections.
- (2) The Commission shall:
- (a) provide a free copy of the final electoral register to the political parties if they so request,
  - (b) avail the final electoral register for inspection by any person on application in the form prepared by the Commission after payment of the prescribed fees.

## **Chapter Four**

### **Electoral Systems**

#### Section one

### **Electoral System for the Election of the President of the Republic, the President of the Government of Southern Sudan, and the Governors**

#### **Election of the President of the Republic, President of Government of Southern Sudan, and the Governor**

- 26. (1)** The President of the Republic or the President of the Government of Southern Sudan shall be elected by a voter who shall cast one vote for one candidate to the office of the President of the Republic or the President of the Government of Southern Sudan. A candidate shall be declared elected if he or she obtains fifty percent of the valid votes plus one vote or more, in accordance with Article 54 of the Constitution or Article 99 of the Interim Southern Sudan Constitution 2005, as the case may be.
- (2)** In circumstances where no candidate according to sub-section (1) has secured the required number of votes, the Commission shall conduct election between the two candidates who obtained the highest number of valid votes within sixty days of the polling day. The candidate who obtains the highest number of votes shall be declared elected.
- (3)** The Governor of the state shall be elected by the people in the state in accordance with the provisions of the Constitution, the Interim Constitution of Southern Sudan where applicable, the relevant state Constitution and this Act, where a voter shall cast one vote for one candidate to the office of the Governor. A candidate shall be declared elected if he or she obtains the highest number of valid votes.

**Postponement of the Elections of the President  
of the Republic, the President of Government of Southern  
Sudan and the Governor**

27. (1) The Commission may postpone the elections of the President of the Republic, the President of the Government of Southern Sudan or the Governor by a decision made thereby if it becomes impossible to conduct the election by reason of the proved occurrence of an eminent danger that may threaten all the country, Southern Sudan or a state, or any part thereof, or in case of declaration of the state of emergency according to Article 210 of the Constitution in all the country, Southern Sudan 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 days from the original date established for such elections.
- (2) Pending the holding of the postponed elections as provided for under sub-section (1), the incumbent holder of the office shall continue in her/his office as caretaker, and her/his tenure shall automatically be extended until the elected successor takes the oath of office.

**Snap Elections to Elect a Governor following  
a Vote of No Confidence**

28. (1) The state legislature may, in accordance with the state Constitution, adopt a vote of no confidence in the Governor by three quarters majority of all its members.
- (2) Should the state legislature adopt a vote of no confidence in the Governor under sub-section (1) above, the President of



the Republic shall call the electorate in the state for snap elections of the Governor within sixty days. If the concerned state is a Southern Sudan state, the President of the Republic shall act upon the request made by the President of the Government of Southern Sudan.

- (3)** Pending the election to be conducted as stipulated in subsection (2) above, the President of the Republic shall appoint a steering administration for the Northern state concerned, and the President of the Government of Southern Sudan shall appoint a steering administration for the Southern state concerned, as the case may be.
- (4)** The Governor elected in snap elections shall serve for the remainder of the original tenure, of the Governor who was subjected to a vote of no confidence.
- (5)** Should the Governor that was subjected to a vote of no confidence be re-elected, the state legislature shall be deemed to have been dissolved. A new state legislature shall be elected within three months to complete the tenure of the dissolved legislature.
- (6)** A vote of no confidence in the Governor shall not be passed unless s/he has been in office for twelve months.

## Section Two

### **Composition of Legislative Assemblies and the System of Election of their Members**

#### **Composition of the National Legislature and Election of its Members**

- 29. (1)** The National Legislature shall be composed of the National Assembly and the Council of States in accordance with Article 83 of the Constitution.
- (2)** The National Assembly shall be composed of four hundred and fifty elected members, as follows:
- (a)** Sixty percent of the members of the National Assembly shall be elected to represent geographical constituencies in the Republic of Sudan;
  - (b)** Twenty five percent of the women members shall be elected on the basis of proportional representation at the state level from separate and closed party lists; and
  - (c)** Fifteen percent of members shall be elected on the basis of proportional representation at the state level from separate and closed party lists.
- (3) (a)** There shall be two representatives for each state in the Council of States, elected by the members of the state Legislative Assembly. Every member of the state Legislative Assembly shall cast two votes for two candidates to represent the state in the Council of States. The two candidates with the highest number of valid votes shall be declared elected.
- (b)** There shall be two observers to represent Abyei in the Council of states elected by the members of the

Council of Abyei. Every member of the Council of Abyei shall cast two votes for two candidates as observers to the Council of States from Abyei. The two candidates with the highest number of valid votes shall be declared elected.

- (c) The Commission shall establish the rules to organize all matters related to the procedures for the election of the members of the Council of States and the observers.

## **Composition of the Southern Sudan Legislative Assembly and Election of its Members**

**30.** In accordance with Article 58 of the Interim Constitution of Southern Sudan 2005, the Government of Southern Sudan shall determine, following the population census and in consultation with the Commission and the Presidency, the number of members of South Sudan Legislative Assembly to be elected as follows:

- (a) Sixty percent of the members of South Sudan Legislative Assembly shall be elected to represent geographical constituencies at the level of Southern Sudan;
- (b) Twenty five percent of women members shall be elected on the basis of proportional representation at the state level from separate and closed party lists;
- (c) Fifteen percent of members shall be elected on the basis of proportional at the state level from separate and closed party lists.

**Composition of the State Legislative Assembly and  
Election of its Members**

- 31.** The Legislative Assembly of each state shall be composed of the number of members specified in the Constitution of each state to be elected as follows:
- (a) Sixty percent of the members shall be elected to represent geographical constituencies at the level of the state concerned;
  - (b) Twenty five percent of women members shall be elected on the basis of proportional representation at the state level from separate and closed party lists; and
  - (c) Fifteen percent of the members shall be elected on the basis of proportional representation at the state level from separate and closed party lists.

**Method of Electing Members of Legislative  
Assemblies to Represent Geographical Constituencies**

- 32 (1)** Subject to the provisions of section 29(3), a voter shall cast one vote for one candidate of those listed on her/his geographical constituency ballot paper.
- (2)** The candidate with the highest number of valid votes in the geographical constituency shall be declared the winner.

**Method of Electing Members of the Legislative  
Assemblies to represent Party lists and Women lists**

- 33** Subject to the provisions of section 29(3), the method of electing (40%) of the members of the Legislative Assemblies by proportional representation shall be as follows:
- (1)** A voter shall cast one vote for one Party List of their choice of those listed on the Party Lists ballot paper which contains the (15%) of the total seats of the Legislative Assembly concerned.
  - (2)** A voter shall cast one vote for one Women List of their choice of those listed on the Women Lists ballot paper which contains the (25%) of the total seats of the Legislative Assembly concerned.
  - (3)** The Commission shall determine the power of the seat for each of the Party Lists or the Women Lists in the Legislative Assembly concerned to determine the number of seats to be obtained by each of the lists.
  - (4)** The qualifying percentage to compete for a seat in the Legislative Assemblies shall be that where the list obtains a number of votes not less than four percent (4%) of the total valid votes of the voters for the lists.
  - (5)** The Commission shall divide the seats designated to the Party Lists and the Women Lists, as the case may be, on the basis of the number of votes obtained by each list related to the power of the seat after excluding the lists that did not obtain the qualifying percentage set forth in sub-section (4).
  - (6)** Where the results of the divisions calculated in sub-section (5) 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.

- (7) The seats designated to the Party lists or Women lists shall be won by the candidates of those lists in the order in which their names appear in the list concerned from top to bottom.

### **Chapter Five**

## **Demarcation of the Boundaries and Determination of the Number of Members Elected to Represent Geographical Constituencies in each state in the Legislative Assemblies**

### **Determination of the number of geographical constituencies for legislative assemblies in each State**

34. Immediately following the publication of the results of the population census, and in accordance with the provisions of this Act and the Rules, and based on the population size, the Commission shall determine:
  - (a) the average population for geographical constituencies for each Legislative Assembly in accordance with the provisions of this Act and the Rules, and
  - (b) the boundaries of the geographical constituencies in each state for the election of members of each Legislative Assembly, as the case may be, in accordance with the provisions of this Act and the Rules.

**Calculation of the National Dividend and Determination  
of the number of the Geographical Constituencies in  
each state for the National Assembly Elections.**

35. (1) The Commission shall calculate the national dividend by dividing the total population of Sudan by the figure (270) which represents (60%) of the members of the National Assembly which shall be elected through geographical Constituencies.
- (2) The Commission shall divide the total population of each state by the National Dividend specified in sub-section (1) to determine the number of National Assembly geographical constituencies in each state taking into consideration the conditions provided for in Section 38.

**Calculation of the Southern Sudan Electoral Dividend  
and  
Determination of the number of the Geographical  
Constituencies in each state for the Southern Sudan  
Legislative Assembly Elections**

36. (1) The Commission shall calculate the Southern Sudan electoral dividend to determine the number of geographical constituencies in each state in Southern Sudan for election to the Southern Sudan Legislative Assembly.
- The Southern Sudan electoral dividend shall be calculated by dividing the total population of Southern Sudan by the number of elected seats of the Southern Sudan Legislative Assembly to represent the geographical constituencies.

- (2) The Commission shall divide the total population of each state in Southern Sudan by the Southern Sudan electoral dividend specified in sub-section (1) to calculate the number of seats to be elected to the Southern Sudan Legislative Assembly to represent each state through the Geographical Constituencies taking into consideration the conditions provided for in section 38.

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

37. (1) The Commission shall calculate the Electoral Dividend for each state by dividing the total population of the state concerned by the number of seats allocated for the Geographical Constituencies to determine the number of voters in each Geographical Constituency, and the Electoral Dividend for the state concerned represents the average population required for a Geographical Constituency.
- (2) The Commission shall determine the number of the Geographical Constituencies in the state to represent (60%) of the total number of seats in the state Legislative Assembly concerned as specified in its Constitution.
- (3) The Commission, in the determination of the Geographical Constituencies, shall take into consideration the conditions provided for in Section 38.



**Conditions for the Demarcation of the Boundaries of  
Geographical Constituencies.**

38. The Commission shall demarcate the boundaries of geographical constituencies for the elections of the Legislative Assemblies taking into consideration that:
- (a) no geographical constituency boundaries cross state boundaries,
  - (b) the total population in each geographical constituency shall not exceed the electoral dividend or the national dividend in each case by more or less than fifteen percent,
  - (c) the geographical features present population distribution, and movement abilities as well as local administrative boundaries.

**Publication of the Final Report of Boundaries  
of the Geographical Constituencies**

39. (1) The Commission shall prepare a report of its review of the boundaries of the geographical constituencies in each state and publish the same in the Gazette or other mass media promptly. The Commission shall submit this report immediately to the Presidency of the Republic, the President of the Government of Southern Sudan, Governors, members of the Legislative Assemblies and the political parties.
- (2) The bodies mentioned in sub-section (1) may submit objections or alternative proposals in writing to the Commission within thirty days from the receipt of the report published in the Gazette.

- (3) The Commission shall, after consideration of any objections and after incorporating any amendments as the Commission deems appropriate, publish in the Gazette .the final geographical constituencies' boundaries report that shall include the number of seats to represent each state from geographical constituencies in the Legislative Assemblies, and the final boundaries of the geographical constituencies in all the states.

**Appeal Against the Final Report on the Demarcation of Geographical Constituencies Boundaries**

40. Any appeal against the Commission's final report on the demarcation of the geographical constituencies' boundaries published under section 39 shall be submitted to the Court within two weeks from the date of its publication. The Court shall expeditiously decide on such appeal, and its decision shall be final.

**Chapter Six**

**Nominations, Withdrawal of Nominations and Appeals**

Section one

**Nomination for Election of the President of the Republic, President of the Government of Southern Sudan and The Governor**

**Eligibility and Conditions for Nomination**

41. (1) Any person shall be eligible for nomination as a candidate for the office of the President of the Republic, President of the Government of Southern Sudan or Governor, in accordance with the provisions of the Constitution, provided that s/he shall satisfy the following qualifications:
- (a) be a Sudanese by birth;

- (b) be of sound mind;
  - (c) be at least forty years of age;
  - (d) be literate;
  - (e) not have been convicted of an offence involving honesty or moral turpitude.
- (2) The Commission may request such evidence as it deems necessary of the qualifications specified in sub-section (1).
- (3) Any political party or an eligible voter may nominate whoever he or she deems fit for the office of the President of the Republic, President of the Government of Southern Sudan or Governor, in accordance with the provisions of the Constitution.
- (4) A person may only be nominated to one of the offices of the President of the Republic, President of the Government of Southern Sudan or Governor.

### **Secondment of Nominations**

42. (1) A person so nominated under section 41(3) for the office of the President of the Republic shall be seconded by fifteen thousand eligible and registered voters from at least eighteen of the states, with no less than two hundred voters from each state.
- (2) A person so nominated under section 41(3) for the office of the President of the Government of Southern Sudan shall be seconded by ten thousand eligible and registered voters from at least seven of the Southern Sudan states, with no less than two hundred voters from each state.
- (3) A person so nominated under section 41(3) for the office of the Governor shall be seconded by five thousand registered voters from at least half of the localities within the state

concerned, with no less than one hundred voters from each Locality.

- (4) The Commission shall publish and disseminate the forms for the collection of signatures according to the rules.

**Submission of Application for Nomination to the Office of  
the President of the Republic, President of the  
Government of  
Southern Sudan or the Governor**

43. (1) The application for nomination of a candidate for election as a President of the Republic, President of the Government of Southern Sudan, or Governor shall be submitted by any political party, the candidate or by any other person duly authorized by him or her, directly to the Commission, at the time, date and place specified thereby.
- (2) The day or days appointed by the Commission for the submission of nomination applications shall be not more than ninety days and not less than sixty days before polling day. The Commission shall publish notice of nomination day(s) in the Official Gazette and/or by any other publication means at least fifteen days prior to the date of nomination.
- (3) Subject to the provisions of the Constitution, 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 Rules, together with a deposit, to be made to the Commission, of ten thousand Sudanese Pounds for nomination to the office of the President of the Republic, five thousand Sudanese Pounds for nomination to the office of the President of the Government of Southern Sudan and two thousand Sudanese pounds for nomination to the office of the

Governor, which shall be refunded if the candidate secures more than ten percent of the valid votes cast in the election, or if he or she withdraws at any time forty five days prior to polling day.

- (4) Every candidate nominated under sub-section (1) shall submit a signed certificate of her/his assets and liabilities for the year prior to the date of nomination including the assets of his spouses and children in the form specified by the Commission.

### **Invalidation of Nomination**

44. The application submitted in accordance with section 43(1) shall be regarded as invalid if such person is not eligible to be a candidate for the relevant office and has not met the requirements laid down in sections 41 and 103, or any other requirements laid down in this Act.

### **Inspection of Nominations**

45. (1) The Commission shall publish, after the close of nominations, a list of the names of the persons who have made applications to be nominated under section 43(1), including the names of the persons who proposed them, the name of the political party they are affiliated to, and whether they intend to contest as independent candidates. The above mentioned list shall be made public to all those persons and political parties mentioned in the list, to enable them to inspect the list and submit any comments or objections thereto.
- (2) The Rules shall specify the periods for publication of the lists and submission of objections, mentioned in sub-section (1), and the manner to rule on all objections expeditiously.

- (3) The Commission shall publish a list of nomination applications that have been accepted and those that have been rejected, detailing the reasons for which such applications have been rejected, on the day immediately after the close of the period for ruling on the objections as determined by the Commission.

### **Appeals Against Rejection of the Nomination Application**

46. (1) A person whose application to be a candidate under section 43(1) has been rejected, or the persons or political party that proposed her/his nomination may appeal against the decision of the Commission to reject her/his application to the Court within seven days from the publication of the Commission's decision under section 45 (3).
- (2) The Court shall decide on any appeal within a period of seven days from the date of receipt of the appeal and make public its decision. The Court may for this purpose issue any order on any related matter pending before it.

### **Publication of the Final List of Candidates for the Office of the President of the Republic, President of the Government of Southern Sudan or the Governor**

47. The Commission shall publish in the Official Gazette and/ or in the available mass media or any other manner that it deems appropriate the final list of candidates nominated under section 43(1) immediately after all appeals to the Court have been decided, and ensure that the published final list of candidates is disseminated widely across the Republic of Sudan and abroad for the elections to the office of the President of the Republic, and across Southern

Sudan for the office of the President of the Government of Southern Sudan, and across the state for the office of the Governor.

### **Allocation of Electoral Symbols**

48. (1) For the purpose of elections a candidate on behalf of a particular party shall use the symbol proposed by that party and approved thereto by the Commission, and the independent candidates have the right to choose symbols from the symbols provided by the Commission, which shall be allocated according to the order of completing their nomination applications as prescribed by law.
- (2) Any symbol approved or proposed by the Commission shall not:
- (a) be similar to the name, abbreviated name, distinguishing mark, logo or symbol of any other political party or any other candidate,
  - (b) contain anything which portrays the propagation of or incitement to violence or hatred or discrimination against any group of the population.
- (3) Party Lists and Women Lists shall use the symbol of the party that nominated them.

## Section Two

### **Withdrawal of Nomination, Death and Declaration of Elected Unopposed**

### **Of the Candidates for the election for the office of the President of the Republic, President of Government of Southern Sudan or the Governor.**

#### **Withdrawal of Nomination**

49. (1) Any duly nominated and accepted candidate under section 42(1) may withdraw her/his nomination within a period not less than forty five days prior to polling day, provided that s/he shall

notify the Commission of his or her withdrawal in a signed written form that shall be legally authenticated.

- (2) A candidate that withdraws her/his nomination in accordance with sub-section (1) shall be refunded the deposit made at the time of submission of his/her nomination application.
- (3) The candidate shall not withdraw her/his nomination after the period specified in sub-section (1), and his name shall be included on the ballot paper and any vote cast for him on polling day shall be deemed valid.

### **Death of the Candidate**

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

### **Declaration of Unopposed Candidate**

- 51. Where a candidate on the close of nominations is the sole candidate nominated and duly accepted by the Commission, or is the sole candidate nominated and duly accepted after the withdrawal of all other candidates, the Commission shall declare that candidate elected unopposed within forty eight hours from the closing date and time of the nominations period.



**Chapter Seven**  
**Nomination for the Membership of**  
**Legislative Assemblies**

Section One  
**Nomination for the Membership of**  
**the Council of States**

**Eligibility for Nomination as Member**  
**of the Council of States**

52. A person to be eligible to be a Candidate for election as member of the Council of States shall meet the following qualifications:-
- (a) be a Sudanese;
  - (b) be at least twenty one years of age;
  - (c) be of sound mind;
  - (d) be literate;
  - (e) not have been convicted during the seven years prior to nomination of an offence involving honesty or moral turpitude;
  - (f) is not a member of the National Assembly or Southern Sudan Legislative Assembly or its Government, or a member of a state Legislative Assembly or its Government, or a member of the National Council of Ministers, provided that the nomination of any such person may be accepted if she/he submits her/his resignation of office before submitting the nomination application to the Commission in accordance with this Act and the Rules.

## Section Two

### **Nominations of Candidates for Election as Members of Legislative Assemblies to be Elected from Geographical Constituencies, Party Lists and Women Lists**

#### **Eligibility for Election as a Member of Legislative Assemblies**

53. (1) Any person to be eligible as a candidate for election as a member of any of the Legislative Assemblies, shall meet the following qualifications :
- (a) be a Sudanese;
  - (b) be of sound mind;
  - (c) be at least twenty one years of age;
  - (d) be literate;
  - (e) not have been convicted during the seven years prior to nomination of an offence involving honesty or moral turpitude.
- (2) Members of the Southern Sudan Legislative Assembly or its Government, Governors, or members of the state Legislative Assemblies and their Governments, who are willing to be nominated for the membership of the National Assembly shall resign from such offices before submitting the nomination applications for membership of the National Assembly.
- (3) The Commission may request any evidence it deems appropriate for the qualifications provided for in sub-section (1).

#### **Requirements for Nomination for Geographical Constituencies**

54. (1) Any registered 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 of the Assembly to be elected, provided that she/he is qualified for nomination according to the provisions of this Act.

**(2)** A candidate affiliated to any political party shall be seconded by that party through the endorsement of his/her nomination signed by the party official approved by the Commission, and the nomination of the independent candidates shall be seconded as follows:

- (a) a candidate for the National Assembly, by not less than one hundred registered voters in the geographical constituency register;
- (b) a candidate for the Southern Sudan Legislative Assembly, by not less than fifty registered voters in the geographical constituency register;
- (c) a candidate for the state Legislative Assembly, by not less than twenty five registered voters in the geographical constituency register.

**(3)** The Commission shall design and publish the forms for the secondment of candidates which shall include the following:

- (a) full name of the seconded candidate,
- (b) full name of the registered voter,
- (c) address of residence of the voter,
- (d) date and place of birth of the voter,
- (e) signature of the voter.

**(4)** The Commission shall, during the period for inspection of nominations and objections provided for in this Act, verify the number of registered voters that have seconded each independent candidate.

**Submission of Application for Nomination  
To the Membership of the Legislative Assemblies  
through Geographical Constituencies**

55. (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 the political party or the candidate or by anyone duly authorized by him or her to the Commission directly at the time, date and place specified by the Commission.
- (2) The day or days appointed by the Commission for submission of nominations shall be not more than sixty five days and not less than fifty days before polling day. The Commission shall publish notice to that effect in the Official Gazette and/or any other mass media at least fifteen days prior to start of nomination period.
- (3) The nomination applications shall be submitted on the forms and in the format prepared by the Commission, which shall include the information and annexes as specified in the Rules.
- (4) A person applying for nomination to the geographical constituencies shall submit to the Commission a deposit of:
- (a) one hundred Sudanese Pounds for membership of the National Assembly,
  - (b) fifty Sudanese Pounds for membership of the Southern Sudan Legislative Assembly, or
  - (c) twenty-five Sudanese Pounds for membership of a State Legislative Assembly.
- (5) The deposit provided for under this section shall be refunded if the candidate secures not less than ten percent (10%) of the

valid votes cast in the election or if he or she withdraws at any time thirty days prior to polling day.

- (6) A candidate nominated by a political party from a geographical constituency shall attach with her/his application a certificate signed by that political party confirming its secondment.
- (7) A candidate may not be nominated on a party list and as an independent candidate for a geographical constituency at the same time.
- (8) A person may only be nominated to contest an election to any of the Legislative Assemblies in one geographical constituency.

**Submission of Application for Nomination to Membership of the Legislative Assemblies by the Political Parties through Party Lists or Women Lists on the basis of Proportional Representation**

- 56. (1) Any political party may submit an application for nomination of a party list and Women list for election as members of any of the Legislative Assemblies on the basis of proportional representation. An application for nomination of a party list and Women list shall be submitted by a person so authorised by that political party at the time, date and place specified by the Commission.
- (2) The day or days determined by the Commission for submission of nomination applications shall not be more than sixty five days and not less than fifty days before polling day. The Commission shall publish notice of nomination day(s) in the Official Gazette and/or any other mass media at least fifteen days prior to the start of nominations.
- (3) The two lists referred to in sub-section (1) nominated by a political party shall include as many candidate names as there

are seats to be elected from party lists and Women lists by proportional representation for the Legislative Assembly concerned so that the party list nominated by the party represents 15% from the total membership and the Women list nominated by the party represents 25% of total membership.

- (4)** The application for nomination provided for under this section shall be submitted on the forms and in the format prepared by the Commission, which shall include the information and annexes as specified in the Rules.
- (5)** A political party that applies to nominate a party list and Women list under the provisions of this section shall deposit with the Commission an amount of:

  - (a)** one hundred Sudanese Pounds for each candidate on the list for the National Assembly;
  - (b)** fifty Sudanese Pounds for each candidate on the list for Southern Sudan Legislative Assembly;
  - (c)** twenty five Sudanese Pounds for each candidate on the list for state Legislative Assembly.
- (6)** The financial deposit provided for under this section shall be refunded if the party's list or Women list secures not less than four percent of the total valid votes cast for the party lists or Women lists in the election, or if the political party withdraws that list at any time thirty days prior to polling day.

### **Invalidation of the Nomination for the Legislative Assemblies**

57. An application for nomination to the membership of any of the Legislative Assemblies shall be regarded as invalid if the person is not eligible to be a candidate for election as a member of the Legislative Assembly to which he seeks nomination and has not met the criteria laid down in section 53 (1), paragraphs (a) to (e) inclusive, or any of the other requirements laid down in this Act.

### **Inspection of Nomination Application for Membership of the Legislative Assemblies**

58. The Commission shall inspect the applications for nominations for election to the Legislative Assemblies in accordance with the procedures laid down in section 45 of this Act. If an application is not made in accordance with this Act in full, then the Commission shall reject the application giving its reasons and shall inform the relevant independent candidate or political party.

### **Appeals Against the Decision of the Commission to reject the Nomination Applications**

59. (1) A candidate or a political party may appeal against the decision of the Commission to reject or accept a nomination to the Competent Court.
- (2) Any appeal under sub-section (1) shall be made within seven days from the date of publication of the Commission's decision to reject or accept the nomination application.
- (3) The Competent Court shall decide on any appeal submitted thereto according to sub-section (2) within a period of seven days from the date of receipt of the appeal and make public its decision. The Competent Court may for this purpose issue any

order in any related matter pending before it in this respect.  
The decision of the Competent Court shall be final.

**Publication of the Final List of Candidates for  
the Membership of the Legislative Assemblies**

60. (1) The Commission shall publish in the Official Gazette and/or in the available mass media the final list of candidates for Geographical Constituencies and Party Lists and Women Lists for Election to any of the Legislative Assemblies immediately after all appeals to the Competent Court have been decided upon.
- (2) The Commission shall ensure that the published final list of candidates under sub-section (1) is disseminated widely in each state by whatever means it deems appropriate.
- (3) The Commission shall at the same time and date declare and publish in the Official Gazette and/or other available means of publications the period for electoral campaigns, which shall be for a period of no more than fifty days and no less than thirty (30) days and shall end one day prior to polling day.
- (4) The Commission shall at the same time and date declare and publish in the Official Gazette and/or the 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 Sudan, Southern Sudan and the states concerned where the election is held, provided that the date of polling shall not exceed sixty days from the end of the nominations process.



**Withdrawal of Nominations for  
Election to Legislative Assemblies**

- 61. (1)** Any duly nominated candidate in a Geographical Constituency may withdraw his nomination no later than thirty (30) days prior to polling day.
- (2)** Where a person decides to withdraw under sub-section (1), he or she must inform the Commission by a written notice signed by the candidate personally and legally authenticated.
- (3)** Any Political Party that submitted an application for nomination of a Party List or a Women List and such nomination has been accepted as correct, may withdraw that list no later than thirty (30) days prior to polling day.
- (4)** Where any candidate on a Party List or Women List for election nominated by a political party dies or withdraws at any time prior to the close of polling, the political party shall inform the Commission of the name of the candidate to replace him or her on the list, provided that the so named candidate shall be eligible and meets the requirements in accordance with the provisions of this Act. A candidate that withdraws shall inform the Commission and the political party of his withdrawal by a written notice signed by her/him personally and legally authenticated.
- (5)** Any candidate or political party that withdraw their nomination thirty days prior to polling day shall be refunded the financial deposit made at the time of nomination.
- (6)** Candidates and political parties may not withdraw their nomination after the end 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 papers and any vote obtained by any of them shall be deemed valid.

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

62. (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 in that constituency and appoint a new date for nominations.
- (2) Where new nominations are to be held under sub-section (1) the remaining candidates' previous applications for nomination shall continue in force.
- (3) Where new dates for nomination are appointed under sub-section (1) the Commission shall appoint a new date for polling within sixty days of the last day set for the new nominations.

**Declaration of Elected Unopposed Candidate for  
Election to the Legislative Assemblies in the  
Geographical Constituencies**

63. Where a candidate at the time of close of nominations is the sole candidate nominated and duly accepted by the Commission to contest a geographical constituency, or is the sole candidate following the withdrawal of all other candidates, the Commission shall declare that candidate unopposed within forty eight hours from the close of the period for nominations.

## **Chapter Eight**

# **Electoral Campaign, Polling, Postponement of Elections and Referendum and Announcement of Results**

### Section One

## **Electoral Campaign**

### **Electoral Campaign Programme**

64. (1) The Commission, shall announce at the same time and date in the Official Gazette and/or the available mass media, the period during which electoral campaigns shall take place in accordance with this Act, provided that such period shall not be more than seventy days and not less than thirty days, as the case may be, and shall end one day prior to polling day.
- (2) Subject to the provisions of sub-section (1), the Commission shall determine the period and the manner of the electoral campaign and make public that information widely. The Commission shall forward copies thereof to all the High Committees in accordance with the Rules.
- (3) Campaign activities shall not be held within the last twenty four hours before polling date, or during polling day or days according to the Rules.

### **Rights and Duties of Candidates and Political Parties During the Electoral Campaign**

65. (1) During the electoral campaign period, every public officer or public authority shall provide equal treatment to all candidates and political parties, in an impartial manner and without favour to any of them, in order to guarantee the principle of equal opportunities between them.

- (2) Subject to the provisions of any other law, every candidate or political party shall enjoy complete and unrestricted freedom of expression and presentation of campaign programmes, and access to information in the exercise of their campaigning rights through any means in accordance with this Act and the Rules.
- (3) No Person shall, while campaigning for election, use any expressions that constitute incitement to public disorder, insurrection or violence, or threaten with the resort to any such actions or to war, or that constitute incitement to hatred and discrimination.

### **Regulations for the Electoral Campaign**

- 66. (1) Any candidate or political party during the elections shall be afforded access to and use of all means of communication media of all forms for the purposes of their electoral campaign activities.
- (2) The Rules shall specify the necessary measures to guarantee the rights of all candidates for the elections and political parties participating therein in the use of public media on the basis of equality and equal opportunities, and to prevent any kind of discrimination between them in the coverage of the electoral campaign news.
- (3) The Commission shall, together with the public media means and in consultation with all political parties participating in the elections, prepare a comprehensive programme to guarantee the equal use of such means by all parties for the purposes of their electoral campaign.
- (4) Subject to any other law, during the campaign period all candidates and political parties may, either alone or jointly with

others, 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 candidate or candidates concerned and shall include the name and address of the publisher of such material.

- (5) Candidates and political parties may use all electronic media for their campaign activities, including audio visual, internet, E-mail and any other similar means, provided that they shall not use these means to hinder or obstruct other candidates' campaigns.
- (6) Candidates or political parties may not act or use statements that are intended to obstruct the electoral campaigns of other candidates or political parties.

### **Funding of Electoral Campaigns and its Sources**

67. (1) Candidates and political parties shall not finance their electoral campaign activities from any funds or material support, or donations or other means of support from a foreign country or a foreign body.
- (2) Candidates and political parties may finance their electoral campaign activities from the following sources:
  - (a) financial support provided by the members of the political party,
  - (b) financial contributions made by the candidates,
  - (c) financial support that may be provided by the National Government, the Government of Southern Sudan, or the states Governments to all political parties and candidates on equal basis,

- (d) donations or contributions that the political parties or candidates may obtain from any other Sudanese sources approved by the Commission.
- (3) The Commission shall fix a ceiling for expenditure by the political parties and the candidates on their electoral campaign activities, taking into account:-
- (a) the geographical size of the area to be contested by the political parties and candidates and any geographic impediments on movement in that area,
  - (b) the ease of access to communities in the area and available transport and communication systems,
  - (c) the number and distribution of the population in the area, and
  - (d) any other reasonable circumstances that may affect the costs of the electoral campaign,

### **Use of Electoral Campaigns' Funds**

68. Funds collected for electoral campaign shall be used for the following fields, namely 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 the 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 audiovisual media means.

- (d) pay the gratuities and salaries of the 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,
- (g) any other reasonable expenses necessary for the implementation of electoral campaign activities.

### **Prohibition of the Use of State Resources for Electoral Campaign**

69. No candidate or political party may use free of charge any State resources or any public material or human resources, except the public media, provided that any charge levied shall be proportionate to the services rendered and shall be applied to all political parties and candidates equally and without discrimination.

### **Final Accounts of the Electoral Campaign**

70. (1) Each candidate or political party shall submit to the Commission final accounts of their electoral campaigns' incomes and expenditures, within a period not exceeding thirty days from the official declaration of the final results of the elections or referendum.
- (2) The final accounts to be submitted under sub-section (1) shall be detailed, and shall specify all funds and resources collected

utilized, and used in the electoral campaign, and its sources and the methods of expenditure, provided that such accounts shall be legally audited according to professional auditing practices.

## Section Two

### **Polling and its Procedures**

#### **Distribution of Elections Materials**

71. Within forty eight hours before polling day, every Returning elections officer shall furnish the High Committee in the state with:-
- (a) sufficient number of ballot papers equal to the number of the registered voters in all the polling centres in the state plus ten percent as reserve;
  - (b) a statement showing the number of ballot papers supplied under paragraph (a) with the serial numbers indicated in the statement, and
  - (c) any other necessary materials for conducting the polling, including ballot boxes, secret polling booths, forms required for polling and counting, indelible ink, and stationery .

#### **Publication of the List of Polling Centres, Candidates and Lists**

72. (1) The Commission shall announce, at the same date and time, in the Official Gazette and/or other available mass media the date and time of polling for the election of the office of the President of the Republic, President of Government of Southern Sudan and the Governor.



- (2) The Commission shall disseminate all the information about the candidates and the date and time of polling across the Sudan and abroad for the election of the President of the Republic, and across Southern Sudan for election of the President of Government of Southern Sudan, and across the state for election of the Governor.
- (3) Subject to the provisions of sub-section (1), the Commission shall publish, before the polling day, a notice in the appropriate mass media or any other appropriate means including:-
- (a) the list of polling centres in each of the geographical constituencies,
  - (b) the names of the candidates nominated for election in each geographical constituency, in the same order as they appear on the ballot papers, which is based on the order of submission of the nomination applications.
  - (c) The party lists and Women lists for the purposes of proportional representation.
- (4) The Commission shall provide copies of the notice mentioned in sub-section (3) to all election officers, who shall ensure that the notice is published in the widest manner in their geographical constituencies and in all their polling centres.

### **Polling Centre and Voting Time**

73. (1) Every polling centre shall, satisfy the following conditions namely to:-
- (a) be located in an open ground, or otherwise in large premises that voters can have access to, and leave easily,

- (b) be located in a place to facilitate access by persons with special needs and the elderly to exercise their right of voting.
- (2) At every polling centre, polling shall commence at the time and date specified by the Commission and shall continue without interruption till the closing time.
- (3) If at the official time of closing the poll provided for in sub-section (2) there are voters queuing at the polling centre, who are qualified to vote and have not been able to do so, the polling centre shall be kept open to enable them to vote, provided that this measure shall only apply to those voters who are present at the polling centre at the closing time, and that no other voters who arrive at the polling centre after that time shall be allowed to vote.
- (4) The polling time shall not be extended except under the provisions of sub-section (3), save by permission of the Commission in accordance with the rules.

### **Polling Procedures**

- 74. (1) Subject to the provisions of this Act, the Commission shall lay down the necessary rules for the conduct of polling and the details of its procedures, provided that polling for any election or referendum shall take place in one day except where the Commission decides to extend such period for substantive reasons, and in a manner that guarantees the free and secret vote for all voters.
- (2) The rules mentioned under sub-section (1) shall detail all procedures relating to the opening and closing of polling, the verification of the fact that ballot boxes are empty from any

papers before the start of polling, polling protocols, the rights and duties of observers and agents, polling procedures for the illiterate and those with special needs, the cases of error in filling the ballot paper, and any other necessary procedures.

- (3) The accredited candidates, agents, observers and representatives of the mass media, shall have the right to enter the polling centre and stay therein at any time during the polling process as shall be specified by the Rules.
- (4) The persons mentioned in sub-section (3) shall not interfere with the functions of the polling officials or speak to any voter during her/his presence at the centre to vote.
- (5) The Chief of the polling committee shall have the right to order the expulsion of any of the persons in sub-section (3) whenever he or she contravenes the provisions of this Act or commits any act that hinders the polling process.

### **Interruption and Postponement of Polling**

- 75. Where polling at any of the polling centres is interrupted by riot or violence or any other occurrences that may obstruct the conduct of the poll, the Chief of the polling centre shall adjourn the polling in that centre to be completed at any other time during the same day or the next day, provided that she/he must inform the election officer of the geographical constituency and receive the necessary directions from her/him.

### Section Three

## **Sorting and Counting of Votes and Declaration of Results**

### **Sorting and Counting of the Votes at the Polling Centres**

76. (1) Votes shall be sorted and counted at the polling centre immediately after the Chief of the polling centre declares the polling closed.
- (2) The process of sorting and counting the votes shall continue uninterrupted until the end of such process that shall not be stopped or postponed until all ballot papers in all ballot boxes have been sorted and counted. The election officer shall provide the necessary lighting and other requirements to ensure the completion of the votes' sorting and counting without interruption.
- (3) The accredited candidates, agents, observers and representatives of the mass media shall have the right to attend all the processes of vote sorting and counting in the centre until its end, without interference in the functions of the sorting and counting officers or try to influence them as shall be detailed by the Rules.
- (4) The Chief of the polling centre shall have the right to order the expulsion of any person whenever she or he contravenes the provisions of this Act or the Rules or commit any act that hinders the sorting and counting process.
- (5) The ballot boxes for a referendum shall be sorted first whenever the referendum is conducted simultaneously with any other elections. When more than one election process are conducted at the same day the sorting and counting of the

ballot boxes for the different elections shall be made in the following sequential order, as the case may be:-

- (a)** the President of the republic,
  - (b)** the National Assembly,
  - (c)** the President of Government of Southern Sudan,
  - (d)** the Governors,
  - (e)** the Legislative Assembly of Southern Sudan,
  - (f)** the State Legislative Assembly.
- (6)** The Chief of the polling committee shall, in the presence and under the supervision of the candidates, their agents and observers present, open the ballot boxes one after the other and empty their contents onto the counting table, and shall sort out and count the votes in the manner detailed in the rules, assisted by the members of the polling committee.
- (7)** The Chief of the polling committee shall prepare a report on the sorting and counting of each ballot box, to be signed by her/him personally and whoever is willing to do so from the candidates or their agents present, provided that such report shall include the following details:
- (a)** the name and number of the geographical constituency,
  - (b)** the name and number of the polling centre,
  - (c)** the number of registered voters in that polling centre, the number of voters who voted, the number of those who did not vote, the number of received ballot papers, the number of used and unused ballot papers, and the number of spoilt ballot papers,

- (d) The total number of valid and invalid votes, the total number of valid votes cast for each candidate, political party or list, and the number of blank votes.
- (8) Votes cast for each candidate, political party or list shall be recorded in figures and words, and this shall be signed by the Chief of the polling committee and whoever is willing to sign from the candidates or their agents present before the declaration of the result. The rules shall specify the procedures to submit and record any complaint during the counting of votes and declaration of results.
- (9) The Chief of the polling committee shall declare the results at the polling centre before informing the Chief of the polling centre of those results, provided that a copy of the sorting and counting report shall be published at the polling centre, while the other copies thereof shall be sent to the elections officer in the geographical constituency.

#### **Invalid Votes**

77. (1) A vote shall be invalid and shall not be counted for any of the candidates or political parties if: -
- (a) the ballot paper was torn or spoiled in any manner;
  - (b) the voter has marked the ballot paper in such a manner that her/his choice cannot be reasonably and clearly determined,
- (2) A ballot paper shall not be invalid as long as the voter's choice can be reasonably ascertained without any doubt.

## **Declaration of the Sorting and Counting Results**

78. (1) The Chief of the polling committee shall, immediately after the completion of the sorting and counting of votes cast in every ballot box or after the completion of the recount of votes, declare the results of the sorting and counting, and display a copy of the sorting and counting report at a conspicuous place in the polling centre.
- (2) The Chief of the polling committee shall, personally and immediately after the completion of the tasks provided for under sub-section (1), submit the following documents to the Chief of the polling centre:
- (a) copies of the sorting and counting report as shall be detailed by the rules,
  - (b) a report on the conduct of polling and sorting in her/his committee,
  - (c) all the forms used in the sorting and counting of votes and aggregation of results,
  - (d) the forms of the declaration of the sorting and counting results,
  - (e) all used and unused ballot papers, and all polling and sorting and counting materials as shall be detailed by the rules.
- (3) The agent of a candidate or a political party may, before the polling committee declares the results, request from the Chief of the polling committee to implement a recount of the votes or a new aggregation of the results, and the Chief of the polling committee shall do so if:

- (a) the difference in the number of votes between a candidate and another or any list and another is less than five percent,
  - (b) the total number of valid and invalid and blank votes cast is not equal to the number of the voters who have actually voted, or if there are any other differences in any other totals on the sorting and counting report according to the rules,
  - (c) the Chief of the polling committee has reasons to believe that the sorting and aggregation of votes have been interfered with, or that there was a mistake in the declaration of the results of sorting or counting, or that some ballot papers have been accounted for mistakably because they were misplaced into a different ballot box from the one that they should belong to.
- (4) The agent whose request for aggregation or sorting or counting of the results is not accepted by the Chief of the polling committee shall have the right to submit a written objection to the Chief of the polling committee, who shall attach such objection to the sorting and counting report and the other documents to be submitted to the Chief of the polling centre.

### **Aggregation and Declaration of Results**

79. The Rules shall specify the procedures and the manner for the aggregation and declaration of results at the Polling Centre, the Geographical Constituency, the state, Southern Sudan or the Commission.



**Attendance of the Candidates, Agents, Observers and  
Representatives of the political parties and Mass Media  
at the Aggregation and Declaration of Results**

80. The accredited candidates, agents, observers and representatives of the political parties and the mass media shall have the right to attend the aggregation and declaration of results at the polling centres, the geographical constituencies, the states or the Commission.

**Appeals Against Elections and Referendum Results**

81. (1) Every candidate or political party which participated in the elections or referendum shall have the right to submit an appeal against the results of the elections or referendum as declared by the Commission in accordance with the provisions of this Act.
- (2) The appeal provided for under sub-section (1) shall be submitted to the Court within seven days from the date of the declaration of the results by the Commission. The Court shall make its decision on the appeal within two weeks from its submission, and its decision shall be final.

**Declaration of the Final  
Results of Elections**

82. (1) The Commission shall, immediately after the end of the period specified for submission of appeals and decision thereon under this Act, and after taking into consideration any decisions made in this respect by the Court, prepare and declare the final results of the elections, within a period not exceeding forty eight hours after the end of the decision period on the appeals, provided that such declaration shall be made no later than thirty days from the

date of the end of polling, and such declaration shall include all the details as specified in the Rules to be made according to the provisions of section 79.

- (2) The Commission shall publish the final results in the Official Gazette and/or the available mass media, and shall ensure their widest possible dissemination.

### **Grounds for Invalidation of the Election**

83. The election of a candidate shall only be invalidated if the Commission is satisfied of any of the following circumstances:
  - (a) non compliance by the candidate with the provisions of this Act relating to the elections, in a manner that may affect the results of the elections.
  - (b) that the elected person is different from the one who won the election,
  - (c) that the candidate has, personally or through any other person with her/his knowledge and consent, committed any corrupt practice or any other offence under this Act.

### **Appeal Against the Decision to Invalidate the Election**

84. (1) Any person aggrieved by the decision of the Commission to invalidate the elections in Northern Sudan, may submit an appeal within seven days from being informed of the decision to the Court. The Court shall decide on the appeal within seven days from the date of submission of the appeal, and its decision shall be final.
- (2) Any person aggrieved by the decision of the Commission to invalidate the elections in Southern Sudan, may submit an appeal within seven days from being informed of the decision

to the Supreme Court of Southern Sudan. The Supreme Court in Southern Sudan shall decide on the appeal within seven days from the date of submission of the appeal, and its decision shall be final.

- (3) The submission of the appeals under sub-section (1) or (2) shall not prevent the winning candidate from taking the required oath for assuming the office she/he was elected for.

## **Chapter Nine** **Referendum**

### **Reference to Referendum**

85. In accordance with the provisions of Article 217 of the Constitution, the Commission shall refer to the people for referendum any matter of national or public interest which is referred to it by the President of the Republic or the National Assembly by resolution passed by more than half of its members.

### **Procedure and Rules for the Referendum**

86. (1) The Commission shall fix the date of referring a matter to referendum, allowing enough time to give the opportunity for the public to be acquainted with the matter and exchange views thereon within a period not less than one hundred and eighty days from the date when the matter was referred to the Commission.
- (2) All registered voters inside and outside the Sudan in accordance with section 22 of this Act have the right to vote in the referendum process.

- (3) The rules shall specify the details for the organization and conduct of a referendum, and the procedures for the collection of the opinions and declaration of the results.
- (4) The matter submitted to referendum would achieve the confidence of the people by obtaining more than half of the number of the votes cast.
- (5) Any resolution which has achieved the consent of the people by referendum shall have an authority above any other legislation. It shall not be annulled save by another referendum.

## **Chapter Ten**

### **Corrupt and Illegal Practices and Election Offences**

#### Section one

#### **Corrupt Practices**

#### **Bribery**

- 87. (1)** For the purpose of this Act, "the practice of bribery" means to give or offer to any person:
- (a) money, gifts or financial inducements,
  - (b) employment, employment opportunities or preferential treatment in a person's employment;
  - (c) properties, bonds, securities or shares;
  - (d) contracts or preferential treatment in the award of contracts;
  - (e) any other material benefit.

- (2) Any person shall be deemed to have committed corrupt practice of bribery, directly or indirectly, if she/he:-
- (a) bribes or attempts to bribe any other person in accordance with sub-section (1), with the intention to influence the other person's electoral conduct and behaviour,
  - (b) solicits or demands a bribe, for her/his own benefit or for any other person, with the intention to influence any person's electoral conduct and behaviour.

### **Undue Influence**

88. (1) For the purpose of this Act, "Undue Influence" shall mean:
- (a) use of violence or the threat to use violence against any person or other persons;
  - (b) abduction or the threat of abduction;
  - (c) intimidation or the threat of intimidation against any person or other persons;
  - (d) destruction of or damage to the property or the threat of destroying or damaging the property;
  - (e) sexual harassment or the threat of sexual harassment .
- (2) A person shall be deemed to have committed corrupt practice of undue influence if she/he employs undue influence to coerce any other person, or his family, directly or indirectly, with the intention to influence the other person's electoral conduct and behaviour.

### **Other Corrupt Practices**

89. A person shall be deemed to have committed other corrupt practice if she/he intentionally:-

- (a)** falsifies another person's details on the Electoral Register, or on the forms used to support an application for nomination for an election,
- (b)** falsifies another person's details related to her/his appointment as an agent for a candidate or political party in an election or in a referendum,
- (c)** publishes or prints the Electoral Register or any part thereof which contains false or incorrect information, or does so without the consent of the Commission,
- (d)** falsifies the information recorded on any counting forms, statement of results, aggregation of results, preliminary declaration of results or final declaration of results with the intention to alter the outcome of an election or a referendum,
- (e)** falsifies or directs other persons to falsify ballot papers,
- (f)** produces or retains ballot papers without the consent of the Commission,
- (g)** steals or procures or conspires with others to steal any ballot papers, ballot boxes, official seals, the Electoral Register or parts thereof, counting forms, statement of results, aggregation of results, preliminary or final declaration of results with the intention to affect the outcome of an election or a referendum,
- (h)** includes any details, or destroys or defaces or changes any ballot paper counting forms, statement of results, aggregation of results, preliminary or final declaration of results, at any time before or during voting or counting and aggregation of votes, with the intention to affect the outcome of an election or a referendum, unless authorized to do so under this Act,

- (i) destroys or defaces a written complaint or objection or changes or replaces a written objection or complaint without the written consent of the objector or the complainant, or removes a complaint or objection attached to or included in a statement of results or counting forms or aggregation and declaration of results or a polling centre protocols.

### **Obstruction of Election Officials**

- 90. Whoever obstructs any election official while performing her/his duties under this Act by disrupting in any manner the registration of voters, display and inspection of the Electoral Register, nomination of candidates, polling, sorting and counting or any other activity shall be deemed to have committed corrupt practice of obstruction of an election official.

### **Impersonation**

- 91. Whoever impersonates or attempts to impersonate another person, whether living or dead or a fictitious person, applying to register in the Electoral Register or registering therein, or reporting to vote or voting in the name of another person shall be deemed to have committed corrupt practice of impersonation.

## Section Two **Illegal Practices**

### **Infringement of the Secrecy of the Ballot**

- 92. A person shall be deemed to have committed illegal practice, unless authorized under this Act, if he asks another person about

the way she/he has voted, or induces that person to reveal how she/he has voted, or attempts to see how another person has voted, or places any mark on the ballot papers that reveals the identity of the voter, or asks or induces a companion of a voter to reveal how that person has voted.

**Obstruction of the Participants  
in an Election or a Referendum**

93. A person shall be deemed to have committed illegal practice, unless authorized, if she/ he obstructs by whatever means:
- (a) any person with the intention to prevent that person from registration in the Electoral Register, or from nomination, or from attending a campaign activity or rally, or from polling,
  - (b) any candidate or political party contesting an election or a referendum or their agents with the intention to prevent them from holding a public meeting or rally or any other campaign activities,
  - (c) any agent with the intention to prevent that agent from performing her/his legal responsibilities towards a candidate or political party to contribute in an election or referendum, according to the provisions of this Act.
  - (d) any bona fide journalist or representative of the media accredited by the Commission in the legitimate fulfilment of their duties before, during or after an election or referendum,
  - (e) Any accredited observer by the Commission in the legitimate fulfilment of her/his rights and responsibilities under this Act and the Rules, at any time before, during



or after an election or referendum, and until the expiry date of their accreditation.

### **False Statements and Defamation**

94. A person shall be deemed to have committed illegal practice by making false statement or defamation of another person if she/he:
- (a) signs statements on a nomination form or in support of a nomination which the person knows to be false.
  - (b) submits an application to be registered in the Electoral Register which she/he knows either to be wholly false, or the details of which are false.
  - (c) makes statements, orally or in writing, that a political party or a candidate has withdrawn from an election or is dead, which she/he knows to be false or has reason to believe that is false, with the intention to mislead voters or election officials or the Commission,
  - (d) signs an oath of Identity which he knows to be either wholly false or the details of which are false,
  - (e) defames another person before, during or after the end of elections or referendum, in writing or orally, knowing that such statements are false or has reasons to believe that such statements are false, with the intention to mislead voters.

### **Failure to Make a Return**

95. An election official, who fails, without a lawful excuse, to furnish the results of an election or referendum in the specified manner and

within the required time under this Act and the Rules, shall be deemed to have committed illegal practice.

### **Misuse of State Resources**

96. Any Candidate shall be deemed to have committed illegal practice if he uses any State resources for the purpose to carry out his/her electoral campaign.

### **Prohibited Activities in an Election or Referendum**

97. A person shall be deemed to have committed illegal practice if she/he:-
- (a) breaches the obligation to treat all candidates and political parties in the elections or referendum equally,
  - (b) uses electronic devices or any other means relating to the elections or referendum in any manner that contradicts the provisions of this Act or with the intention to affect the conduct of election process and its results,
  - (c) being an accredited agent or observer, refuses to produce a personal identity proof,
  - (d) makes obstructions to voters in the exercise of their right to vote,
  - (e) does not enable the accredited observers according to this Act to attend electoral activities and exercise their duties.

Section Three  
**Electoral Offences**

**Limitation of the Freedom of Expression**

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

**Failure to Abide by Campaign Funding Requirements**

99. A candidate or political party shall be deemed to have committed electoral offence if they fail, without an acceptable excuse, to provide the Commission with full and thorough account of all incomes and expenditures during the campaign, on the form prepared by the Commission, within thirty days of the declaration of the final results of an election or referendum.

**Offences During Voting**

100. A person shall be deemed to have committed an electoral offence where he/she:
- (a) destroys or spoils the ballot papers intentionally, or refuses to leave the polling station, or to obey the instructions of the polling officials,

- (b) continues to stay, without permission, inside the polling centre during the election process,
- (c) defaces, destroys or removes any public notice to the voters concerning the elections before, or during the polling process.

### **Offences during the Sorting, Counting and Aggregation of Results**

101. A person shall be deemed to have committed an electoral offence if he/she:-
- (a) removes the results notice fixed at a polling centre before seven days from the date of affixing of such notice in its place,
  - (b) stays, without being authorized, in a polling centre during counting or in a location established for the aggregation of results under this Act and the Rules.

### **Punishments Under this Chapter**

102. Whoever contravenes the provisions of sections 87 to 101 inclusive shall, on conviction by the competent court, be punished with imprisonment for a term not less than six months and not more than two years or with fine to be determined by the competent court or with both.

## **Chapter Eleven** **General Provisions**

### **Commitment to the Comprehensive Peace Agreement**

- 103.** Whoever runs in any elections as a candidate, or a party that seconds a candidate or nominates a party list or Women list shall submit a certificate signed by her/him personally and legally authenticated stating that he or she shall respect, abide by and enforce the Comprehensive Peace Agreement.

### **Agents and Observers**

- 104. (1)** Any candidate or political party may nominate an agent thereto to represent him at the polling centres and request her/his accreditation as specified by the Rules. Such agent shall have the right to attend all the processes of polling, sorting and counting of the votes, and to submit, verbally or in writing, any questions or objections to the polling and sorting committees.
- (2)** The Commission shall, in addition to the countries sponsoring the Comprehensive Peace Agreement, invite or accept invitation from some states or International or Regional Organizations to attend and observe the elections or referendum provided for under the Constitution, and to nominate their representatives, provided that the Commission shall officially accredit the said representatives.
- (3)** Committees may be formed for observation of the elections and referendum from:
- (a)** Judges,
  - (b)** legal counsellors at the Ministry of Justice, and the Southern Sudan Ministry of Legal Affairs and Constitutional Development,
  - (c)** ex-public service employees or persons of the society, who are known for uprightness, truth and honesty.
  - (d)** civil society organizations, press and the media ,
  - (e)** political parties,

- (4) The polling and sorting committees shall allocate suitable space for the observers in each polling and sorting centre, in order to allow them to perform their duties easily and safely.
- (5) The Commission shall make the necessary rules to regulate the accreditation of agents and observers.

### **Functions of the Observers**

- 105. (1)** The observer accredited by the Commission may personally exercise the following functions:
- (a) observe the polling, sorting and counting of votes, to monitor the fairness of the polling, sorting and counting procedures,
  - (b) ensure the impartiality of the persons in charge of the polling, sorting and counting of votes, and their commitment to this Act and the regulations, rules and orders made hereunder,
  - (c) visit the geographical constituencies and polling, sorting and counting centres at any time without previous notice,
  - (d) attend all stages of the polling sorting and counting, and particularly be present at the opening and closing of the ballot boxes,
  - (e) ascertain the freedom and fairness of the elections and the secrecy of the polling, and write reports to that effect as shall be specified by the regulations and the rules.
- (2)** Observation committees and individual observers shall not interfere in any manner in the work of the elections committees or their officials, provided that they may formulate questions verbally or in writing.

### **Revocation of Observers' Confirmation**

106. (1) The Commission with the consensus of the members may revoke the accreditation of the national or international observers at any time if it is satisfied that they have committed any act in breach of this Act and the Rules.
- (2) If it becomes impossible to reach consensus according to subsection (1), then the Commission shall decide on the revocation by absolute majority.

### **Postponement of Elections in Some of the Geographical Constituencies**

107. The Returning elections officer, with the approval of the Commission, may postpone the elections in some geographical constituencies in the state in case of riots or violence that hinder the elections, or for any other compelling reasons which make it impossible to conduct the elections on the fixed date.
- The Returning elections officer shall in this case, with the approval of the Commission, establish a new date for elections in such constituencies, provided that such date shall not be more than sixty days after the date originally designated for conducting the elections.

### **Funding of the Elections and Referendum**

108. (1) The Ministry of Finance and National Economy shall appropriate the necessary funds into the accounts of the Commission to fund its running costs and the costs of organizing and conducting the National, Southern Sudan and states' elections and national referendum.

- (2) The Government of Southern Sudan shall make available the financial resources necessary for the organization and conduct of any referendum at the level of Southern Sudan.
- (3) The state Government shall make available the financial resources necessary for the organization and conduct of any referendum at the level of the states.

**Power to Seek the Assistance of Technical, Technological Aids and Public Sector Means of Transport.**

109. The Commission shall, when conducting any elections or referendum and in coordination with the National Council of Ministers, use modern technical and technological aids and the public transportation means as well as other necessary logistical support to perform its functions and in this respect the Commission may issue the necessary administrative decisions for the execution of the above.

**Vesting**

110. There shall vest in the Commission all rights, properties and liabilities of the General Elections Authority established under the General Elections Act 1998 (repealed).

**Punishments**

111. Subject to the provisions of section 102 and without prejudice to any severe punishment provided for in any other law; whoever commits any contravention to the provisions of this Act shall be punished on conviction with imprisonment for a term not exceeding two years or with fine to be determined by the Competent Court or with both.

**Power to Make Regulations, Rules and Orders**

112. The Commission may make the necessary regulations, rules and orders for the implementation of the provisions of this Act.