

Act 1

*Interpretation of Laws and
General Provisions Act*

2006

**THE INTERPRETATION OF LAWS AND GENERAL
PROVISIONS ACT, 2006**

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LAWS OF SOUTHERN SUDAN

**THE INTERPRETATION OF LAWS AND
GENERAL PROVISIONS ACT, 2006**

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

CHAPTER I

PRELIMINARY PROVISIONS

1. Title and Commencement.

This Act may be cited as the “Interpretation of Laws and General Provisions Act, 2006” and shall come into force on to the date of its signature by the President.

*Signed on
10th
October,
2006*

2. Repeal and Saving.

The Interpretation of Laws and General Provisions Act, 2003, is hereby repealed; provided that, all proceedings, orders and regulations taken or made thereunder, except to the extent that they are cancelled by or are otherwise inconsistent with the provisions of this Act shall remain in full force and effect, until such time as they shall be lawfully repealed or amended.

3. Application.

The provisions of this Act shall apply to the interpretation of every Act, written law and other provisions enacted or otherwise in force in Southern Sudan.

CHAPTER II**DEFINITIONS AND GENERAL PROVISIONS OF
INTERPRETATION****4. Interpretations.**

In this Act, and in every other written law and public document, adopted or issued after the commencement of this Act, the following words and expressions shall have the meaning hereby assigned to them, unless the context is inconsistent with that construction or interpretation, and except where it is otherwise expressly provided—

“Accountant” means a qualified person appointed to be an accounting officer within the meaning, and for the purposes, of finance and audit;

“act” used with reference to an offence or civil wrong, may include a series of acts, and words which refer to acts done or illegal omissions;

“Act” when used in reference to legislation means any Act, Decree, resolution or law passed by the Assembly;

“Administrative Officer” means a State, County or Payam administrator;

“Aircraft” includes airplanes, seaplanes, flying boats, airships and aerial balloons;

“Amend” includes repeal, revoke, rescind, cancel, replace, add to or vary a provision of a written law or instrument;

“Assembly” means the Southern Sudan Legislative Assembly, State Assemblies and any other Assembly;

“Boma” means one of the administrative units into which the Payam is divided;

“BoSS” means the Bank of Southern Sudan;

“Chapter”, **“Part”**, **“Section”**, **“Regulation”**, **“Rule”** and **“Schedule”** denote respectively a Chapter, Part, section, regulation and rule of, and a Schedule to, the written law in which the word occurs; and **“subsection”** and **“subparagraph”** denote respectively a subsection, sub-regulation and sub-rule, in which the word occurs; and **subparagraph** denotes a subparagraph of a paragraph;

“Child” means a person less than 18 years of age;

“Coin” means any metal recognized as legal tender in Southern Sudan;

“Commencement” used with reference to any written law, means the date on which it came or comes into force or operation;

“Common law” means a body of law derived from judicial decisions rather than statutes or Constitution and based on the doctrine of justice, equity and good conscience as shall be applicable in Southern Sudan;

“Contravene” in relation to a requirement or condition prescribed in a written law or in a grant, permit, lease, licence or authority granted by or under a written law, includes a failure to comply with that requirement or condition;

“Council of Ministers” is the highest executive authority in Southern Sudan and the States;

“County” means one of the administrative units into which a state is divided in Southern Sudan;

“County Commissioner” means the person appointed as the highest authority in the County;

“Court” means any competent court of law in Southern Sudan;

“Document” includes any publication and any matter written, expressed or described upon any substance by means of letters, figures or marks, or by more than one of those means, which is intended to be used or may be used for the purpose of recording that matter;

“Excluded Day” means a day not included in the calculation of a time period, as more fully explained in Section 44 of this Act;

“Financial Year” means the period from 1st January in any year to the 31st December in the same year, both days inclusive or as may be decided;

“General Order” means the manner by which the President may take certain actions subject to approval by the Assembly,

“The Gazette” means Southern Sudan *Gazette* published by the GoSS, and includes any supplement thereto;

“GoSS” means the Government of Southern Sudan;

“GoNU” means the Government of National Unity;

“Immovable Property” includes land, whether covered by water or not, any estate, right, interest or easement in or over any land and things attached to the earth or permanently fastened to anything attached to the earth, and includes a debt secured by mortgage or charge on immovable property;

“Master”, used with reference to a ship, means a person (except a pilot or harbour master) having for the time being in control or in charge of a ship;

“Medical Officer” means a medical practitioner in the service of GoSS;

“Medical Practitioner” means a person for the time being duly registered or licensed as a medical practitioner in accordance with Health Laws;

“Minister” means a person appointed as a Minister of GoNU, GoSS or State;

“Month” means calendar month;

“Movable property” means any property other than immovable property;

“Municipality” shall have the meaning assigned to it by the Local Government Act;

“Oath” means solemn declaration accompanied by swearing to God;

“Affidavit” means a voluntary declaration of facts written down and sworn to by the declarant before an authorised person;

“Occupy” includes temporal inhabitation, possession or enjoyment of premises without necessarily owning them;

“Offence” means a crime, felony, misdemeanour or contravention or other breach of, or failure to comply with, any written law, for which a penalty is provided;

“Parent” a parent means mother or father, including adopting mother and father;

“Payam” means one of the administrative units into which a County is divided in the States of Southern Sudan;

“Payam Administrator” means the chief administrative officer at the Payam level;

“Person” includes a natural person, company, association, body of persons, corporate or non-corporate;

“Power” includes any privilege, authority or discretion;

“Prescribed” means as directed by the Act or subsidiary regulations in which the word appears;

“President” means the person serving as the President of the Republic of the Sudan and Government of Southern Sudan;

“Printer” means the printer of GoSS, and any other printer authorized by GoSS to print any written law or other document of Southern Sudan;

“property” includes money, goods, choses in action, land and every description of property, whether movable or immovable; and includes obligations, easements and every description of estate, interest and profit, present or future, vested or contingent, arising out of or incidental to property as herein defined;

“Provisional Order” means an order issued by the President on urgent matters, having force of law, when the Assembly is not in Session;

“Publication” includes all written and printed matter, and any record, tape, wire, perforated roll, cinematography film or other contrivance by means of which any words or ideas may be mechanically or electronically produced, reproduced, represented or conveyed;

“Public Body” means:—

- (a) GoSS, Legislature, Executive, Judiciary, BoSS or any Ministry, department, institution or undertaking thereof;

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

“Public Holiday” means a day which is not a public working day;

“Public Office” means an office or employment, the holding or discharging of which is by a person known as a public officer;

“Public Servant” means a person in the service of any public body, whether that service or office is permanent or temporary, paid or unpaid;

“Public Place” includes every place to which the public is entitled or permitted to have access whether on payment or otherwise;

“Registered” used with reference to documents of title registered under the provisions of any written law;

“Repeal” includes rescind, revoke, cancel or replace;

“Rule” includes a rule of court, by-law and regulation;

“Rules of Court”, when used in relation to a court, means rules made by the authority having power to make rules or orders regulating the practice and procedure of that court;

“Sell” includes barter, exchange and offer to sell or expose for sale;

“Ship” includes every description of vessel used in navigation not propelled by oars;

“Sign” means a personal signature, and with reference to a person who is unable to write his or her name, includes a mark;

“Southern Sudan” has the meaning assigned to it in Chapter I, Article 1(a) of the Interim Constitution of Southern Sudan, 2005;

“State” means one of the units into which Southern Sudan is administratively divided;

“**State Governor**” means a person appointed in the pre-elections period or elected after the general elections to hold the highest political and administrative office in any of the States of Southern Sudan;

“**Street**” or “**Road**” includes a highway, street, road, bridge, square, court, alley, lane, bridleway, footway, parade, thoroughfare, passage or open space to which the public is entitled or permitted to have access whether on payment or otherwise;

“**Subsidiary regulations**” means any regulations, rules, orders or any other similar provisions having the force of law, (including a transfer or delegation of powers or duties) made in exercise of a power in that behalf conferred by a written law;

“**Territorial water**” means any part of the open sea within twelve nautical miles of the coast of Sudan and includes any inland water;

“**Finance**” means the Ministry of Finance and Economic Planning which is responsible for finance of Southern Sudan;

“**Vessel**” includes any ship, boat or any other description of vessel used in navigation;

“**Will**” includes codicil;

“**Writing**” an expression referring to writing, includes printing, photography, lithography, typewriting and any other modes of representing or reproducing words in visible form;

“**Written law**” means—

(a) an Act of Legislature for the time being in force;

(b) any subsidiary regulation for the time being in force;

“**Year**” means a period of twelve months, determined in accordance with the Gregorian calendar.

5. General Interpretations.

- (1) Where any word or expression is defined in this or in any other written law, such definition shall extend, mutatis mutandis, to the grammatical variation and cognate expressions of that word or expression.

- (2) In every written law, except where a contrary intention appears, words and expressions importing the masculine gender include females.
- (3) In every written law, except where a contrary intention appears, words and expressions in the singular include the plural and words and expressions in the plural include the singular.

CHAPTER III

GENERAL PROVISIONS REGARDING WRITTEN LAWS

Acts of the Assembly

6. Commencement of Acts.

- (1) Subject to the provisions of subsection (2) of this section, an Act shall come into force or operation on the day on which it is published in the *Gazette*.
- (2) If the Act, or any other written law, provides that the Act, written law, or any provision thereof, shall come or be deemed to have come into operation on a day other than the day on which it is published in the *Gazette*, the Act, written law or provision shall come or be deemed to have come into force or operation on such other day.

7. Acts to be Divided into Sections.

All Acts shall be divided into sections, if there are more enactments than one, each section of the Act takes effect as a substantive enactment without any introductory words.

8. Reference to Written Law to Include Amendments.

A reference in a written law to another written law or to any provision of a written law shall be construed as a reference to the other written law and any amendments thereto.

*Written Laws Generally***9. Time when Written Law Comes into Operation.**

When any written law, or part of a written law came or comes into operation on a particular day, it shall be deemed to have come or shall come into operation immediately upon the expiration of the day immediately preceding such day.

*Repeal, Amendment and Expiry***10. Repealed Written Law not Revived.**

Where a written law is repealed or otherwise repeals another written law, in whole or in part, the repeal shall not operate to revive any previously repealed written law or provision, unless the written law specifically provides for such action.

11. Repeal of Amended Law to Include Amendments.

Where a written law which has been amended by another written law is repealed, that repeal shall, unless a contrary intention appears, include the repeal of all those provisions of any other written laws by which the first mentioned written law was amended.

12. Repeal and Substitution.

Where a written law repeals in whole or in part a former written law, and substitutes provisions for the written law repealed, the repealed written law shall remain in force until the substituted provisions comes into operation.

13. Provisions Respecting Amended Written Law and Effect of Repealing Written Law.

(1) Where a written law makes reference to another written law, that reference shall, except where the context otherwise requires, be deemed to include a reference to the last mentioned written law as it may from time to time be amended.

- (2) Where a written law repeals and re-enacts, with or without modification, a provision of a former written law, references in another written law to the provisions so repealed shall, unless a contrary intention appears, be construed as references to the provisions so re-enacted.
- (3) Where a written law repeals in whole or in part another written law, then, unless a contrary intention appears, the repeal shall not—
 - (a) revive anything not in force or existing at the time at which the repeal takes effect;
 - (b) affect the previous operation of a written law so repealed or anything duly done or suffered under a written law so repealed;
 - (c) affect a right, privilege, obligation or liability acquired, accrued or incurred under a written law so repealed;
 - (d) affect a penalty, forfeiture or punishment incurred in respect of an offence committed against a written law so repealed; or
 - (e) affect an investigation, legal proceeding or remedy in respect of right, privilege, obligation, liability, penalty, forfeiture or punishment as aforesaid, and any such investigation, legal proceeding or remedy may be instituted, continued or enforced, and any such penalty, forfeiture or punishment may be imposed, as if the repealed written law had not been repealed.

14. Effect of Repeal of Act on Subsidiary Regulations.

Where an Act or part of an Act is repealed, subsidiary regulations issued under or made pursuant thereto shall, unless a contrary intention appears, remain in full force and effect until it has otherwise been revoked or repealed by subsequent subsidiary regulation; provided that, the existing subsidiary regulation is not inconsistent with the repealing Act.

15. Construction of Amending Written Law with Amended Written Law.

Where one written law amends another written law, the amending written law shall, so far as it is consistent with the tenor thereof, and unless a contrary intention appears, be construed as one with the amended written law.

16. Effect of Expiry of Written Law.

Upon the expiry of a written law the provisions of section 13(3) shall apply as if the written law had been repealed.

*Subsidiary Regulations***17. Publication and Commencement of Subsidiary Regulation.**

- (1) Subsidiary regulation shall, unless it is otherwise expressly provided in a written law, be published in the *Gazette*, and shall come into operation on the day of publication; provided that, if a written law provides that the subsidiary regulation shall come into operation on a day other than the day of publication in the *Gazette*, the subsidiary regulation shall come into operation on that day, subject to annulment where applicable.
- (2) Notwithstanding anything in subsection (1), above, where a written law contains power to prescribe forms then, unless it is otherwise expressly provided therein, those forms need not be published in the *Gazette*.

18. Retrospective Operation of Subsidiary Regulations.

Subsidiary regulations may be made to operate retrospectively to any day or date, not being earlier than the commencement of the written law under which the subsidiary regulation is made, but no person shall be made or become liable to any penalty whatsoever in respect of an act committed or of the failure to do anything before the day on which that subsidiary regulation is published in the *Gazette*.

19. Construction of Subsidiary Regulations.

Where an Act confers power to make subsidiary regulations, terms and expressions used in the subsidiary regulations shall, except where a contrary intention appears, have the same meaning as in the Act conferring the power, and a reference in the subsidiary regulations to the Act shall mean the Act conferring the power to make the subsidiary regulations.

20. Exercise of Powers between Publication and Commencement of Act.

Where an Act is not to come into force or operation immediately on the publication in the *Gazette*, and such Act confers power to make an appointment, subsidiary regulations, prescribe forms or any other action for the purposes of the Act, the power may, unless a contrary intention appears, be exercised at any time after the publication of the Act, so far as may be necessary or expedient for the purpose of bringing the Act into operation on the day of the commencement thereof, but an instrument made in exercise of that power shall not, unless a contrary intention appears in the Act or the contrary is necessary for bringing the Act into force or operation, come into force or operation until the Act comes into force or operation.

21. General Provisions with Respect to Power to make Subsidiary Regulations.

Where an Act confers power on an authority to make subsidiary regulations, the following provisions shall, unless a contrary intention appears, apply with respect to the enactment of the subsidiary regulations—

- (a) when subsidiary regulations purports to be made or issued in the exercise of a particular power, it shall be deemed also to be made or issued in exercise of all other powers thereunto enabling;

- (b) no subsidiary regulation shall be inconsistent with the provisions of an Act;
- (c) subsidiary regulations may at any time be amended by the same authority and in the same manner by and in which it was made; but where the authority has been replaced wholly or in part by another authority, the power conferred upon the original authority may be exercised by replacing authority concerning all matters or things within its jurisdiction as if it were the original authority;
- (d) where an Act confers power on an authority to make subsidiary regulations for a general purpose, and also for special purposes incidental thereto, the enumeration of the special purposes shall not be deemed to derogate from the generality of the powers conferred with reference to the general purpose;
- (e) the subsidiary regulations may provide for a penalty for violation thereof, in the form of fines, which shall not be excessive, in terms of imprisonment not exceeding six months, or both, which the authority making the subsidiary regulations may think fit.

22. References to Written Laws to include Subsidiary Regulations thereunder.

A reference in one written law to another written law necessarily includes a reference to subsidiary regulations made under the written law to which reference is made.

23. Act done under Subsidiary Regulations deemed done under Act which Authorizes such act.

An action taken under or by virtue of or in pursuance of subsidiary regulations made under a power contained in an Act, shall be deemed to be done under such Act or by virtue of the powers conferred by an Act or in pursuance or execution of the powers of or under the authority of such Act.

24. Rules and Regulations Submitted to the Assembly.

- (1) All subsidiary regulations, provisional orders, rules and similar provisions made under an Act shall, unless a contrary intention appears in the Act, be submitted to the Assembly without unreasonable delay, and shall be subject to the adoption or amendment by a resolution of the Assembly in accordance with the provisions of the Assembly's regulations.
- (2) Subsection (1), above, shall not apply to personnel and other operating rules or regulations of the Executive Branch or the Judiciary, nor to rules of court of law.
- (3) In this section, rules and regulations mean respectively those forms of subsidiary regulations which may be cited as rules or regulations, as the case may be.

25. Fees.

- (1) Where an Act confers power to make subsidiary regulations, unless a contrary intention appears, such power includes the authority to assess fees or other charges, and the subsidiary regulations may provide for all or any of the following matters—
 - (a) specific fees or charges;
 - (b) maximum or minimum fees or charges;
 - (c) maximum and minimum fees or charges;
 - (d) the payment of fees or charges either generally or under specified conditions or in specified circumstances; and
 - (e) the reduction, waiver or refund, in whole or in part, of any such fees or charges, either upon the happening of a certain event or in the discretion of a specified person.

- (2) Where a reduction, waiver or refund in whole or in part, or a fee or charge is provided for, the reduction, waiver or refund may be expressed to apply or be applicable either generally or specifically—
 - (a) in respect of certain matters or transactions or classes of matters or transactions;
 - (b) in respect of certain documents or classes of documents;
 - (c) when an event happens or ceases to happen;
 - (d) in respect of certain persons or classes of persons; or
 - (e) in respect of a combination of those matters, transactions, documents, events or persons.
- (3) A fee or charge may be expressed to apply or be applicable subject to such conditions as may be specified in the subsidiary regulation or in the discretion of any person specified therein.

Transfer and Delegation of Statutory Powers and Duties.

26. Provision for Transfer of Statutory Powers and Duties.

- (1) Where, by an Act, the exercise of a power or the performance of a duty is conferred upon or vested in the President, the President may, by general order, transfer the exercise of that power or the performance of that duty to a Minister.
- (2) The powers transferrable by a general order made under this section shall include the power to make rules; provided that, such authority is contained in the Act.
- (3) The draft of every general order to be made under this section shall be submitted to the Assembly and shall be approved by resolution.

- (4) A general order made under this section may be varied by a subsequent order made in the same manner and subject to the same conditions.
- (5) A provisional order made under this section may make such amendments to the Act in respect of which the order is made, being amendments consequential upon the transfer by order or the exercise of a power or the performance of a duty, as may be necessary for carrying the order into effect; provided that, the provisional order pertains to an urgent matter, and the Assembly is not in session. Such provisional matter must be submitted to the Assembly as soon as it convenes.
- (6) Where a provisional order is made under this section, and subsequently ratified by the Assembly, an Act in respect of which the provisional order is made shall thereafter be read and construed in all respects as if it were amended in conformity with the terms of the provisional order.

27. Provision for Execution of Duties of Minister or Public Servant during Temporary Absence or Inability.

Where, by or under an Act, the exercise of a power or the performance of a duty is conferred upon or vested in a Minister or a public servant, the President, in the case of a Minister, or the Minister, in the case of a public servant, may direct that, if the office of that Minister or public servant is vacant for any reason, or if during any period, owing to absence or inability to act from illness or any other cause the Minister or public servant is unable to exercise the powers or perform the duties of his or her office, those powers shall be had and may be exercised and those duties shall be performed by a Minister designated by the President or by a person named by, or by the public servant holding an office designated by the Minister. Thereupon the Minister, or the person or public servant, during that period, shall have and may

exercise those powers and shall perform those duties, subject to such conditions, exceptions and qualifications as directed by the President or the Minister.

28. Delegation of Powers.

- (1) Where, by or under an Act, the exercise of a power or the performance of a duty is conferred upon or vested in the President or a Minister, the President or the Minister, may, unless he or she is expressly prohibited by law from so doing, delegate, by notice in the *Gazette*, to a person by name, or to the person for the time being holding an office specified in the notice, the exercise of that power or the performance of that duty, subject to such conditions, exceptions or qualifications as the President or the Minister may specify in the notice.
- (2) Nothing in subsection (1), above, shall authorize the persons therein mentioned to delegate—
 - (a) a power to make subsidiary regulation; or
 - (b) a power to issue warrants or to make proclamations or to hear an appeal,under a power in that behalf conferred upon or vested in any such person by an Act.
- (3) A delegation made under subsection (1), above, may be varied or cancelled by the person who made it by notice in the *Gazette*.
- (4) No delegation under subsection (1), above, of a power or duty shall exclude the exercise of the power or the performance of the duty by the person who made the delegation.
- (5) A person delegated power or duty under subsection (1) above, shall not re-delegate such power or duty.

CHAPTER IV**GENERAL PROVISIONS REGARDING POWERS, DUTIES,
APPOINTMENTS, THE EXERCISE AND SIGNIFICATION
THEREOF****29. Powers and Duties to be Exercised and Performed From
Time to Time.**

Where a written law confers a power or imposes a duty, then, unless a contrary intention appears, the power may be exercised and the duty shall be performed from time to time as occasion arises.

30. Powers and Duties of Holder of Office.

Where a written law confers a power or imposes a duty on the holder of an office as such, then, unless a contrary intention appears, the power may be exercised and the duty shall be performed by the person for the time being holding that office.

31. Power to Appoint by Name of Office.

Where the President, a Minister, a public servant or a public body is empowered by a written law to appoint a person to perform any functions or hold any office, he or she the Public body may either appoint a person by name or appoint the holder of a named office to perform the functions or hold the office in question.

**32. Reference to a Holder of Office Includes a Person
Discharging Functions of that Office.**

In this Act and in any other written law, instrument, warrant or process of any kind, a reference to a person holding an office shall include a reference to any person for the time being lawfully discharging the functions of that office.

33. Power to Appoint Pending Retirement, etc., of Existing Office Holder.

- (1) Where the substantive holder of a public office constituted by or under an Act is on leave of absence pending relinquishment by him or her of that office, another person may be appointed substantively to hold the same public office.
- (2) Where two or more persons are holding the same office by reason of an appointment made in accordance with subsection (1), above, then, for the purposes of all written laws and in respect of every power conferred or duty imposed upon the holder of that office, the person last appointed to the office shall be deemed to be the holder thereof, unless the authority of that person has been otherwise terminated.

34. Change of Title of Public Servant.

- (1) Whenever the title of a public servant is changed, the President may, by notice in the *Gazette*, declare that, for the purposes of all written laws, the title of the public servant shall be replaced by the new title specified in the notice.
- (2) Where a notice is published under subsection (1), above, a written law containing a reference to the title which is changed shall be deemed to have been amended by substituting for that reference to the new title.

35. Construction of Enabling Words.

Where a written law confers power upon a person to do or to enforce an act or thing, all powers as are necessary to enable the person to do or to enforce the act or thing shall also be deemed to be conferred.

36. Power to Appoint Board.

Where a written law confers the power to a person to appoint a board, commission, committee or similar body, that person may, unless a contrary intention appears, appoint a chairperson, deputy chairperson, vice-chairperson and secretary of the board, commission, committee or similar body.

37. Power to Appoint Public Servant to Serve on Board.

Where a written law confers the power to a person to appoint persons to serve as members of a board, commission, committee or similar body, the person having that power may, unless a contrary intention appears, appoint, by his or her official designation, a public servant, and, on the appointment and until the appointment shall be revoked or otherwise determined, the person for the time being holding the office in question shall be a member of the board, commission, committee or similar body.

38. Power to Appoint to Include Power to Suspend, Dismiss and Reappoint.

(1) Where a written law confers or imposes upon a person the power or duty to make an appointment or to constitute or establish a board, commission, committee or similar body, then, unless a contrary intention appears, the person having that power or duty shall also have the power to remove, suspend, dismiss or revoke the appointment of, and to reappoint or reinstate, a person appointed in the exercise of the power or duty, or to revoke the appointment, constitution or establishment of, or dissolve, a board, commission, committee or similar body appointed, constituted or established, in exercise of the power or duty, and to reappoint, reconstitute or re-establish it.

- (2) Where the power or duty of a person under this section is exercised or performed only upon the recommendation of another person, or is otherwise subject to the approval or consent of another person, then the power shall, unless a contrary intention appears, be exercised or performed only upon the other person's recommendation, or subject to the other person's approval or consent.

39. Power to Appoint Alternate or Temporary Members.

- (1) Where a written law provides for the establishment of a board, commission, committee or similar body, whether corporate or unincorporated, then, unless a contrary intention appears, a person who is empowered by that written law to appoint any of all of the members thereof may—
 - (a) appoint one or more duly qualified persons to be alternate members, and any one alternate member may attend a meeting when a substantive member is temporarily unable to attend;
 - (b) appoint a duly qualified person to be a temporary member in the place of a substantive member, who is precluded by illness, absence, or other cause from exercising his or her functions.
- (2) When attending a meeting of the board, commission, committee or similar body, the alternate or temporary member shall be deemed for all purposes to be a member thereof.

40. Powers of Board not Affected by Vacancy.

Where a written law provides for the establishment of a board, commission, committee or similar body, whether corporate or unincorporated, then, unless a contrary intention appears, the powers of the board, commission, committee or similar body shall not be affected by—

- (a) a vacancy in the membership thereof; or
- (b) a defect afterwards discovered in the appointment or qualification of a person purporting to be a member thereof.

41. Affixing of Common Seal.

Where a written law provides for the establishment of a board, commission, committee or similar body as a body corporate having perpetual succession and a common seal, and a document requires to be sealed with the common seal, then, in the absence of express provision to the contrary, the common seal shall be affixed by the chairperson of the board, commission, committee or similar body and shall be authenticated by his or her signature.

42. Power of Majority to act.

Except as otherwise expressly provided by a written law, where an act or thing may or is required to be done by more than two persons, a majority of them may do the act or thing.

**CHAPTER V
GENERAL PROVISIONS REGARDING TIME**

43. Time.

- (1) The standard time of Southern Sudan shall be three hours in advance of Greenwich Mean Time.
- (2) Where an expression of time occurs in a written law, instrument, warrant or process of any kind, the time referred to shall, unless it is otherwise expressly provided, signify the standard time of Southern Sudan.

44. Computation of Time.

In computing time for the purposes of a written law, unless a contrary intention appears—

- (a) a period of days from the happening of an event or the doing of an act or thing shall be deemed to be exclusive of the day on which the event happens or the act or thing is done;
- (b) if the last day of the period is Sunday or a public holiday (which days are in this section referred to as excluded days), the period shall include the next following day, which is not an excluded day;
- (c) where an act or proceeding is directed or allowed to be done or taken on a certain day, then, if that day happens to be an excluded day, the act or proceeding shall be considered as done or taken in due time if it is done or taken on the next following day, not being an excluded day;
- (d) where an act or proceeding is directed or allowed to be done or taken within any time not exceeding six days, excluded days shall not be included in the computation of the time.

45. Provisions Where no Time Prescribed.

Where no time is prescribed or allowed within which an act or thing shall be done, such act or thing shall be done without unreasonable delay, and as often as the circumstance may require.

46. Construction of Power to Extend Time.

Where a written law prescribes a time for doing an act or commencing a proceeding, and power is given to a court or other public authority to extend that time, then, the power may be exercised by the court or other public authority, only if the application for extension is made before the expiration of the time prescribed, unless a contrary intention appears.

CHAPTER VI

GENERAL PROVISIONS REGARDING LEGAL
PROCEEDINGS AND PENALTIES**47. Evidence of Signature of Minister of Legal Affairs to Consent.**

Where the consent of the Minister of Legal Affairs and Constitutional Development is necessary before a prosecution or action is commenced, a document purporting to bear the consent of the Minister of Legal Affairs and Constitutional Development shall be received as *prima facie* evidence in proceedings being given that the signature to the consent is that of the Minister of Legal Affairs and Constitutional Development, and no additional proof shall be necessary.

48. Ex-Officio Proceedings not to Abate on Death.

Civil proceedings taken by or against any person by virtue of his or her office shall not be discontinued or abated by his death, resignation, absence or removal from office, but may be carried on by or against, as the case may be, the person for the time being holding that office.

49. Imposition of Penalty no Bar to Civil Action.

The imposition of a penalty or fine, by or under the authority of a written law, shall not, in the absence of express provision to the contrary, relieve a person from liability to answer for damages to a person injured.

50. Provisions as to Offences Under Two or more Laws.

Where an act or omission constitutes an offence under two or more written laws, the offender shall, unless a contrary intention appears, be liable to be prosecuted and punished under any of those laws, but shall not be liable to be punished more than once for the same offence.

51. Amendment of Penalty.

Where an act or omission constitutes an offence, and the penalty for the offence is amended between the time of the commission of the offence and the conviction thereof, the offender shall, in the absence of express provision to the contrary, be liable for the penalty prescribed at the time of the commission of the offence.

52. Statement of Penalty at Foot of Section to Indicate Penalty for Contravention of Section.

Where a written law prescribes a penalty at the foot of a section, a contravention of the section whether by act or omission shall be an offence against that written law and shall, unless a contrary intention appears, be punishable upon conviction by a penalty not exceeding the penalty so set out.

53. Penalties Prescribed may be Maximum Penalties, but may be Cumulative.

(1) Where a written law prescribes a penalty for the commission of an offence, that provision shall, unless a contrary intention appears, mean that the offence shall be punishable by a penalty not exceeding the penalty prescribed in such written law.

(2) Where a written law prescribes more than one penalty for the commission of an offence, the use of the word “and” shall, unless a contrary intention appears, mean that the penalties may be imposed alternatively or cumulatively.

54. Disposal of Forfeited Properties.

- (1) Where an animal, item or property is by a written law declared, or is under a written law adjudged by a court or other authority, to be forfeited, it shall, in the absence of express provision to the contrary, be forfeited to the GoSS, and the net proceeds thereof, if it is ordered by a competent authority to be sold, shall be paid into the Southern Sudan Revenue Fund.
- (2) Nothing in this section shall affect any provision in a written law whereby a portion of a fine, forfeit or of the proceeds of a forfeit is expressed to be recoverable by a person or may be granted by an authority to a person.

55. Disposal of Fines and Penalties.

A fine or penalty imposed by or under the authority of a written law shall, in the absence of express provision to the contrary, be paid into the Southern Sudan Revenue Fund.

CHAPTER VII**MISCELLANEOUS PROVISIONS****56. *Gazette, etc., to be Prima Facie Evidence.***

The production of a copy of the *Gazette* containing a written law or a notice, or of a copy of a written law or a notice, purporting to be printed by the authority of the GoSS, shall be *prima facie* evidence in all courts and for all purposes whatsoever of the due making and tenor of the written law or notice.

57. Power Associated with the Issue of Licences.

Where a written law confers a power to issue a licence, permit or authorization, then, unless a contrary intention appears, the licence, permit or authorization may be issued subject to conditions, which the issuing authority deems expedient; provided that, such conditions are not inconsistent with the applicable written law.

58. Act for which Payment is required need not be Performed until Payment is made.

- (1) Where a person, public servant or local authority is required to take action for which a fee is to be paid or a charge made under a written law, that person, public servant or local authority may decline to take such action until the fee is paid or the charge is made.
- (2) In cases where the precise amount of the payment to be made cannot be ascertained until the action is complete, the person, public servant or local authority may decline to take such action until the receipt of payment of such an amount as may be estimated to be the correct amount by the person or public servant, or the responsible officer of the local authority, required to take such action.
- (3) Where action has been taken for which an estimated amount has been paid, that amount shall be adjusted to the correct amount either by means of a further payment or by a refund of the amount overpaid.

59. Deviation from Forms.

Except as is otherwise expressly provided, whenever a form is prescribed by a written law, an instrument or document which purports to be in that form shall not be void solely by reason of a deviation there from; provided that, the deviation does not affect the substance of the form, and is not calculated to mislead.

60. Service by Post, Electronic Mail or Fax.

Where any written law authorizes or requires a document to be served by post, electronic mail or fax, whether the expression “serve” or “give” or “send” or any other expression is used, then, unless a contrary intention appears, the service shall be deemed to be effected by properly addressing to the last known postal, electronic mail or fax address of the person to be served, prepaying and posting, by registered post or sending a letter containing the document, and, unless the contrary is proved, to have been effected at the time at which the letter would be delivered in the ordinary course of the post, electronic mail or fax.

61. Public Bodies Subject to Written Law.

The Public Bodies of Southern Sudan shall be subject to all written laws, unless expressly exempted there from.
