

In the Name of Allah Most Gracious Most Merciful

SOUTHERN SUDAN REFEREDUM ACT 2009

Draft Translation 21 February 2010

DISCLAIMER:

This translation is for internal use only and does not carry any official certification. The Arabic text adopted by the National Legislature on December 29, 2009 should prevail over this translation as the sole official text.

This translation was carried out by using, whenever similar, the official English translation of the National Election Act of 2008.

Southern Sudan Referendum Act 2009

Pursuant to the provisions of the Interim Constitution of the Republic of the Sudan (2005), the National Legislature adopted the following Act, which is signed by the President of the Republic:

CHAPTER ONE**Preliminary Provisions****Title and Commencement**

1. This Act shall be cited as “**Southern Sudan Referendum Act 2009**” and shall come into force as from the date of signature.

Definitions

2. In this Act unless the context otherwise requires:

“Referendum”	Means the process of taking the opinions of the people of Southern Sudan on self-determination in accordance with the provisions of the Constitution and this Act,
“Secretariat General”	Means the Secretariat General of the Southern Sudan Referendum Commission provided for under Section 19,
“Registration Card”	Means the card issued by the Southern Sudan Referendum Commission which proves registration in the referendum register,
“Ballot ”	Means the ballot paper issued by the Southern Sudan Referendum Commission to enable the voter to choose either to confirm the unity of Sudan or secession,
“Information Programme”	Means the referendum information programme provided for in Chapter Five of this Act for the education and enlightenment of the people of Southern Sudan on the referendum and how to exercise their right in this regard,
“Agreement”	Means the Comprehensive Peace Agreement signed in July 2005 between the Government of the Republic of the Sudan and the Sudan People’s Liberation Movement,
“Constitution”	Means the Interim National Constitution of the Republic of the Sudan 2005,

“The Government”	Means the Government of National Unity provided for in Art. (5), Chapter (3) of the Constitution,
“The Government of Southern Sudan”	Means the Government of Southern Sudan established according to the Agreement, Section One of Chapter Eleven of the Constitution and Chapter Four of the Interim Constitution of Southern Sudan 2005,
“Chairperson of the Commission”	Means the Chairperson of the Commission appointed in accordance with the provisions of Section 10 (1) of this Act,
“Deputy Chairperson”	Means the deputy of the Chairperson of the Commission appointed in accordance with the provisions of Section 10 (1) of this Act,
“Chairperson of Southern Sudan Referendum Bureau”	Means the member of Commission appointed as Chairperson of the Southern Sudan Referendum Bureau in accordance with the provisions of Section 18 of this Act,
“Chairperson of the Referendum Center Committee ”	Means the Chairperson of the Referendum Center Committee appointed in accordance with the provisions of Section 23 of this Act,
“Sub-Committee Chairperson”	Means the Chairperson of the Referendum Committee established at the County level and appointed in accordance with the provisions of Section 23 of this Act,
“Referendum Register”	Means the Referendum Register developed by the Commission that includes the names of the persons eligible to vote and participate in the referendum in accordance with the provisions of the Constitution and of this Act,
“Member”	Means the member of the Commission or member of any Southern Sudan Referendum Committee at any level provided for in this Act,
“Interim Period”	Means the six-year period starting from 9 July 2005 according to the provisions of Section 226(4) of the Constitution,
“Chairperson of the High Committee”	Means the chairperson of the Referendum High Committee of the State appointed in accordance with the provisions of Section 22 of this Act,
“High Committee”	Means the Referendum High Committee in the State provided for under Section 22 of this Act,

“Sub-Committee”	Means the Sub-Committee for referendum in any County of Southern Sudan,
“Court”	Means the National Supreme Court or the Supreme Court of Southern Sudan,
“Competent Court”	Means the court determined by the President of the National Judiciary or the President of Southern Sudan Supreme Court, as the case may be, to be competent to rule on appeals and contraventions filed in accordance with the provisions of this Act,
“Referendum Center”	Means any referendum center established by the Commission to carry out the processes of registration, polling, votes counting and sorting and announcement of results,
“Other Locations”	Means any referendum centers established by the Commission, out of necessity, outside Southern Sudan in the areas densely populated by Southern Sudanese citizens, namely Northern Sudan, Ethiopia, Kenya, Uganda, Australia, Britain, United States of America, Canada and Egypt,
“Commission”	Means the Southern Sudan Referendum Commission established under Section 8 of this Act,
“Corrupt Practices”	Means any of the practices provided for in Chapter 6 ¹ of this Act,
“Voter”	Any Sudanese person who meets the requirements provided for under Section 25 of this Act,
“Southern Sudan”	Means the geographical area comprising the constituencies of Bahr el Ghazal, Equatoria and Upper Nile with the 1 January 1956 boundaries,
“Southern Sudan Referendum Bureau”	Means the Southern Sudan Referendum Bureau established under the provisions of Section 18 of this Act,
“State”	Means any of the ten Southern Sudan states or any Northern Sudan state densely populated by the people of Southern Sudan,
“County”	Means the administrative unit of local administration of Southern Sudan

¹ Translator’s note: Note that original Arabic version given to President for signature mistakenly mentions chapter 5

Application

3. Provisions of this Act shall apply to the referendum organized by the Commission, in cooperation with the Government and the Government of Southern Sudan, under international observation, on 9 January 2011, i.e. six months prior to the end of the interim period in accordance with the provisions of this Act.

CHAPTER TWO

The Right to Self-Determination and Referendum

Exercising the Right to Self-Determination

4. The people of Southern Sudan shall exercise their right to self-determination through the referendum to determine their future status in accordance with the provisions of the Comprehensive Peace Agreement, the Constitution and the present Act.

Referendum

5. The referendum, provided for in Section 4 above, shall be conducted in Southern Sudan and any other locations on 9 January 2011 and shall be organized by the Commission, in cooperation with the Government and the Government of Southern Sudan and under international observation.

Referendum to Choose Between Two Options

6. While exercising the right to self-determination through voting in the referendum, the people of Southern Sudan shall cast vote for either:
 - i. Confirmation of the unity of the Sudan by sustaining the form of government established by the Comprehensive Peace Agreement and the Constitution, or
 - ii. Secession

Environment Favourable to Conduct the Referendum

7. To ensure the free will of the people of Southern Sudan to express their views, in accordance with Section 6 above, the different levels of governance shall commit to creating an environment favourable to conduct the referendum through the following:
 - a) Appropriate environment and security conditions in order to prepare and organize the free exercise of the right to self-determination.
 - b) Freedom of expression for all the people of Sudan in general and the people of Southern Sudan in particular to enable them to dispense their views on the referendum through mass media or any other means.
 - c) Freedom of assembly and movement to all people of Southern Sudan in accordance with the provisions of the Constitution and the present Act.

- d) Ensuring the presence of IGAD member states and partners, representatives of the United Nations, the European Union, African Union and other international signatory bodies as witnesses to the Comprehensive Peace Agreement to engage in the observation on the referendum.
- e) Ensuring the presence of national, regional and international Civil Society Organizations to observe all the procedures pertinent to the referendum-related awareness campaign
- f) Ensuring that, in accordance with the Political Parties Act 2007, the registered political parties, organizations and gatherings adhering to the Comprehensive Peace Agreement are given equal opportunities in voicing their views on the referendum options, if they are willing to do so.
- g) Educating and registering the voters, safeguard and guarantee their right to secret voting without fear or intimidation.

CHAPTER THREE

The Commission

Establishment of the Commission, Premises and Structure

8.

- (1) Immediately following the coming into force of this Act, the Presidency of the Republic shall establish a Commission that shall be known as THE SOUTHERN SUDAN REFERENDUM COMMISSION, which shall have a corporate personality, its public seal and shall have the right to litigate in its own name.
- (2) The Commission headquarters shall be based in Khartoum and shall have a Southern Sudan Referendum Bureau in Juba.
- (3) The structure of the Commission comprises the following:
 - a) Commission Headquarters
 - b) Southern Sudan Referendum Bureau
 - c) Secretariat General
 - d) Referendum High Committees in the States of Southern Sudan
 - e) Referendum Sub-Committees in the counties
 - f) Referendum Centers

Commission's Independence

- 9.** The Commission shall be financially, administratively and technically independent and shall perform all its duties and powers as provided for by this Act with the utmost degree of independence, impartiality, transparency and integrity, and no one shall interfere in its affairs, duties, competences or limit its powers.

Formation and Membership of the Commission

10.

- (1) The Commission is composed of the Chairperson, his/her Deputy and seven members to be appointed by the President of the Republic, with the approval of the First Vice-President, in accordance with the provisions of Sub-Section 58 (2) (c) of the Constitution and with the approval of the members of the National Legislature with simple majority, providing a broader representation so to include women and other Civil Society Organizations.
- (2) The member shall meet the following requirements:
 - a) To be Sudanese by birth
 - b) To be well-known for independence, competence, non-partisan and impartiality
 - c) At least 40 years of age
 - d) Of sound mind
 - e) Literate
 - f) Has not been convicted of a crime involving honesty or moral turpitude even if pardoned.
- (3) Membership shall expire at the end of the interim period.
- (4) The Chairperson of the Commission, his/her Deputy and Chairperson of the Southern Sudan Referendum Bureau shall perform their duties on a fulltime basis.

Vacancy of the Post

11.

- (1) A post in the Commission shall be vacant for any of the following reasons:
 - a) decision delivered under the provisions of Section 12 below,
 - b) acceptance of resignation by the President of the Republic,
 - c) developing a crippling mental or physical disability as per a report from the General Medical Commission,
 - d) death.
- (2) In case the member's post falls vacant for any of the reasons mentioned in Sub-Section (11.1.) above, a successor shall be appointed within 30 days, following the same procedures and conditions provided for in Sub-Section (10.2.) of this Act.

Abrogation of Membership or Removal

12.

- (1) Membership shall be abrogated by a decision from the President of the Republic with the approval of the First Vice-President for any of the following reasons:
 - a) repeated absence for five consecutive meetings without permission or acceptable excuse, which the Commission shall report to the Presidency,

b) conviction for a crime related to honesty or moral turpitude based on a notification made by the Commission.

(2) The President of the Republic, with the approval of the First Vice-President, may issue an order to remove any of the members due to incompetence relating to the Commission's powers, competences and procedures upon recommendation by the Commission.

Oath of the Chairperson, Deputy-Chairperson and Members of the Commission

13. The Chairperson, the Deputy-Chairperson and the other members of the Commission shall take following oath before the President of the Republic:

"I.....as a member of the Southern Sudan Referendum Commission, swear by Almighty God to perform my duties and responsibilities faithfully, impartially and independently without fear or favour to any body and shall observe the Constitution and the present Act, and God is my witness."

Functions and Powers of the Commission

14.

(1) The Commission shall ensure and guarantee that all voters, without discrimination, enjoy the exercise of their right to express freely their opinion in a secret referendum on self-determination to be conducted in accordance with the Constitution and the present Act.

(2) Without prejudice to Sub-Section (14.1.) above, the Commission shall assume the following duties and powers:

- a) Organize and monitor the referendum in accordance with the provisions of this Act, in cooperation with the Government and the Government of Southern Sudan.
- b) Develop, revise, approve and archive the referendum register and issue registration cards and ballots.
- c) Determine the static and mobile registration centers, as the case may be, in accordance with the provisions of this Act.
- d) Issue regulations for the referendum and take the executive measures required.
- e) Issue procedures for the organization of the referendum and accreditation of observers.
- f) Determine measures, regulations, timeline, registration and polling centers for referendum, as well as the measures to ensure the maintenance of order, freedom, fairness and secrecy in the conduct of registration, polling and to oversee all of the above accordingly.
- g) Control the sorting and counting of ballots, the arrangements of the preliminary referendum results and declaration of the referendum final results.
- h) Postpone any referendum procedures for any compelling situation with the approval of the Government and the Government of Southern Sudan and determine new dates thereto in accordance with the provisions of this Act.

- i) Cancel the referendum results in any referendum center by a decision of the court if it is proven that there was any corruption regarding the correctness of procedures in that center, provided that the Commission shall rectify the fault and reorganize the conduct of the referendum in that center within a maximum of seven days following the issuance of the decision.
 - j) Disseminate questionnaires and forms to be used in the polling process and prepare the documents necessary thereto in the national and official languages used normally in Southern Sudan as shall be determined by the Commission.
 - k) Take the necessary action against any person who commits an action deemed to be a corrupt practice and take the appropriate actions against any employee or worker who contravenes the provisions of this Act or the rules and regulations stemming from it.
 - l) Prepare, design and print the ballots for the referendum so they are clear and easy to understand.
 - m) Form the necessary committees required by this Act to help the Commission in the performance of its duties and determine their competences, powers and work procedures.
 - n) Recruit referendum staff, determine their duties and powers and supervise their functions in accordance with the provisions of this Act.
 - o) Approve the annual budget and the budget for the referendum operations
 - p) Approve the organizational and functional structure of the Commission and the Secretariat General and determine the emoluments of the Secretary General and terms and conditions of service and submit the above to the Presidency of the Republic for approval.
 - q) Address any issues, needs or procedures relating to registration, polling or votes counting or sorting for the referendum.
 - r) Appoint the members of the Southern Sudan Referendum Bureau upon recommendation made by the Chairperson of the Southern Sudan Referendum Bureau.
 - s) Appoint chairpersons and members of the High Committees for referendum upon recommendation by the Southern Sudan Referendum Bureau.
 - t) Issue regulations to determine mechanisms of coordination between the Commission, the Southern Sudan Referendum Bureau and the Secretariat General.
 - u) Perform any other functions necessary to the conduct of the referendum.
- (3) The Commission may delegate any of its powers to its chairperson/deputy chairperson or to the Southern Sudan Referendum Bureau according to the conditions and regulations it deems appropriate.

Meetings of the Commission

15

- (1) The Commission shall hold regular ordinary meetings and may hold extraordinary meetings at the invitation of the chairperson or by a written request submitted of one third of the members.

- (2) The quorum for any meeting shall be complete by the presence of more than half of the members.
- (3) The decisions of the Commission shall be taken by a majority of the votes of the members present. If the votes are equal, the chairperson of the meeting shall have a casting vote.
- (4) The Commission shall adopt an internal regulation for the organization its activities and procedures for its meetings.

Powers of the Chairperson/Deputy Chairperson

16.

- (1) The Commission's Chairperson shall be responsible for the following powers:
 - 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) Submit a recommendation to the Presidency of the Republic, following the approval of the Commission, to appoint the Secretary General and determine his/her emoluments and privileges.
 - e) Supervise the activities of the Commission.
 - f) Submit the approved annual budget to the Presidency of the Republic.
 - g) Undertake any other tasks which may be assigned to him/her by the Commission.
- (2) Deputy Chairperson shall be responsible for the following powers:
 - a) Assume the functions of the chairperson in his/her absence.
 - b) Chair the Southern Sudan Referendum Bureau.
 - c) Carry out any other functions delegated to him/her by the chairperson or by the Commission.

Immunity of the Chairperson, Deputy Chairperson and Members

- 17.** 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 act, and after obtaining a written permission from the President of the Republic.

Southern Sudan Referendum Bureau and its Powers

18.

- 1) The Commission shall have a referendum office in Southern Sudan to be called the Southern Sudan Referendum Bureau and shall be headed by the Deputy Chairperson of the Commission.

- 2) The Southern Sudan Referendum Bureau is composed of a chairperson and four members to be appointed upon recommendation of the Chairperson of Southern Sudan Referendum Bureau, provided that they shall satisfy the membership requirements stipulated in Sub-Section 10(2) of this Act.
- 3) Without prejudice to the provisions of Section 15 of this Act, the Bureau shall have the following powers:
 - a) Coordination between the Commission and the High Committees for Referendum in Southern Sudan.
 - b) Direct supervision over the work of High Committees for Referendum in Southern Sudan to ensure the fairness and transparency of the referendum process relating to registration, polling, sorting, counting, and aggregation/declaration of the results.
 - c) Recommend to the Commission the formation of High Committees for referendum in Southern Sudan states.
 - d) Appoint chairpersons/members and referendum staff of Sub-Committees in the states of Southern Sudan upon recommendation from the Chairpersons of High Committees in Southern Sudan states, according to the provisions of this Act and its regulations.
 - e) Ensure the availability and reception of all logistic requirements, supplies, tools and equipments and their delivery to the High Committees for Referendum in Southern Sudan, to guarantee their delivery to the Sub-Committees or the Polling and Registration Centers as the case may be.
 - f) Compile the Referendum results from the High Committees for Referendum in Southern Sudan, announce the results and send them to the Commission.
 - g) Any other duties delegated by the Commission.

Secretariat General and its Powers

19.

- 1) The Commission shall have a Secretariat General headed by a Secretary General to be appointed by the President of the Republic with the approval of the First Vice President upon recommendation by the Commission.
- 2) The Secretariat General shall be responsible for carrying out the executive, administrative and financial work of the Commission in accordance with the regulations.
- 3) The Secretary General shall open and manage an account for the Commission at the Central Bank of Sudan, the Bank of Southern Sudan or any other bank accredited by Bank of Sudan or the Bank of Southern Sudan, according to generally accepted accounting practices and shall also deposit all the Commission's revenues, at the earliest possible time, into the Commission's account and no amount of money may be withdrawn from the said account except by an prior permission from the competent authority.

- 4) The Secretary General shall provide and safeguard accounting records and balance and administer them regularly according to accepted standards and practices of accounting.
- 5) The regulations shall detail the powers and duties of the Secretary General.

Budget and Accounts of the Commission

20.

- 1) The Commission shall have an independent budget to be prepared according to the standards adopted by the state. Such budget shall be approved by the Commission and submitted by the Chairperson of the Commission to the Presidency of the Republic for inclusion within the annual general budget of the state.
- 2) The Commission shall keep regular accounts and records of the revenues and expenditures according to accepted accounting standards.
- 3) Notwithstanding Sub-Section (2) above, the Commission shall apply the Financial and Accounting Procedures Act in force and the regulations made there under.

Audit of the Commission Accounts

21. The National Audit Chamber or its authorized representative under its supervision shall audit the accounts of the Commission at the end of each fiscal year and following the end of the referendum for submission to the National Assembly.

CHAPTER FOUR

Regulation and Procedures of the Referendum

Part one

High Committees, Sub-Committees, Referendum Centers and Staff

Establishment of High Committees, their Powers and Competences

22.

- 1) The Commission shall, as recommended by the Southern Sudan Referendum Bureau, establish High Committees according to Sub-Section (2) below and appoint chairpersons and members thereof across Southern Sudan.
- 2) Each High Committee in the state is composed of a chairperson and four members who shall fulfil the following requirements:
 - a) To be Sudanese by birth.
 - b) Well known as independent, competent, non-partisan, impartial and honest.
 - c) not younger than 40 years of age.
 - d) of sound mind
 - e) literate and
 - f) Not have been convicted of a crime involving honesty or moral turpitude even if pardoned.

- 3) The High Committee shall enjoy independence, impartiality and transparency in performing all its duties and powers according to the provisions of this Act, and with consideration to the provisions of Sub-Section (5) below, no party may interfere in its activities, functions and powers as authorized by this Act, its regulations and directives.
- 4) The chairperson of the High Committee shall be in charge of referendum operations in the state.
- 5) The High Committee shall be accountable to the Southern Sudan Referendum Bureau in performing the powers stipulated for in Sub-Section (6) below.
- 6) The High Committee has the following powers:
 - a) Formation of Sub-Committees for referendum in the counties upon approval of the Southern Sudan Referendum Bureau.
 - b) Supervision of the Sub-Committees for referendum within the boundaries of their state and implementation of any directives issued by the Commission or the Southern Sudan Referendum Bureau as stated in this Act and its regulations.
 - c) Issuing directives and supervising the Sub-Committees in all matters regarding the referendum operations within the boundaries of the concerned state.
 - d) Assuming all the competences and powers relating to the referendum as delegated by the Commission or the Southern Sudan Referendum Bureau.
 - e) Recruitment of the staff of the Referendum Center as recommended by each Sub-Committee in their respective County.
- 7) Chairperson and members of each High Committee shall take the following oath before the President of the Commission; the Chairpersons and members of each Sub-Committees shall do the same before the Chairperson of the Southern Sudan Referendum Bureau:

"I swear by Almighty God to perform my duties in the referendum fairly, impartially, transparently and honestly without favour or grudge to any one, and from God I seek help and God is my witness".

Formation of the Sub-Committees in the Counties and the Referendum Centers

23.

- 1) The High Committee shall, with the approval of the Southern Sudan Referendum Bureau, create Sub-Committees in each state and determine its competences and powers.
- 2) The High Committee shall, upon recommendation by the Sub-Committee, form Referendum Centers Committees in the counties to conduct the registration, polling, sorting, counting and declaration of the results.
- 3) The Commission shall create Referendum Centers Committees in other locations with the same powers mentioned under Sub-Section (2) above and shall appoint their staff.

- 4) The same requirements stipulated in Sub-Section 22(2) above shall apply to the members of Sub-Committees and Referendum Centers Committees in the Counties and other locations.
- 5) Chairpersons of Sub-Committees shall be in charge of referendum procedures in the County.
- 6) The Chief of the Referendum Center Committee shall be in charge of referendum procedures in the referendum center.

Duties of Referendum Staff

- 24.** Referendum staff at each level of the Commission's structure shall organize and assist in all the procedures relating to registration, polling, sorting, counting, aggregation and announcing of the results, as the case may be.

Part Two **Referendum Register** **Voter's Eligibility**

- 25.** The voter shall meet the following conditions:

- 1) Born to parents both or one of them belonging to one of the indigenous communities that settled in Southern Sudan on or before the 1st of January 1956, or whose ancestry is traceable to one of the ethnic communities in Southern Sudan,
or,
- 2) permanent resident, without interruption, or whose any of the parents or grandparents are residing permanently, without interruption, in Southern Sudan since the 1st of January 1956;
- 3) have reached 18 years of age;
- 4) to be of sound mind;
- 5) registered in the Referendum Register.

Proof of Voter's Identity

- 26.**
- 1) For the purpose of Section 25 above, the identity of the voter shall be proved by one of the following:
 - a) Presenting the original identity card or personal identification document or a certificate issued by the local government authority of the County as recommended by a competent Sultan or an identity document issued by the United Nations High Commission for Refugees.

- b) A direct oral or written testimony by a competent Sultan from the County.
- 2) To verify any document or written/oral testimony, a referendum official may seek the assistance of the local authority or the competent Sultan or the dignitaries of the concerned community.
- 3) To verify the identity of someone who does not possess any personal identification document, the referendum official shall seek the help of the competent Sultan.

Registration and Polling Centers

27.

- 1) With the exception of the referendum centers established in other locations by virtue of necessity, the High Committee, upon recommendation from the Sub-Committee, shall establish Registration/Polling Centers Committee in the Counties.
- 2) Notwithstanding Sub-Section (1) above, the Commission may establish referendum centers in any other locations, provided that the number of the registered voters in each center shall be at least 20,000. If the number is less than 20,000 in any location, a polling center shall be open for them in the capital of the concerned state in Northern Sudan and the countries of emigration.
- 3) The voter mentioned below may not register or vote in other locations:
 - a) anyone whose ancestry is traceable to one of the ethnic communities in Southern Sudan but who was not residing permanently, without interruption, in Southern Sudan before the 1st of January 1956;
 - b) permanent resident without interruption or whose any of the parents or grandparents are residing permanently, without interruption, in Southern Sudan before or since the 1st of January 1956.
- 4) With the exception of the voter mentioned above in Sub-Sections 3(a) and (b), a voter born to parents both or either of them belongs to one of the indigenous communities that were settled in Southern Sudan on the 1st of January 1956 may vote in any referendum center in accordance with Section 28 of this Act.
- 5) Giving due consideration to the powers and competences of the Chief of the Referendum Center to be established in any location in Northern Sudan, the Chief of the Center shall coordinate with organizations formed by the people of Southern Sudan in that location and with the International Organization of Migration (IOM) to assist in the organization and supervision of the procedures of registration, polling, sorting, counting and declaration of the results.

- 6) When the referendum is conducted in any location outside the Sudan with due consideration to the powers and competences of the Chief of the Referendum Center, the Chief of the Center shall coordinate with organizations formed by the people of Southern Sudan in that country and the International Organization of Migration (IOM), with the participation of the country hosting the refugees and immigrants or expatriates from Southern Sudan in the procedures of registration, polling, sorting, counting and declaration of the results.
- 7) Polling results announced in the locations mentioned in Sub-Section (2) above shall be dispatched to the Commission and the Southern Sudan Referendum Bureau.

Conditions of Registration and Participation in the Referendum

28.

- 1) Registration in the Referendum Register is a basic right and an individual responsibility for all those satisfying the required legal conditions.
- 2) Notwithstanding Sub-Section (1) above, anyone who satisfies the following conditions may register his/her name in the referendum register:
 - a) meet the eligibility requirements as defined in Section 25 of this Act,
 - b) possess identification document or a certificate approved by the Administrative Unit in the County or by the local or traditional competent authorities as the case may be, and,
 - c) not have been registered in any other location.
- 3) The regulations shall determine the means and methods of registration and the delay for appeal.

Organizing the Referendum Register

29. To organize the referendum register the Commission shall perform the following:

- a) Prepare the referendum register in the manner and time prescribed by the regulations.
- b) Revise the referendum register to ensure its accuracy by adding, removing, amending or correcting it three months prior to polling day according to the provisions of this Act and its regulations.
- c) Make the referendum register available to the public.
- d) Fixing an exhibition date for displaying the referendum register so that voters can object to registered entries or submit their requests to amend their data or place of residence.

Objections to the data

30.

- 1) Any registered voter in a referendum center may submit a written objection within seven days from the date of publication of the preliminary referendum register to correct the

erroneous information or data regarding his/her registration or object to the registration of another person if s/he is:

- a) dead,
 - b) left the County to another location for good,
 - c) does not meet the voter's eligibility requirements or,
 - d) does not meet the registration requirements.
- 2) The objections to the preliminary referendum register shall be considered within five days from the date of submission by a committee appointed by the Chief of the Referendum Center Committee in each referendum center in the concerned County or in the other locations with the approval of the Commission.
- 3)
- a) The Referendum Center Committee shall, within fifteen days immediately following the determination of all objections, make public for inspection a list of names of the voters whose details were corrected or deleted from the referendum register.
 - b) The concerned voters shall have the right to object, during the period referred to in Sub-Section a) above, to the decisions of correction or deletion by submitting a signed form declaring the his/her right for registration as shall be specified by the regulations.
 - c) In case of acceptance or rejection of the objection, the Sub-Committee in the concerned County or the referendum center in other locations, as the case may be, shall amend the corrected details or re-enter the deleted voter's name into the register.
- 4) Immediately following the end of the exhibition and objection period provided for in Sub-Section (3), the Sub-Committee in the County or the referendum center in other locations, as the case may be, shall submit the names recommended for correction or deletion of data to the Chairperson of High Committee in the state or to the Commission as the case may be.

Appeals against the decisions of the Referendum Committees

31.

- 1) Any person who is prejudiced by the decision issued by the committee formed under Sub-Section 30(2) above, may appeal, whether personally or through a representative, to the competent court of law within one week from the date of the decision.
- 2) The competent court of law shall rule on the appeal within five days from its reception, and the court's decision shall be final.

Final Referendum Register

32.

1. Following the final revision and receipt of the results of objections, the Commission shall prepare the final referendum register and make it public three months prior to the start of polling. No further objection shall be considered following the publication of the final referendum register by the Commission.

2. The Commission shall make the final referendum register available for inspection and it may give any person a copy thereof upon request on the form prepared by the Commission and following the payment of the prescribed fees.

Part Three

Polling and Procedures

Distribution of Referendum Materials

33.

- (1) In coordination with the Southern Sudan Referendum Bureau, the Commission shall supply the High Committees with the following materials:
 - a) Sufficient quantities of materials required for the registration, such as indelible ink and stationery.
 - b) Sufficient number of referendum ballots, equal to the number of voters in each referendum centers plus 10% in reserve,
 - c) A list of the number of referendum ballots delivered, as per the provisions of Sub-Section (b) above, indicating the serial numbers,
 - d) Any other materials required for organizing and conducting the polling process including ballot boxes, polling screens to allow a secret vote, forms and reports required for regulating the processes of polling, sorting and counting,
- (2) The Commission shall supply referendum centers in other locations with the materials in Sub-Section (1) above.
- (3) The High Committee of each State shall supply all referendum centers in the County with the necessary materials mentioned in Sub-Section (1) above at least seventy two hours (72) before the polling date.

Publication of polling procedures

34.

- (1) At least two months before the beginning of the polling, the Commission shall determine the timeline for polling procedure that includes the date, time and duration of the polling in the Official Gazette and/or other available mass media.
- (2) Subject to Sub-Section (1) above, the Commission shall make public a list of all referendum centers through the mass media or any other suitable means.

- (3) The Southern Sudan Referendum Bureau, the High Committee in each state and the Chief of the Referendum Center in any other locations as required, shall provide each referendum center with a copy of the public notice mentioned in Sub-Section (2) above. The Chief of the referendum center concerned shall ensure that this notice is disseminated widely in all referendum centers affiliated to him.

Referendum Centers and Polling Time

35.

- (1) The Commission shall, in coordination with the Southern Sudan Referendum Bureau, establish referendum centers in all Counties and in other locations to initiate and organize polling procedures.
- (2) These referendum centers shall meet the following conditions:
 - a. to be located in an open area, or otherwise in a large premises accessible to voters to enter and exit easily,
 - b. to be accessible to persons with special needs and to the elderly to exercise their right to vote.
- (3) Polling shall commence in all referendum centers at the date, time and for the duration determined by the Commission. The process shall continue until the end of the specified duration.
- (4) The referendum centers shall remain open following the official closure of the polling process, so as to enable the voters inside the centers and those standing in line to exercise their right to vote. Voters who arrive in the center after the closing time shall not be allowed to enter.
- (5) Polling time shall not be extended, except under the provisions of Sub-Section (4) above or by permission of the Commission, in accordance with the regulations.

Polling procedures

36.

- (1) Subject to the provisions of this Act, the Commission shall issue the regulations required to hold the polling, provided that polling shall take place in seven days, except where the Commission decides to extend such period for substantive reasons so that voters can exercise their right to vote with the utmost degree of freedom and secrecy.
- (2) For the organization of polling procedures in each referendum center, the Commission shall ensure that the following material is available:
 - a) a ballot box in each referendum center. If the box is full of ballots, the Chief of the center shall provide another box according to the procedures stipulated in this Act and its regulations;
 - b) ballots including the two symbols referring to the referendum options.

- (3) The referendum voter shall cast his/her vote in the following manner:
- a) by applying his/her fingerprint opposite to his/her name in the voters register before the referendum center committee and the observers,
 - b) by applying his/her fingerprint in secret on the symbol of his/her choice on the ballot,
 - c) to cast the ballot inside the box.
- (4) The regulations mentioned in Sub-Section (1) above shall detail all procedures relating to the daily opening and closing of polling, verifying that ballot boxes are empty from any ballot before the start of polling, polling reports, the rights and duties of observers, polling procedures for people with special needs, the case of spoiled ballots, and any other procedures.
- (5) Accredited observers and media representatives shall have the right to enter the referendum center at any time during the polling process as determined in the regulations.
- (6) The persons mentioned in Sub-Section (5) above shall not interfere with the duties of the referendum officials or speak to any voter during her/his presence in the polling center.
- (7) The Chief of the referendum center shall have the right to order the expulsion from the center of any person mentioned in Sub-Section (5) above, whenever he/she contravenes the provisions of this Act and its regulations or commits any act that can hinder the polling process.
- (8) a) The Government of Southern Sudan shall form security committees to provide security for the referendum. These committees shall be constituted of the Southern Sudan police and the National Security Services operating in Southern Sudan.
- b) The government shall form security committees to provide security for the referendum in the other locations in Northern Sudan. These committees shall be constituted of the National Police and the National Security Services.
- c) the security committees mentioned in Sub-Section (a) and (b) above, shall perform their functions according to the instructions issued by the Commission.

Obstruction and Postponement of Polling

37.

- (1) Whenever polling at any of the referendum centers is obstructed by riot, violence or any other act that may obstruct the course of the polling, the Chief of the concerned referendum center may immediately stop the polling process and announce its postponement.
- (2) In case of the postponement mentioned in Sub-Section (1) above, the Chief of the concerned center shall, when the reason for the postponement no longer exists, extend the polling period for a period equal to the postponement period.

Part Four

Sorting and Counting of Votes and Declaration of Results

Sorting and Counting of Votes at the Referendum Center

38.

- (1) The process of sorting and counting the votes at the referendum center shall commence immediately after the Chief of the referendum center declares the polling closed.
- (2) In the presence of and under the monitoring of observers, the Chief of the referendum center shall open the ballot boxes one by one and empty their contents on the sorting table. Members of the referendum center Committee shall assist him/her in the sorting and counting of the ballot papers in the manner determined in the regulations.
- (3) The sorting and counting of votes shall continue until the end of the process and may neither be stopped nor postponed until all ballots in all ballot boxes are sorted and counted. The Chief of the Referendum Center shall provide the lighting and all other requirements to ensure the completion of the process of sorting and counting without interruption.
- (4) Accredited observers and media representatives are entitled to attend the entire processes of sorting and counting of votes without interfering in the duties of the sorting and counting officers or influencing them as determined in the regulations.
- (5) The Chief of Referendum Center shall have the right to order the expulsion of any person who contravenes the provisions of this Act or its regulations or commits any act that may hinder the sorting and counting processes.
- (6) The Chief of the Referendum Center shall prepare a report on the sorting and counting of each referendum ballot box and sign it personally provided that such report shall include the following information:
 - a) the name and number of the referendum center,
 - b) the number of registered voters in the center, the number of voters who voted, the number of those who did not vote, the number of ballots received, the number of used and unused ballots as well as the number of the spoiled ballots,
 - c) The total number of valid, invalid and unmarked ballot papers.
- (7) Polling results shall be recorded in writing in five original copies signed by the Chief of the Referendum Center prior to the declaration of results in the presence of the committee members and observers. The regulations shall determine the procedure for submitting and recording objections during the processes of sorting, counting and declaration of results.
- (8) The Chief of the Referendum Center shall declare the polling results at the referendum centre before informing the Commission or the Chairperson of the County's Sub-Committee, as the case may be, provided that a copy of the sorting and counting report shall be displayed in the

referendum centre, while the other copies shall be sent to the Chairperson of the Sub-Committee in the County concerned.

Invalid Votes

39.

- (1) A vote shall be deemed invalid in the following cases:
 - a) the ballot was torn or spoiled in any manner,
 - b) the voter has marked the ballot with his/her fingerprint in such a manner that his/her choice cannot be clearly determined,
- (2) A ballot shall not be deemed invalid as long as the voter's choice can be reasonably ascertained without any doubt.

Declaration of the Sorting and Counting Results

40.

- (1) After the completion of the sorting and counting of votes of each referendum ballot box or the recounting and resorting thereof, the Chief of Referendum Center shall declare the results of the sorting and counting, and display a copy of the report in a visible place in the referendum centre.
- (2) Immediately following the completion of the tasks provided for under Sub-Section (1) above, Chief of the Referendum Center Committee shall personally submit the following documents to the Chairperson of the Referendum Sub-committee in the County concerned or to the Commission if in other locations as the case may be:
 - a) Four original copies of the sorting and counting reports as determined in the regulations
 - b) A report on the conduct of polling and sorting in her/his center.
 - c) All the forms used in the processes of sorting, counting and aggregating votes.
 - d) The forms of the declaration of sorting and counting results,
 - e) All the used, unused and spoiled ballots, and polling, sorting and counting materials as determined in the regulations.

Aggregation and Declaration of the results

41.

- (1) For the purpose of the declaration of results, the procedures below shall be followed:
 - a) Subject to Section 38 (8), the Chairperson of each Sub-Committee shall aggregate the results from the Chiefs of referendum centers in his/her County and shall declare the results and submit them to Chairperson of the High Committee of State concerned.
 - b) The Chairperson of each High Committee shall aggregate the results from the Chairpersons of Sub-Committees and declare the results and submit them to the Southern Sudan Referendum Bureau.

- c) The Southern Sudan Referendum Bureau shall aggregate the results from the Chairpersons of the High Committees in Southern Sudan, declare the results and submit them to the Commission.
 - d) The Commission shall, after receiving the results from the Southern Sudan Referendum Bureau and from the referendum centers in the other locations, as the case may be, declare the preliminary results on the two options of referendum.
 - e) The results announced in Sub-Section (d) above shall be final unless an appeal is submitted against them within a period to be determined, in accordance with the provisions of this Act and its regulations.
 - f) When an appeal is lodged against the preliminary results, they shall be considered final once the Court has ruled on the appeal.
- (2) a) The Southern Sudan Referendum shall be considered legal if at least (60%) of the registered voters cast their votes.
- b) If this threshold was not reached, the referendum shall be repeated under the same conditions within sixty days from the declaration of the final results.
- (3) Subject to Sub-Section (2) above, the referendum results shall be in favour of the option that secures a simple majority (50% +1) of the total number of votes cast for one of the two options, either to confirm the unity of the Sudan by maintaining the system of government established by the Comprehensive Peace Agreement or to secede.

Presence of observers and media representatives during the aggregation and declaration of the results

- 42.** Accredited observers and media representatives shall have the right to attend the process of aggregation and declaration of the results in polling centres, Counties, States, the Southern Sudan Referendum Bureau or the Commission.

Appeals against Referendum Results

43.

- (1) Subject to the provisions of Section 41 of this Act, any voter may lodge an appeal against the preliminary results declared by the Commission in the referendum centre where s/he has voted.
- (2) The appeal of Sub-Section (1) above shall be submitted to the Court within three days from the date of the declaration of the preliminary results by the Commission. The Court shall decide on the appeal and render its decision within one week of its reception and its decision shall be final.

Referendum Final Results

44.

- (1) Immediately after the end of the period determined for the submission of and ruling on appeals, in accordance with the provisions of this Act, and after taking into consideration any decisions made in this respect by the Court, the Commission shall prepare the referendum final results and declare them within forty-eight hours after the end of the period of appeals, provided that such declaration shall be made no later than thirty days from the date of the end of polling.
- (2) The Commission shall publish the final results in the Official Gazette and the available mass media and ensure their widest possible dissemination.

CHAPTER FIVE

Information Rules and guarantees

Referendum Information Programme

45.

- (1) The Commission shall announce the date and duration of an information programme according to the provisions of this Act, provided that this programme shall end one day before the polling date.
- (2) The Commission, Government and the Government of Southern Sudan shall provide and guarantee equal opportunities and just treatment in the State-owned media for the advocates of the two options of the referendum.
- (3) It is not permissible to restrict the freedom of expression, directly or indirectly by whatever means and methods including abuse of power in the State-owned media without prejudice to freedom of expression and dissemination of information and viewpoints.
- (4) The Commission shall appoint an independent and impartial media committee to launch an information campaign for the education and enlightenment of the Sudanese people in general and the Southerners in particular on the referendum procedures.
- (5) Subject to the provisions of Sub-Section (1) above, the Southern Sudan Referendum Bureau shall determine and announce the manner in which the information programme will be conducted in the States of Southern Sudan. The program shall be disseminated on the widest scale and the referendum committees shall be provided with copies thereof, as per the provisions of this Act and its regulations.
- (6) No one shall be permitted to carry out an activity relating to the information programme during the 24 hours preceding the start of or during polling.

Rights and Duties during the Implementation of the Information Program

46.

- (1) In accordance with the Constitution and the law in a democratic society, registered political parties and individuals have the right to express, disseminate and announce their views on the two referendum options through various media and information channels.
- (2) Any government official or public authority shall treat all groups and individuals equally and with the utmost impartiality during the period of the information programme.
- (3) All state-owned media shall treat the advocates of the two referendum options fairly and equally regarding the access to and the time period given for free media services and shall commit to credibility, honesty, fairness and transparency while conveying information to the citizens.
- (4) Notwithstanding the provisions of any other Act, and according to the provisions of this Act and its regulations, every person shall enjoy full freedom to express his/her opinion and get information about the referendum.
- (5) During the information programme, no one may use expressions that constitute incitement to commit crimes relating to public order, insurrection, violence or threaten to resort to war or any of these actions or use expressions that call for hatred or discrimination.
- (6) Any party, organization, group, individual or any media or information channel inciting hatred, strife, division, hostility or violence or mislead the public opinion shall be deemed as committing a crime punishable by the provisions of this Act or by any other law.

Rules and Guidelines of Information Program

47.

- (1) The Commission shall define the rules, guidelines and regulations required to guarantee the utilization and make use of all sorts of media to carry out the information programme.
- (2) The Commission, in cooperation with the public information channels, shall prepare a comprehensive programme to guarantee the right to use such media for the purpose of the information programme.
- (3) Without prejudice to the provisions of any other law, the Commission shall issue regulations on the publication of information programme materials, whether in the form of booklets, posters, newspapers or of any other form. These publications shall contain information identifying their sponsor and shall bear the name and address of the publisher or any other requirements.
- (4) Without prejudice to the provisions of any other law, the regulations shall determine the rules and guidelines for the use of electronic media for the purposes of the information

programme including audio-visual, internet, electronic messages and any other means. Nonetheless, these media may not be used to obstruct the programme.

(5) No authority or individual may engage in any action or use any data that could obstruct the information programme.

CHAPTER SIX **Corrupt and Illegal Practices during the Polling**

Part One **CORRUPT PRACTICES**

Bribery

48.

(1) For the purpose of this Act, “the practice of bribery” means to give or offer any person:

- a) money, gifts or financial inducements;;
- b) employment, employment opportunities or preferential treatment in a person’s employment;
- c) properties, bonds or securities in the award of contracts;
- d) contracts or preferential treatment in the award of contracts;
- e) any other material benefit.

(2) Any person shall be deemed to have committed the 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 choice in the referendum;
- b) solicits or demands a bribe for her/his own benefit or for any other person with the intention to influence the other person’s choice in the referendum.

Undue Influence

49.

(1) For the purposes 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 choice in the referendum.

Other corrupt practices

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

- (a) falsifies another person's details on the referendum register or on the forms used for this purpose;
- (b) publishes or prints the Referendum Register or any part thereof which contains false or incorrect information;
- (c) falsifies the information recorded on the ballot counting forms, statements or aggregation of results forms, preliminary declaration or final declaration of results with the intention to alter the outcome of the referendum.
- (d) falsifies or directs other persons to falsify ballots;
- (e) produces or retains ballots without the consent of the Commission;
- (f) steals or procures or conspires with others to steal any ballot, ballot boxes, official seals, referendum register or parts thereof, counting forms, preliminary or final declaration of results during the polling process with the intention to affect the outcome of the referendum;
- (g) includes any details or destroys or defaces or changes any ballot, 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 the referendum;
- (h) 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 any complaint or objection attached to or included in a statement of results, counting forms or aggregation and declaration or a referendum center protocols.

Obstruction of Referendum Officials

51. Whoever obstructs any referendum official while performing her/his duties under this Act, by disrupting in any manner the registration of voters, display and inspection of the Referendum Register, polling, sorting, counting or any other activity, shall be deemed to have committed a violation.

Impersonation

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

Part Two
ILLEGAL PRACTICES

Infringement of the Secrecy of the Ballot

53.

- (1) 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 a voter has applied his fingerprint on the ballot card or places any mark on the ballot papers that reveals the identity of the voter or asks or induces a companion of the voter to reveal how that person has voted during the time of polling.
- (2) Notwithstanding Sub-Section (1) above, one can assist a person with special needs to cast their vote as per the regulations.

Obstruction of the Participants in the Referendum

54. Unless authorized, a person shall be deemed to have committed illegal practice if she/he obstructs by whatever means:

- a) any person with the intention to prevent that person from registering in the referendum or the polling register,
- b) any *bona fide* journalist or representative of any media accredited by the Commission in the exercise of their duties before, during or after the referendum,
- c) any accredited observer by the Commission in the exercise of her/his duties and responsibilities in accordance with the provisions of this Act and the rules at any time before, during or after the end of a referendum and until the expiry date of her/his accreditation.

False statements and defamation

55. A person shall be deemed to have committed illegal practice by making false statement or defamation of another person if s/he:

- a) submits an application to be registered in the Referendum Register which s/he knows either information or details of which are false,
- b) signs an oath of identity which s/he knows to be either wholly false or the details of which are false.

Failure to make a return

56. A referendum officer who fails without a legal excuse, to furnish the results of the referendum in the specified manner and within the time required under this Act and its regulations, shall be deemed to have committed illegal practice.

Prohibited Activities during Polling

57. A person shall be deemed to have committed illegal practice if s/he:

- a) uses electronic devices or any other means relating to the referendum in any manner that contradicts the provisions of this Act or with the intention to affect the conduct of the referendum process and its results,
- b) being accredited observers, media professionals or members of the referendum options' advocacy groups who refuses to produce a personal identity proof,
- c) makes obstructions to voters in the exercise of their right of vote,
- d) does not enable accredited observers, media professionals or members of the referendum options' advocacy groups to exercise their duties as per this Act.

SECTION THREE: OFFENCES DURING REFERENDUM

Offences during Polling

58. A person shall be deemed to have committed an offence during the polling if she/he:

- a) destroys or spoils the ballot card intentionally, or refuses to leave the referendum center or to obey the instructions of the referendum officers,
- b) continues to stay, without being authorized, inside the referendum center during the polling process,
- c) defaces, destroys or removes any public notice to the voters concerning the referendum prior to or during the polling process.

Offences during Sorting, Counting and Aggregation of results

59. A person shall be deemed to have committed an offence during the sorting, counting and aggregation of votes if s/he:

- a) stays without being authorized as per the provisions of this Act and its regulations, inside the referendum center during the counting of votes or in a location established for the aggregation of results,
- b) removes the results notices fixed at the referendum center before the announcement of the final results.

Punishments under this Chapter

60. Whoever contravenes the provisions of sections 49 to 59 inclusively, on conviction by the competent Court, shall be punished with imprisonment for a term not less than six months and not more than two years or with a fine to be determined by the competent Court or with both.

CHAPTER SEVEN **General Provisions**

Observers

61.

- (1) The referendum process shall be conducted under international, regional and local observation. The Government of Sudan and the Government of Southern Sudan in coordination with the Commission, in addition to the countries sponsoring the Comprehensive Peace Agreement, shall invite or accept invitation from some States or International or Regional Organizations to attend and observe the referendum provided for under the Constitution, and to nominate their representatives, provided that these representatives are officially accredited by the Commission.
- (2) Notwithstanding Sub-Section (1) above, the Commission, in coordination with the Southern Sudan Referendum Bureau, shall constitute observation Committees from:
 - a) legal counsellors at the Ministry of Justice, Ministry of Legal Affairs and Constitutional Development of the GOSS as the case may be;
 - b) ex-public service employees or persons of the society, who are known for uprightness, truth and honesty;
 - c) civil society organizations, press and the media;
 - d) local, regional and international observers.
- (3) The Referendum Committee in each center shall allocate suitable space for the observers in order to enable them to perform their duties easily and safely.
- (4) The Commission shall make the necessary rules to regulate the accreditation of observers.

Powers of the Observers

62.

- (1) The Committee mentioned in Section 61(2) above or any of its members shall exercise the following powers:
 - a) observe the process of polling, sorting and counting of votes, to monitor the fairness of the registration, polling, sorting and counting procedures as well as the announcement of results;
 - b) ensure the impartiality of the persons in charge of the registration, polling, sorting and counting of votes, and their commitment to this Act and the regulations, rules and orders made hereunder;
 - c) visit and inspect the registration, polling, sorting and counting centers at any time without previous notice;
 - d) attend all stages of the registration, polling, sorting and counting and particularly be present at the opening and closing of the ballot boxes;

- e) ascertainment of the freedom and fairness of the registration, the secrecy of the polling, and write reports to that effect as shall be specified by the regulations and the rules.
- (2) Observation Committees or any member thereof shall not interfere in any manner in the work of the registration and polling Committees or their officials, provided that they may formulate questions verbally or in writing to the Chief of the Center's Committee.

Revocation of Observers' Confirmation

63.

- (1) Based on the recommendation from the Southern Sudan Referendum Bureau and with the advice of the High Committee in the State concerned, the Commission may cancel the formation of any observation Committee as stipulated in Section 61 of this Act, or revoke the accreditation of any of their members at any time if it is proven that they have committed any act in breach of this Act and its regulations.
- (2) The Commission, upon recommendation of the Chairperson of the Referendum Center Committee at any other location, may cancel the formation of any observation committees provided for in Section 61 of this Act or revoke the accreditation of any of their members at any time if it is proven that she/he has committed any act in breach of the provisions of this Act and its regulations.

Funding of the referendum

- 64.** The Government of Sudan (GOS), the Government of Southern Sudan (GOSS) and the International Community shall fund and appropriate the necessary funds into the accounts of the Commission to fund its running costs and the costs of the referendum.

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

65.

- (1) The Commission shall use all modern technical and technological aids and the public transportation means as well as other necessary logistical support to perform its duties.
- (2) Without prejudice to the provisions of Sub-Section (1) above, the Commission may seek assistance at the beginning of the referendum process from the Government of Sudan and the Government of Southern Sudan if need be in order to use technical and technological aids and means of public transportation and other necessary means of support to carry out its duties.

Commitment to the Referendum Result

- 66.** Without prejudice to the provisions of Section 41(2) of this Act, the option approved by the people of Southern Sudan by a majority of 50% + 1 of valid votes cast in the referendum in

accordance with the present Act, shall supersede any other legislation and shall be binding to all the State bodies as well all citizens of Southern and Northern Sudan.

Post-referendum Arrangements

67.

- (1) In case the people of Southern Sudan voted for the option of unity:
 - a) at the end of the interim period, the Government shall apply sections 69(1) and 118(1), 145, 226(9) of the Constitution;
 - b) Sudan shall remain a united state according to the Comprehensive Peace Agreement (CPA) and the Constitution up to the end of the interim period;
 - c) the Constitution shall be in force until the adoption of a permanent Constitution and shall be subject to any amendment or revision.
- (2) In case the people of Southern Sudan vote for the option of secession, the Government shall apply sections 69(2), 118(2), 145(1) and 226(10) of the Constitution at the end of the interim period.
- (3) Without prejudice to Sub-Sections (1) and (2) above, the parties of the CPA shall enter into negotiations aiming to achieve an agreement on post-referendum substantive issues to be witnessed by the organizations and countries signatories to the CPA such as:
 - a) nationality;
 - b) currency;
 - c) public service;
 - d) position of Joint Integrated Units, National Security and Intelligence;
 - e) International Agreements and Conventions;
 - f) assets and Debts;
 - g) oil fields, Production, Transport and Export of Oil;
 - h) contracts and Environment in Oil Fields;
 - i) water;
 - j) property;
 - k) any other issues to be agreed upon by the two parties.

Punishments

68. Subject to Section (60) and notwithstanding any more punishment stipulated 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 a fine or both..

Power to make Regulations and Orders

69. The Commission may make the necessary regulations and directives for the implementation of the provisions of this Act.

Certification

This is to certify that the National Legislative Council has ratified the Referendum Act for South Sudan for 2009 during its 9th Session Meeting No (12) dated December 28, 2009.

Ahmed Ibrahim Eltahir
Chairman of the National Legislative Council

Approved:

Signature:

Marshall: Omar Hassan Ahmed Elbashir
President of the Republic

Date: 31/12/2009