

Legislative Explanatory Note

To: National Legislative Assembly
From: Paulino Wanawilla Unango
Minister of Justice
Re: National Security Service Bill, 2014

Rt. Honorable Speaker, Members of the National Legislative Assembly,

1. Introduction

On behalf of the Executive of your Government, allow me to present to you this Bill entitled “**National Security Service Bill, 2014**”, hereinafter referred to as “**Bill.**” This Bill is presented to you for deliberations and enactment.

2. Overview of the Bill

This Bill is drafted in accordance with provisions of Articles 159, 161 and Schedule (A) (2) of the Transitional Constitution of the Republic of South Sudan, 2011 which gives the National Government competence to organise a National Security Service at all levels of the government.

This Bill consists of ten chapters, eighty one sections and two schedules providing for organisation of the National Security Service, powers and functions of the Minister, appointment of Directors General of the Operational Organs, establishment of the Security Committees, composition, recruitment of the members of the Service, offences and Penalties and establishment of Service Tribunals.

3. Chapter I- Preliminary Provisions(sections 1-5)

This chapter provides for title and commencement, repeal and saving, purpose of the Bill, authority, application and interpretation of key words used in the Bill setting forth their precise meaning.

4. Chapter II- Establishment of National Security Service, Council, Structures, Powers and Functions of the Council(sections 7-11)

This chapter provides for establishment of the Service, its structures, powers, functions, meetings and quorum of the Council.

5. Chapter III- Powers and Functions of the Service(sections 12-16)

This chapter provides powers and functions of the Service, powers and functions of the Minister, appointment of Directors General, powers and functions of Directors General and appointment and functions of Deputy Directors General.

6. Chapter IV- Mechanism for overseeing Operation of Service (sections17-18)

This chapter provides for overseeing of the Service by the National Legislative Assembly and filing of complaints against the Service.

7. Chapter V- Establishment of Technical Committee(sections 19-27)

This chapter provides for establishment, functions, meetings and quorum of the Technical Committee; establishment, functions, meetings and quorum of the State Security Committee and establishment, meetings and quorum of County Security Committee.

8. Chapter VI- Restriction on Information of the Service(sections 28-29)

This chapter provides for rights of access to service information in accordance to Article 32 of the Constitution, unless release of such information will prejudice public security or right to privacy of any person and that the Service shall gather, retain and disseminate information related to any person necessary for carrying out its functions under this Bill.

9. Chapter VII-Eligibility, Appointment and Recruitment of Members of the Service(sections 30- 52)

This chapter provides for eligibility for recruitment of members of the Service, deployment of Directors and Chiefs of the Security Divisions, ranks of members of the Service, recruitment of new members of the Service, commissioning and appointment of commissioned and non- commissioned officers, secondment, recruitment of agents, transfer of members, seniority, promotion, salaries and emoluments of the members, training, provisional retirement and effect of the retirement, suspension from work, complaint and petition, end of service, post service benefits, duties of members of the Service, powers to arrest, rights of person under arrest or detention and immunity of members of the Service.

10. Chapter VIII- Offence, Penalties, Violations and Punishments(sections 53- 72)

This chapter provides for extend of application of Penal Code to the members of the Service, penalty for offences related to enemy , conspiracy and mutiny, exposing internal or external security of the country or the Service to danger, negligence in discharge of duty, abuse of power and misuse of position, unlawful gain and making of false statement, acceptance of unlawful benefit, disposal of weapons, ammunition and other accoutrements, and penalty for offences related to custody, property, lack of discipline, making of false accusation or statement, desertion, use of criminal force against superiors or subordinates , shameful misconduct, incitement or compulsion to commit an offence, contraventions and penalties.

11. Chapter IX-Service Tribunal(section 73-75)

This chapter provides for establishment of the Service Tribunal, procedures of Service Tribunal and confirmation of sentences issued by the Service Tribunal.

12. Chapter X- Miscellaneous(sections76-81)

This chapter provides for budget of the Service, auditing of accounts of the Service, duty to assist members of the Service, restriction from outside employment, official seal and logo and regulations.

13. Schedules

The Bill has two schedules: one for oath and the other for composition of members of Service Tribunal

8. Conclusion

Rt. Honorable Speaker, Members of the August House, in light of the forgoing, I respectfully submit this Bill to you for deliberations and enactment.

Attachment: "National Security Service Bill, 2014"

LAWS OF SOUTH SUDAN

NATIONAL SECURITY SERVICE BILL, 2011

Juba, 19TH MAY, 2011

Printed by Ministry of Justice

LAWS OF SOUTH SUDAN

National Security Service Bill, 2014

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SCHEDULE 1

Oath

SCHEDULE I1

Composition of Service Tribunal

LAWS OF SOUTH SUDAN

Inaccordance with provisions of Articles 55(3), (b) and 85(1) of The Transitional Constitution of the Republic of South Sudan, 2011 the National Legislative Assembly, with the assent of the President, hereby enacts the following:

CHAPTER I

PRELIMINARY PROVISIONS

1. Title and Commencement

This Bill shall be cited as the National Security Service Bill, 2014 and shall come into force on the date of its signature by the President of the Republic.

2. Repeal and Saving

Any legislation governing the subject of this Bill is hereby repealed; provided that all appointments, orders and proceedings taken or made under the repealed legislation, except to the extent cancelled by or otherwise inconsistent with this Bill, shall remain in full force and effect.

3. Purpose

The purpose of this Bill is to provide for establishment, organization, mandate, terms and conditions of service of the National Security Service.

4. Authority and Application

(1) This Bill is drafted pursuant to Articles 159, 160 and 161 and Schedule A (2) of The Transitional Constitution, 2011, which give the National Government competence to establish and organize a National Security Service at all levels of the government.

(2) This Bill shall apply to all officers, non-commissioned officers, persons employed or seconded to the Service.

5. Interpretations

In this Bill, unless the context otherwise requires:

- “Agent,”** means any person not a permanent or regular employee of the Service but is retained by the Service.
- “Assembly”** means the National Legislative Assembly.
- Chairperson:** means chairperson of the National Security Council.
- “Constitution”** means the Transitional Constitution of the Republic of South Sudan, 2011.
- “Council”** means the National Security Council established in accordance with the provisions of this Bill.
- “Classified Information”** means information of sensitive nature of which its unauthorized publication or disclosure constitutes security risk to the nation.
- “Commissioner”** means Commissioner of any county who by virtue of his or her position is the Chairperson of the Security committee of the county in accordance with the provisions of this Bill.
- “Director General”** means the Director-General of General Intelligence Bureau or Internal Security Bureau.
- “Government”** means the Government of the South Sudan at all levels.
- “Governor”** means the Governor of any state who by virtue of his or her position is the Chairperson of the Security Committee in the state.
- “Intelligence”** means information gathered, analysed, processed and disseminated to the authority concerned for decision making.
- “Legal Counsel”** means any legal counsel seconded or appointed to the Service by the Ministry of Justice to perform legal work entrusted to him or her in accordance with the provision of this Bill.
- “Member”** means any person appointed in the Service in accordance with the provisions of this Bill.
- “Minister”** means the Minister of National Security in the Office of the President.
- “Non- Commissioned Officer”** means a person in the Service from the rank of lance corporal to the rank of regimental sergeant major.
- “Commissioned Officer”** means a person in the Service from the rank of second lieutenant to the rank of general.
- “Organised Force”** means the armed forces, law enforcement agencies and members of the Service.
- “President”** means the President of the Republic of South Sudan.
- “Private”** means a soldier of a lowest rank

"Security clearance" means permission granted to a person to access restricted area, appointment to particular post or being permitted to transact in certain business.

"Security vetting" means a systematic procedure used to examine a person to determine his or her security competence.

"Security information" means information that carries specific degree of sensitivity.

"Service" means the National Security Service.

"Support Staff" means any auxiliary person employed by the Service.

"Technical Committee" means the national technical security committee established in accordance with provisions of this Bill.

"Threat to National security" includes:

- (a) any activity related to espionage, sabotage, terrorism, subversion or intention to engage in any such activity directed against or detrimental to the interest of nation and any other activity performed in conjunction with any activity related to espionage, sabotage, terrorism or subversion.
- (b) any activity directed to undermine or intended to bring about destruction or overthrow of constitutionally established Government in South Sudan at any level;
- (c) any threat or act of violence or unlawful harm directed or intended to achieve, bring about or promote any constitutional, political, industrial, social or economic objective or change in South Sudan ,including any conspiracy, incitement or attempt to commit any such threat or act of violence and
- (d) any foreign-influenced activity within or outside which is against or related to South Sudan that is:
 - (i) detrimental to the interest of South Sudan and
 - (ii) clandestine or deceptive or involves *in* any threat to the State or its citizens or any other person lawfully resident in South Sudan.

6. Guiding Principles of National Security Service

The National Security Service shall:

- (a) be subject to the authority of the Constitution and the law;
- (b) be subordinate to the civilian authority;

- (c) respect the will of the people, the rule of law, democracy, human rights and fundamental freedoms;
- (d) reflect the diversity of the people of South Sudan in its recruitment and
- (e) be professional and its mandate shall focus on information gathering, analysis and advice to the relevant authorities.

CHAPTER II

ESTABLISHMENT OF NATIONAL SECURITY SERVICE, SECURITY COUNCIL, STRUCTURES, POWERS AND FUNCTIONS

7. Establishment

- (1) A service to be known as National Security Service is hereby established.
- (2) The Service shall be an organized national force headed by the Minister directly answerable to the President having general oversight of the Service.
- (3) The Minister shall exercise powers and functions in accordance with the provisions of section 13 of this Bill.

8. Structures of the Service

- (1) The Service shall have the following two Operational Organs:
 - (a) General Intelligence Bureau and
 - (b) Internal Security Bureau.
- (2) The two Operational Organs shall be under the Minister.
- (3) Each of the Operational Organs shall be headed by a Director General.

9. Council

- (1) A council to be known as National Security Council is hereby established consisting of the following:
 - (a) President of the Republic ,Chairperson;
 - (b) Vice-President of the Republic, Deputy Chairperson;
 - (c) Minister responsible for defence, member;
 - (d) Minister responsible for foreign affairs, member;
 - (e) Minister responsible for justice, member;

- (f) Minister responsible for finance, member
- (g) Minister responsible for interior, member and
- (h) Minister responsible for national security service, secretary.

- (2) The Chairperson of the Council may invite any person to attend the Council meeting if such person has any knowledge or connection to the matter before the Council for discussion but the person shall not have the right to vote.

10. Powers and Functions of the Council

The Council shall have the following powers and functions:

- (1) Approval of the strategies, plans, policies and directives related to the security of the nation and undertaking co-ordination and general supervision of implementation of such strategies, plans, policies and directives so as to ensure security and safety of the nation.
- (2) Without prejudice to the generality of sub-section(1) of this section, the Council shall exercise the following functions:
 - (a) planning of general policy trend related to the security of the nation.
 - (b) general supervision on progress of security work.
 - (c) co-ordination among security organs.
 - (d) follow-up implementation of security programmes, plans and policies and receipt of reports related to such programmes, plans and policies.
 - (e) approval of regulations related to the work of the Council and its committees.

11. Meetings and Quorum of the Council

- (a) The Council shall meet at least once every week,
- (b) The Chairperson of the council may call for an emergency security meeting at any time as he or she may deem necessary.
- (c) The quorum of the Council shall be half of its members plus one.
- (d) The Secretary, in consultation with the Chairperson of the Council, shall prepare agenda for any meeting of the Council.
- (e) The Council may take its decision by consensus or by majority vote; provided that in case of tie vote the Chairperson shall exercise an additional vote.
- (f) The Secretary of the Council shall be responsible for keeping minutes and other documents and administrative affairs of the council.
- (g) The Secretary of the Council shall prepare report annually or on request by the Chairperson on performance of the Council.

CHAPTER III

POWERS AND FUNCTIONS OF THE SERVICE

12. Powers and Functions of the Service

Without prejudice to the Bill of Rights provided in The Transitional Constitution, 2011 the Service shall exercise the following powers:

- (a) request any information, statement, document or thing from any suspect and potential witness for perusal, keep or take necessary or appropriate measures in respect of such information, statement, document or thing.
- (b) summon, investigate and take particulars and depositions from any suspect and potential witness.
- (c) monitor, investigate and conduct search of suspect and places.
- (d) seize property connected with an offence in accordance with the law.
- (e) arrest and detain suspects in accordance with the provision of this Bill.
- (f) maintain security, protection of the Constitution, national social fabric and safety of South Sudanese from any internal or external danger.
- (g) gather internal and external information related to security of the Nation, analyzing, evaluating and recommending the necessary protection measures based on such information.
- (h) undertake necessary search and investigation for disclosure of any situation, fact activity or factors which may endanger the national security and safety of the nation in accordance with provisions of this Bill.
- (i) provide opinion, advice, consultation and services in respect of security and intelligence to various national organs for realization of stability and safety of the nation.
- (j) detect any danger resulting from espionage, terrorism, conspiracy, piracy, cyber- *crimes* or destructive actions.
- (k) detect and combat of any destructive activities by any organization, group or individual, foreign country or South Sudanese group inside or outside South Sudan.
- (l) cooperate with any similar or friendly organ in exchange of information, combat of terrorism and any activity threatening mutual system and security.
- (m) protect Very Important Persons and public utilities in coordination with other regular forces.

- (n) monitor frequencies, wireless systems, publications, broadcasting stations and postal services in respect to security interest so as to prevent misuse by users.
- (o) any other function assigned by the President or the Council in accordance with the Constitution.

13. Functions of the Minister

The Minister shall exercise the following functions:

- (1) Daily briefing of the President on the security situation of the nation.
- (2) Recommending to the President appointment of Director General of each of the Operational Organs in accordance with provisions of Article 160 (2) (b) of the Constitution.
- (3) Rendering of advice to the President and the Council on matters of national security.
- (4) Recommending to the President appointment of officers in accordance with the provisions of this Bill, regulations and rules made under this Bill.
- (5) Establish the necessary divisions, directorates, departments and create posts of directors and heads of departments, branches and units for each of the Operational Organs to carry out the powers and functions of the Service.
- (6) Oversight of the administration of the Service.
- (7) Approval of any functional directive issued by each Director General of the Operational Organ of the Service in relation to physical security, communication security, protection of classified information and any other matter necessary for the Service.
- (8) Approval of any functional directives issued by Director General of each Operational Organ in relation to conditions of service and any other matter necessary for the efficient command and control of the Service
- (9) Upon receipt of report from each of the Directors General and after obtaining consent of the President make regulations for employment, training, promotion, posting, transfer, resignation, discharge, dismissal, suspension or demotion of the members of the Service, conditions of service of members of the Service, establishment and maintenance of training institutions, matters related to command and discipline, control of the Services, control over administration of funds appropriated to the Service and all matters related to representative and equity and code of conduct for members of the Service.
- (10) In collaboration with the Directors General of the two Operational Organs, the Minister may cause to be put in place such additional arrangements, including but not limited to responsibility for strategic planning and leadership, general administration, financial and human resources management, communications and

technical infrastructure, record-keeping, protective security and dissemination of intelligence products.

14. Appointment of Directors General

The two Directors General of the Operational Organs of the Service shall be appointed by the President upon recommendation of the Minister.

15. Powers and Functions of Directors General

- (1) Each of the Directors General shall perform the following functions:
 - (a) be in charge of day-to-day administration of his or her Operational Organ.
 - (b) prepare report to the Minister on daily operation of the organ headed by him or her.
 - (c) be answerable to the Minister for efficient operation of the organ headed by him or her.
 - (d) issuance of Standing orders for assessment of need for appointment of new officers and employees for the Service.
 - (e) management of funds and any other assets of the Service entrusted to his or her Operational Organ.
 - (f) submission of periodical and annual report on the activities of the Service to the Minister.
 - (g) perform any other functions assigned to him or her by the Minister or the President.
- (2) Notwithstanding the generality of the provisions of sub-section (1) of this section, each Director General shall perform particular additional functions necessary to his or her Bureau.

16. Appointment and Functions of Deputy Directors General

- (1) The Minister in consultation with the Director General of each Operational Organ shall recommend for appointment of Deputy Director General by the President.
- (2) The Deputy Director General shall assist the Director General in performance of his or her functions and duties and act in his or her absence.

CHAPTER IV

MECHANISM FOR OVERSEEING OPERATION OF SERVICE

17. Assembly oversight of Service

The Minister shall submit an annual report to the Committee for Security and Public Order of the National Legislative Assembly on matters related to the Service.

18. Complaints against Service

- (1) Any person aggrieved by an act of any member of the Service, whether related to his or her person or property, may file a written complaint to the officer in charge of the Service within the area the act was committed.
- (2) In case where a complaint against the Service is submitted to any public institution such institution shall promptly forward the complaint to the Director General concerned at the national level or to the Director at the state level.
- (3) Notwithstanding the provisions of sub-section (1) of this section, the Service shall establish a public relations office at the national and state levels for receipt of complaints from a member of the public against any member of the Service.

CHAPTER V

ESTABLISHMENT OF TECHNICAL COMMITTEE

19. Establishment of Technical Committee

A committee to be known as Technical Security Committee is hereby established as follows:

- (a) Minister responsible for the Service, Chairperson
- (b) Chief of General Staff of the SPLA, member
- (c) Inspector General of the National Police Service, member
- (d) Director of Military Intelligence of the SPLA, member
- (e) Director General of the General Intelligence Bureau, member
- (f) Director General of Internal Security Bureau, member and secretary
- (g) Undersecretary of the Ministry responsible for foreign affairs, member
- (h) Undersecretary of the Ministry responsible for justice, member
- (i) Undersecretary of the Ministry responsible for finance, member

20. Functions of Technical Committee

The Technical Committee shall perform the following functions:

- (a) submit available information about general situation of internal and external security of the nation together with proposals and recommendations to the Council.
- (b) alert the Council on direct or indirect political, military or economic threats to the security of the nation.
- (c) co-ordinate various security plans from different security agencies or as directed by the Council.
- (d) study security plans presented by security committees and other security agencies and submission of such study to the Council for approval and follow-up the implementation by any of the security committee.
- (e) co-ordinate work of security committees as approved by the Council.
- (f) prepare and submit of technical reports about general state of security of the nation , performance and administration of the national security organs to annual security meeting.

21. Meetings and Quorum of Technical Committee

- (1) The Technical Committee shall hold its meetings on notification by the chairperson on the date and at the place specified in the invitation or stated in the call.
- (2) The quorum of the Council shall be half of its members plus one.
- (3) The Technical Committee may take its decision by consensus or by majority vote; provided that in case of tie vote the Chairperson shall exercise an additional vote.
- (4) The Technical Committee may invite any person it deems appropriate to attend and participate in deliberations at any of its meetings; provided that such person shall have no right to vote.

22. Establishment of State Security Committee

A committee to be known as State Security Committee is hereby established in each State as follows:

- (a) Governor of State, Chairperson;
- (b) Deputy Governor, Deputy Chairperson;
- (c) Security Advisor in State (if any), member;
- (d) Minister of Local Government in State, member;

- (e) Minister of Finance in State, member;
- (f) Head of Legal Administration in State, member;
- (g) Commander of the SPLA Forces in State, member;
- (h) Director of the Police in State, member and
- (i) Director of Internal Security Bureau in State, member and secretary.

23. Functions of State Security Committee

- (1) A State Security Committee shall perform, among others, the following functions:
 - (a) maintains and keeps security in the State.
 - (b) coordinates among security agencies at State level.
 - (c) receives reports from security committees in counties, payams and bomas.
 - (d) submits periodical reports to the Council.
 - (e) carries out any assignment delegated by the Council or Technical Committee.
- (2) The State Security Committee may establish a technical team from security agencies in State to assist in implementation of its functions.

24. Meetings and Quorum of State Security Committee

- (1) The State Security Committee shall hold its meetings at least once a week.
- (2) The quorum of the State Security Committee shall be half of its members plus one.
- (3) The State Security Committee may take its decision by consensus or by majority vote; provided that in case of tie vote the Chairperson shall exercise an additional vote.
- (4) The State Security Committee may invite any person it deems appropriate to attend and participate in deliberations at any of its meetings; provided that such person shall have no right to vote.

25. Establishment of County Security Committee

A committee to be known as County Security Committee is hereby established as follows:

- (a) Commissioner, chairperson;
- (b) Commander of SPLA Forces in county, member;
- (c) Director of Police in county, member;
- (d) Legal Advisor in county, member and
- (e) Head of the Internal Security Unit in county, member and secretary.

26. Functions and Quorum of County Security Committee

The County Security Committee shall perform, among others, the following functions:

- (a) maintains and keeping of security in county.
- (b) coordinates among security agencies at county level.
- (c) submits periodical reports to State Security Committee.
- (d) carries out any assignment delegated by the State Security Committee.

27. Meetings and Quorum of County Security Committee

- (1) The County Security Committee shall hold its meetings at least once a week.
- (2) The quorum of the County Security Committee shall be half of its members plus one.
- (3) The County Security Committee may take its decision by consensus or by majority vote; provided that in case of tie vote the Chairperson shall exercise an additional vote.
- (4) The County Security Committee may invite any person it deems appropriate to attend and participate in deliberations at any of its meetings; provided that such person shall have no right to vote.

CHAPTER VI**RESTRICTION ON INFORMATION OF THE SERVICE****28. Right of Access to Service Information**

Subject to Article 32 of the Constitution, the Service shall not release information likely to prejudice public security or the right to privacy of any person.

29. Gathering of Information

The Service shall gather, retain and disseminate information related to any person as is necessary for carrying out its duties and functions under this Bill.

CHAPTER VII

ELIGIBILITY, APPOINTMENT AND RECRUITMENT OF MEMBERS OF SERVICE

30. Eligibility for Recruitment of Members of Service

To be eligible for selection and appointment as member of the Service a person shall:

- (a) be a South Sudanese;
- (b) be at least 18 years old;
- (c) be of sound mind;
- (d) not have been convicted of any offence involving integrity or moral turpitude;
- (e) have satisfied medical and academic requirements and
- (f) have passed security vetting.

31. Deployment of Directors and Chiefs of the Security Divisions

- (1) The Director General concerned shall, in consultation with the Minister, deploy Directors and chiefs of divisions and officers, non-commissioned officers in accordance with the approved organizational chart of the Service and the regulations shall specify their functions.
- (2) The Director or Chief deployed under subsection (1) of this section shall be the administrative head of the division.

32. Ranks of Members of Service

- (1) Ranks of officers and non-commissioned officers of the Service shall be as follows:
 - (a) officers, from second lieutenant to general.
 - (b) non-commissioned officers, from lance corporal to regimental sergeant major.
 - (c) private.
- (2) Any civilian employed by the Service shall be given title indicative of his or her functions.

33. Recruitment of New Officers

Recruitment of new officers shall be done through selection by a committee formed by the Minister and chaired by Director General of the Operational Organ concerned.

34. Commissioning and Appointment of New Officers

- (1) Commissioning and appointment of new officers into the Service shall be made by the President.
- (2) On being commissioned, appointed officers of the Service shall take oath before the President and in case of other ranks before the Minister as provided in the schedule attached to this Bill.

35. Appointment of New Non- Commissioned Officers *and Privates*

Appointment of new non- commissioned officers and privates shall be made by the Minister on recommendation of the Director General of the concerned Operational Organ.

36. Secondment

- (1) The Director General of the concerned Operational Organ, in consultation with the Minister, may second any member of the Service to any institution in accordance with the regulations.
- (2) After having obtained prior consent of an appropriate person for secondment, the Director General of the concerned Operational Organ may recommend to the Minister secondment of such person to work in the Service for two years subject to renewal after which he or she shall have the choice to either return to his or her former institution or to finally be transferred to the Service.
- (3) The person seconded shall be deemed, during the secondment period, a member of the Service and shall be treated equally with those of his or her rank.
- (4) Notwithstanding the provisions of sub-sections (1) and (2) of this section, where interest of the Service so requires, the Director General, in consultation with the Minister, may terminate secondment of any seconded person; provided that the Director General shall notify such person and the institution to which he or she belongs within thirty days before the termination, unless there exists reason for immediate termination.

37. Recruitment of Agents

- (1) The Director General of the Operational Organ concerned may recruit or approve recruitment of an appropriate person to be an agent into the Service on such conditions and terms as the Director General of the Operational Organ concerned may specify.
- (2) The Director General of the Operational Organ concerned may terminate the service of any agent at any time; provided that the Director General of the Operational Organ concerned shall forthwith notify such agent of the termination.

38. Transfer of Members

- (1) The President may order transfer of any officer from the Organised Forces to the Service.
- (2) The Minister, in consultation with the Director General of the Operational Organ concerned, may recommend to the President final transfer of any officer from the Service to any other organised Force or civil service.
- (3) The Director General of the Operational Organ concerned, in consultation with the Minister transfer a member from the Service to any other Organised Force or civil service.

39. Seniority

The Director General of Operational Organ concerned shall keep and maintain seniority list of members of his or her Bureau.

40. Salaries, Emoluments and Privileges

- (1) Salaries of the members of the Service shall be in accordance with public service law.
- (2) Emoluments and privileges of the members of the Service shall be prescribed in accordance with the financial and accountancy regulations of the Service.

41. Training

The basic principles and standards for training programmes of members of the Service shall be prescribed in the regulations.

42. Promotions

- (1) After consultation with the Directors General of each of the Operational Organs, the Minister shall recommend to the President promotion of officers of the Service.
- (2) Promotion of non-commissioned officers and privates of the Service shall be approved by the Minister on recommendation of Director General of the Operational Organ concerned.

43. Provisional Retirement

- (1) The Minister, after being satisfied with the recommendation of the Director General of each of the Operational Organs regarding unsatisfactory performance of duties by an officer or upon decision by medical commission that an officer is medically unfit for

continuation in the Service, may place such officer under provisional retirement for a period of one year and inform the President about such provisional retirement.

- (2) Before the end of the one year of the provisional retirement stated in sub-section (1) of this section, the Minister shall constitute an investigation committee to look into the causes for the provisional retirement of the officer concerned and the committee shall present a recommendation regarding whether the officer is to be returned to active service when found medically fit or be put on pension.
- (3) The member on provisional retirement under sub-section (1) of this section shall continue to be subjected to this Bill, regulations and rules made under this Bill and shall inform his or her unit in writing of his or her place of residence or of any change in such place of residence.

44. Effect of Provisional Retirement

Any member of the Service placed under provisional retirement in accordance with the provisions of section 43 of this Bill shall be subject to the following:

- (a) Payment of two third of his or her salary; provided that part of such two third salary shall be deducted for pension purpose.
- (b) The provisional retirement period shall be considered as part of his or her active years of employment with the Service.
- (c) upon presentation of the report of the investigation committee formed in accordance with section 43(2) of this Bill, the Minister may recommend to the President that the member shall resume his or her duties with the Service or be put on retirement.

45. Suspension from work

- (1) Where a charge for contravention of the provisions of this Bill or criminal proceedings have been instituted against a member of the Service, the Director General concerned may issue a written order suspending such member from work if the interest of work so requires; provided that an order for suspension of any officer from the rank of second lieutenant and above shall be the competence of the Minister, on recommendation of the Director General concerned; provided further that suspended officer shall be notified of the reasons for his or her suspension in accordance with public service regulations.
- (2) Suspension of the Directors General and Deputy Directors General shall be by Presidential order on recommendation of the Minister.

- (3) Where an order of suspension in accordance with the provisions of sub-section (1) of this section is not related to any criminal proceedings against a member of the Service, the Minister shall form a committee to investigate the charge or charges against such member and upon the investigation report, the Minister shall either take action against the member or revoke the order.
- (4) The regulations shall specify procedures for suspension provided in sub-section (1) of this section.

46. Complaint and Petition

An aggrieved member of the Service may submit his or her complaint or petition to the senior officer in accordance with the regulations.

47. End of Employment

- (1) Employment of an officer who is a member of the Service shall come to an end by Presidential Order, on the recommendation of the Minister after consultation with the Director General of the Operational Organ concerned, based on any of the following reasons:
 - (a) attainment of retirement age in accordance with the civil service law.
 - (b) acceptance of written resignation.
 - (c) appointment to constitutional post
 - (d) termination of employment with the Service.
 - (e) loss of any of the eligibility requirements provided in section 30 of this Bill
 - (f) upon conviction by a tribunal constituted by the Service.
 - (g) upon conviction by a competent criminal court for commission of an offence punishable by death or life imprisonment.
 - (h) natural death or martyrdom.
- (2) Employment of a member of the Service from non-commissioned officers shall come to end by ministerial order, on recommendation of the Director General concerned, for any of the same reasons stated in sub-section(1) of this section.

48. Post-Service benefits

The post service benefits inclusive of pension and other benefits of the members of the Service shall be determined by law.

49. Duties of a Member

- (1) Any member of the Service shall:
 - (a) dedicate all his or her time and activity to discharge all duties provided in this Bill, regulations made and orders issued under this Bill by personally discharging thoroughly and honestly every duty or work assigned to him or her.
 - (b) bear responsibility for any orders issued by him or her
 - (c) at all time obey lawful orders issued to him or her by senior officer related to his or her duties and exert utmost effort in executing such order.
 - (d) be a good example to others in behavior and integrity at work.
 - (e) uphold the dignity of his or her position by showing conduct compatible to his or her duties.
 - (f) consider himself or herself on duty for twenty four hours by being available at his or her place of work unless permitted to leave such place of work by the Director General concerned or senior officer in charge of the place of work and
 - (g) respect the dignity and self-esteem of human beings and protect the human rights.
 - (h) not keep for himself or herself any original or copy of an official document or remove such original or copy from file in which such document is kept even if the document is related to work assigned to him or her or divulge any information or disclose any matter secret by nature or deemed to be secret by special instructions unless permitted to do so.
- (2) Every member of the Service shall sign confidentiality and non- disclosure agreement with the Service conditional to his or her employment and observation of such confidentiality and non-disclosure agreement shall continue even after end of employment with the Service.

50. Powers to Arrest

- (1) An officer or member authorized by the Minister or Director General concerned may, without warrant, arrest any person if such officer or member reasonably suspects that the person to be arrested has committed or is about to commit an offence punishable by law.
- (2) In carrying out the powers and functions of the Service provided in section 12 of this Bill, every member of the Service, when effecting arrest, search, entrance on premises and investigating shall exercise all powers of the police under the applicable police service and criminal procedure laws.

51. Rights of Person under Arrest, Detention or Confinement

- (a) any person arrested or detained shall be informed of the charge or charges against him or her.

- (b) an arrested or detained person shall have the right and choice to inform a member of his or her family, close relative or the body to which he or she belongs of such arrest or detention and the right to communicate with his or her family and lawyer of his or her choice; provided that such communication does not prejudice progress of any inquiry or investigation of the case.
- (c) An arrested, detained or confined person shall be treated with dignity and not to be subject to abuse physically or morally and safety of deposits found with the arrested, detained or confined person shall be kept in safe custody.
- (d) subject to circumstances related to security and order at custody, a person under detention shall have the right to obtain reasonable amount of foodstuff, reading materials and clothes at his or her own expenses.
- (e) an arrested or detained woman shall be kept in special custody for detention of women and accorded treatment conducive to her as a women.
- (f) the regulations shall prescribe visits of members of family of a detained person
- (g) a detained person shall have the right to medical care.
- (h) the competent public attorney shall be allowed regular inspection of detention facility to ensure compliance with rights of detainee as provided in this section and receive complaint if any by the detainee.
- (i) an advocate shall be allowed regular visits to custody where his or her client is detained.
- (j) the regulations shall prescribe minimum standards of custody.

52. Immunity of Members of Service

No criminal proceedings shall be initiated against any members of the Service nor any measure be taken against the person or belongings of such member without permission from the Minister in case of the officers or from the Director General concerned in case of other ranks, except where he or she is caught committing an offence for which police may arrest without warrant.

CHAPTER VIII

OFFENCES, PENALTIES, VIOLATIONS AND PUNISHMENTS

Offences and Penalties

53. Extend of Application of Provisions of Penal Code to Members of the Service

- (1) Where a member commits an offence in contravention of provisions of this Bill and the offence committed is at the same time an offence in accordance with the provisions of the applicable penal code, such member shall be tried under the provisions of this Bill but the Minister, on reasonable grounds, may refer the case for trial before competent criminal court.

- (2) Subject to the provisions of sub-section (1) of this section, the provisions of another relevant applicable penal law shall apply to any member who commits an offence not punishable under the provisions of this Bill.

54. Penalty for Offences Related to Enemy

- (1) Death sentence or sentence of life imprisonment shall be imposed on any member who commits any of the following offences:
- (a) abandons or disgracefully surrenders any post, station or place of custody which he or she was duty bound to defend.
 - (b) lays or surrenders disgracefully his or her weapon, ammunition, tools or equipment before the enemy.
 - (c) directly or indirectly conveys to the enemy or hostile service information related to the security of the country or directly or indirectly assists the enemy in obtaining such information.
 - (d) neglects to immediately report to his or her superior or any other senior officer what he or she knows about an act or about correspondence or direct or indirect connection done by any person who is an enemy.
- (2) For the purpose of this section, an enemy is a natural or unnatural person who is:
- (a) in state of war with South Sudan.
 - (b) threatening security of South Sudan.
 - (c) carrying out an act of sabotage or terrorism against South Sudan.

55. Penalty for Offences of Conspiracy and Mutiny

Death sentence or life imprisonment shall be imposed on any member who commits any of the following offences:

- (a) attempts, with any member or other members, to commit, provoke, participate or cause mutiny.
- (b) while present, fails to exert utmost effort to suppress mutiny.
- (c) knowingly or having reason to believe that mutiny or intention to commit mutiny or any conspiracy against the existing constitution and constitutional government and not report such mutiny, intention or conspiracy.

56. Penalty for Exposing Internal or External Security of Country or Service to Danger

Death sentence or life imprisonment shall be imposed on any member who intentionally commits or refuses to perform an act so as to expose internal or external security of the country or of the Service to danger.

57. Penalty for Negligence in Discharge of Duty

A member who commits any of the following offences shall be sentenced to imprisonment for a term not exceeding ten years or fine or with both:

- (a) neglects to report immediately to his or her superior or any senior officer any mis-information, he or she has come to know, related to functions of the Service.
- (b) grossly neglects or carelessly fails in carrying out any of the duties provided for in this Bill.

58. Penalty for Abuse of Power and Misuse of Position

A member who abuses powers delegated to him or her under the provisions of this Bill or misuses his or her position in the Service with intention to obtain any personal material or moral benefit for himself or herself or for the benefit of another person or causing injury or damage to another person shall be sentence to imprisonment for a term not exceeding ten years or fine or with both.

59. Penalty for Unlawful Gain and Making False Statement

A member who commits any of the following offences shall be sentenced to imprisonment for a term not exceeding ten years or fine or with both:

- (a) obtains for himself or herself or another person allowance, pension, benefit, money or privilege by providing false statement or he or she knows to be false.
- (b) intentionally makes false statement or report to any person or competent entity about the number of members under his or her command or responsibility or about the situation of such members or the extent of property, tools, instrument, accoutrements, equipment, machinery, uniform, weapons for personal use or ammunition under his or her custody, whether such property, instrument, uniform or weapons are of the Service or for personal use of the members or any other person attached to the Service or intentionally neglects to send any statement or report about any of the stated things or refuses to send the report.

60. Penalty for Accepting Unlawful Benefit

A member who directly or indirectly accepts any unlawful benefit or consideration for personal use or for use by another person or procures such benefit or consideration or accepts such benefit or consideration so as to employ any person in the Service or to facilitate acceptance of tools, accoutrements, weapons or ammunition to administration under his or her command commits an offence punishable with imprisonment for a term not exceeding ten years or fine or with both.

61. Penalty for Disposal of Weapons, Ammunition and other Accoutrements

A member who disposes or without justification permits disposal of weapon, ammunition, tools, accoutrements, instruments or uniform given to him or her for use in performance of his or her duty or under his or her responsibility commits an offence punishable with imprisonment for a term not exceeding ten years or fine or with both.

62. Penalty for Offences Related to Property

A member who commits any of the following offences shall be sentenced to imprisonment for a term not exceeding ten years or fine or with both:

- (a) maliciously converts for his or her benefit any property, instrument, accoutrement or equipment entrusted to him or her.
- (b) intentionally receives for purpose of keeping for himself or herself any money, property, instrument, accoutrement or equipment of the Service.
- (c) converts or keeps for himself or herself any property he or she knows or have reason to know has been used in commission of an offence.
- (d) intentionally or negligently damages or destroys property of the Service or disposes of such property in a way that amounts to transfer of ownership or loss of the property.

63. Penalty for Offences Related to Custody

- (1) A member who commits any of the following offences shall be punished with the same penalty for such offence:
 - (a) refuses to deliver to the official authority entitled by law to receive any member or person arrested or detained or in custody under his or her command or handed to him or her during his or her duty as a guard.
 - (b) unlawfully releases any member or person under his or her guards or by way of negligence makes it possible for such member or person to escape from custody.
- (2) A member who escapes from custody shall be sentenced to imprisonment for a term not exceeding five years.

64. Penalty for Lack of Discipline

A member who commits an act inconsistent with discipline as prescribed under the regulations or orders made under the provisions of this Bill shall be sentenced to imprisonment for a term not exceeding five years.

65. Penalty for Making False Accusation or Statement

A member who commits any of the following acts shall be sentenced to imprisonment for a term not exceeding five years:

- (a) makes false accusation against any other member or
- (b) maliciously makes false complaint or statement contrary to any fact or conduct related to any other person or member or makes exaggeration in presenting any vital information in respect of such complaint or statement.

66. Penalty of Desertion

- (1) A member who deserts his or her duty shall be sentenced to imprisonment for a term not exceeding five years or fine or with both; provided that the penalty shall not prejudice any other penalty that may be imposed on such member under the provisions of this Bill.
- (2) For the purpose of sub-section (1) of this section desertion shall be deemed absence by a member from his or her place of duty or non-reporting, after the expiration of his or her leave, without acceptable excuses, where the period of his or her absence exceeds twenty one days.

67. Penalty for Use of Criminal Force against Superior and Maltreatment of Subordinate

Imprisonment for a period not exceeding three years, fine or with both shall be imposed on a member who knowingly or have reason to believe uses force, assaults or attempts to use force against:

- (a) his or her superior officer during working hours or after working hours.
- (b) any of his or her subordinates.

68. Penalty for Offences Related to the Service Tribunal

Imprisonment for period not exceeding two years, fine or with both shall be imposed on a member who commits any of the following offences:

- (a) Intentionally refrains to appear for testimony before Service Tribunal after being officially summoned or refuses to take oath, make statement, answer any question or to produce or deliver any document or any other thing upon being required to do so.
- (b) Intentionally or knowingly under oath makes false statement or gives false answer as a witness before Service Tribunal or any other competent court.

- (c) Intentionally abuses, causes disturbance, nuisance or uses abusive words, gesture or sign during session of Service Tribunal with intent of causing threat, disrespect, show of violence or disobedience.

69. Penalty for Shameful and Improper Conduct

A member who shamefully or improperly conducts himself or herself incompatible with the dignity or respect for his or her position shall be punished with dismissal or fine.

70. Penalty for Incitement or Compulsion to Commit an Offence

A member who incites or compels any other member to commit any of the offences stated in this Bill shall be punished with the same penalty prescribed for the offence he or she has incited or compelled other member to commit.

71. Contraventions

- (1) A member who commits any of the following contraventions shall be subject to any of the penalties stated in section 72 of this Bill:
 - (a) knowingly be tardy for duty, work or parade.
 - (b) unsatisfactory performance of his or her duty.
 - (c) leaves his or her station of work without permission.
 - (d) gives false information about any work assigned to him or her.
 - (e) hesitates to obey orders.
 - (f) neglects to obey any general standing order made in accordance with the provisions of this Bill.
 - (g) contravenes discipline.
 - (h) negligently destroys or causes damage or loss to any property, instruments, accoutrements, equipment, machinery or uniform entrusted to his or her or being used by the Service.
 - (i) malingers or intentionally prolongs treatment of his or her sickness.
- (2) A member who incites or compels another member to commit any of the contraventions stated in sub-section(1) of this section shall be deemed to have committed the same contravention and be punished with the penalty stated for such contravention under the provisions of this Bill.

72. Penalties

A member who commits any of the contravention stated in section 71 shall be subject to any of the following penalties:

- (a) with respect to officers:

- (i) written advice
 - (ii) simple reprimand.
 - (iii) severe reprimand.
 - (iv) deprivation of allowance.
 - (v) deprivation of the basic salary for a period of absence without permission.
 - (vi) deprivation of seniority for a period not exceeding one year.
 - (vii) demotion.
 - (viii) dismissal.
 - (ix) expulsion.
- (b) with respect to non-commissioned officers:
- (i) simple reprimand.
 - (ii) severe reprimand
 - (iii) extra duty.
 - (iv) deprivation from the basic salary for a period not exceeding seven days or for the period of absence without permission.
 - (v) warning of dismissal.
 - (vi) detention at the barrack for a period not exceeding twenty eight days.
 - (vii) confinement for a period not exceeding twenty eight days.
 - (viii) demotion.
 - (ix) dismissal.
 - (x) expulsion;

CHAPTER IX

SERVICE TRIBUNAL

73. Establishment of Service Tribunal

- (1) There shall be established two types of Service Tribunals as follows:
- (a) Warrant for the establishment of Service Tribunal for trial of non-summary offences stated in sections 54 to 70. of this Bill shall be issued by the President.
 - (b) Warrant for the establishment of Service Tribunal for trial of summary offences in this Bill other than the offences stated in paragraph (a) of this

section shall be issued by the Director General concerned of the Operational Organ.

- (2) Notwithstanding the provisions of sub-section(1) of this section, contents of warrant of establishment of non- summary and summary Service Tribunals shall be as in schedules attached to this Bill.

74. Service Tribunal Procedures

- (1) Non-summary Tribunal trials constituted under the provisions of this Bill shall be in accordance with the applicable code of criminal procedure .
- (2) In case a person other than a member of the Service is jointly accused of having committed an offence with one or more members of the Service the Minister of Justice shall be notified before commencement of any criminal proceedings against such person.

75. Confirmation of Sentences issued by Service Tribunals

- (1) Confirmation of sentences issued by Service Tribunals shall be in case of summary trial, by the concerned Director General if the period of the sentence exceeds twenty eight days.
- (2) Any death sentence issued by Service Tribunal shall be subject to review by the Supreme Court of the Judiciary of South Sudan before confirmation by the President.
- (3) Save in cases of offences punishable with death or life imprisonment, the regulations shall provide procedures for confirmation of other sentences issued by different Service Tribunals under this Bill.

CHAPTER X

MISCELLANEOUS

76. Service Budget

- (a) The Service shall have independent budget as a main source of its funding prepared and approved annually in accordance with the budget procedures of the National Government.
- (b) The Service shall manage its finances in accordance with sound financial principles and practices and ensure that its budget is sufficient to meet its expenditure, including payment of operational cost.

- (c) The Director General concerned shall be responsible for implementation of the approved budget of the Service .

77. Audit Accounts of Service

The accounts of the Service shall be audited annually by the National Audit Chamber; provided that such auditing shall not include the budget allocated specially for security operations.

78. Duty to Assist Members of Service

All official authorities and citizens of mature age shall provide necessary assistance to members of the Service as may be required in execution of their duties under this Bill.

79. Restriction from Outside Employment

During employment with the Service a member shall not engage in or practice any private profession, transact in commercial business that affect his or her work with the Service or receive remuneration from entity or person or accept employment of any kind other than the Service.

80. Official Seal and Logo

- (1) The Service shall have an official seal and logo in a form to be determined.
- (2) The official seal when affixed to any document shall be authenticated by signature of the Director General concerned or any other person authorized by him or her.

81. Regulations

- (1) The Minister, in consultation with the Directors General of the Operational Organs, shall issue regulations, rules and standing orders for implementation of the provisions of this Bill.
- (2) Without prejudice to the generality of sub-section (1) of this section, the regulations, rules and the standing orders, among others , shall regulate the following:
 - (a) good management of welfare of the members , offices accommodation, training centres and any other premises used by the members;
 - (b) training and capacity building of the members;
 - (c) uniform, accoutrements and instruments;
 - (d) terms of employment with the Sservice;
 - (e) bases for promotions, transfers and leaves;

- (f) job descriptions, organizational and functional charts of the Service;
- (g) specification of the type of weapons, ammunition and uniform used by members of the Service;
- (h) code of conduct of members;
- (i) procurement rules;
- (j) treatment of detainees and
- (k) relationship of the Service with the public.

SCHEDULE I

The Oath

The Directors General, commissioned and non-commissioned officers and privates of the Services shall, before assuming office, take the following Oath before the President in case of commissioned officers and before the Minister in case of the non-commissioned officers and privates.

I swear by Almighty God/ solemnly affirm, that as a Director General, commissioned officer, non- commissioned officer ,privates, shall truly protect the Constitution of the Republic of South Sudan, rule of law and human dignity, discharge duties entrusted upon me under this Bill or any other law in force and diligently protect the security of the Republic of South Sudan, obey my superiors, preserve the secrecy of the Service and not expose or release any information to any person without authorization or disclose any secret during or after my employment with the Service, so help me God/ God is my witness.

SCHEDULE 11

COMPOSITION OF SERVICE TRIBUNAL

- (a) The Service Tribunals shall be composed as follows:
 - (i) Summary Service Tribunal; three officers with legal education background and are all of higher ranks than the accused.
 - (ii) Non- summary Service Tribunal; four officers and a judge advocate; provided that chairperson of the Tribunal is of higher rank than the accused; provided further the other four members of the tribunal are of the same rank of the accused.

(b) in case of offences punishable with death or life imprisonment the rank of chairperson of the Tribunal shall not be less than the rank of security Lt. Colonel or higher.
