LAWS OF THE NEW SUDAN

INTERPRETATION OF LAWS AND GENERAL PROVISIONS ACT, 2003

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(PROVISIONAL ORDER)

Laws of the New Sudan

The Interpretation of Laws and General Provisions Act, 2003

Chapter I

Preliminary

Section 1. **Title and Commencement:-** This Act may be cited as the Interpretation of Laws and General Provisions Act, 2003 and shall come into effect on signature by the Chairman.

Section 2. **Application:-** The provisions of this Act shall apply to the interpretation of every Law and general provisions in force in the New Sudan.

Chapter II

General Provisions of Interpretation.

Section 3.

1) In this Act, and in every other written law, made or issued after the commencement of this Act, and in all public documents enacted, the following words and expressions shall have the meanings hereby assigned to them respectively, except where the context is inconsistent with that construction or interpretation, and except where it is therein expressly provided:-

"Accountant" means a person appointed to be an accounting officer within the meaning, and for the purposes, of finance and Audit;

"act", used with reference to an offence or civil wrong, includes a series of acts, and words which refer to acts done or illegal omissions;

"Action" means any civil proceeding in a court and includes any suit as defined in the Civil Procedure Act, 2003;

"Police Officer" means a person appointed to the office of that name under the Police Act, 2003;

"Administrative Officer" means a Regional, County or Payam administrator;

"Advocate" means a person whose name is for the time being duly entered as an advocate upon the roll kept in accordance with the Advocacy Act, 2003;

"Aircraft" includes seaplanes, flying boats, airships and aerial balloons;

"Alien" means a person who is not a New Sudan National;

"Amend" includes repeal, revoke, rescind, cancel, replace, add to or vary, and the doing of any two or more of those things simultaneously or in the same written law or instrument;

"Armed Forces" has the same meaning as in the SPLA Act, 2003;

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

"Child" means a person under 18 years of age, and in the case of a person whose personal law permits adoption, includes an adopted son or daughter.

"Coin" means gold, silver and bronze or other coin legally current in the New Sudan;

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

"Common Law" means so much of the common law, including the doctrines of justice, equity and good conscience as has effect for the time being in the New Sudan.

"Continental Shelf" means the sea-bed and subsoil of the submarine areas adjacent to the coast of the New Sudan but outside the territorial waters.

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

"Court" means any court of law of the New Sudan of competent jurisdiction;

"Court of Appeal" means the Court of Appeal established under the provisions of the Judiciary Act, 2003;

"Definition" means the interpretation given by a written law to any word or expression;

"Payam" means one of the administrative units into which the New Sudan is divided;

"Payam Administrator" means a person appointed to hold the public office of that name;

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

"Export" means to take out or to cause to be taken out of the New Sudan by air, land or water;

"Parent", in case of any person whose personal law permits adoption, includes an adopting father and mother;

"Financial Year" means the period from 1st July in any year to the 30th June in the immediately succeeding year, both days inclusive or as may be decided;

"The Gazette" means the New Sudan Gazette published by the civil authority of the New Sudan, and includes any supplement thereto;

"CANS" means the Civil Authority of the New Sudan;

"Printer" means the Printer of CANS, and any other printer authorized by or on behalf of CANS to print any written law or other document of the New Sudan;

"High Court" means the High Court established by the provisions of the Judiciary Act, 2003;

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

"Import" means to bring or to cause to be brought into the New Sudan by air, land or water;

"Judge" means a judge appointed in accordance with the provisions of the Judiciary Act, 2003 and includes any person appointed temporary to be or to act as a Judge;

"New Sudan" has the meaning assigned to it in the Resolutions of the 1994 National Convention Resolutions;

"Local Authority" has the meaning assigned to it in the Local Government Act;

"Magistrate" has the meaning assigned to it in the Criminal Procedure Act, 2003;

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

"Medical Officer" means a medical practitioner in the service of CANS;

"Medical Practitioner" means a person for the time being duly registered or licensed as a medical practitioner under the Health Laws;

"Commissioner" means a person appointed as a Commissioner of CANS, and includes the Chairman, the Vice-Chairman and the Attorney-General;

"The Commissioner" means the Commissioner for the time being responsible for the matter in question, or the Chairman where executive authority for the matter in question is retained by him, or the Attorney-General where the executive authority for the matter in question has been conferred on him;

"Month" means calendar month;

"Movable property" means property of every description except immovable property;

"Municipality" has the meaning assigned to it in the Local Government Act;

"National Liberation Council" means the National Liberation Council (NLC) established by the 1st National Convention Resolution, 1994, and a reference in any written Law to the legislature shall be construed as a reference to the NLC;

"Oath" and ***"Affidavit"***, in the case of persons for the time being allowed by law to affirm or declare instead of swearing, include affirmation and declaration; and "swear" in the same case, includes "affirm" and "declare";

"Occupy" includes use, inhabit, be in possession of or enjoy the premises in respect whereof the word is used, otherwise than as a mere servant or for the mere purpose of the care, custody or charge thereof;

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

"Person" includes a company or association or body of persons, corporate or unincorporate;

"Police Officer", and terms and expression referring to ranks in the Police Force, bear the meaning respectively assigned to them by the Police Act, 2003;

"Power" includes any privilege, authority or discretion;

"Prescribed" means prescribed by the Act in which the word occurs or by subsidiary legislation made thereunder;

"The Chairman" means the person elected as Chairman of the SPLM/CANS;

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

"County" means one of the Counties into which the New Sudan is administratively divided;

"SPLM County Secretary" means a person appointed to hold the public office of that name in the County;

"Publication" includes all written and printed matter, and any record, tape, wire, perforated roll, cinematography film or other contrivance by means of which any words or ideas may be mechanically or electronocally produced, reproduced, represented or conveyed, and everything, whether of a nature similar to the foregoing or not, containing any visible representation, or by its form, shape or in any manner capable of producing, reproducing, representing or conveying words or ideas, and every copy and reproduction of a publication;

"Public Body" means:-

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

"Public Holiday" means a day which is not a public working day;

"Public Officer" means an office or employment the holding or discharging of which is by a person would constitute that person a public officer;

"Public Servant" means a person in the service of, or holding office under; CANS, whether that service or office is permanent or temporary, or paid or unpaid;

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

"Registered", used with reference to a document or title to immovable property, means registered under the provisions of any written law for the time being applicable to the registration of that document or title;

"Repeal" includes rescind, revoke, cancel or replace;

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

"The Rules Committee" means the Rules Committee established under the Civil Procedure Act, 2003;

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

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

"Pound" (or its abbreviated form "Ls." Or "NS Ls.") means the New Sudan Pound;

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

"Sign", with reference to a person who is unable to write his name, includes mark;

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

"Subordinate Court" means a court within the meaning of the Judiciary Act, 2003, and a reference to a subordinate court of a particular class means a court of that class within the meaning of that Act;

"Subsidiary Legislation" means any legislative provision (including a transfer or delegation of powers or duties) made in exercise of a power in that behalf conferred by a written law, by way of by-law, notice, order, proclamation, regulation, rule, rule of court or other instrument;

"Territorial Waters" means any part of the open sea within twelve nautical miles of the coast of the New Sudan and includes any inland waters;

"Town" has the meaning assigned to it in the Local Government Act;

"Finance" means the Secretariat or department responsible for finance of the New Sudan.

"Will" includes codicil;

"Writing", and expressions referring to writing, include printing, photography, lithography, typewriting and any other modes of representing or reproducing words in visible form;

"Written Law" means:-

a) an Act of Legislature for the time being in force;
b) any subsidiary legislation for the time being in force;

"Year" means a year reckoned according to the Gregorian calendar.

"Vessel" includes any ship or boat or any other description of vessel used in navigation.

2) Where any word or expression is defined in this or in any other written law, that definition shall extend, mutatis mutandis, to the grammatical variation and cognate expressions of that word or expression.
3) In every written law, except where a contrary intention appears, words and expressions importing the masculine gender include females.
4) In every written law, except where a contrary intention appears, words and expressions in the singular include the plural and words and expressions in the plural include the singular.
5) Where any written law authorizes or requires a document to be served by post, whether the expression "serve" or "give" or "send" or any other expression is used, then, unless a contrary intention appears, the service shall be deemed to be effected by properly addressing to the last known postal address of the person to be served, prepaying and posting, by registered post, a letter containing the document, and, unless the contrary is proved, to have been effected at the time at which the letter would be delivered in the ordinary course of the post.

Chapter III

General Provisions Regarding Written Laws

Acts of the Legislature

Section 4. Commencement of Acts:-

1) Subject to the provisions of subsection (2) of this section, an Act shall come into operation on the day on which it is published in the Gazette.
2) If it is enacted in the Act, or in any other written law, that the Act or any provision thereof shall come or be deemed to have come into operation on some other day, the Act or, as the case may be, that provision shall come or be deemed to have come into operation accordingly.

Section 5. Acts to be divided into Sections without Introductory Words.

All Acts shall be divided into sections, if there are more enactments than one, which sections shall be deemed to be substantive enactments without any introductory words.

Section 6. Reference to Written Law to Include Amendments.

A reference in a written law to another written law or to any provision thereof shall be construed as a reference to that other written law and its amendments.

Written Laws Generally

Section 7. Time when Written Law comes into Operation.

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

Repeal, Amendment and Expiry

Section 8. Repeal Written Law not Revived.

Where a written law repealing in whole or in part a former written law or is itself repealed, that last shall not revive the written law or provisions before repealed unless words are added reviving the written law or provisions.

Section 9. Repeal of Amended Law to include Amendments.

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

Section 10. Repeal and substitution.

Where a written law repeals wholly or partially a former written law and substitutes provisions for the written law repealed, the repealed written law shall remain in force until the substituted provisions come into operation.

Section 11. Provisions Respecting Amended Written Law, and Effect of Repealing Written Law.

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

Section 12. Effect of Repeal of Act on Subsidiary Legislation.

Where an Act or part of an Act is repealed, subsidiary legislation issued under or made in virtue thereof shall, unless a contrary intention appears, remain in force, so far as it is not inconsistent with the repealing Act, until it has been revoked or repealed by subsidiary legislation issued or made under the provisions of the repealing Act, and shall be deemed for all purposes to have been made thereunder.

Section 13. Construction of Amending Written Law with Amended Written Law.

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

Section 14. Effect of Expiry of Written Law.

Upon the expiry of a written law the provisions of section 11(3) shall apply as if the written law had been repealed.

Subsidiary Legislation

Section15. Publication and Commencement of Subsidiary Legislation.

1) A subsidiary legislation shall, unless it is otherwise expressly provided in a written law, be published in the Gazette, and shall come into operation on the day of publication, or, if it is enacted either in the subsidiary legislation or in some other written law that the subsidiary legislation shall come into operation on some day, on that day, subject to annulment where applicable.
2) Notwithstanding anything in subsection (1), where a written law contains power to prescribe forms then, unless it is otherwise expressly provided therein, those forms need not be published in the Gazette.

Section 16. Retrospective Operation of Subsidiary Legislation.

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

Section 17. Construction of Subsidiary Legislation.

Where an act confers power to make subsidiary legislation, expression used in the subsidiary legislation shall, except where a contrary intention appears, have the same respective meanings as in the Act conferring the power, and a reference in the subsidiary legislation to the Act shall mean the Act conferring the power to make the subsidiary legislation.

Section 18. Exercise of Powers between Publication and Commencement of Act.

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

Section 19. General Provisions with Respect to Power to make Subsidiary Legislation.

Where an Act confers power on an authority to make subsidiary legislation, the following provisions shall, unless a contrary intention appears, have effect with reference to the making of the subsidiary legislation:-

a) when subsidiary legislation purports to be made or issued in exercise of a particular power or powers, it shall be deemed also to be made or issued in exercise of all other powers thereunto enabling;
b) no subsidiary legislation shall be inconsistent with the provisions of an Act;
c) subsidiary legislation may at any time be amended by the same authority and in the same manner by and in which it was made; but where the authority has been replaced wholly or in part by another authority, the power conferred hereby upon the original authority may be exercised by the replacing authority concerning all matters or things within its jurisdiction as if it were the original authority.
d) where an Act confers power on an authority to make subsidiary legislation for a general purpose, and also for special purposes incidental thereto, the enumeration of the special purposes shall not be deemed to derogate from the generality of the powers conferred with reference to the general purpose;
e) there may be annexed to the breach of subsidiary legislation a penalty, not exceeding sixty New Sudan pounds or such term of imprisonment not exceeding six months, or both, which the authority making the subsidiary legislation may think fit.

Section 20. References to Written Laws to include Subsidiary Legislation thereunder.

A reference to a written law in another written law shall include a reference to subsidiary legislation made under the written law to which reference is made.

Section 21. Acts done under Subsidiary Legislation deemed done under Act which Authorizes it.

An act shall be deemed to be done under an Act or by virtue of the powers conferred by an Act or in pursuance or execution of the powers of or under the authority of an Act, if it is done under or by virtue of or in pursuance of subsidiary legislation made under a power contained in that Act.

Section 22. Rules and Regulations to be laid before National Liberation Council.

1) All rules and regulations made under an Act shall, unless a contrary intention appears in the Act, be laid before the legislature without unreasonable delay, and, if a resolution is passed by the Council within twenty one days after the rule or regulation is laid before it that rule or regulation shall be annulled, or it shall thenceforth be void, but without prejudice to the validity of anything previously done thereunder, or to the making of any new rule or regulation.

2) Subsection (1) shall not apply to rules or regulations a draft of which is laid before the National Liberation Council and is approved by resolution before the making thereof, nor to rules of court of law.
3) In this section, rules and regulations means respectively those forms of subsidiary legislation which may be cited as rules or regulations, as the case may be.

Section 23. Fees.

1) Where an Act confers power on a person to make subsidiary legislation, and provision may be made by that subsidiary legislation, in respect of fees or other charges, the subsidiary legislation may provide for all or any of the following matters:-
   (a) specific fees or charges;
   (b) maximum or minimum fees or charges;
   (c) maximum and minimum fees or charges;
   (d) the payment of fees or charges either generally or under specified conditions or in specified circumstances; and
   (e) the reduction, waiver or refund, in whole or in part, of any such fees or charges, either upon the happening of a certain event or in the discretion of a specified person.

2) Where a reduction, waiver or refund in whole or in part, or a fee or charge is provided for, the reduction, waiver or refund may be expressed to apply or be applicable either generally or specifically:-
   (a) in respect of certain matters or transactions or classes of matters or transactions;
   (b) in respect of certain documents or classes of documents;
   (c) when an event happens or ceases to happen;
   (d) in respect of certain persons or classes of persons; or
   (e) in respect of a combination of those matters, transactions, documents, events or persons,

and may be expressed to apply or be applicable subject to such conditions as may be specified in the subsidiary legislation or in the discretion of any person specified therein.

Transfer and Delegation of Statutory Powers and Duties.

Section 24. Provision for Transfer of Statutory Powers and Duties.

1) Where by an Act the exercise of a power or the performance of a duty is conferred upon or vested in the Chairman, the Chairman may, by order, transfer the exercise of that power or the performance of that duty to a Commissioner.
2) The powers transferable by an order made under this section shall include a power to make rules.

3) The draft of every order to be made under this section shall be laid before the legislature, and shall be approved by resolution of the NLC before it is submitted to the Chairman, and if the NLC resolves that the draft is rejected no further proceedings shall be taken thereon, but without prejudice to the laying of a new draft before the National Liberation Council.
4) An order made under this section may be varied by a subsequent order made in the same manner and subject to the same conditions.
5) An order made under this section may make such amendments to the Act in respect of which the order is made, being amendments consequential upon the transfer by order or the exercise of a power or the performance of a duty, as may be necessary for carrying the order into effect.
6) Where an order is made under this section, an Act in respect of which the order is made shall thereafter be read and construed in all respects as if it were amended in conformity with the terms of the order.

Section 25. Provision for Execution of Duties of Commissioner or Public Servant during Temporary Absence or Inability.

Where, by or under an Act, powers are conferred or duties are imposed upon a Commissioner or a public servant, the Chairman, in the case of a Commissioner, or the Commissioner, in the case of a public servant, may direct that, if from any cause the office of that Commissioner or public servant is vacant, or if during any period, owing to absence or inability to act from illness or any other cause, the Commissioner or public servant is unable to exercise the powers or perform the duties of his office, those powers shall be had and may be exercised and those duties shall be performed by a Commissioner designated by the Chairman or by a person named by, or by the public servant holding an office designated by, the Commissioner; and thereupon the Commissioner, or the person or public servant, during that period, shall have and may exercise those powers and shall perform those duties, subject to such conditions, exceptions and qualifications as the Chairman or the Commissioner may direct.

Section 26. Delegation of Powers.

1) Where, by an Act, the exercise of a power or the performance of a duty is conferred upon or vested in the Chairman, the Attorney General or a Commissioner, the Chairman, the Attorney General or the Commissioner, may, unless by law expressly prohibited from so doing, delegate, by notice in the Gazette, to a person by name, or to the person for the time being holding an office specified in the notice, the exercise of that power or the performance of that duty, subject to such conditions, exceptions or qualifications as the Chairman, the Attorney General or the Commissioner may specify in the notice.
2) Nothing in subsection (1) shall authorize the persons therein mentioned to delegate:-
    (a) a power to make subsidiary legislation; or
    (b) a power to issue warrants or to make proclamations or to hear an appeal.

Under a power in that behalf conferred upon or vested in any such person by an Act.

3) A delegation made under subsection (1) may be varied or cancelled by the person who made it by notice in the Gazette.
4) No delegation under subsection (1) of a power or duty shall exclude the exercise of the power or the performance of the duty by the person who made the delegation.

Chapter IV

General Provisions Regarding Powers, Duties And Appointments And The Exercise and Signification Thereof.

Section 27. Powers and Duties to be Exercised and Performed from time to time.

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

Section 28. Powers and Duties of Holder of Office.

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

Section 29. Power to Appoint by Name of Office.

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

Section 30. Reference to Holder of Office Includes Person Discharging Functions of that Office.

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

Section 31. Power to Appoint Pending Retirement, etc., of Existing Office-Holder.

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

Section 32. Change of Title of Public Servant.

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

Section 33. Construction of Enabling Words.

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

Section 34. Power to Appoint Chairperson, etc., of Board, etc.

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

Section 35. Power to Appoint Public Servant to Serve on Board, etc.

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

Section 36. Power to Appoint to include Power to Suspend, Dismiss, Reappoint, etc.

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

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

Section 37. Power to Appoint Alternate or Temporary Members.

Where by or under a written law a board, commission, committee or similar body, whether corporate or unincorporated, is established, then, unless a contrary intention appears, a person who is by that written law empowered to appoint any of all of the members thereof may:-

(a) appoint one or more duly qualified persons to be alternate members, and any one alternate member may attend a meeting when a substantive member is temporarily unable to attend;

(b) appoint a duly qualified person to be a temporary member in the place of a substantive member who is precluded by illness, absence from the New Sudan or other cause from exercising his functions,

and, when attending a meeting of the board, commission, committee or similar body, the alternate or temporary member shall be deemed for all purposes to be a member thereof

Section 38. Powers of Board, etc., not Affected by Vacancy, etc.

Where by or under a written law a board, commission, committee or similar body, whether corporate or unincorporated, is established, then, unless a contrary intention appears, the powers of the board, commission, committee or similar body shall not be affected by:-

(a) a vacancy in the membership thereof; or

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

Section 39. Affixing of Common Seal.

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

Section 40. Power of Majority to Act.

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

Chapter V
General Provisions Regarding Time

Section 41. Time.

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

Section 42. Computation of Time.

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

(a) a period of days from the happening of an event or the doing of an act or thing shall be deemed to be exclusive of the day on which the event happens or the act or thing is done;

(b) if the last day of the period is Sunday or a public holiday (which days are in this section referred to as excluded days), the period shall include the next following day, not being an excluded day;

(c) where an act or proceeding is directed or allowed to be done or taken on a certain day, then, if that day happens to be an excluded day, the act or proceeding shall be considered as done or taken in due time if it is done or taken on the next day afterwards, not being an excluded day;

(d) where an act or proceeding is directed or allowed to be done or taken within any time not exceeding six days, excluded days shall not be reckoned in the computation of the time.

Section 43. Provisions Where no Time Prescribed.

Where no time is prescribed or allowed within which anything shall be done, such things shall be done without unreasonable delay, and as often as due occasion arises.

Section 44. Construction of Power to Extend Time.

Where in a written law a time is prescribed for doing an act or taking a proceeding, and power is given to a court or other public authority to extend that time, then, unless a contrary appears, the power may be exercised by the court or other public authority although the application for extension is not made until after the expiration of the time prescribed.

Chapter VI
General Provisions Regarding Legal Proceedings And Penalties.

Section 45. Evidence of Signature of Attorney General to Consent.

Where the consent of the Attorney-General is necessary before a prosecution or action is commenced, a document purporting to bear the consent of the Attorney-General shall be received as prima facie evidence in proceedings without proof being given that the signature to the consent is that of the Attorney-General.

Section 46. Ex-Officio Proceedings not to Abate on Death, etc.

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

Section 47. Imposition of Penalty no Bar to Civil Action.

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

Section 48. Provisions as to Offences Under Two or more Laws.

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

Section 49. Amendment of Penalty.

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

Section 50. Statement of Penalty at Foot of Section to Indicate Penalty for Contravention of Section.

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

Section 51. Penalties Prescribed may be Maximum Penalties, but may be Cumulative.

1) Where in a written law a penalty is prescribed for an offence under that written law, that provision shall, unless a contrary intention appears, mean that the offence shall be punishable by a penalty not exceeding the penalty prescribed.
2) Where in any written law more than one penalty is prescribed for an offence, the use of the word "and" shall, unless a contrary intention appears, mean that the penalties may be inflicted alternatively or cumulatively.

Section 52. Disposal of Forfeited Properties.

1) Where an animal or thing is by a written law declared, or is under a written law adjudged by a court or other authority, to be forfeited, it shall, in the absence of express provision to the contrary, be forfeited to the CANS, and the net proceeds thereof, if it is ordered by a competent authority to be sold, shall be paid into the Public Cofers, unless otherwise provided.
2) Nothing in this section shall affect any provision in a written law whereby a portion of a fine or forfeit or of the proceeds of a forfeit is expressed to be recoverable by a person or may be granted by an authority to a person.

Section 53. Disposal of Fines and Penalties.

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

Chapter VII
Miscellaneous Provisions.

Section 54. Gazette, etc., to be Prima Facie Evidence.

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

Section 55. Power to Issue Licences, etc., Subject to Conditions.

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

Section 56. Act for which Payment is required need not be Performed until Payment is made.

1) Where a person, public servant or local authority is required to do anything for which a fee is to be paid or a charge made under a written law, that person, public servant or local authority may decline to do that thing until the fee is paid or until payment of the charge is made, or, where the precise amount of the payment to be made cannot be ascertained until the thing has been done, until there is paid such an amount as may be estimated to be the correct amount by the person or public servant, or the responsible officer of the local authority, required to do the thing.

2) Where a thing has been done for which an estimated amount has been paid, that amount shall be adjusted to the correct amount either by means of a further payment or by a refund of the amount overpaid.

Section 57. Deviation from Forms.

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

Section 58. Public Institutions Subject To Law.

The Public Institutions of the New Sudan shall be subject to all laws unless expressly exempted therefrom.

Given under my hand this _____ day of _____ year, 2003 A.D

_____

Dr. John Garang deMabior

Chairman

SPLM/CANS