

***LAWS OF SOUTHERN SUDAN***

**THE SOUTHERN SUDAN AUDIT CHAMBER  
ACT, 2011**

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# **LAWS OF SOUTHERN SUDAN**

## **THE SOUTHERN SUDAN AUDIT CHAMBER ACT, 2011**

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

### **CHAPTER I**

#### **PRELIMINARY PROVISIONS**

##### **1. Title and Commencement.**

This Act may be cited as “The Southern Sudan Audit Chamber Act 2011” and shall come into force on the date of its signature by the President.

##### **2. Repeal and Saving.**

Any provisions of any existing Legislation which are governed by this Act are hereby repealed or cease to operate; provided that, all appointments, orders and regulations taken or made there under, except to the extent they are cancelled by or are otherwise inconsistent with the provisions of this Act, shall remain in full force or effect, until they are repealed or amended in accordance with the provisions of this Act.

##### **3. Purpose.**

The purpose of this Act is to provide for the establishment and governance of the Southern Sudan Audit Chamber, the appointment of the Auditor General, the Deputies, Auditors, Support Staff and the Chamber’s duties, powers and procedures for the auditing of and reporting on the accounts of the Southern Sudan Government Ministries, Institutions, Agencies, Departments, and Corporations, where public funds have been received, invested or spent.

#### 4. Authority and Application.

- 1) This Act is drafted in accordance with the provisions of Article 195 of the Interim Constitution of Southern Sudan 2005, which grants the Government of Southern Sudan the authority to establish an Audit Chamber in Southern Sudan.
- 2) The provisions of this Act shall apply throughout Southern Sudan in all matters related to the auditing of entities and institutions at all levels of Government, and to the business and operations conducted by the Southern Sudan Audit Chamber, under the directives and authority of the Auditor General as provided for in this Act.

#### 5. Interpretation.

In this Act, unless the context otherwise requires, the following words and expressions shall have the meanings assigned to them respectively:

**“Accounting Officer”** means undersecretaries of ministries/departments and heads of independent commissions and any officer appointed and charged with the duty of accounting for any services or goods for which public funds have been appropriated by the Assembly, or any person to whom disbursements are made from the Revenue Fund;

**“Appropriation Act”** means any legislative act which direct the application of a sum of public money out of the Revenue Fund to a service in a financial year and any supplementary appropriations act;

**“Assembly”** means the Southern Sudan Legislative Assembly (SSLA);

**“Auditing”** means independent certification, examination, verification of and expression of professional opinion on the accounts and financial statements in accordance with Generally Accepted Auditing Standards;

**“Auditor General”** means the head of the Chamber, appointed in accordance with Section 8 of this Act;

**“Auditor”** means a professional person who occupies a specialised auditing position in the organisational structure of the Chamber;

**“Chamber”** means the Southern Sudan Audit Chamber;

**“Certified Accountant”** means the holder of an internationally recognised professional accounting qualification as defined by the International Federation of Accountants (IFAC);

**“Constitution”** means the Interim Constitution of Southern Sudan, 2005 (“ICSS”);

**“Deputy”** means any of the Deputies of the Auditor General, appointed in accordance with the provisions of Section 20 of this Act

**“Department”** means any division or unit, or other name, of a Ministry, authority or other legal body;

**“Director General of Accounts”** means the officer in the Ministry of Finance and Economic Planning, responsible for, transferring accounts to the Audit Chamber, as set forth in Section 29 of this Act and or in any other applicable law;

**“Employees Subsidy Fund”** means the fund established in accordance with the provisions of Section 39 of this Act, to provide loans and assistance to the employees of the Chamber.

**“Entities Subject to Audit”** means any entity or utility belonging to or associated financially with the Government, including, but not limited to the Executive, the Legislature, and the Judiciary, and the accounts of the States, the local governments, independent commissions, public institutions and corporations and any other Institutions as provided for under Article 195(4) of the ICSS;

**“Executive”** means the Southern Sudan Executive as defined in Article 95 of the ICSS;

**“Expenditure”** means expenditure charged on the Revenue Fund, pursuant to an Act of the Assembly;

**“Final Accounts”** means final annual financial statements produced by entities subject to audit , in accordance with Internationally Accepted Accounting Standards;

**“Financial Statement”** means a statement including but not limited to the following:

- A balance sheet;
- An income and expenditure statement;



- A statement of changes in equity;
- A statement of cash flows; and
- Any notes or documents giving information relating to the financial statements or account,

**“Government”** mean the Government of Southern Sudan (GOSS);

**“Internationally Accepted Accounting Principles”** means accounting principles and procedures recognised by national and international accounting professions and authorities appropriate for reporting financial information relating to any government, ministry or department, a fund, an agency or other reporting unit;

**“Judiciary”** means the Judiciary of Southern Sudan (JoSS);

**“Minister”** means the Minister responsible for Finance and Economic Planning;

**“Ministry”** means the Ministry responsible for Finance and Economic Planning;

**“National Audit Chamber”** means the National Audit Chamber of the Government of National Unity;

**“National Constitution”** means the Interim National Constitution of the Sudan (INC);

**“Officer” or “Public Officer”** means a public servant employed by the Government of Southern Sudan or any officer of any of the Southern Sudan States, parastatal organisations or any other Government institution;

**“President”** means the President of the Government of Southern Sudan;

**“Public Accounts Committees”** means the Southern Sudan Public Accounts Committee of the Southern Sudan Legislative Assembly, Southern Sudan State Assemblies Public Accounts Committees and the Local Authorities Accounts Committees;

**“Public Property”** includes money or financial assets in the custody or under the control of any ministry, departments or entity subject to audit or any designated entity, including money that is held by such entity for the benefit of a person, body or undertaking;

Any trust or other funds held, whether temporarily or otherwise, by an officer in his or her official capacity, either alone or jointly with any other person, whether an officer or not;

**“Public Prosecution”** means the Directorate of Public Prosecution of the Ministry responsible for Legal Affairs;

**“Public Service Laws”** means the laws, regulations and policies on public service applicable in Southern Sudan;

**“Resources”** include funds, moneys, stores, property, assets, loans and investments;

**“Revenue Fund”** means the Southern Sudan Revenue Fund referred to in Article 187(1) of the ICSS and administered by the Ministry;

**“Support Staff”** means the non-audit officials and unclassified personnel employed by the Audit Chamber;

**“South Sudan Auditing Standards Council (SSASC)”** means the Southern Sudan Auditing Standards Council established to promote professional auditing standards in Southern Sudan; and

**“Undersecretary”** means the Undersecretary of the Ministry with responsibilities for the preparation of annual financial statements of Government entities.

## **CHAPTER II**

### **ESTABLISHMENT, FUNCTIONS, DUTIES OF THE CHAMBER**

#### **6. Establishment of the Chamber.**

- (1) There shall be established, in Southern Sudan an independent and impartial body, to be known as the Southern Sudan Audit Chamber to audit the accounts of, and supervise the financial performance of all entities subject to audit, including the means for revenue collection and expenditure and to ensure compliance with the budgets approved by the respective legislatures.

- (2) The Chamber shall operate as an integral part of the Government and shall exercise its powers and perform its functions and duties professionally without prejudice, fear or favour.
- (3) The Chamber shall be a Body Corporate, with perpetual succession and shall have the right to:
  - (a) Acquire, hold and dispose of movable and immovable property;
  - (b) Sue and be sued; and
  - (c) Do all acts and things an independent body may lawfully do.
- (4) The Chamber shall be accountable to the public through the Assembly and the President.
- (5) The Chamber shall have its head office in Juba, the capital city of Southern Sudan, and may establish branch offices at appropriate administrative levels as it may deem necessary to perform its functions and duties pursuant to the provisions of the Interim National Constitution, INC 2005 the Interim Constitution of Southern Sudan, ICSS 2005 this Act, and any other applicable law.

## **7. Functions and Duties of the Chamber.**

- (1) The functions and duties of the Chamber shall be to:
  - (a) Examine, verify, inquire into, audit and report on the accounts of:
    - (i) The Executive, the Assembly, the Judiciary, the accounts of the States, Local Government, Independent Commissions, Public Institutions, Commercial Corporations, Public Funds and any other institutions in Southern Sudan as may be determined by law;
    - (ii) All persons entrusted with collections, receipt, custody, issue or payment of public moneys or with the receipt, custody, issue, sale, transfer, and delivery of any stamps, securities, stores or other public property;

- (iii) All public authorities and other bodies in whose capital Southern Sudan participates, assists or supervises;
  - (iv) Any authority or body which receives funds from the Revenue Fund or public moneys including Non Governmental Institutions and Parastatals ;
  - (v) Any authority or body which is authorised by law to receive funds for a public purpose; and
  - (vi) Any authority or body required by this Act, any other law or an order of the President to be audited by the Auditor General.
- (b) Ensure the professionalism in the audit of entities subject to audit in accordance with international auditing standards;
  - (c) Ascertain the existence of adequate internal financial control systems and specify the extent of the efficiency, compatibility and defects of such systems;
  - (d) Evaluate the overall financial performance of the entities subject to audit;
  - (e) Follow-up the presentation of the accounts of the Ministries, Departments, Commercial Corporations, other entities and Funds of the Government or any other accounts entitled to audit thereto, on a pre-determined fixed date and notifying the President and the Assembly about any delay of presentation of such accounts;
  - (f) Participate promote and coordinate with interested parties to promote on the development of the auditing profession in Southern Sudan;
  - (g) Participate in setting and developing Auditing Standards in Southern Sudan in accordance with internationally accepted auditing standards;
  - (h) Co-ordinate with the Public Accounts Committee of the Southern Sudan Legislative Assembly, the Assemblies or the State Governments or the Accounts Committees of Local Governments to promote economy, efficiency and effectiveness

of government expenditure and compliance with the directives of the legislatures;

- (i) Represent Southern Sudan in the International Organisation of Supreme Audit Institutions (INTOSAI), or Regional Supreme Audit Institutions (AFROSAI);
  - (j) Coordinate with the National Audit Chamber in representing Sudan in any professional Audit Institutions that may be established in accordance with any Agreement related to a Joint Investment Project;
  - (k) Verify the contracts and loans agreements and grants entered into by Government of Southern Sudan or any entity subject to audit, for the purpose of confirming their compatibility with laws and regulations and follow-up execution; and
  - (l) Conduct any pre-audit or concomitant audit, or post-audit to enhance transparency accountability and good governance in Southern Sudan, promote delivery of Value for Public Money spent and enable better delivery of public services and public goods.
- (2) The Chamber may engage in such other functions and duties and exercise such other powers as may be conferred upon it by or under the ICSS, the President, Assembly the provisions of this Act, and or any other applicable law.
- (3) Check, verify and validate the existence of assets, stamps, stores and securities owned by Government of Southern Sudan in the hands of the Ministries, Institutions, Agencies, Departments, and Corporations, and other entities which were purchased with public funds or donated to Government of Southern Sudan.
- (4) Audit the accounts of non governmental organisations which receive substantial public funding from the Government.

## **CHAPTER III**

### **THE AUDITOR GENERAL**

#### **8. Appointment of the Auditor General.**

- (1) The Chamber shall be headed by the Auditor General, who shall be the highest administrative and executive authority of the Chamber, and whose decisions with respect to the Chamber, its operations and activities, shall prevail therein.
- (2) The Auditor General shall be appointed by the President, with the approval of a two-thirds majority vote of all members of the Assembly for a tenure of five years in office, and may be re-appointed in the same manner for another similar subsequent tenure of office.
- (3) The Auditor General shall be entitled for emoluments, allowances, privileges and post service benefits envisaged thereunder the provisions of sections 9 and 10 of the *Emoluments and Privileges of the Constitutional Post Holders and Members of the Legislative Assemblies Act, 2010*.

#### **9. Eligibility for Appointment as Auditor General.**

- (1) The Auditor General shall be a person of high moral reputation and integrity and possess qualifications, expertise and experience in matters related to the audit of government accounts and systems with a minimum educational qualification of a Masters degree in accounting or any other relevant field from a recognized university or a holder of a recognised professional accountancy qualification.
- (2) Without prejudice to the generality of the provisions of subsection (1), above, a person shall be eligible for appointment as the Auditor General if he or she fulfils the following requirements:
  - (a) Be a Southern Sudanese citizen;
  - (b) Be medically fit and of high character;
  - (c) Be at least forty years of age;

- (d) Relevant working experience of at least 15 years;
  - (e) Not an under discharged bankrupt or insolvent; and
  - (f) Not been convicted of an offence involving dishonesty or immoral act for the last five years.
- (3) Any person appointed to serve as the Auditor General while in another service or holding an elected office shall be given a reasonable opportunity to resign the service of the elected post and take up the appointment of Auditor General

### **10. Oath of the Auditor-General.**

To assume office, the Auditor-General, shall take the following oath before the President:

*“ I....., do hereby swear by the Almighty God/solemnly affirm/, that as Auditor-General of the Southern Sudan Audit Chamber, I shall be faithful, and shall bear true allegiance to Southern Sudan and shall diligently and honestly discharge my duties and responsibilities and strive to foster the development and welfare of its people; that I shall diligently and honestly discharge my duties and responsibilities and strive to exercise the powers and functions vested in me by the Southern Sudan Audit Chamber Act, with integrity and dignity in the best interests of the people of Southern Sudan; so help me God/God is my witness”.*

### **11. Administrative Functions and Powers.**

The Auditor General shall have administrative and financial powers required for the efficient and effective performance of the Chamber, including, but not limited to:

- (a) Representing the Chamber in official and formal functions and occasions, nationally, regionally and internationally;
- (b) Establishing an appropriate administrative and policy framework for effective management of the Chamber;
- (c) Monitoring the use of the funds of the Chamber;

- (d) Recommend suitable professionals to the President for appointment as Deputies in the Chamber;
- (e) Providing periodic reports to the President and the Assembly including an Annual administrative Report and Annual Accounts of the Chamber ;
- (f) Appointing, controlling and disciplining the Auditors and Support staff of the Chamber in accordance with staff rules and regulations to be set up by the Chamber;
- (g) Drafting a human resources policy appropriate for the Chamber to delineate on compensations career advancement, punishments, and dismissal, training and capacity building;
- (h) Disseminating information on the Chamber deliverables;
- (i) Promoting IT policy in the Chamber;
- (j) Designing a suitable Medium Term Strategic Plan to coordinate the activities and deliverables of the Chamber;
- (k) Monitoring and evaluating the performance of the Chamber;
- (l) Promoting the observance of Code of Ethics and Professional Conduct by the Chamber members promoting synergies with the Public Accounts Committees of the various Assemblies for better accountability, transparency and good governance in Southern Sudan;
- (m) Consistently building the image of the Chamber;
- (n) Striving for international cooperation and adoption of the international standards for auditing; and
- (o) Performing any other functions as may be prescribed by law.

## **12. Audit Functions and Powers.**

- (1) The Auditor General shall on behalf of the Assembly examine, inquire into and audit the accounts submitted to him or her by the Director General of Accounts and or Accounting Officers as set forth in this Act, and shall perform any other functions which he or she is authorised to perform by or under this Act or any other applicable law.
- (2) Subject to any duty imposed by any other applicable law, the Auditor General shall have complete discretion in the discharge of his or her



functions, and in particular, in determining whether to carry out an examination under this Act, and as to the manner in which such examination is carried out.

- (3) Nevertheless the provisions of subsection (2) above, the Auditor General in determining whether to carry out any such examination, shall take into account any proposal made by the Government of Southern Sudan Public Accounts Committee, the Southern Sudan States Public Accounts Committees, the Local Government Authorities Accounts Committees and any other Committee of the Southern Sudan Legislative Assembly.
- (4) In the performance of his or her functions to audit and examine accounts, the Auditor General, or any other person duly authorised in writing:
  - (a) Shall have access to all records, books, vouchers, documents, cash, stamps, securities, stores or public property in possession of any public officer or any other person who has received or dealt with public money or property;
  - (b) May enter at any time, with or without prior notice, any place, stores or depots belonging to any entities subject to audit;
  - (c) May call upon any public officer for any explanation and information which is required;
  - (d) May authorise, within the budgetary limits, any person eligible to be appointed as an Auditor of a company or registered by law as an accountant or an Auditor, or any public officer to conduct any inquiry, examination or audit on his or her behalf and the Chamber and that person or officer shall report thereon to the Auditor General;
  - (e) Without payment of any fee, cause a search to be made and extracts to be taken from any books, documents or records in any public office;
  - (f) Within budgetary limits and as occasion demands, requests the services of any expert whether or not that expert is a public officer, and on such terms and conditions as may be agreed upon;

- (g) Authorise any official or expert to work in any office or entity subject to audit; and
  - (h) Accept or reject, the report of any such expert appointed thereunder the provisions of paragraph (f) above, relating to the accounts of any other person or body entrusted with the collection, receipt, custody, control or payment of public monies or public property or with the issue, sale, transfer or delivery of public property.
- (5) Any such functions required by the provisions of this Act to be performed by the Auditor General, other than the certification and reporting of accounts to the President, Assembly, and or may be performed by any officer or expert authorised by the Auditor General.
- (5) The Auditor General may surcharge any person who is or was in the employment of the State, the amount of any sums not collected or accounted for, or for the amount of any deficiency, loss or improper payment if a satisfactory explanation is not provided, within a specified time.

### **13. Powers to Make Recommendations.**

- (1) The Auditor General may for the purpose of:
- (a) Preventing or minimising the unproductive expenditure of public monies;
  - (b) Maximising the collection of public revenues; and
  - (c) Averting loss, negligence, carelessness, theft, dishonesty, fraud, misappropriation, corruption relating to public moneys and resources, and
- Make such recommendations and submit such proposals to the Minister, department, entity or commercial corporation as he /her considers necessary for the better management of public monies and resources including recommendations regarding the revision of any subsidiary legislation, regulations, directives or instructions issued under this Act.

- (2) The recommendations referred thereunder the provisions of subsection (1) above, shall be submitted to the Assembly, the President and the entity concerned.
- (3) No person or authority shall interfere with or exert undue influence on the Auditor General, Auditors, Specialists in the exercise of their mandate or performance of their professional duties.

#### **14. Power to Investigate.**

The Auditor General may, in consultation with and approval of the Prosecutor General, summon any person to appear for the purpose of an investigation and examine any person on any matter as he or she may determine in connection with the receipt or expenditure of public monies or receipt or issue of public property subject to the provisions of this Act or in connection with any matter necessary for the proper performance of his or her functions.

#### **15. Value for Money Audits.**

- (1) The Auditor General may, for the purposes of establishing the economy, efficiency and effectiveness of any expenditure or use of resources by any Ministry or department in respect of which appropriated accounts are required to be prepared under the provisions of this Act or any public authority or other public body to which the provisions of section 43 applies, enquire into, examine, investigate and report, in so far as he or she considers necessary, on:
  - (a) The expenditure of public monies and the use of resources by such Ministries, department and all such public authorities and other bodies;
  - (b) The conduct of, and the performance of, their functions by accounting officers, heads of departments and Chief Executives of all such departments and public authorities and other bodies; and

- (c) Any other activity undertaken by such Ministries, departments and public authorities and other bodies.
- (2) Every report prepared by the Auditor General as a result of examinations, enquiries and investigations under the provisions of this section shall be transmitted to the President and shall be laid before the Assembly.
- (3) The provisions of section 43 shall apply to any examinations, enquiries and investigations conducted by the Auditor General in the performance of his or her functions under this section.
- (4) Nothing under the provisions of section 43 shall be construed as entitling the Auditor General to question the merits of the policy objectives of any Ministry, department, public authority or other body in respect of which an examination is carried out.

**16. Declaration of Assets.**

The Auditor General, his or her deputies, Auditors and any senior public service officials employed by the Chamber shall, upon assumption of their offices, make confidential declarations of their assets and liabilities including those of their spouses and children in accordance with applicable law.

**17. Resignation and Removal of Auditor General.**

- (1) The Auditor General may resign from the Chamber upon the delivery of a written resignation notice to the President three months in advance of the date of resignation.
- (2) The Auditor General may be removed by the President and two thirds of all the members of the Southern Sudan Legislative Assembly on any of the following grounds:
  - (a) Ineligibility for appointment under Section 9 (2) above;

- (b) Inability to perform the functions of his office due to mental or physical infirmity;
- (c) Gross misconduct unbecoming of the office of Auditor General;
- (d) Incompetence and inefficiency;
- (e) Conviction of an offence involving dishonesty, fraud or any immoral act; or
- (f) abuse of Office.

(3) A tribunal may be appointed by the President if considered necessary within one month to inquire into the complaints against the Auditor General before the matter is referred to the Assembly, and shall compose of the following members:

- a) Justice of the Supreme Court of the Judiciary of Southern Sudan;
- b) Chairperson of the Public Service Commission;
- c) Chairperson of the Audit Standards Council;
- d) Counsel General of the Ministry of Legal Affairs and Constitutional Development; and
- e) Two eminent persons from civil society organisations with similar and relevant objectives and programmes.

(4) Where the question of removing the Auditor General is referred to a tribunal under the provisions of sub-section (3) above, the President shall suspend and or waive the immunity of the Auditor General. A suspension under this provision shall cease with immediate effect when the tribunal advises the President that the Auditor General shall not be removed. The tribunal shall resolve the matter of removal of the Auditor General within three months from date of the appointment by the President

## **18. Prohibition on other Employment.**

The Auditor General shall be prohibited during his or her tenure in office, from practising any private profession, transacting commercial business, or receiving remuneration or accepting employment of any kind from any source other than the Chamber.

**19. Acting Auditor General.**

- (a) The Auditor General shall nominate one of his/her Deputies to act as Auditor General in the event of temporary absence thereof.
- (b) The President shall nominate an Acting Auditor General in the event of suspension of the Auditor General and or wavering.

**CHAPTER IV**

**THE DEPUTIES OF THE AUDITOR GENERAL**

**20. Appointment of the Deputies.**

- (1) The President shall appoint the Deputies to the Auditor General upon the recommendation of the Auditor general, for the tenure of five years in office, and may be reappointed for another similar subsequent tenure of office.
- (2) The Deputies appointed in accordance with the provisions of subsection (1) above, shall take an oath similar to the one referred thereunder the provisions of Section 10 of this Act.
- (3) The status and emoluments, allowances, privileges and post service benefits of the Deputy Auditor General shall be equivalent to those of the State Minister, and shall be paid in accordance with the provisions of the *Emoluments, Allowances and Privileges of the Executive and Legislative Constitutional Post Holders Act I /2010*.

**21. Eligibility for Appointment of the Deputies.**

- (1) The Deputies shall be persons of high moral reputation and integrity and possess the necessary qualifications, expertise and experience in matters related to the audit of government accounts and systems with a minimum educational qualification of a Masters degree in Accountancy

or in any relevant field from a recognized university or a holder of an internationally recognised professional accountancy qualification

- (2) Without prejudice to the generality of the provisions of subsection (1) above, a person shall be eligible for appointment as a Deputy Auditor General if he or she fulfils the following requirements:
- (a) Be a Southern Sudanese citizen;
  - (b) Be medically fit;
  - (c) Be at least forty years of age;
  - (d) Relevant working experience of at least 10 years;
  - (e) Not an undercharged bankrupt or insolvent; and
  - (f) Not convicted of an offence related to honesty and honour for the last five years
- (3) Any person appointed to serve as a Deputy Auditor General while in another service or holding an elected office shall be given a reasonable opportunity to resign that office to take up the appointment as Deputy Auditor General

## **22. Resignation and Removal of the Deputies.**

- (1) A Deputy Auditor General may be removed from the office on a decision of the President upon the recommendation of the Auditor General
- (2) Without prejudice to the generality of the provisions of subsection (1) above, the grounds for removal or mandatory resignation of a Deputy may include, but not limited to, the following:
- (a) Inability to perform the functions of his office;
  - (b) Gross misconduct;
  - (c) Incompetence and inefficiency;
  - (d) Conviction of an offence relating honesty and immorality;
  - (e) Medically unfit; or
  - (f) Abuse of office.

- (3) The President may appoint a Tribunal when a recommendation for removal of the Deputy is received from the Auditor General, and its composition, functions and powers shall be determined thereof.

## **CHAPTER V**

### **AUDITORS AND SUPPORT STAFF OF THE CHAMBER**

#### **23. Annual Staffing Requirements.**

- (1) The Auditor General on an annual basis shall prepare a detailed organisational chart reflecting the staffing requirements of the Chamber for the next financial year, which shall be subject to approval of the President and the Assembly, after consultation with the Minister responsible for Labour and Public Service.
- (2) The annual staff estimations shall broadly follow the milestones indicated on the medium term strategic plan for the Chamber.
- (3) There shall be an annual survey and review of the Ministries, Departments, commercial corporations funds and entities to be audited so that staff estimations are relevant to the needs.
- (4) Auditors appointed thereunder the provisions of subsection (1) and (2) above, shall possess the necessary academic credentials, professional qualifications and experience, expertise of the audit of Government accounts and systems, Government owned entities and preferably shall hold a recognised professional accountancy or auditing qualification.

#### **24. Appointment of Auditors.**

- (1) The President shall after consultation with the Minister responsible for Labour and Public Service appoint Auditors and officials of Grades 1- 4 upon the recommendation of the Auditor General.
- (2) The Auditor General may after consultation with the Minister responsible for Labour and Public Service appoint Auditors, officials and support staff of grades 5-17 to the Chamber upon the recommendation of a selection



Committee in accordance with the rules and regulations to be set by the Chamber, in conformity with the provisions of the *Civil Service Act 2010*.

- (3) Except otherwise provided for in this Act, the promotion, remunerations and termination of the services of the professional staff of the Chamber including Auditors may be determined by a Scheme of Service to be approved by the President, after consultation with the Minister responsible for Labour and Public Service.
- (4) Auditors appointed thereunder the provisions of subsections (1) and (2) above, shall possess the necessary academic credentials, professional qualifications and expertise of the audit of Government accounts and systems, Government owned entities and preferably should hold a recognised professional accountancy or auditing qualification.

## **25. Eligibility for Appointment of Auditors.**

Without prejudice to the generality of the provisions of Section 23 -(3) above, a person shall be eligible for appointment as an Auditor if he or she fulfils the following Conditions:

- (a) Holds a Bachelors Degree and or at least Diploma in Accountancy from a recognised university or has passed the intermediate level of the examinations of a professional accountancy body;
- (b) Be a Southern Sudanese Citizen;
- (c) Is medically fit;
- (d) Be at least twenty one years of age;
- (e) Is computer literate; and
- (f) Has not been convicted of an offence involving dishonesty or immoral act for the last five years.

## **26. Terms and Conditions of Service of the Support Staff.**

- (1) The Auditor General shall appoint the support staff of the Chamber on such terms and conditions upon the recommendation of a Selection

Committee in accordance with the rules and regulations to be set up by the Chamber, in conformity with the provisions of *Civil Service Act 2010* and the regulations thereof.

- (2) Notwithstanding the provisions of subsection (1) above, the salaries, promotions and termination of the services of the support staff of the Chamber shall be in accordance with the Scheme of Service to be set up by the Chamber in conformity with the provisions of the *Civil Service Act 2010* and the regulations, and shall be approved by the President, after consultation with the Minister responsible for Labour and Public Service.

## **27. Appointment of External Auditors.**

- (1) The Auditor General may assign qualified external Auditor(s) or experts from outside the Chamber to assume the functions specified in this Act except the rendering of the annual audit report to the President and the Assembly.
- (2) The emoluments or fees of an external Auditor appointed thereunder the provisions of sub-section (1) above shall be determined by the Auditor General.
- (3) Entities subject to audit are prohibited from appointing any other party as their external Auditor and or expert, except with the approval of the Auditor General.

## **28. Removal of Auditors and Support Staff of the Chamber.**

Auditors, officials and Support Staff may be removed from office on a decision of the Auditor General upon the recommendation of a disciplinary committee constituted, to look into the violations alleged to have been committed by the employee related to and or on the grounds of professional incompetence or misconduct as set forth in the Chamber Code of Ethics and professional conduct and other relevant Public Service

Laws and regulations, and or upon conviction of an offence related to honesty and honour.

## **CHAPTER VI**

### **ANNUAL AUDIT PROCEDURES**

#### **29. Transmittal of Annual Accounts.**

- (1) The entities subject to Audit, shall close their Accounts, and submit their final accounts and financial statements by no later than 31<sup>st</sup> March of the subsequent year to which its Accounts is subjected to Audit, to the Director General of Accounts and the Auditor General in the form specified by the Director General of Accounts.
- (2) The report and or statement of accounts submitted to the Auditor General referred thereunder the provisions of subsection (1) above, shall reflect the legal requirements for financial reporting as established by the provisions of the public finance management and accountability laws of the Government of Southern Sudan.
- (3) The entities subject to Audit shall send to the Chamber, a copy of all decrees pertain to appointment, promotion, allowances and other privileges granted to employees and other elected representatives, from the public fund , within thirty days from the date of issue, for the purpose of verification and compliance with the rules and regulations.

#### **30. Accounts from the Director General of Accounts.**

- (1) The report and or statement of accounts transmitted to the Auditor General pursuant to the provisions of section 29 of this Act; shall include:

- (a) A balance sheet showing the consolidated assets and liabilities of all public monies and other entities wholly and or partially funded through the Revenue Fund at the close of the financial year;
- (b) An abstract accounts of receipts and payments;
- (c) A detailed statement of revenue and expenditure;
- (d) A statement of the amount outstanding at the end of the year in respect of public debt;
- (e) A statement of all losses of public monies, stamps, securities, stores or other property of the Government incurred during the year; and
- (f) Such other statement as the assembly may from time to time require.

(2) All accounts transmitted in accordance with the provisions of this section shall:

- (a) Be prepared in accordance with internationally accepted accounting best practices;
- (b) In compliance with any instructions approved by the Undersecretary and issued by the Director General of Accounts; and
- (c) State the bases of accounting applied in their preparation and identify any significant departures therefrom and the reason for that departure.

### **31. Examination and Audit of the Annual Accounts.**

On receipt of the accounts the Auditor General shall cause the submitted accounts to be examined and audited by 30<sup>th</sup> June of the subsequent year to the year to which the accounts relate and:

- (a) Certify, in respect of each account, the result of the examination and audit;
- (b) Prepare a report upon the examination and audit of all such accounts; and
- (c) Submit to the President, Assembly, State Governors and State Assemblies and Local Governments, as the case may be, a full report together with copies of the relevant certified accounts.

### **32. Standards to be observed.**

In exercising powers of inquiry, examination and audit of accounts, the Auditor General shall satisfy that:

- (a) All accounts audited in accordance with the provisions of this Act, have been kept in accordance with generally and internationally accepted accounting standards;
- (b) All reasonable precautions have been taken to safeguard the assets;
- (c) The collection of revenue and the receipt, custody, disposal, issue and proper use of public property are in order;
- (d) All expenditure of public monies has been properly authorised and applied to the purposes for which they were appropriated and that the law, directives and instructions applicable thereto have been duly observed;
- (e) Economy, efficiency and effectiveness have been achieved in the use of public monies and resources; and
- (f) All demands for documents and records have been fully fulfilled and all queries fully replied by the entities audited.

### **33. Audit Manual.**

- (1) The Auditor General shall prescribe and periodically update a Technical Manual for the Chamber laying down the mandates and methodologies for conducting different types of audit such as Value for Money, Compliance
- (2) The Technical Manual shall *inter alia* prescribe the Audit Scope, Audit Strategy, Audit Plan, Audit Tasks, Audit Documentation along with the formats for different types of audit and different entities for the guidance of Auditors, Officials and Experts.
- (3) The Technical Manual shall also, at the appropriate time, lay down the IT Policy for the Chamber.

**CHAPTER VII**  
**CORRECTIVE AND LEGAL ACTION**

**34. Notification and Legal Action.**

- (1) Upon discovering that any entity subject to audit has taken any financial or administrative action or measure which is inconsistent with the financial rules and regulations of the Government, the Auditor General shall serve written notice of such inconsistency to the relevant head of the concerned entity subject to audit, with a copy to the competent Minister and the Prosecutor General when deems appropriate and necessary.
- (2) Any notice provided thereunder the provisions of subsection (1) above, shall include a detailed explanation of the financial or administrative action in question, a description of the inconsistency, and a specification of the corrective action that the entity subject to audit shall undertake within a reasonable period of time, within which the corrective action shall be taken.
- (3) Where the entity subject to audit fails to take the corrective action within the period prescribed in the notice, the Minister, the Prosecutor General and or the competent Public Prosecuting Attorney of the Ministry of Legal Affairs and Constitutional Development as the case may be shall on a request of the President, the Governor and or the competent Minister within a period of one month after the end of the specified period, commence legal proceedings against the head of the entity concerned to effect the corrective action.
- (4) When the Auditor General decides to levy a surcharge on any official for any deficiency, or to make good the loss of public money, the sum levied shall be collected from the official by the Ministry or entity concerned within a period of six months.
- (5) If the Ministry fails to collect the surcharge the Auditor General shall recourse to the Directorate of Public Prosecution and or the

competent Public Prosecuting Attorney as the case may be, for recovery of the surcharge. The surcharge collected shall be remitted to the credit of Revenue Fund.

- (6) The heads of the entities subject to audit shall, provide such assistance and cooperation as may be necessary to ensure the effective and efficient discharge of the functions and responsibilities provided under the provisions of this section.

## **CHAPTER VIII**

### **REPORTING**

#### **35. Annual Audit Reports of the Auditor General.**

- (1) The Auditor General shall prepare an annual report on the audit of the accounts of the Government of Southern Sudan, the States and the Local Government Authorities as provided thereunder the provisions of Section 4 of this Act and shall transmit the same to the Assembly and the President in the case of Government of Southern Sudan and to the Governors and State Assemblies in the case of State and Local Government Authorities accounts respectively, no later than 30<sup>th</sup> June of the subsequent year to the year to which accounts the report is rendered in accordance with the provisions of Article 91 of the *Interim Constitution of Southern Sudan 2005*.
- (2) The annual report shall envisage the opinion of the Auditor General on whether the financial statements give a true and fair view of the financial position of each of the audited entity.
- (3) Within twenty one days after dissemination of the report, a concerned entity may transmit to the concerned Minister responsible for the concerned entity, and to the Auditor General, any comments or corrections the concerned entity, believes should be made part of the annual report.
- (4) The Minister responsible for the concerned entity shall, within forty two

days of the receipt of the annual report prepared by the Auditor General in accordance with the provisions of subsection (1) above, cause the same report, together with any observations made by the concerned entity, and or the Minister as the case may be, to be laid before the Assembly.

### **36. Special Reports to the President and the Assembly.**

- 1) The Auditor General shall prepare special reports to the President and the Assembly, at any time when it appears to the Auditor General that:
  - (a) Any payment has been made without due authority as required in accordance with the provisions of the applicable law;
  - (b) Any irregularity has occurred in the receipt, custody, control, issue, transfer or delivery of any public property;
  - (c) Any deficiency or loss caused by negligence, misconduct, fraud or corruption has occurred;
  - (d) Any sum which ought to have been remitted has not been, brought to account;
  - (e) The scale of failure to observe a policy is high and deserves the immediate attention of Government of Southern Sudan; and
- (2) Where the Auditor General prepares a special report under the provisions of this section, he or she shall notify the Ministry of Finance or the appropriate accounting officer or authority whenever it is appropriate that the person or persons involved in the use of public monies or property amounting to any of the matters referred thereunder the provisions of subsection (1) above, shall make good the loss or deficiency resulting therefrom and whether disciplinary, surcharge, or legal proceedings and or collectively shall be instituted against the person concerned.
- (3) When at any time it appears desirable to the Auditor General that any matter relating to public monies or public property shall be drawn to the attention of Assembly without undue delay, he or she shall prepare special report relating to such matter and transmit the report to the President with the copy to the Minister concerned.
- (4) The special report referred thereunder the provisions of subsection (3) above, may be made in relation to any matter incidental to the powers and functions



of the Auditor General provided under the provisions of this Act and or any applicable law.

## **CHAPTER IX**

### **FINANCE, ACCOUNTS AND AUDIT OF THE CHAMBER**

#### **37. The Budget.**

- (1) The Chamber shall manage its finances in accordance with sound financial principles and best practices and shall in that respect ensure that its financial resources are sufficient to meet its expenditures, including payment of operational costs.
- (2) Notwithstanding the provisions of any other applicable law, the Chamber shall have an independent budget, to be submitted in each financial year by the Auditor General to the President and allocated in the Government Budget.
- (3) The President shall, after consultations with the Ministers responsible for Finance and Economic Planning and Labour and Public Service cause the budget referred thereunder the provisions of subsection (2) above to be laid before the Assembly.
- (4) The Chamber appropriated budget funds may be transferred to its bank accounts at least in four instalments during the currency of the financial year.

#### **38. Source of Funding.**

Without prejudice to the provisions of section 37 (2) above, the Chamber may obtain additional funds from the following sources:

- (a) audit fees earned in connection with the services rendered, with respect to audits or services provided to non-Government entities;

- (b) sums as may be appropriated by the Assembly in the Government Annual and Supplementary Budgets;
- (c) funds accruing to the Chamber from any savings or investments;
- (d) audit fees for services rendered to Government entities as may be determined by the Auditor General from time to time; and
- (e) grants, donations and bequests from local or foreign bodies and financial support from international donor agencies.

### **39. Employees Subsidy Fund.**

- (1) The Chamber shall establish an Employees Subsidy Fund to provide loans and financial assistance to staff to be governed in accordance with public finance management and accountability laws of the Government of Southern Sudan, Loans and Credits and any other applicable laws and regulations.
- (2) The Fund established thereunder the provisions of subsection (1) above, may be funded by not less than 20% of audit fees, monthly subscriptions of the employees, conditional and unconditional grants from the Government, Local and or Foreign bodies and or financial support from international donor agencies.

### **40. Bank Accounts.**

- (1) The Auditor General shall open and maintain bank accounts as may be appropriate and necessary for the performance of its functions and duties.
- (2) The Auditor General shall ensure that any money received by or on behalf of the Chamber is safely kept and deposited in a bank account as soon as practicable.
- (3) The Auditor General shall ensure that no money is withdrawn from, or paid out of, any of the bank accounts of the Chamber without proper authorisation.

#### **43. Chamber Accounts.**

- (1) The Chamber shall keep and maintain full and proper records of all revenue and expenditure and of all the assets, liabilities and financial transactions of the Chamber.
- (2) It shall take all reasonable measures to ensure that resources are used in the most economic, efficient and effective manner.
- (3) The Chamber shall have an accounting officer designated by the Auditor General in accordance with the provisions of this Act and the public financial management and accountability laws of the Government of Southern Sudan.

#### **42. Audit of the Accounts of the Chamber.**

- (1) The accounts of the Chamber shall be audited every financial year, by an independent external Auditor(s) appointed by the President upon the recommendation of the Auditor General.
- (2) The external Auditor(s) appointed thereunder the provisions of subsection (1) above shall be qualified and registered as Auditors under the laws of Southern Sudan or other internationally recognized laws.
- (3) The fees of the external Auditor(s) appointed in accordance with the provisions of subsection (1) above, shall be paid from the funds of the Chamber.
- (4) Upon completion of their examination of the accounts of the Chamber, the external Auditor(s) appointed shall certify the accounts and submit his report to the Auditor General, who shall thereafter present the report to the President, to be laid before the Assembly within a maximum period of three-months after receipt of the audit report.

### **43. Chamber Annual Report.**

- (1) The Auditor General shall prepare an Annual Report of its activities during that financial year and shall present to the Assembly and the President not later than March 31<sup>st</sup> of the subsequent year.
- (2) The Annual Report shall include the following information:
  - (a) A Statement of Financial Performance, Cash Flow and a Budget;
  - (b) Balance Sheet;
  - (c) A copy of the Auditor's Report;
  - (d) Impact studies of Audit ,if any, on the improvements on governance as a results of Audit Reports;
  - (e) The budget for the coming financial year;
  - (f) A description of the activities of the Chamber during the previous year;
  - (g) An analysis of the extent to which it has met its objectives in the previous year;
  - (h) An evaluation as to the extent to which the Chamber's advice and directives have been complied with;
  - (i) Its objectives for the coming year; and
  - (j) Any recommendations on the matters governed by the provisions of this Act.
- (3) The Chamber shall submit to the President and the Assembly such other reports on its activities or any other matter that may from time to time be required.
- (4) The Chamber shall publish and disseminate widely the Annual Report along with its audited accounts and any other reports which the Auditor General deems necessary. In the event, the Chamber fails to distribute the annual report, the President shall cause it to be distributed.

#### **44. Audit Fees.**

The Auditor General may charge an audited entity for the full costs of audits, and may be payable on demand and shall include the planning, conducting and reporting of the audit.

## **CHAPTER X AUDITING STANDARDS COUNCIL**

#### **47. South Sudan Auditing Standards Council.**

- (1) There shall be established within the Chamber a Council to be known as the 'Auditing Standards Council' and shall compose of the following members:
  - (a) the Auditor General -Chairperson;
  - (b) the National Auditor General his or her representative -member;
  - (c) President of the Council for Accounting and Auditing Organisation his or her representative - member;
  - (d) two experienced and qualified persons in the field of accountancy and audit – members; and
  - (e) The most senior Auditor in Southern Sudan Audit Chamber - an *ex officio* Secretary.
- (2) The members of the Council referred thereunder the provisions of subsection (1) above, shall be appointed by the President upon the recommendation of the Auditor General, for the tenure of five years in office, commences from the date of their appointment, and may be reappointed for another similar subsequent tenure of office
- (3) The Council shall *inter alia* set the appropriate and necessary audit standards, and approve the Code of Ethics and conduct of the Audit profession to be applied throughout Southern Sudan, and shall be in compliance with the internationally accepted auditing standards. And

shall perform and exercise such functions and powers assigned and or designated by the President, Assembly, this Act and the regulations.

## **CHAPTER XI**

### **MISCELLANEOUS PROVISIONS**

#### **46. Official Seal and Logo.**

- (1) The official seal and logo of the Chamber shall be in a form to be decided and determined by the Auditor General.
- (2) The official seal when affixed to any document shall be authenticated by the signature of the Auditor General or any other person whom he or she may authorize.

#### **47. Confidentiality.**

- (1) Any information from which an individual or body may be identified and that is acquired by the Auditor General or the Chamber in the course of the performance of its functions and or in the exercise of its powers under the provisions of this Act or any other applicable law shall be deemed confidential by the Chamber and its employees.
- (2) No information of a type referred thereunder the provisions of subsection (1) above, shall be disclosed without the consent of every individual who, and everybody which, can be identified from that information, except to the extent that its disclosure is expressly authorized or required by or under the provisions of this Act or any other applicable law or where it appears to the Chamber to be necessary:
  - (a) To enable the Chamber to perform any of its functions and exercise any of its powers under the provisions of this Act or any other applicable law;
  - (b) in the interests of the investigation, detection, prevention or prosecution of crime;

- (c) in connection with the discharge of any international obligation to which the Government may from time to time be subject;
  - (d) to assist, in the public interest, any authority that appears to the Chamber to exercise, in a place outside Southern Sudan, functions corresponding to some or all of those of the Chamber within or outside Southern Sudan; and
  - (e) to comply with the directions of the competent court, Prosecutor General and or Public Prosecuting Attorney.
- (3) Without prejudice to the provisions of subsections (1) and (2) above, any information communicated to the Chamber by a Committee of the Government shall be deemed confidential if that Committee of the Government requests, and shall be kept confidential by the Chamber and its members and employees; and no such information shall be disclosed except in compliance with the direction of any competent division of any Court, the Directorate Public Prosecution and or Public Prosecuting Attorney as the case may be..
- (4) Whoever discloses information or causes or permits the disclosure of information in contravention and or in a manner which he knows or has reasonable cause to believe that it is in contravention of the provisions of this section is guilty of an offence and upon conviction shall be liable to a fine not exceeding Ten Thousand Sudanese Pounds (SDG 10,000) or to imprisonment for a period not exceeding six months or both.

#### **48. Immunity & Exemption from Liability.**

- (1) The Auditor General and any of his Deputies shall not be arrested or detained or investigated on criminal proceedings taken or instituted against them while in discharge of the official functions and duties except with the written approval of the President.
- (2) The Auditors shall not be arrested or detained or investigated in any criminal proceedings to be taken or instituted against them for

performing their functions and duties, except after consultation and approval of the Auditor General.

- (3) An Auditor shall be arrested and or detained, if he or she is found committing any criminal offence irrelevant to the nature of functions and duties assigned by the Chamber.
- (4) The Auditor General, his deputies, any Auditor or official and or Support Staff of the Chamber, shall not be subject to liability for any act or omission committed by him or her in the exercise or performance of his functions and duties with the Chamber; *provided that*, such commissions or omissions were committed in good faith.

#### **49. Offences and Penalties.**

- (1) The entities subject to Audit, or accounting officers and or persons assigned thereto, shall comply with the provisions of this Act and may be guilty of an offence under the provisions of this Act if they fail to:
  - (a) Reply to the reports, observations, correspondences issued by the Chamber;
  - (b) Close the accounts subject to Audit in accordance with the provisions of this Act, or failure to present it within the specified period;
  - (c) provide the Auditor General or a person authorized by him or her with all the explanation and information requested from him or her;
  - (d) appear when summoned by the Auditor General or any person authorized by him or her without any reasonable cause;
  - (e) Wilfully obstruct access to any item as required under the provisions of this Act; and
  - (f) Interfere with or exert undue influence on any officer or support staff of the Chamber or on any person authorized by the Auditor General to perform audit functions under the provisions of this Act.
- (2) Whoever commits any of the contraventions referred thereunder the provisions of subsection (1) above, is guilty of an offence and shall upon conviction be liable to a sentence of imprisonment of a period not



exceeding six months or a fine not exceeding Ten Thousand Sudanese Pounds (SDG 10,000) or both.

#### **50. Liquidation.**

The Chamber shall not be liquidated except in accordance with the provisions of the law.

#### **51. Regulation.**

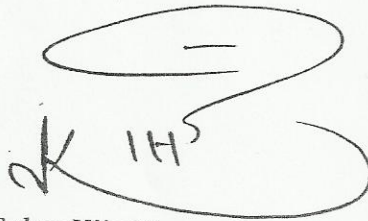
The Auditor General may make such rules, regulations and procedures as may be necessary and appropriate for the effective and efficient implementation of the provisions of this Act including but not limited to the rules and regulations relating to:

- (a) the appointment, duties, powers, conduct, discipline, hours of attendance and leave of absence of auditors and support staff;
- (b) other terms and conditions of services;
- (c) a Code of Ethics and Professional Conduct with which auditors and support staff shall comply;
- (d) the methods and bases for charging audit fees and payment thereof; and
- (e) any other matters which are subject and relevant to the provisions of this Act.

Assent of the President of the Government of Southern Sudan

In accordance with the provision of Article 85 (1) of the Interim Constitution of Southern Sudan, 2005, I, Gen. Salva Kiir Mayardit, President of the Government of Southern Sudan, hereby Assent to the Southern Sudan Audit Chamber Act, 2011 and sign it into law.

Signed under my hands in Juba, this 7<sup>th</sup> day of the month of JULY in the year 2011.

A large, stylized handwritten signature in black ink, consisting of a large 'S' shape with a horizontal line through the top loop and the initials 'K I H' written below it.

Gen. Salva Kiir Mayardit

President

Government of Southern Sudan

GoSS/ Juba.