LAWS OF SOUTH SUDAN

CIVIL SERVICE PENSION SCHEME ACT, 2013

Act No. 60

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CIVIL SERVICE PENSION SCHEME ACT, 2013

Arrangement of Sections

CIVIL SERVICE PENSION SCHEME ACT, 2013

In accordance with the provisions of Articles 55 (2)(3)(b) and 85(1) of the Transitional Constitution of the Republic of South Sudan, 2011, the National Legislative Assembly, with the assent of the President of the Republic of South Sudan, hereby enacts the following:

CHAPTER I

PRELIMINARY PROVISIONS

1. Title and Commencement.

This Act shall be cited as "The Civil Service Pension Scheme Act, 2013" and shall come into force on the date of its assent by the President.

2. Repeal and Saving.

Any provisions of existing legislation which are governed by this Act are hereby repealed; provided that, all proceedings, orders and regulations taken or made thereunder, except to the extent they are cancelled by or otherwise inconsistent with provisions of this Act, shall remain in full force and effect, until such time as they shall be lawfully repealed or amended in accordance with the provisions of this Act.

3. Purpose.

The purpose of this Act is to establish a Pension Scheme for civil servants employed by the National, State and County Governments and to specify the rules for Pension Contributions, records keeping, Pension awards and payments. Men and women shall be accorded full and equal benefits with respect to all provisions of this Act.

4. Authority and Application.

(1) This Act is drafted in accordance with the provisions of Articles 52 and 138 (3), read together with the provisions of Schedule (A) paragraphs (36) and (37) of the Transitional Constitution of the Republic of South Sudan, 2011, and the provisions of Section 93 of the Civil Service Act, 2011, that grant the National Government the legislative competence to determine the terms, conditions of service, duties and rights of the employees in the civil service, including the post-service- benefits, pensions and matters related thereof.

(2) The provisions of this Act shall apply to all Employees in the civil service at the National, State and County levels of Government, in all matters related to Pensions policy, management and payment of Pensions of Employees employed by the Public Institutions, including:

(a) Employees retired from Pensionable Service from a Public Institution before the commencement of this Act, who were previously awarded a Pension, and their Survivors;
(b) Employees retired from Pensionable Service from a Public Institution on the commencement of this Act, who have not been awarded a Pension, and their Survivors;
(c) Employees who are in Pensionable Service for a Public Institution on the effective date of this Act, and their Survivors;
(d) Employees hired into Pensionable Service for a Public Institution after the commencement of this Act, and their Survivors; and
(e) Employees retired from Pensionable Service from a Public Institution before the commencement of this Act and re-appointed to Pensionable Service for a Public Institution after the commencement of this Act, and their Survivors.

(3) Without prejudice to the provisions of Section 2 of this Act, the Fund shall resume paying the same Pensions awarded under previous laws, to Pensioners and Survivors after the commencement of this Act

(4) Employees of the following Public Institutions shall be exempted from the application of this Act:
(a) Constitutional executive and legislative post holders and members of the National Legislature and State Legislative Assemblies, respectively;
(b) all justices and judges of the Judiciary of South Sudan;
(c) all legal counsels employed by the National Ministry of Justice;
(d) members of the Armed Forces;
(e) members of the Law Enforcement Agencies, which includes the Police, Prisons, Fire Brigades, Wildlife, Customs and Security Services; and
(f) any other category that may be exempted by any other applicable law.

5. **Interpretations.**

In this Act, unless the context otherwise requires:

"Actuarial Valuation" means a study undertaken by an Actuary to determine the financial situation of a Pension Scheme based on Generally Accepted Actuarial Principles to determine the solvency of a Pension Scheme and the appropriate contribution rate to ensure the long term financial sustainability of the Pension Scheme in accordance with the International Actuarial Association standards;

"Actuarial Equivalent or Equivalence" means two Pensions or a Pension and a lump sum, the actuarial present values of which are equal, based on actuarial assumptions determined by the Actuary;

"Actuary" means a person who is responsible for evaluating present and future pension liabilities in order to determine the financial solvency of a Pension Scheme, following Generally Accepted Actuarial Principles, and who is a member in good standing of an internationally recognised actuarial body;

"Applicant" means a person applying for a Pension or benefit from the Fund;

"Armed Forces" mean the South Sudan Armed Forces as provided in the Transitional Constitution;

"Assessment of Age Certificate" means a document issued by the Competent Medical Commission stating the age of an individual in accordance with Section 28 of this Act;

"Assessment of Disability Certificate" means a document issued by the Competent Medical Commission regarding a person's Disability in accordance with Section 23 of this Act;

"Assembly" means the National Legislative Assembly of the Government as provided in the Transitional Constitution;

"Board" means the Board of Trustees of the Fund;

"Chairperson" means the Chairperson of the Board;

"Commission" means the South Sudan Medical Commission established under the laws of South Sudan;

"Competent Court" means any court of competent jurisdiction designated by the Chief Justice;

"Competent Medical Commission" means a commission appointed under the laws of South Sudan to provide Assessments of Disability, Age Certificates and other responsibilities assigned by law;

"Competent Minister" means the National Minister of Labour, Public Service and Human Resource Development"

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"Contribution" means an amount expressed as a percentage of Salary to be deducted or withheld from an Employee's Salary by an Employer, or financed by an Employer and paid to the Fund;

"Disability" means a medically diagnosed physical, sensory or mental condition, disease or injury rendering a person permanently incapable of any work for remuneration as determined according to procedures established by this Act;

"Employee" means a natural person who works for an Employer for compensation on a full time or on a part time basis, under the control and supervision of the Employer, regardless of whether the contractual arrangement between them is entitled a labour contract, a services contract, a civil contract, some other commercial agreement, or whether there is in fact a written or an unwritten agreement;

"Employer" means any natural person or legal entity acting directly as an employer or indirectly in the interests of the employer, and includes an association or group of employers acting for an Employer in such capacity. An Employer may be state owned

or controlled or private, or a combination of state and private ownership or control, and may be a for-profit or not-for-profit legal entity;

"**Fund**" means the Pensions Fund established in accordance with the provisions of the Pensions Fund Act, 2012;

"**Future Service**" means service provided by Pensionable Employees on or after 1st July 2012;

"**Generally Accepted Actuarial Principles**" means formulas and methodologies developed by an internationally recognized actuarial body to assess the assets and liabilities of Pension Schemes and to make projections into the future as to the sustainability of Pension Schemes, based on relevant demographic data, cash flow projections and assets and liabilities assessments;

"**Government**" means the National Government of the Republic of South Sudan as provided in the Transitional Constitution;

"**Law Enforcement Agencies**" means the South Sudan Police Service, Prison Service, Wildlife Service, Fire Brigade Service, and other law enforcement bodies as provided in the Transitional Constitution;

"**Minister**" means the National Minister of Finance and Economic Planning"

"**National Legislature**" means the National Legislative Assembly (NLA) and the Council of States (CS)"

"**Past Service**" means service provided prior to 1st July 2012 by a Pensionable Employee to one or more Public Institutions for which no pension has been paid by a Public Institution;

"**Pension**" means a regular monthly payment in a determinable amount fixed at regular intervals made to a Pensioner or a Survivor for life or a fixed period, as specified in applicable law;

"**Pension File**" means an authorized, approved and completed paper or electronic file prepared by the Employer containing the Employee's vital information, including date of birth, date of appointment, date of termination, date of death, and other data as may be determined by Pension Rules;

"**Pension Rules**" mean the conditions and procedures for making Contributions, distributing information, applying for, calculating, and paying benefits promulgated by the Fund;

"**Pension Scheme**" means a description of a programme for the funding, determination, calculation, and payment of Pensions adopted by law;

"**Pensionable Age**" means the earliest age at which ~~a~~ an old age Pension is paid without reduction, as calculated according to this Act;

"**Pensionable Employee**" means an Employee whose Pensionable Service provides an entitlement to Pension credit under applicable law;

"Pensionable Service" means service counted for the determination of a Pension amount in accordance with this Act and shall include Past Service and Future Service;

"Pensioner" means a person who previously served and retired in accordance with applicable law and is paid a Pension;

"Personnel Office" means the office of the Employer charged with personnel appointment and data maintenance;

"President" means the President of the Republic of South Sudan;

"Public Institution" means:

(a) the Government, the Bank of South Sudan, or a ministry, department, institution or undertaking of the Government;

(b) a state government, ministry, department, institution or undertaking thereof;

(c) a county or other local authority;

(d) an authority, board, commission, committee or other body, whether paid or unpaid, which is invested with or is performing, whether permanently or temporarily, functions of a public nature; or

(e) the Government of Sudan

"Salary" means the total salary paid to a Pensionable Employee, in accordance with the applicable law, and includes:

(a) any amount paid in cash or in kind, as compensation for service rendered by the Employee, under any contract of hire, express or implied, oral or written; and

(b) salary, emolument, bonuses, commissions, cost of living adjustments, allowances, hardship payments but does not include reimbursement of expenses;

"South Sudan" means the Republic of South Sudan;

"Special Payment" means a single or one of a series of payments, to liquidate an Unfunded Liability;

"Sudan" means the Republic of Sudan"

"Survivor" means a natural person who is, or may become, entitled to a Pension on the basis of the rights of a Pensionable Employee or a Pensioner in a Pension Scheme following the death of such Pensionable Employee or Pensioner; and

"Transitional Constitution" means the Transitional Constitution of the Republic of South Sudan, 2011.

CHAPTER II

PENSIONABLE SERVICE

6. **Employee Pensionable Service Calculation.**

(1) The Pensionable Service of an Employee shall be calculated, during the continuity of employment, from the date of appointment to the date of termination of service.

(2) The service of an Employee, if seconded by a Public Institution to a private sector employer, shall be calculated as additional Pensionable Service, provided that the employing Public Institution has paid full Employee and Public Institution Contributions on behalf of such Employee.

(3) An Employee may elect a leave without pay or with partial pay, and may elect to pay to the Fund the full Public Institution and Employee Contributions due, calculated on the current Salary of the Employee upon return from leave and calculated for the entire period of leave for which Pensionable Service credit has been granted, on condition that such leaves shall have been granted in accordance with applicable civil service laws and regulations The Employee shall pay such amounts to the Fund within thirty days of returning from leave.

7. **Re-appointment of Employees into Pensionable Service.**

In the event that an Employee, who terminated Pensionable Service, is re-appointed to a Pensionable post of a Public Institution, the previously earned Pensionable Service shall be added to the subsequent Pensionable Service providing the Fund has not paid a Pension to the Pensionable Employee or a return of the Employee's own Contributions. If the re-appointed Employee, who terminated Pensionable Service, has been paid a Pension or a return of the Employee's own Contributions, the Fund shall consider the Employee a new Employee for purposes of accruing future Pensionable Service. The Fund shall promulgate Pension Rules to notify the Public Institutions of the Actuarial Equivalent basis to permit Employees to determine the financial implications of accepting re-appointments after Pensions have commenced.

8. **Pensionable Service after Pensionable Age.**

If an Employee does not retire at Pensionable Age but continues service, the Employee shall continue to accrue Pensionable Service until the date of actual retirement, provided that Public Institution and Employee Contributions are paid in accordance with this Act.

CHAPTER III

PENSION CONTRIBUTIONS

9. Pension Contribution Obligation.

(1) Public Institutions as Employers and Pensionable Employees shall pay Contributions as follows:

(a) the Pensionable Employee Contribution shall be five percent of the total Salary of the Pensionable Employee; and

(b) the Contribution paid by the Public Institution shall be eleven percent of the total Salary of the Pensionable Employee.

(2) The obligation of the Employer and Employee to contribute shall commence on the first day of Pensionable Service and end on the last day of Pensionable Service. At each Actuarial Valuation of the Fund, the Contribution rates shall be re-evaluated to ensure the financial sustainability of the Pension Scheme:

(a) If the Actuary recommends an adjustment not greater than one half of one percent increase or decrease in the Contribution rate of Employees or Public Institutions, for a maximum total increase or decrease of the total Contribution rate of one percent of total Salary of the Pensionable Employees, based on the Actuarial Valuation, at the discretion of the Board the recommendation may be adopted on a prospective basis.

(b) If the Actuary recommends an adjustment greater than one half of one percent increase or decrease in the Contribution rate of Employees or Public Institutions, the Chairperson of the Board shall be obligated to inform the National Minister of Public Service and Human Resource Development and National Minister of Finance and Economic Planning within thirty days of issuance of the Actuarial Valuation. The National Minister of Finance and Economic Planning shall be obligated to inform the National Legislative Assembly within thirty days of the issuance of the notification by the Chairperson of the Board to adjust the Contribution rate pursuant to the requirements of the Pensions Fund Act, 2012, and consistent with the Public Financial Management and Accountability Act, 2011.

10. Pension Contribution Payment and Reporting Process.

(1). The Fund shall promulgate Pension Rules that define for the Public Institutions not later than ninety days after the commencement of this Act:

(a) The manner in which the Public Institutions shall transmit Public Institution and Employee Contributions to a specified bank account of the Fund on a monthly basis.

(b) The data records and other information that the Public Institution will submit to the Fund to correspond with the Contributions on a monthly basis. Such submissions may be in paper or electronic format.

(2) The Fund shall accurately record and account for Contributions paid by the Public Institutions, distinguishing between Public Institution and Employee Contributions. The Public Institutions shall comply with Pension Rules established by the Fund for distinguishing Contributions between Public Institution and Employee. The Fund shall rely on the records and information provided by the Public Institutions.

(3) The Fund shall have the responsibilities and rights necessary to inspect, assess and enforce payment of Contributions by the Public Institutions as set forth in this Act and the Pensions Fund Act and in other relevant Acts.

(4) The Fund shall provide each Pensionable Employee with confirmation of Contribution amounts received and of the total Pensionable Service credited, and such other information as determined by the Board, at regular intervals but at least once every twelve months. The Fund may make such confirmation accessible via the internet, telecom or by other electronic means.

(5) If the Fund determines that a Public Institution made excess Public Institution or Employee Contributions, the Fund may refund such excess Contributions in accordance with the Pension Rules. No payment of interest shall be made for refund of excess Public Institutions or Employee Contributions. No refunds shall be made with respect to any Contributions for which a Pension award has been made. If a Public Institution is in arrears in making Contributions to the Fund, any excess Contributions shall first be applied to the arrears of the Public Institution prior to being refunded.

(6) If a Public Institution is in arrears in making Contributions to the Fund, the Fund must inform the National Minister of Finance and Economic Planning in thirty days. The National Minister of Finance and Economic Planning must transfer the amount due to the Fund out of funds allocated to such Public Institution ten days after receipt of notice. Any payment by the National Ministry of Finance and Economic Planning shall first be applied to the Contributions arrears of the Pubic Institution, then to interest and penalties due.

CHAPTER IV

PENSION AWARDS

11. Pension Award Determinations.

(1) Employees with at least two years of Pensionable Service shall be entitled to lifetime guaranteed Pension awards in accordance with the provisions of this Act.

(2) The Fund shall promulgate Pension Rules not later than thirty days following commencement of this Act, that define:

(a) The Pension File requirements to be submitted by the final Public Institution of the Employee, including the manner in which to notify the Fund of the effective date of the Pension.

(b) The application requirements of the Applicant, including the Employee or Survivors of the Employee, to elect a Pension option and provide bank account information to the Fund.

(c) The requirements of the Fund to inform each Applicant of the acceptance or denial of Pension Applications.

(3) The Fund shall inform each Applicant in writing of the outcome of the application within thirty days of submission. If the Fund denies an application due to missing documentation in the Pension File, the Fund shall inform the Applicant and the Public Institution in writing of the necessary missing documentation within thirty days of receipt of the Pension File. An Applicant may make inquiries to the Fund prior to the expiration of such time.

(4) Any Pensionable Employee, Pensioner or Survivor who has any complaint regarding eligibility, entitlement, or amount of a benefit awarded may submit an appeal in accordance with Section 44 of the Pensions Fund Act, 2012.

12. Determination of Age of Employee, Pensioner or Survivor.

The Fund shall require the date of birth of the Employee, Pensioner or Survivor as part of the Pension and Survivor applications. The date of birth recorded in a Pension award shall be final, conclusive and binding upon the Employee or Survivor, and shall not be subject for reconsideration by any person for any reason. The Fund shall promulgate Pension Rules within thirty days of the effective date of this Act regarding the date of birth requirements for Pension and Survivor application.

13. Determination of Pensionable Age.

(1) The Pensionable Age for a Pension Employee shall be determined in accordance with the schedule indicated in Annex A.

(2) At each Actuarial Valuation commencing after 31 December 2022, the Actuary shall review the Pensionable Age together with the changes in mortality among Employees, Pensioners and Survivors, and shall recommend changes in the Pensionable Age to the Board, if such changes are material. If the Actuary recommends an adjustment of the Pensionable Age by one year or less, at the discretion of the Board the recommendation may be adopted on a prospective basis.

14. Pension Formula at Pensionable Age.

The Fund shall calculate an annual Pension amount of one and one half percent of the career average Salary of a Pensionable Employee, updated to reflect increases in the average civil service Salary, for each year of Pensionable Service, and shall consist of

an award for Future Service, added to an award for Past Service, if applicable. This annual Pension shall be a lifetime guaranteed payment.

(a) **Award for Future Service:** a Pension accrual equal to one and one half percent multiplied by the Salary received during each year of Future Service, provided that each year's pension accrual shall be updated to reflect the increase in average Salaries throughout the civil service from the year of accrual to the year of retirement of the Pensionable Employee; plus, if applicable

(b) **Award for Past Service:** a Pension accrual equal to one and one half percent multiplied by annualized total Salary as of 30 June 2012 or the final monthly Salary for the Pensionable Employee terminated prior to this date multiplied by the number of years of Past Service, provided that for Employees terminating after such date, the pension accrual shall be updated to reflect the increase in average Salaries throughout the civil service from fiscal year 2011-12 to the year of retirement of the Pensionable Employee.

15. Early Pensions.

In the event a Pensionable Employee retires prior to attaining Pensionable Age, the Pension amount shall be reduced by one half of one percent for each month for which retirement is prior to the Pensionable Age. The rates of adjustment shall be revised as indicated by the Actuary and adopted by the Board, based on an Actuarial Valuation.

16. Late Pensions.

In the event a Pensionable Employee retires after Pensionable Age, the Pension amount shall be increased by one half of one percent for each month beyond the Pensionable Age. The rates of adjustment shall be revised as indicated by the Actuary and adopted by the Board, based on an Actuarial Valuation.

17. Actuarial Assessment of Early and Late Retirement Factors.

At each Actuarial Valuation the Board shall ensure that the Actuary re-evaluates the Pension reduction and increase factors and, if necessary, recommends modifications to maintain the Actuarial Equivalence of the Early and Late Pensions as calculated according to Sections 15 and 16 of this Act. If the Actuary recommends modifications of the reduction and / or increase factors to maintain Actuarial Equivalence, the Chairperson of the Board shall be obligated to inform the National Minister of Labour, Public Service and Human Resource Development and National Minister of Finance and Economic Planning within thirty days of issuance of the Actuarial Valuation. The National Minister of Finance and Economic Planning shall be obligated to inform the National Legislative Assembly within thirty days of the issuance of the notification by the Chairperson of the Board to adjust the Pension reduction and / or increase factors to maintain the Actuarial Equivalence pursuant to the requirements of the Pensions Fund Act, 2012, and consistent with the Public Financial Management and Accountability Act, 2011.

18. Indexation of Pensions.

(1) The Fund shall index Pensions, deferred Pensions and Survivor payments to be the lesser of:

(a) The increase in the average monthly consumer price index for the annual period commencing May 1st of the previous year to April 30th of the current year, as determined by the National Bureau of Statistics; or

(b) The increase in the average civil service Salary at the national, state and county levels, for the annual period ending April 30th of the previous year prior to the current fiscal year, as determined by the National Bureau of Statistics.

(2) The Fund shall adjust indexation prospectively within ninety days following receipt of the final and approved notification from the National Bureau of Statistics of the average monthly consumer price index and the average civil service Salary index. The Fund shall not index Pension or Survivor payments retroactively.

(3) The Fund shall not decrease Pension amounts on account of indexation.

19. Termination Benefits for Persons not Eligible for Pensions.

(1) The Fund shall return the Contributions of Employees in Pensionable Service who terminate employment with fewer than two years of Pensionable Service. The Fund shall not pay interest on the return of Employee Contributions. The Fund shall not return Public Institution Contributions.

(2) Employees in Pensionable Service, who terminate employment with two or more years of Pensionable Service are more than ten years younger than the Pensionable Age, will have their accrued Pension calculated on the date of termination in accordance with Section 14 of this Act, and may choose either:

(a) At termination of employment to be paid by the Fund a single lump sum payment equal to the Actuarial Equivalent of their accrued Pension; or

(b) To retain the accrued Pension and be paid a Pension at Pensionable Age in accordance with Section 14 of this Act.

(3) The Fund shall promulgate Pension Rules not later than thirty days from the commencement of this Act describing how Employees shall communicate their choice in writing to the Fund, but in no case shall the Fund be notified of the election after one hundred eighty days after terminating service. If the Fund does not receive such Employee election, the Fund will pay the Pension Formula at Pensionable Age in accordance with Section 14 of this Act. The Fund also shall promulgate Pension Rules not later than thirty days from the commencement of this Act describing the calculation of the single lump sum Actuarial Equivalent amount.

(4) Employees in Pensionable Service, who terminate employment with two or more years of Pensionable Service and are fewer than ten years younger than the Pensionable Age, shall retain the accrued Pension and be paid a pension calculated according to the Pension Formula at Pensionable Age in accordance with Section 14 of this Act.

20. Award of Commutation.

(1) The Fund shall permit an Applicant to elect to commute up to one-third of the Pension with the balance paid as a monthly Pension for life. The commuted amount shall equal the single sum payment that is the Actuarial Equivalent of the foregone Pension as indicated in Annex B.

(2) The Application for commutation election shall be made in writing at the time the Employee applies for a Pension in accordance with this Act, and may not be made after the first Pension payment.

(3) A Disability Pension may not be commuted.

(4) A Survivor Pension may not be commuted and shall be based on the monthly Pension remaining after any commutation that the Employee has been paid.

(5) The reduction of the monthly Pension as a result of a Pensioner receiving the commutation shall be permanent and the Fund may not re-establish the original Pension amount in the future.

(6) At each Actuarial Valuation, the Actuary shall review commutation factors at Annex B to ensure their Actuarial Equivalence, and shall propose changes, as needed, to the Board.

CHAPTER V

DISABILITY PENSIONS

21. Definition of Disabled Person.

(1) A person may be considered to be permanently and totally disabled if aged over eighteen years, but less than the Pensionable Age and with a Disability leading to employment termination as defined in this Act.

(2) The Competent Medical Commission shall assess Applicants for the purpose of Disability Pensions and determine if they fulfil the medical criteria set out in this Act. The Competent Medical Commission shall determine whether the Disability renders an Applicant totally incapable of any work for remuneration at the time of application and in the foreseeable future.

(3) The Applicant may submit an application for Disability Pension to the Fund within one year after the date of the onset of the Disability.

22. Disability Assessments.

(1) An Assessment of Disability Certificate issued by the Competent Medical Commission shall include the following:

(a) a medical diagnosis of the Disability that the Applicant is suffering and the date of the Disability onset; the diagnosis shall describe the Disability and particular impact of the Disability on employment, including a specific description of impaired functioning of the Applicant;

(b) an assessment of the Applicant's functioning with respect to daily living tasks and tasks associated with employment; this shall include reference to Applicant's prior employment, if any;

(c) a determination of whether or not the Applicant can be employed, in any capacity, given the total circumstances of the Disability;

(d) a determination of complete Disability for a prior period of one year or longer, during which time the Applicant was medically incapable of employment for remuneration; and

(e) a prognosis of the permanence of the Disability.

(2) Applicants for Disability Pensions are entitled to present evidence from their own attending physicians to the Competent Medical Commission, but such reports and statements shall not be a substitute for a determination by the Competent Medical Commission.

(3) Persons who reside in, are confined in, or are financially supported by institutions caring for the disabled, including psychiatric or medical establishments, religious institutions caring for the infirm or disabled, residential schools and prisons, and other institutions receiving support from a government budget to care for the disabled, are not eligible for Disability Pensions under this Act.

(4) Persons capable of employment or actually employed in any manner, including any self-employment, shall not be eligible for Disability Pensions. Actual employment, including self-employment, shall constitute presumptive proof of the cessation of Disability. Disability Pension payments may cease as of the first date of employment or self-employment.

(5) Persons who receive a Veterans Pension, social security pension or any other Pension paid in accordance with this Act or other pension laws shall not be eligible for Disability Pensions. The Fund may validate with other pension schemes to ascertain whether they are paying a pension to any Disability Applicant.

Notwithstanding the provisions of the preceding subsection, Disability Pensions shall come into force as determined by the Competent Medical Commission.

23. Physical Examination for Disability Pension Determination.

At its sole discretion, the Fund may require an Applicant to appear at the Competent Medical Commission for a medical examination at a time and place decided on by the Commission. This provision applies also to persons who are already receiving a Disability Pension and whose continuing Disability is being reviewed pursuant to this Act. Failure to attend such examination shall disqualify an Applicant from continuing to receive a Disability Pension, with the exception as determined by the Fund of exemption for excused reasonable cases.

24. Amount and Duration of Disability Pension.

The disabled Employee shall be entitled to a Disability Pension equal to the Pension benefits that would have been received by the Employee if said Employee had continued in Pensionable Service, receiving the same level of Salary, and commenced Pension payment at Pensionable Age. Disability Pensions are payable for life, unless the Employee recovers from the disability.

25. Duty to Inform.

(1) The Fund shall inform each Applicant for a Disability Pension in writing of the outcome of the application within ninety days of submission. This period may be extended to one hundred eighty days in order to provide additional medical verification as may be required by the Competent Medical Commission.

(2) A person receiving a Disability Pension shall inform the Fund immediately of any change in circumstances that may affect entitlement to a Disability Pension.

(3) The Fund may authorize employees of the Fund to carry out random or systematic checks on persons receiving a Disability Pension in order to verify the facts given in the application and continued eligibility for a Disability Pension. Notice of such checks may not be given, provided that they may be carried out at a reasonable time.

(4) Such authorized Fund employees shall be deemed to have prior authorization to undertake verification of applications and, when so requested, shall produce proof of identity and shall at all times act within the limits of their authority.

(5) The Fund shall implement procedures for regular monitoring of persons receiving Disability Pensions to confirm continuing Disability and to monitor any possibility of employment, self-employment, or actual employment or self-employment. Persons receiving Disability Pensions shall be required to undergo medical examinations at a time and location decided on by the Fund.

(6) Failure to cooperate with a written request by the Fund to monitor continuing Disability shall be grounds for suspending a Pension. Such suspension shall continue until verification has been completed, in which case, if the Pensioner remains eligible for a Disability Pension, arrears will be paid.

CHAPTER VI

SURVIVOR PENSIONS

26. Survivor Family Pensions Entitlement.

(1) The Fund shall pay Survivor Pensions to eligible Survivors of the deceased Pensioners and deceased Pensionable Employees.

(2) The Survivor of a deceased Pensioner shall be entitled to receive the whole or part of the Pension that the retired Pensioner was receiving before the date of death. In the event that the Pensioner had received a commutation in accordance with Section 20 of this Act, such Pension shall mean the residual Pension after such commutation. If the Pension has been increased as a result of indexation in accordance with Section 18 of this Act, said Pension shall mean the Pension including such increases.

(3) The Survivor of a deceased Pensionable Employee, whose age is equal to or greater than the Pensionable Age at the date of death, and who was still in Pensionable Service at the time of death, shall be entitled to the Pension that would have been received by the deceased Employee, had such Employee received a Pension payment as of the date of death.

(4) The Survivor of a deceased Pensionable Employee, whose age is less than Pensionable Age at the date of death, and ~~is~~ who was still in Pensionable Service at the date of death, shall be entitled to a Pension based on the amount of the Pension that would have been received by the deceased Employee, had such Employee continued in Pensionable Service, receiving the same level of Salary, and commenced Pension payment at Pensionable Age.

(5) The Survivor of a deceased former Employee, who was not in Pensionable Service and is entitled to a deferred Pension at the date of death, shall be entitled to a Pension based on the amount of the Pension that would have been received by the deceased Employee, had such Employee commenced Pension payment at Pensionable Age.

(6) Survivor Pensions shall only be paid to Survivors identified in this Act. Employees and Pensioners without such eligible Survivors shall not be able to designate any other persons to receive Survivor Pensions.

(7) In no case shall the total of the Survivor Pensions awarded to the Survivors of a deceased Pensionable Employee or deceased Pensioner be greater than the Pension that the Pensioner had been receiving before death or the Pension that the Pensionable Employee would have been entitled to, as set forth in this Act.

27. Pensions for Families of Missing Employees Presumed Dead.

(1) When a Pensionable Employee or Pensioner is missing without any notice or information for a period of at least three years, the Fund shall presume that the

Employee is dead and shall pay the entitled Survivor Pension as specified under the provisions of this Chapter.

(2) Payment shall be made effective from the month after the month in which the Employee went missing, until the date of death of eligible Survivors or, if applicable, the Employee's reappearance.

(3) If the reappearance of the missing Employee is proved, the Survivor Pension shall be terminated and the entitlement to a Pension at Pensionable Age shall be adjusted, reflecting the amount of the Survivor Pension paid as though it were a commutation according to the terms of this Act.

28. Pensions for the Survivor of the Deceased Pensioner or Pensionable Employee.

(1) Survivors shall be entitled to shares in the Pension of the deceased Pensioner or Pensionable Employee. This right is limited to those family members who were alive on the date of death of the deceased Employee, or in the case of the children of a deceased male Employee, were born up to three hundred days after the date of the death.

(2) A surviving spouse is entitled to a Survivor Pension if the marriage to a Pensioner or Pensionable Employee was legally or customarily entered into prior to the date of the death and was not terminated by a legal divorce.

(3) The child of the deceased Pensioner or Pensionable Employee by birth or adoption shall be entitled to a Survivor Pension while under the age of twenty two years.

(4) A child over the age of twenty two years and with a proven Disability in effect at the time of death of the deceased Pensioner or Pensionable Employee shall be entitled to a Survivor Pension until recovery from such Disability. The Competent Medical Commission shall certify in accordance with this Act whether the Disability prevents gainful employment. A child with a Disability arising after the date of death of the Pensioner or Pensionable Employee shall not be entitled to a Survivor Pension if over the age of twenty two at the time of death of the Employee.

(5) The month in which the child attains age twenty two, or recovers from Disability, is the final month for which a Survivor Pension is payable to such child.

(6) The Fund shall award a Survivor Pension for a child only after confirming the age of the child by the submission of either a birth certificate or an Assessment of Age Certificate duly issued by the Competent Medical Commission. The age of the child as recorded in the Pension award shall be final, conclusive and binding, and shall not be subject for reconsideration by any person for any reason.

(7) Each parent of the Pensionable Employee is entitled to a Survivor Pension if such parent is still alive at the date of the Pensionable Employee's death.

29. Identification of Additional Survivors.

(1) As set forth in Pension Award Determinations in Section 11 of this Act, the Fund shall inform each Applicant for a Survivor Pension in writing of the outcome of the application within thirty days. However, notwithstanding such notification of Survivors, additional Survivors of a Pensionable Employee shall have up to a year from the date of death of the Pensionable Employee to make applications for Survivor Pensions.

(2) In the event that the Fund approves an application that has the effect of reducing or eliminating a Survivor Pension award previously made to other Survivors, the Fund shall re-calculate and reduce the Survivor Pensions awards due to such Survivors of the Pensionable Employee, as needed. Excess payments shall be refunded according to the provisions of this Act.

30. Amount of Survivor Pension.

The amount and distribution of the Survivor Pension paid to Survivors shall be as follows:

(a) The Fund shall pay the surviving spouse an amount equal to fifty percent of the total Survivor Pension for the life of the surviving spouse, and if more than one surviving spouse, such amount shall be divided equally among them and paid for the lives of the surviving spouses.

(b) The Fund shall pay the eligible children an amount equal to thirty percent of the total Survivor Pension, divided equally among all eligible children, and paid only so long as such children remain eligible in accordance with this Act. The share of eligible children provided in this subsection shall increase to the following amounts in the following circumstances:

(i) if there is no surviving spouse on the date of death of the Pensioner or Pensionable Employee, sixty percent of the total Survivor Pension;
(ii) if there is no surviving parent on the date of death of the Pensioner or Pensionable Employee, forty percent of the total Survivor Pension;
(iii) if there are no surviving spouses or parents on the date of death of the Pensioner or Pensionable Employee, one hundred percent of the total Survivor Pension.

(c) Each surviving parent shall receive ten percent of the total Survivor Pension, payable for the life of the parent. The share of a surviving parent provided in this subsection shall increase to the following amounts in the following circumstances:

(i) if there is no surviving spouse on the date of death of the Pensionable Employee, twenty percent of the total Survivor Pension;

(ii) if there are no surviving spouses or children eligible to receive a Survivor Pension at the date of death of a Pensionable Employee, forty percent of the total Survivor Pension.

Amount of Survivor Pensions			
	Spouse(s)	Children	Parents
All	50 percent	30 percent	10 percent each
No spouse	-	60 percent	20 percent each
No parents	50 percent	40 percent	-
No spouse or parents	-	100 percent	-
No spouse or children	-	-	40 percent each

31. Death or Loss of Eligibility of Recipients of Survivor Pensions.

The Fund shall cease payment of Survivor Pensions of any Survivor in the month after which the Pensioner or Pensionable Employee dies or ceases to be eligible under the terms of this Act. There shall be no redistribution to other Survivors of the benefits of persons who have become ineligible.

CHAPTER VII

PAYMENTS

32. Payment of Pensions.

Pensioners shall be entitled to payment of Pensions at the beginning of every month. The Fund will pay:

(1) A Pension from the first month after the month in which Pensionable Service ended.

(2) A Survivor Pension from the first month after the month in which the Pensionable Employee or Pensioner died.

(3) An additional payment from the first month after the month if an event occurs of Section 27, Pensions for the Families of Missing Employees Presumed Dead, causing re-distribution.

33. Verification of Continuing Eligibility.

The Fund shall promulgate Pension Rules within one hundred and eighty days of the commencement of this Act to require recipients of Pensions to appear before the Fund or a bank or other authorized officer to validate that they are alive and indicating other matters relevant to eligibility.

34. **Guardian of Minor Children Receiving Survivor Pensions.**

A Survivor Pension payable to a minor child shall be paid to the child's trustee or guardian, as determined by applicable law. If a parent of such child is living, the Fund shall presume that such parent is the guardian, unless there is an alternative legal or customary appointment of trustee or guardian.

35. **Guardian for the Disabled.**

The Competent Medical Commission may determine that an Applicant is not medically competent to administer financial affairs. If a Competent Court has already appointed a guardian for the Applicant or Pensioner, the Fund may pay a Disability Pension to the appointed guardian on behalf of the Applicant or Pensioner. If a guardian has not been appointed by a Competent Court, the Fund may appoint the next-of-kin who is caring for the Applicant or Pensioner as a guardian for the sole purpose of receiving and disbursing the Disability Pension, subject to review of the decision by the Competent Court if the Applicant or another party objects to the appointment.

36. **Mode of Pension Payments.**

(1) The Fund shall pay Survivor Pensions to the entitled Survivors, the first month after the award determination. The Fund shall pay any arrears, if due, with the first monthly payment.

(2) In the event the Applicant, Employee, Pensioner or Survivor creates a power of attorney document, the Fund shall pay Pensions and Survivor Pensions to the holder of a power of attorney, in accordance with Pension Rules.

(3) The Fund may promulgate Pension Rules to require that payment of Pensions shall be through bank accounts, telecom providers or other payment entities regulated by the Bank of South Sudan or through local government councils or other Public Institutions. The Fund shall inform Applicants to provide the required account number prior to payment of Pensions. The National Minister of Labour, Public Service and Human Resource Development shall authorise if payments are made through local government or Public Institutions.

37. **Commutation of Small Amounts.**

(1) In the event any Pension payment to a Pensioner, or to a Survivor, shall be less than a threshold amount, which shall be defined as one hundred South Sudanese Pounds per month and may be revised as approved by the Board, the Fund shall prepare a commutation of the Pension due, based on a calculation of the Actuarial Equivalence, and make a single lump sum payment to each Pensioner or Survivor.

(2) The Fund shall issue Pension Rules providing, the commutation amounts based on the age of the Pensioner or the Survivor as may be revised and

approved by the Board, no later than ninety days after the commencement of this Act.

38. Refund of Excess Payments.

(1) In the event the Fund makes an excess Pension payment to a Pensioner or Survivor for any reason, the Fund shall be entitled to a refund and shall notify in writing the Pensioner or Survivor.

(2) In the case of a Pensioner or a Survivor receiving Pension payments who has been notified by the Fund of having been paid an excess Pension payment, the Fund shall be entitled to withhold up to fifty percent of future monthly Pensions payable, until the full overpayment is recovered.

(3) In the case of persons no longer entitled to receive a Pension payment, the Fund may demand the entire amount of the overpayment at once. A repayment schedule may be arranged at the discretion of the Fund. The Fund shall not impose an interest charge on such overpayments, provided the Pensioner agrees to and complies with a repayment schedule.

(4) If the person receiving the overpayment does not provide a refund or agree to a repayment schedule, the Fund may sue to recover the funds and, if the Fund prevails, it shall be entitled to recover the overpayment, interest at the bank borrowing rate, established by the Bank of South Sudan as of the date of final judgment and the reasonable costs of filing suit. If the person who has agreed to a repayment schedule fails to meet the schedule, the Fund shall also be entitled to recover the overpayment with interest and costs of filing suit.

39. No Alienation or Attachment of Pensions.

A Pension due for payment in accordance with the provisions of this Act cannot be pledged or alienated by the Pensioner or Survivor, and cannot be attached or garnished by any party what so ever, to satisfy any debt, whether in a Competent Court or otherwise.

CHAPTER VIII

MISCELLANEOUS PROVISIONS

40. Transitional Increase in Pensionable Age.

Pensionable Age shall be as set forth in Annex A.

41. Determination of Past Service Credit.

(1) All Public Institutions shall facilitate the production of records for their current and prior Employees to determine their Past Service.

(2) The Fund shall issue Pension Rules to specify the timeframes and procedures for persons to provide proof and records to receive Past Service credit, no later than one hundred and eighty days after the commencement of this Act.

(3) The Fund shall complete the determinations of all Past Service credit to be granted in accordance with this Act, no later than five years after the commencement of this Act.

(4) In no cases shall Past Service be granted for periods of service for which a pension is payable from other sources.

(5) In no cases shall Past Service be granted to persons not citizens of and resident in South Sudan.

(6) The Fund shall be authorized to promulgate rules for the equitable adjustment, if necessary, to the calculation of benefits for persons whose employment was terminated prior to the effective date of this Act and who did not receive previous Pension awards.

42. Determination of Previous Pension Awards.

(1) The Fund shall issue Pension Rules to specify the timeframes and procedures for Public Institutions, and all interested persons, to provide proof and records of previous Pension awards, no later than one hundred and eighty days after the commencement of this Act.

(2) The Fund shall complete the determinations of all previous Pension awards in accordance with this Act, no later than two years after the commencement of this Act.

43. Regulations.

The Fund shall promulgate Pension Rules as are appropriate and necessary for the efficient and effective implementation of the provisions of this Act.

ANNEX A –SCHEDULE OF PENSIONABLE AGE

The Pensionable Age for a Pensionable Employee shall be determined in accordance with the schedule below:

Birth Dates			Pensionable Age	
From	To		Years	Months
up to	31.12.1952		60	0
01.01.1953	31.01.1953		60	1
01.02.1953	28.02.1953		60	2
01.03.1953	31.03.1953		60	3
01.04.1953	30.04.1953		60	4
01.05.1953	31.05.1953		60	5
01.06.1953	30.06.1953		60	6
01.07.1953	31.07.1953		60	7
01.08.1953	31.08.1953		60	8
01.09.1953	30.09.1953		60	9
01.10.1953	31.10.1953		60	10
01.11.1953	30.11.1953		60	11
01.12.1953	31.12.1953		61	0
01.01.1954	31.01.1954		61	1
01.02.1954	28.02.1954		61	2
01.03.1954	31.03.1954		61	3
01.04.1954	30.04.1954		61	4
01.05.1954	31.05.1954		61	5
01.06.1954	30.06.1954		61	6
01.07.1954	31.07.1954		61	7
01.08.1954	31.08.1954		61	8
01.09.1954	30.09.1954		61	9
01.10.1954	31.10.1954		61	10
01.11.1954	30.11.1954		61	11
01.12.1954	31.12.1954		62	0
01.01.1955	31.01.1955		62	1
01.02.1955	28.02.1955		62	2
01.03.1955	31.03.1955		62	3
01.04.1955	30.04.1955		62	4
01.05.1955	31.05.1955		62	5
01.06.1955	30.06.1955		62	6

Birth Dates			Pensionable Age	
From	To		Years	Months
01.07.1955	31.07.1955		62	7
01.08.1955	31.08.1955		62	8
01.09.1955	30.09.1955		62	9
01.10.1955	31.10.1955		62	10
01.11.1955	30.11.1955		62	11
01.12.1955	31.12.1955		63	0
01.01.1956	31.01.1956		63	1
01.02.1956	29.02.1956		63	2
01.03.1956	31.03.1956		63	3
01.04.1956	30.04.1956		63	4
01.05.1956	31.05.1956		63	5
01.06.1956	30.06.1956		63	6
01.07.1956	31.07.1956		63	7
01.08.1956	31.08.1956		63	8
01.09.1956	30.09.1956		63	9
01.10.1956	31.10.1956		63	10
01.11.1956	30.11.1956		63	11
01.12.1956	31.12.1956		64	0
01.01.1957	31.01.1957		64	1
01.02.1957	28.02.1957		64	2
01.03.1957	31.03.1957		64	3
01.04.1957	30.04.1957		64	4
01.05.1957	31.05.1957		64	5
01.06.1957	30.06.1957		64	6
01.07.1957	31.07.1957		64	7
01.08.1957	31.08.1957		64	8
01.09.1957	30.09.1957		64	9
01.10.1957	31.10.1957		64	10
01.11.1957	30.11.1957		64	11
01.12.1957	and onwards		65	0

ANNEX B – COMMUTATION FACTORS

Commutation factors are applied identically regardless of the Pensionable Employee's sex, but depend on the Pensionable Employee's age at the date of retirement.

The amount of commutation is calculated as A times B where: A is the annual amount of Pension to be commuted; and B is the Commutation Factor taken from the table below at the Pensionable Employee's age at last birthday.

Pensionable Employee Age	Commutation Factor
55 or less	15.8 percent
56	15.5 percent
57	15.2 percent
58	14.8 percent
59	14.5 percent
60	14.1 percent
61	13.8 percent
62	13.4 percent
63	13.1 percent
64	12.7 percent
65	12.3 percent
66	11.9 percent
67	11.6 percent
68	11.2 percent
69	10.8 percent
70 or more	10.4 percent

ASSENT OF THE PRESIDENT OF THE REPUBLIC OF SOUTH SUDAN

In accordance with the provision of Article 85(1) of the Transitional Constitution of the Republic of South Sudan, 2011, I, Gen. Salva Kiir Mayardit, President of the Republic of South Sudan, hereby Assent to the Civil Service Pension Scheme Act, 2013 and sign it into law.

Signed under my hand in Juba, this 13th day of the month of SEPT. in the year 2013.

Gen. Salva Kiir Mayardit
President
Republic of South Sudan
RSS/Juba.