

LAWS OF SOUTH SUDAN

NATIONAL SECURITY SERVICE ACT, 2014

ACT NO.

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NATIONAL SECURITY SERVICE ACT, 2014

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Arrangement of Sections

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LAWS OF SOUTH SUDAN

In accordance with 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, hereby enacts the following:

CHAPTER I

PRELIMINARY PROVISIONS

1. Title and Commencement

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

2. Repeal and Saving

Any legislation governing the subject of this Act is hereby repealed, provided that any orders and proceedings taken or made under the repealed legislation, except to the extent cancelled by or otherwise inconsistent with this Act, shall remain in full force and effect.

3. Purpose

The purpose of this Act is to provide for a legal framework to govern the establishment, organization and mandate of the National Security Service.

4. Authority and Application

- (1) This Act is enacted pursuant to Articles 159, 160 and 161 and Schedule A (2) of The Constitution which give the National Government competence to establish and organize a National Security Service at all levels of the government.
- (2) This Act shall apply to all officers, non-commissioned officers, persons employed or seconded to the Service.

5. Interpretations

In this Act, unless the context otherwise requires:

“Agent” means any person not a permanent or regular employee of the Service but is retained by the Service.

“Assembly” means the National Legislative Assembly.

“Chairperson” means chairperson of the National Security Council.

“Code of Criminal procedure” means code of criminal procedure of the Republic of South Sudan.

“Constitution” means the Transitional Constitution of the Republic of South Sudan, 2011.

“Council” means the National Security Council established in accordance with the provisions of this Act.

“Classified information” means information of sensitive nature under government custody not authorized for public consumption.

“Commissioner” means Commissioner of any county who by virtue of his or her position is the Chairperson of the Technical Security committee.

“Director General” means the Director-General of General Intelligence Bureau or Internal Security Bureau.

“Good faith” shall have the meaning assigned to it in the Penal Code.

“Government” means the Government of South Sudan at all levels.

“Governor” means the Governor of any state who by virtue of his or her position is the Chairperson of the Security Committee in the state.

“Intelligence” means information gathered, analysed, processed and disseminated to the authority concerned for decision making.

“Member” means any person appointed in the Service in accordance with the provisions of this Act.

“Minister” means the Minister of National Security Service in the office of the President.

“Non-Commissioned Officer” means a person in the Service from the rank of lance corporal to the rank of regimental sergeant major.

“Commissioned Officer” means a person in the Service from the rank of second lieutenant to the rank of general.

“Enemy” means a natural or unnatural person who or which is:

- (a) in a state of war with the Republic of South Sudan;
- (b) threatening security of the Republic of South Sudan;
- (c) carrying out an act of sabotage or terrorism against South Sudan;
- (d) Is in collaboration with the enemy in (a, b & c);

“Organised Force” means any of the regular security forces including those of the Security Service in the republic of South Sudan or as the context may provide.

“Penal Code” means the penal code of the Republic of South Sudan.

“President” means the President of the Republic of South Sudan.

“Private” means a soldier without a rank.

“Security clearance” means permission granted to a person to access a restricted area.

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

“Security information” means information that carries a degree of sensitivity.

“Service” means the National Security Service.

6. Guiding principles of the National Security Service

The National Security Service shall:

- (a) be subject to the authority of the Constitution and the law;
- (b) be subordinate to civil authority;
- (c) respect the will of the people, the rule of law, democracy, human rights and fundamental freedoms;
- (d) reflect the diversity of the people of South Sudan in its recruitment
- (e) Pre-empt and control any situation that may harm and cause danger to national interest;
- (f) be professional with the mandate to focus on information gathering, analysis and advice to the relevant authorities; and
- (g) Continuously improve service through reforms.

7. Crimes and Offences against the State

For the purpose of this Act, the following shall constitute crimes and offences against the state:

- (1) Crimes and offences against the state as provided in the Penal Code.
- (2) Any activity:
 - (a) relating to espionage, sabotage, terrorism or subversion or intention of any such activity directed against or detrimental to the interest of South Sudan and includes any other activity performed in conjunction with any activity relating to espionage, sabotage, terrorism or subversion;
 - (b) directed at undermining or intended to bring about the destruction or overthrow of the constitutionally established system of the Government by unlawful means;
 - (c) any act or threat of violence or harm that is directed at or intended to achieve, bring about or promote any constitutional, political, industrial, social or economic objective or change in South Sudan, including any conspiracy, incitement or attempt to commit any such threat or act; and
 - (d) any foreign-influenced activity within or outside which is related to South Sudan that is:
 - (i) detrimental to the interests of South Sudan; and

- (ii) clandestine or deceptive or involves any threat whatsoever to the State or its citizens or any other person resident in South Sudan;
- (e) to bring about destruction to industrial installations and physical infrastructures in South Sudan and
- (f) Any act of spying or attempting to spy against the State.

CHAPTER II

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

8. Establishment

- (1) There shall be established a service to be known as National Security Service;
- (2) The Service shall be an organized national force headed by the Minister who is answerable to the President;
- (3) The Minister shall exercise powers and functions in accordance with the provisions of section 14 of this Act.

9. Structures of the Service

- (1) The Service shall have the following organs:
 - (a) National Security Council and,
 - (b) Two operational organs, General Intelligence Bureau and Internal Security Bureau.
- (2) The two Operational Organs shall be under the Minister;
- (3) Each of the Operational Organs shall be headed by a Director General;
- (4) The two organs above shall be assisted by a Legal Department, which shall be headed by a senior legal counsel of not less than 7 years standing with 2 legal counsels as assistants of not less than 5 years standing.

10. Council

- (1) There shall be established a council to be known as the National Security Council, consisting of the following:
 - (a) President of the Republic, Chairperson;
 - (b) Vice-President of the Republic, Deputy Chairperson;

- (c) Minister responsible for defense, member;
 - (d) Minister responsible for foreign affairs, member;
 - (e) Minister responsible for justice, member;
 - (f) Minister responsible for finance, member
 - (g) Minister responsible for interior, member; and
 - (h) Minister responsible for the National Security Service, secretary.
- (2) The Chairperson of the Council may invite any person or persons to attend a Council meeting if necessary provided that such a person or persons shall not have the right to vote.

11. Power and Functions of the Council

- (1) The Council shall:
 - (a) Define the general policy and any specific trend related to the security of the nation;
 - (b) supervise the progress of security work;
 - (c) Co-ordinate among security organs;
 - (d) Follow-up the implementation of security programmes, plans and policies,
 - (e) receive and evaluate reports related to such programmes, plans and policies;
 - (f) Approve regulations related to the work of the Council and its Committees;
- (2) Without prejudice to the generality of sub-section (1) of this section, the Council shall approve strategies, plans, policies and directives related to the security of the nation and undertake co-ordination and general supervision of implementation of such strategies, plans, policies and directives so as to ensure security and safety of the nation.

12. Meetings and Quorum of the Council

- (1) The Council shall meet at least once every week.
- (2) The Chairperson of the council may call for an emergency security meeting at any time as he or she may deem necessary.
- (3) The quorum of the Council shall be half of its members plus one.
- (4) The Secretary, in consultation with the Chairperson of the Council, shall prepare the agenda for any meeting of the Council.
- (5) The Council may take its decision by consensus or by majority vote; provided that in case of a tie the Chairperson shall have a casting vote.
- (6) The Secretary of the Council shall be responsible for keeping minutes and documents of the Council and be in charge of the council administrative affairs.

- (7) The Secretary of the Council shall prepare an annual report for the Council and shall prepare a report that may be demanded at any time during the year by the Council.

CHAPTER III

POWERS AND FUNCTIONS OF THE SERVICE

13. Power and Functions of the Service

The Service shall:

- (1) Protect the national interest of the Republic of South Sudan;
- (2) Monitor, investigate and conduct search of suspects and places related to crimes or offences against the State in accordance with the provisions of this Act;
- (3) Maintain security, protection of the Constitution, national social fabric and safety of South Sudanese from any internal or external danger;
- (4) Gather internal and external information related to security of the Nation, analyze, evaluate and recommend to the Council necessary protection measures based on such information;
- (5) undertake necessary search and investigation for disclosure of any situation, fact, activity or factors which may endanger the national security and safety of the nation in accordance with the provisions of this Act;
- (6) Provide opinion, advice, consultation and services in respect of security and intelligence to various national organs for realization of stability and safety of the nation;
- (7) Detect and prevent any danger resulting from espionage terrorism, conspiracy, piracy, cyber and environmental crimes or destructive actions;
- (8) Detect and combat any destructive activities by any organization, group or individuals, foreign country or South Sudanese group inside or outside South Sudan;
- (9) Protect Very Important Persons and public utilities in coordination with other regular forces;
- (10) Co-operate with any similar or friendly organ in exchange for information, combat terrorism and any activity threatening mutual security or national interests and in order to achieve the above:
- (11) Monitor frequencies, wireless systems, publications, broadcasting stations and postal services in respect to security interests so as to prevent misuse by users;

- (12) Request any information, statement, document, or any relevant material from any suspect and potential witness for perusal or examination, keep or take necessary or appropriate measures in respect of such information, statement, document or relevant material;
- (13) Summon, investigate and take particulars and depositions from any suspect and potential witness;
- (14) Seize weapon, machine, tool, automobile or any gadget suspected to be connected with an offence or crime against the state;
- (15) Arrest and detain suspects in accordance with the provisions of this Act in crimes related to National Security as provided for under section 7 of this Act;
- (16) Carry out any other function assigned to it by the President or the Council in accordance with the Constitution.

14. Functions of the Minister

The Minister shall:

- (1) Brief the President daily on the security situation of the nation.
- (2) Recommend the Director General of each Operational Organ for appointment by the President subject to approval by the Council in accordance with provisions of Article 160 (2) of the Constitution.
- (3) Render advice to the President and the Council on matters of national security.
- (4) Recommend to the President the appointment of officers in accordance with the provisions of this Act, establish necessary divisions, directorates, departments, create posts of directors, heads of departments, branches and units for each of the Operational Organs to carry out the powers and functions of the Service.
- (5) Oversee the administration of the Service.
- (6) Approve functional directives issued by the Director General of the concerned Operational Organ of the Service in relation to physical security, communication security, protection of classified information and any other matter necessary for the Service.

- (7) Approve any functional directive issued by the Director General of each Operational Organ in relation to conditions of service and any other matter necessary for the efficient command and control of the Service.
- (8) Upon receipt of a report from each of the Directors General and after obtaining consent of the President:
 - (a) make directives for employment, training, promotion, posting, transfer, discharge, dismissal, suspension or demotion of the members of the Service, conditions of service of members of the Service, establishment and maintenance of training institutions,
 - (b) make directives in matters related to command and discipline, control of the administration of funds appropriated to the Service and all matters related to equitable representation and code of conduct for members of the Service.
- (9) In collaboration with the Directors General of the two Operational Organs, the Minister may cause to be put in place such additional arrangements, including but not limited to responsibility for strategic planning and leadership, general administration, financial and human resources management, communications and technical infrastructure, record-keeping, protective security and dissemination of intelligence products.

15. Appointment and Removal of Directors General

- (1) The two Directors General of the Operational Organs of the Service shall be appointed by the President upon recommendation of the Minister and approval of the Council.
- (2) The President may remove a Director General who:
 - (a) is adjudged bankrupt or enters into a composition or scheme of arrangement with his or her creditors;
 - (b) is convicted of an offence related to integrity or moral turpitude;
 - (c) is adjudged or otherwise declared to be of unsound mind by a health commission;
 - (d) becomes for any reason incompetent or incapable of properly performing the functions of the office.

16. Powers and Functions of the Directors General

- (1) Each of the Directors General shall:
 - (a) be in charge of the day-to-day administration of his or her Operational Organ;
 - (b) prepare reports to the Minister on daily operation of the organ headed by him or her;
 - (c) be answerable to the Minister for efficient operation of the organ headed by him or her;
 - (d) Assess and recommend the need if any for appointment of new officers and employees for the Service;

- (e) manage funds and any other assets of the Service entrusted to his or her Operational Organ;
 - (f) submit periodical and annual reports on the activities of the Service to the Minister; and
 - (g) perform any other functions assigned to him or her by the Minister or the Council.
- (2) Notwithstanding the generality of the provisions of sub-section (1) of this section, each Director General shall perform additional functions required by his or her Bureau.

17. Appointment and Functions of Deputy Directors General

- (1) The Minister in consultation with the Director General of each Operational Organ shall recommend to the President a Deputy Director General for appointment.
- (2) The Deputy Director General shall assist the Director General in performance of his or her functions and duties and act in his or her absence.
- (3) The terms and conditions of service of the Deputy Director shall be like those of a Director.

18. Appointment and Functions of Members of the Legal Department

- (1) The members of the Legal Department under sub-section 9(4) shall be appointed by the President on the recommendation of the Minister of Justice.
- (2) **Functions of the Legal Department-**

The legal department shall be headed by a senior legal counsel and shall:

- (a) Advise the service on legal matters;
- (b) Draft contracts for the service;
- (c) Act as an ombudsman and ensure that cases being handled by the service are expedited and promptly referred to court;
- (d) Attend to complaints within and without the service and advise on the best practices regarding the constitution and human rights; and
- (e) Check excesses of power, receive and forward complaints of employees within the service to the Complaints Board.

CHAPTER IV

MECHANISMS FOR OVERSEEING OPERATIONS OF THE SERVICE

19. Legislature Oversight of the Service

The Minister shall submit an annual report to the National Legislature on matters related to the performance of the Service.

20. Complaints Board

- (1) There shall be established a Complaints Board whose members shall be appointed by the President on the recommendation of the Judicial Service Commission-
 - (a) A Chairperson who shall be a person holding or has held or is qualified to hold office as a judge of the High Court;
 - (b) Four other members of whom:
 - (i) The Head of the Legal Department in the Service shall be a member;
 - (ii) One shall be an advocate of not less than 5 years standing;
 - (iii) One shall be a woman judge or advocate of at least 3 years standing; and
 - (iv) One shall be a religious leader of national repute.
- (2) The Chairperson or a member of the Board shall hold office for a period of 3 years and shall be eligible for re-appointment provided that no Chairperson shall hold office for more than three consecutive terms;
- (3) The Chairperson or member of the Board may resign by writing to the President which resignation shall take effect from the date of receipt by the President;
- (4) If the Chairperson or a member of the Board vacates office before the expiry of his/her term, the President shall appoint another person in their place;
- (5) Any person aggrieved by anything done by the Director-General or by a Director, officer or other member of staff of the Service, may make a complaint in respect thereof to the Board in such manner as may be prescribed.

21. Functions of the Board

- (1) The functions of the Board shall be:
 - (a) To inquire into complaints against the Service;
 - (b) To inquire into any matter referred to it by the President and make its recommendations thereon to the President;
 - (c) Subject to subsection (3) of this section, for the purpose of investigating any complaint under this Act, the Board shall have the powers of the High Court to summon any witnesses, to administer oaths or affirmations and to order the production of any documents relevant to the investigation;
- (2) In the discharge of its functions, the Board shall have regard to the requirements of national security and shall for that purpose:
 - (a) Consult the Director General and the Council in determining information or circumstances under which certain information may not be disclosed in the course of or in relation to any inquiry in the interest of national security;
 - (b) Take all the necessary precautions to prevent the disclosure of:

- (i) Any information which in its opinion may not be disclosed in the course of or in relation to any inquiry; and
 - (ii) The source of any such information.
- (3) The Board shall hear separately and in private, such evidence as may be tendered by the complainant and the other member of the Service in connection with the complaint.
 - (4) If at any stage, during the course of an inquiry, the Board is of the opinion that there is evidence of any such breach of duty or misconduct by any officer of the Service, it shall forthwith inform the President and the council or the Director General with recommendation for the taking of an appropriate disciplinary action against the Service individual or individuals so complained against;
 - (5) The Board shall inform the complainant in writing of its conclusions and shall make a report of its findings to the President with such recommendations as it considers appropriate;
 - (6) No proceedings shall lie against the Chairperson or any member of the Board in respect of anything done bona fide in the performance of the functions or the exercise of the powers of the Board;
 - (7) No Chairperson or member of the Board shall be called upon to give evidence in any court or in any proceedings of a judicial nature in respect of anything in his knowledge by virtue of the powers or the functions of the Board under this Act;
 - (8) Anything said or information supplied or any document or material produced by any person in the course of any inquiry by or proceedings before the Board shall be privileged in the same manner as if the inquiry or proceedings were in a court of law;
 - (9) A person aggrieved by a decision of the Board may appeal to the Court of Appeal within 14 days.

CHAPTER V

THE TECHNICAL SECURITY COMMITTEE

22. Establishment of the Technical Security Committee

There shall be established a committee to be known as the Technical Security Committee consisting of:

- (1) Minister, Chairperson;
- (2) Chief of General Staff of the SPLA , member;
- (3) Inspector General of the National Police Service, member;
- (4) Director of Military Intelligence of the SPLA, member;
- (5) Director General of the General Intelligence Bureau, member;
- (6) Director General of Internal Security Bureau member and secretary;
- (7) Undersecretary of the Ministry responsible for foreign affairs, member;
- (8) Undersecretary of the Ministry responsible for justice, member;
- (9) Undersecretary of the Ministry responsible for finance, member.

23. Functions of the Technical Security Committee

The Technical Committee shall perform the following functions:

- (1) Submit available information about the general situation of internal and external security of the nation together with proposals and recommendations to the Council;
- (2) Alert the Council on direct or indirect political, military or economic threats to the security of the nation;
- (3) Co-ordinate various security plans from different security agencies or as directed by the Council;
- (4) Study security plans presented by security committees and other security agencies and submit such study to the Council for approval and follow-up the implementation by any of the security committees;
- (5) Co-ordinate work of security committees as approved by the Council;
- (6) Prepare and submit technical reports about the general state of the security of the nation, performance and administration of the national security organs to the annual security meeting.

24. Meetings and Quorum of the Technical Security Committee

- (1) The Technical security Committee shall hold its meetings on notice by the chairperson on the date and at the place specified in the invitation or stated in the call.
- (2) The quorum of the Technical Committee shall be half of its members plus one.
- (3) The Technical Committee shall take its decisions by consensus or by majority vote; provided that in case of a tie the Chairperson shall have a casting vote.
- (4) The Technical Committee may invite any person or persons if necessary to attend and participate in deliberations at any of its meetings; provided that such a person or persons shall have no right to vote.

25. Establishment of the State Security Committee

There shall be established a committee to be known as the State Security Committee consisting of:

- (1) Governor, Chairperson;
- (2) Deputy Governor, Deputy Chairperson;
- (3) Security Advisor(if any), member;
- (4) Minister of Local Government, member;
- (5) Minister of Finance, member;
- (6) Head of Legal Administration, member;
- (7) Commander of the SPLA Forces, member;
- (8) Commissioner of Police, member; and
- (9) Director of Internal Security Bureau, member and secretary.

26. Functions of the State Security Committee

- (1) A State Security Committee shall perform, among others, the following functions:
 - (a) Maintain and keep security in the State;
 - (b) Co-ordinate among security agencies at State level;
 - (c) Receive reports from security committees in counties;
 - (d) Submit periodical reports to the Council;
 - (e) Carry out any assignment delegated by the Council or Technical Committee;
- (2) The State Security Committee may establish a technical team from security agencies in the State to assist in implementation of its functions.

27. Meetings and Quorum of the State Security Committee

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

28. Establishment of the County Security Committee

There shall be established a committee to be known as the County Security Committee consisting of:

- (1) Commissioner, Chairperson;
- (2) Commander of SPLA Forces, member;
- (3) Inspector of Police, member;
- (4) Legal Advisor, member; and
- (5) Head of the Internal Security Unit, member and secretary.

29. Functions of the County Security Committee

The County Security Committee shall:

- (1) Maintain and keep security in the county;
- (2) Coordinate among security agencies at County level;
- (3) Submit periodical reports to the State Security Committee;
- (4) Carry out any assignment delegated by the State Security Committee.

30. Meetings and Quorum of the County Security Committee

- (1) The County Security Committee shall hold its meetings at least once a week.
- (2) The quorum of the County Security Committee shall be half of its members plus one.
- (3) The County Security Committee shall take its decisions by consensus or by majority vote; provided that in case of a tie, the Chairperson shall have a casting vote.

- (4) The County Security Committee may invite any person or persons if necessary to attend and participate in deliberations at any of its meetings; provided that such a person or persons shall have no right to vote.

CHAPTER VI

RESTRICTION ON INFORMATION OF THE SERVICE

31. Power to Deny Access to Information

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

32. Gathering of Information

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

CHAPTER VII

ELIGIBILITY FOR RECRUITMENT AND APPOINTMENT INTO THE SERVICE

33. Eligibility for Recruitment of the Members of the Service

- (1) To be eligible for recruitment and appointment as a member of the Service a person shall:
 - (a) Be a South Sudanese;
 - (b) Be at least 18 years old;
 - (c) Be of sound mind;
 - (d) Not have been convicted of any offence involving integrity or moral turpitude during the preceding five years;
 - (e) have satisfied the following:
 - (i) medical fitness;
 - (ii) academic requirements: (1) Bachelor Degree or its equivalent for an officer; and
- (2) South Sudan Secondary School Leaving Certificate or its equivalent for other ranks having regard to national balance;
 - (iii) passing security vetting.

34. Recruitment into the Service

Recruitment into the Service shall:

- (1) Reflect the diversity of the people of South Sudan based on equitable representation of the states;
- (2) Be based on a quota system or proportional percentage of the state's population.

35. Deployment of Directors and Chiefs of the Security Divisions

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

36. Ranks of Members of the Service

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

37. Recruitment of the New Officers

- (1) Recruitment of new officers shall be done through selection by a committee formed by the Minister and chaired by the Director General of the Operational Organ concerned;
- (2) Recruitment shall be based and reflect the representation of all the states of the Republic of South Sudan as provided for in section 34 of this Act.

38. Commissioning and Appointment of New Officers

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

39. Appointment of New Non-commissioned Officers, Women and Men

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

40. Secondment

- (1) The Director General of the concerned Operational Organ, in consultation with the Minister, may second any member of the Service to any institution.
- (2) After having obtained prior consent of an appropriate person for secondment, the Director General of the concerned Operational Organ may recommend to the Minister secondment of such person to another institution for two years subject to renewal after which he or she shall have the choice to be finally transferred back to the Service.
- (3) The person seconded shall be deemed, during the secondment period, a member of the Service and shall be treated equally with those of his or her rank.
- (4) Notwithstanding the provisions of sub-sections (1) and (2) of this section, where interest of the Service so requires, the Director General, in consultation with the Minister, may terminate secondment of any seconded person; provided that the Director General shall notify such person and the institution to which he or she has been

seconded within thirty days before the termination, unless there exists reason for immediate termination.

41. Recruitment of Agents and Termination of Service

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

42. Transfer of Members

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

43. Seniority

Without prejudice to maintenance of the over all seniority list of the Service, the Director General of the Operational Organ concerned shall keep and maintain a seniority list of members of his or her Bureau.

44. Salaries, Privileges and Benefits

Salaries, privileges and benefits of the members of the Service shall be in accordance with the relevant public service law.

45. Training

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

46. Promotions

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

47. Placement on provisional Retirement

- (1) The Minister, after being satisfied with the recommendation of the Director General of either of the Operational Organs regarding unsatisfactory performance of duties by an officer or upon decision by the Medical Commission that an officer is medically unfit for continuation in the Service, may place such officer under provisional retirement for a period of one year and inform the President about such provisional retirement.
- (2) Before the end of the one year of the provisional retirement stated in sub-section (1) of this section, the Minister shall constitute an investigation committee to look into the causes for the provisional retirement of the officer concerned and the committee shall present a recommendation regarding whether the officer is to be returned to active service when found medically fit or be put on pension.
- (3) The member on provisional retirement under sub-section(1) of this section shall continue to be subject to this Act, its regulations and rules and shall inform his or her unit in writing of his or place of residence or of any change in such place of residence.

48. Effect of Placement on provisional Retirement

Any member of the Service placed under provisional retirement in accordance with the provisions of section 47 of this Act shall be subject to the following:

- (1) Payment of two third of his or her salary; provided that part of such two third salary shall be deducted for pension purpose.
- (2) The provisional retirement period shall be considered as part of his or her active years of employment with the Service.

- (3) Upon presentation of the report of the investigation committee formed in accordance with section 47(2) of this Act, the Minister may recommend to the President that the member shall resume his or her duties with the Service or be put on retirement.

49. Suspension from Work

- (1) Where a charge for contravention of the provisions of this Act or criminal proceedings have been instituted against a member of the Service, the Director General concerned may issue a written order suspending such member from work provided that an order for suspension of any officer from the rank of second lieutenant and above shall be the competence of the Minister, on recommendation of the Director General concerned; provided further that the suspended officer shall be notified of the reasons for his or her suspension in accordance with public service regulations.
- (2) Suspension of the Directors General and Deputy Directors General shall be by Presidential order on recommendation of the Minister.
- (3) Where an order of suspension in accordance with the provisions of sub-section (1) of this section is not related to any criminal proceedings against a member of the Service, the Minister shall form a committee to investigate the charge or charges against such member and upon the investigation report, the Minister shall either take action against the member or revoke the order.
- (4) The regulations of the Service shall specify procedures for suspension provided in sub-section (1) of this section.

50. Complaint and Petition

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

51. Termination of Employment

Employment of an officer who is a member of the Service shall come to an end by a Presidential Order, on the recommendation of the Minister after consultation with the Director General of the Operational Organ concerned, based on any of the following reasons:

- (1) attainment of retirement age in accordance with the civil service law;
- (2) resignation;
- (3) appointment to constitutional post;
- (4) termination of employment with the Service;
- (5) loss of any of the eligibility requirements provided in section 33 of this Act;
- (6) conviction by a tribunal constituted by the Service for commission of an offence punishable with more than 3 months ;

- (7) conviction by a criminal court for commission of an offence punishable with more than 5 years;
 - (8) death.
- (2) Employment of a member of the Service from non-commissioned officers shall come to an end by ministerial order, on recommendation of the Director General concerned, for any of the same reasons stated in sub-section(1) of this section.

52. Post Service Benefits

The post service benefits including pension and other benefits of the members of the Service shall be as laid down by the relevant Public Service law.

53. Duties of a Member

(1) Any member of the Service shall:

- (a) Dedicate all his or her time and commitment to this Act and its regulations and personally discharge duties and orders that are assigned to him or her thoroughly and honestly;
- (b) Bear responsibility for any orders issued by him or her;
- (c) At all times obey lawful orders issued to him or her by their superior related to his or her duties and exert utmost effort in executing such order;
- (d) Be a good example to others in behavior and integrity at work;
- (e) Uphold the dignity of his or her position by showing conduct compatible to his or her duties;
- (f) Consider himself or herself on duty for twenty four hours by being available at his or her place of work unless permitted to leave such place of work by the Director General concerned or superior in charge of the place of work;
- (g) Respect the dignity and self-esteem of human beings and protect human rights; and
- (h) Not keep for himself or herself any original or copy of an official document or remove such original or copy from a file in which such document is kept even if the document is related to work assigned to him or her or divulge any information or disclose any matter secret by nature or deemed to be secret by special instructions unless permitted to do so.

(2) Every member of the Service shall sign confidentiality and non-disclosure agreement with the Service conditional to his or her employment and observation of such confidentiality and non-disclosure agreement shall continue even after the end of employment with the Service.

54. Arrest without Warrant

- (1) Any person who is found committing any one of the offences against the state as provided under section 7 of this Act, or who is reasonably suspected of having committed, or having attempted to commit or being about to commit such an offence shall be arrested without a warrant by any service officer and detained.

- (2) Any person arrested under the provisions of this section shall, whether or not the Service inquiries are completed, be brought before a magistrate as soon as is reasonably practicable within 24 hours.
- (3) Once an arrested person is produced before a magistrate or judge the process shall proceed as provided for arrests with warrants under section 55 below.

55. Arrest with Warrant

- (1) Where the Director General or an employee designated by him/her, has reasonable grounds to believe that a warrant is required to enable the Service to perform any of its functions under this Act, the Director General or the designated employee may apply for the issue of a warrant.
- (2) An application under sub-section (1) above shall be made to the judge of the High Court for a warrant under this section.
- (3) An application under subsection (1) shall specify:
 - (a) The purpose for which the warrant is sought;
 - (b) Whether the urgency of the matter is such that it would be impracticable to carry out the investigation using any other investigative procedures or that without a warrant it is likely that information of importance with respect to the investigation would not be obtained;
 - (c) The type of information, material, record or document proposed to be obtained and the power referred to in sub-section (4) of this section proposed to be exercised for that purpose;
 - (d) The identity of the person, if known, who has possession of the information, material, record, document proposed to be obtained;
 - (e) The persons or class of persons to whom the warrant is proposed to be directed; and
 - (f) A general description of the place where the warrant is proposed to be executed.
- (4) A judge may issue a warrant under this section authorizing the action on any person, weapon, tool, machine, automobile, gadget or material specified therein.
 - (a) A warrant issued under this section shall be valid for a period not exceeding one month at a time and the period for which it has been issued shall be specified in the warrant. The judge issuing the warrant or one acting in his/her stead may extend that period as deemed fit.
 - (b) If the judge who authorized the warrant is convinced that the grounds on which the warrant was issued have ceased to exist, the judge shall cancel the warrant;

- (5) `` A person aggrieved by the issue of a warrant or by the extension of the period of a warrant may appeal to the court of Appeal within 14 days and the decision of the court of Appeal shall be final.

CHAPTER VIII

OFFENCES, CONTRAVENTIONS AND PENALTIES

56. Application of Provisions of the Penal Code to Members of the Service

- (1) Where a member of the Service commits an offence in contravention of provisions of this Act and the offence committed is at the same time an offence in accordance with the provisions of the Penal Code, such a member may be tried under the provisions of this Act but the Minister, may refer the case for trial before the appropriate court in accordance with the code of criminal procedure.
- (2) Subject to the provisions of sub-section (1) of this section, the provisions of another relevant applicable penal law may apply to any member who commits an offence not provided for under the provisions of this Act.
- (3) The offences enumerated from section 57 - 75 of this Act, shall be tried non-summarily.

57. Penalties for Espionage, Terrorism, Attempts to Overthrow A Constitutionally Established Government and Spying

Any person who:

- (1) Engages in any activity relating to espionage, sabotage, terrorism or subversion or intention of any such activity directed against or detrimental to the interests of South Sudan including any other activity performed in conjunction with any activity relating to espionage, sabotage, terrorism or subversion; or
- (2) Undermines or intends to bring about destruction or overthrow of the constitutionally established government by unlawful means; or
- (3) Threatens violence, harm that is directed at or intends to achieve, bring about or promote any constitutional, political, industrial, social or economic objective or change in South Sudan including any conspiracy, incitement or attempt to commit any such threat or act; or
- (4) Engages in any foreign-influenced activity within or related to South Sudan that;
 - (a) is detrimental to the interests of South Sudan; and
 - (b) is clandestine or deceptive or involves any threat whatsoever to the state, its citizens or any other person resident in South Sudan; or
- (5) Engages in any act aimed at bringing about destruction to industrial installations and physical infrastructure in South Sudan; or
- (6) Spies against the state;

Commits an offence and shall upon conviction be punished with death or imprisonment for a term not exceeding 14 years.

58. Penalties for Offences Related to Involvement with the Enemy

A member of the Service who:

- (1) Abandons or surrenders any post, station or place of custody which he or she was duty bound to defend commits an offence and shall upon conviction be punished with imprisonment for a term not exceeding 14 years;
- (2) Surrenders or abandons his or her weapon, ammunition, tools or equipment before the enemy commits an offence and if convicted shall be punished for a term not exceeding 10 years;
- (3) Directly or indirectly conveys to the enemy or hostile service or unauthorized person information related to the security of the country or directly or indirectly assists the enemy in obtaining such information commits an offence and shall upon conviction be punished with death or imprisonment for a term not exceeding 14 years;
- (4) Fails to report to his or her superior or any other senior officer within 24 hours what he or she knows about an act or about correspondence or direct or indirect connection done by any person who is an enemy commits an offence and shall upon conviction be punished with death or imprisonment for a term not exceeding 14 years.

59. Penalty for Offences of Conspiracy and Mutiny

A member of the Service who:

- (1) Commits, provokes, participates or causes mutiny;
- (2) While present, fails to exert utmost effort to suppress mutiny;
- (3) Knowingly or having reason to believe that mutiny or intention to commit mutiny or any conspiracy against the existing constitution and constitutional government and not report such mutiny, intention or conspiracy; commits an offence and shall upon conviction be punished with death or imprisonment for a term not exceeding 14 years.

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

A member of the Service who intentionally exposes internal or external security of the country or of the Service to danger commits an offence and shall upon conviction be punished with imprisonment for a term not exceeding 14 years.

61. Penalty for Negligence in Discharge of Duty

A member of the Service who:

- (1) Neglects to report immediately to his or her superior or any senior officer any dis-information, he or she has come to know, related to functions of the Service commits an offence and shall upon conviction be punished for a term not exceeding 5 years;
- (2) Neglects or fails in carrying out any of the duties provided for in this Act commits an offence, and shall upon conviction be punished with imprisonment for a term not exceeding 10 years.

62. Penalty for Abuse of Power and Misuse of Position

A member who abuses powers delegated to him or her under the provisions of this Act or uses his or her position in the Service with intention to obtain any personal material or moral benefit for himself or herself or for the benefit of another person or causes injury or damage to another person shall upon conviction be punished with imprisonment for a term not exceeding 10 years.

63. Penalties for Unlawful Gain and Making False Statement

A member of the Service who:

- (1) Obtains for himself or herself or any other person allowance, pension, benefit, money or privilege by providing a statement which he or she knows to be false, commits an offence; and shall upon conviction be punished for a prison term not exceeding 5 years or a fine of not more than three times the amount obtained or both;
- (2) intentionally makes false statement or report to any person or competent entity about the number of members under his or her command or responsibility or about the situation of such members or the extent of property, tools, instrument, accoutrements, equipment, machinery, uniform, weapons for personal use or ammunition under his or her custody, whether such property, instrument, uniform or weapons are of the Service or for personal use of the members or any other person attached to the Service or intentionally neglects to send any statement or report about any of the stated things or refuses to send the report; shall upon conviction be punished with imprisonment for a term not exceeding 10 years.

64. Penalty for Accepting Unlawful Benefit

A member who directly or indirectly accepts any unlawful benefit or consideration for personal use or for use by another person or procures such benefit or consideration or accepts such benefit or consideration so as to employ any person in the Service or to facilitate acceptance of tools, accoutrements, weapons or ammunition to administration

under his or her command commits an offence and shall upon conviction be punished with imprisonment for a term not exceeding 10 years or a fine not more than three times the value of the benefit accepted or with both.

65. Penalty for Disposal of Weapons, Ammunitions and Other Accoutrements

A member who disposes or without justification permits disposal of weapons ammunition, tools, accoutrements, instruments or uniform given to him or her for use in performance of his or her duty or under his or her responsibility commits an offence and shall upon conviction be punished with imprisonment for a term not exceeding 10 years.

66. Penalty for Offences Related to Property

A member of the Service who:

- (1) Converts for his or her benefit any property, instrument, accoutrement or equipment entrusted to him or her; or
- (2) Intentionally receives for purpose of keeping for himself or herself any money, property, instrument, accoutrement or equipment of the Service; or
- (3) Converts or keeps for himself or herself any property he or she knows or have reason to know has been used in commission of an offence; or
- (4) Intentionally or negligently damages or destroys property of the Service or disposes of such property in a way that amounts to transfer of ownership or loss of the property commits an offence, and shall upon conviction be punished with imprisonment for a term not exceeding 10 years or a fine of not more than three times of the value of the property involved or both.

67. Penalties for Offences Related to Custody

A member of the Service who:

- (1) Refuses to deliver to the official authority any member or person arrested or detained or in custody under his or her command or handed to him or her during his or her duty as a guard commits an offence and shall upon conviction be punished with imprisonment for a term not exceeding 5 years;
- (2) Unlawfully releases any member or person under his or her guard or by way of negligence makes it possible for such member or person to escape from custody, commits an offence and shall upon conviction be punished with imprisonment for a term not exceeding 10 years.

- (3) A member who escapes from custody commits an offence and shall upon conviction be punished with imprisonment for a term not exceeding 5 years.

68. Penalty for Indiscipline

A member who commits an act inconsistent with discipline as prescribed under the regulations or orders made under the provisions of this Act, commits an offence and shall be punished with imprisonment for a term not exceeding 5 years.

69. Penalty for Marking False Accusation or Statement

A member of the Service who:

- (1) Makes false accusation against any other member; or
- (2) Maliciously makes false complaint or statement contrary to any fact or conduct related to any other person or member or makes exaggeration in presenting any vital information in respect of such complaint or statement; commits an offence and shall upon conviction be punished with imprisonment for a term not exceeding 5 years.

70. Penalty for Desertion

- (1) A member who deserts his or her duty position commits an offence and shall upon conviction be punished with imprisonment for a term not exceeding 5 years.
- (2) For the purpose of sub-section (1) of this section desertion shall be deemed absence by a member from his or her place of duty or non-reporting, after the expiration of his or her leave, without permission or where the period of his or her absence exceeds 21 days.

71. Penalty for Use of Criminal Force

A member of the Service who uses criminal force against his or her superior or subordinate commits an offence and shall upon conviction be punished with imprisonment for a period not exceeding 3 years.

72. Penalty for Offences Related to Service Tribunals

A member of the Service who:

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

- (3) Intentionally abuses, causes disturbance, nuisance or uses abusive words, gesture or sign during a session of a Service Tribunal with intent of causing threat, disrespect, show of violence or disobedience, commits an offence and shall upon conviction be punished with imprisonment for a term not exceeding 2 years.

73. Penalties for Improper Conduct

A member who conducts himself or herself in a way incompatible with the dignity or respect for his or her position commits an offence and shall upon conviction be punished with imprisonment for a term not exceeding 3 years or dismissal or with both.

74. Penalty for Incitement or Coercion to Commit an Offences

A member who incites or coerces any other member to commit any of the offences stated in this Act commits an offence and shall be punished with the same penalty prescribed for the offence he or she has incited or coerced the other member to commit.

75. Contraventions

- (1) A member who commits any of the following contraventions shall upon conviction be punished with the penalties stated in section 76 of this Act:
- (a) knowingly be tardy for duty, work or parade;
 - (b) unsatisfactorily performs his or her duty;
 - (c) leaves his or her duty station without permission;
 - (d) gives false information about any work assigned to him or her;
 - (e) Disobeys any general standing order made in accordance with the provisions of this Act;
 - (f) negligently destroys or causes damage or loss to any property, instruments, accoutrements, equipment, machinery or uniform entrusted to his or her or being used by the Service;
 - (g) malingers or intentionally prolongs treatment of his or her sickness.
- (2) A member who incites or coerces another member to commit any of the contraventions stated in sub-section(1) of this section shall be deemed to have committed the same contravention and be punished with the penalty stated for such contravention under the provisions of this Act.

76. Penalty for Contraventions

A member who commits any of the contraventions stated in section 75 above shall upon conviction be punished with any or combination of the following:

- (1) with respect to officers:
- (a) verbal or written warning;
 - (i) simple reprimand;

- (ii) severe reprimand;
 - (iii) deprivation of annual increment;
 - (iv) deprivation of the basic salary for a period of absence without permission;
- (b) for any crimes punishable under this act, an officer shall be liable to:
- (i) deprivation of seniority for a period not exceeding one year;
 - (ii) Demotion;
 - (iii) Dismissal;
- (2) with respect to non-commissioned officers:
- (a) simple reprimand;
 - (b) severe reprimand;
 - (c) extra duty;
 - (d) deprivation from the basic salary for a period not exceeding seven days or for the period of absence without permission;
 - (e) deprivation of annual increment;
 - (f) warning of dismissal;
 - (g) detention at the barrack for a period not exceeding twenty eight days;
 - (h) confinement for a period not exceeding twenty eight days;
 - (i) demotion;
 - (j) dismissal.

CHAPTER IX

SERVICE TRIBUNALS

77. Establishment of Service Tribunals

- (1) There shall be established two types of Service Tribunals as follows:
- (a) Warrants for the establishment of Service Tribunals for trial of summary offences in this Act shall be issued by the Director General of the Operational Organ concerned;
 - (b) Warrants for the establishment of Service Tribunals for trial of non-summary offences stated in sections 57 to 75 of this Act that are punishable with prison terms not exceeding 5 years shall be issued by the Minister;

- (c) Warrants for the establishment of Service tribunals for trial of non-summary offences against the state that are punishable with death or prison terms exceeding 5 years shall be established by the President.
- (2) Notwithstanding the provisions of sub-section(1) of this section, contents of warrants of establishment of summary Service Tribunals, and non-summary Service Tribunals shall be as provided in schedule II to this Act.

78. Service Tribunals Procedures

- (1) Non-summary Tribunal trials constituted under the provisions of this Act shall follow the procedures laid down in the code of criminal procedure.
- (2) In case a person other than a member of the Service is jointly accused of having committed an offence with one or more members of the Service the Minister of Justice shall be consulted before commencement of any criminal proceedings against such person. The Minister of Justice shall direct the manner of how the accused shall be tried and to which court they shall be referred.

79. Confirmation or Appeal of Sentences Imposed by Service Tribunals

- (1) Confirmation of sentences issued by Service Tribunals shall be in case of summary trial, by the concerned Director General;
- (2) Confirmation of cases of Service Tribunals for non-summary offences stated in sections 57 to 75 of this Act that are punishable with prison terms not exceeding 3 months shall be by the Minister.
- (3) Appeals of sentences imposed by non-summary tribunals shall lie to the court of Appeal.
- (4) Any death sentence imposed by a non-summary Service Tribunal shall be subject to confirmation by the Supreme Court.
- (5) The Tribunals shall follow the procedures laid down in the Code of Criminal Procedure.

CHAPTER X

FINANCIAL PROVISIONS

80. Service Budget

- (1) The Service shall have a budget under the Office of the President prepared and approved each year in the national annual budget.
- (2) The Service shall manage its finances in accordance with the Public Management and Accountability Act, 2011.
- (3) The Director General shall be the Accounting Officer of the concerned Service Organ.

81. Audit of the Accounts of the Service

The accounts of the Service shall be audited annually by the National Audit Chamber in accordance with the rules of the Public Management and Accountability Act, 2011.

CHAPTER XI

MISCELANEOUS

82. Duty to Assist Members of the Service

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

83. Prohibition from Outside Employment

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

84. Official Seal and Logo

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

85. Power to Issue Regulations

- (1) The Minister, in consultation with the Directors General of the Operational Organs, shall issue regulations, rules and standing orders for implementation of the provisions of this Act.
- (2) Without prejudice to the generality of sub-section (1) of this section, the regulations, rules and standing orders, among others, shall regulate the following:
 - (a) good management of welfare of the members, offices accommodation, training centres and any other premises used by the members;
 - (b) training and capacity building of the members;
 - (c) use of uniform, accoutrements and instruments;
 - (d) terms of employment and retirement in the Service;
 - (e) basis for promotions, transfers and leaves;
 - (f) job descriptions, organizational and functional charts of the Service;
 - (g) specification of the type of weapons, ammunition and uniform used by members of the Service;
 - (h) code of conduct of members;

- (i) procurement rules;
 - (j) treatment of detainees;
 - (k) Specification of summary offences;
 - (l) relationship of the Service with the public; and
 - (m) initiatives for reform of the service.
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SCHEDULE I

The Oath

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

I swear by Almighty God/ solemnly affirm, that as a Director General, commissioned officer, non-commissioned officer, private, shall dully protect the Constitution of the Republic of South Sudan, rule of law and human dignity, discharge duties entrusted upon me under this Act or any other law in force and diligently protect the national interest and security of the Republic of South Sudan, obey my superiors, preserve the secrecy of the Service during or after my employment with the Service. So help me God/ God is my witness.

SCHEDULE II

COMPOSITION OF SERVICE TRIBUNALS

Service Tribunals shall be composed as follows:

- (1) Summary Service Tribunal; three officers with legal education background all of whom shall be of higher ranks than the accused.
- (2) Non-summary Service Tribunal in offences not punishable with death and cases not punishable with prison terms exceeding 5 years; four officers and a magistrate or advocate of at least 5 years standing provided that the chairperson of the Tribunal is of a higher rank than the accused and the other four members of the tribunal are at least of same rank as the accused.
- (3) Non-summary Service Tribunal in offences punishable with death or prison terms exceeding 5 years; four officers of senior ranks than the accused, a judge of the High Court or advocate of at least 7 years standing provided that the Chairperson of the Tribunal is of a senior rank than the rest of the officers of the tribunal.

Assent of the President of the Republic of South Sudan

In accordance with provisions of Article 85(1) of The Transitional Constitution, 2011, I, Gen. Salva Kiir Mayardit, President of the Republic of South Sudan, hereby assent to the National Security Service Act, 2014 and sign it into law.

Signed in Juba this.....day of the month ofin the year, 2014

**Salva Kiir Mayardit
President
Republic of South Sudan**