

In the Name of the People  
The Presidency Council

Based on that was approved by the Council of Representatives and endorsed by the Presidency Council, and pursuant to the provisions of Article (61/First), Article (73/Third), and Article (122/Fourth) of the Constitution, the Presidency Council decided in its session held on // 2008 to enact the following Law:

Law No. (36) of 2008

Elections Law of the Provincial, Districts, and Sub-Districts Councils

## Chapter One

### Definitions, Enforcement, and Goals

#### Article 1:

For the purposes of this law, the following phrases shall have the meanings ascribed thereto hereunder:

The Commission: The Independent High Electoral Commission.

The Voter: Everyone who has the right to vote.

The Candidate: Everyone whose candidacy has officially been accepted for membership of the Provincial, the Districts, the Sub-Districts councils.

The Initial Registry of Voters: A record containing names and data of the voters who have the right to vote , which shall be prepared and published by the Commission for review and filing appeals against it.

The Final Registry of Voters: A final record, which is not subject to appeal and contains the names and data of voters, shall be published after the expiration of the objection.

The Open List: A list containing the names of the declared candidates provided that it shall not exceed the number of seats allocated to the Electoral district.

Single List: A list in which a single individual shall have the right to run for elections, provided that he/she shall be registered with the Commission.

Electoral Divider: The number of votes required to obtain a seat in the electoral district, and is reached by dividing the number of valid votes in the electoral district by the number of seats assigned to that district.

The Electoral District (TN: Variant: Constituency): Each designated electoral area for which a number of seats have been assigned according to the provisions of this law.

Polling Stations: The location assigned by the Commission for the elections within the electoral district for holding the voting process.

Displaced Voter: An Iraqi who has been forcefully displaced from his permanent place of residence to another place within Iraq after 9 April 2003, for any reason.

#### Article 2:

This law shall apply to the elections of the Provincial, Districts and Sub-Districts Councils.

#### Article 3:

This Law shall aim to achieve the following:

First: Voters' participation in selecting their representatives in the Provincial, Districts and Sub-Districts Councils.

Second: The equality in the electoral participation.

Third: Guaranteeing the rights of both the voter and candidate in the electoral participation.

Fourth: Guaranteeing the fairness, freedom, and integrity of the elections;

Fifth: Providing legal protection for the stages and procedures of the electoral process.

### Chapter Two

#### The Right to Vote

#### Article 4:

First: The election is the right of every Iraqi male and female of those who fulfill the conditions stipulated in this law for exercising such right, without discrimination based on gender, race, nationality, origin, color, religion, religious affiliation, belief or opinion, or economic and social status.

Second: Every voter shall exercise his right to cast his vote in the elections in a free, direct, secret, and individual manner. Voting by proxy shall be prohibited.

#### Article 5:

The voter must be:

First: An Iraqi citizen;

Second: Legally competent;

Third: Completed eighteen years of age in the year in which the elections are held.

Fourth: Listed in the registry of voters in accordance to the provisions of this law and the instructions which will be issued the Commission.

#### Article 6:

First: The elections for the Provincial Councils shall be held in a first stage, provided that the elections of the Districts and Sub-Districts Councils are held in a second stage, and within 6 months after the date on which the first stage of the elections are held.

Second: Specific electoral centers shall be designated for the displaced in their areas for the purpose of casting their votes to their candidates in the areas from which they had been displaced. The High Commission shall handle determining their registration mechanism in accordance to instructions.

### Chapter Three

#### Right to Candidacy

#### Article 7:

Adopt the conditions of candidacy provided in Article (5) of the Law of the Governorates not organized within a region, No. 21 of 2008.

#### Article 8:

First: The Commission shall forward the candidates' lists to the Supreme National Commission for De-Baathification or the commission which will legally replace it to make a final decision within (10 days) from the date of receiving the lists.

Second: The candidates shall be subject to the approval of the Commission.

#### Article 9:

The candidacy shall be in accordance with the open list system.

#### Article 10:

The number of candidates in the list shall not exceed the number of seats allocated for the electoral district.

Article 11:

It is not permitted for any entity at any time to withdraw from a winning candidate the seat that was allocated to him.

Article 12:

First: Voting shall be by personal secret ballot.

Second: A voter shall not be allowed to vote more than once in each election.

Third: A voter shall be allowed to vote for a list or any candidate from the electoral lists submitted within his electoral district.

Article 13:

First: The valid votes secured by a list in the electoral district shall be collected and divided by the electoral divider to determine the number of seats allocated for that list.

Second: The seats shall be distributed to the candidates of the list and the candidates shall be re-ranked based on the number of the votes obtained by a candidate. The candidate who secures the highest number of votes within the list shall be deemed the winner and so on for the rest of candidates **and to have a woman at the end of all three winners regardless of men winners.**

Third: The votes which are obtained by the list shall be distributed to the candidates of the list in accordance with abovementioned item (Second).

Fourth: The candidates of the single lists shall at least obtain the equivalent of the electoral divider in order to obtain a seat and the candidates who do not secure that divider shall be excluded.

Fifth: In case there are vacant seats, they shall be granted to the winning open electoral lists that obtained the highest number of votes to fill all allocated seats of the electoral district in accordance with the ratio of seats they receive.

Article 14:

First: If two or more candidates from different lists secure equal valid votes and they were ranked last within the electoral district, the Commission shall draw a lottery between them. The person determined by the lottery shall be deemed the winner.

Second: If two or more candidates in the same electoral list secure equal valid votes and they were ranked last within the electoral list, the approved sequence shall be adopted by the political entity in the electoral list to determine the winner of the electoral seat.

Article 15:

First: If the Council member loses his seat for any reason, the next candidate on the list in terms of the number of votes obtained shall replace him, and if the member is on a single list, run off elections shall be held within the same electoral district.

Second: If the vacant seat belongs to a woman it would not be necessary to be replaced by another woman unless that would affect the percentage of women's representation

Chapter FourThe Registry of VotersArticle 16:

First: The Commission must register the voters that meet the conditions stated in this law.

Second: The Commission shall establish and update the initial registry of voters in cooperation and coordination with the offices affiliated to the Commission in the Regions and Governorates.

Third: Every individual that fulfills the voting conditions shall have the right to ask that his/her name be added to the initial registry of voters, and shall have the right to verify the registration of his/her name if it were not found in the registry.

Fourth: Registration shall be performed in person or in accordance with instructions issued by the Commission.

Fifth: A voter shall not be registered in more than one electoral district.

Article 17:

First: The Commission shall rely on the most recent statistical database of the Ministry of Trade pertaining to ration card for establishing the registry of voters and determining the number of seats of the electoral district until a general census of the population is conducted.

Second: The Commission shall update the initial registry of voters before each election by reviewing the registry, starting the registration of new voters, and publishing the registry for any objections.

Third: The initial registry of voters shall be announced after its completion to allow local and international observers and media men to monitor and view it.

Article 18:

The Commission shall display the registry of voters of each electoral district in which the names of voters are listed in alphabetical order. This should be done in a prominent place at the registration centers, to facilitate its viewing.

Article 19:

First: Any person whose name did not appear in the initial registry of voters or a mistake occurred in his/her registration information may file an objection with the main office of the High Commission or its branches in the governorates requesting to have his name listed or his/her information corrected in the registry.

Second: The objection shall be submitted in writing in accordance with this law within a period to be determined by the Commission starting from the date of making available the initial registry of voters in the electoral districts.

Third: The Commission Office shall settle the objection within a period to be determined by the Commission. The decision of the Commission may be objected to before the Board of Commissioners and it shall be appeal-able in accordance with the law.

Article 20:

The initial registry of voters shall be final and shall be used for voting after the expiration of the periods of appeal or after objections presented against the registry are settled. The Commission shall publish it at the registration centers after a period to be determined by the Commission.

Chapter FiveElectoral DistrictsArticle 21:

Each voter shall exercise his/her electoral right in person in the electoral district in which he/she is registered in the registry of voters with consideration to the provisions of Article (18) of this law.

Article 22

First: In accordance with its official administrative borders, each governorate shall constitute a single electoral district in the provincial councils' elections.

Second: In accordance with its official administrative borders, each district and sub district shall constitute a single electoral district in the elections of the districts and sub-districts.

Article 23

First: The elections of Kirkuk governorate and its affiliated Districts and Sub-Districts shall be held after implementing the process of dividing the administrative and security powers and public posts including the position of the chairman of the Provincial Council, governor and deputy governor, among the components of Kirkuk governorate in equal percentages among the main components. The component with the majority in the Provincial Council shall have the right to choose one of the highest three positions: the Governor, the Deputy Governor or the chairman of the Provincial Council.

Second: A committee, made up of two representatives from the main three components of Kirkuk governorate, shall be established from among the COR members representing the Kirkuk governorate and selected by the representatives of the three components in the Council of Representatives and one representative for the Christian component no later than November 1, 2008. The Committee shall have the right to seek the assistance of two experts from each component, the representatives for the parliamentary blocs and relevant ministries in order to give advice and consultation in addition to the UN technical assistance. The Committee shall take decisions by agreement. The operation of the Committee shall not conflict with any Article of the Iraqi Constitution that is relevant to Kirkuk. The Committee shall submit its report to the COR concerning the following affairs:

The mechanism of division of powers in Kirkuk as stated in (First) above.

Identifying the trespasses on the public properties in Kirkuk before and after April 9, 2003. The Iraqi government shall guarantee correction of such trespasses through the mechanism used all over Iraq in accordance with the applicable laws.

Reviewing and scrutinizing all data and records related to the demographic situation including the registry of voters and submitting binding recommendation by agreement to the Independent High Electoral Commission, based on the results reached.

The Committee shall submit its report to the COR no later than March 31, 2009. The COR shall oversee and follow up the operations of the Committee.

Third: The election of Kirkuk Provincial Council shall be held after the Committee has submitted its recommendations and concluded results to the COR, according to which the COR shall enact a law for the election of Kirkuk Provincial Council for one term.

Fourth: The Federal Government and the Local government in Kirkuk shall equally pledge to provide all requirements for the Committee to accomplish its functions in accordance with the law.

Fifth: The present Kirkuk Provincial Council shall continue to exercise its functions in accordance with the laws that were valid before the enforcement of Law No. 21 of 2008. The status of Kirkuk governorate in accordance with the Constitution shall remain as it is until elections are held there.

Sixth: The Provisions of Article 55/Second of the Law No. 21 of 2008 shall apply to Kirkuk Provincial Councils.

Seventh: In case the Committee failed to submit its recommendations to the COR, the Council shall enact a law for the elections of the Kirkuk Provincial Council. If this can not be done, the three presidencies (The Presidency Council, the Cabinet's Presidency and the COR Presidency) shall specify, with international assistance through the UN, the appropriate conditions for holding elections in Kirkuk.

#### Article 24:

The Provincial Council shall consist of 25 seats, with one additional seat to be added for each 200,000 people for any population of more than 500,000 in accordance to the latest approved census based on the ration card, on which the registry of voters was established.

#### Article 25:

The District Council shall consist of 10 seats with one additional seat to be added for each 50,000 people in accordance to the latest approved census based on the ration card, on which the registry of voters was established.

Article 26:

The Sub-District Council shall consist of 7 seats with one additional seat to be added for each 25,000 people in accordance to the latest approved census based on the ration card, on which the registry of voters was established

Chapter Six

Election Campaigning

Article 27:

Free election campaigning shall be a guaranteed right for the candidate in accordance with the provisions of this law, starting from the date on which the candidate was officially approved and ending 24 hours before the date of holding the elections.

Article 28:

The election campaign shall be exempted from any fees.

Article 29:

First: The Amanat of Baghdad and the relevant municipalities, in coordination with the Commission, shall specify the locations where the posting of electoral advertisements shall be prohibited throughout the period preceding Election Day. It is prohibited to place any advertisements, programs, or pictures of the candidates in the polling stations.

Second: The political entities participating in the elections must remove the elections campaign posters in accordance with the instructions issued by the Commission.

Article 30:

It is prohibited to organize election meetings for a candidate or by his supporters for the purpose of election campaign during the period specified in this law using buildings occupied by ministries and various departments of the Government.

Article 31:

It is prohibited to use the official emblem of the State in meetings, advertisements, electoral pamphlets, and writings and drawings used in the electoral campaign.

Article 32:

Employees of government Departments and local authorities shall not use their offices or influence, state resources, means, or apparatus, including the security and military services, for their own interest or the interest of any other candidate in the electoral campaign or to influence voters.

Article 33:

First: It is prohibited for any party, group, organization, entity, individuals or authority whatsoever to exercise any form of pressure, intimidation, or declaring someone as unbeliever or traitor, or resorting to any enticement, or granting or promising material or moral gains.

Second: Any party or a political entity that keeps an armed militia shall be denied from participating in the election.

Third: Any political party shall be denied participation in the election and the counting of the votes in the event it closes an election area by force or by threatening to use force for its benefit or against others.

Article 34:

The use of Government departments that is work and job locations, in the electoral campaigns is prohibited; however the use of houses of worship for this purpose is permitted.

Article 35:

Candidates shall be prohibited from using any electoral campaigning involving fraud and deception, or the use defaming or slandering against other candidates as part of the electoral campaign.

Article 36:

It is prohibited to use public funds, budgets of ministries, funds from the endowments, or foreign support funds for the electoral campaign.

Article 37:

First: A candidate may not distribute agendas, leaflets, cards or any other documents on Election Day either in person or through others;

Second: Employees of the State or local authorities shall not be allowed to distribute agendas on the Election Day either in person or through others;

Third: It is prohibited to place advertisements, distribute action programs, brochures, or cards in the name of a candidate not registered on the candidates' list.

Chapter Seven

## Electoral Crimes

### Article 38:

The following shall be punished by imprisonment of no less than six (6) months and a fine of not less than (100,000) one hundred thousand Dinars and not to exceed (500,000) five hundred thousand Dinars:

First: The person who deliberately lists a name or names or forged descriptions on the lists of voters, or intentionally does not include a name in contradiction with the provisions of this law;

Second: The person who manages to place his name or other names without meeting the legal conditions required and it is proved that he does so knowingly, and anyone who causes the exclusion or the elimination of another name;

Third: The person who casts his/her vote in the election knowing that the inclusion of his/her name in the registry of voters is done in a way contrary to the law or that he loses the legal conditions required for the use of his voting right;

Fourth: The person who deliberately votes using the name of someone else;

Fifth: The person who divulges how a voter votes without his/her consent;

Sixth: The person who uses the right to vote more than one time in an election.

Seventh: The person who intentionally alters the will of an illiterate voter and writes a name or points out a symbol other than the one intended by the voter or obstructs any voter to prevent him from exercising his/her right to vote.

Eighth: The person who nominates himself in more than one electoral district or list.

### Article 39:

Shall be punished by imprisonment for a period of not less than a year any of the following persons:

First: Any individual who uses force or threats to prevent a voter from using his/her right to vote to force the voter to vote in a certain way or to abstain from voting;

Second: Any individual who gives, offers, or promises to give a voter any benefits for himself or others in return for voting in certain way or abstaining from voting;

Third: Any individual who accepts or requests a benefit for himself or others from the person who is assigned to perform a public service in the electoral process;

Fourth: Any individual who disseminates or announces incorrect information to voters regarding a candidate's behavior or his/her reputation in order to influence the voters' opinions and the results of the elections;

Fifth: Any individual who enters a place allocated for voting carrying a weapon or a wounding tool in contradiction with the provisions of the law;

Sixth: Any individual who insults, defames, or assaults the election committee or one of its members during the election process.

Seventh: Tampering with ballot boxes, electoral tables, or any documents dealing with the electoral process.

Article 40:

The following shall be punished by imprisonment for a period of not less than a year, and a fine of not less than (100,000) a hundred thousand Iraqi Dinars and not to exceed (500,000) five hundred thousand Iraqi Dinars:

First: Any individual, who takes possession of, conceals, destroys spoils, impairs or steals the vote tally, or list of voters or alters its result in any way.

Second: Any individual who violates the freedom of election or its order by using force or threats;

Article 41:

Any individual, who places statements, photos, or special election leaflets outside the areas specified for them, shall be punished by imprisonment for a period not to exceed one month.

Article 42:

The following shall be punishable by imprisonment for a period of no less than one month and not to exceed one year:

First: Any individual who deliberately attacks the candidates' posters or their political agendas which are posted in their specified locations on behalf of another candidate or a certain entity with the intention of inflicting damage against this candidate or influencing the conduct of the electoral process.

Second: Any individual who announces the withdrawal of one or more candidates from the electoral process, and he knows that the matter is incorrect for the purpose of influencing the voters or diverting the votes of the candidate for himself.

Third: Any attacks against legally approved means of election campaigning for any reason, whether by erasing or tearing, or any other similar means.

Article 43:

First: Anyone who violates provisions 29, 30, 31, 34, 35, and 36 of this law shall be punished by imprisonment for a period of not less than one month and not to exceed 6 months, and a fine of not less than one million (1,000,000) one million Iraqi Dinars and not to exceed (5,000,000) five million Iraqi Dinars.

Second: Anyone who violates provisions of Articles 32 and 33 of this law shall be punished by provisional custody, and a fine of not less than (10,000,000) and not to exceed (25,000,000) twenty five million Dinars.

Article 44:

Anyone who attempts to commit an election crime stipulated in this law shall be punished to the fullest extent of the law.

Article 45:

First: Any political entity shall be punished by a financial fine of (50,000,000) fifty million Dinars if it were proven that it had taken part in committing any of the electoral crimes described in this law.

Second: The political entity shall be denied the votes obtained in the electoral center in case it commits one of the electoral crimes stipulated in items (First, Fifth, Sixth and Seventh) of Article (40) and Article (41) of this law. The Board of Commissioners shall have the right to take the necessary decision regarding this case.

Chapter Eight

General and Final Provisions

Article 46:

First: The elections date shall be determined by a decision from the Council of Ministers based on a proposal from the Commission that shall be announced through various media means sixty (60) days prior to the date specified for holding the elections.

Second: Provincial Councils' elections shall be conducted in one day.

Third: In case the elections were postponed, the provincial, districts, and sub-districts councils shall continue to run its own affairs until new councils are elected.

Article 47:

Voting by the military and personnel of the internal security forces shall be held in special polling stations as determined by the Commission in coordination with the relevant ministries.

Article 48:

The High Commission shall have the right to issue instructions to facilitate the implementation of the provisions of this law.

Article 49:

Any text that contradicts the provisions of this law shall be null and void.

Article 50:

This law shall enter into force as from the date of its ratification by the Presidency Council.

Article 51:

The Commission shall determine, according to its technical capabilities, the date for holding elections, provided that it is held no later than January 31, 2009.

Justifying Grounds

This law was enacted for the purpose of holding free and fair elections for all governorates, districts, and sub-districts; and to ensure that these elections shall be democratic and free from any external influences; and for the purpose of elevating such elections to the required high standard.

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