

*In the Name of Allah, the Most Beneficent, the Most Merciful*

**Law of the Independent High Electoral Commission**

**Pursuant to the provisions of Article 61 and Item 3 of Article 73 and Article 102 of the Constitution, the following law has been passed**

**Section 1**

**Article 1**

- 1) This Law abolishes the Coalition Provisional Authority (CPA) Order Number 92 of 31/5/2004 from the day this law and all regulations and instructions issued according to it enter into force.
- 2) This law establishes a body named The Independent High Electoral Commission.

**Section 2**

**Article 2**

The Independent High Electoral Commission is a professional, governmental, independent, neutral and autonomous body, subject to the supervision of the Council of Representatives, and shall have the authority to

1. Promulgate rules and adopted principles for federal, regional and local elections and referenda throughout Iraq to ensure their implementation in a just and transparent manner.
2. Oversee all various federal and regional elections and referenda, and in provinces that are not organized into a region.
3. Declare, organize and conduct all various federal and local elections and referenda in the provinces that are not organized into a region referred to in the Constitution, throughout Iraq.
4. The Regional Electoral Body, in coordination and collaboration with the National Office, shall be in charge of administration, conduct and organization of regional and local elections in that particular region or governorate under the supervision of the Independent High Electoral Commission.

### **Section 3**

### **The Commission's Organization**

#### **Article 3**

- 1) The Independent High Electoral Commission shall consist of:
  - a- The Board of Commissioners
  - b- The Electoral Administration
- 2) The Board of Commissioners
  - shall consist of nine members, at least two of whom must be law professionals, selected by majority vote of the Council of Representatives upon their nomination by a committee composed of members of the Council of Representatives and must have expertise and experience in elections and must be known for their competence, integrity and independence taking into consideration women representation).
  - Candidates for the membership of the Board of Commissioners must fulfill the following:
    1. Must be an Iraqi citizen residing permanently in Iraq
    2. Must have at least a first university degree
    3. Must not be less than thirty five years old.
    4. Must be of good behaviour
    5. Must be competent and experienced in the field of administrative work.
    6. Must be politically independent
    7. Must not be covered by the De-Ba'thification law, and must not have enriched himself on the account of public money or committed a crime against the Iraqi people or be affiliated to a repressive apparatus.
    8. Must not have been convicted of a dishonorable crime.
- 3) a) The Board shall elect at its first meeting from amongst its members, with a majority of five members, a President and a Vice President, a Rapporteur and a non-voting Chief Electoral Officer.
  - b) The term of office for the President shall be one year renewable by a majority vote of at least five members.
  - c) The President is the Commission's legal representative and, accordingly, shall represent it before others.
  - d) The President or who is acting on his behalf shall perform the following functions:
    1. Manage the regulatory and administrative work of the Board.
    2. Prepare the meeting agenda, conduct and preside over them including a meeting requested by at least four members of the Board.
    3. Any other functions designated by the Board.

- 4) The Board of Commissioners shall take an oath of office before the Higher Juridical Council with the following wording:  
**"I swear by Almighty God to perform my legal and professional duties with honesty, dedication and devotion, and work to accomplish the functions designated to me independently and neutrally. God is Witness to what I am saying."**
- 5) The Board meeting shall hold with an absolute majority of its members and it shall take its decisions with a majority of members present. In case there is a tie of votes then the option for which the President votes shall prevail, unless otherwise stipulated by the law.

## **Section 4**

### **Functions of the Commission**

#### **Article 4**

The Commission shall perform the following functions:

1. Establish and update voter registry in collaboration with the Governorate and Regional Electoral Offices.
2. Regulate the registration and certification of political entities for the purpose of contesting elections.
3. Regulate and certify candidate lists for elections
4. Accredite election observers and political entity agents and media representatives.
5. Adjudicate all electoral complaints and appeals, and its decisions can be appealed before a competent judicial electoral panel.
6. Certify tally procedures.
7. Declare and certify final results of elections and referenda with the exception of the results of the Council of Representatives elections which shall be certified by the Federal Supreme Court.
8. Set regulations and instructions preserving fair electoral process.
9. Certification of the structure of the Electoral Administration and the appointments in senior posts.
10. Set financial policy for the Commission.

## **Section 5**

### **Electoral Administration**

#### **Article 5**

- a) The Electoral Administration shall be made up of the National Office and Electoral Offices in the regions and governorates according to a structure to be suggested by the Chief Electoral Officer/Head of Electoral Administration and ratified by the Board of Commissioners. The Chief Electoral Officer shall be in charge of Electoral Administration and represent it before the Board of Commissioners and organize its works and ensure their good performance.
- b) It shall be responsible for the implementation of regulations and decisions passed by the Board of Commissioners, and management of all activities of operational, executive and procedural nature at the national and regional levels.
- c) Senior posts at the National Office from Deputy Chief Electoral Officer and directors of divisions in the Office shall be nominated by the Executive Administration and ratified by the Board with a majority of five votes out of eight. As for the Governorate and Regional Electoral Offices' managers, five candidates shall be nominated by members of the Council of Representatives from those regions or governorates, and one of them shall be selected and ratified by the Board of Commissioners by a majority vote of at least five of its members.
- d) The heads and members of the Electoral Offices shall be responsible for the performance of their functions before the Chief Electoral Officer, who has the right to hold them accountable and suggest the replacement of any of them who neglects his duties with the same mechanism stipulated in Item C.

## **Section 6**

### **Replacement of Members**

#### **Article 6**

Membership in the Board of Commissioners shall be terminated for one of the following reasons:

1. If the member's resignation is accepted by the Board of Commissioners in accordance with internal regulations.
2. If the member dies or becomes incapacitated
3. If a member of the Board of Commissioners is convicted of a dishonoring crime.
4. If the recommendation by a majority of five members of the Board of Commissioners for the removal of one of its members for violating the

code of conduct is ratified by a simple majority of the Council of Representatives.

5. The Council of Representatives may relieve the Board of Commissioners of its post in its entirety or in part by an absolute majority vote after violation of a law is proven against them.
6. If it is proven that the information supplied by the member while assuming his post is incorrect.
7. If the seat of any of the members of the Board of Commissioners is vacant for any of the reasons mentioned in Article 6 of this section, he shall be replaced by another member selected with the same mechanism stipulated in Article 3 item 2 a.

## **Section 7**

### **The Rights of the Members**

#### **Article 7**

1. The members of the Board of Commissioners shall enjoy the privileges of the rank of Under-Secretary of a ministry for a renewable period of five years.
2. The Board of Commissioners may grant its employees allocations not exceeding those granted to the employees of the Council of Ministers.
3. Members of the Board of Commissioners may not be appointed into a public post, with the exemption of academic posts, for three years after the end of their work as commissioners.
4. Commissioners shall be entitled to a pension of 80% of their salaries, after the end of their post, except in case of dismissal, resignation, or conviction of a crime related to their work. The provisions of this item shall apply to former commissioners.
5. The Council of Ministers must appoint those who have contracts with the former IECI at the National Office and the Governorate Electoral Offices into governmental departments according to their qualifications and in consistence with the applicable procedures.
6. The same treatment stipulated in Item 3 of this Article will be applied to the former Board of Commissioners.

## **Section 8 Complaints**

### **Article 8**

- 1) The Board has exclusive jurisdiction with respect to the civil enforcement of its own procedures and regulations. The Board must refer a criminal case to appropriate authorities if it finds evidence of criminal misconduct relating to the integrity of the electoral process.
- 2) Except as provided by the IHEC law, the Board has an exclusive jurisdiction to resolve disputes arising out of the preparation for and execution of national, regional and governorate elections, and may delegate jurisdiction to resolve disputes in the first instance to the Electoral Administration.
- 3) The Court of Cassation shall form a committee of three non full time judges to look into the appeals referred to it by the Board of Commissioners or submitted to the judicial authority by those directly affected by the Board decisions.
- 4) Decisions of the Board may be appealed only to the Electoral Judicial Panel.
- 5) Board decisions shall be published in three daily newspapers for a period of at least three days both in Arabic and Kurdish. Appeals against such decisions must be submitted by the concerned political entity within three days starting from the last day of the publication of the decision. Such appeals may be submitted to the National Office or any Electoral Office in the regions and governorates.
- 6) The Electoral Judicial Panel must decide on an appeal within ten days of its referral by the Board of Commissioners.
- 7) Decisions by the Electoral Judicial Panel are final and cannot be appealed in all cases.
- 8) Upon its formation, the Judicial Appeals Panel shall establish appeal procedures before it against the decisions of the Board of Commissioners without violating what is mentioned in this law. This shall be exempted from the applicable amended civil procedural law No. 83 of 1969 and other procedural laws.

## **Section 9**

### **Final Provisions**

#### **Article 9**

1. The Independent Electoral Commission shall continue its work until the formation of the Independent High Electoral Commission according to this law. The Board of Commissioners shall be selected within 60 days as of the date of approval of this law.
2. A committee shall be established in the Council of Representatives to follow up the formation of the Board of Commissioners of the Independent High Electoral Commission.
3. The Commission must seek the assistance of international experts in the electoral field from the United Nations at the stages of preparation and conduct of election and referenda.
4. The Commission shall have an independent annual budget prepared according to the basis and customary rules, proposed by the Board of Commissioners in consultation with the Ministry of Finance and shall be approved by the Council of Representatives and incorporated into the general budget for the state.
5. The Governorate and Regional Electoral Offices shall be linked with The Regional Electoral Body.
6. The Board of Commissioners shall make a by-law for the Commission.
7. Employees of the Independent Electoral Commission, with the exception of the commissioners, shall chose between taking retirement or being appointed to public posts, in accordance with their functional grades.
8. The Board of Commissioners must publish its decisions in both Arabic and Kurdish within 24 hours in a way it determines without prejudice to item 4 of Article 9 of this law.
9. Quarterly reports must be prepared and submitted to the Council of Representatives.
10. Representation of the components of the Iraqi society shall be put into consideration in the formation of the Independent High Electoral Commission in accordance with the rules and regulations.
11. The Chairman of the Board of Commissioners shall have the powers of a minister in terms of official communication with the ministries and other governmental departments.
12. The Independent High Electoral Commission shall adopt the general population census officially conducted by the Federal government.
13. This law shall enter into force from the date its approval and shall be published in the National Gazette.

### **Compelling Reasons**

As the transitional period mentioned in the Law of Administration for the State of Iraq for the Transitional Period has ended with the ratification of the permanent constitution in a general referendum, and certification of the results of the Council of Representatives' elections;

As the law establishing the Independent Electoral Commission of Iraq (the Coalition Provisional Authority (CPA) Order Number 92 of 2004) ended with the end of the transitional period;

And because of the need for a new law which will regulate the functions of the Commission pursuant to Article 102 of the constitution;

This law has been passed.