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## LAWS

### RESOLUTION No. (1723)

In the Name of the People,

The Revolutionary Command Council

In accordance with the provisions of Para (a) of Article 42 of the Interim Constitution,

The Revolutionary Command Council have decided in their session held on 10/12/1979 to promulgate the following Law:-

### LAW No. (159) OF 1979. THE PUBLIC PROSECUTION

#### Article 1

This Law aims to organize the organ of Public Prosecution in order to realize the followings:-

- Firstly - The protection of the State system, its security, and its organizations and to be intent on the People's Democracy to defend on the earnings of the Revolution, as well as, upholding the properties of the State and Socialist Sector.
- Secondly - Consolidation of the Socialist system, protection of its foundations and notions in the frame of observing the legitimacy and the respectation of applying the Law.
- Thirdly - To contribute with the Judicature and competent authorities to the expedient discovery on the criminal acts, to work for the speedy of finishing the suits and avoiding the delay of trials without justified reasons which are impeding the march of socialistic transformations.
- Fourthly - Surveillance of executing the decisions, judgements and penalties in accordance with the Law.

Fifthly - Taking part in evaluating the enforced legislations to be aware of the extent of their applications into the developed reality.

Sixthly - To contribute in dedicating of the Crime phenomenon and disputes and submitting practical proposals, to treat and decrease thereof.

Seventhly - To participate in protecting the family and childhood.

### PART TWO TASKS OF THE PUBLIC PROSECUTION CHAPTER ONE INQUIRY, GATHERING EVIDENCES AND INVESTIGATION

#### Article 2

The Public Prosecution, in addition to the other authorities which are assigned by the Law may:-

- Firstly - Take legal action of the Public Right unless, being asked by moving a complaint or a permission from a competent authority.
- Secondly - Observe the inquiries upon the crimes, gathering the evidences which are obliged for the investigation therein and taking whatever is necessary in order to reach the of discovery of the clues.

#### Article 3

The member of Public Prosecution shall exercise the jurisdiction of the examining magistrate in the locus delicti in case of his absence, and that jurisdiction shall come to an end from him, on the attendance of the competent examining magistrate unless being requested to continue of the investigation wholly or partly of whatever has been undertaken to carry out therewith.

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## Article 4

The Public Prosecution should give its opinion before the issuance of decisions as follows:-

Firstly - To Transfer the suit in the stages of investigation and trial.

Secondly - To enforce the accused or the victim in a crime or a felony to enable for checking his body or taking his photo or his thumb printings or little bit of his blood, hair and nails and the like that help the investigation.

Thirdly - To make attachment on properties of the fugitive offender or that being under his disposal.

Fourthly - To make attachment on the properties of that one accused of committing a crime occurred on moveable or immovable property.

## Article 5

The Public Prosecution may have the right of supervision on the works of investigators and members of the judicial discipline, that may ensure in observance of execution the decisions of the examining magistrate and the speedy of its fulfillment and submitting the applications in this respect, and the examining magistrate should decide upon the applications during a period not to exceed 3 days from the date of being received by him.

## Article 6

Firstly - Every member of the Public Prosecution should be present on carrying out the investigation in a crime or a misdemeanour and giving his observations and legal requests.

Secondly - The examining magistrate should call the member of the public prosecution who is appointed or seconded before

him to be present on taking any active of the investigation procedures.

Thirdly - The examining magistrate should show the member of public prosecution appointed or seconded before him on the judgements which are issued during 3 days as from the date of its issuance.

## Article 7

The public prosecution shall undertake to carry out the following:-

Firstly - To consider the complaints of citizens presented to him or referred to him from the competent authorities and as well as pursuing thereof.

Secondly - Inspection of the detention centres and sections of reforming the adults and juveniles departments and submitting the periodical reports thereupon to the authorities concerned.

## Article 8

Firstly - The authorities who are carrying out the investigation should notify the Public Prosecution with the Felonies and misdemeanors just being informed thereby, and all the offices and organizations should inform him immediately of occurrence with any felony or misdemeanor relating to the Public Right.

Secondly - The competent authorities - Except whatever excluded therefrom by a special text-should inform the Public Prosecution with the formation of committees, Bodies and Councils which are undertaking the investigation and trial and with the cases being seen by them before the date of trial therein in a period not less than 8 days as well as supplying it with a copy of the decisions which are issued by it during 15 days as from the date of its promulgation.

**CHAPTER 2  
TRIAL AND IMPEACH OF THE  
JUDGEMENTS**

**Article 9**

Firstly - The Public Prosecution shall attend the sittings of the Criminal Courts - Except the Court of Cassation - and it has the right of debating the witnesses and directing the questions, the request of delegating the experts, to move for seeing the site of action (locus delicti), cross-examining of the accuser, presenting its requests of conviction and release, or non-responsibility or acquittal, or to impose the measures and the like of the applications stipulated thereon in the Law.

Secondly - Sittings of the Criminal courts stated in Para (Firstly) of this Article shall not be convened unless by the attendance of a member of public prosecution who is appointed or seconded for pleading thereagainst .

Thirdly - The public prosecution should attend before any criminal court on convening its meeting in a cassation character to give his opinion in the judgements, resolutions and the measures being seen by it.

**Article 10**

The Public Prosecution shall have the followings:-

Firstly - To give the opinion of secrecy of meetings before, the court of the subject matter shall decide that.

Secondly - To take legal action against the crimes which are committed in the court's hall, even the sitting out of the legal action shall be suspended upon a complaint.

Thirdly - To demand for a judgement of the witness if he refrained from giving the oath or refusing to give the witness other than the cases being authorized by the Law.

Fourthly - To discuss the excuse presented by the accused or witness to justify his non-attendance of the court's measures.

**Article 11**

The Courts should acquaint the public prosecution with whatever of the decisions issued by it other than the trial as regards to the arrest, detention or release on bail or without during a period not exceeding three days from the date of its issuance.

**Article 12**

Firstly - The Public Prosecution should attend before the labour courts, committee of the judge affairs, committee of the public prosecution's Affairs, public Disciplinary Council, Disciplinary and customs Committees, the auditing committees in the income Tax, and any body or committee or Council having the judicial and penal character.

Secondly - Sessions of the authorities mentioned in para (Firstly) shall miss the legality of its sessions in the absence of public prosecution's member who is appointed or seconded before them because of not inviting him to attend.

Thirdly - The authorities prescribed in para. (Firstly) of this Article should acquaint the public prosecution with whatever shall be taken of decisions during a period not exceeding three days as from the date of its issuance.

**Article 13**

Firstly - The public prosecution should attend before the courts of Personal Status or Civil courts in the lawsuits related to

minors, wards, absentees, missing persons, divorce Separation, permission of polygamy, abandonment of the family, Vagrancy of children and any other lawsuit that the public prosecution deems necessary of his interference therein to protect the family and childhood.

Secondly - The public prosecution should give his study and opinion on the lawsuits mentioned in para (Firstly) of this article and consultation the ways of appeal on decisions and judgements passed thereinto and pursuing same.

**Article 14**

Firstly - The public prosecution should attend the civil lawsuits which the State shall be a part therein or related to civil rights due to the State for the penal lawsuits to explain his sayings, recommendations as well as revising the ways of objection of the decisions and judgements issued in these suits and following up same.

Secondly - The court should inform the public prosecution in the District with the lawsuits prescribed in para (Firstly) of this Article at least three days before its consideration, and providing it with a copy of its application and documents.

Thirdly - The public prosecution shall be exempted from payment of any duties resulting from its intervention in the affairs stipulated in this Article as well as the previous Article.

**Article 15**

The public prosecution shall exercise its jurisdictions by submitting applications and giving the opinion in the undertaking cases of maintaining peace, good conduct and repetition of the trial as well as the letters Rogatory,

delivery of Criminal, and other affairs according to the provisions of the Law provided that the Public Prosecutor should take into consideration the instructions issued by the Minister of Justice accordingly.

**Article 16**

Firstly - The Penal Code shall send the lawsuits settled by it in Crimes that are legally punishable (by execution or life imprisonment) direct to the Presidency of public prosecution.

Secondly - The Juvenile Court shall send to the public prosecutor directly before the court of Cassation the Criminal lawsuits settled by it.

Thirdly - The Criminal Courts shall send the lawsuits being impeached before the Court of Cassation by the accused or claimant or civil prosecutor or of civil responsibility to the public prosecution directly before the court of cassation excluding the lawsuits mentioned in para (Firstly) of this Article.

**Article 17**

Firstly - The Public Prosecution has the right of impeachment in accordance with the provisions of the Laws in the judgements, decisions and the measures issued in judiciary investigation, courts committees, Bodies and the Council stated in this Law.

Secondly - Periods of impeachment shall be valid in relation to the public prosecution on his attendance with effect from the following day of the date of pronouncing these judgements decisions and measures, and from the following day of the date being notified thereby when issued on his absence or from the date of being considered as judgement delivered in the presence of the litigant parties after oral proceedings

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Thirdly - Period of the request of correction the Cassation resolution shall commence from the following day up to the date of the Public Prosecution being informed by the Cassation resolution.

## CHAPTER THREE EXECUTION OF THE JUDGEMENTS

### Article 18

Firstly - The Court, on issuing the judgement with a penalty or a measure depriving the freedom, should provide the public prosecutor in the State Organization of Social Reform with a copy of the conviction and the judgement together with the bill of imprisonment or warrant of detention and a copy of any other judgement issued by the Court.

Secondly - The Public Prosecution should follow-up the execution of judgements, decisions and measures stated in para (Firstly) of this Article.

Thirdly - Department of reforming the adults and the department of reforming the Minors should inform the Public Prosecutor in the State organization of Social Reform in writing at the termination of executing the penalties and measures regarding the sentenced.

### Article 19

If the court found out that the condemned woman with death sentence is pregnant, the department of Reforming the Adults should, on receiving the execution order, open a conversation with the Public Prosecutor of the State Organization for Social Reform in this respect to give his recommendations to the President of Public Prosecution, therefore the President of Public Prosecution should submit same to the Minister of Justice corroborated with his opinion caused by delaying the execution of the judgement or replacing same according to the procedures stipulated in the Law.

### Article 20

The competent Court shall make fact finding to the opinion of the Public Prosecutor in the State Organization of Social Reform before giving the decision upon the request of pardon of the victim, submitted to it.

### Article 21

The fine sentenced thereby or the relative part of it may be paid to the Department of Public Prosecution in the State Organization of Social Reform, therefore the sentenced should be released immediately.

### Article 22

The Public Prosecution in the State Organization of Social Reform shall undertake the following:-

Firstly - To give opinion upon the conditional release applications, controlling the perfect way of carrying out of whoever is released conditionally on execution the conditions and obligations that the court imposed on him as well as informing it to whatever shall be committed by him which is infringed to that conditions, and he may seek the assistance with the People's Councils and the Social organizations to realize that.

Secondly - To supply the court with the informations which should bound to the re-consideration upon its judgement on the conditional release wholly or partly, or delaying of whatever has been decided to be implemented or the execution of whatever has been decided or for delaying of the principal and subsidiary penalties.

### Article 23

The Court should listen to the recommendation of the Public Prosecution before issuing its judgement of cancelling the decision of con-

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detentional release upon infraction of the released to the conditions of release or upon the issuance of a judgement against him with a penalty depriving the freedom.

## Article 24

The Public Prosecutor in the State Organization for Social Reform should attend on execution the death sentence in terms of that he is a member of the execution's body and he has the right to delegate one of his deputies to this purpose.

## PART THREE ORGAN OF THE PUBLIC PROSECUTION CHAPTER ONE

### Members of the Public Prosecution

#### Article 25

Firstly - Organ of the Public Prosecution shall consist of :-

- A. President of the Public Prosecution.
- B. Two Deputies to the President of Public Prosecution.
- C. A Public Prosecutor for each of:-
  1. The Court of Cassation.
  2. The Higher Labour Court
  3. The Appellate District
  4. The Criminal Court
  5. The State Organization for Social Reform.
- D. The Deputies of Public Prosecutor.

Secondly - Headquarters of the President of Prosecution shall be in Baghdad and his Competences shall include all parts of the Iraqi Republic.

#### Article 26

The President of Public Prosecution shall be connected with the Minister of Justice who has the right of control and supervision over all members of the Public Prosecution.

## CHAPTER TWO

### Competences of the member of Public Prosecution

#### Article 27

The President of Public Prosecution shall undertake the direct administrative control and supervision over the organ of public Prosecution and he has the right, in this respect, of issuing the circulations and special guidances for organizing the work and the good performance of the organ to its tasks.

#### Article 28

Firstly - The President of Public Prosecution shall exercise the following competences:-

- A. The jurisdictions vested in him is accordance with the provisions of Laws.
- B. To give opinion in the Criminal and other investigations having relation to the nature of works of the public prosecution, its evaluations and showing the extent of its applications to the real developed and to the objective of the Revolution.
- C. Checking the cases coming from Criminal Courts in offences legally punishable as by death sentence or imprisonment for life as well as, submitting his recommendation and requests to the Cassation Court within 15 days as from the date of being recieved to him.

Secondly - The President of Public Prosecution may form a Body or more from three members of the Public Prosecution by the chairmanship of one of his dupties to undertake submitting recommendations and studies in the competences entrusted to his in accordance with para (Firstly) of this Article.

**Article 29**

The President of Public Prosecution shall submit the following:-

Firstly - General Annual Report to the Minister of Justice and the Justic Council about the process of work in the Organ of Public Prosecution and the difficulties that are exposing him accompanied with his proposals and recommendation to remove the obstacles and to get rid of the difficulties in order to realize the aims of public prosecution.

Secondly - Annual confidential reports to the Minister of Justice about the behaviour and efficiency of members of the public Prosecution.

Thirdly - Reports pertaining to the Crime phenomenon and disputes in the light of information that come from the department of public prosecution in the State Organization for Social Reform and the other authorities concerned accompanied by practical proposals and notes to avoid occurrence of the Crime and combating thereof .

**Article 30**

The President of Public Prosecution shall undertake, in limits that are permitted by the Laws, regulations and instructions to give notice about infringements and violations happening on application the Criminal provisions and texts, and he may request or taking of measures in order to secure avoiding these violations correcting them, and not be repeated.

**Article 31**

Deputy of the President of Public Prosecution shall undertake the following matters:-

Firstly - The Chairmanship of Public Prosecution on absence of the President.

Secondly - Inspecting offices of the Public Prosecution and submitting reports resulted from inspection to the President of Public Prosecution.

Thirdly - Representing the Public Prosecution on charges related to judges and members of Public Prosecution before the Committee of Judges Affairs, and Committee of the Public Prosecution Affairs.

Fourthly - Carrying out the works and tasks deputed to him by the President of Public Prosecution in accordance with the provisions of this Law.

**Article 32**

The Public Prosecution shall undertake before the Court of Cassation to practise the following competences, to be assisted to that effect by sufficient number of deputies to the Public Prosecution.

Firstly - Objection in cassation upon the criminal judgements and decisions to the Cassation Court when he deems necessary in this respect.

Secondly - Auditing the lawsuits come from juvenile Courts and the lawsuits that can be revised in cassation by the accused, complainant, civil claimant, and or the civil responsible one except, lawsuits related to offences being legally punished (as death sentence or imprisonment for life) as well as submitting his recommendations and requests to the Court of Cassation during 15 days from the date of coming to him.

Thirdly - Following up the objections and impeachments that are submitted by the State departments and Socialist Sector before the Cassation Court.

Fourthly - Following up impeachments forwarded to the Court of Cassation by the



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Peoples Organizations, Federations, and Unions.

Fifthly - Explaining point of views of the public Right before bodies of the Cassation Court in the Criminal cases, namely by submitting the suitable applications before and during consideration in these cases.

Sixthly - To make impeachment on the verdict before the cassation court in favor of the Law, although, the legal period of the impeachment is passed if there was an encroachment to the Law in the judgement and no one from the both parties has been assumed with the objection therein. The decision which is issued by accepting the objection shall be restricted upon correction of the legal mistake without prejudice to rights of the opponents which are not being acquired according to the objected judgement.

### Article 33

The Public Prosecutor shall undertake before the Higher Labour Court and the Labour Courts to exercise the following competences to be assisted by a sufficient number from the deputies of Public Prosecution who are covered by the provisions of this Law:

Firstly - The jurisdictions stipulated on the member of the Public Prosecution, Labour Code, and other Laws as well as he may deputize any one of his deputies on this purpose.

Secondly - The Administrative Supervision over the works of the Deputies of public Prosecution related to him.

### Article 34

The Public Prosecutor shall undertake in the Appellate District to exercise the following competences and shall be assisted by a sufficient number of public prosecutors and their deputies:-

Firstly - Competences of the President of Public Prosecution are for the supervision over the works of the Public Prosecutor and their Deputies related to him within the Appellate District, distribution the works among them and observing correctness of carrying out their legal and functional duties.

Secondly - Taking charge of the Crimes and misdemeanors which have a special importance according to its circumstances or to those working therewith in the stages of investigation and trial and distributing of save to the Public Prosecutors and their deputies according to his designation.

Thirdly - Supervising over the works of procurators and members of the judicial minutes (control) when they are carrying out the investigations, and he has the right to ask of taking the disciplinary or Criminal measures against of whoever is contravening his duties from them.

Fourthly -

A. To offer the pardon to the accused in the investigation stage by the approval of Criminal Court for reasons to be written down in the minute, namely, on the serious Crimes when evidences are lacking and non-existing therein in order to get his witness against other participants in the Crime. The accused should give true and complete statements about the crime and its perpetrators.

B. To request repealing the pardon against the accused if he will not submit the statements mentioned in previous para.

C. Requesting from the Criminal court to stop taking actions against the accused definitely in case it is proved that whatever has been stated by him is true and complete.

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Fifthly - Submitting seasonal reports to the President of Public Prosecution concerning his departments, his deputies and members of judicial control.

## Article 35

The Public Prosecutor shall undertake to exercise before the Criminal Court the following competences assisted by a sufficient number of the deputies of public prosecutor .

Firstly - The competences that are legally stipulated by the member of the Public Prosecution before the Criminal Court and he may deputize in his place for this purpose one of his deputies.

Secondly - Distribution of works, and the administrative supervision on deputies of the Public Prosecution attached to him in his region.

Thirdly - The competences vested in him in accordance with the provisions of the Law before the examining and Criminal magistrates, committees, councils, and official authorities, which the laws are enforcing the Public Prosecutor to attend before it.

## Article 36

A Public Prosecution Department shall be established in the State Organization for Social Reform, its headquarters shall be in the Social Reform Division in (ABU GHRAIB) to be headed by a public prosecutor assisted by a sufficient number of Public Prosecutor's Deputies and shall undertake the following:-

Firstly - The preparation of seasonal reports and field's studies in Crime phenomenon and give his remarks and practical proposals to avoid the occurrence of the crime and reduce it and to put an end of the Juvenile delinquency problem and to prevent its gravity.

Secondly - To exercise the specializations of Public Prosecutor for the Appellate District as provided in this Law in matters related to his departments.

## Article 37

The deputy of Public Prosecutor shall exercise, as he is the principle element in the Public Prosecution Organ in realization of the objectives provided in this Law the following specialization:

Firstly - Supervision over the procurators works and members of the judicial control while carrying out the investigation, and he may request taking the disciplinary or Criminal measures against any one of them contravening his legal duties.

Secondly - To exercise the competences granted or authorized to the Public Prosecutor according to the provisions of this Law and other Laws other than those entrusted by a special text to another from member of the Public Prosecution.

## Article 38

Firstly - Deputies of Public Prosecutor shall be attached; from the administrative side with their direct presidents of the Public Prosecutors existing in the governorate's centres, and the Public Prosecutors in the governorate's centres shall be attached with their direct presidents of the Public Prosecutors of the Appellate Districts.

Secondly - The Deputy of the President of Public Prosecutor shall be attached directly with the President of Public Prosecutors before Court of, Cassation, Higher Labour Court, Appellate Districts and the State Organization for Social Reform.

# LAWS

## CHAPTER THREE

### Duties of Member of the Public Prosecution

#### Article 39

The member of Public Prosecution shall be bound with the following:-

Firstly - To preserve the dignity of his post to be far away of any suspicion that brings on towards his straightness.

Secondly - To work in a perfect neutrality and not to give any chance to effect or interfere in the process of justice.

Thirdly - To keep secret of the matters, information and documents being observed by him in the capacity of his post or during it if they were confidential on its nature or afraid of being divulged that make a loss to the State or persons and this duty shall be existing until after the termination of his service.

Fourthly - Not to exercise the trade or any work not consistent to the post of Public Prosecutor .

Fifthly - To wear the special uniform during the trial according to instructions to be issued by the Minister of Justice.

Sixthly - Residing in the Centre of the Administrative unit of which his work's centre is therein, unless the Minister of Justice is permitted him to reside in another place according to circumstances he deems necessary.

#### Article 40

It is not permissible to the member of Public Prosecution to exercise his competences before a judge has, with him a connection of affinity or relationship till the Fourth degree.

## PART FOUR

### Service in the Public Prosecution

#### CHAPTER 1

#### The Appointment

##### Article 41

Firstly - Whoever appointed in the Public Prosecution's organ should be, after coming into force of this Law, an Iraqi subject by birth, married and graduated from the Judicial Institute.

Secondly - The salary of the graduate in the Judicial Institute shall be 70 (Dinars) per month if he spent the minimum service or the practice qualifying him for admission in the Institute, and whatever exceeding to that shall be calculated for the increment and promotion. The salaries of the graduates in the Judicial Institute shall be amended accordingly before coming into force of this Law.

##### Article 42

Firstly - The Minister of Justice shall define the place of work of member of the Public Prosecution after the promulgation of Republican Ordinance to his appointment.

Secondly - The member of Public Prosecution shall not practice his work unless after swearing the following Oath:-  
(I swear by God to perform the works of my duty and apply the Laws with loyalty and faithfully in conformity with its aims in Building the United Socialist Democratic Society.)

Thirdly - The President of the Public Prosecution shall take an Oath before the President of the Republic in presence of the Minister of Justice, and other members of the Public Prosecution shall

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take an oath before the Justice Council that is constituted according to the Law of Ministry of Justice No. (101) of 1977.

### Article 43

Firstly - Grades and salaries of the members of Public Prosecution together with their annual increments and periods of their promotion shall be as follows:-

Grade	Salary Limits	Increment	Period of Promotion
A-	165 — 200	7	—
B-	125 — 155	6	5
C-	100 — 125	5	5
D-	70 — 95	4	5

Secondly - Salary of the President of Public Prosecution shall be (220/—) Dinars monthly and salary of the Deputy of the President (200/—) Dinars monthly.

Thirdly - Members of the Public Prosecution shall be granted the high cost of living allowances received by Officials who are subject to the Civil Service Law.

Fourthly -

A. Members of the Public Prosecution shall receive judicial allowances on the following phase:-

Salary	In Qadhas and Nahiyaz Except Baghdad Governorate	In the Governates Centres except Baghdad Governorate
70-125	100% of Nominal Salary	90 % of Nominal Salary
135-155	90% of Nominal Salary	80 % of Nominal Salary
165-200	80% of Nominal Salary	70 % of Nominal Salary

B. Members of the Public Prosecution working in Baghdad Governorate shall receive judicial allowances in a rate of 60% of their nominal Salaries.

C. Whoever receives the allowances according to the rates mentioned in the previous para (A) should be resided in the headquarters of his work, otherwise he shall receive the lower rate of these allowances between the place of his residence and the headquarters of his work.

Fifthly -

A. Members of the Public Prosecution who are working outside of Baghdad Governorate shall be granted fixed housing allowances amounting to (30) Dinars monthly.

B. Housing allowances shall not be granted to whoever occupies a house related to the State against rental rate not exceeding to 30 (Thirty Dinar), and his office shall undertake to pay this rental and if the rental rate shall exceed the mentioned amount then the member of the Public Prosecution shall bear of whatever is exceeded thereof.

C. Housing allowances shall be prohibited from whoever has his own house in the headquarters of his work and it shall be prohibited too from whoever is not residing the centre of his work.

Sixthly - The Judicial Allowances and Housing allowances that are granted in accordance with this Article shall be excluded from the provisions of the Law of State Officials Allowances and their Employees No. (93) of 1967 (as amended) or any other law substitutes thereof.

Seventhly - The member of Public Prosecution shall be granted a spontaneity increment from the minimum limit to the maximum one, of each grade on the phases stated in para (Firstly) of this Article, upon his completion one year in the service.

**CHAPTER TWO**

**Promotion**

**Article 44**

Firstly - The member of Public Prosecution shall be promoted from a grade to a higher grade by a decision of the Justice Council after being served the specified period in his grade prescribed in para (Firstly) of Article (43) of this Law:

Secondly - The Justice Council shall take into consideration on looking into promotion of a member of Public Prosecution, the reports of his heads and the Judicial Inspection as regards to his efficiency and the well done of his duties and the opinion of Ministry of Justice concerning his behaviour.

Thirdly - The Justice Council shall issue its decision on promoting the member of Public Prosecution if his competency has been confirmed for the promotion and the Ministry of Justice shall issue an order accordingly with effect from the date of his entitlement to the promotion.

Fourthly - The Justice Council may adjourn by a causative decision of the promotion of the member of Public Prosecution for a period not less than (Three months) and not exceeding (One year) and for more than once, if it has found that he is not qualified for promotion.

Fifthly - Termination of a member of the Public Prosecution or transferring him to a

civil post may be passed by a Republican Ordinance pursuant to a decision from the Justice Council and proposal from the Minister of Justice if his promotion has been adjourned for more than two successive times in the same grade.

**CHAPTER THREE**

**RAISING**

**Article 45**

Firstly - Classes of the members of Public Prosecution and limits of the Salary of each class shall be as follows:-

Class	Salary
First	165 — 200
Second	135 — 200
Third	100 — 200
Fourth	70 — 200

Secondly - The member of Public Prosecution shall be promoted from a class to another by a decision from the Justice Council pursuant to a request submitted by a member of Public Prosecution to Ministry of Justice in condition that he should:-

1. be obtained a salary of the Minimum limit for the class wanted to be promoted therein.
2. be prepared a research in a subject having relation with the judicial and justice specializations, and there shall be exempted from presenting the research for one promotion (raising) who obtained a master Degree as well as shall be exempted from presenting of two successive raises (promotion) who obtained to (Doctorate Degree).

## Article 46

- Firstly - The Ministry of Justice should ask the opinion, on submittance the application of raising of each of the Presidency of Public Prosecution and the Presidency of Juridical Supervision Body for efficiency of the member of Public Prosecution and his qualification for raising.
- Secondly - The Ministry of Justice shall submit the application with the mentioned recommendations in para (Firstly) of this Article accompanied with its opinion, to the Justice Council for consideration therein.
- Thirdly - The Justice Council may seek the assistance of estimating the competency of member of Public Prosecution with the recommendations stated in paras. (Firstly) and (Secondly) of this Article and with the annual reports submitted by his heads and the reports of Judicial supervisors and the legal research submitted by him that is confirming the extent of his following up to the judicature and jurist activity, and the Council shall issue its decision for raising him if he is capable to it otherwise his raising shall be adjourned for a period not less than; (six months) by a causative decision to be informed thereof.
- Fourthly - The Justice Council shall look with the matters related to raising in the months of January and July of each year, and its decisions in this regard shall be final and not be liable for objection.

## Article 47

- Firstly - The Public Prosecutor before Criminal Court and the Public Prosecutor in the State Organization for Social Reform shall be appointed among deputies of the Public Prosecution from grade (First or Second or Third).

Secondly - The Public Prosecutor before Court of Cassation, the Public Prosecutor for the Appellate District, and the Public Prosecutor before Higher Labour Court shall be appointed from among the Public Prosecutors or deputies of the Public Prosecutors from the grade (First or Second).

Thirdly - Deputy of the President of Public Prosecution shall be appointed from among the Public Prosecutors of the grade (One or Two).

Fourthly - The President of Public Prosecution shall be appointed from among his deputies or from among the Public Prosecutors of the (First) grade.

## Article 48

Priority of members of the Public Prosecution shall be according to their posts, classes, and the date of their employment therein, and in case of equality thereof, then the priority shall be given according to a decision of the Minister of Justice in this respect.

## CHAPTER FOUR

### Transportation and Deputation

## Article 49

- Firstly - It is not permissible to transfer a member of the Public Prosecution to any other post outside organ of the Public Prosecution unless by his written approval.
- Secondly - Secondment of Deputy of President of the Public Prosecution and the Public Prosecutor to a legal counsellor post in the (Revolutionary Command Council or in the Presidency Diwan of the President of the Republic, or in the headship of any departments of Ministry of Justice Centre or its organs, or in Teaching in the University and or in the Judicial Institute provided that should uphold his character and all his one's rights stipulated in this Law.

Thirdly - It is permissible to deputize a member of the Public Prosecution upon his written approval and by an order of the Minister of Justice to the Departments of Ministry of Justice and its organs other than the Courts provided that he should uphold his one's rights stipulated in this Law and to whatever he is entitled of the allowances before his deputation provided that the proportionateness of the post that he is deputed for and his class should be taken into consideration on secondment.

Fourthly - The Minister of Justice may deputize a member of the Public Prosecution graduated from Judicial Institute to the post of examining magistrate or misdemeanour's judge or a member in the Criminal Courts and the proportionateness of the post that he is deputed for and his class should be taken into consideration in the Deputation.

Fifthly -

A. The Minister of Justice may deputize President of the Public Prosecution and the Public Prosecutor to work in the State Consultation Council as stipulated in the said Law provided that each of them should keep up with all his one's rights stipulated in this Law.

B. It is permissible to deputize the Public Prosecution from the First or the Second class who is enjoyed with the legal and administrative efficiency for the post of Juridical Supervisor for the supervision on the justice organs-except Courts - provided that should keep up with all his one's rights stipulated in this Law and his deputizing should be done by a decision of the Justice Council pursuant to a proposal from the Minister.

Sixthly - The member of Public Prosecution shall not be deputized to a job in the

Official departments or Institutions of Socialist Sector and with the exception of that, his written approval and by an order from the Minister of Justice could be allowed to be deputed to perform with the works of legal posts in the Revolutionary Command Council, or in the Diwan of the presidency of the Republic or for teaching in the University or in the Judicial Institute, provided that he should keep up with all his one's rights stipulated in this Law.

Seventhly - Period of the deputation stipulated in this Article should not exceed (Three years) liable for renewal for another year.

## Article 50

Firstly - After coming into force of this Law, there shall not be permissible .

A. To appoint a member of the Public Prosecution of grade (Four) other than of the Kadha and Nahiya.

B. To transfer a member of the Public Prosecution of grade (Three) to Baghdad Governorate.

Secondly - A member of the Public Prosecution shall not be transferred unless he spends (Three years) in one place, and the Justice Council may transfer him by a causative decision if it is confirmed by the reports issued from Official medical committees that his health condition requires to transfer him or if his functional circumstances shall not permit him to do his functional duties in place where he works on the perfect way and remaining in his place may effect to the course of justice.

Thirdly - The member of Public Prosecution shall not be allowed to remain in the grade (Four, or Third or Second) without transfer more than (Five years) with the exception of the obligatory of the transfer of those who are working in Baghdad Governorate.

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Fourthly - The Minister of Justice may exclude the graduates and the senior three graduates from the Judicial Institute every year before or after coming into force of this Law from provisions of para (Firstly) of this Article to work in any place including Baghdad Governorate.

Fifthly - The Justice Council, may, pursuant to a causative proposal from the President of Public Prosecution decide transfer or appointment of the Deputy of Public Prosecutor of grade (Four) in governorates centres - except Baghdad Governorate if the exigency of Public interest requires so and in order to cover the vacant posts of the Public Prosecution thereof and this to be with the exception of the provisions of para (1—Firstly) of this Article.

Sixthly - Deputation of the member of Public Prosecution to work other than of his work may be permitted on exigency of the Public Interest and this to be by an order of the President of Public Prosecution provided that period of the deputation not to exceed to (4 years).

### Article 51

Transfer, of the Public Prosecution members shall be carried out during the month of July every year, and the transfer on exigency of the Public Interest may be carried out other than of the mentioned month and the transfer shall be done by the approval of Justice Council pursuant to a proposal from the Minister of Justice.

## CHAPTER FIVE

### The Leaves

#### Article 52

Firstly - A member of the Public Prosecution shall be entitled to an ordinary leave with pay of (One day) to every (eight days) of his service period .

Secondly - The member of Public Prosecution should enjoy in every year with not less than (Thirty days) of his annual leave entitled to and in case of not

enjoying therewith, therefore shall not be added to him therefrom except the part that is exceeding the (Thirty days).

Thirdly - The ordinary leaves which are gatered may be accumulated according to para (Secondly) of this Article as not to exceed 180 days.

Fourthly - The leaves on which the member of the Public Prosecution is entitled to upon his previous services shall be rounded to him.

### Article 53

Firstly - The Minister of Justice, may grant member of Public Prosecution who passed (3 years) period in the posts of Public Prosecution, study leave outside Iraq or inside it for (2 years) period with pay for specialization in a subject having relation with the judicial and justice competences in order to obtain the Master or Doctor Degree, and he may extend this leave for another year.

Secondly - It is permissible to grant another study leave to whoever completed his first study leave and obtained the (Master) degree for (two years) period for the purpose of getting the (Doctor) in the same mentioned subjects of para (Firstly) of this Article and that after passing one year of the commencement to his post, and the Minister of Justice may extend this leave for an another year.

Thirdly - The study leave shall not be granted for whoever completed his (40 years of age) if he wanted to obtain the (Master) degree and (45 years of age) for whoever wanted to obtain (Doctor) degree.

Fourthly - The study leave shall be considered as a service for the purpose of this Law, and shall be granted seniority for the purpose of promotion and increment for



a period of (two years) to whoever obtains a (Doctor) degree and (one year) to whoever obtains to (Master) degree only.

**CHAPTER SIX**  
**Full Time Devotion**

**Article 54**

Firstly - The member of Public Prosecution has the right to enjoy with one year full time devotion inside or outside Iraq to render a study or research in a subject having relation with the justice or judicial competences by a proposal from the Minister of Justice and a decision from the Justice Council pursuant to an application to be submitted by the member of Public Prosecution on subject he wanted to study should be defined or submitting the study in this regard.

Secondly - Whoever shall be granted one year full time devotion should be from (The First or Second) class .

Thirdly - It is permissible to enjoy with another full time devotion year after the elapse of (5) years to the termination of the First full time devotion.

**Article 55**

A member of the Public Prosecution having full time devotion shall undertake with the following:-

Firstly - Not to change his subject of full time devotion, except by the approval of the Minister of Justice provided that he should submit the request of changing during three months from the date of the full time devotion.

Secondly - Not to change the place of full time devotion, except by the approval of the Minister of Justice provided that such of the temporary transfer which is required for the study or research shall not be included to that change.

Thirdly - It is not permissible to enjoy with any leave during the period of full time devotion except the sick leaves, that are legally considered.

Fourthly - To submit three copies from his research or study, to the Ministry of Justice within a period not exceeding three months from the date of finishing his full time devotion.

Fifthly - To continue in the service of the Public Prosecution after finishing the full time devotion a period equal to the period of the full time devotion.

**Article 56**

The devoted member of Public Prosecution should give back to the Ministry of Justice all the salaries and allowed received by him as well as, the expenses, rewards, and the assistances have been spent on him without taking any further notice as in the following cases:-

Firstly - If he did not submit the research or the study that he has been devoted thereby during the fixed period in para (Fourthly) of Article (55) of this Law, or being left the devotion for whatsoever reason, except the sickness that is hindering to be confirmed by medical reports legally considered.

Secondly - If he left the service before ending the fixed period in para (Fifthly) of Article (55) of this Law.

**CHAPTER SEVEN**  
**The Pension Rights**

**Article 57**

Firstly - A member of the Public Prosecution shall not be pensioned off unless after completing (Sixty three of his age) and he may be pensioned off before that, pursuant to his request in accordance with the provisions of the service and pension Laws.

Secondly - The member of Public Prosecution who is pensioned off shall be granted

the ordinary leaves entitled to, completely on the basis of how much he is entitled to as per month before being as pensioned off provided that not to be exceed of (180) days.

**Article 58**

Firstly - The Lawsuits on rights resulted from this Law shall be raised, before the committee of the Public Prosecution Affairs which is formed by the Justice Council from three of its members in the beginning of every year.

Secondly - Decisions of the committee shall be subject to objection before the enlarged Body in the Cassation Court by the Minister of Justice and from the member of Public Prosecution on which the decision is issued against him during thirty days from the date of being served thereof and, its decision, in this respect, shall be final.

**Article 59**

The provisions of Civil Service Law, and the Civil Pension Law shall be valid in matters, which are not stipulated in this Law, and as not to be contradicted with its provisions.

**PART FIVE**

**Supervision and the Disciplinary Matters**

**CHAPTER ONE**

**The Supervision**

**Article 60**

Firstly - The Minister of Justice has the right of supervision over the organ of Public Prosecution and observing good performance of its members with their specializations prescribed in this Law as well as, their personal conduct, regularity of their works and attendance of, office hours and observing of members of the Public Prosecution's obligation on their duties stipulated in Article (39) of this Law.

Secondly -

- A. The Minister of Justice may carry out searching the Public Prosecution organ of all its formations or he may deputize to this respect, President of the Juridical Supervision Body or one of the judges or the Public Prosecutors deputed for to the Juridical Supervision to carry out this task, as in execution of his right of the supervision and control.
- B. Searching of the Presidency of Public Prosecution shall not be allowed except by the President of the Juridical Supervision Body.

**Article 61**

Firstly - The Minister of Justice may give notice to a member of the Public Prosecution of whatever is occurred from him that is contravening to the duties and requirements of his post.

Secondly - The President of Public Prosecution may give notice to the member of Public Prosecution of whatever is occurred from him that is contravening to duties of his post, and the Public Prosecutor of the Appellate District has the same right too as regard to the members of Public Prosecution within his district .

**CHAPTER TWO**

**Disciplinary Matters**

**Article 62**

Firstly - The Committee of Public Prosecution Affairs formed in accordance with para (Firstly) of Article (58) of this Law; shall undertake to litigate a member of the Public Prosecution sent to it for the charges attributed to him.

Secondly - The Public Prosecution Affairs Committee shall issue in the disciplinary lawsuits raised against the member of the Public Prosecution one of the following disciplinary penalties :-

- A. Warning - Delay of the increment and promotion for a period of six months shall be incurred thereupon.
- B. Delay of the promotion, increment or both for a period of not less than one year and not exceeding three years from the date of the decisions, in case he has completed the legal period of promotion otherwise, from the date of its completion.
- C. Termination of service-This penalty shall be imposed against the member of the Public Prosecution in case a definite judgement shall be passed on him by a penalty from a special Court against an act incompatible with the honour of his duty, if it is proved by a trial carried out by the committee, the incompetence of the member of Public Prosecution to continue in the service.

**Article 63**

Firstly - The Justice Council has the right to terminate Deputy of the Public Prosecution of grade (Four) as well as, transfer him to a civil job pursuant to a causative reason of non ability to continue his job perfectly in the organ of Public Prosecution and this should be done by Republican Ordinance.

Secondly - Whoever his service has been terminated shall not be reinstated to the service in the Public Prosecution in accordance with the provisions of this Law provided that this shall not prevent re-appointing him in a civil job.

**Article 64**

Firstly The disciplinary actions shall be taken against the member of Public Prosecution, pursuant to a decision from the Minister of Justice referring him to the Committee of Public Prosecution Affairs provided that the decision should include a statement to the fact attributed to him together with the con-

firmed evidences thereto and this decision should be served to each member of the Public Prosecution and the Presidency of Public Prosecution.

Secondly-A-Committee of the Public Prosecution's Affairs, shall determine a date to look the lawsuit and should inform the Minister of Justice thereby, presidency of Public Prosecution, and member of the Public Prosecution who is referred to it.

- B. The trial shall be in camera and the decision shall be pronounced in Public.
- C. The trial shall be carried out by the attendance of representative of the Minister of Justice, and President of the Public Prosecution or his deputy and the member of Public Prosecution should attend in person and he has the right to bring a lawyer with him.
- D. The Committee has the right to carry out by itself whatever it sees necessary of the investigations.
- E. The Committee shall decide in lawsuit after completing the investigation, and hearing the sayings of representative of Minister of Justice and the Public Prosecution, and the defence of member of Public Prosecution, its decision shall be served to the Minister of Justice and to the President and member of Public Prosecution.
- F. The Committee shall follow up, in its measures the rules stipulated in the Law of Criminal Procedures.

**Article 65**

Firstly - In case the Committee of the Public Prosecution Affairs shall find during seeing the lawsuit, that the act attributed to a member of Public Prosecution may creat a Crime or misdemeanor, then it shall decide to refer him to the competent court and send all the papers to it after the suspension of member of public prosecution from his post by the Minister of Justice in accordance

with whatever is decided in the Law of State Officials Discipline.

Secondly - In case the court has decided the acquittal of member of Public Prosecution or freeing him, or issued any decision that ends the Criminal lawsuit thereof therefore, the committee must continue on looking upon the disciplinary lawsuit in accordance with the provisions of this Law.

Thirdly - If the court has decided the conviction against the member of Public Prosecution, therefore the Committee must impose a disciplinary punishment on him to be suitable with the act attributed to him in accordance with the provisions of Article (62) of this Law.

## Article 66

The Minister of Justice, President of Public Prosecution, and member of Public Prosecution on which decision has been issued against him have the right of objection before the enlarged body in the Cassation Court on the decision issued by the Committee of the Public Prosecution's Affairs in accordance with this Chapter during thirty days from the date of being served thereof, and the enlarged body if necessary may summon representative of the Minister of Justice, Public Prosecution and member of Public Prosecution to hear their sayings, therefore it shall issue its decision approving the committee's decision or cancelling or amending it and its decision in this respect shall be final.

## PART SIX

### Final Provisions

#### Article 67

Firstly - The member of Public Prosecution shall be rejected as the judge is rejected too, and the request of rejection should be

submitted to the President of Public Prosecution for discussing therein.

Secondly - The member of Public Prosecution, has the right, if he has ascertained thereof the reason for rejection or he even realized critical situation, then he must demand the relinquishment.

Thirdly - The decision issued in respect of the demand of rejection and relinquishment shall be considered final.

#### Article 68

It is impermissible to arrest the member of Public Prosecution as well as taking Criminal measures against him if is not committing a crime of flagrante delicto, unless after taking the permission from Minister of Justice.

#### Article 69

The Public Prosecutors and their deputies who are in the service on coming into force of this Laws shall be considered as they are appointed in accordance with its provisions, the period which has been spent in practicing the advocacy or any one of the judicial and legal posts after graduation in the college shall be taken into consideration in defining their classes, provided that it shall be considered as a basis for the appointment in the first time of the Public Prosecution's posts, the minimum limit salary for the (Fourth) Class which is (75/— Dinars) for the purpose of defining the class.

#### Article 70

Regulations and instructions may be issued to facilitate the execution of provisions of this Law.

#### Article 71

Firstly - The Articles from (30) to (38) of the Law of Criminal Procedures No. (23) of 1971 (as amended) shall be deleted.

Secondly - Any text contradicting with the pro-

# LAWS

visions of this Law shall be null and void.

## Article 72

This Law shall come into force after Thirty days from its publication in the Official Gazette.

Saddam Hussain  
Chairman of the  
Revolutionary Command Council

(Published in the Alwaqai Aliraqiya  
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## STATEMENT OF GROUNDS

Starting from factual findings of political, social and economic development and what the Revolution Authority aims at of supporting the socialist system, maintaining its fundamentals and its teachings, protecting the State security and its safety. And aspiring to peoples democracy, training the citizens on the spirit of respect to the rules of new mutual life and starting from the central tasks of public prosecution in protecting the social community and achieving Justice by its participation with judicature and competent authorities in speedy detection of the criminal acts and imposing the penalties provided for them. Therefore it became inevitable to bring out the positive and effective role of public prosecution by regarding thereof as fundamental organ for controlling legality and respect of applying the law.

As texts concerning public prosecution contained in the Criminal Procedure Law have become inadequate for achievement the aspired good of this organ, but it became an obstacle in the way of its progress and to its occupation of the proper position to participate in building the new society and in execution of what is provided for in the Interim Counstitution of the necessity for organization of public prosecution organ

with Law. Therefore, this Law concerning public prosecution has been prepared for the first time in the history of the Country, which deals with definition of its aims, tasks, its formation, jurisdictions of its members and their duties, and organization of service affairs in judicature. The Law has adopted new principles in respect of public prosecution as it expanded its legal powers which contained, in addition to its jurisdictions in the criminal matters, its defence for public right in civil suits in which the State is a party therein and in some suits of personal status for protection of family and childhood. The Law has also created new posts that maintain to carry out the duties entrusted to public prosecution and to organize the process of its works in a better way.

The Law has distinguished in the field of service between the raising of member of public prosecutor and his promotion for the purpose of developing his legal and cultural level as it links the matter of his raising by reaching a certain level in this field.

It also adopted the principle of full time devotion of a member of public prosecution for carrying studies relating to the judicial and juridical jurisdictions which participate in developing the public prosecution organ. It has formulated just rules for electing its members for the main posts therein and another rules for transfer relating to their classes. Therefore this Law has been enacted.

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