

Please note: This is an English translation of the original Arabic summary of the draft Iraqi labour law presented by Senior Deputy Noori Muhsin Al-Hilfi, of the Iraqi Ministry of Labour at a public seminar on 26 May 2010. While all attempts have been made to ensure the accuracy of this translation, please refer to the Arabic draft labour law for the complete and definitive text, a copy of which is available from: www.iraqitradeunions.org

A Brief Explanation of the new Labour Law

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A team of ministerial experts, joined by ministry workers - both management and clerical - have been preparing a draft for the above-mentioned Law. They have had the advice and guidance of Ministry employees, headed by the Minister engineer Mahmood Al-Sheikh Radhi and his Deputies, in particular the project supervisor Senior Deputy Noori Muhsin Al-Hilfi. The most significant aspect of the reviewed and revised Draft defines the principals of the constitution, stating that work is the right of all Iraqis, and is essential for a happy and prosperous life. The draft also defines the relationship between employees and employers, and because the State guarantees the establishment of Trade Unions and Professional Association Organisations it states the rules or articles which exist in The Arab Labour Organisation and International Labour Organisation agreements. The greatest drive behind the design of the new Law, and one of the most important reasons for this constitutional project, is the length of time since the Labour Law was originally set up (No. 71 in the year 1987) and the fact that it subsequently became unsuited to the circumstances of the New Iraq, thus making it necessary to delete or amend some of its rules and articles. Another reason is to abolish the decision of the dissolved Revolutionary Command Council (No.150 in the year 1987) which made all Government employees into Civil Servants, which in turn had a negative impact as it coincided with the decision to decrease the number of independent workers in the country and then curtailed and decreased the number and power of the Trade Unions.

This Labour Law is comprehensive in dealing with the rights, duties and commitments involved in all aspects of production (for employers and employees) and in establishing a balance between them. The government is represented by The Ministry of Labour, sponsoring and supporting both parties (ie employers and employees) in this Law. There are 18 Chapters and 170 Articles, starting with Chapter One (Definitions) to Chapter 18 (Work Trial). Those who examine the detail of the Law will observe that its purposes are to protect and support both the work force and employers; to help the workers to find appropriate work through training; to help employers to recruit the right workers for the right job; to protect the Trade Unions and Workers Associations; and to organise the foreign workers who are interested in working in the Republic of Iraq.

This draft labour law ensures that public sector workers in all the government departments have the right to belong to and join unions.

Chapter THREE: The Basic Principles of this chapter is:

The worker who is subject to this article is entitled to an annual salary increase, beginning when the

worker completes a full year with the employer, and continuing on that anniversary each year thereafter; and the percentage increase is specified by the Minister.

It is also stated in this Chapter that the freedom of work is protected and it is not permissible to restrict or deny working rights. It is the policy of the State to legislate and reinforce full employment and production and to respect the principles and rights under this Law, specifically the following: the right to form and belong to Trade Unions and to organise for collective bargaining; and to eliminate all forms of compulsory labour and child labour; to forbid discrimination in service, professions and training; to forbid the tying of an employee to a particular work; to promote equality in wages and specify the minimum wage for the particular job.

Chapter FOUR: Work and Professional Training.

A 'Higher Committee for Planning and Employing Workers' is formed by a decree from the Prime Minister, headed by the Minister and including representatives of all related Ministries and with a majority of representatives from workers organisation and employees organisations. These will take part in drawing up the general policy for work and professional training, and the duty of the Job Centres, which is: to offer workers and the unemployed a free service to find them a job according to the available opportunities, and to collaborate with the private sector, co-operative sector, public sector and mixed sector. This collaboration is meant to organise the labour market aims to achieve full employment and to safeguard it, to develop human resources, to help the workers to find suitable jobs and also to help employers to find suitable workers.

In the same Chapter there are some articles relating to professional training. This is targeting youth training through pre-employment training as well as re-training for the unemployed and for those who are at risk of unemployment in order to develop their skills and potential as well as increase their professional efficiency and productivity. In such cases the Job Centre plays the role of offering advice about the skills required and the appropriate training programs. This is all to be given to the general and private professional training centres, who also organise work opportunities after the training.

The Job Centre will take over arranging employment following training, and there is a new principle for training which allows the related Ministry to train its employees in private companies or non-governmental organisations as long as they have a permit from the Ministry of Health which ensures that they are subject to scrutiny and monitoring to check their suitability. The law also grants the Minister the right to grant the trainee financial support during their training period. The amount is specified by the Minister for this purpose.

Articles in Chapter FIVE: Concerning Expatriates.

It is forbidden for the Departments and the employers to employ any foreigner, no matter whoever he or she is, to join any position before they have a permit issued by the Ministry. The law also states that the employer is committed to providing the worker whom they brought into the country with a return ticket to their country of origin unless the employee has had a lot of illegitimate absence during the period of his contract.

The employer is responsible in the event of the death of the foreign employee for the cost of repatriating his body to his home or place of residence if his people request it, and if that is not

possible the specified Trade Union will take responsibility then will be reimburse what is allowed by law. The law authorises the Council of Ministers to issue a decree to bring in or employ foreign workers upon a request from the Minister (The Minister of labour).

Articles in Chapter SIX: the first and second sections: The Contract of Employment

These sections deal with the individual employment contract: signing the individual employment contract and terminating the employment contract. The individual employment contract must be written with 3 identical signed copies and must include the following:-

- the name and address of the employer, and the nature of the work; the name of the employee, his date of birth, qualifications, place of residence and nationality;
- the nature and type of the work, the length and the starting date of the contract;
- the principal salary plus any allowances, any extras or increases, benefits or awards which he (the worker) is entitled to; the agreed place and the time of payment; and
- the number of working hours agreed upon and how they are organised.

Termination of employment will occur in any of the following cases:

- the death of the employee;
- imprisonment of an employee by a court for more than one year; in the case of imprisonment for less than one year then the employee should be returned to work, but without payment for the period of his absence through imprisonment or arrest;
- the death of the employer if it is a private company and if it is impossible for the heirs to renew the contract as part of the inheritance;
- in case of liquidation of the business, either by a court or at the employers' own request, with the Minister's agreement;
- If both employer and employee agree, in presence of the worker's representative;
- termination if it is specified in the contract;
- resignation of the employee on condition that the employee should give the employer at least 30 days notice prior to the day of termination; and
- in the event of unavoidable circumstances.

And also the employer can dismiss the employee in the following cases:

- if the employee becomes ill , to the extent that his capacity to work is reduced by 75%, and this is certified by an official medical report;
- if the employee becomes ill to the extent that he will not recover for 6 months from the start of the illness, and this is certified by an official medical report;
- if the employee reaches retirement age;
- if the work project or contract shrinks in size and if this is confirmed by the Minister;
- if the employee breaks the terms of his contract or fails in his duties;
- if the employee uses a false name or identity or has forged documents; and
- if the employee does not pass his probation period. If the employee commits a major fault, resulting in a substantial loss or delay in production for the company.

Articles in Chapter SEVEN: Fees and Salaries.

Salaries are to be paid in Iraqi currency unless stated otherwise in the contract. Salaries are paid by cheque or Bank Transfer, and are paid during the working week. They are paid weekly or monthly and in the work place.

There must be equality in salary between men and women for work of the same nature.

All outstanding salary due to any employee who dies will be paid into his estate in line with legal requirements.

The law forbids the employer from limiting the employee's freedom in using his expenses the way the employer chooses, for example, through forcing the employee to buy goods from the employer. The employer must provide the employees with essential goods and the services at subsidised prices where these are lacking.

It is not permitted to reduce salaries or wages, or to freeze them, except where a court of law decrees it.

A committee should be set up by the Minister to review the minimum wage for unskilled employees on a regular basis. This committee should include the following:

- General Manager of the Department of Work and Professional Training - Chair or President;
- Representative of Pensions Department and the Department of Work & Social Security - Member;
- Representative of Department of Work and Professional Training-Member;
- Representative of Ministry of Planning - Member;
- Representative of trade union organization, from the most widely subscribed workers organisation—Member;
- Representative of federation of employers, from the largest employer group;
- Two expert members with relevant experience and specialisations in areas such as salaries and politics. These would be chosen by the Minister.

Articles in Chapter EIGHT: Working Hours.

This means the times that the employee must be available to the employer for work; this does not include break times or meal times (lunch, dinner or supper); and working hours should not exceed 8 hours a day.

Articles in Chapter NINE: Holidays.

This states that the worker should have leave time and be able to enjoy all official public holidays. Employees should get full wages for this, except for Saturdays, and they should get one paid day off per week.

It is possible to require the worker to work during holidays and public holidays, apart from the weekly day off, but this must be on double payment. The employee is entitled after one year's service to 20 days paid holiday per year.

Articles in Chapter TEN: Protection of Women Workers.

The law states that any employer who employs one or more women workers must adhere to the state regulations set up to protect women workers. The law forbids obliging pregnant women workers to perform work that is deemed by the health authorities to be harmful to the health of the

woman or her unborn child. It is not allowed to ask women workers to do night work, except for women working in management, the commercial or health sectors, entertainment or transport and communication. The law guarantees women workers 72 days of paid maternity leave per year.

The law guarantees women workers the right to return to their original position, or a similar position on the same wage, following their maternity leave. The law guarantees women with young children free time to feed their infants but this must not exceed one hour in one working day. This baby-feeding hour is considered a full working hour.

Articles in Chapter ELEVEN: Protection of Young Children.

The law prohibits the employment of children in jobs that are deemed unsuitable and may result in damage to the child's health or safety. These jobs include working underground or underwater or in dangerously high place or in confined work places or operating heavy machinery or handling dangerous materials or carrying heavy weights. Children are allowed to work in permitted jobs but only after these jobs have been properly examined and approved by a medical committee who will confirm the physical suitability/unsuitability of the work, and the children's capacity or lack of capacity, to perform such jobs. This shall remain under such scrutiny until the children reach the age of 18 years.

Articles in Chapter TWELVE: Protection of Miners, Stone or Mineral Quarry Workers.

This chapter deals with the following specialised matters:

- Research, exploration and discovery of mineral and stone materials;
- Extraction, condensation or processing the mineral deposits whether they are above ground or underground;
- It is not permitted to employ a worker in these jobs without the prospective worker undergoing a medical test to determine that he or she is fit and healthy enough to carry out the duties of the particular job; and
- A medical examination should be carried out on persons employed in these roles before termination of their contracts, to ensure that the employee did not suffer any damage to his health due to the nature of the job.

Articles in Chapter THIRTEEN: Professional Health and Safety and Inspecting Work

This states that it is essential for employers and employees to cooperate fully in the matter of health and safety and in all efforts to improve working conditions in terms of the projects and the pace of work.

The law states that it is the duty of the workers while at work to cooperate with their employers to enable them to fulfil obligations in the area of Health and Safety at work.

Part two of the same Chapter relates to the inspection procedures for projects and places of work, both of which are subject to the Labour Law. It is stated that that work projects and premises should be inspected under the supervision of the Ministry to ensure that the Law is applied to conditions of work and that it protects the employees and protects their principal rights while performing their duties.

The inspection committee (health and safety) is formed from the state headed by an official from the Ministry, with the title of 'Inspector of Work'; a representative of employers, the most representative one and a representative of trade union; and a representative from the national health and safety centre. The Work Inspector must be a graduate with a specialist Bachelors degree and an additional qualification in health and safety approved by the ministry.

The inspector, the employees' representative and the trade unions representatives must take an oath in front of the Minister or his representative before starting their job.

Articles in Chapter FOURTEEN: Discipline at Work

This Chapter states that the employer who regularly has ten or more employees must set out their own internal rules about the time that work starts, the working hours, break times, the weekend break, holidays, basic wages, and overtime conditions.

Articles of Chapter FIFTEEN: Organisation of Trade Unions

This chapter is a new addition to the Labour Law, as it wasn't present in the Labour Law No.71 of the 1987. This is because during Saddam Hussein's time there was the 'Law of Monitoring and Observing'. This Monitoring Law was known as The Watching Organisation Law, No 52 of the year 1987, which has since been abolished. The new law is laid out in the special Chapter relating to Trade Unions (and?)or Labour Law. This Law complies with the International Labour Agreements, which were set up with ten articles specifying the aims of Trade Unionism. (The aim of Trade Union Organisations for Workers is to protect and improve production and bring about economic and social prosperity and to establish the basic rights of workers). Trade Union organisations are as follows:

- General Federation of Iraqi Workers;
- The Trade Unions in Baghdad and in Iraq's provinces;
- Professional associations in Baghdad and provinces; and
- Professional Trade Unions in Baghdad and Iraq's provinces.

Articles in Chapter SIXTEEN: Collective Bargaining and Negotiations.

This consists of eight articles that permit trade unions and federations the right to collective bargaining on behalf of their members at work

Articles in Chapter SEVENTEEN: Industrial Dispute

This deals with individual and collective disputes at work. It is made up of seven articles, which are intended to resolve any disputes between one or more workers' trade union organisation on the one hand, and the Employers' organisation on the other hand.

Articles in Chapter EIGHTEEN: The last section of the Labour Law.

This specifies that there will be one or more Labour Courts in each of the Iraqi provinces, consisting of a judge selected by The Higher Council of Judges, a representative of workers' trade union which is the most widely representative for workers, and also a representative of the largest employer group.

And finally, for all of you respected people, this is a brief summary of the most significant articles of the Labour Law. The reader would benefit, and gain a greater understanding, by reading the above mentioned law itself but we hope this briefing will be found useful.