

COALITION PROVISIONAL AUTHORITY ORDER NUMBER 89

AMENDMENTS TO THE LABOR CODE—LAW NO. 71 OF 1987

Pursuant to my authority as Administrator of the Coalition Provisional Authority (CPA) and under the laws and usages of war, and consistent with relevant U.N. Security Council resolutions, including Resolutions 1483 and 1511 (2003),

Having worked closely with the Governing Council to ensure that social and economic change as necessary to benefit the people of Iraq occurs in a manner acceptable to the people of Iraq,

Acknowledging the Governing Council's desire to bring about significant change to the Iraqi labor law as necessary to improve the condition of the people of Iraq,

Determined to improve the conditions of work, life, technical skills, and opportunities for all Iraqis and to fight unemployment and underemployment with its associated deleterious effect on public security,

Noting that labor by young persons is endemic in Iraq and is deleterious to the health, safety and morals of children,

Further noting that Iraq has ratified International Labour Convention 182 and 138, which requires signatory nations to take affirmative steps towards eliminating child labor,

Recognizing the CPA's obligation to provide for the effective administration of Iraq, to ensure the well being of the children and workers of Iraq and to enable the social and economic functions of everyday life,

Acting in a manner consistent with the Report of the Secretary General to the Security Council of July 17, 2003, concerning the need for the development of Iraq and its transition from a non-transparent centrally planned economy to a free market economy characterized by sustainable economic growth through the establishment of a dynamic private sector, and the need to enact institutional and legal reforms to give it effect,

Having coordinated with the International Labour Organization, as referenced in paragraph 8(a) of U.N. Security Council Resolution 1483,

In close consultation with and acting in coordination with the Governing Council, I hereby promulgate the following:

Section 1
Amendments to the Labor Code

The Chapter of the Labor Code, Law No. 71 of 1987 (the “Labor Code”) entitled “Part VI—Chapter II” is amended to read as follows:

Chapter II - Protection of young persons

Article 90. Prohibition of Child Labor and Definition

- 90.1 The minimum age for admission to any kind of employment or work within the territory of Iraq and on means of transport registered in the territory of Iraq shall be fifteen years.
- 90.2 Unless otherwise indicated, in the present chapter the term "young person" means any person who has not reached eighteen (18) years of age.
- 90.3 Unless otherwise indicated, in the present chapter the term “youth” means any person that has not reached sixteen (16) years of age.

Article 91. Work that young persons are prohibited to perform

- 91.1 Young persons may not be employed to perform work which, by its nature or the circumstances in which it is carried out, is likely to harm their health, safety or morals.
- 91.2 The list of the types of work to which the above provision applies shall be periodically examined and revised as necessary by the Ministry, in consultation with the organizations of employers and workers concerned, and it shall include but not be limited to the following:
- (a) work underground, under water, at dangerous heights or in confined spaces;
 - (b) work with dangerous machinery, equipment and tools, or that involves the manual handling or transport of heavy loads;
 - (c) work in an unhealthy environment that may, for example, expose young persons to hazardous substances, agents or processes, or to temperatures, noise levels, or vibrations damaging to their health;
 - (d) work under particularly difficult conditions such as work for long hours or in certain circumstances during the night or work where the young person is unreasonably confined to the premises of the employer.

91.3 The following shall be considered worst forms of child labor and shall be prohibited:

- (a) all forms of slavery or practices similar to slavery, such as the sale and trafficking of children, debt bondage and serfdom and forced or compulsory labor, including forced or compulsory recruitment of children for use in armed conflict;
- (b) the use, procuring or offering of a child for prostitution, for the production of pornography or for pornographic performances;
- (c) the use, procuring or offering of a child for illicit activities, in particular for the production and trafficking of drugs as defined in the relevant international treaties;
- (d) work which, by its nature or the circumstances in which it is carried out, is likely to harm the health, safety or morals of children. The list of the types of work to which this clause applies shall be periodically examined and revised as necessary by the competent Ministry, in consultation with the organizations of employers and workers concerned.

91.4 Whoever promotes, aids or benefits from acts destined to use child labor under its worst forms shall be guilty of an offense and on conviction shall be liable to prosecution under the Penal Code.

91.5 The Government of Iraq shall design and implement programs of action to eliminate as a priority the worst forms of child labor. To this end it will take specific measures:

- (a) to prevent the engagement of children in the worst forms of child labor;
- (b) to provide the necessary and appropriate direct assistance for the removal of children from the worst forms of child labor and for their rehabilitation and social integration;
- (c) to ensure access to free basic education, and, wherever possible and appropriate, vocational training, for all children removed from the worst forms of child labor;
- (d) to identify and reach out to children at special risk; and
- (e) to take account of the special situation of girls who, because of their gender, may be more vulnerable to some of the worst forms of child labor.

91.6 For the purposes of Article 91, the term “child” shall apply to all persons under the age of 18.

Article 92. Medical examination and supervision of young persons in employment

92.1 Young persons shall not be admitted to employment or work unless they have been found fit for the work in question by a thorough medical examination.

92.2 The medical examination for fitness for employment shall be carried out by a qualified physician approved by the competent authority and shall be certified either by a medical certificate or by an endorsement on the work permit or in the workbook.

92.3 The document certifying fitness for employment may be issued--

(a) subject to specified conditions of employment;

(b) for a specified job or for a group of jobs or occupations involving similar health risks that have been classified as a group by the competent authority.

92.4 The fitness of a young person for the employment in which he or she is engaged shall be subject to medical supervision until he or she has reached the age of eighteen years.

92.5 The continued employment of a young person shall be subject to the repetition of medical examinations at intervals of not more than one year.

92.6 The medical examinations required by the preceding articles shall not involve the young person, or his or her family, in any expense.

92.7 The term "the competent authority" means the Ministry in charge of labor or the Ministry in charge of health or both.

Article 93. Hours of work and annual leave of young person

93.1 A young person who has not reached eighteen (18) years of age may not work for more than seven (7) hours per day.

- 93.2 Daily hours of work shall include one or more rest periods totaling at least one (1) hour in order to allow the young person to rest; the rest periods shall be arranged so that no period of work lasts more than four (4) consecutive hours.
- 93.3 Young persons who have been admitted to work shall have the right to thirty (30) days paid annual leave per year.

Article 94. Creation and posting of provisions and maintenance of register of young persons

- 94.1 An employer who employs young persons who have been permitted to work in accordance with the law shall post at the workplace a copy of the provisions regarding the protection of young persons at work.
- 94.2 The employer shall also maintain a register specifying their names, ages and the work to which they have been assigned.
- 94.3 The employer shall be required to file and keep available to labor inspectors the medical certificate for fitness for employment that is specified under article 92, or to provide the labor inspector with the reference of the register where the certificate is filed.

Article 95. Liability in the Event of Unlawful Employment

When an employment relationship exists between an employer and a young person who, under the provisions of this law, is not permitted to work yet is working unlawfully, the employer shall, upon discovery of the working young person, be obligated to:

- a.) pay the young person the agreed wage for work of a similar quality and kind as if completed by an adult, and
- b.) compensate him or her if he or she has an accident during or as a result of work, regardless of who was at fault, and
- c.) immediately cease employing all young persons working unlawfully.

The provisions of Article 95 shall not affect the application of any other criminal or civil recovery in regards to this chapter.

Article 96. Exclusion of young persons in family enterprises

Other than the provisions set forth in Sections 91.1 through 91.4, which shall apply with respect to all young persons irrespective of the circumstances of their employment, the provisions of this law do not apply to youths that have reached the age of 15 and are engaged in a family enterprise under the authority or supervision of the youth's spouse, father, mother, brother or sister.

Article 97. Penalties

Any person infringing the provisions on the protection of young persons as provided in chapter II of this Part shall be guilty of an offense and on conviction shall be liable to imprisonment for a period of ten (10) days to three (3) months, or to a fine from twelve (12) times the daily minimum wage to twelve (12) times the monthly minimum wage.

The Part of the Labor Code entitled "Part IX" in the 1987 is amended to read as follows:

PART IX – TRANSITIONAL AND MISCELLANEOUS PROVISIONS

Article 170. Non-retroactive effect

The rights to which workers are entitled by virtue of prior laws and that involve a period prior to the entry into force of this law as amended shall be dealt with in accordance with the provisions of those laws.

Article 171. Records maintained by the employer

171.1 The employer shall maintain the following records:

- (a) a register of workers' names
- (b) a register of workers' wages
- (c) a register of workers' hours of work
- (d) a leave register
- (e) a register of young persons employed
- (f) a register of inspection visits

171.2 The Ministry shall draw up and maintain models for the registers referred to in section 171.1, above.

Article 172. Ministry to issue regulations and instructions

The Ministry shall issue instructions, regulations and orders to facilitate the implementation of this law, no later than three (3) months from the date of coming into force of the present law. The Ministry shall continue to issue instructions, regulations and orders from time to time as may be needed to effectively implement, clarify or augment this law.

Article 173. Repeal of laws

Any law (to include any statute, ministerial instruction, order, or Revolutionary Command Council resolution) that is inconsistent with this law as amended is hereby suspended to the extent of such inconsistency.

Section 2

Amendments to Fines and Penalties

The Chapter of the Labor Code, entitled “Part II - Chapter I Employment” is amended as follows:

Article 24. Penalties

- 24.1 Any person or entity violating the provisions of this chapter relative to the employment of workers shall be guilty of an offense and on conviction shall be subject to a fine in an amount between three (3) times the daily minimum wage and three (3) times the monthly minimum wage per violation.
- 24.2 Any person or entity violating the provisions of this chapter relative to the employment of foreigners, shall be guilty of an offense and on conviction shall be subject to a fine in an amount between three (3) times the daily minimum wage and three (3) times the monthly minimum wage per violation.

The Chapter of the Labor Code, entitled “Part III - Chapter II Protection and Determination of the Wages” is amended as follows:

Article 53. Penalties

Any person or entity violating the provisions of this chapter, relative to wages, shall be guilty of an offense and on conviction shall be subject to a fine in an

amount between six (6) times the daily minimum wage and six (6) times the monthly minimum wage per violation. If the violation concerns paying a wage that is lower than the minimum wage for an unskilled worker, the party shall be subject, in addition to paying the fine imposed, to pay the worker compensation in an amount that is two (2) times the difference between the wage paid and the minimum wage.

The Chapter of the Labor Code, entitled “Part IV - Chapter II, Section (ii) Sick Leave” is amended as follows:

Article 79. Penalties

Any person or entity violating the provisions of this chapter, relative to hours of work, shall be guilty of an offense and on conviction shall be subject to a fine in an amount between three (3) times the daily minimum wage and three (3) times the monthly minimum wage per violation.

The Chapter of the Labor Code, entitled “Part VI Chapter IV Work Precautions” is amended as follows:

Article 113. Penalties

Any person who infringes the provisions regarding occupational safety measures contained in this chapter shall be liable to a fine of from twelve (12) times the daily to twelve (12) times the monthly minimum wage, or to imprisonment ranging from one (1) to six (6) months.

The Chapter of the Labor Code, entitled “Part VI Chapter V Work Inspection” is amended as follows:

Article 118. Penalties


- (2) Any person who impedes the labor inspector or the inspection committee in entering the work premises for purposes of inspection or who interferes in any way with the fulfillment of the committee’s activities shall be liable to a fine of from twelve (12) times the daily to twelve (12) times the monthly minimum wage, or to imprisonment ranging from one (1) month to six (6) months.

Section 3
Transitional Minimum Wage Benchmark

- 1) For the purpose of the fines established in this Order, the minimum wage shall be defined as the hourly equivalent of the wage of a Grade 11, Step 1 public employee as established in CPA Order Number 30 (CPA/ORD/1 September 2003/30) until such time as the official minimum wage is established by the appropriate authority.
- 2) For the purpose of calculating the fines in this Order, the workday shall be deemed eight (8) hours long.

Section 4
Entry into Force

This Order shall enter into force on the date of signature.

 5/30/04

L. Paul Bremer, Administrator
Coalition Provisional Authority