

## **COALITION PROVISIONAL AUTHORITY ORDER NUMBER 92**

### **THE INDEPENDENT ELECTORAL COMMISSION OF IRAQ**

*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 Resolution 1483 (2003), and Resolution 1511 (2003);

*Reaffirming* the right of the Iraqi people, as recognized in Resolutions 1483 and 1511, to freely determine their own political future;

*Noting* that the Law of Administration for the State of Iraq for the Transitional Period (the “TAL”) provides for the Iraqi people to choose their government through genuine and credible elections to be held no later than 31 January 2005;

*Determined* to achieve the transitional goals of the TAL, including the drafting and ratification of a permanent constitution, and the establishment of an elected government under that constitution;

*Underscoring* the need for international cooperation to achieve these goals and the essential role to be played by the United Nations and other internationally recognized experts in electoral administration;

*Committed* to establishing an impartial and internationally recognized body of Iraqi professionals and expert advisors to coordinate and oversee genuine and credible elections in Iraq;

*Having* consulted extensively with the Iraqi Governing Council and representatives of the United Nations, I hereby promulgate the following:

#### **Section 1 Purpose**

This Order establishes the Independent Electoral Commission of Iraq (the “Commission”) and empowers the Commission to organize, oversee, conduct, and implement all elections set forth in the TAL. The Commission is structured to ensure complete independence from political influence and to benefit from close consultation with international entities, such as the United Nations, that have impartially and effectively administered genuine and credible elections in nations emerging from periods of tyranny, conflict, and violent strife.

## **Section 2 Definitions**

For purposes of this Order, the following definitions shall apply. Words importing the singular include and apply to several persons, parties, or things; words importing the plural include the singular; and words importing the masculine gender include the feminine:

- 1) “Transfer of Authority” means the formal transfer of governmental authority from the Coalition Provisional Authority to the Iraqi Interim Government.
- 2) “Transitional Period” means the period commencing with the Transfer of Authority and lasting until the formation of an elected Iraqi government pursuant to a permanent constitution.
- 3) “Iraqi Interim Government” means the government that will assume governmental authority on 30 June 2004 and retain such authority until the formation of the Iraqi Transitional Government.
- 4) “Iraqi Transitional Government” means the government that is to be established after nationwide elections occurring no later than 31 January 2005.
- 5) “Elections Law” means the law that will govern elections during the transitional period.
- 6) “Political Parties Law” means the law that will govern the recognition of political entities in Iraq during the Transitional Period.
- 7) “Council of Judges” means the independent body of judges and other impartial officers that was re-established in CPA Order No. 35.
- 8) “Higher Juridical Council” means the independent body that will assume the role of the Council of Judges upon the Transfer of Authority, as set forth in Article 45 of the TAL.
- 9) “Disqualifying Crime” means a crime committed with intent to cause bodily harm to an individual or group of individuals.

### **Section 3**

#### **Establishment of the Commission**

- 1) The Independent Electoral Commission of Iraq is hereby established as an independent and autonomous, non-partisan, neutral and professional government office that shall have authority to promulgate, implement, and enforce regulations, rules and procedures with the full force of law in connection with elections during the Transitional Period. It is independent of the executive, legislative and judicial branches of government, and it shall be the exclusive electoral authority throughout Iraq during the Transitional Period. The Commission shall be made up of the Board of Commissioners (the “Board”) and the Electoral Administration.
- 2) The principal duty of the Commission is to ensure the successful administration of elections in accordance with the TAL. To that end, the Commission is empowered to take all necessary measures consistent with Chapter Two of the TAL to oversee and administer genuine and credible elections throughout Iraq. The Commission will benefit from the experience of international electoral experts, including, especially, the United Nations.
- 3) The Commission shall have the following principal functions, in addition to any other function the Board finds appropriate for carrying out the Commission’s electoral functions:
  - a) Determine, establish, develop, certify, subdivide, and maintain the voter roll;
  - b) Help build societal support for and confidence in the electoral process throughout Iraq;
  - c) Regulate and conduct the registration and certification of political parties;
  - d) Regulate and conduct the registration and certification of candidates for office;
  - e) Accredite election observers and other officers engaged in monitoring and/or observing elections in Iraq;
  - f) Manage the polling and ballot tabulation activities;
  - g) Adjudicate electoral grievances and disputes; and
  - h) Certify election results.

### **Section 4**

#### **The Board of Commissioners**

A Board of Commissioners (“Board”) shall head the Commission. The Board shall have the exclusive authority to promulgate, implement, and enforce regulations, rules, procedures and decisions, and take any other action consistent with Chapter Two of the TAL to ensure the successful organization, planning, implementation and oversight of nationwide and local elections throughout Iraq. The Board shall act

strictly within its mandate under this Order and shall not attempt to regulate or exert influence over activities that are not fairly related to the administration of elections during the Transitional Period.

## **Section 5**

### **Board of Commissioners Organization**

- 1) The Board shall consist of nine members, including seven voting members who shall be Iraqi citizens, and two non-voting members. The two non-voting members shall be the Chief Electoral Officer (“CEO”) as described in Section 6(2) of this Order and an international electoral expert to be chosen by the United Nations. The Board’s seven voting members shall serve until a new Commission is formed after the end of the Transitional Period, or until three months after the certification of the first election conducted under a permanent constitution, whichever is shorter. Board decisions shall, wherever possible, be taken on consensus. Where consensus cannot be reached, a simple majority of the voting members present – provided that a quorum is present – shall prevail unless this Order stipulates otherwise.
- 2) Iraqi nationals and Iraqi organizations may propose nominees for the Board’s seven voting members to the United Nations. Drawing from these nominations, the United Nations will create a list of qualified candidates and present it to the Governing Council, which will rank candidates from the list for appointment by the Administrator. Thereafter, the Administrator shall appoint the Board’s seven voting members. The Secretary General of the United Nations shall appoint the international electoral expert to serve as a non-voting member of the Board.
- 3) All voting members of the Board shall be Iraqi citizens and shall be chosen based on their reputation for impartiality, integrity, rectitude, professionalism and good judgment and must meet the criteria in Article 31(B) of the TAL. Persons who will be deemed an Iraqi citizen pursuant to Article 11 of the TAL, or who will be entitled to reclaim Iraqi citizenship pursuant to Article 11 of the TAL, shall fulfill the citizenship requirement for Board membership. Preferred qualifications for Board membership include demonstrated skills in administration, justice, education, commerce, social advocacy, and other forms of civil leadership.
- 4) The seven voting Board members and the CEO shall receive compensation equivalent to the Head of a Ministry and no Board member shall hold paid employment while serving out his or her term, except as permitted by regulations to be promulgated by the Board. In addition, no Board member may hold or run for public office in any capacity with any government agency at any government level while serving out his or her term.

- 5) Each Board member shall take an oath of office pledging to perform the duties of the office in an independent, non-partisan, neutral and professional manner. The actions of Board members shall be governed by this oath, as well as by rules of ethics to be developed by the Board shortly after its formation. If a Board member is convicted of a Disqualifying Crime, that member can be removed from office by a two-thirds majority vote of the Board. If a Board member knowingly violates the Board's rules of ethics, or suffers permanent incapacitation, that member can be removed from office by a two-thirds majority vote of the disinterested members of the Board, provided that this vote is accompanied by the assent of the Board's international electoral expert.
- 6) In the event of a vacancy before the Transfer of Authority by reason of death, resignation, or removal of any Board member, a new Board member will be appointed pursuant to the procedure in Section 5(2) above. Should such a vacancy arise after the Transfer of Authority but before the election of a National Assembly pursuant to the TAL, the United Nations will present a list of not less than three qualified candidates to the Iraqi head of government, who will appoint a new Board member. Should such a vacancy arise upon or after the election of a National Assembly pursuant to the TAL, the United Nations will present a list of not less than three qualified candidates to the President of the National Assembly, who will appoint a new Board member.
- 7) As the first point of order at the Board's inaugural meeting, the Board shall select a President and Vice President from among its voting members. The President shall manage the Board's regulatory activities and policy discussions; regularly schedule, convene and chair all Board meetings, including any meeting requested by at least four members of the Board; and report on electoral progress to other branches of the Iraqi government, the Iraqi people, and the international community. When the President is unavailable, the Vice President shall assume these duties.
- 8) The Board shall begin hiring staff to service its responsibilities immediately after selection of the President and Vice President. Staffing needs shall be evaluated and completed with the assistance of the United Nations and other appropriate organizations. The Board shall appoint a Secretariat to provide such services as recordkeeping, legal research, secretarial services, and other responsibilities specific to the business of the Board.
- 9) The Iraqi government shall ensure that the Commission receives all of the resources necessary for administering elections throughout the Transitional Period. Notwithstanding the foregoing, the Commission may seek to enlist the international community for appropriate assistance in this regard, including the direct provision of additional funds or resources. All Commission resources shall be solely managed and

obligated by the Commission. The CEO shall be responsible for the accounting of these resources.

## **Section 6**

### **Electoral Administration**

- 1) The Commission shall have an Electoral Administration headed by the CEO and made up of the National Office and Electoral Offices, which shall be established in the governorates and the regions. The Electoral Administration shall answer to the Board and shall be in charge of administering the Board's regulations, rules, procedures, and decisions at the local and regional level throughout Iraq. The structure and precise role of the National Office and the Electoral Offices shall be defined by the Board pursuant to regulations that shall issue promptly after the selection of the Board President and Vice President.
- 2) The CEO, under direction of and subject to oversight by the Board, shall organize the Electoral Administration, including the National Office and the Electoral Offices throughout the country.
  - a) Iraqi nationals and Iraqi organizations may propose nominees for the CEO to the United Nations. Drawing from these nominations, the United Nations will create a list of qualified candidates and present it to the Governing Council, which will rank the candidates prior to submission to the Administrator, who shall appoint one of the qualified candidates as the CEO.
  - b) The CEO shall be an ex-officio non-voting member of the Board and shall serve as the Commission's principal administration and operations officer. The CEO shall provide the link between the Board and the Electoral Administration at the local and regional level throughout Iraq.
  - c) If the CEO is found to have violated the rules of ethics developed by the Board, is convicted of a Disqualifying Crime, suffers permanent incapacitation or is determined to be unfit to serve, the CEO may be removed from the position by a two-thirds majority vote of the Board.
  - d) In the event of a vacancy by reason of death, resignation, or removal of the CEO before the Transitional Period, a new CEO will be appointed pursuant to the procedure in paragraph (a) above. In the event of a vacancy by reason of death, resignation, or removal of the CEO during or after the Transitional Period, the United Nations will present a list of qualified candidates to the Board, which shall select one candidate by a majority vote for appointment as the new CEO.

- 3) The Electoral Administration is wholly subordinate to the Board but separate from the Board's staff and Secretariat established in Section 5(8) of this Order. Accordingly, the CEO shall ensure that the Electoral Administration is staffed with all appropriate resources and personnel at the local and regional levels as soon as practicable after the selection of the President and Vice President.

## **Section 7 Dispute Resolution**

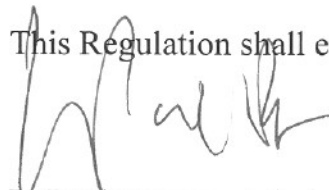
- 1) The Board has exclusive jurisdiction with respect to the civil enforcement of its own procedures and regulations. The Board may refer a criminal case to appropriate authorities if it finds evidence of criminal misconduct relating to the integrity of the electoral process.
- 2) Except as provided herein, and in Section 7(3) of this Order, the Board has exclusive jurisdiction to resolve disputes arising out of the preparation for and execution of national, regional and governorate elections throughout the Transitional Period. The Board shall promulgate necessary procedures for resolving such disputes, including procedures for filing a claim and conducting expedited factual inquiries, and may delegate jurisdiction to resolve disputes in the first instance to the Electoral Administration .
- 3) Decisions of the Board may be appealed only to a Transitional Electoral Panel (the "Panel") composed of three judges appointed by the Higher Juridical Council. Panel judges are not members of the Commission for the purpose of Article 51 of the TAL and are not required to sit exclusively on the Panel. Any work associated with the panel, however, must take priority over all other matters.
- 4) Appellate review shall only be permissible for final decisions of the Board, and no Board decision may be overturned unless the Panel determines that the decision was arbitrary, capricious, in excess of jurisdiction, or rendered in bad faith. Administrative and interlocutory decisions may not be appealed. Decisions by the Board are binding until overturned by the Panel. An appeal of any final decision must be submitted by an individual or entity directly implicated in the decision within two days of the publication of the decision. Such appeals may be submitted to the National Office or any Electoral Office.
- 5) Within two days of submission of any appeal, the Panel must determine if the appeal satisfies the jurisdiction and standing requirements set forth in this Section 7(4).
- 6) If the Panel determines that the appeal has adequate jurisdiction and standing, such appeal must be decided within ten days of that determination. All decisions of the

Panel shall be final and not subject to review by any other authority, including a judicial authority. If an appeal is not decided by that deadline, the decision of the Board will continue in force and may not be overturned.

- 7) Upon its formation, the Panel shall establish general procedures consistent with this Order for resolving appeals. Such procedures must be submitted to the Board for review and approval.

**Section 8**  
**Effective Date**

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

 5/31/04

L. Paul Bremer, Administrator  
Coalition Provisional Authority