



IECI REGULATION 12 / 2005

ELECTORAL OFFENCES

Preamble

CPA Order number 92 of 31 May 2004 established the Independent Electoral Commission of Iraq (IECI) to be the exclusive electoral authority in Iraq. It is an independent and autonomous, non-partisan, neutral and professional government office, with the authority to promulgate, implement, and enforce regulations, rules and procedures with the full force of law in connection with elections during the Transitional Period.

This Regulation elaborates on the legal framework already in place, and is issued in consequence of the authorizations given in the TAL and in CPA Orders 92, 96 and 97.

Section 1 Terminology

For purposes of this Regulation, the following definitions shall apply:

- 1.1 “TAL” means Transitional Administrative Law;
- 1.2 “Political entity” means any organization or individual, as defined under CPA Order 97, Section 2 and IECI Regulation 03/2004;
- 1.3 “Commission” and “IECI” mean the Independent Electoral Commission of Iraq, as established by CPA Order number 92;
- 1.4 “Board” means the Board of Commissioners of the IECI;
- 1.5 “Officer of the IECI” includes:
 - 1.5.1 any member of the staff of the IECI;
 - 1.5.2 any other person employed for the purpose of undertaking electoral functions in conjunction with the IECI.
- 1.6 “Election” means any of the elections which are scheduled to take place during the Transitional Period;

- 1.7 “Electoral rules” means any valid regulations, rules, procedures or IECI decisions which relate to an election;
- 1.8 “Campaign period” mean the period of time when political entities are permitted to conduct campaign activities;
- 1.9 “Offence” means any breach or failure to comply with the provisions of this regulation;
- 1.10 “Identification document” means a document which serves as evidence of a person’s identity;
- 1.11 “Eligible voter” means any person who satisfies the nationality and age requirements for eligibility, as defined under CPA Order 96 and IECI Regulation 02/2004, to vote in the elections scheduled in January 2005;
- 1.12 “Accredited electoral observer” means a person who has been accredited under the electoral rules to observe an election;
- 1.13 “Registration centre” means a location where voter registration, or a process prescribed by the electoral rules and related to voter registration, is to take place;
- 1.14 “Polling centre” means a location where polling is to take place;
- 1.15 “Counting centre” means a location where the counting of votes is to take place;
- 1.16 “Weapon” means any object that may be used to attack or injure people (such as firearms, ammunitions or explosives), including imitations thereof.
- 1.17 “Undue advantage” means any benefit which is not given for legitimate reasons

Section 2

Possession of weapons inside or around a registration centre, polling centre or counting centre

- 2.1 It shall constitute an offence if any person, except a member of the security forces who is there at the request of an officer of the IECI, carries a weapon in, or within one hundred (100) metres of, a registration centre, polling centre or counting centre.

Section 3

Disturbance and obstruction of the electoral process

- 3.1 It shall constitute an offence if any person or political entity incites violence of any kind related to the electoral process.
- 3.2 It shall constitute an offence if any person intentionally:
 - 3.2.1 obstructs any proceedings undertaken under the electoral rules; or
 - 3.2.2 obstructs an officer of the IECI in the exercise of his or her powers or in the performance of his or her duties and functions.
- 3.3 It shall constitute an offence if any person, directly or indirectly, uses undue influence to effect the obstruction of any elements of the electoral process, where the following acts are deemed to constitute undue influence:
 - 3.3.1 using or threatening to use force or intimidation against any person;
 - 3.3.2 inflicting or threatening to inflict any bodily or psychological damage, upon any person;
 - 3.3.3 inflicting or threatening to inflict any damage or loss upon the property of any person; or
 - 3.3.4 using any fraudulent device.
- 3.4 It shall constitute an offence if any person:
 - 3.4.1 while in a registration centre, polling centre or counting centre, disobeys a legitimate direction given by the officer of the IECI in charge of that centre; or
 - 3.4.2 enters or remains in a registration centre, polling centre, or counting centre without the permission of the officer of the IECI in charge of that centre.
- 3.5 Section 3.4.2 does not apply to officers of the IECI, accredited election observers or political entity agents within the established numerical limit, or to registrants or voters who remain no longer than is reasonably necessary.

Section 4 Bribery

- 4.1 It shall constitute an offence if any officer of the IECI intentionally requests, receives, or accepts an offer of any undue advantage, for himself/herself or for anyone else, to act or refrain from acting in the course of her/his duties.
- 4.2 It shall constitute an offence if any person intentionally gives or offers, directly or indirectly, any undue advantage to anyone in order to improperly influence the actions of any officer of the IECI, in the course of her/his duties.
- 4.3 It shall constitute an offence if any person intentionally requests or accepts the offer of any undue advantage, in consideration of improper influence as mentioned in 4.2 above.
- 4.4 It shall constitute an offence if a person requests, accepts a promise of, or receives, directly or indirectly, any undue advantage, for himself or herself or for anyone else, in order to affect any person's voter registration, vote, or support of, or opposition to, a political entity.
- 4.5 It shall constitute an offence if a person gives or offers, directly or indirectly, any undue advantage to another person, in order to influence or affect the registration or the vote of that person or any other person, or the support of, or opposition to, a political entity by that person or any other person.
- 4.6 A legitimate declaration of public policy or a promise of public action does not constitute an offence pursuant to sections 4.1 to 4.5 above.

Section 5 Impersonation and fraud

- 5.1 It shall constitute an offence if any person:
 - 5.1.1 registers as a voter in the name of some other person whether living, dead or fictitious
 - 5.1.2 knowingly makes any statement under the electoral rules containing false information or allegations;
- 5.2 It shall constitute an offence if any person

- 5.2.1 casts a ballot in the name of some other person whether living, dead or fictitious;
 - 5.2.2 having previously voted at an election, votes again
 - 5.2.3 places anything other than ballots in any ballot box, except as authorized by the electoral rules;
- 5.3 It shall constitute an offence if any person
- 5.3.1 forges or fraudulently destroys any electoral paper or ballot paper, or forges or fraudulently destroys any official marks on any electoral paper or ballot paper;
 - 5.3.2 without due authority, supplies any electoral paper or ballot paper to any person;
 - 5.3.3 fraudulently takes out of any polling centre or counting centre any ballot paper whether blank or completed
 - 5.3.4 without proper authority, destroys, takes, opens, uses, or otherwise interferes with any ballot box, voting compartment, form, document or other equipment intended for use at any registration centre, polling centre or counting centre; or
 - 5.3.5 without proper authority, destroys, defaces, or removes any notice exhibited pursuant to the electoral rules
- 5.4 It shall constitute an offence if a person fraudulently interferes, or attempts to interfere, with the process of counting votes by an officer of the IECL.

Section 6

Infringement of secrecy

- 6.1 It shall constitute an offence if any person, while at a polling centre on polling day:
- 6.1.1 attempts to interfere with a voter when marking his or her vote;
 - 6.1.2 attempts to coerce a person into revealing, against her/his will, information as to the political entity for which s/he is about to vote or has voted
 - 6.1.3 attempts to obtain from a person information as to the political entity for which any other person is about to vote or has voted;

- 6.1.4 attempts to induce any voter to display his or her ballot paper, after he or she has marked it, so as to reveal the political entity for which the voter has marked his or her vote; or
- 6.2 It shall constitute an offence if any person, without due authority, breaks the seal of any packet which has been sealed *at the polling centre or counting centre* pursuant to the electoral rules, or opens such a packet.
- 6.3 It shall constitute an offence if any officer of the IECI, observer, political entity agent, member of the security forces, or journalist who was present at a polling centre on polling day communicates to any other person information which is likely to compromise the secrecy of an individual's ballot against that individual's wishes.

Section 7

Misleading or deceptive announcements

- 7.1 It shall constitute an offence if any person broadcasts, publishes or distributes, or causes, permits or authorizes to be broadcast, published or distributed, anything in relation to the electoral process or results which the person knows, or should know, to be false and which is intended to mislead a voter.
- 7.2 The broadcast, publication or distribution of anything which relates only to public policy, or to the political activity or promises of public action of a political entity or candidate, does not constitute an offence under Section 7.1.

Section 8

Activities of political entities

- 8.1 It shall constitute an offence if any personnel of the Iraqi Armed Forces, including military personnel working in the Ministry of Defense or any offices or organizations subordinate to it, campaign for any political entity or candidate.
- 8.2 It shall constitute an offence if any political entity or candidate conducts any electoral campaigning outside the campaign period.
- 8.3 It shall constitute an offence if, within 100m of a polling centre on polling day, a political entity or candidate conducts any public activity intended to gain

support for itself and its candidates, even if such activity is not defined as electoral campaigning.

- 8.4 Contravention of the Code of Conduct for Political Entities, promulgated by the IECI, shall form an electoral offence under this regulation.
- 8.5 Political entities are responsible for violations of the code committed by their senior members, candidates and agents, and may be held jointly responsible with those people for offences under other sections of this regulation.
- 8.6 Evidence that a political entity actively attempted to prevent its senior members, candidates and agents from committing a violation of the code of conduct or of this regulation may be considered an excuse in the Board's determination of an appropriate sanction for a particular violation.

Section 9 Complaints and Penalties

- 9.1 Complaints and appeals shall be adjudicated as provided under IECI Regulations.
- 9.2 Any aggrieved person, political entity or other organization may present a complaint to the Board. On its own initiative, the Board may consider other matters, even when no formal complaint has been filed.
- 9.3 The Board may, at its own initiative or following a complaint, refer a criminal matter to the appropriate authorities.
- 9.4 Electoral offences shall give rise to effective, proportionate and dissuasive sanctions. One or more sanctions may be applied, depending on the severity of the offence.
- 9.5 The Board may impose sanctions on its staff, political entities, observers and agents, and any other persons it deems to be within its jurisdiction. The range of sanctions available to the IECI includes
 - 9.5.1 Remedial action
 - 9.5.2 Fines
 - 9.5.3 Decertification of a political entity for the elections scheduled for January 2005;

- 9.5.4 Prohibition of an individual from participating in elections scheduled for January 2005, either as a candidate or a member of an electoral administration body;
 - 9.5.5 Disqualification of a candidate from a political entity's candidate list;
 - 9.5.6 Revocation of the accreditation of an observer organization; and
 - 9.5.7 Revocation of an individual observer's or party agent's accreditation;
- 9.6 The IECI will refer any persons it deems to be outside its jurisdiction to the appropriate authorities, who may impose civil or criminal sanctions.
- 9.7 The imposition of a civil sanction for an electoral offence does not preclude the imposition of a criminal penalty under applicable Iraqi law.

Section 10

Modification and Further Regulation

- 10.1 All further matters regarding the definition and sanction of election offences lie with the Commission exclusively.

Section 11

Effective Date

- 11.1 This regulation shall enter into force upon the date of publication of this regulation.
- 11.2 This regulation shall apply only to acts or omissions committed after its entry into force.