

**COALITION PROVISIONAL AUTHORITY
ORDER NUMBER 71**

LOCAL GOVERNMENTAL POWERS

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);

Recalling that the CPA has recognized the Governing Council as the principal body of the Iraqi interim administration, pending the establishment of an internationally recognized, representative government by the people of Iraq, consistent with Resolutions 1483 and 1511, and that the Governing Council, in performing its functions on behalf of the people of Iraq, has appointed Interim Ministers to exercise responsibility for the daily administration of the Iraqi Ministries;

Recalling the adoption of the Transitional Administrative Law (TAL) on 8 March 2004 to govern the affairs of Iraq during the transitional period from 30 June 2004 until a duly elected government, operating under a permanent and legitimate constitution achieving full democracy shall come into being;

Noting that the system of government in Iraq shall be republican, federal, democratic, and pluralistic, and powers shall be shared between the federal government and the regional governments, governorates (also known as provinces), municipalities, and local administrations and that each Governorate shall have the right to form a Governorate Council, name a Governor and form municipal and local councils and that regions and governorates shall be organized on the basis of the principle of de-centralization and the devolution of authorities to municipal and local governments;

Recognizing the Kurdistan Regional Government as the official government of the territories that were administered by that government on 19 March 2003 in the governorates of Dohuk, Arbil, Sulaimaniya, Kirkuk, Diyala and Ninevah, and its right to continue its current functions throughout the transitional period, except with regard to those issues which fall within the exclusive competence of the federal government;

Emphasizing that, consistent with Resolution 1483, the Governing Council and the CPA, each in coordination with the United Nations, are dedicated to working together in a cooperative and consultative process for the benefit of the Iraqi people;

I hereby promulgate the following:

CPA/ORD/6 APR 04/71

Section 1

Purpose

This Order describes the authorities and responsibilities of the governorate, municipal and local levels of government. It implements the principle of decentralization of governing power embodied in the TAL. By appropriately empowering government bodies at the governorate, municipal and local levels, the Order is designed to improve the delivery of public services to the Iraqi people and make the Iraqi government more responsive to their needs. This Order encourages the exercise of local authority by local officials in every region and governorate; recognizes the Kurdistan Regional Government; and shall have no effect on the administration of the territories under that government's jurisdiction on 19 March 2003 in the governorates of Dohuk, Arbil, Sulaimaniya, Kirkuk, Diyala and Ninevah.

Section 2

Governorate Councils

- 1) Each Governorate may form a Governorate Council, which shall be funded from national budget allocations that are separate from the budgets of the ministries and other national institutions.
- 2) The Governorate Councils may set priorities for the provinces; amend, by two-thirds vote, a specific local project described in an annual ministry budget plan, provided that no such amendment shall increase the spending limits set forth in the ministry plans, or interfere with the efficient and uniform execution of national objectives as implemented by specific programs; monitor and recommend improvements in the delivery of public services; represent the concerns of constituents; independently generate and collect revenues by imposing taxes and fees; organize the operations of the provincial administration; initiate and implement provincial projects alone or in partnership with international and non-governmental organizations; and conduct other activities, consistent with applicable laws.
- 3) Governorate Councils shall perform their responsibilities independently from the control or supervision of any ministry. Governorate Councils may, by majority vote, and within two weeks following the appointment, approve or veto the appointment by the ministries of Directors General and local ministerial officials for positions designated as "senior positions" by the Administrator (which designations shall be set forth in an appendix to this Order); establish subcommittees and convene meetings of, or request reports and testimony from, the Directors General; and remove Directors General and officials occupying designated "senior positions" for cause as defined in this Order, by a two thirds vote for removal, provided that Directors General whose official responsibilities directly affect more than one province may be removed only if each of the Governorate Councils responsible for the provinces so affected votes for removal as specified herein. As used in this Order, the term "Director General" shall not apply to the Presidents of Universities in Iraq.
- 4) The members of each Governorate Council shall be selected in accordance with criteria agreed upon by the Governing Council and CPA. All individuals who hold office as Governorate Council members on the effective date of this Order shall continue to hold such office. Should vacancies occur Governorate Councils may add new members who meet the eligibility

requirements set forth in Article 31 of the TAL, through a fair, open and competitive selection process agreed to by two thirds majority of the Governorate Council. Elections for Governorate Councils will take place at the same time as elections for the National Assembly, no later than 31 January 2005.

- 5) The Governorate Councils are hereby authorized to select and appoint Governors and Deputy Governors. Governors and Deputy Governors selected by Governorate Councils prior to the date of this Order are hereby appointed. The Governorate Councils may remove Governors and Deputy Governors for cause as specified in this Order, upon a two-thirds vote. Should vacancies in the positions of Governor or Deputy Governor occur, Governorate Councils may elect a new Governor or Deputy Governor through majority vote of the Council.

Section 3 Governors and Deputy Governors

- 1) The Governor is the head civil official of a Governorate and is accountable to the Governorate Council. The Governor shall direct, coordinate and oversee actions in implementation of the Governorate Council's decisions. The Governor shall be selected, dismissed and replaced in accordance with subsection 2(5) of this Order.
- 2) The Deputy Governors report to the Governor and the most senior Deputy Governor (based on length of public service) shall assume the role of the Governor in the latter's absence.
- 3) Governors and Deputy Governors may attend the regular meetings of the Governorate Councils as non-voting members.
- 4) Governors shall appoint governorate officials, provided that their appointments of Directors General serving directly on the governorate staff and other senior positions, as defined by the Administrator, shall be subject to the approval by majority vote of the Governorate Councils within two weeks following the appointment, except for Directors General, who shall be appointed and removed as specified in Section 2(3) of this Order. Governors shall exercise final authority to remove those officials who they are authorized to appoint, subject to the concurrence, by majority vote, of the Governorate Council.
- 5) To encourage consistent development and application of policies regarding regional matters, Governors shall regularly coordinate with each other on matters of common interest.

Section 4 Local Councils

- 1) Each Governorate may, by majority vote, form sub-provincial regional councils, municipal councils and other relevant local councils organized geographically, such as *Qada'* and *Nahiya*, City Councils, Beladiya Councils and Hayy Councils, as necessary to achieve greater efficiency and economies of scale in coordinating the provision of public services, and to facilitate unified and coordinated administration of cities. Local councils are responsible for representing their constituents; ensuring that public services respond to local needs; organizing the operations of

the local administration; reviewing local ministry plans; collecting and retaining local revenues, taxes and fees; identifying local budgetary requirements through the national budgeting process; and recommending appropriate action to Governorate Councils with respect to government officials, on the basis of misconduct, inefficiency or Ba'athist Party affiliation. They shall assist in initiating and implementing local projects alone or in conjunction with international and non-governmental organizations; and conducting other activities as are granted to them by Governorate Councils, consistent with applicable law.

- 2) The members of each local council, including the Chair, shall be selected in accordance with regulations approved by majority vote of the Governorate Council. All local councils in existence on the date of this Order, and all individuals who hold office as members of such councils of the date of this Order, shall continue to exist and hold office unless removed in accordance with this Order.
- 3) Local councils shall, by majority vote, elect Mayors and Deputy Mayors. Mayors and Deputy Mayors selected by local councils prior to the date of this Order shall continue to hold office, unless removed in accordance with this Order. Local councils may remove Mayors and Deputy Mayors upon a two-thirds vote. Should vacancies occur in the positions of Mayor or Deputy Mayor, local councils may elect a new Mayor or Deputy Mayor through majority vote of the council.

Section 5 **Mayors and Deputy Mayors**

- 1) Mayors (in Arabic "Mudeer al-Nahia," "Qa'im Maqam," and "Ameen") are the senior administrators of local councils and are accountable to the local council. Mayors shall direct, coordinate and oversee actions in implementation of decisions of the local councils, and shall serve as the primary liaison between the local councils and the Governors.
- 2) Mayors shall be elected and removed pursuant to section 4(3) of this Order.
- 3) The Deputy Mayors report to the Mayor and the most senior Deputy Mayor (based on length of public service) shall assume the role of the Mayor in the absence of the latter official.
- 4) Mayors and Deputy Mayors may attend the regular meetings of the local councils as non-voting members.
- 5) Mayors shall appoint local government officials, provided that their appointments of Directors General serving directly on the local government staff and other senior positions, as defined by the Administrator, shall be subject to the approval, by majority vote, of the local council, within two weeks following the appointment. Mayors may, for cause as defined under this Order, remove those officials whom they are authorized to appoint, subject to the concurrence, by majority vote, of the local council.
- 6) Mayors shall meet regularly with all Directors General within their geographic areas of responsibility to monitor, and where authorized by applicable laws and regulations to direct, the delivery of public services.

- 7) Mayors shall meet regularly with other Mayors to ensure that services are being provided equitably and efficiently.

Section 6

Chiefs of Police

- 1) Within each Governorate, there shall be a Chief of Police, responsible for overseeing all civil law enforcement activities within the Governorate.
- 2) Chief of Police vacancies will be advertised nationally by the Ministry of Interior and the Governorate Council shall be notified of such vacancies. Applications for Chief of Police positions shall be sent to the Ministry of Interior, which shall identify fully qualified applicants and provide the names of those applicants to the Governorate Council in a timely manner. The Governorate Council shall, upon a majority vote within two weeks following its receipt of the names of fully qualified applicants from the Ministry of Interior, select the most suitable candidate from these nominees. Chiefs of Police shall be appointed to a 3-year term, which may be renewed.
- 3) Chiefs of Police may be removed by the Minister of Interior, or by the Governorate Council upon two-thirds majority vote, for cause as defined in this Order.
- 4) Under the supervision of the Minister of Interior, the Chief of Police shall prepare an annual policing plan that will take into account local and national priorities. The Governorate Council and Governor will ensure that the Chief of Police is responsive to local policing requirements. Annual policing plans shall become effective upon approval, by two-thirds majority, of the Governorate Council, which shall monitor the implementation of this plan by the Chief of Police. Chiefs of Police shall consult regularly with the relevant Governor and Governorate Council and shall meet weekly with the Governorate Council, or otherwise as agreed.
- 5) Local police chief vacancies will be advertised by the Ministry of Interior at least within the relevant Province, and the Governorate Council shall be notified of such vacancies. Applications for local police chief positions shall be sent to the Ministry of Interior, which shall identify fully qualified applicants and provide the names of those applicants to the Governorate Council in a timely manner. The Governorate Council shall, upon a majority vote, select the most suitable candidate from these nominees. Local police chiefs shall be appointed to a 3-year term, which may be renewed.
- 6) Local police chiefs may be removed by a two-thirds majority vote of the relevant Governorate Council for cause, as defined in this Order.

Section 7

Grounds for Removal

- 1) Members of Governorate Councils, Governors and Deputy Governors, members of Local Councils, Mayors and Deputy Mayors, Chiefs of Police and local police chiefs may be removed only for cause, in accordance with the procedures specified in this Order.

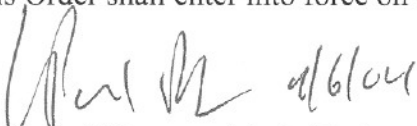
- 2) For purposes of this Order, "cause" shall mean incapacity, serious misconduct in or out of office, dereliction of duty, or abuse of office.
- 3) Officials listed in section 7(1) of this order who are removed for cause as defined herein, and the subordinates of such officials who are removed in accordance with existing Iraqi law on similar grounds, shall be barred from holding any position in the Iraqi government for a period of five years following the removal.
- 4) Individuals who are removed from public office and barred from public service under section 7(2), above, shall have the right to bring suit in Iraqi courts and obtain redress in the form of reinstatement to public office, upon the court's determination that the removal was wrongful.

Section 8 **Effect on Other Laws**

- 1) Any provision of Iraqi law, including but not limited to Law No. 159 of 1969, that is inconsistent with this Order is hereby suspended to the extent of such inconsistency, provided, however, that nothing in this Order shall be construed to eliminate or reduce the authority of provincial or local government entities under existing Iraqi laws and regulations to generate, assess, collect, retain, administer or expend taxes, fees, assessments or similar revenues. Provincial and local government entities may generate, assess, collect, retain, administer and expend taxes, fees, assessments or similar revenues under existing Iraqi law, including the Income of Municipalities Law, No. 130 of 1963, as amended. Notwithstanding existing Iraqi law, Governorates are hereby authorized to impose althma'am of no greater than 5 percent of the relevant taxes.
- 2) Except as otherwise specified in this Order, local government officials shall be hired and dismissed in accordance with applicable Iraqi law.

Section 9 **Entry into Force**

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

Handwritten signature of L. Paul Bremer in black ink, with the date 4/6/04 written to the right of the signature.

L. Paul Bremer, Administrator
Coalition Provisional Authority