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Forensic Medicine

No (37) Of 2013

With its amendment

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Laws

In The Name Of people

Presidency of The Republic

RESOLUTION NO. (36)

Based on what had been approved by the parliament, in accordance with the provisions of Item (First) of Article (61) and Item (Third) of Article (73) of the Constitution, the President of the Republic decided on October 10, 2013 issuing the following law:

FORENSIC MEDICINE LAW NO (37) OF 2013



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CHAPTER FIRST ESTABLISHMENT AND OBJECTIVES

ARTICLE 1

First (Repealed, see Article 1 in the Amendment):

A department shall be established called the Forensic Medicine Department, with its headquarters in Baghdad, linked to the Minister of Health, and enjoying a legal personality, represented by the Director General of the Forensic Medicine Department or his/ her authorized representative.

Second: Forensic medicine sections shall be Established in provincial centres that are administratively linked to the provincial health department (the Office of the Director General) and technically to the Forensic Medicine Department in Baghdad.

Third: The Ministry of Defense may open its own forensic offices headed by a forensic physician, and its work shall be regulated by instructions issued by the Minister of Defense and in accordance with the controls of the Forensic Medicine Law and its instructions.



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ARTICLE 2

The Forensic Medicine Department's aim shall be organizing the work of forensic medicine in Iraq, raising the level of efficiency of its workers and developing its tasks to assist justice.

ARTICLE 3

The Forensic Medicine Department and the Forensic Medicine Departments in the governorates shall adopt the following to achieve its objectives:

- Firstly: Unifying the method of forensic medicine work in Iraq and supervising its implementation.
- Second: Providing scientific and technical expertise to the judiciary and the competent investigative authorities.
- Third: Training medical, health and technical personnel.
- Fourth: Preparing research and studies related to forensic medicine.
- Fifth: Conducting statistical analysis of forensic medicine incidents.
- Sixth: Contributing to the investigation of missing persons, mass graves work and conducting supplementary examinations.



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CAPTER TWO FORENSIC DOCTOR

ARTICLE 4

It shall be considered a forensic doctor:

First: Every doctor holds a specialty in forensic medicine.

Secondly: Every doctor successfully passes an intensive training course in the Forensic Medicine Department whose duration is not less than one calendar year.

Third: Every doctor who has continuous actual practice in the Forensic Medicine Department for a period of not less than two years under the supervision of a forensic doctor, provided that he/ she successfully passes a test conducted by the Forensic Medicine Department.

ARTICLE 5

First: The Forensic Medicine Department shall undertake the following:

- a. Examining the injured to determine the injury and its cause.
- b. Autopsying the bodies and body parts and examining the bones to identify them and to determine the cause of death and answer the questions of the investigating authorities.



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- c. Attending the process of opening the grave to exhume the body to describe it, perform an autopsy to determine the cause of death, or to take any other action requested by the investigating judge.
- d. Expressing a technical opinion on medical incidents presented before the judiciary.
- e. Estimating age and determining gender based on the request of a court or competent official body.
- f. Conducting on-site detection and inspection when necessary.
- g. Examining the incidents resulting from crimes against ethics and public morals.
- h. Examining semen and blood materials and their types.
- i. Examining the hair and indicate its origin.
- j. Analysis of various samples, such as drugs, toxins, gunfire residues, bodily secretions, and others.
- k. Examining tissue samples to confirm their nature and belonging by all methods.
- l. Conducting DNA tests.

Second: The forensic medicine department shall prepare a forensic medical report for every task it undertakes based on a request by the judiciary or the relevant official authorities, and its report shall be confidential.



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ARTICLE 6

The forensic doctor may seek the assistance of specialists and relevant authorities, indicating this in his/ her report.

ARTICLE 7

The court, the public prosecution or the concerned parties may object to the forensic medical report before the objection committee stipulated in Item (Second) of Article (11) of this law.

ARTICLE 8

Medical reports prepared by non-forensic doctors upon the request of the judiciary shall be subject to objection by the court, the public prosecution or those concerned with the health institutions to which the doctor who prepared the medical report is affiliated.



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CHAPTER THIRD FORENSIC FORMATIONS

ARTICLE 9

Forensic medicine formations shall be consisted of the following:

First: The Forensic Medicine Department in Baghdad, which is consisted of:

- a. Board of the Forensic Medicine Department.
- b. Sections of the Forensic Medicine Department.

Second: Forensic medicine sections in governorate centres.

Third: Forensic offices affiliated with the Ministry of Defense.

ARTICLE 10

First: The Forensic Medicine Board of Directors shall be consisted of:

- a. Director General of the Forensic Medicine Department Chairman
- b. A representative of the following authorities:



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1. Ministry of Defense, he/ she shall be selected by the Minister of Defense from among the forensic doctors working in the Ministry of Defense. Member
2. Ministry of Interior Affairs, he/ she shall be selected by Minister of Interior Affairs from among the law-graduate police officers who are with a rank of not less than a colonel. Member
3. Ministry of Higher Education and Scientific Research, he/ she shall be selected by Minister of Higher Education and Scientific Research from among forensic medicine teachers. Member
4. Supreme Judicial Council, he/ she shall be selected by the head of supreme judicial council from the judges of the second class. Member
5. The directors of forensic medicine sections of the provinces. Members
6. The bosses of the sections of the forensic medicine department in Baghdad. Members
7. Martyr Foundation represented by the Director of the National Centre for Documentation of Baath Party Crimes. Member
8. Ministry of Human Rights, he/ she shall be selected by the minister with the rank of director. Member
9. Ministry of justice, he/ she shall be selected by the minister with the rank of director. Member
10. Ministry of Environment, he/ she shall be selected by the minister with the rank of director. Member
11. Baghdad Municipality, represented by the Director of the Grave Affair Department. Member



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12. Two forensic doctors selected by the Minister of Health in Kurdistan Region.

Member

Second: The Board of the Forensic Department shall meet at least once every three months at the invitation of its president and the quorum shall be completed in the presence of half plus one of the members of the board, and decisions shall be issued by a majority of the number of votes present, and when the votes are equal, the side with which the president voted shall be prevailed.

Third: The Board shall host whomever it deems appropriate with experience and competence to attend its meetings without having the right to vote.

ARTICLE 11

First: The Board of the Forensic Department shall undertake the following:

- a. Preparing annual plan for forensic medicine in Iraq and following up on its implementation.
- b. Preparing the draft annual budget of the Forensic Medicine Department.
- d. Proposing forensic curricula for preliminary and specialized postgraduate studies for forensic doctors and involving in their implementation.
- e. Organizing training courses for medical and health professionals and technicians in forensic medicine.
- f. Nominating employees for relevant fellowships and study leaves.
- g. Considering the matters referred by the Minister.

Second: The board of the Forensic Medicine Department shall form a committee from among its members of three members of specialized forensic doctors who are in service to



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consider the objections submitted regarding the forensic medical reports, and its decision shall be final from a forensic medical point of view.

ARTICLE 12

The decisions and recommendations of the council of the Forensic Medicine department shall be submitted to the minister for approval.

ARTICLE 13

The General Director of the Forensic Medicine Department shall undertake the following:

First: Managing forensic medicine work in Baghdad and forensic medicine departments in the provinces technically.

Second: Following up the implementation of the decisions of the Board of Directors of the Forensic Department.

Third: Exercising the functions vested in him/ her by the Minister or the Board of Directors of Forensic Medicine Department.

ARTICLE 14

The Forensic Medicine Department shall be consisted of the following sections:

First: Examining living people Section.

Second: Examining dead people Section.

Third: Forensic Science and Toxicology Laboratory Section.



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Fourth: DNA Fingerprint test Section.

Fifth: Imaging and x-Rays Section.

Sixth: Planning, Statistics, Research and Training Section.

Seventh: The Missing People Section.

Eighth: Mass Grave Section.

Ninth: Engineering & Maintenance Section.

Tenth: Administrative, Financial and Legal Section.

ARTICLE 15

The tasks of the sections stipulated in Article (14) of this Law, their formations and the conditions to be met by their employees shall be determined by instructions issued by the Minister.



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CHAPTER FOUR WORKFLOW IN FORENSIC MEDICINE DEPARTMENT

ARTICLE 16

- First: Analyzing the forensic medical incidents referred by the Judiciary and judicial investigative authorities exclusively to the Forensic Medicine Department under an accordance-with-the-law administrative and technical series.
- Second: The Director General of the Forensic department or the forensic doctor in the governorate shall refer the incident related to deaths to the competent section or division or to a three-forensic-doctor committee , when necessary, to be formed by a decision of the director general of the Forensic Department or the General Director of the Governorate Health Department.
- Third: The incidents related to living people tests shall be submitted to the committee stipulated in Item (Second) of this article.
- Fourth: The Forensic Medicine Offices of the armed forces shall examine the various forensic medical incidents of members of the armed forces that considered by military investigative councils or military courts and in accordance with the controls in force in the Forensic Medicine Department.



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ARTICLE 17

First: The forensic doctor, the competent section or the committee (those in charge of the examination) shall organize a forensic medical report about the results of the examinations and shall be approved by the director general of the Forensic Medicine Department or the head of the Forensic Department in the governorate.

Second: Incidents related to age estimation, incidents affecting ethics and public morals and severity examinations shall be presented to a medical-forensic committee of three doctors headed by a forensic physician.

ARTICLE 18

First: The body shall be autopsied or delivered without an autopsy by a reasoned decision exclusively by the investigating judge, and a death certificate shall be prepared by the nearest health institution in the event that an autopsy is not performed.

Second: The forensic physician shall not autopsy on the body of a person who was under his/her supervision, examination or treatment in case that the person's condition resulted in death.

Third: The forensic physician may stop performing the autopsy upon determining the cause of death and answering the investigator's questions, and he/ she may resort to the use of modern techniques.

ARTICLE 19

The forensic physician shall provide the family of the deceased with a forensic death certificate after completing the autopsy process.



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ARTICLE 20

It shall not be permissible to perform an autopsy if it is suspected that there is an epidemic case of diseases subject to international health regulations. In this case, the investigating judge and the competent health authorities shall be informed of this urgently.

ARTICLE 21

First: The forensic physician shall attend the grave opening upon permission by the competent investigating judge.

Second: The forensic physician may examine the body in the cemetery or transfer it to the relevant section.

ARTICLE 22

If the person refuses to undergo a forensic medical examination, the investigating authority shall be notified immediately to take the necessary action.

ARTICLE 23

When necessary, the Forensic Medicine may request the competent investigating judge to order the burial of the body before the expiry of the two-month period stipulated in the applicable Public Health Law.



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ARTICLE 24

Any forensic medical incident may be transferred from one governorate to another, when necessary, by decision of the competent investigating judge after the approval of the President of the competent Criminal Court.

ARTICLE 25

First: Forensic physicians shall be granted forensic medicine allowances amounting to (200%) of the nominal salary, as an exception to the upper ceiling specified in the State and Public Sector Employees' Salaries Law No. (22) of 2008, while keeping the other allowances they currently receive.

Second: Workers in supporting judicial specialties shall be given allowances of (150%) of the nominal salary, as an exception to the upper ceiling specified in the State and Public Sector Employees' Salaries Law No. (22) of 2008, while keeping the other allowances they currently receive.

Third: The workers those who not covered by the Article (25/ Second) in the Forensic Medicine Allowances of forensic medicine mounting (100%) of the nominal salary, as an exception to the upper ceiling specified in the State and Public Sector Employees' Salaries Law No. (22) of 2008, while keeping the other allowances they currently receive.

Fourth: Forensic physicians shall be granted plots of lands in Baghdad and the centres of the governorates their areas are not exceeding (400 metres), and any provision contradicts with this law shall not be applied.

Fifth: Three personal protection members shall be allocated for each forensic physician.



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ARTICLE 26

First: The provisions of Retirement Law No. (27) of 2006 shall be applied to forensic medicine employees when they are retired to the pension. Forensic physicians retired to the pension who have spent actual service in the field of forensic medicine for not less than (fifteen years) shall be excluded from the law by granting them 80% of the salary and allowances that they received during the service.

Second: The forensic physician shall be retired to the pension upon reaching the age of seventy years.

ARTICLE 27

Doctors, dentists, pharmacists and health professions working in forensic medicine shall be excluded from the provisions of the Gradation Law for Persons in Medical and Health Professions No. (6) Of 2000.

ARTICLE 28

The competent minister shall issue instructions to facilitate the implementation of the provisions of this law.

ARTICLE 29

The Forensic Medicine Law No. (57) of 1987 shall be repealed, and the instructions issued pursuant thereto shall remain in force in a manner that does not contradict with the provisions of this law until what replaces or repeals them is issued.



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ARTICLE 30

This law shall be implemented as of the date of its publication in the Official Gazette.

For. Jalal Talabani

President of the Republic

D. Khudair Al-Khuzai



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AMENDMENT



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In the name of the people

Presidency of Republic

RESOLUTION NO(62)

Based on what had approved by the Parliament, in accordance with the provisions of Item (First) of Article (61) and Item (Third) of Article (73) of the Constitution, the President of the Republic decided on December 30, 2015 issuing the following law:

NO. (56) OF 2015 FIRST AMENDMENT LAW TO THE FORENSIC MEDICINE LAW

NO(37) OF 2013

ARTICLE 1

The provision of Item (First) of Article (1) of the Forensic Medicine Law No (37) of 2013 shall be repealed and replaced by the following:



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First:

- a. A department shall be established in the Ministry of Health called (the Forensic Medicine Department), which shall have a legal personality and shall be represented by the Director General or his/ her authorized representative, and its headquarters shall be in Baghdad.
- b. The department stipulated in Paragraph (a) of this Item shall be managed by a doctor with the title of Director General who holds a certificate of specialization in forensic medicine and has a practice in the field of specialty for a period of not less than (7) seven years, or a forensic doctor who has a practice in forensic medicine for a period of not less than (12) twelve years.

ARTICLE 2

This law shall be implemented from the date of its publication in the Official Gazette.

Fauad Maasum,

President of the Republic