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Legislation

No. ٣٨

People with Disability and Special Needs Care Law

No. (٣٨) of ٢٠١٣

قانون رعاىة ذوي الإعاقة والاحتىاجات الخاصة

Translated in

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Laws

In the name of the people

The Presidency

Resolution No. (٣٧)

In accordance with what the parliament had passed, pursuant to the provisions of Item (First) of Article (٦١), Item (Third) of Article (٧٣) of the Constitution, the President of the Republic decided on ١٠/ ١٠/ ٢٠١٣ promulgation of the following Law:

No. (٣٨) Of ٢٠١٣

People with Disability and Special Needs Care Law

Chapter One

Definitions

Article ١

For the purposes of this law, The following terms shall have the meanings indicated next to them:



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First: Disability: Any restriction or inability of a person due to direct impairment or failure to perform interactions with his/ her surroundings within the extent to which a person is considered normal.

Second: Disabled: Anyone has lost the ability, in whole or in part, to participate in the life of society the same as others, as a result of physical, intellectual or sensory impairment resulted in insufficient functioning.

Third: Care: Comprehensive services provided for persons with disabilities and special needs with a view to guaranteeing their rights.

Fourth : Qualification: A coordinated process to employ medical, social, psychological, educational and occupational services to help persons with disabilities and special needs to achieve maximum functional effectiveness to enable them to comply with the requirements of their natural and social environment and develop their capacities to rely on themselves and make them productive members of society as possible.

Fifth: Integration: Measures, program, plans and policies aiming to achieve the full participation of persons with disabilities and special needs in various fields of life within society and without any form of discrimination.

Sixth: Discrimination: Any segregation, exclusion or restriction on the grounds of disability or special needs result in damage or revocation of the recognition of enjoyment or exercise of any of the rights established by legislation on an equal basis with others.

Seventh: Person with special needs: A person who fails to perform his/ her role and functions in comparison with his/ her peers in age and social, economic and medical environment, such as education, sport, vocational training, family relations, etc., and short people shall be deemed person with special needs.



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Chapter Two Aims and Means

Article ٢

This law aims to achieve the following:

- First: Caring for people with disabilities and special needs and elimination of discrimination on the basis of disability or special needs.
- Second: Creating requirements for the integration of persons with disabilities and special needs into society.
- Third: Securing a decent life for persons with disabilities and special needs.
- Fourth: Respecting for disability and acceptance of disability as part of human diversity, nature and humanity.
- Fifth: Providing job opportunities for persons with disabilities and special needs in the state departments and public, mixed and private sectors.

Article ٣

The aims of this law shall be achieved by the following means:

- First: Developing special plans and programmes to ensure the rights of persons with disabilities and special needs in accordance with the provisions of the law, conventions and the international covenants to which the Republic of Iraq is a party.



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- Second: Acceding to international conventions and covenants on the care for persons with disabilities and special needs.
- Third: Developing programmes and plans to prevent the causes of disability and make them available to the awareness dissemination.
- Fourth: Securing therapeutic requirements, social services, psychological and vocational rehabilitation for persons with disabilities and special needs in cooperation and coordination with relevant agencies inside and outside Iraq.
- Fifth: Providing public, private, vocational and higher education opportunities for persons with disabilities and special needs for those who are able to do so.
- Sixth: Developing the staffs working in the field of care for persons with disabilities and special needs and establishing and updating database for them.
- Seventh: Seeking the assistance of experts and specialists and keeping abreast of scientific developments in all matters related to disability, special need and contacting the competent authorities inside and outside Iraq to improve the efficiency of performance in this field.
- Eighth: Holding conferences, seminars, scientific meetings and training and qualification courses inside and outside Iraq.
- Ninth: granting People with disabilities and special needs special identities.
- Tenth: Encouraging manufacture of equipment and instruments needed by persons with disabilities and special needs.



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Chapter Three

People with Disability and Special Needs Care Commission

Article ٤

First: A commission called (People with Disability and Special Needs Care Commission) shall be established, it shall have moral personality and financial and administrative independence and represented by the chairman of the commission of people with disabled and special Needs.

Second: The commission shall be linked to the Ministry of Labour and Social Affairs.

Third: The headquarters of the Commission shall be in Baghdad and it may open sections in the centre of the governorates that are not organized in region.

Article ٥

First: The Commission shall be chaired by a special-rank employee appointed in accordance with the law.

Second: The Chairman of the Commission shall have two deputies, one for technical affairs and the other for administrative affairs, and each of them shall be at the rank of general manager who holds at least an initial university degree and has experience, competence and a service of not less than (١٥) fifteen years, provided that one of them is a person with a disability.



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Article ٦

The Commission shall be run by a Board of Directors consisting of:

First: Chairman of the Commission

Chairman

Second: Deputies of the Chairman

Members

Third: A representative of the General Secretariat of the Council of Ministers whose job title is not less than that of the Director Manager.

Member

Fourth: A representative of the following ministries and entities with the rank of Director Manager

Members

- a. Ministry of Finance
- b. Ministry of Defence
- c. Ministry of Trade
- d. Ministry of Justice
- e. Ministry of Interior Affairs
- f. Ministry of Labour and Social Affairs
- g. Ministry of Education
- h. Ministry of Health
- i. Ministry of Construction and Housing
- j. Ministry of Higher Education and Scientific Research
- k. Ministry of Planning
- l. Ministry of Youth and Sports
- m. The High Commission of Human Rights
- n. Representative of the Kurdistan Regional Government

Fifth:



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- a. (٧) Seven members with disabilities and special needs.
- b. (٧) Two members of persons interested in the affairs of people with disabilities.
- c. (٧) Two members of the doctors specialized in disability affairs.

Sixth: The Board of Directors may seek assistance of people with disabilities and special needs in carrying out its duties

Seventh: The Chairman of the Disabled and Special Needs Commission shall designate the members provided for in Item (Fifth) of this Article, provided that to take into his/her account the diversity of disability and to be experienced and competent.

Article ٧

The Chairman of the Commission shall determine the remuneration of non-employee members of the Board of Directors in accordance with the law.

Article ٨

First: The term of the Board of Directors' membership shall be (٤) four years.

Second: The meetings of the Board of Directors, its quorum, the progress of its work and how to make decisions and recommendations shall be regulated by a bylaw issued by the Chairman of the Commission after its approval by the Board of Directors.

Article ٩

First: The Commission's Board of Directors shall undertake the following tasks:



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- a. Drawing up and approving the general policy for the work of the Commission in the care and rehabilitation of persons with disabilities and special needs and following-up of the execution of the procedures.
- b. Suggesting the draft annual budget and the staff of the Commission.
- c. Approving and submission of the final accounts to the competent authorities in accordance with the law.
- d. Suggesting draft laws, regulations and bylaws.
- e. Supervising and following-up to ensure the special requirements of persons with disabilities and special needs in all fields in coordination with the relevant authorities.
- f. Proposing an employment policy for people with disabilities and special needs through preparing programs and job descriptions that can be occupied by them.
- g. Forming committees, naming them and defining their terms of reference.
- h. Laying down plans for the following:
 ١. Training preparing the researches.
 ٢. Comprehensive national awareness to prevent the occurrence of disability and reduce its severity and prevent its aggravation.
- i. Approving the opening of departments for the Commission in the governorates that are not affiliated to a region.
- j. Approving the controls and procedures for granting identities to those covered provisions of this law.
- k. Submitting semi-annual reports to the Council of Ministers on the Commission's activities.
- l. Monitoring and following up the implementation of the decisions of the Board of Directors
- m. Supervising the preparation of the Commission's general budget and presenting it to the Board of Directors.
- n. Inviting and hosting experts and specialists in accordance with the Commission's need to attend Board of Directors' meetings without voting.

Second: The Council may delegate its duties to the Chairman of the Commission.



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Chapter Four Administrative Structure

Article

The Commission shall be consisted of the following formations:

First: The administrative, financial and legal department.

Second: Planning and Follow-up Department.

Third: Department of Medical, Community, Educational and Vocational Rehabilitation.

Fourth: Media section.

Fifth: Section of Regions and Governorates Affairs.

Sixth: Section of Audit and Internal Control.

Seventh: The office of the head of the commission.

Article

First: The departments provided for in Article (١٠) of this law shall be run by an employee with the title of general manager who holds at least a primary university degree and who has experience and specialization and has a service of not less than (١٥) fifteen years.

Second: The departments and the office of the head of the commission stipulated in Article (١٠) and the branches of the commission stipulated in Article (٩/ First / I of this law shall be managed by an employee with the title of manager, who holds at least a primary university degree and has a service of not less than (٨) eight years and shall be associated with the head of the commission.



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Chapter Five Commission's Budget

Article

The Commission's revenues shall be consisted of the following:

First: What is allocated to the Commission from the federal general budget

Second: Grants gifts and donations from inside Iraq, with the approval of the competent authority.

Article

The Commission may not obtain funds, grants, gifts and donations from a foreigner or a foreign entity, except with the approval of the Council of Ministers.

Article

The Commission's accounts shall be subject to the control and audit of the Financial Controlling Bureau.

Article

The ministries and agencies not affiliated with a ministry listed below shall undertake the following tasks:



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First: The Ministry of Health, which shall undertake the following:

- a. Providing preventive and curative services, including preventive genetic counseling and conducting various laboratory tests and analyzes for early detection of diseases and taking the necessary immunizations.
- b. developing and implementing preventive programs and health education, including conducting laboratory and field surveys for early detection of disabilities
- c. Providing medical and psychological rehabilitation services and treatment services at all levels different
- d. Providing primary health care for women with disabilities or those in need of special care during pregnancy and childbirth and beyond.
- e. Granting free health insurance to people with disabilities and special needs
- f. Registration of children born who are more likely to suffer from disability and follow-up their cases.
- g. Coordinating with the relevant authorities to provide the life and social requirements that facilitate the integration of the disabled into society in a natural and effective manner.
- h. Community rehabilitation for people with disabilities by prescribing individual and joint projects in a way that is appropriate to their health condition, and providing technical advice to the authorities concerned with providing and preparing housing for them.
- i. Seeking to secure the costs of treatment inside and outside Iraq, including surgical operations and any other requirements.
- j. Determining the percentage of disability by a specialized medical committee in accordance with the instructions issued by the Ministry of Health regarding determining the degree of disability on ١٦/ ١١/ ١٩٩٨, and in the light of which the categories of people with disabilities and special needs who are covered by provisions of this law shall be determined.

Second: The Ministry of Education shall undertake the following:

- a. Ensuring primary and secondary education of all kinds for people with disabilities and special needs in accordance with their abilities, special education programs, comprehensive educational integration and parallel education.
- b. b Supervising educational institutions concerned with the upbringing and education of people with disability and special needs.



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- c. Preparing educational curricula that are commensurate with the readiness of people with disabilities and special needs.
- d. Identifying and providing basic equipment that helps people with disabilities and special needs to receive education and training for free
- e. Providing educational and technical personnel qualified to deal with pupils and students and granting them the required professional allocations from the early childhood stage.

Third: The Ministry of Higher Education and Scientific Research shall undertake the following:

- a. Providing educational opportunities for people with disabilities and special needs in accordance with their abilities and capabilities.
- b. Preparing specialized technical educational staffs qualified to work with different groups of people with disabilities and special needs.
- c. Allocating one study seat in each major for admission to High studies for people with disabilities and special needs.

Fourth: The Ministry of Labour and Social Affairs shall undertake the following:

- a. Appropriate vocational training for people with disabilities and special needs, developing their abilities in accordance with the needs of the labour market and training teachers working in this area.
- b. Providing equal opportunities in the field of work and employment in accordance with the qualifications of people with disabilities and special needs.
- c. Obligating state departments, the public and mixed sectors, and encouraging the private sector to employ people with disabilities and special needs in accordance with certain percentage, taking into account type of disability and work
- d. Providing certain types of jobs commensurate with the type and degree of disability for the employee who becomes disabled during or as a result of service if he/ she is able to continue serving after the injury and rehabilitate him/ her to do these new jobs.
- e. Providing monthly aids to people with disabilities and special needs who are unable to work in accordance with the law.
- f. Training families of people with disabilities and special needs on how to properly deal with them and take care of them in a way that does not affect their dignity and their humanity.



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- g. Integrating a child with a disability and providing them with rehabilitative care within his/ her family, and in the event that this is not possible, he/ she shall be provided with alternative care.
- h. Supervising all institutions and centres concerned with the rehabilitation, care and assistance of people with disabilities and special needs, and granting licenses to those institutions.
- i. Promulgating the necessary instructions and controls to meet the requirements of people with disabilities and special needs in the designs of buildings and public facilities, and they shall be binding on all state departments, the public, mixed, cooperative and private sectors and the relevant authorities.

Fifth: The Ministry of Youth and Sports shall undertake the following:

- a. Establishing and supporting sports centres and clubs with the aim of opening the way for people with disabilities and special needs to practice their various activities in a way that meets their needs and develops their capabilities.
- b. Supporting the participation of distinguished athletes with disabilities and special needs in national and international activities and conferences.
- c. Introducing sports and recreational programs and activities within the programs of institutions, centres and schools working in the field of disability, and providing specialized personnel and appropriate equipment.

Sixth: The Supreme Judicial Council and the Ministry of Justice shall undertake the following:

- a. Taking into account the health conditions of people with disabilities and special needs in places of arrest, detention and prisons if the nature and circumstances of the case require taking these procedures.
- b. Providing assistive technologies for people with disabilities and special needs, including sign language translation and any other techniques that help them defend their rights or enjoy a status equal to the other party in the lawsuit.

Seventh: The Ministry of Transportation shall undertake the following:



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- a. Preparing public transportation to achieve the safe and secure transportation of people with disabilities and special needs and their companions for free.
- b. Requiring tourism companies to secure at least one means of transportation with special specifications that ensure that people with disabilities and special needs can use and move with ease.
- c. Reducing the prices of air tickets for people with disabilities and special needs by (٥٠٪) fifty per cent twice a year.

Eighth: The Ministry of Construction and Housing shall undertake the following:

- a. Securing adequate housing for people with disabilities and special needs in accordance with the government's housing plan.
- b. Applying the requirements of official institutional buildings for people with disabilities and special needs issued by the relevant authority to the existing buildings through their rehabilitation.

Ninth: The Ministry of Planning shall undertake the following:

- a. Providing a database on people with disabilities and special needs in the Republic of Iraq by age and type of disability through household surveys and sectors related to their care.
- b. Planning programs and projects to care for people with disabilities and special needs in all fields within the annual plans and strategies adopted by the state.



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Chapter Six Privileges and Exemptions

Article

First: Ministries and entities not associated with a ministry and public sector companies shall allocate jobs for people with disabilities and special needs not less than (٥%) five per cent of their staff.

Second: The employer in the mixed sector shall obligate to employ one worker with disabilities and special needs who meet the required minimum qualifications if he/she employs a number of workers of not less than (٣٠) thirty and not more than (٦٠) sixty workers and at least (٣%) three per cent of the total number of workers if he/she employs more than (٦٠) sixty workers.

Article

People with disabilities and special needs shall be granted the following:

First: Exemption of ١٠% ten per cent of his/ her income from income tax.

Second: Soft loans in accordance with the law.

Third: A monthly cash subsidy commensurate with the percentage of disability estimated by a medical committee and in accordance with the Social Protection Network Law.

Article

Individual and group means of transportation for people with disabilities and special needs shall be exempted from fees and taxes if they are imported directly from them or from the Commission. The exemption shall be renewed after (٥) five years have passed before buying another car. Fees and taxes when ownership is transferred to a person without disability and special need shall be collected before the expiry of the period.



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Article

People with disabilities whose degree of disability prevents them from meeting the requirements of their normal lives and who need someone to accompany them to fulfil their needs on an on-going basis, which is determined by a specialized medical committee and in accordance with the instructions issued by the Ministry of Health on ١٦/ ١١/ ١٩٩٨ regarding estimating the degree of disability shall have the right to have a full-time aide at the expense of the government. This full-time aide shall be entitled to the following rights:

١. If the full-time aide is an employee and receives a salary from the state, he/ she shall be granted a full-paid leave with fixed allowances and the rest of the privileges similar to his/ her peers in the job, and the full-time aid shall be renewed annually.
٢. If the full-time aide is not an employee of the state departments, he/ she shall be given a monthly salary equal to the salary of the minimum limit in the employees' salary scale.
٣. The privileges of full-time aide who returns to his/ her previous job or who goes to study inside or outside Iraq which granted to him/ her under this law shall be withheld.



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Chapter Seven

Penalties

Article

An employer who violates the provisions of Item (Two) of Article (١٦) of this law shall be punished with a fine of (٥٠٠,٠٠٠) five hundred thousand dinars.

Article

Whoever claims contrary to the truth that he/ she has a disability or needs special care and obtains an exemption, facilitation, privileges or grant stipulated in this law shall be punished by imprisonment for a period not exceeding (٦) six months or a fine of no less than ٥٠٠,٠٠٠ five hundred thousand dinars or both penalties, provided that all the amounts and privileges granted to him/ her are recovered.

Article

Whoever with disability or special need who exploits his/ her disability or handicap as a means of begging shall be punished with imprisonment for a period not exceeding (٦) six months or a fine of not less than (٥٠٠,٠٠٠) five hundred thousand dinars and not more than (١,٠٠٠,٠٠٠) million dinars.



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Chapter eight General Provisions

Article

Revolutionary Command Council Resolution (dissolved) No (٩٤٤) of ١٩٨٥ shall be repealed.

Article

First: Al-Qadisiyah and Immortal Um AL-Maarik Battles' Fighters Care Commission Law no (٦٣) of ٢٠٠٠ shall be repealed.

Second: All the assets, real estates and rights of the Commission mentioned in Paragraph (First) shall be transferred to the Commission formed under Article (٤) of this Law.

Article

The Chairman of the Commission shall issue instructions to facilitate the implementation of the provisions of this Law.

Article

this law shall be effective as of the date of publication in the official Gazette.

For Jalal Talabani, the President
D. Khudair Al-Khuzai