

**Law No. (51) of 1976**  
**issuing the Justice System Law**

**In the name of the people**

**The Revolutionary Command Council:**

**Upon review of:**

- The Constitutional Declaration;
- Justice System Law No. (29) of 1962 AD and the laws amending it;
- Law No. (55) of 1971 AD on the justice system for remote areas;
- Law No. (86) of 1971 AD forming the Supreme Council of Judicial Bodies;
- Law No. (88) of 1971 AD on the administrative judiciary;
- Law No. (87) of 1973 AD unifying the judiciary;
- And based on the proposal of the Minister of Justice and the approval of the Cabinet.

**issued the following law:**

**Article (1)**

The provisions of the accompanying law shall replace the provisions of the aforementioned Law No. (29) of 1962 and any contrary provision shall be repealed.

Previous executive regulations and decisions shall remain in force, to the extent that they do not contradict the provisions of this law, until they are repealed or replaced.

**Article (2)**

1. A committee, headed by the Minister of Justice with the membership of the Prosecutor General and the Head of the Judicial Inspection Department, shall be established and shall undertake the reorganisation of the judiciary and the prosecution office and the distribution of magistrates and prosecution members to courts and prosecutions.
2. Magistrates and prosecution members whose suitability is proven shall be reappointed in their current functions. However, the Committee may appoint whoever it deems suitable in a function that follows his current function if he has spent at least two years in his current function. The reappointment decision shall include the function and the seniority therein.
3. Magistrates and prosecution members not included in reappointment decisions shall be considered referred to retirement, and their pensions and bonuses shall be settled in accordance with Article (122) of the accompanying Justice System Law. In calculating the pension and bonus owned to magistrates and prosecution members referred to retirement, five years or the length of service remaining to reach the age of retirement, whichever is less, shall be added to the period of service counted in the calculation of the pension or bonus.

### **Article (3)**

The Committee may refer some magistrates and prosecution members to retirement, based on a written request from the person concerned within a month from the date this law enters into force.

The pension and bonus owned to the magistrate or prosecutor referred to retirement shall be calculated in accordance with Paragraph (3) of the preceding article.

### **Article (4)**

The Committee's decisions shall be issued within three months from the date this law enters into force.

These decisions shall not enter into force until they are adopted by the Revolutionary Command Council.

### **Article (5)**

Decisions issued in accordance with the preceding articles may not be appealed in any way whatsoever.

### **Article (6)**

Within the six months following the date this law enters into force, magistrates and prosecution members not included in reappointment decisions may be appointed in other functions in the government, public bodies or institutions, or public entities. Such functions shall be equivalent to the judicial function the magistrate or prosecutor was occupying. The latter shall receive the same salary he used to receive and shall retain his previous seniority.

The appointment shall be by virtue of a decree issued by the Minister of Justice if the appointment is in the functions of the Ministry of Justice and by the Cabinet in the case of functions in other authorities.

### **Article (7)**

Fourth grade judges shall be considered transferred to the functions of assistant prosecutors from the date this law enters into force and without need for any further action.

### **Article (8)**

This law shall be published in the Official Gazette and enter into force from its date of publication.

**The Revolutionary Command Council**  
**Major Abdessalam Ahmad Jalloud**  
**Prime Minister**

**Mohammed Ali El-Jaddi**  
**Minister of Justice**  
**Issued on 6 Rajab 1396 FDP**  
**Corresponding to 3 July 1976 AD**

## **Justice System Law**

### **Part (1) Courts**

#### **Chapter (1) Order of Courts**

##### **Article (1)**

Courts shall be comprised of:

- a. The Supreme Court.
- b. Courts of Appeal.
- c. Courts of First Instance.
- d. Summary Courts.
- e. Courts of Remote Areas.

Each court shall be competent to adjudicate the cases submitted thereto in accordance with the law.

##### **a. The Supreme Court**

###### **Article (2)**

A special law shall organise the Supreme Court and determine its jurisdiction.

##### **b. Courts of Appeal**

###### **Article (3)**

The establishment of Courts of Appeal and determining their locations and jurisdiction of each shall be governed by a decree from the Minister of Justice.

Each court of appeal shall be constituted of a president and a sufficient number of judges, who may be of the grade of a president or a deputy judge.

Rulings shall be issued by three judges.

Courts of appeal may convene in any other location within their jurisdiction by virtue of a decree from the Minister of Justice at the request of the President of the Court.

###### **Article (4)**

One or more Criminal Court Circuit shall be formed in every Court of Appeal and each shall be constituted of three judges.

The Criminal Court shall convene in every city where there is a Court of First Instance whose jurisdiction is coterminous with that of the Court of First Instance Circuit.

The Criminal Court may convene in a location outside its jurisdiction by virtue of a decree from the Minister of Justice, at the request of the President of the Court of Appeal.

### **Article (5)**

One or more Administrative Court Circuit shall be formed in each Court of Appeal. Each shall be comprised of three judges and its hearings shall be attended by a public prosecution member whose grade is no less than district prosecutor.

### **c. Courts of First Instance**

#### **Article (6)**

The establishment of courts of first instance and determining their locations and jurisdiction of each shall be governed by a decree from the Minister of Justice.

Each court of first instance shall be constituted of a president and a sufficient number of judges, who may be of the grade of a president or a deputy judge.

Rulings shall be issued by three judges when the court is convened as an appellate panel of three judges, of whom at least two shall be first grade judges. In other cases, rulings shall be issued by one judge, who shall be of the first grade to the extent possible.

Courts of first instance may convene in any other location within their jurisdiction by virtue of a decree from the Minister of Justice at the request of the President of the Court.

### **d. Summary Courts**

#### **Article (7)**

Summary courts shall be established in the jurisdiction of every court of first instance. Their establishment and determining their locations and the jurisdiction of each shall be governed by a decree from the Minister of Justice.

Summary courts may convene in any other location within their jurisdiction by virtue of a decree from the Minister of Justice at the request of the President of the Court.

#### **Article (8)**

After taking the opinion of the General Assembly of the Court of First Instance, the Minister may establish summary courts to adjudicate certain types of cases. The decree shall specify the location and jurisdiction of each summary court.

#### **Article (9)**

Rulings in summary courts shall be issued by one second grade judge. When necessary, the judge may be from another grade.

#### **Article (10)**

Courts called “Courts of Remote Areas” may be formed in remote desert cities and villages. A decree by the Minister of Justice shall establish them and specify the location and jurisdiction of each court.

#### **Article (11)**

Each of the Courts of Remote Areas shall be subordinate to the Court of First Instance that falls within the same jurisdiction. It shall be subject to the supervision of the President of the Court of First Instance and its General Assembly.

### **Article (12)**

A law shall determine the rules of jurisdiction of the Courts of Remote Areas and litigation procedures before them.

### **Article (13)**

Rulings in the Courts of Remote Areas shall be issued by one third-grade judge. When necessary, they may be issued by a second-grade judge.

## **Chapter (2)** **Jurisdiction of Courts**

### **Article (14)**

Courts shall have jurisdiction in all disputes and crimes, except those exempted by a special provision.

The rules of jurisdiction of the courts shall be determined by the Code of Procedure, the Code of Criminal Procedure, and their supplementary laws.

### **Article (15)**

Without prejudice to notariation laws, courts shall have jurisdiction to verify arguments and testimonies of all kinds, notarise instruments, authenticate signatures of relevant persons contained in acts under private signature, certify the date of such acts, and investigate death and inheritance.

Marriage officiants may act on behalf of the court to notarise marriage contracts and validate marriages, divorce declarations and marriage reinstatements between Muslims.

A decree shall be issued by the Minister of Justice to determine the exercise of these powers by courts and marriage officiants, the fees owed to them, and the officiants' appointment and treatment in their functions.

### **Article (16)**

Courts may not review cases pertaining to acts of sovereignty.

Without prejudice to the powers of the Administrative Court Circuits in the Courts of Appeal set forth in the aforementioned Law No. (88) of 1971, other circuits and courts, without interpreting or suspending the execution of the administrative order, may rule in:

- a. Civil and commercial disputes that occur between individuals and the government, municipalities, and public bodies and institutions concerning real estate or movable assets, except where the law provides otherwise.
- b. Civil liability lawsuits filed against the government, municipalities, or public bodies or institutions because of administrative procedures that took place in violation of laws or regulations or because of its erroneous material acts.
- c. All other matters that the law authorizes them to adjudicate.

**Chapter (3)**  
**Provisions Shared between Courts**  
**a. Conflict of Jurisdiction**

**Article (17)**

In the event a case filed before the courts is defended in a way that gives rise to a dispute, whose adjudication falls within the jurisdiction of an exceptional judicial authority, the courts may, if they deem it necessary to rule on the defence before ruling on the matter, suspend the case and set for the party receiving the defence a date to obtain a final ruling issued by the competent authority. In the event the courts do not deem it necessary or the adverse party fails to obtain a final ruling within the specified period, the court may adjudicate the case.

**Article (18)**

As a court of arbitration, the Supreme Court shall appoint the court competent to rule on cases filed pertaining to a single subject that are filed both before the courts and before the exceptional judicial authority, if neither or both decline to hear the case.

The Supreme Court shall also rule on disputes arising with regard to the execution of two contradictory final rulings, one issued by the courts and the other by an exceptional judicial authority.

**Article (19)**

Motions to rule on disputes described in the preceding article shall be submitted to the Supreme Court as a petition signed by a lawyer and deposited with the court registrar. In addition to the information pertaining to the names of litigants, their capacities, and their domiciles, the petition shall include the subject of the motion and a sufficient statement of the case object of the dispute, refusal to hear the case, or contradictory rulings.

The petitioner must file with the petition a number of copies thereof equivalent to the number of litigants, with a portfolio of the documents that support his claim and a memorandum of his defence.

The court registrar shall notify the litigants with a copy of the petition and order them to attend the hearing scheduled to hear the case. No fees shall be imposed on the motion.

Submitting the motion shall result in suspension of the case concerning which the motion to appoint a competent court is filed. The court shall order a stay of execution for one of the contradictory rulings or both.

The court shall rule on the motion promptly after taking the statement of the Public Prosecution.

**b. Hearings**

**Article (20)**

Hearings of the courts shall be public, unless the court orders to make them private out of consideration for morals or to maintain public order. In all cases, the ruling shall be pronounced in a public hearing.

### **Article (21)**

The rules of the hearings, their organization, and the functioning of the judiciary shall be determined by the Code of Procedure, the Code of Criminal Procedure, and their supplementary laws.

### **Article (22)**

Arabic shall be the language of the courts.

Courts shall take the statements of litigants or witnesses who do not know Arabic by use of a sworn translator.

### **Article (23)**

Without prejudice to the provisions of a special law, litigants may not be represented by anyone other than lawyers accredited before the courts or whomever litigants may delegate, in accordance with the provisions of the Code of Procedure and the Criminal Code of Procedure.

## **c. Execution of Rulings**

### **Article (24)**

Rulings shall be issued and executed in the name of the people.

### **Article (25)**

The execution of criminal rulings shall be at the request of the Public Prosecution, and bailiffs shall execute other rulings, official contracts, and other enforceable orders.

The execution shall be in accordance with the stipulations of the Criminal Code of Procedure, the Code of Procedure, or their other supplementary laws, according to the case.

A policeman may be delegated to execute the ruling by virtue of a decision from the Minister of Justice, upon the approval of the Minister of Interior.

Execution may only be carried out based on an official copy of the ruling or instrument accompanied by a writ of execution, with the exception of cases where the law stipulates otherwise.

### **Article (26)**

The text of the writ of execution shall read as follows:

“In the name of the people, bailiffs and other personnel who are requested to execute this order shall execute it, and the Public Prosecution shall help them. Public Security Forces shall also assist them to execute the order using coercive force when their help and assistance are requested legally”.

## **d. Courts’ General Assemblies and Supervision Thereof**

### **Article (27)**

Each Court of Appeal and Court of First Instance shall meet in the form of a general assembly to decide on the following:

1. Organise and form the necessary circuits.
2. Distribute work to various circuits.

3. Delegate counsellors of the Court of Appeal to work in the Criminal Court and the judges of the Court of First Instance to work in Summary Courts and the Courts of Remote Areas.
4. Determine the number of hearings and the day and time they shall be held.
5. Other matters relating to the courts' system and internal affairs.
6. Other matters set forth in the law.

The General Assembly may delegate some of its powers to the President of the Court.

#### **Article (28)**

The General Assembly of each court shall comprise all the counsellors and judges working in the court and the Public Prosecution shall be invited to attend it. The opinion of the Public Prosecution's representative shall be counted in affairs related to the activities of the Public Prosecution.

#### **Article (29)**

The General Assembly shall convene at the request of the President of the Court or his substitute based on his own initiative or at the reasoned request of three members or of the Public Prosecution, with regard to its activities.

General Assembly sessions shall only be valid if they are attended by more than half of its members. If a quorum is not reached, members shall be called to convene for another session a week after the date of the first session. In this case, the session shall only be valid if it is attended by at least two-thirds of the members.

#### **Article (30)**

Decisions of the General Assembly shall be taken by the majority of the members present during the vote. In the event of a tie, the side with which the chairman voted shall prevail.

#### **Article (31)**

The decisions of the General Assembly shall be notified to the Minister of Justice, who may, within fifteen days of the date of notification, request that the decisions he does not approve be reconsidered. In the event the General Assembly insists on its opinion, the Minister shall issue his decree however he sees fit.

#### **Article (32)**

The minutes of the General Assembly shall be recorded in a register for this purpose and shall be signed by the chairman and the secretary.

#### **Article (33)**

The Minister of Justice shall have the right to supervise all courts and magistrates, and each court's president and general assembly shall have the right to supervise the magistrates subordinate thereto.

### **e. Management of the Courts' Funds**

#### **Article (34)**

The collection, retention, and disbursement of fees, fines, deposits, guarantees, etc. shall be in accordance with the provisions of the laws and regulations prescribed. A safe shall be



established in every court to deposit such proceeds and it shall be entrusted to the most senior clerk or the person delegated for this purpose.

In every court, disbursement orders shall be issued by its president or his representative, according to the case.

The Minister of Justice and the Public Prosecution shall have control over the movement of these funds and deposits and may inspect them at any time.

**Part (2)**  
**Public Prosecution**  
**Article (35)**

The Public Prosecution shall exercise the powers vested in it by law. It shall alone have the right to file and conduct criminal cases, unless the law provides otherwise.

**Article (36)**

The Prosecutor General shall perform the function of the Public Prosecution, assisted by a sufficient number of advocate generals, chief prosecutors, public prosecutors, district prosecutors, assistant prosecutors, and auxiliary prosecutors.

In the event the Prosecutor General is absent, his post is vacant, or he is unable to carry out his functions, he shall be replaced in the exercise of all his powers by the most senior, followed by the next senior district prosecutor, then the chief prosecutor in the absence of an advocate-general.

**Article (37)**

The Prosecutor General and all members of the Public Prosecution shall be considered magistrates, subject to the provisions pertaining to them in this law.

**Article (38)**

An independent Public Prosecution shall be established in the Supreme Court and shall exercise prosecution functions before the Supreme Court. At the request of the Supreme Court, it shall attend the deliberations of civil, commercial, administrative, and personal status circuits, but its representative's vote shall not be counted in the deliberations.

The Cassation Prosecution shall be comprised of a President, whose grade is no less than a counsellor or chief prosecutor, assisted by a sufficient number of members, whose grade is no less than president of a Court of First Instance or a first-grade prosecutor.

Both the president and members shall be delegated for one year, renewable by virtue of a decree from the Minister of Justice, after taking the opinion of the President of the Supreme Court and the approval of the Supreme Council of Judicial Bodies.

**Article (39)**

Each Court of Appeal shall have an advocate-general who shall be supervised by the Prosecutor General and have all the rights and powers stipulated in the laws.

## **Article (40)**

One or more First Instance Prosecution shall be established in the jurisdiction of each Court of First Instance, and one or more Summary Prosecution shall be established in the jurisdiction of each First Instance Prosecution.

Prosecutions specialised in investigation and filing public lawsuits in particular types of crimes may be established.

A decree by the Minister of Justice shall establish the first instance, summary, and specialised prosecutions and determine the jurisdiction of each.

## **Article (41)**

With respect to their functions, judicial officers shall be subordinate to the Public Prosecution.

## **Article (42)**

The Public Prosecution shall oversee prisons, places of detention, and other places where criminal rulings are executed. The Prosecutor General and the Minister of Justice shall be notified of the Public Prosecution's observations in this regard.

## **Part (3)**

### **Magistrates and Prosecution Members**

#### **Chapter (1)**

#### **Magistrates**

#### **a. Appointment, Seniority, and Promotion**

#### **Article (43)**

Whoever assumes a magistrate function shall meet the following conditions:

1. He must hold Libyan nationality and enjoy full capacity.
2. He must have a high qualification in Sharia or law from a college in the Libyan Arab Republic or an equivalent foreign diploma, provided that in the latter case, he passes an exam regulated by virtue of a decree from the Minister of Justice if the diploma is issued by a non-Arab country.
3. He must be commendable and of a good reputation.
4. He must not have been previously convicted of a felony or misdemeanour involving moral turpitude, even if he has been rehabilitated.
5. He must not have been previously convicted by a disciplinary board of an action involving moral turpitude.
6. He must be physically fit and not suffer from any handicap that prevents him from exercising his function fully. Fitness level shall be determined by virtue of a decree from the Minister of Justice after the approval of the Supreme Council of Judicial Bodies. The candidate's fitness level shall be established by the prescribed medical examination.
7. He must not be less of thirty-five years of age for counsellors and twenty-seven for judges.
8. He must not be married to a foreigner. He may be exempted from this condition by virtue of a decree from the Cabinet.

#### **Article (44)**

Appointments in the third-grade judicial functions shall be by way of selection among the Assistant prosecutors who meet the conditions of promotion.

Others shall be appointed by way of promotion from the grade which directly precedes their grade in judicial or Public Prosecution functions.

Public Prosecution members and members of the State Lawsuits Authority may be appointed in judicial or Public Prosecution functions similar to their functions, provided that the members of the State Lawsuits Authority meet the conditions set forth in the preceding article.

#### **Article (45)**

When the conditions stipulated in Article (431) [*sic*] are met, the following personnel may be appointed directly:

##### **First: In the functions of third-grade judges:**

- a. Former third-grade judges, district prosecutors, and lawyers in the State Lawsuits Authority.
- b. Former fourth-grade assistant prosecutors, judges, and lawyers in the State Lawsuits Authority, who have occupied their positions for at least three consecutive years.
- c. Members of the Fatwa and Legislation Department, teachers of Islamic Sharia or law in university colleges and other institutes, or workers in similar functions, who have occupied their positions for at least four consecutive years. Similar functions shall be determined by virtue of a decision from the Minister of Justice after the approval of the Supreme Council of Judicial Bodies.
- d. Lawyers who actively practiced the profession before the courts for at least five consecutive years.

##### **Second: In the functions of second-grade judges:**

- a. Former second-grade judges, district prosecutors, and lawyers in the State Lawsuits Authority.
- b. Former third-grade assistant prosecutors, judges, and lawyers in the State Lawsuits Authority, who have occupied their positions for at least three consecutive years.
- c. Persons referred to in Clause (First), Paragraph (c) of this article, who have occupied their positions for at least six consecutive years.
- d. Lawyers who actively practiced the profession before the courts for at least seven consecutive years.

##### **Third: In the functions of first-grade judges:**

- a. Former first-grade Judges, district prosecutors, and lawyers in the State Lawsuits Authority.
- b. Former second-grade assistant prosecutors, judges, and lawyers in the State Lawsuits Authority, who have occupied their positions for at least three consecutive years.
- c. Persons referred to in Clause (First), Paragraph (c) of this article, who have occupied their positions for at least eight consecutive years.
- d. Lawyers accredited before Courts of Appeal, who actively practiced the profession before such courts for at least two consecutive years.

##### **Fourth: In the functions of deputy judges of Courts of First Instance:**

- a. Former second-grade deputy judges of Courts of First Instance and public prosecutors and category (B) assistant counsellors in the State Lawsuits Authority.

- b. Former first-grade judges, district prosecutors, and lawyers in the State Lawsuits Authority, who have occupied their positions for at least three consecutive years.
- c. Persons referred to in Clause (First), Paragraph (c) of this article, who have occupied their positions for at least ten consecutive years.
- d. Lawyers accredited before Courts of Appeal, who actively practiced the profession before such courts for at least five consecutive years.

**Fifth: In the functions of presidents of Courts of First Instance:**

- a. Former first-grade presidents of Courts of First Instance and public prosecutors and category (A) assistant counsellors in the State Lawsuits Authority.
- b. Former second-grade deputy judges of Courts of First Instance and public prosecutors and category (B) assistant counsellors in the State Lawsuits Authority, who have occupied their positions for at least three consecutive years.
- c. Persons referred to in Clause (First), Paragraph (c) of this article, who have occupied their positions for fourteen consecutive years at least.
- d. Lawyers accredited before Courts of Appeal, who actively practiced the profession before such courts for at least eight consecutive years.

**Sixth: In the functions of counsellors in Courts of Appeal:**

- a. Former counsellors in Courts of Appeal and the State Lawsuits Authority and heads of Public Prosecution.
- b. Former presidents of the Courts of First Instance and public prosecutors and Category (A) assistant counsellors in the State Lawsuits Authority, who have occupied their positions for at least three consecutive years.
- c. Persons referred to in Clause (First), Paragraph (c) of this article, who have occupied their positions for eighteen consecutive years at least.
- d. Lawyers accredited before the Supreme Court and Courts of Appeal, who actively practiced the profession before Courts of Appeal for thirteen consecutive years at least.

**Seventh: In the functions of deputy judges of the Courts of Appeal:**

- a. Former deputy judges of Courts of Appeal, category (A) advocate-generals, and deputy heads of the State Lawsuits Authority.
- b. Former counsellors in Courts of Appeal and the State Lawsuits Authority and chief prosecutor who have occupied their positions for at least three consecutive years.

**Eighth: In the functions of the president of Courts of Appeal:**

- a. Former Presidents of Courts of Appeal and heads of the State Lawsuits Authority and category (A) advocate-generals.
- b. Former deputy judges of Courts of Appeal and category (B) advocate-generals, who have occupied their positions for at least three consecutive years.

**Article (46)**

Judges, deputy judges, and presidents of Courts of First Instance shall be promoted as per their seniority, taking competence into account. Promotion in higher grades shall be by seniority. Promotions may only be possible to the grade directly higher than the grade promoted from.

#### **Article (47)**

Except in cases of necessity, appointments, promotions, and transfers among magistrates shall be conducted once every year, during the judicial recess.

#### **Article (48)**

The Ministry of Justice shall prepare the draft law of promotions on the basis of the Judicial Inspection Department's reports on the judges, deputy judges, and presidents of the Courts of First Instance. The Minister of Justice shall submit the draft law to the Supreme Council of Judicial Bodies for consideration in accordance with the provisions of the law.

#### **Article (49)**

Magistrates shall be appointed and promoted by virtue of a decree from the Revolutionary Command Council issued at the proposal of the Minister of Justice and the approval of the Supreme Council of Judicial Bodies. The date of promotion shall start from the date of the Council's approval.

#### **Article (50)**

The seniority of magistrates shall be determined based on the date of appointment or promotion, unless the appointment or promotion decree specifies a different date, with the approval of the Supreme Council of Judicial Bodies.

In the event two or more magistrates are appointed or promoted by virtue of the same decree, seniority shall be for the magistrate who is mentioned first. If appointed for the first time in judicial or prosecution functions, magistrates shall hold seniority according to highest qualification. In the event the qualifications of two magistrates are equivalent, the person who graduated first shall hold seniority, then the magistrate with the higher grades, and then the eldest.

The seniority of the members of the State Lawsuits Authority shall be determined based on their date of appointment in the judicial functions similar in grade to their previous functions.

#### **Article (51)**

The seniority of magistrates appointed in accordance with Article (45) shall be determined in the appointment decree, with the approval of the Supreme Council of Judicial Bodies. The appointment of former magistrates, members of the prosecutions, and members of the State Lawsuits Authority referred to in Paragraphs (a) and (b) of Clauses (First) to (Eighth) of the preceding article shall not result in their overtaking their peers in their previous service in grade or seniority. The seniority of the persons referred to in Paragraphs (c) and (d) of the clauses of the preceding article shall follow that of magistrates who graduated with them.

### **b. Judges' Non-Removability from Office**

#### **Article (52)**

Magistrates may not be dismissed or discharged from office. In the event the magistrate is originally appointed from outside the judicial sector or from outside the Public Prosecution, he shall not enjoy such immunity until two years after the date of appointment. During this period,

he may only be dismissed or discharged from office with the approval of the Supreme Council of Judicial Bodies and for serious reasons related to his conduct.

### **c. Transfer, Delegation, and Secondment**

#### **Article (53)**

Magistrates may only be transferred, delegated, or seconded in the cases and manner stipulated in this law.

#### **Article (54)**

Magistrates shall be transferred from one court to another by virtue of a decree from the Revolutionary Command Council, at the proposal of the Minister of Justice and with the approval of the Supreme Council of Judicial Bodies. The decree shall determine the courts to which they are attached. The date of transfer shall be considered the day the decree was notified.

A decree from the Revolutionary Command Council, with the approval of the Supreme Council of Judicial Bodies, shall specify the rules pertaining to the determination of the magistrates' work locations, the periods they spend in these locations, and the controls to be followed with regard to their transfer, so as to achieve equal opportunities for them and ensure the interest of the work.

#### **Article (55)**

If necessary, the Minister of Justice may delegate one of the counsellors of the Courts of Appeals to work in another Court of Appeal for a renewable period of six months, with the approval of the Supreme Council of Judicial Bodies.

#### **Article (56)**

The Minister of Justice may delegate a counsellor of the Courts of Appeals to temporarily head a Court of First Instance, upon the approval of the Supreme Council of Judicial Bodies.

The delegated counsellor shall enjoy all the judicial, provincial, and administrative powers of the president of the Court of First Instance.

#### **Article (57)**

The Minister of Justice may delegate a counsellor of the Courts of Appeals to work in the Public Prosecution for a renewable period of six months, with the approval of the Supreme Council of Judicial Bodies.

#### **Article (58)**

The Minister of Justice may delegate the presidents and judges of the Courts of First Instances to work in courts other than their own for a maximum period of six months. This period may be renewed once by virtue of a decree from the Minister with the approval of the Supreme Council of Judicial Bodies.

#### **Article (59)**

Magistrates may not exercise their judicial mandate outside the jurisdiction of the court to which they are attached except by virtue of a decree from the Minister of Justice with the approval of

the Supreme Council of Judicial Bodies. After taking the opinion of the head of the court concerned, the Minister of Justice may permit the judge to investigate outside the jurisdiction of his respective court if the case involves special circumstances that require that the same judge to whom it was submitted handles the investigation.

#### **Article (60)**

In the event the president of the court is absent, his post is vacant, or he is unable to carry out his functions, he shall be replaced in the exercise of his powers by the most senior, followed by the next most senior, among the presidents, deputies, counsellors, or judges, according to the case.

In the event a judge is absent or he is unable to carry out his functions, the head of the court shall delegate someone to replace him.

#### **Article (61)**

Magistrates may be temporarily delegated to undertake legal or judicial activities that are not inconsistent with their functions, on a full-time basis or in addition to their activities, by virtue of a decree from the Minister of Justice. The approval of the Supreme Council of Judicial Bodies shall be required for those who occupy the position of counsellor and higher.

#### **Article (62)**

By virtue of a decree from the Minister of Justice with the approval of the Supreme Council of Judicial Bodies, magistrates may be delegated to be arbitrators for the government, a public entity, or a public institution whenever it is a party in a conflict that needs to be resolved by arbitration. In this case, the Supreme Council shall determine alone the bonus to which magistrates are entitled.

#### **Article (63)**

Magistrates may be seconded to undertake legal or judicial activities that are not inconsistent with their functions. The secondment of magistrates who occupy the grade of counsellor and higher shall be by virtue of a decree from the Revolutionary Command Council and by virtue of a decree from the Minister of Justice for all other magistrates. In all cases, the approval of the Supreme Council of Judicial Bodies and the magistrate's written consent shall be required. The magistrate shall return to his previous function or the function he was promoted to after the secondment period ends, without the need for any other procedure.

#### **Article (64)**

The period of magistrates' secondment or delegation for functions other than their judicial work on a full-time basis may not exceed three years. The period shall be considered continuous if its days are successive or separated by a time period of less than three years.

#### **Article (65)**

Notwithstanding the provisions of the previous article, the position of deputy minister of the Ministry of Justice shall be filled by delegation of one of the magistrates or prosecution members by virtue of a decree from the Cabinet after the approval of the Supreme Council of Judicial Bodies.

The positions of the directors of the Real Estate Registration and Documentation Department, the Courts Administration, Public Prosecutions, the National Centre of Legislative and Criminal Research, and the Fatwa and Legislation Department may also be filled by delegation of a magistrate or prosecution member by virtue of a decree from the Minister of Justice.

#### **d. Duties of Magistrates**

##### **Article (66)**

Prior to exercising their functions, magistrates shall take the following oath: “I swear by God Almighty to administer justice and to respect the law.”

Counsellors shall take the oath before one of the Circuits of the Supreme Court, while magistrates in other grades shall do the same before a Court of Appeal.

##### **Article (67)**

Magistrates may not undertake any commercial activity and they may not undertake any work inconsistent with the independence and dignity of the judiciary.

The Supreme Council of Judicial Bodies, on its own initiative or at the request of the Minister of Justice or the head of the Judicial Inspection Department, may decide to prevent the judge from taking any action if it believes that such interferes with job duties and good performance.

##### **Article (68)**

Magistrates may not use by themselves or through an intermediary some or all of the disputed rights that fall within the jurisdiction of the court in which they work, or the contract will be void.

##### **Article (69)**

Courts may not give political opinions. Magistrates may not work in politics and may only run for any representative body or political organization after submitting their resignations.

##### **Article (70)**

Notwithstanding the provisions of Article (62), the judge may not be an arbitrator without the approval of the Supreme Council of Judicial Bodies, even without remuneration and even if the dispute is not submitted to the judiciary, unless one of the parties to the dispute is one of his relatives or in-laws up to the fourth degree, due to conflict of interest.

##### **Article (71)**

Judges who are relatives or in-laws up to the fourth degree may not sit on a single Circuit due to conflict of interest.

The prosecution representative or the representative or defence of a litigant may not be a relative or in-law of the judges who are hearing the case. No attorney related to said judge may be appointed, unless the appointment comes after the judge hears the lawsuit.



### **Article (72)**

Except in the situations stipulated by law, judges may not refrain from ruling on disputes submitted to them, and they may never speak directly or indirectly on disputes submitted to them or express their opinion before the verdict, nor may they divulge the deliberations.

### **Article (73)**

Magistrates shall live in their work locations, unless the Minister of Justice authorizes them to live in a nearby location for serious reasons, and after taking the opinion of the President of the Court to which the magistrate is attached.

### **Article (74)**

Judges may not be absent from their work locations before notifying the President of the Court and may not stop practicing their work for non-emergency reasons before obtaining written authorization. In the event the judge does not respect this duty, the President of the Court shall warn him in writing. Moreover, in the event the duration of the period he stops practicing without a written authorization exceeds seven days in one a year, the additional period shall be considered a normal leave period calculated starting the day following the date of the last session the judge attends and ending with his return to attend his sessions. In the event the judge continues to violate the provisions of this Article, the matter shall be referred to the Disciplinary Board.

The magistrate shall be considered as having resigned if he stops practicing his work for twenty consecutive days without permission, even if it was after the end of his leave, secondment, or delegation to another function. If he returns and submits excuses, the Minister shall submit the latter to the Supreme Council of Judicial Bodies. If the Council deems them serious, it shall issue a decree considering him as not having resigned. In this case, the period of absence shall be considered a leave of the same type as previously mentioned or a regular leave, according to the case.

## **e. Salaries of Magistrates**

### **Article (75)**

The grades and salaries of magistrates shall be determined according to the schedule attached to this law. Magistrates may not receive salaries in a personal capacity. They may not receive any additional salary whatsoever and may not receive any exceptional treatment.

Any salary increase adopted for state employees in general shall be applied to magistrates' salaries, with the same conditions and rates determined for such increase.

The Courts and Prosecutions Department shall undertake the implementation of the financial affairs of magistrates.

## **f. Leaves of Magistrates**

### **Article (76)**

1. Judicial bodies shall have a judicial recess starting on the first of July and ending at the end of August of every year.

2. The leave of those holding the grade of counsellor and higher shall be fifty days and forty days for holders of other functions.
3. The General Assemblies of courts shall organize the leave of magistrates during the judicial recess. For the interest of work, granting all or part of the leave due may be postponed.

#### **Article (77)**

During the judicial recess, courts shall continue hearing criminal cases for which the accused are detained, summary cases, and cases that require summary verdicts.

#### **Article (78)**

The General Assembly of each court shall organize work during the judicial recess and set the number of sessions, the days they shall be convened, and the judges who shall work in them.

#### **Article (79)**

Judges may not be granted leaves outside the judicial recess unless they have worked during the recess and the situation permits. Nevertheless, leaves may be granted outside the judicial recess for extraordinary reasons.

#### **Article (80)**

Sick leave shall be granted to magistrates every three years starting from the date of appointment for consecutive or non-consecutive periods and for a total of six months with full salary, three months with half salary, and three months with a quarter salary, for any illness or injury not caused by the service or resulting from it.

Magistrates shall not have the right to be granted the sick leave, which was not granted in full or in part, after the expiry of the aforementioned three-year period.

In the event of illness, magistrates may use all their regular leave periods in addition to the sick leave due to them, without prejudice to the provisions of any law that benefits them more.

#### **Article (81)**

In the event the magistrate suffers from an illness or injury caused by the service or resulting therefrom, he shall be entitled to his full salary throughout his hospital stay. After leaving the hospital, he may be granted a leave for a period not exceeding one year with full salary, by virtue of a decree from the Supreme Council of Judicial Bodies upon the recommendation of the medical committee.

### **g. Judicial Inspection**

#### **Article (82)**

A Judicial Inspection Department shall be established in the Ministry of Justice to inspect the acts of magistrates up until the grade of court presidents, because of conflict of interest.

Other magistrates appointed from outside the judicial or prosecution sector shall also be subject to inspection for two years starting from the date of appointment.

### **Article (83)**

A sufficient number of magistrates, in grades no less than the president of the court, shall be delegated to work in the Judicial Inspection Department, by virtue of a decree from the Minister of Justice after the approval of the Supreme Council of Judicial Bodies.

The grade of the head of this Department and its deputies may not be less than the grade of a counsellor in the Courts of Appeal. The position of the head of the Department may be filled by way of delegation of one of the counsellors of the Supreme Court after taking the opinion of the president of this court and the approval of the Supreme Council of Judicial Bodies.

### **Article (84)**

A decree from the Minister of Justice shall determine the rules and procedure of judicial inspection upon the approval of the Supreme Council of Judicial Bodies.

### **Article (85)**

Magistrates shall be notified of all notes and other documents that are added to their service files and are related to their actions or behaviour.

### **Article (86)**

Inspection of the actions of magistrates shall be conducted at least once a year and the inspection report shall be submitted within a maximum of two months from the date the inspection ends. Competence shall be assessed according to one of the following grades:

1. Competent
2. Above average
3. Average
4. Below average.

## **Chapter (2)**

### **Prosecutor General and Public Prosecution Members**

### **Article (87)**

Any appointed Prosecutor General must meet the conditions required of a counsellor appointed in the Supreme Court.

This function may also be filled by delegation with a counsellor from the Supreme Court.

The appointment or delegation shall be by virtue of a decree from the Revolutionary Command Council issued at the proposal of the Minister of Justice and the approval of the Supreme Council of Judicial Bodies.

Appointed Prosecutor Generals shall have all the rights and guarantees of counsellors in the Supreme Court.

### **Article (88)**

Notwithstanding the provisions of the previous article, the persons appointed in Public Prosecution functions must meet the conditions stipulated in Article (43), with the exception of

the age condition for grades lower than chief prosecutor, provided that the Public Prosecution member is no less than twenty-one years old.

#### **Article (89)**

Auxiliary prosecutors shall be appointed under probation for one year during which their work is inspected and their suitability verified as per the rules and procedures determined by virtue of a decree from the Minister of Justice.

In the event an auxiliary prosecutor's suitability is not established within this period, the Minister of Justice shall submit the auxiliary's case to the Supreme Council of Judicial Bodies to decide to end his service or transfer him to a non-judicial function. The Supreme Council of Judicial Bodies may decide to extend the probation period for a period not exceeding one additional year.

The decision to end the auxiliary's service or to transfer him to a function in the Ministry of Justice shall be issued by virtue of a decree from the Minister of Justice. However, the decision to transfer him to a function outside the Ministry of Justice shall be issued by virtue of a decree from the Cabinet at the proposal of the Minister of Justice.

The auxiliary prosecutor shall be considered on mandatory leave until the decision to end his service or transfer him is issued.

#### **Article (90)**

Notwithstanding the provisions of Article (87), appointment in the functions of the Public Prosecution shall be by promotion of magistrates or prosecution members from the directly preceding grade.

#### **Article (91)**

When the conditions stipulated in Article (88) are met, the following personnel may be appointed directly:

**First: In the functions of assistant prosecutors:**

- a. Former fourth-grade assistant prosecutors, judges, and lawyers in the State Lawsuits Authority.
- b. Persons referred to in Article (45), Clause (First), Paragraph (c), who have occupied their positions for at least two consecutive years.
- c. Lawyers who actively practiced the profession before the courts for at least three consecutive years.

**Second: In the functions of district prosecutors, Prosecutor Generals, chief prosecutors, and advocate-generals:**

Persons that meet the conditions stipulated in Article (45), according to the case.

#### **Article (92)**

Magistrates or the personnel of the State Lawsuits Authority may be appointed in public prosecution functions similar to their functions, provided the personnel of the State Lawsuits Authority meet the conditions stipulated in Article (88).

### **Article (93)**

Advocate-generals, chief prosecutors, and public prosecutors shall be appointed by virtue of a decree from the Revolutionary Command Council issued at the proposal of the Minister of Justice. District prosecutors, and assistant prosecutors, and auxiliary prosecutors shall be appointed by virtue of a decree from the Minister of Justice. The Supreme Council of Judicial Bodies must approve the appointment in all cases.

Promotions shall follow the same mechanism as appointment. The promotion date shall be considered to start from the date of the approval of the Supreme Council of Judicial Bodies.

### **Article (94)**

The seniority of Public Prosecution members shall be determined according to the provisions of Article (50). The provisions of Article (51) shall be applied to determine the seniority of Public Prosecution members appointed by virtue of Article (91).

Public Prosecution members shall be listed in the same seniority roll as magistrates.

### **Article (95)**

Public Prosecution members of the second-grade prosecutor rank and above may not be dismissed or relieved from office. In the event the Public Prosecution member is originally appointed from the extrajudicial sector or from outside the Public Prosecution, he shall not enjoy such immunity until two years after the date of appointment.

Public Prosecution members who do not enjoy such immunity may only be dismissed or discharged from office with the approval of the Supreme Council of Judicial Bodies.

### **Article (96)**

- a.) A decree from the Minister of Justice at the proposal of the Prosecutor General shall determine the work location of Public Prosecution members and transfer them or delegate them to work outside the First Instance Prosecution to which they are assigned.
- b.) The Prosecutor General may transfer Public Prosecution members in the prosecution circuit they are appointed in and delegate them outside this circuit for a period not exceeding three months.
- c.) In the First Instance Prosecution Circuit, the chief prosecutor may delegate a member to undertake the job of another member.
- d.) In the event the chief prosecutor is absent, his post is vacant, or he is unable to carry out his functions, he shall be replaced in the exercise of all his powers by the most senior, followed by the next most senior among the public prosecutors in the First Instance Prosecution. In the absence of public prosecutors, the Prosecutor General shall delegate a district prosecutor to exercise the powers of chief prosecutor for six months. This period may be renewed for additional periods by virtue of a decree from the Minister of Justice at the proposal of the Prosecutor General. The member delegated shall have all the chief prosecutor's powers stipulated by law.

### **Article (97)**

Prior to exercising their functions, Public Prosecution members shall take an oath to carry out the duties of their functions with honesty, integrity, and justice and to respect the law.

The Prosecutor General shall take the oath before the Revolutionary Command Council in the presence of the Minister of Justice. Other Public Prosecution members shall do the same before the Minister of Justice in the presence of the Prosecutor General.

### **Article (98)**

Public Prosecution members shall be only subordinate to their superiors following the order of their grades, then to the Minister of Justice.

### **Article (99)**

The provisions of Article (76), Clauses (2) and (3), shall apply to Public Prosecution members, provided the Prosecutor General exercises the powers of the General Assembly in this regard.

### **Article (100)**

An Inspection Department shall be established to inspect the prosecution's activities up to the first-grade Prosecutor General grade. The Department shall consist of a chief prosecutor, one or more district prosecutors selected among advocate-generals or counsellors of Courts of Appeal, and from a sufficient number of members of a grade no lower than the first-grade prosecutor grade.

Delegating personnel to work in this Department shall be by virtue of a decree from the Minister of Justice upon the approval of the Supreme Council of Judicial Bodies.

This Department, its powers, and the inspection rules and procedures shall be governed by virtue of a decree from the Minister of Justice upon the approval of the Supreme Council of Judicial Bodies.

Competence shall be assessed according to one of the following grades:

1. Competent
2. Above average
3. Average
4. Below average.

The actions of all Public Prosecution members until the first-grade Prosecutor General grade shall be inspected at least once a year. The inspection report shall be submitted within a maximum of two months from the date the inspection ends.

Public Prosecution members shall be notified of all notes and other documents that are added to their service files and are related to their actions or behaviour.

### **Article (101)**

The provisions of Articles (46), (47), (48), (53), (54) Clause (2), (61), (62), (63), (64), (65), (66), (67), (68), (69), (70), (73), (74), (75), (80), and (81) shall apply to Public Prosecution members.

## **Chapter (3)**

### **Provisions Common to Magistrates and Public Prosecution Members**

#### **a. Discipline and Prosecution**

##### **Article (102)**

The Minister of Justice may warn presidents and judges of Courts of First Instance and Public Prosecution members who slightly neglect the duties of their functions. Court presidents may warn counsellors or judges and the Prosecutor General may warn Public Prosecution members. Warning may only be given after hearing the statements of the person receiving the warning and it may be oral or written. In the event the warning is in writing, the warned person may object to it before the Supreme Council of Judicial Bodies within ten days of being informed. After hearing the statements of the person who received the warning, the Council may endorse the warning or consider it as if never given and conduct the necessary investigation. The person who issues the warning may not be a member of the Council when considering the objection.

##### **Article (103)**

Notwithstanding the provisions of the previous article, magistrates or Public Prosecution Members who neglect the duties of their functions shall be referred to the Supreme Council of Judicial Bodies in its capacity as a disciplinary board, as per the procedures set forth in the following articles.

##### **Article (104)**

Disciplinary cases shall be filed by the Minister of Justice against magistrates or Public Prosecution Members and by the Prosecutor General against Public Prosecution Members. The Prosecutor General, an advocate-general, or chief prosecutor subordinate to him shall initiate such cases.

Disciplinary cases may only be filed based on an administrative investigation conducted by a president of the Courts of Appeal delegated by the Minister of Justice for personnel in the rank of counsellor and higher, and by a counsellor from the Judicial Inspection Department for other magistrates and Public Prosecution members.

Criminal investigation may be sufficient, if available.

##### **Article (105)**

The disciplinary case shall be filed through a petition that shall include the charge and supporting evidence. The petition shall be submitted to the Supreme Council of Judicial Bodies.

##### **Article (106)**

The head of the Supreme Council of Judicial Bodies or his representative shall specify a date to hear the case and shall order to summon the person referred to disciplinary trial to be present before the Council at least two weeks before the date by a registered letter with acknowledgment of receipt.

The summons must include a sufficient statement of the case and supporting evidence and the Prosecutor General shall be notified with a copy.

### **Article (107)**

The Supreme Council of Judicial Bodies may conduct the investigation it deems necessary and it may delegate one of its members to do so.

### **Article (108)**

The Supreme Council of Judicial Bodies may order the suspension of the person referred to disciplinary trial from exercising his duties or may consider him on mandatory leave until the trial ends. The suspension decision shall not result in a total or partial salary suspension during the period of suspension, unless the Council decides otherwise.

The Council may decide to reconsider the decision of suspension, mandatory leave, or salary suspension at any time.

### **Article (109)**

Disciplinary trials shall end with the resignation of the person referred to the disciplinary trial if the authority concerned accepts it. They shall also end when the person concerned is referred to retirement.

Disciplinary trials shall not have any effect on criminal or civil cases arising from the same event.

### **Article (110)**

The Supreme Council of Judicial Bodies or the member delegated to conduct the investigation shall have the powers of courts of misdemeanours with regards to the witnesses whose statements are deemed to be worthy of being heard.

### **Article (111)**

The person referred to disciplinary trial shall appear before the Supreme Council of Judicial Bodies by himself. He may defend himself orally or in writing and may delegate a magistrate or Public Prosecution member to defend him.

The Supreme Council of Judicial Bodies shall always have the right to request that the person referred to disciplinary trial appear by himself. In the event he neither appear nor delegates someone else, a verdict may be rendered in absentia after verifying the validity of his statements.

### **Article (112)**

The disciplinary case shall be heard and adjudicated in camera.

The ruling in disciplinary cases shall include the grounds on which it is based. The grounds shall be read out when the ruling is pronounced.

The ruling may not be appealed before any other body in any way.

### **Article (113)**

Disciplinary sanctions that the Supreme Council of Judicial Bodies may impose are as follows:

- Reprimand
- Transfer to a non-judicial function



- Dismissal.

#### **Article (114)**

In the event the person referred to trial is convicted in absentia, the Minister of Justice shall notify him of the ruling's content within forty-eight hours of the issuance thereof, by a registered letter with acknowledgment of receipt.

The term of the magistrate or Public Prosecution member sentenced to dismissal or transfer to another function shall end starting from the date the ruling was issued or the date the person was notified of the ruling, according to the case.

#### **Article (115)**

In the event the convicted magistrate or Public Prosecution member is sentenced to be transferred to another function, he shall be transferred to a function equivalent to the judiciary function he was occupying, by virtue of a decree from the Minister of Justice if the transfer is to a function in the Ministry of Justice, and by virtue of a decree from the Cabinet at the proposal of the Minister of Justice if the transfer is to a function outside the Ministry of Justice.

The convicted person shall be considered on mandatory leave until the decision to transfer him is issued.

#### **Article (116)**

Notwithstanding the provisions of general jurisdiction with respect to location, a committee shall be formed of one of the counsellors of the Supreme Court and two presidents or deputy judges of the Courts of Appeal at the request of the Prosecutor General or Court and this committee shall rule on misdemeanors or felonies committed by magistrates and Public Prosecution members, even if they are not related to their jobs.

The General Assembly of the Supreme Court shall choose every year the counsellor member of the committee and the Supreme Council of Judicial Bodies shall choose the two other members annually by virtue of a decree. Members of the committee may not be members of the Supreme Council of Judicial Bodies.

#### **Article (117)**

Except in cases of *in flagrante delicto*, magistrates and Public Prosecution members may only be arrested or imprisoned after obtaining the permission of the committee set forth in the preceding article.

In cases of *flagrante delicto*, and upon arresting or imprisoning the magistrate or Public Prosecution member, the Prosecutor General shall refer the matter to the aforementioned committee within the following twenty-four hours. The committee shall decide whether the detention should continue or if the person concerned should be released with or without bail. The magistrate or Public Prosecution member may ask to be heard before the committee when the matter is referred to it. The committee shall determine the duration of detention in the decision to detain or continue detention. The above-mentioned procedures shall be taken into

account whenever the continuation of provisional detention is deemed necessary after the end of the period prescribed by the committee.

Except as stated, no investigative action may be taken against any magistrate or Public Prosecution member and no criminal case may be brought against him with regard to a felony or a misdemeanour, except with the permission of the aforementioned committee at the request of the Prosecutor General.

Magistrates and Public Prosecution members shall be detained and custodial penalties executed against them in separate locations from those allocated for the imprisonment of other prisoners.

#### **Article (118)**

The detention of a magistrate or Public Prosecution member by virtue of an order or judgment shall inevitably entail his suspension from work throughout his detention period.

Whether at its own initiative or at the request of the Minister of Justice, the Prosecutor General, the President of the Court, or the General Assembly of the court to which he is attached, the Supreme Council of Judicial Bodies, in its capacity as a disciplinary board, shall order to suspend the magistrate or the Public Prosecution member from performing his job during the investigation or trial proceedings for a crime he committed.

The magistrate or Public Prosecution member's suspension from work shall not entail deprivation of his salary for the period of suspension. However, the Supreme Council of Judicial Bodies may deprive him of half the salary and may at any time reconsider the suspension and the salary.

### **b. End of Service and Retirement**

#### **Article (119)**

The service of magistrates and Public Prosecution members shall end when they attain (60) sixty full calendar years. In the event the person concerned attains the retirement age in the period from the beginning of September until the end of June, he shall remain in service until this date without calculating this period in his pension or bonus.

However, the magistrate or Public Prosecution member may be referred to retirement upon a written request when he exceeds the age of fifty-five calendar years.

#### **Article (120)**

The Minister of Justice shall submit to the Supreme Council of Judicial Bodies the case of magistrates or Public Prosecution members subject to inspection in accordance with the provisions of Articles (82) and (100) and who have received or receive two successive reports with the grade "below average" or three reports with the grade "average." The Supreme Council of Judicial Bodies shall review their situation and hear their statements. If it finds that the reports are valid, it may decide to refer them to retirement or transfer them to non-judicial functions equivalent to the functions they were occupying.

### **Article (121)**

The Minister of Justice shall notify the magistrate or Public Prosecution member of the decree issued to refer him to retirement or transfer him to a non-judicial function as per the preceding article within 48 hours from the issuance thereof, and the term of the magistrate or Public Prosecution member shall end starting from the time of notification.

A decree shall be issued by the Minister of Justice with regards to transfer to a non-judicial function in the Ministry of Justice. In the case of transfer to a non-judicial function outside the Ministry of Justice, the decree shall be issued by the Cabinet at the proposal of the Minister of Justice.

A decree shall be issued by the Revolutionary Command Council with regards to referral to retirement and the pension and bonus shall be calculated as per the provisions of Article (122).

The magistrate or Public Prosecution member referred to retirement or transferred to another function shall be considered on mandatory leave until the decision is issued.

### **Article (122)**

Magistrates or Public Prosecution members whose service ends for any reason shall be entitled to an annual pension, calculated on the basis of (60%) sixty per cent of the salary when the length of pension service reaches twenty years. This percentage shall increase by (2%) two percent of the salary for each year of service after twenty years, provided that the pension due does not to exceed (80%) eighty per cent of the salary.

In the event the length of service is less than twenty years, he shall be entitled to a bonus calculated on the basis of two months salary for each year of the first ten years and three-month salary for each year after this period.

The pension or bonus of magistrates and Public Prosecution members shall be calculated on the basis of the last salary for the grade he was occupying at the end of his service.

### **Article (123)**

The pension or bonus of resigning magistrates and Public Prosecution members shall be determined as per the preceding article, and the resignation shall not entail any reduction of the pension or bonus due.

### **Article (124)**

In the event magistrates or Public Prosecution members are unable to resume work after using their sick and regular leaves because of illness, or were unable to perform their functions adequately at any time for health reasons, they shall be referred to retirement by virtue of a decree from the Revolutionary Command Council issued at the proposal of the Minister of Justice and the approval of the Supreme Council of Judicial Bodies.

In such case or in the case of death, the pension or bonus of magistrates and Public Prosecution members shall be determined as per Article (122), and five years shall be added to the pensionable service, provided that it does not exceed the age of retirement under this law and the pension due does not exceed (80%) eighty percent of the salary.

The foregoing shall be without prejudice to the entitlement of magistrates and Public Prosecution members to any rights or benefits stipulated by retirement laws and regulations in cases where service ends by death, disability, or lack of fitness due to work or as a result of an injury that occurred during work.

#### **Article (125)**

In cases not provided for in this law, the provisions of the general laws and regulations of retirement shall apply.

#### **Part (4)**

### **Supreme Council of Judicial Bodies**

#### **Article (126)**

A Supreme Council of Judicial Bodies shall govern the affairs of the judiciary and shall be chaired by the chairman of the Revolutionary Command Council. The Supreme Council of Judicial Bodies shall be formed as follows:

The Minister of Justice as the deputy chairman.  
The President of the Supreme Court;  
The Prosecutor General;  
The most senior president of Courts of Appeal;  
The Head of the Judicial Inspection Department;  
And the Head of the State Lawsuits Authority as members.

#### **Article (127)**

In the event the chairman of the Supreme Council of Judicial Bodies and his deputy do not attend, the President of the Supreme Court shall chair the meetings.

In the event one of the members of the Supreme Council of Judicial Bodies is absent or unable to attend, he shall be replaced by the most senior after him in the case of presidents of the Courts of Appeal and by his representative in the case of other members.

#### **Article (128)**

The Supreme Council of Judicial Bodies shall convene at the request of the chairman of the Supreme Council of Judicial Bodies or his deputy. Its sessions shall only be valid if they are attended by the majority of its members. The decisions and recommendations of the council shall be taken by the absolute majority of the members present during the vote. In the event of a tie, the side with which the chairman voted shall prevail.

The Supreme Council of Judicial Bodies shall determine the procedures to be followed in the exercise of its powers.

#### **Article (129)**

The Supreme Council of Judicial Bodies may ask governmental and other authorities for any data and documents it deems necessary.

### **Article (130)**

The Supreme Council of Judicial Bodies may delegate to a tripartite committee of its members the exercise of its powers relating to delegation and secondment and may refer to it topics it deems fit for study and to solicit its opinion.

### **Article (131)**

The Supreme Council of Judicial Bodies shall consider the nominations for appointment in the functions of magistrates and Public Prosecution members, and their promotion, transfer, delegation, and secondment as set forth in this law.

The Council shall assume the powers of the Civil Service Committee and the Ministry of Labour and Civil Service with respect to the cadre of judicial functions and other functions of magistrates and Public Prosecution members. It shall also undertake the other powers entrusted to it as per the law.

### **Article (132)**

The Supreme Council of Judicial Bodies shall give its opinion on all matters related to the justice system, the Public Prosecution, and the study and proposal of legislation relating to the development of judicial systems.

### **Article (133)**

The Supreme Council of Judicial Bodies, in its capacity as a disciplinary board, shall be responsible for prosecuting magistrates and Public Prosecution members disciplinarily. In this case, none of its members may be the person who filed the disciplinary case.

The Supreme Council of Judicial Bodies shall also rule on the dismissal of magistrates and Public Prosecution members, their transfer to non-judicial functions, and their referral to retirement as stipulated by law.

### **Article (134)**

The Supreme Council of Judicial Bodies shall decide on requests filed by magistrates and Public Prosecution members with regards to:

First: Cancelling final administrative decisions relating to any professional affairs that originally fall within the jurisdiction of the administrative judiciary, and in the resulting compensation requests.

Second: Disputes relating to salaries, pensions, and bonuses due to magistrates and Public Prosecution members or to their heirs.

Third: The objections and grievances set forth in this law.

The Council's decisions in this regard shall be final and shall not be subject to appeal in any way whatsoever.

### **Article (135)**

The requests referred to in the preceding article shall be filed by a petition deposited with the secretariat of the Supreme Council of Judicial Bodies. In addition to the information pertaining to the names of litigants, their capacities, and their domiciles, the petition shall include the subject of the request and a sufficient statement of the case.

The requester must file with the petition a number of copies thereof equivalent to the number of litigants, with a portfolio of the documents that support his claim and a memorandum of the reasons for his request, if necessary.

The head of the Council or his representative shall prepare the case for pleading and may issue the decisions necessary to do so.

The secretariat of the Council shall notify the litigants with a copy of the petition and assign them to attend the session scheduled to prepare the case.

After preparing the case, the member appointed shall submit the documents to the head of the Council or his representative to schedule a session to hear the case before the Council.

No fees shall be imposed on such requests.

### **Article (136)**

The requester shall conduct all procedures before the Supreme Council of Judicial Bodies by himself. He may defend himself in writing and may delegate a magistrate in all this.

Without prejudice to the provisions of the preceding article, cancellation requests must be filed within thirty days from the date of publication of the contested decision in the Official Gazette or the notification of the person concerned.

The Council shall rule on this request after the member appointed for the preparations reads a report stating the reasons for the request and the reply thereto, enumerating the points of contention of the litigants without expressing an opinion on them, after hearing the statements of litigants.

The case shall be prepared and ruled on expeditiously.

## **Part (5)**

### **Personnel of Courts and Public Prosecutions**

#### **Article (137)**

Each court and Public Prosecution shall have a sufficient number of employees and personnel appointed and promoted by the Minister of Justice.

The employees shall be appointed after taking an examination before a committee formed by virtue of a decree from the Minister of Justice.

#### **Article (138)**

Employees and personnel of courts and Public Prosecutions shall be transferred and delegated outside the jurisdiction of the court or Public Prosecution where they work by virtue of a decree from the Minister of Justice.

#### **Article (139)**

Except as provided in the present law or the regulations issued by the Minister of Justice, the Civil Service Law and the regulations issued pursuant thereto shall apply to the employees and

personnel of courts and Public Prosecutions, provided the Courts and Public Prosecutions Department exercises with regard to these affairs the powers vested in the Ministry of Labour and Civil Service and the Civil Service Committee.

#### **Article (140)**

The president of each court and the head of every Public Prosecution shall be responsible for distributing work to its employees and personnel, determining the work location of each of them, and transferring and delegating any of them within the jurisdiction of the court or Public Prosecution, according to the case.

#### **Article (141)**

Presidents of courts or heads of Public Prosecutions, as appropriate, shall grant leaves, without prejudice to the provisions set forth in the Civil Service Law.

#### **Article (142)**

Employees of courts and Public Prosecutions shall take the oath to perform the duties of their functions honestly and truthfully before the president of the Court or the head of the Public Prosecution they are attached to.

#### **Article (143)**

Employees of courts and Public Prosecutions shall receive and keep the judicial papers related to their functions, collect fees, observe the implementation of the stamp and tax laws, and perform everything imposed on them by laws, regulations, instructions, and orders.

They shall not receive papers or documents unless they are in a portfolio that indicates what it contains. The portfolio shall be accompanied by a true copy that the clerk signs after reviewing and verifying its conformity with the original, then returns it to the person who presented it.

The registrars of courts and Public Prosecutions who attend hearings shall prepare minutes on the proceedings during these hearings and sign the same.

#### **Article (144)**

Employees of courts and Public Prosecutions may not disclose the secrets of cases and may not inform non-concerned persons or persons not authorised by laws, regulations, orders, or instructions of such information.

#### **Article (145)**

Employees of courts and Public Prosecutions shall reside in the area where they work. They may not live far from it or be absent from work, except for a reason accepted by their superiors.

#### **Article (146)**

An Administrative and Clerical Inspection Department shall be established by virtue of a decree from the Minister of Justice to inspect the administrative and clerical acts of the employees of courts and Public Prosecutions.

The rules and procedures of inspection shall be governed by virtue of a decree from the Minister of Justice.

#### **Article (147)**

Disciplinary measures shall be taken against any employee of courts or Public Prosecutions who neglects the duties of his function or carries out an act that reduces the necessary confidence in judicial works or disrespects the body of which he is a member, whether inside or outside the judiciary premises.

#### **Article (148)**

The president of the Court or the head of the Public Prosecution, each within his jurisdiction, may impose penalties of warning and salary deduction for a maximum period of fifteen days. The Minister may impose warning and salary deduction penalties for a maximum period of sixty days. Other disciplinary sanctions may only be imposed by virtue of a decision from the Disciplinary Board.

#### **Article (149)**

A disciplinary board shall be formed in every Court of Appeal and shall include a counsellor selected by the General Assembly as head of the board, with the chief prosecutor or his representative and a judge selected by the General Assembly of the Court of First Instance located at the headquarters of the Court of Appeal as members.

The Disciplinary Board shall try the employees of courts and Public Prosecutions located in the jurisdiction of the Court of Appeal.

#### **Article (150)**

Disciplinary cases against employees of courts and Public Prosecutions shall only be filed by virtue of a decision from the president of the Court or the head of the Public Prosecution, each within his jurisdiction, and none of them may be a member of the Disciplinary Board.

#### **Article (151)**

The indictment declared by order of the head of the Disciplinary Board shall include the charges against the employee and a brief statement of the supporting evidence and the day scheduled for the trial.

The accused person shall attend before the Council by himself. He may submit his defense in writing and appoint a lawyer to defend him. The trial shall be conducted in closed session and the ruling shall be pronounced after listing the reasons.

### **Part (6) Judicial Assistance**

#### **Article (152)**

Judicial assistance shall be granted to those unable to afford the expenses of the case, whether they are plaintiffs or defendants and whatever the type of the case, including civil cases filed during the course of criminal cases.

Such assistance may be granted to non-profit charitable or social service associations or institutions.



### **Article (153)**

Judicial assistance may only be granted in cases of inability to afford the expenses of the case and when it may possibly be won. The inability shall be proved by virtue of a certificate issued by local administrative authorities.

### **Article (154)**

Judicial assistance shall be granted by virtue of a decision from the judge hearing the case or a judge or counsellor of the Court of Appeal hearing the case, whom the General Assembly shall delegate for this purpose.

### **Article (155)**

The request for judicial assistance shall be submitted to the registrar of the court concerned and shall be drafted on stamped papers that clarify the circumstances of the case and the grounds on which the requester based his case or defense.

The registrar shall notify the two parties of the session scheduled to review the request, in the manner the judge deems fit.

### **Article (156)**

In the event granting judicial assistance is approved, the requester shall appoint a lawyer to defend him.

### **Article (157)**

Judicial assistance shall entail the following:

1. Defend free of charge in the case or matter that judicial assistance was granted for, without prejudice to the right of the lawyer to claim compensation from the other party for the expenses and fees due to him.
2. Deduct the fees due from the Treasury.
3. Grant an exemption from all fees of judicial and administrative proceedings required by the judicial assistance case, without prejudice to the right to claim them from the party required to pay the expenses or from the party who was granted the assistance, in the event his inability to pay ends because he won the case.
4. The Treasury pays travel and accommodation expenses for magistrates, employees, public officials, and, where appropriate, the lawyer appointed to undertake the judicial assistance. It shall also disburse the required expenses for the activities of experts and witness testimony, without prejudice to the right to claim compensation for all this as set forth in the preceding paragraph.
5. Publish free of charge whatever is required by the judicial assistance case in the newspapers prescribed for judiciary publications.

### **Article (158)**

Rulings issued to compel the opponent to cover expenses shall be implemented for the benefit of the Treasury.

The expenses covered by the Treasury shall not include lawyers' fees, and such fees shall be the right of the lawyers themselves.

**Part (7)**  
**Transitional and Temporary Provisions**

**Article (159)**

Subject to the particular Sharia provisions provided for in the laws, and until the issuance of a Personal Status Law, Islamic Sharia courts shall rule in accordance with the common view of the Maliki school of law in personal status issues and questions concerning the principal of Islamic endowments.

**Article (160)**

The following shall be considered to be personal status issues:

1. Matters relating to the status of capacity of persons.
2. Matters relating to the family system, such as engagement, marriage, dowry, the mutual rights and responsibilities of the spouses, divorce, judicial divorce, and separation.
3. Matters relating to filiation, acknowledgment and denial of paternity, relationship between parents and children, children's custody, and correction of kinship.
4. Alimony obligation to relatives.
5. Guardianship, trusteeship, custodianship, custody, permission of management, absence, and consideration of missing persons as deceased.
6. Matters relating to inheritance, wills, and other postmortem acts.

**Article (161)**

The “principal of an endowment” shall refer to the endowments's establishment, validity, entitlement thereto, construal of conditions, guardianship, or implementation in case of death.

**Article (162)**

Until the pleading rules are unified, the provisions of the Code of Procedure in Sharia Courts related to the filing and conduct of cases, procedures to certify the same, and the appeal and implementation of issued rulings shall apply to personal status cases and matters concerning the principal of endowments.

**Article (163)**

Non-Libyan Arabs may be appointed in judiciary and Public Prosecution functions as per the other conditions set forth in Article (43), by virtue of private contracts indicating their work conditions and the salaries they receive.

Appointment, renewal of contracts, and determination of grades and salaries shall be upon the approval of the Supreme Council of Judicial Bodies, without reference to any other authority. The appointment shall be issued by virtue of a decree from the authority competent to appoint their Libyan counterparts among magistrates and Public Prosecution members.

Appointed personnel shall have private contracts with all the immunities and guarantees stipulated in this law.

The Ministry of Justice shall not be bound to apply the provisions concerning promotions to personnel appointed by private contracts.

### **Article (164)**

The calculation of the maximum periods for secondment or delegation set forth in Article (64) shall start from the date this law enters into effect.

### **Article (165)**

The provisions of the aforementioned Laws No. (55) of 1971 and No. (88) of 1971 shall continue to apply in cases not provided for in this law.

### **Article (166)**

The provisions relating to notarisation before courts and the fees prescribed for such shall continue to apply until they are amended or abolished as per the provisions of this law.

### **Article (167)**

The regulations and decrees relating to the judiciary system that do not contradict the provisions of this law shall continue to apply until they are amended or abolished as per the provisions of this law.

## **Rules to Implement the Table of Salaries and Allowances**

### **First: Salaries**

- a.) When this law enters into effect, magistrates and Public Prosecution members in service shall be granted their salaries according to this table, calculated on the basis of the starting salary of the grade of each, in addition to the number of annual increases, equal to the increases due to him in this grade, provided that after settlement, their salaries are not lower than the salaries they receive when this law enters into effect.
- b.) If a magistrate or Public Prosecution member is promoted to a higher grade and his salary is equal or higher to the starting salary of this grade, he shall be granted one of the increases of the new grade or a part of such increase such that his new salary becomes organized with the sequence of annual increases of the grade he is promoted to.
- c.) Magistrates and Public Prosecution members shall be granted an ordinary annual increase in accordance with the categories listed in this table, such that their salary does not exceed the final salary of their grade. The period for which the annual increase is due shall be calculated starting the first day of the month following the date the salary becomes payable or the previous annual increase is granted. However, if the salary became payable or the previous increase occurs on the first day of the month, payability shall be calculated starting on the said day.

### **Second: Allowances**

- a.) The housing allowance shall be calculated on the basis of the start of the grade of the magistrate or Public Prosecution member, in accordance with the rates set forth in the table.
- b.) The regulations applied in the case of housing allowances for government employees shall apply to the entitlement to the housing allowance, the dates of disbursement, the conditions of deprivation or reduction, and the limits in place in this regard. The monthly allowance shall not be less than (35) thirty-five dinars and not more than (100) one hundred dinars.
- c.) The provisions of the regulations that determine allowances, bonus, and other benefits of other government employees shall apply to magistrates and Public Prosecution members.

**Table of Grades, Salaries, and Allowances  
of Magistrates and Public Prosecution Members  
Annex to Law No. (51) of 1976**

Function or Grade	Annual Salary in Dinars		Annual Increase	Housing Allowance %
	Minimum	Maximum		
Prosecutor General	Treated like the counsellors of the Supreme Court			
Category (A) Presidents of Courts of Appeal and District prosecutors	4,860 fixed salary			45%
Category (B) Deputy judges of Courts of Appeal and Advocate-Generals	3,876	4,436	112	45%
Counsellors and Chief Prosecutors	3,644	4,104	92	45%
First-grade Presidents of Courts of First Instance and Public Prosecutors	3,540	3,960	84	45%
Second-grade Presidents of Courts of First Instance and Public Prosecutors	3,165	3,540	75	45%
First-grade Judges and District Prosecutors	2,840	3,215	75	45%
Second-grade Judges and District Prosecutors	2,515	2,840	65	50%
Third-grade Judges and District Prosecutors	2,050	2,375	65	55%
Assistant Prosecutors	1,863	2,143	56	55%
Auxiliary Prosecutors	1,320 Fixed salary			55%