



مركز المنصة للتنمية المستدامة  
PLATFORM CENTER FOR SUSTAINABLE DEVELOPMENT

Issue and Analysis

# Retirement And Social Security Law For Workers

Third issue – July – 2023



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رئيسة اللجنة التنفيذية  
في 12 تموز 2023، أقر مجلس النواب العراقي قانوناً جديداً للتعويض والتأمين الاجتماعي للموظفين العموميين، وهو  
المرسوم رقم 157 لسنة 2023، الذي يهدف من خلاله إلى تعزيز العدالة الاجتماعية وتحسين ظروف العمل للموظفين  
والموظفات. يهدف المرسوم إلى تأمين مستقبلهم المالي وضمان حقوقهم الاجتماعية والتأمينية.  
تمت الموافقة على القانون في 12 تموز 2023، وهو ينص على تغييرات هامة في نظام التقاعد والتأمين الاجتماعي  
للموظفين العموميين، بما في ذلك تغيير سن التقاعد من 60 إلى 65 سنة، وتغيير طريقة حساب المزايا التقاعدية.  
كما يهدف القانون إلى تعزيز العدالة الاجتماعية من خلال توفير مزايا إضافية للموظفين ذوي الإعاقة، وتغيير  
طريقة حساب المزايا التقاعدية للموظفين ذوي الإعاقة. يهدف القانون أيضاً إلى تحسين شروط العمل  
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# Issue & Analysis

Monthly publication from PSDIraq that sheds light on a salient issue that dominates policymaking circles and public opinion



## About the Center

Platform Center for Sustainable Development (PSDIraq) is a registered NGO at the Directorate of Non-governmental organisations in the General Secretariat of the Council of Ministers under the number (1S2106012). It is a space for thinking, discussing, and working towards positive change in Iraq.

## Vision

We seek to establish a platform for dialogue and policies to contribute to achieving sustainable development goals in Iraq.

## Mission

Bridging the gap between the state and society in a way that ensures the realization of the essence of democracy represented by the participation of citizens in the decision-making processes, through training, monitoring, analyzing, researching, awareness raising, and advocacy campaigns.

## Strategic Goals

Preparing Youth to fulfill their societal obligations by analyzing root causes of problems, proposing feasible and desirable policy alternatives and advocating for their implementation

Presenting statistics and issues that occupy the political and societal scene to reflect a deeper understanding of Iraq's realities

Encouraging youth to work towards achieving sustainable development goals

Establishing a network of active, informed, and committed citizens towards Iraq's state-building project

# Introduction

- In May 2023, the Iraqi Parliament passed a new law for retirement and social security for workers, replacing Law No. 39 of 1971. The new law introduces important and positive changes to several legal articles, expanding the coverage of the social security system to include new categories that were not covered by the previous law. The new law significantly broadens the legal coverage of the social security system to include all workers, including informal and self-employed workers, as well as private sector workers and their families. Additionally, the law provides healthcare insurance obtained from public, cooperative, and private service providers. It also facilitates the transition of workers between the public, private, cooperative, and mixed sectors while maintaining retirement benefits, allowances, and promotions earned in each sector.
- The new law also imposes restrictions on employing foreign labor by introducing new fees. A work permit fee of 2 million dinars per foreign worker entering Iraq and a registration fee of 750,000 dinars for foreign workers in the social security system were introduced. These fees increase the cost of employing foreign workers, thereby encouraging employers to hire local labor.
- The enactment of the new law addresses the changing needs of the Iraqi market since the previous law was passed in 1971. It is in line with the International Labor Organization (ILO) Convention on Social Security (Minimum Standards), 1952 (No. 102), which was officially ratified by the Iraqi government in March 2023. The ILO welcomed the new law, describing it as a prominent step in expanding worker support by covering a wide range of risks. For instance, the inclusion of unemployment benefits is crucial in preventing unemployed workers from falling into poverty and providing them with support while seeking new employment opportunities. Similarly, maternity benefits provide support to women before, during, and after childbirth, potentially improving their health status.



# Analysis

## 1 Previous Retirement and Social Security Law

- Law No. 39 of 1971 regulated retirement benefits for workers. However, due to economic, social, and commercial changes in Iraq, as well as the nature of jobs, the influx of foreign labor, and their domination of jobs, especially in the service sector, and the significant population increase, after approximately 52 years since the old law's enforcement, it became necessary to review and update the law to align with the changes across various economic sectors.
- The most crucial change required is to legally cover all working categories in Iraq, whether they are employed in the private sector, work on an informal basis, or work as self-employed individuals. Up until December 31, 2021, the actual figures reveal a clear deficiency in the coverage of the social security system. It didn't reach workers in unorganized sectors, estimated at around 5 million workers according to unofficial statistics. Furthermore, the system didn't reach small projects operating in unorganized sectors, lacking official registration and state control over employees. Also, the law didn't officially engage with the banking sector.

Table (1) Number of Formal and Estimated Projects and the Number of Insured and Uninsured Workers in Iraq

Number of Insured Projects	Number of Estimated Projects	Number of Insured Workers	Number of Estimated Workers
78,161	500,000	277,155	5,000,000

**Source:**

- Annual Report of the Ministry of Labor and Social Affairs for the year 2021.
- Financial Needs Assessment Report for Small and Medium Projects in Iraq, issued in 2023 by a group of international organizations.

- The above table illustrates a wide gap between the actual data of covered categories and the estimated numbers of projects and workers. Additionally, the actual number of retirees, as officially reported by the Retirement and Social Security Department, is only 18,000 retired workers. This number is significantly low compared to the actual eligible population, indicating a real problem in the law's coverage of other categories, along with deficiencies in its enforcement.



## 2 New Retirement and Social Security Law for Workers

- The new retirement and social security law introduces several privileges not provided by the previous law. Apart from expanding the categories covered by the law and extending the social security net to include workers in the unorganized sector, employers, and self-employed individuals, the law involves the state's contribution to financing the salaries of insured workers according to the new law. It allows purchasing a service period of (5) years for individuals who don't have a qualifying employment period for retirement benefits. The new law also imposes fees on employing foreign labor, thereby increasing their operational costs to provide more opportunities for Iraqi workers. The following are the main substantive differences between the old law and the current law:

Table (2) Key Substantive Amendments to the Retirement and Social Security Law

	Paragraph	Old Law	New Law
1	Covered Categories for Retirement and Social Security	Workers in the organized sector	Workers in the organized and unorganized sectors, employers, and self-employed individuals
2	Voluntary Retirement	Not applicable	Anyone can register themselves and their families, paying full retirement benefits
3	Purchasing Service	Not applicable	Anyone can purchase a (5) year service to be included in retirement and social security
4	State's Contribution to Employer's Worker	No state contribution, worker pays (5%), and employer pays (12%) making a total of (17%)	State contributes (8%) of what the worker receives in wages and benefits, while the worker pays (5%) and the employer pays (12%), making a total of (25%)
5	State's Contribution to Self-Employed Worker	Not applicable	State contributes (15%), worker contributes (5%)
6	Work Permit Fee for Foreign Workers Inside Iraq	Not applicable	2 million dinars
7	Fee for Applying Social Security for Foreign Workers	Not applicable	750,000 dinars, no state contribution
8	Protection of Rights upon Sector Transition	Not applicable	Protects rights during transitions between public, private, mixed, and cooperative sectors, including service calculation for bonuses, promotions, and retirement
9	Minimum Retirement Salary	Not applicable	Minimum Retirement Salary
10	Penalties for Employer Not Registering Workers	Employer pays 5 times the value of contributions	Fixed at 5 million, previous contributions paid 5 times their value



11	Retirement and Social Security Rights between Central and Regional	Not applicable	Facilitates transferring services and contributions between central and regional authorities
12	Cost of Living Allowances for Retirees	Not applicable	Annual cost of living allowances based on annual inflation rate, not exceeding inflation rate
13	Establishment of the Guarantee Bank	Not applicable	Empowers establishing a bank called the Guarantee Bank according to Central Bank requirements
14	Compensation for Work Suspension	Not applicable	Guarantee Authority provides compensation to insured workers during suspension, based on average wage of the last six months, not falling below the minimum wage, with rates defined by law

**Source:**

- Retirement and Social Security Law No. 39 of 1971.
- New Retirement and Social Security Law for the year 2023.

### 3 Calculation Formula for Retirement Salary for Insured Workers Under the New Law

- Both the previous and new laws defined methods for calculating the retirement salary for insured workers. The new law introduced a minor amendment to the calculation formula. The new law considers the average salary during the (5) years preceding retirement, whereas the previous law considered the last received salary before retirement. The retirement salary calculation formula under the new law is as follows:

$$(2.5\% * \text{Average Monthly Salary of the Retiree during the last (5) years} * \text{Service Months} / 12)$$

For example, if a worker has a service period of (20) years and an average salary of (1,000,000) during the last (5) years, their retirement salary would be calculated as follows:

$$(12 / 240) * 1,000,000 * 2.5\% = 500,000 \text{ thousand}$$

- It's worth noting that the new law stipulates that the retirement salary must not be less than the minimum wage and must not exceed (80%) of the average monthly wage for the worker.

### 4 Women's Rights Under the New Law

- Article (87) of Labor Law No. 37 of 2015 outlined the rights of working women regarding leave and extended leave, but it didn't specify compensation percentages or the entity responsible for paying compensation. However, the new law provides more detailed rights in this regard, including:
  - Insured female workers are entitled to a special maternity leave (before and after childbirth) for a duration of (14) weeks.
  - The extended leave for insured female workers can be approved by an official medical authority for up to a total of (9) months.
  - The Retirement and Social Security Authority provides compensation for the initial leave (14 weeks) at a rate of (100%) of the average wage during the three months preceding the leave.
  - The Retirement and Social Security Authority provides compensation for extended leave at a rate of (75%) of the average wage during the three months preceding the leave.



# Challenges

## 1 Financial Burdens

- The new law introduces significant financial burdens on the state budget. The state contributes (8%) of the total contribution of insured workers in the organized sector (25%), and (15%) of the total contribution of self-employed workers in the unorganized sector (20%). These state contributions will add extra financial pressure to the state budget. With the increase in the number of insured workers under the new law, these contributions could amount to trillions of dinars. The Ministry of Finance has expressed objections to including these contributions in the law.

## 2 Employers' Evasion

- Employers often try to evade registering their workers with the Retirement and Social Security Authority. This evasion occurs for various reasons, including the complex procedures mentioned earlier. Employers face additional costs when registering their workers and paying a (12%) contribution of the monthly salary to the Retirement and Social Security Authority. The existence of an unorganized labor market and weak oversight by relevant state institutions allows employers to evade or delay registration, register only a portion of their workers, or reach agreements with workers not to register in exchange for employment.

## 3 Administrative and Financial Corruption

- Many employers experience extortion and bribery when dealing with government institutions, including tax departments. This encourages employers to avoid dealing with these institutions to escape bribery and extra costs. Reducing citizens' interactions with employers can facilitate the transition to the organized labor market.

## 4 Weak Electronic Governance of Procedures

- Despite current efforts to transition to electronic governance and streamline procedures, Iraq still struggles with transitioning transactions and procedures from paper to electronic forms in many institutions. Failure to digitize government procedures leads to multiple interactions and difficulty in conducting transactions related to worker registration, pushing employers to evade registration due to these challenges.

Improving electronic governance of procedures can reduce corruption and bureaucracy, removing obstacles for both employers and workers.

## 6 Other Laws

- Some laws hinder many employers from transitioning to formal and organized employment. One such law is the Private Companies Law No. 21 of 1997, as amended. Due to the complexity of procedures for registering a company in Iraq, some employers try to avoid the organized labor market and continue working in the informal sector. This enables employers to evade registering their workers with the Retirement and Social Security Authority. Simplifying the transition to formal employment and distancing from the informal sector would bring all employers into direct contact with state institutions, including the Retirement and Social Security Authority.

## 7 Absence of Legal Awareness

- Limited education and promotion of workers' legal rights by sectoral entities have led to workers' lack of awareness about their rights. Ignorance or intentional non-compliance by employers with their legal obligations, such as registering workers with the Retirement and Social Security Authority, further compounds this issue. Government institutions also often fail to inform the Retirement and Social Security Authority about contracts they sign with private companies or contractors.

## A beginning for Private Sector Development

- Enacting the new law on retirement and social security for workers marks the beginning of establishing a genuine private sector that encourages the creation of small and micro-sized private projects. This is especially the case with the support provided by the government and the central bank for financing new projects. The successful implementation of the new law depends on the seriousness and collaboration of stakeholders from both government and private institutions to facilitate procedures related to worker registration with the Retirement and Social Security Authority. Additionally, special incentives and benefits should be offered to companies that perfectly implement the law's provisions. A dedicated governmental monitoring program by the Retirement and Social Security Authority is necessary to enforce the new law's provisions and hold those responsible accountable. Furthermore, comprehensive awareness campaigns should accompany these programs to educate people about the law's provisions.

Prior governments in Iraq introduced projects aimed at developing the private sector, like the "White Paper" launched in 2020 and the Private Sector Development Strategy (2014–2030). Most of these government programs included sections related to supporting and developing the private sector, but they didn't achieve substantial changes in its development. Even the previous law on social security and retirement wasn't effectively implemented due to weak determination within the responsible institutions for execution, monitoring, and accountability.

Implementing the new law will reduce the pressure on the state to provide new public sector jobs, as private sector jobs under this law will enjoy the same retirement benefits.



## Sources:

Retirement and Social Security Law No. 39 of 1971.

New Retirement and Social Security Law for the Year 2023.

Labor Law No. 37 of 2015.

Annual Report of the Ministry of Labor and Social Affairs for the Year 2021.

Financing Needs Report for Small and Medium-Sized Projects in Iraq (2023) by a group of international organizations.



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• [psdiraq.org](http://psdiraq.org)



• [info@psdiraq.org](mailto:info@psdiraq.org)



• **07731551117**



• [@psdiraq](https://www.facebook.com/psdiraq)