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**Legislative Decree No. (46) of 2010**

**Amending Certain Provisions of the Military Penal Code**

**promulgated by Legislative Decree No. (34) of 2002**

We, Salman bin Hamad Al Khalifa, Acting King of the Kingdom of Bahrain.

Having reviewed the Constitution,

The Cassation Court Law promulgated by Legislative Decree No. (8) of 1989, as amended,

The Bahrain Defence Force Law promulgated by Legislative Decree No. (32) of 2002,

The Military Penal Code promulgated by Legislative Decree No. (34) of 2002,

And the Judicial Authority Law promulgated by Legislative Decree No. (42) of 2002, as amended,

And upon the submission of the Minister of State for Defence Affairs,

And after the approval of the Cabinet,

Hereby Decree the following Law:

Article One

The texts of Articles (5, 6, 11, 47, 73) of the Military Penal Code shall be replaced with the following texts:

Article (5):

The military judiciary is an independent judicial authority composed of military courts, military prosecution offices, and other technical branches in accordance with the provisions of this Law and the laws and regulations of the Bahrain Defence Force.

Article (6):

The administration of the military judiciary shall be entrusted to an officer qualified in law, assisted by a sufficient number of officer members qualified in law and legal advisors. A royal decree shall be issued to appoint the director and members of the military judiciary based on the proposal of the Commander-in-Chief.

Article (11):

a. Military judges are independent and shall not be subject to any authority in their judicial capacity other than the law, and they may only be dismissed through disciplinary procedures. Their status shall be similar to that of their counterparts in the judiciary and public prosecution as outlined in the attached table concerning the application of this Law.

b. A decision shall be issued by the Commander-in-Chief regarding the conditions and procedures for appointing members of the military judiciary, their discipline, organising their duties, and judicial inspection over them based on the proposal of the Director of the Military Judiciary.

Article (47):

The Supreme Military Court of Appeal is competent to adjudicate appeals against rulings issued by the major military courts.

Article (73):

A ruling imposing the death penalty issued by military courts for crimes stipulated in the Penal Code or other penal laws shall be considered subject to appeal by force of law before the Military Court of Cassation. The Military Prosecution shall prepare the appeal memorandum within the prescribed time limits for appealing rulings before the Court of Cassation, resulting in a stay of execution of the ruling.

Article Two

A new clause numbered (a) shall be added to Article (35) of the Military Penal Code, and the remaining clauses of this Article shall be rearranged. Additionally, two new Articles numbered (35 bis) and (46 bis) shall be added as follows:

Article (35)

Military Courts are:

a. The Military Court of Cassation.

Article (35 bis):

The Military Court of Cassation shall be composed of no fewer than five judges from the military judiciary, presided over by the Director of the Military Judiciary or the most senior member.

Article (46) bis:

The Military Court of Cassation shall be competent to:

1- Consider appeals submitted by the Military Prosecution or the convicted person against final rulings issued by the Higher Military Court of Appeal or the Major Military Court in its appellate capacity in felonies or misdemeanours.

2- Adjudicate requests for retrial of final rulings imposing penalties in felony and misdemeanour cases, with the right to request a retrial vested in the Chief of Military Prosecution either *ex officio* or upon request by the convicted person or their legal representative if they are incapacitated or missing, or at the request of a relative or spouse following their death.

3- Resolve conflicts of jurisdiction between military courts.

The time limits and procedures stipulated by law for appealing rulings and requesting retrials in criminal matters, under Legislative Decree No. (8) of 1989 Promulgating the Court of Cassation Law, shall apply to cases of cassation and requests for retrials, provided they do not conflict with the provisions of this Law.

In the case of annulling a ruling, the court shall address the subject matter of the lawsuit without returning it to the court that issued it and shall consider it as a trial court, following the procedures established for the trial of the committed offence.

Article Three

Articles (8, 23, 43, 74, 76, 80) shall be repealed.

The phrase "ordinary" in Article (71) and the phrase "appeal" in Articles (72, 75) of the Military Penal Code shall also be repealed.

Article Four

The attached Table of Military Judiciary Positions Equivalent to Judicial Authority Positions shall be enforced with this Law.

Article Five

The Prime Minister and the Ministers—each within their jurisdiction—shall implement this Law, and it shall come into force one month after the day following the date of its publication in the Official Gazette.

Acting King of the Kingdom of Bahrain

Salman bin Hamad Al Khalifa

Prime Minister

Khalifa bin Salman Al Khalifa

Issued at Riffa Palace:

On: 5 Dhu al-Hijjah 1431 AH

Corresponding to: 11 November 2010

**Table of Military Judiciary Positions Equivalent**

**to Judicial Authority Positions**

|  |  |
| --- | --- |
| Position Title in the Military Judiciary | Position Title in the Civil Judiciary |
| President of the Military Court of Cassation | President of the Court of Cassation |
| Judge of the Military Court of Cassation | Judge of the Court of Cassation |
| President of the Supreme Military Court of Appeal | President of the Supreme Civil Court of Appeal |
| Member of the Supreme Military Court of Appeal | Member of the Supreme Civil Court of Appeal |
| President of the High Military Court | President of the High Civil Court |
| Member of the High Military Court | Member of the High Civil Court |
| Judge of the Lower Military Court | Judge of the Lower Civil Court |
| President of the Military Prosecution | Chief Prosecutor |
| Head of the Military Prosecution Branch | Head of Prosecution (a) |
| Head of the Military Prosecution Department | Chief Prosecutor (B) |
| Military Prosecutor | Prosecutor |
| Assistant Military Prosecutor | Assistant Prosecutor |