



Law No. 2 of 2016

**On Establishing Kuwait Anti-Corruption
Authority
and the Provisions on Disclosure of
Assets & Liabilities**

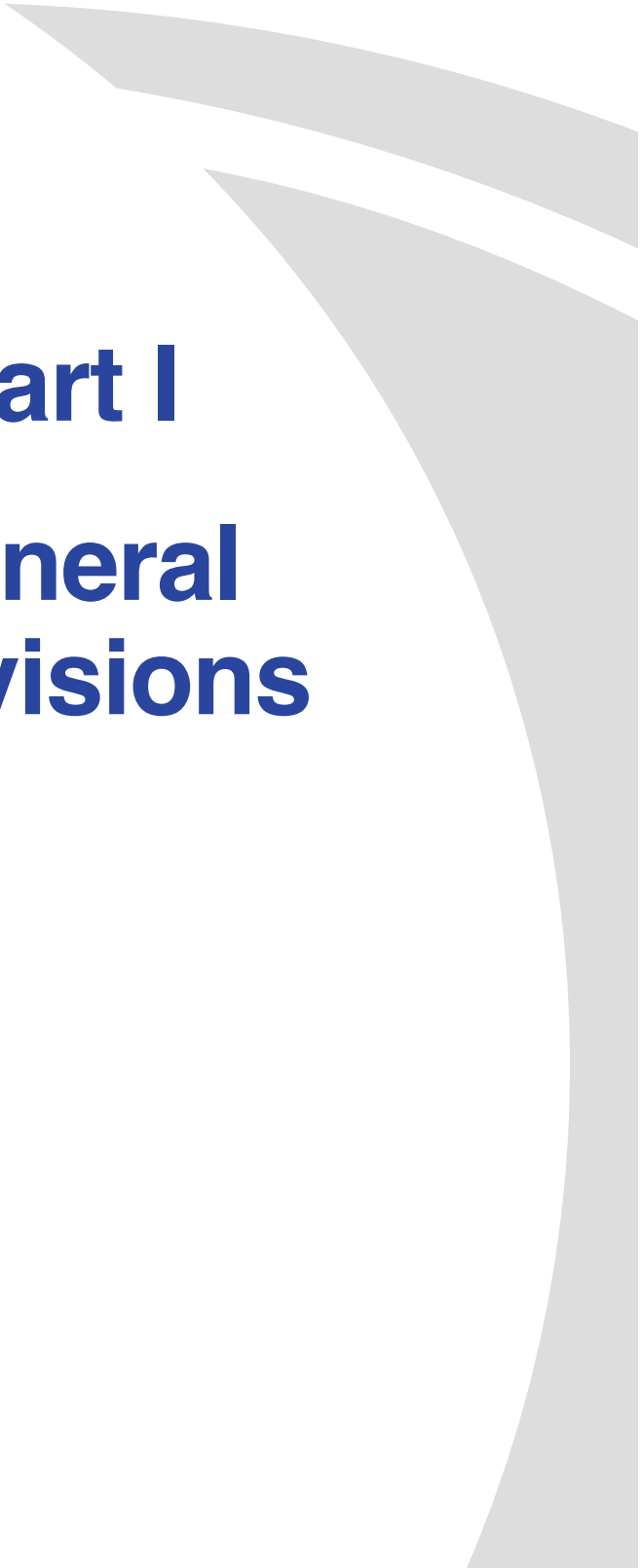
Law No. 2 of 2016 On Establishing Kuwait Anti-Corruption Authority & the Provisions on Disclosure of Assets & Liabilities

Having perused the Constitution; and;

- Decree-Law No. (3) of 1955 Concerning Kuwait Income Tax as amended;
- Law of Kuwait Chamber of Commerce and Industry of 1959;
- The Amiri Decree No. (10) of 1960 on the Law of the Civil Service Commission as amended;
- The Amiri Decree No. (12) of 1960 on the Law regulating the Fatwa and Legislation Department of the Government of Kuwait;
- Law No. (16) of 1960 Promulgating the Penal Code as amended;
- Law No. (17) of 1960 Promulgating the Code of Procedures and Criminal Prosecution as amended;
- Law No. (21) of 1962 on the Diplomatic and Consular Corps as amended;
- Law No. (35) of 1962 Concerning Elections of the National Assembly as amended;
- Law No. (12) of 1963 Concerning the Rules of the National Assembly as amended;
- Law No. (30) of 1964 on the Establishment of the State Audit Bureau as amended;
- Law No. (37) of 1964 on Public Tenders as amended;
- Decree-Law No. (2) of 1967 on Establishment of the National Guard;
- Law No. (32) of 1967 Concerning the Army as amended;
- Law No. (23) of 1968 Concerning the System of the Police Force as amended;
- Law No. (32) of 1968 Concerning Currency, the Central Bank of Kuwait and Organization of Banking Business as amended;
- Decree-Law No. (15) of 1979 regarding the Civil Service as amended;
- Decree-Law No. (24) of 1979 on the Cooperative Societies as amended;
- Law No. (38) of 1980 Promulgating the Civil and Commercial Procedures Law as amended;
- Law No. (40) of 1980 Promulgating Law of Regulating Experts as amended;

- Law No. (36) of 1982 Concerning the Firefighters as amended;
- Decree-Law No. (23) of 1990 on Regulation of the Judiciary Law as amended;
- Law No. (1) of 1993 On the Protection of Public Funds as amended;
- Law No. (11) of 1995 Concerning Judicial Arbitration with respect to Civil and Commercial Matters as amended;
- Law No. (88) of 1995 Concerning the Trial of Ministers as amended;
- Law No. (25) of 1996 regarding the Disclosure of Commissions in connection with Government Contracts as amended;
- Law No. (53) of 2001 on the General Directorate of Investigations of the Ministry of Interior;
- Law No. (10) of 2003 on the promulgation of the Unified Customs Law for the States of Gulf Cooperation Council;
- Law No. (5) of 2005 Concerning Kuwait Municipality as amended;
- Law No. (47) of 2006 on the Approval on the United Nations Convention against Corruption;
- Law No. (10) of 2007 on the Protection of Competition as amended;
- Law No. (7) of 2010 regarding the Establishment of the Capital Markets Authority and Regulating Securities Activities as amended;
- Law No. (25) of 2012 on the promulgation of the Companies Law;
- Law No. (106) of 2013 Concerning Anti-Money Laundering and Combating the Financing of Terrorism;
- Law No. (20) of 2014 Concerning Electronic Transactions;
- Law No. (37) of 2014 Concerning the Establishment of the Communications and Information Technology Regulatory Authority as amended;
- Law No. (23) of 2015 Concerning the Establishment of Finance Controllers Body;
- Law No. (63) of 2015 Concerning Combating Cybercrimes; and
- Law No. (97) of 2015 Concerning the Public Authority for Sport.
- The National Assembly has approved the following law, which we have ratified and promulgated:





Part I

General Provisions

Part I General Provisions

Article (1)

For the purposes of applying the provisions of this law, the following words and phrases shall have the meanings assigned to them, unless the context otherwise requires:

- **Authority:** Kuwait Anti-Corruption Authority.
- **Competent Minister:** The Minister of Justice.
- **Chairman:** The Chairman of the Authority.
- **Board:** The Board of Trustees.
- **Convention:** The United Nations Convention Against Corruption.
- **Illicit Gain:** Any increase in the wealth or diminution of liabilities occurs - because of assuming an office or a capacity - to the official subject to this law, his minor children or those under his guardianship, custodianship or curatorship whenever it is disproportionate to their resources and it is unjustified.
- **Public Official:** In applying the provisions of this law, the term of public official shall include the persons set forth in Article (43) of the Law No. (31) of 1970 amending some provisions of the Penal Code No. (16) of 1960.
- **Assets and Liabilities:** They are the cash money, real estate or movables owned by the person subject to the provisions of this law and his minor children and those under his guardianship, custodianship or curatorship inside and outside Kuwait, including their rights and their indebtedness to third party, as well as the agencies or authorizations, which have financial effect, issued by him to third party or issued to him by third party, in addition to the usufruct.
- **Reporting:** It is the act of informing or reporting by a natural or a legal person of information in his possession on a crime or an attempted crime, connivance or disposal of an evidence of a crime or a serious financial violation to the Authority or any competent body designated to receive such reports.
- **Whistleblower:** he / she is the person who reports any corruption offence. That also applies to the witnesses, victims of crimes and the experts who give testimony concerning criminalized acts.

Article (2)

The Provisions of this Law shall apply to:

1. The Prime Minister, deputies of the Prime Minister, the Ministers and whoever holds an executive office at the ministerial rank.
2. The speaker, deputy-speaker and members of the National Assembly.
3. The president and members of the Supreme Judicial Council, president and justices of the Constitutional Court and the Technical Department of the Court, judges, members of the Public Prosecution, the president and members of the Fatwa and Legislation Department, the Director General and members of the General Administration of Investigations at the Ministry of Interior, the Legal Department of Kuwait Municipality, arbitrators, experts at the Ministry of Justice, liquidators, receivers, agents of creditors, notaries and the registrar at the Departments of Real Estate Registration & Authentication at the Ministry of Justice .
4. The Chairman and vice-chairman and members of the Municipal Council.
5. The chairman and members of boards, authorities and committees which undertake executive functions, which a law, decree or resolution is issued by the Council of Ministers on the formation thereof or appointment of their members.
6. The Chief of the Finance Controllers Body, his deputy and heads of sectors and finance controllers.
7. The Leaders are as follows:
 - Holders of the group of leading positions in the general schedule pay scale (Senior ranked positions / Undersecretary / Assistant Undersecretary).
 - Members of Boards of Directors and general managers and their deputies or assistants and secretaries-general and their deputies or assistants in the public bodies or institutions or any government agency.
 - The equivalent of a leader, such as heads of departments or administrative units and their deputies or members entrusted to the public bodies and institutions.
 - Directors of the departments and the equivalents, such as heads of the organizational units, which depend in the structures thereof on a level of management or higher.
 - The provision of the above two paragraphs apply to the military personnel, diplomats and civilians in the ministries, governmental departments, public bodies and institutions and the agencies with independent or supplementary budget whenever they undertake the responsibilities or enjoy the privileges prescribed for the office, whether they hold the office regularly or temporarily. The Authority shall,

in coordination with the concerned agencies on a regular basis, define and update the holders of these offices under the provisions of this law.

8. The chairman, vice-chairman, members of the Board of Trustees, the Secretary-General, Assistant Secretaries-General, directors and the technical staff of the Kuwait Anti-Corruption Authority.
9. The chairman, vice-chairman, deputies, directors and the technical staff of the State Audit Bureau of Kuwait.
10. Representatives of the State in the membership of the Boards of Directors of the companies in which the State or one of the governmental agencies, public bodies or institutions or other public legal entities directly contribute in a proportion not less than %25 of the capital.
11. The members of the boards of directors of the cooperative societies and sports authorities.



Part II
Kuwait
Anti-Corruption
Authority

Part II

Kuwait Anti-Corruption Authority

Chapter One

Objectives and Competences of the Authority

Article (3)

A public authority named (Kuwait Anti-Corruption Authority) shall be established and supervised by the Minister of Justice and performs its functions and competences in full independence and impartiality in accordance with the provisions of this Law.

Article (4)

The Authority aims at achieving the following:

1. Establishing the principle of transparency and integrity in the economic and administrative transactions to ensure the achievement of the rational management and optimal utilization of the State's funds, resources and properties.
2. Implementing the United Nations Convention against Corruption approved by the Law No. (47) of 2006 and any anti-corruption international conventions and treaties to be approved.
3. Seeking to combat corruption, prevent its dangers and impacts, prosecute its perpetrators, confiscate and recover funds and proceeds resulted from the practice thereof, in accordance with the law.
4. Protecting the State's agencies from bribery, exploitation and abuse of power in order to achieve personal benefits and prevention of mediation and nepotism.
5. Protecting the whistleblowers of corruption.
6. Promoting the principle of cooperation and participation with the States and the regional and international organizations in the fields of anti-corruption.
7. Promoting and activating the role of the civil society institutions and organizations in combating corruption, educating members of the society of its dangers and raising awareness of means and methods of corruption prevention.

Article (5)

The Authority shall undertake the following functions and competences:

1. Developing a comprehensive national strategy for integrity, transparency and anti-corruption, drawing up mechanisms, plans and programs for its implementation, and following up its implementation with the concerned authorities.

2. Receiving and studying the reports, complaints and information submitted to it concerning the corruption offences, and when ascertained that they constitute a suspicion of a crime, such reports shall be referred to the competent investigative body.
3. Receiving the statements of Assets & Liabilities and forming committees to examine such statements.
4. Protecting the whistleblowers in coordination with the competent bodies.
5. Informing the competent bodies in order to take the necessary legal actions to terminate any contract, to which the State is a party, or withdraw a concession or other engagements, if it is found out that such contracts are concluded in violation of the provisions of the laws or implemented in violation of the concluded contract, in coordination with the competent bodies.
6. Following up actions and measures taken by the competent bodies to recover funds and proceeds resulting from the corruption offences.
7. Studying the legislations and legal instruments related to anti-corruption periodically and proposing the necessary amendments thereto in order to keep pace with the international conventions and treaties ratified or acceded to by Kuwait, in addition to developing the necessary measures for the prevention of corruption and updating the mechanisms and methods of combating corruption in coordination with all State's authorities.
8. Coordinating with the Ministry of Foreign Affairs with regard to cooperation with the Gulf, Arab and international states and organizations related to anti-corruption and participating in the programs, which aim at preventing corruption and represent Kuwait in the regional, Arab and international conferences and forums related to anti-corruption.
9. Studying and assessing the reports issued by local, regional and international organizations related to anti-corruption, reviewing Kuwait's status therein and taking the appropriate action towards them.
10. Coordinating with the media in order to raise the society's awareness of the dangers of corruption, corrupt practices and their impacts and how to prevent and combat them such practices.
11. Taking the necessary measures to ensure the participation of the civil society organizations in raising awareness about the dangers of corruption and the impacts thereof on the society and expand the role of society in anti-corruption activities and prevention of corruption.
12. Requesting the competent bodies to investigate incidents of financial and

administrative corruption, detecting the violations and irregularities and collecting evidence related thereto.

13. Developing databases and information systems and exchange of information with other agencies and organizations concerned with corruption issues inside and abroad, in accordance with the legislation in force.
14. Requesting the competent bodies to bring the necessary administrative and civil actions.
15. Referring the incidents involving a suspicion of a criminal offense to the competent investigative body accompanied by all documents.
16. Any other functions or competences that are consistent with the purpose of the establishment of the Authority and may be assigned thereto.

Chapter Two Board of Trustees

Article (6)

The authority shall be managed by a board named the (Board of Trustees) which is composed of seven persons who have experience, integrity and efficiency, including a chairman and a vice-chairman who are appointed by a decree based on the nomination by the competent minister.

Article (7)

The Member of Board of Trustees shall be:

1. A Kuwaiti national,
2. Not less than 40 years,
3. Holder of at least a university degree,
4. Known of good reputation and has never been sentenced in one of the corruption cases or in a crime involving a breach of honor or honesty,

He shall be a full-time member of the Board of Trustees. The member loses his capacity, in accordance with the law, and his office would become vacant if he violated that, and he may not be re-nominated again for the membership of the Board of Trustees. Therefore, the competent minister shall take actions to appoint a replacement member in accordance with the provisions of this Law.

Article (8)

Salaries, remunerations, allowances and benefits of the Chairman of the Authority and the members of the Board of Trustees shall be determined by a decree based on the proposal of the competent minister and the approval of the Council of Ministers.

Article (9)

The term of office of the Board of Trustees is four years, which shall be renewable for one time.

The competent minister may, based on the proposal of the majority members of the Board of Trustees, revoke the membership of the Chairman or the vice-chairman, or any other member; if it is proven that he has seriously breached his duties after the conduction of an investigation.

If the office of the chairman or the vice-chairman or any member of the Board of Trustees becomes vacant for any reason, a replacement shall be appointed and the new member shall complete the term of the preceding member only.

Article (10)

The Board of Trustees shall:

1. Develop the anti-corruption general policy in cooperation with the relevant authorities and draw up the necessary plans and programs for the implementation thereof.
2. Adopt the organizational structure of the offices, the internal regulation of the financial and administrative affairs and the resolutions regulating work at the Authority, without prejudice to the provisions of Articles (5 and 38) of the Decree-Law No. (15) of 1979 concerning the Civil Service.
3. Approve the agreements and contracts entered into by the Authority, which are relevant to its competences.
4. Form a committee or more that it believes to be necessary for its work.
5. Approve the Authority's draft budget and its final statement prior to submission to the competent bodies.
6. Adopt and publish the annual general report of the Authority.
7. Submit a biannual report to the National Assembly and the Council of Ministers on the activities related to the prevention of corruption and anti-corruption, obstacles, negatives and the proposed recommendations.
8. Publish all information and data on the corruption offences after having been

proven by a conclusive judicial decision.

9. Any matter under the competence of the Authority and its objectives shall be presented by the chairman or two board members.

Article (11)

The chairman, vice-chairman and members of the Board of Trustees shall, prior to assuming their duties, take the following oath before His Highness the Amir:

(I hereby, swear by Almighty God to be loyal to the homeland and the Amir, to respect the Constitution and the laws of the State and shall perform my duties honestly and truthfully).

Chapter Three **The Executive Body**

Article (12)

The Authority shall have an Executive Body to undertake the technical, administrative and financial matters as follows:

1. The Chairman shall supervise the executive body and represent the authority before the judiciary and others, without prejudice to the provisions of the Amir Decree No. (12) of 1960 on the Law regulating the Fatwa and Legislation Department of the Government of Kuwait.
2. The Authority shall have a Secretary-General and Assistant Secretaries to be appointed by a decision of the Chairman, and they shall be responsible before him for the management and administration of the daily activity of the Executive body. The internal regulations shall determine their functions and competences.
3. The Authority shall transparently select its personnel who have the experience, competence, integrity and scientific disciplines, in accordance with the standards prescribed by the internal regulations, and they shall not have any consanguinity until the second degree to the Chairman, Vice-Chairman or the members of the Board of Trustees.
4. The Authority may, in accomplishing its functions, ask for the assistance of judges, prosecutors, employees of the governmental agencies and others, who will be entrusted to work for the Authority, in accordance with the applicable laws and regulations in this regard.

Article (13)

The Authority shall undertake the qualification and training of its employees to

enable them to perform their duties and competences with respect to combating anti-corruption.

Article (14)

The Chairman shall issue a decision concerning the determination of the officials of the Authority who will undertake the detection of the violations and drafting of minutes in preparation for referral to the competent body.

Article (15)

The Chairman, members of the Board of Trustees and the employees of the Authority shall not disclose any secret, information or data, which has reached to their knowledge, due to the performance of their duties in cases other than the cases herein set forth.

Article (16)

Within their term of office, the Chairman, members of the Board of Trustees and any employee of the Authority shall not:

1. Do any business by himself or in his capacity as an agent, guardian, custodian or a curator, nor authorize third party to do so.
2. Practice any office, profession or other paid or unpaid work, including holding an office or occupying a post in the government, public agency and institutions or a company, or a private business.
3. Participate in the membership of the Board of Directors or provide any direct or indirect service or consultancy to any agency.
4. Receive monetary compensation, directly or indirectly, from any agency.

Article (17)

A regulation organizing the activities of the members of the Board of Trustees of the Authority and its current and former employees shall be issued by a decision of the Council of Ministers based on the proposal of the Board of Trustees.

Chapter Four Financial Affairs

Article (18)

The Authority shall have a budget appended to the general budget of the State, and such budget shall be prepared according to the rules and procedures governing the State's General Budget.

The fiscal year of the Authority shall start from 1st of April of each year and ends on

31st of March of the following year.

The Authority shall draft its budget and send it on the due date to the Ministry of Finance. In case of disagreement, or if the Ministry of Finance objected to the Authority's estimations and the Authority did not agree to such objections, the Minister of Finance shall present such objections to the Council of Ministers for its action.

Article (19)

The Chairman of the Authority shall have the same competences conferred on the Minister of Finance concerning the use of the financial appropriations made in the Authority's budget, and the Board of Trustees may practice the same competences conferred on the Civil Service Commission with regard to regulating its work and personnel affairs.

Chapter Five Community Participation

Article (20)

Subject to the inviolability of the privacy, honor and dignity of individuals, whoever becomes aware of the occurrence of any corruption offences shall report them to the Authority or the competent body and present the information, which he possesses, thereon in order be studied by the authority to ascertain the seriousness thereof and take the legal actions in this respect.

In coordination with the competent bodies, the Authority shall ascertain the corruption offences herein set forth, whenever such offences are brought to the knowledge of the Authority by any means.

Article (21)

The Authority shall cooperate with the various entities in combating corruption, and in particular the following:

1. Cooperation with the educational institutions and places of worship to spread the values of transparency, integrity and good citizenship.
2. Cooperation with the governmental and private institutions to develop public outreach programs related to the activity of the Authority.



Part III
Kuwait
Anti-Corruption
Authority

Part III

Corruption Offences and Procedures of Seizure and Investigation

Chapter One Corruption Offences

Article (22)

In applying this Law, Corruption Offences shall include the following:

1. The offences against the public funds set forth in Law No. (1) of 1993 On the Protection of Public Funds.
2. The offences of bribery and abuse of power set forth in Law No. (31) of 1970 amending some provisions of the Penal Code No. (16) of 1960.
3. The offences set forth in Law No. (106) of 2013 Concerning Anti-Money Laundering and Combating the Financing of Terrorism.
4. Counterfeiting and forgery offences set forth in Law No. (16) of 1960 Promulgating the Penal Code.
5. The offences relating to the administration of justice set forth in Law No. (16) of 1960 Promulgating the Penal Code.
6. The offences of Illicit Gain as set forth herein.
7. The offences of evasion of customs duties set forth in Law No. (10) of 2003 on the promulgation of the Unified Customs Law for the Arab States of Gulf Cooperation Council.
8. The offences of tax evasion set forth in Decree No. (3) of 1955 concerning Kuwait Income Tax.
9. The offences of impeding the work of the Authority, putting pressure upon it to hinder the performance of its duties, interfering in its competences, or refraining from providing it with the required information set forth herein.
10. The offences set forth in Law No. (10) of 2007 on Protection of Competition.
11. The offences set forth in Law No. (25) of 1996 on the Disclosure of Commissions in connection with Government Contracts.
12. Any other offences set forth in other laws, which are considered corruption offences.

Chapter Two Procedures of Seizure and Investigation

Article (23)

The Authority shall follow up the procedures of seizure, confiscation and recovery of funds and proceeds of corruption offences in accordance with the provisions, rules and procedures stipulated in the applicable laws.

Article (24)

Without prejudice to the provisions of Law No. (32) of 1968 concerning Currency, the Central Bank of Kuwait and the Organization of Banking Business, the Authority shall, upon becoming aware of the existence of a suspicion of a corruption offence, collect information thereon, and may have, for that purpose, access to the records, papers and documents related to such offence. In addition, it may request to be provided with any relevant data, information or documents, and may decide to refer them to the competent judicial bodies.

Article (25)

Subject to the provisions of Article (28) hereof, the Authority may address and summon any person who has a relationship to a corruption offence in order to hear his testimony thereon.

Article (26)

The agencies affiliated to the public or private sectors or any natural or legal person may not do any of the following acts:

1. Refuse, without legal justification, to provide the Authority with any records, documents, papers or information that may be useful for the whistleblowing of acts of corruption.
2. Impede the work of the Authority or put pressure on it to obstruct the performance of its duties or interfere in its competences with the intention of affecting thereon.

Article (27)

Subject to the provisions of law No. (88) of 1995 Concerning the Trial of Ministers, the public prosecution shall have exclusive competence on the investigation, disposition and prosecution of all offences set forth herein and any other offences related thereto.

Article (28)

The rules stipulated in the applicable laws shall apply to the procedures of seizure, investigation and prosecution in the corruption offences.

If the person charged with a corruption offence was one of the persons for whom the Constitution or the Law stipulates a special legal procedure for investigation or prosecution, such procedure shall be followed in this respect.

Article (29)

The correspondence, information, documents and reports related to the corruption offences and the inspection or investigation thereof as well as the statements of Assets and Liabilities are considered secrets that shall be maintained. All those who are required to enforce this Law shall not disclose such statements, except in accordance with the law, and such prohibition shall remain in effect following the termination of their employment relationships.



Part IV
Disclosure
of Assets and
Liabilities

Part IV Disclosure of Assets and Liabilities

Chapter One Officials Subject to the Statements of Assets & Liabilities

Article (30)

The categories set forth in Article (2) hereof shall file their Statements of Assets & Liabilities in accordance with the provisions of this Part.

Article (31)

The executive regulations shall organize the form and data of the statement of Assets and Liabilities, in addition to the method of inspecting its elements. The executive regulations shall determine the method of formation of the committees in order to inspect the Assets & Liabilities Statements according to the offices and office levels of officials subject to the law. The Authority may ask for the help of the members of the judiciary and public prosecution for the presidency and membership of the Inspection Committees, subject to the approval of the Supreme Judicial Council.

In addition, the executive regulations govern the provision of the appropriate service to the official to assist him in filing the statement.

Chapter Two Filling the Statement, its Inspection and Confidentiality

Article (32)

All officials subject to the provisions of this Part shall file their statement following the issuance of the executive regulations, according the following dates:

1. The First Statement

- Within six months after the date of publishing the executive regulations, if he still holds his office.
- Within sixty days after assuming his office.

2. Statement Update: Within 60 days after the end of every 3 years, as long as the official subject to the law remains in his office.

3. The Final Statement: Within ninety days after leaving his office.

Article (33)

The Authority shall receive the Statements in accordance with the procedures prescribed by the executive regulations.

The executive regulations shall determine the rules and procedures for the receipt of the Statements filed by the employees of the authority and the method of inspection thereof, provided that the Chairman and members of the Board of Trustees shall file their Statements to the president of the Supreme Judiciary Council who will present them to an inspection committee composed of three judges commissioned for this regard. If a suspicion of Illicit Gain is found, the committee shall refer it to the competent public prosecution for its actions.

Article (34)

In case of suspicion of an offence of Illicit Gain, the Authority may secretly request data, explanation and papers that it deems to be necessary from individuals, governmental or private entities inside and outside Kuwait.

The public prosecutor or his representative may, upon the request of the Authority, directly issue an order for the access and obtainment of any data or information related to accounts, deposits, safes at banks and the financial institutions, if revealing the truth is required in one of the offences set forth herein.

Article (35)

The inspection committees shall prepare a report on each official subject to the provisions of this part, who is likely having an increase in his Assets & Liabilities resulted from an Illicit Gain after hearing his Statements.

Such report shall be referred to the Authority in order to be sent to the public prosecution for its action.

The executive regulations shall specify the time limits for the preparation and transmittal of the reports.

Article (36)

Without prejudice to the provisions of Law No. (1) of 1993 on the Protection of Public Funds, the public prosecution may, upon initiating the investigation, take the appropriate precautionary procedures, if it has sufficient evidence on the Illicit Gain.

Anyone, against whom the procedure was taken, may file an appeal before the Criminal Court at the Court of First Instance within two months from the date of the issuance thereof, in order to promptly decide on the appeal, whether by dismissal, revocation

or modification of the procedure and determine the necessary guarantees if required. The appeal may be refiled only after six months from the date of the decision on the appeal. The public prosecutor may revoke or modify the procedure according to the requirements of investigation.

The investigative committee of the ministers may take the precautionary procedures in accordance with the provisions of Law No. (88) of 1995 concerning the Trial of Ministers.



Part V
Protection of the
Whistleblower

Part V Protection of the Whistleblower

Chapter One Procedures of Reporting

Article (37)

It is the duty of every person to report corruption offences, and the freedom, security and tranquility of the whistleblower is guaranteed in accordance with the provisions hereof or any other law establishing other guarantees in this regard. The whistleblower shall not be offended in any way whatsoever for reporting such offences.

Article (38)

Reporting under the provisions of this law, requires that the whistleblower shall have serious indications to justify his belief in the veracity of the reported incident.

Article (39)

The executive regulations shall set out the procedures for the submission of the report, taking into account the ease of submission and maintaining the full confidentiality of the whistleblower's identity.

Chapter Two Protection Program

Article (40)

The whistleblower shall be afforded protection from the time he or she submits the report, and the protection shall extend to include his or her spouse, relatives and all other persons closely connected to him, when necessary.

Article (41)

Protection of the whistleblower shall include the following:

1. Providing the whistleblower with personal protection: by not revealing his identity or whereabouts, and providing him with personal guards or a new place of residence, if circumstances so require.

2. Providing the whistleblower with the administrative and occupational protection: by preventing any administrative action against him and guaranteeing the continuity of his employment salary, rights and benefits during the period decided by the Authority.
3. Providing the whistleblower with the legal protection: by not bringing a criminal, civil, disciplinary case against him, when the report fulfils the conditions contained in Article (38) hereof.

The executive regulations shall determine other methods and procedures of protection and the forms thereof.

Article (42)

The executive regulations shall determine the means that the Authority may provide for the whistleblower, through which he can give his Statements in a manner that ensures all his material, moral and administrative guarantees to ensure his safety.

Article (43)

The State shall compensate the whistleblower or his heirs for any material or moral damages he may suffer from, as a result of the submission of the report, meeting the conditions contained in Article (38) hereof. The executive regulations shall set out the material and moral incentives that may be granted to the whistleblower and the conditions for granting them.





Part VI

Penalties

Part VI Penalties

Article (44)

Any perpetrator initiating to report the existence of a conspiracy to commit one of the crimes set forth in Article (22) hereof to the authority, the public prosecution, or the competent authorities, and whoever involved therein prior to its commission, shall be pardoned from the punishment. The court may pardon the perpetrator from penalty, if the reporting takes place following the occurrence of the crime and prior to commencing the investigation, provided that the perpetrator – during the course of the investigation – enabled the authorities to arrest the other perpetrators of the offence, seize the funds related to the crime or arrest perpetrators of another crime of similar type and severity.

Article (45)

Whoever breaches the provisions of Articles (26 ,16 ,15 and 29) hereof shall be punished by imprisonment for a period not more than three years and a fine of not less than two thousand and not exceeding ten thousand Dinars or by one of these penalties.

Whoever breaches the provisions of Article (20) hereof shall be punished by a fine of not less than five hundred and not more than three thousand Dinars. The provisions of this paragraph shall not apply to the spouse, ascendants or descendants.

Article (46)

If one of those who are mentioned in Article (30) hereof fails to file his Assets & Liabilities statement within the time limit set forth in Article (32), he shall be punished by the following penalties:

- 1. The First Statement:** a fine of not less than five hundred and not more than three thousand Dinars, and if the delay exceeds ninety days, after being warned to file the statement, he may be dismissed.
- 2. Statement Update:** a fine of not more than three thousand Dinars, and if the delay exceeds ninety days, after being warned to update the statement, he shall be punished by imprisonment for a term not exceeding one year and a fine of not less than three thousand and not more than ten thousand Dinars, or by one of these penalties and may be dismissed.
- 3. The Final Statement:** a fine of not more than five thousand Dinars, and if the delay exceeds ninety days, he shall be punished by imprisonment for a term not

exceeding three years and a fine of not less than three thousand nor more than thirty thousand Dinars or by one of these penalties.

In all cases, the violation's file shall be referred to the competent inspection committee to verify the elements of his Assets and Liabilities.

Article (47)

If the official subject to the law files an incomplete or false statement of Assets & Liabilities with his knowledge thereof, or if he did not file a statement for one of the persons under his guardianship, custodianship or curatorship, despite of being warned to file it, he shall be punished by imprisonment for a term not exceeding three years and a fine of not less than three thousand and not more than thirty thousand Dinars, or by one of these penalties, and he may be dismissed.

Article (48)

Whoever commits the offence of Illicit Gain shall be punished by imprisonment for a term not exceeding five years and fine equals to the value of the Illicit Gain, which he obtained, in addition to ruling with the confiscation of the Illicit Gain, whether it was in his own account or in the account of his spouse or minor children or those under his guardianship or curatorship.

The lapse of the criminal action due to death shall not preclude the confiscation ruling of the Illicit Gain.

Article (49)

Any conviction in the crime set forth in Article (48) hereof shall require the dismissal of the convict from his office or revocation of his membership, together with depriving him from holding a public office and the appointment or nomination for membership in any representative body unless he has been rehabilitated.

Article (50)

Any person other than those mentioned in Articles (47 and 48) who earnestly benefited from the Illicit Gain with his knowledge thereof, shall be punished by half of the penalty stipulated in Article (48) hereof.

Article (51)

Whoever discloses the identity of the whistleblower or his domicile shall be punished by imprisonment for a term not exceeding three years and a fine of not less than one thousand nor more than five thousand Dinars, or by one of these two penalties.

Article (52)

Any official proven to have taken an administrative action against the whistleblower for reporting one of the offences set forth herein shall be punished by a disciplinary penalty, and the administrative action taken against the whistleblower shall be null and void.

Article (53)

Without prejudice to any severe penalty, a person who reported corruption offences and intentionally provided false data or information, concealed information or data, committed fraud or deception, concealed the truth or was misleading the justice, shall be punished by imprisonment for a term not exceeding three years, and the court may rule with dismissing him from his office.



Part VII

Final Provisions

Part VII Final Provisions

Article (54)

The criminal case, in the corruption offences set forth in Article (22) hereof, shall not be abated and the adjudged penalty for such offences shall not be barred by prescription.

Article (55)

The court may bring any natural or legal person, whom it believes to have earnestly benefited from the Illicit Gain, into the case. Further, the dismissal or confiscation ruling shall be enforceable to his wealth in proportion to the extent of benefits he gained.

Article (56)

The penalties stipulated herein shall not preclude the imposition of any severe penalty prescribed by another law for the committed act.

Article (57)

The executive regulations of this law shall be issued pursuant to a decree, on the proposal of the Board of Trustees, within two months from the date of issuing this Law, and it shall be published in the Official Gazette.

Article (58)


Any provision that contradicts the provisions of this law shall be superseded.

Article (59)

The Prime Minister and the ministers – each within his jurisdiction – shall implement this Law and it shall be published in the Official Gazette.

**The Amir of Kuwait
Sabah Al-Ahmad Al-Jaber Al-Sabah**

**Issued at Al-Seif Palace on: 14th Rabi' Al-Akhir 1437 A.H
Corresponding to: 24th January 2016 A.D**



**Explanatory
Note
to the Law
No. (2) of 2016**

Explanatory Note to the Law No. (2) of 2016

On Establishing Kuwait Anti-Corruption Authority and the Provisions on Disclosure of Assets and Liabilities

The Constitutional Court has ruled, in the appeal No. (24) of 2015 in its session held on 2015/12/20, that the Decree-Law No. (24) of 2012 on establishing Kuwait Anti-Corruption Authority and the provisions on the disclosure of Assets & Liabilities is unconstitutional. Due to the necessity to the existence of Kuwait Anti-Corruption Authority in the legislative system as a national inevitable entitlement required for the supreme interest of the State, and it was established that the Constitutional Court did not consider the aspects of appeals for the unconstitutionality of the substantive provisions of the Decree-Law No. (24) of 2012, which was ruled to be unconstitutional, as the ruling is limited only to a ground of unavailability of the state of necessity for the issuance thereof, however the Ministry of Justice drafted a bill, which mostly includes the same provisions of the Decree-Law which was ruled to be unconstitutional due to a procedural defect.

This law has included the establishment of an independent public authority named Kuwait Anti-Corruption Authority charged with combating and preventing corruption and warding off its dangers and remedying the causes thereof.

The attached law consists of seven Parts; Part I deals with the general provisions starting with the meaning of terms used in the law and the identification of persons subject to the provisions thereof , Part II deals with the establishment of the Authority, its objectives and competences, and the duties and powers of the Board of Trustees, which manages the Authority, and how to form it, as well as the Executive Body, which is responsible for the technical, administrative and financial affairs related to its work. This Part also deals with the regulation of the Authority's financial matters of the Authority and how the society would participate in achieving the best possible success in combating corruption. Part III determines the corruption offences, procedures of arrest, investigation, prosecution and competent bodies of each stage.

Part IV regulates the disclosure of Assets & Liabilities and specifies the persons subject to the provisions of this Part and the meaning of Assets & Liabilities, the form and content of Assets & Liabilities statement and how to file it, its confidentiality, inspection committees and how to deal there with.

Part V exhibits the provisions for the protection of the whistleblower and states the meaning of reporting, its conditions, mechanism of filing, protection of the whistleblower and the procedures of this protection, its types and concludes with the State's guarantee to compensate him and his heirs for any material or immaterial

moral damages that he may sustain due to submission of the report, in addition to the material and immaterial incentives that may be given to the whistleblower.

Part VI of the law sets out in detail the prescribed penalties for the violation of the provisions of this law, either original, consequential or supplementary penalties, and it defines the criminalized acts and prescribes a penalty for each offence and determines the cases of exemption from punishment and the conditions thereof.

Part VII contains the final provisions related to the non-abatement of the criminal action in the corruption offences and the right of the court to bring any person it believes to have earnestly benefited from the Illicit Gain into the case. The dismissal or confiscation ruling shall be enforceable to his wealth in proportion to the extent of benefits he gained. It also stipulates that the penalties set out in this law shall not preclude the imposition of any severe penalty prescribed by another law for the committed act, and that this law shall be from the date of its publication.