

Decree No. 181 of 2023
Issuing the Implementing Regulation
of
Law No. (1) of 2023

ON
THE PREVENTION OF CONFLICT OF INTEREST

- Having reviewed the Constitution;
- Law No. 2 of 2016 Establishing Kuwait Anti-Corruption Authority and the Financial Disclosure Provisions;
- Law No. 1 of 2023 on the Prevention of Conflict of Interest and Decree No. 30 of 2016 Issuing the Implementing Regulation of Law No. 2 of 2016 on the Establishment of Kuwait Anti-Corruption Authority and the Financial Disclosure Provisions;
- Pursuant to the presentation of the Minister of Justice;
- Upon the approval of the Council of Ministers;

We have decreed the following:

Article I

The provisions of the Implementing Regulation of Law No. (1) of 2023 referred to, as attached to this Decree, shall be enforced.

Article II

The Ministers - each within his jurisdiction - shall implement this Decree, and it shall come into effect from the date of its publication in the Official Gazette.

Deputy Emir of Kuwait

Meshal al-Ahmad al-Jaber al-Sabah

Prime Minister

Ahmad Nawaf al-Ahmad al-Sabah

Minister of Justice

Faleh Abdullah Eid Faleh al- Raqabah

Implementing Regulation of Law No. 1 of 2023 on the Prevention of Conflict of Interest

Article (1)

In application of the provisions of this regulation, the following terms and expressions shall have the meanings designated against each, unless the context requires otherwise:

Law: Law No. 1 of 2023 on the Prevention of Conflict of Interest.

Authority: Kuwait Anti-Corruption Authority.

Subject: Categories listed in Article 2 of the Law.

Disclosure: Disclosure of any information or facts or submission of statements or papers indicating the occurrence of a conflict of interest.

Reporter: The person who reports a conflict of interests.

Agency: The Agency with whom the disclosure is filed.

Article (2)

The Subject will be in a situation of conflict of interest in accordance with the provisions of Article 1 of the Law, in any of the following cases:

(a) If he owns an influential percentage in any company or financial activity which has dealings with his employer and is relevant to the duties of his job with his knowledge thereof.

(b) If he acts as an intermediary, agent, guarantor or consultant for any private company or enterprise whose activity relates to his employer and is relevant to the duties of his job with his knowledge thereof.

(c) If a person - to whom he is related through consanguineous or affinal kinship up to the second degree or placed under the Subject's custodianship, guardianship or wardship – owns an influential percentage in any company or financial activity which has dealings with his employer and is relevant to the duties of his job with his knowledge thereof.

(d) If a person - to whom he is connected through business relationship, intermediary, agency or representation, whether natural or legal – owns an influential percentage in any company or financial activity which has dealings with his employer and is relevant to the duties of his job with his knowledge thereof.

Article (3)

The Subject shall, when a conflict of interest arises, disclose it in accordance with the procedures set forth in this Regulation within a period not exceeding fifteen days from the date he becomes aware of the occurrence of the conflict of interest.

Article (4)

The Subject shall, when a conflict of interest arises, resolve it as soon as he becomes aware of it by refraining from making the decision, taking action, participating in making it, or eliminating the cause of conflict of interest arising against him.

Article (5)

Disclosure shall be filed with the Agency as follows:

The Speaker of the National Assembly, the Prime Minister, the President of the Supreme Judiciary Council and the President of the Municipal Council shall File such disclosure with the Authority.

Ministers shall file the disclosure with the Prime Minister.

The disclosure by other than those afore-mentioned, as the case may be, shall be filed with the Speaker of the National Assembly, the President of the Supreme Judiciary Council or the President of the Municipal Council.

The disclosure shall be filed with the head of the Agency to whom the Subject belongs, if the Subject's employer is a public authority, a public institution, an organ or an independent government agency or other agencies subject to its supervision.

The disclosure by the heads of the agencies described in the preceding paragraph shall be filed with the boards of directors of such agencies or their equivalent, except for the President of Kuwait Anti-corruption Authority and the members of the Board of Trustees, They shall file their disclosure with the President of the Judiciary Supreme Council for presentation to the examining committee referred to in Article 33 of Law No. 2 of 2016 referred to. If none of these agencies has a board of directors, the disclosure shall be filed with the supervising minister or the agency attached to or associated with him or his ministry.

Except for the above-mentioned, disclosure by those subject to the law shall be filed with the Minister responsible for the organization of their work affairs.

Article (6)

Disclosure shall be filed through the form attached to this Regulation, inside a close envelope holding the name "Confidential Disclosure Form", The disclosure shall be recorded in a confidential registry of the Agency with a confidential number. The filer shall be given a receipt stating the date of filing and the name of the receiving employee. The contents of the envelope may not be opened except with knowledge of the authorized person of the Agency.

Article (7)

The employer shall, when he becomes aware of a conflict of interest arising against one of its subordinate subjects, notify him in writing of the conflict of interest situation to resolve this conflict. If the subject does not promptly resolve the conflict upon being notified, the employer shall inform the Public Prosecutor's Office or the Authority.

In all cases, the employer must take and follow the necessary procedures to prevent and avoid conflict of interest within its domain.

Article (8)

The Agency shall receive the disclosure from the subject, access to the information contained therein and take such action as may be necessary, in accordance with the following:

- a . If the Subject discloses the conflict of interest as prescribed by the Law and resolves the conflict as soon as he becomes aware of it, he shall do so only without further action.
- b . If the Subject does not resolve the disclosed conflict, the Agency shall inform the Public Prosecutor's Office or the Authority.

Article (9)

Whoever's, job relates to the disclosure, shall uphold its confidentiality along with any correlated data, documents, and information.

Article (10)

The report shall be filed with the Public Prosecutor's Office or the Authority, and it shall:

1. Be written and signed, including the name of the filer, his capacity, date of filing, his address, contact information and phone numbers. The reporter may, under certain circumstances, appear personally before the Agency to file the report orally and the concerned official of the Agency, accordingly, documents it in a report .
2. Include sufficient clarification of the reported incident, its time and prevention of occurrence, the source, the appropriate manner through which he becomes aware of or verifies the reported incident, the names of the involved individuals, their characteristics and any other information or evidence that supports the incident.
3. Include documents or supporting evidence in his possession related to the reported incident, upon their availability to him.
4. Indicate his connection with the reported person, whether he has previously reported him to any Agency, and what has been taken in this regard.

Article (11)

The reporter must have serious evidence to justify his belief in the validity of the reported incident. The report is deemed futile if it lacks documents, reference to them or any inferences justifying the whistleblower's belief.

Article (12)

The reporter who reports a conflict of interest is regarded similarly to whistleblower in Law No. 2 of 2016 referred to, They enjoy the same protection as provided therein and its implementing regulation.

Article (13)

Protection may extend, depending on the circumstances of each case, to a spouse, relatives and all persons closely related to the whistleblower and the like.

Article (14)

Protection shall commence from the date of filing the report, the request for provision of information or the request for an expert report and shall terminate upon the expiration of its reasons. In any event, the protection is determined by a causal decision or at a written request of its beneficiaries.

Article (15)

The Authority shall present the reported cases of conflict of interest to its inspection committees for appropriate action in accordance with the procedures and rules stipulated in Law No. (2) of the year 2016 and its implementing regulation referred to.

Article (16)

If there is sufficient evidence indicating the occurrence of a conflict of interest involving any of those subject to the financial disclosure system and was not disclosed according to the procedures prescribed by the Law, this evidence shall be presented to the inspection committees of the Authority in accordance with the procedures and controls set out in Law No. 2 of 2016 and its implementing regulation referred to.

Disclosure Form for Conflict of Interest
In accordance Law No. 1 of 2023 and its Implementing Regulation
(These instructions shall be read well before completing this disclosure)

The disclosure shall be filed by the persons referred to in Article 2 of the Law in accordance with the following instructions:

1. The disclosure data shall be completed in Arabic, taking into consideration the remarks included in it, and it shall be signed by the Subject. The data shall be accurate and correct. It shall be placed in the designated envelope and sealed properly.

2. The Subject, who is found to be in a situation of conflict of interest, shall promptly disclose it within a period not exceeding fifteen days from the date he becomes aware of the occurrence of the conflict.

3. The Subject files the disclosure with the Agency, according to the conditions outlined in Article (5) of this regulation.

4. The envelope shall be delivered against a receipt from the designated employee, indicating the date and time of delivery, as well as the name of the receiving employee.

5. When completing the disclosure, the Subject is not allowed to refer to a previous disclosure data and shall always mention the disclosure data in accordance with the Law.

6. The disclosure is one of the secrets that must be maintained and everyone involved in the law enforcement must not disclose it. They may not allow others to access it.

7. Do not leave any blanks in the disclosure form and instead draw lines to fill them up. Any supplementary entries must be stated in the comments section and accompanied by a signature.

8. Those associated with the Subject are:

1. Persons to whom he is related through consanguineous or affinal kinship up to the second degree.
2. A person under his custodianship, guardianship or trusteeship.
3. Any natural or legal person with whom he is connected through business relationship, intermediary, agency or representation.

9- When mentioning the individual financial activity (or the company), its name shall be coupled with the full name and data of its owner.

Name:

Signature of the Subject: