



نـزاهة Nazaha
الهيئة العامة لمكافحة الفساد

**Law No. 12 of 2020
on the Right to Access Information
and its Executive Regulations**



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The Amir of the State of Kuwait



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Law No. (12) of 2020 on the Right to Access Information

- Having reviewed the Constitution; and;
- The Law No. (16) of 1960, Issuing the Penal Code and its Amending Laws thereof.
- The Law No. (17) of 1960, Issuing Penal Procedures and Trials and Amending Laws thereof,
- The National Assembly has approved the following law, which we have endorsed and enacted.

Chapter I Definitions

Article (1)

In application of the provisions of this Law, the following terms shall have the meanings set out for each term hereunder:

- The entity / entities : ministries, authorities and public institutions and other public legal persons and Kuwaiti companies to which the state or one of the aforementioned entities contributes more than 50% of their capital and private companies and institutions which maintain information and documents on behalf of these entities.
- The Competent Employee: the employee designated by the entity to receive, consider and respond to requests for information.
- Information: statement, testification, knowledge or the content that is related to a topic. The information is either written, drawn, readable, audible, visible, or any other means.
- The person: any natural or legal person who has interest in obtaining information from an entity.

Chapter II

Access to Information

Article (2)

Every person has the right to access and obtain information held by public entities, in a manner consistent with this law and legislations in place. Also, the person has the right to access administrative decisions that affect his rights and familiarize himself of information contained in any document that relates to him.

Article(3)

The entities shall facilitate person's access to information and ensure its disclosure in the time and the manner stipulated in this law. They shall designate one or more competent employees to consider requests for information, who must have sufficient experience and knowledge with the necessary authority to search and access to the requested information and provide it to whoever requests it.

Article(4)

Each entity shall organize, categorize and index information at its disposal according to the established professional and technical manners and classify what must be considered confidential and protected according to the law, within two years from the effective date of this Law.

Chapter III

Disclosure of the Entity

Article (5)

The entities shall be committed to publish on their website within three years from the effective date of this law, a manual that contains lists of the information available for disclosure, in particular the following:

- 1- Laws, systems, regulations and decisions under which they operate, and public policies that affect individuals, and the established procedure in decision-making, including channels of supervision and accountability.
- 2- The organizational structure, terms of reference, functions and duties, as well as policies and organizational documents.
- 3- A manual for the names of heads of entities and holders of leadership positions and the like, their powers, duties and the mechanism for communication with them.
- 4- Information about the entity's programs, projects, and works, as well as more specific details about them including performance and quality indicators, procurements, and tenders.
- 5- Introduce a feature on the website for the participation of individuals with their opinions and complaints in relation to the works of the entity and the response mechanism.
- 6- A simplified manual about the submission of requests for information and any data related to the employees responsible for information.

- 7- Services and utilization rights provided to the public, any general support programs and the list of users and accessibility requirements.
- 8- Posting of vacancy announcement, terms and conditions of appointment, names and results of exams and personal interviews for the accepted ones.
- 9- Locations of used radioactive and toxic materials and hazardous waste, in addition to their nature, dangers, quantity of emissions in manufacturing, as well as the procedures taken to minimize the resulting damages, if any.
- 10- To identify the locations of mines left after wars and signs indicating their existence, if any. This shall include any other information that the entity believes to be essential for dissemination. The manual shall be updated when necessary.

Chapter IV

Request for Information

Article (6)

Request for information is submitted in writing to the entity that holds the information by filling in the appropriate form, accompanied by data and documents as specified by the executive regulation.

Article (7)

The competent employee shall, upon receiving the request, provide the applicant with a note, indicating the number of the request, date of submission, category of the requested information, and the required time for response.

Article (8)

The competent employee shall, upon presentation to the head of the entity or whoever he authorizes, respond to the applicant within ten working days from the date of receipt. This period of time may be extended for the same period or longer, provided that the request includes a large amount of information, or the access to the information requires consultation with another entity and notify the requesting person of that. The total extension periods shall not, in any case, exceed three months.

Article (9)

The competent employee shall, upon approval of the request, enable the concerned person to access his own information and give him a copy of the relevant documents upon request and payment of the due fees specified by the executive regulations.

Article (10)

If part of the requested information is protected from disclosure by this law, the entity shall divide the request if possible; otherwise, the request shall be rejected.

Article (11)

The competent employee shall notify the concerned person of the rejection of his request and provide the reasons for rejection.

Chapter V

Protection of Information

Article (12)

The entity is prohibited from disclosing the information in the following cases:

1. If the disclosure affects the national security, the public order, or defense capabilities including:
 - Weapons, tactics, strategies, forces and military operations.
 - Intelligence related to the thwarting of acts of aggression and crimes against internal and external state security.
 - International telecommunications and correspondence related to the defense affairs, military alliances and strategic interests of the country.
2. If confidentiality is established by the constitution, a law, or a decision by the council of ministers upon the presentation of the concerned minister - considering papers to be confidential and for a period specified by the council of ministers.
3. If that results in influencing the course of justice or causes damage to others.
4. If the information is related to private life, medical conditions, personal status, or bank accounts and transactions, unless the owner of the information agrees to disclose it.
5. If the information includes a commercial secret and its dissemination weakens a commercial or financial interest of the concerned persons.
6. If the information has reached the state through another state or an international organization and its dissemination harms relations with that state or organization.
7. If the disclosure of the information poses a serious and grave danger and affects

- state economy, public trust, currency, public health, or the environment.
8. If the disclosure causes a risk to an individual's life, health or safety.
 9. If confidentiality is established by a decision of the competent court, public prosecution, or the general directorate of investigation.
 10. Information on family disputes, juvenile cases and ongoing investigations in criminal cases.

Article (13)

In all cases of rejection of requests, or non-response, the requesting person has the right to file a complaint with the entity, which has to respond within sixty days. The rejection of the complaint shall be made through a letter stating the reasons for the rejection. Failure to respond shall be considered a rejection of the complaint. The executive regulations shall identify the procedures of complaints and how they are considered. No legal procedures shall be taken before a complaint is considered.

Chapter VI Penalties

Article (14)

The following shall be penalized by imprisonment for a term not exceeding two years and a fine not exceeding three thousand Dinars or by one of these two penalties:

1. Any competent employee who fails to provide information to the applicant without any legal justification.
2. Any competent employee who gives incorrect information to the applicant.
3. Whoever intentionally damages papers or documents of information.
4. Whoever infringes the confidentiality of the information established by this law or any other law.

Article (15)

The public prosecution is the sole competent authority to investigate, process and prosecute all of the crimes set forth in this law.

Chapter VII

Final Provisions

Article (16)

The executive regulations of this law shall be issued by a decision of the Minister of Justice within six months of its date of publication.

Article (17)

The Prime Minister and the ministers shall, each within his jurisdiction, implement this law which shall enter into force after six months of the date of publication in the Official Gazette.

Deputy Amir of The State of Kuwait

Nawaf Al-Ahmad Al-Jaber Al-Sabah

Issued at Al- Seif Palace on the 12th of Muharram 1442H,
corresponding to the 31st of August 2020.

Explanatory Note For Law No. (12) of 2020 On the Right to Access Information

The State of Kuwait has signed international treaties which entered into force and became a part of its legislation. This includes the United Nations Convention against Corruption, which has led to the promulgation of law No. 2 of 2016 establishing Kuwait Anti-corruption Authority and the Special Provisions for Financial Disclosure. Moreover, given the importance of circulating information and providing the right to access and obtain information, it was suggested to issue the current law. The law, in turn, fulfills the goals of the Kuwait Anticorruption Authority with regards to establishing transparency and integrity in economic and administrative transactions and ensuring the rational management and optimal use of State funds, resources and properties. The law consists of seven chapters and 17 articles. Chapter I deals with legal definitions and terms. Chapter II defines the right to access information held by public entities, and requires those entities to facilitate the access to information in a specific time and manner. The law also requires each entity to appoint one or more competent employees to review requests for information. The employee shall be provided with the necessary authority to access, organize, categorize, and index information and documents according to professional and technical manners and categorize confidential information within two years from the effective date of this Law. Chapter III regulates how entities shall disclose information. It mentions that entities shall publish a manual on their websites within 3 years from the effective date of this law. The manual shall contain the information to be disclosed, including laws, systems, regulations and decisions under which entities operate, as well as the public policies that affect individuals. The manual shall also include the entities decision-making policies, in addition to supervision and accountability channels. In addition, it shall include the entities organizational structure, including terms of reference and duties, the names of

leaders and how to communicate with them, services and utilization rights provided to the public and users who benefit from the entities' programs, in addition to information related to their projects and activities.

Chapter IV identifies the procedures for requesting information and mentions that the executive regulations shall set an application form for this purpose as well as the required data and documents. The chapter also sets forth the due dates for response and the procedures to be followed when approving the request for information. The law allows providing the applicant with copies of the requested documents upon payment of the due fees specified by the executive regulations. In case the request is rejected, the law requires the competent employee to notify the applicant of the reasons for the rejection in writing.

Chapter V then mentions the provisions for the protection of information for the public interest and other considerations. It mentions that some information shall not be disclosed for security reasons, interference with private life, or compromising justice. The law provides the right to appeal against the decision to reject a person's request for information in accordance with the procedures established by the executive regulations.

Chapter VI defines the crimes and penalties, and that the entity responsible for investigation, processing and prosecution is the Public Prosecution. Chapter VII refers to the executive regulations, which shall be issued within six months from the date of the promulgation of the law, which shall enter into force six months from the date of publication in the Official Gazette. This allows time for the completion of the necessary procedures before the law enters into force.

Ministerial Decision No. 62 of 2021 on issuing the Executive Regulations of Law No. 12 of 2020 on the Right to Access Information

The Minister of Justice,
Having regard to Law No. (20) of 2014 on Electronic Transactions,
Having regard to Law No. (12) of 2020 on the Right to Access Information,

Has decided:

Article (1)

On the application of the provisions of this Regulation, the following words and phrases shall have the meanings set out for them hereunder:

Law : Law No. (12) of 2020 on the Right to Access Information.

Application: Any application submitted to the concerned entity by a person for accessing or obtaining of information, administrative decisions affecting his rights and photocopies of documents related to them, in accordance with the pre-established form for this purpose.

Right to access: The right to access information, decisions and documents without obtaining a photocopy thereof.

Right to obtain documents: Right to obtain photocopies of documents related to the application.

Person: Any natural or legal person who has interest in accessing or obtaining information and decisions.

Documents: Papers and documents held electronically or in paper-based form by the concerned entity, relating to its competence.

Article (2)

Any person may submit an application in writing or electronically to the concerned entity, including the following:

1. Data of the person.
2. Date of submission of the application.
3. Entity to which the request is submitted.
4. Information to be accessed or the documents to be obtained, as well as the person's interest in that regard.
5. Supporting documents to be attached to the application.
6. A pledge by the person to use the information or documents he accessed or obtained only in circumstances prescribed by the law.
7. E-mail of the person, or any acceptable electronic means of communication.
8. Signature of the person in writing, or his electronically protected signature.

Article (3)

The competent employee shall, upon receipt of the application, take the following actions:

1. Examine the application and determine whether or not the person has the right to it.
2. Exhibit the result of the examination of the application to the head of the entity or his delegate in order to issue the approval or rejection decision.
3. Provide, upon approval, as the case may be, information and documents related to the application.
4. Respond to the person within the period specified in the law, and if the application is rejected, the response shall be reasoned.

Article (4)

A person shall have, upon the acceptance of his application, the right to access without paying fees, and to obtain the documents after paying the fees of five Dinars for each document consisting of no more than ten papers and an additional half a Dinar for each extra paper.

Article (5)

A person whose application is rejected or did not receive a response within the period prescribed by the law, has the right to file a complaint with the concerned entity in writing or electronically within 60 days from the date he learned about the rejection, or upon the expiry of deadline set in the law for the examination of the application, and the concerned entity shall, within 60 days from the date of filing, respond to the complaint.

Article (6)

The complaint must contain the following data:

1. Name and signature of the complainant.
2. Date of filing of the complaint.
3. Date of decision on the application.
4. Reasons for complaint.
5. Documents supporting the complaint.

The electronic complaint is deemed legally enforceable from the time of confirmation of receipt thereof by the concerned entity, as data from the electronic systems are considered the origin, and lack of signature of the recipient does not render them invalid.

Article (7)

The concerned entity shall issue, a written or an electronic notification, to the complainant showing the date of filing of the complaint.

Article (8)

The complainant shall be notified of the rejection of his complaint in writing, or electronically via e-mail or any other modern savable and retrievable electronic means of communication to be specified by the entity, along with the reasons for rejection.

When the period provided in Article (5) of this regulation expires, this is considered a rejection of the complaint.

Article (9)

Each entity shall establish an electronic registry, wherein such applications, their numbers, date of submission, the outcome of their resolutions, complaints related to them, and their results are entered, along with the signature of the person confirming that he has obtained the information or documents he applied for.

Article (10)

This decision shall be published in the Official Gazette and shall be enforced as of the date of entry into force of the law.

Dr. Nawaf Saud Al-Yaseen
Minister of Justice