

UNESCO
WORLD ANTI PIRACY OBSERVATORY

KUWAIT

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I. Legislation

1. Copyright laws

Copyright is protected in Kuwait through international Agreements, [Decree Law No. 64 of 1999 on Copyright](#) and other legislation related to enforcement of copyright or affecting copyright protection.

The copyright law No. 64 of 1999 was issued on December 14, 1999, ratified on December 25, 1999, published in the official [Gazette \(Alkuwait Alyaoum\) issue 445 on January 9, 2000](#) and entered into force on February 9, 2000.

The Copyright Law No. 64/1999 abolished all previous legislation contrary to its provisions.

2. Other laws

The other laws and regulations pertaining anti-piracy measures and copyright enforcement are:

- The Criminal Law promulgated by Law No. 16 of 1960 and all its amending laws.
- The Law on Criminal Procedure promulgated by Law No. 17 of 1960 and all its amending laws.
- The Civil Law promulgated by Law decree No. 67 of 1980, duly amended by Law no. 15 of 1996.
- GCC Unified Customs Law No. 10 of 2003.
- Customs Law Implementing Regulation No. 200 of 2003
- Customs Instructions No. 50 of 2003.

3. Latest developments and perspectives

In 2004, the Kuwaiti government released a new draft copyright law. That draft was reworked after further consultations with international intellectual property organizations and trade partners. A new version is in the drafting process.

4. Summary of legislation

- *Exclusive rights of the authors and of the owners of neighboring rights*

Copyright applies to any created literary, artistic or scientific work, irrespective of its value, quality, purpose or mode of expression. This includes writings; computer programs; lectures, speeches, and any other oral works; dramatics and dramatico-musical works; musical composition with or without words; choreographic works and pantomimes; cinematography and audiovideo broadcasting works; works of drawing, painting, architecture, sculpture, engraving and lithography; photographic works; works of applied art whether handicraft or produced by industrial process; illustrations, maps, plans, sketches and three-dimensional works related to geography, topography, architecture or science; computer works such as programs, databases and similar works; works derivative or translated (from original works); and titles of the works provided they are original. Copyright also applies to translations, summaries, adaptations, explanations, or any transformation that makes the original work appear in a new form, provided they are carried out with the permission of the author and without prejudice to his rights in the original work. However, the rights of the author of photography shall not deprive others from taking new photographs of the same object even if they are taken from the same place and, in

general, in the same circumstances where the first photograph was taken (Articles 1, 2 and 3 of the Law on Copyright and Neighboring Rights).

The copyright protection is also extended to the author's collections of his published speeches and articles and to national folklore of the Kuwaiti society which is considered the property of the state (Articles 12 and 41 of the Law on Copyright and Neighboring Rights).

Exclusive Rights of the authors

a) Economic Rights

Copyright holders have the right to exploit their copyright works by any means of exploitation and exclude others from doing so unless with prior written authorization by the author or his successors. The right to exploit includes any means of copying; communicating the work to the public by live performance; theatrical performance; radio, television, and cinematographic transmission; or by any other means of transmission; and translating to any language, modifying, summarizing, explaining, or transforming the work to any other form (Articles 4 and 5 of the Law on Copyright and Neighboring Rights).

b) Moral Rights

In addition to the aforementioned economic rights, the author enjoys moral rights which include the right to decide whether his work is to be published and to specify the means of publication; claim authorship of his work except where the work is incidentally mentioned in the reporting of current events by means of radio or TV broadcasting; to object or to prevent any distortion, modification, mutilation, or any other changes to his work without his permission except where the said changes are within the translation of the work, the author shall then have no right to prevent it unless the translator's intervention has caused the author's reputation, honor, or scientific or artistic standing to be impaired; and the right to withdraw the work from circulation, based on a court decision, in case serious reasons existed for this withdrawal, provided third parties are compensated for the damages resulting thereof (Articles 4, 6 and 35 of the Law on Copyright and Neighboring Rights).

Exclusive right of the owners of neighboring rights

Neighboring rights are protected under Article 15 of the Law on Copyright and Neighboring Rights. These rights include the rights of performing artists in their performances and the right of radio and television broadcasting organizations in their radio and television programs.

Performers have the exclusive economic right to exploit their performance by communicating it to the public; performing it for the purpose of original fixing or copying; renting it; or performing it for the purpose of fixing it through radio broadcasting or computer. Performers enjoy also moral rights which consist of the right to claim authorship of their performances in the way they performed them.

Radio and television broadcasting organizations have the exclusive economic right to authorize or prohibit the exploitation of their recordings and programs without their prior written authorization.

- *Exceptions and limitations to copyright*

Limitations to exclusive rights are provided in Articles 7 to 11 of the Law on Copyright and Neighboring Rights. These limitations include performing the work in private meetings that have no direct or indirect motivation of financial gain; making a single copy of a work, translating, adapting, or altering it in any way for personal use; making a short analysis or quotation of the work for purposes of criticism, education, study or news provided that the source and the name of the author are indicated; copying by the media of political, social, economic or religious articles that concern the public at a particular time provided the copying is not expressly prohibited by the author of the original work; and publishing or broadcasting by the media of public speeches, lectures, judicial proceedings, discussions in public meetings of legislative or administrative committees, as well as meetings of scientific, literary, artistic, political, social, or religious nature for the purpose of news reporting.

- *Protection of foreign works*

In addition to the works of Kuwaiti nationals wherever they are published, the protection of the copyright law covers works of Arab authors who are nationals of member countries of the Arab Convention for the Protection of Copyright and published in any of those countries; works of foreigners which are first published in Kuwait; and works of authors who are nationals of member states of the World Intellectual Property Organization that are first published in one of those countries (Article 43 of the Law on Copyright and Neighboring Rights).

- *Period of copyright protection*

As a general rule, copyright protection is provided for the lifetime of the author and 50 years from the end of the Calendar year following the author's death; 50 years from the end of the Calendar year from the date of the death of the last surviving author in the event of co-authored works; 50 years from the end of the Calendar year when the work was first published for anonymous or pseudonymous works - or 50 years from the end of the Calendar year when the pseudonym adopted by the author leaves no doubt as to his identity or if the author of an anonymous or pseudonymous work discloses his identity; 50 years from the end of the Calendar year when the work was first published for works which copyright is owned by a legal person, works of cinematography, photography, applied art, computer programming, and databases, and works first published after the death of their authors (Article 17 of the Law on Copyright and Neighboring Rights).

Protection of the copyright of the author of a foreign language work, as well as the copyright of the translator who translated that work to another foreign language get terminated with respect to the translation of the work into Arabic language wherein the author or the translator has failed to exercise the said right within a period of five years from the date of first publication of the original or translated work. However, it is for the minister of information to authorize the translation to the Arabic language, or re-publication of a work after one year from the date of first publication of the original work or its translation to any other foreign language provided a fair compensation is paid to the author or person who has the translation rights (Article 16 of the Law on Copyright and Neighboring Rights).

Rights of performing artists last for 50 years from the end of the Calendar year when they first performed the work; 50 years from the end of the Calendar year in which the recording took place for producers of cinematography recordings and recordings prepared for radio and

television broadcasting; 20 years from the end of the Calendar year when the program was first broadcasted for broadcasting organizations (Article 17 of the Law on Copyright and Neighboring Rights).

The Law provides for a retroactive protection for works existing before the entry into force of the Law on Copyright and Neighboring Rights. However, for the purpose of calculating the term of protection of these works, the term shall include the period elapsed between the date of the event designated for the starting date of the term and the date on which the law came into force (Article 44 of the Law on Copyright and Neighboring Rights).

- *Registration*

Copyright protection does not depend on formalities. Failure to deposit the work or any act of disposal relating to it does not prejudice the author's rights provided for under the Copyright Law and related legislation.

Copyright holders who wish to make a deposit must submit to the competent administrative body on their own expenses an application duly completed (Article 13 of the Law on Copyright and Neighboring Rights).

5. International treaties

Kuwait is a member of the following International Convention and Treaties on Copyright and Related Rights:

- [WTO TRIPS Agreement on Trade Related Aspects of Intellectual Property Rights](#);
- Arab Agreement for the Protection of Authors' Rights, ratified by Law No. 16 of 1986, published in the official Gazette, issue no. 1657 of March 30, 1986 and in force since 1986.

Kuwait signed the following Convention but did not ratify it yet:

- [Arab Copyright & Neighboring Rights Convention](#) signed on 3 December, 2004

II. Measures and remedies

1. Copyright infringement

Article 42 of the Copyright Law lists a number of acts which are punished by the copyright law and hence are considered to be infringing its provisions, in particular:

- Violating the provisions of the copyright law.
- Infringing the author's economic rights.
- Selling, offering for sale or circulation; communicating to the public by any means, importing or exporting any pirated work.
- Disclosing or facilitating the disclosure of computer programs before its publication.
- Removing or facilitating the removal of a protective measure that regulates or limits the public access to a work, its performance, broadcasting, or recording.

2. Remedies to protect copyright holders

The Copyright law, the Civil Law, the Criminal Law and the Law on Criminal Procedures and the GCC Unified Customs Law provide a number of remedies that may apply for protecting copyright and neighboring rights holders in the case of violations of their rights. These remedies include the following:

- Provisional measures may be taken to stop infringement of copyright and neighboring rights. In such a case, the competent court, upon a request made by the right holder or his successors, may order, by petition, the necessary provisional measures in particular, conducting a detailed description of the work; putting an end to the publication, exhibition, or production of the work; seizing the original and copies of the work as well as any material used to republish the work; establishing evidence for the public performance of works relating to music, acting, or transmission and prohibiting the continuation of the existing show or its performance in the future; and assessing and seizing the income resulting from publishing or exhibiting the work (Article 36 of the Law on Copyright and Neighboring Rights, Articles 23 to 35 of the Law on Criminal Procedures and Article 135 of the GCC Unified Customs Law).
- Legal action may be instituted at the request of the right holder including fair and equitable civil judicial procedures (Articles 36 to 38 and 42 of the Law on Copyright and Neighboring Rights and Articles 1, 15, 75, 98, 99 and 136 of the Law on Criminal Procedures).
- Seizure of original and copies of the work as well as any material used to republish the work (Article 36 of the Law on Copyright and Neighboring Rights; Articles 90 to 97 of the Law on Criminal Procedures and Articles 126, 127, 133 and 135 to 137 of the GCC Unified Customs Law).
- Confiscation of all tools and implements that have been used in the illegal publication if they are suitable exclusively for such publication as well as the confiscation of all pirated copies of the work (Article 42 of the Law on Copyright and Neighboring Rights, Articles 66, 78 of the Criminal Law, Article 237 of the Law on Criminal Procedures and Article 152 of the GCC Unified Customs Law).
- Destruction of the original and copies of the pirated published work as well as all materials and implements that are used exclusively in the publication of the pirated works may be ordered by the court at the request of the right holder and at the expense of the liable party. The court may decide, as an alternative, to change the features of the copies and materials or to make them unusable (Article 38 of the Law on Copyright and Neighboring Rights).
- Fair and adequate damages may be imposed including moral damages; damages adequate to compensate for the injury the right holder has suffered as a result of the infringement plus any profits attributable to the prohibited activity; court costs or fees and reasonable attorney's fees to be paid by the losing party (Article 41 of the Law on Copyright, Article 115 of the Law on Criminal Procedures and Neighboring Rights, Articles 230, 231, 245 to 247 of the Civil Law).
- Criminal sanctions may be imposed, in particular imprisonment for a period not exceeding one year and/ or a fine not exceeding 500 Dinars. The sanctions shall be doubled and the premises where the crime was committed shall be closed down in case the defendant is convicted for a crime of copyright violation during the past five years calculated from the date of the final decision (Article 42 of the Law on Copyright and Neighboring Rights).
- Publication of court judgments in a local daily newspaper one time or more at the expense of the infringer (Article 42 of the Law on Copyright and Neighboring Rights).

3. Provisional measures

The Copyright Law permits the court, based on a request submitted by the right holder or his successors, to take provisional measures to stop or prevent an infringement of copyright and related rights (Article 36 of the Law on Copyright and Neighboring Rights).

In such a case, the competent court, upon a request made by the right holder or his successors, may order, by petition, the necessary provisional measures in particular, conducting a detailed description of the work; putting an end to the publication, exhibition, or production of the work; seizing the original and copies of the work as well as any material used to republish the work; establishing evidence for the public performance of works relating to music, acting, or transmission and prohibiting the continuation of the existing show or its performance in the future; and assessing and seizing the income resulting from publishing or exhibiting the work.

The court may order the right holder to provide a reasonable security or equivalent assurance.

The right holder shall file a legal action with the competent court within 8 days from the date of issuance of the court order to carry out the provisional measures; otherwise the court order for provisional measures will cease to have effect.

See also Articles 23 to 35 of the Law on Criminal Procedures and Article 135 of the GCC Unified Customs Law.

4. Penalties for copyright infringement

The Copyright law, the Civil Law, the Criminal Law and the Law on Criminal Procedures and the GCC Unified Customs Law provide for penalties in case of copyright or neighboring rights infringement. These penalties include the following:

- Fair and adequate damages may be imposed including moral damages; damages adequate to compensate for the injury the right holder has suffered as a result of the infringement plus any profits attributable to the prohibited activity; court costs or fees and reasonable attorney's fees to be paid by the losing party (Article 41 of the Law on Copyright, Article 115 of the Law on Criminal Procedures and Neighboring Rights, Articles 230, 231, 245 to 247 of the Civil Law).
- Seizure of original and copies of the work as well as any material used to republish the work (Article 36 of the Law on Copyright and Neighboring Rights; Articles 90 to 97 of the Law on Criminal Procedures and Articles 126, 127, 133 and 135 to 137 of the GCC Unified Customs Law).
- Confiscation of all tools and implements that have been used in the illegal publication if they are suitable exclusively for such publication as well as the confiscation of all pirated copies of the work (Article 42 of the Law on Copyright and Neighboring Rights, Articles 66, 78 of the Criminal Law, Article 237 of the Law on Criminal Procedures and Article 152 of the GCC Unified Customs Law).
- Destruction of the original and copies of the pirated published work as well as all materials and implements that are used exclusively in the publication of the pirated works may be ordered by the court at the request of the right holder and at the expense of the liable party. The court may decide, as an alternative, to change the features of the copies and materials or to make them unusable (Article 38 of the Law on Copyright and Neighboring Rights).

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- Publication of court judgments in a local daily newspaper one time or more at the expense of the infringer (Article 42 of the Law on Copyright and Neighboring Rights).

5. Requirements for foreign persons

As a general rule, foreign natural and legal persons shall enjoy the right to take action in Kuwaiti courts.

III. Enforcement

1. Enforcement authorities

a) Authorities responsible for enforcing the copyright law

The police, public prosecutors, the judiciary, customs officials, and officers appointed by the Minister of Information to this effect are the competent authorities responsible for enforcing the Law on Copyright and Neighboring Rights and combating piracy in Kuwait (Articles 36, 38, 45 and 46 of the Law on Copyright and Neighboring Rights and Articles 2, 24, 55, 56, 58, 59, 80, 81, 116, 121 to 128, 133, 135 to 137, 143, 150 of the GCC Unified Customs Law).

Officers appointed by the Minister of Information to enforce the provisions of the copyright law have the power to inspect public places that use intellectual works in their activities such as printing presses, libraries and publishing houses. These officers are given police power to seize the infringement and all materials used in the prohibited act, and prepare the necessary reports. They may request the help of the police officers when needed.

b) Enforcement bodies entitles to act ex-officio in copyright infringement cases

Public prosecutors, Officers appointed by the Minister of Information to verify the implementation of the copyright law and customs authorities have police powers with regard to the implementation of the provisions of the Law on Copyright and Neighboring Rights. They may act ex-officio in cases of infringement of copyright and neighboring rights without the need for a formal complaint by a private party or right holder (Article 45 and 46 of the Law on Copyright and Neighboring Rights and Articles 2, 24, 55, 56, 58, 59, 80, 81, 116, 121 to 128, 133, 135 to 137, 143, 150 of the GCC Unified Customs Law).

Officers appointed by the Minister of Information may act ex officio in order to enforce the provisions of the copyright law. Accordingly, they may inspect public places that use intellectual works in their activities such as printing presses, libraries and publishing houses, and seize the infringement and all materials used in the prohibited act, and prepare the necessary reports. They may request the help of the police officers when needed.

The Public Prosecutor shall investigate, proceed and take action against the infringers in all crimes arising from the application of the provisions of the Copyright Law.

c) Courts dealing with copyright cases

There are no specialized courts for copyright or intellectual property rights (IPR) in Kuwait. The competent courts are the regular courts (civil, criminal and administrative).

2. Enforcement at the border

The Customs is the Authority responsible for combating piracy at the borders. Transporting, importing, exporting or holding pirated goods is dealt with under the Customs Law as transporting or holding restricted or prohibited goods (Articles 2 and 80 of the GCC Unified Customs Law).

Customs officers may act ex officio at the borders and in the country in copyright infringement cases. They are entitled to seize prohibited goods, ex-officio or at the request of right holders, wherever they are found (Articles 2, 24, 53 to 56, 58, 59, 80, 81, 116, 121 to 128, 129 to 137, 143, 145, 150, 152 and 161 to 165 of the GCC Unified Customs Law).

The penalty for smuggling pirated goods consists of a fine of not less than the value of the goods and not more than three times the value, and/ or a term of imprisonment of not less than six months and not more than three years (Articles 145 and 152 of the GCC Unified Customs Law).

The Customs Court is the competent court to deal with customs cases, in particular (Articles 161 to 165 of the Customs Law):

- Smuggling crimes
- Crimes and offenses committed in violation of the provisions of the Customs law and related implementing regulations.
- Objections to the decisions and resolutions concerning the collection of fines.

Imports for personal use of a non-commercial quantity and new items and things acquired for personal use will not be detained by Customs (Article 103 of the GCC Unified Customs Law, Articles 19 and 20 of the Customs Law Implementing Regulation No. 200 of 2003 and Article 31 of Customs Instructions No. 50 of 2003).

The aforementioned provisions apply also in the case of infringement of neighboring rights.

IV. Public Awareness

1. Awareness campaigns and actions

Information not available

2. Promotion of legal exploitation

Information not available

3. Associations and organizations with awareness-raising purpose

Private bodies have been created to promote intellectual property in Kuwait and to fight against piracy, in particular the following:

- **Inter-ministerial anti-piracy task force**

An inter-ministerial task force to tackle the piracy problem in Kuwait was established in 1999-2000. The task force is made up of the Ministry of Information, the Ministry of the Interior (the police), the Ministry of Commerce, the Public Prosecutors' Office and Customs.

- **Brand Owners Protection Group**

The Brand Owners Protection Group (BPG) is a non-profit organization which seeks the enforcement of intellectual property laws, copyright, patent, and trademark protection, and licensing laws in order to protect consumers from counterfeits and all other forms of illicit trade. <http://www.gulfbpg.com/index.php>

- **ICC-Kuwait Commission on Intellectual Property**

The intellectual property policy of the International Chamber of Commerce (ICC) is formulated by its Commission on Intellectual Property, which gathers over 300 business executives and private practitioners from 50 countries. The commission identifies key intellectual property issues facing the international business community and contributes the business voice to debates to resolve these. It also works to raise awareness of intellectual property by initiatives such as its annual *Roadmap on Current and Emerging IP Issues for Business and other publications*. The Commission on Intellectual Property meets twice each year in plenary, but carries out work constantly throughout the year in issue-specific task forces. The Commission also works closely with intergovernmental organizations involved in intellectual property policy-making, such as the World Trade Organization (WTO) and the World Intellectual Property Organization (WIPO) where ICC has observer status. Kuwait Chamber of Commerce & Industry (KCCI) is actively involved in Intellectual Property (IP) through:

- Proposing or expressing opinions on new or existing laws and regulations pertaining to IP.
- Creating public awareness among the business community about IP.
- Providing business counseling on IP to its members, particularly to small business.
- Holding seminars, conferences, workshops on IP.
- Disseminating information about this subject through its publications.
- Undertaking training of its staff, locally and internationally, on subjects related to IP.
- Participating in workshops, conferences, locally and internationally on IP subject.

- Advisory role to the Government of Kuwait in the implementation of TRIPS Agreement as well as other international Conventions, Agreements and protocols on IP.
- Active participation in permanent or *Adhoc* Government committees on Intellectual Property subjects including enforcement.
<http://www.iccwbo.org/policy/ip/id2465/index.html>

4. Best practices

Information not available

V. Capacity-building

1. Training

Information not available

2. Establishment of specialized units and intersectoral groups

- **Saba & Co. Intellectual Property**

Saba is one of the longest-established and most renowned intellectual property firm in the Arab world. Saba is active in all areas of prosecution, registration, and enforcement of intellectual property rights and provides the full range of related legal and paralegal services. On the enforcement front, the firm's expertise extends to all areas of intellectual property, including trademark infringement, unfair competition, misleading practices, as well as similar actions. Saba coordinates with private investigators and government enforcement agencies to obtain evidence on infringing use; conducts civil litigation against infringers; provides technical expertise to consumer advocacy groups to highlight the social costs of counterfeit commerce; and works with government enforcement agencies to prosecute and take administrative action against infringers. Also, Saba strongly believes that the key to a successful anti-piracy/anti-counterfeit policy lies in effective border measures and the proactive support of the local law enforcement agencies. As such, Saba continuously works with the government authorities concerned in the countries of the region to prompt them to tighten the laws on counterfeiting. Saba is also a founding member of the local chapters of the Brand Protection Group for Lebanon, Jordan, Syria, and GCC and Yemen.
<http://www.sabaip.com/index.aspx>

- **Arab Society for Intellectual Property**

The Arab Society for Intellectual Property (ASIP) is a specialized Arab professional body which was established in 1987. ASIP aims at promoting and developing intellectual property protection in the Arab world, through the encouragement of the development and modernization of IP systems and the laws and regulations that govern them. ASIP is dedicated to the building of capacities and expertise among IP professionals and practitioners as well as enhancing awareness among the general public through the utilization of a number of tools in order to successfully achieve its objectives, by holding education programs, conferences, and seminars, research projects and studies.
<http://www.aspip.org/Default.aspx?&lang=en>

3. Best practices

Information not available

VI. Other

1. TPM/DRM

The Copyright Law provides protection for Technological Protection Measures (TPM) through prohibiting and punishing the following act (Article 42 of the Law on Copyright and Neighboring Rights):

- Removing or facilitating the removal of a protective measure that regulates or limits the public access to a work, its performance, broadcasting, or recording.

The person who commits the violation should be sentenced for a period not exceeding one year of imprisonment and/ or a fine of five hundred Dinars (Article 42 of the Law on Copyright and Neighboring Rights).

2. Licensing Schemes

Information not available

3. Optical Discs

Information not available

4. Hotlines

Information not available

5. Contact Details

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Web links

Database of GCC Laws:

<http://www.gcc-legal.org/MojPortalPublic/>

Arab IP Center of the League of Arab States:

<http://www.arabipcenter.org>