

LAW NO.32/1968

CONCERNING CURRENCY, THE CENTRAL BANK OF KUWAIT AND THE ORGANIZATION OF BANKING BUSINESS

We, Sabah Al-Salim Al-Sabah, Amir of the State of Kuwait,

Having regard to the Constitution, particularly Articles 20,23,65,77,148 and 154 thereof,
AND

The Kuwait Currency Law issued under Amiri Decree No.(41) of 1960, AND

Law No. (23) of 1962 concerning the accession of the State of Kuwait to the Agreements of the International Monetary Fund and the International Bank for Reconstruction and Development, AND

Amiri Decree issued on 12 November 1964 concerning Exchange Control, AND

The approval by the National Assembly of the following Law,

Have sanctioned and do hereby promulgate it:

CHAPTER I

CURRENCY

Section I

Unit of Currency and Par Value

Article 1

The unit of currency shall be the Kuwaiti Dinar and shall be divided into one thousand Fils.

Article 2

The basis for fixing the exchange rate for the Kuwaiti Dinar shall be specified by a decree after the opinion of the Governor of the Central Bank has been sought.

Article 3

1- Every transaction or agreement relating to money or involving the payment of money shall, in the absence of express agreement to the contrary, be deemed to have been made and agreed to be executed on the basis of the Kuwaiti Dinar.

2- The Central Bank shall, whenever necessary and for all legal purposes it defines including the collection of duties, declare the exchange rates for the most important foreign currencies, either on the basis of the par value declared by the IMF or on any other basis which the Bank may decide.

Section II

Issue of Currency Notes and Coins

Article 4

1- The issue of currency shall be the exclusive privilege of the State. This privilege shall be exercised solely and exclusively by the Central Bank.

2- No party other than the Central Bank may issue or circulate any notes or coins or any instrument or document payable to bearer on demand and apt to be circulated as legal tender, for the purpose of using them as means of payment in place of the currency issued in accordance with the provisions of this Law.

3- Any person who violates the provisions of this Article shall be subject to the penalties laid down in the Penal Code for forgery of currency notes or coins.

Article 5

1- The Central Bank may issue currency notes in the following denominations: One Dinar, Five Dinars and Ten Dinars, or in such higher denominations as may be specified by a decree issued upon a recommendation of the Minister of Finance and a proposal by the Board of Directors of the Bank.

2- The above notes shall bear the signatures of the Minister of Finance and the Governor of the Central Bank.

3- The currency notes referred to in this Article shall be legal tender in the State of Kuwait for the payment of any amount.

Article 6

1- The Central Bank may issue currency notes of a value less than the unit of currency in denominations of Half a Dinar and a Quarter Dinar.

2- The above currency notes shall bear the signatures of the Minister of Finance and the Governor of the Central Bank.

3- The currency notes referred to in this Article shall be legal tender in the State of Kuwait for the payment of amounts up to the following limits:

- (a) twenty Kuwaiti Dinars for half-dinar notes.
- (b) ten Kuwaiti Dinars for quarter-dinar notes.

4- The Central Bank and the cash-offices of the State and banks operating in the State of Kuwait shall accept currency notes of small denominations without any quantitative limitations.

Article 7

1- The Central Bank may issue coins.

2- Non-gold coins shall be legal tender in the State of Kuwait for the payment of any amount up to two dinars, but the Central Bank shall accept them without any quantitative limitation.

3- The Central Bank may specify the conditions for selling and buying gold coins by its cash-offices.

4- The Central Bank may issue gold and non-gold commemorative coins, and the Bank shall determine the terms and conditions for the sale and purchase of such coins.

5- Any person who refuses to accept the Kuwaiti currency provided for in this Article and in the preceding two Articles, as per their traded value and within their relative legal tender, shall be liable to the payment of a fine not exceeding one hundred dinars.

Article 8

The Council of Ministers shall decide the following on the recommendation of the Central Bank:

1- The wording to be borne by currency notes to indicate their value, as well as the form, design and other characteristics of the notes.

2- The denominations of coins to be issued by the Central Bank, their designs, forms, standard weights and permitted variations in weight, composition, and other specifications.

Section III

Circulation and Withdrawal of Notes and Coins

First : Currency Notes

Article 9

Various denominations of new currency notes shall be put into circulation by a decision of the Board of Directors of the Central Bank, setting out their descriptions and denominations. Such decision shall be published in the Official Gazette and announced to the public by various suitable means of publicity.

Article 10

1- The Board of Directors of the Central Bank may, upon approval of the Minister of Finance, decide to withdraw any denomination of currency notes from circulation against payment of their face value.

Such decision shall be published in the Official Gazette and announced to the public by various suitable means of publicity.

The decision to withdraw shall fix the period for the exchange of withdrawn currency notes, provided that the period shall not be less than 90 days in normal circumstances and 15 days in cases of emergency.

Upon the end of the exchange period specified in the decision of withdrawal, the withdrawn currency notes shall cease to be legal tender, but the bearer shall have the right to exchange them in the cash-offices of the Central Bank within ten years from the date of enforcement of the decision to withdraw. Currency notes which are not exchanged during this period shall be deducted from the currency in circulation, and their value shall be added to the account provided for in Article (48) of this Law.

2- The Central Bank shall be under no obligation to refund the value of any lost or stolen currency notes, or to accept or pay for forged notes.

3- The Central Bank shall pay the value of mutilated or imperfect currency notes in accordance with the instructions issued by the Bank. Currency notes which do not meet the requirements set out in the instructions shall be withdrawn from circulation without refund.

4- The Central bank shall destroy the currency notes withdrawn from circulation in accordance with the instructions issued by the Bank in this connection.

Second : Non-Coins

Article 11

1- Various denominations of non-gold coins shall be put into circulation by a decision of the Board of Directors of the Central Bank setting out the descriptions of such coins. Such decision shall be published in the Official Gazette and announced to the public by various suitable means of publicity.

2- Coins of any denomination may be withdrawn against payment of their face value. The decision to withdraw shall be taken by the Board of Directors of the Central Bank, published in the Official Gazette and announced to the public by various suitable means of publicity.

3- The decision to withdraw shall specify the period for exchange which shall not be less than six months.

4- Coins not presented for exchange within the above-mentioned period shall cease to be legal tender and their value shall be deducted from currency in circulation and added to the Special Account provided for in Article (48) of this Law.

5- Coins which have been impaired, diminished, lightened or defaced by any cause other than fair wear and tear shall be withdrawn from circulation without refund.

Section IV

Currency Cover

Article 12

Currency in circulation and demand deposits held with the Central Bank shall have a cover consisting, at all times, of the following:

- (a) Gold coins or bullion;
- (b) Demand or time deposits in freely convertible currencies, placed with local banks or placed abroad with central banks, state treasuries, the Bank for International Settlements, the International Monetary Fund or with commercial banks;
- (c) Foreign securities, instruments, bills or certificates issued or guaranteed by foreign governments or by international financial or monetary institutions, provided that they are expressed in freely convertible currencies and easily negotiable in financial markets;
- (d) Foreign securities or bills other than those issued or guaranteed by foreign governments or by international financial or monetary institutions, provided that they are expressed in freely convertible currencies and easily negotiable in financial markets;
- (e) Commercial papers expressed in freely convertible foreign currencies and acceptable to foreign commercial banks;
- (f) Treasury bills and bonds issued or guaranteed by the Government of Kuwait, and advances granted by the Central Bank to the Treasury of the Government of Kuwait;
- (g) Domestic commercial papers discounted in the Central Bank and loans and advances granted to local banks against adequate guarantees.

CHAPTER II

CENTRAL BANK OF KUWAIT

Section I

Establishment of the Central Bank

Article 13

There shall be established a public institution, having an independent juristic personality, to be called "Central Bank of Kuwait". It shall be referred to in this Law as the "Central Bank".

The City of Kuwait shall be the seat of the Bank, and the Bank may open branches in the State of Kuwait and appoint agents and correspondents abroad.

Article 14

The Central Bank shall have a special budget which shall be prepared in a commercial pattern.

The Bank shall be considered as a merchant in its relations with other parties, and its operations and accounts shall be conducted and organized in accordance with commercial and banking rules.

Apart from Constitutional provisions in force with regard to the operations, budget and closing account of the Bank, the Board of Directors shall, with the approval of the Minister of Finance, lay down all rules and regulations concerning the administrative and financial affairs of the Bank, including staff and accounting matters, without being limited in all this by the provisions of the Public Tenders and Civil Service Laws.

The provisions concerning advance control in Law No. (30) of 1964 establishing the Audit Bureau shall not apply to the operations of the Central Bank. The functions of the Audit Bureau shall be limited to auditing the accounts and assets of the Bank, and the Bureau shall not, in any manner, interfere in the operations of the Bank or question its policy. The technical officer of the Audit Bureau, assigned to audit the operations of the Bank, shall have adequate technical qualifications and special experience in banking business.

Section II

Objects of the Central Bank

Article 15

The objects of the Central Bank shall be :

- 1- to exercise the privilege of the issue of currency on behalf of the State;
- 2- to endeavor to secure the stability of the Kuwaiti currency and its free convertibility into foreign currencies;

3- to endeavor to direct credit policy in such a manner as to assist the social and economic progress and the growth of national income;

4- to control the banking system in the State of Kuwait;

5- to serve as Banker to the Government;

6- to render financial advice to the Government.

Section III

Capital and Reserves of the Central Bank

Article 16

The Capital of the Central Bank shall be five million Kuwaiti Dinars and shall be fully paid by the Government. The Capital of the Bank may be increased by decree, and such increase shall be taken from the General Reserve of the Bank.

Article 17

1- The Central Bank shall establish a General Reserve Fund.

2- At the end of each financial year, net profit shall be the profits realized by the Bank, after deducting the expenses of operations and making the provisions necessary to meet bad or doubtful debts, depreciation in assets, contributions to the Pension Fund and such other contingency expenses usually provided for by banks.

3- The net profit of the Bank shall be dealt with as follows:

(a) The net profit of the Bank shall be paid into the General Reserve Fund until the balance of the Fund amounts to twenty five million Kuwaiti Dinars. The General Reserve Fund may be increased by a decision of the Board of Directors of the Bank with the approval of the Minister of Finance.

(b) When the balance of the General Reserve Fund reaches the specified maximum limit, the net profit shall be fully paid to the Government.

(c) If the General Reserve Fund, in any year, is insufficient to meet the losses of the Bank, or if it can not be used to meet the losses, the Government shall cover the deficit.

Section IV

Management

Article 18

The management of the Central Bank shall be carried out by a Board of Directors composed of :

- (a) the Governor, who shall be the Chairman of the Board;
- (b) the Deputy Governor;
- (c) a representative of the Ministry of Finance;
- (d) representative of the Ministry of Commerce and Industry;
- (e) four other members;

provided that all members of the Board shall be Kuwaitis.

Article 19

The Governor and the Deputy Governor shall be appointed by decree for a renewable period of five years on the recommendation of the Ministry of Finance, provided that they have experience in banking business.

The salaries, allowances and emoluments of the Governor and the Deputy Governor shall be fixed by a decision of the Council of Ministers on the recommendation of the Ministry of Finance.

Article 20

1- The Council of Ministers shall, on the recommendation of the Ministers concerned, appoint the representatives of the Ministry of Finance and the Ministry of Commerce and Industry and fix their remuneration, and shall name the alternates to take their place in their absence.

2- The other members shall be appointed by decree on the recommendation of the Minister of Finance for a renewable period of three years, provided that they shall have experience in economic and financial or banking affairs. Their remuneration shall be fixed by a decision of the Council of Ministers, on the recommendation of the Minister of Finance.

3- The members referred to in the preceding two paragraphs may not be directors, managers or officials of any bank operating in the State of Kuwait.

Article 21

1- The Governor shall have the full powers necessary to manage the operations of the Central Bank and to issue the regulations and instructions relevant thereto. He shall be responsible for the implementation of this Law and the regulations of the Bank as well as for the execution of the resolutions of the Board of Directors. He shall be the legal representative of the Bank and shall have the power to sign on its behalf. The Governor

may, upon approval of the Board of Directors, delegate some of his powers to the Deputy Governor or to any other official of the Bank.

2- The Deputy Governor shall temporarily replace the Governor in his absence or if his office becomes vacant.

3- The Governor and the Deputy Governor shall devote the whole of their professional time to their work in the Bank and, while holding office, neither of them may occupy any other office, or work for any party other than the Bank, whether with or without remuneration, or have an interest in obligations entered into by the Government or public establishments or combine his office with membership in the board of directors of any company.

Exceptions to this shall be the activities related to committees, establishments or organizations formed by the Government or by public institutions and organizations, and the activities related to international conferences.

Article 22

1- No person shall be appointed member of the Board of Directors of the Central Bank who:

- (a) has been convicted of an offense involving dishonesty or misconduct;
- (b) has been declared bankrupt, or has suspended payment.

2- Apart from the cases provided for in the preceding paragraph, the services of any member of the Board of Directors may be terminated by decree by a decision of the Council of Ministers, whichever is the relevant means of appointment, in the following two cases :

- (a) if he gravely violates his duties or commits serious mistakes in the administration of the Bank;
- (b) if he is absent from all meetings of the Board of Directors during three consecutive months without the approval of the Board, unless such absence is due to his being on official assignment, annual leave or sick leave.

Article 23

The Board of Directors shall convene at the request of the Governor, and the Governor shall summon the Board to convene if the meeting is requested by the Minister of Finance or by three members at least. The meetings of the Board may not be less than eight times a year.

Article 24

At meetings of the Board, the quorum shall consist of five members at least, including the Governor or his Deputy and the representative of the Ministry of Finance or his alternate.

Resolutions shall be adopted by a majority of the votes of the members present, and in case of an equality of votes, the Chairman's side shall prevail.

Article 25

The Board of Directors may seek the assistance of experts, and may invite to its meetings any persons whose advice on any particular subject it wishes to listen to.

Article 26

Within the provisions of this Law, the Board of Directors shall exercise the full powers necessary to perform its duties, and shall do the following in particular :

- (a) draw up the monetary and credit policy of the Bank;
- (b) decide on matters relating to the issue, circulation and withdrawal of currency;
- (c) determine the system of discounting and rediscounting commercial papers and of granting loans and advances, and specify the collateral required;
- (d) fix the rates of discount, rediscount, interest and commission to be charged by the Bank on loans, advances and discount of commercial papers;
- (e) decide on matters relating to the organization and control of the banking business;
- (f) consider applications received from the Government for advances;
- (g) fix the maximum limit for advances and loans which may be given to banks operating in Kuwait;
- (h) fix the amounts allocated for the purchase and discount of public securities or Government treasury bills;
- (I) establish the clearing centers;
- (j) establish Staff and Employees Pension Fund and decide on contributions by the Bank to the said Fund;
- (k) approve the estimates of the annual revenues and expenditures;
- (l) review periodically the position of the Bank and the progress of its operations;
- (m) approve the annual balance sheet, the profit and loss account and the closing account of the Bank. The Board's approval of the estimates of revenues and expenditures, the balance sheet, the profit and loss account and the closing account shall be sanctioned by the Minister of Finance;

- (n) approve the Bank's annual report to be submitted by the Governor to the Minister of Finance in accordance with the provisions of Article (50) of this Law;
- (o) issue the internal regulations relating to the financial and administrative affairs, as well as any other regulations it deems necessary for the proper management of the Bank;
- (p) deal with all matters which under this Law, or any other law, are within the competence of the Board of Directors.

Article 27

The representative of the Ministry of Finance on the Board of Directors may request the suspension of any resolution issued by the Board relating to monetary and credit policy for referral to the Minister of Finance. If the Minister of Finance does not give a decision on the issue within seven days from the date of suspension, such resolution shall become effective.

Article 28

Unless otherwise permitted by law, no member of the Board of Directors, manager, official or employee of the Central Bank shall disclose any information which relates to the affairs of the Bank or its customers or the affairs of other banks subject to the control of the Central Bank and to which he has access by reason of the duties of his office. Information which shall not be disclosed will be determined by a decision of the Minister of Finance after having obtained the opinion of the Board of Directors of the Central Bank.

Without prejudice to the application of any severer punishment under any other law, any one who violates the prohibition provided for in the preceding two paragraphs shall be liable to imprisonment for a term not exceeding three months and to the payment of a fine not exceeding two hundred and twenty-five Dinars, or to either one of the said punishments plus dismissal from service in all cases.

Article 29

No salary, wages, fees, allowance, remuneration or bonus may be paid by the Central Bank to or for the benefit of those working for it on the basis of the profits realized by the Bank.

Section V

Operations of the Central Bank

First : Relations with the Government

Article 30

The Central Bank will offer advice to the Government in order to facilitate the realization of its objectives and functions, and the Government will consult the Bank in matters relating to monetary and credit policy.

Article 31

The Central Bank shall act as banker and fiscal agent for the Government. On this basis:

- (a) Government funds in Kuwaiti Dinars on current accounts shall be held solely with the Bank. No interest shall be paid by the Bank on such deposits.
- (b) The Bank shall in general carry out, free of charge, banking transactions and services relating to the Government inside and outside the country.
- (c) The Government may place funds in Kuwaiti Dinars with local banks, after seeking the opinion of the Central Bank and in a manner not conflicting with the monetary policy in force.
- (d) The Minister of Finance may entrust the Central Bank with the administration of any other Government funds in accordance with the conditions agreed upon at the time.
- (e) The Ministry of Finance shall transfer to the Central Bank such amounts as may be necessary for the implementation of any particular monetary policy, after the Minister of Finance has approved such policy.

Article 32

1- The provisions of paragraphs (a) and (b) of the preceding Article may be applied to municipalities and public establishments by a decision of the Council of Ministers.

2- As an exception, interest may be paid to these bodies on their deposits, but in this case they shall not be exempt from charges on banking transactions and services.

Article 33

The Central Bank shall enforce the laws and regulations pertaining to exchange control.

Article 34

The Central Bank shall, either directly or through banks and other financial institutions, undertake the operations relating to the sale and management of securities issued or guaranteed by the Government.

The Bank may also undertake operations relating to the sale and management of securities issued in Kuwaiti Dinars by any public organization or institution in Kuwait.

Article 35

In accordance with the provisions of Article 26 (h) of this Law, the Central Bank may:

- (a) purchase, sell, discount or rediscount Government treasury bills;
- (b) purchase and sell public debt securities issued and offered for sale by the Government.

Article 36

The Central Bank may not give any loans to the Government, municipalities or public establishments or bodies except in the following case :

The Bank may give temporary advances to the Government to cover deficit in Budget revenues. Such interest, as may be determined by the Board of Directors of the Bank in agreement with the Minister of Finance, shall be paid by the Government on these advances.

The total of such advances may not, at any time, exceed 10% of public revenue of the State Budget for the proceeding fiscal year.

Such advances shall be repaid as soon as possible. If they are not repaid by the end of the fiscal year following the one during which they were given, the Bank shall not grant any new advances until those outstanding have been repaid.

Article 37

For the purpose of financing development projects or strengthening the financial market, the Central Bank may upon approval of the Minister of Finance:

- 1- own or sell shares or stocks of any Kuwaiti joint-stock company or concessionary company or public establishment in Kuwait;
- 2- give loans to banks, public financial or credit establishments, against mortgage of their holdings of such shares or stocks;

provided that the total amounts allocated for the acquisition of the aforementioned shares or stocks, or for loans against their mortgage, shall not exceed the value of the reserves of the Bank;

- 3- issue negotiable bills.

Article 38

- 1- The Governor shall keep the Minister of Finance continuously informed of the monetary and credit policy pursued or intended to be pursued by the Bank.

2- If the Minister of Finance has a different view, he may issue general directives to be followed by the Bank, and such directives shall become binding on the Bank.

3- If the Board of Directors has any objections to these directives, it may submit such objections, together with the reasons for them, in writing to the Minister. The Minister shall then submit the directives, together with the objections, to the Council of Ministers to decide on the matter. The decision of the Council of Ministers on the matter shall be final.

Article 39

Government departments, public institutions and organizations, and companies operating in the State of Kuwait shall submit to the Governor of the Central Bank all information and statistics which the Bank may require for its studies.

Second : Relations with Local Banks

Article 40

The Central Bank may:

- (a) open deposit accounts for banks and financial institutions operating in the State of Kuwait, and for public credit institutions.
- (b) open deposit accounts for other institutions, upon approval of the Minister of Finance. No interest shall be paid on the accounts referred to in the preceding two paragraphs except in such special cases as may be decided by the Board of Directors of the Central Bank and approved by the Minister of Finance.
- (c) open accounts in Kuwaiti Dinars with banks.
- (d) participate with banks in any scheme relating to the insurance of deposits.

Article 41

The Central Bank may carry out the following operations with banks only, and not otherwise :

- (a) sell, purchase, discount or rediscount commercial papers, provided that these shall mature within one year from the date of acquisition, discount or rediscount by the Bank.
- (b) give loans or advances, in emergency cases, through current account for a period not exceeding six months against such collateral as the Bank may consider adequate.

Article 42

The Central Bank must not :

- (a) extend the term of loans given under paragraph (b) of the preceding Article for more than six months.
- (b) accept, for discount or as mortgage, commercial papers signed by any member of the Board of Directors or by anyone of the Bank's officials or employees.

Third : Gold and Foreign Exchange Operations Inside and Outside the Country

Article 43

The Central Bank may:

- (a) purchase, sell, import and export gold and silver coins and bullion;
- (b) carry out foreign exchange operations and transfers of all kinds;
- (c) open accounts with foreign central banks or other banks and with international financial or monetary institutions;
- (d) open accounts for central banks, or other foreign banks and for international financial or monetary institutions, and act as correspondent for such banks and institutions;
- (e) grant advances or credits to central banks, other foreign banks or international financial or monetary institutions, and obtain credits, advances or loans from them, provided that such operations are within the scope of its functions as central bank;
- (f) purchase, sell, discount or rediscount bills or securities or certificates issued or guaranteed by foreign governments or international financial or monetary institutions, provided that they are expressed in freely convertible currencies and are easily negotiable in financial markets;
- (g) purchase and sell foreign bonds or bills other than those issued or guaranteed by foreign governments or international financial or monetary institutions, provided that they are expressed in convertible foreign currencies and are easily negotiable in financial markets;
- (h) purchase and sell commercial papers acceptable to foreign banks.

Article 44

The Central Bank may :

- 1- invest the Pension Fund set up for the benefit of the officials and employees of the Bank, and grant loans to such officials and employees in accordance with the regulations decided by the Board of Directors;

2- own only such immovable property as assigned for running the business of the Bank;

3- in general, carry out all operations customarily carried out by central banks and not inconsistent with the exercise of its powers or the discharge of its duties under this Law, and undertake such duties as may be assigned to it under any other law.

Fourth : Prohibited Operations

Article 45

The Central Bank must not :

1- engage in trade operations outside the scope of its functions specified in this Law, or have a direct interest in any commercial, agricultural or industrial or any other undertaking except as provided in Article (37).

2- buy or sell immovable property except as provided in paragraph 2 of Article (44). However, the Bank may purchase or acquire, by accord or by forced-sale, movable or immovable property in the way of collecting any of its claims, provided that the Bank shall re-sell such property within the shortest possible time unless it is used for running its business.

3- purchase shares or stocks of companies or public establishments, except as provided in Article (37).

Section VI

Accounts and Statements

Article 46

The financial year of the Central Bank shall be the same as the financial year of the State.

Article 47

The bases for evaluation of the assets of the Central Bank shall be specified by decree.

Article 48

The Central Bank shall enter in a Special Account the profits realized and the losses incurred as a result of altering the exchange rate of the Kuwaiti currency or any foreign currency, or altering the value of gold in terms of the Kuwaiti currency, as well as the profits resulting from the withdrawal of currency notes and coins under the provisions of Articles (10) and (11) of this Law.

Credit balances on this account shall not be entered in the Profit and Loss Account of the Bank. Debit balances shall be met by the Government unless the Board of Directors decides otherwise.

Article 49

The accounts of the Central Bank shall be audited by one auditor or more. The Council of Ministers shall, on the proposal of the Minister of Finance, select the auditor or auditors and fix their fees.

Article 50

The Governor of the Central Bank shall submit to the Minister of Finance:

- (a) A monthly statement showing the assets and liabilities of the Bank. Such statement shall be published in the Official Gazette.
- (b) An annual report on the Bank's operations, including the Balance Sheet and the Profit and Loss Account for the ending financial year, and a general review of the monetary, banking, financial and economic affairs. This report shall be submitted not later than four months after the end of the financial year.
- (c) A report on the events affecting the monetary or financial position, including the causes and outcome of such events and recommendations for handling them.

General Provisions

Article 51

The Central Bank shall be exempt from all taxes, duties and financial dues whatsoever, whether they be for the treasury, municipalities or any other public institution or body. The Bank shall also be exempt from the advance payment of judicial fees, deposits and guarantees, and settlement thereof shall be deferred until the case under litigation has been decided.

Article 52

Debts due to the Central Bank shall be treated in the same way as debts due to the Government, and shall take priority over debts due to other creditors. Such debts shall be collected by the same procedures provided for the collection of debts due to the State.

Article 53

The Central Bank may only be liquidated by a law specifying the liquidation procedures and their dates.

CHAPTER III

ORGANIZATION OF BANKING BUSINESS

Section I

Establishment of Banks

Article 54

Banks are those institutions whose basic and usual functions involve the receipt of deposits for use in banking operations, such as: the discount, purchase and sale of commercial papers, granting of loans and advances, issuing and collecting cheques, placing of public and private loans, dealing in foreign exchange and precious metals, and any other credit operations or operations considered by the Law of Commerce or by custom as banking operations. For the purposes of implementation of the provisions of this Law, and unless otherwise provided, the branches of any bank operating in the State of Kuwait shall be considered as one bank.

Article 55

The provisions of this Chapter shall not apply to :

- (a) Public credit institutions set up by law.
- (b) Financial and investment institutions and companies even if they are permitted by their articles of association to receive deposits and execute investment operations and some banking operations.
- (c) Real estate companies which undertake the partition of land or the construction of buildings and the sale thereof on credit.

The Board of Directors of the Central Bank may - upon approval of the Minister of Finance - subject all or some of the institutions and companies referred to in this Article to all or some of the provisions of this Chapter, or to any rules which the Board of Directors may draw up for purposes of supervision and which are in harmony with the nature of the activities of such institutions and companies.

The opinion of the Central Bank shall be sought in respect of the Articles of Association and Memorandums of Agreement relating to financial and investment companies, or amendments thereto, in order to ascertain the economic viability of such companies.

Article 56

1- Without prejudice to the provisions of the Law of Commerce, wherever they are not in conflict with the provisions of this Law, banking business may only be practiced by

institutions set up in the form of joint-stock companies, the shares of which are placed for public subscription.

2- Joint-stock companies in which the Government is a co-founder, and branches of foreign banks in which the Government of Kuwait or Kuwaiti banking or financial institutions are shareholders, may be excepted from the provisions of the preceding paragraph by a decision of the Council of Ministers when such banks are permitted to open branches in Kuwait. Such branches shall be virtually deemed in effect to be as banks in relation to all provisions of this Law.

3- Before the formalities of incorporation are processed, the applications to establish banks should be presented to the Board of Directors of the Central Bank to issue the recommendations necessary.

Article 57

The paid-up capital of any bank shall not be less than three million Dinars. Branches of any foreign bank shall prove that they have allocated an amount equal to this sum for their operations in Kuwait.

Article 58

If the capital of a bank falls below the minimum limit referred to in the preceding Article, the bank shall cover the deficit within such period as may be fixed by the Central Bank, provided that the period shall not exceed one year from the date the bank concerned is notified.

The Central Bank shall have the sole right to assess the amount of the deficit in the capital.

Section II

Registration of Banks

Article 59

Without prejudice to the provisions of the Law of Commerce and the Law of Commercial Companies, wherever they are not in conflict with the provisions of this Law, no banking institution is allowed to start operation until it has been registered in the Register of Banks at the Central Bank.

No institutions other than those registered in the Register of Banks are allowed to practice banking business or use in their business addresses, publications or advertisements the terms: "bank, banker, bank owner" or any other wording the usage of which may mislead the public as to the nature of the institution.

The Central Bank may - where necessary - ascertain by any means it deems fit that no particular company or individual firm violates the provisions of the preceding paragraph.

Without prejudice to any severer punishment under any other law, anyone who violates the provisions of the preceding two paragraphs shall be liable to imprisonment for a term not exceeding three months and the payment of a fine not less than one hundred Dinars but not exceeding two hundred and twenty-five Dinars, or to either one of these two punishments. Where the violation is repeated, the place of business shall be closed down.

Article 60

Registration or refusal of registration of banks shall be effected by a decision of the Minister of Finance on the recommendation of the Board of Directors of the Central Bank.

The Minister of Finance shall, on the recommendation of the Board of Directors of the Central Bank, issue regulations for the registration of banks, including the rules, procedures and dates for registration, amendments and publication of registration.

Article 61

1- Registered banks shall notify the Central Bank of any amendments they intend to make to their Memorandums of Agreement or Articles of Association. If such amendments are approved in principle by the Central Bank, the formalities necessary for processing them may then be accomplished in accordance with the provisions of the Law of Commercial Companies. Such amendments shall not be effective until they have been entered in the Register of Banks.

2- Amendment of entries related to other data which are subject to registration in the Register but not involving amendment of the Articles of Association or Memorandums of Agreement may be effected upon approval thereof by the Governor of the Central Bank.

Section III

Deletion from Register and Liquidation of Banks

Article 62

Without prejudice to the provisions of the Law of Commercial Companies, no bank may cease its operations or merge with any other bank unless it is given advance permission by the Minister of Finance on the recommendation of the Board of Directors of the Central Bank.

The Board of Directors of the Central Bank shall, in such a case, ascertain that the bank has discharged all its obligations towards its customers and creditors in accordance with the general provisions laid down in this respect.

Article 63

1- A bank may be deleted from the Register of Banks :

- (a) at its own request;
- (b) if it does not start business within one year from the date it is notified of the decision regarding its registration in the Register of Banks;
- (c) if it is declared bankrupt;
- (d) if it merges with another bank;
- (e) if it ceases its operations or if its liquidity or solvency are endangered;
- (f) if it commits any act in violation of the provisions of this Law.

2- The deletion of any bank under (e) and (f) above shall not be proposed until the bank concerned has been notified of the proposal and given an opportunity to express its views.

3- The Minister of Finance shall, on the proposal of the Board of Directors of the Central Bank, issue a decision regarding the deletion. The decision shall be effective from the date of its publication in the Official Gazette.

Article 64

Before proposing the deletion from the register of any bank the liquidity or solvency of which is endangered, the Board of Directors of the Central Bank may take any or all of the following measures:

- (a) Forbid the bank from undertaking certain operations, or set limits on the business of the bank;
- (b) Appoint a temporary controller to supervise the progress of the bank's business;
- (c) Assign the Central Bank to manage the bank for a certain period of time, and thereafter decide whether the bank can carry on by itself or should be deleted from the Register and liquidated. Expenses incurred for management purposes shall be borne by the bank involved.

In all cases, the Central Bank may - if it deems it in the interest of depositors - ask the appropriate court to issue a decision prohibiting measures against the bank involved and staying all lawsuits filed against . Such a decision shall be valid for one year.

Article 65

Every bank which it has been decided to delete from the Register of Banks shall be liquidated. The Board of Directors of the Central Bank shall specify the rules for liquidating the transactions outstanding at the time the decision is issued.

Section IV

Activities Not to be Undertaken by Banks

Article 66

Banks must not :

- (a) engage in trade or industry, or own any goods unless such goods have been acquired in settlement of debts due to them. Such goods shall be sold by the bank within one year from the date of acquisition;
- (b) purchase any real estate other than the required for conducting their business or accommodating their staff, unless such property has been acquired in settlement of debts. In the latter case, the bank shall sell the real estate within a period not exceeding three years. The said period, however, may be extended by a decision of the Board of Directors of the Central Bank;
- (c) own or deal in their own shares unless such shares have been acquired in settlement of debts due to them, and provided that they sell them within two years from the date of acquisition.

Article 67

Banks may :

- (a) purchase, for their own account, shares of other commercial companies within a limit of 50% of the bank's own funds. This limit may not be exceeded without prior approval by the Central Bank.
- (b) own shares or other assets held with them in settlement of debts due to them. In such cases, the bank shall dispose of these assets within two years from the date of acquisition.

Article 68

It is a condition that any person who is required to be a Member of a Bank's Board of Directors, or in charge of the Executive Staff of a bank, or Deputy or Assistant thereof shall appropriately satisfy the following requirements :

- 1- He should not have been adjudged guilty in offense involving dishonesty, mis-conduct, or breach of trust;
- 2- He should not have been declared bankrupt;
- 3- He should not have abstained from payment;
- 4- He should be of good reputation;

5- He should have adequate experience in banking, financial or economic affairs in compliance with the Rules and Regulations laid down under Resolution from the Central Bank of Kuwait Board of Directors;

6- He should not be a Member of a Board of Directors or Staff in any of the other banks operating in the State of Kuwait.

Chairmen of Banks' Boards of Directors shall notify the Central Bank of Kuwait of the Bank Board of Director's nominees thirty days prior to the date fixed for the meeting of the General Assembly expected to be held to elect the Members of the Board of Directors. Moreover, the Central Bank of Kuwait shall be kept informed of the names of the candidates standing for holding the positions referred to in the preceding paragraph. The Central Bank of Kuwait Board of Directors shall have the right within twenty -one days from the date of its notification to object to the appointment of any such nominees under a resolution showing the relevant reason, in the event of failure to satisfy the required conditions.

Such objection shall result in the exclusion of the nominees in question from candidacy for the Board of Directors or from occupying any such positions, as the case may be. Nominees not notified to the Central Bank or candidates objected to by the Central Bank of Kuwait shall not be brought before the General Assembly of the concerned Bank, in compliance with the provisions of this Article.

Article 69

Banks must not, in any form, give loans or overdrafts through current account or issue guarantees in favor of the members of their Boards of Directors without prior permission from the General Assembly.

Such loans, advances and guarantees shall be subject to the rules applied by the bank to other customers.

This prohibition shall not include the opening of documentary credits.

Article 70

No bank may issue "Travelers' Cheques" without prior permission from the Central Bank.

Section V

Provisions Relating to Supervision

Article 71

The Central Bank may issue to the banks such instructions as it deems necessary to realize its credit or monetary policy or to ensure the sound progress of banking business.

Article 72

The Board of Directors of the Central Bank may - whenever necessary - draw up rules and regulations to which all banks shall adhere in order to ensure their liquidity and solvency, particularly with regard to the ratios which must be maintained between the following items:

- (a) the bank's own funds on the one hand and the amount of its liabilities on the other;
- (b) the bank's liquid funds on the one hand and the aggregate of its term and demand liabilities on the other;
- (c) The amount of the bank's own funds on the one hand and the amount of its liabilities in the form of acceptances and guarantees on the other.

In the instructions issued and notified by the Central Bank to the banks, the Central Bank shall define the meaning of the terms: "bank's own funds", "liquid funds", "liabilities" and such other items.

Article 73

The Board of Directors of the Central Bank may, upon approval of the Minister of Finance:

1- Fix for banks the maximum amount for discount or loan operations, or for other banking operations which they may carry out with effect from a certain date.

2- Fix for banks:

- (a) the minimum amount which customers must pay in cash to cover the opening of documentary credits;
- (b) the maximum amount which may be lent to any single person - whether natural or juristic - in proportion to the bank's own funds;
- (c) the proportion of the bank's funds which must be deposited in cash with the Central Bank;
- (d) the proportion of the bank's funds which must be invested in the local market;
- (e) the rate of interest which the banks shall pay on deposits, and the maximum rates of interest and commission which they may charge their customers.

Article 74

Decisions issued by the Central Bank in application of the provisions of the preceding two Articles shall have no retroactive effect and shall not hinder the execution of

agreements concluded between banks and their customers prior to the issue of such decisions.

Article 75

In the event exceptional circumstances arise and threaten the regularity of banking business, the Governor of the Central Bank may - upon approval of the Minister of Finance - order the banks to close temporarily and to stop all their operations. The banks shall, then, resume their operations by a decision to be issued by the Governor of the Central Bank and approved by the Minister of Finance.

Section VI

Specialized Banks

Article 76

Specialized banks are meant to be those banks the main function of which is to finance certain economic sectors, such as the real estate, industrial or agricultural sectors, and which do not basically receive demand deposits.

Article 77

Specialized banks shall be subject to the provisions relating to the organization of banking business, wherever such provisions are not in conflict with the nature of the activities of these banks.

The Board of Directors of the Central Bank may lay down special rules for the supervision of each type of the specialized banks. Such rules shall, in particular, cover the following:

- (a) Terms for receipt of deposits.
- (b) The maximum limit for the value of bonds specialized banks may issue, as well as the terms for such issue.
- (c) The terms relating to loans and other credit facilities given by specialized banks.
- (d) The rules relating to participation in establishing other companies, or the purchase of their shares.

Section VII

Inspection of Banks and Institutions Subject to Supervision by the Central Bank

Article 78

- (a) The Central Bank shall, at any time, inspect banks and financial companies and institutions subjected to supervision by the Central Bank under the provisions of this Law.
- (b) Central Bank staff authorized to conduct inspection shall have the right to see the accounts, books, records, instruments and all documents they deem necessary for inspection. They may ask any member of the board of directors, or any official of the bank or institution to submit and give such data and information they deem necessary for the purposes of inspection. Review of books, records and instruments shall be carried out within the premises of the bank or institution inspected.
- (c) The Central Bank shall make a comprehensive report on the findings of inspection made in any bank or institution. The report shall incorporate recommendations on the measures the Central Bank deems useful for rectifying any unsound position discovered through inspection. The Governor of the Central Bank shall send a copy of the report to the Chairman of the Board of Directors or to the Manager of the bank or institution inspected. The Governor of the Central Bank may fix a period of grace for the bank or institution to eliminate violations or correct unsound positions discovered through inspection. Periodic dates and rules relating to inspection shall be set by the Board of Directors of the Central Bank.

Article 79

Without prejudice to any severer penalty under any other law, every member of the board of directors, manager, or official of the bank or institution inspected who refuses to submit information and data or to present books, records, and instruments required by the inspector for inspection purposes, or who gives information or data while knowing that it is untrue, shall be liable to imprisonment for a term not exceeding three months and to the payment of a fine not less than one hundred but not exceeding two hundred twenty-five Dinars, or to either of these two punishments.

Article 80

Central Bank officials authorized to conduct inspection shall - during the term of their service and after quitting their jobs - maintain the secrecy of accounts, books and instruments they review by virtue of their duty. They shall not disclose any information relating to the affairs of banks or institutions inspected, or to the affairs of their customers, except in such cases where it is permissible to do so by law.

Without prejudice to any severer punishment under any other law, every person who violates the prohibition provided for in the preceding paragraph shall be liable to imprisonment for a period not exceeding three months and to the payment of a fine not exceeding two hundred twenty-five Dinars, or to either of these two punishments, plus discharge from service.

Section VIII

Accounts and Statements

Article 81

Banks shall do the following:

- (a) End their financial year on the thirty-first of December every year;
- (b) Submit to the Central Bank, within three months from the end of their financial year, their Balance Sheet and Profit and loss Account.

Foreign bank branches permitted to be opened under the provisions of Article (56) of this Law shall maintain independent accounts for all their operations in Kuwait, including balance-sheets and profit and loss accounts.

Article 82

1- The Central Bank may ask the banks to submit such statements, information and statistical data as the Bank considers necessary to carry out its functions. The Central Bank may also establish a system for the collection of statistics on banking credit on periodical basis.

2- The nature of such statements, information and statistical data, as well as their forms and the periods during which they should be submitted, shall be specified by the Board of Directors of the Central Bank.

3- Banks must submit to the Central Bank all the statements, information and statistical data it requests in accordance with the system the Bank lays down for this purpose.

Article 83

The Central Bank may establish a System of Risks for the purpose of assisting banks to evaluate the financial positions of persons applying to them for credit, and to enable the Central Bank to be constantly aware of the trends of banking credit and to assist in the application of the system of discount and rediscount at the Central Bank.

The Board of Directors of the Central Bank shall lay down the rules and procedures for the System, and shall fix the data and returns relating to its enforcement.

Data and information acquired through the System of Risks shall only be disclosed to persons who should be advised thereof under the rules laid down for the implementation of the System.

Without prejudice to any severer punishment under any other law, anyone who violates this prohibition shall be liable to imprisonment for a term not exceeding three months and to the payment of a fine not exceeding two hundred twenty-five Dinars, or to either one of these two punishments, plus discharge from service in all cases.

Article 84

- (a) The auditor shall indicate in his annual report the means and practices whereby he ascertained the assets and evaluated them, and how the valuation of outstanding liabilities was effected by him.
- (b) The auditor shall clarify in his report whether the operations audited were contrary to any rules or provisions of the Law concerning the Central Bank and the Organization of Banking Business, or to the regulations and decisions issued in pursuance of the said Law. A copy of the report shall be forwarded to the Governor of the Central Bank.
- (c) The auditor shall - on request of the Central Bank - sign any statements or accounting data forwarded to the Central Bank by the bank the accounts of which have been checked by the auditor. Such signature shall testify to the correctness of the statements and data.
- (d) The auditor may not receive any loans - whether with or without collateral - or guarantees from the bank the accounts of which he audits.

Section IX

Administrative Penalties

Article 85

1- If a bank violates the provisions of its Articles of Association or the provisions of this Law or the arrangements imposed by the Central Bank in pursuance of the provisions of this Law, or it fails to submit the documents, statements or information required of it, or submits statements in variance with facts, the following penalties may be imposed on it:

- (a) warning;
- (b) reduction or suspension of credit facilities granted to it;
- (c) prohibition from carrying out certain operations, or the imposition of any other limitations on its business;
- (d) appointment of a temporary controller to supervise the progress of its business;
- (e) deletion from the Register of Banks.

2- The penalties provided for in paragraphs (a) and (b) shall be imposed by a decision of the Governor. The other penalties shall be imposed by a decision of the Board of Directors of the Central Bank. All this shall be after hearing the explanation of the bank concerned, and the implementation of penalties provided for in paragraphs (c), (d) and (e) shall require the approval of the Minister of Finance.

CHAPTER IV

GENERAL AND TRANSITIONAL PROVISIONS

Article 86

- (a) With effect from the date of coming into operation of the provisions of Chapters I and II of this Law, currency notes and coins issued by the Kuwait Currency Board shall be deemed to be the liabilities of the Central Bank, and such notes and coins shall, for all purposes, be regarded as notes and coins issued by the Central Bank.
- (b) The Central Bank shall take over from the Kuwait Currency Board all stocks of un-issued currency notes and coins.
- (c) The Central Bank may put the notes and coins of the Kuwait Currency Board into circulation as notes and coins of the Bank.

Article 87

- (a) With effect from the date of coming into operation of Chapters I and II of this Law, the Kuwait Currency Board shall transfer to the Central Bank gold and foreign exchange assets equal in value to the currency liabilities taken over by the Bank. Should the assets of the Kuwait Currency Board be insufficient for this purpose, the deficiency shall be made good by the Government.
- (b) Any surplus held by the Kuwait Currency Board, after setting all outstanding commitments, shall be transferred to the General Reserve Fund provided for in Article (17) of this Law.
- (c) Gold and foreign exchange assets transferred under the terms of this Article shall be valued in the manner laid down in Article (47) of this Law.

Article 88

As an exception to the provisions of Article (46) of this Law, the first financial year of the Central Bank shall begin as from the date of coming into operation of the provisions of Chapters I and II of this Law, and shall end when the financial year ends. If this period is less than six months, the annual reports which the Governor is required to submit under the provisions of Article (50) shall be submitted at the end of the following financial year.

Article 89

Amiri Decree No. (41) of the year 1960 concerning the Kuwait Currency Law and the Decrees amending it shall be replaced as from the date of coming into operation of Chapters I and II of this Law, and the Kuwait Currency Board shall be liquidated after it

has submitted its Statement of Accounts and Report for the last accounting period, and after it has settled all its previous commitments.

Article 90

The Minister of Finance shall issue the decisions required for the implementation of this Law.

Article 91

The Ministers - each insofar as he is concerned - shall put this Law into force, and it shall be published in the Official Gazette. An Amiri Decree shall be issued fixing the date of enforcement of this Law in whole or in part.

Amir of the State of Kuwait

SABAH AL-SALIM AL-SABAH

Issued on 4 Rabi'II, 1388 A.H., corresponding to 30 June 1968 A.D