

Navigating the Rules for Publishing a Magazine in Kuwait

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This article provides a brief overview of the legal considerations that need to be evaluated with regard to publishing and distributing a magazine in Kuwait.

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Additionally, this article sets out an overview of the media and advertising laws and regulations in Kuwait that are applicable to the publishing and distribution of a magazine, as well as some of the legal provisions that might make one think twice before carrying out the same.

The Kuwait Constitution (“Constitution”) guarantees freedom of expression, within the limits of the law. Article 36 of the Constitution states that, “[f]reedom of opinion and scientific research shall be guaranteed. Every person shall have the right to express and propagate his opinion verbally, in writing or otherwise, in accordance with the conditions and procedures specified by law.” Article 37 makes further guarantees for the press, in part stating that “[f]reedom of the press, printing and publishing shall be guaranteed in accordance with the conditions and manner specified by law.”

Notwithstanding the above, freedom of press, printing and publishing in Kuwait is heavily regulated through its main regulation Law No. 3 of 2006 Regarding Publications and Publishing (“Publications Law”).

The Publications Law sets forth certain provisions related to prints, as well as the conditions required for the application for a special printing and publication license (“Special License”) in order to establish a print house or to utilize it, to open a shop for selling or renting prints, publishing and distribution or translation or an office for advertisements and publicity or an art production establishment. The Publications Law further details the conditions that must be satisfied by the license applicant whether he is an individual or a wholly owned Kuwaiti entity. It is important to note that, as a pre-requisite to obtaining the Special License, the publishing company must first be established and licensed with the Ministry of Commerce and Industry with the business activity of a publishing company.

At the outset, an applicant for the Special License must satisfy certain qualifications, including, but not limited to, that the applicant must (i) be a Kuwaiti national with full eligibility, (ii) have good conduct and reputation (no criminal background involving dishonour), (iii) have the requisite educational background and (iv) be the owner or utilize a suitable location for the activity.

If the license applicant is an entity, then all of the founders or partners must be Kuwaiti nationals (must be wholly owned Kuwaiti company). Also, the person who shall be in charge of managing the activity of the Kuwaiti entity must also satisfy the aforementioned conditions related to individuals.

If the preconditions outlined above are met, then the following procedures/requirements must be complied with in order to obtain the Special License:

- Prepare and submit a request letter (on the company’s letterhead) addressed to the undersecretary of the Ministry of Information (“MOI”) (“Application Letter”). The Application Letter

must include related information about the magazine.

- Fully complete an additional application form (“Application Form”) for approval to publish the magazine. The Application Form must also be enclosed with additional documentation related to the magazine and the license applicant.
- Upon submitting the Application Letter and the Application Form along with all of the additional documents, the MOI will issue its preliminary approval and ask the license applicant to submit further documentation, including, but not limited to (i) a letter in which the chief editor is appointed (the chief editor and his/her deputies must meet certain qualifications for approval), (ii) the contract between the license applicant and the printing house and (iii) certification that the license applicant has deposited the amount of KD 25,000 as a monetary guarantee OR an unconditional bank guarantee to the name of the MOI.
- Upon approval for the Special License, it should also be noted that the Publications Law requires that the typographer submit a written notification to the MOI before assuming printing of any print and to indicate his/her name and address. It is permissible to print, circulate and publish any non-periodic print provided that the names of the typographer, the publisher and the author are stated. The Publications Law also requires that two copies of the print shall be submitted at both the MOI and at the Kuwait National Library before making circulation or publishing the magazine.

It should be noted that the aforementioned requirements for obtaining the Special License also apply to the mere distribution (whether for profit or for free). In case of importing and distributing the magazine into Kuwait, similar to the requirements for obtaining the Special License discussed above, the importer and distributor of a foreign magazine (a magazine printed outside of Kuwait) must be through a wholly owned Kuwaiti entity its primary company objectives being for the distribution of magazines. Notwithstanding this, the procedure for obtaining prior approval to import magazines is generally less stringent than printing and publishing a magazine in Kuwait.

Publisher and distributors should make themselves aware of the matters prohibited from being published in any print along with the penalties as covered under the Publishing Law. Most notably, Article 19 of the Publications Law prohibits meddling in matters related to God, the Holy Quran, the prophets, the noble companions, or wives of the Prophet or persons of the family of the Prophet, by meddling, disdaining, mocking, or criticizing in any means of expression that are stipulated under Article No 29 of the Law No. 31 for the Year 1970 on Amendments of Some of the Provisions of the Penal Law No 16 for the Year 1960. Article 20 of the Publications Law stipulates that no meddling may be made to the person of the Emir of Kuwait by criticism, and that no statement shall be attributed to him, except by a special written permission issued from the Emiri Diwan. Special attention should be made to the further prohibitions related to content for alcohol, cosmetics, weight loss or weight gain medication (unless previously approved by the Ministry of Health), cigarettes, gambling, sexual products and the spread of any pornography or the like in Kuwait, and sexual services.

The Publications Law, as well as the Kuwait Penal Code, makes it an offence, with a wide range of various types of punishments and penalties, to publish or distribute content contrary to public morals and good conduct. For instance, penalties can include investigation by the MOI, criminal charges by the Public Prosecution, jail terms, death, fines, bans, penalties imposed on the chief editor or the article writer, or the cancelation of the Special License.