

New Copyright Law in Kuwait

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In 2014 Kuwait ratified the Berne Convention for the Protection of Literary and Artistic Works. In the same year the Council of Ministers issued Resolution No. 1070 transferring the dependency copyright administration from the Ministry of Trade and Industry to the National Library of Kuwait. The National Library provides services in the area of depository, preservation, and protection of intellectual property rights of authors through the application of the depository System, where the author or publisher registers and deposits the author's artistic works in the National Library to ensure the conservation of the author's intellectual property.

And now Kuwait has issued a new copyright law, Law no. 22 of 2016 (On Copyrights and Related Rights). The new law covers the copyright and related rights of natural and legal entities; Kuwaitis and foreigners permanently resident in the State of Kuwait; and foreign nationals belonging to one of the member States of the Convention or the Organisation and those under their auspices. The old law (No. 64 of 1999 on Intellectual Property Rights) has been revoked.

The protection established by the new law is conferred upon the copyright of original works of literature, arts, sciences, or knowledge, whatever the type of work or the means of its expression, its importance, or the purpose of its authoring or composition.

Protection of author's moral and financial rights

The author and the author's heir shall enjoy perpetual, inalienable and imprescriptibly moral rights over the work. Also, performance artists, their heirs and successors shall enjoy perpetual, inalienable and imprescriptibly moral rights.

The author, and their heirs and successors are to enjoy the exclusive right to permit or prevent any form of use or exploitation of the work, and for those authors who not have heirs or successors, the Kuwaiti National Council for Culture, Arts & Letters will be responsible to protect the authors' interests against any infringement. Also, performance artists enjoy some financial rights as per the new law.

For the first time in Kuwait, the new law protects the author's works, in particular from unauthorised publication, reproduction, public broadcast or rebroadcast, public communication, translation, adaptation, rental, or the making available of the work to the public including via computer, the internet, information networks, communications networks or other means.

The duration of protection endures for the period of the author's lifetime and fifty years following the author's death. Also, the duration of protection with regards to audio, visual, audio-visual works and films, collective works of a legal entity, and computer programs shall be fifty years as of the date of the first showing or legitimate publication of the work, regardless of republication.

Enforcement

The new law gives an important role to the National Library of Kuwait, as for the library's staff (who are designated by the competent minister (i.e. the Minister of Information)) have the right to monitor the implementation of the Law by inspecting presses, libraries, publishing houses and public

places. If any potential infringement is detected, they are to forward details of this to the relevant authority for further investigation. They have the right to request police assistance in the performance of their duties if needed.

Furthermore, by a reasoned administrative decision from the competent Minister, any establishment in violation of the law may be closed temporarily for a maximum period of three months and, in case of repetition, may have its license withdrawn and be closed permanently.

The Public Prosecution have the exclusive authority to investigate, act and make prosecutions in relation to all crimes resulting from the application of the provisions of the new law.

Any infringement of the moral or financial copyright of the author may incur a prison sentence of between six months and two years, and/or a fine of KWD 500 to KWD 50,000. This also applies to anyone found guilty of distributing equipment designed to circumvent the technical protection employed by copyright owners, for which the fine may be as much as KWD 100,000.

Conclusion

The new law is a significant step forward for the protection of copyright in Kuwait, and a reflection of how important the subject is to the government. It is hoped that Kuwait will be strong in enforcing compliance with the new law, and that it will continue to revise it to keep pace with technological advancements.

Ahmed EIKlatawy sadly passed away in September 2016