

## Charity 2022

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## **1. What is defined as a charity in this jurisdiction?**

Philanthropy: It is a humanitarian and voluntary work inside and outside Kuwait to help those in need and in cases of natural disasters, wars, calamities and etc., and to raise the suffering of poor people, and to contribute to the development of poor communities and groups by funding humanitarian, relief, educational, social, development and other charitable projects.

Charitable organizations: These are organizations that do humanitarian work inside and outside Kuwait, whether they are public benefit societies or specialized or independent committees.

Article no.1 of law No. 24 of 1962 concerning Clubs & public benefit societies states: “that the Public benefit societies are organizations that are continuous for a non-specific period, and consisting of natural or legal persons for a purpose other than profit, and they are intended to engage in social, cultural, religious or sports activities”

## **2. Is there a special regulator for the charity sector? If so what are the main powers it has?**

Yes, the Kuwaiti Ministry of Social Affairs registers the public benefit societies and plays a key role in helping the public benefit societies to achieve its goals as if and when the public benefit societies take to comply with law No. 24 for 1962.

Ministry : ministry of social affairs

Department : Administration of Kuwait Charity Organizations

The union of Kuwait Charity Organizations was established in July, 26, 2017.

## **3. Is there a special regulatory regime for awqaf What are its main powers?**

The following legislations regulate the collection of funds for general purposes, the powers and scope of work of public benefit societies, and the penalties imposed on violators and anything related to their activities:

- 1951, the Higher Amiri order to apply Awqaf.
- 1959, Law Regulating the Licensing of Money Collection for General Purposes.
- Law No. (24) of 1962 on Clubs and Public Benefit Societies.
- Decree No. (24) of 1979 on Cooperatives amended by Law No. (118) 2013.
- Decree No. (67) of 1980 Concerning Issuing the Civil Code amended by Law No. (15) of 1996.
- Law No. (14) of 1994 amends Some Provisions of Law No. (24) of 1962 concerning Clubs and Public benefit Societies.
- Ministerial Decision No.101 of 1995 on Organizing Collecting Donations.  
Law No. (1) of 2016 on Companies Act.
- Ministerial Decision No. (48\A) of 2015 on Public Charities Executive Regulations.
- Ministerial Decision No. (49\A) Of 2015 on Private Foundations Executive Regulations.
- The Cabinet’s Decree No. (74) of 1999 Concerning Private Foundations.
- Ministerial Decision No. (48) of 1999 on Public Charities Statute Model.
- Ministerial Decision No. (132) of 1999 On Amending Ministerial Decision No. (48) of 1999.
- 1999, Specific Provisions and the Decree Establishing Kuwait Awqaf Public Foundation.

#### **4. What entities are required to register with any charity regulator and what are the main requirements for registration?**

Licensee: Every natural or legal person who has applied to establish a charity for which non-returnable funds are allocated with an official bond for an indefinite period.

##### **Requirements for the formation of a charity:**

- 1- The founders, the working members of the General Assembly and the Board of Directors must be Kuwaiti nationality, and one of them must be at least 21 years old.
- 2- The founders shall not be less than 50 persons, and none of them has already been sentenced to a felony or a crime of honour or honesty unless he has been rehabilitated.
- 3- The founder must be related to the field of the charity which is planned to be established.
- 4- The founders' pledge to adhere to the goals for which the Assembly was established.
- 5- The founders are committed not to instill a spirit of sectarianism and tribalism and must not interfere with religious and political tendencies.

##### **Procedures to be followed for the promulgation of a charity:**

- 1- The founders of a charity must submit a letter to the Minister of social affairs requesting the promulgation of the charity and attach the following documents:
  - A. Articles of association for the charity
  - B. Minutes of the founding meeting for the selection of members of the Board of Directors of the Association.
  - C. Copy of founders' Civil Id
  - D. Headquarters Lease, the headquarters must be in accordance with the specified requirements specified by Kuwait Municipality of Kuwait, in addition to the following requirements:
    - i. The building must be independent and valid for the purposes of the society
    - ii. The area of the building must not be less than 500 square meters.
    - iii. The building should have parking.
- 2- The request of the new charity proclamation will be referred to follow up committee of the new public benefit societies after being studied by the administration of Kuwait Charity Organizations; to adjudicate the request, then it will send suggestions to the Minister to do what's necessary.
- 3- The request of the new charity proclamation will be referred to the administration of Kuwait Charity Organizations after the minister's approval; to complete the procedures of proclamation with the stakeholders (Ministry of Interior, Kuwait municipality, Kuwait Fire Service Directorate).

#### **5. Are there any specific legal or financial benefits from being recognised as a charity in this jurisdiction?**

With the exception of nonprofit companies and private endowments that support family members only (that is, do not have a public benefit purposes), all other organizational forms of NPOs are also exempted from:

1. All fees relating to the registration of properties , etc. (stamp, duty tax)
2. All custom fess (whether importing or exporting)

**6. Are there restrictions on the activities, which charities can undertake in this jurisdiction?**

Yes, there are some restrictions imposed on Societies: Societies can't be established for purposes contrary to ethics and public morals, or to instill a spirit of sectarianism and tribalism, or to intervene in religious or political disputes, in order to promote national unity.

According to article no.1 from law no.24 of 1962 on Clubs & public benefit societies; that any Society aims to do social, cultural, and religious or sports activities can be established.

**7. What steps would an international charity wishing to operate in this jurisdiction have totake?**

Foreign nonprofit organizations NPOs are not permitted to establish branches in Kuwait

**8. Are there any restrictions on carrying out charitable fundraising activities in this country?**

The charity must not declare donations in one way or another until a written approval has been obtained from the Ministry of Social Affairs.

The charity must follow the fundraising rules and regulations as follow:

1. The charity must apply to the Kuwaiti Ministry of Social Affairs explaining the activity or project for which donations are allocated, the proposed method of fundraising, and the needed period for fundraising, at least one month before collection.
2. in case of the concerned party approves the application, a formal approval shall be issued including the duration of the collection and the method of collection (cash, KNET)

**9. Are there any laws or regulations on the information that must be provided to potentialdonors when charities are fundraising?**

The charity must not declare donations in one way or another until a written approval has been obtained from the Ministry of Social Affairs.

The charity must follow the fundraising rules and regulations as follow:

1. The charity must apply to the Kuwaiti Ministry of Social Affairs explaining the activity or project for which donations are allocated, the proposed method of fundraising, and the needed period for fundraising, at least one month before collection.
2. in case of the concerned party approves the application, a formal approval shall be issued including the duration of the collection and the method of collection (cash, KNET)

**10. Are there restrictions on where charities are allowed to undertake fundraising or collections?**

Yes, a charity is prohibited from collecting donations in one way or another in unauthorized places.

The charity must follow the fundraising rules and regulations as follow:

1. The charity must apply to the Kuwaiti Ministry of Social Affairs explaining the activity or project for which donations are allocated, the proposed method of fundraising, and the needed period for fundraising, at least one month before collection.
2. in case of the concerned party approves the application, a formal approval shall be issued including places where donations will be collected.

**11. Are there any restrictions on providing finance to charities outside the country?**

Yes, according to Article 19 of the Ministerial Decision No. (48\A) of 2015 on Public Charities Executive Regulations; a charity is permanently prohibited from receiving any donations from outside Kuwait until a written approval has been obtained from the ministry in coordination with the relevant government parties.

**12. Are there any specific qualifications or registration requirements for those who run a charity in this country?**

Yes, according to Article 6 of the Ministerial Decision No. (48\A) of 2015 on Public Charities Executive Regulations; the founder should be relevant to the activity of a charity to be established.

**13. Do those who run charities have any special duties?**

According to the Ministerial decision no. (61) Of 2005 on Issuing Statute Model for Public Benefit Society; each charity must have a board of directors determined by its articles of association.

The board of directors is responsible for managing the affairs of the charity, developing policies to achieve its objectives, managing its affairs and providing various ways for members to carry out their activities to the fullest.

The chairman is concerned with inviting the board of directors to convene at least once a month and whenever necessary.

**14. Are charities allowed to also run companies?**

According the law No. (24) of 1962 on Clubs and Public Benefit Societies; the charity mustn't spend its money other than for the purpose which it was established, and it mustn't engage in financial speculation.

**15. Are charities and awqaf required to produce any specific annual or periodical report?**

Yes, according to the Ministerial decision no. (48\A) of 2015 on Public Charities Executive Regulations; the board of directors is obliged to submit a financial report audited and approved by an independent auditor and to provide a technical specification for the work and achievements of the charity in accordance with its statutes.

**16. Is there an inspection regime for the charitable sector?**

Yes, the Kuwaiti Ministry of Social Affairs represented by the Administration of Kuwait Charity Organizations continuously follows up the work of charities and reviews its financial and administrative records and sets out the controls and mechanisms for accepting the applications of licensed charities which intends to carry out charitable and humanitarian projects inside and outside Kuwait.

## **17. What are the main penalties for breaching laws and regulations on the operation of charities?**

In case of a breaching of the applicable ministerial provisions in this regard, the following procedures will be taken:

1. Summoning the legal representative of the charity to alert him to avoid the violation and should remove it within two weeks of the date of the summoning
2. If the period as specified in the previous clause has passed and the violation has not been avoided, a notification is given to the charity refers that the violation should be removed within two weeks from the date of notification (initial alert).
3. If the period as specified in the previous clause has passed and the violation has not been avoided, a second notification is given to the charity refers that The violation should be removed immediately, accompanied by suspending all bank accounts of the society where it can only be reopened after receiving written approval from the Ministry (final alert).
4. If two months have passed since the date of the violation and it has not been avoided, also in case of repetition of the violation or the society can't follow ministerial decisions, a memorandum will be prepared to submit to the Minister to do what's necessary in accordance with the provisions of the law.

## **18. What are the main penalties for breaching laws and regulations on fundraising?**

According to the Ministerial Decision No.101 of 1995 on Organizing Collecting Donations, if the society breaks the fundraising regulations, the following procedures will be taken:

1. a violation report will be issued
2. The permit will be cancelled immediately
3. all receipts vouchers used and unused relating to the violation, it will be seized

## **19. Are there any specific rules or regulations covering volunteering?**

Despite the absence of legislation related to volunteer work, but the culture of Volunteer work is well rooted in Kuwaiti society.

In 2004, His Highness the Amir of the State of Kuwait issued a decree establishing the Kuwait Center for Voluntary Work After many years of institutional humanitarian work in Kuwait, which is an extension of the path of good and giving followed by those before us, humanitarian work has become a practical model to be followed in the world. Kuwait set the finest example of volunteer activity, and contributed to a clear picture of how humanitarian relief should be perceived and implemented and presented a realistic picture of future vision.

## **20. Under what circumstances can a charity wind up its activities and what are the main steps which have to be taken?**

Most forms of NPOs may choose to dissolve voluntarily, provided that the decision to do so is taken by an extraordinary general assembly. A private endowment, however, may not be dissolved when its founder dies. When this happens, the private endowment shall continue perpetually under the management of the trustees. If there is no one to manage the endowment, a specialized government agency will take over management.

**Involuntary Termination:** The governing regulatory framework empowers the Ministry of Social Affairs to terminate a public charity, private foundation, club, or non-charitable public benefit association in the following circumstances:

1. The number of member's falls below the required minimum number of founders that is, ten in a club, non-charitable public benefit association, or private foundation or fifty in a public charity.
2. There has been a material breach of the organization's bylaws or the organization is involved in activities beyond its objectives.
3. The organization is financially bankrupt (that is, cannot meet its financial obligations)
4. There has been a breach of the governing laws in the state of Kuwait

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