



DECENT WORK CHECK

KUWAIT 2023

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WageIndicator Foundation - www.wageindicator.org

WageIndicator started in 2001 to contribute to a more transparent labour market for workers and employers by publishing easily accessible information on a website. It collects, compares and shares labour market information through online and face-to-face surveys and desk research. It publishes the collected information on national websites, thereby serving as an online library for wage information, labour law, and career advice, both for workers/employees and employers. The WageIndicator websites and related communication activities reach out to millions of people on a monthly basis. The WageIndicator concept is owned by the independent, non-profit WageIndicator Foundation, established in 2003. The Foundation has offices in Amsterdam (HQ), Ahmedabad, Bratislava, Buenos Aires, Cape Town, Islamabad and Venice.

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TABLE OF CONTENTS

| | |
|----------------------------------------------------|----|
| INTRODUCTION | 1 |
| MAJOR LEGISLATION ON EMPLOYMENT AND LABOUR | 2 |
| 01/13 WORK & WAGES | 3 |
| 03/13 ANNUAL LEAVE & HOLIDAYS | 9 |
| 04/13 EMPLOYMENT SECURITY..... | 11 |
| 05/13 FAMILY RESPONSIBILITIES | 16 |
| 06/13 MATERNITY & WORK | 18 |
| 07/13 HEALTH & SAFETY | 21 |
| 08/13 SICK LEAVE & EMPLOYMENT INJURY BENEFIT | 24 |
| 09/13 SOCIAL SECURITY | 27 |
| 10/13 FAIR TREATMENT | 31 |
| 11/13 MINORS & YOUTH | 34 |
| 12/13 FORCED LABOUR..... | 36 |
| 13/13 TRADE UNION | 38 |
| QUESTIONNAIRE..... | 41 |

INTRODUCTION

Decent Work is the type of work for which all of us aspire. It is done under conditions where people are gainfully employed (and there exist adequate income and employment opportunities); social protection system (labour protection and social security) is fully developed and accessible to all; social dialogue and tripartism are promoted and encouraged; and rights at work, as specified in ILO Declaration on Fundamental Principles and Rights at Work and Core ILO Conventions, are practised, promoted and respected.

WageIndicator Foundation has been working, since late 2007, to raise awareness on workplace rights through a unique tool, i.e., **Decent Work Check**. The Decent Work Check considers different work aspects deemed necessary in attaining “decent work”. The work makes the abstract Conventions and legal texts tangible and measurable in practice.

The Decent Work Check employs a double comparison system. It first compares national laws with international labour standards and scores the national regulations (happy or sad face). If national regulations in a country are not consistent with ILO conventions, it receives a sad face and its score decreases (and vice versa). It then allows workers to compare their on-ground situation with national regulations. Finally, workers can compare their personal score with national score and see whether their working conditions are consistent with national and international labour standards. The Check is based on de jure labour provisions, as found in the labour legislation.

A Decent Work Check is beneficial both for employees and employers. It gives them knowledge, which is the first step towards any improvement. It informs employees of their rights at the workplace while simultaneously enlightening employers about their obligations. Decent Work Check is also helpful for researchers, labour rights organisations conducting surveys on the situation of rights at work and the general public wanting to know more about the world of work. For example, WageIndicator teams worldwide have found out that workers, small employers and even labour inspectors are not, sometimes, fully aware of the labour law. When you are informed – being a worker, self-employed, employee, employer, policymaker, labour inspector – there is a greater possibility that you ask for your rights (as a worker), you comply with rules (as an employer), and you strive to enforce these (as a labour inspector).

The work is relevant to the challenges posed to the future of work, especially the effective enforcement of legislation in financially constrained states, a rise in precarious employment and analysing the impact of regulatory regimes.

In 2023, the team aims to include at least 15 more countries, thus taking the number of countries with a Decent Work Check to 125!

The text in this document was last updated in July 2023. For the most recent and updated text on Employment & Labour Legislation in Kuwait in Arabic, please refer to: <https://rawateb.org/kuwait>

MAJOR LEGISLATION ON EMPLOYMENT AND LABOUR

1. Constitution of Kuwait 1962, reinstated in 1992
2. Labour Law for Private Sector (Law No. 6 of 2010)
3. Law on Children Rights (No. 21 of 2015)
4. Ministerial Decree on respecting the safety precautions to be taken against occupational injury and disease (No. 22 of 1974)
5. Decree on the control and use of ionizing radiation and protection from hazards (No. 131 of 1977)
6. Compulsory Education Law (No. 11 of 1965)
7. Ministerial Order Prohibiting Forced Labour (No. 201/A of 2011)
8. Law on Combating Trafficking in Persons and Smuggling of Migrants (No. 91 of 2013)

01/13 WORK & WAGES

ILO Conventions

Minimum wage: Convention 131 (1970)

Regular pay & wage protection: Conventions 95 (1949) and 117(1962)

Kuwait has ratified the Convention 117 only.

Summary of Provisions under ILO Conventions

The minimum wage must cover the living expenses of the employee and his/her family members. Moreover, it must relate reasonably to the general level of wages earned and the living standard of other social groups. Wages must be paid regularly on a daily, weekly, fortnightly or monthly basis.

Regulations on work and wages:

- Labour Law for Private Sector (Law No. 6 of 2010)

Minimum Wage

Labour law defines wage as the basic salary received or should be received by the worker against or because of his work. Wage includes basic pay, incentives, commissions, obligatory bonuses, gratuities from third parties and allowances from which the employee benefits (such as housing allowance), but excludes allowances on account of expenses and profit shares.

The Minister issues a decision regarding minimum wages after consultation with the Consultative Committee for Labour & Organization Affairs. The Minister fix the minimum wages taking into account the inflation rates witnessed by the country and also considering the nature of profession and trade. Minimum wages are revised by the Minister once every five years.

Source: §55 & 63 of the Labour Law for Private Sector (Law No. 6 of 2010)

For updated minimum wage, please refer to the section on minimum wages.

Regular Pay

Wages should be paid to the employees in the legal currency (Kuwait Dinar), within 7 days of the after the due date. Wages are deposited in workers' accounts opened with their local financial institutions. A copy of statement sent to that institution is also forwarded to the Ministry of Social Affairs and Labour. Whatever is included in total remuneration is important because this is

the figure that must be used when calculating terminal indemnity (severance pay) or compensation on account of injury. Where an employee is paid on time basis, the last salary payable is used. If the worker is paid on piece-rate basis, the average wage actually payable to him during the previous three months is used.

Salaried employees must be paid at least once a month. Piece-rated workers and those on hourly or weekly wages must be paid every two weeks. Without worker's consent, the employer may not transfer monthly paid worker to another class. Rights obtained by the workers are also never compromised during transfer. A worker's wages may not be reduced for any reason whatsoever.

Workers are not obliged to buy foods or goods from specific stores or buy goods produced by the Employer. If an employee owes his employer money, up to 10% of his salary may be deducted to pay off his debt and he may not be charged interest. Where an employee's salary is attached on account of debts to third parties (settling a debt of alimony, food, clothes and other debts), the deduction is limited to 25% of his salary. In case of coincidence, alimony debts have preference over any other debts. Deductions in case of compensation for loss must not exceed 5 days' wages in any one month. In the event where the punishment exceeds such deduction, the exceeding amount is deducted from remuneration of the following month(s).

Payment of a bonus is obligatory if it is stipulated in the contract of employment or in the by-laws of the firm or if it has been paid in the same amount regularly every year.

If an employer starts a lockout to force workers in obeying his demands, he is required to pay workers' wages. Similarly, if a plant is wholly or partially closed for reasons other than linked to workers, workers are entitled to wages for this period if employer wants these workers to continue working for him.

In case of noncompliance with the depositing of workers' wages to their bank accounts, employer is subject to a fine not exceeding the total of the workers' entitlements that he failed to settle. This fine would not affect employer's duty to settle entitlements to workers.

Source: §38, 55-62 & 139 of the Labour Law for Private Sector (Law No. 6 of 2010)

02/13 COMPENSATION

ILO Conventions

Compensation overtime: Convention 01 (1919)

Night work: Convention 171 (1990)

Kuwait has ratified the Convention 01 only.

Summary of Provisions under ILO Conventions

Working overtime is to be avoided. Whenever it is unavoidable, extra compensation is at stake - minimally the basic hourly wage plus all additional benefits you are entitled to. In accordance with ILO Convention 1, overtime pay rate should not be less than one and a quarter time (125%) the regular rate.

Night work means all work which is performed during a period of not less than seven (07) consecutive hours, including the interval from midnight to 5 a.m. A night worker is a worker whose work requires performance of a substantial number of hours of night work which exceeds a specified limit (at least 3 hours). Convention 171 requires that night workers be compensated with reduced working time or higher pay or similar benefits. Similar provisions are found in the Night Work Recommendation No. 178 of 1990.

If a worker has to work on a national/religious holiday or a weekly rest day, he/she should be entitled to compensation. Not necessarily in the same week, provided that the right to a paid compensation is not.

If a worker has to work during the weekend, he/she should thereby acquire the right to a rest period of 24 uninterrupted hours instead. Not necessarily in the weekend, but at least in the course of the following week. Similarly, if a worker has to work on a public holiday, he/she must be given a compensatory holiday. A higher rate of pay for working on a public holiday or a weekly rest day does not take away the right to a holiday/ rest.

Regulations on compensation:

- Labour Law for Private Sector (Law No. 6 of 2010)

Overtime Compensation

The normal working hours of an adult are 08 hours a day and 48 hours a week. A rest break of at least one-hour must be allowed after five consecutive hours of work. Rest periods are not included in the calculation of working hours. These standard hours may be increased or decreased by the Ministry of Social Affairs and Labour in cases including hard, harmful or hazardous labour. Working hours during the month of Ramadan are reduced to 36 hours a week.

The standard working hours for women are the same as for men. However, women may not work at night (10pm to 7am) except in clinics, pharmacies, hotels, nursery schools, homes for the handicapped, airline and tourist offices, theatres and Entertainment City. They may work up to midnight in cooperative societies and public utilities, beauty salons, tailoring shops, banks and offices.

An employee may be required to work overtime provided it is necessary and the employer's order is in writing. Reasons for overtime include preventing a dangerous accident, repairing damages arising from such accident, avoiding a loss or facing an unusual work load. Overtime premium is 25% the basic hourly rate for excess hours worked on ordinary days (125% of the normal hourly rate).

Overtime may only be worked on 90 days in a year and is limited to 2 hours a day, 6 hours a week, and 180 hours a year. An employee has the right to refuse to

overtime work. Employers are required to keep a special record for overtime work showing the dates, number of hours worked and remunerations paid to the workers.

Source: §22, 64-66 of the Labour Law for Private Sector (Law No. 6 of 2010)

Night Work Compensation

Labour law does not define night work. However, it defines night working hours for juveniles and women. Night work is prohibited for juveniles between 19:00 to 06:00.

Labour law prohibits employment of women during the period from 22:00 to 07:00. Night-time working hours may be extended by the Ministry of Social Affairs & Labour during Ramadan, on Eids and public holidays. Employers are obliged to arrange transport for women working at night.

There is no provision for night work compensation or time-off for night workers.

Source: §21 & 22 of the Labour Law for Private Sector (Law No. 6 of 2010)

Compensatory Holidays / Rest Days

Workers can be engaged on certain tasks during the weekly rest periods and public holidays. In extraordinary circumstances, workers may perform work during the weekly rest period and public holidays that cannot be postponed where the reasons for the work are unforeseen and other measures cannot be taken.

Workers deployed during their weekly rest day and public holidays are entitled to compensatory time-off.

Source: §67 & 68 of the Labour Law for Private Sector (Law No. 6 of 2010)

Weekend / Public Holiday Work Compensation

Working on weekly rest days and public holidays is allowed under the law. In the event of working on weekly rest days, workers are paid at the rate of 150% of the basic salary. In the case of working on public holidays, law allows a 200% of the basic salary.

Source: §67 & 68 of the Labour Law for Private Sector (Law No. 6 of 2010)

03/13 ANNUAL LEAVE & HOLIDAYS

ILO Conventions

Convention 132 (1970) on Holidays with Pay Convention
Conventions 14 (1921), 47 (1935) and 106 (1957) for weekly rest days.
In addition, for several industries, different Conventions apply.

Kuwait has ratified the Convention 106 only.

Summary of Provisions under ILO Conventions

An employee is entitled to at least 21 consecutive days of paid annual leave. National and religious holidays are not included. Collective agreements must provide at least one day of annual leave on full remuneration for every 17 days on which the employee worked or was entitled to be paid.

A worker should be entitled to paid leave during national and officially recognized public holidays.

Workers should enjoy a rest period of at least twenty-four consecutive hours in every 7-day period, i.e., a week

Regulations on annual leave and holidays:

- Labour Law for Private Sector (Law No. 6 of 2010)

Paid Vacation / Annual Leave

Workers are entitled to 30 working days of paid annual leave after at least 09 months of continuous service within the first year of work. Before that period, workers have the right to leave for the fractions of the year in proportional to the period spent in work.

Annual leave is fully paid vacation period. Full wages are paid to workers before departing on annual leave. Employer may reimburse from the worker such wages if the worker worked during his/her leave with another employer.

The employer has the right to determine the annual leave schedule, and may grant it partially upon securing the consent of the worker after the expiry of the first 14 days thereof.

Annual leave can be accrued however annual leave cannot be accumulated for more than two years. A worker may take all his/her accumulated leave at once subject to employer's approval.

Official holidays and sick leave may not be counted a part of annual leave. A worker is prohibited from waive his right to annual leave with or without compensation. In case of termination, employee is entitled to a cash payment in lieu of accumulated leave.

Source: §70-74 of the Labour Law for Private Sector (Law No. 6 of 2010)

Pay on Public Holidays

Workers are entitled to fully paid public holidays. These holidays are 12 in number. It includes: Hijri New Year's Day (One day); Ascension (Isra & Miraj) Day (One day); Eid Al-fitr/Feast of the Breaking of Fast (Three days); Wuquf-e-Arafat day/Hajj (One day); Eid Al-Adha/Feast of the Sacrifice (Three days); Prophet Mohammed Birthday (PBUH) (One day); New Georgian Year (1st January) National day (February 25); and Liberation Day (February 26).

Source: §68 of the Labour Law for Private Sector (Law No. 6 of 2010)

Weekly Rest Days

Workers are entitled to an uninterrupted weekly rest of at least 24 hours after every 6 working days. Weekly rest day is fully paid. Traditionally, Friday is an off day but this is not a legal requirement in Kuwait.

Generally, the five-day work week is used and weekly rest days are Friday and Saturday.

Mid-day Break

In order to save workers from direct exposure to the sunlight, the GCC countries have introduced the midday break. In Kuwait, the mid-day break is between 1 June to 31 August for the working hour between 11:00 am to 4:00 pm. In the event of contravention, employer has to pay penalty between 100-200 KD for each labourer exposed to direct sunlight.

Source: §67 of the Labour Law for Private Sector (Law No. 6 of 2010); <https://www.lexology.com/library/detail.aspx?g=93154cb4-3c82-4602-ac4b-2787846e3ed2>

04/13 EMPLOYMENT SECURITY

ILO Conventions

Convention 158 (1982) on employment termination

Kuwait has not ratified the Convention 158.

Summary of Provisions under ILO Convention

The questions under this section measure the security or even flexibility or precariousness of an employment relationship. Although these are not clearly mentioned in a single convention (severance pay and notice requirement are provided in the Termination of Employment Convention No. 158) however, the best practices in the field require that employees be provided with a written contract of employment; workers on fixed term contracts should not be hired for tasks of permanent nature; a reasonable probation period (ideally lower than or equal to 6 months) may be followed to assess the suitability of an employee; a period of notice must be specified in an employment contract before severing the employment relationship; and workers be paid severance allowance on termination of employment relationship.

A contract of employment may be oral or written however workers should be provided with a written statement of employment at the start of their employment.

Fixed Term Contract workers must not be hired for permanent tasks as it leads to precarious employment.

A reasonable probation period must be allowed to let a worker learn new skills. A newly hired employee may be fired during probation period without any negative consequences.

A reasonable notice period, depending on the length of service of an employee, may be required before an employer may sever the employment relationship.

Employers may be required to pay a severance allowance on termination of employment (due to redundancy or any other reason except for lack of capacity or misconduct).

Regulations on employment security:

- Labour Law for Private Sector (Law No. 6 of 2010)

Written Employment Particulars

An employee's terms of service are contained in his employment contract, which may be concluded for a fixed or indefinite term.

An employment contract is prepared in writing. It must show at least: the date of signing the contract; the effective date of employment start; amount of wage; contract period if it is for a limited period and nature of work. The contract should be written in Arabic. A copy of its translation can be added but Arabic version prevails in case of dispute. The employment contract must be drawn in three copies; one for each party and the third one is forwarded to the Public Authority for Manpower. If the contract is not prepared in writing, the contract is deemed as prevailing and the employee may prove his rights through all evidencing methods.

According to the labour law, an employee's wage may not be reduced during the validity of the contract. Any agreement signed before the validity of employment contract or subsequent thereof is considered void. Employer is not allowed to assign tasks to the workers that are not according to the nature of work stated in the contract or not compliant with the qualifications and experiences of the labourer on the basis of which the contract is signed with him.

At the start of 2016, the Public Authority for Manpower launched a new unified labour contract that regulates sponsor-worker

relations. The new contract includes 16 clauses including a preliminary one defining both parties, the job a worker is hired to do in Kuwait, both sides' capacities, a 100-day probation period, a monthly payment that cannot be reduced during the contract duration, the contract duration and the date on which it takes effect and renewability for a maximum of five years. Other major points of unified labour contract include:

- a) renewal subject to the agreement of parties;
- b) daily hour limit as eight hours plus one-hour break;
- c) prohibition on reduction of monthly payment during the contract period;
- d) availability of mutually agreed fully paid annual leave after nine months of service during the first year;
- e) payment of expenses by the employer of a returning worker to his/her country on concluding the contract and departing Kuwait;
- f) employer obligation to pay the worker's health insurance, ensure worker safety from hazards and provide labour indemnity; and
- g) declaring Arabic as the reference language (if contract is concluded in two languages) in case of legal disputes

In January 2021, the Kuwaiti Public Authority for Manpower (PAM) issued Decree No. 27 of 2021 on Rules and Procedures for Granting Work Permits. The Decree aims to regulate the registration, renewal, and cancelation of work permits in Kuwait.

Source: §28 & 29 of the Labour Law for Private Sector (Law No. 6 of 2010)

Fixed Term Contracts

Labour Law regulates fixed term contracts. The minimum length of a fixed term contract is one year and the maximum term is five years. The contract can be further extended for a maximum period of five years after its expiry on mutual consent.

If parties to a fixed term contract continue to implement it after its expiry without formal renewal, the contract is deemed renewed for a similar period with the same conditions, unless both parties agree to renew it under other conditions. In any case, renewal may not adversely affect the worker's entitlements acquired under the previous contract.

Source: §30 & 31 of the Labour Law for Private Sector (Law No. 6 of 2010); Unified Labour Contract

Probation Period

Labour Law regulates fixed term contracts. The minimum length of a fixed term contract is one year and the maximum term is five years. The contract can be further extended for a maximum period of five years after its expiry on mutual consent.

If parties to a fixed term contract continue to implement it after its expiry without formal renewal, the contract is deemed renewed for a similar period with the same conditions, unless both parties agree to renew it under other conditions. In any case, renewal may not adversely affect the worker's entitlements acquired under the previous contract.

Source: §30 & 31 of the Labour Law for Private Sector (Law No. 6 of 2010); Unified Labour Contract

Notice Requirement

Where an employment contract is for a fixed period, it terminates automatically at the end of the period, but if both parties continue to implement it, it is deemed to be renewed for a similar term (not exceeding 5 years) under the same (or newly agreed) terms and conditions.

If either party terminates the contract before the end of the fixed period (and there is no clause in the contract to cover this) then the party terminating the contract must compensate the other. Where termination is made by the employer, compensation is limited to wage the employee would have earned from the day of termination to the expiry of his contract. Where it is the employee who quits, compensation is limited to the employer's actual loss.

Where an employment contract is for an unlimited period, either party may terminate it by notifying the other in writing at least three months (if paid monthly); or one month (if paid otherwise) prior to termination. In case notice period is not provided, the party is obliged to pay other party the amount equal to the employee's salary for the same period, in lieu of notice. If termination is made by the employer, the employee has the right to be absent from work for one day a week or 08 hours during a week in order to search for another job without any deduction in salary due to absence.

An employer has the right to terminate an employee without notice, and without paying indemnity and compensation, if the employee commits a wrongful act resulting in serious loss to the employer; worker obtained employment through cheating or

fraud; or if the worker reveals any secrets relating to his employment which caused or would have caused real losses.

The employer may dismiss the worker in any of the following events:

- a) worker is found guilty of a crime that relates to honour, trust or morals;
- b) worker committed an act against public morals at the work site;
- c) worker assaulted one of his colleagues, his employer or employer's deputy during work or for a reason thereof;
- d) breach of contract by the worker;
- e) repeated violation of the instructions of the employer;

Dismissal does not deprive a worker of his end of service benefit.

An employee also has the right to quit without notice before the expiry of his contract, and to collect his indemnity if his employer fails to abide by the provision of his contract or the labour law; the employee has been assaulted by the employer or his agent (or on their provocation); or if continuing work would endanger his health; or an act of cheating or fraud by employer with regard to work conditions upon signing the contract; or if the employer has accused the worker of committing a punishable act and on acquittal of the worker; or an act by the employer or his agent that violates public morals against the worker..

An employee's contract is terminated in the event of worker's death. It may be terminated if worker fails (without fault) to perform his work or exhausts his entitlement to sick leave. In all these cases, worker's indemnity must be paid.

An employee's contract is automatically

terminated if enterprise goes bankrupt or is permanently closed. If the firm is sold, merged with another establishment or transferred by inheritance, donation or other legal action, the employment contract remains valid under the same conditions and the obligations and rights of the original employer towards the workers are transferred to the new employer.

Source: §41-50 of the Labour Law for Private Sector (Law No. 6 of 2010)

Severance Pay

When his employment is terminated, an employee is entitled to a lump sum payment called termination indemnity. A worker is entitled to the termination indemnity in following cases: contract is terminated by the employer; upon expiry of the fixed term contract if not renewed; if a female worker terminates her contract within one year or her marriage; or the contract is terminated according to the provisions of law.

For those paid monthly, termination indemnity is 15-day remuneration for each complete year of service for first 05 years and 30-day for each complete year beyond 05 years. The total indemnity however cannot exceed one and a half year's wages.

For piece-rate workers and those paid on an hourly, daily or weekly basis, the indemnity is 10-day remuneration for each complete year of service for the first 05 years, and 15-day pay for each complete year beyond 05 years. The total indemnity however cannot exceed one year's wages. In both cases, part of a year are calculated on pro-rata basis.

A worker who resigns from indefinite term contract with three to less than five years of

service is entitled to receive half of the terminal indemnity; with five years to less than ten of services is entitled to two-thirds indemnity; and with ten or more years of service, he/she is entitled to full indemnity. Employee who are more made redundant (irrespective of length of service), who reach retirement age, who are disabled at work, or who die are entitled to full indemnity. Women workers who resign within six months of marriage are entitled to full indemnity.

Source: §51-54 of the Labour Law for Private Sector (Law No. 6 of 2010)

The amount of any debt or loans that is due from the employee may be deducted from the terminal service indemnity. Social Security law is also applicable here provided that the employer is obliged to pay the net difference between the amounts he affords against the worker's subscription in the Social Security and the due amounts for the worker against the terminal service indemnity.

Service termination certificate is also provided to the workers.

There have been changes in article 51 of the Kuwaiti Labour Law in 2017 through Law No. 85) and 2018 (through Law No. 17). The 2010 Labour Law allowed an employer to deduct pension contributions (made by the employer) from an employee's end of service gratuity. However, in line with the 2017 reform, Kuwaiti employees receive their full end of service gratuity without any deductions made for an employer's contribution towards pension. In 2018, through a further change, employers are allowed to deduct the employer's pension contributions made until 20 February 2010 (the date the Labour Law came into effect). Any pension contributions from 21 February 2010 onwards is not deducted from the employee's end of service gratuity.

05/13 FAMILY RESPONSIBILITIES

ILO Conventions

Convention 156: Workers with Family Responsibilities Convention (1981) Recommendation 165: Workers with Family Responsibilities (1981)

Kuwait has not ratified the Convention 156 and 165.

Summary of Provisions under ILO Convention

Paternity leave is for the new fathers around the time of childbirth and is usually of shorter duration.

Recommendation (No. 165) provides for parental leave as an option available to either parent to take long leave of absence (paid or unpaid) without resigning from work. Parental leave is usually taken once the maternity and paternity leave have been exhausted. For working parents, laws may define the portion of parental leave that has to be compulsorily taken by fathers or mothers.

Flexible Work Option for Parents / Work-Life Balance Recommendation 165 asks the employers to look into the measures for improving general working conditions through flexible work arrangements.

Regulations on family responsibilities:

- Labour Law for Private Sector (Law No. 6 of 2010)
- Law on Children Rights (No. 21 of 2015)

Paternity Leave

There is no provision in labour law regarding paternity leave.

Parental Leave

There is no provision in labour law regarding parental leave. However, on completion of maternity leave, the employer can grant a working woman, based on her request, leave of not more than four months without pay to care for the child.

The Law on Children Rights allows a mother to take unpaid leave for a duration of two years to care for her child. A worker can take such child care leave only thrice in her service.

Source: §24 of the Labour Law for Private Sector (Law No. 6 of 2010); §52 of the Law on Children Rights (No. 21 of 2015)

Flexible Work Option for Parents / Work-Life Balance

There is no provision in labour law regarding flexible work option for parents or work-life balance.

06/13 MATERNITY & WORK

ILO Conventions

An earlier Convention (103 from 1952) prescribed at least 12 weeks maternity leave, 6 weeks before and 6 weeks after birth. However, a later convention (No. 183 from year 2000) requires that maternity leave be at least 14 weeks of which a period of six weeks compulsory leave should be after childbirth.

Kuwait has not ratified the Conventions 103 and 183.

Summary of Provisions under ILO Convention

During pregnancy and maternity leave, a worker should be entitled to medical and midwife care without any additional cost.

During pregnancy and while breastfeeding, a worker should be exempt from work that might bring harm to you or your baby.

The total maternity leave should last at least 14 weeks.

During maternity leave, a worker's income should amount to at least two thirds of your preceding salary.

During pregnancy and maternity leave, a worker should be protected from dismissal or any other discriminatory treatment.

Workers have the right to return to same or equivalent position after availing maternity leave.

After childbirth and on re-joining work, a worker must be allowed paid nursing breaks for breast-feeding the child.

Regulations on maternity and work:

- Labour Law for Private Sector (Law No. 6 of 2010)
- Law on Children Rights (No. 21 of 2015)

Free Medical Care

There is no relevant provision in labour law regarding free medical care of pregnant worker.

Pregnancy Inquiry

The Ministerial Decree No. 177 of 2021 states that employers are not allowed to engage in discriminatory practices based on gender, age, pregnancy, or marital status in any aspect of employment, while still adhering to the relevant legal provisions.

Source: §1 of the Ministerial Decree No. 177 of 2021

No Harmful Work

There is no specific provision in labour law that restricts employer from hiring pregnant workers for jobs that are hazardous for pregnant worker and baby's health. However, it is generally prohibited to employ women in hazardous job or those that are harmful to their health.

Law on Children Rights requires employers to reduce the working hours of pregnant workers by two hours from the sixth month of pregnancy. A pregnant worker should not be made to work overtime.

Source: §23 of the Labour Law for Private Sector (Law No. 6 of 2010); §54 of the Law on Children Rights (No. 21 of 2015)

Maternity Leave

A working woman is entitled to 70 days (10 weeks) of maternity leave. The antenatal leave (prior to delivery) is 30 days while the postnatal leave (after delivery) is 40 days. On completion of maternity leave, the employer can grant a working woman, based on her request, leave of not more than four months without pay to care for the child.

Source: §24 of the Labour Law for Private Sector (Law No. 6 of 2010)

Income

Maternity leave is fully paid by the employer. The pregnant worker avails maternity benefit during her maternity leave. Normal amount of wage is paid during this period.

It must be indicated here that provision of this Labour Law is not applicable to domestic workers and other workers who are subject to the provisions of other law.

Source: §5 & 24 of the Labour Law for Private Sector (Law No. 6 of 2010)

Protection from Dismissals

Labour law prohibits the employer from terminating the service of a female worker during her maternity leave or her absence from work due to a sickness which is evident by a medical report that confirms that such sickness is due to pregnancy or delivery.

Source: §24 of the Labour Law for Private Sector (Law No. 6 of 2010)

Right to Return to Same Position

Right to return to same position is not expressly provided under the law however since protection from dismissals is guaranteed under the labour law, it can be safely inferred that workers have the right to return to same position.

Breastfeeding

Female workers are entitled to breastfeeding/nursing breaks to feed infant children. The break duration is 120 minutes (02 hours) during the official working hours, in accordance with the terms and conditions determined by the Minister's decision. Nursing breaks are provided under a child reaches the age of 02 years.

It is obligatory for the employer to arrange a Day Care Centre for children under four (04) years if the number of women in the firm is more than 50 or the number of employees therein is more than 200. In January 2021, the Kuwaiti Public Authority for Manpower (PAM) issued Decree No. 27 of 2021 on Rules and Procedures for Granting Work Permits. Similar provisions on nursing breaks are found in article 28(A) of the Decree.

Source: §25 of the Labour Law for Private Sector (Law No. 6 of 2010); §55 of the Law on Children Rights (No. 21 of 2015)

07/13 HEALTH & SAFETY

ILO Conventions

Most ILO OSH Conventions deal with very specific Occupational Safety hazards, such as asbestos and chemicals.

Convention 155 (1981) is the relevant general convention here.

Labour Inspection Convention: 81 (1947)

Kuwait has ratified the Convention 81 only.

Summary of Provisions under ILO Conventions

The employer, in all fairness, should make sure that the work process is safe.

The employer should provide protective clothing and other necessary safety precautions for free.

Workers should receive training in all work-related safety and health aspects and must have been shown the emergency exits.

In order to ensure workplace safety and health, a central, independent and efficient labour inspection system should be present.

Regulations on health and safety:

- Labour Law for Private Sector (Law No. 6 of 2010)
- Ministerial Decree on respecting the safety precautions to be taken against occupational injury and disease (No. 22 of 1974)
- Decree on the control and use of ionizing radiation and protection from hazards (No. 131 of 1977)

Employer Cares

Employers are required to take necessary actions to protect the health and safety of workers in Kuwait in accordance with the provisions of the labour law. Workers have the right to the type of work and working environment which is safe and without risk to their health.

Employers are obliged to take precautions to protect their employees against physical hazards and occupational diseases work. They are also required to ensure that places of work are clean, well ventilated, adequately lit and in sanitary condition. Employers must supply first aid kits containing medicines, antiseptics and bandages, and place them visibly within reach of employees. The employer must also keep records of the routine medical checks for operators who are exposed to health hazards.

The Ministry of Social Affairs & Labour in consultation with the Ministry of public Health has issued a resolution providing details of OSH measures that should be maintained. The employer must fix in a conspicuous place at the workplace an approved rules and regulations by the competent Labour Department at the Ministry, consisting in particular of the daily

working hours and the break period therein, the weekly day-off and official holidays.

Employees who work in areas not served by public transport must be provided with suitable transport. If they work in localities far from populated areas, the employer must provide suitable accommodation, potable water and the means to obtain supplies.

Each worker must follow the preventive instructions and cooperate with the employer in using these instructions. The worker should also use the preventive means and should not remove these means or modify them. The worker exerts the necessary protection efforts, and he/she should undertake to utilize diligently any protection measures under his possession and to implement the relevant instructions stipulated for his safety, health and protection against injuries and occupational diseases. The worker must report to the employer or supervisor any malfunction of these means that could jeopardise the safety and health of others.

Source: §82-87 of the Labour Law for Private Sector (Law No. 6 of 2010)

Free Protection

In accordance with the labour law, it is obligatory for the employer to provide the required safety and occupational health instruments and kits. Workers who fail to use protective equipment are penalised. Labour Law prohibits employers from asking workers to bear costs of protective equipment and making deductions from workers' remuneration in consideration for providing such equipment.

Source: §83 of the Labour Law for Private Sector (Law No. 6 of 2010); §25 of the Ministerial Decree on respecting the safety precautions to be taken against occupational injury and disease (No. 22 of 1974)

Training

According to labour law, the employer must explain to the workers before commencing work about the risks involved and the precautionary requirements.

Source: §84 of the Labour Law for Private Sector (Law No. 6 of 2010)

Labour Inspection System

The Minister assigns competent inspectors who have legal and judicial capacity to ensure the implementation of the labour law. These inspectors undertake the supervision and inspection work according to the provisions of Labour Law. The inspectors have the right to enter establishments and locations, during working hours, where radiation instruments and radioactive materials, records, or documents, are present; review records, and take needed measures to verify the implementation of the provision of this law and its executive decisions; and to file reports pertaining to crimes in violation of the provisions of this law, and refer them to the authorities. They may also ask for the aid of the police according to the situation.

Inspectors have the power to issue reports of contraventions to the Minister who has the power to issue a resolution on the lockout of the business concern, totally or partially, or to stop the use of a certain machine(s) until the rectification of such

contravention.

Source: §133-136 of the Labour Law for Private Sector (Law No. 6 of 2010); §14 of the Decree on the control and use of ionizing radiation and protection from hazards (No. 131 of 1977)

08/13 SICK LEAVE & EMPLOYMENT INJURY BENEFIT

ILO Conventions

Convention 102 (1952), Conventions 121 (1964) and 130 (1969) concerning Social Security, Employment Injury Benefits and Medical Care and Sickness Benefits

Kuwait has not ratified the Convention 102, 121 and 130.

Summary of Provisions under ILO Conventions

A worker's rights to work and income should be protected when illness strikes. The national labour law may provide that sickness benefit may not be paid during the first 3 days of your absence. Minimally, a worker should be entitled to an income during first 6 months of illness. This income should be at least 45 per cent of the minimum wage. (Countries are free to opt for a system which guarantees 60 per cent of the last wages during the first 6 months of illness or even during the first year). A worker must be entitled to paid sick leave.

During illness, a worker should be entitled to medical care without any additional cost. Employees and their family members should have access to the necessary minimal medical care at an affordable cost.

During the first 6 months of illness, a worker should not be fired.

If a worker is disabled due to an occupational disease or accident, he/she must receive a higher benefit. In the case of temporary or total incapacity/disability, a worker may at least be provided 50% of his average wage while in the case of fatal injury, the survivors may be provided with 40% of the deceased worker's average wage in periodical payments.

Regulations on sick leave & Employment Injury Benefits:

- Labour Law for Private Sector (Law No. 6 of 2010)

Income

There is a provision for paid and unpaid sick leave under the labour law. The total duration of sick leave is 75 days (45 days paid + 30 days unpaid). In case of illness or injury evidenced by a medical certificate, employees are entitled to paid sick leave. The duration of sick leave during the year is as follows:

- 15 days leave with full wage (100% funded);
- 10 days leave with three quarter wage (75% funded);
- 10 days leave with half wage (50% funded);
- 10 days leave with quarter wage (25% funded);
- 30 days leave without wage

This entitlement is the total entitlement in one year and not per period of sickness. The medical report must be signed by the physician or the doctor who is in charge of a government health centre. If there is any conflict regarding the entitlement to sick leave, the medical doctor certificate should be approved.

Serious illnesses that are difficult to cure must be excluded by the Minister's decision. The Minister must specify such type of diseases. No such ministerial decision could be located.

Source: §69 of the Labour Law for Private Sector (Law No. 6 of 2010)

Medical Care

The employer bears all costs for the treatment of the worker who suffers work injuries or occupational diseases, at governmental hospitals or private treatment centers, including medicine and transportation expenses.

Source: §91 of the Labour Law for Private Sector (Law No. 6 of 2010)

Job Security

Employment of an employee is secure during sick leave (75 days in a year) provided by law. The employer may not terminate the employment contract while the worker is on leave provided by the law. However, once the sick leave duration exceeds 75 days in a year, the guarantee of job security is no longer applicable.

Source: §45 of the Labour Law for Private Sector (Law No. 6 of 2010)

Disability / Work Injury Benefit

Occupational accidents (injuries) and diseases are covered under the Labour Law & Social Security Law. Employers are required to take preventive measures in order to protect workers against accidents at work and occupational diseases.

An employee is entitled to compensation for injuries pertaining to work. If an employee is injured at work, the employer must report the matter to the local police station and the MSA&L. The injured employee has the right to treatment, at the employer's expense, in any government hospital or private clinic as the employer deems suitable. A doctor's report, stating the period of treatment required, any

disability arising from the accident and the employee's fitness to continue in work, must be obtained.

The worker who suffers a work injury or occupational disease is entitled to his full remuneration throughout the period of treatment specified by the attending physician. In the event where the treatment period exceeds six months, the employee is entitled to half the salary until recovery or declaration of disability or in the event of death.

A worker is not entitled to compensation if the investigation reveals that worker intentionally injured himself or the injury was a result of gross and deliberate misconduct. Such misconduct includes intoxication (alcohol or drug use) or violation of occupational safety and health instructions. Despite all this, a worker or his family is entitled to compensation if the occupational injury leads to a permanent disability greater than 25% loss in working capacity or death of the worker. Worker is eligible for work injury benefits if he/she suffers an occupational disease or shows symptoms of occupational disease during the period of service or one year after his resignation.

There is no specific program for work injury. Cash benefits for a work-related injury are provided through the basic system of the old age, disability and survivors benefits.

In January 2021, the Kuwaiti Public Authority for Manpower (PAM) issued Decree No. 27 of 2021 on Rules and Procedures for Granting Work Permits. If the husband of a Muslim female worker dies, the female worker is granted four months and 10 days of leave for 'Idda (the compulsory waiting period before remarriage). The 'Idda leave begins from

the day the husband of a female worker passes away.

Source: §89-97 of the Labour Law for Private Sector (Law No. 6 of 2010); §29 of the Decree No. 27 of 2021 on Rules and Procedures for Granting Work Permits

09/13 SOCIAL SECURITY

ILO Conventions

Social Security (minimum standards): Convention 102 (1952). For several benefits somewhat, higher standards have been set in subsequent Conventions
Employment Injury Benefits: Conventions 121 (1964),
Invalidity, Old age and survivors' benefits: Convention 128(1967)
Medical Care and Sickness Benefits: Convention 130 (1969)
Unemployment Benefits: Convention 168 (1988).

Kuwait has not ratified the above-mentioned Conventions.

Summary of Provisions under ILO Conventions

In the normal circumstances, the pensionable age may not be set higher than 65 years of age. If retirement age is fixed above 65 years, it should give “due regard to the working ability of elderly persons” and “demographic, economic and social criteria, which shall be demonstrated statistically”. Pension can be set as a percentage of the minimum wage or a percentage of the earned wage.

When the breadwinner has died, the spouse and children are entitled to a benefit, expressed as a percentage of the minimum wage, or a percentage of the earned wage. This must at least be 40% of the reference wage.

For a limited period of time, the unemployed has a right to unemployment benefit set as a percentage of the minimum wage or a percentage of the earned wage.

Invalidity benefit is provided when a protected person is unable to engage in a gainful employment, before standard retirement age, due to a non-occupational chronic condition resulting in disease, injury or disability. Invalidity Benefit must at least be 40% of the reference wage.

Regulations on social security:

- Labour Law for Private Sector (Law No. 6 of 2010)

Pension Rights

Employees are entitled to old age benefit at the age of 50 (gradually rising to age 55 by 2020) with at least 15 years of contributions. The pensionable age is 49 years for men and unmarried women with no children (gradually rising to age 55 by 2020) with at least 20 years of contributions. The pensionable age is further lowered to 44 years for married women and women with children (gradually rising to age 50 by 2020) with at least 15 years of coverage.

Pension can be received at any age with at least 20 years of contributions for those in arduous work or at least 15 years for women who care for a husband or child with disabilities. For self-employed persons, the pensionable age is 60 years with at least 15 years of coverage or age 55 with 20 years of coverage. The maximum basic old-age pension is paid with 30 years of contributions.

Both the worker and employer pay contribution to the Public Institution for Social Security. Employer contributes 10% of the payroll for basic system and supplementary system (total: 20% of the payroll). The insured worker pays 5% of the monthly earnings for basic system and supplementary system (total: 10% of the monthly earnings). The self-employed contribute only to the basic system and their contribution ranges between 5% and 15% of declared monthly income. Government also contributes to the basic system for self-employed and its

contribution is 25% of monthly income minus the self-employed persons' contributions (ranges between 10-20%).

The amount of basic old age pension benefit is 65% of the insured worker's last monthly earnings (the self-employed person's average monthly income in the last three years), plus 2% for each year of contributions exceeding 15 years, up to 95% of earnings.

The basic pension may be deferred if the insured worker continues to work beyond the normal retirement age. A lump sum of 10% of the insured worker's average monthly income in the last year of employment is paid for each of the first five years exceeding 30 years; 12% for the next five years; and the percentage is raised to 20% after 10 years.

The qualifying conditions for the supplementary system are the same as those for the basic system. The benefit is 25-30% (according to age) of the insured worker's average monthly earnings during the total contribution period plus 5% for each year of contribution, divided by a fixed amount of 202 dinars to 120 dinars (according to age). Before age 65, part of the pension may be paid as a lump sum.

The supplementary pension may also be deferred if the insured worker continues to work beyond the normal retirement age. The benefit is increased by 5% for each year of deferral.

Flat-rate adjustments are made to benefits every three years.

Source: ISSA Country Profile 2014

Dependents' / Survivors' Benefit

Dependents of the insured person who received or was entitled to receive an old-age pension at the time of death are entitled to the Dependents'/Survivors' Benefit. Eligible survivors include widows, dependent widowers with a disability and incapable of working, children (26 years for sons, age limit is raised to 28 years for students); parents; siblings; and a son's children. There is no age limit for unmarried female survivors or male survivors with disabilities.

The maximum amount of pension is 100% of the old-age pension the deceased received or was entitled to receive, according to the number and category of eligible survivors. The survivor pension for different eligible categories of survivors is set according to a schedule in law.

The pension is suspended on remarriage but reinstated if subsequently divorced or widowed. It is suspended or ceases if the survivor (except the widow) starts working. If a survivor's eligibility ceases, the pension is split among all remaining eligible survivors. The minimum monthly pension is 242 dinars for a widow or a dependent widower; 190 dinars for each parent; 122 dinars for each of the other survivors.

Marriage grant, equivalent to the lump sum of six months of the eligible survivor's share of the pension is paid to the deceased worker's daughter or the daughter of the deceased's son. This grant is paid to each survivor only once.

Death grant is paid when an insured person or a pensioner dies. The amount of death grant is twice the deceased worker's last monthly earnings or the old-age pension

the deceased received or was entitled to receive. The minimum grant is twice the minimum wage in the oil and private sectors.

Benefits are not payable abroad and the Flat-rate adjustments are made to benefits every three years.

Source: ISSA Country Profile 2014

Unemployment Benefits

Unemployment benefits are provided at the age of 18 to 60 and if the worker is ineligible for an old-age pension. The beneficiary must have at least six consecutive months of contributions immediately before making the first claim; a total of 18 months of contributions including at least six consecutive months immediately before making the second claim; and total of 36 months of contributions including at least six consecutive months immediately before making any subsequent claim.

The amount of benefit provided is 60% of the insured worker's last monthly earnings plus the old-age pension the insured person would be entitled to receive under the supplementary system for a period up to six months.

Source: ISSA Country Profile 2014

Invalidity Benefits

Basic and supplementary invalidity benefits are provided for an assessed degree of work incapacity of more than 50%. The general medical council assesses the degree of disability.

The amount of basic benefit is 65% of the insured worker's last monthly earnings

(average monthly insured income in the last three years for self-employed) plus 2% for each year of contributions exceeding 15 years, up to 95% of earnings. The insured worker is credited with contribution years from the date the disability began until age 60.

The benefit is 25-30% (according to age) of the insured worker's average monthly earnings during the total contribution period plus 5% for each year of contribution, divided by a fixed amount of 202 dinars to 120 dinars (according to age).

Flat-rate adjustments are made to benefits every three years.

Source: ISSA Country Profile 2014

10/13 FAIR TREATMENT

ILO Conventions

Convention 111 (1958) lists the discrimination grounds which are forbidden.

Convention 100 (1952) is about Equal Remuneration for Work of Equal Value.

Convention 190 (2019) is about elimination of violence and harassment in the world of work.

Kuwait has ratified the Convention 111 only.

Summary of Provisions under ILO Conventions

At workplaces, equal pay for men and women for work of equal value is a must, regardless of marital status. Pay inequality based on race, colour, sex, religion, political opinion, national extraction/place of birth or social origin is also forbidden. A transparent remuneration system and the clear matching of pay and position should be in place and to help prevent wage discrimination.

Convention No. 190 recognizes the right of everyone to a world of work free from violence and harassment. It defines violence and harassment as “a range of unacceptable behaviours and practices, or threats thereof, whether a single occurrence or repeated, that aim at, result in, or are likely to result in physical, psychological, sexual or economic harm, and includes gender-based violence and harassment”. This definition covers physical abuse, verbal abuse, bullying and mobbing, sexual harassment, threats and stalking, among other things.

An employer can't discriminate against you on in any aspect of employment (appointment, promotion, training and transfer) on the basis of union membership or participation in union activities, filing of a complaint against an employer, race, colour, sex, marital status, family responsibilities, pregnancy, religion, political opinion, national extraction or social origin, temporary absence due to illness, age, trade union membership, disability/HIV-AIDS, or absence from work during maternity leave. (Conventions 111, 156, 158, 159 and 183)

People have the right to work and there can't be occupational segregation on the basis of gender.

Regulations on fair treatment:

- Constitution of Kuwait 1962, reinstated in 1992
- Labour Law for Private Sector (Law No. 6 of 2010)

Equal Pay

The Constitution and Labour Law both has provision on equal pay for all the workers. The Constitution states that a woman performing the same work as a man must be paid equal remuneration.

In accordance with the Labour Law, female worker has the right to same salary given to the male worker, if she performs the same job.

Source: § of the Constitution of Kuwait; §26 of the Labour Law for Private Sector (Law No. 6 of 2010)

Sexual Harassment

The Constitution and the Labour Law do not have any provision related to sexual harassment. It is considered as a crime and the perpetrator is punished according to criminal code.

According to article 191 of the Kuwait Penal Code, any person that sexually harasses another through hate, threats or deceit is punished with imprisonment up to 15 years. If the victim is related to the harasser, or is under his/her control/upbringing, the perpetrator is punished with life imprisonment. If the victim is a minor, or mentally unstable, or is unable to know the nature of the act, the harasser punished with life imprisonment.

Article 192 of Kuwait Penal Code states, "any person that sexually harasses another without hate, threats or deceit is punished up to 10 years of imprisonment". If the victim is related to the harasser, or is under his/her control, the perpetrator is punished imprisonment for a term up to 15 years.

Sexual harassment in the workplace is not recognized as a specific crime. Labour Law allows an employer to dismiss a worker if he is found guilty of a crime that relates to honour, trust or morals or if he has committed an act against public morals at the work site. Similarly, a worker may also terminate an employment contract without notice if the employer or his agent commits an act that violates public morals against the worker. These provisions can be taken prohibiting sexual harassment.

According to the Resolution No. 177 of 2021, sexual harassment is prohibited in all its forms and means, including through modern technology.

Source: §191 & 192 of the Criminal Code 1960; §41 & 48 of the Labour Law for Private Sector (Law No. 6 of 2010); §2 of the Ministerial Decree No. 177 of 2021

Non-Discrimination

The Constitution of Kuwait prohibits discrimination on the basis of race, origin, language or religion. Labour Law prohibits discrimination on the ground of trade union activity, gender, age, pregnancy or marital status, race, or religion. Labour Law specifies that service of a worker cannot be terminated without any justification or as a result of his activity in the trade union (syndicate) or for a claim on his legal rights. The service of the worker may not be

terminated for reason of gender, race or religion.

Source: §29 of the Constitution of Kuwait; §46 of the Labour Law for Private Sector (Law No. 6 of 2010); §1 of the Ministerial Decree No. 177 of 2021

Equal Choice of Profession

The Constitution of Kuwait guarantees the right to work to every citizen and to choose the nature of his occupation. It is the duty of the State to make work available to citizens and see the equity of its conditions.

Labour Law however has provisions restricting employment of women in certain professions. It prohibits employment of woman in works that are hazardous, arduous or harmful to their health. It also prohibits women employment in jobs that violate morals and that exploit her femininity in violation of public morals. No woman can be made to work at establishments that provide services exclusively for men.

Such works and establishments are to be specified under a resolution from the Minister of Social Affairs and Labour after consultation with the Labour Affairs Consulting Committee and the competent organization. No such resolution could be located.

In January 2021, the Kuwaiti Public Authority for Manpower (PAM) issued Decree No. 27 of 2021 on Rules and Procedures for Granting Work Permits. The Decree allows working of women during night hours (10:00 pm and 7:00 am) in the following sectors: hotels; pharmacies; laboratories; health care; child care; airlines; theatres, cinemas, television and radio; and airports, ports, and oil sector

facilities.

Women workers are also allowed to work until midnight (12:00 am) in restaurants, banks, public benefit societies, cooperatives, educational institutions, tourist offices and airline agencies, and commercial markets. Employer has to make necessary arrangement for security of female workers and pick and drop facility from worker's residence to the workplace.

The Decree also prohibits employment of male workers in such establishments which provide services only for women, including lingerie shops, women's beauty salons, and women's health clubs.

Source: §41 of the Constitution of Kuwait; §23 of the Labour Law for Private Sector (Law No. 6 of 2010); §22-23 and 27 of the Decree No 27 of 2021 on Rules and Procedures for Granting Work Permits

11/13 MINORS & YOUTH

ILO Conventions

Minimum Age: Convention 138 (1973)

Worst Forms of Child labour: Convention 182 (1999)

Kuwait has ratified the Conventions 138 and 182.

Summary of Provisions under ILO Conventions

At workplaces, children may not be forced to perform work that could harm their health and hampers their physical and mental development.

All children should be able to attend school. Once this is safeguarded, there is no objection against children performing light jobs between the ages of 12 and 14. The general minimum age is 15 years however developing countries may set this at 14 years. The minimum age for hazardous work, work that is likely to jeopardize the health, safety or morals of young persons, is 18 years. It can also be set at a lower level of 16 years under certain circumstances

Children should not be employed in a work that is likely to harm the health, safety or morals of children. It is considered one of the worst forms of child labour. The minimum age for such hazardous work is 18 years.

Regulations on minors and youth:

- Labour Law for Private Sector (Law No. 6 of 2010)
- Law on Children Rights (No. 21 of 2015)
- Compulsory Education Law (No. 11 of 1965)

Minimum Age for Employment

Minimum age of employment is 15 years. Young workers between 15 to 18 years of age can be employed only after permission of the Ministry of Social Affairs and Labour. Permission can be granted under following conditions: work is not hazardous & harmful to health, safety or moral of the child; and the young worker is medically checked up before employment and thereafter periodically for not more than six months.

Work should not cause pain or physical or psychological harm to the child, or deprive him of the chance to receive education, recreation and the development of his abilities and talents. The compulsory education age is 15 years.

The Minister issues a decision determining these works and trades in addition to the professions, procedures and dates organizing the periodic medical examination. No such decision could be located.

Under the 2021 Decree, the employer must request for the Public Authority for Manpower (PAM) for the permission to engage a juvenile between the age of 15 to 18 years. The permission, once granted, is renewed annually.

Source: §19 & 20 of the Labour Law for

Private Sector (Law No. 6 of 2010); §43 & 46-51 of the Law on Children Rights (No. 21 of 2015); Compulsory Education Law (No. 11 of 1965)

Minimum Age for Hazardous Work

Minimum age for the hazardous work is 18 years. Maximum working hours for the young workers are 06 hours per day, provided that they may not work for more than 04 hours continuously. One hour of rest break is provided after four hours.

Overtime, night time work (18:00 to 06:00) and working during weekly rest or public holidays is prohibited for the young workers. Annual leave is raised for young workers by 07 days. Thus, the total annual leave is 37 working days.

In January 2021, the Kuwaiti Public Authority for Manpower (PAM) issued Decree No. 27 of 2021 on Rules and Procedures for Granting Work Permits. The Decree provides a long list of occupations where employment of juveniles under 15 is prohibited. These include, among others, the working in mines and quarries, cement factories, pesticide manufacturing, work requiring carrying, dragging or pushing weights, handling of explosives and working in sewers.

Source: §19 & 21 of the Labour law; §46-51 of the Law on Children Rights (No. 21 of 2015); §20 of the Decree No. 27 of 2021 on Rules and Procedures for Granting Work Permits

12/13 FORCED LABOUR

ILO Conventions

Forced labour: Conventions 29 (1930)

Abolition of Forced labour: Conventions 105 (1957)

Forced labour is the work one has to perform under threat of punishment: forfeit of wages, dismissal, harassment or violence, even corporal punishment. Forced labour means violation of human rights.

Kuwait has ratified both Conventions 29 & 105.

Summary of Provisions under ILO Conventions

Except for certain cases, forced or compulsory labour (exacted under the threat of punishment and for which you may not have offered voluntarily) is prohibited.

Employers have to allow workers to look for work elsewhere. If a worker is looking for work elsewhere, he/she should not be shortened on wages or threatened with dismissal. (In the reverse cases, international law considers this as forced labour).

If the total working hours, inclusive of overtime exceed 56 hours per week, the worker is considered to be working under inhumane working conditions.

Regulations on forced labour:

- Ministerial Order Prohibiting Forced Labour (No. 201/A of 2011)
- Law on Combating Trafficking in Persons and Smuggling of Migrants (No. 91 of 2013)

Prohibition on Forced and Compulsory Labour

Law prohibits forced labour and considers it a criminal offence "except in cases specified by law for national emergency and with just remuneration".

According to the Ministerial Order No. 201/A of 2011, employers in the private sector are prohibited to use any means making workers executing forced labour, or forcing workers to carry out tasks outside their assigned job and to employ workers without pay.

Law No. 91 of 2013 Combating Trafficking in Persons and Smuggling of Migrants states that anyone who has committed the crime of trafficking in persons is sentenced to 15 years in prison and to lifetime imprisonment.

Source: Ministerial Order Prohibiting Forced Labour (No. 201/A of 2011); Law on Combating Trafficking in Persons and Smuggling of Migrants (No. 91 of 2013)

Freedom to Change Jobs and Right to Quit

Law allows workers to terminate employment after serving required notice. For employees wishing to terminate an employment contract, they must give a notice of at least three months (if paid

monthly); or one month (if paid otherwise) prior to termination. In case notice period is not provided, worker is obliged to pay the employer the amount equal to the employee's salary for the same period, in lieu of notice.

In January 2021, the Kuwaiti Public Authority for Manpower (PAM) issued Decree No. 27 of 2021 on Rules and Procedures for Granting Work Permits. Work permits are issued for a maximum term of three years. Employers in the private sector and the oil sector are prohibited from seizing passports/travel documents of their employees.

For more information on this, please refer to the section on employment security.

Source: §32 and 38 of the Decree No. 27 of 2021 on Rules and Procedures for Granting Work Permits

Inhumane Working Conditions

Working time may be extended beyond forty-eight hours at times of greater demand. However, overtime may only be worked on 90 days in a year and is limited to 2 hours a day, 6 hours a week, and 180 hours a year. An employee has the right to refuse to work overtime. The total working hours inclusive of overtime thus do not exceed 54 hours per week (48 hours + 6 hours overtime).

For more information on this, please refer to the section on compensation.

13/13 TRADE UNION

ILO Conventions

Freedom of association and protection of the right to organize: Convention 87 (1948)
Right to Organize and Collective Bargaining: Convention 98 (1949)

Kuwait has not ratified both Conventions 87 & 98.

Summary of Provisions under ILO Conventions

Freedom of association means freedom to join a trade union. This is part of the fundamental human rights. Employees may not be put at a disadvantage when they are active in the trade union outside working hours. The list of exclusions for sectors of economic activity and workers in an organization should be short.

Trade unions are entitled to negotiate with employers on term of employment without hindrance. The freedom of a trade union to negotiate with employers to try and conclude collective agreements is protected. (The ILO has a special procedure for handling complaints from unions about violation of this principle).

Workers have the right to strike in order to defend their social and economic interests. It is incidental and corollary to the right to organize provided in ILO convention 87.

Regulations on trade unions:

- Constitution of Kuwait 1962
- Labour Law for Private Sector (Law No. 6 of 2010)

Freedom to Join and Form a Union

The Constitution and Labour Law provides workers the freedom to form and join trade unions. According to the constitution, the liberty of forming societies and unions on a national basis and by peaceful means is guaranteed in conformity with the conditions and the stipulations specified by Law; and no person shall be constrained to join any society or union.

The labour law states that workers have the right to form trade union that looks after their interests and work for improving their material and social conditions, and represents them in all the matters of concern. Similarly, employers may form federations for the same objectives.

Trade Unions formation and activities are strictly controlled. Only one union is allowed to be established for workers in any profession. An employee is not allowed to join in more than one union. For immigrants, a valid work permit and Kuwait work experience of more than five years is a requisite to become a union member.

Trade unions are prohibited from engaging in political, religious, or sectarian issues; investing their funds in financial or real estate speculations or any other type of speculations; accepting donations and bequests, except under the consent of the Ministry. Discrimination leading to termination on the ground of trade union membership or activity is prohibited.

The employer may delegate one or more members of the trade union or federation board of directors for following up the trade union affairs with the labour department or the competent government authorities.

These labour law provisions are applicable to the labourers in the government and oil sector in such a manner that it should not be contradictory to the laws that organize their affairs.

Source: §43 of the Constitution of Kuwait; §46 & 98-110 of the Labour Law for Private Sector (Law No. 6 of 2010)

Freedom of Collective Bargaining

The labour law provides workers, except for domestic servants, maritime workers, and civil servants, a limited right to collective bargaining. There is no minimum number of workers needed to conclude such agreements.

Collective bargaining agreement (CBA) is an agreement which regulates the work conditions and circumstances between workers (trade union or federation) and employer (through employer or employer association).

CBA should be drawn in writing and duly signed by the workers. The contract is then presented to the general assembly of worker's trade unions and employer's federations or both parties, and it should be approved by the members of those organisations.

CBA should be a limited period contract provided that its terms must not exceed 03 years. If both parties continue to implement the CBA after its expiry, then it should be considered renewed for one-year under the

same conditions unless stated otherwise in the contract.

If either party of the CBA does not want renewal after its expiry, it must inform the other party and the relevant Ministry in writing at least 03 months prior to the contract's expiry. If there are multiple contract parties, termination with regard to one party may not result in termination with regard to other parties.

CBA is effective only after its registry with the competent Ministry and once its summary is published in the Official Gazette. Provisions of a CBA must adhere to the law, otherwise it's considered null and void unless such conditions are more beneficial to the labourers.

The provisions of CBA are applicable to parties who concluded or joined their relevant federations or associations after the conclusion of contract.

Source: §111-122 of the Labour Law for Private Sector (Law No. 6 of 2010)

Right to Strike

The Constitution and Labour Law contains provisions related to strike. Collective or group labour conflicts are those disputes that arise between one or more employers and all his labourers or some of them because of labour or work conditions.

In accordance with the Constitution, individuals have the right to meet without need for permission or prior notification; no member of the Security Force is allowed to attend their private meetings. Public assemblies, processions and gatherings are permitted in accordance with the

conditions and the stipulations defined by Law provided the objects and the means of the gathering is peaceful and not incompatible with morals.

Public sector workers do not have the right to strike. Private sector workers have the right to strike, although cumbersome provisions calling for compulsory negotiation and arbitration in the case of disputes limit that right. Legal strikes require permission from the Ministry of Interior. The law does not prohibit retaliation against striking workers or prevent the government from interfering in union activities, including the right to strike.

The parties involved in strike are prohibited to stop the work totally or partially during the direct negotiation proceedings or before the reconciliation committee or the arbitration board due to the interference of the competent ministry in the disputed pursuant to the provisions provided by the labour law.

Source: §44 of the Constitution of Kuwait; §123-132 of the Labour Law for Private Sector (Law No. 6 of 2010)

QUESTIONNAIRE

DECENTWORKCHECK.ORG

Check

Decent Work Check Kuwait is a product of WageIndicator.org



National Regulation exists



National Regulation does not exist

01/13 Work & Wages

| | NR | Yes | No |
|---------------------------------------------------------------------------|----|--------------------------|--------------------------|
| 1. I earn at least the minimum wage announced by the Government | | <input type="checkbox"/> | <input type="checkbox"/> |
| 2. I get my pay on a regular basis. (daily, weekly, fortnightly, monthly) | | <input type="checkbox"/> | <input type="checkbox"/> |

02/13 Compensation

| | | | |
|------------------------------------------------------------------------------------------------------------|--|--------------------------|--------------------------|
| 3. Whenever I work overtime, I always get compensation <i>(Overtime rate is fixed at a higher rate)</i> | | <input type="checkbox"/> | <input type="checkbox"/> |
| 4. Whenever I work at night, I get higher compensation for night work | | <input type="checkbox"/> | <input type="checkbox"/> |
| 5. I get compensatory holiday when I have to work on a public holiday or weekly rest day | | <input type="checkbox"/> | <input type="checkbox"/> |
| 6. Whenever I work on a weekly rest day or public holiday, I get due compensation for it | | <input type="checkbox"/> | <input type="checkbox"/> |

03/13 Annual Leave & Holidays

| | | | |
|-----------------------------------------------------------------------------|--|----------------------------------------------------------|-----------------------------------------------------------|
| 7. How many weeks of paid annual leave are you entitled to?* | | <input type="checkbox"/> 1 <input type="checkbox"/> 2 | <input type="checkbox"/> 3 <input type="checkbox"/> 4+ |
| 8. I get paid during public (national and religious) holidays | | <input type="checkbox"/> | <input type="checkbox"/> |
| 9. I get a weekly rest period of at least one day (i.e. 24 hours) in a week | | <input type="checkbox"/> | <input type="checkbox"/> |

04/13 Employment Security





| | | | |
|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|--|--------------------------|--------------------------|
| 10. I was provided a written statement of particulars at the start of my employment | | <input type="checkbox"/> | <input type="checkbox"/> |
| 11. My employer does not hire workers on fixed terms contracts for tasks of permanent nature <i>Please tick "NO" if your employer hires contract workers for permanent tasks</i> | | <input type="checkbox"/> | <input type="checkbox"/> |
| 12. My probation period is only 06 months | | <input type="checkbox"/> | <input type="checkbox"/> |
| 13. My employer gives due notice before terminating my employment contract (or pays in lieu of notice) | | <input type="checkbox"/> | <input type="checkbox"/> |
| 14. My employer offers severance pay in case of termination of employment <i>Severance pay is provided under the law. It is dependent on wages of an employee and length of service</i> | | <input type="checkbox"/> | <input type="checkbox"/> |

05/13 Family Responsibilities





| | | | |
|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|--|--------------------------|--------------------------|
| 15. My employer provides paid paternity leave <i>This leave is for new fathers/partners and is given at the time of child birth</i> | | <input type="checkbox"/> | <input type="checkbox"/> |
| 16. My employer provides (paid or unpaid) parental leave <i>This leave is provided once maternity and paternity leaves have been exhausted. Can be taken by either parent or both the parents consecutively.</i> | | <input type="checkbox"/> | <input type="checkbox"/> |
| 17. My work schedule is flexible enough to combine work with family responsibilities <i>Through part-time work or other flex time options</i> | | <input type="checkbox"/> | <input type="checkbox"/> |

06/13 Maternity & Work





| | | | |
|-------------------------------------------------------------------------------------|--|--------------------------|--------------------------|
| 18. I get free ante and post natal medical care | | <input type="checkbox"/> | <input type="checkbox"/> |
| 19. During pregnancy, I am exempted from nightshifts (night work) or hazardous work | | <input type="checkbox"/> | <input type="checkbox"/> |
| 20. My maternity leave lasts at least 14 weeks | | <input type="checkbox"/> | <input type="checkbox"/> |

- | | | | | |
|-----|---------------------------------------------------------------------------------------------------------------------------------------------------------------------|-------------------------------------------------------------------------------------|--------------------------|--------------------------|
| 21. | During my maternity leave, I get at least 2/3rd of my former salary |  | <input type="checkbox"/> | <input type="checkbox"/> |
| 22. | I am protected from dismissal during the period of pregnancy <i>Workers can still be dismissed for reasons not related to pregnancy like conduct or capacity</i> |  | <input type="checkbox"/> | <input type="checkbox"/> |
| 23. | I have the right to get same/similar job when I return from maternity leave |  | <input type="checkbox"/> | <input type="checkbox"/> |
| 24. | My employer allows nursing breaks, during working hours, to feed my child |  | <input type="checkbox"/> | <input type="checkbox"/> |





07/13 Health & Safety

- | | | | | |
|-----|--------------------------------------------------------------------------------------------------------------------------------------------------------------------|-------------------------------------------------------------------------------------|--------------------------|--------------------------|
| 25. | My employer makes sure my workplace is safe and healthy |  | <input type="checkbox"/> | <input type="checkbox"/> |
| 26. | My employer provides protective equipment, including protective clothing, free of cost |  | <input type="checkbox"/> | <input type="checkbox"/> |
| 27. | My employer provides adequate health and safety training and ensures that workers know the health hazards and different emergency exits in the case of an accident |  | <input type="checkbox"/> | <input type="checkbox"/> |
| 28. | My workplace is visited by the labour inspector at least once a year to check compliance of labour laws at my workplace |  | <input type="checkbox"/> | <input type="checkbox"/> |









08/13 Sick Leave & Employment Injury Benefits

- | | | | | |
|-----|-------------------------------------------------------------------------------------------------------------|---------------------------------------------------------------------------------------|--------------------------|--------------------------|
| 29. | My employer provides paid sick leave and I get at least 45% of my wage during the first 6 months of illness |  | <input type="checkbox"/> | <input type="checkbox"/> |
| 30. | I have access to free medical care during my sickness and work injury |  | <input type="checkbox"/> | <input type="checkbox"/> |
| 31. | My employment is secure during the first 6 months of my illness |  | <input type="checkbox"/> | <input type="checkbox"/> |
| 32. | I get adequate compensation in the case of an occupational accident/work injury or occupational disease |  | <input type="checkbox"/> | <input type="checkbox"/> |













09/13 Social Security

- | | | | | |
|-----|-----------------------------------------------------------------------------------------------------------------------|---------------------------------------------------------------------------------------|--------------------------|--------------------------|
| 33. | I am entitled to a pension when I turn 60 |  | <input type="checkbox"/> | <input type="checkbox"/> |
| 34. | When I, as a worker, die, my next of kin/survivors get some benefit |  | <input type="checkbox"/> | <input type="checkbox"/> |
| 35. | I get unemployment benefit in case I lose my job |  | <input type="checkbox"/> | <input type="checkbox"/> |
| 36. | I have access to invalidity benefit in case I am unable to earn due to a nonoccupational sickness, injury or accident |  | <input type="checkbox"/> | <input type="checkbox"/> |



10/13 Fair Treatment

- | | | | | |
|-----|-------------------------------------------------------------------------------------------------------------------------------------------|---------------------------------------------------------------------------------------|--------------------------|--------------------------|
| 37. | My employer ensure equal pay for equal/similar work (work of equal value) without any discrimination |  | <input type="checkbox"/> | <input type="checkbox"/> |
| 38. | My employer take strict action against sexual harassment at workplace |  | <input type="checkbox"/> | <input type="checkbox"/> |
| 39. | I am treated equally in employment opportunities (appointment, promotion, training and transfer) without discrimination on the basis of:* |  | <input type="checkbox"/> | <input type="checkbox"/> |
| | Sex/Gender |  | <input type="checkbox"/> | <input type="checkbox"/> |
| | Race |  | <input type="checkbox"/> | <input type="checkbox"/> |
| | Colour |  | <input type="checkbox"/> | <input type="checkbox"/> |
| | Religion |  | <input type="checkbox"/> | <input type="checkbox"/> |
| | Political Opinion |  | <input type="checkbox"/> | <input type="checkbox"/> |




* For a composite positive score on question 39, you must have answered "yes" to at least 9 of the choices.

| | | | | |
|----|----------------------------------------------------------------------------------------------------|-------------------------------------------------------------------------------------|--------------------------|--------------------------|
| | Nationality/Place of Birth |  | <input type="checkbox"/> | <input type="checkbox"/> |
| | Social Origin/Caste |  | <input type="checkbox"/> | <input type="checkbox"/> |
| | Family responsibilities/family status |  | <input type="checkbox"/> | <input type="checkbox"/> |
| | Age |  | <input type="checkbox"/> | <input type="checkbox"/> |
| | Disability/HIV-AIDS |  | <input type="checkbox"/> | <input type="checkbox"/> |
| | Trade union membership and related activities |  | <input type="checkbox"/> | <input type="checkbox"/> |
| | Language |  | <input type="checkbox"/> | <input type="checkbox"/> |
| | Sexual Orientation (homosexual, bisexual or heterosexual orientation) |  | <input type="checkbox"/> | <input type="checkbox"/> |
| | Marital Status |  | <input type="checkbox"/> | <input type="checkbox"/> |
| | Physical Appearance |  | <input type="checkbox"/> | <input type="checkbox"/> |
| | Pregnancy/Maternity |  | <input type="checkbox"/> | <input type="checkbox"/> |
| 40 | I, as a woman, can work in the same industries as men and have the freedom to choose my profession |  | <input type="checkbox"/> | <input type="checkbox"/> |





11/13 Minors & Youth

| | | | | |
|-----|---------------------------------------------------------------------|---------------------------------------------------------------------------------------|--------------------------|--------------------------|
| 41. | In my workplace, children under 15 are forbidden |  | <input type="checkbox"/> | <input type="checkbox"/> |
| 42. | In my workplace, children under 18 are forbidden for hazardous work |  | <input type="checkbox"/> | <input type="checkbox"/> |

12/13 Forced Labour

| | | | | |
|-----|--------------------------------------------------------------------------------|---------------------------------------------------------------------------------------|--------------------------|--------------------------|
| 43. | I have the right to terminate employment at will or after serving a notice |  | <input type="checkbox"/> | <input type="checkbox"/> |
| 44. | My employer keeps my workplace free of forced or bonded labour |  | <input type="checkbox"/> | <input type="checkbox"/> |
| 45. | My total hours of work, inclusive of overtime, do not exceed 56 hours per week |  | <input type="checkbox"/> | <input type="checkbox"/> |

13/13 Trade Union Rights

| | | | | |
|-----|-------------------------------------------------------------------------------------------------------------------------|---------------------------------------------------------------------------------------|--------------------------|--------------------------|
| 46. | I have a labour union at my workplace |  | <input type="checkbox"/> | <input type="checkbox"/> |
| 47. | I have the right to join a union at my workplace |  | <input type="checkbox"/> | <input type="checkbox"/> |
| 48. | My employer allows collective bargaining at my workplace |  | <input type="checkbox"/> | <input type="checkbox"/> |
| 49. | I can defend, with my colleagues, our social and economic interests through "strike" without any fear of discrimination |  | <input type="checkbox"/> | <input type="checkbox"/> |

Results

Your personal score tells how much your employer lives up to national legal standards regarding work. To calculate your DecentWorkCheck, you must accumulate 1 point for each YES answer marked. Then compare it with the values in Table below:



is your amount of "YES" accumulated.

Kuwait scored 40 times "YES" on 49 questions related to International Labour Standards

If your score is between 1 - 18

This score is unbelievable! Does your employer know we live in the 21st century? Ask for your rights. If there is a union active in your company or branch of industry, join it and appeal for help.

If your score is between 19 - 38

As you can see, there is ample room for improvement. But please don't tackle all these issues at once. Start where it hurts most. In the meantime, notify your union or WageIndicator about your situation, so they may help to improve it. When sending an email to us, please be specific about your complaint and if possible name your employer as well. Also, try and find out if your company officially adheres to a code known as Corporate Social Responsibility. If they do, they should live up to at least ILO standards. If they don't adhere to such a code yet, they should. Many companies do by now. You may bring this up.

If your score is between 39 - 49

You're pretty much out of the danger zone. Your employer adheres to most of the existing labour laws and regulations. But there is always room for improvement. So next time you talk to management about your work conditions, prepare well and consult this DecentWorkCheck as a checklist.