KUWAIT ISSUES NEW ARBITRATION LAW

Date: 9 November 2026

International Arbitration Alert

By: Mitchell Hutchinson, Jennifer Paterson, Mohammad Rwashdeh

INTRODUCTION

Kuwait has enacted Decree-Law No. 120 of 2026 (New Law), replacing its fragmented arbitration framework and adopting various established international arbitration practices. From 18 November 2026, the New Law will apply to Kuwait-seated arbitrations and foreign arbitrations where the parties agree to its application. It will not apply to arbitrations pending on that date.

KEY REFORMS AND FEATURES OF THE NEW LAW

Party Autonomy and Institutional Arbitration

The New Law recognises both ad hoc and institutional arbitration (Article 1) and deems adoption of an arbitral institution's rules to authorise that institution to administer the proceedings (Article 11). Parties are free to agree on the procedures governing the arbitration; absent agreement, the tribunal may determine them (Article 23).

Appointment of Arbitrators

Parties may agree on the procedure for the appointment of the tribunal. Absent agreement or applicable institutional rules, Article 15 provides a default procedure. If a required appointment is not made, the President of the competent court (ordinarily, the Kuwait Court of First Instance) must appoint the arbitrator(s) within 15 days of a party's request. Appointment orders cannot be appealed.

Emergency Arbitration and Interim Measures

Parties may agree to appoint an emergency arbitrator to decide requests for interim and precautionary measures before the tribunal is constituted (Article 41). Unless otherwise agreed, the emergency arbitrator must issue its decision within 15 days of appointment, extended for up to 10 additional days by issuing a reasoned decision for that extension (Article 44). Tribunals have express statutory power to grant interim relief (Articles 50 to 52). Before the tribunal or emergency arbitrator is appointed, the competent court may order interim or precautionary measures at a party's request (Article 51).

Procedural Deadlines

Unless the tribunal and parties agree otherwise, the tribunal must notify the parties of the first hearing's date and place within 30 days of its constitution and hold that hearing within 60 days (Article 31). Unless the parties agree otherwise, the final award must be rendered within 12 months of the tribunal's constitution, extendable by the tribunal for six months and thereafter by party agreement (Article 59). If the final award is not rendered within the

©2005-2026 K&L Gates LLP. All Rights Reserved.

time limit, any party may ask the competent court to extend the period or terminate the proceedings. Awards rendered after the applicable period are null and void unless the parties agree otherwise.

Separability and Kompetenz-Kompetenz

The New Law expressly recognises the separability doctrine (that an arbitration agreement contained within a contract is treated as a distinct, independent agreement separate from the main contract) (Article 8) and *kompetenz-kompetenz* (the principle that an arbitral tribunal has the power to rule on its own jurisdiction) (Article 49).

Enforcement

Within 15 days of rendering the award, the tribunal (or a person designated by it) must deposit the original or a signed copy of the award, the arbitration agreement and case file with the competent court (Article 67). The court may order enforcement only after verifying that the award does not conflict with an earlier judgment or award, complies with Kuwaiti public order, and has been duly notified to the award debtor. Whilst Kuwait is a party to the 1958 Convention on the Recognition and Enforcement of Foreign Arbitral Awards (New York Convention), the requirements that the award not conflict with an earlier judgment or award and that the award have been duly notified to the debtor are additional to the grounds for refusing recognition and enforcement under Article V of the New York Convention. The time limit for seeking annulment of the award must also have expired without an annulment application being made (Article 70).

Finality and Annulment

Annulment is now the exclusive means of challenging awards, and parties can no longer agree to appeals against awards before the Kuwait Court of First Instance (Article 72). An application for annulment must be filed with the Kuwait Court of Appeal within 30 days of the award being notified to the debtor (Article 75). The grounds for annulment are expressly limited and include the tribunal's application of a legal rule other than that expressly chosen by the parties, post-award findings of fraud or forged documents underlying the award, and the discovery of decisive documents whose submission the opposing party had prevented (Article 73). Article 79 provides that, subject to Article 78, the Court of Appeal shall determine the merits of the dispute underlying the annulled part of the award. Article 78 preserves the arbitration agreement unless the award is set aside on grounds relating to the agreement's invalidity. How the Court of Appeal's obligation to determine the merits interacts with the continued operation of the arbitration agreement remains unclear and will require judicial clarification.

Confidentiality and Penalties

Proceedings are confidential. Disclosing submissions or awards requires party consent unless permitted by law, though arbitral institutions may publish anonymised extracts for academic and research purposes (Articles 40 and 62). The publication of all or part of an award without consent or the unauthorised disclosure of information obtained as an arbitrator, expert, secretary or arbitral institution employee is punishable by up to six months' imprisonment and a fine of up to KWD10,000 (Article 103).

ANALYSIS

The New Law's unified framework is a welcome development. Several of its reforms bring Kuwait's arbitration framework closer to established international arbitral practice. Parties should nevertheless pay particular attention

©2005-2026 K&L Gates LLP. All Rights Reserved.

to the statutory time limits, grounds for annulment and the potential that the Court of Appeal will determine the merits of the dispute following annulment of an award. How the Kuwaiti courts apply these provisions in practice will be central to the framework's effectiveness and Kuwait's attractiveness as an arbitral seat.

ABOUT THE FIRM

Our Litigation and Dispute Resolution practice has a long history of acting as counsel on high-stakes international arbitration and litigation mandates. Our lawyers in Dubai and Doha have extensive experience advising on litigation and arbitration with respect to complex, high-value disputes in the UAE, Qatar and wider Middle East region.

KEY CONTACTS



MITCHELL HUTCHINSON
ASSOCIATE

DUBAI
+971.4.427.2720
MITCHELL.HUTCHINSON@KLGATES.COM



JENNIFER PATERSON
PARTNER

DUBAI
+971.4.427.2728
JENNIFER.PATERSON@KLGATES.COM



MOHAMMAD RWASHDEH
SPECIAL COUNSEL

DUBAI
+971.4.427.2742
MOHAMMAD.RWASHDEH@KLGATES.COM

This publication/newsletter is for informational purposes and does not contain or convey legal advice. The information herein should not be used or relied upon in regard to any particular facts or circumstances without first consulting a lawyer. Any views expressed herein are those of the author(s) and not necessarily those of the law firm's clients.

©2005-2026 K&L Gates LLP. All Rights Reserved.