

**Law No. 80 year 1995**  
**Concerning amendment of some of the provisions of Law No.**  
**(41) year 1993 A.D.; regarding State purchase of some debts and**  
**collection procedures**

Following perusal of the constitution and the law no. 41 year 1993 in the subject of state purchase of some debts and collection procedures of the same, amended by the law no. (102) year 1994.

The National Assembly has approved the following law, and we hereby ratified and issued it.

**First Article**

Clause no. (1) of the Article no. (1), Clause no. (1) of the Article no. (2), Article No. (7) and 2<sup>nd</sup> paragraph of Article no. (9) and clauses nos. (13), (25) and (34) are to be replaced by the following texts:

**Clause No. (1) of Article No. (1):**

Cash credit facilities balances purchased for the State's account from the local banks and the investment companies subject to the Central Bank of Kuwait's control and Kuwait Finance House by the virtue of provisions of each of decree of Bylaw No. 32/1932 and Law No. 41/1993, as well as non-cash facilities, balances standing as of 1<sup>st</sup> of August 1990 from the Kuwaiti customers since it became cash facilities taking into that the banking operations covered by other corresponding processes, such a consideration purchase process will be confined to the uncovered part of such operations.

Regarding letters of credit at sight settlement of which are deferred should not include any terms allows receiving the goods subject to the said L/C's out of Kuwait borders.

The purchased debts should not include any credit facilities given with the purpose of financing market operations or foreign securities.

**Clause No. (1) of the Article No. (2):**

Natural persons who are from within Gulf Cooperation Council (GCC) citizens and within the limits of the appropriate amount of it, as of 1<sup>st</sup> of August 1990 in addition to its interests until 31.12.1991. The cash settlements that those customers paid after 1<sup>st</sup> of August 1990 until 6.9.1993 will be considered as if such settlements are instant cash settlements in accordance with the percentages and categories enumerated in the schedule attached with Law No. 41 year 1993 taking into consideration refund of such settlements in excess.

**Article No. 7**

In exception from the clearance provisions provided in the civil laws, compensations that are due to the customer or any of his minor children against damages affected his funds resulting from the Iraqi invasion to the State of Kuwait. Also, the appraisal sums arising

from possessing one or more of the real estates belonging to the customer or any of his minor children even though such a possessing

incident occurred prior to the date such a law has been in effect are used, in the settlement of the customer's debt with adherence by the following:

1 – The appraisal or compensation sums that are collected during the instant cash settlement period regarding those customers selected the method of cash settlement will be considered as instant cash settlements for the debt in accordance with percentages and categories enumerated in the schedule attached with Law No. 41 year 1993.

2 – The appraisal and compensation sums that are collected during the instant cash settlement period regarding customers who selected to schedule their debts considered as instant settlement and will be subject to annual deduction rate of 8%. Moneys that will be due to the minors by means of heir, deed or gift from some person who are not subjected to the provisions of this law, will be excluded from the provisions of this article.

### **The second paragraph of Article No. 9.**

Customer whose debt subject to a final judicial provision issued before 6.9.1993 is entitled to demand to get use from the application

of the provisions of this Law during the period stated by the 8<sup>th</sup> article repeated (A) of it, provided that the debt is purchased in accordance with the context of the provision issued in this concern.

**Article (13):** Debt will be due and the customer will be committed and liable to settle it in addition to its consequences as well as the sums dropped from it until the due date, in the following cases:

1 – If the customer didn't express his desire to select a method to settle his debt within the period included by the 8<sup>th</sup> article repeated (A) of this law.

2 – If the customer breached any of the liabilities or commitment imposed upon him by virtue of law no. 41 year 1993, its amendments and its executive bylaws.

3 – If the customer delayed in settlement of installments due upon him more than twice regarding to the instant cash settlement method, or more than three times regarding to the scheduled installments method.

Customer who delays in settlement of any payment or annual installment dues either he expressed his desire to select the method of instant cash settlement or otherwise scheduling, has to file within fifteen days from the payment or installment due date, a letter to the

managing bank explaining in detail justifications and reasons of his delay in settlement provided that the delay period is not exceeding than four months calculated from the original date of the installment or payment due date in addition to delay penalty amounting to annual percentage of 15%, and if the customer deferred in the settlement of the payment or installment by the end of such a period

the settlement of the debt and its consequences in addition to the sums dropped from it will be considered as due.

**Article No. (25)**

Notwithstanding with any more severe punishment expressly stated by law, every employee of the managing bank or any entity has a concern in executing the provisions of this law shall be jailed for a period not exceeding one year and shall be subjected to a penalty not exceeding KD 5,000/- or one of these two punishments if he violated or breached purposefully one of the duties and responsibilities imposed upon him by virtue of this law resulting in loss of any of the state's rights or opportunities of obtaining the adequate securities to cover the same.

**Article No. (34)**

It is not entitled to release the appraisal sums in cases of possession or release the compensations against damages resulted from the Iraqi invasion prior to filing a certificate issued by Central Bank of Kuwait including that the applicant is not a debtor either directly or indirectly of any of the purchased debts.

## **2<sup>nd</sup> Article**

The following texts should be added to the aforementioned Law No. 41 year 1993:

### **Article No. (4) bis**

Customers of the difficult credit facilities settlement program issued in August 1986 who are subjected to instructions issued revolving around basics and criteria of an instant settlement of the "dewan"<sup>1</sup> which are not exceeding KD 250,000 and had their authenticated settlement contracts prior to 2.8.1990, are entitled to express their desire to the managing bank within a period not exceeding than 3 months from the date of this law has been in effect to continue settlement of their debts in accordance with the terms and provisions included by such contract agreements.

### **Article No. (5) Clause No. 1 bis**

Cash settlement of the debt will be effected through five annual equal installments the 1<sup>st</sup> installment of them is to be settled within a period of 3 months maximum from the date 6.9.1995, and the rest of the installments will be settled on an annual basis within the following four years in accordance with percentages and categories enumerated in the schedule attached with Law No. 41 year 1993. In

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<sup>1</sup> Rectified later by the word "debts".

addition to every installment sum, with exception of the 1<sup>st</sup> installment, a debt service sum calculated on the reducing balance of the cash settlement amount from the debt percentage of which is to be fixed by the Central Bank of Kuwait on the basis of the average of the interest paid on the debt bonds in the same year in addition to a percentage against the debt services to be fixed by Central Bank of Kuwait, will be required to be paid by the debtor, as well.

#### **Article (6) repeated**

Exceptionally from the provision of Article No. 5 of this law, both direct and indirect debts that are subject to provisions of Law No. 41 year 1993 and its amendments concerning the martyrs whose names are enumerated by the Martyrs Bureau and POW's whose names are registered by the National Committee of POW's and missing people, are to be dropped.

#### **Article No. (8) repeated (A)**

With consideration of Article 13 of this law, it is stipulated regarding the customer who desires to settle his debt in accordance with the 5<sup>th</sup> article of this law even though he did not authenticate a declaration in accordance with provisions of Law No. 41 year 1993 that he authenticates personally before the Notary Public in Kuwait prior a date not exceeding 3 months from the date this law has been in effect, an official declaration according to the form attached with the

law to express his desire to select the method of settlement or changing the method he has chosen and authenticated before. It is entitled in cases of ultimate necessity the required declaration is to be authenticated by means of an official special power of attorney in accordance with basics and terms stated by the Justice minister's resolution issued for the application of the provisions of Article 8 repeated of the Law 102 year 1994 where method of settlement described in the declarations that the customers authenticated and they did not desire amending such method during the limited period will be considered, then dates mentioned in such declarations will be extended as per the provisions of this law.

### **Article (3)**

Ministers – each in his concern – shall implement this law with effect from the date of its publication in the Official Gazette.

**AMIR OF KUWAIT**

**Jaber Al Ahmad Al Sabah**

**Issued in Bayan Palace on 24 Rabie the first year 1416 A.H.,  
corresponding to 21 August 1995 AD**



## **Explanatory Note of the law amending some provisions of Law No.41 year 1993 concerning purchasing some of debts by the State, and how to be collected**

The project included amending the text of Clause 1 of the 1<sup>st</sup> Article of Law No. 41 year 1993 where by virtue of such an amendment the purchased debts defined as balances of cash credit securities purchased to the account of the State from local banks as well as investment companies subjected to Central Bank of Kuwait's control and from Kuwait Finance House by virtue of provisions of each of Decree Bylaw No. 32 year 1992 and Law No. 41 year 1993 in addition to non-cash facilities balances as of 1.8.1990 against Kuwaiti customers since it have been transferred to cash facilities, with considering the fact that regarding to the banking operations covered by other opposite operations, the purchasing operation will be confined to the uncovered part of such operations, whilst the purchased debts should include such a limitation wherever mentioned in the Law No. (41) year 1993 and its amendments.

The rationale behind the aforementioned lays in the existence of the corresponding asset that is used in settlement of the baking operations whereas, saying anything on the contrary will result in

bearing additional financial burdens on the State's shoulder without any justification, in addition, and for such a reason, the cash facilities that had been given with the purpose of financing the cash market and foreign securities operations have been excluded from the concept of the Difficult Debts that are allowed to be purchased pursuant to the provision of the 1<sup>st</sup> clause of this article. Regarding letters of credit of which payment are deferred, it is stipulated to purchase such debt balances arising from the same that the terms of opening said letters of credit should not include any provision allowing receipt of the related goods out of Kuwait's borders.

Amendment of the Clause 1 of the 2<sup>nd</sup> Article of the mentioned law is targeting to deal with natural persons from within Gulf Cooperation Council (GCC) citizens by virtue of the same basics the Kuwaiti customers are being treated with relevant to the cash settlements that those Gulf Cooperation Council (GCC) citizens already paid during the period from 1.8.1990 until 6.9.1993 and considering such cash settlements as if they are instant cash settlements pursuant to the percentages and categories detailed in the schedule attached to Law No. 41 year 1993 taking into consideration refunding sums settled in excess.

According to Article No. 4 bis, it is entitled to customers of the difficult credit facilities settlement program whom where subject to the instructions issued concerning basics and criteria of instant settlements of debts not exceeding KD 250,000 and having their authenticated contract agreements in this concern, to continue in settlement of their debts pursuant to terms and provisions described in such contract agreements, if they expressed their desire in such settlement during the period not exceeding 3 months from the date this amendment has been in effect. This requires that the Central Bank of Kuwait takes the needful action to implement the provision of this article.

Clause No. 1 bis has been added to the 5<sup>th</sup> article in order to facilitate to the debtor who selected the method of instant cash settlement and couldn't pay until 6.9.1994 to be entitled to settle his debt through five, annual equal installments. The due date of first of them falls within a period ends by 6.12.1995 maximum while the rest of the installments on an annual basis through the four years following to 6.9.1995 i.e. the 5<sup>th</sup> installment due on 6.9.1999. The added clause keeps to shoulder the debtor with the burden of such a facilitation in lieu of the public treasures.

Article 6 repeated included a provision stating the dropping of direct and indirect debts such as guarantees, etc. that are subject to provisions of Law No. 41 year 1993 and its amendments concerning martyrs registered at Martyrs bureau and P.O.W.'s whose names are also registered at the National Committee of POWs and Missing People in consideration and appreciation from the State to those martyrs and POWs for their sacrifice for the sake of their homeland.

Article 7 in its amended form shows the style of processing and calculation sums of evaluation, appraisal or compensations that are being collected from the customer during the period of the instant cash settlement period, or the scheduling period, provided that funds that are given to minors by means of heir, deed or gift from a person who are not subjected to the provisions of Law No. 41 / 1993 are to be excluded from the provision of this article.

Article 8 repeated (A) allowed to the debtor even though he has not authenticated any declaration pursuant to provisions of Law No. 41 / 1993 to authenticate an official declaration including his desire to select the settlement method as well as changing the settlement method that he previously authenticated, and if the customer has

previously selected the method of the instant cash settlement and the desire to get use from the facilitations that have been occurred by this law relevant to such a method of settlement, he will not be required to authenticate a new declaration, and the previous declaration that he previously authenticated shall be still in effect together with all of its legal consequences and aftermaths.

The second paragraph of Article 9 has been amended as to allow to the customer whose debt has been subjected to a final judicial verdict to demand to get use from application of the provisions of Law No. 31 / 1993 as long as such a judgment has been issued prior to 6.9.1993 and in this case purchasing the debt shall be effected pursuant to the ruling issued in that concern.

Article 13 has been amended as to clearly define cases on which the debt becomes due and the customer is obligated to settle the same in addition to its consequences, and article in its amended form considered in this course that the customer delay in settlement of installments due more than twice relevant to the instant cash settlement, or more than three times relevant to the scheduling. Also

it stated that it is not allowed that the settlement delay period exceeds than 4 months during which a delay penalty is to be imposed based on an annual rate of 15% for the delay period i.e. the customer who will delay settlement of payment or installments due date of which has been occurred will be obligated to pay a delay penalty amounted to 15%, and the delay period itself in this case should not exceed than 4 months at the end of which the debt and its consequences and sums dropped from it are all together to be finally due in full.

Article No. 25 has been amended as to ensure the responsibility and the accountability of any of the employees who may purposely violate duties and responsibilities imposed upon him by virtue of this law resulting the State loss of any of its rights or opportunities of obtaining the adequate corresponding securities against same.

Article No. 34 excluded releasing the evaluation sums in cases of possession appraisal nor compensations against damages resulting from the Iraqi invasion prior to A certificate issued by Central Bank of Kuwait including that the debtor is not indebted either directly or indirectly relevant to any of the purchased debt.

## **NOTICE**

### **Re. Decree Law 133/1992 on Expropriation of Certain Properties**

In its session of Wednesday 16.8.1995, the National Assembly has refrained from ratifying Decree Law No. 133/1992 on Expropriation of Certain Properties.

#### **(Corrigendum)**

A typo error has been occurred in the Law No. 80/1990 concerning amendment of some of the provisions of Law No. 41/1993 regarding State purchase of some debts and collection procedures published in the Official Gazette Al-Kuwait Al-Yawm, Supplement No. 221, issued on 27.8.1995 where it is mentioned in the second article under the title of "Article No. 4 repeated" the third line, the word "al dewan" that should be rectified to be "of debts".