



THE CONTRIBUTION OF REAL ESTATE REGISTRATION LEGISLATION IN THE SULTANATE OF OMAN TO THE ESTABLISHMENT OF A FOREIGN INVESTMENT FRAMEWORK

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Abstract:

Countries are measured by the strength of their laws and the diversity of their regulatory frameworks, which serve society while keeping pace with global legal developments. This adaptability attracts foreign investors whose projects can contribute to the economic growth and development of the host country.

It is clear that most investments, whether industrial, agricultural or developmental, require a secure property portfolio. The legal security of property is primarily derived from the registration system, in particular the comprehensive land registration system, which is based on detailed surveys of state land. This system assigns unique identifiers to each property, providing comprehensive information on its description, physical attributes, area, boundaries and location. The legal registration process, administered by the Real Estate Registration Authority, publishes properties in a special registry, creating a specialised database that assists in real estate management, matching investments to property characteristics, and attracting foreign investment seeking a secure environment.

The property registration system, which is based on global standards, has been widely adopted by countries that previously did not have a registration system or used a personal registration system that did not provide legal certainty. The latter system relies on property owners and does not adequately account for the properties themselves, leading to confusion over ownership and fraudulent transactions. Such instability may deter foreign investors.

This study examines the relationship between property registration legislation and foreign investment promotion requirements, and assesses the adequacy of this legislation in promoting foreign investment for development purposes.

Research question: To what extent is the real estate registration legislation in the Sultanate of Oman sufficient to attract foreign investment and achieve development?

To answer this question, the study is divided into two main sections:

- 1. The need for legal certainty in real estate for foreign investment.*
- 2. Providing investors with enhanced protection in dispute resolution.*

Ultimately, the study aims to provide an analytical review of Oman's Real Estate Registration Law in relation to the requirements of foreign investment.

Keywords: Judge, Arbitration, Recognition, Enforcement, Investment, Real Estate Register, Labor Legislation.

INTRODUCTION

Land, and in particular real estate, has historically occupied a prominent position among valuable resources. Human interest in land began when it served as a grazing ground for livestock and a source of crops and fruits, and evolved into a vital source of raw materials and national wealth, as well as a benchmark for guarantees from banks and financial institutions. Recognising this reality, various legislations have established systems to protect property ownership, whether state or private. One of the most important systems is land



registration legislation¹, which accurately records property ownership, identifies title and publicly declares these rights to inform others of their legal status.

Each country has sought, through political will and legislative effort, to enact laws to regulate land within its territory. In Oman, the legislature has been proactive in enacting such regulations, issuing a Royal Decree in 1980 that introduced the Land Law and the Real Estate Registration Law², which mandated the registration of properties to ensure comprehensive land cleansing. This was followed by an executive order detailing the procedures involved, along with various amendments to increase procedural flexibility and keep pace with developments in Oman and globalisation.

The enactment of real estate development legislation has not only been about organising ownership according to urban planning or agricultural distribution, but has also become a means of facilitating and attracting foreign investment. Real estate serves as the foundation for any investment project; agricultural investment requires agricultural land, industrial investment requires real estate for industrial cities, and urban development projects require land in urban areas or areas suitable for development. Furthermore, investment is no longer limited to national investors; countries pursuing economic development and sustainable growth have adopted legal policies that are reflected in the enactment of regulatory laws.

The Omani legislature has followed global trends in attracting foreign investment and has issued various legislative texts that generally support the promotion of foreign investment while adapting laws to the rapidly changing economic landscape, ultimately aiming to achieve the desired development, particularly in line with the Oman Vision 2030.

Importance of the topic

The importance of our study on the role of real estate registration legislation in laying the foundations for foreign investment lies in the fact that real estate registration is the cornerstone for foreign investors to understand the distribution of real estate in the country. This includes land earmarked for agriculture, industry, tourism or urban development. Investors rely on registered documents to enable them to lease properties for appropriate periods in line with their investment plans, to use state land for extended periods, or to acquire ownership in countries that allow such arrangements for foreigners.

Section One: The Need for Foreign Investment to Provide Legal Certainty in Real Estate

First: Conditions and Incentives Granted to Foreign Investors under the Omani Foreign Investment Law

The Omani legislator issued the Foreign Capital Investment Law under Royal Decree No. 50/2019³, with its implementing regulation issued by Ministerial Decision No. 82/2020⁴. The Decree defines a foreign investor in Article 1, paragraph 8, as any natural or legal person who is not Omani and establishes an investment project in the Sultanate. It also defines foreign capital as all types of assets, regardless of their nature, that are included in the investment project and that have a material value, whether they are cash, tangible or intangible assets.

Conditions for Foreign Investment under the Foreign Capital Investment Law

A. Conditions for carrying out activities

1. General conditions:

- Foreign investors, whether natural or legal persons, shall conduct any investment activity in the Sultanate in accordance with the provisions of the Foreign Capital Investment Law⁵.

¹- Wais Fathi, *The Real Estate Law in Algerian Law and Comparative Laws*, 2nd edition, Dar Houma for Printing, Publishing, and Distribution, Algeria, 2015, p. 08.

²- Royal Decree No. 05/80, issuing the Land Law of 1980, dated 04/02/1980.

³- Royal Decree No. 50/2019, issuing the Foreign Capital Investment Law.

⁴- The executive regulation pursuant to Ministerial Decision No. 82/2020, issuing the executive regulation of the Foreign Capital Investment Law.

⁵- Article 03 of Royal Decree No. 50/2019.



- The investment project must be committed to protecting the environment, adhering to ethical business practices and maintaining public health and safety in accordance with the laws and regulations in force in the Sultanate⁶.

- Foreign investors are prohibited from establishing an investment project without obtaining the necessary investment licence, as stipulated in Article 6 of the Executive Decree.

2. Conditions for the submission of applications by investors:

- Examination of applications for licences: According to Article 7 of the Regulation, a foreign investor or his representative may appoint a licensed bank or an office approved by the Ministry to examine the application for an investment licence and the applications for the necessary permits or authorisations for the establishment of the investment project. This examination determines whether all legal conditions and requirements for the issuance of the licences have been met. The office issues a certificate, which is valid for six months from the date of issue and is accepted by the Centre. The Centre has the right to object to the contents of the certificate within ten days of its submission, and the objection must be substantiated.

- These offices may also submit the aforementioned applications to the Centre on behalf of the investor and monitor their completion.

The need to include the legally required data in the application

Article 8 of the Regulation sets out the information that must be included in the application, namely:

1. The name of the foreign investor, his nationality, place of residence and bank details (name of the bank and account number), as well as the type of activity he intends to carry out.
2. The foreign investor's previous experience, if any.
3. The expected number of employees to be hired for the investment project.
4. The timetable for the implementation of the investment project, including the date of commencement of operations.
5. The economic feasibility study of the investment project.
6. A certificate of approval issued by one of the bodies referred to in Article 7 of this Regulation, if available.
7. Any other information or documents specified by the competent authority.

A single permit for the establishment, operation and management of the investment project, as specified in Article 10 of the Law, shall be granted for projects with a minimum cost of ten million Omani rials (10,000,000 OMR)⁷. The foreign investor must submit the application for this single permit to the competent authority using the form provided. The competent authority will examine the application to ensure compliance with the conditions set out in Article 13 of the Regulation. The Minister or the Chairman of the Board of Directors, as the case may be, will submit the application for a single permit to the Council of Ministers for a decision⁸.

4. Foreign Investment Incentives in the Sultanate of Oman

A. Provision of Land for Foreign Investment

Article 19 of the aforementioned law stipulates that land and real estate necessary for the investment project may be allocated through long-term leases or by granting usufruct rights, without being bound by the provisions of the Royal Decree regulating usufruct rights on land in the Sultanate and the Land Law. This shall be done in accordance with the rules and regulations laid down in the decree, in coordination with the

⁶- Article 08 of Royal Decree No. 50/2019.

⁷- Approval is granted subject to the fulfillment of one of the following conditions: the investment project contributes to the transfer of modern knowledge and technology; it employs Fourth Industrial Revolution technologies; it commits to allocating at least 10% of project-related works to small and medium enterprises; or it ensures that Omani products necessary for the investment project (if any) account for no less than 10%.

⁸- Article 14 of the regulation.

competent authorities. In addition, the authorities will coordinate the provision of public services such as water, electricity, gas, sewage, public roads, communications and others to the project boundaries.

Article 24 also stipulates that the expropriation of the investment project can only be for public benefit, in accordance with the Law on Expropriation for Public Benefit, with fair compensation determined at the time of expropriation. Compensation must be paid promptly, and contracts of usufruct or lease for allocated land and property may not be terminated except under circumstances prescribed by law or by court order.

B. Privileges granted to foreign investors

Investors may benefit from a number of exemptions: Pursuant to Article 17 of the Regulation and by decision of the Council of Ministers⁹, the investment project established in the less developed areas of the Sultanate may enjoy the following benefits:

1. Exemption from rental value or usufruct fees for the land and property required for the investment project for a period not exceeding five (5) years from the effective start of operations.
2. Exemption from the specified Omanisation percentages for a period of two (2) years from the effective date of commencement of operations.
3. Exemption from some or all fees.
4. Such other benefits as may be determined by the Council of Ministers¹⁰.

Exemptions for investment projects According to Article 19 of the Regulation, the following investment projects may be exempted from taxes, customs duties and non-customs fees from the effective date of the commencement of the project:

1. Integrated tourism projects.
2. Information and communication technology projects.
3. Industrial projects with a cost exceeding ten million Omani rials (OMR 10,000,000).

Transfer of ownership or change of legal form:

Article 27 of the same decree outlines the conditions for transferring the ownership of an investment project, in whole or in part, to another foreign or Omani investor, or to a partner in the case of a partnership, merger or acquisition, or change of legal form. In such cases, the investment project will continue to be treated in accordance with the Foreign Investment Law, provided that the new investor continues to operate the project and assumes the rights and obligations of the previous investor.

Streamlining procedures:

The Centre is responsible for registering foreign investors and facilitating and simplifying the procedures for obtaining all necessary authorisations, permits and licences for their investment projects, as provided for in Article 5 of the same Decree.

Second: Attracting foreign investors by providing a property portfolio with legal protection

1. Attracting investors by allocating land and property for investment projects

A. Establishment of a special register for investment properties:

Pursuant to Article 25 of the Regulation, the Authority will maintain a register that will include:

⁹- To grant the investment project any of the advantages specified in Article 17 of the regulation, it must be operational and financed with foreign currency transferred from abroad according to the rules set by the Central Bank of Oman in coordination with the relevant authority. Additionally, at least 40% of the project's products (if any) must be Omani, and the project must export no less than 30% of its output outside the Sultanate, contributing to the transfer of modern technology and knowledge.

¹⁰- It should be noted that the foreign investor must submit a request for the specified advantages to the relevant authority using the prepared form.



- Land and property allocated for investment projects, either through long-term lease or granting of usufruct rights, including their area, location, and fixed rental value or usufruct fee, in coordination with relevant ministries and authorities.
- Updating the information in the register at least once every three years or as required.

B. Lease of real estate to foreign investors for a sufficient period of time:

Land and real estate necessary for the investment project shall be allocated through long-term lease or granting of usufruct rights in accordance with the provisions and procedures set forth in this Regulation, taking into account the size, nature and investment cost of the project¹¹.

The competent authority responsible for leasing or granting usufruct rights, as defined in Article 27 of the Regulation, will examine the allocation requests and make a decision within a maximum of twenty (20) working days from the date of submission. Failure to make a decision within this timeframe will be considered a rejection of the application. In all cases of refusal, reasons must be given for the decision.

The duration of the lease or usufruct of the land or real estate granted for the investment project is set at fifty (50) years, renewable with the approval of the competent authority and under mutually agreed conditions, provided that the foreign investor continues its activities. In all cases, the competent authority may increase the lease or usufruct fee upon renewal.

However, the foreign investor is prohibited from using the land or real estate allocated for the investment project for purposes other than those specified in the allocation. They may change the purpose specified in the lease or usufruct contracts if the nature and location of the land or property allow such a change, provided that they obtain the approval of both the competent authority and the entity responsible for the lease or usufruct, in accordance with Article 32 of the Regulation.

2. Attracting investors through land regulations and the property registry

The Omani legislature has addressed real estate through the Land Law and the Real Estate Registry, established under Royal Decree No. 02/98, which records primary property rights such as ownership and derivative rights including usufruct, use, residence and servitudes (such as rights of way and drainage). The registration is carried out according to the rules of the Registry, based on precise surveying that defines the real estate unit, its location, geometric shape and any encumbrances¹². The survey marks the boundaries of the property and the Real Estate Registry and its branches issue property titles based on the data recorded in the Real Estate Registry, ensuring that no more than one title is issued for a single property unit¹³.

The Land Law of 1980 protects all property¹⁴, including state property, which can be used by foreign investors. The usufruct is regulated by the Executive Regulation on Land Usufruct¹⁵, which establishes a maximum duration of 99 years, renewable at the request of the owner in the case of private land, or at the request of the usufructuary in the case of public land, in accordance with Article 1 of Royal Decree No. 05/81. In addition, the Council of Ministers may establish a longer period of usufruct, depending on the needs and nature of the investment project.

Section Two: Providing Investors with Special Protection in Disputes

First: General Provisions for Simplifying Procedures in Disputes Related to Foreign Investment Projects in Oman In addition to the Civil Procedure Law, the Omani legislator has enacted a law to simplify the procedures for disputes related to foreign capital investments:¹⁶

¹¹- Article 26 of the regulation.

¹²- Article 14 of the Royal Decree.

¹³- Article 15 of the Royal Decree.

¹⁴- Royal Decree No. 05/80, issuing the Land Law.

¹⁵- Royal Decree No. 29/2022 amending certain provisions of Royal Decree No. 05/81, with amendments to the executive regulation for the usufruct of lands in the Sultanate of Oman.

¹⁶- Royal Decree No. 125/2020, issuing the Law to Simplify Litigation Procedures concerning Certain Disputes.



1. Establishment of a special chamber for resolving foreign investment disputes:

- A primary court will establish one or more chambers, each composed of a single judge, specifically tasked with adjudicating all disputes listed in Article 1 of this law, regardless of their value. This chamber will also be responsible for provisional and precautionary measures and will issue orders on applications and enforcement orders within 48 hours of their submission. Appeals in these matters shall be subject to the procedures laid down in the Code of Civil and Commercial Procedure.

2. Establishment of a specialised appellate chamber for foreign investment disputes:

- Each court of appeal will have one or more appellate chambers that will hear appeals from the primary chambers regarding foreign investment disputes in the cases permitted by this Law.

3. Specific procedural privileges:

- The competent court must issue an independent ruling on the plea of lack of jurisdiction in disputes under this law within a maximum of eight days from the date of submission. An appeal may be lodged against this judgment within ten days of its delivery, and the Appeals Chamber must rule on the appeal within fifteen days of its submission, issuing a judgment that may not be appealed to the Supreme Court. The case file is returned to the primary chamber immediately upon delivery of the judgment.

Second: Analytical Reading of Legislative Compatibility in Attracting Foreign Investment

How Omani real estate development laws meet the needs of foreign investors:

Referring to the laws discussed above, which primarily serve foreign investment and attract capital to achieve the national vision for the Sultanate, the basic idea revolves around not granting ownership of real estate to foreign investors. Instead, it ensures long-term leasing of land to support investment projects for periods of up to 50 years. We see this as a remarkable advantage that allows projects to operate for decades, benefiting both the investor and the state.

The Sultanate's emphasis on foreign investment has led it to establish unique mechanisms for allocating real estate to facilitate investment, as evidenced by granting investors the privilege of selecting suitable land for their projects and applying for leases.

Unique mechanisms to facilitate investment disputes:

The Omani legislature's introduction of the Foreign Investment Disputes Simplification Law is a unique mechanism not found in any other legislation. This law serves as a guarantee that encourages foreign investors to come to Oman and establish their investment projects. Investors often need to resort to commercial arbitration or the courts of their home countries in the event of commercial disputes, especially when significant capital is involved.

CONCLUSION

In conclusion, the Omani legislature has successfully enacted laws and regulations to attract foreign investment. A careful reading of these laws reveals that they do indeed provide all the necessary guarantees to encourage foreign investors to invest in the Sultanate of Oman, which will benefit the country economically. The capital injected into investment projects will significantly enhance the development of the country. In addition, the laws are quite modern, some of which were enacted only this year, reflecting a real alignment with global standards in this area. However, the newness of these laws may reveal certain shortcomings in their implementation, which the legislature may address through subsequent amendments.

References

- [1] Wais Fathi, *The Real Estate Law in Algerian Law and Comparative Laws*, 2nd edition, Dar Houma for Printing, Publishing and Distribution, Algeria, 2015.
- [2] Royal Decree No. 05/80 enacting the Land Law of 1980, dated 04/02/1980.
- [3] Royal Decree No. 50/2019, enacting the Foreign Capital Investment Law.



- [4] The Executive Regulation pursuant to Ministerial Decision No. 82/2020, enacting the Executive Regulation of the Foreign Capital Investment Law.
- [5] Royal Decree No. 29/2022 amending certain provisions of Royal Decree No. 05/81 with amendments to the Executive Regulation for the Usufruct of Land in the Sultanate of Oman.
- [6] Royal Decree No. 125/2020, enacting the Law to Simplify Litigation Procedures in Certain Disputes.