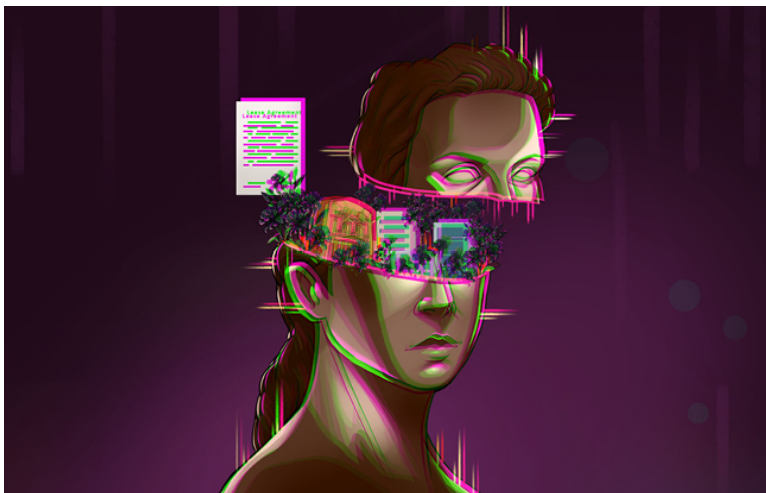


# Foreign and legal persons' ownership and leasing of property under the New Ownership of Real Estate Law

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In superseding and revoking 14 separate laws and regulations for a more unified framework, the new Ownership of Real Estate Law No. (13) for the year 2019 ('Real Estate Law') provides for the first unified and comprehensive legislation for real estate property matters. While broad in its coverage, the Real Estate Law, is nonetheless supplemented by laws specific to certain regions in the Kingdom, including the Aqaba Special Economic Zone, the Petra Region Tourism Development Law and the Investment Law.

This article outlines the key Real Estate Law provisions on ownership and leasing of real property by foreign and legal persons.

## Registration for enforceability

Any disposition, contract, or transaction concerning real estate property in the Kingdom of Jordan must be registered with the Directorate of Registration ('DOR') and the Department of Land and Survey ('DLS'). Failure to register any such disposition, contract or transaction with the DOR will result in its invalidation, and consequently, the unenforceability of rights and obligations in connection thereto.

## Prerequisite permit for valid ownership

To acquire legal ownership of real estate located in Jordan, a foreign or legal person must first secure a permit from the DLS. Upon receipt of an application, the DLS will forward such application to the appropriate authorities for such authorities' approvals, as applicable (see *Location- and Size-Based Restrictions and Requirements* below). The application process for said permit is outlined under instructions issued for that purpose, and amended from time to time, by the director of the DLS (the 'Director'). A permit will only be granted for the purchase of the specific real property identified in the

application. Noting that, the aforementioned DLS has absolute discretion in determining whether or not the permit will be granted or rejected. A decision reached by the relevant authorities on an application for a permit will be final, binding, and non-appealable.

### **One-year validity**

Upon receipt of a permit, a permit holder must secure ownership of relevant property prior to such permit's expiration, (which is a year from its issuance), in order to safeguard the validity of its legal title. Otherwise, any such transaction will be deemed void unless written consent for an extension is obtained from the DLS.

### **Location- and size-based restrictions and requirements**

The Real Estate Law imposes several location- and size-based restrictions and requirements on real property ownership of foreign and legal persons as listed below:

- a foreign person is prohibited from owning real estate in border, archaeological or historical regions;
- a legal person, whether national or foreign, may own real estate in organisational regions to conduct its business in line with its constitutional documents;
- for ownership of an area not exceeding five Dunums (1 Dunum equates to approximately 1,000 square metres), provided the applicant does not own any other real estate properties in Jordan (regardless of the existence of any immovable assets), a permit for ownership will be granted by the Director. If said applicant owns other real estate property in Jordan, the Minister of Finance's approval will be necessary (upon recommendation of the Director);
- for ownership of an area between five) and thirty (30) Dunums, the grant of a permit will require approval from the Minister of Finance ('Minister') (upon the recommendation of the Director);
- a legal person, may own for investment purposes real estate property that is not located within organisational areas, provided that such legal person operates its business in line with the purpose(s) articulated in its registered constitutional documents. In this third case, similar to the second case, the approving body will make its decision in light of the plot area. For an area not exceeding 50 Dunums, a permit is approved by the Director in the first instance; and
- for an area exceeding 50 Dunums, however, the Council of Ministers approval will be necessary (upon the recommendation of the Minister and the Director, respectively).

### **Project timelines; penalty for delays and non-transferability**

Subject to monetary penalties, a foreign or legal person must complete the project for which they have requested ownership, within four years if the ownership permit is granted for residential purposes, and within six years if the ownership permit is granted for any other purpose, as of the date of said property's registration (such time periods, 'Applicable Time Periods').

An owner of a project may apply for an extension to the Applicable Time Periods for a justified reason. The Minister of Finance (upon the recommendation of the Director) will approve an owner's request for the requested extension. The total duration may not exceed, in all cases, a total of eight years for residential purposes, and twelve years for any other purpose, as of the date of property registration.

Monetary penalties for delayed completion of a project will amount to two per cent of the estimated value of the real estate for each year of ownership (or any part thereof). The Real Estate Law allows the Minister of Finance to further exempt owners from such penalties upon reasonable grounds.

## **Non-transferability**

A foreign person, whether natural or a legal, may not dispose or otherwise transfer its ownership in registered real property prior to the lapse of the Applicable Time Periods. Exceptionally, the Minister may, upon the recommendation of the Director and on the basis of a submitted written request from the owner for justified reasons, permit prior transfer of real property.

## **Lease agreements**

The Real Estate Law supplements the amended Jordanian Landlords and Tenants Law No. (22) of 2011. First, a foreign person, whether natural or legal, wishing to rent an area greater than ten Dunums and for a term greater three years must first obtain a permit from the Minister of Interior, subject to the penalty of lease nullification. In contrast, domestic persons are exempt from said restrictions. Second, under no circumstance (irrespective of a lessor/lessee's identity), will a lease term be deemed valid for a period longer than 99 years.

## **Easements: access and right of way**

In respect to easements, while the Real Estate Law remains subject to the Civil Law, the Real Estate Law explicitly grants the Director a wide discretion in granting a right of way or a right to utilise clean water facilities, in addition to other forms of easements it deems appropriate, on any property (servient estate) in favour of another property (dominant estate) in Jordan. The owner of the servient estate, however, must receive fair and adequate compensation. The amount of said fair and adequate compensation is estimated by a committee of three experts, where said experts are appointed by each of the Director and the two parties to the dispute, respectively

## **Conclusion**

The Real Estate Law has introduced several provisions to regulate the framework of foreign natural and legal person's ownership of real estate property in Jordan for the purpose of reducing risks and to improve organisation of said ownership. Additionally, the Real Estate Law has been introduced to unify the regulation of real estate in Jordan thus far has been scattered in several laws and regulation prior to the Real Estate Law entering into effect.

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