

New restrictions on GCC nationals to owning properties in Bahrain and Oman

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The Kingdom of Bahrain and Sultanate of Oman have introduced new restrictions on GCC nationals in relation to owning real property rights and it is anticipated that these changes may create some difficulties for GCC nationals who have already invested in real estate in Bahrain and Oman.

Kingdom of Bahrain

On 29 June 2020, King Hamad bin Issa Al Khalifa issued Law Number 17 of 2020 amending Article 1 of Bylaw Number 40 of 1999 Concerning the Ownership of GCC Nationals of Buildings and Vacant Lands in Bahrain ('Law No. 17').

Article 1 of Law No.17 states that the GCC Nationals, following the approval of the Minister of Justice, Islamic Affairs and Awqaf, shall have the right to own buildings and vacant lands in areas that are designated by the Urban Planning of Bahrain by any means of disposition in accordance with the law, wills, or inheritance rules, and this should be within the rules and regulations as set out by the High Committee of Urban Planning, and the decisions issued by the Minister of Justice, Islamic Affairs and Awqaf.

The above Article in Law No. 17 amends the original text of Article 1 of Bylaw Number 40 of 1999 Concerning the Ownership of GCC Nationals of Buildings and Vacant Lands in Bahrain which originally stated that all GCC nationals shall have the right to own buildings and vacant lands in any area in Bahrain, and such GCC nationals shall be treated as Bahraini nationals in that regard.

Consequences of Law No. 17

It is evident that, in order to own properties in Bahrain, GCC nationals must obtain a prior approval from the Minister of Justice, Islamic Affairs and Awqaf for any future property acquisitions. We will continue to investigate the rules and regulations for obtaining the approvals for GCC nationals to own properties in Bahrain.

Article 3 of Law No. 17 states that this law will be effective from the next business day following its publication in the official gazette on 2 July 2020, and this means it will not affect the property ownership of all properties owned by GCC nationals in Bahrain prior to the issuance of Law No. 17.

Sultanate of Oman

On 4 June 2020, Saif bin Mohammed bin Saif Alshibibi, the Minister of Housing, issued Ministerial Decision Number 292 of 2020 Issuing Implementing Regulations of Law Number 29 of 2018 Concerning Restrictions on Non-Omani Nationals to Own Plots and Buildings in Certain Areas ('Ministerial Decision').

The Ministerial Decision sets out the implementing provisions for Law Number 29 of 2018 Concerning Restrictions on Non-Omani Nationals to Own Plots and Buildings in Certain Areas ('Law No. 29), which introduced stringent restrictions on property ownership in Oman. In this regard, Article 1 of Law No. 29 states that the following areas are restricted to ownership by Omani nationals only:

1. *Dhofar (except Salalah), Musandam, Buraimi, Al Dhahirah and Al Wusta;*
2. *Liwa, Shinas and Masirah;*
3. *Green Mountain and Jabal Shams, and any other mountain which has strategic importance as determined by the relevant authorities;*
4. *Islands;*
5. *areas that are adjacent to palaces, security agencies, military sites, and areas determined by the relevant authorities; and*
6. *historical and archaeological sites, and sites determined by the relevant authorities.*

Furthermore, Article 2 of Law No. 29 states that all non-Omani nationals shall be restricted from owning buildings and plots that are designated for agricultural use in all areas within Oman.

Consequences of Law No. 29

The enforcement of Law No. 29 in Oman is retrospective pursuant to Article 8 and as a direct result of this retrospective enforcement, many GCC nationals in Oman must rectify their position within two years from the effective date of Law No. 29 (11 November 2018), and must sell their buildings and plots located within the restricted areas listed in Articles 1 and 2 of Law No. 29 to Omani nationals through any legal means.

The above rectification period of two years from the effective date of Law No. 29 is renewable for one year only, and this renewal is subject to the approval of the Minister of Housing.

In the case of a failure to adhere to Article 5, the judicial committees, based on the request of the Minister of Housing, have the authority to proceed with the expropriation of the properties located within the restricted areas and allocate the same to Omani nationals and auction them exclusively in favour of Omani nationals, where the proceeds of the auction will be returned to the GCC national who previously owned the property prior to the auction.

Any disposal that contravenes the provisions of Law No. 29 shall be null and void. In this regard, Article 9 of Law No. 29 states: "*Any disposition that is against the provisions of this law shall be null and void, and any person of interest has the right to request the court for the annulment of such disposition, and the court must at its own accord annul any such dispositions, and restore the related parties to the same position before contracting*".

Penalties under Law No. 29

Article 10 of Law No. 29 states that without limiting any more severe penalty stated in any other law in force, the following penalties shall apply:

1. *Any person who deliberately concludes an agreement or procedure or deposition against the provisions of Law No. 29 shall be subject to imprisonment for a period not less than three (3) months and not more than one (1) year, and a fine that is not less than OMR 1,000 and shall not exceed OMR 3,000 or one of these aforementioned penalties.*
2. *Any person who achieves the above crime through means of fraud shall be subject to imprisonment for*

a period not less than six (6) months and not more than two (2) years, and a fine that is not less than OMR 2,000 and shall not exceed OMR 5,000 or one of these aforementioned penalties.

The recent changes in laws in some Gulf countries relating to property ownership by GCC nationals is a step backwards to having an open real estate market with less restrictions in the Gulf countries and this has put the United Arab Emirates and, in particular Dubai at the forefront making Dubai more attractive to GCC nationals for investment compared to other GCC countries where investment restrictions are more strict.

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