

Simplification of Judicial Proceedings Law

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The law relating to the simplification of legal proceedings in relation to certain disputes before the courts of Oman was issued through Sultani Decree Number 125 of 2020 ("**Law**"). The purpose of the Law is to reduce the time spent by the court on proceedings that are often associated with specific claims where the dispute could and should be resolved over a shorter period of time. The reasoning behind the Law is that certain commercial disputes are heard by the courts over a prolonged period and the delay associated with resolving these disputes serves only to negatively impact the parties to the claim. Prior to the Law being passed, claims that now fall under the remit of the Law were previously administered in the same manner as other types of claims pursuant to the provisions of the Civil and Commercial Proceedings Law. The process of dealing with claims under the Civil and Commercial Proceedings Law was lengthy and gave rise to complexity in relation to issuance and enforcement of court judgments. As a natural consequence, the legislature of Oman decided that a special law was required for the purpose of resolving certain disputes in a more efficient manner, resulting in the issuance of the Law.

The Law permits the parties to make online (electronic) submissions to the court, which is a key development given that prior to the Law's enactment, the Covid-19 pandemic had the effect of restricting the disputing parties, their representatives and legal advisers from physically attending the courts for a prolonged period causing the claim handling process to be delayed. The Law now provides a framework for the courts of Oman to introduce an online system to enable submissions associated with the claim to be filed and registered electronically with the court.

This article will summarise the nature of cases that are now subject to the provisions of the Law, the judicial structure that has been adopted to implement the provisions of the Law and the procedures to be followed to comply with the Law.

2. Claims to which the Law applies

With the observance of the provisions of the Arbitration Law in Commercial and Civil Disputes and the provisions of the Administrative Court, the provisions of chapter 1 of the Law apply to the following cases:

1. commercial disputes in relation to investment projects that are subject to the provisions of Sultani Decree 50 of 2019 promulgating the foreign capital investment law of Oman ("**Foreign Capital Investment Law**");
2. disputes that arise between the owners and the tenants of residential, commercial and industrial units pursuant to the provisions of the Sultani Decree 6 of 1989 in relation to organisation of the relationship between the owners and the tenants of the residential, commercial and industrial units and registration of the lease contracts ("**Tenancy Law**");
3. labour disputes arising out of the application of the provisions of Sultani Decree 35 of 2003 promulgating the labour law of Oman;
4. disputes arising out of building construction contracts; and
5. disputes relating to the documents relating to debt acknowledgment or the documents on which the signature of the relevant parties have been attested.

Labour disputes are not generally accepted if they have been filed directly with the primary court department prior to submitting an application for settlement with the administrative division of the

Ministry of Labour. Parties to a labour law dispute must now undertake settlement procedures pursuant to the provisions of the labour law before a claim can be filed with the courts of Oman. If a settlement has been reached, the parties or their representatives will need to sign the minutes in the presence of an official of the Ministry of Labour or any judge seconded for this purpose. The settlement acknowledged by both parties will have the force of an execution order and accordingly the dispute will be closed. If the parties do not reach settlement, the administrative division must immediately transfer the dispute to the primary court department. The transfer of the shall case be accompanied with a memorandum setting out the facts of the dispute, the names of the parties, their residential addresses, the salary of the employees and their claims as well as a copy of their employment contract. The supporting documents and all evidence relating to the claim must also be submitted to the court.

A tenancy contract that has been registered and attested by the municipality has the force of the execution order provided that it is concluded pursuant to the provisions of the Tenancy Law. The execution division at the competent court shall place the execution stamp on the tenancy contract and in case of his objection one of the parties may approach the head of the primary court department with the request of issuance of a petition order.

Acknowledgement of debts are considered execution deeds and shall be executed pursuant to the procedures set out in the Civil and Commercial Procedures Law.

3. The Judiciary Structure and Procedures

So that its provisions can be properly implemented, the Law describes a special structure to be adopted at the primary and court of appeal level. A department must be established within the primary court consisting of one judge and a department must also be established at the court of appeal to consider appeal submissions that have been presented to it.

The primary court department has jurisdiction to hear the category of disputes mentioned in paragraph two above, regardless of claim value. It has jurisdiction to order provisional and precautionary measures, issue orders on petitions and specific performance orders within a timeline of forty-eight hours from the date of submission of the application. Any appeal in relation to these orders is subject to the procedures set out in the Civil and Commercial Procedures Law.

All claims that are subject to the provisions of this Law can now be filed online. Appeals in relation to those claims can also be filed using the online system. All submissions and exhibits relating to the cases can be submitted online pursuant to the regulations and rules determined by the head of the judicial and administrative affairs council. The competent court shall consider and determine the pleading relating to not having jurisdiction over the type of cases filed in relation to the disputes that are subject to the Law with an independent judgment within eight days from the date of its submission. An appeal against the judgment can be made within a period of ten days. The appeal department shall decide on the appeal within fifteen days from the date of its submission. Such ruling cannot be appealed before the supreme court. The court of appeal may not initiate such pleading in its own.

When the case is initiated at the primary court department, the judgment must be issued within thirty days and such period can be extended for similar periods if it has been determined that the case is not valid for adjudication. However, in relation to the disputes arising from construction contracts and commercial disputes of investment projects that are subject to the Foreign Capital Investment Law, the time period can be extended for such longer period provided that it does not exceed four months. An appeal can be made on all judgments issued by the primary court department with the department at the court of appeal pursuant to the Civil and Commercial Procedures Law if the value of the claim is more than OMR 2,000. By way of an exception, judgments or claims whose value is less than OMR 2,000 can be appealed in the following situations

1. If there has been a breach of the competency rules relating to public policy;

2. If there is a flaw in the judgment or the proceedings;
3. If the judgment was issued subsequent to a previous judgment that has not been enforced and in this case the previous judgment shall be considered appealed by force of law if it was not final when the appeal was made;
4. If the judgment is issued to vacate the place or confirming the termination of the employee; or
5. If the judgment is issued in a case which has not been valued relating to the construction contracts or investment projects that are subject to the provisions of the Foreign Capital Investment Law.

The appellant must, by all means, deposit with the treasury of the court when submitting the appeal by way of a guarantee an amount of OMR 100. The appeal timeline is fifteen days from the next date of the issuance of the judgment. This timeline commences on the next day of notification to the unsuccessful party if that party was absent from court sessions relating to the case before the primary court and did not submit a statement of response. The appeal department must issue its judgment on the appeal within a period of no more than thirty days from date the case was transferred to the appeal department. This period can be extended for a similar period once, if the appeal is not valid to be adjudicated. The timeline can be extended for a period not more than six months in relation to disputes that arise out of the construction contracts and commercial disputes of the investment projects that are subject to the Foreign Capital Investment Law.

Without prejudice to articles 240 and 241 of the Civil and Commercial Procedures Law, judgments that have been issued by the appeal department referred to in the Law cannot be appealed before the supreme court. The exception to this general rule is judgments that have been issued in relation to commercial disputes involving investment projects that are subject to the provisions of the Foreign Capital Investment Law and where the claim value exceeds OMR 150,000.

An execution division shall be established in each primary court in order to execute the judgments and orders issued by the primary and appeal departments referred to in Article 3 of the Law. The execution judge shall be responsible for resolving the disputes relating to the execution of the judgments and orders regardless of their value.

Conclusion

The courts of Oman have, despite the difficulties faced during the Covid-19 period, managed to implement the provisions of the Law in relation to rent, labour, construction and commercial disputes that are subject to the Foreign Capital Investment Law.

The types of cases that are subject to the provisions of the Law are now filed online through the system of the court with the ability to upload all submissions and their enclosures. The payment can also be made online once the submissions have been reviewed by the court. The date of the first hearing will be fixed once the claim registration fee has been paid.

The execution application is also made online and any communication or responses are also made online which is a substantial change and improvement when compared to the previous practice which entailed physical submission of the applications and documents.

During the Covid-19 period, claims relating to unpaid rent claims, collection of debt and employment matters increased. With all judges and the officials at the court now predominantly working online and remotely, such cases were dealt with efficiently due to the recent implementation of the provisions of the Law.

Other provisions of the Law are yet to be tested especially in relation to the extension of the timeline for the hearings before the primary court and the court of appeal; the challenge throughout the period since Covid-19 is that legal proceedings were disrupted by the decisions passed by the Covid-19 Supreme Committee which forced the court at certain stages to extend timelines and / or give the parties various exemptions taking into consideration the circumstances in Oman. It is expected that the court will adhere

more closely to the timeline and the procedural provisions of the Law once the situation returns to normal and all Covid-19 restrictions have been lifted.

Given that certain labour law and rent claims involve administrative aspects, it is expected that the relevant authorities including the Ministry of Labour and the municipalities will upgrade their systems and change internal practices and regulations to reflect the new requirements set out in the Law. Consistency and uniformity on how a dispute is registered and handled is essential to avoid any delays and follow the spirit of the Law.

The Foreign Capital Investment Law and the Law have both provided additional protection to the interests of foreign investors in the form of preferential treatment that is given to claims relating to the investment projects that are subject to the Foreign Capital Investment Law. It is hoped that foreign investors will not need to commit unnecessary resource to deal with court claims during the course of conducting business in Oman.

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