

Construction and Projects: Overview (Oman)

by *Mansoor J Malik*, *Ravinder Singh*, and *Angad Ahuja*, Al-Busaidy Mansoor Jamal & Co

Practice note: overview | Law stated as at 01-Sep-2024 | Middle East, Oman

This Practice Note gives an overview of construction and projects law and practice in **Oman**.

In an evolving construction and projects sector, practitioners must frequently navigate a complex list of regulations and negotiate contractual arrangements. To do this, they must stay up to date with the latest developments and be aware of the various procurement arrangements, transaction structures, and financing options.

This Note is intended to provide a guide to these issues in **Oman**, considering the main trends, major projects, and common practices within the local and international construction markets. It discusses the usage of standard forms of contracts, the allocation of risks, and summarises the legal framework governing employment, health and safety, and environmental issues.

Each project is individual and requires consideration of its own specific issues. This Note is therefore intended to be a starting point for a practitioner in this area and does not replace the need for consultation with local legal advisers.

Construction and Projects Sector Overview

Main Trends

Oman is positioning itself as a leader in green hydrogen production, supported by abundant solar and wind resources. The nation aims to produce between 7.5 and 8.5 million tonnes of green hydrogen annually by 2050.

In a pivotal step to regulate the green hydrogen industry in **Oman** and to facilitate development of clean energy and green hydrogen projects, a sector specific legislation has been enacted in the form of *RD 10/2023* which legislates for the grant of rights over lands for clean energy and green hydrogen. This Royal Decree has designated specific areas of land where renewable and green hydrogen projects may be developed pursuant to the grant of usufruct rights. The authority to grant usufruct rights over designated lands for development of clean energy and green hydrogen projects has been vested in Hydrogen **Oman** LLC (Hydrom) pursuant to a competitive auction process.

Hydrom has awarded land blocks for green hydrogen projects, in order to meet the 2030 production target of 1 MTPA (million tonne per annum) of green hydrogen. Two blocks have been awarded in Duqm in June 2023. Up to three additional blocks are planned to be awarded in the Dhofar within 2024.

The Government of **Oman** launched its **Oman** Vision 2040, which is a 20-year plan aimed at:

- Building a productive and diversified economy, founded on innovation, integration of roles, and equal opportunities.
- Leveraging **Oman's** competitive advantages, driven by the private sector towards integration into the world economy and active contribution to international trade.

- Achieving inclusive and sustainable development, based on effective economic leadership that operates within an institutional framework of coherent and contemporary economic policies and legislation, to ensure financial sustainability diversifying public revenues.

This has led to an upturn in the construction and projects market in **Oman** post the COVID-19 pandemic.

Efforts to promote economic diversification in **Oman** have been underway for some time and have been accompanied by legal reform, with new laws and regulations to strengthen corporate governance, restructure capital markets, and regulate the Islamic finance sector to diversify funding options for public and private sector entities. Notably, the *Foreign Capital Investment Law (RD 50/2019)* (FCIL), which allowed 100% foreign ownership of companies in **Oman** and the *Commercial Companies Law (RD 18/2019)* (CCL) which introduced certain innovative changes to corporate structures in **Oman**. A new Securities Law (*RD 46/2022*) which, inter alia, establishes a dealer's protection fund as well as provides for a legal framework for the growth of the fintech sector. A new Personal Data Protection Law (*RD 6/2022*) was also introduced, which provides a comprehensive law on personal data protection (on the same lines as the EU GDPR) to help create a conducive and safe business environment.

The construction and projects market continues to be dominated by state-owned entities. However, private finance initiatives (PFIs) have been used successfully in the utilities sector and **Oman's** *Public Private Partnership Law (RD 52/2019)* is expected to help attract further private sector participation, inter alia, in the construction and projects sector in **Oman**.

A new mining law was also introduced by *RD 19/2019*, which has significantly overhauled the earlier mining laws and regulations and with the objective of encouraging foreign investment, principally through the streamlining of the licence application process.

The current government initiative called "Tanfeedh" (which means getting the job done in Arabic is the focus of **Oman's** tenth five-year plan of 2021-2025) is tasked with developing recommendations on cutting red tape, encouraging investment, and aligning labour requirements in the logistics, tourism, and manufacturing sectors. It has been influential in shaping new laws, for example the long-awaited revision of **Oman's** Labour Law which was introduced by the *Labour Law (RD 53/2023)*.

Oman's tenth five-year plan of 2021-2025 also has among its primary objectives:

- Protecting the environment.
- Achieving environmental sustainability.
- Developing a green and blue economy.
- Increasing the contribution of clean and renewable energy to economic activity.
- Achieving the optimum utilisation of marine resources.

However, despite the anticipated reforms, the government's drive for greater economic diversification has been tempered by its need to balance the budget deficit in view of the slump in international oil prices in 2014 to 2016 and the COVID-19 pandemic.

Major Projects

These include:

- Duqm refinery: estimated project cost USD8 billion.

- Khazzan gas field development: project cost USD16 billion.
- Development of Sohar, Duqm, and Salalah ports as regional logistics hubs.
- Redevelopment of Mutrah waterfront: total spend estimated at USD1.3 billion.
- The Boulevard Spray (Rathath) in Salalah: estimated project cost OMR40 million.
- Rimal Park in South Al Batinah: estimated cost OMR6.9 million.
- **Oman** Rail and Etihad Rail: estimated cost USD3 billion.
- The Sustainable City – Yiti: estimated cost USD1 billion.
- World's largest green hydrogen ready steel plant and the first in Special Economic Zone (SEZ) at Al-Duqm: investment exceeding USD3 billion.
- Manah Solar 1 - solar PV power plant and associated facilities located in Manah: USD326 million.
- Manah Solar 2 - solar PV power plant and associated facilities located in Manah: Sinosure Covered Base Facility: USD 100 million and Commercial Facility: OMR62 million.
- Major cryptocurrency mining project in Salalah Freezone: USD370 million.
- ACME - green hydrogen and green ammonia in **Oman**: USD2.5 billion.
- HYPOR Duqm Green Hydrogen Project focused on producing green hydrogen and green ammonia in the Duqm SEZ, with a project cost estimated in billions of USD.
- Green Hydrogen and Green Ammonia Project in Duqm, **Oman**, focused on large-scale production of green hydrogen in **Oman** with significant investments planned over several phases.
- **Oman** Hydrogen Centre - an initiative by the German University of Technology in **Oman** (GUtech), supported by the **Oman** Ministry of Energy and Minerals, aimed at advancing green hydrogen research and development, with a focus on sustainable energy solutions.
- Polysilicon factory in Sohar Port and Freezone: USD1.35 billion.

Common Procurement Arrangements

Local Projects

Domestic contractors and consultants are typically engaged under the **Oman** Standard Documents. The standard Omani construction contract is "build-only" (Employer design). See *Standard Forms of Construction Contract*.

Public private partnership (PPP) structures are also used to procure long-term infrastructure and power projects and, more recently, the operation and maintenance of public sector assets including hospitals.

International Projects

International contractors undertaking high value and complex projects are typically engaged under "design and build" or "engineer, procure, and construct" (EPC) contracts. The EPC model is prevalent in the water, power, and oil and gas sectors.

Split onshore or offshore procurement structures are frequently used for international contracts to achieve tax and procurement efficiency.

See also *Procurement in construction toolkit* and *Practice Note, Engineer, procure and construct (EPC) contracts: key issues*.

Common Transaction Structures

Local Projects

Entities wishing to undertake construction and engineering projects in **Oman** must establish a legal presence for the conduct of construction activities or for the provision of engineering services.

Under *Ministerial Decision (MD) 13/2017*, construction activities can only be carried out by a company established for that specific purpose. A contracting company must ensure:

- That personnel of the company are used exclusively for contracting activities.
- Compliance with the Omanisation requirement set out by the Ministry of Labour (MOL). Omanisation is a national programme launched by **Oman** that has the objective of replacing the expatriate workforce with an Omani workforce. The Omanisation quota varies between sectors and job positions and roles.
- Implementation of appropriate Health and Safety standards approved by the relevant authorities.
- Appointment of an Omani national registered with the Public Authority of Social Insurance (PASI) as a manager or director if no shareholder can manage the company on a full-time basis.

Once a legal presence has been established, parties can elect to form incorporated or unincorporated joint ventures to perform the contract works in **Oman**.

The use of special purpose vehicles (SPVs) is generally confined to long-term infrastructure and power projects procured under PPP-style structures.

International Projects

Foreign entities typically register a local branch or incorporate a limited liability company (LLC). Under FCIL, up to 100% of the share capital of an LLC can be foreign-owned (see *Construction and Projects Sector Overview*). The CCL also permits the establishment of LLCs which are wholly owned by a single individual or legal person, that is one-person companies. This corporate structure, which is prevalent in other jurisdictions, is now frequently used in **Oman** by both local and foreign investors to carry out projects and do business in **Oman**.

Another prevalent corporate structure in **Oman** is the joint stock company (JSC). A JSC can be either a public joint stock company (SAOG) or a closed joint stock company (SAOC). JSC shares can be pledged as collateral for loans, providing flexibility in securing financing, which is particularly advantageous for large-scale projects and business expansions. JSCs are also subject to rigorous corporate governance requirements, which can enhance operational transparency and accountability.

This structure is frequently chosen by both local and foreign investors in **Oman** for large-scale projects and business ventures primarily due to its advantages in capital raising and regulatory compliance.

Financing of Projects and Security

Local Projects

Traditionally government projects in **Oman** have been self-funded but with pressure on the government to reduce the budget deficit and advance its economic diversification agenda, **Oman** has increasingly sought private participation in public projects to fill the funding gap.

Large-scale water and power projects (generally procured internationally) have successfully adopted limited recourse financing structures by which security is provided only in respect of project assets.

Smaller projects (especially projects procured domestically) such as residential and tourist developments are generally funded through corporate finance on a full recourse basis.

Security and Contractual Protection

Security

Funders typically take security over a project's freehold rights, usufruct rights (the right to use, occupy, and profit from land or property for a fixed term usually granted for economic or social development), and leasehold rights over real estate, under the *Land Registry Law (Royal Decree 2/98)* by way of a legal mortgage.

Usufruct rights and leasehold rights cover both the realty comprised in the usufruct and the leasehold property, and any plant, fixtures, equipment, for example, on the land, provided it does not infringe on the underlying ownership of the land. This means that the creation of a mortgage over the usufruct or the leasehold rights should not be inconsistent with the terms and conditions set out in the usufruct agreement or the lease agreement under which the owner was granted the usufruct rights or the leasehold rights. Particularly, it must not purport to create any greater rights for the benefit of the mortgagee than those enjoyed by the mortgagor under the relevant agreement.

Security can also be taken by the funders through a commercial mortgage granted over existing and identifiable tangible assets and certain intangible assets. Tangible assets must be specifically identified and described in the commercial mortgage. For this reason, both a fluctuating pool of assets and after-acquired assets are not capable of being charged by way of commercial mortgage. The *Oman Commercial Law (Royal Decree 55/90)* (OCL) expressly provides that certain intangible assets, namely the company's trade name, right of lease, the right to contact clients, and goodwill, can also be mortgaged by way of commercial mortgage. It is common practice to mortgage all a company's intangible assets, such as rights under insurance policies, trade name, goodwill, consents, licences, approvals relating to the project, rights under project documents, and rights under shareholder loans.

In **Oman**, pledging shares is a recognised practice that allows shareholders of JSCs to use their shares as collateral for securing loans or financing. The pledge must be formally registered and documented, ensuring legal enforceability. This practice is beneficial for both investors and businesses, as it enables access to funding while maintaining the flexibility of share ownership. It also reflects the robust regulatory framework governing corporate finance in **Oman**.

Funders can also require further performance security by a parent company guarantee. Omani law recognises guarantees.

Contractual

As in other jurisdictions, funders typically seek to minimise their exposure through the allocation of risk away from the project company to construction or EPC contractors and operations and management (O&M) contractors. It is not uncommon for funders and other third parties to enter into direct agreements with the project company and contractors. Under these agreements funders are typically granted step-in rights in the event of project company default for a specific period of time during which funders assume the project company's obligations and have the opportunity to remedy the breach.

International Projects

Large energy projects sponsored by international investors are typically financed by a combination of sponsor equity and debt (generally financed by syndicates of financiers, both based locally and within the GCC region).

Standard Forms of Construction Contract

Local Projects

Contracts awarded locally, including those awarded by public authorities, typically use the **Oman** Standard Documents, which include:

- *Sultanate of Oman Standard Documents for Building and Civil Engineering Works* (both the third edition 1981 and the fourth edition 1999 are widely used) with risk allocation broadly following that of the *FIDIC Red Book* (Employer designs, contractor builds).
- *Sultanate of Oman Standard Documents for Electrical and Mechanical Works* (first edition 1987) with risk allocation similar to that of the *FIDIC Yellow Book* (contractor responsible for design, construction and installation).

Parties are however free to use other standard forms of contract and negotiate terms and amendments subject to compliance with the applicable laws of **Oman**. Despite the issuance of the 2017 edition of the FIDIC suite of contracts, the FIDIC 1999 suite of contracts continues to be widely used for projects procured internationally.

For more information, see *Practice Notes, FIDIC Forms of Contract* and *FIDIC Red, Yellow and Silver Books, second edition, 2017: key changes*.

PPP Projects

There is no standard PPP template although tenders are now being floated for PPPs and precedent tenders may be established in due course. Article 17 of the *Public Private Partnership Law (Royal Decree 52 of 2019)* (PPP law), stipulates certain minimum items which must be addressed by a PPP contract which include:

- Risk allocations in case of contractual imbalance due to change of law, unforeseeable event, or force majeure, and the principles for quantifying damages.
- Details as regards insurance.
- The right of the competent body to modify the scope and size of services or works.
- The period of the contract (which must not exceed 50 years).

International Projects

Contractual Provisions

Contractors' Risks

The **Oman** Standard Documents (see *Standard Forms of Construction Contract*) are based on FIDIC precedents and therefore follow a similar risk allocation. Contractors engaged under EPC contracts can expect to assume greater risk regarding timeframes and budget.

Generally, risk allocation would be as follows:

- Employer:
 - unforeseeable site conditions;
 - changes in law; and
 - force majeure.

- Contractor:
 - cost inflation of materials, equipment, and labour;
 - verification of employer design or specification;
 - project conforming to employer's specification and fitness for intended purpose;
 - design liability for ten years (jointly with the consultant or engineer);
 - performance security package (performance bonds, cash retentions, and parent company guarantees); and
 - responsibility for subcontracted works.

Excluding Liability

Parties are generally free to agree limitations or exclusions of liability (see *Practice Note, Limiting liability: interpretation*). While it is normal practice for parties to exclude liability for indirect and consequential loss, the *Civil Transactions Law RD 29/13* (CTL) does allow for the recovery of consequential losses in certain circumstances. These provisions of the law are yet to be tested before the Omani Court. However, any provision that attempts to exempt a defaulting party from all liability for breach of contract will be void.

Similarly, any terms that are contrary to public morals, Omani law, or *Sharia* law, or terms that seek to limit a right otherwise required by Omani law to be made available to a party, including decennial liability, will also be deemed void.

Articles 21 and 22 of the *Engineering Consultancy Law (Royal Decree 27/16)* (ECL) impose decennial liability on contractors, engineers, and design consultants.

A consultant engaged in the preparation of design drawings and supervision of construction works, is liable for any defective design for ten years jointly with the contractor, commencing from the date of handing over of the building or structure. Where a consultant is only responsible for the preparation of design or architectural drawings without supervision of construction, the consultant is responsible only for defects that have emanated from the drawings.

Decennial liability is also codified in the CTL. Article 634 of the CTL imposes joint liability on both the contractor and the engineer for ten years for:

- Total or partial damage to a building or other fixed facilities constructed by them.
- Defects which threaten the stability or safety of the building.

However, the interplay between ECL and the CTL remains to be tested. Liability under the ECL could, in theory, include defects of lesser severity than those contemplated under the CTL, which refers to major structural failings.

Caps on Liability

It is usual for parties to agree caps on overall liability subject to certain carve-outs for liabilities that cannot be limited (including strict liabilities such as decennial liability and liabilities to third parties). Caps on delay and performance liquidated damages are also frequently negotiated. Carve-outs to general liability caps such as amounts owing under indemnity provisions and amounts recoverable under insurance policies can also be negotiated. See *Practice Note, Limiting liability: interpretation*.

Force Majeure

While the concept of force majeure is recognised under Omani law, Omani law does not provide a specific definition of what constitutes a force majeure event (see *Practice Note, Contracts: force majeure*). Force majeure has been cited in several cases and, under the CTL, a contract can be terminated due to a force majeure event.

The Omani courts have held that a force majeure event is any event that prevents a party from performing its obligations under the contract for reasons outside its control and which could not have been reasonably foreseen by the party asserting the claim. The Omani courts have considered events such as natural disasters as force majeure events, but have not accepted the performance of a contract having become uneconomic due to a force majeure event. Generally, the Omani courts recognise circumstances which frustrate the performance of a contract and these provisions agreed between the parties should generally be enforceable.

Further, Article 159 of the CTL gives the Omani courts discretion to vary the terms of a contract in favour of an obligor if continued performance of the contract has become "oppressive" provided the circumstances in question are "exceptional" and "public" and could not have reasonably been foreseen by the contracting parties at the time of their agreement. Article 172 of the CTL further provides that where the performance of a contract becomes impossible due to a force majeure event, the corresponding obligations of the parties cease and the contract is effectively terminated.

Material Delays

The extension of time provisions that appear in the **Oman** Standard Documents and the FIDIC suite of contracts are generally adopted by parties to construction contracts in **Oman**. Parties are also able to negotiate their own provisions. Grounds for a contractor's claim for an extension of time typically include:

- Employer instructed variations (change in scope).
- Employer delay (for example, provision of drawings, granting access to the site).
- Force majeure or employer risk events (which can be expressly set out in the contract).

As in other jurisdictions, employers typically seek to narrow the grounds under which contractors can claim additional time. Employers can also negotiate time bars and pre-conditions to contractor claims (for example, notice of a claim to be given within a certain time after the event relied on as grounds for the claim). Contractors typically seek to broaden their ability to claim additional time. Parties are likely to negotiate the process for determining the amount of any extensions.

See also *Standard Forms of Construction Contract*.

For more information, see *Practice Notes, Delay to construction contracts* and *Time for completion and extension of time*.

Variations

Employers typically seek to narrow the grounds under which contractors can claim additional costs, while contractors may seek to broaden these grounds. Again, time bars, pre-conditions for claims, and the method for valuing variations will likely be negotiated.

Other Negotiated Provisions

Generally, the following terms of construction contracts are often heavily negotiated:

- Delay damages (level and application).
- Payment periods.
- Termination and suspension rights.
- Performance security package (performance bonds, cash retentions, and parent company guarantees).
- Dispute resolution provisions.
- Appointment of subcontractors and responsibility for employer-nominated subcontractors.
- Grounds for claims for additional time and cost.

Provisions regarding design liability are not open to negotiation in view of Articles 21 and 22 of the *Engineering Consultancy Law (Royal Decree 27/16)* (ECL), which impose on contractors, engineers, and design consultants decennial liability insurance (which covers the ten-year period following a project's completion to cover the costs of a total or partial collapse of, or latent structural defects in a building).

Certain contractual provisions such as fitness for purpose warranties, ground condition risk, and change in law risk are also typically not negotiated.

Rights of Third Parties Under Contracts

While a contract cannot create an obligation on a third party, it can grant third parties rights under the contract to be enforced, if required. If project agreements provide for third party (such as lenders) rights, that third party can enforce its contractual rights against the contractor or consultant (*Omani Civil Transactions Law (Royal Decree 29/2013)*).

Architects, Engineers, and Construction Professionals

Selection and Appointment

Parties typically engage a range of consultants including engineers (structural, mechanical, electrical), architects, and other design consultants and project managers.

The *Sultanate of Oman Standard Conditions of Engagement for Consultancy Services for Building and Civil Engineering Works* (first edition 1987) is the standard form of consultancy agreement generally used by public authorities but, as with construction contracts, parties are free to agree to use other standard forms (such as the FIDIC White Book) and negotiate amendments and additional terms subject to compliance with the applicable laws of **Oman**.

Individuals operating engineering offices (performing one engineering discipline) and engineering consultancy offices (performing a range of engineering services) must be licensed to perform this work and must have the levels of experience and qualifications stipulated in the ECL. The ECL also imposes a penalty regime on individuals providing consultancy services without a licence.

In practice, design can also be provided by foreign consultancies but with drawings formally submitted to the relevant authorities for approval through a local licensed entity (Architect of Record). Typically, the local entity will be fully indemnified and insured by the foreign entity for all liability arising from the submitted design.

See also *Practice Note, Professional appointments: the consultant's role and appointment*.

Professionals' Contracts

Negotiated Provisions

The following terms of consultant agreements are often heavily negotiated:

- Standard of care (for example, "good industry practice" or "the standard expected of a consultant with experience of projects of a similar nature and value").
- Limitation of liability.
- Insurance coverage.
- Co-ordination with other consultants.
- Grounds for suspension or termination.
- Intellectual property use and ownership.

Caps on Liability

Liability under consultancy services agreements is typically capped. The extent of this cap is not restricted under Omani law and is subject to agreement between the parties. The liability cap is usually aligned with the level of the consultant's professional indemnity cover.

Payment for Construction Work

Methods of Payment

Omani law imposes no restrictions on payment terms that can be mutually agreed between the parties to a construction contract.

Advance payments are normal practice and the default position in the **Oman** Standard Documents is an advance payment of 10% of the contract value.

As in other jurisdictions, the most common pricing structures are "measure and value" and "fixed price lump sum." Under a measure and value contract, payments are made periodically by reference to quantities of work completed and priced against a schedule of rates or bill of quantities. Under a fixed price lump sum, contract payments are made on attainment of specific milestones. The **Oman** Standard Documents can be amended to accommodate either structure.

Securing Payment

Article 633 (1) of the CTL permits contractors to retain rights of ownership over equipment or materials supplied, when the contractor has completed all or part of the works but has not been paid in accordance with agreed terms.

Article 633 (2) of the CTL also states that the retention of an employer's equipment by the contractor is not permitted where the contractor has not performed all or part of the works. There is also case law to suggest that where a contractor has not been paid for the work undertaken by it, and this work results in enhancement in the value of the property, the contractor may have the right to claim against the property, even if security interests have been created and registered over the property in favour of lenders.

Subcontractors

In **Oman**, a main contractor can subcontract the works or a portion of them to a subcontractor and parties are free to negotiate contractual protections in respect of these arrangements. Protections might include indemnities from the subcontractor in favour of the main contractor and direct agreements or continuity guarantees between the subcontractor and the employer if the main contract is terminated. The employer can also require collateral warranties to ensure the subcontracted work is completed to the required standard. Under the **Oman** Standard Documents, the contractor is responsible for all subcontracted work which follows the FIDIC risk allocation.

Back-to-back agreements under which a subcontractor is engaged by the main contractor on broadly the same terms provided in the main contract are common in **Oman**, particularly where a substantial portion of the contract works is to be subcontracted and the main contractor wishes to pass through its risk.

Licensing

The consents, permits, and licences to be obtained by application to the relevant authorities are project-specific but the following are normally required:

Before

Approvals and permits needed before the start of the project include:

- Site or plant approval from:
 - the *Environment Authority* (EA);
 - the *Ministry of Agriculture, Fisheries and Water Resources* (MAFWR) or local municipality or Authority for Public Service Regulation (APSR); or
 - the *Ministry of Housing and Urban Planning* (MOH).
- Preliminary environmental permits from EA.
- "No Objection Certificate" (NOC) for construction of building or plant from the local municipality and the EA.
- Excavation permits from the local municipality, EA, MOH, and the *Royal Oman Police* (ROP).
- Approval for temporary facilities (temporary construction site) from the local municipality and the EA.
- Approval of site drawings by the ROP.
- Electrical line site clearance (temporary construction site and permanent project facilities) from the MOH and regional electricity distribution company.
- Water mains site clearance (temporary construction site and permanent project facilities) from the MOH and the APSR.
- Telephone site clearance (temporary construction site and permanent project facilities) from *Omantel*.
- Gas crossing excavation permits from *OQ Gas Networks (OQGN)*.

During

Approvals and permits needed include:

- Permits for the transportation of plant and equipment (heavy items) and of hazardous waste (if necessary) from the ROP and Roads Department.
- Consent to open up highways or other roads for crossing.
- Permission for the installation of sign boards from the local municipality and the EA.
- Waste disposal consents from the local municipality and the EA.

On Completion

The following are needed:

- Municipality permits, such as certificates of completion.
- Electricity connection request to be made to the relevant electricity distribution company.
- A fire safety certificate from the Director-General of Civil Defence.
- Water supply requests to be made to the APSR.

A foreign construction entity wishing to conduct business in **Oman** requires a registered legal presence and a licence granted by the Ministry of Commerce, Industry, and Investment Promotion (MOCI).

Typically, foreign entities incorporate an LLC (see *International Projects*). Investors can now also use the option of the single-person LLC vehicle introduced by the new Commercial Companies Law.

Engineering or design consultants are required to be licensed in accordance with the ECL (see *Architects, Engineers, and Construction Professionals*).

Projects Insurance

Compulsory Insurance

Omani law does not specify the insurance policies required for the performance of a construction contract. However, the following policies would in practice be considered mandatory:

- Third-party liability insurance.
- Workman's compensation insurance.
- Vehicle insurance (third-party).
- Professional liability insurance.

Non-Compulsory Insurance

It is market practice for construction contracts to also require both:

- Commercial general and umbrella liability insurance (including third-party liability).
- Loss or damage to the property for its full replacement value.

Employment Laws

The **Oman Labour Law (Royal Decree 53/2023)** (OLL) imposes minimum wage requirements for Omani employees, working time restrictions, and general health and safety requirements (see *Health and Safety*).

Health and Safety

The OLL's health and safety obligations require an employer to ensure safe working conditions for employees. Further health and safety requirements are set out in *Ministerial Decision 286/2008*. These statutory obligations do not have to be expressly adopted in a construction contract, but it is common practice for an employer to include representations, warranties, and indemnities from a contractor for any breach of the statutory requirements applicable to the workforce employed on construction projects.

Any contractual provisions seeking to limit the liability of the contractor or the employer in respect of statutory obligations will be null and void.

As in other jurisdictions, contractors generally assume all responsibility for health and safety at the site and for all persons attending the site. Construction contracts may also require contractors to adhere to the employer's own health and safety requirements or formulate plans and procedures by reference to certain international standards.

Environmental Issues

Air

In **Oman**, environmental matters are generally governed by the *Law on Conservation of the Environment and Prevention of Pollution promulgated by Royal Decree 114/01*. Specific laws and regulations include *Ministerial Decision 243/05*, which regulates the control and management of ozone-depleting substances, and which also applies to emissions from construction sites.

Water

The *Law Regulating Water and Wastewater (RD No. 40/2023)* regulates the production, transportation and supply of water.

Sources of potable water are protected under *Royal Decree 115/01 (promulgating the law on protection of sources of potable water from pollution)*.

The *Marine Pollution Law promulgated by Royal Decree 34/74* prohibits the discharge of any pollutant in a pollution-free zone from a ship, shore location, or oil transport facility.

Ministerial Decision 145/93 regulates the discharge and re-use of wastewater.

Waste

The Law Regulating Water and Wastewater (RD No. 40/2023) also regulates the collection, transportation, treatment and disposal of wastewater.

The *Regulations for the Management of Solid Non-hazardous Waste (issued under Ministerial Decision 17/93)* impose obligations on operators of solid, non-hazardous waste treatment facilities and sanitary landfills. In general, the law does not permit any person to dispose of non-hazardous waste in places other than designated places.

The *Regulations for the Management of Hazardous Waste (issued under Ministerial Decision 18/93)* deal with hazardous waste, including any waste arising from commercial, industrial, or any other activities, which due to its nature, composition, quantity, or for any other reason is hazardous or potentially hazardous to the environment. Any storage facility for hazardous waste must be duly licensed by EA (see *Licensing*).

The discharge of any wastewater or sludge into the environment is governed by the *Regulations for Wastewater Re-Use and Discharge (issued under Ministerial Decision 145/93)* and a permit for these activities is required from EA.

Environmental Impact Assessments (EIAs)

Applicants for environmental permits from EA are generally required to submit environmental impact assessments in support of their applications.

Sustainable Development

Sustainable development in the **Oman** construction sector has remained limited to ad hoc developer-led initiatives such as rooftop solar panels.

However, in line with the **Oman** Vision 2040, **Oman** is now seeing an obvious trend of developers shifting towards sustainable development and green building practices. For instance, the Sultan Haitham City project (a planned large smart city project in the Muscat Governorate) is expected to be based on sustainable and environment friendly infrastructure, although since the project is still in its planning stages, details of the green building practices that may be employed are not yet available.

Carbon Emissions or Other Targets

In **Oman**, the construction industry is not subject to any carbon emissions or climate change targets. As mentioned in *Environmental Issues*, developers are now increasingly adopting green building practices in line with the **Oman** Vision 2040.

Prohibiting Corrupt Practices

Rules

The main anti-bribery and anti-corruption laws are:

- The *Penal Code promulgated by Royal Decree 7/18*.
- The *Protection of Public Property and Avoidance of Conflict of Interest Law promulgated by Royal Decree 112/11* (Anti-Corruption Law).

Penalties

The concept of corruption in **Oman** is wider than bribery. A government official is prohibited from using their position to achieve an advantage for themselves or for others or to use their influence to obtain an advantage or a special treatment for others (Article 7, Anti-Corruption Law). This offence is punishable under Article 16 with imprisonment from one to three years.

Under Article 8 of the Anti-Corruption Law, a government official is prohibited from acting as an intermediary, an agent, or a sponsor of any company or establishment whose activities relate to the entity in which they work. This offence is punishable with imprisonment from six months to two years (Article 15, Anti-Corruption Law).

The government official or their minor children must not have a share in any company, establishment, or business for profit which is directly connected with the entity in which they work (Article 11, Anti-Corruption Law).

In all the above cases, the government official must be removed from their position and all the funds illegally received by them will be confiscated.

Bribery in respect of public officials is dealt with under Articles 207, 208, 209, 210, 211, and 212 of the Penal Code. Penalties include fines of up to OMR1000 and imprisonment for up to five years, depending on the nature of the offence.

Bankruptcy or Insolvency

Clients

In general, a company's declaration of bankruptcy constitutes grounds for its dissolution under the CCL, but parties are free to agree their respective rights and obligations in the event of the contractor's bankruptcy or insolvency.

The *Bankruptcy Law (RD 53/2019)* came into force in July 2020. This law permits creditors to file a bankruptcy petition to the court to declare a debtor bankrupt. Following declaration of bankruptcy of a debtor, that debtor is not allowed to administer, dispose of any property, pay any debts, or recover any amounts owed to them and a court appointed liquidator will take over the management of all assets and liabilities of the debtor.

Ordinary creditors or creditors holding general priority rights cannot file individual cases against the assets of the bankrupt or take any other judicial actions against it once the order on the declaration of bankruptcy or insolvency has been issued.

As soon as the bankruptcy declaration order is issued, a group of creditors whose rights have arisen in respect of the insolvent debtor for valid cause is formed. The group, which has legal personality and is represented by the receiver, does not include creditors whose debts are secured by a mortgage or special priority rights, except for cases in which they are covered by the assets in bankruptcy in their capacity as ordinary creditors.

As the client in any project will be an unsecured or ordinary creditor, they are entitled to recover any amounts due from the receiver of the bankrupt contractor in the normal course as for other ordinary creditors.

Funders

To the extent any funders of the contractor have registered security interests, their claim takes priority over other unsecured creditors of the contractor, to the extent of the assets secured.

Contractors

Following the declaration of bankruptcy of a contractor, the contractor is not allowed to administer, dispose of any property, pay any debts, or recover any amounts owed to them and a court-appointed liquidator will take over the management of all assets and liabilities of the contractor.

Consultants

Consultants are engaged by the client or employer. To the extent any consultant is engaged by the contractor, the consultant has the same rights as any other unsecured creditor of the contractor.

Dispute Resolution

Laws on Dispute Resolution

Omani law does not specifically mandate resolution of construction disputes through a prescribed dispute resolution mode. The default mode of resolution of all disputes in **Oman** (including construction disputes) is through adjudication in the Omani courts.

However, it is common practice for construction contracts to provide for disputes to be resolved through arbitration. See [Dispute Resolution Methods](#) for details of the main forms of dispute resolution for construction matters.

Type of Outcome

Any judgments or orders passed by an Omani court are binding on parties. If the parties have resolved their dispute through arbitration in which the seat of arbitration is **Oman**, it will then be considered a local arbitration and, in accordance with the **Oman Arbitration Law (RD 47/97)**, the award will be binding on the parties and may be enforced against the other party by applying to the Primary Commercial Court.

If the seat of arbitration is outside **Oman**, it will be considered a foreign arbitration. See [Enforcement](#).

Enforcement

Any final order or judgment issued by an Omani court is enforceable through the Omani courts. Similarly, an arbitration award that has become final and not subject to nullification may be filed with the concerned court for enforcement purposes.

Dispute Resolution Methods

Any disputes being referred to an Omani court will be referred according to the dispute resolution terms of the particular construction contract.

Alternative dispute resolution methods, while not as widespread as in other jurisdictions, can be agreed by the parties on a case-by-case basis. Methods may include expert determination, mediation, or referral to a disputes panel. The **Oman Standard Documents** include an expert determination step, but it is yet to be seen whether a FIDIC-style "Disputes Adjudication Board" (in line with the FIDIC 1999 suite of documents, see [Practice Note, FIDIC: making claims and resolving disputes under Red, Yellow and Silver Books \(1999\)](#)) or a "Disputes Avoidance/Adjudication Board" (as per the FIDIC 2017 suite of documents) will be introduced when the next iteration of the documents is published. For more information on that procedure, see [Practice Note, FIDIC: making claims and resolving disputes under the Red, Yellow and Silver Books \(2017\)](#).

Courts and Arbitration Organisations

Court Litigation

A dispute can be filed for adjudication with the Omani court subject to parties complying with the dispute resolution regime agreed in the construction contract, for example, that parties are required to attempt negotiations in good faith and to comply with specified notice periods.

The Omani courts will typically not assume jurisdiction if the construction contract provides for the resolution of disputes through arbitration.

The competent courts and fees are as follows:

- Disputes up to a monetary value of OMR70,000 will be heard by a single judge.
- Disputes involving a monetary value above OMR70,000 will be heard by a panel of three judges of the Primary Commercial Court.
- The fees for filing a suit with the Primary Commercial Court are approximately 2% of the value of the dispute with an upper limit of OMR3,000.

Submissions to the Primary Commercial Court are generally made in writing and the scope for oral representations and pleadings is very limited. Once the plaintiff has filed the suit with the Omani Court, the court summons the parties for a first hearing within four to six weeks, after which the respondent is invited to submit a statement of defence. Once both parties have made all the necessary submissions (including witness statements) and the court has heard the parties and reviewed any expert reports commissioned by it for the determination of any technical issues, it will pass judgment.

The judgment of the Primary Commercial Court is appealable before the Appeals Court and the Appeals Court's judgment may be appealable before the Supreme Court.

Arbitration

It is usual practice in **Oman** for construction contracts to provide for disputes to be resolved by arbitration. Where a contract provides for arbitration, the Omani courts have consistently held that they will not assume jurisdiction unless otherwise consented to by both the disputing parties.

If one of the parties refers the dispute to the Primary Commercial Court despite the existence of an arbitration clause, the court must dismiss the action brought before it on an objection being raised by the other party to the dispute. If no objection is raised by the other party at the first hearing, the court can assume jurisdiction.

The Omani Arbitration Law (OAL) is set out in *Royal Decree 47/97 as amended*. The OAL is applicable to any arbitration between parties under public or private law, irrespective of the nature of the legal relationship on which disputes are based, provided the arbitration takes place in **Oman** or, in the case of international commercial arbitration taking place abroad, provided the parties have agreed to the applicability of the OAL.

The parties are free to agree to any venue for the arbitration proceedings and for the proceedings to be governed by alternative arbitration rules (see *Practice Note, Major international commercial arbitration rules: comparison and key features*), for example, the *International Chamber of Commerce (ICC) Rules*. It is also permissible under the OAL for parties to agree to hold arbitration proceedings in a foreign jurisdiction. **Oman** is a signatory to the *1958 New York Convention on the recognition and enforcement of foreign arbitral awards* (New York Convention). However, the authors are aware of only one foreign arbitral award that has been enforced by the Omani Courts due to **Oman** being a contracting state.

Article 352 of the *Civil and Commercial Procedure Law promulgated by Royal Decree 29/2002 (CCPL)* sets out the mandatory conditions for a foreign judgment to be enforced in **Oman**. Article 353 of the CCPL confirms that these conditions are also applicable to foreign arbitral awards. They are that:

- The award was rendered by a competent judicial body or tribunal vested in accordance with international law, is final and binding on the parties, and was not obtained through deception or fraud.
- The parties to the award were summoned to appear in the proceedings or were duly represented in those proceedings.

- The award does not include any order, remedy, or relief which is contrary to the laws of the Sultanate of **Oman**.
- The award is not in contravention of any judgment or order previously passed by the Omani courts, nor is contrary to public policy or conduct in the Sultanate.
- The country or territory in which the award was passed recognises arbitral awards rendered in the Sultanate of **Oman** on a reciprocal basis.
- The subject matter of the foreign arbitration proceedings is one in respect of which arbitration is permissible under Omani law.

Tax

Tax Issues in Construction Projects

In **Oman**, the Corporate Income Tax (CIT) regime is governed by the Tax Law, *Royal Decree 28/2009*, as amended, which applies to both Omani and foreign companies operating within the country. The standard CIT rate in **Oman** is 15%. Contractors are liable to pay customs duties on imported equipment and materials, as well as income tax on profit from operations in **Oman**. Customs duties on imported goods from non-*Cooperation Council for the Arab States of the Gulf (GCC)* countries are typically charged at 5%.

Value Added Tax (VAT) at 5% has applied in **Oman** since 16 April 2021 to the supply of most goods and services.

Mitigating Tax

Split onshore and offshore contract structures are frequently used in the market for international contracts for both tax and construction efficiency. Offshore activities may include design, certain elements of assembly; while onshore activities may be limited to groundworks, installation, and incidental construction activities.

Tax Incentives

Tax exemptions may be applicable to projects undertaken within a Special Economic Zone (SEZ). The extent of any exemptions available is subject to the specific laws pertaining to each SEZ.

Developments and Reform

To the best of the authors' knowledge there are no rules and policies in the pipeline aimed at regulating building technology.

The **Oman** Standard Documents are due to be updated and brought in line with FIDIC 1999. The uptake of the FIDIC 2017 suite remains to be seen.

END OF DOCUMENT