

## Newsletter Tenth Edition | July 2021 |

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Welcome to the tenth edition of our newsletter. In this edition we will present “The most prominent provisions of non-Jordanian ownership of real estate pursuant to the Immovable Property Ownership Law No. (13) for the Year 2019 (“the Law”)”. Amongst those are the following:

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*“The Law has unified 13 laws and 19 regulations related to the immovable property sector”*



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## An Introduction to the Law

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Over time, legislation in all its forms has witnessed regulation of all personal rights in respect of immovable property (such as real estate, including land and properties), which includes regulating transactions related to ownership of immovable property. [Under Jordanian Law] the primary legislation that compiled the provisions for transactions related to immovable property is the Immovable Property Law.

A Royal Decree was issued [in 2019] approving the Immovable Property Ownership Law No. (13) for the Year 2019<sup>(1)</sup>. With its issuance, Jordan is in line with international regulations that single out a legislative tool for immovable property ownership.

This law is considered to be one of the most comprehensive legislations in Jordan, as It includes legislative provisions that were previously dealt with and mentioned in several legislations. Moreover, the Law dealt with and resolved new and contemporary issues, such as:

- Unifying 13 laws and 19 regulations related to the immovable property sector.<sup>(2)</sup> The most important of which is the Ottoman Land Law, which was a historical source for legal

provisions related to land, and the Renting and Selling of Immovable Property to Non - Jordanians and Legal People Law No. 47 for the Year 2006.<sup>(3)</sup>

- Canceling the classification of immovable properties of the Miri type.<sup>(4)</sup>
- Providing a privilege for the investment sector (investors in particular) that includes offering exemptions from certain ownership restrictions.

From reading the Law, one can notice how keen the Jordanian legislator is to encourage investment through a number of new provisions that they were introduced. This is to attract and encourage investors to invest in the Hashemite Kingdom of Jordan and in an attempt to avoid any shortcomings with regard to real estate development projects.

Also, one of the aims of the Law was to eliminate the lengthy procedures and burdensome complications related to the transfer of ownership and the ownership of companies in an attempt to help encourage investors to consider Jordan as a country with a flexible legislative base, that facilitates and simplifies the process of implementing investment projects. The Law may have accomplished this goal so by abolishing

<sup>1</sup> The new Immovable Property Ownership Law was published in the Official Gazette on 16/5/2019 in issue no. 5573.

<sup>2</sup> Source: <http://www.moi.gov.jo/DetailsPage/MOJEN/NewsDetailsEN.aspx?ID=1050>

<sup>3</sup> Article 223 of the Law states that: "When the provisions of this law come into force, the following laws shall be repealed: the Ottoman Land Law, the Land and Water Settlement Law No. 40 for the Year 1952, the Changing Miri Lands Into Private Ownership No. 41 for the Year 1953, the Defining, Surveying and Valuing Lands Law No. 42 for the Year 1953, the Placement of Immovable Property to Secure Debts Law No. 46 for the Year 1953, the Division of Joint Immovable Property Law No. 48 for the Year 1953, the Disposal of Immovable Property Law No. 49 for the Year 1953, the Disposal of Immovable Property by Legal People Law No.61 for the Year 1953, the Law for the Amendment of Provisions Relating to Immovable Property No. 51 for the Year 1958, the Law for the Registration of the Immovable Property That Have Not Been Previously Registered No. 6 for the Year 1964, the Ownership of Floors and Apartments Law No. 25. For the Year 1968, the Expropriation Law No. 12 for the Year 1987 and the Renting and Selling of Immovable Property to Non - Jordanians and Legal People Law No. 47 for the Year 2006".

<sup>4</sup> Miri lands: They are lands that lie outside the municipality or the root of the village, and are not permitted to be endowed or bequeathed with the state having rights over them. However, the new Law has turned them into private property.



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several laws and by gathering and including the provisions directly related to the process of organizing and registering property and exercising rights over them (such as selling and mortgaging). The following is an overview of the most prominent provisions of the Law in respect of the legal status of immovable property ownership:

### 1. The Law's enforcement of the stability of immovable property ownership in the event of invalidity of a disposal or registration transaction on immovable property:

The Law enshrined the principle of stabilizing the immovable property ownership in the case that the disposal or registration transaction of this property is invalid. This matter came forth due to the existence of several lawsuits in which the claimant asks the court to declare the invalidity of contracts selling a property on the basis that there has been an illegal procedure on the said property. In this regard, we will present the stand of the abolished laws and then that of the Law.

The provisions of the old laws would stipulate the invalidity of the contracts since whatever is built on invalidity is invalid.

The current law standpoint regarding the abovementioned case is presented in Article 13 of the Law, which gives the authority of this decision to the court. This Article states that in the event the court finds that the registration act or transaction regarding a registered immovable property is invalid, the court may, subject to the rules of good faith and stability of immovable property ownership, decide any of the following (with the possibility that the court based on a request prohibit the disposal of the immovable property that is the subject of the lawsuit until a decision is made):

- a. Annul and terminate the disposal or registration transaction and the actions and transactions on which they were based on in full or within the limits of the shares of the judgment creditor, and re-register the right in his/her name in the real estate registry of the immovable property in question whenever possible.
- b. Rule that the person causing the damage is obligated to pay a fair compensation to the injured party according to the value of the property at the time of filing the lawsuit.

This Article is considered one of the most flexible provisions for citizens in general and for investors in particular in case the registration transaction of the property they own was found to be invalid. This is due to the fact that this Article gives the court the authority to keep the transaction valid and instead rule that the judgment creditor should be compensated. For instance, if there are consecutive sales of a land and one of those sales is invalid, then the court under the Law has the right to not terminate the sale contract unlike how it would have done under the previous laws.

### 2. Non-Jordanian ownership of real estate:

The Law ensures a balance between the sovereignty of the Jordanian state over its lands and supporting foreign investment, which is the cornerstone of the national economy. The Law regulates and amends the provisions of the repealed Renting and Selling of Immovable Property to non - Jordanians and Legal Persons Law; In terms of amending the procedures for owning immovable property for non-Jordanians



with permission.<sup>5</sup> This led to an improvement in Jordan's rank in the international business practice reports.<sup>6</sup> The following is an overview of the procedures for owning immovable property for non – Jordanians, as the Law differentiates amongst the procedures for ownership for residential or for investment purposes:

**a. Ownership with intent to invest:**

The Law includes different provisions regarding ownership within or outside the limits of regulations, as follows:

- Ownership within the limits of regulation: A non – Jordanian<sup>(7)</sup> may own a plot of land with the intention of investing in an industrial or service project, with permission from the Minister of Finance based on the recommendation of the Director of the Department of Land and Survey, provided that the area of the land does not exceed (10) dunums,<sup>8</sup> with the Cabinet of Ministers having the authority to permit larger areas. This is conditional on a Jordanian being

treated reciprocally in the country of that non-Jordanian.

- Ownership outside the boundaries of regulation: A non – Jordanian (must be an Arab national) may own a plot of land outside the boundaries of regulation areas, with the intention of investing them through land reclamation or cultivation or through the establishment of an industrial or housing project on the land, and this is by:

- A decision from the Minister of Finance based on the recommendation of the Director of the Department of Land and Survey for a plot of land the total area of which does not exceed (50) fifty dunums.
- A decision from the Cabinet of Ministers based on the recommendation of the Minister of Finance for a plot of land the area of which exceeds (50) fifty dunums.

**b. Owning for a residential purpose:**

The Law gives non-Jordanians <sup>(9)</sup> the right to own an apartment, floor or plot of land for the

<sup>5</sup> Based on Article 136 of the Law, non-Jordanians and the legal person submit a request for permission to own the immovable property to the Department of Land and Survey. The manager is addressed in the cases in which his/her approval is required by law, and then the request for permission to own the immovable property is transferred to the competent authority to grant it according to each case separately. The concerned parties that must be addressed to express their opinion on the application for ownership of the immovable property are determined by a decision from the Cabinet of Ministers. Noting that Article 137 of the same law confirmed that the authority competent to grant permission has absolute authority to grant or refuse immovable property ownership and its decisions to refuse to grant permission are not subject to appeal or oversight from any party.

<sup>6</sup> <https://www.almamlakatv.com/news/27981-%D9%82%D9%81%D8%B2%D8%A9-%D8%BA%D9%8A%D8%B1-%D9%85%D8%B3%D8%A8%D9%88%D9%82%D8%A9-%D9%84%D9%84%D8%A3%D8%B1%D8%AF%D9%86-%D9%81%D9%8A-%D8%B3%D9%87%D9%88%D9%84%D8%A9-%D9%85%D9%85%D8%A7%D8%B1%D8%B3%D8%A9-%D8%A7%D9%84%D8%A3%D8%B9%D9%85%D8%A7%D9%84>

<sup>8</sup> A dunnum is a metric equivalent to 1000m<sup>2</sup>



purpose of housing themselves or their families within the boundaries of the regulation (This is conditional on a Jordanian being treated reciprocally in the country of that non-Jordanian except for non-Jordanians who are Arab nationals. This is also subject to the provisions of the legislations in force), as follows:

Party With The Authority To Grant Permission	Number of Dunums Permitted To Be Owned	Conditions
Director of the Department of Land and Survey	No more than (5) dunums	The permission seeker does not own any immovable property in Jordan
The Minister of Finance based on a recommendation from the Director of the Land and Survey Department	No more than (5) dunums	Irrelevant of ownership of immovable property in Jordan
The Minister of Finance based on a recommendation from the Director of the Land and Survey Department	No more than (10) dunums	Must be a plot of land and the permission seeker does not own any immovable property in Jordan

**c. Ownership of a non-Jordanian legal person to carry out its business:**

- **Ownership within the boundaries of the regulation:** A Jordanian or non-Jordanian legal person can own an immovable property in order to carry out its business, as follows:

Party With The Authority To Grant Permission	Number of Dunums Permitted To Be Owned	Conditions
Director of the Department of Land and Survey	No more than (5) dunums	The permission seeker does not own immovable property in Jordan
The Minister of Finance based on a recommendation from the Director of the Land and Survey Department	No more than (5) dunums	The permission seeker had another immovable property in Jordan or plot of land whose area does not exceed (30) dunums <sup>10</sup>
The Council/Cabinet of Ministers based on a recommendation from the Minister of Finance	more than (30) dunums	-

<sup>10</sup> The Law eased in two respects the procedures for an investor that is a legal person owning immovable property. The first one is by granting the right to own an apartment, floor or plot of land, as the old law limited the right to plots of land only. The second is by vesting the authority to grant permission regarding plots of land that are less than (5) dunums to the Director of the Department of Land and Surveys with conditions which were not stipulated in the previous law.



- **Ownership outside the boundaries of regulation:** The Law eased the procedures for granting permission to a non-Jordanian legal person to own immovable property outside the boundaries of regulation to carry out its business by allowing it based on the following decisions:

- A decision by the Minister of Finance based on the recommendation of the Director of the Department of Land and Survey for a plot of land the total area of which does not exceed (50) dunums.
- A decision by the Cabinet of Ministers based on the recommendation of the Minister of Finance for a plot of land the total area of which exceeds (50) dunums.

In all of the previous cases, a non-Jordanian and legal person who owns immovable property in accordance with the provisions of the Law must complete the project for which the immovable property was owned for or any other project compatible with its objectives within four years if the ownership is for residential purposes and within six years if the ownership is for any other purpose.

The Law raises the period that was previously specified in the repealed Renting and Selling Immovable Property to non-Jordanians and Legal People Law. It took into account the investor's

interest in this aspect through stipulating the possibility of extending this period for a period that the Minister of Finance deems appropriate, with a maximum of up to eight years for immovable property allocated for residential purposes and twelve years for other purposes.<sup>(11)</sup>

The Law also permits the sale of immovable property in two cases before the expiry of the period mentioned in the previous paragraph as an exception to the general principle, since the general rule is that a non-Jordanian is prohibited from disposing of immovable property in any way prior to the expiry of the period mentioned in the previous paragraph. The Law in its Article 150 states that those two cases are the following:

a. The issuance of a decision from the Minister of Finance based on: (1) the recommendation of the Director of the Department of Land and Surveys and (2) a request from the owner and for justified reasons.

B. For immovable property that was owned with the intention of developing or investing in the establishment of residential, commercial or industrial units for the purpose of selling them, and that is only after the full development of the property or after the establishment of the said units on the property.

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<sup>11</sup> Article 152/a of the Law states the following: "A. If the owner does not complete his/her project within the periods stipulated in Article (149) of this law for any reason, (2%) of the assessed value of the immovable property will be fined for each year or part thereof from the date of registration of the immovable property in his/her name to the date of transfer of ownership of the immovable property to another owner. B. The Minister may exempt the project owner from the fine stipulated in paragraph (A) of this Article if it is proven that the failure to complete the project is due to administrative and organizational reasons." Please note that the period has been increased from what was stipulated in the Renting and Selling Immovable Property to non-Jordanians and Legal People Law in order to give the investor a longer term.





### 3. Exemptions for obtaining permission to own real estate by a non-Jordanian:

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The abolished Renting and Selling Immovable Property to non-Jordanians and Legal People Law used to restrict cases of ownership without permission to inheritance. The Law adds two new cases for the possibility of a non - Jordanian owning immovable property without permission (in addition to the case of inheritance), which are:

- Owning the excess portion/area of a road to unify it with the owner's property in accordance with the provisions of the Towns and Villages Organization Law and any other legislation.
- The ownership by the owner (or his general successor) by restitution of an expropriated immovable property in which the possessor has relinquished his/her ownership in accordance with the provisions of the Law, noting that expropriation occurs when a person owns (expropriates) an immovable property for the public welfare (benefit) and through fairly compensating the owner of the property. Therefore, this case gives the owner or his/her heirs/inheritors the right to relinquish his/her property with no need to obtain a permission.

### 4. The mortgaged property for non-Jordanians<sup>(12)</sup>:

The Law amends the provisions of ownership of a mortgaged immovable property in the interest of a non-Jordanian through public auction. If a non-Jordanian was a mortgagee creditor on an immovable property (meaning that there is a property owned in Jordan that is mortgaged for the benefit of a non-Jordanian person) and the mortgaged right has not been fulfilled, he/she has the right upon enforcement of the right on the immovable property and upon selling it at public auction to own the immovable property, provided that it is sold within two years to a Jordanian person. The provisions become explicitly applicable to a non-Jordanian **legal** person.

**In conclusion**, it can only be said that the Law has brought about a great development in Jordanian immovable property legislation. It has contributed extensively to preparing the Jordanian investment environment for the beginning of a new phase that contributes to the growth of the real estate market, which necessarily entails the rise and prosperity of the national economy.

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<sup>12</sup> The insurance mortgage is pursuant to Article 1322 of the Civil Code: "A contract by which a creditor on a property designated for the payment of his/her debt acquires a "right in rem" for him/herself that guarantees him/her precedence over ordinary creditors and creditors below him/her in rank in fulfilling his/her right from the price of the immovable property regardless of whomever has possession of it".



8 If you would like to discuss further any aspects of this Newsletter, please feel free to get in touch with one of our lawyers, using the contact details in our Contributors section below.

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Warm regards,

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## ABOUT HAMMOURI & PARTNERS ATTORNEYS AT-LAW

Hammouri & Partners Attorneys at-Law, is a Jordanian multi-practice law firm, founded over two decades ago (established in 1994) by Professor Mohammad Hammouri. Professor Hammouri is the Chairman of the board of Hammouri & Partners Attorneys at-Law, a litigator as well as an arbitrator, a former Minister of Culture and National Heritage and a former Minister of Higher Education, who wrote a plethora of books, primarily on constitutional rights. Professor Mohammad Hammouri also founded the first School of Law in the Hashemite Kingdom of Jordan at The University of Jordan, in which he was its first dean. Today, the firm is managed by Dr. Tariq Hammouri, an academic, attorney and a former Minister of Industry, Trade and Supply. Dr. Hammouri is both an experienced attorney and arbitrator, an expert in the Corporate sector, Commercial Transactions, Financial Markets, Banking, International Trade and negotiations. He is an Associate Professor at the School of Law, University of Jordan and (formerly) the Dean of the School of Law.

Hammouri & Partners team consists of 25 attorneys and a number of other professionals working in the firm's specialized departments, providing professional legal services at a local, regional and international level.

The firm's legal services cover numerous areas of practice, including the following: Corporate and Commercial Law (whether that is corporate set-up or drafting of all types of commercial agreements), Intellectual Property law, Banking and Finance Law (the Firm advises local and international banks regarding all Banking Transactions and Regulatory Compliance). Additionally, the Firm's Litigation and Arbitration department has the capabilities and competence to represent parties in the most complex and novel legal matters, as it encompasses expertise in several areas of law, whether it is before courts or arbitral tribunals. Hammouri & Partners Attorneys at-Law was one of the first firms in Jordan to establish a specialized International department to cater for the needs and requirements of international clients on an array of tasks with an international element, such as those regarding bilateral and International Trade negotiations, projects, contracts and others.

In addition, Hammouri & Partners provides legal advice and consultation to various industries such as those of Construction & Infrastructure, Manufacturing, Engineering, Trade, Insurance and Energy, as some of its clients are major energy, healthcare, information technology and telecoms companies.

Hammouri & Partners Attorneys at-Law provides its broad services throughout Jordan as well as worldwide, through established collaborations with reputable law firms in the MENA region, in Europe, the United Kingdom and the USA. Hammouri & Partners' proven capability on the above areas of law has earned the firm international acclaim by the most reputable legal directories. The International Financial Law Review (IFLR 1000), the Legal 500 and the Chambers and Partners Global , all highlight Hammouri & Partners as a leading law firm in the Jordanian legal services industry.



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