

**MONTHLY NEWSLETTER**

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Recent Legal Developments  
in the  
United Arab Emirates  
and  
Highlights from  
Bahrain, Egypt, Iran, Kuwait,  
Oman, Pakistan, Qatar and Saudi Arabia

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UNITED ARAB EMIRATES

1. Insurance Companies

Ministerial Resolution No. 296 of 2004, promulgated by the Federal Minister of Economy & Commerce, establishes new rules on disclosure and transparency for insurance companies offering policies in the U.A.E. In general, the new Resolution requires all insurers to observe disclosure and transparency in their transactions with their clients and in respect of all policies, papers, publications, announcements, advertisements, articles and educational materials that they issue.

Any announcement issued to the public must be factually accurate. It must set forth information accurately and clearly so as to facilitate understanding and evaluation, and any data and statements that it contains must be accurate. An announcement pertaining to an insurance policy must be clear, leaving no room for doubt as to the effects thereof. Exaggeration that goes beyond the wording of the policy must be avoided. Announcements may not contain any misleading or untrue statements concerning the financial position of the company, nor may untrue statements be issued about other companies that are harmful to their reputation. The name of the insurer must be clearly stated along with a detailed description of the type of policy that is the subject of the announcement.

Special requirements apply to insurers that issue life insurance policies or savings and investment policies. These insurers are prohibited from issuing misleading information on the value of the policies as collateral security for mortgages or loans. They are required not to withhold important information and not to use words, expressions, or explanatory data or to place names, addresses or descriptions on policies that could mislead or deceive purchasers of policies and prospective customers as to the nature, term of paid privileges, terms of coverage or applicable premiums. The company must disclose any policy conditions that may lead to restriction, reduction or forfeiture of the nominal value of the policy. The announcement must not contain any misleading statements on profits or returns. Such announcements may not offer biased or incomplete comparisons with the benefits of other insurance policies, may not intentionally disparage

competitors or their insurance services, policies or business practices, and may not disparage or belittle their competitiveness in the insurance market. Such announcements may not suggest that a special or advance offer is being extended, that the purchaser of such policy will obtain any privileges that will not be given later, or that the offer is made or available to only a limited group of persons, for a limited group of policies or for a limited period of time, unless this is in fact the case. Such announcements may not reference restricted privileges available to a certain category or for a limited period of time. The announcement should focus on the benefits of the insurance and not merely the investment benefits. Any application form printed on an announcement that is sent by mail must fully comply with the particulars of the approved application form.

Insurance and reinsurance companies are prohibited from directly or indirectly publishing or distributing false or misleading information in their advertisements in the audio, visual or print media. Insurance companies are prohibited from publishing articles or educational materials that contain false information.

Insurance companies are prohibited from entering materially false or misleading data in any records or reports on their various insurance activities and submitting the same to the concerned official authorities in the U.A.E.

All insurance companies must maintain complete files in their head offices containing photocopies of all of the advertisements that they have issued for a period of not less than five years. Each insurance company must submit, along with the data that it submits annually to the Ministry of Economy & Commerce (now known as the Ministry of Economy and Planning, as noted in item 2, below), a duly signed declaration that all of the announcements issued by the company during the previous year were in compliance and agreement with the provisions of this Resolution. The Ministry has the authority to demand a sample of any announcement for approval prior to publication thereof. The insurance company shall bear complete responsibility for any particulars in contravention of the requirements of this Resolution that may deceive the public, and it must publish an announcement at its own expense, pursuant to the request of the Ministry, correcting the particulars in

accordance with such amendments as may be determined by the Ministry. If the company fails to publish a correction, then the Ministry may undertake such publication at the company's expense.

In dealing with their clients, insurance companies are bound by the principles of protection of the clients' interests and achievement of balance among those who have similar insurance positions. Insurance companies may not discriminate among their life insurance or savings and investment policy holders in the pricing, terms or privileges of policies except based upon actuarial and technical principles. They are also prohibited from denying insurance, denying renewal of a policy or limiting the amount of the insurance unless done in accordance with actuarial and technical principles relating to anticipated losses or for reasons of breach by the insured of his obligations. An insurance company must notify the Ministry of any customer application that it denied or refused to renew, setting forth the grounds for such denial or refusal, and of any termination that it undertook for reason of customer breach, within no more than 30 days from denial of insurance or renewal or policy termination.

The Resolution also imposes obligations on insurance companies with respect to pricing. An insurance company operating in the U.A.E. must observe sound technical principles in pricing its policies, to avoid over-pricing and to ensure fair pricing. An insurance company may not under-price with the intent of obtaining business to an extent that would harm the insurance industry. An insurance company shall abide by the charges established by the Ministry for the uniform automobile insurance policies for loss, damage and third party liability.

Insurance companies must notify the Ministry of proposed prices, attaching details of the technical and actuarial bases from which such prices are derived, no less than 30 days before such prices will be applied, for review thereof in light of the following technical and actuarial standards: (1) data pertaining to paid claims and claims under settlement, and the reliability of such data for projection of losses, (2) losses experienced in the most recent five year period and (3) the volume of large claims previously experienced and the reoccurrence thereof.

Insurance companies are required to submit copies of

new insurance policies to the Ministry for prior approval. These must be accompanied by a statement of the market in which the policy will be offered, a statement of the insurance coverage that the policy provides, subscription criteria, a copy of the policy application, and any other documents requested by the Ministry.

When issuing an insurance policy, an insurance company must write the policy information in a simplified style that may be easily understood, without using vague terminology that may create uncertainty. It must include in the policy all of the provisions governing the relationship between the insurer and the insured or the beneficiaries; describe the insurance coverage accurately and set forth the amount of coverage clearly and unambiguously; state the procedures that the insured or beneficiary must follow upon the occurrence of a casualty to obtain benefits from the insurer; and print the policy clearly and legibly and specify the percentage or amount of any deductibles. An insurance policy may contain an arbitration clause in a separate schedule to the policy. Any forfeiture provision must be written clearly and prominently or it shall be deemed void pursuant to Article 1028 of the Civil Code. The policy must provide that it may not be amended except with the consent of both parties. If the policy provides for withdrawal of coverage for failure by the insured to pay a premium, such clause must be written clearly and legibly. A policy that relates to multiple linked units must provide for periodic notification to the client of the investment position, and the insurer must notify the Ministry of the investment results of such units on the 30<sup>th</sup> of June and the 31<sup>st</sup> of December of each year.

If the insured event occurs, the insured or the beneficiary, as the case may be, must notify the insurer and demand payment of benefits within 10 days of the occurrence or knowledge thereof, unless the policy sets forth a different time period.

The insurer must submit to the claimant or his representative a form including all of the necessary provisions and statements, containing particulars showing the name of the insurer, its address, the location of its claims department, the insurance policy number, the claim number, and a clear statement of the right of the client to raise the matter with the Ministry.

The insurer must begin examination of the claim within 15 days from the date of receipt of the notice of claim. If the company requires the assistance of an expert to evaluate the quantum of damage, then the expert must submit his final report within 15 days from the date of notice to him of the casualty. Such period may be extended to 30 days if the expert is unable to submit his report for reasons beyond his control.

The insurance company must notify the insured or the beneficiary of its acceptance or rejection of the claim within 15 days from the date of receipt of all documents related to the claim. The insurer must pay the insured or the beneficiary fair compensation in accordance with the conclusions of its examination of the claim in accordance with the provisions of the policy up to the policy limit set forth in the policy, without negotiating. If the insurer denies the claim, whether in whole or in part, it must state reasons for such denial. It may not base refusal merely upon the failure of the insured or beneficiary to take the required procedures or submit the required statements unless the same are required to verify the occurrence of the casualty or to determine the quantum of damage resulting therefrom. In accordance with the policy, the insurer may itself undertake repair or restoration of the insured property, and such shall be done rapidly and properly. If the claim is denied, then the insurer must notify the insured or the beneficiary of the causes of denial.

In the event of multiple heads of claim, some but not all of which are disputed, the client shall have the right to demand payment under the undisputed heads pending final settlement.

The insurer must maintain a special file for each claim, including all correspondence, proceedings, observations, and any other relevant documents for easy evaluation upon review by examiners and controllers.

Insurance companies must maintain files for registration of complaints submitted by insured persons or beneficiaries in which shall be entered the date of submission of the complaint, its sequence number, the name of the complaining party, the insurance policy, a summary statement of the subject matter of the complaint, and a statement of the documents submitted in support of the

complaint.

The company must open a separate file for each complaint in which shall be filed all of the papers related to the complaint. The company must examine the complaint and resolve it within 15 days of submission and full documentation. It must issue its decision to accept or reject a complaint. It must enter a summary of the decision in the register of complaints and notify the Ministry thereof and the grounds therefor within 15 days from the date of the decision in respect of a complete or partial denial of claim. Ministry inspectors shall have the right to review complaint files of every company to verify regular entry thereof and may also review the file of any complaint that may have been resolved to verify the validity of the grounds given by the company as a result of examination of the complaint. The insured or the beneficiary may resort to the Ministry for any denial of payment by the insurer.

## 2. New Federal Cabinet

Three measures promulgated on November 1, 2004 effected a restructuring of the U.A.E. Federal Cabinet, reducing the number of Federal ministries from 18 to 16.

Decree-Law No. 3 of 2004 combined a number of ministries. Specifically, the Ministry of Education and Youth and the Ministry of Higher Education and Scientific Research were merged into a new Ministry of Education; the Ministry of Water and Electricity and the Ministry of Petroleum and Mineral Resources were merged into a new Ministry of Energy; and the Ministry of Economy and Commerce and the Ministry of Planning were merged into a new Ministry of Economy and Planning.

In addition, Federal Decree-Law No. 4 of 2004 created a new Ministry of Presidential Affairs, designed to replace the Presidential Diwan and the Office of the President.

Federal Decree No. 51 of 2004 appointed the 21 members of the new Cabinet. The new Minister of Economy and Planning, H.E. Sheikha Lubna Al Qassimi, is the first female member of the U.A.E. Federal Cabinet.

## 3. Succession

The President of the United Arab Emirates, Sheikh Zayed Bin Sultan Al Nahyan, a visionary leader who served as President of the country since the federation was created in 1971, passed away on November 2, 2004. While a 40 day period of mourning was declared, procedures were followed for the selection of the second President of the U.A.E. and the new Ruler of the Emirate of Abu Dhabi.

The oldest son of Sheikh Zayed, Sheikh Khalifa Bin Zayed, who had served as Abu Dhabi Crown Prince for more than 20 years, was immediately declared the new Ruler of Abu Dhabi. The Deputy Crown Prince, Sheikh Mohammed Bin Zayed, was named Crown Prince.

Selection of a new President occurred in accordance with the Constitution of the U.A.E. The Constitution requires that the Federal Supreme Council, the supreme governing body of the U.A.E. composed of the seven Rulers of the seven Emirates, elect the President of the U.A.E. from among its members. The Constitution requires the Supreme Council to elect a successor within one month following the death of the President or the Vice President. The Supreme Council met on November 3, 2004 and unanimously elected Sheikh Khalifa Bin Zayed President of the U.A.E. This election was promulgated as Resolution No. 1 of 2004 of the Federal Supreme Council.

#### 4. Abu Dhabi Executive Council

The supreme governing body in Abu Dhabi is the Abu Dhabi Executive Council, composed of the Chairmen of the various departments of the Government of Abu Dhabi. A new Abu Dhabi Law and three new Emiri Decrees effect a substantial restructuring of the Abu Dhabi Executive Council.

Abu Dhabi Law No. 10 of 2004 combined the Department of Purchasing and the Department of Customs into the Department of Finance. It merged the Department of Works, the Department of the Abu Dhabi Municipality and Town Planning, the Department of the Al Ain Municipality and Town Planning, and the Department of Al Ain Agriculture and Animal Resources into a new Department of Municipalities and Agriculture. It also combined the Department of Planning and the Department of the Economy into a new Department of Planning and Economy. As a result, 13 government departments were merged into 7.

Emiri Decree No. 25 of 2004 named the Abu Dhabi Crown Prince, Sheikh Mohammed Bin Zayed Al Nahyan, as the Chairman of the Abu Dhabi Executive Council, a position that had previously been held by Sheikh Khalifa Bin Zayed when Sheikh Khalifa was Crown Prince. Emiri Decree No. 26 of 2004 named the nine members of the Abu Dhabi Executive Council, including the seven Department Chairmen, the Chief of the Crown Prince's Court, and an Undersecretary. Finally, Emiri Decree No. 27 of 2004 appointed a new Secretary General of the Executive Council with the rank of Department Chairman.

5. Dubai Silicon Oasis

Dubai Law No. 7 of 2004 creates the Dubai Silicon Oasis, within the territory of the Dubai International Airport Free Zone. The Dubai Silicon Oasis has juristic personality and financial independence and is managed by the Dubai International Airport Free Zone Authority.

The purposes of the Dubai Silicon Oasis are to attract large international companies specializing in modern technologies, to develop modern technological industries in the Emirate of Dubai, and to prepare and train the national workforce in modern technology.

The Dubai International Airport Free Zone Authority is charged with the regulation of business and activities in the Dubai Silicon Oasis; the establishment and licensing of companies to do business in the Dubai Silicon Oasis; the establishment and provision of infrastructure, buildings, management services and all other services required to achieve the goals of the Dubai Silicon Oasis; the provision of manpower to companies operating in the Dubai Silicon Oasis at their request; the imposition and collection of fees for services; the establishment of an investment fund to provide companies and their employees with financing, allowing investors to participate in such fund; the establishment of companies for projects within and outside of the Dubai Silicon Oasis; and the provision of all manner of services.

The activities that may be performed within the Dubai Silicon Oasis include design, manufacture, development, storage, supply, distribution and redistribution of modern technological products; the assembly and packaging of products manufactured within or outside of the Dubai Silicon Oasis; and educational and training services related to modern technology.

All land and buildings located in the Dubai Silicon Oasis shall belong to the Dubai Silicon Oasis. The Dubai International Airport Free Zone Authority may sell or lease out such property on such terms as it may determine. The Authority may also submit all manner of securities and guarantees as it may deem desirable, including mortgages of all or any part of the property located in the Dubai Silicon Oasis, as security for the payment of any debt or the performance of any obligation.

All establishments, companies, individuals and employees in the Dubai Silicon Oasis shall be exempt from all taxes in respect of their activities within the Dubai Silicon Oasis and shall be exempt from any restrictions on transfer of capital and profits for a term of 50 years, renewable for a similar term by Decree of the Ruler of Dubai. Such 50 year term shall commence upon the date of commencement of operations by any such establishment, company, individual or employee.

Companies in the Dubai Silicon Oasis shall not be subject to the rules related to the Dubai Municipality, the Dubai Department of Economic Development, or the Rent Committee, with the exception of regulations pertaining to the environment.

#### **SULTANATE OF OMAN**

Contributed by Trowers & Hamlins, Muscat, Oman

##### 1. Land Ownership by Expatriates

Recent months have seen the Ministry of Housing, Electricity and Water announcing a Ministerial Decision relating to the ability for all expatriates to acquire properties in Oman. At the time of writing, this Ministerial Decision has not been published in the Official Gazette although there are a number of good sources as to what the content of this legislation will be. It certainly would appear to be the case that very soon it will be possible for any expatriate in Oman to purchase his own villa or apartment on a freehold basis subject to certain limitations. In addition to this, it has been proposed that expatriate land owners by virtue of their property ownership may be given a residence permit for themselves and for their immediate family members subject to satisfying the laws of the Sultanate of Oman.

The law, once issued, is expected to allow both natural persons and corporate entities to acquire built properties or land for the purpose of accommodation or investment according to the Omani methods of acquisition. This is subject to the limitation, however, that such properties be located within integrated tourist complexes which are licensed by the competent authorities. The

competent authority for this will be the recently established Ministry of Tourism.

Similar to the position for GCC nationals, there will be a requirement that if a plot of land is purchased which is undeveloped, it will have to be developed within four years from the date of registration in the name of the owner. The owner will not be entitled to dispose of the land before this time period has expired. It is also worth noting that failure to complete development within the specified period, as for GCC nationals, will provide the Ministry with the right to dispose of the land and the owner will be entitled to compensation on a basis of the price of the land at the time of purchase or the price of sale by auction (whichever is lower). The Ministry of Tourism in consultation with the Ministry of Housing may grant a two year grace period to this time limit if good reasons are provided to them for the delay in construction.

If a land owner purchases a developed building, there is no restriction on when that property may be sold. Consequently, expatriates will not be expected to lock a sizeable amount of capital into property for any minimum period of time.

It is also anticipated that the law will allow for inheritance to be dealt with in accordance with the laws of the jurisdiction of the owner provided that suitable documentation confirming the inheritance rights are produced. Failing this, the laws of Oman will apply. This is a novel step for the Sultanate of Oman but will assist expatriates with their estate planning, wills and their freedom to choose their inheritors.

Along with the residence right comes the normal condition that if a judicial judgment or administrative decision is issued for the deportation of the owner, the owner will have the right to dispose of their land in accordance with the laws of Oman.

As for GCC nationals, there will be a right of compulsory expropriation which the Government may utilize should the land be required for public use. Again, this would attach to it a right of compensation.

It is anticipated that a Governmental Committee will be formed in respect of the licensing of tourist complexes

and the powers of this committee will be determined by the Ministry of Tourism. Consequently, there are a number of supporting regulations which will need to be issued prior to the implementation of the new law. A new administrative system will also be put in place at the real estate registry and special records will be prepared for the acquisition of land by expatriates classified by the nationality of the owner.

The proposed legislation also includes a novel method of upgrading title. Many companies with mixed foreign and Omani ownership in Oman hold their land title by way of usufruct. The usufruct is essentially a statutorily protected lease which affords to the owner certain real rights in the property. Such usufructs are normally renewable and are often the most suitable mechanism for securing land for project purposes.

In respect of such usufruct properties it is anticipated that the legislation will allow such usufruct owners to sell units of the property or plots prepared for building which have been sub-divided from the main plot. This sub-division of the usufruct plot for sale will be subject to the approval of the Ministry of Tourism and there will be an upgrade levy charged in respect of this right. This is equivalent to the "marriage values" utilized for upgrading a leasehold right into a freehold in certain lands in, for example, the United Kingdom. It is anticipated that the upgrade value for a residential unit will be 10 per cent of the value of the building or 20 per cent in the case of land prepared for building.

To conclude, this proposed relaxation of the law of property ownership will make it possible for anybody resident in Oman to own property. Such ownership will of course be subject to a number of restrictions, the main one being location, but this is nonetheless a welcome change.

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