
CHAMBERS GLOBAL PRACTICE GUIDES

Enforcement of Judgments 2024

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Oman: Law & Practice and Trends & Developments

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OMAN

Law and Practice

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Al Busaidy Mansoor Jamal & Co (AMJ) is an independent, award-winning, full-service law firm of international quality, established in Oman for over 40 years. The firm has one of the largest, most diverse practices in Oman, comprising a 32-strong resident team of lawyers, including nine partners, experienced solicitors, barristers, Arab law specialists and Omani advocates, backed by a 26-strong support team. The firm's teams of solicitors and barristers, trained in the UK, the US and leading legal jurisdictions in the

MENA region, include most of Oman's elite legal practitioners recognised for their involvement in precedent-setting cases, award-winning, "first of a kind" deals and projects in Oman and the region. They combine a wealth of experience of international practice with in-depth local knowledge and advanced linguistic capability to act effectively on behalf of clients ranging from government and state-owned enterprises to multinationals, blue-chips, financial institutions, start-ups and foreign investors.

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1. Identifying Assets in the Jurisdiction

1.1 Options to Identify Another Party's Asset Position

The options for identifying another party's assets in the Sultanate of Oman may be limited to information that is publicly available or that can be obtained from the ministries that maintain registers of ownership and security interests over assets owned by a party. Such options include:

- the Land Registry maintained by the Ministry of Housing and Urban Planning (MOHUP);
- the Commercial Register maintained by the Ministry of Commerce, Industry and Investment Promotion (MOCIIP);
- Muscat Clearing and Depositary Company SAOC (MCD), which maintains shareholder registers for closed joint stock companies and public joint stock companies, in which a pledge may be recorded over shares by shareholders of joint stock companies in favour of third parties (the "MCD Shareholder Register"); and
- vehicle registries maintained by the Royal Omani Police (ROP) for the registration of

motor vehicles and mobile rigs (the "ROP Vehicles Registry").

The enforcement judge in the Enforcement Department at the Primary Courts may issue directives to the regulatory authorities concerned for the provision of information relating to a judgment debtor's assets, which is otherwise not accessible to members of the public – ie, the judgment credit.

Trustees in bankruptcy appointed following the passing of a bankruptcy order against a merchant or a liquidator may trace and take charge of the insolvent merchant's assets or the corporate entity under liquidation for the discharge of the insolvent debtor's liabilities.

Land Registry

The Land Registry is maintained by the MOHUP as a central land register in accordance with the Land Registry Law (Royal Decree 2/98), wherein all interests in real estate – whether in the form of freehold title, leasehold interest, usufructs, licences or mortgages – are required to be registered upon payment of appropriate fees. The Land Registry will contain particulars of the inter-

est registered, its owner/beneficiary, and such other particulars required to be recorded thereon in accordance with the Land Registry Law.

Whilst the Land Registry Law allows for public inspection of the registry upon payment of a fee, in practice a mechanism for allowing members of the public to undertake a public search on the Land Registry has not yet been implemented. Therefore, any searches on or information from the Land Registry may only be ascertained pursuant to a formal court order, unless a judgment creditor has – at the time of extending any credit to the debtor, in advance – obtained information with regard to real estate by way of security against which any judgment obtained may be enforced.

The Commercial Register

In accordance with the Commercial Registry Law (Royal Decree 03/74), the MOCIIP is required to maintain the Commercial Register, in which, in accordance with Article 7 of the Commercial Registry Law, all commercial entities that are incorporated and established to undertake business in the Sultanate of Oman are required to be recorded, listing their trade names, registered owners (ie, shareholders and partners), shareholdings and interests in the company, the capital of the company, the commercial activities of the company, the company's address and any encumbrances registered over the company's commercial assets by way of commercial mortgages or otherwise.

Members of the public are permitted to undertake a company search on the Commercial Register with the payment of a nominal fee. Through any search on the Commercial Register, all the above information may be obtained, although the enquiries may not disclose what substantial assets the company owns. The Commercial

Register will only contain information on the ownership of limited liability companies, partnerships and sole propriety concerns; the ownership of shares in closed joint stock companies and public joint stock companies may only be available from the Capital Markets Authority and the MCD.

MCD Shareholder Register

The MCD has been established pursuant to Royal Decree 82/98 for the purposes of maintaining a register of all closed joint stock and public joint stock companies, with particulars of all shareholders of such companies and their respective shareholdings in the companies. For each company registered therein, the MCD Shareholder Register will contain names of the shareholders, their shareholdings and any encumbrances registered over any such shareholdings by way of a pledge in public and closed joint stock companies.

Currently, it is not possible for members of the public to undertake a search of the MCD Shareholder Register to ascertain what shareholdings may be held in a particular public or closed joint stock company by individual shareholders and what, if any, share pledges may have been registered by them. Information from the MCD with regard to ownership of shares and/or any security interests registered over said shares may be obtained by the creditor from the debtor at the time of advancing credit to the debtor or through a court order following a final judgment having been obtained against the judgment debtor. Alternatively, such information may be requested and obtained by the enforcement judge following the commencement of enforcement proceedings.

ROP Vehicles Registry

Pursuant to Royal Decree 28/93, all vehicles and mobile rigs are required to be registered with the ROP, and any security interests created over such assets may also be recorded on the ROP Vehicles Registry. The ROP Vehicles Registry is not open for public inspection; any information may only be obtained pursuant to a court order.

The Enforcement Department

Once a final judgment has been obtained, if the judgment creditor has no security interest created in its favour with respect to the outstanding debt against which it may seek an enforcement of its judgment, an application may be made by the creditor to the Enforcement Department, pursuant to Article 340 of the Civil and Commercial Procedure Law (CCPL), for it to write to the Land Registrar at the MOHUP, the Commercial Registrar at the MOCIIP, the MCD and the ROP, requesting them to provide information on any assets recorded and registered with them in the name of the judgment debtor, and for such bodies to be directed not to allow any transactions in respect of any such assets to be registered in the name of the judgment debtor. The Enforcement Department may also issue freeze orders addressed to banks in Oman, through the Central Bank of Oman, directing them to freeze any funds available in a judgment debtor's bank accounts maintained in Oman up to the value of the outstanding undischarged decreed debt.

Bankruptcy and Liquidation

Any company commencing the liquidation process or having been declared bankrupt will be announced and published in the Official Gazette issued by the Ministry of Justice and Legal Affairs on a two-weekly basis. Once the liquidation process is complete, it shall be published in the Official Gazette.

However, a company's commercial registration information may be accessed through the Commercial Register by any individual through the filing of an online application. The Commercial Register will specify whether the company in question is active, insolvent or dissolved. In the case of joint stock companies, their audited financial reports are required to be made public through publication in the press; in the case of public joint stock companies, the audited financial statement of accounts may also be accessible on the company's website. If a liquidator or a trustee in bankruptcy has been appointed for a company, such officials will be entitled to obtain all information with regard to a company's assets, whether real estate, commercial assets, shareholdings or other mobile assets, through the authorities concerned – ie, the MOHUP, MOCIIP, ROP and MCD – either directly or, where necessary, through court orders.

The liquidator and the trustees in bankruptcy will be empowered to dispose of a company's assets for the discharge of its liabilities for the benefit of the judgment debtor's uncontested secured and unsecured creditors.

2. Domestic Judgments

2.1 Types of Domestic Judgments

Domestic judgments available in Oman include the following:

- the Primary Court may pass summary judgments, pursuant to Article 346 of the CCPL;
- the Primary Court or the Appeal Court may pass a judgment in default in case of a defendant failing to appear before the court when summoned to do so, despite having been given several opportunities to make an

appearance, only if the defendant has been properly served;

- in accordance with Article 190 of the CCPL, the Primary Court may pass interim judgments granting temporary relief, or injunctions pending the passing of a final judgment in the suit after substantive hearings;
- any judgment passed in accordance with Article 37 of the CCPL by the Primary Court for an amount of OMR1,000 or less shall not be appealable and hence may be enforced immediately;
- in accordance with Article 345 of the CCPL, a judgment passed by the Primary Court for claims in excess of OMR1,000 shall become final and enforceable if it has not been appealed after the lapse of 30 days;
- a judgment issued by the Appeal Court shall be enforceable if the Supreme Court does not suspend the enforcement of such Appeal Court judgment; and
- pursuant to Article 347 of the CCPL, the Primary Court has jurisdiction to pass self-executing judgments that allow for the enforcement of such judgments as per their terms with or without security being provided by the judgment creditor, pending the passing of a final judgment through the Appeal Court or the Supreme Court, as the case may be.

Self-Executing Judgments

Self-executing judgments are likely to be passed in respect of:

- commercial issues where:
 - (a) a debtor has admitted its liability;
 - (b) a previous judgment has become res judicata or was passed on the basis of official action that was not challenged; or
 - (c) the judgment is passed with respect to the enforcement of a judgment issued in favour of an applicant seeking to enforce

a judgment in respect of which a dispute has arisen;

- judgments passed for the payment of wages or compensation arising from an employer and employee relationship;
- a judgment issued for the expulsion of an unlawful tenant occupying a property without legal justification; or
- circumstances where a judgment creditor may suffer substantial harm if the judgment is not enforced immediately.

The reasons for passing a self-executing judgment must be expressly set out in the judgment itself.

In accordance with Article 349 of the CCPL, the Appeal Court before which the decision to allow a self-execution judgment to be enforced has been appealed will have the right to suspend the self-execution if it can be demonstrated that substantial damage may be suffered if enforcement of the self-executing judgment is permitted.

2.2 Enforcement of Domestic Judgments

The enforcement of domestic judgments will occur pursuant to enforcement orders passed by the Enforcement Department, in accordance with Article 356 of the CCPL, after notification to the judgment debtor personally or at its domicile, workplace or place of business. If the judgment debtor discharges the decreed liability within a period of seven days, the enforcement proceedings shall come to an end; if the judgment debtor fails to do so, the enforcement proceedings shall continue.

Provisional Attachments

In accordance with Article 371 of the CCPL, a creditor may secure provisional attachments where the creditor has a bill of exchange or a

promissory note that has been signed by or on behalf of a merchant debtor in accordance with the Commercial Law of Oman. In addition, an attachment order may be sought by the creditor if it can demonstrate to the court that the creditor may be deprived of its rights of recovery against the debtor if a provisional attachment order is not passed against the debtor's known assets – ie, the debtor may dispose of the assets against which a judgment may be readily enforceable when obtained.

The attachment order will be passed pursuant to Articles 190 and 373 of the CCPL through summary proceedings. Within ten days of the passing of the provisional attachment order, the creditor will be required to file its substantive suit seeking a confirmation of the attachment order obtained through summary proceedings and for the obtaining of a judgment that may thereafter be enforced against the attached assets. Once confirmed as being justified, the attachment order will remain in place until a final judgment is passed either accepting or rejecting the creditor's claim.

Movable Assets

Articles 378 to 386 of the CCPL provide for the process of seeking attachment of the judgment debtor's movable assets in its possession. Articles 387 to 396 provide for the attachment of the judgment debtor's assets in the possession of third parties, while Articles 397 to 401 provide for the attachment and sale of real estate owned by the judgment debtor.

In respect of all assets of the judgment debtor (whether movable, immovable or held by third parties), the Enforcement Department will prepare an inventory of such assets and have such inventories approved by persons from whose possession the assets are taken. If necessary,

it will then appoint independent third parties to take control and charge of the assets for their security. If any third party holding assets for and on behalf of the judgment debtor, either at the direction of the judgment debtor or of its own accord, provides incorrect information with regard to the assets, or destroys or allows said assets to be lost when requested to provide information to the court, such third party may be held liable for the outstanding debt of the debtor to the extent of the value of the assets lost from its possession or in accordance with Article 394 of the CCPL, up to the value of the debt for which the attachment was ordered where such third party has refused to declare or provides false declaration with respect to the assets in its possession.

Valuation of assets

A valuation of all movable, immovable, tangible or intangible assets to be disposed of for the enforcement of a judgment will require the appointment by the court of expert evaluators. Such evaluators may be appointed specifically for the evaluation of different classes of assets to be disposed of – ie, real estate, plant, machinery or equipment and trade marks or patents owned by and/or shares in companies owned by the judgment debtor.

Auction

Once the Enforcement Department has obtained an evaluation of the assets to be disposed of, advertisements will be made displaying the time, date and place for the auction in the case of movable assets in accordance with Articles 381 to 386 of the CCPL; with respect to real estate, the auction process shall take place in accordance with Articles 402 to 410 of the CCPL, which allow for the assets to be auctioned and acquired by the highest bidder, provided that the minimum price fixed for the disposal of the assets by the

court-appointed evaluators has been achieved. If the minimum price for the asset is not achieved at the auction, the judge in charge of the auction proceedings will terminate and fix a new date for the auction proceedings, at which the minimum price may be reduced by 10% (Article 403 of the CCPL). This process may continue until such time as the assets are disposed of or the judgment debtor decides to discontinue the execution proceedings to avoid any further erosion in the price of the assets.

Distributing proceeds

Once the assets have been disposed of, in accordance with Articles 411 to 413 of the CCPL the sale proceeds received shall be distributed amongst the creditors on whose behalf the assets have been attached and such other parties who have adjoined the proceedings for recovery purposes. The sale proceeds received from assets over which a creditor had been granted perfected first priority security shall be paid to such secured creditor following the payments of any statutory claim. Thereafter, any amounts available shall be distributed amongst the unsecured creditors on a *pari passu* basis. If all claims have been discharged in their entirety, any balances remaining thereafter shall be returned to the judgment debtor.

Attachment Orders

In accordance with Article 366 of the CCPL, attachment orders may not be passed against the following:

- public or private properties owned by the state, its authorities, public establishments and other governmental bodies;
- the judgment debtor's house, in which they reside with their family if it is proportionate to the debtor's financial status;

- the furniture or clothes of the judgment debtor's family living with them in the same house;
- the land, tools and other essentials owned by a farmer or fisherman, if proportionate to the amount required for a reasonable standard of living to be maintained for the judgment debtor and their dependants;
- all of the judgment debtor's necessities, such as books, equipment and other accessories that may be required for the purpose of carrying out their profession or handicraft, unless the attachment is levied on them to settle its value or maintenance expenses;
- movable assets considered as real estate by designation if the attachment thereon is separate from the property designated for effecting the service of court summons, unless the attachment is levied to settle its value or maintenance expenses; and
- salaries and wages, unless within one-quarter of the basic pay in settlement of alimony debt or governmental debt – if both exist, the alimony debt shall have priority. In the event that the judgment debtor is deceased, execution shall not be effected on the house designated for the family they were legally obliged to support, unless in both cases the house was previously mortgaged as security against a debt taken by the judgment debtor, or the debt was a result of the unpaid sale proceeds.

Detainment

If a judgment debtor in the case of a natural person and authorised officers of a corporate debtor refuse to execute a judicial order or an enforceable judgment, the court issuing the order and the enforcement judge may issue an order for their arrest and detention for a period that may not exceed two months, which may be subject to renewal for further periods. Such renewal may

be ordered after the lapse of 90 days from their release, if they continue to refuse execution of the judgment.

The decision to detain a judgment debtor or its authorised officers may be appealed through a petition submitted to the Court of Appeal. An appeal may also be made to the court issuing the decision. In such case, the court will refer the appeal to the Court of Appeal for a decision to be issued within seven days.

The decision from the Court of Appeal shall be final and binding, and may not be further appealed. Any such appeal shall not result in a suspension of execution, unless the Court of Appeal orders such suspension of execution.

Travel ban

At any stage of the case and at the request of the creditor, in accordance with Article 427 of the CCPL, the court may order a travel ban to prevent a judgment debtor from leaving the Sultanate of Oman. This may only take place if there are reasonable grounds to believe that the judgment debtor may not return to the country. Such request may only be made if the amount claimed is not less than OMR500, unless the amount is payable as legal alimony in support of the debtor's family.

To effect a travel ban, the creditor may be required to provide security in respect of any loss or damage that may be suffered by the judgment debtor as a result of such travel ban if it later transpires that the travel ban was unjustified.

In accordance with Article 428 of the CCPL, the travel ban shall remain in force until the judgment debtor's debt has been settled. However, the court may order forfeiture of the travel ban if:

- any condition required for imposing such travel ban is no longer valid;
- the judgment creditor agrees to forfeit the order;
- the judgment debtor submits a bank guarantee that is regarded as sufficient and is accepted by the court;
- the judgment debtor deposits sufficient money to meet the debt with the court treasury – such amount shall be considered as attached by law for the creditor's account; or
- the judgment creditor does not commence execution procedures within 30 days from the date on which the judgment became legally capable of being executed.

2.3 Costs and Time Taken to Enforce Domestic Judgments

No fees are payable to the court when opening an enforcement file, but there may be costs associated with enforcement proceedings, including fees payable to third-party custodians engaged for holding any assets in custody, fees payable to evaluation experts, and any costs incurred by the court in the conduct of auction proceedings. Such costs will vary from case to case, depending on the assets to be disposed of and their valuations.

The time taken to enforce a domestic judgment may vary depending on the availability of assets and their identification, evaluation and disposal through court-supervised auction proceedings at a price determined by the court-appointed evaluators. If there are no readily available buyers, the enforcement auction proceedings may be postponed for repeat auction proceedings to be held for the sale of the assets at a reduced price until such time as the assets may be disposed of or the proceedings are discontinued with the consent of the judgment creditor. Typically, the time for completion of the enforcement

process may vary between six months and two years.

2.4 Post-judgment Procedures for Determining Defendants' Assets

See 1.1 Options to Identify Another Party's Asset Position.

2.5 Challenging Enforcement of Domestic Judgments

Once a judgment is final, it is capable of being enforced. However, the Supreme Court may stop the enforcement of a final Court of Appeal judgment if the judgment is further appealed to the Supreme Court and the petition contains a relief to this effect, and a massive inevitable damage is expected due to execution.

In addition, the judgment debtor may object to the enforcement of any final judgment, in accordance with Article 363 of the CCPL. This is done by way of an application to the Enforcement Department stating the reasoning for such objection, which will instantly result in the enforcement process being put on hold.

Once this is done, the enforcement judge will set a hearing date to determine the validity of the objection and decide on whether the enforcement should continue regardless of the objection. Following the enforcement judge's decision on such objection, the parties will have seven days to appeal the decision. Filing an appeal will automatically suspend the enforcement procedure. The enforcement will go forward in the regular manner if an appeal was not filed within the prescribed period. It should be noted, however, that any further appeals to challenge the appeal court judgment will not suspend the enforcement process.

2.6 Unenforceable Domestic Judgments

Any domestic judgment passed by the Omani courts will be enforceable as per its terms and in accordance with the CCPL. There are no circumstances provided for by the CCPL in which a domestic judgment may not be enforced.

2.7 Register of Domestic Judgments

The Omani courts maintain a register of domestic judgments, but such register is not accessible to members of the public. The enforcement judge also maintains a register in which enforcement applications are recorded. Each application is allocated a separate file number containing all documents relating to the judgment, such as the final judgment, any requests or applications and original court receipts. These documents are kept until the enforcement proceedings are concluded.

This register is not accessible for public inspection.

3. Foreign Judgments

3.1 Legal Issues Concerning Enforcement of Foreign Judgments

Under Articles 352 to 355 of the CCPL, an application may be submitted to the Primary Court in Oman for the enforcement of judgments and orders passed by foreign courts. An order for enforcement of a foreign judgment or order shall not be passed by the Primary Court unless the court is satisfied that:

- the judicial authority that passed the foreign judgment or order had jurisdiction in accordance with the rules governing international judicial jurisdictions, as provided for in the law of the country where the judgment or order was passed, and that the judgment or order

- was to be treated as final in accordance with such law, and was not passed on the basis of deceit and fraud;
- the parties to the suit in respect of which the foreign judgment was passed were summoned to appear, and were represented in a proper and rightful manner;
 - the judgment or order does not contain any request that is essentially in violation of any of the laws prevailing in the Sultanate of Oman;
 - the judgment or order was not in conflict with a judgment or order passed earlier by a court in the Sultanate of Oman, and does not contain anything that is against public order or morals; and
 - the country where the judgment was passed accepts judgments passed by the courts of the Sultanate of Oman for enforcement in its territory.

Despite the existence of Articles 352 to 255 of the CCPL, no judgment obtained from a foreign court other than the courts of the Gulf Cooperation Council (GCC) region has as yet been recognised and enforced by the Primary Court, as far as is known. Notwithstanding the contents of the CCPL, in the absence of specific Omani legislation providing for the registration and recognition of non-GCC foreign judgments, a foreign judgment would be of evidentiary value only in full hearings before the Primary Court, and the matter may have to be litigated de novo before the Primary Court.

Treaties

Oman is a party to several treaties entered into by GCC countries that allow for the enforcement of judgments issued by member countries in other member countries, including:

- the GCC Convention for the Execution of Judgments, Delegations and Judicial Notifi-

cations, signed in 1997 and ratified by Royal Decree 17/96; and

- the Riyadh Arab Agreement for Judicial Cooperation, signed in 1999 and ratified by Royal Decree 34/99.

Oman has also entered into an agreement with the government of the Republic of India on Legal and Judicial Cooperation in Civil and Commercial Matters, signed in 2020 and ratified by Royal Decree 18/2020 (the “Oman India Agreement”). The Oman India Agreement provides for the recognition and enforcement of decrees and judgments passed by the courts of each of the two countries in civil and commercial matters and by criminal courts in civil matters in the jurisdiction of the other country. The Oman India Agreement will not be applicable to interim or provisional measures, except matters relating to allowances.

3.2 Variations in Approach to Enforcement of Foreign Judgments

Regardless of where a foreign judgment has been issued, the enforcement procedures applicable to the enforcement of final Omani court judgments discussed in 3.1 Legal Issues Concerning Enforcement of Foreign Judgments will apply, provided the Primary Court has the jurisdiction to pass a judgment for the enforcement of a foreign judgment.

3.3 Categories of Foreign Judgments Not Enforced

Any foreign judgment that does not satisfy the conditions set out in Article 352 of the CCPL shall not be enforceable in Oman.

3.4 Process of Enforcing Foreign Judgments

For the enforcement of a foreign judgment in Oman, proceedings will need to be filed before

the Primary Court, comprising three judges, in the Governorate in which the judgment is sought to be enforced. Such proceedings shall be commenced in the same manner as the filing of any proceedings before the Primary Court – ie, the party seeking the enforcement of a foreign judgment will need to submit an application in the form of a statement of claim, if represented by a legal counsel, to be supported by a notarised, consularised or apostilled (where applicable) power of attorney and a copy of the judgment to be enforced. The applicant will also need to provide the court with the location, email address and telephone number of the party against whom the judgment is to be enforced for the purposes of serving the court's process and summoning such party to attend the court if any hearings are necessary.

Appeals

Following the passing of a judgment by the Primary Court for the enforcement of a foreign judgment, the affected party will, in accordance with Article 214 of the CCPL, have the right to appeal the Primary Court judgment before the Appeal Court within 30 days of its passing. If no appeal is raised during this period, the enforcement process may begin as the judgment will be final. However, if the judgment is appealed within the 30-day period, it will only become final once the Appeal Court judgment has been passed and the Supreme Court has not suspended its enforcement pending any appeal before the Supreme Court.

Once the appeal remedies have been exhausted and the judgment has become final, the foreign judgment may be enforced as part of the judgment passed by the Omani courts in the same manner as the enforcement of any other domestic judgment.

3.5 Costs and Time Taken to Enforce Foreign Judgments

There are no fees for the commencement of enforcement proceedings with regard to a foreign judgment through the Primary Court. Depending on whether an affected party exercises any rights of appeal available to it with regard to a judgment passed by a Primary Court or an Appeal Court, the duration for completion of the court proceedings leading to the enforcement of a foreign judgment will be the same as for the enforcement of domestic judgments; see **2.3 Costs and Time Taken to Enforce Domestic Judgments**.

Following the court judgment becoming final in respect of the foreign judgment, the time to be taken for enforcement of the final judgment will vary depending on the availability of the assets for enforcement of the judgment and there being interested buyers at the evaluations assessed by the court-appointed evaluators. The assets will be evaluated and auctioned in the same manner as in the case of domestic judgments (see **2.2 Enforcement of Domestic Judgments**).

3.6 Challenging Enforcement of Foreign Judgments

Once a final judgment is issued, the judgment debtor may object to the enforcement of any final judgment capable of being enforced for reasons other than those adopted by the courts when passing the final judgment. Such objection may be raised through the filing of an application to the Enforcement Department in the Primary Court, setting out the reasons for the objection, which will result in the enforcement process being suspended. The enforcement judge will then fix a hearing date to determine the validity of the objections raised and decide on whether or not the enforcement may continue regardless of the objection.

Following any decision taken by the enforcement judge on the objection, the parties will have seven days within which to appeal the decision. Filing an appeal will automatically suspend the enforcement procedure. The enforcement will go forward in the regular manner if an appeal was not filed within the prescribed period. It should be noted, however, that any further appeals to challenge the appeal court judgment will not suspend the enforcement process.

4. Arbitral Awards

4.1 Legal Issues Concerning Enforcement of Arbitral Awards

Oman has had a well-defined Arbitration Law in place since 1997: Royal Decree 47/97 (the “Oman Arbitration Law”). As a result, the adjudication of disputes by arbitration subject to the laws of the Sultanate of Oman has gained significant popularity. The Oman Arbitration Law remains the primary framework regulating the conduct of arbitration proceedings in Oman, the enforcement of domestic and international arbitration awards and the nullification of arbitral awards issued in respect of arbitrations conducted pursuant to the Oman Arbitration Law.

When enforcing the arbitral award, the courts will also be required to adhere to the procedures provided for by the CCPL applicable to the enforcement of judgments with regard to the disposal of assets owned by the debtor against whom the arbitral award is passed.

Finalising Arbitration Awards

In accordance with Article 58 of the Oman Arbitration Law, arbitration awards passed pursuant to the Oman Arbitration Law will not become final and binding until 90 days have lapsed, within which time the parties to the arbitration

proceedings will have the right to ask for clarifications under Article 49 and corrections under Article 51, and to file an application for the nullification of an arbitral award pursuant to Article 54 of the Oman Arbitration Law. Nullification of an arbitral award may be granted in any of the following circumstances:

- there was no agreement in respect of arbitration, or such agreement is void, voidable or time barred;
- one of the parties to the arbitration agreement was incompetent at the time of the execution of the arbitration agreement, in accordance with the laws governing said party’s capacity;
- one of the parties to the arbitration failed to submit their defence due to not being notified of the appointment of an arbitrator or the arbitration proceeding in a correct manner, or for any other reason that is proved to be beyond their control;
- the arbitral award was not issued in accordance with the applicable laws agreed to by the parties;
- the arbitration tribunal was constituted or the arbitrators were appointed contrary to the applicable law or the agreement of the parties;
- the arbitral award has settled matters not covered by the agreement between the parties or has exceeded the matters covered by the agreement – those matters may be nullified and the nullification shall not have an effect on the matters covered by the agreement; or
- the arbitral award is null or the arbitration proceedings were void to the extent affecting the terms of the arbitral award.

In accordance with Article 53 of the Oman Arbitration Law, the court may also nullify an arbitral award if it is contrary to the public order of Oman.

Upon the filing of a nullification application, the applicant will need to specifically ask for a court decision on the suspension of enforcement of the arbitral award. If no application is filed for the nullification of an arbitral award, the award will become final and binding and be ready for enforcement.

Oman ratified its membership of the Convention on the Recognition and Enforcement of Foreign Arbitral Awards 1958 (the “New York Convention”) in 1998, pursuant to Royal Decree 36/98, following which any arbitral award issued by another member state is enforceable in Oman, subject to the rules of the New York Convention.

Local Arbitration Centre

Pursuant to Royal Decree 26/2018, Oman has established the Oman Commercial Arbitration Centre (OCAC). The OCAC Rules were issued pursuant to Oman Decision 8/2020, and the OCAC is now fully operational to hear any local and international disputes in accordance with the best practices and applicable international arbitration rules and international standards agreed by the parties. The Chartered Institute of Arbitrators (CIArb) has recently announced plans to set up a branch in Oman. A steering committee has been formed composed of a barrister in chambers in London and a number of senior regional practitioners, with a mandate to study and facilitate the opening of the CIArb branch in Oman.

In addition, CIArb is looking to open a regional office for the Middle East and is considering opening such office in Oman.

In the absence of an agreement between the parties specifying the procedural and evidentiary rules that will apply to arbitrations, local arbitrators can be expected to apply Omani civil proce-

dures as set out in the CCPL, and Omani evidentiary rules as set out in the Law of Evidence in Civil and Commercial Transactions Royal Decree 68/2008, including the international arbitrations taking place in Oman.

4.2 Variations in Approach to Enforcement of Arbitral Awards

Regardless of whether an arbitral award sought to be enforced in Oman has arisen from a domestic arbitration or an international arbitration, its enforcement procedures will be the same and no variations will arise, provided the Omani courts have the jurisdiction to enforce such an award.

4.3 Categories of Arbitral Awards Not Enforced

Article 353 of the CCPL provides for the requirement of an arbitral award to be issued on a subject matter for which arbitration is permissible according to the laws of Oman, and for the arbitration award to be enforceable in Oman.

In accordance with Article 11 of the Oman Arbitration Law, it will not be permissible for arbitration proceedings to be conducted in respect of matters that may not be made subject to reconciliation or compromise under Omani law, such as:

- the eligibility of an individual to contract;
- the validity of a marriage certificate;
- criminal responsibility and determining its applicable law; and
- property ownership claims.

All of the above are considered to be matters of public policy and will need to be adjudicated upon in accordance with the specific laws applicable to such matters by the courts that have been allocated jurisdiction over such matters.

Confirmations Prior to Enforcement

In accordance with Article 58 of the Oman Arbitration Law, the following must be confirmed prior to the enforcement of any arbitral award in Oman:

- the award is not in conflict with a decision previously passed by Omani courts;
- the award does not contain any terms contravening the public order of Oman; and
- the losing party has been notified of the award in a proper manner.

Article 116 of the Civil Transactions Law, Royal Decree 29/2013, provides that any matter to be transacted between parties may not be prohibited by Sharia or Omani law. Consequently, any matter in respect of which the parties wish to conduct arbitration proceedings should not be contrary to Sharia or Omani law, in order for any award arising therefrom to be enforced in Oman.

4.4 Process of Enforcing Arbitral Awards

As noted in **4.1 Legal Issues Concerning Enforcement of Arbitral Awards**, an arbitral award will be considered to be final 90 days after the passing of the award and thereafter the parties may seek to enforce the award under Articles 54 and 58 of the Oman Arbitration Law and Article 353 of the CCPL.

In accordance with Article 47 of the Oman Arbitration Law, the party in whose favour the arbitral award has been issued will be required, pursuant to Article 9 of the Oman Arbitration Law, to deposit the arbitral award with the secretariat of the Appeal Court if the award is commercial and international, or with the Primary Court if the award is local and domestic. The arbitral award must be deposited with the court concerned in its original form (if deposited as a copy, it must be signed by the applicant in confirmation of it

being a true copy of the original) and in the original language (if in a foreign language, an Arabic translation must be included).

Application for Enforcement

Following the deposit of the award with the court secretariat, an application for enforcement of the arbitral award may be made at the Primary Court within the Governorate in which the party against whom the award is to be enforced resides. When submitted, the enforcement application will need to be accompanied by:

- the original award or a copy signed by the applicant;
- an Arabic translation of the arbitral award, certified by a certified firm of translators, if the arbitral award was issued in a language other than Arabic;
- a copy of the nullification case judgment, if any, which proves that the award is final; and
- a copy of the minutes confirming the deposit of the arbitral award with the court secretariat.

4.5 Costs and Time Taken to Enforce Arbitral Awards

As discussed in **4.4 Process of Enforcing Arbitral Awards**, the enforcement process shall commence following completion of the 90-day period within which an application for nullification may be filed. No fees are payable for filing the application. Depending upon whether an affected party exercises any rights with regard to the nullification of the arbitral award, the duration for completion of the enforcement of an arbitral award will be the same as for the enforcement of domestic and foreign judgments; see **2.3 Costs and Time Taken to Enforce Domestic Judgments**.

The process for the enforcement of a foreign arbitral award that has not been issued under Omani law will be the same as for the enforcement of foreign judgments.

4.6 Challenging Enforcement of Arbitral Awards

Once an arbitral award has become final and its enforcement process has been commenced through the court concerned, any objection with regard to its enforcement may be raised in the same manner as any objection raised with regard to the enforcement of domestic and foreign judgments in Oman. Such objection may be raised through the filing of an application with the Enforcement Department in the Primary Court, setting out the reasons for the objection, which will result in the enforcement process being suspended. The enforcement judge will then fix a hearing date to determine the validity of the objection raised and decide on whether or not the enforcement may continue regardless of the objection.

Following any decision taken by the enforcement judge on the objection, the parties will have seven days within which to appeal the decision. If no appeal is filed within the prescribed period, the enforcement will proceed. Any further appeals will not result in the enforcement process being suspended.

Trends and Developments

Contributed by:

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Al Busaidy Mansoor Jamal & Co (AMJ) is an independent, award-winning, full-service law firm of international quality, established in Oman for over 40 years. The firm has one of the largest, most diverse practices in Oman, comprising a 32-strong resident team of lawyers, including nine partners, experienced solicitors, barristers, Arab law specialists and Omani advocates, backed by a 26-strong support team. The firm's teams of solicitors and barristers, trained in the UK, the US and leading legal jurisdictions in the

MENA region, include most of Oman's elite legal practitioners recognised for their involvement in precedent-setting cases, award-winning, "first of a kind" deals and projects in Oman and the region. They combine a wealth of experience of international practice with in-depth local knowledge and advanced linguistic capability to act effectively on behalf of clients ranging from government and state-owned enterprises to multinationals, blue-chips, financial institutions, start-ups and foreign investors.

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The Enforcement of Judgments in Oman: An Introduction

Enforcement of foreign judgments

The enforcement of judgments in Oman is a reasonably straightforward process, provided that a judgment debtor's assets can be readily identified and ascertained, and against which the court may enforce a final judgment or an arbitral award. However, complications may arise in cases where a foreign judgment or a foreign arbitral award is issued on the basis that a foreign governing law is sought to be enforced in Oman. Under such circumstances, the Omani courts will need to ensure that the relevant conditions for enforcement of the foreign judgment or award are satisfied, as provided for by Articles 352 to 355 of the Civil and Commercial Procedure Law (CCPL).

These conditions include that the foreign judgment does not conflict with the public order, morals or laws of the Sultanate of Oman, and that the jurisdiction where the foreign judgment was issued recognises judgments issued by the Omani courts for enforcement.

Foreign law conflicts

With little or no case law currently available in Oman with regard to the enforcement of foreign judgments or arbitral awards through the Omani courts (ie, non-GCC judgments and arbitral awards), it is difficult to predict the approach the Omani courts may adopt in determining whether or not the foreign law is in conflict with the public order, morals or laws of the Sultanate of Oman. If objections are raised regarding the judgment being sought to be enforced for any of the above reasons, the courts will undertake an examination of the foreign law purportedly in conflict with Omani law, public order or morals.

To this end, Omani courts will need to invite or seek independent expert evidence as to what constitutes the foreign law on the basis of which the foreign judgment or arbitration award is passed, in order to determine what, if any, conflicts with Omani law exist. This may result in a time-consuming exercise, and the matter may ultimately have to be decided upon in accordance with local law instead of the original judgment obtained on the basis of the foreign law. In order to overcome some of these problems and delays, Omani judges are undergoing train-

ing in foreign jurisdictions, and the court's panel of experts is being reviewed from time to time to ensure that the relevant expertise is readily available when required.

The Appeal Court and the Supreme Court also have foreign judges from Arab language jurisdictions with extensive experience in both common law and civil law jurisdictions.

Reciprocal and judicial assistance agreement

On 9 March 2020, the Omani government entered into an agreement with the Republic of India on Legal and Judicial Cooperation in Civil and Commercial Matters. This agreement provides for reciprocal and judicial assistance between the two countries in civil and commercial matters, in accordance with their local laws. It provides for the service and enforcement of judicial orders, summons and other legal and judicial documents or processes, the taking of evidence through requests and the execution of judgments, settlements and arbitral awards.

Although the standard enforcement procedures will continue to apply to judgments, settlements and arbitral awards issued by Indian courts, this agreement will assist in the recognition and enforcement of judgments obtained in Oman and those obtained in India being enforced in Oman. Similar arrangements are expected to be entered into by the Sultanate of Oman with other friendly nations in due course.

Bankruptcy Law (Royal Decree 53/2019)

While there have been no recent developments in the CCPL and Arbitration Law, nor any additions made to legislation regulating the enforcement of judgments in Oman, the new Bankruptcy Law (Royal Decree 53/2019) provides for new procedures for the reorganisation and restructuring of insolvent businesses, and for

protections against bankruptcy to be granted to debtors exposed to insolvency if the court is satisfied that there is a reasonable prospect of the debtor being able to continue with its business and discharge its liabilities without having to be declared insolvent.

Previously, any application for the enforcement of a judgment was filed through the applicant's physical attendance at the Enforcement Department at the Primary Court, located in the Governorate in which the judgment was sought to be enforced. This was done by filing an application and submitting the supporting documents, such as the judgment issued and court payment receipts.

Online registration and follow-up mechanisms were introduced in 2019, and may take place through the online lawyer portal and by email. The lawyer portal allows a lawyer to file a suit for enforcement online and to submit all relevant and applicable documents on behalf of the client online, without physical submissions being necessary. The progress and status of enforcement applications may also be followed up through the lawyer portal without physical attendance at the Primary Court Enforcement Department being necessary, all of which has resulted in significant savings in time and cost for the benefit of the clients.

COVID-19

With the occurrence of COVID-19, the Primary Court realised the need to adapt and introduce changes to ensure that the due process of law was not adversely impacted. To ensure that justice continued to be served, and in addition to the digitalisation of many aspects, the courts allowed individuals to follow up by means of email, phone calls and social media platforms in order to reduce the number of persons attending

the Enforcement Department and court hearings to safeguard the health of lawyers, clients and other visitors.

The courts also introduced night shifts in addition to the normal day shifts in order to reduce the court's workload on a daily basis and to reduce the risks of infection.

Royal Decree 125/2020 Issuing the Law Simplifying Proceedings in Certain Disputes, issued on 12 November 2021

This Decree provides for the following five types of claims:

- commercial disputes relating to investment projects subject to the Foreign Capital Investment Law;
- disputes originating between landlords and tenants of residential accommodation and commercial and industrial premises, subject to Royal Decree 6/89 governing the Relationship between Landlords and Tenants of Residential Accommodation and Commercial and Industrial Premises, and Registration of Lease Agreements;
- individual labour disputes arising from the implementation of the Oman Labour Law;
- disputes resulting from construction contracts; and
- disputes in respect of the instruments executed before or notarised by a notary public in accordance with the Notary Public Law.

If a judgment has been passed by the Primary Court for an amount of OMR2,000 or less, it shall be enforceable with immediate effect.

Subject to Articles 240 and 241 of the CCPL, judgments handed down by the Appeal Court in matters stipulated Royal Decree 125/2020 may not be challenged before the Supreme Court,

except for judgments passed in commercial disputes relating to investment project(s) subject to the Foreign Capital Investment Law, which may be challenged in accordance with the CCPL if the claim value exceeds OMR150,000.

Lease agreements registered at the Municipality may be enforced immediately without the need for a party to file a suit against the tenant. The execution department at the competent court shall state the execution format on the lease agreement.

The filing of an objection against a judgment passed in accordance with Royal Decree 125/2020 will not result in the suspension of the enforcement of the relevant judgment, unless an enforcement judge has directed otherwise. If a decision suspending enforcement is issued, the dispute shall be adjudicated within 15 days of the suspension of the enforcement. The time-frame for filing an appeal shall be seven days from the date of delivery of the order on the applicable objection if the order is issued in the presence of the parties; otherwise, the appeal period shall commence from the date the order is served on the parties. The appeal shall not result in the suspension of enforcement, unless a decision to this effect is issued by the Appeal Circuit.

The enforcement judge may not order the enforcement of a judicial order or binding judgment related to the payment of debt pursuant to an application filed under Article 418 of the CCPL, unless the judgment debtor or the authorised manager and signatory acting on behalf of the judgment debtor, being a juristic person, has been served with notification of the enforcement of the judgment in person, and it is evident that the judgment debtor or the authorised officer on behalf of the judgment debtor, being a juris-

tic person, declined to attend the court. The enforcement judge may not order the detention of any person, unless it is established that such person has declined the enforcement despite their ability to discharge the debt.

With the exception of the Electronic Transactions Law and subject to the provisions of the CCPL,

the service of judicial documents may be effected through communication by telephone, text message or any other electronic means of communication that may be saved and is extractable. The determination of the electronic means of communication shall be made by a decision of the President of the Council of Administrative Affairs for the Judiciary.

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