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## The New Civil Transactions Law in Saudi Arabia - Right of Ownership

**Civil Transactions Law of Saudi Arabia (Law) which has codified the principles and rules covering civil transactions will come into force on 21 December, 2023. This note highlights major provisions related to Profit Sharing Contracts.**

## Introduction

The Law not only defines at length the right of ownership of movable and immovable properties but also states restrictions upon the owner and others while exercising their rights. The section covers issues related to ownership, right in-rem, usufruct, easement etc.

### Right to use, exploit, and dispose:

Firstly, the Law restates that the owner shall be entitled to use, utilize, exploit, and dispose of the right owned by him as well as enjoy benefits from all yields, products, and components of the object owned unless there is any statutory provision or an act requiring otherwise. It goes further and establishes the right of owner over all essential components of the object that he owns and his right over all spaces over and underneath the land under his ownership unless there is a statutory provision requiring otherwise. However, besides exceptions under statutory provisions restricting the enjoyment of rights or enjoyment in compliance with such restrictions, the Law also restricts the owner from exercising his right excessively to an extent that it would result in causing damage to a neighbor's property. However, at the same time, the Law provides that the neighbor shall not have recourse against his neighbor on the grounds of unavoidable detriment or obstruction and he could only request the removal of such detriments in case they exceed the normal limit bearing in mind the customary practice and other criteria. It clarifies and states that even a license issued by a competent authority shall not prevent a neighbor from exercising his right to remove the detriments.<sup>1</sup>

When it comes to the right to dispose of any property, the owner of a property is restricted from stipulating a condition preventing the transferee from disposing of the property unless such a condition is set for a reasonable period and is intended to safeguard a lawful interest of the transferor, the transferee or a third party.<sup>2</sup>

### Co-ownership of Property:

The Law covers in detail the rights and restrictions ensuing from a property that has several owners. It enables each owner-in-common to dispose of, exploit, and use his share in the property, without the permission of all other owners-in-common, provided that no harm would be inflicted upon their rights. While a jointly owned property is managed by all owners-in-common collectively, unless any statutory provision or agreement states otherwise, the Law provides that if any of the owner-in-common assumes the management without any objection by other owners, he shall be deemed an attorney-in-fact acting on their behalf. In case there are conflicting opinions among the co-owners with regards to the management of the property, the opinion of the majority on issues related to ordinary management shall be binding upon all owners-in-common and the majority shall be established based on the value of owners-in-common' shares. However, all decisions aimed at improving the benefits from co-owned property or changing the intended purpose of such property and issues that go beyond the scope of ordinary management will require consent by at least three fourth majority provided that all owners-in-common are notified of such decisions who will have right to file an objection with the competent court within 30 days of being notified.<sup>3</sup>

An owner-in-common who is desirous to withdraw from the property may demand judicial partition unless there is an agreement or a statutory provision preventing separation or the intended purpose dictates that the property remain under joint ownership.<sup>4</sup>

The Law deals well with issues related to improvements to land or the construction of a building on a third party's land in good faith and enables the owner to demand the removal of construction as well as compensation if the removal would cause damage to the property or retaining the construction by paying a fair compensation.<sup>5</sup>

If any construction involves encroachment in good faith, a court may oblige the owner to assign to the neighbor ownership of the portion encroached upon against a fair compensation.<sup>6</sup>

### Movable Property:

The Law enables a person to take possession of a movable property that has been abandoned by the owner with the intention of giving it up unless there are statutory restrictions for such ownership. The Law elaborates that the minerals, hydrocarbons, the waste, the water, the antiques discovered shall be subject to the respective statutory provisions.<sup>7</sup>

### Usufruct:

One of the areas related to exploitation and enjoyment of benefits out of properties without assuming ownership thereof revolves around the Usufruct practice. The Law sets the requirements, conditions, and restrictions related to usufruct.

The law requires that the usufruct be acquired by virtue of a legal act, inheritance if the Usufruct is of a fixed term, or preemption by the owner-in-common of the property owned in common. It states that the benefits shall accrue to the usufructuary throughout the agreed term. The Law enables the owner to object against use and exploitation for a purpose that is illegal or incompatible with the nature of the agreed objective of usufruct and demand security if there is a reason that the right is vulnerable to danger. In case of non-provision of security, the court may order that the property be taken away from the possession of the usufructuary. The Law covers in detail the responsibilities of the usufructuary in maintaining the property and his liability to compensate the owner in case of damages or destruction to the property due to his negligence or lapse.<sup>8</sup>

### Conclusion:

While the Law enables full use, exploitation, and enjoyment of benefits accruing from the right of ownership to a property through different means, it maintains that the rights are subject to respective statutory provisions and agreements covering the properties.

The elaborated manner in which the Law has covered different aspects of ownership provides clarity on the situation and guidance to owners of properties and other interested parties.

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<sup>1</sup>Article 608 to 613

<sup>2</sup>Articles 617

<sup>3</sup>Articles 619 to 626

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<sup>4</sup>Article 627

<sup>5</sup>Article 651

<sup>6</sup>Article 653

<sup>7</sup>Article

<sup>8</sup>Article 680 to 683