



The Public Private Partnership Law
Promulgated by
Royal Decree 52/2019

Translated by
Ministry of Legal Affairs

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Royal Decree 52/2019
Promulgating the Public Private Partnership Law

We, Qaboos bin Said, the Sultan of Oman
after perusal of the Basic Statute of the State promulgated by Royal Decree 101/96,
and the Tender Law promulgated by Royal Decree 36/2008,
and the Privatisation Law promulgated by Royal Decree 51/2019,
and after presentation to Majlis Oman,
and in pursuance of public interest,

have decreed as follows

Article I

The attached Public Private Partnership Law shall apply.

Article II

The chairman of the board of directors of the Public Authority for Privatisation and Partnership shall issue the executive regulation of the attached law within a period not exceeding 1 (one) year from the date of its entry into force, as well as the decisions necessary for implementing its provisions.

Article III

All that is contrary to the attached law, or is in conflict with its provisions, shall be repealed.

Article IV

This decree shall be published in the Official Gazette and shall come into force on the day following the date of its publication.

Issued on: 27 Shawwal 1440

Corresponding to: 1 July 2019

Qaboos bin Said

Sultan of Oman

The Public Private Partnership Law

Chapter One Definitions and General Provisions

Article 1

In the application of the provisions of this law, the following words and phrases shall have the meaning assigned to each of them, unless the context requires otherwise:

Authority:

Public Authority for Privatisation and Partnership.

Board:

Board of directors of the authority.

Competent body:

Ministries, public authorities, public establishments, and other public legal persons concerned with the partnership project.

Partnership project:

A project whose objective is undertaking works or providing public services of economic or social importance in line with the strategy of the Sultanate and its development plan, or improving or enhancing an existing public service, or improving its efficiency, that is floated in accordance with the provisions of this law.

Special nature partnership projects:

Projects for which the authority is unable to determine their technical, financial, legal, and other elements in a precise and comprehensive manner initially, and which may be executed by resorting to a variety of solutions.

Partnership contract:

A contract that the competent body concludes with the project company through which it commits, for a specified period, to finance, establish, and prepare infrastructure and public facilities projects, and manage, operate, utilise, maintain, and perform its services, and contribute in performing its function in return for the consideration agreed in the contract, or in accordance with the principles and rules it specifies.

Project company:

The company established by the winning bidder of the partnership project in accordance with the laws in force in the Sultanate, for the purpose of executing this project.

Private sector:

The legal person, or consortium established by two or more legal persons, owned wholly by individuals or in which the government owns a part in its capital that is less than 40% (forty percent).

Partner:

The private sector that enters in a competition against others to win a partnership project in accordance with the provisions of this law.

Regulation:

The executive regulation of this law.

Article 2

The provisions of this law shall apply to partnership contracts, and consultancy contracts relating to them, that are referred to in article 6 of this law. The provisions of the Tender Law and the Privatisation Law shall not apply to these contracts.

Article 3

The application of the provisions of this law shall not prejudice the provisions of any other laws relating to the management, lease, licensing, usufruct, or concession of any public facility, whereas the provisions of the laws promulgated in regard to them shall apply.

Article 4

It is not permitted for a competent body to conclude partnership contracts in application of the provisions of this law except if the partnership project has an economic or social return and is in line with the strategy of the Sultanate and its development plan.

Chapter Two Floating and Awarding the Partnership Project

Article 5

The partner shall be selected in accordance with the principles of transparency, publicity, equal opportunity, non-discrimination, and free competition. The regulation shall specify the rules for floating and awarding the partnership project, and in particular, announcement procedures, the information that must be included in the announcements, the deadlines for submitting qualification requests or bids, the criteria and procedures for pre-qualification of candidates, the documents and the records that the partner must submit, the elements and the procedures for awarding, and the controls and principles for choosing between bidders.

In exception to this, it is permitted – after the approval of the Council of Ministers – to contract through direct assignment to execute a partnership project.

Article 6

The authority may contract with persons who satisfy the requirements for technical competence, good reputation, and international expertise in the field of partnership contracts to provide consultancy services relating to the evaluation and floating of partnership projects. The regulation shall specify the rules and procedures for selecting them.

Article 7

It is permitted for any person to submit to the authority or the competent body an idea for a partnership project in the form of a preliminary feasibility study in line with the strategy of the Sultanate and its development plan, and that has an economic or social return. The authority may accept or reject the idea, provided that in the case of rejection the decision is reasoned.

If the idea for the partnership project is accepted, the owner shall submit a complete feasibility study for the project.

The regulation shall specify the rules and procedures for submitting an idea for a partnership project and for deciding on it, and the rights and obligations of the owner of the idea.

Article 8

The authority shall, prior to floating or announcing a partnership project, coordinate with the competent body, acquire the approval of the Ministry of Finance, and undertake the necessary evaluation for the partnership project, in the manner specified in the regulation.

Article 9

The authority shall – in coordination with the competent body – prepare the conditions and specifications document for the partnership project in accordance with the rules and procedures specified in the regulation, provided that it includes, in particular, the following:

- (1) Essential information about the partnership project that is necessary to prepare and submit the bid, and the manner of partnership.
- (2) Specifications of the partnership project, and the technical and financial conditions that must be satisfied by the bid.
- (3) The value of the temporary bond, and the basis for calculating the value of the final bond.
- (4) Records and documents that must be submitted, and the deadlines and procedures that must be followed and complied with.
- (5) The technical, financial, and legal principles on which the bid will be evaluated and decided on, provided that these principles are prepared in accordance with objective rules that guarantee non-discrimination between qualifying candidates.
- (6) Essential conditions for the partnership contract, along with a statement of non-negotiable conditions.

Article 10

It is permitted for a consortium made up of more than one qualified candidate to submit a bid, and this bid shall be submitted in the name of this consortium unless the conditions and specifications document requires that the qualified candidates submit their bids individually.

If the bid is submitted by a consortium, it is prohibited for any qualified candidate who is a member of this consortium to submit another bid, whether individually or through a different consortium, or through a company in which it owns the majority of its capital, or over which it has managing control in the manner stated in the regulation, unless the conditions and specifications document does not specify otherwise, and all bids submitted contrary to the provisions of this paragraph shall be deemed invalid.

Article 11

The authority shall – in coordination with the competent body – assess the submitted bids and their compliance with the announced conditions and specifications, determine those disqualified due to their non-compliance with these conditions and specifications, and evaluate those compliant in accordance with the technical, financial, and legal principles stated in the conditions and specifications document and in the regulation.

The partnership project shall be awarded to the bidder whose bid is demonstrated to be best after applying the principles referred to in the previous paragraph.

Article 12

The authority is permitted to negotiate with the winning bidder in accordance with the rules and procedures specified in the regulation. The authority may, if the negotiations with the winning bidder fail, proceed to negotiate with the other bidders according to their ranking, until a final agreement is reached with one of them, or else it shall reject them all.

In all cases, it is prohibited for the authority to renegotiate with a bidder with whom negotiations have failed in accordance with the provisions of this article.

Article 13

It is permitted in regard to special nature partnership projects to submit non-binding preliminary technical and financial proposals containing the essential elements of the final bids, provided this is followed by a competitive dialogue with qualifying candidates with the objective of acquiring clarifications regarding the technical and financial elements included in these proposals, and this shall be followed by submitting the final bids on the basis of which the final evaluation shall be undertaken.

The regulation shall specify the rules and procedures for submitting preliminary proposals and final bids, and the rules and procedures for the competitive dialogue.

Article 14

The procedures for floating a partnership project shall be cancelled if the project is dispensed with finally, or if public interest mandates this, and it shall be permitted to cancel them on the basis of a recommendation of the competent body in any of the following circumstances:

- (1) If a sole bid is submitted or if a single bid remains after the disqualification of other bids.
- (2) If all or a majority of bids include substantial reservations that are not compliant with the conditions and specifications document or if it is impossible to evaluate them technically and financially.
- (3) If the value of the lowest bid exceeds without justification the comparative cost approved by the authority.
- (4) If negotiations with the bidders fail pursuant to the provisions of article 12 of this law.

In all cases, the cancellation shall be issued by a decision from the authority, and it shall be reasoned. It is not permitted for any bidder to claim any compensation because of this decision.

In exception to the foregoing, it is permitted to accept a sole bid, or a bid with a value exceeding the comparable cost, in the circumstances and to the extent stated in the regulation.

Article 15

The winning bidder shall establish a project company whose sole purpose shall be the execution of the announced partnership project, and it is permitted for it to be owned wholly by non-Omani persons. The regulation shall specify the form of the company, the value of its capital, and all provisions relating to it including those circumstances in which it is permitted to execute other partnership contracts after obtaining the written approval of the authority.

It is permitted for the board to agree for the competent body to contribute to the establishment of the project company after obtaining the approval of the Ministry of Finance, provided that the company in this case takes the form of a joint-stock company, or a limited liability company, and that is in the manner stated in the regulation, provided that the initial public offering of the shares of the competent body in case they are offered is restricted to Omani individuals, unless the board decides otherwise.

In all cases, it is prohibited to trade the shares of the project company before the completion of construction, preparatory, or development works, and the start of the operation or utilisation of the partnership project, unless the written approval of the authority is obtained.

Article 16

It is prohibited to undertake any modification to the legal form of the project company, reduction in its capital, sale or mortgage of its shares, modification of the shares of the partners, merger, split, acquisition, addition of new partners, or transfer of ownership by assignment or sale, except after obtaining the written approval of the authority.

In all cases, it is not permitted to mortgage the shares of the project company for non-financing purposes.

All procedures and disposals done in violation of the provisions of this article shall be deemed invalid.

Chapter Three **Provisions Concerning the Partnership Contract**

Article 17

The partnership contract shall specify the rights and obligations of the contracting parties, and it must, in particular, include the following:

- (1) The parties to the contract and their details.
- (2) The nature and scope of the works or services that must be performed by the project company and the conditions for their execution.
- (3) The ownership of the property and assets of the partnership project and its associated rights, the obligations of the parties in regard to the delivery and acceptance of the project, the provisions governing the rules for repossession and transfer of ownership at the termination of the contract for any reason.
- (4) The types and amounts of insurance for the partnership project, the risks arising from its operation or utilisation, the execution guarantees issued to the benefit of the competent body, and the rules and procedures relating to their return.
- (5) The financial obligations between the parties to the contract and the financing mechanisms.
- (6) The responsibility for obtaining licences, permits, and approvals relating to the execution of the partnership project.
- (7) The service cost or the product sale price, and the principles and rules for calculating and modifying them.
- (8) Risk allocation in the case of contractual imbalance due to change of law, unforeseeable event, or force majeure, and the principles for quantifying damages as the case may be.
- (9) Specifying the technical, financial, and administrative oversight and follow-up mechanisms that guarantee the proper operation, utilisation, and maintenance of the partnership project, and the performance levels.
- (10) The right of the competent body to modify the scope and size of services or works, and other obligations on the project company, and specifying the principles and rules for quantifying compensation in this case.
- (11) The obligation of project company to abide by health and safety conditions and environmental protection requirements.
- (12) Administrative penalties that may be imposed against the project company.

(13) The period of the contract which shall not exceed in all cases 50 (fifty) years, and the circumstances for early contract termination.

(14) The cases in which the competent body has the right to terminate the contract unilaterally, and the resulting consequences.

(15) Dispute resolution mechanisms.

Article 18

Notwithstanding article 19 of this law, it shall not be permitted to undertake any amendment to the conditions provided in the partnership contract except in accordance with the principles and to the extent stipulated in it, or by agreement of the parties, and after the written approval of the authority – in all cases – to the amendment.

Article 19

The competent body has the right – after the written approval of the authority – to modify any of the conditions provided in the partnership contract and the rules relating to the operation or utilisation of the partnership project, including the price for the sale of the products or the service fee, without prejudice to the right of the project company to compensation in accordance with the principles and to the extent stated in the partnership contract.

Article 20

The competent body – after the written approval of the authority – shall have the right to take over the execution of the partnership project, or to assign it to another, if the project company commits gross mistakes that affect the progress of the partnership project, or if it commits a significant violation of one of its obligations stipulated in the partnership contract or under this law, in achieving the quality standards of the products or services it provides, and the mistake or the violation is not rectified, and the financing body does not intervene to redress them within the deadline specified in the partnership contract from the date it has been notified of this, without prejudice to the right of the competent body to receive compensation for the losses it incurred.

Article 21

It is not permitted to impound establishments, devices, tools, machinery, equipment, or others that are used in the operation or utilisation of the partnership project, and all procedures carried out contrary to this shall be deemed invalid.

Article 22

The partnership contract shall lapse by the lapse of its period, and it is permitted to terminate it before the lapse of this period in the circumstances stipulated in it, or if the parties agree to this, and after the written approval of the authority – in all cases – on its termination.

Article 23

In the case where the period of the partnership contract lapses, or if it is terminated before the lapse of this period for any reason whatsoever, the ownership of all the assets of the partnership project and all that is considered to be part of its supplies shall be transferred to the state without undertaking any judicial procedure, payment of any amount, or compensation, and that is after excluding assets that may be agreed in the contract not to be transferred to the state or to be transferred in return for an amount or a compensation, and any procedure or disposal carried out contrary to this shall be deemed invalid.

It is permitted to refloat partnership projects that were transferred to the state in accordance with the provisions of this law, and in the manner stated in the regulation.

Article 24

The partnership contract shall be subject to the provisions of Omani law, and any agreement that states otherwise shall be deemed invalid. It is permitted to agree to settle disputes arising out of it by arbitration or any other amicable dispute resolution mechanisms, and that is in accordance with what is agreed upon in the partnership contract.

Chapter Four Project Company Obligations

Article 25

It is not permitted for the project company to charge any financial amount in return for the sale of products or the performance of services under the partnership contract, except after the issuance of a quality acceptance certificate for the products or services by the competent body in accordance with the performance standards stipulated in the partnership contract.

Article 26

It is not permitted for the project company to sell or mortgage the land on which the partnership project is located, and it is not permitted for it to transfer any right or obligation arising from the

partnership project or to assign someone else to execute it, or to arrange for any mortgage or any right in rem for any purpose other than financing, except after obtaining the written approval of the authority, and in accordance with the procedures, conditions, and controls specified in the regulation, and any procedure or disposal contrary to this shall be deemed invalid.

Article 27

The project company shall abide by all laws and regulations in force in the Sultanate including rules relating to employment of manpower, health and safety conditions, and environmental protection requirements.

It shall also transfer expertise, technology, and knowledge to the competent body, and train and develop the employees of this body on the management and operation of the partnership project, and that is in accordance with the provisions and conditions agreed upon in the partnership contract.

Article 28

The project company shall guarantee the absolute equality between the beneficiaries of the products or services that the partnership project makes available. However, it is permitted for it to decide special treatment for certain classes of beneficiaries whose legal status is equal when public interest mandates this, provided that the written approval of the authority is obtained, that this is done in accordance with predetermined general rules, and that this is approved by the competent body.

Article 29

The project company shall use the assets of the partnership project for the purpose they were prepared for, and it shall undertake the procedures necessary to maintain and preserve them.

It is not permitted for it to sell the assets of the partnership project, or to dispose of them in any way, except for the purpose of executing the replacement and renewal programme stipulated in the partnership contract, and after obtaining written approval from the authority.

Article 30

The project company shall submit to the competent body periodic reports about all works relating to the execution of the partnership contract, such as construction, preparation, maintenance, operation, and utilisation works. The competent body shall provide the authority with a copy of those reports, in the manner specified in the regulation.

Chapter Five Control and Oversight

Article 31

The competent body shall have all oversight and control authorities over the facilitates and services under the partnership contract, and the authorities for following-up the phases for establishing and preparing the partnership project, and ensuring quality standards for the products or services provided by the project company. It may, to this end, appoint delegates to monitor the execution of the project, and that is in accordance with the conditions and provisions stipulated in the partnership contract.

Article 32

Employees of the competent body shall have the right to enter the site of the partnership project or any place connected to it at any time, for inspection and control, and they may, in particular, inspect the work progress and its efficiency, and examine all that is relating to technical, financial, and administrative aspects of the project, and evaluate the procedures undertaken to adhere to health and safety conditions and the non-existence of negative effects on the environment or damage to public or private property. The company shall provide all that enables them to perform their work.

Article 33

The project company shall provide to the competent body all it needs from information, data, documents, and other papers connected to the execution of the partnership project, and the competent body shall have the right to use any of them for purposes in line with its authorities, oversight and control roles stipulated in this law or any other law.

Article 34

The competent body may issue written orders and instructions to the project company to implement the laws and regulations in force, or those it deems necessary and essential for the proper progress of the work and its efficiency, or for the purpose of avoiding damage or removing it, and the company shall completely abide by these orders and instructions, and shall immediately implement them upon its knowledge of them.

Chapter Six Final Provisions

Article 35

The board shall have the competence to examine grievances submitted by the partner or project company in regard to any decision or procedure connected to the processes for floating, signing, or execution of the partnership contract, provided the grievance is submitted within 60 (sixty) days from the date of the certain knowledge of the decision or the procedure, and the board shall make a decision in regard to the grievance within 30 (thirty) days of the date of its submission.

The regulation shall specify the procedures for submitting, examining, and deciding on the grievance. The decision of the board in regard to the grievance shall be final.

Article 36

The authority shall prepare an annual report to be sent to the Council of Ministers that includes all the data of the approved plans, partnership contracts signed in application of the provisions of this law, and the projects planned for execution that were not executed, with a statement of the reasons for non-execution, in the manner stated in the regulation.

The competent body shall provide the authority with all it needs from information, data, records, or documents relating to the partnership contracts signed with it.