

Construction and infrastructure law in Saudi Arabia – an overview



By Donald Turley

The Kingdom of Saudi Arabia (KSA) is experiencing an ongoing boom in construction and related infrastructure projects. It is therefore timely to review the laws of KSA that will impact on those who intend to be involved in these development projects. KSA is a sovereign Arab Islamic state. The law of KSA is based on Islamic law (Shari'ah) from two main sources: the Holy Qur'an (the divine revelation to the Prophet Mohammed) and the Sunnah (a record of the sayings and actions of the Prophet Mohammed).

KSA Government Law

The Government of KSA issues specific laws and regulations when necessary to supplement Shari'ah Law. In the event of conflict between Shari'ah Law and any KSA Government laws or regulations, then Shari'ah Law will usually prevail.

Key KSA Government Laws include:

- *Government Tenders and Procurement Law*: This very significant law together with the implementing regulations governs all contracts with KSA Government entities and requires that all contracts over a certain value with KSA Government entities shall be in approved standard form contracts.
- *Saudi Building Code*: Construction contractors must have full and careful regard to the SBC which includes 800 pages of detailed requirements.

Employment Law

The employment relationship is governed by the *Labour Law*, which covers all aspects of employment relations, including employment contracts, wages and benefits, leaves, working hours and the termination of employment. Non-Saudi nationals may work in Saudi Arabia provided they have prior approval from the Ministry of Labour.

The KSA Government has a "Saudization" policy to encourage employers in the private sector to hire Saudi nationals. The *Labour Law*, introduced in 2005, specified that the proportion of Saudi workers should be 75 percent. However, the *Labour Law* also provides that in cases where adequately qualified workers are not available or it is otherwise not possible to fill vacant jobs, the Minister of Labour may reduce this percentage.

KSA Courts

KSA Courts cover civil, criminal and family matters. The KSA Courts have considerable discretion to apply principles of Shari'ah Law to a particular case to give what the KSA Courts consider to be an equitable outcome.

- *Appeal Rights*: There are appeal rights from the decision of an individual Judge to an appellate Court of three Judges. Thereafter parties may appeal on matters of law but not matters of fact to the Supreme Judicial Council.
- *KSA Government Board of Grievances*: The Board of Grievances will deal with disputes where the KSA Government is a party, and with disputes in the commercial transactions between private sector parties. Shari'ah Law will apply.
- *Arbitration*: Arbitration is allowed within the KSA. Arbitration is not permitted where one of the parties is a KSA Government entity, except by specific permission of the Council of Ministers.

This is a brief general overview. Reference should be made to qualified Saudi Arabian counsel before embarking on any business in the Kingdom of Saudi Arabia.

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