

Legal Framework

Outline of sectors with restrictions on foreign ownership

Workers' rights enumerated for citizens and non-citizens

Real estate laws vary for Arab and non-Arab nationals

Legislation promulgated for public-private partnerships





The Investment Law incentivises investment in smaller businesses

Consolidation is key

Changes to the regulations governing investment and public-private partnerships aim to streamline business processes

INVESTMENT LAW: The Investment Law No. 30 of 2014 (the Investment Law) sets out the legal framework to enhance, support and incentivise investments in Jordan. It also aims to unify legislation pertaining to investments in general, regardless of whether such investments are in development zones, free zones or other jurisdictions.

INVESTMENT COMMISSION: The Investment Law established the Investment Commission, which has full authority to exclusively regulate investments and to facilitate licensing procedures. The creation of the Investment Commission as an all-encompassing entity has eliminated some of the bureaucratic hurdles investors have encountered in previous years.

INCENTIVES: The Investment Law introduces new concepts and grants incentives to investments that employ Jordanians and use domestically produced raw materials. Additionally, it grants projects certain automatic incentives irrespective of their size or location to ensure equality between projects. The Investment Law also incentivises investment in small and medium-sized enterprises.

Goods required for the following economic activities will be exempt from Customs duties and will benefit from sales tax at the rate of zero, if such goods are imported or locally purchased:

- Agriculture and livestock;
- Hospitals and specialised medical centres;
- Hotels and tourist facilities;
- Entertainment and tourist recreation sites;
- Communication centres;
- Scientific research centres and laboratories;
- Artistic and media production;
- Conference and exhibition centres;
- Transport, distribution and/or extraction of water, gas or oil derivatives using pipelines; and
- Air transport, sea transport and railways.

The Investment Law reflects the government's vision of encouraging investments in certain geographical areas

rather than just in specific sectors. The Investment Law, upon its promulgation, effectively repealed the Development Zones Law No. 2 of 2008 (the Development Zones Law) and the Development Zones Corporation, which was responsible for regulating development zones.

Nonetheless, the Investment Law has maintained most of the incentives that existed under the Development Zones Law, whereby projects operating in development zones still benefit from a reduced income tax rate of 5% (with the exception of banks, insurance companies, telecommunications and financial brokerage companies, among others) and a sales tax at the rate of zero, with no Customs duties on imports (except for products that enter the Customs territory and do not qualify as being of Jordanian origin).

Furthermore, the Investment Law also retains the exemptions that were applicable to free zone companies under the Development Zones Law. This includes complete exemption from income tax on profits generated by products exported outside Jordan; exemption from Customs duties, import fees and taxes for goods imported into a free zone or exported out of a free zone to locations other than the domestic market; exemption from licensing fees and building and land taxes; and exemption from income tax on the salaries and allowances of non-Jordanian employees working in projects conducted in the free zones.

ASEZ: As an exception, Aqaba Special Economic Zone (ASEZ) is governed under a separate law from that mentioned above and by an independent authority, the Aqaba Special Economic Zone Authority. The Aqaba Special Economic Zone Law No. 29 of 2008 is still valid and applicable, and it affords businesses registered within ASEZ various exemptions and benefits exclusive to the zone, including a reduced income tax rate of 5% and no import duties into ASEZ. The following sources of income shall be exempt from income tax:

- Profits generated from capital;

- Profits generated from the sale and purchase of land, real estate, shares and bonds;
- Income from agricultural, gardening and afforestation investment in land;
- Income generated from investments in poultry, cattle, fish or the breeding of bees;
- Income generated from products manufactured by manual labour; and
- Income generated from a concession or agreement granted by the government, which has been exempted under the terms of the concession or agreement.

CORPORATE LAW: This section outlines the laws and regulations governing companies operating in Jordan or those looking to start business there.

RESTRICTIONS ON FOREIGN OWNERSHIP: In principle, foreign ownership is accepted, and there is no distinction between foreign nationalities (whether Arab or otherwise). However, foreign investment in certain sectors is limited as follows:

1. Companies/projects in which foreign ownership is completely prohibited, such as the arms trade, security and investigation, and Customs clearance services;
2. Companies/projects where only a maximum of 50% foreign ownership is permitted, such as wholesale trade and retailing, distribution of goods and services, engineering services, construction contracting, advertising services, commercial agencies, restaurants, and certain road, rail and air transport support services; and
3. Companies/projects in which foreign ownership is limited to a maximum of 49%, such as scheduled passenger air transportation and aircraft charter (wet lease) services.

The Council of Ministers may permit higher percentages in large development projects that are deemed of special importance.

The aforementioned restrictions apply to the direct owner, and there are no look-through requirements to the ultimate or beneficial owner, unless the direct owner is a shell company.

TYPES OF COMPANIES: The Companies Law No. 22 of 1997 (Companies Law) offers investors several types of companies for incorporation and investment in Jordan:

Limited liability company (LLC): All LLC owners enjoy limited liability. LLCs are unsophisticated entities that are governed by a fixed set of standard rules set out under the Companies Law. Due to these fixed LLC rules, the investor does not have much leeway to insert special provisions into the articles of association and memorandum of association. An LLC cannot list or trade its shares publicly. The LLC's minimum share capital is JD1 (\$1.41).

An LLC must be composed of at least two shareholders (approval could be sought for a sole shareholder LLC). The nominal value of each share is JD1 (\$1.41), and only one class of shares is issuable. The paid-up capital of an LLC upon registration must be at least 50% of its total share capital, and the remaining 50% must be paid within two years of registration.



Foreign ownership of companies is subject to a minimum investment of \$70,300 and is limited in some sectors

The process of registering an LLC can be completed within two days. The registration fee is 0.2% of the registered share capital, subject to a minimum of JD250 (\$352). In addition, stamp duty is payable at the rate of 0.3% of the registered share capital. Given the "standard form" LLC structure, LLCs are commonly incorporated by local as opposed to foreign investors.

Private shareholding company (PSC): A PSC combines limited liability with added flexibility. A PSC may issue various types and classes of shares that differ in their nominal value, voting rights and profit and loss distribution. The articles and memorandum of association can also be amended to reflect specific investor requirements in relation to management and shareholder affairs.

The minimum foreign investment amount applies to PSCs as well. A PSC can list or trade its shares publicly; however, there is no mechanism set in place currently. The minimum prescribed share capital of a PSC shall not be less than the JD50,000 (\$70,300) that must be paid in full on registration.

The process for registering a PSC is more complicated than that of an LLC and can take from one to two weeks. The registration fee is 0.2% of the registered share capital, subject to a minimum of JD1000 (\$1410). Additionally, stamp duty is payable at the rate of 0.3% of the registered share capital.

Public limited shareholding company (PLC): a PLC must be composed of a minimum of two founders who subscribe to shares that can be listed on a stock exchange (approval can be sought to establish a PLC by one founder). The founders cannot dispose of their shares until the lapse of two years following the registration of the PLC. Shareholders' liabilities are limited to their shareholding in the PLC.

The authorised share capital of the PLC shall not be less than JD500,000 (\$703,000), with a nominal value of JD1 (\$1.41) per share. The prescribed share capital of a PLC shall not be less than JD100,000 (\$141,000)

or 20% of the authorised capital, whichever is greater, and must be fully paid upon registration.

The remaining authorised capital must be fully subscribed within three years of registration. A PLC may issue the unsubscribed shares at prices above or below the nominal value. Members of the board of directors of a PLC must be shareholders in it.

The registration process of a PLC is relatively complicated and requires the assistance of a lawyer and a licensed financial intermediary. The requirements under the Jordanian Securities Law No. 76 of 2002 in relation to the issuance and registration of securities must be observed. The registration fee is 0.2% of the registered share capital, with a minimum of JD5000 (\$7030). Stamp duties are payable at the rate of 0.3% of the registered share capital.

Operating foreign company (branch office): A foreign firm can only operate in Jordan after (i) registering an operating foreign company with the Companies Control Department at the Ministry of Industry and Trade, and (ii) being awarded a formal contract for work in Jordan.

Its registration will be (i) for the duration of a contract that the company was awarded (the registration may be extended if other contracts are later awarded), or (ii) permanent pursuant to a licence from the competent official authorities. The company registering a branch office must appoint a person resident in Jordan as a representative to carry out its business and accept service on its behalf. The representative need not be a Jordanian. The cost of registering a foreign company amounts to JD5000 (\$7030).

Non-operating foreign company (regional office): This is relevant to a foreign company that does not intend to conduct business within Jordan but intends to use it as a base for its business in the region.

A regional office may not conduct business in Jordan. It can collect information concerning general business possibilities in Jordan but cannot sign any contract or offer regarding any such opportunity. A regional office enjoys several exemptions and advantages, including an exemption from local taxes (except sales tax).

The non-Jordanian employees of a regional office are exempted from income and social services taxes, and a regional office can import its office furniture free from Customs duties. The regional office must appoint a resident representative, and at least half of its employees must be Jordanian citizens. There are no set fees for registering a regional office.

LABOUR LAW: This section focuses on legislation pertaining to the non-citizen and Jordanian workforces.

SCOPE & APPLICABILITY: The Labour Law No. 8 of 1996 (the Labour Law) applies to any person who performs work in return for a wage, including non-Jordanians, juveniles above the age of 16 and persons under apprenticeships or training. Separate regulations govern the employment of domestic and agricultural workers. Civil servants and municipal employees are excluded, and their employment does not fall within the ambit of the Labour Law.

The term “work” is defined as involving any physical or mental effort performed by an employee in return for

compensation, whether such work is on a permanent, temporary, occasional or seasonal basis.

EMPLOYMENT OF NON-JORDANIAN WORKERS: Foreign workers may only be employed upon the approval of the minister of labour, on the condition that the work cannot be performed with equal accuracy and efficiency by a Jordanian worker. Work permits for foreign employees are issued for a period of one year and are renewable annually upon payment of the applicable renewal fees.

EMPLOYMENT CONTRACTS: Any contract, whether written or oral, express or implied, or for a fixed or unlimited term, shall constitute an “employment contract” and is subject to the provisions of the Labour Law, so long as the essential elements of an employment contract are present – namely, the performance of the work in return for compensation and the establishment of a supervisory relationship between the parties.

Written employment contracts must be executed in Arabic and may be accompanied by a translation. Any provisions under the employment contract which diminish or contravene any benefit or right granted to an employee under the Labour Law will be deemed null and void.

WORKING HOURS & OVERTIME PAYMENT: Employees can work a maximum of eight hours per day or 48 hours per week, which, when distributed, should not exceed 11 hours per day. Such limits do not apply to employees working in managerial or supervisory positions. Employees can only be obliged to work overtime in certain circumstances specified under the Labour Law. Otherwise, the employer must obtain the employee's consent. Should an employee agree to exceed the maximum daily or weekly working hours, they will be entitled to overtime payment at the rate of 125% of their normal hourly wage. If the employee works during their weekly holiday or any official holiday, overtime payment will be calculated at the rate of 150% of their usual hourly rate. The parties may agree to higher overtime payment rates.

ANNUAL LEAVE: An employee is entitled to one paid day of holiday per week. Friday is the designated weekly holiday, unless the nature of the work requires otherwise. The minimum paid annual leave for the first five years of employment is 14 days. Following employment for five consecutive years, the employee will be entitled to at least 21 days per year.

Each employee is also entitled to 14 days paid sick leave, provided that an accredited doctor's report is provided, and an additional 14 days if the employee is hospitalised or procures a report by an accredited medical committee. Employees are also entitled to additional paid leave including maternity leave.

TERMINATION OF EMPLOYMENT: The Labour Law sets the general principles for the termination of employment contracts. It contains an exhaustive list of the grounds upon which an employer may terminate the employment relationship and dismiss the employee without notice. Similarly, it sets out the circumstances whereby an employee may terminate the employment and resign without notice. In each case, the terminating

party is entitled to the relevant compensation stipulated under the Labour Law.

REAL ESTATE INVESTMENT: As a general rule, foreign individuals and corporate entities can hold complete ownership of land in Jordan, subject to certain restrictions and consent from the relevant authorities. Certain areas throughout Jordan have been zoned and designated as regulated areas. Legal requirements and restrictions on land vary depending on whether the land is located within or outside the regulated boundaries.

FOREIGN NATURAL PERSONS: Jordanian real estate laws differentiate between Arab nationals, non-Arab nationals and individuals holding travel documents or temporary passports.

1. Non-Jordanians (Arab or otherwise) may acquire property within regulated boundaries subject to procuring the approval of the:
 - General manager of the Department of Land and Survey for property consisting of not more than two residential houses and one office space for private use;
 - Minister of finance for property consisting of more than two residential houses and an office space for private use, provided that the area of the plot of land on which the property is constructed does not exceed 10,000 sq metres;
 - Minister of finance for the purposes of conducting business or to establish industrial projects on plots with an area not exceeding 10,000 sq metres; and
 - Council of Ministers for property purchased for reasons not mentioned above.

Non-Arab nationals will only be permitted to acquire property in Jordan if Jordanians are also permitted to acquire property in the country of the buyer. If a non-Jordanian holds more than one nationality, then the laws of all the countries of which the buyer is a national will be considered.

2. Arab nationals may acquire property outside regulated boundaries for investing in agricultural land, rehabilitation of land or to establish an industrial or residential project on such land subject to the approval of the:
 - Minister of finance for land with an area that does not exceed 50,000 sq metres.
 - Council of Ministers for land with an area that exceeds 50,000 sq metres.
3. Individuals holding travel documents or temporary passports may acquire property subject to the approval of the Council of Ministers.

CORPORATE ENTITIES: Jordanian law does not differentiate between Jordanian and foreign corporations. A company cannot purchase land as an investment or solely for trading purposes. Approvals are issued if the relevant authority is convinced that the company is purchasing the property for the purposes of implementing its registered business objectives. Corporate entities require approvals from the following bodies to acquire land:

1. Land located within regulated boundaries:
 - The minister of finance for plots with an area that does not exceed 30,000 sq metres; or



Employees, except those in managerial or supervisory positions, can work a maximum of 48 hours per week

- The Council of Ministers for plots with an area that exceeds 30,000 sq metres.
2. Land located outside regulated boundaries:
 - The minister of finance for plots with an area that does not exceed 50,000 sq metres; or
 - The Council of Ministers for plots with an area that exceeds 50,000 sq metres.

IMPLEMENTATION PERIOD: Any corporate entity or foreign individual that purchases property in Jordan must implement the project for which the land was purchased within:

- Three years from the date of purchase for land purchased for residential purposes or to undertake registered business activities; or
- Five years from the date of purchase for land purchased for other purposes.

HOLDING PERIOD: Corporate entities and foreign individuals must hold the acquired property for a minimum of three years for land acquired for residential purposes, and five years for land acquired for other purposes. This applies from the ownership registration date. Land purchased for investment in housing or commercial projects is exempt from this, provided that the housing or commercial project is completed.

COMPETITION LAW: The Competition Law No. 33 of 2004 (the Competition Law) aims to establish legislative bases for economic competition in Jordan. The Competition Law applies to all production, commerce and services inside Jordan, as well as all economic activities occurring outside the country but which have a direct effect in it. The Competition Directorate at the Ministry of Industry and Trade was established pursuant to the Competition Law, and it aims to assist in the general regulation of economic competition in Jordan.

ANTI-COMPETITIVE PRACTICES: Any practices, alliances, or agreements – whether express or implied – that distort, limit or prevent competition in Jordan shall be deemed breaches of the Competition Law, especially those practices, alliances or agreements that seek to:



As a general rule, foreign individuals and corporate entities can hold complete ownership of land in Jordan

- Share the market on the basis of geographical regions;
- Set barriers in order to hinder the entry of new enterprises or carrying out procedures to eliminate such enterprises; and
- Collude in tenders or bids with the intention of distorting, limiting or preventing competition in any way.

An enterprise may be exempt from the above-mentioned provisions (subject to the approval of the minister of industry and trade) if it is thought that the practice concerned may ultimately lead to positive economic results and a common benefit that may not be achieved without the exemption.

ECONOMIC CONCENTRATION: Any activity resulting in the full or partial transfer of ownership or beneficial interest in properties, rights, shares, stocks, or the obligations of one enterprise to another in a way that enables such enterprise to control, whether directly or indirectly, another enterprise, shall be considered an “economic concentration” operation. Thus, joint ventures, minority interests and foreign transactions fall within the ambit of the Competition Law.

If the economic concentration results in the enterprise holding a dominant position (defined as a 40% market share or more of the total relevant market) then the enterprise must first receive the written approval of the minister of industry and trade. This may be accomplished by submitting a petition to the Competition Directorate (which will then be published in two daily newspapers).

JURISDICTIONAL MATTERS: Jordanian courts shall have jurisdiction to hear any cases relating to violations of the Competition Law. Cases and claims under the Competition Law are initiated pursuant to a complaint submitted to the Public Prosecutor by either of the following parties:

- The minister of industry and trade, whose decision is made upon the recommendation of the Competition Directorate;

- Enterprises from the private sector;
- Licensed consumer protection associations;
- At least five consumers who have suffered harm from an anti-competitive practice;
- The chambers of commerce and industry;
- Professional and syndicate organisations; and
- Sectoral regulatory entities.

The Ministry of Industry and Trade shall be deemed a party to any and all competition claims, and it may present studies and opinions to the presiding court. It may even request that a case or claim be pursued, even if its claimant drops the claim.

PUBLIC-PRIVATE PARTNERSHIPS: The Public-Private Partnership Law No. 31 of 2014 (PPP Law) is the main law currently governing PPPs in Jordan. Prior to the PPP Law, Jordan did not have any legislation setting out the legal framework for PPPs. The Privatisation Law No. 25 of 2000 and the Regulation for the Implementation of Privatisation Transactions No. 80 of 2008 did not deal specifically with PPPs, but were the only pieces of legislation outlining the procedures for establishing PPPs and privatisation transactions. Therefore, the enactment of the PPP Law marks the first legislation that deals specifically and exclusively with PPPs.

LEGISLATION: Pursuant to the PPP Law, the Regulation for Public Private Partnership Projects No. 98 of 2015 (PPP Regulation) and the Instructions for the Regulation of the Work of the Partnership Council of 2015 (PPP Instructions) were issued. The PPP Regulation deals with the procedures for the various stages of the PPP identification, procurement and tender processes. The PPP Instructions only set the mechanism for the meetings and decision-making process of the PPP Council.

RELEVANT AUTHORITIES: The PPP Law established the PPP Council and the PPP Unit. The PPP Council consists of the ministers of finance, industry and trade, and planning and international cooperation, as well as the commissioner of the Central Bank of Jordan, the head of the PPP Unit and a designated minister appointed by the prime minister. The PPP Council has several duties and responsibilities, including taking decisions on the proposed projects submitted and refer them to the Council of Ministers for approval, drawing policies relating to PPP projects, identifying and prioritising projects, and approving the final award of the PPP tender and the draft PPP contract. The PPP Unit, established as part of the Ministry of Finance, is responsible for, among other things, determining the technical and financial feasibility of any PPP project, registering PPP project applications, preparing model contract provisions, and reviewing any contracts and feasibility studies for any project.

PROCUREMENT PROCEDURE: In identifying and preparing for a PPP project, feasibility studies are conducted by the contracting entity in collaboration with its project advisers. Such studies should include:

- Socio-economic analysis including the cost-benefit analysis of the socio-economic impact of the project;
- Affordability assessment including the long-term public commitments;
- Risk identification, allocation and assessment; and

- Financial viability assessment.
- The PPP Regulation identifies four main stages for the procurement of PPPs as follows:

Registration process:

- The contracting entity (the governmental entity that executes the PPP contract with the private entity) has to submit a registration request accompanied by a memorandum to the PPP Unit for review. The memorandum contains information relating to the project, including the project's description, the level of anticipated services, its socio-economic benefits and its financial viability, among other things. The PPP Unit may also request further documentation or information from the contracting entity.
- The PPP Unit refers the project to the PPP Council which decides on its priority. Projects need to be approved by both the PPP Council and the Council of Ministers. While PPPs are applicable to all economic sectors, the PPP Law gives the Council of Ministers the authority to exclude certain sectors based on the recommendation of the PPP Council.

Project preparation:

- The contracting entity shall appoint the personnel responsible for representing and managing the project. A feasibility study and viability report must be prepared and submitted to the PPP Unit by such personnel and advisers. If the feasibility study and viability report prove that the PPP project does not require financial support from the Treasury, the PPP Unit can then refer the report to the PPP Council for approval. All decisions of the PPP Council are subject to the approval of the Council of Ministers.
- Generally, the Ministry of Finance or the Public Budget Department does not have to approve the PPP project before launching the procurement process. However, in the event a PPP project requires financial support from the Treasury, it is necessary to gain approval from the Ministry of Finance and the Public Budget Department.

Tender process:

- The contracting entity forms two committees for bid evaluation: a "steering committee" and a "technical committee". The technical committee is responsible for the preparation of a request for the expression of interest, the request for proposal documents and all their attachments. It evaluates the bids and provides the steering committee with its findings. The steering committee includes representatives of the relevant governmental entities that have the legal, financial, technical and other expertise necessary for the project, in addition to a representative of the PPP Unit and the person in charge of the project. The steering committee supervises the tender process in cooperation with the PPP Unit.
- The tender process commences upon the contracting entity's request for the expression of interest (REOI). In the REOI stage, the contracting entity prepares a circular relating to the project, which is reviewed by the PPP Unit. If the PPP Unit deems it necessary, this document may be published and publicised to attract bids. Publication is made by the contracting entity in

Arabic and English in two local daily newspapers, on the websites of both the contracting entity and the PPP Unit, and, if necessary, in a foreign newspaper published abroad.

- Following the expression of interest by private entities, the technical committee is responsible for preparing the request for pre-qualification and the documents attached to it, including the required bidders' qualifications and specifications. This stage is available for all interested bidders, including those who did not respond to the REOI. The technical committee then receives, registers and reviews the responses by the private entities to such requests. Potential bidders can submit questions regarding the pre-qualification. The technical committee prepares a report and submits its recommendation (which includes a shortlist of all pre-qualified bidders to participate in the tender) to the steering committee for its approval. The contracting party will then receive the recommendation and inform the pre-qualified bidders following its approval.
- Following the notification, the technical committee prepares the tender documents, which comprise the request for proposal (RFP) and the draft PPP contract. In response to the RFP, the private entity submits its technical and financial proposals. If the technical proposal is approved, the financial proposal is subsequently reviewed. After approving both proposals, the steering committee, on behalf of the contracting entity, negotiates the provisions of the contract with the private entity that offered the best bid. The PPP Council then issues their approval of the final tender award upon the recommendation of the contracting entity and the PPP Unit. This approval is confirmed by the Council of Ministers.

Additionally, the contracting entity can, in coordination with the PPP Unit, invite pre-qualified bidders prior to submitting their proposals to a preliminary meeting in order to discuss matters relating to the project and give the pre-qualified bidders the opportunity to request clarifications. The contracting entity provides responses to the clarifications requested by the pre-qualified bidders, irrespective of whether or not they were present at the preliminary meeting.

Special provisions have been added to exclude the applicability of parts of the procurement process to small PPP projects. In addition, the law allows for direct solicitations to be submitted by private entities, whereby certain incentives have been provided to such entities that initiated the direct process.

Implementation:

- Upon executing the contract, the parties shall commence satisfaction of any requirements and conditions precedent to achieving financial close. The contracting entity and the PPP Unit (along with other competent governmental authorities) supervise the implementation of the project to ensure the private entity is performing its contractual obligations.

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In the details

Khaled Asfour, Managing Partner, Zu'bi Advocates & Legal Consultants, on the Public-Private Partnership Law

The development of sectors such as transport and energy is dependent on the use of modern technology, which is found mainly in the private sector. This is also dependent on the availability of guaranteed and continuous financing, which the public sector alone cannot sustain.

Therefore, public-private partnerships (PPPs) are indeed essential to the economic growth of Jordan. Jordan has achieved an important milestone through the enactment of the Public-Private Partnership Law No. 31 of 2014 and its implementing regulations. The PPP Law aims at standardising PPP procurement procedures to ensure greater transparency, fairness and equal opportunity in the PPP procurement procedures.

However, the PPP Law is not without flaws. There are several weaknesses and drawbacks in the PPP Law manifested mainly in ambiguities over its constitutionality and the exact scope of its application vis-à-vis sectorial and municipal legislation. The constitution stipulates that “any privilege given to grant any right relating to an investment in mining, minerals and public facilities must be ratified by a law”. Therefore, PPPs in the mining, minerals and public facilities sectors must be ratified by “a law”. It is presently unclear whether the PPP Law satisfies this requirement under the constitution, acting as a catch-all legislation for all future PPPs in Jordan, or whether a new law will need to be enacted for each independent PPP project.

Given these interpretative risks and the substantial impact they have on the legitimacy of PPP projects in Jordan, it is imperative that the government of Jordan obtain a decision from the Constitutional Courts as to the interpretation of the constitution in these circumstances.

With respect to its scope of application, the PPP Law does not clearly indicate whether it applies to all sectors in Jordan (effectively overriding certain

provisions in sectorial legislation) or whether certain sectors are excluded from its application. Prior to the enactment of the PPP Law, certain public authorities referred to their own sectorial laws when undertaking PPP projects.

For example, Article 28 of the Water Authority Law No. 18 of 1998 grants the Council of Ministers, based on the recommendation of the minister of water and irrigation, the authority to assign any of the functions or projects of the Water Authority of Jordan to any private or public entity. The procedure for such an assignment is not set out in the Water Authority Law and is, therefore, left to the Council of Ministers to determine. The PPP Law did not address this gap in legislation and, therefore, the application of sectorial laws (such as the Water Authority Law) and the PPP Law remains unclear.

While certain sector-specific idiosyncrasies should remain (for example the procedure for obtaining certain licences and approvals from the relevant regulator in a sector), it is necessary that the PPP Law clearly define the scope of its application over sectorial legislation by expressly repealing or overriding specific provisions under existing sectorial legislation. This effectively eliminates legislative contradictions and ambiguities and creates a unified piece of legislation (the PPP Law) to govern all PPP projects in Jordan.

Notwithstanding the foregoing, and in an effort to safeguard municipality independence, PPP projects with municipalities should be excluded from the application of the PPP Law.

Furthermore, in order to ensure greater standardisation, fairness and transparency in all PPP projects with municipalities, the procedure for PPP procurement by municipalities should be set out in a regulation issued pursuant to the Jordanian Municipalities Law currently in effect and should mirror the procedures set in the PPP Law.