

Law No. 5-96 on the SARL, the SNC, the SCS, the SCA and the Joint Venture

Reference: Dahir No. 1-97-49 of 5 Chaoual 1417 (13 February 1997) promulgating Law No. 5-96, as amended by Laws No. 21-05, 24-10 and 21-19

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Practice areas: Corporate law, Business law

Law 5-96 governs the limited liability company (SARL), by far the most common company form in Morocco, as well as the general partnership (SNC), the limited partnership (SCS), the partnership limited by shares (SCA) and the joint venture (société en participation). The SARL limits the partners' liability to the amount of their contributions and may have a single partner.

Incorporation of the SARL

- Share capital freely set by the articles of association since Law 24-10 (Art. 46); company shares of equal nominal value.
- One to fifty partners (Art. 47); beyond that number, conversion into an SA within two years.
- Cash contributions must be at least one quarter paid up on incorporation where the capital exceeds 100,000 dirhams (Art. 51); contributions in kind are valued by a contributions auditor above certain thresholds (Art. 53).
- Articles of association must be in writing, with registration in the trade register and legal publication.

Management and decisions

- One or more managers (gérants), whether partners or not, appointed in the articles of association or by decision of the partners (Art. 62).
- The manager binds the company by any act falling within the corporate purpose; clauses limiting the manager's powers cannot be relied on against third parties (Art. 63).
- Ordinary decisions are taken at a meeting or by written consultation; amendments to the articles require a majority of three quarters of the shares (Art. 75).
- A statutory auditor is mandatory where turnover exceeds 50 million dirhams (Art. 80).

Transfer of shares

- Shares may be freely transferred between partners, spouses, ascendants and descendants unless otherwise provided; transfers to third parties require the consent of a majority of partners holding at least three quarters of the shares (Art. 58).

- The transfer must be recorded in writing and made enforceable against third parties by filing with the trade register.

Key articles

ART. 44

A limited liability company is formed by one or more persons who bear losses only up to the amount of their contributions.

ART. 46

The share capital of a limited liability company is freely set by the partners in the articles of association. It is divided into company shares of equal nominal value.

ART. 63

In dealings with third parties, the manager is vested with the broadest powers to act in all circumstances on behalf of the company, subject to the powers expressly conferred by law on the partners.

Points to watch

- Draft tailor-made articles of association: approval, pre-emption, exit and allocation-of-powers clauses prevent most disputes between partners.
- A manager who continues a loss-making business without taking action is exposed to liability for the shortfall in assets.
- Consider the single-partner SARL for sole entrepreneurs: it protects personal assets.

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