

SEAFARER SUBJECT GUIDE

ABANDONMENT OF SEAFARERS IN THE UNITED ARAB EMIRATES

This Guide deals with the situation where seafarers are abandoned in a port in the UAE as well as where seafarers are abandoned on a UAE flagged vessel in a port outside the UAE. This document is not intended to be legal advice, nor does it constitute legal advice. If a seafarer is abandoned, he is strongly advised to consult a lawyer qualified to practise in the UAE.

*A full text version of this Subject Guide including footnotes will become available for subscription in due course. In the meantime if there is a specific inquiry on any Subject Guide, please contact SRI.

1. When is a seafarer considered abandoned according to national case law or legislation? Is there any special legislation concerning abandoned crew?

1.1 The UAE Federal Law as amended in 1988 ('the UAE Maritime Code') deals, *inter alia*, with abandonment of crew members.

1.2 The UAE Maritime Code provides:

'A contract of maritime work, even though it be for a specified period, shall be terminated by operation of law if the vessel is deserted or abandoned, and in the event that it is lost or ownership thereof transferred, or if the registration thereof is varied the crew member shall be entitled to appropriate compensation in addition to his agreed wages for a period of fifteen days.'

2. What is the immigration status of abandoned seafarers?

2.1 If the seafarers are employed by an entity or person registered and licensed in the UAE (UAE Employer), they should hold a UAE work permit and residency visa. Whilst the UAE work permit and residency visa will be cancelled following the abandonment of a vessel, they would enable the seafarer to come onshore and to remain in the UAE for up to 30 days following the cancellation. A UAE Employer would also be under an obligation to meet the costs of the employee's repatriation to their home country. If the UAE Employer fails to do so, this may be arranged by the UAE Ministry of Labour/Immigration Department

SEAFARER SUBJECT GUIDE

2.2 For those seafarers who do not hold a UAE work permit and residency visa, their immigration status will be dependent upon their nationality.

- (1) Nationals of the member states of the Cooperation Council for the Arab States of the Gulf (AGC States) do not require a visa to enter the UAE.
- (2) Nationals of 32 other countries (mentioned below) can get a 30 day visit visa on arrival. The visa can usually be renewed once for an additional period of 30 days. The extension requires filling in an application form and the payment of fees of approximately AED600. After the extended period is up, the seafarer would have to leave the UAE (but may be able re-enter as before).

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|-------------|-------------------|-----------------|------------------|
| • Andorra | • Germany | • Liechtenstein | • Singapore |
| • Australia | • Greece | • Luxembourg | • South Korea |
| • Austria | • The Netherlands | • Malaysia | • Spain |
| • Belgium | • Hong Kong | • Monaco | • Sweden |
| • Brunei | • Iceland | • New Zealand | • Switzerland |
| • Denmark | • Ireland | • Norway | • United Kingdom |
| • Finland | • Italy | • Portugal | • United States |
| • France | • Japan | • San Marino | • Vatican City |

It should be noted that this list may vary slightly from time to time.

- (3) Those seafarers who are not nationals of the abovementioned countries will be refused entry to the UAE and should therefore contact their Embassy in order to be repatriated to their home country.

3. Can an abandoned seafarer get shore leave?

3.1 The UAE National Transport Authority ('the NTA') requires all seamen to hold a seaman's book (maritime passport). Those seafarers who hold this should be able to come onshore. However, unless they hold a valid UAE residence/work visa, are a national of one of the AGCC states, or are able to obtain a visit visa, they will not be able to remain in the UAE. According to international conventions, in cases of abandonment it is the responsibility of a ship's flag state to arrange and pay for a crew's passage home. Accordingly, such individuals should contact their embassy and seek repatriation.

SEAFARER SUBJECT GUIDE

- 3.2 The Mission to Seafarers operates the *M/V Flying Angel* seafarers support boat, offering any vessel in the Fujairah Anchorage access to internet, email, telephone, a shop, a book and DVD library and the services of a Chaplain on board. To contact the *M/V Flying Angel* for a visit to a vessel call on VHF 16 when in the anchorage, or call the Captain on +971 509 892 163.

4. Is abandonment of seafarers considered a crime?

- 4.1 The abandonment of seafarers is not a criminal offence in the UAE.
- 4.2 However, the UAE Maritime Code provides as follows:

'Imprisonment for a term not exceeding three months and a fine not exceeding three months' wages, or one of the said penalties shall be imposed on any master or officer or other person in authority on the vessel who orders to be done or permits the doing of any thing which amounts to an abuse of authority or who uses force or causes or permits force to be used against any passenger on the vessel.

A penalty of imprisonment of a period not exceeding one month and a fine not exceeding one month's wages, or either penalty shall be imposed upon a master of a vessel who leaves any of his crew sick or wounded without affording him the appropriate opportunities for medical treatment or discharge, or who orders him to leave the vessel in a foreign port without justifying cause.

A penalty of imprisonment not exceeding three months and a fine not exceeding three months' wages, or one of the said penalties shall be imposed on a master who unnecessarily leaves the vessel in a port while exposed to danger and if the ship is at sea he shall be liable to imprisonment for a period not exceeding two years.

Any person who boards a vessel with the intention of traveling without paying the fare and without obtaining the consent of the master of the vessel or his deputy shall be punished by imprisonment for a period not exceeding one month or by a fine not exceeding twice the fare to the destination to which he was intending to travel.

Sums received by way of fines shall be used to pay any compensation owing as a result of the action of the Offender and any balance shall become the property of the Maritime Inspection office.'

- 4.3 A UAE Employer who abandons seafarers may also incur civil liabilities under the UAE Federal Law as amended ('the UAE Labour Law') and a Ministerial Order with respect to employment entitlements, health and safety obligations and workplace injury. The UAE Labour Law includes tables which set out the compensation payable to workers

SEAFARER SUBJECT GUIDE

in respect of industrial accidents. The percentages expressed are percentages of the 'diya' or death benefit traditionally payable under the Shariah or Islamic law to the relatives of a deceased person whose death is caused by accident or negligence. Currently the 'diya' stands at UAE dirhams two hundred thousand (AED 200,000). This is supposedly the maximum payable in respect of death or injury following a criminal conviction of the person/ entity responsible for the death/ injury. However, the Civil Courts in the UAE have been known to award additional amounts by way of compensation for economic loss in addition to 'diya'.

4.4 Additionally, the Federal Law of the Civil Code includes an obligation to make good any harm or damage caused to another.

5. What entities and/or persons may be involved with or assist an abandoned crew?

5.1 Various entities and/or persons may be involved with or assist an abandoned crew.

5.2 Lawyers

See FIND ASSISTANCE on the SRI app which can be downloaded from the home page of the SRI website at www.seafarersrights.org

5.2.1 In addition, reference may be made to the Guide on Using Lawyers and Fact File available on the SRI app and at

https://www.seafarersrights.org/seafarers_subjects/using_lawyers/

5.3 ITF Inspectors and union officials

See FIND ASSISTANCE on the SRI app which can be downloaded from the home page of the SRI website at www.seafarersrights.org

5.4 Welfare agencies

See FIND ASSISTANCE on the SRI app which can be downloaded from the home page of the SRI website at www.seafarersrights.org

5.5 Governments and Embassies

Additionally the seafarer may need to access government official websites, including lists of embassies, to find an appropriate contact.