

SEAFARER SUBJECT GUIDE

USING LAWYERS IN NIGERIA

This Guide deals in general terms with using lawyers in Nigeria. It aims to help a seafarer understand the legal profession in Nigeria, and to provide information on how to select, engage, and if need be, change his lawyer. This Guide does not, however, constitute specific legal advice in relation to the use of any particular lawyer. If a seafarer is dissatisfied with his lawyer, he is strongly advised to consult another lawyer qualified to practice in Nigeria.

1. What is the structure of the legal profession?

- 1.1 Three categories of persons are allowed to practice law, namely, those entitled to practice law generally and whose names are on the Roll; those entitled to practice law for the purpose of any particular office; and those entitled to practice law by warrants for the purpose of any particular proceedings.
- 1.2 There is no formal distinction between barristers and solicitors. Upon admission to the Nigerian bar, a lawyer is allowed to appear in any trial or appellate court or tribunal in any part of the federation.
- 1.3 A majority of Nigerian lawyers combine contentious (dispute) and non-contentious work, although there is the growing tendency for practitioners to develop specializations in specific practice areas, including maritime law.

2. How is the legal profession regulated?

- 2.1 The statutory framework for the regulation of the legal profession is contained in the Legal Practitioners Act LFN L11 2004. Lawyers are also required to adhere to the Rules of Professional Conduct for Legal Practitioners which were last updated in 2007.
- 2.2 The principal organs responsible for the control and regulation of the legal profession are the Council of Legal Education, the Nigerian Bar Association, the General Council of the Bar, the Body of Benchers, the Legal Practitioners Privileges Committee, the Legal Practitioners Remuneration Committee, and the Legal Practitioners Disciplinary Committee.

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3. How can a seafarer find a lawyer?

- 3.1 There are also a number of reputable legal directories which list, and in some cases rank, Nigerian lawyers and law firms. These include the Legal 500: Nigeria published by Legalease (or visit www.legal500.com) (website in English); and Who'sWho Legal: Nigeria published by Law Business Research Ltd (or visit www.whoswholegal.com) (website in English).
- 3.2 Whilst there is a high prevalence of generalist practitioners, a number of lawyers and firms also specialise in maritime law. A seafarer who requires advice or representation of a specialized nature may contact the Nigerian Maritime Law Association ('NMLA') for a referral. The NMLA can also be contacted through their website: www.nmlaonline.org (website in English).
- 3.3 The Nigerian Bar Association ('NBA') does not offer any guidance on how to choose a lawyer. However, it maintains an online directory of qualified lawyers through which a seafarer may verify the credentials of a lawyer to whom he has been referred (see www.nba.org.ng/directory) (Website in English).

4. On what terms can a seafarer engage a lawyer?

- 4.1 A lawyer is required to set out in writing the terms on which he is engaged by a client, to the extent that this is possible. However, terms of engagement will be binding notwithstanding that they are not documented.
- 4.2 There are no standard terms or conditions which a contract for legal services must include. The typical engagement letter will deal with issues such as:
- .1 scope of work;
 - .2 the name and status of the lawyer(s) in charge of the seafarer's brief;
 - .3 the basis on which the seafarer will be charged for the legal services to be rendered and the initial deposit to be paid;
 - .4 the total fee payable by the seafarer, where billing is on a fixed fee basis;
 - .5 conditions under which the engagement can be terminated by either party; and confidentiality.

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5. How will a seafarer be charged fees by his lawyer?

- 5.1 Most lawyers charge clients on a fixed fee basis. However, it is not uncommon for billing to be time-based at an hourly billing rate agreed with the seafarer.
- 5.2 Except in criminal cases lawyers are also permitted to charge fees on a contingency basis.
- 5.3 In determining the amount of the fee, a lawyer is required to take into account the following considerations:
- .1 the time, labour and skill required to handle the case;
 - .2 the novelty and difficulty of the questions involved;
 - .3 the character of the employment (whether casual or for an established client);
 - .4 the customary charges of the Bar for similar services;
 - .5 the amount involved in the controversy;
 - .6 the certainty of the compensation; and
 - .7 whether acceptance of the employment will involve loss of other employment.

6. Can a seafarer get legal aid in a criminal case?

- 6.1 A seafarer is only entitled to legal aid in criminal investigations or proceedings where he is an indigent person and the matter in question is one involving an allegation of murder; manslaughter; willful infliction of grievous bodily harm; assault; affray; stealing; rape; or the aiding or abetting of any of these offences.

7. Can a seafarer get legal aid in a civil case?

- 7.1 A seafarer will also be entitled to receive legal aid in civil cases where he can show that he is an indigent person and that it is in the interest of justice for him to be provided with advice, representation or other assistance to secure, defend, enforce, protect, or otherwise enforce any right, obligation, duty, privilege or service that he would ordinarily be entitled to under the Nigerian legal system.
- 7.2 For purposes of determining eligibility for legal aid, an indigent person is one whose income does not exceed the national minimum wage of 18,000 Naira (approximately USD120). In exceptional cases, however, a seafarer may be given access to legal aid even though his income exceeds the national minimum wage.

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8. Can a seafarer get any other free legal advice?

8.1 A seafarer who does not qualify for legal aid may receive pro-bono services from practicing lawyers in the country. A number of law firms and non-governmental organisations provide or sponsor free legal representation, especially in cases involving human rights violations.

9. Can a seafarer sue his lawyer?

9.1 A seafarer can sue his lawyer in civil proceedings in the same manner as any other civil suit may be brought.

10. How can a seafarer complain about his lawyer?

10.1 A seafarer dissatisfied with the services of his lawyer may forward a complaint in writing in accordance with the Legal Practitioners (Disciplinary Committee) Rules to any of the following persons: the Chief Justice of Nigeria; the Attorney-General of the Federation; the President of the Court of Appeal; the Chief Judge of the High Court of the State or the Chief Judge of the FCT; the Attorney-General of the State; the Chairman, Body of Benchers; the Chairman of the Nigerian Bar Association (the 'NBA').

10.2 Where any of these persons receives a complaint, he must forward it to the NBA which shall cause the complaint to be investigated.

10.3 If the NBA's investigation discloses a prima facie case, the matter is then referred to the Legal Practitioners' Disciplinary Committee for adjudication.

11. How can a seafarer change his lawyer?

11.1 A seafarer is entitled at any time to change his lawyer, subject to whatever agreement may exist with the lawyer regarding the termination of his services and the engagement of another lawyer.

11.2 Where a seafarer has a matter pending in court and wishes to change counsel, he must notify both the court and the former lawyer of the change and ensure that the former lawyer is paid his earned fees.

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11.3 A lawyer whose fees are outstanding may exercise a lien over any papers or documents in his possession which relate to the seafarer's case until payment is made.

12. Is a foreign seafarer treated differently?

12.1 There are no disadvantages faced by foreign seafarers who commence legal proceedings in Nigeria. A foreign seafarer who commences an action in Nigeria is not subject to any requirements which do not also apply to Nigerian claimants.

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