

SEAFARER SUBJECT GUIDE

USING LAWYERS IN EGYPT

This Guide deals in general terms with using lawyers in Egypt. It aims to help a seafarer understand the legal profession in Egypt, and 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 Egypt.

1. What is the structure of the legal profession?

- 1.1 Lawyers are self-employed or work as part of a firm, as partners or associates. Very few law firms are constituted of more than ten lawyers.
- 1.2 All lawyers must be registered at the Bar Association. The law does not distinguish between attorneys and advocates, barristers and solicitors; they are all lawyers. Lawyers registered at the Bar Association are ranked according to the level of the tribunal before which they are admitted to appear. All lawyers must undertake a two years training period before being admitted before a court of first instances. After having practiced for at least five years before a court of first instance, a lawyer may be registered to appear before the Court of Appeal. A lawyer may be admitted before the Court of Cassation (the highest court in Egypt) and the Constitutional Court only after practicing as a lawyer admitted to appear before the Court of Appeal for ten years.
- 1.3 Only lawyers admitted to appear before the Court of Appeal and the Supreme Court have the right to issue written legal advice. Lawyers are generally specialise in commercial law, tax law, intellectual property law, criminal law, maritime law, administrative law, or family law.

2. How is the legal profession regulated?

- 2.1 The Advocacy Law No. 17 of 1983 regulates the Bar Association (www.baegypt.org/index.php) (website in Arabic) and the registration of lawyers at the Bar Association at all levels. The law includes the code of professional conduct of the lawyers.

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2.2 Every lawyer in Egypt must renew his registration at the Bar Association every year. A card is issued to each lawyer to evidence his registration at the Bar Association and the level of courts before which the lawyer is admitted.

3. How can a seafarer find a lawyer?

3.1 A list of all registered lawyers may be found at the headquarters of each branch of the Bar Association existing at the place of each appeal court.

3.2 Most lawyers speak only Arabic. The following publications are useful guides to finding lawyers who can speak languages other than Arabic, the most common of which is English:

3.2.1 Martindale-Hubbell is a publication that lists and ranks lawyers all over the world (www.martindale.com) (website in English) and

3.2.2 Legal 500 (www.legal500.com/c/egypt) (website in English).

3.3 If a seafarer has a claim or a problem arising from his employment on board his ship, or against his employer for unpaid wages, he should consider appointing a specialist maritime law firm. Such firms are usually found in the major ports of Egypt: Alexandria, Port Said, or Suez. Some maritime law firms may act for ship owners only.

3.4 If a seafarer faces an investigation by the police or maritime authority concerning a marine accident or incident, he should appoint a criminal lawyer. If the marine accident or incident concerns the operation of the ship, the ship owner's lawyer may be able to represent the seafarer provided there is no conflict between the interests of the seafarer and the ship owner.

3.5 In relation to wages, personal injury and death claims, the seafarer should appoint a maritime lawyer.

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

4.1 When accepting instructions from a client, a lawyer is not obliged to set out the terms of engagement in a formal document. Accepting an appointment may be made verbally. Verbal engagement is the most common method of engaging an attorney in small law firms. Lawyers would generally request from the seafarer a

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duly notarized power of attorney in order to be able to represent the seafarer before third parties and courts.

- 4.2 The seafarer should ensure that the terms of engagement of his lawyer are clear, especially concerning the following matters: (a) details of the agreed scope of the work to be undertaken and the procedures for keeping the seafarer informed of progress; (b) the basis on which the seafarer will be charged for the work to be undertaken and (where applicable) an estimate of the overall cost of the matter; and (c) details of any advance payment required from the seafarer, and arrangements for rendering bills and payment terms.

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

- 5.1 Lawyers usually charge a lump sum fee for undertaking certain work. Sometimes, lawyers charge by the hour for the time they spend on a case at the rates specified in an engagement letter or in the firm's brochure. The hourly rate method is generally applied by the major law firms.
- 5.2 The rates charged will depend on a number of factors, such as the seniority of the lawyer(s) working for the seafarer, the type and location of the law firm, and the complexity and value of the dispute or claim. In addition, lawyers will charge for any disbursements they incur on behalf of the seafarer, such as court fees and the fees of any other professional advisors they may instruct.
- 5.3 The lawyer may offer the seafarer a fixed fee arrangement. This is generally offered if the matter is relatively simple or routine.

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

- 6.1 Every seafarer has the right to legal representation if he is questioned by the public prosecutor in connection with a suspected felony or a misdemeanor on board a ship or ashore, where imprisonment is mandatory.
- 6.2 The court would appoint an attorney for the accused if he does not appoint one. This is not the case in offences and misdemeanors not mandatorily punished by imprisonment.

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

7.1 Legal aid is not available for civil disputes.

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

8.1 There are a number of non-governmental organisations (NGOs) that provide pro-bono legal services. Below is a list of some of the NGO's that provide other free legal services: (a) Egypt Coalition on Economic and Social Rights; (b) Arab NGO Network for Development ('ANND'); (c) Egyptian Center for Economic and Social Rights; (d) Egyptian Initiative for Personal Rights (EIPR); (e) Land Center for Human Rights; (f) Hisham Mubarak Law Center (<http://hmlc-egy.org/forum>) (website in Arabic); (g) Cairo Institute for Human Rights Studies; and (h) Egyptian Organisation for Human Rights.

8.2 In addition, local embassies usually provide assistance if the state citizen is involved in a legal problem. However, the extent of assistance varies from one state to another.

9. Can a seafarer sue his lawyer?

9.1 A seafarer may sue his lawyer. Lawyers are accountable for their acts and omissions. Lawyers must behave responsibly, ethically and with integrity.

9.2 Lawyers can be sued for malpractice, misrepresentation, inappropriate billing, negligence, breach of confidentiality, and breach of contract among many other instances.

10. How can a seafarer complain about his lawyer?

10.1 If a seafarer is dissatisfied with the standard of service provided by his lawyer, he may lodge a complaint with the branch of the Bar Association where the lawyer is registered. Such complaints may not lead to any concrete or satisfactory results for the seafarer.

10.2 It should also be noted that almost all lawyers in Egypt do not have any professional liability insurance.

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11. How can a seafarer change his lawyer?

- 11.1 A seafarer may terminate the contract with his lawyer at any time and appoint another lawyer. However, the seafarer's previous lawyer will be entitled to keep all the papers and documents while there is still money owing to him for fees and disbursements.
- 11.1 The seafarer should bear in mind that changing lawyers could involve delay and additional expense, particularly if the seafarer's case is at an advanced state, as the new lawyers will need time to read the documents and familiarise themselves with the case.

12. Is a foreign seafarer treated differently?

- 12.1 Foreign nationals who pursue claims in the Egyptian Courts are not treated differently from Egyptian nationals.
- 12.2 However, a foreign claimant must choose a place of domicile within the geographic jurisdiction of the court. By law, the address of the seafarer's lawyer is considered to be the chosen place of domicile for the seafarer for serving any notification in relation to the court case filed by, or against, the seafarer.

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