

# Employment in Egypt

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## **Introduction**

With a population of over 80 million and a work force of 27.9 million, it comes as no surprise that the vast majority of the legal inquiries that we receive are concerned with Egyptian Labour Law. With this in mind, we decided to create a guide which is designed specifically to assist entrepreneurs with some of the common dilemmas they face when they are initiating or terminating employment agreements within their business.

This book does not detail every aspect of the law, but rather gives entrepreneurs an insight into the most frequently asked questions which we believe particular attention should be paid too. The overall aim of this book is to help investors engage in employment agreements that are transparent, legal and balanced and to avoid future litigation.

Those who are interested in attaining general information on the Egyptian investment climate can reference our first publication “Egypt Land of Opportunities” which outlines the most lucrative areas of investment in post-revolutionary Egypt. If however, you are more interested in finding out detailed information about the Egyptian taxation system, reference should be made to our second book ‘Egypt Tax Summaries 2015/16’ which summarises corporate and personal tax rates within the country.

To begin, it is important to attain some general knowledge on the regulatory system in place for employment agreements within Egypt. Firstly, it should be noted that there are four essential laws which govern employment relationships in the country, namely, Law No.47 for the year 1978, which applies to civil servants of the State; Law No.48 for the year 1978, which organizes the rules applicable to public sector employees; Law No.203 for the year 1991, which was promulgated to address special requirements for employees working in the public commercial sector of the State; and Law No.12 for the year 2003, which aims at regulating the relationship between employers and employees in the private sector. This book will only be looking at Law No. 12 of 2003 since we are primarily concerned with private sector relationships, however, reference will also be made to Social Insurance Law No. 79 of 1975, which details the insurance due to permanent and temporary employees in both the private and public sectors from their employers, as well as a number of other related laws to help paint a complete picture of employment in Egypt.

Secondly, it is important to keep in mind that the law was drafted in a manner which favours the employee as it is primarily written for their protection, and judicial application of the law tends to follow this motive, which is why an attempt at amicable

reconciliation prior to litigation is encouraged. With regards to the mediums in which the law is heard, the Labour Department of the court of first instance handles employment-related complaints and disputes, whereas the Labour Office is the administrative institution before which all labour-related disputes begin.

Below, you will find Egypt's country profile, as well as some more general information regarding the Egyptian labour force and the law that governs it.

## Country Profile

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| Area:<br>Total: 1,001,450 sq. km<br>Land: 995,450 sq. km<br>Water: 6,000 sq. km  | The Capital:<br>Cairo   |
| Land boundaries:<br>Total: 2,612 km<br>Border countries: Gaza Strip 13 km, Israel 208 km, Libya 1,115 km, Sudan 1,276 km   | The National Day:<br>23 July  |
| Climate:<br>Desert; hot, dry summers with moderate winters   | Population:<br>86,895,099   |
| Natural resources:<br>petroleum, natural gas, iron ore, phosphates, manganese, limestone, gypsum, talc, asbestos, lead, rare earth elements, zinc                | Language:<br>The Arabic language is the official language; However, English and French are commonly used in the commercial fields.  |
| Government Structure:<br>Republic  | Telephone code of Cairo - Giza:<br>00202  |
| Currency:<br>Egyptian Pound  | Cities and Ports:<br>The biggest cities are Greater Cairo, Zagazig, Alexandria, Port Said, Al Mahala Al Kubra, Luxor, Mansoura, Tanta, Asyut, and Menya.                              |
| Time Zone:<br>(UTC + 2)  | Administrative Division:<br>The Republic is administratively divided into 27 governorates. The governorates are either completely urban, or a blend of urban and rural areas.         |
| Establishment:<br>3200 BC  | Ports:<br>There are 32 ports in Egypt due to the extension of the coastlines to the north and east, and the most important ones are Alexandria, Damietta, Suez, Port Said and Safaga. |
| Geographic Importance:<br>Egypt controls the Sinai Peninsula, it is the land bridge between Africa and remainder of Eastern Hemisphere; controls the Suez Canal, | Official Workdays:<br>Official workdays in the ministries, government departments and general authorities and local administrative units are Sunday to Thursday                       |

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acts as a sea link between the Indian Ocean and Mediterranean Sea; size, and juxtaposition to Israel, establish its major role in Middle Eastern geopolitics; dependence on upstream neighbors; dominance of Nile basin issues; prone to influxes of refugees from Sudan and the Palestinian territories

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leaving Fridays and Saturdays as the official weekend.

### ***Legal Definitions***

- Worker: any natural person working in return for a wage with and under the management or supervision of the employer excluding:
  - Public servant of any state entity, including the local government units and the public departments
  - Domestic servants and the like
  - Employee's family members that they support
- Employer: any natural or judicial person employing one or more workers in return for a wage.
- Wages: everything that the worker obtains in return for his work, whether fixed or variable, in cash or in kind. This includes commission, performance based percentages, increments, bonuses, allowances, workers profit share and tips
- Minimum Wage: 1,200 pounds (\$174).
- Labour Contract: a contract whereby one of the parties agrees to work for the account and under the management or supervision of another party in return for a wage the other party undertakes to pay.

Labour contracts are required to be in writing, in triplicate and in the Arabic language. The employer, employee and social insurance office each keep one copy of the employment contract.

A claim regarding a labour contract may only be initiated within a year from the time that the contract terminates. After the lapse of a year the claimant loses his right to claim.

### ***Employment Statistics***

- Labour force size reached 27.9 million individuals in the 4th quarter year 2014, divided into the following:
  - Agriculture: 29%
  - Industry: 24%
  - Services: 47%

- An estimated 47% of Egypt's economic and social establishments are in the Cairo and Alexandria governorates, which host 25% of the labour force.
- Labour force in Egypt is both readily available and highly affordable by global standards, particularly in entry to midlevel positions.

We will now turn to look in detail at the most pressing and ambiguous issues within Egyptian Labour Law. We will begin by giving the basic requirements of any contract , followed by an overview of Egyptian national wage to provide a foundation for the remaining information in the book. After this the book will detail some of the more intricate matters of the law, such as terminating a contract, penalties, collective labour agreements, the rights of women, children and disabled individuals, vacations, the employment of foreigners in Egypt, and other related issues. Our aim is to provide the reader with a comprehensive understanding of employment in Egypt through the combined knowledge of these pressing topics.

## **Contracts**

Contracts are the foundation of any binding and legal employment agreement, so it goes without saying that the utmost care and precision should be employed in their drafting. Samples of employment contracts can be found easily online to provide a visual representation of the information in this section, to start however, it is important to take note of the impending information. In Egypt, Employment contracts are required to be in writing, in Arabic, and in triplicate, with the employer, employee and social insurance office each keeping a copy of the employment contract.

Generally speaking, the contract should include the following data:

- Name of the employer and the address of the place of work.
- Worker's name, qualifications and profession or craft, social insurance number and home address.
- Nature and type of work subject of the contract.
- Agreed upon wage and method and time of its payment, as well as any other benefits in cash and in kind as agreed upon.
- A probationary period of no more than three months must be specified in the contract.

Under Egyptian Labour Law, an employment contract may be drawn up for a definite or indefinite period of time, or for the fulfillment of a particular work each of which has a particular set of rules governing them. Like most jurisdictions, the main difference between definite and indefinite contract is that a definite contract is terminated without need of any formalities upon duration of the specified term and without compensation or advance notice (unless terminated early), while an indefinite contract is only terminated with express notice by the employer or the employee and payment of compensation.

### **Definite Contracts:**

These are contracts which have an express or implied specific duration which is agreed by both parties and the agreement terminates when this term expires. Generally, the contract may be renewed by express agreement between both parties for other similar works.

Egyptian law stipulates that if both parties continue carrying out their duties as per the agreement, the contract will be considered renewed for an indefinite period. It is important to note however that this rule does not apply to contracts made with

foreigners. A definite contract may also be renewed through express agreement between the parties for one or more periods. If however, the contract is concluded for more than 5 years the worker is permitted to terminate without indemnity by providing 3 months' notice prior to his termination.

### **Indefinite Contracts:**

Indefinite contracts are characterized by their lack of a specific expiration date, and the prohibition of termination without adequate cause by the employer. Because the reasons for termination given below are so limited, employers often avoid contracting for an indefinite period, and tend to use definite contracts, or contracts for a particular work instead.

Termination of an indefinite contract is therefore somewhat more difficult, however either party may terminate provided that they notify the other party in writing prior to termination. Employers are not permitted to terminate the contract except for 'reasonable reasons' (examples of which are provided below) or unless the employee's inefficiency is established in accordance with the provisions of the company's endorsed regulations. Generally speaking, if either party of the contract terminates without legitimate and adequate justification, he must compensate the other party for the harm incurred as a consequence of the termination. Naturally, a labour contract terminates with the workers total incapacity to perform his work, regardless of the cause of the incapacitation.

In general, if an employer wishes to terminate a contract they must give the employee two months' notice prior to terminating the contract if the employee has been working at the establishment for less than 10 years, or 3 month notice if he has been working there for more.

An employee's service period will begin on the date they have received their work up to the date when the notice period will end. It is also important to note that the contract will remain valid throughout the notification period. If a contract termination is notified by the employer, the worker shall have the right to absent himself a full day per week or eight hours during the week to look for other work, whilst still receiving full wages.

Furthermore, if an employer terminates the labour contract without notification or prior to the end of the notification period, he is obliged to pay the worker an amount equivalent to his wage for that time, or the part remaining thereof. This notification period will be part of the workers overall service period, so the same obligations will be

applicable on both parties. If however, the contract termination is made by the employee, it shall commence from the time he resigns.

An employee who resigns may later withdraw his resignation in writing within a week from the date that the resignation was accepted, in which case it shall be deemed ineffective.

As a form of guidance, the law provides a non-exhaustive list of the situations in which an employer can terminate indefinite contracts which an employer can refer to, namely:

- If it is established that the worker has assumed a false identity or submitted false documents.
- If it is established that the worker has committed an error resulting in serious damages to the employer provided that the employer shall notify the event to the competent authorities within 24 hours from the time he learns of its occurrence.
- If the worker repeatedly neglects observing the instructions necessary for the safety of workers and the establishments even though such instructions are issued in writing and displayed in a prominent place.
- The worker absents himself without good reason more than twenty intermittent days during the same year, or more than 10 consecutive days, provided that prior to his discharge a written warning notice will be sent to him via certified mail, 10 days after his absence in the first case and 5 days after his absence thereafter.
- If it has been established that the worker has divulged the secrets of the establishment he works in, leading to serious damage or harm to the establishment.
- If the worker embarks on competing with the employer in the same activity.
- If during the employee is found to be intoxicated during work hours.
- If it is established that the worker has aggressed the employer or the general director, or if he commits a serious aggression on any of his superiors during the work.

Finally, employees, similar to employers, have the right to terminate the contract if the employer defaults on any of the substantial obligations agreed upon, the law or articles of association of the establishment, or if the employer/ his representative commit a hostile act towards the employee or a member of his family. Terminations in this case are treated as the same as if the employer had terminated without lawful justification, and therefore compensation will be due.

## **Contract for a Particular Work**

Such contracts may be valid until a particular work is provided, in which case they will terminate upon the completion of this work

For contracts which terminate upon the completion of a work and the accomplishment of that work exceeds five years, the employee cannot legitimately terminate the contract prior to the accomplishment of that work. Alternatively, if upon the completion of the specific work the two parties continue to perform their duties the contract will be considered renewed for an indefinite period.

## Wages

Like most countries, it is common practice in Egypt that work is provided in exchange for specified financial compensation, which should be determined in the contract, along with the dates in which these payments will be made. Generally, payment may be calculated as a fixed amount for each task completed (a task wage or piece rate), at an hourly or daily rate, or based on an easily measured quantity of work done, depending on the nature of the agreement at hand.

As of January 1<sup>st</sup> 2014, the new government decided to raise the minimum monthly salaries of all employees from 700 Egyptian pounds (\$102) to 1,200 pounds (\$174) which exemplifies how much cheaper labour is in Egypt than surrounding countries such as Turkey, where the current minimum wage is 424.26 EUR (\$466).

In the event that no wage is specified, Egyptian civil law states the wage shall be estimated based on the common practices of that profession and the place where the work is performed. Where no common practice or customs can be deduced, a judge will estimate the appropriate wages.

For the purposes of Egyptian Law, commission will be considered part of the wage, as well as any bonuses paid to the employee, any incentives payable to him, as well as any other amounts which have become customary during the term of work. Gratuities are also considered part of a wage, provided that the employer pools them together and distributes them evenly to the employees. Those working in restaurants, hotels, cafés, and coffee shops may not be entitled to a wage more than the tips that they receive and their meals, and it is left to the employer's discretion whether or not a separate wage will be provided. Donations do not fall in this category however, unless there are particular rules which stipulate that they should be, given the nature of the work.

## **Vacations**

In Egypt, employees should not work more than eight hours a day or forty eight hours over a six day working week. Most private sector employees work 5 days a week, usually Sunday to Thursday, leaving Friday and Saturday as the weekend. The number of working hours may however be increased to nine hours a day in certain circumstances and with the approval of both parties.

Although it is common practice that employees receive two weeks off as the weekend, it is also permissible to reduce this to just one whole working day off each week if the employee agrees to this and is compensated accordingly. Furthermore when work is intended to prevent a serious accident or to cope with a heavy workload the employee must be paid overtime.

In addition to the weekends, employees are entitled to a number of other leaves which we shall detail below:

### ***Annual Leave***

All private sector employees are entitled to a minimum annual paid leave of 21 days every one full year of service, which is increased to one month after the employee has worked for 10 consecutive years or is over 50 years old. Additionally, employees that engage in hazardous and dangerous works will be entitled to 7 additional days for their annual vacation.

If the employee has been working for less than a year he will be entitled to a vacation in proportion to the period he has spent in work, provided that he has spent 6 months in the service of the employer.

In all cases, an employee must take 15 days annual leave, including at least 6 days consecutive days. Weekends and official holidays shall not be counted as part of the annual leaves.

### ***Sick Leave***

The Labour Law provides that an employee whose sickness is established and determined by the concerned medic responsible is entitled to sick leave, and shall be compensated according to the Social Insurance Law. The general rule under this law is that an employee is entitled to up to 180 days of paid sick leave at between 75%, 85% and 100% of the employee's salary. For the first 90 days, the employee shall be entitled to compensation equal to 75% of his/her salary to be increased afterwards to 85% for the rest of the 180 days, provided that such compensation will not at any time be less than the minimum wage specified under the Labour Law. The employee must notify his/her supervisor of the illness on the actual day of illness, otherwise, the day will be considered as leave for temporary cause.

As an exception to this general rule, the Social Insurance Law stipulates certain illnesses (such as mental illness) where the employee would be entitled to 100% of his/her salary as compensation. Additionally, the employee working at industrial establishments shall have the right to a sick leave every 3 years of service, on the bases of 1 month with full pay, and 8 months with a wage equivalent to 75% of his/her salary, and 3 months without pay in case the competent medical committee decides the likelihood of his/her recovery.

To further ensure workers' rights, an employer is strictly prohibited from terminating the employee's service due to sickness unless the employee has exhausted the aforementioned period.

### ***Maternity leave***

A female having spent 10 months in the service of an employer is entitled to 4 months maternity leave with full pay including the period preceding giving birth. The female employee is not entitled to this maternity leave for more than twice during her working period, however new terms can then be negotiated with the employer if and when the situation arises.

Aside from the aforementioned maternity leave entitlements, there are a number of other rights entitled to women within the law. Firstly, female workers in establishments where 50 workers or more are employed will have the right to obtain non-paid leave for a maximum of 2 years to care for the child but this leave will only be entitled twice throughout the service period. Furthermore, employers with 100 workers are obliged to establish a nursery school to care for the workers of the children. During the 24 months following the date of childbirth, a female employee also has the right to two periods of rest daily, each one 30 minute, for breast-feeding her child, with the option to combine both periods in one.

### ***Pilgrimage***

With regards to religious holidays, article No. 53 of the Labour Law states that an employee who has spent five consecutive years in the service has the right to fully paid leave for a period not exceeding one month for performing pilgrimage; however this may only be utilized once during the entire period of service.

### ***Accidental Leave***

Accidental leave is the leave taken by an employee, as a result of unexpected circumstances, such as death of a family member, where the employee has to leave to tend to an emergency situation. Naturally, it is the employee's duty to notify the employer as soon as possible in this situation so that he may plan around his absence accordingly.

The Labour Law states that desisting from work for accidental reasons should not exceed six days per year with a maximum of two days each time, and this leave will be considered part of the employee's annual leave.

### **Study Leave**

In addition to the right of an employee to use his/her paid annual leave as study leave, collective labour agreements or the employer regulations should determine the terms and conditions regarding paid study leaves granted to its employees.

### **National Holidays**

Every employee is entitled to full pay for official holidays designated by the Ministry of Manpower and Immigration, not to exceed 13 days a year. If a worker is required to work on a national holiday then they must be paid double their wage, in addition to their wage for that day as compensation.

#### **National Holidays and Religious Events: Official Islamic holidays (Hijri Calendar):**

**Islamic New Year: 1st of Muharram.**

**Birth of Prophet Muhammed: 12th of Rabi' al-Awal.**

**Eid al-Fitr: on 1st of Shawwal.**

**The Day of `Arafah: 9th of ZulHijjah.**

**Eid al-Adha: 10th of ZulHijjah.**

**Official Coptic holidays:**

**Christmas holiday: 7th of January.**

**Other official holidays at the Gregorian calendar:**

**Easter**

**Sinai Liberation Day: 25<sup>th</sup> of April.**

**Workers Day: 1st of May.**

**July Revolution Day: 23rd of July.**

**October's Victory: 6th of October**

**Revolution of 25th January / Police Day: 25th of January**

## Penalties

Although Labour Law is primarily drafted to protect worker's rights in the work place, there is significant detail provided within it for the ways in which employers can reprimand employees for breaching their duties, and thus protect the workplace. To balance the rights however, the law provides a number of alternative ways in which an employee can be reprimanded, each with different levels of severity. The list is as follows:

- Providing a warning notice
- Deducting from the wage
- Deferring the due date of the annual increase for a period not exceeding three months
- Depriving the employee of part of the annual increase not exceeding its half
- Postponing promotion for a period not exceeding one year
- Reducing the wage by a reasonable amount
- Demoting the employee to a lower position without prejudice to the wage previously receive by him
- Discharging the employee from the service

There are however, certain restrictions which are placed on the employer when executing these penalties, for example an employer may not inflict more than one penalty for the same offence or suspend an employee for more than 60 days. There is also a duty for the employer to give notice to the employee in writing of his offence first, and to give the employee an opportunity to provide a defence. All of the correspondences between both parties during this time must all be recorded in the employee's file to avoid ambiguity if a dispute arises. An investigation will then be launched to ascertain the details of the offence within seven days of it being found out. With regards to suspension, the employer must pay the employee his full wage during the entirety of his suspension period.

To further limit the employer's ability to reprimand employees, the law stipulates that a contract should only be terminated if a "serious fault" occurs, and sets out example situations which may constitute a serious fault, namely:

- If it is established that the worker has assumed a false identity or submitted false documents.
- If it is established that the worker has committed an error resulting in serious damages to the employer provided that he employer shall notify the event to the

competent authorities within 24 hours from the time he learns of this occurrence.

- If the worker repeatedly neglects observing the instructions necessary for the safety of workers and the establishments even though such instructions are issued in writing and displayed in a prominent place.
- The worker absents himself without good reason more than twenty intermittent days during the same year, or more than 10 consecutive days, provided that prior to his discharge a written warning notice will be sent to him via certified mail, 10 days after his absence in the first case and 5 days after his absence thereafter.
- If it has been established that the worker has divulged the secrets of the establishment he works in, leading to serious damage or harm to the establishment.
- If the worker embarks on competing with the employer in the same field as the one he is currently working in.
- If the worker is found to be intoxicated during work hours.
- If it is established that the worker has aggressed the employer or the general director, as well as if he commits a serious aggression on any of his superiors during or because of the work.

It is worth noting that although Egyptian Labour Law does not have a particular set of rules governing confidentiality issues, the duty for a worker not to divulge trade secrets is emphasised in Article 69 which gives the above conditions, and would therefore be punishable by law.

#### **Anti-discrimination Policies:**

As with most countries, Egypt has in place certain rules to ensure that discrimination does not take place in the work place.

Article 120 for example, clearly states that: race, sex, social status, family obligations, pregnancy, religion or political views are insufficient grounds for termination. The same rule applies for a workers affiliation to a union organization, filing a complaint within the work place, and taking entitled holidays.

Although there are no official whistle-blowers policies in place within Egypt, the inclusion of workers' complaint rights as part of the work place anti-discrimination policy is imperative, and ensures that the employee is protected in these circumstances.

## **Termination**

Employers may need to terminate an employment relationship for a myriad of reasons from downsizing the company, to reprimanding an employee who has not been performing well, despite a number of warnings. We will discuss the former scenario further on in the book, since there are a particular set of rules governing the execution of downsizing, however here we will be looking at the general criteria for terminating an employment relationship.

As previously stated, a contract will generally terminate with the expiry of its period, or the accomplishment of the work it has been concluded for. If the term of the contract is not defined by an agreement or by the type of work or its purpose, either party may put an end to this relationship by providing notice to the other party. Likewise, if the contract is indefinite, and one of the parties revokes the agreement prior to the end of the term or without giving appropriate notice, then they must compensate the other party for the remaining term or the notice period.

The law states that if the worker terminates the employment of his own accord then the employer must pay him his wage and all other amounts due to him within a period not exceeding seven days from the date the worker claims these dues. If however the worker is present at his place of work at the agreed upon time and is ready to exercise his duties, but is hindered from carrying out his work because of the employer, he shall be treated as if he had actually fulfilled his work and will be entitled to his wage in full to reflect this. On the other hand, if he is prevented from carrying out his work for reasons beyond the will of the employer, the employee will only be entitled to half of his wage. For the purposes of Egyptian Labour Law, 'all amounts due' means the employee's wage, plus any other additions to that wage as specified by the law, namely bonuses, commission, performance based percentages, increments, bonuses, allowances, workers profit share and tips.

In all cases an employer's obligation for paying the wage will not be discharged except after the worker signs for the wage, in the register provided for that purpose or in the payrolls, and if the work relationship expires before the worker uses up all his vacation days, he will be entitled to the wage computed in lieu of that balance.

Upon termination, the employer should give the worker a certificate, free of charge, indicating the date he joined the employer's services, the end of the service date, the type of work he has performed and the benefits he obtained. The employee may also

request a certificate specifying his experience and indicating his level of efficiency. The employer must also return any papers, certificates or articles the worker has deposited with him immediately upon his request.

### **Termination due to Death**

In Egypt a labour contract terminates upon the death of an employee, however it does not terminate upon the death of the employer, unless the nature of the work stipulated in the contract would be disrupted by his death. If the employee dies whilst providing the agreed upon services, the employer shall pay the family the equivalent of two complete months' wages for funeral expenses, the combined total of which cannot be less than 250 LE . In addition to the above, the employer must also pay the family three months wages to cover any remaining costs. If the employee deceases at the place of work, there is an additional duty on the employer to transport the body from the place of work to a place of his family's choosing.

### **Arbitrary Termination**

There are often scenarios which necessitate that an employer terminate an employment contract, even though the employee has not carried out any of the aforementioned serious breaches; for example he has not been sufficiently productive or has not been producing the desired results. Naturally, it is within the employer's rights to terminate so long as the termination does not breach article 120 which states that "race, sex, social status, family obligations, pregnancy, religion or political views are insufficient grounds for termination", however, compensation will have to be paid for the harm caused as a result of this termination.

The labour court will decide how much compensation is appropriate, but the law stipulates that it will not be less than two months of the comprehensive wage for each year of service, in addition to any other legally prescribed dues for indefinite contracts. An employer may also claim compensation through the labour court for harm caused by the termination of an employment contract by the employee without cause. For the termination of definite contracts usually an employer will not terminate the contract arbitrarily since they can wait for the natural expiration of the contract and therefore avoid paying compensation. Alternatively, if an employer still wishes to terminate a definite contract early, he may pay the employee his wages for the remainder of the contract period; however this is usually decided on a case by case basis by a judge.

Transferring an employee to a position with fewer privileges than the one he is currently in without any fault shall not be considered a direct arbitrary act if the employer can show that this move was necessary for the work. If however it is proven that the

employer only did this to irritate the employee then it will be considered an arbitrary termination and compensation will be due.

### **Retirement**

Egyptian law stipulates that an employee cannot terminate an agreement for retirement if he is less than 60. Furthermore, an employer cannot terminate a contract for retirement if the contract is for a definite period and the period goes over the employees 60<sup>th</sup> birthday, in which case the contract will only terminate upon the completion of its period.

After the age of 60, the worker will be entitled to an indemnity at the rate of a half months wage for each of the first five years, and a full months wage for the years thereafter, if he is not covered according to the old age, incapacity, and death insurance provisions prescribed in the Social Insurance Law.

The same rules for indemnity apply to the years of service before the employee reaches 18 years and to the trainee and the worker upon reaching 18. In all cases, indemnity will be calculated on the basis of the last wage paid to him.

### **Dispute Committees:**

Finally, it is important to highlight what happens if an unresolved dispute as to the application of the Labour Law arises between the employer and an employee, since it may often be the case with labour agreements, particularly with regards to termination. In such cases, a committee may be formed to resolve this dispute, comprised of the following:

- A representative of the competent administrative authority (usually someone from the Ministry of Manpower)
- A representative of the trade union organization
- A representative of the Employers' organization

The law states that if the settlement is not reached within 21 days from the date of submitting the request, either party can request that the dispute be submitted to the labour court or to resort to it within a period of 45 days, at most, from the date of expiry of the period specified for settlement, otherwise the right is forfeited.

## **Downsizing**

Today's ever fluctuating economy has meant that a significant number of businesses are under pressure to cut costs, and one of the most effective ways to do this can be to decrease the work force. Downsizing can be costly and complicated if the concerned legal procedures are not executed properly, and morale, productivity, and loyalty in the workplace may suffer among the employees who are left if they feel that their rights are not being properly protected. This is why it is essential that due care is given to all the information stated below, particularly the reasons for reducing the labour force as they will need to be presented to a committee.

Article 196 of the Labour Law states that "the employer is permitted to shut down, wholly or partially/ diminish in size or activity the labour force, due to economic necessity" To do this, the employer will submit a request for shutting down or downsizing the work place, to a committee to be formed particularly for that purpose. The request will include the reasons for their decision, as well as the numbers and categories of workers to be laid off.

The committee will then issue its decision, duly substantiated, within 30 days from the date of submission. If the request is accepted, the committee will then set a date for its execution. Complaints against this decision can be made to another committee formed specifically for this purpose, in which case the execution of the decision will be halted.

The employer is then required to notify the workers and the concerned trade union organization of the request submitted and the decision. If the collective agreement in place does not provide criteria for choosing the workers to be laid off, the employer must also consult the trade union organization, after the issue of the decision and prior to its execution. The seniority, family burdens, age and vocational abilities and skills of the workers will be included as part of the criteria which are drawn upon to make these decisions, however in all cases the criteria should balance between the interest of the establishment and the workers. The employer is also prohibited from submitting a request for downsizing or partial shutdown if there is an on-going process of mediation and arbitration.

The law also encourages that if there are detrimental economic conditions which are jeopardizing work conditions, that the employer attempt to modify the conditions of the contract prior to taking the drastic decision of laying off employees. For this reason, the employer is permitted to modify the conditions of the contract temporarily in these situations, which includes charging the worker with performing work that was not

agreed upon, even if it differs from the original work, as well as reducing the wage of the employee (with the condition that it does not decrease beyond the minimum wage).

If the employer modifies the conditions of the contract as stated, the employee will then also have the right to terminate the contract without notice, with one month's comprehensive wage to be given as compensation for the first five years of service, and one and a half months for each year after that.

## **Business Transfers**

In general, the Labour Law provisions provide that, if an entity acquires the business in whole or in part, the acquiring entity will be bound to carry on the employment obligations attached to that acquired business. In that regard, the Labour Law states that in the event of the plurality of employers, the employers shall be jointly responsible for fulfilling all obligations arising from the Labour Law. In addition, Article 9 of the Labour Law provides that the liquidation, closure or bankruptcy of the establishment shall not preclude fulfilment of the obligations under the Labour Law. In particular, the merger, assignment, sale or similar transaction of an establishment does not terminate the employment contracts of the entity's employees.

To conclude therefore, in the case of a transfer of business, the successor entity shall be jointly responsible along with the former employers for the satisfaction of all obligations arising from the transferred contracts.

In addition, Law No 125 of 2010 and its Executive Regulation provide that the employees' monetary rights arising out from the employment arrangement shall have privileged ranking upon all the employer assets, and shall be recovered prior to the payment of judicial expenses, amounts due to the Public Treasury and filling and restoration expenses.

## **Employee Representation**

The representation of employees is regulated by the Employees' Unions Law No. 35 of 1967 which organizes the union structure on a hierarchical basis. The Establishment Labour Union represents the base of such hierarchy, followed by the General Union (which consists of all of the Establishment Union Committees) and then the General Syndicate (which includes all of the General Unions) which is at the top of the hierarchy. According to the Employees' Unions Law, an establishment is defined as every project or utility managed/operated by a private or public person.

The law states that employees of an establishment may form an Establishment Labour Union to include all employees within its jurisdiction, if they are employees of a particular establishment or if they are part of the same profession. The Union Committee shall then be constituted upon the request of at least fifty employees of the establishment. It is the General Union that will determine whether the requirements for formation of the Establishment Labour Union have been fulfilled and the General Syndicate is competent to decide on any disputes or conflicts which may arise in this regard. The law also provides that it is prohibited to constitute more than one Establishment Labour Union in a single institution or more than one Professional Labour Union in one city.

Pursuant to the Employees Union Law, the Union Committee is competent to:

- Settle individual and collective disputes related to its members. It is prohibited from concluding a collective agreement without the consent of the General Committee.
- Participate in preparing draft collective employment contracts with the General Union.
- Participate in discussions regarding the production plans of the establishment and to contribute in their execution.
- Give opinions regarding the disciplinary regulations and other regulations related to the employees by putting such regulations in place or assisting with their amendment.
- Implement the service programs confirmed by the General Union
- Contribute to social activities in which employees participate.
- Prepare reports regarding the Union's activities and suggestions and present information and clarifications required by the General Union.

Moreover, the Employees Union Law sets out the membership requirements in the Establishment Labour Unions as follows:

- Members shall not be less than 15 years old from the date of submission of the membership request.
- Members shall not be placed under the ward of a court.
- The employee must not be an employer in respect of any commercial, industrial, agricultural or service activity.
- Members shall not be subject to a criminal sanction or restriction in a misdemeanour involving immorality unless rehabilitation has taken place.
- Members shall be employed in the professions or works included in the description of the Union as required by the General Union.
- Members shall not be members of any other Union even if said member undertakes more than one profession.

## **Collective Labour Relationships**

Collective labour agreements are those made between one or more trade union organizations and the employer(s), or one or more of their organizations. During this process, unions negotiate with employers to renew a collective agreement or enter into a new one. Collective bargaining has become increasingly prominent since industrialization due to its many advantages for both the employers and the employees, some of which are stated below:

### **Advantages:**

1. Collective bargaining provides an equal platform wherein the management and the labourers can engage in discussions to solve some of the more common problems in the workplace, to address some of the issues which arise out of these problems and to have a collective goal that both parties can work towards.
2. Management and the employees both know their specific roles, duties and limitations and workable bilateral relationships are established. This in turn promotes the protection of everyone's rights, since neither the management nor the employees are favoured during the bargaining phase.
3. Because collective agreements set out the working conditions for employees, including wages, working hours, health and safety, and overtime, they ensure stability in company finances since management can pre-plan compensation and controlling salaries and form their budgets accordingly.

### **Disadvantages:**

1. Collective bargaining can sometimes limit the authority and liberty of the owners or senior management if the trade unions are particularly consequential.
2. Vested interests of elected representatives or sabotage by competitive organizations and rivals can ruin the foundation of a company through collective bargaining.
3. Collective bargaining is time consuming, it slows down the decision making process and makes it all the more complicated since there is no authoritarianism. Instead, there is increased bureaucratization.

In Egypt collective agreements must be written in Arabic and submitted within 15 days from the date of its signing, to the board of the General Trade Union or the General Federation of the Egyptian Trade Unions. Its approval by either entity will be subject to an absolute majority of the board members within a period of 30 days from the date of signing the agreement. If these conditions are not complied with the agreement will be deemed invalid.

The law creates a consultative council for collective labour relationships who will carry out the following actions:

- Explain the reasoning in draft laws connected with labour relationships.
- Explain the reasoning in international labour agreements prior to signing them.
- Study the subjects related to vocational and productive relations at the national level.
- Propose the means for strengthening cooperation between labour organizations and employer's organizations.
- Propose proper solutions for the prevention of collective labour litigations at the national level, particularly in economic crises that lead to interrupting the work of certain projects wholly or partially.

Collective negotiations may be held at the level of the establishment, the branch of the establishment, the profession, or the industry, whichever the parties deem more appropriate.

Negotiations concerning fifty or more workers will be held between representatives of the trade union committees in the establishment as well as the general union, and the employer. If no trade union committee exists in the establishment, the negotiation will be held between the employer and five workers to be elected by the concerned general trade union providing they shall include at least three workers who are employed by the establishment.

For those concerning less than 50 workers, the negotiations will be held between the representatives for the concerned general trade union and the representatives for the concerned employer's organization or for the employer. If a contradiction becomes apparent between a provision in an individual labour contract and a collective work agreement, the provision which is most in favour of the employee will prevail since the overall aim of the law is to protect employee rights first and foremost.

Collective agreements must be for a definite period of 3 years at the most, or for a period necessary to perform a specific project. If the contract is for the performance of a

specific project which lasts more than 3 years, the agreement will have to be renewed every 3 years in light of the new economic and social conditions.

Collective agreements will become operative and binding once they have been sent to the relevant administrative authority and published in the Egyptian Wakae (government bulletin), which should include a summary of the agreement provisions. The administrative authority shall record the agreement within 30 days from the date of its submission.

Litigation concerning any of the collective agreement provisions shall be subject to the conditions agreed upon by the two parties in the agreement. Parties must attempt to resolve any issues amicably first within 30 days from the commencement of negotiations, after which a request can be submitted to the administrative authority to take mediation processes. The relevant administrative authority will then specify which party is liable to pay for the mediation, on a case by case basis, with the maximum duration for settling a dispute being 45 days.

If the employer decides to settle the dispute through arbitration, a request to that effect must be signed by him or by his authorized deputy. If the request is made by the employee it must be submitted by the head of the trade union committee if one exists or by the competent general trade union.

An arbitration board will then consist of the following:

- One of the circuit courts of appeal as specified at the beginning of each judicial year by the general assembly of each court. The chief of that circuit shall be the head of the arbitration board.
- An arbitrator for the employer.
- An arbitrator for the trade union organization to be elected by the competent general trade union.
- An arbitrator for the competent ministry to be elected by the competent minister.

The employer, trade union organization and the competent ministry shall elect a standby arbitrator to substitute the original one in case of his absence. The head of the arbitration board will then specify a session date to examine the dispute, no later than 15 days from the date the board receives the file. Finally, the board will decide on the matter within one month from the start of the examination.

## **Vocational Training**

The provision of vocational training programmes is now very popular among businesses in all fields, as it bridges the gap between education and working and ensures that prospective employees have all the relevant skills and training they need to undertake the required work.

Due to severely saturated job market in Egypt, more people are looking for employment which offers suitable training at international standards. As a result, in addition to the traditional higher education system, vocational and corporate training programs are becoming increasingly popular within Egypt. Corporate programs teach skills including time management, sales and marketing, human resources and finance, all of which groom students to reach managerial positions. C-suite executives benefit from advanced professional seminars, while blue-collar and semi-skilled workers are taking vocational courses to upgrade their skills.

Through schemes such as the Technical and Vocation Education and Training Reform Program (TVET) alone, some 50,000 job-seekers and young people have received basic and further training through employment-orientated vocational training measures in the key sectors, and an additional 10,000 teachers and trainers also received further training, showing the popularity of these programmes.

Egyptian Labour Law provides particular criteria for the ways in which a business can attain the appropriate licencing needed to provide these vocational training schemes.

### **Licencing the Exercise of Vocational Training**

Generally, the law states that an agency cannot provide a vocational training scheme unless it assumes the form of a joint stock company, partnership limited by shares or a limited liability company, unless it falls in one of the following categories:

1. Trade union agencies and organizations, non-governmental associations and institutions which make use of vocational training at the time the Labour Law was announced.
2. Agencies established by the state, public authorities or local government agencies.
3. Agencies engaged in vocational rehabilitation and training processes for the disabled.
4. Agencies undertaking the training of their workers.

A licence must also be obtained from the relevant ministry unless the activity falls in one of the above categories. After this, a register will be prepared in the ministry which will hold records of the bodies to be licenced for the provision of vocational training. Both licences can be revoked if these conditions are breached. Trainers involved in these programs will also have to be licenced, and a specific register will also be made for them to be recorded on.

Once the initial licence has been obtained, applicants must submit their programmes to the competent ministerial department for their approval, stating the following:

- The conditions to be fulfilled by the trainees to join the programs and the training expenses.
- Degree of adequacy of the training processes, in terms of the training subjects and fields, and the number of hours appropriated for this.
- Level and types of trainers.
- Level of skill the trainee acquires upon the completion of the program.

Submitted programs will then be approved within 60 days from the date of submission. If 60 days have passed and there has not been a notification of acceptance then the program will be deemed accepted.

Once these steps have been completed and the licences have been attained, the establishment will be able to supply an appropriate vocational training program.

## **Employing Foreigners in Egypt**

Egypt has historically had strong relations with international corporations from a number of different countries, many of whom have franchised or opened branches of their business within the country. The current food franchise market alone is valued at an estimated USD 300 million, showing just how many foreign establishments have flourished in Egypt. Many of these establishments often need to bring trusted employees from their country of origin to manage their business within this new market. Likewise, Egyptian companies may wish to use the expertise of a foreign worker for their enterprise in Egypt. In both scenarios, there are a number of rules which must be complied with which we will detail in this section.

According to Egyptian Companies Law, and its related decrees, foreign labour may not exceed 10% of the total labour force of an Egyptian company and total compensation of foreign employees must not exceed 35% of the total payroll of the establishment. All foreign employees must also obtain validly issued work permits, which require the submission of specific documents by both the employer and the expatriate employee and the fulfilment of certain requirements. Generally, the authorities look to the following criteria in determining whether to issue work permits:

- i. The foreigner's qualifications and expertise must be adequate for the position
- ii. Any other required approvals that must be obtained by the foreigner to work in Egypt
- iii. The foreigner may not compete with local manpower
- iv. The real need of the establishment for the foreigner's expertise
- v. The country's economic status
- vi. The commitment of the establishment hiring the foreign experts or technical personnel to hire and train local assistants with qualifications similar to those of the experts or technical personnel, and prepare periodical reports of their progress
- vii. A foreigner who is born and residing in the country would be given preference.

Residency status is therefore granted upon the issuance of such work permits.

Despite the above, it should be noted that Egyptian courts have taken the position that members of the board of directors of joint stock companies do not fall under the category of “employees” of the company and are therefore excluded from the 10% limit set by the law. This means that individuals who fall under this category have been able to obtain work permits for directors without compliance with the said Egyptian labour requirement.

New changes in the law have also meant that permits will be granted to foreigners which will allow them to work in Egypt for a year or less. They will be required to pay a fee of LE 3,000 (approximately \$US 383), while applying for the permit. Should a worker renew their permit, the fee will rise starting from the fourth year. The new regulations also states that an exception to the 10% cap on foreign employees may be made if it is granted by an “exceptions committee.” Should an exception be granted, the organisation will have to pay LE 10,000 annually (approximately \$US 1,277). The fee will rise by a thousand pounds every year for five years until it reaches a maximum of LE 15,000 (approximately \$US 1690).

### **Administrative Steps to Obtain a Residence and Work Permit**

As a general rule, all establishments intending to hire foreign employees in Egypt must seek an approval on recruitment from the Egyptian Ministry of Manpower and Immigration before the foreign employee enters Egypt.

Based on such approval, the foreign employee will be granted the permit as a visa from the respective Egyptian Embassy or Consulate General at his/ her place of residence abroad. The Embassy or Consulate General would normally consult with the Passports Authority before the visa is issued. The said visa is normally issued on a temporary basis (a few months) permitting the foreign employee to enter Egypt for purposes of applying for his/her work permit before the competent Foreigners’ Work Permits Office. Work permits require submission of specific documents by both the employer and the expatriate employee. However, all applications must be made with the competent Foreigners’ Work Permits Office within two months from entering Egypt.

The Foreigners’ Work Permits Office will normally issue a work permit on a temporary basis for six months while a security background check is being completed, and once the security check is received, the employee will be granted a new work permit valid for one year, which could be renewed on annual basis with a maximum limit of three years,

subject to the discretion of the Ministry of Manpower to approve further renewals. Once the work permit is granted, the applicant is then required to submit his/ her passport before the competent Passports Authority to obtain a long term residence permit for employment, the term of which will be the same as the term of the work permit, and can be extended/ renewed upon further renewals of the work permit.

### **Restrictions on Foreigners Employed in Egypt**

Egyptian law also prohibits foreigners from participating in the following forms of employment:

- a. Tour guides
- b. Export business
- c. Customs clearance

## **Child Labour**

Regulations on the employment of minors date back to 1909 when Egypt introduced a law prohibiting the employment of children below nine years of age in the cotton industry. At the time, minors between 9-12 years had to acquire a medical certificate stating that they are fit to work, and working hours were not to exceed eight hours per day. Consecutive labour laws followed providing more comprehensive protection. The current Labour Law provides detailed regulations for the employment of minors which complement The Child Law (No. 12, 1996), with some minor changes. The restrictions placed by both laws are as follows:

### **Age Restrictions:**

Both laws state that children shall not be employed before they complete 14 calendar years of age, nor shall they be provided with training before they reach 12 calendar years of age; however children between 12 and 14 years of age are permitted to work as trainees. Furthermore, the governor concerned in each governorate, in agreement with the Minister of Education may permit the employment of minors aged 12-14 years in seasonal work which is not harmful to their health and growth, and which does not conflict with regular school attendance.

### **Hazardous Occupations**

The by-laws related to the Child Law incorporated previous ministerial decrees which protect minors below 17 years from employment in hazardous occupations.

### **Working Hours**

Working hours must not exceed six hours per day. The minor should be allowed a period (or several periods) of at least one hour for rest and eating. Moreover, a minor must not work for more than four consecutive hours and must not be employed for extra time or during official holidays or weekends.

It is also prohibited to employ minors between 7p.m.-7a.m.

### **Health Regulations**

The by-laws of the Child Law provide detailed regulations for the protection of working minors in the work place. These state that employers are responsible for providing the following:

- Medical check-up for the minor upon employment to ensure his/her fitness for the job
- Annual medical follow up
- Safety measures in the work place
- Administrative regulations which protect their rights

**Additional Obligations:**

Employers are also legally bound to do the following:

- Provide a working minor below the age of 16 years with a card indicating that he/she works for him. The card should have the minor's picture and must be stamped by the Labour Office
- Publicize a copy of the labour regulations in the workplace
- Register working hours and periods of rest regularly
- Send to the official authority the names of minors employed and the names of the persons who supervise them

**Penalties:**

Employers who do not abide by these regulations are liable to fines ranging between LE 100-500 for each infringement.

The Child Law also stipulates that an employer who hinders or deprives a minor from attending basic education, would be liable to imprisonment for a period not exceeding a month or a fine ranging between LE 200-500. The by-laws provide the conditions which constitute 'preventing or hindering the minor's education', namely:

- If the employer organizes working hours in conflict with school hours
- If work arrangements prevent the minor from continuing his/her education
- If the minor is employed in unhealthy working conditions or in undertaking work which affects his/her mental ability or physical development

## **Disability Discrimination**

The Egyptian Labour Law provides a general prohibition of discrimination with regard to the employment relationship between the employer and the employee. In addition, Law No. 39 of 1975 regarding the rehabilitation of disabled individuals (“Law of Rehabilitation of Disabled Individuals”) prohibits discrimination on grounds of disability. Accordingly, Egyptian Law ensures a fair rehabilitation and integration of the disabled individuals into the working environment, through institutions and authorities established by the Ministry of Social Affairs aiming to provide rehabilitation services to such individuals.

Pursuant to this law, disabled individuals, who are registered at the Manpower Office, are given a certificate specifying the job/s which they are capable to undertake. According to this certificate, the Manpower Office is bound to provide assistance to the said individuals in order to find a job equivalent to their age and qualifications. Additionally, Article 9 of the abovementioned Law imposes a legal obligation on companies with fifty or more employees to have the number of disabled employees equal to 5% of its overall workforce. The employer shall employ disabled employees based on the Manpower Office recommendation in this regard. However, the Law of Rehabilitation of Disabled Individuals authorizes the company to employ such individuals without any prior recommendation from the Manpower Office, provided that the disabled employees are registered within it.

Furthermore, disabled employees are subject to the Social Insurance Law and, consequently, entitled to social insurance according to the provisions of this Law. In case of discrimination against disabled employees, such individuals shall enforce their rights under the Law of Rehabilitation of Disabled Individuals. The Law also provides a fine penalty and/or an imprisonment penalty on employers for not complying with the abovementioned obligation stated in Article 9. Moreover, if discrimination is established, the employer shall be obliged to pay a monthly salary to the disabled employee which should be equivalent to the amount designated to the job, initially assigned to the disabled employee. The employer must undertake this obligation for a period not exceeding a year.

## **Occupational Safety**

Occupational safety is a cross boundary area concerned with the health, safety and welfare of the people in the work place. It is an employer's duty to ensure that the work place is sufficiently safe for the people working within it, with 'safety' in this context encompassing a broad range of issues, including the physical and psychological wellbeing of the employees. Different work environments require different precautionary measures, depending on the severity of the dangers involved; however, there are certain things which are legally imperative upon the employer which we will detail below. Aside from reducing the risk of litigation against the employer or the owner, ensuring occupational safety also increases workplace morale, since the employees will know that their exposure to risks has been reduced as much as possible.

The following rules apply to all worksites, their branches and affiliations, both in land or offshore, and the employer is responsible for their execution in all cases. However, it is important to note that the law does not stipulate precisely that the employer should make a risk assessment of work processes, machines, equipment, etc. used in the enterprise, only that the appropriate precautions are taken where danger could arise.

The law states that establishments have the duty to provide safety from the following:

- Severity and intensity of heat and chilliness
- Noise and vibrations
- Lighting
- Harmful and dangerous radiations
- Atmospheric pressure changes
- Static and dynamic electricity
- Explosion hazards

There is also an additional duty to protect from mechanical hazards resulting from the collisions of the worker's body with a solid object, particularly from all dangers arising from work tools and machines comprising traction, dragging and lifting equipment, articles, apparatuses, means of transport, handling and transmission; and, all dangers arising from construction, building, digging and excavation works, and risks of collapse and downfall.

Employers must also protect against the danger of infection and all other biological risks resulting from the work being carried out, particularly when the nature of the work necessitates dealing with infected animals, their products and their wastes or mixing

with sick people and carrying out care services for them, including medical analyses and examinations.

For companies whose work entails the handling of chemical hazards or gaseous chemical substances the following must also be adhered to:

- That the highest concentration permissible for the chemical materials and the carcinogens to which the workers are exposed is not exceeded.
- The dangerous chemical materials stock is not to be exceeded.
- The necessary precautions against transporting, storing, handling and using the dangerous chemical materials and disposing of their wastes are provided.
- A register for taking stock of the dangerous chemical materials being handled, comprising all data related to each material, and a register for recording the status of the work environment and exposure of the workers to the danger of chemicals is kept.
- All chemical materials handled at work must be labelled with their scientific and trade name, their chemical composition, their degree of dangerousness, the safety precautions, and the relevant emergency procedures. The establishment must also obtain said data from the suppliers upon their supply.
- All workers must be trained in dealing with dangerous chemical materials and the carcinogens and with the methods of safety and prevention against these dangers.

Naturally, the work place must also have the appropriate equipment to deal with any casualties, for example, first aid kits, clean-up materials and that the workers who are in charge of providing, cooking and serving food and drinks have the appropriate health certificates indicating that they are free of epidemic and contagious diseases.

Aside from the protection against harm which may arise as a result of the nature of the work, each establishment must also implement a number of fire safety precautions, namely, putting in place fire-fighting equipment including fire extinguishers, fire alarms and protective insulation wherever necessary. Furthermore, all of the aforementioned materials must be updated and conform to the latest methods of fire-fighting and the Egyptian standard specifications.

In addition to the above, establishments will also be bound to conduct an evaluation and analysis of the hazards and the expected industrial and natural disasters and crises that could occur during the course of the work, and prepare an emergency plan accordingly. This plan must be tested and drills must be conducted to ensure its

effectiveness, and all workers must also be trained to be able to follow the plan as efficiently as possible.

After its creation, the competent administrative authority must be informed of the emergency plan and any modifications made to it, as well as all hazardous materials stored on-site if there are any. The administrative authority may order the shutdown of the establishment totally or partially, or stop one or more of its machines, subject to the workers receiving all their full wages during this period of halted work. Said administrative authority is also permitted to remove the cause of the danger at the cost of the establishment.

### **Social and Health Services**

Aside from ensuring that the workplace itself is safe for employees, an employer also has a duty to establish whether or not the person he is employing is fit for the job at hand, and that there are no medical conditions which could increase his chances of being harmed from the work. The rules which govern this obligation can be found in the Social Insurance Law, which states that employers must conduct pre-employment medical check-ups for the worker to determine his health and fitness pursuant to the type of work to be assigned to him, followed by an examination of the employee's physical, mental and psychological abilities to ensure that they are appropriate for the demands of the workplace.

Once these pre-employment examinations have been carried out, the employer must then train the employee to further ensure that he has the appropriate level of knowledge for carrying out his work, and thus decrease his chances of harm. The training program must include specifics of the hazards which can arise from the work, and the ways in which the employee can avoid them through the protective tools which are to be supplied by the employer. With regards to the provision of health and safety materials, the law states that the employer cannot deduct money from the employee for these materials, since they are essential for the protection of the employee.

Once the work place is fully function and the employees are sufficiently trained, periodic inspections of the workplace must be carried out in order to explore any additional occupational hazards that may have been initially neglected. Through coordination with the General Authority of Health Insurance, the employer must also conduct periodical medical check-up for all workers engaged by the establishment, to ensure that their employees remain in good health, and carry out regular medical check-ups. Finally, the law states that if the establishment consists of more than 50 workers (within a 15 km radius of each other) then a nurse must be on sight at every shift of work at the

establishment, and a physician must be employed to make regular visits at the work place and give employees any medication necessary free of charge. An establishment where the number of workers is more than 50 must also provide the necessary social and educational services to the workers employed by them.

Although the aforementioned rules may seem daunting and excessive, they are primarily put in place for establishments that are inherently high risk due to the nature of their work and the substances which they use within it. These rules would therefore not apply to an administrative office for example, but rather, for factories, building sights and the like.

## **Health and Safety Inspections**

The Ministry of Manpower and Migration is the competent administrative authority which is responsible for regulating and conducting the health and safety inspections, particularly:

- Preparing a specialized agency for the periodic inspection of the establishments and ensuring their implementation of the occupational safety requirements.
- Conducting specialized and specific training programs to enhance the efficiency and performance level of the members of the inspection agency, and providing them with the developed technical experiences to guarantee the best levels of occupational safety.
- Providing the inspection agency with measuring instruments and equipment and anything else necessary for performing its mission.

To enable them to carry out their work appropriately the inspection agency members are permitted to do the following:

- Effect whatever necessary medical check-up and examinations on workers engaged by the establishment to ascertain the suitability of their work conditions.
- Take samples of substances used or handled in the industrial processes, which might have a harmful effect on the workers, to analyse them and provide feedback on their findings.
- Use all equipment necessary for analysing causes of accidents.
- Reviewing the emergency plan and analysing the hazards involved in the establishment.
- Reviewing the results of technical and administrative reports received by the establishments.

The Ministry also has the power to temporarily shutdown, in whole or in part, the establishment or any of its unsafe machines until the dangers have been removed.

### **Reporting Work Place Injuries**

According to the Egyptian Social Insurance law, the employer or the supervisors are obliged to report to the police any accidents or injuries which may prevent the employee from working within 48 hours from the first day of the employee's absence from work. This report must include the injured party's name, address, the place where his treatment will commence, as well as the details of the incident. The same law also stipulates a duty for employers to compensate employees in cases of work place injury; however the amount of compensation is determined on a case by case basis.

If the report isn't made within 48 hours the employee will lose his right to compensation unless he can prove that the employer was aware of the injury, but in this case he would still have to file a report within 2 months. It goes without saying that the employee will not be entitled to compensation if it is proven that the injury occurred as a result of the employees own negligence or if he injured himself intentionally for whatever reason.

Furthermore, to ensure that employees abide by the safety precautions set in place, employers are permitted to take disciplinary action against a worker who does not follow the safety precautions as prescribed. Finally, an employer has the duty to move an injured employee to a place where he will be treated and the company will be liable to pay all costs for his transport.

## **Egyptian Social Security System**

According to the Egyptian Social Insurance Law No. 79 of 1975, employees (except for foreign employees, subject to certain exceptions as described below) who are employed for a period exceeding six months by private sector employers must be registered with the Social Insurance Authority. The Social Insurance Law covers pension, medical coverage, work related injuries, disability and death. In order to fund such coverage and pensions, contributions are paid into a special fund administered by the National Authority for Social Insurance. The social insurance premium payments are divided between the employer and the employee contributions as follows:

- Employer pays 26% of the basic salary and 24% of the variable salary
- Employee pays 14% of the basic salary and 11% of the variable salary

The current maximum amount for contributions is as follows:

- Basic salary: EGP 1,012.5
- Variable salary: EGP 1,590

In this context, a basic salary means the amount paid to an employee before any other amounts are added or deducted, whereas the variable salary is the remuneration he receives as a result of his performance at work.

With respect to foreign employees, it should be noted that according to the Social Insurance Law, foreign employees, with the exception of certain Arab nationalities, are not subject to the Social Insurance Law and are not required to pay social insurance contributions unless there is reciprocal duty under a Double Social Insurance Treaty in the employee's national country. In such cases, the social insurance contributions will be based on the terms of that Treaty and not Egyptian national law. Nonetheless, even if the foreign employee is not subject to the Social Insurance Law, the employer must still pay 2% of the employee's salary that is subject to insurance to cover the state medical insurance for work related injuries.

## **Service Agreements**

In a world where more and more people are choosing to offer their services on a freelance basis, service agreements are becoming increasingly popular. Essentially, there are three types of service providers, contractors, subcontractors and consultants. An independent service provider contracts with an employer to do a particular piece of work, or to provide advice through a legally binding formal or informal contract. The nature of the relationship between the employee and the employer in these scenarios are therefore more flexible yet they still provide benefits to both the worker and the employer, hence the popularity of these forms of agreements. Despite this however, these service providers do not generally enjoy the same benefits as a full time employee, such as social insurance or pension contribution. Even though the relationship between the two can be informal, it is important for the employer to distinguish independent contractors from regular employees, since ambiguity can often result in costly litigation. For the purposes of Egyptian Law, these independent service providers fall outside of the scope of the Labour Law because they do not work under the direct supervision of the employer.

Once the employer has established which type of employee he wishes to assign for the completion of the work, they can then begin forming the appropriate agreements to make their relationship legally binding. To understand the legality of independent service agreements in Egyptian law, we must turn to the country's Civil Code.

### **Contractors:**

**Definition: a person or firm that undertakes a contract to provide materials or labour to perform a service or do a job**

Determining Characteristics:

- Provides service for a fee
- Defined duties to be performed or delivered
- Employer has the right to control the end result of the service

The main difference between employment agreements and contractor agreements is whether or not there is a duty for the contractor to be supervised and subordinate to the employer within them. Generally, if the contractor works independently without the needing to report back to the employer regularly then he will be considered an independent contractor, and his relationship with the employer will therefore fall

outside of the scope of the Labour Law. If the opposite is true however, and the contractor works under the supervision of the employer, then he will be considered a regular employee whose relationship with the employer will be governed the Labour Law.

In addition, the law states that the employer must reimburse the contractor in some way, and that remuneration will be due upon receipt of the work unless otherwise agreed upon. If the contract is concluded and the employer has agreed to provide payment per unit, but the costs far exceed that which was agreed upon, the employer may stop the agreement, provided that he reimburse the contractor for the work already carried out. In this scenario, there is no duty for the employer to indemnify the contractor for the loss of future work.

If the parties have agreed to a lump sum payment, the contractor will not be permitted to claim for an increase of this lump sum even if an addition or modification to the work has occurred, unless it was due to an error from the employer. The same applies for if price of the materials or other items necessary for the work increase, even if they increase to an extent which makes performance of the work difficult. However it should also be noted that the court may rule that the contract be rescinded or that the remunerations be increased if there are extraordinary incidents which necessitate an increase in payment that were overlooked when signing the contract.

If a service agreement does not specify the remunerations, they shall be estimated according to the time spent carrying out the work.

### **Terminating the agreement**

The law states that where these agreements with contractors exist, the employer may free himself from the obligations of the contract and discontinue its execution at any time before its completion, provided that he indemnifies the contractor for all expenses incurred for the work he has accomplished, and the money he would have gained if he had completed the work. Despite this however, the court may reduce these indemnifications if it is believed that this is more just and equitable. In these circumstances the judge will calculate compensation due by looking at what the worker has lost, based on what he would have gained had he utilised his time working on another project.

The law also states that, the party responsible for providing the materials and the substances to be used will be responsible for their damage. Therefore, the contractor will not be entitled to any damages if he delivers faulty work, even if the damage occurred due to a sudden incident which happened prior to its delivery. Moreover, if the

damage or deterioration of work is due to the contractor, and submission of the work is therefore delayed, he will be liable to compensate the business owner for all losses including the materials provided for the completion of the project.

If however, the damage to the work is due to problems with the substance or material supplied by the employer, the contractor will have the right to claim compensation for the impairment caused.

Like standard contract agreements, a contract between an employee and a contractor will only terminate upon the death of the contractor if his personal qualifications were essential for the performance of the work, or if his successors to the contract are not adequate for the performance of the work, otherwise the contract will remain binding.

### **Subcontractors:**

**Definition: a person or firm that carries out work for a company as part of a larger project**

Determining Characteristics:

- Usually assigned by the contractor to perform part of the work
- They will usually be managing technical and administrative aspects of a portion of the overall project

As previously stated, a contractor may assign a particular segment of the work to a subcontractor if there is nothing in his contract which prevents him from doing so, or if the nature of the work does not necessitate that the contractor personally carry it out. The contractor will however, remain responsible for the work of the subcontractor before the employer.

There are not many particular rules for subcontractor agreements, however civil law does state that a subcontractor cannot request to be paid more than the original contractor from the employer, and that subcontractors have payment priority if a lien is placed on the establishment

### **Consultant:**

**Definition: A person who provides expert advice professionally**

Determining Characteristics:

- Consultants generally offer only advice or propose solutions to problems
- They do not direct, carry out, or implement solutions

- Do not require use of the facilities and resources of an organization or institution

As with contractors, the main feature that distinguishes a consultancy agreement from a normal employment agreement is whether or not the consultant works under the supervision of the employer. If a person provides consultancy services under the supervision of the employer, they will be considered a normal employee as opposed to a consultant and will be accountable under Egyptian Labour Law. If the opposite is true and the individual provides his or her consultancy services independently, they will be deemed an independent consultant and the rules which govern their relationship with the employer will be outside the scope of Labour Law.

The law also states that we may look at an individual's work habits to further distinguish consultants. Generally, if a consultant works solely at the employer's establishment, complies with the employer's working hours and workplace regulations, and does things like use the company's letterhead, they will be categorized as a normal employee. If on the other hand, they work with multiple establishments and are not bound to a particular place of work it is more likely that they will be independent consultants who are not governed by the Labour Law.

## **Non- Compete Clauses**

Non-compete clauses have been on the rise over the last decade for people being hired at all levels. Employers use non-compete clauses to protect sensitive processes, technologies, and other trade secrets and information in particular labour agreements where this may be necessary . The general rule is that the more competitive a field, the more likely employers will ask prospective employees to sign non-compete agreements.

A non-compete clause can be a paragraph that is contained within a larger employment agreement or a completely separate document that new employees must sign as a condition for hire. To be an effective agreement the clause should include three essential pieces of information:

1. The geographic scope of where the work is permitted and prohibited;
2. The scope of the employee's services, roles, and skills that can or cannot be used for a competitor.
3. The duration of the clause (one year is a fairly typical time constraint).

In Egyptian law, there are two conditions wherein the employee is permitted to act against the non-compete clause, the first being if the employer breaks the contract or refuses to renew without reason; and secondly, If the employer intentionally does something to the employee to make him break the contract, for example does not pay his wages or verbally abuses the employee.

The law also stipulates that if an employee breaks the clause and goes to work for a competitor, the new employer and the employee will be liable to compensate the old employer in the following situations:

- They were involved in the employee's decision to leave the old working place.
- If the new employer hires the employee knowing that they were under a non-compete clause.
- If they continue to let the employee work at the new establishment after finding out about non-compete clause.

Since the law primarily aims at protecting employee rights, another criteria for non-compete clauses is that the penalty implemented within them is not excessive, and in some cases the judge has reduced the penalty or removed it altogether if it is found to be unjustifiably large.

Generally speaking however, solicitation of customers, employees or suppliers of a former employer is prohibited in cases where the employee is bound by a post-contractual noncompetition covenant, subject to the requirements of a non-competition clause stipulated above.

## **Intellectual Property Rights**

Egypt is a member of the World Intellectual Property Organization (WIPO) and is signatory to the Paris Convention, Madrid Convention and the Berne Convention, so the national law which governs intellectual property conforms, for the most part, to these international standards and provides sufficient protection to both local and foreign investors. The intricacies of Egypt's intellectual property law are not the matter we are concerned with currently, however a particular issue has been brought to our attention several times, with regards to IP rights and employment. The issue at hand is as follows: if an employer contracts with an employee and the employee goes on to create/invent something during the course of his work, who then owns the intellectual property rights related to the invention/work, the employer or the inventor?.

To answer this we must look at article 7 of Law number 82 of 2002 on the Protection of Intellectual Property Rights, which state that the employer shall have all the rights derived from the inventions discovered by the worker or the employee during the period of the work relationship or employment, insofar as the invention falls within the scope of the work contract, relationship or employment.

To balance the rights of the employer and the inventor however, the law states that the name of the inventor must be mentioned in the patent, and he must be compensated for his work, even if such remuneration was not agreed upon.

In other cases, where the invention is part of the activities of the public or private establishment to which the inventor is attached, the employer will have the choice either to exploit the invention, or to acquire the patent against a fair compensation paid to the inventor, provided the choice is made within three months from the date on which the granting of the patent is notified. In all cases, the invention must be attributed to the inventor so that his efforts are acknowledged.

## Contact Us

Although this book provides a detailed analysis of the law and discusses some of its ambiguous areas, it is important to note that the application of the law in a formal setting will require collaboration with a professional to ensure its accuracy.

Maher Milad Iskander & Co. has been operational in Egypt for 30 years, and our team of attorneys has considerable experience with employment law. Whether you are looking to draft an employment contract or to terminate an existing one, our attorneys will be able to provide you with comprehensive and tailor made advice at your request.

**Visit our website to find out more: [www.mahermiladiskander.com](http://www.mahermiladiskander.com)**