



# Corporate Immigration

in 25 jurisdictions worldwide

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# Nigeria

## Adekunle Obebe

Bloomfield Advocates & Solicitors

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### Overview

- 1** In broad terms what is your government's policy towards business immigration?

The Federal Government of Nigeria is generally keen to encourage the immigration of skilled foreign nationals who intend to take up employment or do business in Nigeria. Notwithstanding its general stance, the Nigerian government recently invoked the Nigerian Oil and Gas Content Development Act 2010 (Nigerian Local Content Act), with the aim of allowing more Nigerians to occupy managerial, professional and supervisory roles in companies participating within the oil and gas industry.

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### Short-term transfers

- 2** In what circumstances is a visa necessary for short-term travellers? How are short-term visas obtained?

Depending on the purpose for travelling, an individual may require either a Temporary Work Permit (TWP) or a business visitor's visa. In the first instance, a TWP is necessary where a company in Nigeria intends on bringing in an individual to undertake short term technical assignments for no more than 90 days. In the second instance, the business visitor's visa is necessary where a foreign individual intends on visiting Nigeria for the purpose of attending meetings and interviews and not for employment purposes. The process of obtaining a TWP is initiated through an application to the comptroller general of the Nigerian Immigration Service (NIS) and ultimately ends with the issuance of the visa by the Nigerian Diplomatic Mission in the individual's country of residence. As regards obtaining a business visitor's visa, this can also be obtained from the Nigerian Diplomatic Mission in the individual's country of residence.

- 3** What are the main restrictions on a business visitor?

A business visitor is restricted from taking up employment or undertaking any form of work while he or she is in the country. He or she can however participate in meetings and interviews. With regard to length of stay, the business visa guarantees an individual unrestricted leave to remain for a period of no more than 90 days at a time.

- 4** Is immigration permission needed to give or receive short-term training?

Yes, immigration permission will be needed in both instances. An individual would require a TWP for the purpose of giving short-term training. Conversely, where he or she intends on receiving training, either a business visitor's visa or a student visa would be necessary depending on the nature and duration of the training.

- 5** Are transit visas required to travel through your country? How are these obtained?

Yes, transit visas are required. This class of visa can be obtained from Nigerian diplomatic missions overseas following the submission of an application and also the fulfilment of other requirements in this regard.

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### Long-term transfers

- 6** What are the main immigration permission categories used by companies to transfer skilled staff?

Companies that wish to hire skilled staff from another employer or transfer skilled staff across its corporate offices would typically apply to the NIS for a change of employment. Concerning transfers within the corporate strata of an organisation, this can be achieved by applying to the NIS for an employee to be redesignated from the position previously occupied on the company's quota to another position where he or she has the relevant qualifications.

- 7** What are the procedures for obtaining these permissions?

For change of employment permission, the company, as the new employer, would be required to make an application to the NIS requesting its approval to enable the employee to change his or her employment. The application is usually supported with other necessary documents. Redesignation permissions are obtained subject to an application to the NIS on behalf of the employee. This application is accompanied by other necessary documents.

- 8** What are the general maximum and minimum periods of stay granted under the main categories for company transfers?

The general maximum and minimum period of stay for both change of employment and redesignation is 12 months provided the company's expatriate quota remains valid.

- 9** How long does it typically take to process the main categories?

The process of applying for a change of employment and redesignation would usually take a maximum of two weeks.

- 10** Is it necessary to obtain any benefits or facilities for staff to secure a work permit?

Under Nigerian immigration laws, it is not necessary to obtain any benefits or facilities for staff in securing their work permits.

**11** Do the immigration authorities follow objective criteria, or do they exercise discretion according to subjective criteria?

Yes, Nigerian immigration authorities follow objective criteria as provided for under relevant laws and regulations.

**12** Is there a special route for high net worth individuals or investors?

There is no special route for high net worth individuals or investors.

**13** Is there a special route for highly skilled individuals?

No, there is no special route for highly skilled individuals.

**14** Is there a minimum salary requirement for the main categories for company transfers?

Nigerian immigration laws does not make provision for a minimum salary. The issue of (minimum) salaries is typically determined based on existing collective bargaining agreements or individual contracts.

**15** Is there a quota system or resident labour market test?

There are no broad-based standards in this regard. However, in respect to the Nigerian oil and gas industry, the Nigerian Local Content Act details a standard for employment of individuals, giving priority to the employment of Nigerians and also identifying an employment and training programme for Nigerians as a necessary ingredient on any project. The Act further states that, where Nigerians considered for employment lack the necessary training, all endeavours must be made to provide this training within or outside Nigeria.

**16** What is the process for third-party contractors obtaining work permission?

Typically, work permission is tied to the companies that obtain this permission on behalf of the expatriate employee. Consequently, third-party contractors must also apply for work permits for their employees.

**17** Is assessment or recognition of skills and qualifications required to obtain immigration permission?

Yes, the skills and qualifications of immigrants are assessed before immigration permission is granted.

#### Extensions and variations

**18** How can short-term visas be converted into longer-term authorisations?

There is no procedure that allows for immediate conversion of short-term visas into longer-term authorisation. The current procedure entails that a holder of a short-term visa, who wishes to obtain a long term authorisation (ie, work permit permission), makes an application for same to the Nigerian Diplomatic Mission in his country of residence. His application should typically be supported by relevant documentation necessary for the application.

**19** Can long-term immigration permission be extended?

Work or resident permits are typically valid for 12 months and can thereafter be renewed for a further period of 12 months indefinitely provided the expatriate quota grant of a company remains valid.

As regards requirements for exit, with specific reference to the oil and gas industry, the Nigerian Local Content Act provides that

an industry operator is required to submit a succession plan covering any position not held by Nigerians with a provision for Nigerians to understudy each incumbent expatriate for a maximum period of four years, after which the position shall become Nigerianised (save for the retention of a maximum of 5 per cent of management positions to take care of the interests of investors).

**20** What are the rules on and implications of exit and re-entry for work permits?

Work permits are categorised as follows: Temporary Work Permit (short term); and Combined Resident Permit and Alien Card (CERPAC) (long term). A TWP is a single entry visa which allows a holder to work and reside in Nigeria for a maximum period of 90 days or, alternatively, until he or she exits Nigeria at any given time before the expiration of the permit. On the other hand, a CERPAC is valid for 12 months and is renewable thereafter provided the expatriate quota grant is not exceeded. A holder of a CERPAC can apply for a multiple entry visa and subsequently exit and re-enter the country during the span of the CERPAC or the expatriate quota on which the CERPAC renewal is done.

**21** How can immigrants qualify for permanent residency or citizenship?

Immigrants can qualify for permanent residency or citizenship by registration or naturalisation. The process of registration can be achieved either by the conferring of special immigration or 'Niger wives' status. The special immigration status is granted to an immigrant who is married to a female Nigerian citizen while 'Niger wives' status is conferred on an immigrant who is married to a male citizen of Nigeria. In regard to naturalisation, it is required that an individual must be at least 17 years of age and have resided in Nigeria for at least 15 years; is of good character and plans to remain in Nigeria; is familiar with any of the Nigerian languages and customs; has a viable means of support; and has renounced any previous citizenship.

**22** Must immigration permission be cancelled at the end of employment in your jurisdiction?

Yes. On termination of employment of an expatriate employee who possesses a CERPAC permit, his or her employer is required to notify the NIS of the immigrant's disengagement and also further apply that the immigrant be deleted off the position occupied on the employer's expatriate quota grant.

**23** Are there any specific restrictions on a holder of employment permission?

Yes, there are. The holder of employment is restricted to working and residing in Nigeria based on a contract of employment with the employer who procured the immigration permission on his or her behalf.

#### Dependants

**24** Who qualifies as a dependant?

Nigerian immigration law does not expressly prescribe who qualifies as a dependant. However, it is safe to assume that a dependant is an individual under the age of 16 years or a minor who is under the guidance of an adult. Our assumption draws from the fact that an application for Subject to Regularisation (STR) visas follows the mode of applying for a foreigner, his or her spouse and dependants.

Also, the Immigration Act provides that a person under the age of 16 years who has in his possession a valid passport or is unaccompanied by an adult is prohibited from entering into the country on his or her arrival at a port of entry.

**25** Are dependants automatically allowed to work?

No, dependants are absolutely barred from working owing to the classification of permit granted to them.

**26** What social benefits are dependants entitled to?

Dependants are not entitled to any specific social benefits in accordance with Nigerian immigration law or any other law. However, it is often the case that provision is made for these dependants under the contract of employment entered into by the employee parent or guardian and his or her employer.

#### Other matters

**27** Are prior criminal convictions a barrier to obtaining immigration permission?

Yes, criminal convictions are a barrier to obtaining immigration permission.

**28** What are the penalties for companies and individuals for non-compliance with immigration law? How are these applied in practice?

Penalties for non-compliance with immigration law include the payment of fines, imprisonment, deportation for individuals and in

respect to companies, and could range from payment of fines to an application for winding up of the entity. Pursuant to the provisions of the Immigration Act, an individual can be summarily convicted for an offence under this Act by any competent court. The penalty may be either the payment of a reasonable fine as determined by the court or six months' imprisonment. Also, where it appears to the comptroller general of immigration that the business owned by a deported immigrant should be wound up, he may make the necessary application to a competent High Court.

**29** Are there any minimum language requirements for migrants?

Nigerian immigration laws are silent as regards any minimum language requirements for immigrants.

**30** Is medical screening required for obtaining immigration permission?

No. However, we are aware that some Nigerian diplomatic missions insist on proof that an immigrant has been immunised against certain communicable diseases (eg, yellow fever, smallpox etc).

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