



ADDITIONAL UPDATED GUIDELINES ON THE ADMINISTRATION OF EXPATRIATE QUOTA AND OTHER BUSINESS INSTRUMENTS

Introduction

Sequel to our last updates in **January** and **February 2022**, where we reviewed the public notice issued by the Federal Ministry of Interior (the "FMI" or "Ministry") which implemented guidelines to regulate Expatriate Quota ("EQ"), related matters, and business residency in Nigeria. The guidelines were introduced further to a stakeholder's engagement which aimed at a review of the EQ handbook in October 2021.

More recently in **September 2022**, the FMI further introduced additional guidelines to the earlier guidelines stated above. The new guidelines would impact companies that have obtained EQ grants, other business instruments and companies desirous of obtaining the regulatory business instruments with regards to Immigration compliance and regulations in Nigeria.

Our publication will provide a summary of the guidelines below:

Need-to-know Information!

The Guidelines which became effective on **24 January 2022** were with respect to expatriate quota in Nigeria and is intended to ensure the effective monitoring and utilization of the facilities granted to organizations with business operations in Nigeria. As discussed in our publication (<https://bloomfield-law.com/gaze/thought-leadership/blp-immigration-newsletter-updated-guidelines-administration-expatriate>), the guidelines which took effect from **24 January 2022** introduced key changes in areas outlined below:

1. Evaluation of EQ Positions on Permanent Until Reviewed ("PUR") Status

- a) The Ministry has granted permission for an examination of all PUR instruments issued. This practice would assist the Ministry to determine the duration for which each PUR instruments has been held, the extent of utilization of the facility by respective organizations and assess the continued eligibility of holders. PUR status is granted to foreign nationals to occupy a position permanently. The PUR status is granted to foreign nationals occupying specific positions such as the company's board of directors or the position of a Managing Director.

- b) Companies are to note that the PUR statuses that are not submitted before the deadline would be deemed to have lapsed and would be cancelled.

2. Compulsory Submission of Monthly Returns

- a) Monthly returns on the utilization of all approved EQ positions issued by the Ministry are to be submitted online.
- b) All organizations granted EQ positions must ensure that their expatriates and Nigerian Understudies obtain a National Identification Number (NIN) which must be reflected in their monthly returns. The NIN consists of eleven (11) non – intelligible unique numbers randomly chosen and assigned to an individual at the completion of enrolment into the National Identity Database ("NIDB"). Every citizen of Nigeria and persons residing legally in Nigeria are mandated to obtain an NIN number.
- c) Online submission is compulsory and manual submission would no longer be accepted in accordance with the updated guidelines on the administration of the EQ.

3. Update Details of Company Representatives

- a) Companies must update all the contacts details of their company representatives, whether full time employees or consultants by forwarding a formal letter to the FMI.
- b) The letter must include the representative's full name, position held in the company, official email address, official phone numbers, alternative cell phone numbers, full mailing address for courier services, two copies of a recent passport sized photograph and a photocopy of the representative's official identity card
- c) There will be penalties for not abiding by the revised guidelines.

In addition to the above, the following key changes were further introduced in the recently revised FMI Handbook in September 2022:

1. Issuance of Business permit

Business permit will be granted to only wholly foreign



owned or joint venture companies with foreign participation with a minimum paid – up capital of one hundred million Naira (N100,000,000.00). Please note the value of equipment or machinery imported into the country for the purpose of conducting business can also count as part of the paid-up capital to be invested in the country. The requirement for a minimum paid - up capital of one hundred million Naira (N100,000,000.00) is new and was not the position prior to the recently revised FMI handbook.

2. Expatriate Quota Position

For each Expatriate Quota Position granted and on which an Expatriate is placed, two (2) Nigerian understudies with minimum qualifications of bachelor's degree/Higher National Diploma or relevant training certificate should be employed to understudy the Expatriate. The revised FMI handbook reemphasizes the significance of the aforementioned, although it is not a new requirement.

3. Quota Monthly Returns

Returns showing the names, qualifications, National Identification Number or Tax Identification Number, phone numbers, e-mail addresses and training programme of such Nigerian understudies should be submitted to the Ministry within a period of six (6) months of the grant of the EQ position. Although, the requirement for same is not new, the revised FMI handbook introduced the requirement of the National Identification Number or Tax Identification Number and contact information of Nigerian understudies in the quota monthly return.

4. Expatriates engaged to fill approved quota positions are required to present proof of registration with the relevant regulatory professional bodies within six (6) months of arrival in Nigeria as applicable.

5. The grant of additional EQ request shall be subject to either expansion or diversification of business, acquisition of new machinery or injection of fresh capital investment into the Company.

6. Companies in the aviation sector must obtain recommendations from Ministry of Aviation (Nigerian Civil Aviation Authority – NCAA) which is the regulatory body for aviation in Nigeria before Ministry of Interior grants approval for EQ.

7. The following professions are not eligible for the grant of EQ except there exist verifiable evidence(s) that there is an exchange programme which Nigerians are participating in:

- a) Teaching positions in the Secondary, Primary and Nursery Schools except highly specialized subjects.
 - b) Artisan positions except with specialized skills. (This list is subject to further consideration by the various sectors).
 - c) Legal profession (with no exceptions).
8. Only jobs on the Critical Skills list would be considered for EQ grant upon sufficient proof by the individual employer that the positions cannot be filled by Nigerians.
9. If a quota position expires but an application for renewal or relinquishment has not been submitted, the company's eCITIBIZ account shall be disabled from processing any expatriate quota facility.

Lastly, in line with the ministry's earlier guidelines (Review Of The Applicable Expatriate Quota Fee In Nigeria | Bloomfield Law (bloomfield-law.com) slight changes were made to the quota application and processing fees in the recently revised FMI handbook.

Conclusion

The introduction of the new guidelines by the Ministry of Interior is a welcome development. However, it is crucial that all portals for the online process are efficient to ensure a smooth transition from the manual process.

All affected companies are encouraged to ensure that the instructions issued under the new guideline for the administration of expatriate quotas and other business instruments are promptly addressed to avoid facing infractions. It is our considered view that the FMI may soon embark on a compliance drive. Thus, we recommend that companies engage experts and immigration specialists to advise them on their immigration responsibilities as it relates to the Guidelines and other applicable legislation.

Our team is on hand to assist with compliance with the new guidelines.

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