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IMMGRATION

The Immigration Act, CAP I1, Laws of the Federation of Nigeria, 2004 provides the legal and regulatory framework for the entry and departure of persons into or out of Nigeria; usually for economic and social reasons.

The Immigration Act provides that persons entering into Nigeria, or leaving Nigeria, are required to be examined by an Immigration Officer, who may, on the information provided, refuse admission to any non-Nigerian citizen in any proper case.

No person, other than a citizen of Nigeria, shall accept any employment (other than employment with the Federal Government of Nigeria or with any State Government in Nigeria), or to on his own account or in partnership with any other person, start any business in Nigeria without the written consent of the Minister of Interior. Failure to obtain such consent is an offence which on conviction attracts deportation of the individual concerned as a prohibited immigrant.

The spouse and dependants of a person issued with an entry and work permit are also entitled to the issuance of the appropriate entry permit other than for employment purposes.

Residence Permits

The Immigration Act provides that any Commonwealth citizen or citizen of Eire (more commonly known as the Republic of Ireland), may enter into Nigeria for the purpose of residence on the production of a Residence Permit, with his other travel documents, signed by or on behalf of the Director of Immigration, subject to such conditions as may be endorsed on the permit.

Unless exempted under the Immigration Act, an applicant for Residence Permit must produce a Bond as security, in such amount as the Minister of Interior may prescribe, and supply such supporting information as the Director of Immigration may reasonably require, before a Residence Permit, with or without conditions, is issued.

The Minister of Interior is authorised to prescribe the conditions for entry into Nigeria and the fees payable in respect of such authorised entry, that is, Visa, Permit or any such travel document.

Whenever the requirements for the issuance and the conditions of a Residence Permit are breached, the Minister of Interior is at liberty to require the infringing individual to leave Nigeria and to forfeit the Bond provided in the contingent event of the breach of the residence permit condition(s).

Employment of Immigrants ? Expatriate Quota

Any person in Nigeria, desirous of employing a person who is a national of another country, with such skills and competencies which are otherwise unavailable in Nigeria, or which are in short supply, shall, unless exemption is granted, apply to the Director of Immigration for permission for the immigrant to come to Nigeria to resume such employment. Such work permit, more commonly subsumed under the Expatriate Quota/CERPAC regime, may be granted on such terms and conditions as the Ministry of Interior may prescribe; and such work permit may be replaced, re-issued, revoked or its conditions varied in the public interest; that is, there are Nigerians with the skills and competencies for the position that the immigrant is applying for.

The average tenure of an expatriate quota position is ten (10) years while the initial renewable term is two to three years. This is in the light of the Nigerianisation policy which requires that at least two Nigerians must always serve as understudies to each expatriate permitted to work in Nigeria. However, expatriates issued with permanent until reviewed ("PUR") permits may not be affected by this rule.

It is an offence for any expatriate employee to change his employment in Nigeria without notice to, and approval of the Director of Immigration. It is also an offence for an employer to terminate the employment of an expatriate employee liable to repatriation without first giving notice of such termination to the Nigerian Immigration Service.

Penalties for any breach of any of the provisions of the Immigration Act include fines, terms of imprisonment and deportation. Where a business owner, who is not a Nigerian citizen, is deported, his business in Nigeria may on his deportation be wound up on an application made by the Minister of Interior to a High Court in Nigeria; and a Receiver, or a Manager, or a Receiver/Manager is subsequently appointed by the High Court on such conditions as the Court thinks fit, to wind up such a business.

Business Permits

Any non-Nigerian intending to establish a profession, business or trade in Nigeria must apply for and obtain a Business Permit from the Ministry of Interior before establishing any such enterprise; and any changes in such a business, from its name to its address, etc, must be communicated in advance to the Ministry of Interior.

The possession of a Business Permit does not however authorise the holder of the Business Permit to enter into or remain in Nigeria unless such a person is in possession of a valid Residence Permit; or, in the case of an alien (i.e. a non-commonwealth citizen), a valid Visa for residential purposes.

A Business Permit may at any time be revoked, varied or cancelled by the Minister of Interior.

Residence Permit to an Alien

A Residence Permit is not issued to an Alien intending to enter into Nigeria, who does not have a valid Nigerian Visa at the time of entry into Nigeria, unless the Director of Immigration otherwise directs, or such an Alien is from a country with which Nigeria has a Visa Abolition Agreement.

Conditions attached to a Residence Permit usually include the locality in which the holder of the Permit can reside, the occupation or business permitted, the duration of the Permit, any provision regarding security, or such other conditions that are in the public interest, as may be communicated by the Director of Immigration to the Applicant.

CERPAC

To secure and improve the administration of Work and Residence Permits, the Nigerian Government commenced the issuance of CERPAC, which is the acronym for Combined Expatriate Residence Permit and Alien Card.

While CERPAC is computer-generated, with more security features which include the passport photograph of the holder of the card, it can be a cumbersome, time consuming and expensive exercise.

Alien Registry

Senior Immigration Officers in each State of the Federation of Nigeria, and the Federal Capital Territory, are required to maintain a Registry of every Alien that is resident in each State or in the Federal Capital Territory. These immigration officials are also authorised to issue official receipts for all moneys received as registration fees from Aliens.

To complete an Alien's immigration registration, the Alien must produce his or her international travel passport, residence permit and three recent passport photographs.

Where an Alien intends to reside in any State in Nigeria for any period exceeding fifty-six (56) days, he or she must be registered with the Alien Registry within twenty (21) days of his or her arrival in Nigeria. An Alien's failure to register is an offence which attracts a fine or a term of three (3) months imprisonment.

Any change in the residence of the Alien must be communicated to the Immigration Officer in the State where the Alien resides, at least seven (7) days before the change of residence occurs; and within seven (7) days of arrival in the new residence, the Alien must report to the new State Senior Immigration Officer for registration.

CITIZENSHIP

The Constitution of the Federal Republic of Nigeria, 1999 (as amended) provides for three principal ways by which Nigerian Citizenship can be acquired. These three principal ways are:

- (a) Citizenship by Birth;
- (b) Citizenship by Registration; and
- (c) Citizenship by Naturalisation.

Citizenship by Birth

Any person, either of whose parents or grandparents was or were born in Nigeria to parents who belong to a community indigenous to Nigeria, is/are entitled to automatic Nigerian Citizenship.

Citizenship by Registration

Persons who are not citizens of Nigeria by birth, but any of whose grandparents is a citizen of Nigeria, or who is or has been married to a Nigerian citizen, may apply to the President of Nigeria

for registration as a citizen of Nigeria where there is evidence that such an applicant is a person of good character, and he or her has demonstrated a clear intention to be domiciled in Nigeria. It is a further fundamental requirement that the applicant must take an oath of allegiance to the Federal Republic of Nigeria.

Citizenship by Naturalisation

Any person who is of full age, capacity, and good character, and who has lived in Nigeria for a continuous period of fifteen (15) years or has in the last twenty (20) years lived in Nigeria for a cumulative period of fifteen (15) years, and who, in the opinion of the Executive Governor of the State where he or she is living, demonstrated that he has assimilated to the Nigerian way of life, is eligible to apply to the President of the Federal Republic of Nigeria for the grant of a Certificate of Naturalisation.

A Certificate of Naturalisation will however only be granted on the fulfilment of the above conditions precedent, and the taking of the oath of allegiance to the Federal Republic of Nigeria.

Dual Citizenship

Any person, who is not a citizen of Nigeria by birth, shall forfeit his or her Nigerian Citizenship, if he or she acquires or retains citizenship of another nationality other than that of Nigeria, of which he is not a citizen by birth.

Any grant of Nigerian citizenship by registration or naturalisation shall, subject to such an applicant not being a citizen by birth of another country, be conditional upon the effective renunciation of the citizenship or nationality of that other country within a period of not more than twelve (12) months from the date of such registration or the grant of Nigerian citizenship.

Renunciation of Nigerian Citizenship

A citizen of Nigeria, who is of full age and intends to renounce his Nigerian citizenship, shall make a renunciation declaration to the Nigerian authorities. The President of the Federal Republic of Nigeria shall cause such a renunciation declaration to be registered and such Applicant shall cease to be a Nigerian citizen subject to such declaration not been contrary to public policy, or Nigeria not being physically involved in war.

Deprivation of Citizenship

Any person, who is not a Nigerian citizen by birth, may be deprived of his Nigerian citizenship if such a person has, within a period of seven (7) years after becoming naturalised, been sentenced to imprisonment for a term of not less than three (3) years.

A person who is not a Nigerian citizen by birth, may also be deprived of his Nigerian citizenship if the President of the Federal Republic of Nigeria is satisfied from a judicial record that such a person has shown himself, by any act or speech, to be disloyal towards the Federal Republic of Nigeria; or has during any war in which Nigeria is engaged, unlawfully traded with, or assisted, or inimically communicated with an enemy of Nigeria to the detriment of or with the intent to cause damage to the interest of Nigeria.

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