

Government renews focus on enforcement of immigration rules

The Nigeria Immigration Service recently deported some expatriates for abuse of work permits.

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Background

In a bid to ensure compliance with Nigeria immigration laws the Nigeria Immigration Service (NIS) has renewed its focus on the activities of companies that employ expatriates in the country.

In practice, expatriate staff or their employers may be in violation of immigration rules in many ways. Below are some of the common pitfalls.

Long vs Short Term Assignments

Expatriates employed on a long term basis (six months or more) are required to apply for and obtain Expatriate Quota Positions (EQPs) while those on short term assignments must apply for Temporary Work Permits.

The use of wrong quota designations for assignees

It is important that companies apply for appropriate EQPs that match the job description of the assignees in Nigeria. The use of quota positions different from the job description of the assignee is an abuse of the quota subject to sanctions.

Employing assignees without appropriate qualifications and understudy

Another pitfall is employing expatriates that do not possess basic qualifications required to occupy the quota positions. The minimum qualification is usually a university degree or its equivalent. The only exception to this is for job descriptions that require specialised training such as the use of earth moving equipment, and aircraft maintenance technicians.

Also, every assignee must have a Nigerian assigned to understudy them in order to ensure transfer of skills and experience.

Employment of accompany dependant

Accompany dependants are not allowed to work in Nigeria on accompany status. To employ an accompany dependant, the employing company is required to obtain a quota position and must file a Change of Status application. The dependant must possess all required qualifications and experience.

Non filing of deletion applications

Companies are required to file deletion application for assignees whose assignments have been

completed. Non filing of deletions can stall future employment as it will be assumed that the current assignee still occupies the position. This could also lead to tax exposures.

Filing of returns

Companies are required to file accurate expatriate quota returns on a monthly basis. The returns must match those filed for tax purposes. The NIS has been co-opted as a member of the Joint Tax Board to facilitate exchange of information and detection of abuse.

Extension of non-work visas

Visitors on business and tourist visas are required to apply for a visitor's pass if they stay in the country more than 56 days. There are fines for non-compliance.

Implication of non-compliance

Failure to comply with immigration laws can attract fines between NGN 50,000 and NGN 3 million. There is also the risk of prosecution and possible imprisonment of principal staff of erring companies and deportation of expatriates.

Other Update - Introduction of African Union (AU) Passport

There is a new initiative to integrate Africa and encourage free visa entries within Africa. African nationals will be able to obtain African Union electronic passports that will make this possible by 2020. We expect this to impact significantly on intra-Africa migration when fully implemented.

