



An Article

APPRECIATING EXTANT LAWS AND POLICIES FOR THE GRANT OF VISAS AND PERMITS IN NIGERIA





1.0. Introduction

This article discusses the trends and degree of visa policies and how it aids the ease of doing business in Nigeria and the promotion of Foreign Direct Investments (FDI's), both of which often necessitate in-person contracts. Visa and permit policies play a significant role in the business sector of a Nation as it may boost or deter potential visitors from entering into the territory of a Nation, therefore producing an overwhelming effect on the economy.

The principal legislations regulating visa and permit issuance in Nigeria are the Nigerian Immigration Laws comprising of the;

- a. Constitution of the Federal Republic of Nigeria, 1999 (as amended),
- b. Immigration Act, 2015;
- c. Immigration Regulations, 2017 and;
- d. Nigerian Visa Policy, 2020.

Other connected laws include the;

- i. Nigerian Oil and Gas Industry Content Development Act 2010,
- ii. Nigerian Investment and Promotion Commission (NIPC), among others.

These laws provide a vivid guide on the requirements, procedures, terms and condition for the issuance of visas and permits to foreigners desirous of visiting Nigeria either temporarily for leisure, for business purposes or to reside permanently in the country.

In a bid to bring Nigerian Immigration legislation in line with global best practices, the Honorable Minister of Interior on the 20th of March 2017, published the Immigration Regulations 2017 (the 'Regulations' 2017), which is to create a legal framework for the implementation of the Immigration Act 2015 ('Act') and the repeal of the implementation Regulations 1963¹. The Act further establishes the Nigeria Immigration Service ('NIS'), recognizing it as a body corporate which can sue and be sued, and charged the NIS with the responsibility for implementing the Act by setting out the duties of the NIS, chiefly the responsibility of controlling the movement of persons in and out of Nigeria, as well as the issuance of travel documents to Nigerians within and outside Nigeria.²

2.0. Exposition on Extant Nigeria Immigration Laws and Policies

The immigration policies in Nigeria have taken major steps forward in dealing with modern immigration realities. Pursuant to this the Nigerian immigration structure has evolved its regulatory stance and policy framework to constantly address leading issues associated with

Immigration relations. Below, we will briefly delve into most relevant and primary enactments and policies, driving our immigration stance and their implications on immigration practices in Nigeria.

1. Immigration Regulations 2017 (The Regulations)

The provisions of the Regulations 2017 are intended to fast-track the ease of doing business and attracting foreign direct investments in Nigeria. Some of the relevant provisions connected thereto are as follows:

- i. The introduction of short-term business visa issued at the point of entry into Nigeria (visa on arrival), same which is subject to the Comptroller General (CG)'s pre-approval, was formerly issued to high net-worth individuals and investors, but it is now available to all visitors for the purpose of legitimate businesses in Nigeria, as stated in Regulation 9 of the Regulations 2017.
- ii. The Introduction of additional visa's and permit in addition to the visas already in place, the business permit³ and travel permit, among others.⁴
- iii. Regulation 8 provides that a temporary work permit (TWP) can now be obtained without prerequisite for an expatriate quota.⁵
- iv. By Regulation 22 of the Regulation, the NIS is obligated to maintain the registry of immigrant which contains information and particulars as the Comptroller General may direct. In implementing this registry, the NIS has implemented an Electronic Passenger Automated Registration System (e-PARS) which is a proper database of migrants arriving and the departing the country through the international airport.
- v. Digitization of the Residence Permit, Combined Expatriate Residence Permits and Aliens Card (CERPAC). The NIS in improving and digitizing the CERPAC introduced a new CERPAC which comes with enhanced machine-readable security features, which enables Nigeria Immigration Service to tackle some of the security challenges in Nigeria and provide a platform to account for the location and activities of every foreigner in Nigeria. The new CERPAC is also more durable and is valid for two years as against the one-year validity of the old card.

2. The Nigeria Visa Policy in 2020 ('NVP 2020')

The introduction of the Nigeria Visa Policy in 2020 which came into effect at all ports of entry and Nigerian Missions from the 1st October, 2020 has heralded an improvement to the Nigerian global business outlook, as it supports the efforts of the Federal Government's Economic Recovery

and Growth Plan (ERGP)⁶ by ensuring local visa policies reflects global best practices.

The NVP 2020 seeks to improve the ease of doing business, attract foreign direct investment, tourists, and individuals with specialized skills without compromising national security. Against this background, notable developments introduced by the NVP 2020 includes;

- i. New visa classes – The NVP 2020 expands the previous six (6) classes of visas to seventy-five (75) classes. Each visa class is designed to cover every conceivable travel purpose. Nigerians who were born abroad with dual citizenship or who renounced Nigerian Citizenship also have special visa classes. Each visa will have a unique code for ease of identification and processing.
- ii. Visa on Arrival – The Visa on Arrival is available for short visits to passport holders of African Union member states.
- iii. Visa application process – It reviews the visa application process to include embassies, application centers, Visa on Arrival, e-Visas, and the automation of Temporary Work Permit (TWP) application.

Under the NVP 2020 there are 75 new visa mandatory classes (previously 6) broadly in 3 groups as follows:

- i. Short Visit Visas (24 classes) – Allows people visit for no more than three months on tourism, business travel, seminars, etc.
- ii. Temporary Residence Visas (36 classes) – Allows individuals to reside in Nigeria for a period not exceeding two years on employment, also for students, interns, etc.
- iii. Permanent Residence Visas (15 classes) – Caters to long-term stay by retirees, investors, highly skilled immigrants, and their spouses. Permits for principal applicants ranging from five years to an indefinite period.

The purpose of the expansion is to ensure specific visa needs are met by the applicable visa class. Where visitors to Nigeria were generally categorized as business, work, tourist, or transit persons, the NVP 2020 has created visa classes to suit the varied status of visitors.

Finally, it is worthy of note that under the NVP 2020 they are 4 visa exemption classes:

1. Citizens of any Economic Community of West African States (ECOWAS)⁷;
2. Visa abolishment agreement countries⁸;

3. International organizations⁹; and
4. Reciprocity visa waiver agreement countries¹⁰.

The implementation of the NVP 2020 is a welcome development and against this background, it is expected that the new classes of visa would enable effective monitoring of visitors, data analysis by the Government to enhance security, and potentially ease travel ambitions of investors to promote national economic growth.

3.0. Other Regulatory Players in The Nigerian Immigration Space.

Other relevant authorities that indirectly have an impact on the application of immigration policy and procedure in Nigeria, albeit to varying degrees, include:

- i. The Nigerian Investment Promotion Commission (NIPC), which was established in 1995 as a federal government agency created to promote, coordinate and monitor all investments in Nigeria, as well as to maintain liaison between investors and ministries, government departments and agencies, institutional investors and other authorities concerned with investment.
- ii. The Corporate Affairs Commission (CAC), which administers the provisions of the Companies and Allied Matters Act (CAMA) – the principal legislation that governs the incorporation and regulation of the companies in Nigeria. By virtue of the provisions of the CAMA and their applicability on matters relating to foreign participation in enterprises in Nigeria, the CAC, by default, has an impact on the administration of the 2015 Act and some of the provisions therein.
- iii. The Securities and Exchange Commission (SEC), which administers the provisions of the Investment and Securities Act 2007 and issues guidelines on the regulation of foreign investment in the Nigerian capital market. All foreign investors investing in securities of Nigerian companies except those of private companies are expected to register with SEC.
- iv. The Federal Ministry of Labour and Productivity (FMLP), which is responsible for promoting employment, regulating the labour market, overseeing labour relations and monitoring employment conditions. In 2004, an International Labour Migration Desk (ILMD) was established within the FMLP; the ILMD is responsible for ensuring the protection of employment and social rights of foreign migrant workers within the country, with a mandate among other things to establish a database on migrants within and outside Nigeria.



v. The National Population Commission (NPC) of Nigeria, which was established by the federal government through the National Population Act of 1989. The 1989 Act established the NPC as an independent and autonomous body to conduct regular censuses. Part of the NPC's mandate is to compile, collate and publish migration and civil registration statistics.

vi. The Nigerian Content Development and Monitoring Board (NCDMB), which was established under the Nigerian Oil and Gas Industry Content Development Act of 2010 (the NOGICD Act). Part of the responsibilities of the NCDMB, pursuant to Sections 31, 32 and 33 of the NOGICD Act, relates to the administration and management of applications for expatriate quotas, succession planning and the deployment of expatriates in the oil and gas industry.

vii. Nigerian Export Processing Zone Authority (NEPZA) Companies engaged solely in export promotion activities and operating in export processing zones (free zones), benefit from a more liberalized regime for employment of expatriates. Export processing zones are areas in which businesses are exempt from the normal legal regime applicable in Nigeria, particularly with regard to some aspects of immigration procedure and also customs duty and tax; the Nigerian Export Processing Zone Authority (NEPZA) has been established as the body with the mandate to administer the free zones scheme, both as an operator and a regulator, while the Oil and Gas Export Free Zone is specifically managed by the Oil and Gas Export Free Zone Authority.

The applicable laws in respect of these zones are the Nigeria Export Processing Zone Act (the NEPZA Act), Oil and Gas Export Free Zone Act (OGFZA) and the Investment Procedures, Regulations and Operational Guidelines for Free Zones in Nigeria 2004 (the NEPZA Regulations), which were issued pursuant to Section 10(4) of the NEPZA Act.

4.0. Conclusion

In view of the significant fact that Nigeria has historically been a major business hub for West Africa and consequently a gateway to the African commercial market, the systematic reforms and policy changes that have been initiated particularly under the Immigration Regulations 2017 and the Nigerian Visa Policy 2020, are highly celebrated as it facilitates the ease of doing business in Nigeria, therefore attracting cross-border trades and Foreign Direct Investments (FDIs) into the country.

Many of these changes are laudable and represent continuing steps in the right direction towards bringing immigration practice and procedure in Nigeria in tune with international best practices while also boosting economic

growth within the State.

END NOTES

1. Section 114, Nigeria Immigration Act, 2015, Laws of the Federation of Nigeria.
2. Section 2, Nigeria Immigration Act, 2015. Section 9(1) and (2) of the Act, further vested the in the NIS the power to issue Nigerian passports to bona fide Nigerians, within and outside Nigeria.
3. Regulation 4 and first schedule to the Regulations 2017.
4. See, Section 5(7) of the Regulation authorizes the comptroller General to issue a permanent resident permit to a foreign national who has imported an annual minimum threshold of capital over a period of time. Section 14 of the Regulation also provides for the granting of residence permit to foreign nationals who are married to Nigerians and to serve as multiple entry permits irrespective of the class of visa they possess.
5. See Section 37(8) Immigration Act, 2015.
6. See Nigeria Ministry of Budget and National planning publication at: <https://www.budgetoffice.gov.ng/index.php/economic-recovery-growth-plan-2017-2020> last accessed 18th June, 2021.
7. A citizen of the Community visiting any Member State for a period not exceeding ninety (90) days shall enter the territory of that Member State through the official entry point free of visa requirements. Such citizen shall, however, be required to obtain permission for an extension of stay from the appropriate authority if after such entry that citizen has cause to stay for more than ninety (90) days. Also see the provision of Section 37(13) of the 2015 Act, which confirms that nationals of ECOWAS Member States are exempt from requiring entry visas and are allowed to reside, work and undertake commercial and industrial activities within Nigeria.
8. The recently launched NVP formally recognizes citizens of countries that have entered into visa abolition agreements with Nigeria (currently citizens of Cameroon and Chad) as being permitted to travel to Nigeria without obtaining a visa for a maximum of 90 days; requisite permits or visas must, however, be obtained by these citizens where the purpose of entry is for employment or to establish a business.
9. Holders of official travel documents from specific international organizations, namely the United Nations, the AU Commission, the ECOWAS Commission and the African Development Bank, among others.
10. Holders of diplomatic or official passports from countries that have entered bilateral or multilateral visa waiver agreements with Nigeria on the principle of reciprocity such as Brazil, China, Cuba, Singapore, Venezuela and Turkey.



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