

# Control of Migrants

## Under the Immigration Act 2015



DCSL Corporate Services Limited

The term “migrant” has been defined by the International Convention for the Protection of the Rights of all Migrant Workers and Members of their Families as a person who is to be engaged, is engaged or has been engaged in a remunerated activity in a country of which he or she is not a national. The International Organization for Migration (IOM) defines “migration” as the movement of a person or group of persons, either across international borders or within a state. Migration can also be classified into Immigration and Emigration. Emigration can be defined as movement of people, goods and services [out of](#) territorial boundaries while Immigration is the movement of people, goods and services [into](#) a geographical territory (the latter being the focus here).

The Nigerian Immigration Service (NIS), an agency under the Federal Ministry of Interior, is charged with the responsibility of regulating and approving the immigration and emigration of expatriates as well as granting visas and entry permits into Nigeria. The mandate of the NIS is hinged on the tripod necessity of advancing the security wellbeing of the citizenry, enhancing the in-flow of requisite skills and know-how required to drive the Nigerian economy as well as preventing indiscriminate employment of under-qualified immigrants with its attendant negative consequences. The Immigration Act 2015 (The Act) provides the legal and regulatory framework for the entry and exit of persons into or out of Nigeria.

The Act seeks to ensure that the entry of non-nationals into the Country is monitored and controlled.

### Relevant Provisions of the Nigeria Immigration Act 2015

- **Establishment of the Nigeria Immigration Service (NIS):** Section 1 of the Act establishes the NIS and vests in it the responsibility of controlling the entry and exit of persons in and out of Nigeria. The Act further states that the NIS is responsible for the following:
  - Issuance of travel documents including Nigerian passports to bonafide Nigerians within and outside Nigeria;
  - Issuance of Residence Permits to foreigners in Nigeria
  - Border Surveillance and Patrol
  - Enforcement of laws and regulations with which they are directly charged
  - Performance of such para military within or outside Nigeria as may be required of them.

Section 9 of the Act restricts the responsibility for the issuance of Nigerian Passports strictly to the Comptroller-General of Immigration (CGI) and an application for a Nigerian Passport shall only be made to an Immigration office within Nigeria, or a Nigerian diplomatic mission abroad.

The Act outlines passport related offences, including being in possession of more than one valid Nigerian Passport, submitting multiple applications to one or more immigration office for the purpose of obtaining multiple passports, providing false information when making an application.

- **Control of Entry and Exit (Non-Nigerians):** The Act seeks to control the entry into and exit out of the country by Non-Nigerians.
  - Section 15 of the 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. Section 17 of the Act also requires every passenger who arrives or departs Nigeria from any recognized port to produce to an immigration officer “landing or embarkation” cards in such form as the Minister or the Comptroller-General of Immigration (CGI) may specify and to satisfy the immigration officer that he is the holder of a valid travel document.
  - The Act authorizes the Minister of Interior to prescribe the conditions for entry into Nigeria and the fees payable in respect of such authorized entry. Thus, where such conditions are not met, the Minister is at liberty to deny such visitor entry, irrespective of the nature or purpose of the visit.
  - Flowing from the above, the Act further prescribes that a foreigner, intending to come into the country either for business meetings, specialized projects or long-term employment may only enter the country after obtaining the appropriate entry visa.
  - The Act specifies that any person in Nigeria, desirous of employing a migrant shall, unless exemption is granted, apply to the Comptroller-General of Immigration (CGI) for permission for the migrant to come to Nigeria to resume such employment. He is required to make an application to the CGI and shall provide such information as required for the repatriation of the expatriate and his dependents as the CGI may require and no such expatriate may be hired without the permission of the CGI.
  - The Act also prescribes that a prospective employer of an expatriate must have first applied for and obtained a Business Permit (BP) and Expatriate Quota (EQ) Approval from the Citizenship and Business Department of the Ministry of Interior before making such an application. Without an EQ, a person/corporate organization cannot engage the services of an expatriate to work in Nigeria; failure to do so amounts to an offence. It is however pertinent to note that by the provisions of Section 37 (13) of the Act, nationals of members States of the Economic Community of West African States (ECOWAS) are exempted from obtaining entry visas and can reside, work, travel freely to Nigeria and undertake commercial and industrial activities in Nigeria without residence permits, visa or special permission. They are only required to apply for and obtain what is known as an ECOWAS Residence Card.
  - In addition, the CGI has the power to revoke a resident permit or any other permit issued under the Act if he deems such revocation to be in the public interest. Where the CGI revokes a permit, he may issue a new one on such terms and conditions as he deems fit; however, where a permit is revoked without replacement, the affected person will be deemed to be a person seeking entry into Nigeria for the first time without the necessary authorizations and as such would be considered to be an illegal immigrant.
  - The Act also outlines offences in connection with the control of immigrants and prescribes stiff penalties for breach. These include fines, terms of imprisonment and deportation.

Pursuant to the Act, the Immigration Regulations 2017 were recently issued to further strengthen the legal framework to cater to dynamic and unfolding migratory realities.