

# Immigration Tool Kit



## Administration and Control

The principal legislation governing immigration practice in Nigeria is the Immigration Act 1963 and the two regulations made pursuant to the Act, namely the Immigration Regulations and Immigration (Control of Aliens) Regulations. The Act controls the immigration of expatriates into Nigeria and provides for the grant of relevant entry permits as stipulated in Act. The administration of the Immigration Act falls within the jurisdiction of the Federal Ministry of Interior, with support provided by the Nigerian Investment Promotion Commission and other related government agencies (the Corporate Affairs Commission, Nigerian Drug Law Enforcement Agency etc.). However, the Nigerian Immigration Service, an agency under the Federal Ministry of Interior, is the main government agency charged with the responsibility of regulating and approving the immigration and emigration of expatriates and granting visas and entry permits into Nigeria.

### Federal Ministry of Interior

Under the direction of the Federal Minister of Interior, the Citizens and Business Department of the Ministry of Interior is responsible for granting establishment quota and other relevant permits for the purpose of entry into, doing business and residence in Nigeria. The permits and approvals granted by this Ministry include - Business Permit, Expatriate Quota (Establishment), renewal of expatriate quota, re-designation of quota, upgrading of expatriate quota, grant of Nigerian citizenship by naturalization/indigenization, approval of applications for Special Immigration Status, issuance of marriage certificate and attestation of Bachelorhood amongst others. Some of these facilities are explained hereunder.

#### 1. Business Permit

A Business Permit is a certificate granted to wholly foreign or joint venture companies intending to do business in Nigeria to enable them bring in investment and commence business activities in Nigeria. To qualify for the grant of a Business Permit the applicant company must have a minimum share capital of N10,000,000 and must demonstrate strong commitment to invest in Nigeria.

#### 2. Expatriate Quota

Expatriate Quota is a facility granted to deserving companies to enable them employ expatriate personnel with skills and competencies in areas where they are either in short supply or not available locally. It is granted for an initial period of between 2 to 3 years and has a lifespan of 10 years within which time the expatriates are expected to have transferred the requisite skills and technology to Nigerians in their employment in such a manner that will ultimately lead to the “Nigerianisation” of the positions they occupy.

#### a. Change of Employment

An expatriate employed by a company or organization in Nigeria and placed on the employer's expatriate quota could elect to take up employment with another company or organization in Nigeria. The new employer is required to place the expatriate employee on its expatriate quota and obtain the approval of the Nigerian Immigration Service to the change. The expatriate would also be required to surrender the CERPAC (discussed below) Card issued in the name of the former employer and replace same with a new CERPAC reflecting the details of the new employment.

#### b. Re-designation of Expatriate Quota

This applies to a situation where a Company with approved expatriate quota, has difficulty in filling the said quota or owing to exigency of operations, is unable to employ a suitably qualified expatriate to occupy the approved position. Such company is at liberty to apply for the re-designation of the affected position. An application for re-designation of quota is considered purely on its merit.

#### c. Upgrading of Expatriate Quota

A company to whom approved expatriate quota has been granted may elect to upgrade the quota to a Permanent Until Reviewed Quota (PUR)<sup>2</sup>. The main reason for the granting of P.U.R quota slot for which a Certificate would be issued, is to enable foreign investors adequately protect their investment and to give them a sense of greater commitment. The major considerations for grant of a PUR quota are:

- Political / policy direction of Government
- The company's area of business falls within priority sectors of the economy
- Evidence that PUR would guarantee Technology transfer
- The company should have a large quota portfolio and corresponding shareholding as an added qualification.

*Note: Section 25 of the Mineral and Mining Act of 2007 provides for the automatic grant of Residence Permit and Expatriate Quota to approved expatriate personnel operating in the Nigerian solid mineral sector.*

### The Nigerian Investment Promotion Commission (NIPC)

The NIPC is the organ of the federal government established to foster and facilitate foreign investments in Nigeria with a view to ensuring that investment bottlenecks are kept at the barest minimum and the relevant establishment permits are granted as expeditiously as possible.

Designed as a “one-stop-shop”, services provided by the NIPC include - expediting company set-up, Immigration Assistance,

<sup>1</sup> Combined Expatriate Residence Permit and Aliens Card

<sup>2</sup> A PUR is valid for an initial period of 10 years and is renewable at the instance of the Minister for Interior



registration of all foreign direct investment, fast-tracking payment of stamp and custom duties, initiation and organization of promotional activities for the stimulation of investment, provision of investment related information, negotiation of grant of special incentives (including facilitating grant of pioneer status<sup>3</sup>).

### The Nigerian Immigration Service (NIS)

The Nigerian Immigration Service (NIS) is the main agency of government charged with the responsibility of accepting, considering and approving applications for entry visas, work and residence permits and other relevant immigration facilities to expatriates and qualifying Africans. NIS has its headquarters in Abuja, the Nigerian Capital City, with Operational Offices in all the 36 states of Nigeria. It also has 3 Directorates, Eight Zonal Commands and Immigration Offices in 774 Local Government Areas in Nigeria

### Types of Immigration Facilities available to non- Nigerians

The Immigration Act classifies the purpose of entry into Nigeria under the following classes:

- Entry for visitation purpose – applicable to those seeking to enter the country for non-business purposes
- Entry for official purpose – applicable to officials of foreign governments and recognized international organisations
- Entry for employment in the public sector
- Entry for employment in the private sector or for business purpose
- Entry for purpose of residence

As a corollary to the above stated classes of entry into Nigeria, the Act provides for the issuance of the following classes of visas to qualified applicants:

- Transit visa
- Tourist visa
- Official visa
- Business visa
- Subject to Regularization (STR) visa

Persons entitled to Immigration facilities in Nigeria can be grouped into three for the purpose of determining the kind of immigration facility available to them:

- i. ECOWAS Nationals
- ii. Africans (Non- ECOWAS)
- iii. Expatriates ( Non-Africans)

### I. ECOWAS Nationals

ECOWAS is an acronym for the Economic Community of West Africa States, a body formed to foster the economic integration and development of the West African Sub-region. An ECOWAS National is a citizen of any of the countries party to the ECOWAS Treaty of May 1975. The member countries are Benin, Burkina Faso, Cape Verde, Cote d'Ivoire, Gambia, Ghana, Guinea, Guinea Bissau, Liberia, Mali, Niger, Nigeria, Senegal, Sierra Leone and Togo. Article 59 of the revised ECOWAS Treaty provides that citizens of the ECOWAS community shall have the "right of entry, residence and establishment" and that member states undertake to recognize these rights of Community citizens in their territories in accordance with the provisions of the relevant protocols.

### Immigration Facilities available to ECOWAS Nationals

#### a. Free Entry within 90 days

All nationals of countries that are signatories to the ECOWAS treaty are allowed 90 days free entry for any given period. Such stay does not include the right to take up employment or engage in business.

#### b. Right of Residence

Every qualified ECOWAS national can be granted a right to reside in Nigeria for such period of time – up to 5 years - as the Comptroller of Immigration may grant. This facility is granted for an initial period of twelve months subject to multiple extensions.

#### c. Right of Employment

ECOWAS nationals employed to work in Nigeria may be granted work permits which qualifies them to reside and work in Nigeria. Upon employment in Nigeria, an ECOWAS national would be required to process a Work Permit with the Nigerian Immigration Authority. Just like the CERPAC, an ECOWAS Work Permit entitles the beneficiary to reside and work in Nigeria for an initial period of two years and is subject to renewal at the discretion of the Comptroller General of the Nigerian Immigration Service.

#### d. Right of Establishment of Business

Every qualified ECOWAS national can apply for a permit to establish a business in Nigeria. The right to establish a business is however subject to compliance with relevant Nigerian Legislation including the Companies and Allied Matters Act 2004 (CAMA) and other laws that regulate the operation of business by non-Nigerians.

#### e. ECOWAS Travel Certificate

This is a document issued to qualified Nationals of ECOWAS countries which allows such nationals to travel within the ECOWAS countries for a period of two years with further renewal as may be approved by the Comptroller General of Immigration. It serves as a document of identification for ECOWAS nationals and can be held concurrently with an International Passport.

### ii. Africans (Non- ECOWAS)

Africans (Non-ECOWAS nationals ) are placed in the same immigration status as expatriates from non- African countries. Thus the same immigration facilities and processes available to Expatriates as outlined below are also applicable to non-ECOWAS African nationals.

<sup>3</sup> Tax holiday granted to eligible and qualified companies under Industrial Development (Income Tax) Relief Act LFN 1990



### iii. Expatriates

An expatriate travelling to Nigeria for business, employment, leisure or in -transit could be issued with any of the following classes of visa:

#### a. Business Visa

This class of visa is available to business people and investors coming into the country for business meetings, conferences and other business activities.

In a bid to facilitate the ease of entry for genuine foreign investors, the Comptroller General has been empowered to issue multiple re-entry visas valid for between 6 and 12 months. Furthermore, high net-worth investors may be granted entry visas into Nigeria at the Port of Entry where the visitors come from countries that have no Nigerian foreign missions.

The visa is issued by various Nigerian Embassies and Missions abroad for a short period of between 30 to 90 days, subject to extension. Beneficiaries are expected to enter the country through an authorized port of entry whereat they will be allotted a period of stay which could be extended at the discretion of the Comptroller General of Immigration. This class of visa prohibits employment and the beneficiary is expected to return to his country of origin/residence at the expiration of the period granted.

#### b. Subject to Regularization Visa (STR)

An STR Visa is issued under the provision of Section 8(1) of the Immigration Act which provides that “no person, not being a citizen of Nigeria, may take up employment in Nigeria other than employment with the federal or state government without the consent of the Comptroller-General of Immigration”. An STR Visa is available to an expatriate employed under a contract of employment with a Nigerian Company or Government Agency. This class of visa enables an expatriate to take up paid employment upon being placed under the expatriate quota of the employing company. The STR visa is issued as per the date specified on the expatriate's letter of employment and is a single entry visa.

The STR Visa is issued abroad at the respective Nigerian Embassy or High Commission and has a validity period of 90 days during which the expatriate is expected to file an application for regularization with the Nigerian Immigration Service in Nigeria. The STR Visa is issued along with other documents certified by the issuing authority at the relevant Nigerian Embassy or High Commission and is often placed in a “Brown Pack” with strict instructions to deliver same intact to the Nigerian Immigration Service (NIS). Upon approval of the application by the NIS, a Combined Expatriate Residence Permit and Alien Card (CERPAC) will be issued to the expatriate.

#### c. Combined Expatriate Residence Permit and Aliens Card (CERPAC)

The CERPAC is a document issued to expatriates employed to work in Nigeria who have been placed on the employer's approved expatriate quota. It is issued by the Nigerian Immigration Service upon presentation of the STR Visa and “Brown Pack” issued by the relevant Nigerian Embassy or High Commission. When approved, a CERPAC serves as both a Receipt and a Temporary Card.

CERPAC cards are issued in three forms, the Temporary Card, the Permanent Card (Green Card) and the Brown Card.

**A Temporary CERPAC Card** is a Residency and Work Permit issued to the holder of an STR Visa upon regularization of the visa. As the name implies, it is issued on a temporary basis pending the issuance of the Permanent or Green Card by the Nigerian Immigration Service. A Temporary Card also serves as evidence of purchase of the CERPAC Form and allows the expatriate to reside in Nigeria for at least three months or for such further period as required to issue the Permanent Card.

**The Green Card** is the Permanent CERPAC Card issued upon the successful regularization of an STR Visa. It is a green plastic card which serves as evidence of permission to live and work in Nigeria. CERPAC Green Cards are valid for two years, although issued for 12 months subject to renewal.

**The Brown Card** is a permit issued to every foreigner resident in Nigeria or visiting with the intention to remain in Nigeria in excess of 56 days and crew members leaving their ship and staying ashore in excess of 28 days. However, unlike the CERPAC Green Card, the BROWN Card is, essentially, a movement chart that tracks the movement of foreigners within the country.

#### Dependents of Beneficiaries of STR Visa

A beneficiary of an STR Visa (Primary Immigrant) could elect to come into Nigeria with his/her spouse and dependents. An application for STR Visa for the spouse or dependents is lodged with the Nigerian Embassy or High Commission along with the Primary Immigrant's application. The application should include evidence of the existence of a valid marriage by the production of a certified marriage certificate and birth certificate/s in respect of the Primary Immigrant's dependents. Upon arrival in Nigeria, every dependent above age 16 is required to obtain a CERPAC Card.

#### d. Re-entry Visa

Possession of a valid CERPAC Green Card or Temporary Card does not exempt the holder from having a valid entry or re-entry visa. Holders of work and residence permits proceeding on leave or temporary duty outside Nigeria are required to apply for re-entry visa before their departure from Nigeria.

#### e. Temporary Work Permit Visa

This entry permit is available to expatriates who possess special skills and are invited to Nigeria by corporate bodies to provide specialized services. The assignments which are eligible for grant of a Temporary Work Permit (TWP) include - auditing of accounts, erection / after-sales installation work, feasibility studies, erection /installation work, repairs of machinery/equipment, research work and other relevant assignments.

The TWP allows for only one entry and is issued for an initial period of between 2-3 months subject to extension. This class of visa is issued at the instance of the Comptroller General of Immigration. Application is made directly to the Comptroller of Immigration in Nigeria for the issuance of a temporary work permit Cablegram. Upon approval by the Comptroller General, the Cablegram is sent to the Nigerian Embassy where the applicant expatriate resides for the processing of the TWP visa.

#### f. Tourist Visa

This is an entry permit which is available to expatriates intending to visit Nigeria for tourism, recreation, leisure or to visit friends and family. It is usually issued for a three months period (subject to any extension) and does not allow for employment or similar activity.

#### g. Transit Visa<sup>4</sup> / Entry Permit

This class of visa applies to expatriates transiting with entry visas to onward destinations other than Nigeria.

#### h. Diplomatic Visa /Official/ Entry Permit

Diplomatic visas are issued to foreign government officials, Diplomats, holders of United Nations Diplomatic Passports and *laissez passes* accredited members of international organizations and their families. This class of visa often requires proper confirmation and clearance from the applicant's home country before approval and is mainly available to holders of Diplomatic and Official passports who enjoy certain privileges under the Geneva Convention.

#### i. Niger Wives

“Niger Wives” is a special Immigrant Status granted to expatriates married to Nigerian men. Niger wives are exempted from purchasing CERPAC and are accorded special immigration status.

#### Nigerian Understudies

It is important to stress that the Nigerian government places high premium on the employment of its citizens in industries and companies where there are sufficient local manpower to fill related positions. Thus first consideration is often given to suitable and qualified Nigerians to fill vacant positions. Even where expatriate quota slots have been granted, immigration regulations require that for every expatriate position, there must be at least two (2) Nigerian understudies with relevant basic academic qualifications. Evidence of compliance is a condition precedent to the renewal of the expatriate quotas position/s.

The understudy scheme is monitored to ensure that within a period of 10 years from its inception, any position held by an expatriate in a company is Nigerianised. This scheme, however, does not apply to PUR positions. To ensure that companies comply with this policy, monthly returns are required to be filed with the Federal Ministry of Interior and the Nigerian Immigration Service detailing status of utilization of approved quota positions. The Ministry of Interior and Quota Desk of Nigerian Immigration Service jointly monitor the utilization of expatriate quota in Nigeria to ensure adherence to the related regulations and the employment of Nigerian understudies.



#### Who We Are

DCSL is a private limited liability company. We provide corporate, company secretarial, immigration and governance services to corporate bodies, individuals, government agencies and business organizations. We operate from our Head Office in Lagos, with operational branches in Abuja and Port-Harcourt.

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<sup>4</sup> A document granting unrestricted access or movement within a particular region or state