

Recent Developments on Temporary Work Permit (TWP) Visa



Introduction

Foreign nationals come to Nigeria for various reasons, such as tourism, training/conference/seminars or business. Those that come for business may be here either for short or long term. Companies or organizations that wish to engage expatriates on a long term basis will need to utilize the expatriate quota option. However, any foreign national that intends to work in Nigeria on a short term basis needs to obtain a Temporary Work Permit (TWP) visa.

Consequently, organizations in Nigeria requiring the services of qualified and highly skilled expatriate personnel to carry out specialized assignments, including after sales installations, maintenance, repair of machines and equipment, training, auditing of accounts, short term research work, among other work related assignments for short term duration, have regularly utilized TWP visa.

To obtain a TWP visa, an application is made to the Comptroller General of Immigration Service (CGIS) in Nigeria, requesting approval for the issuance of the visa. This approval, which is usually conveyed in the form of a TWP cablegram, is a prerequisite for the issuance of a TWP visa at the relevant Nigeria Mission abroad.

This article examines some recent developments with respect to the issuance and utilization of TWP visas and its implications for all stakeholders.

Some recent developments and business implications

The issuance and administration of TWP cable has undergone a number of changes since the appointment of the current CGIS - Mr. David S. Parradang, OFR, mni, in June 2013. The Nigeria Immigration Service (NIS) has been

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implementing a number of measures to create a more seamless and efficient environment for the processing of TWP visa.

One major development is the removal of bottlenecks previously associated with the TWP procurement process. Under the current regime, requesting companies can obtain approvals for TWP cablegrams within three to five working days upon submission of their application at the NIS headquarters in Abuja. This has helped to relieve the attendant pressures associated with unforeseen emergencies, such as oil spillage which could lead to environmental disasters, breakdown of sensitive equipment at the rig or repair of faulty machinery on construction sites.

This new process has also enhanced the ability of companies to timely meet contractual obligations such as after sales installation and maintenance of major equipment for which the requisite skills are either difficult to find or unavailable in the country. However, in order to address the potential abuse of the TWP facility, the CGIS has put some control measures in place.

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expatriate on TWP, perhaps due to the nature of the project being executed, the NIS has now re-introduced the provision for extension of TWP visas. Prior to now, any expatriate, whose services were required in Nigeria beyond the period allowed on their Visitor's passes, would need to leave the country, apply for new TWP visas and return to the country to continue their assignments. This was quite challenging and very stressful, especially where the continued presence of the experts was required for the successful completion of ongoing projects, such as turnaround maintenance of equipment/machinery.

Sequel to the abolition of re-entry visas, the NIS had issued a public notice on 9 March 2015, to announce the provision for the issuance of visa on arrival facility to expatriates on Business Visa or Temporary Work Permit. According to the public notice,

"Where an expatriate visiting Nigeria on Business Visa or Temporary Work Permit intends to travel out of Nigeria on emergencies or to return with spare parts, medical evacuation or visiting a neighbouring country with a view to returning before finally departing Nigeria, such an expatriate shall obtain prior approval from the Office of the Comptroller-General Immigration Service for Visa on Arrival facility"

The approval of the CGIS must be obtained prior to the exit of the expatriates from the country. This approval, which is issued in the form of a letter, should be presented along with evidence of payment at the point of entry, to facilitate the issuance of the visa on arrival. According to the NIS, this development is in furtherance of its ongoing operational reforms, which are intended to facilitate easy movement of expatriates in and out of Nigeria.

Another control measure that the CGIS has implemented is the monitoring of utilization by NIS Officers. It is therefore important that expatriates depart the country before expiration of the validity

of the visitor's pass issued at the point of entry by Immigration, where no extension has been obtained. The newly-enacted 2015 Immigration Act stipulates a penalty for the non-renewal of Temporary Work Permit and other Immigration facilities, upon expiration.

According to Section 57 (5b & c):

"Any expatriate person who fails, neglects or refuses to apply for the renewal of his Business, Transit, Visitor's pass or Temporary Work Permit (TWP) after expiration shall be liable to imprisonment for a term of three years or a fine of Five Hundred Thousand Naira or both."

Also, the requirement to file TWP Returns with the NIS is another avenue for checking abuse of the TWP facility. The TWP returns is a statement, usually submitted quarterly, in respect of the utilization of TWP cable approvals obtained by organizations. The returns usually contains information on the names, nationalities, dates of TWP grant, arrival

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and departure dates of expatriates who have utilized the facility. Other accompanied documents with the returns include a sworn affidavit and copies of departure ticket and/or boarding passes of the expatriates.

Clearly, with the enactment of the Immigration Act 2015, it can no longer be business as usual. Organizations need to ensure that appropriate records of expatriates visiting on TWPs are kept. This will not only help with tracking the validity of their documentation but these records would also form part of documentation



required for processing the statutory TWP returns.

Given the efforts of the NIS at continuously creating an enabling environment to facilitate expatriate mobility, it is important that Global Mobility Coordinators, Human Resources (HR) practitioners and other relevant stakeholders should comply with the statutory provisions regarding the employment of expatriates. Companies must, therefore, ensure that their practices are in conformity with the guidelines for utilization of the TWPs and other immigration facilities, to avoid unnecessary fines/penalties and disruption to their business.

Relevant stakeholders should continue to work with the Federal Ministry of Interior and the Nigeria Immigration Service to sustain the enabling environment, which has been created

to facilitate the easy movement of expatriates in and out of the country.

Conclusion

Expatriate mobility is a global phenomenon and Nigeria, as part of the global community, will continue to witness frequent movement of expatriates. However, it is critical for companies to partner with professionals that are knowledgeable on immigration processes and procedures, to enable them make informed decisions. These professionals are in a better position to provide requisite advice on the suitability or otherwise of the TWP in executing certain projects, appropriate guidance on immigration-related matters and ensure compliance with statutory requirements on expatriate employment in Nigeria.

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