

May 29, 2015
2015-070

flash Alert

A Publication for Global Mobility and Tax Professionals by KPMG's Global Mobility Services Practice

Nigeria – President Signs 2015 Immigration Bill

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On 25 May 2015, Nigerian President Goodluck Jonathan signed into law the 2015 Immigration Bill, which repeals the 1963 Immigration Act.¹. The passage of the bill (now, 2015 Immigration Act (or “the new Act”)), and subsequent assent by the President – which has long been awaited by relevant stakeholders – will provide an updated legal framework for the control and regulation of expatriates’ employment in Nigeria.

Why This Matters

Global mobility professionals, immigration advisers, and other relevant stakeholders now have a new framework and reference matter regarding the country’s immigration rules and regulations for purposes of guiding informed decision-making with respect to expatriate employment in Nigeria.

This *Flash Alert* provides a brief summary of the new Act’s key points and implications.

Summary of Key Points / Implications

Stringent Penalties for Offenses – The new Act provides more stringent penalties in respect of various offenses/violations of the country’s immigration rules. Some of the notable offenses and applicable penalties are listed below:

- Non-renewal of Expatriate Quota (EQ) positions within the stipulated time or non-submission of EQ monthly returns by a corporate body will attract a fine of about USD 15,000. The officer responsible for the commission of the above offenses will be liable on conviction to a fine of USD 5,000 or to imprisonment for one year or both.
- In cases of non-completion of an expatriate’s regularization of stay within the stipulated three months or of the renewal of a residence permit 30 days after expiration, or a failure to renew a business, transit, visitors pass, or temporary work permit (TWP), the expatriate shall be liable upon summary conviction to a fine not exceeding USD 10,000 or imprisonment for a term not less than 12 months or both.
- Any commercial carrier (plane, ship, train, or coach) that brings in any person in contravention of the Act (e.g., “visa-less” case) shall be liable upon conviction to a fine of USD 10,000. If the offense is attributable to any neglect or instigation by a Director, Manager, or Secretary of a corporate body – or the corporate body itself – he/she shall be liable upon conviction to imprisonment for three years or a fine of USD 10,000 or both.

The expectation is that these penalties will inhibit practices that could infringe the Act and will enhance compliance with the country’s immigration laws.

Establishment of Immigration Courts – The new Act provides for the establishment of Immigration Courts at recognized ports of entry for quick resolution of immigration matters. An offender with a pending case can be remanded in custody for a period not exceeding 21 days at the first instance and thereafter, as occasion may demand. However, the total period on remand must not exceed three months (90 days).

KPMG Note

This provision seems to give some leeway to immigration officers to detain any expatriate who is deemed to have contravened the new Act. There is also the possibility of abuse of this provision by overzealous officers. It, therefore, behooves the company to make sure it is in full compliance with the provisions of the new Act.

Appropriate Terms of Address for the Head of the Immigration Service – In the new Act, the head of the Nigeria Immigration Service (NIS) is designated as the “Comptroller General” (the term used under the 1963 Act is “The Director of Immigration”). This change removes any ambiguity in the nomenclature and provides clarity in addressing the authority of that office.

Clarity Regarding the Composition of and Employment at the NIS – The Act provides for a clear definition of:

- the general duties of the immigration service;
- the procedure for appointment of immigration officers; and
- the duties of officers in the Service.

This should foster a more efficient and effective NIS workforce and help ensure that the objectives of the NIS are realized.

KPMG Note

The 2015 Immigration Act should facilitate a more robust approach with respect to the application and implementation of immigration policies in Nigeria.

Footnote:

1 See: O. Adetayo, “Jonathan Signs Violence against Persons, Immigration Bills,” *Punch* (online), 25 May 2015.

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The information contained in this newsletter was submitted by the KPMG International member firm in Nigeria. The information contained herein is of a general nature and based on authorities that are subject to change. Applicability of the information to specific situations should be determined through consultation with your tax adviser.

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