

# GMS Flash Alert

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## Nigeria - Immigration Regulations in Force, Implementing Considerable Changes

Nigeria's Minister of Interior announced at a press conference the release of the Immigration Regulations, 2017 on 20 March 2017.<sup>1</sup> Amongst other things, the far-reaching Regulations concern the employment applications of non-Nigerians, eligibility for residence permits, and Business Permit requirements. The Regulations became effective from 27 February 2017.

The Regulations serve as the operational framework for the implementation of the Immigration Act, 2015 (for prior coverage, see GMS [Flash Alert 2015-070](#) (29 May 2015)).

This newsletter provides a brief summary of the key points contained in the Regulations and examines some of the implications.

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### WHY THIS MATTERS

The Regulations should enable immigration advisers, global mobility professionals charged with the immigration affairs of their cross-border workers, and the workers themselves, to better understand immigration policies ushered in under the Immigration Act, 2015, relating to expatriate employment and related "border control" issues in the country. The expectation, therefore, is that the Regulations will facilitate the entry of foreign nationals into the country and consequently help to improve the ease of doing business in Nigeria.

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### Business Permit

The Regulations reiterate the requirement to obtain a Business Permit for the establishment of a profession, business, or trade in Nigeria.

The issuance of the permit is subject to any condition(s) that the Minister of Interior may choose to impose. The Minister, therefore, can revoke, vary, or cancel a business permit, if the stipulated conditions are not met. In addition, the Minister or the Comptroller General should be notified within 21 days of any change of name, nature, or address of a business or trade. However, having a business permit does not give any right or entitlement to the holder to enter or remain in Nigeria without a valid residence permit or visa.

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## KPMG NOTE

There are questions about the continued relevance of the requirement for a Business Permit, given that there are many other provisions that serve the same purpose. For example, the issuance of the expatriate quota can also serve as an authorization for the establishment of a business, trade, or profession in the country. The concern therefore is why duplicate such authorization if the intention is to improve Nigeria's competitiveness in the "Doing Business Index" of the World Bank Group. There is also a provision in the Nigerian Investment and Promotion Commission (NIPC) to the effect that any business with foreign shareholdings must register with the Commission.

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## Employment of Foreign Nationals

Applications relating to employment of non-Nigerians shall be made to the Comptroller General in writing. The information, which must be provided on the application, includes the full name of the prospective employee, and his or her date and place of birth and nationality.

## Issuance of Residence Permits

A foreign national who has imported an annual minimum "threshold of capital" over a period of time may be issued a permanent residence permit, provided that the investment is not withdrawn. This is designed to encourage foreign nationals to make investments in the country, while remaining compliant with any other conditions prescribed for the issuance of such permit. This is a welcome development as an investor can be given a residence permit on his own merit, without occupying an Expatriate Quota slot or coming on the "platform" of a registered company in Nigeria.

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## KPMG NOTE

However, the enabling Act and the Regulations do not specify the minimum capital threshold. It is likely that this will be subject to the government's dictate on an annual basis.

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## Validity Period, Entry, and Re-entry

The residence permit, which has a maximum validity period of two years, shall be valid for purposes of re-entry into Nigeria by the holder while the permit remains valid. However, expatriates awaiting regularization shall be allowed re-entry within 90 days from the date of endorsement of "Awaiting Regularization" (AR) on their international passports.

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## KPMG NOTE

This is important as it reinforces the need for expatriates to obtain permanent residence permits (green cards) within three months of receiving the AR endorsement.

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### Married to Nigerians

Paragraph 14 of the new Regulations provides for the issuance of residence permits to all foreign nationals (male or female) married to Nigerians, as multiple re-entry permits, irrespective of the class of visas with which they entered Nigeria. In essence, male spouses can now enjoy the same privileges as Niger-wives<sup>2</sup>.

### Visa-on-Arrival

The Regulations provide the legal framework for the introduction of the “visa-on-arrival” scheme in Nigeria. The Comptroller General is empowered to issue a visa upon arrival on application by any person. In practice, the scheme is limited to those coming to Nigeria on business, and not for tourism.

## Establishment of an Immigrant’s Registry/ Notification of Arrival and Departure of Immigrants

There is a provision for the establishment of the Registry of Immigrants, which should contain the relevant information and particulars that may be required for identification, registration, and control of all immigrants in the country.

Registered Immigrants are required to notify the State Registry within seven days, if they intend to change residence from one state to another, and before leaving their places of residence for any period exceeding seven days. They will also be expected to report to the immigration officer in the new state of residence within seven days of arrival and submit their international passports and residence permits for necessary registration.

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## KPMG NOTE

This aspect of the Regulations is to help ensure an effective monitoring of movement of expatriates within the country.

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### In-Transit and Other Visitors

The Regulations clearly outline the entry requirements for “in-transit” visitors and the conditions for obtaining a Visa on Arrival. It further stipulates that every visitor should hold a “visiting permit” issued by the Comptroller General for a period not exceeding 90 days.

## Issuance of “Fresh” International Passports to Naturalized Nigerians and Adopted Children

The Regulations stipulate that all applications for the issuance of “fresh” international passports to naturalized Nigerians as well as children adopted by Nigerians must be processed at the Immigration Headquarters in Abuja only.

## Penalties for Immigration Offences

The Regulations further emphasize the consequences of non-compliance with immigration policies as stated in the Immigration Act, 2015. The related penalties for immigration offences, such as presentation of forged documents, failure to renew immigration facilities<sup>3</sup>, altering of travel documents, enabling illegal residence, smuggling of illegal immigrants, obstruction of justice, and other relevant offences by corporate bodies, have been highlighted for clarity.

The Regulations also emphasize that any corporate body which fails to employ Nigerians to “under-study” or “shadow” expatriate employees or allows the un-authorized utilization of its expatriate quota positions by any other organization, commits an offence and is liable to paying a fine of three million naira (NGN 3,000,000) for each month the position has been occupied by an expatriate without such under-study, and the expatriate employee shall be deported.

Immigration officers are also empowered to arrest, without warrant, any person for whom there are reasonable grounds to believe that an offence has been committed under the Immigration Act.

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### KPMG NOTE

The Regulations will facilitate the more efficient operation of Nigeria’s immigration processes.

It is anticipated that the government, through its relevant agencies, is going to put in place appropriate measures for the effective implementation of the Regulations and foster compliance by the relevant stakeholders.

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### FOOTNOTES:

1 The new Immigration Regulations in Nigeria provide a legal framework for the effective implementation of the Immigration Act, 2015 and consolidate existing Immigration Regulations in Nigeria. Therefore, the 1963 Immigration Regulations and the 1963 Immigration (Control of Aliens) Regulations are now repealed.

2 Female foreign nationals married to Nigerian men are referred to as “Niger-wives.” Prior to the new Regulations, the Niger-wives were the only ones with the special privilege of upgrading any category of visa with which they enter Nigeria to multiple re-entry visas along with indefinite approval for residency in Nigeria, during the lifespan of the marriage.

3 Documents issued by the Immigration Authority such as visas, residence permits (Green cards), minor endorsements, etc., are referred to as “immigration facilities.”

### RELATED ARTICLE

This article is excerpted, with permission, from “[Nigeria: Immigration Regulations, 2017](#)” (March 2017), a publication of the KPMG International member firm in Nigeria.

## Contact us

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\* KPMG LLP (U.S.) does not provide any immigration services.

**The information contained in this newsletter was submitted by the KPMG International member firm in Nigeria.**

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