

# Legal 500

## Country Comparative Guides 2024

**Nigeria**

**Corporate Immigration**

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This country-specific Q&A provides an overview of corporate immigration laws and regulations applicable in Nigeria.

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# Nigeria: Corporate Immigration

## 1. What are the relevant government entities relating to immigration in your jurisdiction?

The following are the principal government entities charged with immigration responsibilities in Nigeria:

- a. The Nigeria Immigration Service ("NIS"): Established by section 1 of the Immigration Act, 2015 ("IA"), the NIS is the principal body saddled with the responsibility of administering the IA. The IA is the principal legislation regulating immigration activities in Nigeria.
- b. The Federal Ministry of Interior: This is a ministry of the federal government which makes and executes policies relating to border management and exercises general supervisory powers over the NIS. All matters relating to the granting of Nigerian citizenship and expatriate quotas fall within the purview of the ministry.
- c. The Nigerian Investment Promotion Commission ("NIPC"): The NIPC was established by the NIPC Act as a body concerned with the promotion, coordination, and monitoring of all foreign investments (both foreign direct investments and foreign portfolio investments) in Nigeria. The NIPC, therefore, exercises oversight functions over foreigners wishing to do business in Nigeria.
- d. The Nigerian Content Development and Monitoring Board ("NCDMB"): The NCDMB was established by the Nigerian Oil and Gas Industry Content Development Act, 2010. The regulation of foreign participation in the Nigeria's Oil and gas sector squarely goes within the oversight of the NCDMB. All matters relating to the administration and granting of expatriate quotas and employment of foreigners in the oil and gas sector are therefore regulated by NCDMB.

## 2. What are the options available for sponsor-based employment in your jurisdiction and timelines involved in securing a work permit?

For sponsor-based employment in Nigeria, the following are available options to a foreigner:

**Expatriate Quota/Business Permit:** Where a Nigerian registered company is desirous of employing a foreign national, the company is required to obtain the regulatory expatriate quota grant, and in addition where the foreign

national will be a member of the management the Nigerian company will be required to obtain a Business Permit. Regulation 12(2) of the Nigerian Immigration Regulations, 2017, provides that the Ministry of interior may grant such permit on such terms and conditions as he deems fit. The expatriate quota is valid for a period of two (2) or three (3) years depending on the discretion of the Minister of Interior and is subject to renewal upon expiration.

Furthermore, the company will be required to apply for and obtain a long-term work permit which will allow the foreign national to work and reside in Nigeria:

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

The long-term work permits also known as CERPAC is a permit that grants foreign nationals' permission to live and work in Nigeria for up to one (1) – two (2) years.

The long-term work permit is subject to renewal where such expatriate quota position remains valid. Importantly, please note that foreign nationals will be required to apply upon entry into Nigeria with an STR (Subject to Regularisation)/Employment visa to obtain the work permit. The CERPAC issuance usually takes about three to four weeks.

**b. Permanent Until Reviewed ("PUR") Status:** This type of long-term work permit category is granted on a special dispensation basis and is occupied by specific foreign nationals. The PUR status is open to foreign nationals employed to occupy the offices of the chairman of a company board or the managing director and who has worked in Nigeria for a period of more than five (5) years. This PUR status is obtained by the Nigerian company.

It is pertinent to note that the holder of a PUR will be required to apply for the mandatory residence permit (CERPAC). However, the holder enjoys exemption from the expatriate quota grant which requires renewal every two (2) – three (3) years. The PUR may require re-validation after ten (10) years.

**c. Ecowas Permit:** A sponsored company desirous of employing a foreign national from an Ecowas country is only required to obtain an Ecowas Permit. The requirement for an expatriate quota and CERPAC is not applicable. Nigeria is a member of the Economic

Community of West Africa States ("ECOWAS"), which in a bid to promote economic integration and shared development of the West African sub-region provides for the free movement of citizens of ECOWAS member states within other member states. The Ecowas permit is valid for a period of two (2) years and is renewable upon expiration.

### 3. What are the primary options available for unsponsored work and investment in your jurisdiction?

The primary option available for unsponsored work in Nigeria is the Investor Visa. This is provided under the Nigeria Visa Policy (NVP). The Investor Visa provides for a five-year, multiple-entry visa which must be applied for at the Nigerian embassy in the investor's country of residence. There are different classes of investor visas such as small-scale enterprise, medium-scale enterprise, large-scale corporation, ultra-large-scale corporation, and oil and gas power sector.

In addition to the above, the Nigerian government very recently through the Minister of Interior, announced the introduction of a new legal instrument, Nigeria's Brown Card for permanent residency permit holders.

Prior to the announcement, the permanent residency option was not fully effective in Nigeria as applicants were issued the Combined Expatriate Residence Permit and Aliens Card ("**CERPAC**" or "**Green CERPAC card**") with a validity of five (5) years and will require renewal upon expiration of the term granted.

The recently introduced Brown CERPAC card will grant permanent residency holders a perpetual residency, eliminating the requirement for renewal every five (5) years, allowing non-Nigerians to live and work in Nigeria indefinitely under the permanent residency option. The brown card is an Implementation of the Permanent residency category which was introduced by the Nigeria visa policy 2020.

1. The eligibility criteria for this new Permanent Residency status are as follows:
  - Foreign nationals of African descent seeking to establish Nigeria as their homeland through the 'Privilege of Return' program.
  - Foreign nationals wishing to invest in Nigeria in accordance with established guidelines.
  - Foreign nationals with exceptional talents, knowledge, and skills in rare

fields such as Science, Technology, Medicine, Engineering, the Arts, Sports, and other specified areas.

- Male foreign nationals who have been married to Nigerian women for at least one year.
2. The Brown Card does not bestow citizenship status upon its holders. The eligibility criteria for obtaining citizenship vary from those for acquiring the Brown Card, and as a result, the rights and privileges associated with each may also differ.
  3. The specific application details and procedures for acquiring the Brown card is yet to be announced. The Ministry of Interior and the Nigeria Immigration Service (NIS) will provide further information on a later/unspecified date.

### 4. What are the requirements for becoming a sponsor of employment-based migrants and what are the role and reporting duties of sponsors?

To be a sponsoring company wishing to employ foreign nationals, such company must be registered with the business regulatory authorities in Nigeria; and obtain regulatory permits from the Federal Ministry of Interior (FMI). The relevant permits from the FMI are a business permit where applicable and an expatriate quota grant.

The business permit would be issued by the regulatory body only to sponsoring companies with foreign nationals in managerial positions. While an expatriate quota is granted to a sponsoring company seeking to employ foreign nationals in Nigeria as an expatriate. Both the expatriate quota and business permits are issued by the FMI.

The general roles of the sponsor company include general compliance with all laws and regulations, securing the regulatory permits for the company, ensuring renewals of the permits, where applicable, appointing junior colleagues to understudy the expatriates with the intention of succeeding them, filing monthly returns to the NIS; providing relevant details of the foreign nationals and notifying the NIS when such foreign nationals exit the country.

The sponsor company would also be required to perform reporting duties such as filing a monthly report containing details of the foreign nationals and informing the NIS of the removal of a foreigner from an expatriate position. The sponsor company is also required to

appoint two Nigerian local employees to understudy the foreign national. There are penalties available for defaulting sponsoring companies.

### **5. Are applications filed electronically, or paper base? Is a physical visa/work permit document issued or is an electronic approval issued?**

As a measure to mitigate the global pandemic and following the introduction of Nigeria's current immigration policy is founded on the NVP 2020. The electronic visa (e-visa) was introduced. This is a web based/online application process that is subject to pre-approval before the applicant's arrival in Nigeria. E-visa is however restricted to certain classes of visas such as Transit Visa, Business Visa, Tourist Visa, and Journalist Visa, amongst others. For the classes of visas that can be applied for electronically, electronic approvals are issued to successful applicants.

Furthermore, the in-country application process for Temporary work permit approvals were made electronic after the pandemic and a TWP preapproval letter is issued as opposed to the manual TWP cablegrams previously issued.

The long-term work permit is still paper based in Nigeria.

### **6. Is an in-person attendance/interview required as part of the visa/work permit application process? Is an individual required to enrol their biometrics (digital photo, fingerprint scan) as part of the visa/work permit process?**

The application process for a visa/work permit is usually done online or vide the submission of relevant documents at the Nigerian embassy. Whereas it is not in all instances that an applicant may be called upon for an interview or an in-person attendance for a work permit application.

Mostly an in-person interview/attendance would usually take place at the local Nigerian embassy from where the foreign national will be migrating, for the visa application submission. Importantly, please note the requirement for an in-person attendance/interview for a visa application at the Nigerian embassy is largely at the discretion of the consular officer and not generally applicable.

The requirement for biometrics enrolment is mandatory for all expatriates residing and working in Nigeria. However, for the visa submission process, a biometric enrolment is largely at the discretion of the consular officer and is not generally applicable.

### **7. What persons qualify as dependants? Can dependants work based on their dependant visa status? Are there any restrictions?**

Under Nigerian immigration law and the New Nigerian visa Policy, the following persons qualify as dependents:

1. Spouses of the foreign nationals
2. Dependent (Minor Children) – Children below the age of 18 years
3. Dependent (Non – minor children) – Children above the age of 18 years.
4. Dependents (Aged Parents)

Dependents are prohibited from working in Nigeria under the dependent visa status. A dependent desirous of working in Nigeria is therefore required to go through an immigrant-employee process.

### **8. What is the general time frame and processes for obtaining permanent residence and citizenship for sponsored and unsponsored business-related immigration?**

Permanent Residence Permit is granted to holders of Investment Visa. This class of visa is issued to foreign nationals who has imported an annual minimum threshold of capital over a period of time as specified by the National Visa Policy. Permanent Residence Permit may also be issued to foreign nationals who are married to Nigerians, foreign nationals of African descent seeking to establish Nigeria as their homeland through the privilege of return program, foreign nationals with exceptional talents, knowledge and skills in rare fields such as science, technology, medicine, engineering, arts, sports and other specified areas.

In addition to the above, the Nigerian government very recently through the Minister of Interior, announced the introduction of a new legal instrument, Nigeria's Brown Card for permanent residency permit holders.

Prior to the announcement, the permanent residency option was not fully effective in Nigeria as applicants were issued the Combined Expatriate Residence Permit and Aliens Card ("CERPAC" or "Green CERPAC card") with a validity of five (5) years and will require renewal upon expiration of the term granted.

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brown card is an Implementation of the Permanent residency category which was introduced by the Nigeria visa policy 2020.

The Brown Card does not bestow citizenship status upon its holders. The eligibility criteria for obtaining citizenship vary from those for acquiring the Brown Card, and as a result, the rights and privileges associated with each may also differ.

The specific application details and procedures for acquiring the Brown card is yet to be announced. Citizenship is only granted to persons who are eligible and qualified as prescribed by the law. The processes and timeframe are not defined but subject to fulfilling the conditions of the law and generally subject to the discretion of the authorities.

#### **9. What productive type activities can a business visitor undertake and for how long?**

A business visa is available to foreigners who wish to enter Nigeria to carry out business meetings for a short term (90 days). This visa category cannot be converted into a work permit. A person who enters Nigeria with the use of a business visa is however eligible to undertake the following activities: visit local offices or subsidiaries; holding and attending business meetings, lectures, programs, and roundtable discussions; attending seminars and administrative training; attending information gathering sessions for corporate decision-making, participating in exhibitions, shows, and concerts; invitation by government or any of its affiliates, amongst others.

#### **10. Can remote work be carried out from your country?**

Yes. There are no statutory provisions restricting the right of persons in Nigeria from carrying out remote work.

#### **11. Are there any productive work / revenue generating activities that can be carried out as a visitor and without the need for a work permit? If so, what activities and for how long?**

No. A foreign national entering Nigeria for visiting purposes is prohibited from working or involving in any revenue generating activities.

#### **12. Is there a remote work or nomad visa category in your jurisdiction? If not, how likely is it that this will be implemented in future?**

No, there is no remote work or nomad visa category in Nigeria. So far, the government has not shown any intention of including this peculiar class of visa to the available visas in Nigeria. The likelihood of same being implemented in Nigeria is however present as the world continues to move at a fast pace, and this class of visa is gradually turning into global practice.

#### **13. How easy is it to switch visa categories/jobs/employer from within country? And/or if made redundant, can the individual regularise their stay in another capacity and what is the timeframe allowable?**

Foreign nationals wishing to come into Nigeria are required to apply for a visa suitable for the purpose of the visit. Please note under Nigerian law, a visa category cannot be switched or converted. However, the validity of a visa category can be extended.

Relating to a change of employment, a foreign national is allowed to change employment from one sponsor company to another. The previous company will be required to issue a letter of no objection to the expatriates addressed to the Nigeria immigration service and possibly the new employer releasing himself from immigration responsibilities on behalf of the expatriate. This document/letter will enable the new employer to apply for a change of employment at the NIS, upon the approval of the application the foreign national will be placed under the new sponsor company. The timeframe for the application is two (2) – three (3) weeks.

#### **14. What common issues or concerns may arise for employers under business immigration in your jurisdiction?**

A major issue affecting business immigration is the delayed visa application or processing timeline. The timeline provided on the relevant authority's websites and policy guidelines is in some situations not strictly followed. This may cause issues with making proper arrangements. The Nigerian Immigration portal is subject to structured upgrades from time to time. Operations are generally slow during the upgrade periods.

Another major issue is the physical filing of relevant documents such as Expatriate Monthly returns. Some



filings are still done in person with physical copies of documents provided. This caused unimaginable delay and waste of time and resources to foreigners.

#### **15. Is there a fast track process / certification that business can obtain to expedite visa / permit processing?**

No, there is no established fast – track process / certification under the Nigerian law for work permit applications. However, for the visa submissions at the Nigerian embassy the fast – track process option may be available is at the discretion of the consular officer.

#### **16. What are the recent trends, both political and social that have impacted your jurisdiction with regard to immigration policy and law?**

The Covid-19 pandemic has substantially impacted immigration policy in Nigeria, as the relevant authorities now require different forms of confirmation that an applicant has received the relevant doses of Covid-19 vaccine before being granted admittance into Nigeria.

Further to the above, there have been no recent trends that have impacted Immigration policies in our jurisdiction. However, we envisage changes in future due to the just concluded 2023 general elections and change in government.

#### **17. Are there any new and / or anticipated changes impacting immigration law and / or policy in your jurisdiction?**

No. However, we anticipate changes to our Immigration law and border policies in the nearest future.

#### **18. How do you see technology developing and evolving to support immigration process in the future?**

The use of technology in promoting immigration activities continue to gain strength in Nigeria. The NVP for instance provides for e-filing of relevant application documents. This introduction brings ease to the visa application process, saving time and resources of applicant. New technologies continue to be developed which promote immigration activities globally. Nigeria has so far been very open to the recent technological changes being introduced globally. While the country has not implemented most of the new technological

improvements in the sector, there is no sign of the country or the relevant authorities being adamant to such technological changes.

#### **19. What are the Right to Work requirements in your jurisdiction?**

The Right to Work is a guaranteed right for all Nigerians. For a foreign national to exercise this right to work, such person must have obtained an express permit from Nigerian government, granting such permission to work. It is pertinent to note that it is an offence for a foreign national who entered Nigeria for any purpose other than work to involve in any salaried employment or work.

#### **20. What are the types of civil and criminal penalties employers may face for non-compliance with immigration rules i.e. employing an individual who does not have the Right to Work?**

A defaulting employer who employs a foreign national without obtaining the relevant permit to work in Nigeria commits an offence and is liable to criminal prosecution. Upon the conviction of such an employer, he is liable to imprisonment for up to five years or a fine of one million Naira (approximately \$2,400) or both. In addition to this, such an entity may be wound up, made to bear all costs associated with the deportation of the affected foreign nationals, and ultimately lose any immigration approval previously granted to it. Employers of foreign nationals may also face a penalty of up to three million naira (approximately \$7,000) for non-compliance with respect to the submission of the monthly expatriate quota utilization report.

#### **21. Are there labour market testing requirements in your jurisdiction and if so, what do they involve?**

In Nigeria, it is expected that an employer of foreign nationals satisfies that there is no competent or qualified Nigerian for a position, there is no statutory requirement that an employer must carry out market testing before applying for expatriate positions. Where such expatriates are brought into Nigeria, Section 33 of the Immigration Act, 2015, makes it a compulsory requirement for such expatriates to be understudied by Nigerians for a maximum period of four years.

## 22. Are there quota requirements, restrictions or a cap on the numbers of foreign nationals hired per company in your jurisdiction?

For expatriate quota slots to be granted by the Nigeria Immigration Service, the applicant applying for same must show a genuine need for skills that are not available locally. There is no limit whatsoever to the number of expatriate quota slots that can be granted to a Nigerian company. The number of quotas granted to a company is dependent on the skills required and at the discretion of the issuing authority (FMI). However, the total number of Nigerian employees is required to be a higher percentage than the expatriate employees.

## 23. Are there any exit procedures in your jurisdiction, if an individual is departing permanently?

Yes, where an expatriate is leaving Nigeria permanently, there is a duty on the employers of such expatriate to file a report with the NIS informing the NIS of the departure of such expatriate and the removal of such expatriate's name from the quota.

## 24. Are there any requirements for medical certificates or vaccinations for your jurisdiction?

Yes, for a foreign national to be allowed entry into Nigeria there is a requirement to present a Covid-19 vaccination certificate, Polio Vaccination, and Yellow Fever Vaccination certificate. Other medical certificates may be required depending on the jurisdiction where such foreign national is visiting Nigeria from.

## 25. Are there any language requirements for your jurisdiction?

No, specific language requirement is required of foreigners seeking admittance into Nigeria.

## 26. What are the government costs associated with a typical employment based visa?

The employment-based government fee is determined by the nationality of the foreigner. The fees vary for different nationalities. For a Combined Expatriate Residence Permit and Alien Card (CERPAC) the statutory cost of the

CERPAC form is Two Thousand United States Dollars (\$2,000).

## 27. Is a local contract of employment required in order to obtain a work based visa or work permit? Are there salary or other thresholds to be met?

For a work-based visa or permit to be issued by the NIS, one of the requirements to be satisfied by the applicant is an offer of employment letter from the Nigerian company desirous of using the services of the expatriate. This condition in addition to all other requirements must be satisfied before such visa is granted.

There are no fixed salary thresholds.

## 28. What are the maximum periods of stay for individuals on an employment based visa / work permit?

CERPAC is usually procured by foreign nationals who wish to stay in Nigeria for a long period of time for work purposes. This grants foreign nationals' permission to live and work in Nigeria for up to a maximum period of two (2) years. It can be renewed upon expiration.

## 29. Does your jurisdiction allow dual nationality?

Dual citizenship is generally applicable in Nigeria by virtue of section 28 of the Constitution of the Federal Republic of Nigeria, as amended, 1999. A Nigerian citizen by any means other than birth but acquires or retains the citizenship of another country by means other than birth must forfeit their Nigerian citizenship. A foreign national may however obtain Nigerian citizenship as second citizenship if his or her first citizenship was obtained by birth. It is important to also note that before a foreign national can acquire Nigerian citizenship by registration or naturalisation, such person must satisfy the condition of renouncing the citizenships of other countries not obtained by birth.

## 30. What are the most positive aspects of your immigration system compared to the rest of the world?

The Nigerian Immigration System allows for persons with interest in Business development in Nigeria to invest in the economy with very little if any regulatory bottlenecks, with laid out investment guarantees.

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