

## RECENT DEVELOPMENTS AT THE FEDERAL MINISTRY OF INTERIOR IN RELATION TO BUSINESS PERMIT & EXPATRIATE QUOTA ADMINISTRATION

The Federal Ministry of Interior (“FMI”) recently published a revised handbook on Expatriate Quota (“EQ”) Administration on its website (the “**Revised Handbook**”). The Revised Handbook is yet to be launched by the Honourable Minister of Interior, therefore rendering its contents currently ineffective until such date as may be communicated by the FMI. It is noteworthy to state that the power to issue business permits and stipulate and/or vary the requirements for procuring such permits (as contained in the Revised Handbook) is vested in the Minister further to the relevant provisions of Nigerian law.<sup>1</sup>

The Revised Handbook outlines the services that the Department of Citizenship and Business of the FMI offers, general rules and documentation requirements for business permits and expatriate quota positions, offences, sanctions/penalties for breaches and the fees chargeable for its services.

Further to the above, we have highlighted below, key developments in the Revised Handbook for your general information:

### a. Increase in Minimum Share Capital for Grant of Business Permit

The Revised Handbook contains provisions whereby the minimum paid-up share capital requirement for Nigerian companies with foreign shareholders (which may either be individuals or corporate entities) seeking to procure a business permit would be ₦100 million (One Hundred Million Naira). The Revised Handbook further provides that the value of



equipment or machinery imported into the country for the purpose of conducting business could also form a portion of the ₦100 million paid up capital.

Once effective, this new requirement would translate to an increase from the current minimum share capital requirement of ₦10 million (Ten Million Naira) to a minimum paid-up share capital of ₦100 million (One Hundred Million Naira) being an increase of ₦90 million (Ninety Million Naira).

It would appear that the FMI may now require such capital to be “paid up” as against the provisions of the current Handbook whereby the requirement is simply the minimum share capital of ₦10 million (Ten Million Naira), which need not be paid up. However, we note that the words “issued” and “paid up” were used interchangeably in different sections of the Revised Handbook as regards Business Permit applications and expect the FMI to update the document before its launch date so as to provide clarity on whether such share capital should simply be issued to shareholders or must also be paid up by such shareholders.

In addition to the foregoing, it is noteworthy that

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1. Section 36 (1) (b) of the Immigration Act 2015 and Regulation 4 (1) of the Immigration Regulation 2017.

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companies with EQ grants seeking to upgrade or revalidate same to Permanent Until Reviewed (PUR) status are required to have a minimum paid up share capital of ₦100 million (One Hundred Million Naira).

## b. Lifespan of Expatriate Quota Approvals

The total lifespan of Expatriate Quota (“EQ”) grants for companies has been reduced from ten (10) years to seven (7) years. Whilst the grant period remains three (3) years in the first instance, EQ positions are now renewable biennially for two (2) consecutive terms of two (2) years each, within an overall lifespan of seven (7) years. However, with respect to companies in the oil and gas sector, approval will be for an initial period of (2) years and renewable once within a life span of four (4) years only.

## c. Required Documentation for Business Permit and Expatriate Quota Renewal Applications

### Business Permit Applications

The Revised Handbook introduces the following documentary requirements for Business Permit applications:

- I. Bank statement showing tangible inflow that supports the feasibility study/business plan.. Unfortunately, there was no definition of what constitutes “tangible inflow” thereby indirectly giving discretion to officials of the FMI on how to interpret this term, possibly on a case-by-case basis;
- II. License/Permit/Certificate from relevant government ministries, departments or agencies

to engage in oil exploration/services, health care services, fishing, mining, engineering services etc; and

- III. Evidence of work at hand, its duration and value attached to the contract(s) if the company is engaged in building, civil engineering, construction and other sectors.



### Expatriate Quota Renewal Applications

The Handbook introduces the following requirements for EQ renewal applications:

- i. the National Identification Numbers or Tax Identification Numbers, phone numbers and electronic mail addresses of the Nigerians understudying each expatriate and Nigerian senior/management staff;
- ii. Certified true copy of the current audited report/ statement of affairs of the company, accompanied with the acknowledgment letter issued by the Corporate Affairs Commission (“CAC”) evincing filing of such document at the CAC;
- iii. Compliance Certificate issued by the Industrial Training Fund; and
- iv. Evidence of indigenization/localization of expatriate quota position (if any).



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Companies intending to apply for Business Permit and/or EQ grants/renewals are therefore advised to take the necessary steps to ensure compliance with the foregoing where applicable to avoid accompanying sanctions with non-compliance.

**This newsletter is only intended to provide general information on the subject matter and does not by itself create a client/attorney relationship between readers and our Law Firm or serve as legal advice. We are available to provide specialist legal advice on the readers' specific circumstances when they arise.**

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