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PRE-REGISTRATION PROCESS FOR MIGRANTS IN NIGERIA

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INTRODUCTION

Pursuant to the provisions of the Immigration Act, 2015 (the Act) and the Immigration Regulation 2017 (the Regulation), the Nigerian Immigration Service (NIS) recently issued the Migrant e-Registration Guidelines (the Guidelines). This article examines the provisions of the Guidelines and implications of failure to abide by same.

EFFECT OF THE GUIDELINES

The Guidelines' legitimacy is rooted in the provision of Section 112(1) of the Act which provides as follows:

“The Minister may make regulations as in his opinion are necessary or expedient for giving full effect to the provisions of this Act and for the due administration thereof.”

Section 22(1) of the Regulation also provide that:

“The Service shall maintain a Registry of Immigrants.”

In furtherance of the above provisions, the Guidelines were issued to aid migrants on the requirements and method of registration. The Guidelines define a migrant as any person who is not a citizen of Nigeria. However, the electronic registration (e-Registration) is applicable to only migrants eighteen

years old and above, who intend to stay in Nigeria for a period exceeding 90 days. Exempted from the registration requirement are persons below the age of eighteen, diplomats and persons whose stay in Nigeria is less than 90 days.

The implication of this is that all foreigners (other than those who are exempted) who travel to Nigeria on a Temporary Work Permit, Tourist and Business visa, and would be staying in Nigeria for more than 90 days, must register with the NIS.

THE REGISTRATION PROCESS

The registration process is in two stages: first; a web-based pre-registration or desktop registration at a Migrant Registration Office, and second; biometrics capturing and document verification at a Migrant Registration Office. The categories of registrable migrants include: employed migrants, students, self-employed, spouse of a Nigerian, and dependents. Upon successful registration, migrants will be issued an acknowledgment slip evidencing compliance with the Guidelines.

The Guidelines also emphasise the provisions of Sections 28 and 29 of the Regulation which imposes an obligation on residence owners where migrants are accommodated (with or without payment), to ensure that such migrants comply with the provisions of the Regulation. Residence owners are further obligated to notify the immigration authority of any migrant who fail to comply with the Regulation.

Finally, the penalty for failure to comply with the Guidelines is provided for in Section 57 (5) of the Act, which prescribes an imprisonment term of three years or a fine of N500,000 (Five Hundred Thousand Naira), or both.

The NIS prescribed a six-month timeline for compliance with the Guidelines which is to lapse on 31st December 2019, failing which erring migrants will be sanctioned.

ENFORCEABILITY OF THE GUIDELINES

It would appear that the Guidelines is a subsidiary legislation which has force of law as the Act. This position was succinctly encapsulated by the Supreme Court in *Abubakar V. Bebeji Oil and Allied Products Ltd & Ors.*[1], where the Court held that:

By virtue of section 18(1) of the Interpretation Act, a subsidiary legislation has the force of law.”

Accordingly, the Guidelines are enforceable against erring migrants, and should therefore be complied with to avoid sanctions.

CONCLUSION

It is commendable that the NIS is working on its database for migrants as this may serve to check the influx of illegal immigrants into Nigeria.

However, the NIS must ensure that it puts the right framework in place and guarantee that the e-registration exercise is conducted smoothly and professionally without a disruption to the regular operations of the NIS.

[1] (2007) LPELR-55(SC) (Pp. 72-73, paras. G-A)

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