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Africa Immigration Guide

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A. Introduction

Given the growth in Africa, employers are eager to second their employees to and expand their businesses into Africa. This Africa Immigration Guide is intended to provide employers and human resource professionals with a high level overview of the visa requirements relating to seconding employees to certain key Africa jurisdictions, namely -

- Algeria
- Angola
- Botswana
- Burundi
- Egypt
- Ghana
- Kenya
- Mozambique
- Nigeria
- South Africa
- Tanzania

This guide covers the basic corporate immigration framework and visa requirements for these jurisdictions and practical advice regarding various visas and permits.

IMPORTANT DISCLAIMER: The material in this guide is of the nature of general comment only. It is not offered as legal advice on any specific issue or matter and should not be taken as such. Readers should refrain from acting on the basis of any discussion contained in this guide without obtaining specific legal advice on the particular facts and circumstances at issue. While the authors have made every effort to provide accurate and up-to-date information on laws and regulations, these matters are continuously subject to change. Furthermore, the application of these laws depends on the particular facts and circumstances of each situation and, therefore, readers should consult their attorney before taking any action.



1. Algeria

Algeria's corporate immigration framework

The employment of foreign nationals and their ability to do business in Algeria is governed by a series of laws and decrees including: Law 8-11 of 25 June 2008 (Loi No. 08-11 du 25 juin 2008 relative aux conditions d'entrée, de séjour et de circulation des étrangers en Algérie); Executive Decree 6-454 of 11 December 2006 (*Décret exécutif n° 06-454 du 11 décembre 2006 relatif à la carte professionnelle délivrée aux étrangers exerçant sur le territoire national une activité commerciale, industrielle et artisanale ou une profession libérale*); Presidential Decree 03-251 of 19 July 2003 (*Décret présidentiel No. 03-251 du 19 Jomada El Oula 1424 correspondant au 19 juillet 2003 relative à la situation des étrangers en Algérie*); Decree 82-510 of 25 December 1982 (*Décret n° 82-510 du 25 décembre 1982, fixant les modalités d'attribution du permis de travail et de l'autorisation de travail temporaire aux travailleurs étrangers*); Law 81-10 of 11 July 1981 (Loi No. 81-10 due 11 juillet 1981 relative aux conditions d'emploi des travailleurs étrangers); and Law 90-11 (Loi no 90-11 du 21 Avril 1990 relative aux relations de travail).

Work permits are available only for posts which cannot be undertaken by Algerian nationals. Further, foreign employees may not be hired unless they have a minimum of a "technical level of qualification".

Whether the employer is a natural or juristic person, it must make a declaration within 48 hours of hiring a foreign national to the competent authorities and present any documents which give that employer the right to hire foreigners. On termination of the employee's contract, the employer must again inform the authorities.

There is no official English translation of the Algerian laws and consulates appear to apply the regulations with slight modifications. For this reason, what follows should be considered a framework only and persons wishing to start businesses or send employees to Algeria should consult their nearest consulate or embassy in person.

Which visa is required?

Algeria distinguishes between work visas which allow foreigners to engage in salaried work or visas allowing foreigners to engage in business activities. The most pertinent visas for the purposes of this Guide are the Business Visa, Work Visa and Temporary Work Visa. The Work Visa and Temporary Work Visa require work authorisation (obtained from the Department of Labour) and work permit issued after entry to the country. Business Visas are provided for persons engaged in commercial, industrial, manufacturing or professional activities and require a *carte professionnelle* after entry to the country.

It should also be noted that Cultural Visas and Press Visas are available for persons seeking to visit Algeria for the purposes of seminars, cultural, scientific or sporting event and for members of the press respectively.

Once obtaining the relevant visa, the Algerian Migration Law provides for residence requirements. These are dealt with separately below as they are linked to the particular Work Visa or Business Visa.

To obtain a visa that allows a foreigner to work as an employee and reside in Algeria, it is necessary to first obtain (1) General Approval in Principle (Accord Global de Principe); or (2) a work authorisation or a temporary work authorisation.

Foreign workers have access to public services such as health and education. Estate ownership is permissible only with ministerial authorisation.

An employer is required to make the necessary deductions in terms of the Tax on Global Revenue (*Impôt sur le Revenu Global*); record deductions on a pay registry or other similar document; provide the employee with pay stubs; pay tax regularly when required payments owed by all employees are made; and file a yearly declaration on salaries paid and deductions taken.

The requirements for the Business Visa, Work Visa and Temporary Work Visa are as follows:

	Business Visa	Work Visa	Temporary Work Visa
Duration	<p>2 years</p> <p>An extension of not more than 90 days may be granted by the competent local administrative authorities in exceptional cases on application 15 days before expiry of the Visa</p>	<p>2 years</p> <p>15 days before expiry of the visa, it is necessary to request a residential visa</p>	<p>3 months</p> <p>An extension of not more than 90 days may be granted by the competent local administrative authorities in exceptional cases on application 15 days before expiry of the Visa</p>
Application	<p>An individual applying for a Business Visa must provide:</p> <ul style="list-style-type: none"> - 2 copies of the prescribed form; - 2 recent passport photos - original passport (valid for 6 months) - 2 copies of entire passport (including blank pages) - letter of invitation of host company in Algeria - letter from employer stating the position held by the applicant in the company, the purpose of the visit and providing full financial support - Prescribed fee (if any) - hotel reservation or commitment to cover accommodation costs from the host company - certificate issued by relevant services in which the employer certifies that it undertakes full responsibilities for 	<p>An individual applying for a Work Visa must provide:</p> <ul style="list-style-type: none"> - 2 copies of the prescribed form; - 2 recent passport photos - original passport (valid for 6 months) - 2 copies of entire passport (including blank pages) - Copy of employment contract - provisional temporary work authorization, (<i>autorisation provisoire de travail</i>) issued by the Algerian Department of Labour - commitment of repatriation issued by the Employer and stamped by the Department of Labour - Prescribed fee (if any) 	<p>An individual applying for a Temporary Work Visa must provide:</p> <ul style="list-style-type: none"> - 2 copies of the prescribed form; - 2 recent passport photos - original passport (valid for 6 months) - 2 copies of entire passport (including blank pages) - employment contract which may not exceed 90 days - provisional work authorization delivered by services in charge of employment in Algeria (original and copy) - certificate issued by relevant services in which the employer certifies that it undertakes full responsibilities for repatriation of their foreign worker on completion of the work contract - Prescribed fee (if any)

	Business Visa	Work Visa	Temporary Work Visa
	repatriation of their foreign worker on completion of the work contract		
Prescribed Fee	\$160	\$190	\$160
Issued by	Department of Labour	Department of Labour	Department of Labour

Residency

Foreign employees are required to obtain temporary residence which incurs a fee. The duration of a temporary residence permit may not exceed the period of the work contract. Renewal is possible if the foreigner is able to prove the need for such renewal based on the prescribed documents. A temporary residence permit is revoked in the event that the holder leaves Algeria for an uninterrupted period of one year. Breach of the obligations attaching to a residence permit may lead to penalties of between 5,000 and 20,000 Dinar.

To be considered as permanent residents, foreigners must have the intention to make their place of residence in Algeria, "effective, regular and permanent" (*effective, habituelle et permanente*). If meeting the requirements, it is possible to obtain a carte de residence for a period of two years.

After having been in Algeria lawfully for seven years or more, it is possible to obtain a residence permit for a period of 10 years. In such a case, any children over the age of 18 will also be able to obtain a residence permit.

Spouses and dependants

It is possible for the holder of a work visa to have their family accompany them, in terms of the regulations.

Disqualification

A residence permit (and thus the ability to remain lawfully in Algeria) may be revoked in the event that a foreigner no longer meets the underlying requirements. In such cases, the foreigner must leave Algeria within 30 days from the date of notification of the need for exit. In exceptional circumstances and with proper motivation, a foreign person may request a 15 day extension.

It is also possible that a residence permit will be revoked if the foreigner engages in immoral activities or activities that are contrary to the national interest. Further, in the event that the person is convicted for an offence related to his business or work activities, the permit may be revoked. In such case, the foreign person will be deported immediately.

Immediate expulsion of a foreigner may occur as a result of a declaration by the Minister of the Interior in case of (1) threat to the public order or state security; (2) if the foreigner has been convicted for a crime or delict; or (3) if the foreigner has not left Algeria when required to do so without proper justification. According to the seriousness of the foregoing, the foreign person will have 48 hours to leave Algeria (subject to appeal).

Business Visas may be revoked in the case of misrepresentation, bankruptcy, imprisonment for a criminal law offence or delict, death, termination of the company's activities under which the business permit has been issued, the conclusion of the role of a director or company manager, loss of the status of a retailer or deregistration of the profession.



2. Angola

Angola's immigration framework

The regulation of the employment of foreign nationals in Angola is governed by Law No. 2/07 of 31 May - Legal Regime of Foreigners in the Republic of Angola. This legislation came into force in November 2007.

Which visa is required?

A foreigner desirous to work in Angola requires an entry visa. The entry visa allows the holder to present themselves at an official border post and seek entrance into Angola.

Angola has five different categories of entry visas, namely:

- diplomatic visas;
- official visas;
- courtesy visas;
- consular visas; and
- territorial visas.

The consular visa can take one of many forms, namely:

- transit visas;
- tourism visas;
- short-term visas;
- ordinary visas;
- study visas;
- medical treatment visas;
- privileged visas;
- work visas;
- temporary permanence visas; and
- residence visas.

A foreign national who intends working in Angola requires a work visa. Should a foreign national wish to permanently relocate to Angola, he will then require a residence visa.



Work visas can be divided into the following categories:

Work Visa	Description
Type A	Granted for the exercise of a professional activity on behalf of a institution or public services company.
Type B	Granted for the exercise of an independent professional activity that provides services, sports or culture.
Type C	Granted for the exercise of a professional activity in the oil, mining or construction industry.
Type D	Granted for the exercise of a professional activity in the commerce, industry, fisheries, shipping or aeronautics industry.
Type E	Granted for the exercise of an activity under Cooperation Agreements.
Type F	Granted for the exercise of a professional activity in any other sector not foreseen in visa type A to visa type E.

The requirements for a work visa is as follows:

	Work Visa
Duration of visa	<p>The work visa allows its holder multiple entries into Angola. Furthermore, it allows the holder to remain in Angola until the work contract expires.</p> <p>The work visa must be used within 60 days of the date of its concession. It allows the holder to work in Angola for a period of 12 months, which can be prolonged for equal periods, up until the termination of the work contract.</p>
Application	<p>An individual applying for a work permit must provide a:</p> <ul style="list-style-type: none"> - completed application form; - valid passport (which must remain valid for at least 18 months) with at least 3 blank pages; - two recent passport sized colour photographs; - copy of the employee's itinerary; - contract of employment; - letter of motivation from the employer; - copy of the employer's business permit to practice; - copy of the employer's updated income tax certificate; - publication in the Government Gazette; - letter of approval from the Ministry of Tutelage;



	Work Visa
	<ul style="list-style-type: none"> - curriculum vitae; - proof of qualification; - medical report (including proof of HIV status); - police clearance certificate, valid for six months; and - letter declaring that the applicant will respect the Angolan Government laws.
Prescribed fee	ZAR 3000.00
Issued by	Angolan diplomatic and consular missions.

Residency

Once a foreign worker has worked in Angola for a minimum of 5 years, he will be entitled to apply for a residence visa.

The residence visa must be used within 60 days from the date of issue. It allows its bearer to remain in Angola for a period of 120 days, extendable for equal periods of time, until final decision for the residence permit authorisation has been made.

The residence visa entitles its holder to carry on a paid job.

Spouses and dependants

Spouses and dependents of an employee with a work visa must apply separately for a temporary stay visa. A temporary stay visa entitles its holder to multiple entries and stay up to 365 days, which can be extended successively, provided that there is a valid reason for extending this period. A temporary stay visa does not qualify its holder to establish residence in Angola.

Disqualification

An application will be refused, and the and the applicant will be banned from entering Angola for 10 years, if he is dishonest or denies any relevant information. The ban applies if Angolan immigration laws are violated.

Visitors remaining in Angola beyond their authorised visa duration are subject to overstaying penalties (US \$200,00 per day) and will have extreme difficulties obtaining another visa in the future.

It is a criminal offence to produce a false travel document or a false passport to the Angolan immigration authorities. Persons found guilty of this crime can be sentenced to a sentence of two years imprisonment or a fine (or both).

Travellers whose international immunization cards do not show inoculations against yellow fever within the past ten years may be subject to exclusion, on-the-spot vaccination and/or heavy fines.



3. Botswana

Botswana's corporate immigration framework

The regulation of the employment of foreign nationals in Botswana is governed by the Botswana Immigration Act, 3 of 2011 (Immigration Act), read together with the Immigration Regulations (Regulations), published on 14 October 2011.

Which permit is required?

Residence and work permits are issued by the Immigrants Selection Board. Significantly, a foreign national issued with a work permit does not automatically qualify for a residence permit. As such, the foreign national must make two separate applications, one for a residence permit and another for a work permit. It is common for both applications to be submitted simultaneously.

As mentioned above, the Immigrants Selection Board is responsible for issuing residence and work permits. An application for both permits must be lodged with an authorised officer, in the prescribed form and accompanied by such fee as may be prescribed (discussed below). An authorised officer must then assess the application and endorse his or her recommendations on the application and transmit the application to the Immigrants Selection Board for consideration. The Immigrants Selection Board then determines whether to issue the permit

Botswana recognises two categories of permits relevant for this guide, the work permit and the residence permit. There are no special permits for individuals who possess scarce skills. It bears mentioning though that individuals possessing scarce skills obtain more points in the visa evaluation process, discussed below.

The requirements for the work and residence permits are as follows:

	Work Permit	Residence Permit
Duration	Valid for up to 5 years The duration for which a permit is issued is determined by the Immigrants Selection Board. The employee and the employer must make submissions to the Immigrants Selection Board in respect of the period of time that the permit should be issued for. After considering these submissions, the Immigrants Selection Board will determine the period of time that the permit will be issued for.	Valid for up to 5 years
Application	An individual applying for a work permit must provide <ul style="list-style-type: none"> - Prescribed Form 15 - Contract of employment - Application letter for work - Letter of offer / appointment letter - Curriculum Vitae 	An individual applying for a residence permit must provide <ul style="list-style-type: none"> - Prescribed Form 15 - Birth and Marriage Certificates or certified copies for each applicant - Medical report for each applicant - Certified copies of references of

	Work Permit	Residence Permit
	<ul style="list-style-type: none"> - Certified copies of certificates (degree certificates, diplomas etc.) - Medical report - Certified copies of a valid passport - One passport size photo 	<ul style="list-style-type: none"> testimonials - Two passport size photos
Prescribed fee	P 1500.00	P 1500.00
Issued by	Department of Labour and Home Affairs	Department of Immigration and Citizenship

Permanent residency

A non-citizen who has resided lawfully in Botswana for at least five years may apply for a permanent residence permit. Such permit is issued by the Minister of Labour and Home Affairs (Minister) where he or she is satisfied that a non-citizen has resided in Botswana for at least five years and such person:

- is of good character;
- has made significant contributions of benefit to Botswana;
- is of good standing in society; or
- has sufficient means to support him or herself.

The Minister is also empowered to issue a permanent residence permit subject to such conditions as he considers necessary. The prescribed fee for an application for a permanent residence permit is P 3000.00.

Spouses and dependants

In the case of an application for a residence permit by a spouse or a child under the age of 18 years, or the aged parent or grandparent of a holder of a permit who the holder of a permit has undertaken to maintain, the Immigrants Selection Board does not employ the Points Based System. As such, a less stringent approach is adopted to the issuing of these permits, however, it is important to note that the same requirements highlighted above apply to the issuing of these permits.

Disqualification

The Minister may cancel a permit if the holder of a permit:

- fails to take up residence in Botswana within six months of the date of issue of the permit;
- absents him or herself from Botswana for a continuous period of more than six months;
- his or her agent is convicted of an offence under the Immigration Act in connection with an application for the issue or renewal of a permit;
- is convicted of an offence under section 20(2) of the Immigration Act;
- violates the conditions of a permit issued in terms of the Immigration Act;



- having attained the age of 18 years old, is convicted of any other offence punishable with imprisonment and the court by which the person is convicted, or any court to which his or her case is brought by way of appeal against conviction or sentence, recommends that the permit be cancelled; or
- if the Minister is satisfied that the object for which the permit was issued or renewed has been completed and no longer exists, or that it is no longer in the interests of Botswana that the holder should have such a permit.



4. Burundi

Burundi's corporate immigration framework

The employment of foreign nationals and their ability to do business in Burundi is governed by a series of codes, laws and decrees, including:

- Burundi Labour Code (*Code du Travail*);
- Code de Police et Surêté du Burundi
 - 20 mars 1989 - *Décret-Loi n1/007 - Réglementation de l'accès, du séjour et de l'établissement des étrangers sur le territoire du Burundi et leur éloignement*;
 - 20 septembre 1989 - *Décret n100/177 - Composition et fonctionnement de la commission consultative pour étrangers*; and
 - 10 juillet 1989 - *Ordonnance ministérielle n530/166 - Mesures d'exécution du Décret-Loi n1/007 du 20 mars 1989 portant réglementation de l'accès, du séjour, de l'établissement des étrangers sur le territoire du Burundi et leur éloignement*;
- *Ordonnance ministérielle n660/086/92 du 17 février 1992 Réglementation de l'emploi des étrangers au Burundi*;
- *Ordonnance ministérielle n660/161 du 3 juin 1991 Réorganisation de la mise en relation des demandeurs d'emploi et des employeurs*; and
- *Ordonnance ministérielle n215.01/115/CAB du 19/01/2009 portant mesures d'application du Décret-Loi n01/007 du 20 mars 1989 portant réglementation de l'accès, du séjour, de l'établissement des étrangers sur le territoire du Burundi et de leur éloignement*.

There is no official English translation of the Burundian laws and consulates appear to apply the regulations with slight modifications. For this reason, what follows should be considered a framework only and persons wishing to start businesses in, or send employees to, Burundi should consult their nearest consulate or embassy for further information.

Which visa is required?

Burundian legislation recognises three categories of visas, namely:

- the diplomatic visa (*Visa diplomatique*);
- the service visa (*Visa de service*); and
- the ordinary / common visa (*Visa ordinaire*).

The most relevant category of visa for the purposes of this Alert is the ordinary visa, also called an entry visa (*le visa d'entrée*), which allows foreigners to enter the country for a limited period of three months (business or touristic purposes). Once in the country, a foreigner wishing to live and work in Burundi will have to apply for a *visa d'établissement*. See the table below for further elaboration.

A foreign worker wishing to work in Burundi is required to obtain an invitation authenticated by the Immigration Office in Burundi or by the Ministry of External Relations and International Cooperation, which invitation shall form part of the visa application.

In terms of the *Règlementation de l'emploi des étrangers au Burundi*, foreign labourers should not exceed 20% of the company's employees by employee category.

The visa requirements for a foreigner to work in Burundi are set out in more detail in the table below:

	Ordinary Visa ("entry visa")	Visa d'établissement ("work visa")
Duration	Valid for 3 months.	<p>Temporary work visa: Valid for 2 years (issued to foreigners with special technical skills), and must be renewed one month before it expires.</p> <p>Permanent work visa: Valid for an indefinite time period, and granted to a foreigner born and remaining in Burundi for</p> <ul style="list-style-type: none"> - 20 years without interruption; or - 5 years if in possession of a permanent residence permit; or - 5 years if engaged to a Burundian national. <p>A foreign investor or his representative whose presence in Burundi is justified by the need to follow the management of its capital may also be issued with a permanent work visa in terms of Article 4 of the <i>Ordonnance ministérielle n660/086/92 du 17 février 1992</i>.</p>
Purpose	<p>This visa allows a foreigner to enter Burundi. There are two types:</p> <ul style="list-style-type: none"> - Simple entry visa - Allows a foreigner to enter the country once. - Multiple entries visa - Allows the holder to enter and exit the country freely during the time that it is valid. 	<p>Allows a foreigner to live and work in Burundi. There is no official translation for this term, but for our purposes this may be referred to as a <i>work visa</i>. There are two types of work visas, namely the:</p> <ul style="list-style-type: none"> - temporary work visa; and - permanent work visa.
Application: Specific Requirements	<p>A foreigner wishing to apply for an ordinary visa to visit Burundi will require the following:</p> <ul style="list-style-type: none"> - two completed application forms; - passport photos; - travel documents (valid for at least six months); - a booking from a travel agency; 	<p>Article 3 of <i>Ordonnance ministérielle n660/086/92 du 17 février 1992</i> provides that a work permit is issued to overseas residents upon their request, and upon request by the future employer in the case of a non-resident.</p> <p>A foreigner in Burundi wishing to apply for a work visa will be required to provide, together with his application letter, the following:</p>



	Ordinary Visa ("entry visa")	Visa d'etablissement ("work visa")
	<ul style="list-style-type: none"> - one return envelope to enable the embassy / consulate to send the visa to the applicant (note that the Applicant is responsible for all postage fees); - a letter from employer stating the position held by the applicant in the company and the purpose of the visit; - the aforementioned invitation authenticated by the Immigration Office in Burundi or by the Ministry of External Relations and International Cooperation; - certificate of vaccination against yellow fever; and - repatriation insurance. <p>The information provided has to be accurate and as complete as possible. Any incomplete file or files containing unclear information will not be accepted and no visa will be issued.</p>	<ul style="list-style-type: none"> - an ID card (foreign non-resident) or map ID (foreign residents); - a diploma / certificate in respect of education; - two passport photos; and - a <i>curriculum vitae</i>. <p>He will further be required to provide:</p> <ul style="list-style-type: none"> - his criminal record; - a document issued by the competent authority (Director of Labour Inspection) allowing the applicant to perform the type of activity that he intends to perform in Burundi ("work permit"); - health certificate (not older than three months), stating that the applicant is in good health and does not have any contagious diseases or mental disorders; and - a deposit (for the purpose of repatriation) of USD 1500 if the foreigner is travelling alone, or USD 5000 if the foreigner is travelling with a family; or - a letter of guarantee stating that the employer bears the responsibility and costs of the repatriation of the foreign worker. <p>Note: The employer is required to pay a tax of 3% of the gross annual salary of the foreign worker.</p>
Application: General Requirements	<p>The following list of requirements apply to both the ordinary visa, as well as the <i>visa d'etablissement</i>:</p> <ul style="list-style-type: none"> - proof of sufficient income; - proof of residence / other accommodation in Burundi (e.g. confirmation of a hotel booking); and - some form of repatriation insurance (see above). 	
Prescribed Fee	<p>Simple: USD 60 (or the equivalent in Euros) per month.</p> <p>Multiple: USD 80 (or the equivalent in Euros) per month.</p>	<p>Work visa for an indefinite period: USD 500 (or the equivalent in Burundian Franc ("BIF")).</p> <p>Permanent resident visa: USD 1,000 (or the equivalent in BIF).</p>



	Ordinary Visa ("entry visa")	Visa d'établissement ("work visa")
Issued by	The local Burundian embassy (or other competent authority if there is no embassy).	A work permit is duly given by the Commission of Orientation (created in terms of <i>Ordonnance ministérielle n660/161 du 3 juin 1991</i>). It is issued by the Director of the Labour Inspectorate and this licence is <i>intuitu personae</i> in terms of Article 2 of <i>Ordonnance ministérielle n660/086/92 du 17 février 1992</i> .

Residency

The permanent residence permit is granted to foreigners (and their families) who are considered useful for the development of the country because they create employment and / or make large investments.

The cost of obtaining a permanent residency permit is about USD 1000.

Spouses and dependants

The Commission of Orientation shall issue a permanent work permit to the spouse of a Burundian citizen residing in Burundi and having kept their original nationality.

Dependant children of a foreign national authorised to stay in Burundi are fully authorised to stay in Burundi.

Disqualification

Décret n100/177 Composition et fonctionnement de la commission consultative pour étrangers, has created a consultative committee for foreigners (*commission consultative pour étrangers*). This committee is competent to grant or revoke a permanent residence permit, to rule on expulsion decisions, to accept or to deny the renewal of a visa, etc.

Reasons to revoke a permanent residence permit and expel a foreign worker are contained in the aforementioned *Décret-Loi n1/007* and include the following:

- non-compliance with the foreigner work conditions set in Burundian Laws;
- a criminal record;
- when the foreigner's presence in Burundi constitutes a threat to the public order or national security;
- where the foreigner failed to make the required deposit; and
- where the foreigner entered the country unlawfully.

5. Egypt

Egypt's corporate immigration framework

The regulation of the employment of foreign nationals in Egypt is primarily governed by:

- Law 89 of 1960 as amended by Law 88 of 2005 and Law 77 of 2016 on the entry, stay and exit of foreigners on Egyptian soil;
- Ministry of Interior decree no. 12798 of 2005;
- Ministry of Manpower and Immigration decree no. 485 of 2010; and
- Ministry of Manpower and Immigration decree no 305 of 2015.

Which visa / permit is required?

Importantly, in order to work in Egypt, a foreign employee requires an entry visa, a residence permit and a work permit.

Pursuant to decree no. 485 of 2010, an employer who wishes to hire a foreign employee must submit a formal request to the Ministry of Manpower and Immigration along with the following documentation:

- a copy of the foreign employee's passport;
- a certified copy of the foreigner's qualifications and expertise, which must be adequate for the prospective position; or have expertise of a minimum of three years in the prospective position;
- any other required approvals that must be obtained by the foreign national to work in Egypt;
- documentation in the employer's possession relating to the employee, including, but not limited to the employee's tax card, the employer's commercial register and the employee's insurance card;
- confirming the real need of the employer for the foreigner's expertise;
- confirming the country's economic status; and
- confirming the commitment of the employer hiring the foreign employee.

Decree no 485 of 2010 provides that foreigners are prohibited from working as tour guides, exporters, importers and customer officers. Furthermore, certain professions require a specific authorization from the relevant authority. For instance, football players must obtain the approval of the Minister of Youth and Sports.

The maximum percentage of foreigners that may be employed by corporate entities in Egypt is 10%. However, this percentage can be varied upon approval by the competent Minister.

The requirements for obtaining visa and permit are provided below.

	Entry visa	Work permit
Duration	1 month from the date of arrival in Egypt.	Valid for up to 1 year (renewable).
Application	– A completed and signed application form.	Once the approval of the Ministry of Manpower is obtained, the employer must present the following documents to the Egyptian

	Entry visa	Work permit
	<ul style="list-style-type: none"> - A passport that is valid for at least six months and has at least one blank visa page. - 1 colour passport photo. - A copy of the employee's airline ticket. - Proof of the employee's hotel reservation. - Three months' worth of bank statements or proof of sufficient funds. - A letter of invitation from the employer in Egypt. - A letter from the employer in the employee's home country. <p>Importantly, the above requirements may vary from one consulate to another.</p>	<p>authorities:</p> <ul style="list-style-type: none"> - a copy of the approval obtained from the Ministry of Manpower and Immigration granting a work permit to the foreign employee; - a copy of the foreign employee's passport; - a certified copy of the foreign employees' qualifications and expertise; - two completed application forms for work permits; - passport size photos (6x4) of the foreign employee; - proof of a clean bill of health including confirmation of a negative HIV test; - a valid certified copy of the employer's commercial register and tax card; - approval from Egypt's State Security Service showing that the employee is not a threat to national security or public safety; - a postal money order addressed to the Ministry of Manpower and Immigration in the amount of EGP 104.10; and - a certified copy from the employer regarding its foreign work force and the related social insurance form.
Prescribed fee	<p>Pursuant to Law no. 77 of 2016, the Minister of Interior sets the fees pertaining to each visa. In all cases, the fees related to the visa may not exceed EGP 500.</p>	<p>First year until the third year: an annual fee of EGP 3000;</p> <p>fourth year until the sixth year; an annual fee of EGP 5000; and</p> <p>from the sixth year, the annual fee is subject to an annual increase of EGP 1000 (limited to a maximum amount of EGP 12000).</p> <p>Finally, regarding employers where the foreign employee ratio exceeds 10% of its workforce, the annual fee for the work permit is EGP 5000, increased annually by EGP 1000 (limited to a maximum amount of EGP 15000).</p>
Issued by	Various Egyptian diplomatic missions	Ministry of Manpower and Immigration.



	Entry visa	Work permit
	and Egyptian authorities at any port of entry.	

Residency

A special residence permit may be granted to foreigner nationals who:

- were born in Egypt prior to the promulgation of Law no 74 of 1952 and have lived there since it came into effect;
- have legally entered into and lived in Egypt for 20 years prior to the publication of Law no 74 of 1952 and have lived there since it came into effect;
- have been residing in Egypt for five years prior to the promulgation of Law no 89 of 1960 and are contributing to the development of the Egyptian economy and / or contributing in Egypt's intellectual and artistic sectors; are scientists, writers, artists, inventors or economists who conduct significant work and important labour for the country pursuant to a decree issued by the Minister of Interior.

A special residence permit is valid for 10 years and is renewable upon demand.

An ordinary residence permit is granted to foreigners who have lived in Egypt for 15 years prior to the promulgation of Law no. 74 of 1952 and have lived there since the said law came into effect. It is valid for 3 to 5 years and is renewable upon demand.

Spouses and children

As mentioned above, there are two types of residence permits in Egypt: special residence permits and ordinary residence permits.

Importantly, a three year ordinary residence permit may be granted to a spouse of an individual in Egypt where such individual is entitled to a 3 to 5 year residence permit. Furthermore, the five year ordinary residence permit may be granted to a spouse of an individual in Egypt where such individual is entitled to an ordinary residence permit of five years.

Disqualification

The Minister of Interior may terminate a work permit for the following reasons:

- if the foreign employee is indicted for a crime or a felony related to moral turpitude, fiduciary or public order;
- if it is proven that the employer or the employee provided false information in any of the documents presented to the relevant authorities;
- if the work permit was used for purposes other than those for which the permit was issued; and
- for any reason that threatens national security or Egypt's political and/or economic interests.

An employee will not be granted a residency permit in Egypt if such employee:

- has a criminal record in any country;
- fails the medical exam;

- has insufficient financial means;
- fails to present any information or documentation requested by an Immigration officer during the application process; or
- does not possess sufficient language skills.



6. Ghana

Ghana's corporate immigration framework

The regulation of the employment of foreign nationals in Ghana is governed by the Immigration Act, 573 of 2000 (Immigration Act), read together with the Immigration Regulations 2011 (Regulations).

Which visa/permit is required?

Residence and work permits are issued by the Ghanaian Immigration Service. A foreign national issued with a work permit or an immigration quota permit does not automatically qualify for a residence permit. An immigration quota is the number of non-Ghanaians, a company may employ in Ghana. A foreigner that has been granted work permit or immigrant quota cannot start working immediately in Ghana unless that person is granted residence permit by the Director of Immigration (Director) to remain and work in the country. A foreign national, must therefore make two separate applications, one for a residence permit and another for a work permit.

As mentioned above, the Ghanaian Immigration Service is responsible for issuing residence and work permits. An application for permits must be lodged with the Immigrant Quota Committee (Committee) , in the prescribed form and accompanied by such fee as may be prescribed (discussed below). The Committee, is responsible for the consideration of all applications and shall submit its recommendations to the Director for the issue. The Director, determines which applications are granted.

A foreign national who has been granted a permit to work in may one month before the expiry of that permit apply to the Committee in the prescribed manner for the renewal of his permit. An application for renewal shall be treated as if it were a fresh application.

A foreign national granted a work permit or immigrant quota work permit must submit an annual return. This return must be completed prior to 14th of January in each year. It is submitted to the issuing authority with a copy to the Director of immigration. It needs to provide the names and addresses of all foreign employees in their employment as of 1st January that year.

Requirements

Ghana recognises two categories of permits relevant to this alert, the work permit and the residence permit.

	Work	Residence
Duration	The length of the contract or a maximum of 2 years	8 years
Application	<ul style="list-style-type: none">- Filled work permit form;- C.V./resume;- Educational and professional certificates;- Employment contract;- Police report from his/her home country;- Medical report;- Certified copies of a valid passport; and- Passport size photo	<ul style="list-style-type: none">- Filled residence permit form;- Three passports size photographs;- Approval letter from the Ministry of Interior;- Police report from his/her home country;- Medical report; and- Certified copies of a valid passport

Prescribed Fee	\$500	\$500
Issued by	Ministry of Interiors	Ministry of Interiors

Spouses and Children

A foreign national married to a citizen of Ghana is entitled to indefinite residence in Ghana if that foreign national, has resided in Ghana throughout the period of twelve months or has resided in Ghana for an aggregate period of not less than two years. Indefinite residence will also be granted if that foreign national has not been convicted of any offence and sentenced to a period of imprisonment of twelve months or more. If a foreign national, intends to reside permanently in Ghana and is in possession of a valid residence permit on the date of the application indefinite residency can be granted.

Foreign spouses with special skills may on application to the Minister of Interior be issued with work permits to work so long as they remain with partners who have lawful residential status in Ghana.



7. Kenya

Kenya's immigration framework

The Kenya Citizenship and Immigration Act, 2011 (Act) and the Kenya Citizenship and Immigration Regulations, 2012 (Regulations) regulate, inter alia, the employment of foreign nationals in Kenya.

In order to engage in employment in Kenya, foreign nationals are required to obtain work permits which are issued by the Department of Immigration Services. A foreign national is considered to be any person who is not a citizen of Kenya.

Which permit is required?

There are thirteen classes of permits in total. For the purposes of seconding employees to Kenya, only Class C, Class D and Class G permits are relevant. We deal briefly with the requirements for these permits below.

	Class C	Class D	Class G
Definition of Category	Issued to persons who intend to practice a prescribed profession in Kenya.	Issued to a person who is offered specific employment by a specific employer who is qualified to undertake that employment.	Issued to investors in a specific trade, business or consultancy.
Duration	Valid for 2 years.		
Application: Specific Requirements	<p>A person applying for a Class C permit must:</p> <ul style="list-style-type: none"> – possess the prescribed qualification; – have sufficient capital and other resources for the purpose of the profession; – be registered with the professional body or institute to which he belongs in his own country; and – show that his practice of the profession will be to the benefit of Kenya. 	<p>A person applying for a Class D permit must provide:</p> <ul style="list-style-type: none"> – copies of academic/professional certificates and CV's; – evidence that the organisation failed to fill the vacancy from the local labour market; – a completed Form 25, signed and sealed by the company; – payment of the processing and prescribed fee. 	<p>A person applying for a Class G permit must provide:</p> <ul style="list-style-type: none"> – documentary proof of capital to be invested/already invested - the minimum of which must be 100,000 US dollars or equivalent in any other currency; – a registration certificate of the company or certificate of incorporation; and – copies of personal and company PIN (Personal Identification Number) if the business is running.
Application: General Requirements	<p>In addition to the above, a person must provide the following:</p> <ul style="list-style-type: none"> – a duly completed and signed application form; – a covering letter from the employer, self, or organisation depending on the class of 		

	Class C	Class D	Class G
	permit; – copies of the national passport; and – two passport size photographs.		
Prescribed Fee	Processing fee: Kshs.10 000 (approximately R 1, 419)	Processing fee: Kshs.10 000 (approximately R 1, 419)	Processing fee: Kshs.10 000 (approximately R 1, 419)
	Issuance fee: Kshs.100 000 (approximately R 14, 198), once off.	Issuance fee: Kshs.200 000 (approximately R 28, 396), once off.	Kshs.100 000 (approximately R 14, 198) per annum.
Issued by	Department of Immigration Services	Department of Immigration Services	Department of Immigration Services

Persons who intend remaining in Kenya for work or business purposes for a short period of time can obtain a special pass. It is issued to a person who intends to engage in any form of employment (whether paid or unpaid) or in any other income generating activity.

In order to obtain a special pass, a person must:

- complete the required application form;
- submit two copies of their national passport;
- submit two passport size photographs;
- submit a forwarding letter from the institution;
- obtain clearance from the necessary regulatory body; and
- must make payment of the prescribed fee of Kshs. 15 000 (R 2 135).

The special pass is valid for a period not exceeding three months.

Permanent residency

A person (and his or her dependents) who has held a work permit for at least seven years may apply for permanent residency in Kenya provided that they have been continuously resident in the country for three years immediately preceding the permanent residence application. Permanent residency will be granted to such persons if various requirements are satisfied.

Spouses and dependents

A person who has already been issued with a permit may apply, on behalf of his or her dependent, for a dependent's pass. A dependent's pass will entitle the dependent to enter and remain in Kenya within the period specified in the pass.

A dependents pass is issued by an immigration officer who must be satisfied that:

- the person, on whose behalf the application is made, depends on the person making the application for his or her maintenance;

- the dependent is a spouse or child of the applicant or is by reason of age, disability or any incapacity unable to maintain himself adequately or for some other reason relies upon the applicant for his or her maintenance; and
- the applicant has an income sufficient to enable him or her to maintain and continue to maintain.

Disqualification

Applications for work permits will be rejected where the applicant:

- does not qualify under the Act; or
- gives false material information for purposes of obtaining a work permit; or
- submits an incomplete application.

Work permits already issued will be invalidated where a person holding the work permit:

- without approval, fails to engage in the employment in respect of which the permit was issued within ninety days of either the work permit being issued or the persons entry into Kenya; or
- ceases to engage in the respective employment; or
- engages in employment other than the employment in respect of the work permit.



8. Mozambique

Mozambique's corporate immigration framework

The regulation of the employment of foreign nationals in Mozambique is governed by the Labour Law (23/2007). The hiring of foreign employees is also subject to specific legislation, including (i) the General Hiring of Expats Regulation (Decree 37/2016); (ii) the Regulation on the Hiring of Expats in the Petroleum and Mining Sector (Decree 63/2011); and (iii) the Immigration Law Regulation (Decree 108/2014).

Which permit is required?

The labour laws states two different work permits for long-term secondments, namely (i) work permit within the quota or labour communication; and (ii) work permit above the quota or work authorisation. The Mozambican labour regime restricts the admission of expatriates working for Mozambican companies or branches, as per the following percentages below:

- 5 per cent if a large company or branch (with more than 100 employees);
- 8 per cent if a medium-sized company or branch (between 10 and 100 employees); and
- 10 per cent if a small company or branch (fewer than 10 employees).

However, a Mozambican company may apply for a work permit above the quota for a foreign national, if it justifies the hiring of such foreign national by proving that the individual possesses certain skills and knowledge that cannot be found in any other potential Mozambican candidate.

Further, in terms of article 31(6) of the Labour Law, investment projects approved by the Government which contemplate the employment foreign nationals in a smaller or greater percentage than foreseen above, work permits shall not be required, and it shall be sufficient for notice to be given to the Minister of Labour within fifteen days after the foreign national enters Mozambique.

A Mozambican company who wishes to employ a foreign employee, must submit an application for a work permit before the employee enters Mozambique. There is a three step process which is to be followed before a foreign employee is able to start working and legally living in Mozambique. The first step is for the local employer to submit the application to the labour authorities. This step process takes approximately one to three weeks (for a work permit within the quota) and four to six months (for a work permit above the quota or work authorisation). The second step is for the foreign employee is to apply for a work visa at the Mozambican consulate in the country of origin, or the nearest consulate to that country of origin. The third step is for the employee to obtain the residence permit. For an employee working in Mozambique, the general maximum period is 24 months while the minimum period is 30 days. Certain sectors dictate different time periods which varying form the general position.

Short-term work permits are available for occasional and specific services not exceeding 90 days in a calendar year. It may be worth while considering the cost and time implications of a short-term work permit versus an ordinary work permit if an employee is rendering services not exceeding 90 days in a calendar year.

Visas or residence permits allow foreigners entrance to Mozambique, for the period for which it is granted, however does not entitle the visitor to earn a living in Mozambique.

There are three types of residence. Firstly, interim residence is issued on application to a foreigner staying in Mozambique for more than 90 days and less than five years. Secondly, temporary residence is issued on application to a foreign citizen who has had interim residence for more than five years. Thirdly, permanent

residence is issued on application to a foreigner who has had temporary residence for over 10 years (consecutively). Both interim and temporary residence permits are valid for one year and are renewable for the same period.

The permanent residence permit is valid for five years and is renewable for the same period as long as the reasons for granting it remain valid. However, there is also the possibility of obtaining a permanent lifetime residence if the conditions for this are met.

Mozambique recognises two categories of permits relevant for our purposes, the work permit and the residence permit, albeit in different types.

	Work	Residence
Duration	The length of the contract or a maximum of 2 years The foreign employee must arrive in Mozambique within 30 days after issuance of the work visa.	1 - 5 years The residence permit is valid for one year and can be renewed.
Application	<ul style="list-style-type: none"> - Completed work permit form; - Employment contract; - Criminal Record; - Certified copies of valid passport; - Passport size photo; - Authorisation letter from the Ministry of Labour; - Quittance certificate issued by the National Institute of Social Security; - Quittance certificate issued by the entity responsible for financial; and - Deposit slip providing payment of a fee. 	<ul style="list-style-type: none"> - Completed residence permit form; - Three passport size photographs; - Photocopy of residence visa; - Criminal Record; - Medical Report; - Certified copies of valid passport; - Copy of the company charter and the last tax payment to the Ministry of Finance; and - Letter confirming employment from the company.
Prescribed Fee	\$4 500	\$160 - \$210
Issued by	Ministry of Labour	Department of Immigration Services from the Ministry of Internal Affairs

Spouses and dependants

Only dependants (please note that Mozambican legislation does not recognise partnerships or marriages between people of the same gender) of foreign nationals holding permanent residence permits are allowed to work in Mozambique subject to the dependant being granted specific approval. Dependants of foreign nationals holding a temporary residence permit are not allowed to work in Mozambique. There are no social benefits for dependants stipulated in the law.



9. Nigeria

Nigeria's corporate immigration framework

The regulation of the employment of foreign nationals in Nigeria is governed by the Nigerian Immigration Act of 2015.

Which visa/permit is required?

The type of business visa/permit required depends on the reason for the visit and the length of stay.

Short-term assignments in Nigeria - Requirements

Individuals travelling to Nigeria on short-term assignments will require either a Temporary Work Permit or a Business Visitor's Visa. The details of each are set out below:

	Temporary Work Permit	Business Visitor's Visa
Reason for Entry	Required when a foreign national is assigned or seconded to an employer based in Nigeria for a short period.	Required when a foreign national intends to go to Nigeria for business activities, for instance, business meetings.
Duration of Stay	Typically granted for between 60 to 90 days, but are renewable in Nigeria. Single entry.	90 days from date of entry, but are renewable in Nigeria. Single entry.
Application process	Application to the Comptroller General of the Nigerian Immigration Service in Nigeria. The Nigerian Diplomatic Mission in the foreign national's country of residence will issue the visa, if the application is successful.	Application to the Nigerian Diplomatic Mission in the foreign national's country of residence. The Nigerian Diplomatic Mission in the foreign national's country of residence will issue the visa, if the application is successful.
Prescribed Fee	\$58 This fee is dependant on an applicant's country of origin and the number of entries required.	\$58 This fee is dependant on an applicant's country of origin and the number of entries required.
Issued by	Nigerian Immigration Service	Nigerian Immigration Service

It bears mentioning that the provisions in the Immigration Act, 2015 pertaining to foreign nationals requiring visas, work permit and residence permits do not apply to nationals of member states of the Economic Community of West African States (**ECOWAS**) who are exempted from requiring entry visas, and are allowed to work, reside and undertake commercial and industrial activities within Nigeria. This exemption applies provided that such citizens register with the Nigerian Immigration Service as ECOWAS nationals.

Long-term assignments in Nigeria Requirements

Long-term assignments are linked to specific job designations, meaning that the visa is connected to both the entity and the position in which the foreign national employee will be assigned.

There is a specific process which the employer is required to follow before the employee can apply for their work visa:

- Firstly, the employer must apply for an expatriate quota. An expatriate quota is the official permit issued by the Federal Ministry of Interior which allows the employer to employ a certain number of foreign nationals for a specific job, for a set amount of time; and
- Secondly, once the employer has obtained an expatriate quota, it has to apply for a Subject to Regularisation visa. The Subject to Regularisation visa is a visa applied for by the employer on behalf of the employee, entitling the employee to, subject to further regularisation, take up paid employment as an expatriate. The application must be made to the Nigerian embassy or consular office in the country in which the employee resides. Only once the employer is granted an expatriate quota and the employee is afforded the Subject to Regularisation visa, can the employee apply for a combined expatriate residence permit and aliens card (**CERPAC**).

A CERPAC allows the expatriate employee to reside and work in Nigeria for a maximum period of 12 months. As of February 2015, the requirement of needing a re-entry visa when returning to Nigeria on a CERPAC has been abolished. Employees are now able to travel in and out of Nigeria without having to apply for re-entry visas.

Note: Special provisions apply to ECOWAS nationals. Such nationals are entitled to an ECOWAS card, which:

- exempts the employer from having to apply for the expatriate quota and the Subject to Regularisation visa; and
- entitles the ECOWAS national to certain residency and business rights (in Nigeria, as well as other ECOWAS member states), including allowing the ECOWAS nation to work and reside in Nigeria for up to five years.

Residence permit

A foreign national may enter Nigeria for the purpose of residence provided that he/she has a residence visa signed by or on behalf of the Comptroller-General.

Comptroller-General may grant the residence permit for a period not exceeding 2 years, subject to renewal.

Need to show evidence of immigration responsibility or any other security.

Comptroller-General may authorise the issuance of a Permanent Residence Visa to foreign nationals who:

- are married to Nigerians;
- are investors who have imported and annual minimum threshold of capital over a period of time as specified in the National Visa Policy.

Comptroller-General may authorise the issuance of a Permanent Residence Visa to a Nigerian citizen by birth who had earlier renounced his nationality

Spouses and dependants

When the employer applies for Subject to Regularisation visa for an employee, it does so on behalf of the employee as well as his accompanying dependant(s), if applicable. In such application, the employer undertakes to assume immigration and other responsibilities for the employee (as well as his dependant(s)) in Nigeria.

Dependants, including spouses and major children, entering Nigeria as dependants of the employee are barred from working. Dependants are also not entitled to any specific social benefits in terms of Nigerian immigration law or any other law. However, it is often the case that provision is made for these dependants under the contract of employment entered into by the employee, parent or guardian and his employer.

Disqualification

Comptroller-General may at any time if he deems it to be in the public interest, revoke a work permit, or issue a new permit on such conditions that he thinks fit.

The failure to comply with any permit directives of the Comptroller-General shall be an offence; the offender shall be liable on conviction to imprisonment for a term of five years or a fine of one million Naira, or both.



10. South Africa

South Africa's corporate immigration framework

The Immigration Act, 2002 (the Act) came into effect on 7 April 2003. The Act has been amended on various occasions, and has most recently been supplemented by the regulations contained in the Immigration Amendment Act, 2014 which came into effect on 26 May 2014 (the Regulations).

The purpose of the Act and the Regulations is to regulate employment of foreign nationals in South Africa.

Which visa is required?

A foreign national who wishes to work in South Africa needs to obtain the appropriate temporary residence visa.

The foreign national may apply for a visa at the South African diplomatic representative in their country of origin. The foreign national can also apply at a South African diplomatic representative in a neighbouring country if there is no South African diplomatic representation in their country of origin.

The visa is issued by the Director-General of the Department of Home Affairs (DHA) (Director-General).

The Act and Regulations provide for different types of work visas, depending on the circumstances surrounding the applicant's entry into South Africa. A work visa issued in terms of the Act is not transferable and is only valid for the purpose for which it was issued.

This chapter will deal with the following work visas available to foreign applicants:

- General Work Visa - Issued to applicants who do not have skills and/or expertise listed on the critical skills list. One of the key issues in obtaining a general work visa is that the employer must be able to demonstrate that there are no South African citizens or permanent residents with qualifications or skills and experience equivalent to those of the foreign applicant. Practically, this means that the employer will have to advertise the position, consider and interview applicants and motivate why the position cannot be filled by a citizen or permanent resident in South Africa.
- Critical Skills Work Visa - Issued to applicants in possession of skills or qualifications that are considered to be critical. The employer does not have to demonstrate that it was unable to find a suitable citizen or permanent resident for the relevant position. Therefore, if a foreign national qualifies for a critical skills visa, this option is more preferable than a general work visa.
- Intra-Company Transfer Work Visa (ICT Visa) - Issued in circumstances where multi-national companies may decide to transfer an existing employee in a key position from a foreign branch to a branch, subsidiary or an affiliate of that company in South Africa.
- Corporate Visa - Allows a corporate entity established under the laws of South Africa to employ a pre-determined number of foreign skilled/semi-skilled/unskilled workers. The Director-General may issue a corporate worker certificate to the corporate worker employed by the holder of a corporate visa, for a period not exceeding the validity period of the corporate visa. This will allow the corporate worker to work within the Republic of South Africa.

	General Work Visa	Critical Skills Work Visa	Intra-Company Transfer Work Visa	Corporate Visa
Definition of Category	<p>Issued to applicants who do not have skills and/or expertise listed on the critical skills list.</p> <p>There is a closed list of critical skills published by the DHA (Critical Skills List).</p> <p>The employer must be able to demonstrate that there are no South African citizens and permanent residents with the relevant qualifications or skills and experience.</p>	<p>Issued to applicants in possession of skills or qualifications that are considered to be critical.</p> <p>The Critical Skills List details the skills for which this visa will be applicable.</p>	<p>Issued in circumstances where multi-national companies may decide to transfer an existing employee in a key position from a foreign branch to a branch, subsidiary or an affiliate of that company in South Africa.</p>	<p>Issued to a resident corporate applicant established under the laws of South Africa (as opposed to a foreign individual) and allows a corporate entity to employ a pre-determined number of foreign skilled/semi-skilled/unskilled workers.</p> <p>In this case, the visa is issued to the employing company as opposed to the individual.</p>
Duration	<p>The duration of the contract of employment.</p> <p>Maximum: 5 years.</p> <p>The general work visa may be renewed or extended.</p>	<p>Maximum: 5 years.</p> <p>However, where there is no offer of employment a critical skills visa shall be issued for a maximum of 1 year.</p> <p>The critical skills work visa may be renewed or extended.</p> <p>Where the applicant was already issued with a critical skills work visa for 12 months, the extension shall not exceed four (4) years until the next renewal.</p>	<p>Maximum: 4 years.</p> <p>The ICT visa cannot be renewed or extended.</p>	<p>Maximum: 3 years.</p> <p>The corporate visa may not be renewed or extended.</p>
Application	<p>The foreign national will need to fill in the form provided by the Department</p>	<p>The foreign national will need to fill in the form provided by the Department</p>	<p>The foreign national will need to fill in the form provided by the Department</p>	<p>The foreign national will need to fill in the forms provided by the Department</p>



	General Work Visa	Critical Skills Work Visa	Intra-Company Transfer Work Visa	Corporate Visa
	of Home Affairs and pay the prescribed fee. The documents specified in the Act and the Regulations need to accompany the application.	of Home Affairs and pay the prescribed fee. The documents specified in the Act and the Regulations need to accompany the application.	of Home Affairs and pay the prescribed fee. The documents specified in the Act and the Regulations need to accompany the application.	of Home Affairs and pay the prescribed fee. The documents specified in the Act and the Regulations need to accompany the application. Application for a corporate worker certificate
Prescribed Fee	USD 100	USD 100	USD 100	USD 100
Issued by	Application to the Director-General for a work visa. Upon approval, the Director-General will issue the visa.	Application to the Director-General for a work visa. Upon approval, the Director-General will issue the visa.	Application to the Director-General for a work visa. Upon approval, the Director-General will issue the visa.	Application to the Director-General for a work visa. Upon approval, the Director-General will issue the visa.

Permanent residency

The process of applying for permanent residency after a foreign national has obtained a temporary work visa is made easier depending on the type of work visa obtained.

If a foreign national has retained a general work visa or a critical skills work visa for a continuous period 5 years, they may apply for permanent residency and will be exempt from the five-year waiting period for qualifying for permanent residency.

However, the ICT visa may only ever be applied for as a temporary visa and the time period it is held for will not count towards the 5 years required for an application for permanent residency. For a holder of an ICT visa to apply for permanent residency, they would need to apply for a different type of work visa where permanent residency may be applied for, and fulfil the requirement of holding a work visa for 5 years.

Spouses and dependants

Spouses and dependant children will need visas if they are to accompany the foreign national to South Africa. They will be issued with temporary residence visas on arrival in South Africa. They can also apply for work or study visas, either before departing or once they are in South Africa.

In respect of dependent children accompanying the applicant or joining the applicant in South Africa, proof of parental responsibilities and rights or written consent in the form of an affidavit from the other parent or legal guardian will be required. In respect of a spouse accompanying the applicant or joining the applicant in South Africa, a copy of a marriage certificate or proof of a relationship must be submitted.

Disqualification

In terms of the Immigration Act, visas will be refused to the following undesirable persons -

- anyone who is or is likely to become a public charge;
- anyone identified as such by the Minister;
- anyone who has been judicially declared incompetent;
- an unrehabilitated insolvent;
- anyone who has been ordered to depart in terms of the Immigration Act;
- anyone who is a fugitive from justice;
- anyone with previous criminal convictions without the option of a fine for conduct which would be an offence in the Republic, with the exclusion of certain prescribed offences; and
- any person who has overstayed the prescribed number of times.

The following prohibited persons will also not qualify for a visa in South Africa –

- those infected with or carrying infectious, communicable or other diseases or viruses as prescribed;
- anyone against whom a warrant is outstanding or a conviction has been secured in the Republic or a foreign country in respect of genocide, terrorism, human smuggling, trafficking in persons, murder, torture, drug-related charges, money laundering or kidnapping;
- anyone previously deported and not rehabilitated by the Director-General in the prescribed manner;
- a member of or adherent to an association or organisation advocating the practice of racial hatred or social violence;
- anyone who is or has been a member of or adherent to an organisation or association utilising crime or terrorism to pursue its ends; and
- anyone found in possession of a fraudulent visa, passport, permanent residence permit or identification document.

If a visa has been issued to such prohibited person, such visa will be revoked. However an application may be made to the Minister to waive any of the grounds of undesirability / prohibition, for good cause. Visas may be revoked if it has been found that the applicant had provided the immigration officer with incorrect or false information through error or misrepresentation.

Practical considerations

While the different work visas detailed above all apply to the different ways in which a foreign national can enter the employment market in South Africa, each visa has its own advantages and disadvantages. Knowing the practical differences between the visas will assist both employers and employees in considering which visa will be the most beneficial in the circumstances.

A general visa will apply to most foreign nationals, and the applicant will not need to possess skills or qualifications that are considered to be critical in terms of the Critical Skills List. However, in order to demonstrate why the employer was unable to find a suitable South African citizen or permanent resident with the required qualifications or skills and experience, the position must be advertised, candidates



interviewed etc. Practically this is a time-consuming process. The applicant will need to be in possession of a valid job offer from the employer at the time of applying for the general work visa.

In comparison to the other types of work visas, the process and documentation required to obtain an ICT visa is easier to manage, as well as quicker. The foreign national will also not need to possess skills or qualifications that are considered to be critical in terms of the Critical Skills List. The downfall of the ICT visa is that it cannot be renewed or extended (unlike the general work visa and the critical skills work visa). The applicant will have to return to the country of origin and apply for a new visa after the 4 year period. Also, a transfer of skills plan must be in place in support of the ICT visa application.

In order to apply for a critical skills work visa, the applicant does not need a job offer in South Africa before applying. A holder of a critical skills visa has 12 months to find employment (in their field of expertise) after obtaining this visa. It is, however, recommended for them to secure permanent employment before applying.

On the other hand, applicants for a critical skills visa may need to register with a South African accredited professional body that covers the field of expertise. Another disadvantage is that the critical skills work visa is only available to applicants who possess the critical skills listed on the Critical Skills List.

Lastly, a corporate work visa is not issued to an individual, but to an employing company, and allows that company to employ a number of foreign workers. Hence a company can recruit a certain number of foreign employees to fulfil certain roles over a finite period of time instead of by a case-by-case basis. The disadvantage here is that the process of obtaining permission to recruit a large number of foreign employees within one application is an unfortunately lengthy process, and that the business must be able to show, at all times, that at least 60% of the total staff complement that are employed in the operations of the business are citizens or permanent residents of South Africa employed permanently in various positions.

Employers and employees will need to weigh up the pros and cons of the different types of work visas offered in South Africa in order to find the one that suits their capabilities and needs.



11. Tanzania

Tanzania's corporate immigration framework

The Non-Citizens (Employment Regulation) Act, 2015 (NCERA) came into effect on 15 September 2015.

The purpose of the Act is to regulate employment of foreign nationals in Mainland Tanzania. Importantly, NCERA does not extend to Tanzania Zanzibar. NCERA must be read alongside the Immigration Act, 1995 (Immigration Act) that regulates immigration into Tanzania. Contrary to the NCERA, the Immigration Act extends to both Tanzania Zanzibar and Mainland Zanzibar.

Which permit is required?

A foreign national desirous of working in Tanzania needs to obtain both a residence and a work permit.

A work permit is issued by the Labour Commissioner, while the residence permit is issued by the Immigration Services Department. An individual issued with a work permit does not automatically qualify for a residence permit. Thus, the foreign nation must make two separate applications - one to the Labour Commissioner and the other to the Immigration Services Department.

As with all jurisdictions, the type of work permit required depends on the reason for the visit. A work permit issued in terms of NCERA is not transferable and is only valid for the purpose for which it was issued.

There are five types of work permits:

- Class A - Issued to a foreign investor who is self employed.
- Class B - Issued to a foreign national who is in possession of a rescribed profession.
- Class C - Issued to a foreign national who is in possession of other profession.
- Class D - Issued to a foreign national employed or engaged in a registered religious and charitable activities.
- Class E - Issued to refugees.

We deal briefly with work permit Classes A-C below:

	Class A	Class B	Class C
Definition of Category	Issued to a foreign investor who is self employed. A self employed person is a person who is engaged in economic activity which is not under any contract of employment or under supervision and who earns a living through such an activity.	Issued to a foreign national who is in possession of a prescribed profession. 'Prescribed Profession' includes medical and health care professionals, experts in oil and gas and teachers and university lecturers in science and mathematics.	Issued to foreign national who holds another profession, other than a Prescribed Profession.
Duration	Foreign investors who are considered to be valuable through their contribution to the economy and well being	A work permit is valid for a period of 24 months from the date of issue and may be renewed for a further 36	A work permit is valid for a period of 24 months from the date of issue and may be renewed for a further 36

	of Tanzanians may be granted a work permit that is valid for over 10 years.	months. The total period that a permit may be valid may not exceed a period of 5 years, taking into consideration the date of the first issue, subject to renewal.	months. The total period that a permit may be valid may not exceed a period of 5 years, taking into consideration the date of the first issue, subject to renewal.
Application	The foreign national will need to fill in the form set out in the First Schedule of the NCERA and pay the prescribed fee. The documents specified in the Second Schedule of the NCERA need to accompany the application.	The foreign national will need to fill in the form set out in the First Schedule of the NCERA and pay the prescribed fee. The documents specified in the Second Schedule of the NCERA need to accompany the application.	The foreign national will need to fill in the form set out in the First Schedule of the NCERA and pay the prescribed fee. The documents specified in the Second Schedule of the NCERA need to accompany the application.
Prescribed Fee	USD 1,000	USD 500	USD 1,000
Issued by	Application to the Labour Commissioner in Tanzania for a work visa. Upon approval, the Labour Commissioner will issue the permit.	Application to the Labour Commissioner in Tanzania for a work visa. Upon approval, the Labour Commissioner will issue permit.	Application to the Labour Commissioner in Tanzania for a work visa. Upon approval, the Labour Commissioner will issue permit.

Residence permit

There are 3 classes of residence permits granted, subject to the discretion of the Immigration Authority:

- Class A: to foreign nationals intending to enter and remain in Tanzania and engage in trade, business, profession, agriculture, animal husbandry, prospecting of minerals and manufacturing.
- Class B: to foreign nationals who are offered specific employment by a specific employer and where s/he has the required qualification and experience.
- Class C: to foreign national, other than prohibited immigrants who do not qualify for Class A or B permits.

Spouses and dependants

A dependant is considered to be an individual who is materially dependant upon the earnings of another as defined by the Immigration Act. The Immigration Act does not envisage that dependants can be husbands or major children (over 18 years old). Thus, dependants - for the purposes of obtaining a dependant visa - will only be the wife and/or minor children of the main visa applicant.

The applicant has to provide documentation that supports the existence of the relationship between themselves and the dependant. In addition, they need to indicate that they are able to support their dependants.



Disqualification

An Immigration Officer at the entry point may refuse any person permission entry if he/she is satisfied that he is unable to fulfil immigration entry requirements and that the presence of such person/visitor would be contrary to national interest.



12. General practical considerations

In all jurisdictions, in addition to obtaining immigration approval for the employee's assignment, employers should ensure that the requisite employment and secondment agreements are in place. Where there will be an employment agreement in existence in both the home country and in the foreign country, the employer should be careful to avoid conflict between the two agreements. Thought should be given to the action plan should either one of the employment agreements be terminated, for whatever reason.





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