



- the Employees Compensation Act, 2010;
- the Factories Act, 2004;
- the Pensions Act, 2004; and
- the Trade Disputes Act, 2004.

The Ministry of Labour and Productivity (the Ministry) is the main regulatory agency. Enforcement of employment statutes and regulations falls under the auspices of the National Industrial Court. With regard to discrimination claims, there are no laws that specifically prohibit discrimination or harassment in the employment context. However, Section 42 of the Nigerian Constitution provides for freedom from discrimination on the basis of sex, age, ethnic group, and political affiliation.

### **Organized Labor and Worker Representation:**

Although the Constitution allows for free association, including the formation of, or membership in labor unions, there is no specific legislation mandating works councils or workers' committees.

### **Hiring of Employees**

Aside from the constitutional requirement of freedom from discrimination on the basis of sex, age, political affinity, and ethnic group there are no legal requirements to give preference in hiring, or not to discriminate in the hire of employees. In addition, employers may perform background and medical/drug checks when deciding hire a potential employee. Such checks may be performed by a third party, and must be undertaken at the employer's expense.

When a hire is made, The Labour Act requires employers to provide an employment contract setting out the terms and conditions of employment within three months of the commencement of employment. The contract must provide: the name of the employer, and if appropriate, the undertaking by which the worker is employed; name, address, and date of hire of the worker; nature of the employment; date of expiration if the contract is for a fixed term; the appropriate period of notice for termination with attention to section 11 of the Labour Act; rates of wages, method of calculation, and frequency of pay; terms and conditions relating to hours, holidays, incapacity (including any provisions for sick pay), and any special conditions in the contract. Employers may use the first three months before providing the contract as a probationary period, and if spelled out in the contract, time thereafter as well. With regard to contracts for a fixed term, contracts must be in writing, but otherwise there are no statutory limitations or restrictions on employment contracts for a fixed term.

In certain situations, an employer may desire to use independent contractors rather than hiring an employee. The rules governing independent contractors in Nigeria are similar to the United States. For example, an employer will not be held vicariously liable for torts committed by an independent contractor. Status as an independent contractor is determined by the level of control exercised by the employer over the contractor.

## Foreign Workers:

Admission of foreign workers is overseen by the Federal Ministry of the Interior. Employers must seek the consent of the Ministry in order to employ foreign workers by applying for an “expatriate quota.” The quota allows a company to employ foreign nationals in specifically approved job designations as well as specifying the validity period of the designations provided on the quota.

There are two types of visas which may be granted, depending on the length of stay. For short-term assignments, an employer must apply for and receive a temporary work permit, allowing the employee to carry out some specific tasks. The temporary work permit is a single-entry visa, and expires after three months. There are no numerical limitations on short-term visas, and foreign nationals who meet the conditions for grant of a visa may apply for as many short-term visas as required.

For long-term assignments, the employer should apply for a “subject-to-regularization” visa (STR). To apply for an STR, an employer must apply for and obtain an expatriate quota. The expatriate quota states positions in the company that will be occupied by expatriate staff. Upon arrival in Nigeria, the employee will need to validate his or her visa by applying for a work and residence permit.<sup>1</sup>

Thank you for reading and stay tuned for our next post on Nigerian employment law which will cover wage & hour rules, dispute resolution, and terminating the employment relationship.

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1. Spouses of authorized workers may also work in Nigeria, provided they obtain a work and residence permit as well. Nigeria does not employ a labor market test, although the Nigerian Content Act does state that employers should exercise a preference for local employees.

## Related People



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