

## Handling Work Permit Applications for Expatriates in Uganda's Oil and Gas Sector

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## 1. Introduction

As Uganda's oil and gas industry gathers momentum towards oil field development, immigration issues for expatriates taking up employment in the sector are increasingly coming to the forefront. Over 167,000 jobs will be created during this field development phase that will last between 3 to 4 years before the first barrel of crude oil will be produced. 14,000 will be direct jobs, 42,700 indirect and 105,000 induced jobs. In terms of competences, 15% [of the 167,000] will be professionals (engineers and managers), 60% technicians and craftsmen and 25% unskilled laborers. From the available studies and forecasts, more than 6,000 foreigners or expatriates will come into the country during this oil field development period.

Prior to taking up employment in Uganda, foreign employees must obtain work permits failure of which would attract sanctions. All work permits are approved and issued by the Directorate for Citizenship and Immigration Control under the Ministry of Internal Affairs. To regulate national content in Uganda's oil and gas sector, the law obliges the International Oil Companies ("IOCs") and their contractors and subcontractors to first obtain the recommendation of the Petroleum Authority of Uganda (PAU or Authority) confirming the suitability of employment of the expatriates in question in the sector. Otherwise, the underlying work permit applications would not be processed by the Directorate for Citizenship and Immigration Control.

In this publication, we outline the key work permit application process issues for expatriate workers in Uganda's oil and gas sector.

## 2. Certificate of Good Conduct

Both applications for a recommendation of suitability and work permit from the PAU and Department of Citizenship and Immigration Control must be supported amongst others by a Certificate of Good Conduct. This can either be obtained from the applicant's home country or from the Directorate of Interpol and International Relations under the Uganda Police Force.

Both the application and payment for the Certificate of Good Conduct are done online via [www.upf.go.ug](http://www.upf.go.ug) and [service.upf.go.ug/certificates](http://service.upf.go.ug/certificates). Once payment is accepted, the applicants book an appointment date online for a physical meeting where particulars of their bio metric data can be taken. This is done at the Directorate of Interpol and International Relations offices in Kololo, Kampala. The applicant must carry the following to this appointment.

- Two (2) passport size photos;
- Two (2) copies of their National ID or Passport;
- Copy of application preview printed from the system;
- Copy of the payment receipt printed from the system.

## 3. Recommendation from the Petroleum Authority of Uganda

The IOCs and their contractors and sub-contractors must identify their human resource needs as per their work programs that they must submit to the Authority for approval at the beginning of each year and as and when the need arises.

Employers are required to advertise in widely read newspapers for the jobs in question. If there is no suitable Ugandan to take up the job, the company writes to the Authority with a justification requesting for a recommendation for a work permit. The Authority then reviews the application in line with legal requirements, the prevailing organizational structure and other human resource considerations.

The application for a recommendation from the PAU must be accompanied with;

- the applicant's passport photo;
- job description (job title & required responsibilities);
- translated and certified or notarized academic transcripts;
- curriculum vitae accompanied by recommendations certifying the experience and job history referenced;
- a description of responsibilities;
- requesting party's organizational structure;
- the duration of the proposed employment in Uganda;
- evidence that no Ugandan nationals are not qualified for the job (recruitment report) (The

recruitment report contains the advert, the details of the candidates including; their names, position applied, current job, years of experience, academic qualification including certifications and the reasons for accepting/rejecting the candidate);

- list of Ugandans identified for training;
- an individual training plan for the replacement of the expatriates with Ugandan citizens;
- Certificate of good conduct; and
- any other information that may be required by PAU.

A letter of recommendation for a work permit will be issued by the Authority if it is satisfied on the suitability for employment of the expatriate in question. This recommendation is forwarded to both the Ministry of Internal Affairs and the company that lodged the application. There is no fee payable at this stage. A letter of recommendation should ordinarily be processed by the PAU within 5 working days in the event there are no additional queries.

#### **4. Application for a work permit**

This application is done online at [www.visas.immigration.go.ug](http://www.visas.immigration.go.ug). The requirements vary according to the different categories / class of work permits. The different classes include Class C (Mining) for persons intending to invest in the business of prospecting for minerals or mining in Uganda; Class D (Business and Trade) for persons intending to carry on the business or trade in Uganda and Class G2 (Employees) for persons intending to work as employees whether for gain or not in Uganda.

A Class G2 work permit is the appropriate class for expatriates seeking employment in Uganda's oil and gas sector. An application for the same must be supported amongst others by the following:

- a valid passport (bio-data page);
- a recent passport size photograph;
- a valid clearance letter or certificate of good conduct from Interpol/ valid police clearance from the home country;
- the current immigration status;
- an appointment letter from the organization;
- a certified copy of qualifications (graduate certificate);
- proof of failure to employ a qualified Ugandan and
- a list of employees in the company indicating nationality and position held.

Once the application is submitted online, it should take at least 2 to 4 weeks to get a response from the Ministry of Internal Affairs. First time applicants are usually given one (1) year work permit that can be renewed upon application after expiry.

#### **5. Applying for a Special Pass**

Due to some unavoidable circumstances, the processing of expatriates work permits sometimes delays. To ensure that the expatriate in question has legal status to stay in Uganda as the work permit application process gets completed, it is recommended that the expatriate applies for and obtains a special pass.

Technically a special pass should not entitle a foreigner to work in Uganda though the practice is otherwise. A special pass is given for a duration not exceeding 3 months but can be renewed. Processing of special passes is under normal circumstances expedited by the Department for Citizenship and Immigration Control. The application is done online via [www.visas.immigration.go.ug](http://www.visas.immigration.go.ug), and the requirements include;

- a bio data page of the Passport;
- a recent passport size photograph;
- a copy of the employment contract; and
- a covering letter explaining the reason for the special pass and duration of stay.

A special pass is free for nationals of the East African Community Member States. \$ 400 is chargeable to foreigners from other countries.

#### **6. Rejection of applications**

The PAU will not give the letter of recommendation unless it is satisfied on the suitability of an expatriate seeking employment in Uganda's oil and gas sector. The organisation seeking to employ an expatriate must demonstrate the exceptional skills of the expatriate in question that are not available locally. We

understand that PAU uses the oil and gas talent register to determine whether there are Ugandans with qualifications that suit the job description of the job which the expatriate is proposed to occupy.

Prior to giving the letter of recommendation, PAU could seek additional information implying that the process is in some instances delayed. PAU will write a letter indicating the reasons for not recommending the expatriate for a work permit.

Getting the recommendation letter from PAU does not necessarily guarantee that the Department for Citizenship and Immigration Control will automatically issue the work permit. It is however unlikely that the Ministry of Internal Affairs would reject the application on grounds that the applicant has not demonstrated exceptional skills. PAU is better placed to assess this suitability in the oil and gas sector the reason it must issue a letter of recommendation before oil and gas sector work permit applications are lodged with the Department for Citizenship and Immigration Control.

An application at the Ministry of Internal Affairs may be rejected on various grounds including inability to provide the relevant supporting documents, failure to prove that the applicant has exceptional skills, not providing the relevant academic qualifications and payment of the requisite fees among others.

Once a work permit application is rejected, the applicant has two options namely; first applying for the review of the application within 30 days from the receipt of the rejection decision or skipping the review process and immediately appealing to the Minister of Internal Affairs. Otherwise, the applicant must leave the country within 30 days from the date of receipt of the rejection unless the review or appeal process is activated.

## **6. Review process**

An applicant whose work permit application has been rejected can apply to the Commissioner Citizenship and Immigration Control for review of the application within 30 days from the date the applicant is notified about the rejection. This application for review is done online supported by the applicant's letter addressed to the Commissioner, Citizenship and Immigration Control requesting for a review and stating justifications as to why the review application should succeed. A fee of \$ 200 is payable and the review decision under normal circumstances is communicated within one month from the date of lodgement of the application.

## **7. Appeal**

An applicant whose first request for a work permit or review application is rejected can appeal within 30 days from the date the applicant is notified about the rejection to the Minister of Internal Affairs. Appeals are heard by the Minister of Internal Affairs who has the sole discretion to reverse a rejection. The application for an appeal is done online supported by the applicant's letter addressed to the Minister of Internal Affairs, providing justifiable reasons why the appeal should be successful.

The applicant pays a fee of \$ 500 before the appeal is received by the Ministry of Internal Affairs. The applicants must additionally hand over their passports to the Commissioner Legal department. The applicant is then issued with a receiving slip acknowledging receipt of the passport. The Legal Department then processes the appeal application and makes a recommendation to the Minister of internal Affairs. In doing so, the Legal Department has the mandate to investigate and this may include site visits to where the applicant works.

A reply to the appeal process is normally given within a period of 1- 3 months

## **8. Ancillary immigration applications**

Expatriates coming to work in Uganda's oil and gas sector may be relocating with their families. This would mean that dependent passes for their spouses, children and dependents must also be applied for.

## 9. Official immigration fees

The official fees payable depend on nationality of the applicant, the type of work permit being applied for and the nature of immigration support services sought as outlined in the table below.

<b>Work Period</b>	<b>Pre – Payment Fee (Non Refundable)</b>	<b>Application Fee</b>	<b>Total</b>
6 months	None	USD 1250	USD 1250
12 months	USD 1500	USD 1000	USD 2500
24 months	USD 1500	USD 3500	USD 5000
36 months	USD 1500	USD 6000	USD 7500
<b>Multiple Entry Visas</b>			
6 months			USD 100
12 months			USD 100
24 months			USD 200
<b>Single Entry Visas</b>			
Single entry visas			USD 50
<b>Passes</b>			
Student passes			USD 100
<b>Dependent Passes</b>			
Spouse			USD 350
Child			USD 200
Others			USD 1000
Special Pass			USD 400

## 10. Conclusion

Regularizing the immigration status of expatriates taking up employment in Uganda's oil and gas sector is a critical aspect of the contractors' regulatory compliance. An employee without a work permit cannot legally exercise employment in Uganda. The Ministry of Internal Affairs and PAU are likely to take exception to this breach resulting into punitive sanctions. The Uganda Revenue Authority cannot equally issue a tax identification number to a foreign employee without a work permit impacting the employer's ability to fully comply with all the underlying tax compliance obligations. An employee without a work permit can neither open up a bank account nor obtain a subscriber identifying number from local telecom service providers.



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Dickens leads the oil and gas practice at the firm. Though his core practice is in oil and gas, he also has experience in local and international arbitration, mergers and acquisitions, private equity, energy, project development and finance, infrastructure, construction and real estate law.

Prior to joining Cristal Advocates, Dickens worked as the Company Secretary of the Uganda Refinery Holding Company Limited (URHC), a company that represents government's interests in the refinery project as well as managing the petro based industrial park.

Dickens also served as the Company Secretary of the Uganda National Oil Company (UNOC), a company that represents the government's commercial interests in Uganda's oil and gas sector from its inception until September 2016.

Dickens was also instrumental in UNOC's formation and its initial period of operation where he also served as its Head of Contracts, Negotiations and Advisory until May 2018.

Prior to joining UNOC, Dickens was Legal Counsel at the Petroleum Directorate of the Ministry of Energy and Mineral Development (MEMD) for a period of 5 years where he was tasked with the evaluation of oil and gas and infrastructure transactions, negotiation of Production Sharing Contracts, Memorandas of Understanding (MOU's), host government agreements and joint venture agreements. He was also part of the team that put together the upstream and midstream petroleum laws and the associated regulations.



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Norah is an associate at Cristal Advocates and is a member of the Oil and Gas, Energy and Taxation team at the firm.

She holds an Masters of Laws degree in Oil and Gas from the University of Aberdeen, a Post Graduate Diploma in Legal Studies from Law Development Centre and Bachelor of Laws Degree from Uganda Christian University,

Norah is an Advocate of the High Court of Uganda and has considerable experience in Oil and Gas law, alternative dispute resolution mechanisms such as arbitration and majorly practices commercial law covering the areas of tax advisory, immigration services, infrastructure/ project financing, debt recovery and legal consultancy. She is also well versed with land conveyance, banking, pension and legal drafting

Prior to joining Cristal Advocates, Norah worked for two leading firms in Uganda where she handled a vast range of legal matters including; Legal Advisory in oil and gas transactions, Public Private Partnerships projects; Drafting, reviewing and renewing of lease agreements, mortgage deeds, and tenancy agreements; corporation of companies; Debt recovery services for various clients, including multi national companies.

At Cristal Advocates, Norah provides oil and gas transactional advice, tax advisory services, litigation and debt recovery services to a wide range of Professional bodies private companies and government entities



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