

Processing Expatriates' Work Permits in Uganda's Oil and Gas Sector

Taking stock of the procedures



1. Introduction

To ensure that qualified nationals are not overlooked for the employment opportunities in the country's nascent oil and gas sector, Uganda enacted stringent national content regulations in 2016. These regulations impose a two tier approval structure before work permits for expatriates in the sector are granted.

The issue of handling work permit approvals in the oil and gas sector was a contentious one in the negotiations that led to the final investment decision ("FID"). The International Oil Companies ("IOCs") had demanded that expatriates are brought into Uganda under a designated quota system without having to go through the rigour of the process proposed by the government though eventually this was settled.

Writing from a vantage point as a service provider supporting players in the oil and gas sector with their immigration needs, we take stock of the process so far and highlight the key issues in handling work permit applications for expatriates in Uganda's oil and gas sector. This article is a follow up to our earlier detailed and instructive publication at <https://crystaladvocates.com/?mdocs-file=22345>.

2. Sector trends

Since FID was taken on 1st February 2022, there is an increased number of expatriates coming to work on the oil project in Uganda. The major licensed companies namely TotalEnergies and the China National Offshore Oil Corporation ("CNOOC") are taking the lead in this regard to ensure that by the time their contractors and subcontractors mobilise, they have enough personnel for the project management and supervision of the execution works.

Some contractors and subcontractors have also began mobilising their expatriate employees who are largely senior executives coming to set off and scale up the in country operations. As Uganda's oil project moves into the accelerated procurement and execution phase, there will be several applications for work permit approvals submitted especially in the technical and engineering fields. We will be keenly watching whether the current approval scrutiny process for these work permit applications will cope up with the fast paced nature of the sector without occasioning project delays.

3. Timing of work permit applications

The law requires all foreign workers taking up jobs in Uganda's oil and gas sector to have work permits prior to commencing employment. There are stringent sanctions for breach of this requirement. The application process for work permit approvals in the oil and gas industry is differentiated from the other sectors of the economy and can initially be

overwhelming but manageable if due diligence is given to the process as this article sets out.

Given that there are two government agencies namely the Petroleum Authority of Uganda ("PAU") and the Ministry of Internal Affairs ("MIA") that deal with the work permit approvals on a first come first serve basis, it is important to commence the process early. From experience, it is our recommendation that the process begins 2 to 3 months ahead of the expected time of reporting of the expatriate in Uganda.

4. Recommendation by PAU

The process begins with lodging an application for a recommendation with the Petroleum Authority of Uganda. A letter of recommendation for a work permit is issued by PAU 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.

The application for this recommendation is by way of ordinary letter justifying the grounds for the employment of the expatriate ahead of locals. The application for a recommendation from the PAU must typically be accompanied with;

- the applicant's passport photo;
- the applicant's passport ;
- job description (job title & required responsibilities);
- translated and certified or notarized academic transcripts;
- curriculum vitae;
- a description of responsibilities;
- requesting party's organizational structure if necessary;
- the duration of the proposed employment in Uganda;
- evidence that no Ugandan nationals are qualified for the job;
- certificate of good conduct; and
- Any other information that may be required by PAU.

To demonstrate that there is no available Ugandan to take up the job offer in consideration, employers are required to advertise the jobs in widely read newspapers. This is followed up with the preparation of a recruitment report that documents all the applicants affirming that they do not qualify for the advertised job. It is also possible following engagements with PAU for a limited scope agreement that some very senior roles in the organisation can be taken up by expatriates without having to go through the process of preparing a recruitment report.

Where the work permit for an expatriate is sought to be renewed, PAU may task the employer to justify why in the instance the job in question should not be taken up

by locals. PAU could approve the application with strict conditions. These could include the demand that the job is taken up by a local resource in the period of time it prescribes including insisting on the preparation and implementation of robust training and skilling plans for Ugandans identified to replace the expatriates.

If there are no additional queries, it takes up to a maximum of 2 weeks for the letter of recommendation to be issued by PAU. The duration recommended for the award of the work permit does not usually exceed 2 years.

5. Application to MIA

The application for a work permit to MIA is done online at www.visas.immigration.go.ug. A Class G2 work permit is the appropriate one for expatriates employed 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;
- Letter of recommendation from PAU;
- proof of failure to employ a qualified Ugandan and
- a list of employees in the company indicating nationality and position held.

A realistic timeline within which work permits can be issued by MIA at the earliest is 2 to 3 weeks though the approval could in some instances come sooner.

6. Common challenges with the process

If the applicant's supporting documents are in a language other than English, PAU and MIA demand translation of the same at Makerere University. There are occasional delays with the translations that can affect the timing of submission of the application.

Employers must ensure that the expatriate employees submitted to PAU for approval as suitable to work in Uganda meet all the academic and experience credentials set out in the job description ("JD") earlier shared with PAU for concurrence in the case of the IOCs or as advertised in the newspapers by the contractors. PAU will reject the applications submitted by expatriates with any slight variation in the experience and academic credentials for the job in question.

Work permit applications cannot be processed by the Ministry of Internal Affairs unless the passport of the

applicant at the time of submission still has up to 6 months before expiration. We note this sometimes derails the work permit approval process.

PAU equally places significant weight to academic credentials which may not necessarily be the measure of competence and skills especially for technical and engineering roles. It is sometimes difficult obtaining work permit approvals for expatriates lacking degrees notwithstanding their experience.

There are also instances PAU overlooks on the job training in favour of foundational degrees. Multinational entities run robust in house training programmes producing consummate and competent oil and gas professionals that in the first place did not have related oil and gas competence based foundational degrees. PAU may have to find a way of addressing this in this post covid period when much more qualified and experienced professionals are still cautious about overseas deployment.

Applications for work permits to MIA are uploaded online. The online system sometimes experiences technical glitches disabling altogether or significantly delaying the uploading of the requisite documents for the consideration of the application. There can also sometimes be a lag between the submission of the application and the online issuance of the slips to facilitate the requisite application fees for the process.

7. 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 Uganda Revenue Authority will not 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. It may also be difficult for the IOCs to recover costs incurred on foreign workers in Uganda without work permits.

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