

# OIL AND GAS

## THE LAW DIGEST

TOPIC: HOW TO OBTAIN WORK PERMIT IN GHANA:  
UPSTREAM PETROLEUM INDUSTRY

**Contributor**

David Yaw Danquah, Esq

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## **INTRODUCTION**

In Ghana, no foreigner shall employ or accept employment unless that person is granted a work permit or immigrant quota. Work permit or Immigrant quota is an authorization given to an employer or employee to engage in lawful and gainful employment in Ghana. The work permit or immigrant quota specifies the job title. It indicates the employer by whom that person is employed, and the holder cannot engage in any other employment, business, profession, or occupation in Ghana for reward than what is specified by the work permit or Immigrant quota.

Usually, a work permit is valid for one (1) year with the option of renewal. It must be noted, however, that a foreigner that has been granted a work permit or immigrant quota cannot start working immediately in Ghana unless that person is granted residence permit by the Director of Immigration to remain and work in the country.

From the preceding introductory remarks, it is vital for International Oil Companies (IOC's) and other industry players engaged in petroleum activities in Ghana to procure for their expatriate employees' work permits from the relevant authorities before the commencement of work. For these discussions, the competent authorities are the Petroleum Commission (Commission) and the Ghana Immigration Service.

## **CONDITION PRECEDENTS**

Before the application of a work permit by a contractor, subcontractor, licensee, and allied entity from the relevant institutions in Ghana, the following condition precedents enumerated below must be adhered to. The condition precedents listed below are engineered to ensure that, to all extent possible, employment opportunities are offered to Ghanaians with the requisite expertise, skills, and experience. More importantly, it is to fulfil the requirement of the Petroleum (Local Content and Local Participation) Regulations, 2013 of Ghana (L.I 2204), that seeks to ensure that employment opportunities in the upstream industry are offered to Ghanaian citizens at first instance. It is only after the inability to attract a suitable Ghanaian that the offer will be made to an expatriate necessitating the application of a work permit by the employer.

The condition precedent includes the following;

1. First and foremost, the employer/applicant must submit each vacant position with the job description, qualifications, and certification requirements of the position to the Commission at least three (3) clear months before the intended start date of the recruitment process.
2. The employer/applicant must, after that, conduct a search for qualified Ghanaians through advertisements for a minimum of one (1) week in at least two (2) national newspapers with nationwide circulation. For the avoidance of doubt, online, and any other medium of advertisement are optional.
3. The employer/applicant must notify the Commission of each interview it seeks to conduct, and the Commission may determine where it deems necessary to sit in the recruitment interview(s) as an observer(s).
4. Where a technically competent and experienced Ghanaian is not found through the prescribed advertisement, the applicant must submit the search results with photocopies of the ad plus CVs and interview transcripts of Ghanaian applicants to the Commission for review. After the review, the Commission shall communicate to the company if it qualifies to apply for a work permit(s) for an expatriate worker for a particular role.

5. The employer/applicant must, after that, submit each application for employment/engagement of a non-Ghanaian citizen to work in the upstream petroleum sector in Ghana in writing to the Commission at least three (3) months before the assumption of duty of the non-Ghanaian citizen.
6. Where applicable, the employer/applicant must apply to the Commission for a waiver of the three (3) months notification requirement specified in Guideline 5 above, where there is an emergency or any other justifiable need. The Commission shall consider the application on its merit and make an appropriate decision based on national and business interests. Each request to employ/engage a non-Ghanaian citizen shall state:
  - a. The name of the company seeking to employ/engage the non-Ghanaian citizen;
  - b. The project/program the non-Ghanaian citizen is to work on.
  - c. The specific role the non-Ghanaian citizen sought to be employed/engaged is to take up.
  - d. The specific qualification required for the role of the non-Ghanaian citizen is to take up.
  - e. The number of years of experience required for the role of the non-Ghanaian citizen is to take up.
  - f. The duration of the employment/engagement.
  - g. Whether the position in respect of which the application to employ/engage a non-Ghanaian citizen is a junior, middle-level position, management, senior management, executive or advisory/consultant position.
  - h. Why a Ghanaian is not qualified to be employed/engaged to assume that role.
7. Once approval is granted by the Commission for the employer/applicant to apply for a work permit for an expatriate, the employer/applicant shall engage a Ghanaian successor(s) with the similar professional background to be trained and coached by the hired expatriate until such time (localization period) that the Ghanaian successor becomes capable of taking over from the expatriate. The localization period for individual applications shall be on a case-by-case basis. It shall be reviewed by both the applicant company and the Commission to agree on the specific time frame for localization.

#### **APPLICATION**

Application for the work permit shall be lodged with the Commission for onward transmission to the Ghana Immigration Service. Under no circumstances should applications be made directly to the Ghana Immigration Service.

#### **SUBMISSION OF APPLICATION FORMS AND RELATED DOCUMENTS**

To apply for a work permit from Commission, the following related documents ought to accompany the application forms;

- a. Cover Letter.
- b. Biodata page of the prospective employer's passport.
- c. Company's certificate of Registration
- d. Company's certificate of incorporation.
- e. Company's certificate for commencement of business
- f. Valid Tax Clearance Certificate of the Company
- g. Medical Report of the Prospective Employee
- h. Police Report of the Prospective Employee
- i. Professional and Educational Certificate of Applicant
- j. Employment Contract issued by the Company

- k. Evidence of efforts made to recruit a Ghanaian.
- l. Completed Application Documents/ Forms
- m. Succession Plan
- n. CV of the Expatriate
- o. CV of the Ghanaian Successor

#### **IMPORTANT CONSIDERATIONS**

Contractors, subcontractors, licensees, and other allied entities must take note of the following important consideration that serves as a determinant for the grant of the work permit after the submission of the relevant documents.

- a. The cover letter must provide extensive justification for the employment of the expatriate by the company.
- b. The Police Report of the prospective employee must not be more than one (1) year old. More so, the Police Report must be issued by the relevant authorities of the home country of the prospective employee.
- c. The Medical Report of the prospective employee must not be more than two (2) years old. A medical officer must issue this from a recognized medical institution of the home country of the prospective employee.

#### **ASSESSMENT AND EVALUATION OF APPLICATION**

Once submitted, the Commission will cause an extensive review of the application to ascertain whether all relevant documents have been submitted in consideration of the work permit. In some instances, the Commission will carry out site/facility inspections. The outcome of the review could be any of the following;

- a. Application refused- meaning the application lacks merit.
- b. Additional information required- meaning recommendation for approval will be subject to additional information being provided.
- c. Application forwarded to the Ghana Immigration Service with a recommended term of permit- meaning the application satisfies all the requirements hence the recommendation for approval by Ghana Immigration Service.

#### **NOTICE OF ISSUANCE OF PERMIT**

The contractor, subcontractor, licensee, and the allied entity, which made the application on behalf of the expatriates, shall be informed by the Commission the issuance of the work permit by the Ghana Immigration Service for pick up.

## NOTES ON CONTRIBUTOR



Mr David Yaw Danquah is the founder and Managing Partner of Legalstone Solicitors LLP, a boutique law firm in Ghana with a concentration on Corporate and Commercial, Mining and Infrastructure, Debt Recovery and Restructuring, Real Estate and Construction Law, and Commercial Arbitration.

He heads the firm's practice areas of focusing are Corporate and Commercial, Mining and Infrastructure, Debt Recovery and Restructuring, and Commercial Arbitration.

David has advised on numerous investment and mining-related transactions. He also has assisted countless international entities in establishing their operations in Ghana, and through his firms, offers support services to those entities. He has an impeccable record of providing technical savvy and exceptional client services.

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