



REPUBLIC OF NAURU

IMMIGRATION (AMENDMENT) REGULATIONS 2023

SL No. 8 of 2023

Notified: 6 March 2023

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The Cabinet makes the following Regulations under Section 33 of the *Immigration Act 2014*:

1 Citation

These Regulations may be cited as the *Immigration (Amendment) Regulations 2023*.

2 Commencement

These Regulations commence on the date they are notified in the Gazette.

3 Amendment of the *Immigration Regulations 2014*

These Regulations amend the *Immigration Regulations 2014*.

4 Amendment of Regulation 3

Regulation 3 is amended by inserting the definition for 'local business (employment) visa' as follows:

'local business (employment) visa' means a local business (employment) visa granted under Regulation 8;

5 Amendment of Regulation 4

Regulation 4(1) is amended by inserting a new paragraph after paragraph (b) as follows:

'(c) local business (employment) visa;'

6 Insertion of Regulation 8

Regulation 8 is inserted after Regulation 7 as follows:

'8 Local business (employment) visa

(1) A local business (employment) visa may only be granted to a foreign national who is employed by a Nauruan employer where:

(a) there are no skilled persons in Nauru, or there is a shortage of skilled persons in Nauru, to carry out the nature of employment for which an application for the visa is made;

(b) the nature of employment is such that a particular qualification is required under a written law to carry out the profession or employment; or

(c) the nature of employment for which a foreign national is required to be employed is necessary for providing goods and services to the people of Nauru.

- (2) A Nauruan citizen or a wholly-owned Nauruan business, which has assigned the licence or operations of a business or sharing of any profit or gain from the business under any arrangement or understanding in contravention of the *Business Licences Act 2017* or any other written law, to a foreign national or foreign business shall not be qualified as an employer for the purposes of a local business (employment) visa under this Regulation.
- (3) A foreign national who is or intends to be employed by a Nauruan employer may apply for a local business (employment) visa.
- (4) An application for a local business (employment) visa shall:
 - (a) be made in the appropriate form set out in Schedule 1;
 - (b) be accompanied by the required particulars;
 - (c) provide one or more reasons specified under subregulation (1) for the purpose of employing a foreign national;
 - (d) be accompanied by evidence of payment of the appropriate fee set out in Table 2 of Part 1 of Schedule 2; and
 - (e) be made to the Director.
- (5) A Nauruan employer shall provide the following particulars for inclusion in the application under subregulation (4):
 - (a) in the case of an individual, proof of his or her citizenship;
 - (b) in the case of a business, a statutory declaration that the business is wholly-owned by a Nauruan citizen;
 - (c) in the case of a business, the current business licence issued under the *Business Licences Act 2017*;
 - (d) an employment contract or an offer and acceptance letter of employment; and
 - (e) a letter outlining the reason for employing a foreign national, to ensure that a Nauruan citizen is not disadvantaged or deprived of an opportunity to be employed.
- (6) A local business (employment) visa may be granted:
 - (a) for a period not exceeding 12 months;
 - (b) for multiple entries; and

- (c) subject to any reasonable condition, not inconsistent with the Act or these Regulations, that the Director considers necessary or desirable.
- (7) The fee payable for a local business (employment) visa shall not be waived or exempted.
 - (8) A person shall obtain the local business (employment) visa or approval from the Director before entering Nauru.
 - (9) The holder of a local business (employment) visa shall be authorised to reside and work in Nauru only for:
 - (a) the class of the visa granted;
 - (b) the Nauruan employer specified on the application; and
 - (c) the nature of the work associated with the employment contract or the offer and acceptance letter of employment.
 - (10) A local business (employment) visa is deemed to have been cancelled:
 - (a) where the Nauruan employer terminates the employment of the holder of the visa;
 - (b) where the holder of the visa terminates his or her employment with the Nauruan employer; or
 - (c) where the holder of the visa undertakes any other work or form of employment other than the work or employment for which the visa is granted.
 - (11) The Secretary shall cancel a local business (employment) visa where he or she is satisfied:
 - (a) the employer is not qualified under subregulation (2) to engage an employee under this class of visa;
 - (b) the holder of the visa is not employed as an employee but is engaged in the business by sharing or retaining all or part of the profits or gains from the business;
 - (c) the employer and the holder of the visa during the duration of the visa have an agreement, arrangement or understanding by which the employer allows the holder of the visa to carry out and retain any profit or gain from the business; or
 - (d) the holder of the visa assumes control and operations of the business for his or her own profit or gain.

(12) The Nauruan employer shall immediately make arrangements for the holder of the visa to leave the Republic on the cancellation of the visa under subregulation (10).

(13) The Nauruan citizen or wholly-owned Nauruan business which in the duration of the visa becomes disqualified as an employer under this Regulation shall immediately make arrangements for the holder of the visa to leave the Republic on the cancellation of the visa under these Regulations.

(14) Where:

(a) the Nauruan employer fails to comply with the requirements of subregulation (12); or

(b) the Nauruan citizen or wholly-owned Nauruan business fails to comply with the requirements of subregulation (13),

the Republic shall remove the holder of the visa from the Republic, and the Nauruan employer or the Nauruan citizen or wholly-owned Nauruan business, as the case may be, shall be liable to pay the costs of the removal, which is a debt due to the Republic.

(15) A local business (employment) visa shall not allow any person to act as an employment or recruitment agent or agency and provide, or make arrangements to provide, foreign workers to any other person.

(16) Where there is eligibility for other classes under the business visa class, a person is not eligible to apply for and be granted a visa under this Regulation unless his or her employer meets the criteria under subregulation (1).

(17) A person who is eligible for a visa under this Regulation shall be excluded from the requirements for a business visa under Regulation 6.

(18) Where a person is granted a visa under this Regulation, he or she may be accompanied by his or her spouse and children as part of the local business (employment) visa.

(19) The accompanying spouse and children are not eligible to undertake any employment unless the terms and conditions of the local business (employment) visa are varied by the Director.

(20) For the avoidance of doubt, where a foreign national is employed by any other foreign national or a foreign business in Nauru, he or she is not eligible to apply for a local business (employment) visa under this Regulation.

(21) Where a Nauruan citizen or a wholly-owned Nauruan business is not qualified as an employer and employs a foreign national who has been granted a local business (employment) visa, the Nauruan citizen or wholly-owned Nauruan business commits an offence and is liable on conviction to:

- (a) in the case of a Nauruan citizen, a fine not exceeding \$10,000 or a term of imprisonment not exceeding 6 months; and
- (b) in the case of a wholly owned-Nauruan business, a fine not exceeding \$50,000.

(22) In this Regulation:

'business' means an entity carrying out any form of economic activity, trade, profession, commerce, craftsmanship, calling or other activity carried on for the purpose of generating revenue for gain;

'foreign business' means a business or the operations of the business that is not a wholly-owned Nauruan business or wholly-operated by a Nauruan citizen;

'Nauruan employer' means a Nauruan citizen who, or a wholly-owned Nauruan business that, employs a foreign national in Nauru, and

'wholly-owned Nauruan business' means:

- (a) a sole trader business where the owner is a Nauruan citizen;
- (b) a corporation where 100% of the shares are held by Nauruan citizens;
- (c) a firm where all the partners are Nauruan citizens;
- (d) a trust where all the trust beneficiaries are Nauruan citizens;
or
- (e) any other business that is wholly-owned by Nauruan citizens,

but excludes an arrangement or understanding specified under subregulation (2).

7 Amendment of Schedule 1

Schedule 1 is amended by inserting Form 3 after Form 2 as follows:

FORM 3



REPUBLIC OF NAURU

IMMIGRATION ACT 2014

APPLICATION FOR LOCAL BUSINESS (EMPLOYMENT) VISA

<p>About this form Important – please read this information carefully before you complete your application. Once you have completed your application, we strongly advise that you keep a copy for your records.</p> <p>Before filling in the form, ensure that you have all the required documents, and ensure that you have read the information page carefully, particularly the section on visa conditions.</p> <p>Making a valid application To make a valid application, you shall:</p> <ul style="list-style-type: none">• Use this application form (available from all Nauruan diplomatic missions, from the Department's website www.naurugov.nr/justice/visa.html or from the Immigration Office in Nauru);• Complete the form in English;• Answer all questions truthfully;• Provide all required supporting documents;• Pay the required visa application fee;• Lodge the application with the Immigration Office in Nauru either through a representative in person or online at www.naurugov.nr/justice/immi/onlineapplication.html <p>Any application that does not meet these requirements will not be a valid application and cannot be processed.</p> <p>Passport Information Please note that your passport shall not be due to expire within 3 months from the date of your application. If you change your passport after you have been granted a visa, you shall notify the Immigration Office in Nauru.</p> <p>Options for receiving written communications You may opt to have all communication about your visa application sent to you electronically via email, or in hard copy via the postal service. Electronic communication is recommended because of the delays that can occur with the postal service. If you are outside Nauru and do</p>	<p>If you provide incorrect information or documents, this may affect whether you are granted a visa or not, or your visa may be subsequently cancelled.</p> <p>Visa application fee Payment shall accompany your application.</p> <p>Payment can be made in cash at the Nauru Revenue Office or by electronic bank transfer (receipt being included with your online application or provided to the Immigration Office in Nauru in person by your representative).</p> <p>The visa application fee is non-refundable.</p> <p>Who the form covers The application form covers you and your spouse and children accompanying you to Nauru (where applicable).</p> <p>Supporting Documents The documents you shall provide are listed in Part G of this application form. Attach all documents with your application.</p> <p>'Certified copies' of documents means copies authorised or stamped as being true copies of originals by a Commissioner for Oaths or, if you are outside Nauru, a similar person or agency in your country. Do not provide originals unless you are asked.</p> <p>All documents not in English shall be accompanied by a certified English translation of the original.</p> <p>Business Licences Act 2017 If you propose to conduct a business, you shall obtain a business licence under the <i>Business Licences Act 2017</i>.</p> <p>Conditions of Local Business (Employment) Visa The maximum length of a local business (employment) visa is 12 months but it may be renewed. You shall immediately notify the Director if there is a relevant change in your circumstances, for example, ending your</p>
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<p>not have access to email but do not wish to incur the delays associated with the postal service, you may request that all communications in relation to your visa application be delivered in hard copy to your representative in Nauru.</p>	<p>employment in Nauru, the birth or adoption of a child, you getting married, divorced or formally separated or any death. It is an offence not to do so.</p>
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REPUBLIC OF NAURU

DEPARTMENT OF JUSTICE AND BORDER CONTROL

Application for Local Business (Employment) Visa

Part A – Application overview

1. What type of activity do you propose to conduct?

2. For what type of visa are you applying?

Multiple entry up to 12 months

Part B – Your details

3. Your full name (as shown on your passport or travel document)

Family name _____

Given names _____

4. Name in your own language or script (if applicable) _____

5. Sex Male Female

6. Date of birth (day/month/year) _____

7. Place of Birth Town/City _____ Country _____

8. Details from your passport

Passport number _____

Country of passport _____

Date of issue (day/month/year) _____

Date of expiry (day/month/year) _____

Issuing authority/Place of issue _____

9. Of which countries are you a citizen? _____

10. Country of current residence? _____

11. Current marital status Single Married In a de facto relationship Widowed

12. Your current residential address _____

13. Your current email address _____

14. If the visa is granted and you are not currently residing in Nauru, what is your proposed residential address in Nauru? _____

15. Address for correspondence (you may nominate either an email address or a postal address)

16. Your telephone numbers

Business hours (country code, area code, number) _____

After hours (country code, area code, number) _____

17. Your main language _____

Part C – Your spouse (if spouse is accompanying you)

18. Your spouse's name (as shown on your spouse's passport or travel document)

Family name _____

Given names _____

19. Sex Male Female

20. Date of birth (day/month/year) _____

21. Place of Birth Town/City _____ Country _____

22. Details from your spouse's passport

Passport number _____

Country of passport _____

Date of issue (day/month/year) _____

Date of expiry (day/month/year) _____

Issuing authority/Place of issue _____

Part D – Your children (if children are accompanying you)

23. Your child's name (as shown on your child's passport or travel document)

Family name _____

Given names _____

24. Sex Male Female

25. Date of birth (day/month/year) _____

26. Place of Birth Town/City _____ Country _____

27. Details from your child's passport

Passport number _____

Country of passport _____

Date of issue (day/month/year) _____

Date of expiry (day/month/year) _____

Issuing authority/Place of issue _____

28. Your child's name (as shown on your child's passport or travel document)

Family name _____

Given names _____

29. Sex Male Female

30. Date of birth (day/month/year) _____

31. Place of Birth Town/City _____ Country _____

32. Details from your child's passport

Passport number _____

Country of passport _____

Date of issue (day/month/year) _____

Date of expiry (day/month/year) _____

Issuing authority/Place of issue _____

33. Your child's name (as shown on your child's passport or travel document)

Family name _____

Given names _____

34. Sex Male Female

35. Date of birth (day/month/year) _____

36. Place of Birth Town/City _____ Country _____

37. Details from your child's passport

Passport number _____

Country of passport _____

Date of issue (day/month/year) _____

Date of expiry (day/month/year) _____

Issuing authority/Place of issue _____

* Additional pages with the required information under this Part may be attached to this form if there are additional accompanying children

Part E – Processing details

38. Have you previously been to Nauru, or held a visa for Nauru, or do you currently hold a visa for Nauru? No Yes ► Give ALL relevant details

39. Have you ever been refused a visa to enter Nauru? No Yes ► Give ALL relevant details

40. Have you ever had a Nauruan visa cancelled? No Yes ► Give ALL relevant details

41. If lodging this application from outside Nauru, from which country are you lodging it? _____

Part F – Health and character

42. Have you ever had or currently have tuberculosis or any other serious disease, condition or disability?

- No
- Yes ► Is the disease, condition or disability one that requires or is likely to require medical care or which is contagious?
- No Yes ► Give ALL relevant details

43. Have you ever:

- Been convicted of an offence which is punishable by a fine of not less than \$5,000 or to a sentence of death or to imprisonment for not less than 2 years, for which you have not received a free pardon?

No Yes

- Been charged with any offence that is currently awaiting legal action? No Yes

- Been removed or deported from any country? No Yes

If you answered 'Yes' to any of the above questions, you shall give ALL relevant details. If the matter relates to a criminal conviction, please give the nature of the offence and full details of the sentence.

Part G – Document checklist

44. You shall provide the following documents with your application.

Note: if the documents are in a language other than English, certified English translations of those documents shall be provided, together with copies of the original documents.

Complete the following checklist by ticking documents that you have attached with your application, and writing "N/A" if a particular document does not apply to you and is not required with your application.

Certified copies of the identity pages of your passport or travel document	<input type="checkbox"/>
Certified copies of the identity pages of your spouse's passport or travel document	<input type="checkbox"/>
Certified copies of the identity pages of your child's passport or travel document	<input type="checkbox"/>
1 recent passport sized photograph (45mm x 35mm) of yourself, with your name printed on the back of the photograph	<input type="checkbox"/>
1 recent passport sized photograph (45mm x 35mm) of your spouse, with your spouse's name printed on the back of the photograph	<input type="checkbox"/>
1 recent passport sized photograph (45mm x 35mm) of your child, with your child's name printed on the back of the photograph	<input type="checkbox"/>
A police certificate as to your lack of criminal record, or your criminal record if any, in the place in which you have resided for the previous 12 months (note: the record should cover your whole recorded history in the relevant jurisdiction; and should be from the jurisdiction/s in which you have lived in the previous 12 months; for example, if you have lived in China for the past 12 months, you should provide a police certificate of your whole criminal record in China; if you have lived in Nauru for the last 12 months, you should provide a police clearance from Nauru)	<input type="checkbox"/>
A certificate of medical fitness (including certificate that chest x-ray and blood tests have been conducted and have not shown any contagious disease or serious abnormality)	<input type="checkbox"/>
Certified copy of marriage certificate	<input type="checkbox"/>

Certified copy of birth certificate of child	<input type="checkbox"/>
Proof of your employer's citizenship <i>(Birth certificate or passport bio data page and tax number)</i>	<input type="checkbox"/>
Statutory declaration that your employer's business is wholly-owned by Nauruan citizens <i>(Statutory declaration form under the Oaths, Affirmations and Statutory Declarations Act 1976 is to be completed and witnessed before a Commissioner for Oaths)</i> Note: Penalty for making a false declaration is \$10,000 or 5 years imprisonment	<input type="checkbox"/>
Evidence of ownership of business by Nauruan citizen or wholly-owned Nauruan business <i>(A certificate from the Registrar of Business Names, Corporations or Partnerships to be submitted)</i>	<input type="checkbox"/>
Current business licence issued to your employer under the <i>Business Licences Act 2017</i> <i>(A copy of the business licence is to be attached)</i>	<input type="checkbox"/>
Employment contract or an offer and acceptance letter of employment <i>(This must be executed by the employer and the applicant)</i>	<input type="checkbox"/>
Letter by your employer outlining the reason or reasons for employing a foreign national <i>(Requirement of Regulation 8(5)(e) to be complied with)</i>	<input type="checkbox"/>

Part H – Payment details

45. Have you attached a receipt as evidence of your payment of the application fee?

Yes No (if you answered 'No', your application will not be processed)

Part I – Declaration

46. This declaration shall be signed by the applicant. Warning: Under the *Immigration Act 2014* it is an offence to make a false or misleading statement for the purpose of obtaining a visa.

Declaration:

- I declare that the information I have supplied in this application is complete, correct and up to date in every detail.
- I understand that if I give false or misleading information, my application may be refused or any visa granted may be cancelled.
- I will inform the Immigration Office of any relevant change of circumstances (including change of address) while my application is being considered, or during the period in which I hold a visa.
- I have read and understood the information supplied to me in this application form.

Signature of applicant _____

Date _____

We strongly advise that you keep a copy of your application and all attachments for your record

8 Amendment of Schedule 2

Schedule 2 is amended by inserting the fee for a local business (employment) visa in Table 2 of Part 1 as follows:

'Local Business (Employment) Visa	
Multiple entries (single person)	\$300
Multiple entries (spouse and children)	\$400'

9 Revocation

The *Immigration (Coronavirus (COVID-19) Visa) Regulations 2020* is revoked.