

Immigration Insights

by CDH Employment Law



ALERT | 5 August 2024



In this issue

KENYA

Obtaining Kenyan citizenship:
What you need to know



For more insight into our
expertise and services

Obtaining Kenyan citizenship: What you need to know

Citizenship is the legal relationship between an individual and the state. Citizens of a country are entitled to certain privileges or rights. A citizen is obligated to perform certain duties that a state expects from persons under its territory and, in return, benefit from the state's protection.

In Kenya, citizenship is provided for in Chapter 3 of the Constitution and is regulated by the Kenya Citizenship and Immigration Act Cap 170 Laws of Kenya (Act). The Kenyan Constitution provides that every citizen is entitled to the rights, privileges and benefits of citizenship as set out under the law.

In this article, we explore different ways through which an individual may gain Kenyan citizenship and some of the main requirements for obtaining citizenship in Kenya.

Acquiring Kenyan citizenship

According to the Constitution, citizenship can be acquired either by birth or registration.

Citizenship by birth

A person is a Kenyan citizen by birth if on the day of their birth, whether or not they are born in Kenya, either their mother or father is a Kenyan citizen. Also, a child found in Kenya who is or appears to be less than eight years of age and whose nationality and parents are not known is presumed to be a citizen of Kenya by birth.

It is important to note that a person who is a Kenyan citizen by birth and who has ceased to be a Kenyan citizen because they acquired citizenship of another country is entitled on application to regain Kenyan citizenship.

This applies to Kenyan citizens who acquired other citizenship before the promulgation of the Constitution of Kenya, 2010, which recognises dual citizenship, unlike its predecessor.

Citizenship by registration

The following categories of people are eligible to apply for Kenyan citizenship by registration:

a) A person who has been married to a Kenyan citizen for at least seven years

A person who has been married to a citizen of Kenya for a period of at least seven years and has acquired residence status is entitled on application to be registered as a citizen of Kenya. Some of the conditions that must be met before an application for citizenship by marriage can be made are:

- the marriage must have been solemnised under a system of law recognised in Kenya – it is immaterial whether this is done in or outside Kenya;
- the applicant must not have been declared a prohibited immigrant under the law;
- the applicant should not have been convicted of an offence or sentenced to imprisonment for a term of three years or longer;
- the marriage must not have been entered for the purpose of acquiring status or privilege concerning immigration or citizenship; and
- the marriage must subsist at the time of the application.

Obtaining Kenyan citizenship: What you need to know

CONTINUED



It is noteworthy that a foreign national who has been married to a citizen who but for the death of the citizen would have been entitled, after a period of seven years, to be registered as a citizen of Kenya, is eligible to apply for Kenyan citizenship by marriage.

b) A person who has been a lawful resident in Kenya for a continuous period of at least seven years and who satisfies the conditions of the Act

A person who has attained the age of majority and who has been lawfully resident in Kenya for a continuous period of at least seven years may apply to be registered as a citizen if that person:

- has been a resident under the authority of a valid permit or has been exempted by the Cabinet Secretary;
- has an adequate knowledge of Kenya and of the duties and rights of citizens as contained in the law;
- is able to understand and speak Kiswahili or a local dialect;
- has not been convicted of an offence and sentenced to imprisonment for a term of three years or longer;
- satisfies the Cabinet Secretary that they intend to reside in Kenya after registration;
- has been determined to have made or is capable of making a substantive contribution to the progress or advancement in any area of national development within Kenya; and
- is not an adjudged bankrupt.

c) A child who is not a citizen but is adopted by a citizen

A child who is not a citizen but is adopted by a citizen is entitled on application by the adopting parent or legal guardian to be registered as a citizen.

It is important to note that stateless people as well as migrants are also entitled to citizenship and may also apply for Kenyan citizenship, subject to meeting the outlined criteria.

The procedure for application for citizenship

Applying for Kenyan citizenship entails completing and lodging the designated forms set out in the First Schedule to the Kenya Citizenship and Immigration Rules with the Immigration Department.

An application for citizenship must be accompanied by the non-refundable fee and documents supporting the facts stated in the application. The application should be verified by a statutory declaration sworn before a magistrate, commissioner of oaths, or notary public.

Obtaining Kenyan citizenship: What you need to know

CONTINUED

At the time of publishing this alert, the fees payable for each category of citizenship application are:

Category	Processing fees (KES)	Issuance fees (KES)
Regaining Kenyan citizenship	20,000	50,000
Citizenship by marriage	20,000	100,000 People from the East African Community: 50,000
Widows and widowers	20,000	50,000
Lawful residents	20,000	1,000,000
Migrants	20,000	10,000

After lodging the application and paying the requisite fees, the application will be processed. If successful, the applicant is issued with a Certificate of Registration as a Kenyan citizen and is entitled to all the rights and benefits of a Kenyan citizen. A lot of regular follow-up is required to expedite processing as this may take a long time depending on the unique circumstances of each case.

Please note that the granting or refusal of an application for Kenyan citizenship is at the absolute discretion of the Cabinet Secretary in charge of Interior and Coordination of National Government based on the assessment and evaluation of the application for granting citizenship. Anyone aggrieved by a decision in this regard may approach the High Court and seek review.

Conclusion

Kenyan citizenship presents the chance to benefit from the multiple opportunities to invest and build a life in Kenya. It also confers the possibility of owning land on a freehold basis, a right reserved for citizens by the Constitution. It may therefore be a worthy pursuit for anyone interested in moving to Kenya on permanent basis and establishing their lives here. Although we have set out some of the key issues to note for those considering beginning the application process, we advise applicants to seek the services of immigration practitioners to obtain proper guidance and support.

Alex Kanyi, Abednego Mutie, and Judith Jepkorir

OUR TEAM

For more information about our Immigration sector and services in South Africa and Kenya, please contact:



Sammy Ndolo

Managing Partner | Kenya

T +254 731 086 649

+254 204 409 918

+254 710 560 114

E sammy.ndolo@cdhlegal.com



Alex Kanyi

Partner | Kenya

T +254 731 086 649

+254 204 409 918

+254 710 560 114

E alex.kanyi@cdhlegal.com



Abednego Mutie

Senior Associate | Kenya

T +254 731 086 649

+254 204 409 918

+254 710 560 114

E abednego.mutie@cdhlegal.com



Taryn York

Senior Associate:

Employment Law

T +27 (0)11 562 1732

E taryn.york@cdhlegal.com



Mapaseka Nketu

Paralegal:

Employment Law

T +27 (0)11 562 1178

E mapaseka.nketu@cdhlegal.com



BBBEE STATUS: LEVEL ONE CONTRIBUTOR

Our BBBEE verification is one of several components of our transformation strategy and we continue to seek ways of improving it in a meaningful manner.

PLEASE NOTE

This information is published for general information purposes and is not intended to constitute legal advice. Specialist legal advice should always be sought in relation to any particular situation. Cliffe Dekker Hofmeyr will accept no responsibility for any actions taken or not taken on the basis of this publication.

JOHANNESBURG

1 Protea Place, Sandton, Johannesburg, 2196. Private Bag X40, Benmore, 2010, South Africa.

Dx 154 Randburg and Dx 42 Johannesburg.

T +27 (0)11 562 1000 F +27 (0)11 562 1111 E jhb@cdhlegal.com

CAPE TOWN

11 Buitengracht Street, Cape Town, 8001. PO Box 695, Cape Town, 8000, South Africa. Dx 5 Cape Town.

T +27 (0)21 481 6300 F +27 (0)21 481 6388 E ctn@cdhlegal.com

NAIROBI

Merchant Square, 3rd floor, Block D, Riverside Drive, Nairobi, Kenya. P.O. Box 22602-00505, Nairobi, Kenya.

T +254 731 086 649 | +254 204 409 918 | +254 710 560 114

E cdhkenya@cdhlegal.com

STELLENBOSCH

14 Louw Street, Stellenbosch Central, Stellenbosch, 7600.

T +27 (0)21 481 6400 E cdhstellenbosch@cdhlegal.com

©2024 13764/AUG