



KENYAN CITIZENSHIP BY MARRIAGE AND PERMANENT RESIDENCE

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AT A GLANCE

Kenyan law provides two separate routes for qualifying foreign spouses: citizenship by registration after at least seven (7) years of marriage or permanent residency under Category D after at least three (3) years of marriage. Permanent residence is not a legal prerequisite to citizenship by marriage.

Foreign spouses should choose a route only after reviewing the validity and duration of the marriage, current immigration status, nationality laws of both countries, documentary consistency, family objectives, and any adverse immigration or criminal history.

INTRODUCTION

A foreign national married to a Kenyan citizen may qualify for registration as a Kenyan citizen once the marriage has subsisted for at least seven years. The entitlement is not automatic, the applicant must apply in the prescribed form and satisfy the conditions in section 11 of the Kenya Citizenship and Immigration Act, 2011, including that the marriage is legally recognised, genuine and subsisting.

A separate and earlier route may be available through permanent residency; Category D. Current administrative guidance applies this category to spouses of Kenyan citizens who have been married for at least three years and who can demonstrate a bona fide marriage and family life.

The two statuses have different legal consequences. Citizenship is a nationality status while permanent residence is an immigration status. An applicant may pursue the route that best fits the family's circumstances, or assess both routes as part of a coordinated strategy.

KEY LEGAL DISTINCTION

Seven years is the threshold for citizenship by marriage. Three years is the current threshold for spousal permanent residence. Neither status is automatically conferred by marriage, and permanent residency is not a statutory precondition to citizenship by marriage.

1. LEGAL FRAMEWORK

The principal legal framework comprises:

- a) the Constitution of Kenya, 2010;
- b) the Kenya Citizenship and Immigration Act, 2011;
- c) the Kenya Citizenship and Immigration Regulations, 2012; and
- d) the application procedures and documentary requirements published by the Directorate of Immigration Services and implemented through the eFNS platform.

2. CITIZENSHIP BY MARRIAGE

(a) Constitutional entitlement and seven-year threshold

Article 15(1) of the Constitution provides that a person who has been married to a Kenyan citizen for at least seven years is entitled, on application, to be registered as a Kenyan citizen. Section 11 of the Kenya Citizenship and Immigration Act gives effect to that constitutional entitlement.

Marriage to a Kenyan citizen does not itself result in citizenship. The applicant must lodge a prescribed application, establish the statutory facts and obtain a certificate of registration.

(b) Statutory eligibility conditions

Under section 11, the applicant must demonstrate that:

- a) the marriage was solemnized under a system of law recognised in Kenya, whether in Kenya or abroad;
- b) he/she has not been declared a prohibited immigrant under the Act or any other law;
- c) he/she has not been convicted of an offence

and sentenced to imprisonment for a term of three years or longer;

- d) the marriage was not entered into to obtain an immigration or citizenship status or privilege; and
- e) the marriage is subsisting at the date of the application.

(c) Foreign marriages

A marriage celebrated outside Kenya can qualify if it is valid under the law of the place of celebration and is recognised under Kenyan law. Depending on the jurisdiction and document, the applicant may need certified copies, authentication or apostille/legalization, certified English translations and evidence connecting any differing names or civil status records.

(d) Death, separation or divorce

Because section 11 requires the marriage to be subsisting when the application is made, divorce, annulment or dissolution may defeat the marriage route. Separation and pending matrimonial proceedings require fact specific analysis. Widows and widowers fall within a separate registration framework and should not assume that the ordinary section 11 route remains applicable.

3. PERMANENT RESIDENCE FOR SPOUSES – CATEGORY D

The Directorate of Immigration Services currently recognizes Category D for a foreign spouse who has been married to a Kenyan citizen for at least three years. The applicant must provide ample proof of the marriage and family life in addition to the prescribed documentation. Immigration authorities may require the spouses to attend an interview to verify the relationship and the information supplied.

The current requirements commonly include:

- a) 2 current passport size photos;
- b) Copies of all permits or Dependent pass issued in Kenya;
- c) Copy of valid passports of applicant and Kenyan spouse;
- d) Copy of marriage certificate;
- e) Copy of joint affidavit if marriage solemnized out of Kenya;
- f) Good conduct certificate;
- g) Copy of valid tax compliance certificate;

- h) Copy of valid foreigner certificate (Alien card);
- i) Application letter by the spouse; and
- j) independent evidence of a genuine marriage and family life.

Permanent residency does not convert the applicant into a Kenyan citizen. It gives a durable residence status subject to the Act, the terms of the grant and continuing compliance with Kenyan law.

4. CITIZENSHIP AND PERMANENT RESIDENCE COMPARED

	Citizenship	Permanent Residence
Legal character	Kenyan nationality acquired by registration.	Long-term immigration status; it does not confer citizenship.
Marriage threshold	At least seven years.	At least three years.
Core test	Valid, genuine and subsisting marriage, plus the statutory section 11 conditions.	Bona fide marriage and sufficient evidence of marriage and family life.
Principal outcome	Rights, privileges and duties of Kenyan citizenship, subject to the Constitution and law.	Right to reside in Kenya on a permanent basis, subject to the Act and the conditions of the grant.
Dual nationality	Potentially available under Kenyan law; the law of the applicant's other country must also be checked.	Not applicable: the applicant retains foreign nationality unless separately changed.
Is PR a prerequisite?	No.	A separate route that may be pursued independently or in parallel.

The appropriate route depends on the applicant's eligibility date, need for immigration certainty, nationality position, family plans, professional and investment interests, travel needs and tolerance for administrative timing.

5. DUAL CITIZENSHIP AND NATIONALITY PLANNING

Kenyan law permits dual citizenship. Article 16 of the Constitution provides that a citizen by birth does not lose Kenyan citizenship merely by acquiring another citizenship. A person registered as a Kenyan citizen by marriage may also hold another citizenship, but the law of the other country must be checked, some jurisdictions prohibit, restrict or condition dual nationality.

Section 8 of the Act requires a dual citizen to disclose the other citizenship in the prescribed manner. The statutory disclosure period is three months after becoming a dual citizen. Failure to disclose is an offence and may attract a fine, imprisonment, or both.

CROSS-BORDER CHECK

Before acquiring Kenyan citizenship, obtain advice on whether the applicant's existing nationality will be retained, lost automatically or require consent or notification. Consider the consequences for passports, public office, military obligations, tax residence, estate planning and children.

Recommended strategic process

1. Define the objective- decide whether the priority is nationality, secure residence, family unity, business continuity, mobility or a combination of these.
2. Confirm eligibility dates- calculate the duration of the marriage and confirm that it remains legally valid and subsisting.
3. Audit the record- reconcile civil status, identity, nationality and immigration documents before filing.
4. Assess risk- address adverse immigration history, criminal matters, identity discrepancies and questions about genuineness transparently and with evidence.
5. Select the route- determine whether to apply for Category D permanent residence, citizenship by marriage or both through a coordinated sequence.
6. Maintain lawful status- do not allow a current pass or permit to lapse merely because a citizenship or permanent residence application is pending.
7. Prepare and submit- complete the prescribed forms, affidavits, questionnaires, supporting evidence and payments, and retain a complete filing record.
8. Manage verification- prepare for interviews, additional document requests and factual verification, ensuring that both spouses' accounts and documents remain accurate and consistent.
9. Complete post approval steps- obtain the relevant certificate or endorsement and address passports, identity documentation and dual citizenship disclosures where applicable.

6. INDICATIVE GOVERNMENT CHARGES AND FILING CAUTIONS

The Directorate's published citizenship checklist currently states an application fee of KES 20,000 for citizenship by marriage, with an issuance fee of KES 50,000 for East African applicants and KES 100,000 for non-East African applicants.

Permanent residence fees and other charges should be confirmed at the point of application. Government charges, forms and administrative requirements may be amended without corresponding changes appearing immediately across all public facing pages. Professional fees, translation, certification, legalization, police clearance and document procurement costs are separate.

7. COMMON PITFALLS

- a) treating marriage as automatically conferring citizenship or permanent residence;
- b) using the three-year permanent residence threshold for a citizenship application, or the seven-year citizenship threshold for permanent residence;
- c) assuming permanent residency is legally required before citizenship by marriage;
- d) filing while the applicant's immigration status is expired or unresolved;
- e) submitting a foreign marriage certificate without the necessary recognition, authentication or translation evidence;
- f) failing to disclose prior nationalities, names, applications, refusals or criminal matters;

- g) providing inconsistent information across the application forms, affidavits, passports and earlier applications;
- h) underestimating the evidence required to establish a bona fide and subsisting marriage; and
- i) acquiring Kenyan citizenship without first assessing the law of the applicant's existing country of nationality.

8. CM ADVOCATES LLP: INTEGRATED ADVISORY SUPPORT

These applications often sit at the intersection of immigration, nationality, family law, succession, tax residence, property ownership and cross-border planning. CM Advocates LLP offers an integrated approach through its Immigration & Global Mobility Practice and International Family Advisory Unit.

KEY TAKEAWAY

Marriage to a Kenyan citizen opens the door to permanent residency and eventually citizenship, but neither is automatic. Understanding the legal requirements, preparing the right documentation and choosing the correct pathway from the outset can save significant time and avoid unnecessary setbacks.

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We advise on citizenship by marriage, Permanent Residence, dual citizenship, immigration-status reviews, dependant and family immigration, delayed or complex applications, documentary due diligence and engagement with the relevant authorities.

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