

RIGHTS AND OBLIGATIONS OF PERMANENT RESIDENTS IN KENYA

1. INTRODUCTION

In our previous articles; *(https://cmadvocates.com/blog/acquisition-of-permanent-residency-status-by-marriage-in-kenya, https://cmadvocates.com/en/blog/how-to-become-a-lawful-permanent-resident-in-kenya & https://cmadvocates.com/en/-blog/what-next-for-ex-kenyan-citizens-who-domicile-in-countries-that-prohibit-dual-citizenship)* we explored the steps and requirements for obtaining permanent residency status in Kenya by marriage, lawful and the permanent residency category applicable to Ex-Kenyan Citizens. Many individuals, upon acquiring this status, frequently seek clarity on what it legally entitles them to do, as well as the responsibilities they must uphold. It is essential to understand that the rights and obligations of permanent residents are not absolute and are guided by specific provisions under Kenyan law particularly under Section 38 of the Kenya Citizenship and Immigration Act, 2011. This article seeks to provide a comprehensive overview of those entitlements and responsibilities.

2. RIGHTS AND OBLIGATIONS OF PERMANENT RESIDENTS IN KENYA

The notable rights and obligations under section 38 of the Kenya Citizenship and Immigration Act,2011 are as follows;

(i.) Right to Enter and Reside in Kenya
A permanent resident has the lawful right to enter, live, and remain in Kenya indefinitely, subject to compliance with applicable laws and regulations.

(ii.) Right to Employment
They are allowed to seek and engage in gainful employment within the country, without the need for a separate work permit.

(iii.) Right to Conduct Business
They are permitted to operate a business or multiple businesses within the country without the requirement of obtaining a work permit.

(iv.) Access to Education
Permanent residents have the right to enroll in and attend educational institutions in Kenya, whether public or private.

(v.) Right to Own Property
They are permitted to legally own property in Kenya, including land and buildings, in accordance with existing land and property laws. N/B it is important to note that permanent resident holders cannot hold freehold/agricultural properties.

(vi.) Freedom of Movement and Settlement
Permanent residents can move freely and choose to settle in any part of the country

without restrictions.

(vii.) Access to Social Services
They are entitled to access and benefit from public services and social amenities provided by the government or authorized institutions, such as healthcare and public utilities.

N/B The Cabinet Secretary responsible for matters relating to immigration may impose other conditions specific to the individual's residency status, which must be complied with to maintain the validity of their residence.

LIMITATIONS OF PERMANENT RESIDENCY IN KENYA

While permanent residents enjoy many of the rights afforded to Kenyan citizens, there are specific entitlements they are not granted:

i. **Kenyan Passport:** Individuals with permanent residency status, including former Kenyan citizens now residing in countries that prohibit dual citizenship, are not eligible to hold a Kenyan passport. This is because permanent residents are considered non-citizens (aliens), despite their status.

ii. **Ownership of Agricultural Land:** Permanent residents are not permitted to own agricultural or freehold land in Kenya. Their rights to land ownership are limited to leasehold interests, in accordance with the Constitution of Kenya, 2010.

iii. **Participation in Democratic Elections:** Permanent residents are not allowed to vote or take part in democratic electoral processes, as they are not recognized as citizens under the law, even though they may enjoy many of the same rights as citizens.

CONCLUSION

Being granted permanent residency in Kenya is both a privilege and a responsibility. While it offers significant benefits, including the right to live, work, and access services in the country, it also comes with obligations that must be diligently observed. Permanent residents are encouraged to stay informed and compliant with immigration laws to avoid jeopardizing their residency status. For further guidance or legal assistance regarding permanent residency or immigration matters, feel free to contact our legal team.

HOW CAN WE CAN HELP?

CM Advocates LLP is a top-tier, full-service Pan-African law firm with offices in Kenya, Uganda, Rwanda, Tanzania, Zambia, South Sudan, and Ethiopia. Our team comprises legal professionals with extensive expertise in providing a broad spectrum of immigration services and legal support. For further guidance please contact the contributor (s).

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