

# ARE SPOUSES IN POLYGAMOUS MARRIAGES ELIGIBLE FOR PERMANENT RESIDENCE IN KENYA?

## INTRODUCTION

It is common knowledge that foreigners married to Kenyan citizens are eligible to apply and attain Permanent residence status. Parties in a Polygamous marriage however commonly wonder if this also applies to them.

In this article, we tackle the nuances that would make foreigners in a Polygamous marriage be eligible for Permanent residence status in Kenya. It is key to note that such persons also have to be compliant with all requirements for the grant of permanent residence status in Kenya as provided in the Kenya Citizenship & Immigration Act.

## KEY DETERMINANTS FOR GRANT OF PERMANENT RESIDENCE TO SPOUSES IN POLYGAMOUS MARRIAGE

### 1. Valid Marriage Certificate

They should have a valid marriage certificate for a bonafide marriage of more than three (3) years.

For one to be granted permanent residence on the ground of being married to a Kenyan citizen, they must demonstrate with sufficient proof the existence of not only a valid marriage.

Failure to demonstrate the existence of a valid marriage means that their application will fail.

It is key to note that mere cohabitation is not considered proof of marriage when making this application.

### 2. Valid Marriage union conducted in or out of the Kenyan jurisdiction

The Marriage Act, of 2014 recognizes 5 kinds of marriages and only two of these are presumed to

be polygamous or potentially polygamous. The two are Islamic and Customary marriages.

Alleging to be in a polygamous marriage with a person married under the Civil, Christian or Hindu form of marriage will automatically disqualify such person's application for permanent residence as such marriage is considered void ab initio-as if the same has not taken place.

**Polyandry is not considered** a valid marriage union and neither are same-sex unions, even if conducted out of the Kenyan jurisdiction.

A foreigner male in a polygamous marriage with a Kenyan citizen can apply for permanent residence status provided he has valid immigration residence status such as work permit.

Some jurisdictions around the world do not recognize polygamous marriages thus foreign nationals claiming to have entered into a polygamous union outside Kenya have to prove that the country in which such marriage is alleged to have taken place **recognizes**

**polygamous marriage as valid under their laws.**

### 3. Proof of Residence Status

The applicant must provide proof of valid immigration residence status, a Kenyan Dependant Pass, Work permit or any other valid immigration status.

***Please Get in touch with us today for:***

- ◇ Comprehensive legal advisory on acquisition of Permanent Residence in Kenya
- ◇ Comprehensive advisory on Family law and registration of marriages in Kenya; and

◇ Any other Immigration related issue.

### CONCLUSION

**Contact our Immigration & Global Mobility Practice Group now!**

Whether you are based in Kenya or abroad we offer support over email, phone call, WhatsApp call, video conferencing etc.

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***Disclaimer:*** This alert is for informational purposes only and should not be construed as legal advice.

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## CONTACT PERSONS & CONTRIBUTORS



**Nelima Walubengo Tindi**  
Immigration & Global Mobility Practice Group  
Senior Associate Advocate  
[ntindi@cmadvocates.com](mailto:ntindi@cmadvocates.com)



**Wahu WAMBUGU**  
Immigration & Global Mobility Practice Group  
Immigration Lawyer  
[mwambugu@cmadvocates.com](mailto:mwambugu@cmadvocates.com)