



# **KENYAN IMMIGRATION GUIDELINE: WHAT YOU NEED TO KNOW ABOUT WORK VISA'S IN KENYA**



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## What are the different types of work visas available in Kenya?

The most common visa types for those in employment are the work permit (Class D) and special pass (temporary work permit). Other categories of available visas apply based on the activity proposed to be undertaken by the person in question, namely:



### CLASS A

for people intending to engage in mining.



### CLASS B

for those engaged in agriculture or animal husbandry.



### CLASS C

for someone of a prescribed profession and who intends to practice that profession.



### CLASS F

for a person engaged in manufacturing.



### CLASS G

for those intending to do a specific trade, business, consultancy or profession (other than a prescribed profession).



### CLASS K

for people 35 years and older who have an assured annual income derived from sources other than employment, occupation, trade, business or profession.



### CLASS M

for people granted refugee status and their spouse who intends to take up employment.



### CLASS I

for those engaged in approved religious or charitable activities.



**What constitutes “critical skills”? Does this only apply to specific industries?**

An applicant for a work permit in Kenya will need to demonstrate that they have skills or qualifications that are not available in Kenya and that their engagement in the respective employment will be of benefit to Kenya, irrespective of the industry.

**What is the validity of the various work visas? Can they be extended and on what grounds?**

Work permits are usually issued for a maximum period of two years, which may be renewed for a further period as determined by the Director of Immigration and upon payment of the renewal fee. Special passes (temporary work permits) can be issued for a period not exceeding six months, but in practice they are usually issued for a period of three months renewable for a further three months.

**What is the legal status of people currently in Kenya whose work visas or work permits expired during the COVID-19 lockdown?**

During lockdown, the Government allowed any person whose work permit expired during that time to continue to stay in Kenya on the basis of visitor’s visa that could be

applied for online at no cost. This allowed foreigners who were unable to leave the country to maintain a valid immigration status in the country, but not to work. With lockdown measures significantly eased, all foreigners working in Kenya must now have the relevant permit allowing them to work in Kenya.

**Is a person who is working remotely from their home country also required to apply for a work permit where they are employed by the Kenyan branch of a company?**

A person who is working remotely from their home country for a Kenyan entity is not required to obtain a work permit or a special pass.

**What liability, if any, would an employer incur where an employee is found to be in possession of a fraudulent permit?**

It is an offence to employ a foreign national who entered Kenya illegally or whose status does not authorise them to engage in employment. Upon conviction, an employer of such persons shall be liable to a fine not exceeding KES 500,000 or imprisonment for a term not exceeding three years, or both.

**Are the family members of a person who is in possession of a work visa eligible to apply for a visa? Will this visa entitle the dependant family member to also work in Kenya?**

The family members of a person who holds a work permit are eligible to apply for a dependant pass. The dependant pass only allows family members to live in Kenya but not to work. If a dependant wishes to work in Kenya, they must obtain their own work permit.

**Are applicants for a work visa required to show proof of vaccination for COVID-19?**

No. There is no requirement to provide proof of vaccination when applying for a work permit in Kenya.

**Can a person hold multiple visas simultaneously?**

A person is not allowed to hold several work permits simultaneously. The law obligates an employer to immediately notify the Director of Immigration where a holder of a work permit's employment has ceased, leading to cancellation of the work permit. In the event a holder of a work permit secures employment with a different employer, their current employer must ensure that the existing permit is cancelled. The employee will not be able to obtain a work permit for their new job unless the initial permit is cancelled and an official notice is issued to that effect.

**When will a temporary visa holder be eligible for permanent residence?**

A person is eligible to apply for permanent residence in Kenya if they have held work permits for at least seven years and have been continuously resident in Kenya for the three years immediately preceding the application for permanent residency.

**Do holders of work visas enjoy protection under Kenyan labour laws?**

Yes. Holders of valid work permits in Kenya enjoy the protection of the country's labour laws.

**Are holders of work visas eligible for vaccination in Kenya?**

With effect from 23 November 2021, all persons over 15 years of age residing in Kenya are eligible for vaccination in Kenya as long as they have a valid identification document, such as a passport, national identification document (ID) or birth certificate.

**Can a holder of a work visa refuse to be vaccinated in Kenya? Does this constitute a valid ground for their dismissal and the termination of their visa?**

It is not mandatory to get the COVID-19 vaccine in Kenya, but the Government urges all those eligible (people older than 18 years who reside in Kenya) to get vaccinated.

The Government also encourages employers to promote employee vaccination, but it is not presently mandatory, and employers are able to determine their workplace policies subject to an employee's medical and constitutional grounds.

**Who qualifies for a spousal visa with authorisation to work in Kenya?**

A spousal visa is not available in Kenya. The holder of a dependant pass in Kenya is not allowed to work. A dependant pass holder who wishes to work in Kenya must obtain a valid work permit which, when obtained, will result in the dependant pass being cancelled.

**How long does it take to obtain a work visa or permit?**

Each work permit or special pass is processed on its own merit. Generally, it takes approximately three to four months to obtain a work permit and about two weeks to obtain a special pass.

**In the event that a work visa is denied, can one appeal that decision?**

Yes. An applicant whose work permit application is rejected may apply for a review of the Cabinet Secretary's decision within a period of 90 days from the date of receipt of the notification that their application was denied. The process of appeal is time consuming and bureaucratic. A further appeal to the Kenyan High Court challenging the decision of the Cabinet Secretary is allowed.

### What is the government fee for obtaining a work visa?

The government fees for issuance of a work permit are as follows:

Class or type	Fee
A, B, C, D, F, G and K	Range between KES 100,000 and KES 250,000 (payable upon approval) for each year the permit is approved
Permits application fee	KES 10,000
Special pass	Free, but once approved the holder pays KES 15,000 for each month the pass is approved
Class M	No application or issuance fees is payable

All fees payable in relation to the application and issuance of a permit are not refundable.

### Are there exceptions for work permits for nationals of certain countries?

No. Every foreign national who wishes to work in Kenya must obtain a work permit. Work permits for East Africa nationals are issued gratis.



#### What does it mean to be an “undesirable” person?

An undesirable person is a person who is not a Kenyan citizen who: (i) refuses to submit for a medical examination after being required to do so as required under the law, (ii) is incapable of supporting themselves and their dependants in Kenya, (iii) is declared bankrupt, (iv) has been judicially declared incompetent, (v) is declared inadmissible on grounds of national security/interest, or (vi) is an asylum seeker whose refugee status has been rejected.



#### Can the status of being classified as an “undesirable” be removed?

Yes. The Cabinet Secretary is authorised by law to review the status of prohibited immigrants and inadmissible persons, subject to the advice of the relevant committee.



#### What does it mean to be a “prohibited person”?

A prohibited person means a person who is not a Kenyan citizen and who has not been pardoned from a conviction of an offence in Kenya or any country or has committed or is suspected of engaging in human trafficking, human smuggling, sex crimes, illicit arms trade, money laundering, illegal human body organs trade, intellectual property rights crimes, cybercrimes, piracy, war crimes, crimes against humanity, promoting social violence, or trafficking of narcotics, or who has committed an offence under the international treaties and conventions ratified by Kenya and whose presence in or entry into Kenya is unlawful under any written law.



#### Can the status of being classified as a “prohibited person” be removed?

The Kenya Citizenship and Immigration Act of 2011 (Act) provides that a person aggrieved by a decision of a public officer made under the act may apply to the High Court for a review of the decision.

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