

# REFUGEES' ACCESS TO WORK PERMITS AND BUSINESS LICENCES IN KENYA

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Executive Summary

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In Kenya, many refugees, in both urban and camp settings, engage in employment and run businesses to cover their basic needs. Kenyan legislation allows refugees to engage in gainful employment and set up businesses: refugees can apply for Class M work permits with Immigration Services and business licences with county authorities to regularise their activities. In practice, access to work permits and business licences is complicated by several barriers. This study explores the gaps that exist between policy and practice of refugee access to Class M work permits and business licences in Kenya, and identifies what support is needed to improve access to sustainable livelihoods for urban and camp refugees.

A team of refugee researchers led the study from start to finish between May and December 2022 in Nairobi, Mombasa, Nakuru, Eldoret, the Kakuma camp, and the Kalobeyei settlement. Findings are based on 11 key informant interviews (KIIs) with refugee-supporting organisations and the private sector, 81 in-depth interviews with refugees who have applied (successfully and unsuccessfully) for work permits and business licences in Kenya, and 11 focus group discussions with 73 individuals from the refugee community. The research design and results were discussed with refugees and refugee-supporting organisations during three consultations.

### Experiences with applications

Overall, work permit applicants reported significantly more negative experiences compared to business licence applicants. At every step of the process, work permit applicants faced more challenges than business licence applicants.

- **Step 1: Getting information.** Business licence applicants said that the information was clear and that they had received clear guidelines from officials of the county government during community awareness programmes or when engaging with these representatives individually. On the other hand, work permit applicants said they struggled to access and understand the information, and that officials from the Department of Refugee Services (DRS) and the Immigration Services did not provide helpful support, unlike country government officials.

- **Step 2: Gathering documents.** Both business licence and work permit applicants need to submit their refugee identity document (ID) and a Kenya Revenue Authority (KRA) Personal Identification Number (PIN). Obtaining a valid refugee ID is a structural challenge faced by both work permit and business licence applicants. Refugee IDs need to be renewed every five years, and refugees in Kenya continuously experience significant delays during renewals, forcing them to work or operate businesses illegally until they get a new ID. Getting a PIN from the KRA is also a key challenge for applicants; for example, if an applicant's ID number has not been integrated into the database of the National Registration Bureau (NRB) at the time of application, the online platform might not accept their ID number. Work permit applicants reported struggling with accessing the recommendation letter from DRS outside of Nairobi and Kakuma. They also found it difficult to acquire letters from their employers: many employers struggle to articulate why they want to hire a refugee over a Kenyan and are not willing to provide tax compliance certificates. There was also ambiguity around the need to submit a national passport: while passports are listed as a requirement to obtain the work permit, refugees have successfully applied without holding one.
- **Step 3: Application.** Refugees can apply in person or online with county authorities for business licences. Applicants in Kakuma and Kalobeyei generally apply in person, while applicants in urban centres generally apply online. Work permit applicants can only apply online. Applicants highlighted that the online platform is not easy to use and requires significant support to navigate, and many questions are difficult to answer without prior explanation. Refugees who are not able to access in-person support from officials or aid organisations sometimes get stuck and are unable to apply. While the Class M work permit is free, refugees pay to obtain a business licence. Fees for business licences vary depending on the nature and size of the business (from 20 USD for a hawker's stall to 2,000 USD for a large hotel). The licence is valid for one year, making it a recurring cost, which can be a challenge for smaller businesses. There are hidden costs associated with both work permits and business licences. Applicants have to go to the office to follow up with their applications in case of delays, or to organisations that support them. Applicants face trade-offs when following up: they might have to leave their businesses or occupations, which may result in a loss of income. Some refugees reported they had to pay bribes to officials for both processes.
- **Step 4: Waiting for feedback.** Business licence applicants generally received feedback quickly and within expected deadlines. As business licences are processed by the county, applicants could easily follow up on their applications locally. On average, work permit applicants waited about three months for feedback. However, some waited up to 6 months and others never received feedback. In the meantime, applicants are not given updates on the progress of their application. Refugees in Nairobi and Kakuma can follow up at the DRS office, but refugees in Kalobeyei, Nakuru, and Mombasa need to travel to Kakuma or Nairobi to follow up on their application. This process is often described as confusing and creates anxiety and frustration among applicants, who feel like they are stuck in limbo. Because of the sheer length of the process and the uncertainty over its outcome, many respondents give up on the process, do not re-apply in case of rejection, or do not apply for renewals. Refugees often lose their employment offers because of the processing time. Employers are more reluctant to hire refugees because of the uncertainty of the process and waiting time.

- **Step 5: Outcome of applications.** All refugees we interviewed who had submitted all the requested documents had received the business licence, either online or when they visited county offices. On the other hand, very few refugees in Kenya have been successful in getting a work permit. While the team has not identified all refugee work permit holders, successful applicants are outliers based in Nairobi who received significant support or followed up directly with Immigration Services. Most interviewed applicants were rejected and received a 'no-merit' notice on the online platform: refugees do not know why their application failed and are unable to take steps to re-apply successfully.

### Factors of success

As all business licence applicants were successful, compared with very few work permit applicants, we cannot make conclusions on the factors that influence the outcome of applications. However, several factors affect the decision and ability to apply for both work permits and business licences.

- **Location** influenced the nature of the information that refugees had. Refugees in Kakuma and Kalobeyi had accurate information about business licences because the process is regular, structured, and controlled, but they had little information about work permits. In urban settings, refugees in Nakuru and Mombasa had less information about business licences than refugees in Nairobi as county authorities had done more sensitisation campaigns. Work permits are only issued from Nairobi, so refugees outside the city have to travel to follow up with relevant offices.
- **Networks with the host community** played a key role in facilitating the business licence acquisition process because the process is similar for nationals. Refugees in urban settings often run businesses alongside host community members who have helped them with registration. Because the work permit process is unique to refugees and foreigners, host community members did not play a role in facilitating the process for applicants.
- It is unclear to what extent **nationality** affects the outcome of applications: a few respondents felt that the perceived legitimacy of their asylum in Kenya might lead to more discrimination. This was perceived particularly by those from South Sudan and Rwanda.
- The **level of education** significantly affects refugees' decision and ability to apply for work permits. Most applicants had some tertiary level qualification (diploma, post-graduate); as the process is complex, good literacy is required.
- Most applicants for both work permits and business licences in the sample were **men**. Women who participated in focus group discussions (FGD) appeared to have less information than men because they generally were less educated. Women also appeared to be more likely to disqualify themselves because they felt they were not skilled enough to apply. Some of them were also fearful of being exposed if they engaged with officials.

## Effects of receiving documentation

According to most refugee respondents, receiving a work permit or business licence had a largely positive impact on their lives.

Most business licence holders said that they were now able to contribute to the local economy and operate their businesses legally and more freely, without fear of harassment from local authorities. Some respondents also stated that receiving a business licence enabled them to access bank loans and expand their businesses and income. A few business licence holders expressed that they experienced negative effects after receiving the licence, the main one being the burden of paying taxes, regardless of their financial situation.

The few successful work permit applicants felt that they had more dignity and freedom, and received better salaries than incentive compensation. This has a positive impact on their mental health and their sense of security. However, limitations around work permits do not allow for sustainable effects. A work permit is only valid for two years and is linked to the employer who supported the application. As a result, refugees need to re-launch the process if they change employers.

## Recommendations

- The **Government of Kenya** should establish a feedback channel for applicants to communicate the processing time for work permits. This can be communicated on the platform, or through the existing UNHCR hotline. Moreover, Immigration Services should provide clear feedback on why applications were rejected so refugees can adapt and re-apply. The government should also make the portal easier to navigate and consider options for offline applications for refugees with limited IT skills.
- **DRS** should create a desk position in Nairobi and Kakuma to support work permit applicants. Outside of Nairobi and camps, DRS should train liaison officers to make it accessible. DRS should also raise awareness on refugee documentation and rights in different institutions. To do so, DRS could provide regular training to staff at all levels (including security personnel) on the different types of documents refugees may hold and the refugee identity card's role as standard documentation. DRS could also lobby the NRB to make sure that refugee IDs are integrated in a timely manner.
- **UNHCR** should play the main role in disseminating information. For employers, UNHCR should set up an online resource to help them access a clear explanation of how to address requirements. For refugees, UNHCR should improve the accessibility of information in more marginalised locations such as Nakuru and Mombasa.
- **Employers** should ensure that they coordinate internally to support refugees' application processes and be flexible with refugee applicants so they do not miss out on opportunities.
- **Refugee-led organisations (RLOs)** can play a key role in providing information to refugees on social media and through peer-counselling.

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