



THE REPUBLIC OF KENYA

LAWS OF KENYA

THE EXTRADITION (CONTIGUOUS AND FOREIGN COUNTRIES) ACT

CAP. 76

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Kenya

Extradition (Contiguous and Foreign Countries) Act Cap. 76

Legislation as at 15 September 2023

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Extradition (Contiguous and Foreign Countries) Act (Cap. 76)
Contents

- Part I – PRELIMINARY 1
 - 1. Short title 1
 - 2. Interpretation 1
- Part II – SURRENDER OF FUGITIVE CRIMINALS 2
 - 3. Application of Part 2
 - 4. Liability of fugitive criminals to surrender 2
 - 5. Requisition for surrender 2
 - 6. Issue of warrant 3
 - 7. Hearing of case and evidence 3
 - 8. Committal or discharge of prisoner 3
 - 9. Surrender of fugitive criminal 4
 - 10. Discharge of fugitive criminal 4
 - 10A. Simplified extradition 4
- Part III – RECIPROCAL BACKING OF WARRANTS 5
 - 11. Application of Part 5
 - 12. Backing of warrants issued in another country 5
 - 13. Provisional warrant 5
 - 14. Return of prisoner 5
 - 15. Discharge of prisoner 6
- Part IV – MISCELLANEOUS PROVISIONS RELATING TO SURRENDER AND RETURN 6
 - 16. Restriction on surrender or return 6
 - 17. Evidence 7
 - 18. Authorization of warrants and depositions 7
 - 19. Escape 8
 - 20. Search warrants 8
 - 21. Rules 8
 - 22. Declaration of application 8
 - 23. Discontinuance 8
- Part V – TAKING OF EVIDENCE FOR CRIMINAL TRIALS IN OTHER COUNTRIES 9
 - 24. Obtaining evidence in Kenya 9
 - 25. Taking of evidence in Kenya for foreign criminal matters 9
- Part VI – CRIMINALS SURRENDERED TO KENYA 9
 - 26. Trial of criminal surrendered 9

Part VII – TRANSITIONAL, REPEAL AND APPLICATION 9

 27. Transitional 9

 28. Repeals and saving 10

SCHEDULE [s. 2(1)] 10

EXTRADITION (CONTIGUOUS AND FOREIGN COUNTRIES) ACT

CAP. 76

Assented to on 1 March 1966

Commenced on 29 March 1966 by [Extradition \(Contiguous and Foreign Countries\) Act Commencement](#)

[Amended by [Statute Law \(Miscellaneous Amendments\) Act, 1967 \(Act No. 9 of 1967\)](#) on 21 April 1967]

[Amended by [Extradition \(Commonwealth Countries\) Act \(Cap. 77\)](#) on 30 December 1968]

[Amended by [Protection of Aircraft Act \(Cap. 68\)](#) on 1 June 1972]

[Amended by [Criminal Procedure \(Amendment\) Act, 1982 \(Act No. 13 of 1982\)](#) on 10 December 1982]

[Amended by [Statute Law \(Miscellaneous Amendments\) Act, 1983 \(Act No. 11 of 1983\)](#) on 9 December 1983]

[Amended by [Statute Law \(Miscellaneous Amendments\) Act, 1987 \(Act No. 22 of 1987\)](#) on 31 December 1987]

[Amended by [Statute Law \(Miscellaneous Amendments\) Act, 2002 \(Act No. 2 of 2002\)](#) on 7 June 2002]

[Amended by [Proceeds of Crime and Anti-Money Laundering Act \(Cap. 59A\)](#) on 28 June 2010]

[Amended by [Prevention of Terrorism Act \(Cap. 59B\)](#) on 24 October 2012]

[Amended by [Security Laws \(Amendment\) Act, 2014 \(Act No. 19 of 2014\)](#) on 22 December 2014]

[Amended by [Prevention of Torture Act \(Cap. 88\)](#) on 20 April 2017]

[Amended by [Statute Law \(Miscellaneous Amendments\) Act, 2018 \(Act No. 18 of 2018\)](#) on 18 January 2019]

[Revised by [24th Annual Supplement \(Legal Notice 221 of 2023\)](#) on 31 December 2022]

[Amended by [Anti-Money Laundering and Combating of Terrorism Financing](#)

[Laws \(Amendment\) Act, 2023 \(Act No. 10 of 2023\)](#) on 15 September 2023]

An Act to amend and consolidate the Law relating to the extradition of criminals and for matters connected therewith and incidental thereto

Part I – PRELIMINARY

1. Short title

This Act may be cited as the Extradition (Contiguous and Foreign Countries) Act.

[Act [No. 65 of 1968](#), s. 19.]

2. Interpretation

(1) In this Act, unless the context otherwise requires—

"**Central Authority**" has the meaning assigned to it under section 2 of the Mutual Legal Assistance Act ([Cap. 75A](#));

"**conviction**" and "convicted" do not include or refer to a conviction which under the law of some other country is a conviction for contumacy, but the term "accused person" includes a person convicted of contumacy;

"**extradition crime**" means a crime which, if committed within the jurisdiction of Kenya, would be one of the crimes described in the Schedule to this Act;

"**fugitive criminal**" means any person accused or convicted of an extradition crime committed within the jurisdiction of any other country who is in or is suspected of being in Kenya, and a reference to a fugitive criminal of a country is a reference to a fugitive criminal accused or convicted of an extradition crime committed within the jurisdiction of that country;

"**magistrate**" means a chief magistrate, a senior principal magistrate, a principal magistrate, a senior resident magistrate or a resident magistrate;

"**reciprocal backing of warrants**" means warrants from contracting nations issued in accordance with the contracting agreement;

"**warrant**" in the case of any other country includes any judicial document authorizing the arrest of a person accused or convicted of a crime.

- (2) If any fugitive criminal or other person is arrested in pursuance of the provisions of this Act and brought before a magistrate who has no power to exercise jurisdiction under this Act, that magistrate shall have power to order such person to be brought before some magistrate having such jurisdiction, and to remand or admit such person to bail, and effect shall be given to any such order.

[Act [No. 22 of 1987](#), Sch., Act [No. 2 of 2002](#), Sch., Act [No. 19 of 2014](#), s. 22, Act [No. 10 of 2023](#), Sch.]

Part II – SURRENDER OF FUGITIVE CRIMINALS

3. Application of Part

- (1) Where an agreement has been made with any country other than a designated Commonwealth country within the meaning of the Extradition (Commonwealth Countries) Act ([Cap. 77](#)), with respect to the surrender to that country of any fugitive criminal, the Cabinet Secretary may, by order published in the *Gazette*, declare that this Part of this Act shall apply in the case of that country subject to such conditions, exceptions and qualifications as may be specified in the order, and this Part shall apply accordingly.
- (2) An order made under this section shall recite or embody the terms of the agreement and shall not remain in force for any longer period than the agreement.
- (3) Every order made under this section shall be laid before the National Assembly.

[Act [No. 65 of 1968](#), s. 19, Act [No. 18 of 2018](#), Sch.]

4. Liability of fugitive criminals to surrender

Subject to the provisions of [section 16](#), where this Part of this Act applies in the case of any country, every fugitive criminal of that country who is in or suspected of being in Kenya shall be liable to be arrested, detained and surrendered in the manner provided by this Part of this Act—

- (a) whether the crime in respect of which the surrender is sought was committed before or after the commencement of this Act or the application of this Part of this Act to that country; and
- (b) whether there is or is not any concurrent jurisdiction in a court in Kenya over that crime.

5. Requisition for surrender

- (1) A requisition for the surrender of a fugitive criminal of any country who is in or suspected of being in Kenya shall be made to the Cabinet Secretary by a diplomatic representative or consular officer of that country and, upon receipt of such requisition, the Cabinet Secretary may, by order under his hand, signify to a magistrate that a requisition has been made and require the magistrate to issue his warrant for the arrest and detention of the fugitive criminal.
- (2) If the Cabinet Secretary is of the opinion that the offence is one of a political character he may refuse to make an order and may also at any time order a fugitive criminal accused or convicted of such offence to be discharged from custody.

6. Issue of warrant

- (1) The warrant for the arrest of a fugitive criminal, whether accused or convicted of a crime, who is in or suspected of being in Kenya, may be issued by a magistrate—
 - (a) on the receipt of the order of the Cabinet Secretary and on such evidence as would, in the opinion of the magistrate, justify the issue of the warrant if the crime had been committed or the criminal convicted in Kenya; or
 - (b) on such information or complaint and such evidence or after such proceedings as would, in the opinion of the magistrate, justify the issue of a warrant if the crime had been committed or the criminal convicted in Kenya.
- (2) A magistrate issuing a warrant under this section without an order from the Cabinet Secretary shall forthwith send a report of the fact of the issue, together with the evidence and information or complaint or certified copies thereof, to the Cabinet Secretary, who may order the warrant to be cancelled and the person who has been arrested and detained on the warrant to be discharged.
- (3) A fugitive criminal when arrested on a warrant under this section shall be brought before a magistrate as soon as possible.
- (4) A fugitive criminal arrested and detained on a warrant issued without the order of the Cabinet Secretary shall be discharged by the magistrate unless the magistrate, within such reasonable time as, with reference to the circumstances of the case, he may fix, receives from the Cabinet Secretary an order signifying that a requisition has been made for the surrender of the criminal.
- (5) The warrant of a magistrate issued in pursuance of this Part of this Act may be executed in any part of Kenya in the same manner as if it had been originally issued or subsequently endorsed by a magistrate having jurisdiction in the place where it is executed.

7. Hearing of case and evidence

- (1) When a fugitive criminal is brought before a magistrate, the magistrate shall hear the case in the same manner and have the same jurisdiction and powers, as nearly as may be, as in a trial before a subordinate court.
- (2) The magistrate shall receive any evidence which may be tendered to show that the case is one to which the relevant provisions of [section 16](#) apply or that the crime of which the prisoner is accused is not an extradition crime.

[Act No. 13 of 1982, 2nd Sch.]

8. Committal or discharge of prisoner

- (1) In the case of a fugitive criminal accused of an extradition crime, if the foreign warrant authorizing the arrest of the criminal is duly authenticated, and such evidence is produced as, subject to the provisions of this Act, would according to the law of Kenya, justify the committal for trial of the prisoner if the crime of which he is accused was committed in Kenya, the magistrate shall commit him to prison, but otherwise shall order him to be discharged.
- (2) In the case of a fugitive criminal alleged to have been convicted of an extradition crime, if such evidence is produced as, subject to the provisions of this Act would, according to the law of Kenya, prove that the prisoner was convicted of such crime, the magistrate shall commit him to prison, but otherwise shall order him to be discharged.
- (3) If the magistrate commits such criminal to prison, he shall commit him to prison to await the warrant of the Cabinet Secretary for his surrender; and the magistrate shall forthwith send to the Cabinet Secretary a certificate of the committal and such report on the case as he may think fit.

9. Surrender of fugitive criminal

- (1) Whenever a magistrate commits a fugitive criminal to prison under this Part of this Act he shall inform the criminal that he will not be surrendered until after the expiration of fifteen days and that he has a right to apply for the issue of directions in the nature of *habeas corpus*.
- (2) Upon the expiration of the period of fifteen days, or, if directions in the nature of *habeas corpus* are issued, after the decision of the court upon the return to the directions, as the case may be, or after such further period as may be allowed in either case by the Cabinet Secretary, the Cabinet Secretary may by warrant under his hand order the fugitive criminal, if not set at liberty on the decision of the court, to be surrendered to such person as is in his opinion, duly authorized to receive the fugitive criminal by the country from which the requisition for the surrender proceeded, and the fugitive criminal shall be surrendered accordingly.
- (3) Any person to whom such warrant is directed, and the person so authorized as aforesaid, may receive, hold in custody and convey into the jurisdiction of that country the criminal mentioned in the warrant.

10. Discharge of fugitive criminal

Whenever a fugitive criminal who has been committed to prison is not surrendered and conveyed out of Kenya within two months after the committal, or if directions in the nature of *habeas corpus* are issued, after the decision of the court upon the return to the directions, any judge of the High Court may—

- (a) upon application made to him by or on behalf of the criminal; and
- (b) upon proof that reasonable notice of the intention to make the application has been given to the Cabinet Secretary, order the criminal to be discharged out of custody unless sufficient cause is shown to the contrary.

10A. Simplified extradition

- (1) A fugitive criminal being sought by a requesting State may consent to be extradited to that requesting State without conducting formal extradition proceedings.
- (2) Where a fugitive criminal consents to be extradited under subsection (1), that person shall be advised of his or her rights and the legal consequences of the simplified extradition procedure and may expressly renounce his or her entitlement to the rule of speciality.
- (3) The consent and, where appropriate, the renunciation of the entitlement to the rule of speciality shall be recorded by a magistrate and may not be revoked.
- (4) A copy of the consent referred to under subsection (3) shall be transmitted to the Central Authority with a view to arranging his or her surrender to the requesting State.
- (5) Prior to executing a consent under this section, a fugitive criminal shall be afforded—
 - (a) the opportunity to seek independent legal advice; and
 - (b) an interpreter at no cost if the fugitive criminal is unable to understand the language used.
- (6) A consent obtained under this section shall —
 - (a) outline the extraditable charges that it relates to; and
 - (b) be witnessed by an adult of sound mind.
- (7) For the purposes of this section “consent” means the manifestation of express, unequivocal, free, specific and informed indication of the fugitive criminal’s wishes by a statement or by a clear affirmative action, signifying agreement to be extradited to the requesting state.

[Act [No. 10 of 2023](#), Sch.]

Part III – RECIPROCAL BACKING OF WARRANTS

11. Application of Part

- (1) Where the Cabinet Secretary is satisfied that reciprocal provision has been or will be made by or under the law of any contiguous country other than a designated Commonwealth country within the meaning of the Extradition (Commonwealth Countries) Act ([Cap. 77](#)), for the backing of warrants issued in Kenya and their execution in that country and that it is appropriate to do so, he may, by order published in the *Gazette*, declare that this Part of this Act shall apply in the case of that country subject to such conditions, exceptions and qualifications as may be specified in the order, and this Part shall apply accordingly.
- (2) Every order made under this section shall be laid before the National Assembly.

[Act [No. 65 of 1968](#), s. 19, Act [No. 18 of 2018](#), Sch.]

12. Backing of warrants issued in another country

- (1) Where a warrant has been issued in a country to which this Part of this Act applies for the arrest of a person accused of an offence punishable by law in that country and he is or is suspected of being in or on the way to Kenya, a magistrate may, if satisfied that the warrant was issued by a person having lawful authority to issue it, endorse such warrant.
- (2) An endorsement of a warrant shall be signed by the magistrate and shall authorize all or any of the persons named in the endorsement and every police officer to execute the warrant by arresting the person named in it and bringing him before a magistrate.
- (3) A warrant endorsed under this section shall be sufficient authority to arrest, within the jurisdiction of the endorsing magistrate, the person named in the warrant and to bring him before a magistrate.
- (4) This Part of this Act shall apply whatever the date of the warrant and whether the offence is alleged to have been committed before or after the commencement of this Act or the application of this Part of this Act to the country concerned.

13. Provisional warrant

- (1) Notwithstanding that a warrant for the arrest of any person issued in a country to which this Part of this Act applies may not yet have been endorsed in pursuance of this Part, a magistrate may issue a provisional warrant for the arrest of such person on such information and under such circumstances as would, in his opinion, justify the issue of a warrant if the offence of which that person is accused were an offence punishable by the law of Kenya and had been committed within his jurisdiction; and such warrant may be endorsed in the manner provided in the Criminal Procedure Code ([Cap. 75](#)), and may be executed accordingly.
- (2) Where a person is arrested under such a provisional warrant—
 - (a) no order may be made under [section 14](#) for his return to the country in which the original warrant was issued unless the original warrant is produced and endorsed in accordance with this Part; and
 - (b) he shall be discharged unless the original warrant is produced and endorsed within such time as the magistrate thinks reasonable in the circumstances.

14. Return of prisoner

- (1) Subject to the provisions of [section 16](#), where a person arrested under a warrant endorsed in accordance with [section 12](#), or a provisional warrant issued under [section 13](#) is brought before a

magistrate and, in the case of a person arrested under a provisional warrant, the original warrant has been produced and endorsed, the magistrate may, if he is satisfied—

- (a) that the warrant is duly authenticated as directed by this Act and was issued by a person having lawful authority to issue the same; and
 - (b) by evidence on oath, that the prisoner is the person named or otherwise described in the warrant, order the prisoner to be returned to the country in which the original warrant was issued, and for that purpose to be delivered into the custody of the persons to whom the warrant is directed or any one or more of them and to be held in custody and conveyed into that country.
- (2) A person to whom the warrant is directed and the person so authorized may receive, hold in custody and convey into the jurisdiction of that country the prisoner mentioned in the warrant.
 - (3) A magistrate shall, so far as is requisite for the exercise of the powers of this section, have the same power, including the power to remand and admit to bail a prisoner, as he has in the case of a person arrested under a warrant issued by him.
 - (4) In proceedings under this section, the magistrate shall receive any evidence which may be tendered to show that the case is one to which the relevant provisions of [section 16](#) apply.

15. Discharge of prisoner

- (1) Whenever a prisoner whose return is authorized in pursuance of this Part of this Act is not conveyed out of Kenya within one month after the date of the order for his return, a magistrate may—
 - (a) upon application by or on behalf of the prisoner; and
 - (b) upon proof that reasonable notice of the intention to make the application has been given to the person holding the warrant and to the Inspector-General of Police or the Officer Commanding the respective Police Division or Police Station; and
 - (c) unless sufficient cause is shown to the contrary, order the prisoner to be discharged out of custody.
- (2) Without prejudice to any application for directions in the nature of a writ of *habeas corpus* in respect of anything purporting to be done under this Part of this Act, any order or refusal to make an order of discharge under subsection (1) of this section may be the subject of an appeal to the High Court.
- (3) If, in any proceedings under this Part of this Act which are brought to his attention, the Cabinet Secretary is of opinion that the offence is one of a political character, he may order a person arrested under this Part to be discharged from custody.

[Act [No. 18 of 2018](#), Sch.]

Part IV – MISCELLANEOUS PROVISIONS RELATING TO SURRENDER AND RETURN

Restrictions

16. Restriction on surrender or return

- (1) A fugitive criminal shall not be surrendered under Part II of this Act and a person arrested under Part II of this Act shall not be returned—
 - (a) if the offence in respect of which his surrender is required, or the offence specified in the warrant, as the case may be, is one of a political character or if it appears to a court or the Cabinet Secretary that the requisition for the surrender, or the application for endorsement of a warrant and the return of the person named therein, has in fact been made with a view to try or to punish him for an offence of a political character: or

- (b) if the fugitive criminal or the person arrested is accused of some offence triable by a court in Kenya or is undergoing sentence under any conviction in Kenya, until after he has been discharged, whether by acquittal or on the expiration of his sentence or otherwise.
- (2) Subject to the provisions of [section 27](#), a fugitive criminal shall not be surrendered under Part II—
- (a) unless provision is made by the law of the country to which he is to be surrendered, or by agreement, that the fugitive criminal shall not, unless he has been restored or had an opportunity of returning to Kenya, be detained or tried in that country for any offence committed before his surrender other than an extradition crime proved by the facts on which the surrender is grounded; or
 - (b) until the expiration of fifteen days from the date of his being committed to prison to await his surrender.
- (3) Where the return of a prisoner is sought or arranged under Part III, and it appears to the magistrate that by reason of the trivial nature of the case, or by reason of the application for the return of the prisoner not being made in good faith in the interests of justice, or otherwise, it would, having regard to the distance, to the facilities of communication and to all the circumstances of the case, be unjust or oppressive or too severe a punishment to return the prisoner either at all or until the expiration of a certain period, the magistrate may discharge the prisoner either absolutely or on bail or order that he shall not be returned until after the expiration of the period named in the order or may make such other order in the matter as the magistrate thinks proper.
- (4) Without prejudice to any application for directions in the nature of a writ of *habeas corpus* in respect of anything purporting to be done under Part III of this Act, an order or refusal to make an order of discharge under subsection (3) may be the subject of an appeal to the High Court.

Evidence

17. Evidence

- (1) Depositions or statements on oath or affirmation taken in the country concerned and copies of the original depositions or statements and official certificates of or judicial documents stating the fact of conviction may, if duly authenticated, be received in evidence in any proceedings under this Act.
- (2) In addition to any other means by which the same may be proved, a magistrate or the High Court—
- (a) shall take judicial notice of any law of a country by which the surrender of a fugitive criminal is required which makes provision for any such matter as is referred to in [section 16\(2\)\(a\)](#), if an official copy of such law is produced and certified by the Cabinet Secretary responsible for foreign affairs or a diplomatic representative or consular officer of that country to be in force;
 - (b) may receive as *prima facie* evidence of any such agreement as is referred to in the said paragraph a certificate to that effect by such Cabinet Secretary or diplomatic representative or consular officer aforesaid.

18. Authorization of warrants and depositions

- (1) Warrants and depositions or statements on oath or affirmation and copies thereof and certificate of or judicial documents stating the fact of a conviction shall be deemed duly authenticated for the purposes of this Act if authenticated in manner provided for the time being by law or—
- (a) if the warrant purports to be signed by a judge, magistrate or officer of the country where it was issued; or
 - (b) if the depositions or statements or the copies thereof purport to be certified under the hand of a judge, magistrate or officer of the country where they were taken to be the original depositions or statements or to be true copies thereof, as the case may require; or

- (c) if the certificate of or judicial document stating the fact of conviction purports to be certified by a judge, magistrate or officer of the country where the conviction took place; and if in every case the warrants, depositions, statements, copies, certificates and judicial documents, as the case may be, are authenticated by the oath of some witness or—
- (i) in a case to which Part II of this Act applies, by being sealed with the official seal of the Cabinet Secretary for the time being responsible for legal affairs, or some other Cabinet Secretary of State, of the country concerned; or
 - (ii) in a case to which Part III of this Act applies, by sealing in the manner aforesaid or by the signature of the Attorney-General, Solicitor-General or Director of Public Prosecutions of the country concerned.
- (2) All courts and magistrates shall take judicial notice of the official seal and signature referred to in paragraphs (i) and (ii) of subsection (1) and shall admit any such document so authenticated in evidence without further proof.

Miscellaneous

19. Escape

If a prisoner escapes, by breach of prison or otherwise, out of the custody of a person acting under a warrant issued or endorsed in pursuance of this Act or out of the custody of a person to whose custody he has been committed in accordance with this Act, he may be retaken in the same manner as a person accused of a crime against the law of Kenya may be retaken upon an escape.

20. Search warrants

Where a warrant for the arrest of a person accused of an offence has been endorsed in pursuance of Part III of this Act, the magistrate shall have the same power of issuing a warrant to search for any property alleged to be stolen or otherwise unlawfully taken or obtained by such person, or otherwise to be the subject of such offence, as that magistrate would have if the property had been stolen or otherwise unlawfully taken or obtained, or the offence had been committed, wholly within the jurisdiction of such magistrate.

21. Rules

- (1) The Chief Justice may make rules of court for appeals to the High Court under this Act.
- (2) The Cabinet Secretary may prescribing forms for the purposes of this Act, and forms so prescribed or forms as near thereto as the circumstances permit may be used in all matters to which such forms refer.

22. Declaration of application

The Cabinet Secretary may from time to time, by order published in the *Gazette*, declare the countries to which Part II and Part III of this Act apply (including the countries to which Part II applies under [section 27](#) of this Act and, subject to any later order providing for the discontinuance of such application, the declaration shall be conclusive as to the application of the relevant Part to countries to which it relates.

[Act [No. 9 of 1967](#), Sch.]

23. Discontinuance

Whenever it appears to the Cabinet Secretary that an agreement with a country to which Part II of this Act applies is no longer in force (or in the case of a country to which Part II applies under [section 27](#)(1)(a), that the law of that country no longer contains reciprocal provision), or that the law of a country to which Part III of this Act applies no longer makes reciprocal provision or that such provision has ceased to apply to

Kenya or any part thereof, he may, by order published in the *Gazette*, discontinue the application of the appropriate Part to that country.

Part V – TAKING OF EVIDENCE FOR CRIMINAL TRIALS IN OTHER COUNTRIES

24. Obtaining evidence in Kenya

- (1) The testimony of any witness may be obtained in relation to any criminal matter pending in any court or tribunal in any other country in like manner as it may be obtained in relation to any civil matter under any rules of court or any enactment for the time being in force in that part of Kenya in which the testimony is to be taken for the taking of evidence in relation to civil and commercial matters pending before the tribunals of other countries.
- (2) Nothing in this section shall apply in the case of any criminal matter of a political nature.

25. Taking of evidence in Kenya for foreign criminal matters

- (1) Subject to [section 24\(2\)](#), the Cabinet Secretary may, by order, require a magistrate to take evidence for the purpose of any criminal matter pending in any court or tribunal in any other country.
- (2) A magistrate, upon the receipt of an order made under this section, shall take down in writing the evidence of every witness appearing before him for the purpose in like manner as if the witness appeared in a preliminary inquiry and shall certify at the foot of the deposition so taken that the evidence was taken before him, and shall transmit it to the Cabinet Secretary.
- (3) The evidence may be taken in the presence or absence of the person charged, if any, and the fact of the presence or absence shall be stated in the deposition.
- (4) Any person may, after payment or tender to him of a reasonable sum for his costs and expenses in this behalf, be compelled, for the purposes of this section, to attend and give evidence and answer questions and produce documents in like manner and subject to like conditions as he may in the case of a trial for an offence.

Part VI – CRIMINALS SURRENDERED TO KENYA

26. Trial of criminal surrendered

- (1) Subject to subsection (2) of this section, where in pursuance of an agreement with another country any person accused or convicted of any crime described in the Schedule to this Act is surrendered by that country that person shall not, until he has been restored or had an opportunity of returning to that country, be triable or tried for any offence committed before his surrender to Kenya other than such of the crimes as may be proved by the facts on which the surrender is grounded.
- (2) Nothing in this section shall apply in relation to a person surrendered or returned to Kenya by a country to which Part III of this Act applies.

Part VII – TRANSITIONAL, REPEAL AND APPLICATION

27. Transitional

- (1) Subject to any order made under [section 3](#) or [section 23](#) of this Act—
 - (a) a country to which Part I of the Fugitive Offenders Act, 1881 (No. 44 and 45 Vict., Cap. 69) (as in force in Kenya) applied immediately before the commencement of this Act; and

- (b) a country to which the Fugitive Criminals Surrender Act ([Cap. 77](#)) (Repealed) applied immediately before the commencement of this Act,
shall be a country to which Part II of this Act applies.
- (2) The application of Part II of this Act by subsection (1) of this section shall have effect—
- (a) in the case of a country to which subsection (1)(a) of this section refers—
- (i) notwithstanding that no agreement has been made with that country or that the terms of an agreement are not embodied in any order; and
- (ii) notwithstanding that no such provision or agreement as is referred to in [section 16\(2\)\(a\)](#) of this Act is in force in or has been made with that country, and, unless provision is made by the Cabinet Secretary in an order under this section applying that paragraph to any such country, the surrender of a fugitive criminal to that country shall not be refused on the grounds set out in that paragraph;
- (b) in the case of a country to which subsection (1)(b) of this section refers, as if the terms of the relevant agreement and the conditions, exceptions and qualifications specified in any order made under the Fugitive Criminals Surrender Act and in force immediately before the commencement of this Act, had been specified by order made under this Act.

28. Repeals and saving

- (1) The Extradition Act ([Cap. 76](#)) and the Fugitive Criminals Surrender Act ([Cap. 77](#)) are hereby repealed.
- (2) The Fugitive Offenders Act, 1881 shall cease to apply to Kenya as part of the law thereof and section 23(3) of the Interpretation and General Provisions Act ([Cap. 2](#)) shall apply in relation to this subsection as if that Act had been repealed.
- (3) Notwithstanding the repeal or disapplication of the laws set out in subsections (1) and (2) of this section, where, before the commencement of this Act, any request has been made or proceedings have been commenced for the surrender of a fugitive criminal or the return of a prisoner under any of the said laws to a country to which the relevant Part of this Act applies, the same may be continued under corresponding provisions of this Act, and in any such case any steps taken before the commencement of this Act under any of the said laws shall be deemed to have been taken under and for the purposes of this Act.

SCHEDULE [s. 2(1)]

EXTRADITION CRIMES

Offences of Torture and other Cruel, Inhuman or Degrading Treatment or Punishment, Criminal Homicide and Similar Offences

[Act [No. 18 of 1970](#), s. 11, Act [No. 11 of 1983](#), Sch., Act [No. 9 of 2009](#), 6th Sch., Act [No. 6 of 2010](#), Act [No. 30 of 2012](#), s. 51, Act [No. 12 of 2017](#), s. 26, Act [No. 10 of 2023](#), Sch.]

Murder and attempt and conspiracy to murder.

Manslaughter.

Injury to Persons Not Amounting to Homicide

Wounding or inflicting grievous bodily harm.

Assault occasioning actual bodily harm and other aggravated assaults punishable by imprisonment for five years or more.

Abduction, Rape and Similar Offences

Rape, defilement and unlawful carnal knowledge.

Indecent assault.

Abortion and offences relating thereto.

Child-stealing.

Kidnapping and false imprisonment.

Procuration.

Narcotics and Dangerous Drugs

Offences relating to narcotics.

Offences relating to traffic in dangerous drugs.

Damage to Property Malicious damage to property.

Arson.

Falsification of Currency and Similar Offences Counterfeiting and altering money, and uttering counterfeit or altered money.

Offences relating to counterfeiting.

Forgery and Similar Offences

Forgery, counterfeiting, altering and uttering what is forged or counterfeited or altered.

Misappropriation, Fraud and Similar Offences

Theft, and offences relating thereto.

Fraudulent conversion.

Burglary and housebreaking, robbery, robbery with violence.

Threats by letter or otherwise with intent to extort; intimidation.

Obtaining money or goods by false pretences.

Perjury and subornation of perjury.

Bribery and corruption.

Offences by bankrupts against bankruptcy law, or any cognisable offence under the laws relating to bankruptcy.

Fraudulent misappropriations and fraud.

Receiving stolen property.

Organised Criminal Group Offences**Terrorist Offences**

Any offence that constitutes a terrorist act or any offence under sections 4A, 4B, 5, 8, 9, 9A, and 14A under the Prevention of Terrorism Act ([Cap. 59B](#)).

Piracy and Similar Offences

Piracy by the law of nations.

Sinking or destroying a vessel at sea or an aircraft in the air, or attempting or conspiring to do so.

Assault on board a ship on the high seas or an aircraft in the air with intent to destroy life or to do grievous bodily harm.

Revolt or conspiracy to revolt, by two or more persons, on board a ship on the high seas or an aircraft in the air against the authority of the master, or captain of the aircraft.

Hijacking and offences committed in relation thereto.

Offences relating to aircraft set out in section 5 of the Protection of Aircraft Act ([Cap. 68](#)).

Slave Dealings

Offences against the Slave Trade Act, 1873, or otherwise in connexion with the slave trade, committed on the high seas or on land, or partly on the high seas and partly on land.

General

Counselling, procuring, aiding and abetting, or being an accessory before or after the fact to any of the foregoing.

Any offence that constitutes an offence of money laundering under the Proceeds of Crime Anti-Money Laundering Act ([Cap. 59A](#)).