



**THE REPUBLIC OF KENYA**

LAWS OF KENYA

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**THE ORDER APPLYING PART II TO THE REPUBLIC OF LIBERIA**

NO. 220 OF 1969

Revised and published by the National Council for Law Reporting  
with the authority of the Attorney-General as gazetted by the Government Printer

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Kenya

Extradition (Contiguous and Foreign Countries) Act

## Order Applying Part II to the Republic of Liberia

Legal Notice 220 of 1969

Legislation as at 31 December 2022

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FRBR URI: [/akn/ke/act/ln/1969/220/eng@2022-12-31](#)

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## **EXTRADITION (CONTIGUOUS AND FOREIGN COUNTRIES) ACT**

### **ORDER APPLYING PART II TO THE REPUBLIC OF LIBERIA LEGAL NOTICE 220 OF 1969**

Published in Kenya Gazette Vol. LXXI—No. 45 on 17 October 1969

**Commenced on 17 October 1969**

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

WHEREAS an agreement has been made between the Government of Kenya and the Government of the Republic of Liberia that, pending the conclusion of a new Agreement between the two Governments, the Extradition Treaty signed in London on 16th December, 1892, between the Republic of Liberia and the United Kingdom, should continue to be applied between Kenya and the Republic of Liberia;

AND WHEREAS the terms of the said Extradition Treaty are set forth in the Schedule to this Order;

NOW THEREFORE, in exercise of the powers conferred upon the Attorney-General by section 3 of the Extradition (Contiguous and Foreign Countries) Act, it is hereby declared that Part II of the said Act shall apply in the case of the Republic of Liberia.

#### **Schedule**

##### **Article I**

The High Contracting Parties engage to deliver up to each other those persons who, being accused or convicted of a crime or offence committed in the territory of the one Party, shall be found within the territory of the other, under the circumstances and conditions stated in the present Treaty.

##### **Article II**

The crimes or offences for which the extradition is to be granted are the following—

1. Murder, or attempt, or conspiracy to murder.
2. Manslaughter.
3. Assault occasioning actual bodily harm.
4. Maliciously wounding or inflicting grievous bodily harm.
5. Counterfeiting or altering money, or uttering counterfeit or altered money.
6. Knowingly making any instrument, tool, or engine adapted and intended for counterfeiting coin.
7. Forgery, counterfeiting, or altering or uttering what is forged or counterfeited or altered.
8. Embezzlement or larceny.
9. Malicious injury to property if the offence be indictable.
10. Obtaining money, goods, or valuable securities by false pretences.

11. Receiving money, valuable security, or other property, knowing the same to have been stolen, embezzled, or unlawfully obtained.
12. Crimes against bankruptcy law.
13. Fraud by a bailee, banker, agent, factor, trustee, or director or member or public officer of any company, made criminal by any law for the time being in force.
14. Perjury, or subornation of perjury.
15. Rape.
16. Carnal knowledge, or any attempt to have carnal knowledge, of a girl under years of age.
17. Indecent assault.
18. Administering drugs, or using instruments, with intent to procure the miscarriage of a woman.
19. Abduction.
20. Child stealing.
21. Abandoning children, exposing or unlawfully detaining them.
22. Kidnapping and false imprisonment.
23. Burglary or housebreaking.
24. Arson.
25. Robbery with violence.
26. Any malicious act done with intent to endanger the safety of any person in a railway train.
27. Threats by letter or otherwise, with intent to extort.
28. Piracy by law of nations.
29. Sinking or destroying a vessel at sea, or attempting or conspiring to do so.
30. Assaults on board a ship on the high seas, with intent to destroy life, or do grievous bodily harm.
31. Revolt, or conspiracy to revolt, by two or more persons on board a ship on the high seas, against the authority of the master.
32. Dealing in slaves in such a manner as to constitute a criminal offence against the laws of both States.

Extradition is also to be granted for participation in any of the aforesaid crimes, provided such participation be punishable by the laws of both the Contracting Parties.

### **Article III**

Either Government may, in its absolute discretion, refuse to deliver up its own subjects to the other Government.

### **Article IV**

The extradition shall not take place if the person claimed on the part of the Government of Kenya, or the person claimed on the part of the Liberian Government, has already been tried and discharged or punished, or is still under trial, within the territories of the two High Contracting Parties respectively, for the crime for which his extradition is demanded.

If the person claimed on the part of the Government of Kenya, or if the person claimed on the part of the Liberian Government, should be under examination, or is undergoing sentence under a conviction, for any other crime

within the territories of the two High Contracting Parties respectively, his extradition shall be deferred until after he has been discharged, whether by acquittal, or on expiration of his sentence, or otherwise.

### **Article V**

The extradition shall not take place if, subsequently to the commission of the crime, or the institution of the penal prosecution, or the conviction thereon, exemption from prosecution or punishment has been acquired by lapse of time, according to the laws of the State applied to.

### **Article VI**

A fugitive criminal shall not be surrendered if the offence in respect of which his surrender is demanded is one of a political character, or if he proves that the requisition for his surrender has in fact been made with a view to try or punish him for an offence of a political character.

### **Article VII**

A person surrendered can in no case be kept in prison, or be brought to trial in the State to which the surrender has been made for any other crime or on account of any other matters than those for which the extradition shall have taken place, until he has been restored or had an opportunity of returning to the State by which he has been surrendered.

The stipulation does not apply to crimes committed after the extradition.

### **Article VIII**

The requisition for extradition shall be made in the following manner—

Application on behalf of the Government of Kenya for the surrender of a fugitive criminal in Liberia shall be made by the Kenya Consul at Monrovia.

Application on behalf of the Liberian Government for the surrender of a fugitive criminal in Kenya shall be made by the diplomatic representative of Liberia in Nairobi, or in the absence of such representative, by the Consul-General for Liberia in Nairobi.

The requisition for the extradition of the accused person must be accompanied by a warrant of arrest issued by the competent authority of the State requiring the extradition, and by such evidence as, according to the laws of the place where the accused is found, would justify his arrest if the crime had been committed there.

If the requisition relates to a person already convicted, it must be accompanied by the sentence of condemnation passed against the convicted person by the competent Court of the State that makes the requisition for extradition.

A sentence passed in contumaciam is not to be deemed a conviction, but a person so sentenced may be dealt with as an accused person.

### **Article IX**

If the requisition for extradition be in accordance with the foregoing stipulations, the competent authorities of the State applied to shall proceed to the arrest of the fugitive.

### Article X

If the fugitive has been arrested in Kenya he shall forthwith be brought before a competent magistrate, who is to examine him and to conduct the preliminary investigation of the case, just as if the apprehension had taken place for a crime committed in Kenya.

In the examinations which they have to make in accordance with the foregoing stipulations, the authorities of Kenya shall admit as valid evidence the sworn depositions or the affirmations of witnesses taken in Liberia, or copies thereof, and likewise the warrants and sentences issued therein, and certificates of, or judicial documents stating the fact of, a conviction, provided the same are authenticated as follows—

1. A warrant must purport to be signed by a judge, magistrate, or officer of Liberia.
2. Depositions or affirmations, or the copies thereof, must purport to be certified under the hand of a judge, magistrate, or officer of Liberia, to be the original depositions or affirmations, or to be the true copies thereof, as the case may require.
3. A certificate of or judicial document stating the fact of a conviction must purport to be certified by a judge, magistrate, or officer of Liberia.
4. In every case such warrant, deposition, affirmation, copy certificate, or judicial document must be authenticated either by the oath of some witness, or by being sealed with the official seal of the Minister of Justice, or some other Minister of Liberia; but any other mode of authentication for the time being permitted by the law in Kenya may be substituted for the foregoing.

### Article XI

If the fugitive has been arrested in Liberia his surrender shall be granted if, upon examination by a competent authority, it appears that the documents furnished by the Government of Kenya contain sufficient *prima facie* evidence to justify the extradition.

The authorities of Liberia shall admit as valid evidence records drawn up by the Kenyan authorities of the depositions of witnesses, or copies thereof, and records of conviction or other judicial documents, or copies thereof, provided that the said documents be signed or authenticated by an authority whose competence shall be certified by the seal of a Minister of the Kenya Government.

### Article XII

The extradition shall not take place unless the evidence be found sufficient, according to the laws of the State applied to, either to justify the committal of the prisoners for trial, in case the crime has been committed in the territory of the said State, or to prove that the prisoner is the identical person convicted by the Courts of the State which makes the requisition, and that the crime of which he has been convicted is one in respect of which extradition could, at the time of such conviction, have been granted by the State applied to.

The fugitive criminal shall not be surrendered until the expiration of fifteen days from the date of his being committed to prison to await his surrender.

### Article XIII

If the individual claimed by one of the two High Contracting Parties in pursuance of the present Treaty should be also claimed by one or several other Powers, on account of other crimes or offences committed upon their respective territories, his extradition shall be granted to that State whose demand is earliest in date.

#### **Article XIV**

If sufficient evidence for the extradition be not produced within three months from the date of the apprehension of the fugitive, or within such further time as the State applied to, or the proper tribunal thereof, shall direct, the fugitive shall be set at liberty.

#### **Article XV**

All articles seized which were in the possession of the person to be surrendered, at the time of his apprehension, shall, if the competent authority of the State applied to for the extradition has ordered the delivery thereof, be given up when the extradition takes place, and the said delivery shall extend not merely to the stolen articles, but to everything that may serve as a proof of the crime.

#### **Article XVI**

All expenses connected with extradition shall be borne by the demanding State.