

## Refugee Review Tribunal

### AUSTRALIA

#### RRT RESEARCH RESPONSE

**Research Response Number:** KEN30721  
**Country:** Kenya  
**Date:** 29 September 2006

Keywords: Kenya – Illegal departure – Returnees

This response was prepared by the Country Research Section of the Refugee Review Tribunal (RRT) after researching publicly accessible information currently available to the RRT within time constraints. This response is not, and does not purport to be, conclusive as to the merit of any particular claim to refugee status or asylum.

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#### Questions

1. Can you provide information on the treatment of persons who departed Kenya illegally and/or who are then deported back to Kenya?

#### RESPONSE

1. Can you provide information on the treatment of persons who departed Kenya illegally and/or who are then deported back to Kenya?

According to Section 4 of the *Migration Act of Kenya*, departing Kenya without advising an immigration officer is an offence:

4. (1) Every person, other than an excluded person, shall immediately before his departure from Kenya, report his intended departure personally to the nearest immigration officer, complete a departure declaration form in Form 2 in the First Schedule, and deliver the form personally to that officer.
- (2) Where any ship or aircraft leaves Kenya, the person in charge or agent thereof shall, before its departure—
  - (a) provide the nearest immigration officer with a list in duplicate of the names of every person embarking thereon and leaving Kenya; and
  - (b) prevent the embarkation of any person who intends to leave Kenya in that ship or aircraft until he has complied with paragraph (1).
- (3) Where any train or vehicle leaves or is about to leave Kenya, the person in charge or agent thereof shall, if so required by an immigration officer, provide a list in duplicate of the names of every person who leaves or is about to leave Kenya by means of that train or vehicle.
- (4) Any person who fails to comply with this regulation shall be guilty of an offence ('Section 3', *Migration Act of Kenya*, Provided to the Tribunal by Andrew Mwangura, Program Coordinator of the Seafarers Assistance Programme – Attachment 1).

According to Andrew Mwangura, Program Coordinator of the Seafarers Assistance Programme, Section 4 of the *Migration Act of Kenya* is enforced and the penalty is “a jail term of not less than six months with hard labour” (RRT Country Research 2006, Email to Andrew Mwangura ‘Request for assistance from Refugee Review Tribunal, Sydney Australia (RRT ref: KEN30721)’, 28 September – Attachment 2; Mwangura, Andrew 2006, Email ‘Re: Request for assistance from Refugee Review Tribunal, Sydney Australia (RRT ref: KEN30721)’, 29 September – Attachment 3; and Mwangura, Andrew 2006, Email ‘Re: Request for assistance from Refugee Review Tribunal, Sydney Australia (RRT ref: KEN30721)’, 29 September – Attachment 4).

### **List of Attachments**

1. ‘Section 3-4”, *Migration Act of Kenya*, Provided to the Tribunal by Andrew Mwangura, Coordinator of the Seafarers Assistance Programme.
2. RRT Country Research 2006, Email to Andrew Mwangura ‘Request for assistance from Refugee Review Tribunal, Sydney Australia (RRT ref: KEN30721)’, 28 September.
3. Mwangura, Andrew 2006, Email ‘Re: Request for assistance from Refugee Review Tribunal, Sydney Australia (RRT ref: KEN30721)’, 29 September.
4. Mwangura, Andrew 2006, Email ‘Re: Request for assistance from Refugee Review Tribunal, Sydney Australia (RRT ref: KEN30721)’, 29 September.