

**MODEL CERTIFICATE UNDER THE TREATY AND EXTRADITION
ACT 2003
(REPUBLIC OF THE FIJI ISLANDS)**

UNDER The Extradition Act 2003 (Fiji) and the Treaty on Extradition between [*Name of parties*]

IN THE MATTER of a Request from [*Name of Requesting Country*] for the Extradition of [*Name of person sought*]

CERTIFICATE OF AUTHENTICATION¹

I, [*Name of Judge or Magistrate, or Official of the Requesting Country*]², [*Official title or description of office or position held*], of [*Name of institution in the Requesting Country eg if an official, the relevant department*] HEREBY CERTIFY, in satisfaction of the requirements of the Treaty on Extradition³ between [*Name of Requesting Country*] and [*Republic of the Fiji Islands*] [*United Kingdom*] of [*Date*] and, pursuant to that Treaty [*to which the Republic of the Fiji Islands has succeeded*] that the following [*original*] [*copy*] documents are annexed to this certificate:

¹ This certificate and the depositions referred to below must be physically integrated to form one bundle of documents. The seal referred to below should preferably be wax or wafer so it can be attached to the string or tape that must pass through all the pages of the bundle to bind them together (like a treaty). If that is done only one certificate of authentications is needed for the whole bundle. If the documents are submitted as separate documents each will require a certificate of authentication in this form

² If the certificate is to be made by an official, it should be an official who would be regarded as an "Official of the Country", such as a person who holds a position that could be seen as broadly similar in seniority or status to a judge or magistrate

³ Before preparing this Certificate check the relevant provisions of the Treaty and adapt this certificate as necessary to comply with the Treaty's requirements. The particular Treaty may specify a different manner of authentication or impose additional requirements such as authentication by the local embassy of the requested country.

[List all the documents included in the particular bundle of documents, for example:]

1. A copy of the Warrant of Arrest issued in *[Name of Requesting Country]* by *[Name of Court, Judge, or Judicial Officer]* for the arrest of *[Name of person sought]* for the offence of *[Specify the offence or offences]* (which is Exhibit No. *[Number]* to the deposition of *[Name of prosecutor]*)⁴

2. The depositions of evidence⁵ of the following persons:
[List the names of all the persons giving depositions in the order in which their depositions appear in the bundle of supporting documents. The first deposition should be that of the prosecutor. (If possible, the whole bundle of documents should be numbered consecutively on the right side. These numbers are in addition to the page numbers of the individual depositions).]
 - 2.1 *[Full name of prosecutor, investigator or other official with knowledge of case]*

 - 2.2 *[Full Name of Witness One]*

 - 2.3 *[Full Name of Witness Two]*

 - 2.4 *[Continue as above for every person whose deposition appears in the attached bundle of documents.]*

[Name of persons taking depositions] was *[appointed as]* *[the position of]* *[State position held e.g. Judge of X Court]* and he/she is permitted by law of *[Name of Requesting Country]* to

⁴ }
⁵ } Note Attachment

take depositions in the form of [*Specify type of deposition as appropriate eg an affidavit or an affirmation*]⁶

3. [*Specify any other documents included in the bundle. (For example, it is useful to include a one page alphabetical list of the witnesses, that sets out their role in the case and the pages on which their depositions can be found. Also the Treaty may specify that additional information is to be provided.)*]

These documents are tendered in support of the request to the Republic of the Fiji Islands for the extradition of [*Name of person sought*] and are hereby authenticated.

In witness whereof is set the official seal of [*specify the type of seal that is to be affixed below*]⁷ and my signature

Dated in [*Place*] this day of 200*

[*Affix official seal of the person signing below*]⁸

[*Judge or Magistrate or Official of Requesting Country signs here*]

[*Type title of the Judge or Magistrate or Official who signs above*]

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Note Attachment

ATTACHMENTS

FOOTNOTES:

- 4 This paragraph relates to accused persons. If the request relates to a convicted person a judgment or certificate of conviction is required.
- 5 Although the Extradition Act does not define the meaning of “deposition” – it may include:
 - (a) An affidavit or statement made on oath:
 - (b) An affidavit or statement made by affirmation where that is allowed or required by the law of the country in which the affidavit or statement is made:
 - (c) A statement made before any court or judicial authority if, under the law of the country in which it is made, a person making such a statement falsely is liable to punishment.If depositions are submitted in a different form, evidence will also be needed that the form in which the deposition is taken is permitted under the law of the requesting country. This should include both a description and a copy of relevant law. Ideally this would be included in the prosecutor’s (or other” legal”) deposition. Generally to be a “deposition” for the purposes of extradition proceedings the statement will need to be of a kind that, if made falsely, would render the person liable to punishment under the law of the requesting country.
- 6 If the depositions have been taken before different persons (as may be the case if the offending occurred in different parts of the requesting country, or the depositions were taken at different times, it would be necessary to repeat this paragraph to refer to each such person. This paragraph then shows that each such person is duly authorized in the Requesting Country to take depositions of this kind in the manner they have been taken.
- 7 For example, if the person signing is a judge, the appropriate seal would usually be seal of that court. If the person is an official, it would usually be the seal of that person’s office or organization e.g. an official of the Department of Justice may use the seal of that Department.
- 8 **[Section 16(4)]** of the Extradition Act provides that an overseas document is regarded as authenticated (and therefore admissible in court proceedings involving the extradition) if –
 - (a) it purports to be signed or certified by a judge, magistrate or officer in or of the requesting country; and
 - (b) if purports to be authenticated by the oath or affirmation of a witness or to be sealed with an official or public seal –
 - (i) in any case – of the requesting country or of a Minister, Department or officer of the Government of that country; or
 - (ii) if the extradition country is a colony, territory or protectorate – of the person administering the Government of that country or a person administering a Department of the Government of that country.

This model certificate uses the authentication option in section 16(4) of the Act which is for most countries the simplest to use (that is, signature by a Judge, Magistrate or official AND official seal of that person’s office.)