



International Criminal Court (Scotland) Act 2001

2001 asp 13

PART 1

OFFENCES

Supplementary provisions

7 Meaning of “ancillary offence”

References in this Part of this Act to an ancillary offence are to—

- (a) being art and part in the commission of an offence;
- (b) inciting a person to commit an offence;
- (c) attempting or conspiring to commit an offence;
- (d) perverting, or attempting to pervert, the course of justice in connection with an offence; or
- (e) defeating, or attempting to defeat, the ends of justice in connection with an offence.

8 Mental element

(1) References in this Part of this Act to a person committing—

- (a) genocide;
- (b) a crime against humanity;
- (c) a war crime; or
- (d) any of the acts mentioned in article 70.1 (offences against the administration of justice),

shall be construed in accordance with this section.

(2) Unless otherwise provided by—

- (a) the articles mentioned in the definition in section 1(4) of this Act of the crimes specified in subsection (1)(a) to (c) above;
- (b) any relevant Elements of Crimes;

Status: This is the original version (as it was originally enacted). This item of legislation is currently only available in its original format.

- (c) section 4(1) of this Act or article 70.1; or
- (d) section 5 of this Act,

a person shall be regarded as committing such an act or crime only if the material elements are committed with intent and knowledge.

(3) For the purposes of subsection (2) above—

- (a) a person has intent—
 - (i) in relation to conduct, where the person means to engage in the conduct; and
 - (ii) in relation to a consequence, where the person means to cause the consequence or is aware that it will occur in the ordinary course of events; and
- (b) “knowledge” means awareness that a circumstance exists or a consequence will occur in the ordinary course of events.

9 Application of principles of the law of Scotland, construction etc.

- (1) In determining whether an offence under this Part of this Act has been committed the court shall apply the principles of the law of Scotland.
- (2) In interpreting and applying the provisions of the articles mentioned in section 1(4) of this Act the court shall take into account any relevant Elements of Crimes.
- (3) The articles mentioned in section 1(4) of this Act shall for the purposes of this Part of this Act be construed subject to and in accordance with any relevant reservation or declaration certified by Order in Council under section 50(4) of the 2001 Act.
- (4) In interpreting and applying the provisions of sections 5 and 8 of this Act, and the provisions of articles 6, 7, 8.2 and 70.1, the court—
 - (a) shall take into account any relevant judgment or decision of the ICC; and
 - (b) may take into account any other relevant international jurisprudence.
- (5) Nothing in this Part of this Act shall be read as restricting the operation of any enactment or rule of law relating to—
 - (a) the extra-territorial application of offences (including offences under this Part of this Act); or
 - (b) offences ancillary to offences under this Part of this Act (wherever committed).

10 Amendment of Criminal Procedure (Scotland) Act 1995

In section 274(2) of the Criminal Procedure (Scotland) Act 1995 (c. 46) (which specifies the sexual offences in respect of which certain evidence is not admissible)—

- (a) the word “or”, where it occurs immediately after paragraph (g), is repealed; and
- (b) after paragraph (h), there shall be added “; or
 - (j) an offence under section 1 or 2 of the International Criminal Court (Scotland) Act 2001 (asp 13) involving—
 - (i) conduct constituting any of the offences mentioned in paragraphs (a) to (h) above; or

Status: This is the original version (as it was originally enacted). This item of legislation is currently only available in its original format.

- (ii) an act committed outwith Scotland which, if committed in Scotland, would constitute any of those offences.”.