



# International Criminal Court (Scotland) Act 2001

2001 asp 13

## PART 3

### ENFORCEMENT OF SENTENCES AND ORDERS

#### *Sentences of imprisonment*

#### **23 Detention in Scotland of certain prisoners**

- (1) This section applies where the Scottish Ministers have agreed, in pursuance of section 42(2)(b) of the 2001 Act (duty to issue warrant where the Scottish Ministers agree that a person should be detained in Scotland), that a person on whom a sentence of imprisonment has been imposed (a “prisoner”) should be detained in Scotland.
- (2) The warrant issued by the Scottish Ministers under that section of the 2001 Act shall include provision authorising—
  - (a) the detention of the prisoner in Scotland in accordance with the sentence imposed; and
  - (b) the taking of the prisoner to a specified place where the prisoner is to be detained,(any such warrant being referred to in this section as a “Scottish warrant”).
- (3) The provisions of a Scottish warrant—
  - (a) may be varied by the Scottish Ministers; and
  - (b) shall be so varied to give effect to any variation of the sentence.
- (4) Subject to section 24 of this Act, a prisoner subject to a Scottish warrant shall be treated for all purposes as if the prisoner were subject to a sentence of imprisonment imposed in exercise of its criminal jurisdiction by a court in Scotland.

#### **24 Limited disapplication of certain provisions relating to sentences**

The following provisions shall not apply in relation to a person detained in Scotland in pursuance of section 42(2)(b) of the 2001 Act—

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- (a) any provision of rules made under section 39 of the Prisons (Scotland) Act 1989 (c.45) (prison rules) providing for temporary release;
- (b) section 40(2) of that Act of 1989 (deduction of periods unlawfully at large); and
- (c) sections 1, 1A, 2, 3, 9, 10 and 27(7) of the Prisoners and Criminal Proceedings (Scotland) Act 1993 (c.9) (transfer and release of prisoners).

## **25 Amendment of Mental Health (Scotland) Act 1984**

In section 74(6) of the Mental Health (Scotland) Act 1984 (c.36) (application, in circumstances where a person is released from a sentence of imprisonment, of provisions relating to transfer directions and restriction directions), at the end there shall be inserted “ or otherwise ”.

### *Orders*

## **26 Power to make provision for enforcement of orders**

- (1) The Scottish Ministers may make provision by regulations for the enforcement in Scotland of—
  - (a) fines or forfeitures ordered by the ICC; and
  - (b) orders by the ICC against convicted persons specifying reparations to, or in respect of, victims.
- (2) The regulations may authorise the Scottish Ministers—
  - (a) to appoint a person to act on behalf of the ICC for the purposes of enforcing the order; and
  - (b) to give such directions to the appointed person as appear to them necessary.
- (3) The regulations shall provide for the registration of the order by a court in Scotland as a precondition of enforcement.
- (4) An order shall not be so registered unless the court is satisfied that the order is in force and not subject to appeal.
- (5) If the order has been partly complied with, the court shall register the order for enforcement only so far as it has not been complied with.
- (6) The regulations may provide that—
  - (a) for the purposes of enforcement an order so registered has the same force and effect;
  - (b) the same powers are exercisable in relation to its enforcement; and
  - (c) proceedings for its enforcement may be taken in the same way,
 as if the order were an order of a court in Scotland.
- (7) The regulations may for the purposes mentioned in subsection (6)(a) above apply any enactment relating to the enforcement in Scotland of orders of a court of a country or territory outside the United Kingdom.
- (8) A court shall not exercise its powers of enforcement under the regulations in relation to any property unless it is satisfied—
  - (a) that a reasonable opportunity has been given for persons holding any interest in the property to make representations to the court; and

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- (b) that the exercise of the powers will not prejudice the rights of bona fide third parties.
- (9) The regulations may provide that the reasonable expenses of and incidental to the registration and enforcement of an order are recoverable as if they were sums recoverable under the order.
- (10) Regulations under this section—
- (a) may make different provision for different kinds of order; and
  - (b) shall be made by statutory instrument which shall be subject to annulment in pursuance of a resolution of the Scottish Parliament.

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