



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—

Status: This is the original version (as it was originally enacted).

- (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

- (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.