



# International Criminal Court Act 2001

## 2001 CHAPTER 17

### PART 2

#### ARREST AND DELIVERY OF PERSONS

##### *Warrants, custody, bail and related matters*

#### **14 Effect of warrant of arrest**

- (1) For the purposes of any enactment or rule of law relating to warrants of arrest—
  - (a) a section 2 warrant endorsed or issued in any part of the United Kingdom, or
  - (b) a provisional warrant issued in any part of the United Kingdom,shall be treated as if it were a warrant for the arrest of a person for an offence committed in that part of the United Kingdom.
- (2) Any such warrant may be executed in any part of the United Kingdom, and may be so executed by any person to whom it is directed or by any constable.
- (3) A person arrested under any such warrant shall be deemed to continue in legal custody until, in accordance with this Part, he is brought before a competent court.

#### **15 Effect of delivery order**

- (1) A delivery order is sufficient authority for any person acting in accordance with the directions of the Secretary of State to receive the person to whom the order relates, keep him in custody and convey him to the place where he is to be delivered up into the custody of the ICC (or, as the case may be, of the state of enforcement) in accordance with arrangements made by the Secretary of State.
- (2) A person in respect of whom a delivery order is in force is deemed to be in legal custody at any time when, being—
  - (a) in the United Kingdom, or
  - (b) on board a British ship, a British aircraft or a British hovercraft,

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he is being taken under the order to or from any place or is being kept in custody pending his delivery up under the order.

- (3) A person authorised for the purposes of a delivery order to take the person to whom the order relates to or from any place or, to keep him in custody, has all the powers, authority, protection and privileges—
  - (a) if he is in the United Kingdom, of a constable in that part of the United Kingdom, or
  - (b) if he is outside the United Kingdom, of a constable in the part of the United Kingdom to or from which the other person is to be taken.
- (4) If a person in respect of whom a delivery order is in force escapes or is unlawfully at large, he may be arrested without warrant by a constable and taken to any place where or to which, by virtue of this Part, he is required to be or to be taken.
- (5) For the purposes of subsection (4) a “constable” means—
  - (a) a person who is a constable in any part of the United Kingdom, and
  - (b) in relation to any place, a person who, at that place, has, under any enactment (including subsection (3)), the powers of a constable in any part of the United Kingdom.

## **16 Bail and custody: general**

- (1) Where under this Part a court has power to remand a person, the court may—
  - (a) remand him in custody, that is, commit him for the period of the remand to prison or to the custody of a constable, or
  - (b) if an application for bail is made to the court, remand him on bail, that is, direct him to surrender himself into the custody of the officer in charge of a specified police station at the time appointed for him to do so.
- (2) The provisions of the Bail Act 1976 (c. 63) apply to proceedings under this Part in England and Wales as to proceedings against a fugitive offender.
- (3) The time appointed under subsection (1)(b) for a person to surrender to custody—
  - (a) shall be a time appointed by the officer in charge of the specified police station and notified in writing to the person remanded, and
  - (b) shall not be more than 24 hours before the time at which it appears to that officer that the period of remand is likely to end.
- (4) Where under this Part a court in Scotland has power to remand a person and the person makes an application to the court for bail, the court may admit him to bail and shall have the like powers in doing so as it has in proceedings in respect of an offence alleged to have been committed by him.
- (5) Nothing in this Part shall be taken as authorising a court to grant bail to a person who is serving a sentence of imprisonment or detention to which he has been sentenced by a national court, or who is in custody awaiting trial or sentence by a national court.

## **17 Bail and custody (England and Wales): supplementary**

- (1) The following provisions apply where a person is granted bail under this Part by a competent court in England and Wales.
- (2) Where a court—

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- (a) grants bail but is unable to release the person because no surety or suitable surety is available, and
  - (b) fixes the amount in which the surety is to be bound with a view to the recognizance of the surety being entered into subsequently,
- the court shall in the meantime commit the person to the custody of a constable.
- (3) During the period between the surrender of a person to custody and the end of the period of remand he shall be treated as committed to the custody of the constable to whom he surrenders.
  - (4) Where it appears to that officer that the end of the period of remand will be unexpectedly delayed, he shall grant the person bail subject to a duty to surrender himself into the custody of the officer in charge of the specified police station at the time appointed for him to do so.  
  
The time appointed under this subsection for the person to surrender to custody—
    - (a) shall be a time to be appointed by the officer in charge of the specified police station and notified in writing to the person remanded, and
    - (b) shall not be more than 24 hours before the time at which it appears to that officer that the period of remand is likely to end.
  - (5) If a person required to surrender to custody in accordance with subsection (4) fails to do so—
    - (a) the court by which he was remanded may issue a warrant for his arrest,
    - (b) provisions of section 14 (effect of warrant of arrest) apply in relation to the warrant, and
    - (c) on his arrest the person shall be brought before the court which shall reconsider the question of bail.
  - (6) In this section “the specified police station” means the police station specified by the competent court under section 16(1)(b).

## **18 Bail and custody: consultation with the ICC, &c**

- (1) Where an application for bail is made in proceedings under this Part in England and Wales—
  - (a) the court shall notify the Secretary of State of the application,
  - (b) the Secretary of State shall consult with the ICC, and
  - (c) bail shall not be granted without full consideration of any recommendations made by the ICC.
- (2) Where an application for bail is made in proceedings under this Part in Scotland—
  - (a) the court shall notify the Scottish Ministers of the application,
  - (b) the Scottish Ministers shall notify the Secretary of State who shall consult with the ICC and shall notify the Scottish Ministers of any recommendations made by the ICC, and
  - (c) bail shall not be granted without full consideration of any such recommendations.
- (3) In considering any such application as is mentioned in subsection (1) or (2) the court shall consider—

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- (a) whether, given the gravity of the offence or offences he is alleged to have committed or, as the case may be, of which he has been convicted by the ICC, there are urgent and exceptional circumstances justifying release on bail, and
- (b) whether any necessary measures have been or will be taken to secure that the person will surrender to custody in accordance with the terms of his bail.

## **19 Discharge of person not delivered up**

- (1) If the person in respect of whom a delivery order has been made is not delivered up under the order within 40 days after it was made, an application may be made, by him or on his behalf, for his discharge.
- (2) The application shall be made—
  - (a) in the case of an order made in England and Wales, to the High Court;
  - (b) in the case of an order made in Scotland, to the High Court of Justiciary.
- (3) On an application under this section the court shall order the person's discharge unless reasonable cause is shown for the delay.

## **20 Discharge of person no longer required to be surrendered**

- (1) Where the ICC informs the Secretary of State that a person arrested under this Part is no longer required to be surrendered—
  - (a) the Secretary of State shall notify an appropriate judicial officer of that fact, and
  - (b) that officer shall, on receipt of the notification, make an order for his discharge.
- (2) Where the person was arrested in Scotland, the Secretary of State shall inform the Scottish Ministers who shall notify an appropriate judicial officer.

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