



International Criminal Court Act 2001

2001 CHAPTER 17

PART 2

ARREST AND DELIVERY OF PERSONS

Supplementary provisions

23 Provisions as to state or diplomatic immunity

- (1) Any state or diplomatic immunity attaching to a person by reason of a connection with a state party to the ICC Statute does not prevent proceedings under this Part in relation to that person.
- (2) Where—
 - (a) state or diplomatic immunity attaches to a person by reason of a connection with a state other than a state party to the ICC Statute, and
 - (b) waiver of that immunity is obtained by the ICC in relation to a request for that person's surrender,the waiver shall be treated as extending to proceedings under this Part in connection with that request.
- (3) A certificate by the Secretary of State—
 - (a) that a state is or is not a party to the ICC Statute, or
 - (b) that there has been such a waiver as is mentioned in subsection (2),is conclusive evidence of that fact for the purposes of this Part.
- (4) The Secretary of State may in any particular case, after consultation with the ICC and the state concerned, direct that proceedings (or further proceedings) under this Part which, but for subsection (1) or (2), would be prevented by state or diplomatic immunity attaching to a person shall not be taken against that person.
- (5) The power conferred by section 1 of the United Nations Act 1946 (c. 45) (power to give effect by Order in Council to measures not involving the use of armed force) includes

*Changes to legislation: There are currently no known outstanding effects for the
International Criminal Court Act 2001, Section 23. (See end of Document for details)*

power to make in relation to any proceedings such provision corresponding to the provision made by this section in relation to the proceedings, but with the omission—

- (a) in subsection (1), of the words “by reason of a connection with a state party to the ICC Statute”, and
- (b) of subsections (2) and (3),

as appears to Her Majesty to be necessary or expedient in consequence of such a referral as is mentioned in article 13(b) (referral by the United Nations Security Council).

- (6) In this section “state or diplomatic immunity” means any privilege or immunity attaching to a person, by reason of the status of that person or another as head of state, or as representative, official or agent of a state, under—
 - (a) the Diplomatic Privileges Act 1964 (c. 81), the Consular Relations Act 1968 (c.18), the International Organisations Act 1968 (c.48) or the State Immunity Act 1978 (c.33),
 - (b) any other legislative provision made for the purpose of implementing an international obligation, or
 - (c) any rule of law derived from customary international law.

Modifications etc. (not altering text)

- C1** S. 23 applied (with modifications) (8.3.2018) by [The United Nations \(International Residual Mechanism for Criminal Tribunals\) Order 2018 \(S.I. 2018/187\)](#), arts. 1(1), **33(1)(2)** (with art. 3)
- C2** S. 23(5) extended (IoM) (1.4.2004) by [S.I. 2004/714](#), **art. 2(a)**
- C3** S. 23(5) extended (Jersey) (with modifications) (8.10.2014 coming into force in accordance with art. 1) by [The International Criminal Court Act 2001 \(Jersey\) Order 2014 \(S.I. 2014/2706\)](#), arts. 1, **2(a)**, **Sch.**
- C4** S. 23(5) extended (Guernsey) (coming into force in accordance with art. 1 of the amending S.I.) by [The International Criminal Court Act 2001 \(Guernsey\) Order 2022 \(S.I. 2022/865\)](#), **art. 2(1)(a)**

Changes to legislation:

There are currently no known outstanding effects for the International Criminal Court Act 2001, Section 23.