

INTERNATIONAL CRIMINAL COURT ACT 2001

EXPLANATORY NOTES

COMMENTARY ON SECTIONS

Schedule 6: Freezing Orders in Respect of Property Liable to Forfeiture

148. *Schedule 6*, which relates to section 38, sets out the procedures for the making, variation and discharge of freezing orders. It also provides a power to appoint a receiver, seize property to prevent its removal from the jurisdiction and defines the interaction of freezing orders with existing legislation.
149. A freezing order would prohibit anyone from dealing with property specified in the order, except by methods and under conditions defined in the order itself. If the ICC makes a request, the Secretary of State may direct a person to apply for a freezing order from the High Court. The court must make the order if it is satisfied that the ICC has made a forfeiture order, or has reasonable grounds for believing that a forfeiture order may be made. Anybody affected by the freezing order shall be notified. The schedule also allows for the variation or discharge of the order on the application of a person affected by it, or on conclusion of the relevant ICC proceedings.
150. The schedule also provides for the High Court to appoint a receiver when a freezing order is in force. The receiver would take possession of the specified property and manage it in accordance with the directions of the court. If a freezing order is in force, a constable may seize property specified in the order to prevent its removal from England and Wales or, as the case may be, Northern Ireland.
151. When a freezing order relates to registered land, under the Land Charges Act 1972, the Land Registration Act 1925, Land Registration Act (Northern Ireland) 1970 and the Registration of Deeds Act (Northern Ireland) 1970, paragraphs 7 and 8 set out the appropriate methods of dealing with this land.
152. This Schedule goes on to detail how freezing orders will be enforced when the order relates to a person adjudged to be bankrupt, or a company which is winding up, in England and Wales or Northern Ireland. Paragraph 13 provides protection for insolvency practitioners when they seize or dispose of property which is subject to a freezing order. These provisions are substantially based on the provisions of Part 6 of the Criminal Justice Act 1988.