

# INTERNATIONAL CRIMINAL COURT ACT 2001

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## EXPLANATORY NOTES

### COMMENTARY ON SECTIONS

#### **Part 2: Arrest and Delivery of Persons**

##### ***Section 4: Dealing with person arrested under provisional warrant***

19. This section sets out what is to happen if a person is arrested under a provisional warrant; it reflects Article 92 of the Statute. The person must be brought as soon as is practicable before a competent court (defined in section 26 as a court consisting of an appropriate judicial officer). The court is required to remand him until such time as a section 2 warrant is produced. If such a warrant is produced, the court will proceed as if the person concerned had been arrested under that warrant. If not, the person will be discharged; however, he can be subsequently re-arrested under a section 2 warrant in accordance with Article 92.4.
20. [Article 92.3](#) of the Statute does not specify the maximum length of time a person who has been provisionally arrested can be detained pending receipt of the ICC's request for surrender; it instead provides for this to be specified in the ICC's Rules of Procedure and Evidence. The Rules have been drafted by the Preparatory Commission for the ICC and this time limit has been provisionally set, in Rule 188, at 60 days. However, the Rules, like various other subsidiary documents to the ICC Statute, will not be finally adopted until the first meeting of the Assembly of States Parties, which will not take place until 60 States have ratified the Statute. It therefore remains possible that the provision in Rule 188 might change. For this reason, *subsection (4)* requires the period of remand to be specified in the Order in Council which may be made, under Schedule 1, paragraph 3, to give effect to the Rules of Procedure and Evidence.