



International Criminal Court Act 2001

2001 CHAPTER 17

PART 5

OFFENCES UNDER DOMESTIC LAW

Consequential provisions

70 Offences under section 1 of the Geneva Conventions Act 1957

- (1) In section 1 of the Geneva Conventions Act 1957 (c. 52) (punishment of grave breaches of the conventions)—
 - (a) in subsection (1), omit the words from “and on conviction on indictment” to the end; and
 - (b) omit subsections (3) to (5).
- (2) After that section insert—

“1A Trial and punishment of offences under s.1

- (1) The following provisions apply in relation to offences under section 1 of this Act.
- (2) The offence is triable only on indictment.
- (3) Proceedings for an offence shall not be instituted—
 - (a) in England and Wales, except by or with the consent of the Attorney General;
 - (b) in Northern Ireland, except by or with the consent of the Attorney General for Northern Ireland.
- (4) If the offence is not committed in the United Kingdom—
 - (a) proceedings may be taken, and
 - (b) the offence may for incidental purposes be treated as having been committed,

in any place in the United Kingdom.

- (5) A person convicted of an offence involving murder shall be dealt with as for an offence of murder.

In this subsection “murder” means the killing of a person in such circumstances as would constitute murder if committed in the part of the United Kingdom in which the proceedings are brought.

- (6) In any other case a person convicted of an offence is liable to imprisonment for a term not exceeding 30 years.”.

- (3) The above amendments do not apply in relation to offences committed before the commencement of this section.

71 Extradition: Orders in Council under the 1870 Act

- (1) This section applies in relation to extradition under Schedule 1 to the Extradition Act 1989 (c. 33) (extradition where an Order in Council under section 2 of the Extradition Act 1870 (c. 52) is in force in relation to the foreign state).

- (2) The offences to which such an Order in Council can apply include any Part 5 offence.

- (3) “Part 5 offence” means—

- (a) an offence under section 51 or 58 (genocide, crimes against humanity and war crimes),
- (b) an offence under section 52 or 59 (conduct ancillary to genocide etc. committed outside the jurisdiction), or
- (c) an ancillary offence in relation to any such offence.

- (4) For the purposes of Schedule 1 to the 1989 Act, conduct, wherever committed, which constitutes—

- (a) a Part 5 offence, and
- (b) an offence against the law of any state in relation to which that Schedule has effect,

shall be deemed to be an offence committed within the jurisdiction of that state.

- (5) If any conduct would constitute a Part 5 offence if committed in the United Kingdom then, notwithstanding that it does not constitute such an offence—

- (a) a person whose surrender is sought in respect of that conduct may be surrendered by the United Kingdom in pursuance of an Order in Council to which subsection (2) applies, and
- (b) subsection (4) applies to the conduct as if it constituted a Part 5 offence.

- (6) References in this section to an offence under any provision of this Part, or to an offence ancillary to such an offence, include any corresponding offence under the law of Scotland.

72 Extradition: exception to dual criminality rule under the 1989 Act

- (1) Section 2 of the Extradition Act 1989 (meaning of “extradition crime”) is amended as follows.

- (2) In subsection (1)(b) (extra-territorial offences), after sub-paragraph (ii) add—

“, or

(iii) the condition specified in subsection (3A) below.”.

(3) After subsection (3) insert—

“(3A) The condition mentioned in subsection (1)(b)(iii) above is that the conduct constituting the offence constitutes or, if committed in the United Kingdom would constitute—

- (a) an offence under section 51 or 58 of the International Criminal Court Act 2001 (genocide, crimes against humanity and war crimes),
- (b) an offence under section 52 or 59 of that Act (conduct ancillary to genocide etc. committed outside the jurisdiction), or
- (c) an ancillary offence, as defined in section 55 or 62 of that Act, in relation to any such offence.”.

(4) After subsection (4) add—

“(5) References in this section to an offence under any provision of the International Criminal Court Act 2001, or to an offence ancillary to such an offence, include any corresponding offence under the law of Scotland.”.

73 Extradition: offences not regarded as of political character etc

(1) For section 23 of the Extradition Act 1989 (c. 33) (genocide, etc.) substitute—

“23 Genocide, crimes against humanity and war crimes

(1) This section applies to—

- (a) any offence that if committed in the United Kingdom would be punishable as—
 - (i) an offence under section 51 or 58 of the International Criminal Court Act 2001 (genocide, crimes against humanity and war crimes),
 - (ii) an offence under section 52 or 59 of that Act (conduct ancillary to genocide, etc. committed outside the jurisdiction), or
 - (iii) an ancillary offence, as defined in section 55 or 62 of that Act, in relation to any such offence as is mentioned in subparagraph (i) or (ii); and
- (b) any offence punishable in the United Kingdom under section 1 of the Geneva Conventions Act 1957 (grave breach of scheduled conventions).

(2) For the purposes of this Act—

- (a) an offence to which this section applies shall not be regarded as an offence of a political character, and
- (b) no proceedings in respect of such an offence shall be regarded as a criminal matter of a political character.

(3) It is not an objection to proceedings against a person in respect of an offence to which this section applies that under the law in force at the time when and in

the place where he is alleged to have committed the act of which he is accused, or of which he was convicted, he could not have been punished for it.

(4) References in this section to an offence under any provision of the International Criminal Court Act 2001, or to an offence ancillary to such an offence, include any corresponding offence under the law of Scotland.”

(2) In the Backing of Warrants (Republic of Ireland) Act 1965 (c. 45), after section 6C insert—

“6D Genocide, crimes against humanity and war crimes

(1) This section applies to—

- (a) any offence that if committed in the United Kingdom would be punishable as—
 - (i) an offence under section 51 or 58 of the International Criminal Court Act 2001 (genocide, crimes against humanity and war crimes),
 - (ii) an offence under section 52 or 59 of that Act (conduct ancillary to genocide, etc. committed outside the jurisdiction), or
 - (iii) an ancillary offence, as defined in section 55 or 62 of that Act, in relation to any such offence as is mentioned in subparagraph (i) or (ii); and
- (b) any offence punishable in the United Kingdom under section 1 of the Geneva Conventions Act 1957 (grave breach of scheduled conventions).

(2) For the purposes of this Act—

- (a) an offence to which this section applies shall not be regarded as an offence of a political character, and
- (b) no proceedings in respect of such an offence shall be regarded as a criminal matter of a political character.

(3) It is not an objection to proceedings against a person in respect of an offence to which this section applies that under the law in force at the time when and in the place where he is alleged to have committed the act of which he is accused, or of which he was convicted, he could not have been punished for it.

(4) References in this section to an offence under any provision of the International Criminal Court Act 2001, or to an offence ancillary to such an offence, include any corresponding offence under the law of Scotland.”

74 Consequential amendments of armed forces legislation

(1) In section 70(3) of the Army Act 1955 (3 & 4 Eliz. 2 c. 18), section 70(3) of the [Air Force Act 1955 \(3 & 4 Eliz. 2 c. 19\)](#) and section 42(1)(b) of the Naval Discipline Act 1957 (c. 53) (sentence on conviction by court-martial of offence where corresponding civil offence is murder), after “murder” insert “, or an offence for which a person convicted by a civil court is to be dealt with as for an offence of murder,”.

(2) In section 70(4) of the [Army Act 1955 \(3 & 4 Eliz. 2 c. 18\)](#), section 70(4) of the [Air Force Act 1955 \(3 & 4 Eliz. 2 c. 19\)](#) and section 48(2) of the Naval Discipline Act

1957 (c. 53) (civil offences not triable by court-martial if committed in the United Kingdom)—

- (a) after “rape” insert “or an offence under section 1 of the Geneva Conventions Act 1957”; and
 - (b) after “the Nuclear Explosions (Prohibition and Inspections) Act 1998” insert “or an offence under section 51 or 52 of the International Criminal Court Act 2001”.
- (3) In section 70(5) of the Army Act 1955, section 70(5) of the Air Force Act 1955 and section 48(2) of the Naval Discipline Act 1957 (where offences involving killing are taken to have been committed), after “or manslaughter” insert “, or an offence under section 1 of the Geneva Conventions Act 1957 or section 51 of the International Criminal Court Act 2001 consisting of the killing of a person,”.