

These notes relate to the International Criminal Court (Scotland) Act 2001 (asp 13) which received Royal Assent on 24 September 2001

INTERNATIONAL CRIMINAL COURT (SCOTLAND) ACT 2001

EXPLANATORY NOTES

THE ACT

Background

Part 3 – Enforcement of Sentences and Orders

Section 24 – Limited disapplication of certain provisions relating to sentences

39. The ICC will be responsible for the sentencing of ICC prisoners. The Statute makes clear that the ICC will determine the sentence after taking into account factors such as time spent in custody on remand and whether multiple offences have been committed. Under article 110.2 the ICC alone has the right to decide any reduction in the sentence it imposes and article 105 states that an ICC sentence of imprisonment shall be binding on the States Parties, who shall in no case modify it. The provisions in this section therefore disapply those arrangements in Scotland which might otherwise interfere with the power of the ICC to be the sole body responsible for determining the length of detention of the ICC prisoner.
40. The provisions which will be disapplied are any rules made under section 39 of the Prisons (Scotland) Act 1989 providing for temporary release, section 40(2) of the same Act, which relates to periods unlawfully at large and various sections of the Prisoners and Criminal Proceedings (Scotland) Act 1993 relating to transfer and release of prisoners.