

INTERNATIONAL CRIMINAL COURT (SCOTLAND) ACT 2001

EXPLANATORY NOTES

THE ACT

Background

Part 3 – Enforcement of Sentences and Orders

Section 26 – Power to make provision for enforcement of orders

42. Under articles 77.2 and 70.3, in addition to a sentence of imprisonment, the ICC can impose on a convicted person a fine and order a “forfeiture of proceeds, property and assets derived directly or indirectly from” the crime for which the person has been convicted. Also, under article 75, the ICC may “make an order directly against a convicted person specifying appropriate reparations to, or in respect of, victims, including restitution, compensation and rehabilitation”.
43. **Section 26** empowers the Scottish Ministers to make regulations to enforce such fines, forfeitures or reparations. It is proposed that the procedure will follow that already established in the [Criminal Justice \(International Co-operation\) Act 1990 \(Enforcement of Overseas Forfeiture Orders\) Order 1991 \(S.I. 1991/1463\)](#). The regulations may provide that, on receiving an order, the Scottish Ministers may appoint a person to act on the ICC’s behalf. They will also provide for the registration of the order and may provide for it to be enforced as if it were an order of a domestic court. The regulations may be different for different types of orders.
44. Subsection (8) provides safeguards in respect of persons with an interest or rights in property affected by such an order. This is in keeping with article 109.1, which provides that States Parties shall give effect to fines and forfeitures “without prejudice to the rights of *bona fide* third parties”.