

INTERNATIONAL CRIMINAL COURT (SCOTLAND) ACT 2001

EXPLANATORY NOTES

THE ACT

Background

Schedule 5 – Investigation of Proceeds of Icc Crime

50. [Schedule 5](#) applies where the ICC has made a request for assistance in ascertaining whether a person has benefited from an ICC crime, or in identifying property derived from an ICC crime, and the Scottish Ministers have directed an authorised person to apply for an order or warrant under section 19.

Part 1 – Production or access orders

51. [Part 1](#) sets out the provisions which govern the making of court orders or warrants for the production of, or access to, material. Paragraph 2 sets out the grounds upon which the court may make an order under this Part.
52. [Paragraph 3](#) provides that a standard production or access order will require a named individual either to produce the specified material or material of a specified description to a constable (production order) or to give the constable access to this material (access order). The material should be produced within a specified period, normally 7 days, although this can be shortened or lengthened by the court.
53. [Paragraph 4](#) provides that a special production or access order may be made in relation to a person if the sheriff thinks it is likely that the person will have relevant material in his or her possession within 28 days. Such an order will require a named individual to notify a named constable when the information comes into his or her possession. This provision will allow for information that will in the future come into a person's possession (or come into existence) to be obtained quickly. It is substantially based on Schedule 5 to the Terrorism Act 2000.
54. [Part 1](#) of the schedule contains further provision concerning the procedure in relation to orders (paragraph 5) and the effect of such orders (paragraph 6).

Part 2 – Search Warrants

55. This Part sets out the provisions governing the issue of a search warrant upon an application to the court by a person authorised to do so under section 19. Paragraph 10 sets out the circumstances in which such a warrant may be issued. These are, if it appears that a production or access order has not been complied with; where there are grounds for making a production or access order and, for example, it is not practicable to communicate with those who may be able to grant access; and in circumstances where more general material relating to an ICC crime is sought, when this material is likely to be of substantial value to the investigation.