
SCOTTISH STATUTORY INSTRUMENTS

2003 No. 27

**Act of Sederunt (Summary Applications,
Statutory Applications and Appeals etc. Rules)
Amendment (International Criminal Court) 2003**

Amendment of Chapter 3 of the Summary Applications, Statutory Applications and Appeals etc. Rules

2.—(1) In the Act of Sederunt (Summary Applications, Statutory Applications and Appeals etc. Rules) 1999(1), Chapter 3 (rules on applications under specific statutes) is amended in accordance with the following paragraph.

(2) After Part XIX(2) (Proceeds of Crime Act 2002(3)), insert—

“PART XX

INTERNATIONAL CRIMINAL COURT (SCOTLAND) ACT 2001

General

Interpretation and application

3.20.1.—(1) In this Part—

“the Act” means the International Criminal Court (Scotland) Act 2001(4);

“ICC crime” has the same meaning as in section 28(1) of the Act; and

a reference to a specified section is a reference to the section bearing that number in the Act, and any reference to a specified paragraph in a specified schedule is a reference to the paragraph bearing that number in the schedule of that number to the Act.

(2) This Part applies to applications to the sheriff under Parts 1 and 2 of schedule 5 to the Act.

Investigations of proceeds of ICC crime

Production or access orders

3.20.2.—(1) An order under Part 1 of schedule 5 to the Act may be made by the sheriff on a summary application by a person authorised for the purpose under section 19 of the Act.

(2) Any such application may be made on an ex parte application to a sheriff in chambers.

(1) S.I.1999/929; amended by S.S.I.2000/148 and 387, 2001/142, and 2002/7 and 129, 130, 146 and 563.
(2) Part XIX was inserted by S.S.I. 2002/563.
(3) 2002 c. 29.
(4) 2001 asp 13.

- (3) Any such application must set out reasonable grounds for suspecting—
 - (a) that a specified person has benefited from an ICC crime; and
 - (b) that the material to which the application relates is likely to be of substantial value (whether by itself or together with other material) to the investigation for the purposes of which the application is made.
- (4) Any application for variation or discharge of an order under Part 1 of schedule 5 to the Act shall be made by minute.

Search warrants

3.20.3.—(1) On a summary application by a person authorised under section 19 of the Act to the sheriff sitting as a court of civil jurisdiction, the sheriff may issue a warrant under Part 2 of the Act.

- (2) Any such application must set out grounds sufficient to satisfy the sheriff—
 - (a) that a production or access order made in relation to material on the premises has not been complied with;
 - (b) that—
 - (i) there are reasonable grounds for suspecting that a specified person has benefited from an ICC crime;
 - (ii) there are grounds for making a production and access order in relation to material on the premises; and
 - (ii) it would not be appropriate to make a production and access order in relation to the material for any of the reasons specified in paragraph 10(4) of schedule 5 to the Act; or
 - (c) that—
 - (i) there are reasonable grounds for suspecting that a specified person has benefited from an ICC crime;
 - (ii) there are reasonable grounds for suspecting that there is material on the premises which cannot be particularised at the time of the application, but which—
 - (aa) relates to the specified person, or to the question of whether that person has benefited from an ICC crime, or to any question as to the extent or whereabouts of the proceeds of an ICC crime; and
 - (bb) is likely to be of substantial value (whether by itself or together with other material) to the investigation for the purposes of which the application is made; and
 - (iii) any of the circumstances specified in paragraph 10(6) of schedule 5 to the Act applies.”.