



International Criminal Court Act 2001

2001 CHAPTER 17

PART 2

ARREST AND DELIVERY OF PERSONS

Supplementary provisions

23 Provisions as to state or diplomatic immunity

- (1) Any state or diplomatic immunity attaching to a person by reason of a connection with a state party to the ICC Statute does not prevent proceedings under this Part in relation to that person.
- (2) Where—
 - (a) state or diplomatic immunity attaches to a person by reason of a connection with a state other than a state party to the ICC Statute, and
 - (b) waiver of that immunity is obtained by the ICC in relation to a request for that person's surrender,the waiver shall be treated as extending to proceedings under this Part in connection with that request.
- (3) A certificate by the Secretary of State—
 - (a) that a state is or is not a party to the ICC Statute, or
 - (b) that there has been such a waiver as is mentioned in subsection (2),is conclusive evidence of that fact for the purposes of this Part.
- (4) The Secretary of State may in any particular case, after consultation with the ICC and the state concerned, direct that proceedings (or further proceedings) under this Part which, but for subsection (1) or (2), would be prevented by state or diplomatic immunity attaching to a person shall not be taken against that person.
- (5) The power conferred by section 1 of the United Nations Act 1946 (c. 45) (power to give effect by Order in Council to measures not involving the use of armed force) includes

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power to make in relation to any proceedings such provision corresponding to the provision made by this section in relation to the proceedings, but with the omission—

- (a) in subsection (1), of the words “by reason of a connection with a state party to the ICC Statute”, and
- (b) of subsections (2) and (3),

as appears to Her Majesty to be necessary or expedient in consequence of such a referral as is mentioned in article 13(b) (referral by the United Nations Security Council).

- (6) In this section “state or diplomatic immunity” means any privilege or immunity attaching to a person, by reason of the status of that person or another as head of state, or as representative, official or agent of a state, under—
 - (a) the Diplomatic Privileges Act 1964 (c. 81), the Consular Relations Act 1968 (c.18), the International Organisations Act 1968 (c.48) or the State Immunity Act 1978 (c.33),
 - (b) any other legislative provision made for the purpose of implementing an international obligation, or
 - (c) any rule of law derived from customary international law.

Modifications etc. (not altering text)

- C1 S. 23 applied (with modifications) (8.3.2018) by [The United Nations \(International Residual Mechanism for Criminal Tribunals\) Order 2018 \(S.I. 2018/187\)](#), arts. 1(1), **33(1)(2)** (with art. 3)
- C2 S. 23(5) extended (IoM) (1.4.2004) by [S.I. 2004/714](#), **art. 2(a)**
- C3 S. 23(5) extended (Jersey) (with modifications) (8.10.2014 coming into force in accordance with art. 1) by [The International Criminal Court Act 2001 \(Jersey\) Order 2014 \(S.I. 2014/2706\)](#), arts. 1, **2(a)**, **Sch.**
- C4 S. 23(5) extended (Guernsey) (coming into force in accordance with art. 1 of the amending S.I.) by [The International Criminal Court Act 2001 \(Guernsey\) Order 2022 \(S.I. 2022/865\)](#), **art. 2(1)(a)**

24 Delivery up of persons subject to criminal proceedings, &c

Schedule 2 makes provision for cases where the Secretary of State receives a request from the ICC for the arrest and surrender, or provisional arrest, of a person—

- (a) against whom criminal proceedings are pending or in progress before a national court, or who has been dealt with in such proceedings,
- (b) against whom extradition proceedings are pending or in progress in the United Kingdom, or in respect of whom a warrant or order has been made in such proceedings, or
- (c) against whom proceedings are pending or in progress in the United Kingdom for a delivery order under—
 - (i) the United Nations (International Tribunal) (Former Yugoslavia) Order 1996 (S.I. 1996/716), or
 - (ii) the United Nations (International Tribunal) (Rwanda) Order 1996 (S.I. 1996/1296),

or against whom a delivery order has been made in such proceedings.

25 Documents having effect as warrants, &c

- (1) For the purposes of this Part the copy of a warrant issued by the ICC that is transmitted to the Secretary of State shall be treated as if it were the original warrant.

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- (2) Where facsimile transmission is used—
- (a) for the making of a request by the ICC or the transmission of any supporting documents, or
 - (b) for the transmission of any document in consequence of such a request, this Part applies as if the documents so sent were the originals of the documents so transmitted.

Any such document shall be receivable or, in Scotland, admissible in evidence accordingly.

- (3) Where the ICC amends a warrant of arrest, the provisions of this Part apply to the amended warrant as if it were a new warrant.

This does not affect the validity of anything done in reliance on the old warrant.

26 Meaning of “appropriate judicial officer” and “competent court”

[(1)] For the purposes of this Part—

“appropriate judicial officer” means—

- (a) ^{F1}
- (b) a District Judge (Magistrates’ Courts) designated for the purposes of this Act [^{F2}by the Lord Chief Justice of England and Wales after consulting the Lord Chancellor] , or
- (c) the Sheriff of Lothian and Borders; and

“competent court” means a court consisting of an appropriate judicial officer.

[^{F3}(2) The Lord Chief Justice may nominate a judicial office holder (as defined in section 109(4) of the Constitutional Reform Act 2005) to exercise his functions under this section.]

Textual Amendments

- F1** S. 26(a) repealed (1.4.2005) by Courts Act 2003 (c. 39), s. 109(1)(3), Sch. 8 para. 403, **Sch. 10**; S.I. 2005/910, **art. 3**
- F2** Words in s. 26(1) substituted (3.4.2006) by Constitutional Reform Act 2005 (c. 4), s. 15, **Sch. 4 para. 299(b)**; S.I. 2006/1014, **art. 2(a)**, Sch. 1 para. 11(x)
- F3** S. 26(2) inserted (3.4.2006) by Constitutional Reform Act 2005 (c. 4), s. 15, **Sch. 4 para. 299(c)**; S.I. 2006/1014, **art. 2(a)**, Sch. 1 para. 11(x)

Modifications etc. (not altering text)

- C5** S. 26 renumbered (3.4.2006) as s. 26(1) by Constitutional Reform Act 2005 (c. 4), s. 15, **Sch. 4 para. 299(a)**; S.I. 2006/1014, **art. 2(a)**, Sch. 1 para. 11(x)

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