

Act 11

International Criminal Court Act

2010

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THE INTERNATIONAL CRIMINAL COURT ACT, 2010.

An Act to give effect to the Rome Statute of the International Criminal Court; to provide for offences under the law of Uganda corresponding to offences within the jurisdiction of that court; and for connected matters.

DATE OF ASSENT: 25th May, 2010.

Date of Commencement: 25th June, 2010.

BE IT ENACTED by Parliament as follows:

PART I—PRELIMINARY

1. Application.

(1) Parts III, IV, V and VII apply to any requests made by the ICC regardless of whether the acts under investigation or subject to prosecution are alleged to have been committed before the coming into force of this Act.

(2) Part VI applies to the enforcement of any sentence, penalty or order of the ICC, regardless of whether the offence to which the sentence, penalty or order relates was committed before the coming into force of this Act.

(3) Part VIII applies to any investigation or sitting of the ICC regardless of whether the alleged offence or offence to which the investigation or sitting relates was committed before the coming into force of this Act.

2. Purpose.

The purpose of this Act is—

- (a) to give the force of law in Uganda, to the Statute;
- (b) to implement obligations assumed by Uganda under the Statute;
- (c) to make further provision in Uganda's law for the punishment of the international crimes of genocide, crimes against humanity and war crimes;
- (d) to enable Uganda to co-operate with the ICC in the performance of its functions, including the investigation and prosecution of persons accused of having committed crimes referred to in the Statute;
- (e) to provide for the arrest and surrender to the ICC of persons alleged to have committed crimes referred to in the Statute;
- (f) to provide for various forms of requests for assistance to the ICC;
- (g) to enable Ugandan courts to try, convict and sentence persons who have committed crimes referred to in the Statute;
- (h) to enable the ICC to conduct proceedings in Uganda; and
- (i) to enforce any sentence imposed or order made by the ICC.

3. Interpretation.

(1) In this Act, unless the context otherwise requires—

“Agreement” means the Agreement on the Privileges and Immunities of the International Criminal Court set out in Schedule 2 to this Act;

“crime” includes genocide, crimes against humanity, war crimes and crime of aggression;

“forfeiture order” means an order made by the ICC under article 77(2)(b) of the Statute or under the Rules for the forfeiture of property;

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“freezing order” means an order prohibiting any person from dealing in the property specified in the order other than in accordance with conditions and exceptions specified in the order;

“ICC” means the International Criminal Court established under the Statute; and includes any of the organs of the International Criminal Court referred to in the Statute;

“ICC prisoner” means a person who—

(a) is sentenced to imprisonment by the ICC; or

(b) is the subject of a request by the ICC under section 95(1)(b) to be held in custody during a sitting of the ICC in Uganda;

“international crime” means, in relation to the ICC, a crime in respect of which the ICC has jurisdiction under article 5 of the Statute;

“Minister” means the Minister responsible for Justice;

“prescribed” means prescribed by regulations made under section 102;

“Pre-Trial Chamber” means the Pre-Trial Chamber of the ICC;

“property” means real or personal property of every description, whether situated in Uganda or elsewhere and whether tangible or intangible; and includes an interest in any such real or personal property;

“Prosecutor” means the Prosecutor of the ICC;

“Registrar” means a Registrar of the High Court;

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“Rules” means the Rules of Procedure and Evidence made under article 51 of the Statute;

“seizing order” means an order authorising a police officer to search any thing and to seize the property if found or any other property that the police officer believes on reasonable grounds may relate to the request from the ICC

“Statute” means the Rome Statute of the ICC set out in Schedule 1 to this Act;

“Trial Chamber” means the Trial Chamber of the ICC;

“Uganda offence” means an offence against the law of Uganda;

“Uganda prison” or “prison” means a prison within the meaning of the Prisons Act;

“Uganda prisoner” or “prisoner” means a person who is, for the time being, in the legal custody of the superintendent of any Uganda prison, whether or not that person has been convicted of an offence.

(2) For the purposes of this Act—

(a) a reference in this Act to a request by the ICC for assistance includes a reference to a request by the ICC for co-operation;

(b) a reference in this Act to a request by the ICC for assistance under a specified provision or in relation to a particular matter includes a reference to a request by the ICC for co-operation under that provision or in relation to that matter;

(c) a reference in this Act to a figure in brackets immediately following the number of an article of the Statute is a reference to the paragraph of that article with the number corresponding to the figure in brackets;

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- (d) a reference in this Act to a sentence of imprisonment imposed by the ICC includes a reference to a sentence of imprisonment extended by the ICC (whether for the non-payment of a fine or otherwise); and
- (e) a reference in this Act to a sentence of imprisonment imposed by the ICC for an international crime or an offence against the administration of justice includes a reference to a sentence of imprisonment imposed by the ICC for non-payment of a fine that was a penalty for that crime or offence, as the case may be.

4. Statute to have force of law.

The provisions of the Statute specified in subsection (2) have the force of law in Uganda in relation to the following matters the—

- (a) making of requests by the ICC to Uganda for assistance and the method of dealing with those requests;
- (b) conduct of an investigation by the Prosecutor or the ICC;
- (c) bringing and determination of proceedings before the ICC;
- (d) enforcement in Uganda of sentences of imprisonment or other measures imposed by the ICC, and any related matters;
- (e) making of requests by Uganda to the ICC for assistance and the method of dealing with those requests.

5. Application of section 4.

Section 4 applies in relation to the following provisions of the Statute—

- (a) Part 2 (which relates to jurisdiction, admissibility, and applicable law);
- (b) Part 3 (which relates to general principles of criminal law);

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- (c) articles 51 and 52 of the Statute (which relate respectively to the Rules of Procedure and Evidence, and Regulations of the Court);
- (d) Part 5 (which relates to the investigation and prosecution of crimes within the jurisdiction of the ICC);
- (e) Part 6 (which relates to the conduct of trials);
- (f) Part 7 (which relates to penalties);
- (g) Part 8 (which relates to appeals and revision of acquittals, convictions, or sentences);
- (h) Part 9 (which relates to international co-operation and judicial assistance); and
- (i) Part 10 (which relates to the enforcement of sentences and other measures imposed by the ICC).

6. Obligations imposed by Statute or Rules.

For the purposes of any provision of this Act, of the Statute or the Rules that confers a power, or imposes a duty or function on a State including but not limited to a power, duty or function relating to the execution of a request for assistance from the ICC, that power, duty, or function may be exercised or carried out on behalf of the Government of Uganda by the Minister, if this Act makes no other provision.

PART II—INTERNATIONAL CRIMES AND OFFENCES AGAINST
THE ADMINISTRATION OF JUSTICE

International Crimes

7. Genocide.

(1) A person is liable on conviction on indictment to the penalty specified in subsection (3) who, in Uganda or elsewhere—

- (a) commits genocide; or

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(b) conspires or agrees with any person to commit genocide, whether that genocide is to take place in Uganda or elsewhere.

(2) For the purposes of this section, “genocide” is an act referred to in article 6 of the Statute.

(3) The penalty for genocide, or conspiring with, or agreeing with any person to commit genocide is imprisonment for life or a lesser term.

8. Crimes against humanity.

(1) A person is liable on conviction on indictment to the penalty specified in subsection (3) who, in Uganda or elsewhere, commits a crime against humanity.

(2) For the purposes of this section, a “crime against humanity” is an act specified in article 7 of the Statute.

(3) The penalty for a crime against humanity is imprisonment for life or a lesser term.

9. War crimes.

(1) A person is liable on conviction on indictment to the penalty specified in subsection (3) who, in Uganda or elsewhere, commits a war crime.

(2) For the purposes of this section, a “war crime” is an act specified in—

(a) article 8(2)(a) of the Statute (which relates to grave breaches of the First, Second, Third, and Fourth Geneva Conventions); or

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(b) article 8(2)(b) of the Statute (which relates to other serious violations of the laws and customs applicable in international armed conflict); or

(c) article 8(2)(c) of the Statute (which relates to armed conflict not of an international character involving serious violations of article 3 common to the four Geneva Conventions of 12 August 1949); or

(d) article 8(2)(e) of the Statute (which relates to other serious violations of the laws and customs applicable in armed conflict not of an international character).

(3) The penalty for a war crime is imprisonment for life or a lesser term.

(4) Nothing in this section affects or limits the operation of section (2) of the Geneva Conventions Act (which makes a grave breach of the Geneva Conventions an offence under Uganda law).

Offences against Administration of Justice

10. Corruption of Judge.

(1) A Judge is liable on conviction on indictment to imprisonment for a term not exceeding 14 years who, in Uganda or elsewhere, corruptly accepts or obtains, or agrees or offers to accept or attempts to obtain, a bribe for himself or herself or any other person in respect of an act—

(a) done or omitted by that Judge in his or her judicial capacity; or

(b) to be done or to be omitted by that Judge in his or her judicial capacity.

(2) A Judge, the Registrar, and a Deputy Registrar shall be liable on conviction on indictment to imprisonment for a term not exceeding 7 years if, in Uganda or elsewhere, that Judge, Registrar, or Deputy Registrar corruptly accepts or obtains, or agrees or offers to accept or attempts to obtain, a bribe for himself or herself or any other person in respect of an act—

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(a) done or omitted by that Judge, Registrar, or Deputy Registrar, in his or her official capacity (other than an act or omission to which subsection (1) applies); or

(b) to be done or omitted by that Judge, Registrar, or Deputy Registrar, in his or her official capacity (other than an act or omission to which subsection (1) applies).

(3) In this section and in sections 11 and 16—

“Deputy Registrar” means a Deputy Registrar of the ICC;

“Judge” means a Judge of the ICC; and

“Registrar” means the Registrar of the ICC.

11. Bribery of Judge, etc.

(1) A person is liable on conviction to imprisonment for a term not exceeding 7 years who, in Uganda or elsewhere, corruptly gives or offers, or agrees to give, a bribe to any person with intent to influence a Judge in respect of any act or omission by that Judge in his or her judicial capacity.

(2) A person is liable on conviction to imprisonment for a term not exceeding 5 years who, in Uganda or elsewhere, corruptly gives or offers, or agrees to give, a bribe to any person with intent to influence a Judge or the Registrar or the Deputy Registrar in respect of an act or omission by that Judge, Registrar, or Deputy Registrar in his or her official capacity (other than an act or omission to which subsection (1) applies).

12. Corruption and bribery of official of ICC.

(1) An official of the ICC is liable to imprisonment on conviction for a term not exceeding 7 years who, in Uganda or elsewhere, corruptly accepts or obtains, or agrees or offers to accept or attempts to obtain, a bribe for himself or herself or any other person in respect of an act—

(a) done or omitted by that officer in his or her official capacity; or

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(b) to be done or omitted by that officer in his or her official capacity.

(2) A person is liable on conviction to imprisonment for a term not exceeding 3 years who, in Uganda or elsewhere, corruptly gives or offers, or agrees to give, a bribe to any person with intent to influence an official of the ICC in respect of an act or omission by that officer in his or her official capacity.

(3) In this section and in section 16, an “official of the ICC” means a person employed under article 44 of the Statute.

13. False evidence.

(1) A person who gives evidence for the purposes of a proceeding before the ICC or in connection with a request made by the ICC that contains an assertion that, if made in a judicial proceeding in Uganda as evidence on oath, would be perjury, gives false evidence.

(2) A person is liable, on conviction on indictment, to imprisonment for a term not exceeding 7 years who, in Uganda or elsewhere, gives false evidence.

(3) Notwithstanding subsection (2), if the false evidence is given in order to obtain the conviction of a person for an offence for which the maximum punishment is not less than 3 years’ imprisonment, the punishment may be imprisonment for a term not exceeding 14 years.

14. Fabricating evidence before ICC.

A person is liable on conviction on indictment to imprisonment for a term not exceeding 7 years who, in Uganda or elsewhere, with intent to mislead the ICC, fabricates evidence by any means other than the giving of false evidence.

15. Conspiracy to defeat justice in ICC.

A person is liable on conviction on indictment to imprisonment for a term not exceeding 7 years who, in Uganda or elsewhere, in relation to any proceedings, request, or other matter referred to in the Statute, conspires to obstruct, prevent, pervert, or defeat the course of justice.

16. Interference with witnesses or officials.

A person is liable on conviction to imprisonment for a term not exceeding 7 years who, in Uganda or elsewhere—

- (a) dissuades or attempts to dissuade any person, by threats, force, bribery or other means, from giving evidence for the purposes of a proceeding before the ICC or in connection with a request made by the ICC; or
- (b) makes threats or uses force against any Judge, the Registrar, a Deputy Registrar, or any official of the ICC with intent to influence or punish that person, in respect of an act—
 - (i) done or omitted by that person or any Judge, the Registrar, a Deputy Registrar, or any official of the ICC, in his or her official capacity; or
 - (ii) to be done or omitted by that person or any Judge, the Registrar, a Deputy Registrar, or any official of the ICC, in his or her official capacity; or
- (c) intentionally attempts in any other way to obstruct, prevent, pervert, or defeat the course of justice, in relation to any proceedings, request, or other matter referred to in the Statute.

Consent to Prosecutions

17. Director of Public Prosecutions consent to prosecutions required.

(1) Proceedings for an offence against any of sections 7, to 16 shall not be instituted in any Uganda court without the consent of the Director of Public Prosecutions.

(2) Notwithstanding subsection (1), a person charged with an offence against any of sections 7 to 16 may be arrested, or a warrant for his or her arrest may be issued and executed, and the person may be remanded in custody or on bail, even though the consent of the Director of Public Prosecutions to the institution of a prosecution for the offence has not been obtained, but no further proceedings shall be taken until that consent has been obtained.

18. Jurisdiction.

For the purpose of jurisdiction where an alleged offence against sections 7 to 16 was committed outside the territory of Uganda, proceedings may be brought against a person, if—

- (a) the person is a citizen or permanent resident of Uganda;
- (b) the person is employed by Uganda in a civilian or military capacity;
- (c) the person has committed the offence against a citizen or permanent resident of Uganda; or
- (d) the person is, after the commission of the offence, present in Uganda.

General Principles of Criminal Law

19. General principles of criminal law.

(1) For the purposes of proceedings for an offence against section 7 or section 8 or section 9—

- (a) the following provisions of the Statute apply, with any necessary modifications—
 - (i) article 20 (which relates to crimes for which a person has previously been acquitted or convicted);
 - (ii) article 22(2) (which relates to principles of interpretation to be applied to the definition of crimes);
 - (iii) article 24(2) (which relates to the effect of changes in the law);
 - (iv) article 25 (which relates to principles of individual criminal responsibility);
 - (v) article 26 (which relates to the exclusion of jurisdiction over persons under 18 years);

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- (vi) article 28 (which relates to the responsibility of commanders and other superiors);
 - (vii) article 29 (which excludes any statute of limitations);
 - (viii) article 30 (which relates to the mental element of crimes);
 - (ix) article 31 (which specifies grounds for excluding criminal responsibility);
 - (x) article 32 (which relates to mistakes of fact or law);
 - (xi) article 33 (which relates to superior orders and prescription of law);
- (b) the provisions of Ugandan law and the principles of criminal law applicable to the offence under Ugandan law apply; and
- (c) a person charged with the offence may rely on any justification, excuse, or defence available under the laws of Uganda or under international law.
- (2) For the purposes of subsection (1)(a), the articles of the Statute specified in that subsection (other than article 20) apply as if—
- (a) a reference to the ICC were a reference to the Uganda court exercising jurisdiction in respect of the proceedings; and
 - (b) a reference to the Statute includes a reference to this Act.
- (3) Where there is any inconsistency between the provisions specified in subsection (1)(a) and the provisions and principles specified in subsection (1)(b) and (1)(c), the provisions specified in subsection (1)(a) prevail.
- (4) For the purposes of interpreting and applying articles 6 to 8 of the Statute in proceedings for an offence against section 7 or section 8 or section 9—

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- (a) the Uganda Court exercising jurisdiction in the proceedings may have regard to any elements of crimes adopted or amended in accordance with article 9 of the Statute; and
- (b) the provisions of Divisions I to V of the Penal Code Act do not apply.

PART III—GENERAL PROVISIONS RELATING TO
REQUESTS FOR ASSISTANCE

20. Requests for assistance.

- (1) This Part applies to a request by the ICC for assistance that is made under—
- (a) Part 9 of the Statute, namely—
 - (i) the provisional arrest, arrest, and surrender to the ICC of a person in relation to whom the ICC has issued an arrest warrant or given a judgment of conviction;
 - (ii) the identification and whereabouts of persons or the location of items;
 - (iii) the taking of evidence, including testimony under oath, and the production of evidence, expert opinions, and reports necessary to the ICC;
 - (iv) the questioning of any person being investigated or prosecuted;
 - (v) the service of documents, including judicial documents;
 - (vi) facilitating the voluntary appearance of persons as witnesses or experts before the ICC;
 - (vii) the temporary transfer of prisoners;
 - (viii) the examination of places or sites, including the exhumation and examination of gravesites;

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- (ix) the execution of searches and seizures;
- (x) the provision of records and documents, including official records and documents;
- (xi) the protection of victims and witnesses and the preservation of evidence;
- (xii) the identification, tracing and freezing, or seizure of proceeds, property and assets, and instrumentalities of crimes for the purpose of eventual forfeiture, without prejudice to the rights of bona fide third parties;
- (xiii) the enforcement of orders for fines, penalties and reparation; or
- (xiv) any other type of assistance that is not prohibited by the law of Uganda, with a view to facilitating the investigation and prosecution of crimes within the jurisdiction of the ICC; or

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- (a) limits the type of assistance that the ICC may request under the Statute or the Rules (whether in relation to the provision of information or otherwise);
- (b) prevents the provision of assistance to the ICC otherwise than under this Act, including assistance of an informal nature.

21. Making of requests.

(1) Subject to subsection (2), a request for assistance shall be made in writing, directly to the Minister.

(2) A request for provisional arrest (article 92) or for other forms of co-operation (article 93) or an urgent request for arrest and surrender (article 89) may be made using any medium capable of delivering a written record including facsimile or electronic mail.

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(2) If the ICC requests that particular information that is made available with a request for assistance be provided and handled in a manner that protects the safety and physical or psychological well-being of any victim, a potential witness, and his or her family, the Uganda agency dealing with the request shall use its best endeavours to give effect to that request.

24. Response to be sent to ICC.

(1) The Minister shall notify the ICC, without delay, of his or her response to a request for assistance and of the outcome of any action that has been taken in relation to it.

(2) If the Minister decides, in accordance with the Statute and this Act, to refuse or postpone the assistance requested, in whole or in part, the notification to the ICC shall set out the reasons for the decision.

(3) If the request for assistance cannot be executed for any other reason, the notification to the ICC shall set out the reasons for the inability or failure to execute the request.

(4) In the case of an urgent request for assistance, any documents or evidence produced in response shall, at the request of the ICC, be sent urgently to it.

(5) Documents or evidence provided or produced in response to a request for assistance from the ICC must be transmitted to the ICC in their original language and form.

(6) If the Minister is of the opinion that the circumstances set out in article 98 of the Statute apply to a request for provisional arrest, arrest and surrender or other assistance, he or she shall consult with the ICC and request a determination as to whether article 98 applies.

25. Official capacity of person no bar to request.

(1) The existence of any immunity or special procedural rule attaching to the official capacity of any person is not a ground for—

- (a) refusing or postponing the execution of a request for surrender or other assistance made by the ICC;

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(b) holding that a person is ineligible for arrest or surrender to the ICC under this Act; or

(c) holding that a person is not obliged to provide the assistance sought in a request by the ICC.

(2) Subsection (1) shall apply subject to section 24(6).

PART IV—ARREST AND SURRENDER OF PERSON TO ICC.

Request from ICC for Arrest and Surrender

26. Request for arrest and surrender.

(1) Subject to sections 27 and 28, when the Minister receives a request for arrest and surrender under article 89 of the Statute, the Minister shall, if satisfied that the request is supported by the information and documents required by article 91 of the Statute—

(a) transmit the request and any supporting documents to a Registrar and request the endorsement of the ICC warrant or the issue of a domestic warrant as appropriate; and

(b) notify the Director of Public Prosecutions.

(2) Upon receipt of a request under subsection (1) (a) the Registrar, if satisfied that there are reasonable grounds to suspect that the person named in the warrant is in or on his or her way to Uganda shall—

(a) if the request is accompanied by a warrant of arrest, endorse the warrant for execution by a police officer in any part of Uganda; or

(b) if the request relates to a person convicted by the ICC and is not accompanied by a warrant of arrest, issue a warrant of arrest in a form as near as possible to a prescribed form under the criminal procedure law of Uganda, for execution by the police officer in any part of Uganda.

27. Refusal of request for arrest and surrender.

(1) The Minister shall refuse a request for arrest and surrender, at any time before the surrender of the person, only if—

- (a) the ICC has decided that the case to which the request relates is inadmissible on any ground; or
- (b) the ICC advises that it does not intend to proceed with the request for any reason, including but not limited to a determination by the ICC that article 98 of the Statute applies to the request.

(2) The Minister may refuse a request for arrest and surrender of a person, at any time before the surrender of the person only if—

- (a) there is a competing request for extradition from one or more States not party to the Statute for the person for the same conduct which forms the basis of the crime for which the ICC seeks the person's surrender and a decision to extradite to a State is made in accordance with article 90 of the Statute and section 41; or
- (b) there is a competing request from one or more States not party to the Statute for the extradition of the person for different conduct from that which constitutes the crime for which the ICC requests the person's surrender and a decision to extradite is made in accordance with article 90 of the Statute and section 41.

(3) If the Minister decides to refuse a request for arrest and surrender in accordance with subsection (1) or (2) after he or she has transmitted a request under section 26, he or she shall notify the Registrar who shall cancel any warrant or delivery order issued by him or her and ensure the person's release from custody or conditions prescribed in relation to bail arising from that warrant or order.

28. Postponement of execution of request for arrest and surrender.

(1) The Minister may postpone the execution of a request for arrest and surrender at any time before the person is surrendered only if—

(a) a determination on admissibility is pending before the ICC;

(b) the request would interfere with an investigation or prosecution in Uganda involving a different offence from that for which surrender to the ICC is requested;

(c) the Minister is consulting with the ICC under section 24 (6) as to whether or not article 98 of the Statute applies to execution of the request .

(2) If execution of the request for arrest and surrender is postponed under subsection (1)(a) and the ICC decides that the case is admissible, the Minister shall proceed with the execution of the request as soon as possible after the decision.

(3) If the execution of the request for arrest and surrender is postponed under subsection (1)(b), the Minister shall consult with the ICC and agree on a period of time for postponement of the execution of the request in accordance with article 94 of the Statute; and the Minister shall proceed with execution of the request after the lapse of the period, unless otherwise agreed with the ICC.

(4) If execution of the request for arrest and surrender is postponed under subsection (1)(c) and the ICC decides to proceed with the request, the Minister shall proceed with the execution of the request as soon as possible after the decision.

(5) If the Minister decides to postpone execution of a request for arrest and surrender in accordance with this section after he or she has transmitted a request under section 26, he or she shall—

(a) notify the Registrar of the postponement and the Registrar shall adjourn any pending proceedings until further notice from the Minister; and

(b) notify the Registrar at the relevant time whether the execution of the request is to proceed or not, and the Registrar shall proceed accordingly with the execution of the request or the discharge of the person.

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(6) A decision by the Minister to postpone the execution of a request shall not affect the validity of any act that has been done or any warrant or order made under this Part prior to the decision, and any such warrant or order remains in effect unless cancelled by the Registrar in accordance with subsection (5)(b).

Provisional Arrest in Urgent Cases

29. Provisional arrest.

(1) Where the Minister receives a request from the ICC for provisional arrest under article 92 of the Statute, he or she shall, if satisfied that the request is supported by the information required by paragraph (2) of article 92 of the Statute, transmit the request and any supporting documents to the Inspector General of Police with a direction for the arrest of the person.

(2) The Minister shall transmit a copy of the direction to the Director of Public Prosecutions.

(3) Where the Inspector General of Police receives a direction from the Minister in accordance with subsection (1) he or she shall instruct the police to carry out the direction.

(4) After carrying out the direction, the Inspector General of Police shall notify the Minister and the Director of Public Prosecutions accordingly.

(5) Where a person has been provisionally arrested under this section, and the Minister receives the formal request for arrest and surrender as provided for in article 91 of the Statute, the Minister shall immediately send a notice to the Registrar and proceed with the transmission of the request in accordance with section 26.

30. Rights of arrested person.

(1) A person arrested under section 26 or 29 shall be brought before a Registrar within 48 hours.

(2) The Registrar before whom the person is brought may, of his or her own volition or at the request of the person determine—

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(a) whether the person was lawfully arrested in accordance with the warrant; and

(b) whether the person's rights have been respected.

(3) In making a determination under subsection (2) the Registrar shall apply the principles applicable to judicial review.

(4) If the registrar determines that—

(a) the person was not lawfully arrested; or

(b) the person's rights were not respected,

the Registrar shall make a declaration to that effect with any explanation required but may not grant any other form of relief.

(5) The Registrar shall transmit any declaration made under subsection (4) to the Minister, and the Minister shall transmit it to the ICC.

Bail

31. Application for bail.

(1) A person brought before a Registrar under section 30 may make an application for bail.

(2) Where an application for bail is made, the Registrar shall adjourn the hearing of the application and notify the Minister.

(3) The Minister shall, on receipt of a notification under subsection (2), consult immediately with the ICC to obtain any recommendations from the Pre-Trial Chamber under article 59(5) of the Statute, and shall convey those recommendations to the registrar.

(4) The Registrar shall give full consideration to any recommendations conveyed to him or her under subsection (3) before making a decision on the application for bail.

(5) Where no recommendations are received from the ICC within seven days, the Registrar may proceed to hear the application; and the provisions of the Magistrates Courts Act shall apply.

32. Person arrested on a provisional warrant.

(1) Where a person has been provisionally arrested under section 29, the Registrar shall not proceed under section 30 until—

(a) the Registrar has received a notice from the Minister that the request for surrender and supporting documents required under article 91 of the Statute have been received by the Minister; and

(b) the relevant documents have been transmitted to the Registrar by the Minister under section 29(5).

(2) Pending the receipt of the notice and documents under subsection (1), the Registrar may adjourn the proceedings from time to time.

(3) If the Registrar has not received the notice specified in subsection (1)(a) within 60 days of the date of the provisional arrest of the person, he or she shall release the person from custody or on bail unless satisfied that the period for submission of the notice should be extended in the interests of justice.

(4) The release of a person under subsection (3) shall be without prejudice to any subsequent proceedings that may be brought for the arrest and surrender of the person to the ICC.

33. Surrender hearing.

(1) If the Registrar is satisfied with respect to a person brought before him or her under this Part that—

(a) there is a warrant of arrest or a judgment of conviction from the ICC in respect of that person; and

(b) the warrant or judgment relates to the person before the Registrar,

the Registrar shall issue a delivery order in respect of that person in accordance with article 59(7) of the Statute.

(2) Where the Registrar issues a delivery order under subsection (1) he or she shall—

(a) transmit the delivery order to the Inspector General of Police for execution;

(b) commit the person to custody pending the execution of the delivery order by the Inspector General of Police; and

(c) send a copy of the delivery order to the Minister.

(3) If the person who is the subject of a delivery order—

(a) is in custody, the Registrar shall order the continued detention of the person under the delivery order and notify the Commissioner of Prisons and the Superintendent of the prison, of the delivery order; or

(b) is not in custody, the Registrar shall commit him or her to custody and shall notify the Commissioner of Prisons and the Superintendent of the prison.

(4) The Inspector General of Police shall make arrangements with the ICC for the execution of the delivery order as soon as possible, and shall notify the Minister when the person has been surrendered to the ICC in execution of the delivery order.

(5) A delivery order issued under this section is sufficient authority for holding the person specified in the order in custody until his or her delivery to the ICC.

(6) In deciding whether to make a delivery order under this section—

(a) the Registrar shall not require evidence to establish that the trial of the person is justified before the ICC or would be justified under the law of Uganda if the conduct had occurred within Uganda; and

(b) the Registrar shall not receive evidence nor adjudicate on any claim by the person that he or she has been previously tried or convicted for the conduct for which the ICC seeks surrender of the person.

(7) If the person makes a claim, under subsection (6) (b), the Registrar shall advise the Minister of this claim and the Minister shall transmit that information to the ICC.

34. Registrar not to inquire into validity of warrant.

The Registrar dealing with proceedings under this Part shall not inquire into, receive any evidence regarding or make any decisions as to the validity of any warrant or order issued by the ICC.

Surrender and Delivery Orders

35. Surrender by consent.

(1) A person may at any time notify a Registrar that he or she consents to being surrendered to the ICC for the crime or crimes for which the ICC seeks the surrender of the person.

(2) The Registrar may accept the notification of consent under subsection (1) if—

(a) the person is before the registrar when notification of the consent to surrender is given; and

(b) the Registrar is satisfied that the person has freely consented to the surrender in full knowledge of its consequences.

(3) Nothing in this section shall be construed as preventing a person, in respect of whom the Registrar has made a delivery order, from subsequently notifying the Minister that he or she consents to surrender.

(4) For the avoidance of doubt a person arrested under a provisional warrant may consent to surrender before a request for surrender is received, in which case the Registrar may make an order under subsection (5).

(5) Where the consent to surrender has been given, the Registrar shall immediately make a delivery order in the same terms as section 33(2) and sections 33 and 34 shall apply.

36. Effect of delivery order.

(1) A delivery order is sufficient authority for any person to receive the person to whom the order relates, keep him or her in custody and convey him or her to the place where he or she is to be delivered up into the custody of the ICC or of the state of enforcement in accordance with arrangements made by the Inspector General of Police.

(2) A person in respect of whom a delivery order is in force shall be deemed to be in legal custody pending delivery up under the order.

(3) If a person in respect of whom a delivery order is in force escapes or is unlawfully at large, he or she may be arrested without warrant and taken to the place where he or she is required to be or to be taken.

37. Procedure where Registrar refuses order.

(1) Where the Registrar refuses to make a delivery order, he or she shall make an order remanding the person arrested in custody for fourteen days, and shall notify the Minister of his or her decision and of the grounds for it.

(2) The Minister may appeal to the High Court against the decision by the Registrar to refuse to make a delivery order.

(3) Where the Registrar is informed that an appeal is to be brought against the decision, the order remanding the person arrested shall continue to have effect until the appeal is determined and the person is either discharged or the delivery order is executed.

(4) Where the High Court allows the appeal, it may make a delivery order or remit the case to the Registrar to make a delivery order in accordance with the decision of the High Court.

(5) Where the High Court dismisses the appeal, the person shall be discharged in accordance with the decision of the High Court.

38. Discharge of person not delivered up.

(1) If the person in respect of whom a delivery order has been made is not delivered up under the order within sixty days after it was made, an application may be made by that person or by someone duly authorised by him or her for discharge.

(2) On an application made under this section, the court shall order the person's discharge, unless reasonable cause is shown for the delay.

39. Discharge of person no longer required to be surrendered.

Where the ICC informs the Minister that the person arrested upon the request of the ICC is no longer required to be surrendered, the Minister shall notify the Registrar of that fact and the Registrar shall on receipt of the notification make an order for the discharge of the person.

40. Request for temporary surrender.

(1) Where a request for surrender by ICC relates to a crime under the Statute but the person is subject to proceedings for a Uganda offence which has not been finally disposed of or is liable to serve a sentence of imprisonment imposed for a Uganda offence, the Minister may authorise the temporary transfer of that person to the ICC.

(2) The Minister may, before making an authorisation under subsection (1), seek an undertaking from the ICC that the person shall be returned on completion of prosecution, acquittal or service of sentence imposed by the ICC.

(3) Subsections (2),(3),(4) and (5) of section 54 shall apply to an authorisation under subsection (1) with any necessary modifications.

41. Competing requests.

(1) Where a request for surrender of a person is received from the ICC and one or more states also request the extradition of the person for the same conduct that forms the basis of the crime for which ICC seeks the person's surrender, the Minister—

(a) shall notify ICC and the requesting state of that fact; and

(b) shall determine whether the person is to be surrendered to ICC or to the requesting state.

(2) Where the requesting state is a party to the Statute, priority shall be given to the request from the ICC if the ICC has determined under articles 18 or 19 of the Statute that the case is admissible; and where an admissibility decision is still pending, no person may be extradited under the Extradition Act until the ICC makes a decision on admissibility and determines that the case is inadmissible.

(3) Where the requesting state is not a party to the Statute, priority shall be given to the request for surrender from the ICC, if Uganda is not under an international obligation to extradite the person to the requesting state and the ICC has determined under article 18 or 19 of the Statute that the case is admissible.

(4) Where the requesting state is not a party to the Statute and Uganda is under an international obligation to extradite the person to the requesting state and the ICC has determined under article 18 or 19 of the Statute that the case is admissible, the Minister shall determine whether the person is to be surrendered to the ICC or extradited taking into consideration all the relevant factors referred to in article 90 (6) of the Statute.

(5) Where a request for surrender is received from the ICC and one or more states also request the extradition of the person for conduct other than that which constitutes the crime for which ICC seeks the person's surrender, priority shall be given to the request from the ICC if Uganda is not under an international obligation to extradite the person to any requesting state.

(6) Where a request for surrender is received from the ICC and one or more states also request the extradition of the person for conduct other than conduct which constitutes the crime for which ICC seeks the person's surrender, if Uganda is under an international obligation to extradite to one or more of the requesting states, the Minister shall determine whether the person is to be surrendered to the ICC or extradited to a requesting state in accordance with article 90(7) of the Statute.

42. Request for transit of a person to ICC.

(1) Subject to subsection (4), where the Minister receives a request from the ICC for transit through Ugandan territory of a person—

- (a) being surrendered to the ICC;
- (b) being surrendered or transferred by another state to ICC;
- (c) being transferred from the ICC to a State of enforcement;
- (d) being transferred to or from the State of enforcement as a result of a review hearing or other appearance by the person before the ICC,

the Minister shall accede to the request for transit and the person shall be deemed to be in lawful custody, may be held in any police station, prison or any other place of detention which may be designated by the Minister in consultation with the Minister responsible for internal affairs.

(2) If a person referred to in subsection (1) arrives in Uganda without prior consent to transit, a police officer may at the request of the officer who has custody of the person while the person is being transported, hold the person in custody for a maximum period of 96 hours pending receipt by the Minister of a request under subsection (1).

(3) No authorisation for transit is required if the person being transported is transported by air and no landing is scheduled on Uganda territory.

(4) Notwithstanding subsection (1), the Minister may refuse a request for transit if the Minister considers that transit through Uganda would impede or delay the surrender or transfer of the person being transported.

(5) If an unscheduled landing occurs on Uganda territory, the Minister may require the ICC to submit a request for transit of the transferee under subsection (1) as soon as is reasonably practicable.

PART V—DOMESTIC PROCEDURES FOR OTHER TYPES OF CO-OPERATION.

Locating or Identifying Persons or Things

43. Assistance in locating or identifying persons or things.

(1) Where the ICC requests assistance under article 19(8), 56, 64, or 93(1)(a) of the Statute in locating, or identifying and locating, a person or a thing believed to be in Uganda, the Minister shall give authority for the request to proceed and transmit the request to the appropriate Ugandan agency, if he or she has reasonable grounds to believe the person to whom or the thing to which the request relates is, or may be in Uganda.

(2) Where the Minister authorises and transmits the request under subsection (1), the appropriate Ugandan agency shall, without delay—

- (a) use its best endeavours to locate or, as the case may be, identify and locate the person to whom or thing to which the request relates; and
- (b) advise the Minister of the outcome of those endeavours.

(3) This section shall not be construed as giving any person a power to enter property in order to locate a person or item.

44. Taking evidence.

(1) Where the ICC requests assistance under article 93(1)(b) of the Statute in the taking of evidence, the Minister shall give authority for the request to proceed and transmit the request to a Registrar, if the Minister has reasonable grounds to believe that the evidence can be taken in Uganda.

(2) Where the Minister authorises and transmits the request under subsection (1), the Registrar shall issue an order compelling the witness to appear at a specified time and place for the evidence to be taken.

(3) Where the ICC requests that a representative of the ICC or a representative of the person to whom the request relates be permitted to be present at the taking of the evidence, and to put questions to the witness, the Registrar shall make an order to that effect.

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(4) An order made under subsection (3) may also provide—

(a) that the evidence shall be taken before a Judge, Registrar or any other person designated by the registrar, including an official of the ICC;

(b) that the evidence shall be taken on oath or affirmation;

(c) for any other matters as may be appropriate in the circumstances.

(5) In making an order under this section, the Registrar shall, to the greatest extent possible, comply with the terms of the request for assistance submitted by the ICC.

(6) Unless the Registrar orders that the evidence shall be taken in accordance with the Statute and Rules of Procedure and Evidence, the evidence shall be taken in accordance with the laws of Uganda.

(7) Notwithstanding an order made under subsection (5), a person compelled to give evidence under this section, shall have the same privileges in relation to answering questions as if the investigation or proceeding was being conducted in Uganda and the laws of Uganda relating to the non-disclosure of information, including national security information, shall apply.

(8) The Judge, Registrar or other person, taking evidence under this section shall—

(a) certify that the evidence was taken before him or her and that the persons named in the certificate were present when the evidence was taken; and

(b) cause the evidence together with the certificate to be transmitted to the Minister.

45. Production of documents and articles.

(1) Where the ICC requests assistance in the production of documents or articles under articles 19(8), 56, 64, or 93(1)b, of the Statute the Minister shall give authority for the request to proceed and transmit the request to a Registrar, if the Minister is satisfied that there are reasonable grounds to believe that the documents or articles can be produced in Uganda.

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(2) Where the Minister authorises and transmits the request under subsection (1), the Registrar shall issue an order for the production of the documents or articles.

(3) The order may provide for any form of certification or authentication of the document or article as may be required by the ICC and may specify any other terms and conditions that may be appropriate in the circumstances.

(4) Where the documents and articles are produced, the Registrar shall cause them to be sent to the Minister, with a written statement signed by the registrar, that they were produced to him or her.

46. Protection of witnesses.

(1) The applicable law with respect to compelling a person to appear before a Registrar under section 44 or section 45 and to give evidence or answer questions, or to produce documents or other articles, is the law specified in subsection (2); and that law applies with any necessary modifications.

(2) For the purposes of subsection (1), the applicable law is the law of Uganda that applies to the giving of evidence or the answering of questions or the production of documents or other articles on the hearing of a charge against a person for an offence against the laws of Uganda.

(3) Nothing in subsection (1) shall be construed as requiring a person to give evidence or answer any question or produce any document or article that the person could not be compelled to give or answer or produce in an investigation being conducted by the prosecutor or in any proceedings before the ICC.

47. Assistance in questioning persons.

(1) Where the ICC requests assistance under article 19(8), 56, 64, or 93(1)(c) of the Statute in questioning a person who is being investigated or prosecuted, the Minister shall give authority for the request to proceed and transmit the request to the appropriate Ugandan agency if the Minister is satisfied that there are reasonable grounds to believe that the person is or maybe in Uganda.

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(2) Where the Minister authorises and transmits the request under subsection (1), the appropriate Ugandan agency shall, without delay—

- (a) use its best endeavours to undertake the questioning that the ICC has requested;
- (b) ensure that the answers to the questions put are recorded in writing and make any other report on the questioning as it considers to be appropriate in the circumstances; and
- (c) advise the Minister of the outcome of those endeavours and, if relevant, deliver the record and any report of the questioning to Minister.

(3) A person questioned under this section shall notwithstanding anything inconsistent in any other enactment, be entitled to all the rights referred to in article 55 (2) of the Statute.

48. Assistance in arranging service of documents.

(1) Where the ICC requests assistance under any of articles 19(8), 56, 58(7), 64, or 93(1)(d) of the Statute in arranging for the service of a document in Uganda, the Minister shall give authority for the request to proceed and transmit the request to the appropriate Ugandan agency if the Minister has reasonable grounds to believe that the person or body to be served is or may be in Uganda.

(2) Where the Minister authorises and transmits the request under subsection (1), the appropriate Ugandan agency shall, without delay—

- (a) use its best endeavours to have the document served—
 - (i) in accordance with any procedure specified in the request; or
 - (ii) if that procedure would be unlawful or inappropriate in Uganda, or if no procedure is specified, in accordance with the law of Uganda; and
- (b) transmit to the Minister—

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- (i) a certificate as to service, if the document is served; or
- (ii) a statement of the reasons that prevented service, if the document is not served.

(3) In this section, document includes—

- (a) a summons requiring a person to appear as a witness; and
- (b) a summons to an accused that has been issued under article 58(7) of the Statute.

Facilitating Appearance of Witnesses

49. Request for voluntary appearance of witness.

(1) Where the ICC requests assistance under articles 19(8), 56, 64, or 93(1)(e) of the Statute in facilitating the voluntary appearance of a witness before the ICC the Minister shall give authority for the request to proceed and transmit the request to the appropriate Ugandan agency if the Minister is satisfied that there are reasonable grounds to believe that the witness is or may be in Uganda.

(2) In this section and in section 50 and 51, “witness” includes a person who may give expert evidence; but does not include—

- (a) a person who has been accused of a crime in the proceedings to which the request relates; or
- (b) a prisoner who is detained in relation to an offence against the law of Uganda.

50. Consent required.

The Ugandan agency to which a request is transmitted under section 49 shall make such inquiries as may be necessary to ascertain whether the prospective witness consents to giving evidence or assisting the ICC.

51. Minister may facilitate appearance.

(1) The Minister may assist in the making of arrangements to facilitate a witness’s attendance before the ICC if the Minister is satisfied that—

- (a) the prospective witness has consented to giving the evidence or assistance requested; and
 - (b) the ICC has given any assurance requested by the Minister in respect of the witness including but not limited to an assurance that the witness will not be prosecuted or detained by the ICC in respect of any specified act or omission that occurred before the witness's departure from Uganda.
- (2) The Minister may—
- (a) approve and make arrangements for the travel of the witness to the ICC at the cost of the ICC; including but not limited to, the obtaining of such approvals, authorities, and permissions as are required for that purpose, including, in the case of a person who although not liable to be detained in a prison is subject to a sentence—
 - (i) the variation, discharge, or suspension of the conditions of the person's release from prison; or
 - (ii) the variation, cancellation, or suspension of the person's sentence, or of the conditions of the person's sentence; and
 - (b) take such other action for the purposes of subsection (1) as the Minister thinks appropriate.

Temporary Transfer of Prisoners

52. Request for temporary transfer of prisoner.

Where the ICC requests assistance under article 93(1)(f) of the Statute in facilitating the temporary transfer to the ICC of a Uganda prisoner, the Minister shall give authority for the request to proceed and transmit the request to the appropriate Ugandan agency, if the Minister has reasonable grounds to believe that the prisoner's assistance is sought for the purpose of identification or obtaining evidence or other assistance.

53. Consent required and assurances may be sought.

Where the Minister authorises and transmits a request under section 52, the appropriate Ugandan agency shall make such inquiries as may be necessary to ascertain whether the prisoner will consent to the transfer.

54. Minister may arrange for transfer.

- (1) The Minister may authorise the temporary transfer of a Uganda prisoner to the ICC if the Minister is satisfied that—
- (a) the prisoner has consented to giving the evidence or assistance requested; and
 - (b) the ICC has given any assurances requested by the Minister including but not limited to an assurance that the prisoner will not be released without prior approval of the Minister.
- (2) Where the Minister authorises the temporary transfer of the prisoner to the ICC, the Minister may—
- (a) direct that the prisoner be released from the prison in which that prisoner is detained, for the purpose of the transfer to the ICC; and
 - (b) make arrangements for the prisoner to travel to the ICC in the custody of a person authorised for the purpose by the ICC.
- (3) A direction given by the Minister under subsection (2) in respect of a prisoner is sufficient authority for the release of the prisoner from the prison in which the prisoner is detained, for the purposes of the transfer.
- (4) Every person released under a direction given under subsection (2) shall be treated, for the purposes of section 109 of the Penal Code Act (which relates to escaping from lawful custody) and for that purpose only, as continuing to be in the legal custody of the officer in charge of a prison from which he or she is so released, while in Uganda during the period of that release.

(5) Where there is any inconsistency between subsection (4) and the Prisons Act, subsection (4) prevails.

55. Effect of transfer on prisoner's sentence.

Where a prisoner who is serving a sentence for a Uganda offence is transferred to the ICC—

- (a) the prisoner shall be treated, while in custody outside Uganda in connection with the request, as being in custody for the purposes of the sentence imposed for the Uganda offence which shall continue to run; and
- (b) the Minister—
 - (i) may at any time notify the ICC that the prisoner is no longer required to be kept in custody; and
 - (ii) shall notify the ICC if the prisoner is no longer liable to be detained in a Uganda prison.

Examination of Places or Sites

56. Assistance in examining places or sites.

(1) Where the ICC requests assistance under article 19(8), 56, 64, or 93(1)(g) of the Statute in examining places or sites in Uganda, the Minister shall give authority for the request to proceed and transmit the request to the appropriate Ugandan agency if the Minister has reasonable grounds to believe that the place or site is located in Uganda.

(2) Where the Minister authorises and transmits the request under subsection (1), the appropriate Ugandan agency shall without delay—

- (a) use its best endeavours to undertake the examination of the place or site in the manner that the ICC has requested;
- (b) make such report on the examination as it considers to be appropriate in the circumstances; and
- (c) deliver the report of the examination to the Minister.

(3) This section shall not be construed as giving any person a power to enter a place or site.

Search and Seizure

57. Request for search and seizure.

(1) Where the ICC makes a request under article 19(8), 56, 64, or 93(1)(h) of the Statute for search and seizure, the Minister shall give authority for the request to proceed and authorise in writing, a police officer to apply to the magistrate for a search warrant if the Minister has reasonable grounds to believe that any thing relevant to an investigation being conducted by the Prosecutor or proceeding before the ICC is or may be located in Uganda.

(2) Upon an application made to a magistrate under subsection (1) by a police officer authorised under that subsection, the registrar may, if satisfied that there are reasonable grounds to believe that the thing specified in the request made by the ICC is located in Uganda, issue a warrant authorising that police officer or any other police Officer specified in the warrant to search for and seize that thing.

(3) The magistrate may issue a warrant under subsection (2) subject to such conditions as he or she may think fit to impose.

(4) Subject to any condition specified in the warrant, a warrant issued under subsection (2) authorises the police officer executing the warrant—

- (a) to enter and search any place or to stop and search any vehicle in which the thing specified in the warrant is located or held, at any time by day or night;
- (b) to use such assistants as may be reasonable in the circumstances for the purpose of such entry and search;
- (c) to use such force as is reasonable in the circumstances to effect entry to such place or to stop or board such vehicle, and for breaking any receptacle in which the thing specified in the warrant is placed; and

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(d) to search for and seize the thing.

(5) A person called on to assist a police officer executing a warrant issued under subsection (2) may exercise the powers referred to in paragraph (c) and (d) of subsection (4).

(6) A police officer executing a warrant issued under subsection (2) shall—

(a) produce such warrant on initial entry, and if required to do so, at any time thereafter;

(b) give to the owner of the thing seized or any other person whom he or she has reason to believe has an interest in such thing, a notice specifying—

(i) the date and time of execution of the warrant;

(ii) the name and position of the person executing the warrant;

(iii) the thing seized under the warrant.

(7) A police officer seizing a thing under the authority of a warrant issued under subsection (2) shall deliver it into the custody and control of the Inspector General of Police.

(8) The Inspector General of Police shall inform the Minister that the thing has been delivered to him or her and await the Minister's directions as to how the thing is to be dealt with.

(9) Except as otherwise provided in this section, the provisions of

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(b) assistance under article 19(8), or paragraphs (2) or (3) of article 56, in preserving evidence,

the Minister shall give authority for the request to proceed and transmit the request to the appropriate Ugandan agency if the Minister has reasonable grounds to believe that the assistance requested is not prohibited by Uganda law.

(2) Where the Minister authorises and transmits the request under subsection(1),the appropriate Ugandan agency shall without delay—

(a) use its best endeavours to give effect to the request;

(b) make such report on its endeavours as it considers to be appropriate in the circumstances; and

(c) deliver the report to the Minister.

59. Request relating to property associated to crime.

(1) Where the ICC requests assistance under article 93(1)(k) in identifying, tracing and freezing or seizing property for the purpose of eventual forfeiture, the Minister shall give authority for the request to proceed and transmit the request to the appropriate Ugandan agency if the Minister has reasonable grounds to believe that the property is or may be located in Uganda.

(2) Where the Minister authorises and transmits the request under subsection (1), the appropriate Ugandan agency—

(a) shall use its best endeavours to give effect to the request; or

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- (a) that a forfeiture order has been made in proceedings before the ICC; or
- (b) that there are reasonable grounds to believe that a forfeiture order may be made in such proceedings,

and that the property to which the order relates consists of or includes property that is or may be affected by such a forfeiture order.

(5) A freezing or seizing order shall provide for notice to be given to any persons with an interest in the property or otherwise affected by the order.

(6) A person affected by the order may apply to a registrar for an order to vary or discharge the freezing or seizing order in relation to his or her interest.

(7) The Registrar may vary or discharge the order in relation to the interest of a person under subsection (6) only if the registrar is satisfied that the applicant has an interest in the property, was not in any way involved in the commission of the crime to which the property relates, and had no basis to believe the property was the proceeds of, or associated with the crime.

(8) Subject to subsection (7), the property shall remain subject to the freezing or seizing order until the ICC issues a relevant forfeiture order in respect of the property or advises that no such order will be issued, in which case the property shall be discharged from the freezing order.

60. Refusal of request.

(1) The Minister shall refuse a request for assistance under this Part only if—

- (a) the ICC has determined that the case to which the request relates is inadmissible on any ground;

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- (b) the ICC advises that it does not intend to proceed with the request for any reason, including but not limited to a determination of the ICC that article 98 of the Statute applies to the request; or

- (c) the provision of the assistance is prohibited by the law of Uganda and the ICC does not accept the conditions, as contemplated by article 93 (5) of the Statute, subject to which the Minister was willing to provide the assistance.

(2) The Minister may refuse a request for assistance under this Part only if—

- (a) there are competing requests for assistance from the ICC and a state and the Minister has decided to proceed with the execution of the request of the state, in accordance with the principles established by article 90 of the Statute and section 41; or

- (b) the Minister decides that the Part VII applies to the request.

(3) If the Minister decides to refuse a request for assistance in accordance with subsection (1) or (2) after he or she has transmitted the request to the appropriate Ugandan agency, he or she shall inform that agency not to take any further steps to execute the request.

61. Postponement of execution of request for assistance.

(1) The Minister may postpone the execution of a request for assistance under this Part only if—

- (a) a determination on admissibility is pending before the ICC;

- (b) the execution of the request would interfere with an investigation or prosecution in Uganda involving a different offence from that for which the assistance is requested;

- (c) the Minister is consulting with the ICC under section 24(6) as to whether or not article 98 of the Statute applies to execution of the request; or

(d) there are competing requests for assistance from ICC and a state, and the Minister in consultation with ICC and the state decides to postpone the execution of the ICC's request.

(2) If execution of the request for assistance is postponed under subsection (1)(a) and the ICC decides that the case is admissible, the Minister shall proceed with the execution of the request as soon as possible after the decision.

(3) If the execution of the request for assistance is postponed under subsection (1)(b), the Minister shall consult with the ICC and agree on a period of time for postponement of the execution of the request in accordance with article 94 of the Statute; and the Minister shall proceed with execution of the request after the lapse of the period, unless otherwise agreed with the ICC.

(4) If execution of the request for assistance is postponed under subsection (1)(c) and the ICC decides to proceed with the request, the Minister shall proceed with the execution of the request as soon as possible after the decision.

(5) If the execution of the request for assistance is postponed under subsection (1) (d), the Minister shall proceed with the execution of the ICC's request as soon as practicable.

(6) If the Minister decides to postpone execution of a request for assistance in accordance with this section after he or she has transmitted the request for execution to the appropriate Ugandan agency, he or she shall direct that agency to postpone the execution of the request for such period as is specified in the direction.

(7) A decision by the Minister to postpone the execution of a request does not affect the validity of any act that has been done or any warrant or order made under this Part prior to the decision, and any such warrant or order remains in effect unless cancelled.

62. Verification of material.

Where, in order to comply with a request of the ICC for assistance it is necessary for any evidence or other material obtained under this part to be verified in any manner, the Minister may give directions as to the nature of the verification required.

63. Transmission of material to ICC.

(1) Any evidence or other material obtained under this Part by a person other than the Minister together with any requisite verification shall be sent to the Minister for transmission to ICC.

(2) Where any evidence or other material is to be transmitted to the ICC there shall be transmitted—

- (a) where the material consists of a document, the original or a copy; and
- (b) where the material consists of any other article, the article itself or a photograph or other description of it as may be necessary to comply with the request of the ICC.

PART VI—ENFORCEMENT OF PENALTIES

*Assistance with Enforcement of Victim Reparation
Fines and Forfeiture Orders*

64. Enforcement of orders for victim reparation.

(1) Where the ICC requests enforcement in accordance with article 109 of the Statute of an order requiring reparation made under article 75 of the Statute, the Minister shall give authority for the request to proceed, if he or she has reasonable grounds to believe that—

- (a) neither the conviction in respect of which the order was imposed nor the order requiring reparation is subject to further appeal; and

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(b) the order can be enforced in the manner provided in this section, and shall refer the request to the appropriate Ugandan agency.

(2) The appropriate Ugandan agency shall, without delay—

(a) in a case where the order requires a monetary payment, take such steps as are necessary to enforce the order as if it were a sentence of compensation imposed under section 126 of the Trial on Indictments Act; or

(b) in a case where the order requires the restitution of assets, property or other tangible items, take such steps as are necessary to enforce the order as if it were an order for the restitution of property made under section 129 of the Trial on Indictments Act; or

(c) in a case where the order requires another remedy, take such steps as are necessary to enforce the order; and

(d) shall, without delay, make such report to the Minister on the results of any action taken as it considers to be appropriate in the circumstances.

(3) Nothing in this section shall be construed as limiting or affecting the provision of other types of assistance to the ICC in relation to an order made under article 75 of the Statute.

65. Enforcement of fines.

(1) Where the ICC requests enforcement in accordance with article 109 of the Statute of an order for the payment of a fine made under article 77 (2) (a) of the Statute, the Minister shall give authority for the request to proceed, if he or she has reasonable grounds to believe that—

(a) neither the conviction in respect of which the order was imposed, nor the order for the payment of the fine is subject to further appeal; and

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(b) the order can be enforced in the manner provided in this section, and shall refer the request to the appropriate Ugandan agency.

(2) The appropriate Ugandan agency shall, without delay—

(a) take such steps as are necessary to enforce the order as if it were a fine imposed on conviction under section 110 or 111 of the Trial on Indictments Act; and

(b) make such report to the Minister on the results of any action taken as it considers to be appropriate in the circumstances.

(3) Nothing in this section shall be construed as limiting or affecting the provision of other types of assistance to the ICC in relation to a penalty imposed under article 77 of the Statute.

66. Enforcement of forfeiture orders.

(1) Where the ICC requests enforcement in accordance with article 109 of the Statute, of an order for forfeiture of property made under article 77 (2) (b) of the Statute, the Minister shall give authority for the request to proceed if he or she has reasonable grounds to believe that—

(a) neither the conviction in respect of which the order was imposed, nor the forfeiture order, is subject to further appeal; and

(b) the property identified by the ICC is located in Uganda or that the person concerned, directly or indirectly, holds property in Uganda that may be the subject of the forfeiture order,

and shall refer the request to the Registrar for enforcement in accordance with this section.

(2) Upon receipt of a referral under subsection (1), the Registrar shall file the original or a certified copy of the forfeiture order of the ICC with the High Court and upon being filed, the order shall be entered as a judgment of that court.

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(3) Upon the entry of the order, the High Court may direct the Registrar to do either or both of the following—

- (a) give notice of the entry, in the manner and within the time the Court considers appropriate to such persons, other than a person convicted of an offence in respect of which the order was made, as the Court has reason to believe may have an interest in the property;
- (b) publish notice of the entry in the manner and within the time the Court considers appropriate.

(4) A forfeiture order entered under subsection (2) shall have, from the date it is entered, the same effect and may be enforced as if it were an order for the forfeiture of property issued by the High Court.

(5) A forfeiture order entered under subsection (2) may not be enforced until the expiry of any period set by the Court in any notice given or published under subsection (3), or two months from the entry of the order, whichever is the longer period.

(6) If a forfeiture order is entered under subsection (2), a person, other than a person convicted of an offence in respect of which the order was made, who claims an interest in the property, may apply to the High Court, with notice to the Registrar.

(7) A person on whom notice of the hearing of the ICC held in connection with the making of the forfeiture order was served or who appeared at the hearing may not make an application under subsection (6) without leave of the Court.

(8) The High Court shall grant leave under subsection (7) only where it determines that it would be contrary to the interests of justice not to do so.

(9) An application under subsection (6) shall be made before the expiry of any period set in a notice under subsection (3) or within two months of the entry of the order, whichever is the longer period, unless the Court grants leave.

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(10) On an application under subsection (6), the Court may make an order setting aside an entry in whole or in part if satisfied that—

- (a) the applicant has an interest in the property;
- (b) the applicant did not receive notice of the hearing before the ICC or through no fault of his or her own, did not appear;
- (c) the applicant was not in any way involved in the commission of the offence in respect of which the order was made; and
- (d) the applicant had no knowledge that the property constituted the proceeds of, or was associated with, the crime.

(11) In the circumstances described in subsection (10)(a), the Court may—

- (a) declare the nature, extent and value of the applicant's interest in the property; and
- (b) either direct that the interest be transferred to the applicant or that payment be made to the applicant of an amount equivalent to the value of the interest.

Enforcement of ICC Sentences in Uganda

67. Uganda may act as State of enforcement.

(1) The Minister may notify the ICC that Uganda is willing to allow persons who are ICC prisoners as a result of being sentenced to imprisonment by the ICC to serve those sentences in Uganda, subject to any conditions consistent with the State and Rules, specified in the notification.

(2) The Minister shall, before issuing a notification under subsection (1) consult with the Minister responsible for internal affairs.

68. Request for sentence to be served in Uganda.

(1) Where—

justice; and

decision to release or transfer the ICC prisoner shall be in accordance with Part 10 of the Statute and the Rules

Minister responsible for internal affairs has consented to the sentence being served in Uganda.

69. Prisoner to be held in custody.

(1) Where the Minister accepts the designation of Uganda as the State in which a sentence of imprisonment imposed by the ICC is to be served, the ICC prisoner may be transported to Uganda in the custody of a person authorised for the purpose by the ICC.

(2) On arrival in Uganda or, if the person is already in Uganda when the sentence is imposed, on the imposition of the sentence, the ICC prisoner shall be detained in accordance with the Prisons Act as if the prisoner had been sentenced to imprisonment under Uganda law.

(3) Notwithstanding anything in subsection (2) or in any other enactment—

- (a) the ICC prisoner has the right to communicate on a confidential basis with the ICC, without impediment from any person;

being served in Uganda has been obtained

(2) The statutory order for the transfer of an ICC prisoner to Uganda authorises the transfer of the prisoner to Uganda to serve the sentence of imprisonment imposed by ICC in accordance with the enforcement conditions specified in the notification issued under section 67.

(3) The statutory order issued under subsection (1) shall—

- (a) specify the name and date of birth of the prisoner to be transferred;
- (b) specify the state from which the prisoner is to be transferred;
- (c) state that the following have been obtained—

- (i) the ICC's agreement to the conditions referred to in subsection(2);
- (ii) the written consent of prisoner or his or her representative to the sentence being served in Uganda; and

(2) If the originator is a State Party that consents to disclosure of the information or document, the Minister shall, subject to article 72 of the Statute, provide that information or document to the ICC.

(3) If the originator is a State Party that undertakes to resolve the issue of disclosure with the ICC under article 73 of the Statute, the Minister shall inform the ICC of that undertaking.

(4) If the originator is not a State Party and refuses to consent to disclosure, the Minister shall inform the ICC that he or she is unable to provide the document or information because of an existing obligation of confidentiality to the originator.

89. Request for Uganda's consent to disclosure.

(1) If a request is received from another State for Uganda's consent to the disclosure to the ICC of a document or information that had been disclosed to the State in confidence, the Minister shall either—

- (a) consent to the disclosure; or
- (b) undertake to resolve the matter with the ICC under article 73 of the Statute.

(2) The provision of an undertaking under subsection (1)(b) does not prevent the Minister from refusing the assistance sought in accordance with section 88(4).

PART VIII—INVESTIGATIONS OR SITTINGS OF ICC IN UGANDA

90. Prosecutor may conduct investigations in Uganda.

The Prosecutor may conduct investigations in Ugandan territory—

- (a) in accordance with the provisions of Part 9 of the Statute; or
- (b) as authorised by the Pre-Trial Chamber under article 57(3)(d) of the Statute.

91. ICC sittings in Uganda.

The ICC may sit in Uganda for the purpose of performing its functions under the Statute and under the Rules, including, without limitation—

- (a) taking evidence;
- (b) conducting or continuing a proceeding;
- (c) giving judgment in a proceeding; or
- (d) reviewing a sentence.

92. ICC powers while sitting in Uganda.

(1) While the ICC is sitting in Uganda, it may perform and exercise its functions and powers as provided under the Statute and under the Rules.

(2) In the performance of its functions, the ICC shall have the power—

- (a) to issue summons or other orders requiring the attendance of any person before the ICC and the production of any document or record relevant to any investigation by the ICC;
- (b) to question any person in respect of any subject matter under investigation before the ICC;
- (c) to require any person to disclose any information within his or her knowledge relevant to any investigation by the ICC; and
- (d) to commit persons for contempt of its orders.

93. ICC may administer oaths in Uganda.

The ICC may, at any sitting of the ICC in Uganda, administer an oath or affirmation giving an undertaking as to truthfulness in accordance with the practice and procedure of the ICC.

94. Orders made by ICC not subject to review.

No application for review and no application for an order of mandamus or prohibition or certiorari or for a declaration or injunction may be entertained in respect of any judgment or order or determination of the ICC that is made or given at a sitting of the ICC in Uganda.

95. Power to detain ICC prisoners in Uganda prison.

(1) A person in Uganda shall be kept in such custody as the Minister directs in writing if—

- (a) the ICC holds any sitting in Uganda; and
- (b) the ICC requests that the person whose presence is required at the proceedings be held in custody as an ICC prisoner while the sitting continues in Uganda.

(2) A direction given under subsection (1) in respect of an ICC prisoner is sufficient authority for the detention of that prisoner in accordance with the terms of the direction.

(3) If an ICC prisoner is directed to be detained in a prison under subsection (1), the Prisons Act so far as applicable and with all necessary modifications, shall apply with respect to that prisoner as if the prisoner had been remanded in custody or sentenced to imprisonment for an Uganda offence, as the case may require, and is liable to be detained in a prison under such an order or sentence.

(4) For the purposes of section 109 of the Penal Code (which relates to escape from lawful custody) and section 110 (which relates to aiding prisoners to escape) an ICC prisoner who is in custody in a Uganda prison or other detention facility shall be deemed to be in lawful custody while in Uganda.

96. Removal of ICC prisoner.

If the Minister is satisfied that the presence of an ICC prisoner who was the subject of a direction under section 95(1) is no longer necessary, sections 77 to 80 apply with any necessary modifications to that person.

PART IX—REQUESTS TO ICC FOR ASSISTANCE

97. Minister may request assistance from ICC.

The Minister may make a request to the ICC for assistance in accordance with this Part in an investigation into, or trial in respect of, conduct that

may constitute a crime within the jurisdiction of the ICC or that constitutes a crime for which the maximum penalty under Uganda law is a term of imprisonment of not less than 5 years.

98. Urgent requests.

An urgent request for assistance may be made or transmitted to the ICC in the manner specified in article 96 (1) of the Statute.

99. Types of requests to ICC.

A request may be made under this Part for any assistance that the ICC may lawfully give including, but not limited to—

- (a) the transmission of statements, documents, or other types of evidence obtained in the course of an investigation or a trial conducted by the ICC; and
- (b) the questioning of any person detained by order of the ICC.

PART X—MISCELLANEOUS PROVISIONS

100. Certificates given by Minister.

(1) If the Minister receives a request for assistance from the ICC to which Part V relates, the Minister may give a certificate certifying all or any of the following facts—

- (a) that a request for assistance has been made by the ICC;
- (b) that the request meets the requirements of this Act; and
- (c) that the acceptance of the request has been duly made under and in accordance with this Act.

(2) In any proceeding under this Act, a certificate purporting to have been given under subsection (1) shall, in the absence of proof to the contrary, be sufficient evidence of the matters certified by the certificate.

101. Legal personality and privileges and immunities.

(1) The ICC shall have legal personality in Uganda with such legal capacity as may be necessary for the performance of its functions and the fulfilment of its purposes.

(2) The ICC shall have the capacity to contract, to acquire and dispose of immovable and movable property and to participate in legal proceedings.

(3) The Judges, the Prosecutor, the Deputy Prosecutors, the Registrar, the Deputy Registrar, staff and personnel of the Office of the Prosecutor and of the Registry, counsel and persons assisting defence counsel, witnesses, victims, experts and other persons required to be in Uganda for the performance of official functions or for participation in proceedings relating to the ICC shall have the privileges and immunities as set out in article 48 of the Statute and the Agreement on the Privileges and Immunities of the International Criminal Court.

(4) Article 48 of the Statute and articles 2-11,13-22,25-27,29, and 30 of the Agreement on the Privileges and Immunities of the International Criminal Court shall have the force of law in Uganda and references in those articles to the State Party shall, for this purpose, be construed as references to the Republic of Uganda.

102. Regulations.

(1) The Minister may, by statutory instrument, make regulations for all or any of the following purposes—

- (a) prescribing the procedure to be followed in dealing with requests made by the ICC, and providing for notification of the results of action taken in accordance with any such request;
- (b) providing for temporary surrender of a person;
- (c) prescribing the procedures for obtaining evidence or producing documents or other articles in accordance with a request made by the ICC;

- (d) providing for the payment of fees, travelling allowances, and expenses to any person in Uganda who gives or provides evidence or assistance pursuant to a request made by the ICC;
- (e) prescribing conditions for the protection of any property sent to the ICC pursuant to a request made under this Act, and making provision for the return of property in Uganda in accordance with a request;
- (f) providing for management and disposal of property under a freezing, seizing or forfeiture order;
- (g) prescribing the forms of applications, notices, certificates, warrants and other documents for the purposes of this Act, and requiring the use of such forms; and
- (h) providing for any other matters contemplated by this Act, necessary for its implementation, or necessary for giving it full effect.

(2) Without limiting subsection (1), the Minister may, by statutory instrument, make regulations to implement any obligation that is placed on States Parties by the Rules of Evidence and Procedure if that obligation is not inconsistent with the provisions of this Act.

Cross References

Extradition Act, Cap. 117
Geneva Conventions Act, Cap. 363
Magistrates Courts Act, Cap. 16
Penal Code Act Cap. 120
Prisons Act, Cap. 304
Trial on Indictments Act, Cap. 23
Uganda Citizenship and Immigration Control Act, Cap. 66