



# International Criminal Court Act 2001

## 2001 CHAPTER 17

### PART 5

#### OFFENCES UNDER DOMESTIC LAW

##### *Supplementary provisions*

#### **65 Responsibility of commanders and other superiors**

- (1) This section applies in relation to—
  - (a) offences under this Part, and
  - (b) offences ancillary to such offences.
- (2) A military commander, or a person effectively acting as a military commander, is responsible for offences committed by forces under his effective command and control, or (as the case may be) his effective authority and control, as a result of his failure to exercise control properly over such forces where—
  - (a) he either knew, or owing to the circumstances at the time, should have known that the forces were committing or about to commit such offences, and
  - (b) he failed to take all necessary and reasonable measures within his power to prevent or repress their commission or to submit the matter to the competent authorities for investigation and prosecution.
- (3) With respect to superior and subordinate relationships not described in subsection (2), a superior is responsible for offences committed by subordinates under his effective authority and control, as a result of his failure to exercise control properly over such subordinates where—
  - (a) he either knew, or consciously disregarded information which clearly indicated, that the subordinates were committing or about to commit such offences,
  - (b) the offences concerned activities that were within his effective responsibility and control, and

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*Status: This is the original version (as it was originally enacted).*

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- (c) he failed to take all necessary and reasonable measures within his power to prevent or repress their commission or to submit the matter to the competent authorities for investigation and prosecution.
- (4) A person responsible under this section for an offence is regarded as aiding, abetting, counselling or procuring the commission of the offence.
- (5) In interpreting and applying the provisions of this section (which corresponds to article 28) the court shall take into account any relevant judgment or decision of the ICC.  
Account may also be taken of any other relevant international jurisprudence.
- (6) Nothing in this section shall be read as restricting or excluding—
  - (a) any liability of the commander or superior apart from this section, or
  - (b) the liability of persons other than the commander or superior.