

## **EXPLANATORY STATEMENT**

### **Select Legislative Instrument 2008 No. 7**

Issued by the authority of the Attorney-General

*International Criminal Court Act 2002*

*International Criminal Court Regulations 2008*

Section 188 of the *International Criminal Court Act 2002* (the Act) provides, in part, that the Governor-General may make regulations prescribing matters required or permitted by the Act to be prescribed or necessary or convenient to be prescribed for carrying out or giving effect to the Act.

The Act implements Australia's international obligations under the *Rome Statute of the International Criminal Court* (the Statute) which Australia signed on 9 December 1998. The Statute imposes certain obligations on State Parties to cooperate fully with the International Criminal Court (ICC). These obligations include, amongst other things, cooperation in the request for the arrest or provisional arrest of a person and the surrender of a person to the ICC and assistance with the forfeiture of property related to crimes within the jurisdiction of the ICC.

The Act prescribes procedures which govern Australia's cooperation with the ICC, including requirements for certain notices, applications, authorisations and warrants to be executed in a prescribed form.

The Regulations prescribe 11 statutory forms. The statutory forms specify the format and content of certain notices, warrants and applications.

Forms 1–8 relate to requests for the arrest and surrender of a person. Forms 9–11 relate to requests for the registration of ICC orders for reparation, fines and forfeiture. Each form specifies the person (or class of persons) to whom the notice, application, authorisation or warrant is to be directed, in addition to the person (or class of persons) who is issuing the relevant document. The forms also prescribe the content of the relevant notice, application, authorisation or warrant. The prescribed contents of the forms are based on the corresponding provisions of the Act.

The Regulations are a legislative instrument for the purposes of the *Legislative Instruments Act 2003*.

No consultation was undertaken on the Regulations as they are of a machinery nature and do not substantially alter existing arrangements.

The Regulations commenced on the day after they were registered on the Federal Register of Legislative Instruments.

Details of the Regulations are set out in the Attachment.

Details of *International Criminal Court Regulations 2008*

**Regulation 1** is a citation provision.

**Regulation 2** provides for the Regulations to commence on the day after they are registered on the Federal Register of Legislative Instruments.

**Regulation 3** provides that, for the purposes of the Regulations, 'Act' means the *International Criminal Court Act 2002*.

**Sub-regulation 4(1)** provides a table that lists form numbers and their purpose for certain notices, applications, authorisations and warrants mentioned in provisions of the Act. This regulation provides that the forms mentioned in Column 3 of the table are statutory forms for the relevant provision of the Act listed in Column 2.

**Sub-regulation 4(2)** provides that a reference to a form by number is a reference to the form bearing that number in Schedule 1 of the Regulations.

**Schedule 1** contains forms to be issued in relation to certain notices, applications, authorisations and warrants specified in the Act.