

CHAPTER 95

GENEVA CONVENTIONS (SUPPLEMENTARY)

Subsidiary Legislation under the Geneva Conventions Act, 1957 (5 & 6 Eliz. 2 c. 52) of the United Kingdom

S.I. 1959 No. 1301

GENEVA CONVENTIONS

GENEVA CONVENTIONS ACT (COLONIAL TERRITORIES) ORDER IN COUNCIL, 1959*Made 28th July, 1959**Coming into Operation 1st September, 1959*

At the Court of Saint James, the 28th day of July, 1959

Present,

Her Majesty Queen Elizabeth the Queen Mother and

Her Royal Highness The Princess Alexandra of Kent in
Council.

Whereas

* * * * *

And whereas

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Now, therefore, Her Majesty Queen Elizabeth The Queen Mother and Her Royal Highness The Princess Alexandra of Kent, being authorised thereto by the said Letters Patent, and in exercise of the powers conferred on Her Majesty by subsection (2) of section 8 of the Geneva Conventions Act, 1957¹, and of all other powers

¹ 5 & 6 Eliz. 2 c. 52.

enabling Her Majesty in that behalf, do hereby, by and with the advice of Her Majesty's Privy Council, on Her Majesty's behalf order, and it is hereby ordered, as follows —

Citation and commencement.

1. (1) This Order may be cited as the Geneva Conventions Act (Colonial Territories) Order in Council, 1959.

(2) This Order shall come into operation on the first day of September, 1959.

Extension of Geneva Conventions Act, 1957 to Colonial territories.

2. Subject to the exceptions and modifications specified in the Second Schedule to this Order, the provisions of the Geneva Conventions Act, 1957 (other than section 4 and subsection (2) of section 8) shall extend to the territories specified in the First Schedule to this Order.

Interpretation.

3. The Interpretation Act, 1889², shall apply for the purpose of interpreting this Order as it applies for the purpose of interpreting an Act of Parliament.

FIRST SCHEDULE

TERRITORIES TO WHICH THE ACT EXTENDS

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Bahamas.

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SECOND SCHEDULE

EXCEPTIONS AND MODIFICATIONS TO BE MADE IN THE EXTENSION OF THE ACT TO THE TERRITORIES SPECIFIED IN THE FIRST SCHEDULE

1. (1) For the words “United Kingdom” wherever they occur there shall be substituted the word “Territory”.

(2) For the words “the Secretary of State”, “the Army Council” or “the Board of Trade” wherever they occur there shall be substituted the words “the Governor”.

2. (1) In subsection (1) of section 1 for the word “felony” there shall be substituted the words “an offence”.

² 52 and 53 Vict. c. 63.

(2) In subsection (2) of section 1 the word “indicated” shall be omitted.

(3) For subsection (3) of section 1 the following subsection shall be substituted —

“(3) Proceedings for an offence under this section shall not be instituted in the Territory without the consent of the appropriate legal officer of the Territory.”

(4) Subsection (5) of section 1 shall be omitted.

3. (1) In section 3 for the word “counsel” wherever it occurs there shall be substituted the words “an advocate” except where the following provisions of this paragraph otherwise require.

(2) In paragraph (ii) of subsection (1) of section 3 for the words “the solicitor by whom that counsel was instructed” there shall be substituted the words “that advocate or, where that advocate is instructed by a solicitor, to the solicitor by whom he is instructed”.

(3) In subsection (3) of section 3 for the words “a solicitor and counsel” there shall be substituted the words “an advocate and, where the law or practice of the Territory requires that in proceedings before the court an advocate shall be instructed by a solicitor, a solicitor”.

(4) Subsection (4) of section 3 shall be omitted.

(5) In subsection (5) of section 3 —

- (a) for the words “A solicitor or counsel shall be assigned in pursuance of subsection (3) of this section in such manner as Her Majesty may by Order in Council prescribe, and any solicitor or counsel” there shall be substituted the words “An advocate or solicitor shall be assigned in pursuance of subsection (3) of this section in such manner as the Governor may by regulations prescribe, and any advocate or solicitor”;
- (b) for the word “Parliament” there shall be substituted the words “the legislature of the Territory”;
- (c) the words “made by statutory instrument” shall be omitted.

(6) After subsection (5) of section 3 there shall be inserted the following subsection —

“(6) In this section —

‘advocate’ means, in relation to proceedings before any court, a legal practitioner who has a right of audience in that court; and

‘solicitor’ means, in relation to proceedings before any court, a legal practitioner who has a right to instruct an advocate in such proceedings.”

4. (1) In subsection (1) of section 5 the words “or, in Northern Ireland, the Minister of Home Affairs for Northern Ireland,” shall be omitted.

(2) In subsection (2) of section 5 the words “or, in Northern Ireland, the Minister aforesaid,” shall be omitted.

5. (1) In subsection (4) of section 6 for the words “passing of this Act” wherever they occur there shall be substituted the words “coming into operation of this Act in the Territory”.

(2) In subsection (5) of section 6 for the word “national” there shall be substituted the word “public”.

(3) In subsection (6) of section 6 for all the words following the word “thereof” there shall be substituted the words “on any ship or aircraft registered in the Territory”.

(4) For subsections (7), (8) and (9) of section 6 there shall be substituted the following subsections —

“(7) Proceedings under this section shall not be instituted in the Territory without the consent of the appropriate legal officer of the Territory.

(8) The authority of the Governor under this section may be given by the Governor or any person or authority authorised in that behalf by the Governor.

(9) (a) The Geneva Convention Act, 1911³, and the Geneva Convention Act, 1937⁴, shall cease to have effect in so far as they form part of the law of the Colonies to which this section extends, and the Geneva Convention Act, 1911 (Colonies) Order in Council, 1917⁵ and the Geneva Convention Act, 1937 (Colonies) Order in Council, 1937⁶ (as amended by the Geneva Convention Act, 1937 (Colonies) (Amendment) Order in Council, 1953⁷ are hereby revoked in relation to those Colonies.”

6. (1) In subsection (1) of section 7 —

(a) the definition of “enactment” shall be omitted;

(b) immediately before the definition of a “protected internee” there shall be inserted the following definition —

“‘Governor’, in relation to any Territory, means the Governor of the Territory and includes any person administering the government of the Territory.”

³ 1 & 2 Geo. 5 c. 20.

⁴ 1 Edw. 8 & 1 Geo. 6. c. 15.

⁵ S.R. & O. 1917/1142 (Rev. IX, p. 596: 1917, p. 379).

⁶ S.R. & O. 1937/1218 (Rev. IX, p. 597: 1937, p. 835).

⁷ S.I. 1953/748 (1953 I, p. 835).

(c) there shall be inserted at the end of the subsection the following definition —

“‘Territory’ means any of the territories to which the foregoing provisions of this Act extend and includes the dependencies thereof.”

(2) At the end of section 7 there shall be inserted the following subsection —

“(3) The references in this Act to the consent of the appropriate legal officer of a Territory in connection with the institution of proceedings for an offence shall be construed as references to the consent of the Attorney-General or other principal Law Officer of the Territory (including any person for the time being discharging the functions of that office) or to such other officer as the Governor may, either generally or in relation to specified classes of proceedings, prescribe by order.”