

THE GENEVA CONVENTIONS (AMENDMENT) BILL
(No II of 2003)

Explanatory Memorandum

The object of this Bill is to amend the Geneva Conventions Act to incorporate the Protocols Additional to the Geneva Conventions of 12 August 1949 for the Protection of War Victims and to provide for matters connected herewith.

21 March 2003

Sir Anerood Jugnauth
*Prime Minister,
Minister of Defence & Home Affairs, and
Minister of External Communications*

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ARRANGEMENT OF CLAUSES

Clause

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A BILL

To amend the Geneva Conventions Act

ENACTED by the Parliament of Mauritius, as follows -

1. Short title

This Act may be cited as the Geneva Conventions (Amendment) Act 2003.

2. Interpretation

In this Act -

"principal Act" means the Geneva Conventions Act.

3. Section 2 of principal Act amended

Section 2 of the principal Act is amended -

- (a) by inserting in their appropriate alphabetical places, the following definitions -

"Court" does not include a court-martial or other military court;

"Protocol I" means the Protocol Additional to the Geneva Conventions of 12 August 1949, and relating to the Protection of Victims of International Armed Conflicts (Protocol I), done at Geneva on 10 June 1977;

"Protocol II" means the Protocol Additional to the Geneva Conventions of 12 August 1949, and relating to the Protection of Victims of Non-International Armed Conflicts (Protocol II), done at Geneva on 10 June 1977;

"Protocols" means Protocol I and Protocol II;

- (b) in the definitions of "protected internee" and "protecting power", by adding immediately after the words "Fourth Convention", the words "or Protocol I";
- (c) in the definition of "protected prisoner of war", by adding immediately after the words "Third Convention", the words "or a person who is protected as a prisoner of war under Protocol I".

4. Section 3 of principal Act amended

Section 3 of the principal Act is amended -

- (a) in the heading, by adding immediately after the word "Conventions", the words "and Protocol I";
- (b) in subsection (1), by inserting immediately after the words "the Conventions", the words "or of Protocol I";
- (c) in subsection (2), by adding the following new paragraph, the full stop at the end of paragraph (d) being replaced by a semi-colon -
 - (e) a grave breach of Protocol I is any breach referred to as a grave breach of that Protocol in paragraph 4 of article 11, or paragraph 2, 3 or 4 of article 85, of that Protocol.
- (d) in subsection (4)(a), by inserting immediately after the words "the relevant Convention", the words "or of Protocol I";
- (e) by inserting immediately after subsection (4) the following new subsections -

(4A) Any person who, in Mauritius, commits any breach of any of the Conventions or Protocols other than a breach covered by subsection (2) shall commit an offence and shall, on conviction, be liable to a fine not exceeding 10,000 rupees.

(4B) A Mauritian Court shall have jurisdiction to try the offence, and inflict the penalty, specified in subsection (4A), where the act constituting the offence under that subsection has been done or completed outside Mauritius.

- (f) in subsection (7), by deleting the words ", any question arises under article 2 of that Convention" and replacing them by the words "or of the Protocols, any question arises under article 2 or 3 of that Convention, article 1 or 3 of Protocol I or article 1 of Protocol II,";
- (g) by adding immediately after subsection (7), the following new subsection -

(8) The Minister's certificate under subsection (7) shall be *prima facie* evidence of the matter stated therein.

5. Section 5 of principal Act amended

Section 5 of the principal Act is amended -

- (a) in the heading, by deleting the words "of prisoners of war";
- (b) in section (1), by deleting the words "a protected prisoner of war is brought up for trial for any offence" and replacing them by the words "any person is brought up for trial for an offence under section 3, or a protected prisoner of war or protected internee is brought up for trial for any offence".

6. Section 6 of principal Act amended

Section 6 of the principal Act is amended -

- (a) in subsection (1), by deleting the words "to death or";
- (b) in subsection (2), by inserting immediately after the words "subsection (1)", the words "or (2)";
- (c) in subsection (3), by inserting immediately after the words "Subsection (1)", the words "or (2)";
- (d) by deleting subsections (4) and (5).

7. Section 8 of principal Act amended

Section 8 of the principal Act is amended -

- (a) in subsection (1) -
 - (i) by deleting the words "without the authority of the Minister, use" and replacing them by the words "without the consent of the Minister, use or display for any purpose";
 - (ii) in paragraph (d), by deleting the words "a design consisting" and replacing them by the words "the emblem" and by deleting the word "or" at the end;
 - (iii) by deleting paragraph (e) and replacing it by the following paragraphs -

- (e) the sign of an equilateral blue triangle on, and completely surrounded by, an orange ground, being the international distinctive sign of civil defence;
 - (f) any of the distinctive signals specified in Chapter III of Annex I to Protocol I, being the signals of identification for medical units and transports;
 - (g) the sign consisting of a group of 3 bright orange circles of equal size, placed on the same axis, the distance between each circle being one radius, being the international special sign for works and installations containing dangerous forces;
 - (h) any design, wording or signal so nearly resembling any of the emblems, designations, signs or signals specified in paragraphs (a) to (g) as to be capable of being mistaken for, or, as the case may be, understood as referring to, one of those emblems, designations, signs or signals;
 - (i) such other flags, emblems, designations, signs, signals, designs, wordings, identity cards, information cards, insignia or uniforms as are prescribed for the purpose of giving effect to the Conventions or Protocols.
- (b) by adding immediately after subsection (1) the following new subsection -

(1A) The Minister, in exercising his discretion to consent to the use or display of any emblem, sign, signal, design, wording, identity card, identification card, insignia or uniform referred to in subsection (1), -

- (a) shall consider whether such use or display is for the purpose of giving effect to the provisions of the Conventions or Protocols and ,
- (b) may refuse or withdraw his consent as he thinks fit.

- (c) by deleting subsection (2) and replacing it by the following subsection -

(2) Any person who contravenes subsection (1) shall commit an offence and shall, on conviction, be liable to a fine not exceeding 10,000 rupees and the Court may order the forfeiture to the State of any goods or other article upon, or in connection with, which an emblem, a designation, a sign, a signal, a design or a wording was used by that

person, or of any identity card, identification card, insignia or uniform used in the commission of the offence.

8. Section 9 of principal Act repealed and replaced

Section 9 of the principal Act is repealed and replaced by the following section -

9. Regulations

(1) The Minister may make such regulations as he thinks fit for the purposes of this Act.

(2) Any regulations made under subsection (1) may provide -

- (a) for the form of flags, emblems, designations, signs, signals, designs, wordings, identity cards, information cards, insignia or uniforms for use for the purposes of giving effect to the Conventions or the Protocols or both, and regulating their use;
- (b) that any person who contravenes them shall commit an offence and shall, on conviction, be liable to a fine not exceeding 10,000 rupees or to imprisonment for a term not exceeding 2 years.