
STATUTORY INSTRUMENTS

2010 No. 2964

GENEVA CONVENTIONS

The Geneva Conventions Act (Isle of Man) Order 2010

Made - - - - *15th December 2010*

Coming into force - - *15th January 2011*

At the Court at Buckingham Palace, the 15th day of December 2010

Present,

The Queen's Most Excellent Majesty in Council

Her Majesty, in exercise of the powers conferred on Her by section 8(2)(b) of the Geneva Conventions Act 1957⁽¹⁾ and section 79(3) of the International Criminal Court Act 2001⁽²⁾, is pleased, by and with the advice of Her Privy Council, to make the following Order:

1. This Order may be cited as the Geneva Conventions Act (Isle of Man) Order 2010 and shall come into force on 15th January 2011.

2. The Geneva Conventions Act 1957, as amended by the Geneva Conventions (Amendment) Act 1995⁽³⁾, the International Criminal Court Act 2001⁽⁴⁾ and the Geneva Conventions and United Nations Personnel (Protocols) Act 2009⁽⁵⁾ shall extend to the Isle of Man, subject to the exceptions and modifications specified in the Schedule to this Order.

3. The amendments to the Geneva Conventions Act 1957 made by sections 70(1) and 70(2) of, and section 83 of and Schedule 10 to, the International Criminal Court Act 2001 do not apply in relation to offences committed before 1 April 2004⁽⁶⁾.

4. The Geneva Conventions Act (Isle of Man) Order 1970⁽⁷⁾; the Geneva Conventions Act (Isle of Man) Order 1999⁽⁸⁾; and article 2(d) and (e) of, and paragraph 3 of the Schedule to, the International Criminal Court Act 2001 (Isle of Man) Order 2004⁽⁹⁾ are revoked.

(1) 1957 c.52; by virtue of section 7(4) of the Geneva Conventions (Amendment) Act 1995 (c. 27) and section 3(3) of the Geneva Conventions and United Nations Personnel (Protocols) Act 2009 (c. 6), section 8(2) of the 1957 Act applies in relation to the provisions of the 1995 Act and section 1 of and the Schedule to the 2009 Act as if they were contained in the 1957 Act.

(2) 2001 c. 17.

(3) 1995 c. 27, sections 1 to 6.

(4) 2001 c. 17, section 70 (amendment of Geneva Conventions Act 1957) and section 83 and Schedule 10 (repeals), so far as they relate to the Geneva Conventions Act 1957 and the Geneva Conventions (Amendment) Act 1995.

(5) 2009 c. 6, section 1 and the Schedule (amendments of the Geneva Conventions Act 1957).

(6) The amendments made by section 70 of the International Criminal Court Act 2001 and the consequential repeals made by section 83 of and Schedule 10 to the Act applied to Isle of Man from that date with the coming into force of S.I. 2004/714.

(7) S.I. 1970/1677.

(8) S.I. 1999/1743.

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Judith Simpson
Clerk of the Privy Council

SCHEDULE

Article 2

Exceptions and modifications to be made in the extension of the Geneva Conventions Act 1957 to the Isle of Man.

1.—(1) For “United Kingdom”, wherever it occurs except where a contrary intention appears in the Schedule, substitute “Isle of Man”.

(2) For “Secretary of State”, wherever it occurs, substitute “Governor”.

2. In section 1 (grave breaches of scheduled conventions), omit subsection (2).

3. In section 1A (trial and punishment of offences under s.1)—

(a) in subsection (2) for “indictment” substitute “information”;

(b) for subsection (3) substitute—

“(3) Proceedings for an offence shall not be instituted except by or with the consent of the Attorney General.”;

(c) in subsection (4) for “any place in the United Kingdom” substitute “the Isle of Man”;

(d) in subsection (5) for “the part of the United Kingdom in which the proceedings are brought” substitute “the Isle of Man”; and

(e) in subsection (6) for “imprisonment” substitute “custody”.

4. In section 2 (notice of trial of protected persons to be served on protecting power, etc.), in subsection (1)(b) for “imprisonment” substitute “custody”.

5. In section 3 (legal representation of certain persons)—

(a) for “counsel”, wherever it occurs, substitute “an advocate” except where the following provisions of this paragraph provide otherwise;

(b) in paragraph (ii) of subsection (1) for “the solicitor by whom that counsel was instructed” substitute “that advocate”;

(c) in subsection (3) for “a solicitor and counsel” substitute “an advocate”;

(d) omit subsection (4); and

(e) in subsection (5)—

(i) for “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” substitute “An advocate shall be assigned in pursuance of subsection (3) of this section in such manner as the Governor may by regulations prescribe, and any advocate”;

(ii) for “Parliament” substitute “Tynwald”; and

(iii) omit “made by statutory instrument”.

6. For section 4 (appeals by protected persons) substitute—

“4. Appeals by protected persons

Where a protected prisoner of war or protected internee has been sentenced to death or to custody for a term of two years or more, the time within which he must give notice of appeal or notice of his application for leave to appeal to the criminal jurisdiction of the Staff of Government Division of the High Court of Justice of the Isle of Man shall, notwithstanding anything in the enactment relating to such appeals, be the period from the date of his conviction or, in the case of an appeal against sentence, of his sentence to the expiration of 28 days after the date on which he received a notice given—

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- (a) in the case of a protected prisoner of war, by an officer of Her Majesty's forces;
- (b) in the case of a protected internee, by or on behalf of the governor of the prison in which he is confined,

that the protecting power has been notified of his conviction and sentence; and, in a case to which the foregoing provisions of this section apply, a reference to the period aforesaid shall be substituted for the reference in section 38 of the Criminal Jurisdiction Act 1993 (an Act of Tynwald)(10) (which relates to restitution of property on conviction) to the period of 28 days from the date of conviction.”.

7. In section 5 (reduction of sentence and custody of protected persons)–

- (a) in subsection (1)–
 - (i) omit “or, in Northern Ireland, the Minister of Home Affairs for Northern Ireland,”;
 - (ii) for “imprisonment” substitute “custody”; and
 - (iii) for “committal” substitute “having been sent”; and
- (b) in subsection (2)–
 - (i) omit “or, in Northern Ireland, the Minister aforesaid,”; and
 - (ii) for “committal”, where it first occurs, substitute “having been sent”.

8. In section 6 (use of Red Cross and other emblems)–

- (a) in subsection (3) for “level 5 on the standard scale”(11) substitute “£5,000”;
- (b) in subsection (4) for “the passing of this Act” in each place it occurs, substitute “1st December 1970”;
- (c) in subsection (4A) for the second sentence substitute “For the purposes of this subsection references in subsection (4) of this section to 1st December 1970 shall be construed as references to 22nd July 1999.”;
- (d) for subsection (4D) substitute–

“(4D) For the purposes of subsection (4B) of this section references in subsection (4) of this section to 1st December 1970 shall be construed as references to the coming into force of the Geneva Conventions Act 1957 (Isle of Man) Order 2010.”;
- (e) in subsection (5) for “national” substitute “public”;
- (f) in subsection (6) for paragraphs (a) and (b) substitute “any ship or aircraft registered in the Isle of Man”;
- (g) for subsection (7) substitute—

“(7) Proceedings for an offence under this section shall not be instituted except by or with the consent of the Attorney General.”; and
- (h) omit subsection (8).

9. In section 6A (regulations), omit subsection (3).

10. In section 7 (interpretation)–

- (a) in subsection (1)—
 - (i) before the definition of “enactment” insert—

(10) 1993 c. 9.

(11) Section 6(3) was amended by virtue of sections 37, 38 and 46 of the Criminal Justice Act 1982 (c. 48) which replaced references to monetary amounts in previous enactments with references to the standard scale. These sections of the 1982 Act were applied to the Isle of Man by the Criminal Justice Act 1982 (Isle of Man) Order 1983 (S.I. 1983/1898). Section 6(3) was then further amended by the Geneva Conventions (Amendment) Act 1995.

““advocate” means a person entitled to practise as such in the High Court of Justice of the Isle of Man or courts subordinate thereto under the provisions of the law of the Isle of Man for the time being applicable to advocates;

“custody” is to be construed in accordance with section 1 of the Custody Act 1995 (an Act of Tynwald)(12);”;

(ii) for the definition of “enactment” substitute—

““enactment” means an Act of Tynwald or any instrument made under an Act of Tynwald;”;

(iii) after the definition of “enactment” insert—

““Governor” means the Lieutenant Governor of the Isle of Man, and includes a deputy Governor or acting Governor;”;

(b) after subsection (2) insert—

“(2A) The first protocol and the second protocol shall for the purposes of this Act be construed subject to and in accordance with—

(a) any reservation or declaration certified by Her Majesty by Order in Council to have been made by the United Kingdom on ratification of the protocols, and which has not been so certified as having been withdrawn;

(b) any amendment to the Fifth Schedule to this Act made by Her Majesty by Order in Council so as to ensure that the Schedule sets out the text of the first protocol as in force in relation to the United Kingdom.”;

(c) omit subsections (3), (4) and (5).

11. In Section 8 (short title and extent), omit subsection (2).

EXPLANATORY NOTE

(This note is not part of the Order)

This Order consolidates and revokes the Orders which extended the Geneva Conventions Act 1957, and amendments made to that Act by the Geneva Conventions (Amendment) Act 1995 and the International Criminal Court Act 2001, to the Isle of Man.

The Order also extends the amendments to the 1957 Act made by section 1 of and the Schedule to the Geneva Conventions and United Nations Personnel (Protocols) Act 2009. This will allow the Protocol additional to the Geneva Conventions of 12 August 1949, and relating to the adoption of an Additional Distinctive Emblem, of 8 December 2005, which prescribes a new humanitarian symbol to be known as the Red Crystal, to be extended to the Isle of Man.

(12) 1995 c. 16.