



# Geneva Conventions Act 1957

1957 CHAPTER 52 5 and 6 Eliz 2

*Provisions as to certain legal proceedings*

## **2 Notice of trial of protected persons to be served on protecting power, etc.**

(1) The court before which—

- (a) a protected prisoner of war is brought up for trial for any offence; or
- (b) a protected internee is brought up for trial for an offence for which that court has power to sentence him to death or to imprisonment for a term of two years or more,

shall not proceed with the trial until it is proved to the satisfaction of the court that a notice containing the particulars mentioned in the next following subsection, so far as they are known to the prosecutor, has been served not less than three weeks previously on the protecting power and, if the accused is a protected prisoner of war, on the accused and the prisoners' representative.

(2) The particulars referred to in the foregoing subsection are—

- (a) the full name and description of the accused, including the date of his birth and his profession or trade, if any, and, if the accused is a protected prisoner of war, his rank and army, regimental, personal or serial number;
- (b) his place of detention, internment or residence;
- (c) the offence with which he is charged; and
- (d) the court before which the trial is to take place and the time and place appointed for the trial.

(3) For the purposes of this section a document purporting—

- (a) to be signed on behalf of the protecting power or by the prisoners' representative or by the person accused, as the case may be; and
- (b) to be an acknowledgment of the receipt by that power, representative or person on a specified day of a notice described therein as a notice under this section,

shall, unless the contrary is shown, be sufficient evidence that the notice required by subsection (1) of this section was served on that power, representative or person on that day.

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- (4) In this section the expression “prisoners’ representative” in relation to a particular protected prisoner of war at a particular time means the person by whom the functions of prisoners’ representative within the meaning of article 79 of the convention set out in the Third Schedule to this Act were exercisable in relation to that prisoner at the camp or place at which that prisoner was, at or last before that time, detained as a protected prisoner of war.
- (5) Any court which adjourns a trial for the purpose of enabling the requirements of this section to be complied with may, notwithstanding anything in any other enactment, remand the accused for the period of the adjournment.

### **3 Legal representation of certain persons.**

- (1) The court before which—
  - (a) any person is brought up for trial for an offence under section one of this Act; or
  - (b) a protected prisoner of war is brought up for trial for any offence,shall not proceed with the trial unless—
  - (i) the accused is represented by counsel; and
  - (ii) it is proved to the satisfaction of the court that a period of not less than fourteen days has elapsed since instructions for the representation of the accused at the trial were first given to the solicitor by whom that counsel was instructed,and if the court adjourns the trial for the purpose of enabling the requirements of this subsection to be complied with, then, notwithstanding anything in any other enactment, the court may remand the accused for the period of the adjournment.
- (2) Where the accused is a protected prisoner of war, in the absence of counsel accepted by the accused as representing him, counsel instructed for the purpose on behalf of the protecting power shall, without prejudice to the requirements of paragraph (ii) of the foregoing subsection, be regarded for the purposes of that subsection as representing the accused.
- (3) If the court adjourns the trial in pursuance of subsection (1) of this section by reason that the accused is not represented by counsel, the court shall direct that a solicitor and counsel be assigned to watch over the interests of the accused at any further proceedings in connection with the offence, and at any such further proceedings, in the absence of counsel either accepted by the accused as representing him or instructed as mentioned in the last foregoing subsection, counsel assigned in pursuance of this subsection shall, without prejudice to the requirements of paragraph (ii) of the said subsection (1), be regarded for the purposes of that subsection as representing the accused.
- (4) In relation to any proceedings before a court before which the accused may be heard by a solicitor, the foregoing provisions of this section shall be construed, with any necessary modifications, as if references therein to counsel were references to counsel or a solicitor; and for the purposes of any such proceedings the court in giving a direction under the last foregoing subsection may, if the court is satisfied that the nature of the charge and the interests of justice do not require that the interests of the accused should be watched over by counsel, direct that a solicitor only shall be assigned as mentioned in that subsection.

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- (5) 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 so assigned shall be entitled to be paid by the Secretary of State out of moneys provided by Parliament such sums in respect of fees and disbursements as the Secretary of State may by regulations made by statutory instrument prescribe.

[<sup>F1</sup>(6) In this section—

“counsel” includes any person who, for the purposes of the Legal Services Act 2007, is an authorised person in relation to an activity which constitutes the exercise of a right of audience (within the meaning of that Act);

“solicitor” includes any person who, for the purposes of that Act, is an authorised person in relation to an activity which constitutes the conduct of litigation (within the meaning of that Act).]

#### Textual Amendments

- F1** S. 3(6) inserted (1.1.2010) by [Legal Services Act 2007 \(c. 29\)](#), s. 211(2), [Sch. 21 para. 23](#) (with ss. 29, 192, 193); [S.I. 2009/3250](#), art. 2(h)

#### Modifications etc. (not altering text)

- C1** S. 3(3)(4)(5) amended (E.W.)(1.1.1992) by [S.I. 1991/2684](#), arts. 2(1), 4, 5, [Sch.1](#)
- C2** S. 3(3)(4)(5) applied (with modifications) (E.W.S.) (23.12.2011) by [The Legal Services Act 2007 \(Designation as a Licensing Authority\) \(No. 2\) Order 2011 \(S.I. 2011/2866\)](#), art. 1(2), [Sch. 2](#)

## 4 Appeals by protected persons.

[<sup>F2</sup>(1) Where a protected prisoner of war or protected internee has been sentenced to death or to imprisonment 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 division of the Court of Appeal, the High Court of Justiciary or [<sup>F3</sup>the Court of Appeal in Northern Ireland], as the case may be, 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 twenty-eight days after the date on which he received a notice given—

- (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 subsection apply, a reference to the period aforesaid shall be substituted for the reference in section 30(1)( a ) of the <sup>M1</sup> Criminal Appeal Act 1968 and [<sup>F4</sup> section 27(1)( a ) of the <sup>M2</sup> Criminal Appeal (Northern Ireland) Act 1980 ] (revesting and restitution of property) to the period of twenty-eight days from the date of conviction.

- (1A) In the case of an appeal to the [<sup>F5</sup>Supreme Court ] under any of the Acts specified in the left-hand column of the following Table by a protected prisoner of war or protected internee, the period specified in the provision of that Act specified in relation thereto in the right-hand column (the provisions there listed being those which lay down the time for applying for leave to appeal) shall be extended until fourteen days after the date on which the applicant receives notice, given as mentioned in subsection (1)( a ) or ( b ) of this section, that the protecting power has been notified of the decision of

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the court from which the appeal lies, or of the refusal of that court of the application for leave to appeal, as the case may be. ]

#### TABLE

The Administration of Justice Act 1960	Section 2(1)
The Criminal Appeal Act 1968	Section 34(1)
[ <sup>F6</sup> The Criminal Appeal (Northern Ireland) Act 1980]	[ <sup>F6</sup> Section 32(1)]
The Courts-Martial (Appeals) Act 1968	Section 40(1)
(2) . . . . .	<sup>F7</sup>
(3) . . . . .	<sup>F8</sup>

#### Textual Amendments

- F2** S. 4(1)(1A) substituted for s. 4(1) by [Criminal Appeal Act 1968 \(c. 19\)](#), [Sch. 5](#)
- F3** Words substituted by [Judicature \(Northern Ireland\) Act 1978 \(c. 23\)](#), s. 123(2), [Sch. 5 Pt. II](#)
- F4** Words substituted by [Criminal Appeal \(Northern Ireland\) Act 1980 \(c. 47, SIF 38\)](#), s. 51(1), [Sch. 4 para. 3](#)
- F5** Words in s. 4(1A) substituted (1.10.2009) by [Constitutional Reform Act 2005 \(c. 4\)](#), s. 148(1), [Sch. 9 para. 9](#); [S.I. 2009/1604](#), art. 2(d)
- F6** Words substituted by [Criminal Appeal \(Northern Ireland\) Act 1980 \(c. 47, SIF 38\)](#), s. 51(1), [Sch. 4 para. 3](#)
- F7** S. 4(2) repealed with saving for power to extend Act outside UK under s.8(2) of this Act by [Administration of Justice Act 1960 \(c.65\)](#), s.19(3), [Sch. 4](#)
- F8** S. 4(3) repealed by [Courts-Martial \(Appeals\) Act 1968 \(c. 20\)](#), [Sch. 6](#)

#### Marginal Citations

- M1** [1968 c. 19](#).
- M2** [1980 c. 47](#).

## 5 Reduction of sentence and custody of protected persons.

<sup>F9</sup>(1) It shall be lawful for the Secretary of State . . . <sup>F10</sup> in any case in which a protected prisoner of war or a protected internee is convicted of an offence and sentenced to a term of imprisonment, to direct that there shall be deducted from that term a period not exceeding the period, if any, during which that person was in custody in connection with that offence, either on remand or after [<sup>F9</sup>having been sent ] for trial (including the period of the trial), before the sentence began, or is deemed to have begun, to run.

<sup>F11</sup>(2) It shall be lawful for the Secretary of State . . . <sup>F10</sup> in a case where he is satisfied that a protected prisoner of war accused of an offence has been in custody in connection with that offence, either on remand or after [<sup>F11</sup>having been sent] for trial (including the period of the trial), for an aggregate period of not less than three months, to direct that the prisoner shall be transferred from that custody to the custody of an officer of Her Majesty's forces and thereafter remain in military custody at a camp or place in which protected prisoners of war are detained, and be brought before the court at the time appointed by the remand or committal order.

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### Textual Amendments

- F9** Words in s. 5(1) substituted (E.W.) (9.5.2005 for specified purposes, 18.6.2012 for further purposes, 5.11.2012 for further specified purposes and 28.5.2013 for all remaining purposes) by [Criminal Justice Act 2003 \(c. 44\), s. 336\(3\)\(4\), Sch. 3 para. 39\(a\)](#); S.I. 2005/1267, art. 2(1)(2)(a), Sch. Pt. 1; S.I. 2012/1320, art. 4(1)(a)(c)(iii)-(v) (with art. 5); S.I. 2012/2574, art. 2(c) (with arts. 3, 4); S.I. 2013/1103, art. 2(1)(a)(c)(2)-(4) (with arts. 3, 4)
- F10** Words repealed by [S.I. 1973/2163, Sch. 6](#)
- F11** Words in s. 5(2) substituted (E.W.) (9.5.2005 for specified purposes, 18.6.2012 for further purposes, 5.11.2012 for further specified purposes and 28.5.2013 for all remaining purposes) by [Criminal Justice Act 2003 \(c. 44\), s. 336\(3\)\(4\), Sch. 3 para. 39\(b\)](#); S.I. 2005/1267, art. 2(1)(2)(a), Sch. Pt. 1; S.I. 2012/1320, art. 4(1)(a)(c)(iii)-(v) (with art. 5); S.I. 2012/2574, art. 2(c) (with arts. 3, 4); S.I. 2013/1103, art. 2(1)(a)(c)(2)-(4) (with arts. 3, 4)

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