

Geneva Conventions Act, 1960

1. This Act may be cited as the Geneva Conventions Act, and shall have effect as provided in section 12 of this Act.

2. (1) In this Act, the expression "the Conventions" means –

- (a) the First Geneva Convention, 1949;
 - (b) the Second Geneva Convention, 1949;
 - (c) the Third Geneva Convention, 1949; and
 - (d) the Fourth Geneva Convention, 1949,
- and such Conventions respectively mean the Convention done in each case at Geneva on the 12th day of August, 1949 –
- (i) for the amelioration of the condition of the wounded and sick in armed forces in the field,
 - (ii) for the amelioration of the condition of wounded, sick and shipwrecked members of the armed forces at sea.
 - (iii) relative to the treatment of prisoners of war, and
 - (iv) relative to the protection of civilians in time of war.

(2) In this Act, unless the context otherwise requires –

"protected internee" means a person protected by the Fourth Geneva Convention, 1949, and interned in Nigeria;

"protected prisoner of war" means a person protected by the Third Geneva Convention, 1949;

"protecting power" in relation to a protected prisoner of war or a protected internee, means the power or organisation which is carrying out, in the interests of the power of which he is a national, the duties assigned to protecting powers under the Third or, as the case may be, Fourth Geneva Convention, 1949;

"solicitor" includes any legal practitioner having the right of audience before the Supreme Court.

3. (1) If, whether in or outside the Federal Republic of Nigeria, any person, whatever his nationality, commits, or aids, abets or procures any other person to commit any such grave breach of any of the Conventions as is referred to in the articles of the Conventions set out in the First Schedule to this Act, that is to say –

- (a) article 50 of the First Geneva Convention, 1949;
- (b) article 51 of the Second Geneva Convention, 1949;
- (c) article 130 of the Third Geneva Convention, 1949;
- (d) article 147 of the Fourth Geneva Convention, 1949;

he shall, on conviction thereof –

- (i) in the case of such a grave breach as aforesaid involving the wilful killing of a person protected by the Convention in question, be sentenced to death, and
- (ii) in the case of any other such grave breach, be liable to imprisonment for a term not exceeding fourteen years.

(2) A person may be proceeded against, tried and sentenced in the Federal Capital for an offence under this section committed outside Nigeria as if the offence had been committed in the Federal Capital, and the offence shall, for all purposes incidental to or consequential on the trial or punishment thereof, be deemed to have been committed in the Federal Capital.

(3) If, in proceedings under this section for a grave breach of any of the Conventions any question arises under article 2 of the relevant Convention (which relates in the case of each Convention to the circumstances in which the Convention applies and is set out in the Second Schedule to this Act), that question shall be determined by the Minister charged with responsibility for matters relating to defence and a certificate purporting to set out any such determination and to be signed by or on behalf of such Minister shall be received in evidence and deemed to be so signed without further proof, unless the contrary is shown.

4. (1) The President may, by order provide that if any person –

- (a) in Nigeria commits, or aids, abets or procures any other person to commit, whether in or outside Nigeria; or
- (b) being a citizen of Nigeria, or a member of, or attached or seconded to the armed forces of Nigeria, or a person to whom section 193 of the Nigerian Army Act, applies, or a member of or serving with any voluntary aid society formed in Nigeria and recognised as such by the Federal Government, commits whether in or outside Nigeria, or aids, abets or procures any other person to commit, whether in or outside Nigeria, any breach of any of the Conventions which may be specified in the order other than one punishable under section 3 of this Act, he shall be liable to imprisonment for a term not exceeding seven years.

(2) A person may be proceeded against, tried and sentenced in the Federal Capital for an offence under an order made under this section committed outside Nigeria as if the offence had been committed in the Federal Capital, and the offence shall, for all purposes incidental to or consequential on the trial or punishment thereof, be deemed to have been committed in the Federal Capital.

5. (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 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 subsection (2) of this section, so far as they are known to the prosecutor, has been served not less than the three weeks previously, on the protecting power and, if the accused is a protected prisoner of war, on the accused and the prisoner's representative.

(2) The particulars referred to in subsection (1) of this section 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 serviced on that power, representative or person on that day.

(4) In this section, "prisoner's representative," in relation to a particular protected prisoner of war at a particular time means the person by whom the functions of prisoner's representative within the meaning of article 79 of the Third Geneva Convention, 1949, (which is set out in the Second Schedule to this Act) was exercisable in relation to that prisoner at the camp or place where that prisoner was, at or last before that time, detained as a protected prisoner of war.

(5) Notwithstanding anything in any other enactment, any court which adjourns a trial to enable the requirements of this section to be complied with may remand the accused for the period of the adjournment.

6. (1) The court before which –

(a) any person is brought up for trial for an offence under section 3 or 4 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 a solicitor, 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 representing the accused, 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 a solicitor accepted by the accused as representing him, a solicitor instructed for the purpose on behalf of the protecting power shall, without prejudice to the requirements of paragraph (ii) of subsection (1) of this section, be regarded for the purpose 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 a solicitor, the court shall direct that a solicitor be assigned to watch over the interests of the accused at any further proceedings in connection with the offence, and at any such further proceeding, in the absence of a solicitor either accepted by the accused as representing him or instructed as mentioned in subsection (2) of this section; a solicitor assigned in pursuance of this subsection shall, without prejudice to the requirements of paragraph (ii) of subsection (1) of this section, be regarded for the purposes of that subsection as representing the accused.

(4) A solicitor shall be assigned in pursuance of subsection (3) of this section; in such manner as may be provided by rules of court, which the Chief Judges of the respective States of the Federation and the Federal Capital Territory, Abuja are hereby severally empowered to make, and shall be entitled to be paid out of moneys provided by the National Assembly such sums in respect of fees and disbursements as the President may by regulations prescribe.

7. (1) Where a protected prisoner of war or a 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 to any other court in the

Federation shall, notwithstanding anything in any other Act or any Law, be deemed to commence on the day on which he receives a notice given, in the case of a prisoner of war of Commonwealth citizenship by an officer of his country's forces, and in the case of an internee by or on behalf of the superintendent in charge of the prison in which he is confined, that the relevant country has been notified of his conviction and sentence, or of the determination of his appeal, as the case may be.

(2) Nothing in subsection (1) of this section shall affect the power which any court may possess under any written law to enlarge the time within which an appeal may be brought.

(3) In any case to which subsection (1) of this section applies, the period of thirty days referred to in subsection (1) of section 22 of the Court of Appeal Act, (which relates to the re-vesting and restitution of property on conviction) and any period prescribed for the like purpose in any other written law, shall be deemed to commence on the day on which the notice referred to in subsection (1) of this section is received.

(4) In this section –

- (a) any reference to a notice of appeal includes a reference to a notice of application for leave to appeal;
- (b) where an appeal lies from the court in which a case is tried to any other court, and from that other court to any further court or courts in Nigeria any reference to a notice of appeal, or to the determination of an appeal, includes a notice of appeal against any judgment or decision given by any court other than the Court of Appeal, whether at first instance, or on appeal, or to the determination of an appeal by any court other than the Court of Appeal; and
- (c) a reference to a person who has been sentenced to imprisonment for a term of two years or more includes reference to a person who, after the determination of any appeal, is ordered to be imprisoned for a term of two years or more.

8. Where a prisoner of war has been sentenced to death by any court in Nigeria, the sentence shall not be carried out until at least six months after the date on which the protecting power receives a detailed communication containing –

- (a) the precise wording of the finding and sentence; and
- (b) a summarised report of any preliminary investigation and of the trial emphasising in particular the elements of the prosecution and the defence.

9. (1) 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, there shall be deducted from that term the period, if any, during which that person was in custody in connection with that offence, either on remand or after committal for trial (including the period of the trial), before the sentence began to run, or is deemed to have begun to run.

(2) It shall be lawful for the President in a case where he is satisfied that a Commonwealth prisoner of war accused of an offence has been in custody in connection with that offence, either on remand or after committal 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 the armed forces of Nigeria and that he shall 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.

10. (1) Subject to the provisions of this section, it shall not be lawful for any person, without the authority of the Minister charged with responsibility for matters relating to defence, to use for any purpose whatsoever any of the following emblems or designations, that is to say –

- (a) the emblem of a red cross with vertical and horizontal arms of the same length on, and completely surrounded by, a white ground, or the designation "Red Cross" or "Geneva Cross";
- (b) the emblem of a red crescent moon on, and completely surrounded by, a white ground, or the designation "Red Crescent";
- (c) the following emblem in red on, and completely surrounded by, a white ground, that is to say, a lion passing from right to left of, and with its face turned towards the observer, holding erect in its raised right forepaw a scimitar, with, appearing above the lion's back, the upper half of the sun shooting forth rays, or the designation "Red Lion and Sun".

(2) Nothing in subsection (1) of this section shall prevent the use of the emblem and title of the Red Cross by the Nigerian Red Cross Society and its officers and members in accordance with the provisions of the Nigerian Red Cross Society Act, and any rules made thereunder.

(3) Subject to the provisions of this section, it shall not be lawful for any person, without the authority of the Minister charged with responsibility for matters relating to trade marks to use for any purpose whatsoever –

- (a) any design consisting of a white or silver cross with vertical and horizontal arms of the same length on, and completely surrounded by, a red ground, being the heraldic emblem of the Swiss Confederation or any other design so nearly resembling that design as to be capable of being mistaken for that heraldic emblem;

(b) any design or wording so nearly resembling any of the emblem or designations specified in subsection (1) of this section as to be capable of being mistaken for, or, as the case may be, understood as referring to, one of those emblems.

(4) If any person contravenes any of the provisions of subsections (1), (2) or (3) of this section he shall be liable on summary conviction to a fine not exceeding one hundred naira and to forfeit any goods upon or in connection with which the emblem, designation, design or wording was used.

(5) Any goods which cannot be used without a contravention of subsection (3) of this section shall be prohibited imports for the purposes of the customs laws.

(6) The provisions of subsections (1), (2), (3), (4) and (5) of this section shall not apply to a trade mark registered in Nigeria before the date on which this Act comes into operation by reason only of its consisting of or containing a design or wording which reproduces or resembles an emblem or designation specified in paragraph (b) or (c) of subsection (1) of this section and where a person is charged with using such design or wording for any purpose, and it is proved that he used it otherwise than as, or part of, a trade mark registered as aforesaid, it shall be a defence to prove –

(a) that he has lawfully used that design or wording in Nigeria for that purpose continuously since before the 1st day of September, 1949, on which date the Geneva Conventions Act, 1957, of the Parliament of the United Kingdom was made applicable to Nigeria; or

(b) in a case where he is charged with using the design or wording on goods, that the design or wording had been applied to the goods before he acquired them by some other person who had manufactured or dealt with the goods in the course of trade, and who has lawfully used the design or wording in Nigeria on similar goods continuously since before the 1st day of September, 1959.

(7) Where an offence under this section committed by a body corporate is proved to have been committed with the consent or connivance of any director, manager, secretary or other officer of the body corporate, or any person purporting to act in any such capacity, he as well as the body corporate, shall be deemed to be guilty of the offence and shall be liable to be proceeded against and punished accordingly, and in this subsection the expression "director", in relation to any body corporate established by or under any enactment for the purpose of carrying on under public ownership any industry or undertaking or part of an industry or undertaking, being a body corporate whose affairs are managed by the members thereof means a member of that body.

(8) It is hereby declared that this section extends to the use in or outside Nigeria of any such emblem, designation, design or wording as referred to in subsections (1) and (3) of this section on any British ship or aircraft registered in Nigeria.

11. (1) Proceedings for an offence under this Act or under an order made under this Act shall not be instituted except by or on behalf of the Attorney-General of the Federation.

(2) Notwithstanding anything in any other written law, neither a magistrate's court nor a court martial convened under any enactment applicable to the members of the armed forces of Nigeria shall have jurisdiction to try any person for an offence under section 3 of this Act or under an order made under section 4 of this Act.

12. This Act shall apply throughout Nigeria, so however that the provisions of sections 5, 6 and 8 of this Act (which relate to notice of trial of certain persons) shall not have effect in a State unless and until the Governor of the State by notice in the State *Gazette* declares those provisions shall apply.

13. The enactments set out in the Third Schedule to this Act shall, to the extent to which this Act applies to the Federal Republic of Nigeria, cease to have effect in Nigeria.

[...]

THIRD SCHEDULE (section 13)

Enactments repealed

Geneva Convention Act, 1911, 1 and 2 Geo. 5, c.20.

Geneva Convention Act, 1911 (Colonies) Order in Council 1917.

British Protectorates (Geneva Convention) Order in Council, 1917.

Geneva Convention Act, 1937, 1 Edw. 8 and Geo. 6, c. 15.

Geneva Convention Act, 1937 (Colonies) Order in Council, 1937.

British Protectorates (Geneva Convention) Order in Council, 1937.

Geneva Conventions, 1906 and 1929 (Mandated Territories) Order in Council, 1937.

Geneva Conventions Act, 1957 (5 and 6 Eliz. 2, c.52).