

CAYMAN ISLANDS



Supplement No. 6 published with Gazette No. 3 dated
31 January, 2011.

STATUTORY INSTRUMENTS

2010 No. 2963

**THE GENEVA CONVENTIONS (OVERSEAS TERRITORIES)
ORDER 2010**

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GENEVA CONVENTIONS

The Geneva Conventions (Overseas Territories) 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) of the Geneva Conventions Act 1957(**1**) or otherwise in Her Majesty vested, 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 (Overseas Territories) Order 2010. It shall come into force on 15th January 2011.
2. The Geneva Conventions Act 1957 shall extend to the Territories specified in Schedule 1 hereto, subject to the exceptions and modifications specified in Schedule 2 hereto.
3. In its application to the Sovereign Base Areas of Akrotiri and Dhekelia the Geneva Conventions Act 1957, as so excepted and modified, shall be subject to the further modifications and exceptions specified in Schedule 3 hereto.
4. The Geneva Conventions Act (Colonial Territories) Order in Council 1959(**2**) and the Geneva Conventions (Amendment) Act (Overseas Territories) Order 2002(**3**) are revoked.

Judith Simpson

Clerk of the Privy Council

SCHEDULE 1

Article 2

Anguilla

Bermuda

British Antarctic Territory

British Indian Ocean Territory

Cayman Islands

Falkland Islands

Montserrat

Pitcairn, Henderson, Ducie and Oeno Islands

South Georgia and the South Sandwich Islands

St Helena, Ascension and Tristan da Cunha

Sovereign Base Areas of Akrotiri and Dhekelia

Turks and Caicos Islands

Virgin Islands

SCHEDULE 2

Article 2

Exceptions and modifications to be made in the extension of the Geneva Conventions Act 1957, in accordance with Article 2, to the Territories specified in Schedule 1.

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

(2) For the words “Secretary of State” wherever they occur there shall be substituted the word “Governor”.

2. In section 1A, for sub-section (3) there shall be substituted:-

“ (3) Proceedings for an offence shall not be instituted except by or with the consent of the Attorney General or the Director of Public Prosecutions of the Territory as appropriate”.

3. In Section 3:-

- (a) 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.
- (b) In paragraph (ii) of subsection (1) 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”.
- (c) In subsection (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”.
- (d) Subsection (4) shall be omitted.
- (e) In subsection (5):
 - (i) 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”;
 - (ii) for the word “Parliament” there shall be substituted the words “the legislature of the Territory”;
 - (iii) the words “made by statutory instrument” shall be omitted.
- (f) After subsection (5) 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. Section 4 shall be omitted.

5. In section 5:-

- (a) the words “or, in Northern Ireland, the Minister of Home Affairs for Northern Ireland,” and “or, in Northern Ireland, the Minister aforesaid,” shall be omitted;
- (b) for the word “committal” in both places where it occurs there shall be substituted the words “having been sent”.

6. In section 6:-

- (a) In subsection (3) for the words “fifty pounds” there shall be substituted the words “five thousand pounds or its equivalent”;
- (b) In subsection (4) for the words “the passing of this Act” in the three places where they occur there shall be substituted the date “1st September 1959”;
- (c) In subsection (4A) for the second sentence there shall be substituted: “For the purposes of this subsection references in subsection (4) of this section to 1st September 1959 shall be construed as references to 1st May 2002”;
- (d) For subsection (4D) there shall be substituted:

“ (4D) For the purposes of subsection (4B) of this section references in subsection (4) of this section to 1st September 1959 shall be construed as references to the coming into force of the Geneva Conventions (Overseas Territories) Order 2010”;
- (e) In subsection (5) for the word “national” shall be substituted the word “public”;
- (f) In subsection (6) for paragraphs (a) and (b) there shall be substituted: “any ship, aircraft or hovercraft registered in the Territory”;
- (g) For subsection (7) there shall be substituted:

“ (7) Proceedings for an offence under this section shall not be instituted except by or with the consent of the Attorney General or the Director of Public Prosecutions of the Territory as appropriate.”

7. In section 6A, sub-section (3) shall be omitted.

8. In section 7

- (a) In subsection (1) the definition of “enactment” shall be omitted;
- (b) In subsection (1) immediately before the definition of “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”.

- (c) After subsection (2) there shall be inserted the following subsection:

“ (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⁽⁴⁾ 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.”

- (d) Subsections (3), (4) and (5) shall be omitted.

9. Section 8 shall be omitted.

SCHEDULE 3

Article 3

Further exceptions and modifications to be made in the extension of the Geneva Conventions Act 1957 to the Sovereign Base Areas of Akrotiri and Dhekelia.

1. Section 1A(2) shall not apply in relation to the Sovereign Base Areas of Akrotiri and Dhekelia.

EXPLANATORY NOTE

(This note is not part of the Order)

The purpose of this Order is threefold; first to extend to the Territories specified in Schedule 1 the provisions of the Geneva Conventions and United Nations Personnel (Protocols) Act 2009 so that 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, can be extended to those Territories; second to extend to those Territories the amendments to the Geneva Conventions Act 1957 made by the International Criminal Court Act 2001; and third to

consolidate the Orders extending the Geneva Conventions Act 1957, as amended, to the Territories.

- (1) 1957 c. 52 (the Act was amended by sections 1 to 6 of the Geneva Conventions (Amendment) Act 1995(1995 c.27), by sections 70 and 83 of, and Schedule 10 to, the International Criminal Court Act 2001(2001 c.17) and by section 1 of the Geneva Conventions and United Nations Personnel (Protocols) Act 2009 (2009 c.6),
- (2) S.I.1959/1301.
- (3) S.I.2002/1076.
- (4) see S.I. 1998/1754.