

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:—

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- (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⁽¹⁾ 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.

(1) see S.I. 1998/1754.