

# Geneva Conventions Amendment Act 1991

No. 27 of 1991

## An Act to amend the *Geneva Conventions Act 1957*

[Assented to 4 March 1991]

BE IT ENACTED by the Queen, and the Senate and the House of Representatives of the Commonwealth of Australia, as follows:

### Short title etc.

1. (1) This Act may be cited as the Geneva Conventions Amendment Act 1991.
- (2) The Geneva Conventions Act 1957<sup>1</sup> is in this Act referred to as the Principal Act.

### Commencement

2. (1) Subject to subsection (2), this Act commences on a day to be fixed by Proclamation.

(2) If this Act does not commence under subsection (1) within the period of 6 months beginning on the day on which it receives the Royal Assent, it commences on the first day after the end of that period.

(d) by inserting in **paragraph (4) (a)** “or by Protocol I” after “Convention”.

6. Section 8 of the Principal Act is repealed and the following section is substituted:

### Proof of application of Convention or Protocol

“8. If, in proceedings under this Part in respect of a grave breach of any of the Conventions or of Protocol I, a question arises under:

- (a) Article 2 of that Convention (which relates to the circumstances in which the Convention applies); or
- (b) Article 1 of that Protocol (which relates to the circumstances in which the Protocol applies);

a certificate under the hand of the Minister of State for Foreign Affairs and Trade certifying to any matter relevant to that question is *prima facie* evidence of the matter so certified.”.

7. Before **section 11** of the Principal Act the following section is inserted in **Part III**:

## **Court may determine whether person is a protected prisoner of war**

“10A. (1) A person referred to in **paragraph 1 or 2 of Article 45** of Protocol I may apply to the Supreme Court of the State or Territory in which the person is held in custody for a declaration that he or she has the status of a protected prisoner of war.

“(2) The jurisdiction of a Court for the purposes of this section is constituted by a single Judge.

“(3) Subject to subsection (4), the jurisdiction of the Court is to be exercised in open court.

“(4) The Court may order the exclusion of the public or persons specified by the Court from a sitting of the Court where the Court is satisfied that the presence of the public or those persons, as the case may be, would be contrary to the interests of justice or would not be in the public interest.”.

## **Use of Red Cross and other emblems, signs, signals, identity cards, insignia and uniforms**

**8. Section 15** of the Principal Act is amended:

(a) by inserting after **paragraph (1) (e)** the following paragraph:

“(f) such other emblems, identity cards, signs, signals, insignia or uniforms as are prescribed for the purpose of giving effect to Protocol I.”;

(b) by omitting from **subsection (1)** “One hundred dollars” and substituting “\$1,000”;

(c) by adding at the end of **subsection (2)** “or of Protocol I”.

## **Schedule 5**

**9.** The Principal Act is amended by adding at the end the Schedule set out in Schedule 1 to this Act.

## **Formal amendments**

**10.** The Principal Act is amended as set out in **Schedule 2**.

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