

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, 1959, 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.

Miscellaneous

11. Institution of proceedings and jurisdiction

(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. State application of certain sections

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.

[L.N. 139 of 1965.]

13. Repeal

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. L.N. 139 of 1965.]

SCHEDULES

FIRST SCHEDULE

[Section 3 (1).]

Articles of the Conventions defining grave breaches of the Conventions and providing for the trial of persons alleged to have committed such breaches

1. Article 49 of the First Geneva Convention, 1949,
Article 50 of the Second Geneva Convention, 1949,
Article 129 of the Third Geneva Convention, 1949,
Article 146 of the Fourth Geneva Convention 1949.

(the texts of all four articles being identical save as stated below)-

"The High Contracting Parties undertake to enact any legislation necessary to provide effective penal sanctions for persons committing, or ordering to be committed, any of the grave breaches of the present Convention defined in the following Article.

Each High Contracting Party shall be under the obligation to search for persons alleged to have committed, or to have ordered to be committed, such grave breaches, and shall bring such persons, regardless of their nationality, before its own courts. It may also, if it prefers, and in accordance with the provisions of its own legislation, hand such persons over for trial to another High Contracting Party concerned, provided such High Contracting Party has made out a *prima facie* case.

Each High Contracting Party shall take measures necessary for the suppression of all acts contrary to the provisions of the present Convention other than the grave breaches defined in the following Article.

In all circumstances, the accused persons shall benefit by safeguards of proper trial and defence, which shall not be less favourable than those provided by Article 105 and those following of the Geneva Convention relative to the treatment of Prisoners of War of August 12, 1949."

(*Note:* In the Third Geneva Convention, 1949, the words "the present Convention" are used in place of the words "the Geneva Convention relative to the treatment of Prisoners of War of August 12, 1949").

2. *Article 50 of the First Geneva Convention, 1949.*-Grave breaches to which the preceding Article relates shall be those involving any of the following acts, if committed against persons or property protected by the Convention: wilful killing, torture or inhuman treatment, including biological experiments, wilfully causing great suffering or serious injury to body or health, and extensive destruction and appropriation of property, not justified by military necessity and carried out unlawfully and wantonly.

3. *Article 51 of the Second Geneva Convention, 1949.*-Grave breaches to which the preceding Article relates shall be those involving any of the following acts, if committed against persons or property protected by the Convention: wilful killing, torture or inhuman treatment, including biological experiments, wilfully causing great suffering or serious injury to body or

health, and extensive destruction and appropriation of property not justified by military necessity and carried out unlawfully and wantonly.

4. *Article 130 of the Third Geneva Convention, 1949.*-Grave breaches to which the preceding Article relates shall be those involving any of the following acts, if committed against persons or property protected by the Convention: wilful killing, torture or inhuman treatment, including biological experiments, wilfully causing great suffering or serious injury to body or health, compelling a prisoner of war to serve in the forces of the hostile power, or wilfully depriving a prisoner of war of the rights of fair and regular trial prescribed in this Convention.

5. *Article 147 of the Fourth Geneva Convention, 1949.*-Grave breaches to which the preceding Article relates shall be those involving any of the following acts, if committed against persons or property protected by the present Convention: wilful killing, torture or inhuman treatment, including biological experiments, wilfully causing great suffering or serious injury to body or health, unlawful deportation or transfer or unlawful confinement of a protected person compelling a protected person to serve in the forces of a hostile power, or wilfully depriving a protected person of the rights of fair and regular trial prescribed in the present Convention, taking of hostages and extensive destruction and appropriation of property, not justified by military necessity and carried out unlawfully and wantonly.

SECOND SCHEDULE

[Sections 3 (3) and 5 (4).]

Certain other Articles of the Conventions referred to in this Act

1. *Application of the Conventions.*-In each of the Conventions Article 2 lays down the application of the Convention, and reads as follows-

"In addition to the provisions which shall be implemented in peace time, the present Convention shall apply to all cases of declared war or of any other armed conflict which may arise between two or more of the High Contracting Parties, even if the state of War is not recognised by one of them.

The Convention shall also apply to all cases of partial or total occupation of the territory of a High Contracting Party, even if the said occupation meets with no armed resistance.

Although one of the Powers in conflict may not be a party to the present Convention, the Powers who are parties thereto shall remain bound by it in their mutual relations. They shall furthermore be bound by the Convention in relation to the said Power, if the latter accepts and applies the provisions thereof."

Election

2. *Prisoners' Representatives Article 79 of the Third Geneva Convention, 1949.*-In all places where there are prisoners of war, except in those where there are officers, the prisoners shall freely elect by secret ballot, every six months and also in case of vacancies, prisoners' representatives entrusted with representing them before the military authorities, the Protecting Powers, the International Committee of the Red Cross and any other organisation which may assist them. These prisoners' representatives shall be eligible for re-election.

In camps for officers and persons of equivalent status or in mixed camps, the senior officer among the prisoners of war shall be recognised as the camp prisoners' representative. In camps for officers, he shall be assisted by one or more advisers chosen by the officers; in mixed camps, his assistants shall be chosen from among the prisoners of war who are not officers and shall be elected by them.

Officer prisoners of war of the same nationality shall be stationed in labour camps for prisoners of war, for the purpose of carrying out the camp administration duties for which the prisoners of war are responsible. These officers may be elected as prisoners' representatives under the first paragraph of this Article. In such a case the assistants to the prisoners' representatives shall be chosen from among those prisoners of war who are not officers.

Every representative elected must be approved by the Detaining Power before he has the right to commence his duties. Where the Detaining Power refuses to approve a prisoner of war elected by his fellow prisoners of war, it must inform the Protecting Power of the reason for such refusal.

In all cases the prisoners' representative must have the same nationality, language and customs as the prisoners of war whom he represents. Thus, prisoners of war distributed in different sections of a camp, according to their nationality, language or customs, shall have for each section their own prisoners' representative, in accordance with the foregoing paragraphs.

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).

GENEVA CONVENTIONS ACT

SUBSIDIARY LEGISLATION

No Subsidiary Legislation

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