

Geneva Conventions (Amendment) Bill

Bill No. 41/2007.

Read the first time on 22nd October 2007.

A BILL

intituled

An Act to amend the Geneva Conventions Act (Chapter 117 of the 1985 Revised Edition) and to make consequential and miscellaneous amendments to the Singapore Red Cross Society (Incorporation) Act (Chapter 304 of the 1985 Revised Edition).

Be it enacted by the President with the advice and consent of the Parliament of Singapore, as follows:

Short title and commencement

1. This Act may be cited as the Geneva Conventions (Amendment) Act 2007 and shall come into operation on such date as the Minister may, by notification in the *Gazette*, appoint.

5 **Amendment of section 2**

2. Section 2 of the Geneva Conventions Act (referred to in this Act as the principal Act) is amended by inserting, immediately after the definition of “Protecting Power”, the following definitions:

10 “red crescent emblem” means the emblem of a red crescent on a white ground as depicted in Part I of the Sixth Schedule;

“red cross emblem” means the emblem of a red cross on a white ground formed by reversing the Federal Colours of Switzerland as depicted in Part II of the Sixth Schedule;

15 “red crystal emblem” means the emblem of a red crystal composed of a red frame in the shape of a square on edge on a white ground as depicted in Part III of the Sixth Schedule;

“red lion and sun emblem” means the emblem of a red lion and sun on a white ground as depicted in Part IV of the Sixth Schedule;”.

20 **Repeal and re-enactment of section 8**

3. Section 8 of the principal Act is repealed and the following section substituted therefor:

“Prohibition of use of emblem without authority

25 **8.** No person shall, without the authority of the Minister, use for any purpose in Singapore —

- (a) the red crescent emblem;
- (b) the red cross emblem;
- (c) the red crystal emblem;
- (d) the red lion and sun emblem; or
- 30 (e) the words “Red Cross” or “Geneva Cross”.”.

Amendment of section 9

4. Section 9 of the principal Act is amended —

(a) by deleting the word “or” at the end of paragraph (b); and

(b) by deleting paragraph (c) and substituting the following paragraphs:

“(c) any design being a colourable imitation of the red crescent emblem, the red cross emblem, the red crystal emblem or the red lion and sun emblem; or

(d) any words so nearly resembling the words “Red Cross” or “Geneva Cross” as to be capable of being understood as referring to the red cross emblem.”.

Amendment of section 10

5. Section 10(1) of the principal Act is amended by deleting “\$1,000” and substituting “\$10,000”.

New section 10A

6. The principal Act is amended by inserting, immediately after section 10, the following section:

“Inspectors

10A.—(1) The Minister may appoint one or more public officers as inspectors to investigate the commission of an offence under this Part.

(2) For the purposes of an investigation under subsection (1) —

(a) an inspector may —

(i) require any person to furnish any information that is within his knowledge that the inspector believes on reasonable grounds to be connected with any suspected contravention of this Part;

(ii) require any person to produce any book, document, paper or other record, or other article, which may be related to the subject-matter of the investigation for inspection by the inspector and for making copies thereof; and

(iii) examine orally any person supposed to be acquainted with the facts and circumstances relevant to the carrying out of the provisions of this Part; and

5 (b) an inspector may, without warrant, enter, inspect and search any premises that the inspector has reason to suspect are being used, for or in connection with any purpose that is in contravention of this Part, and may —

10 (i) inspect and make copies of and take extracts from, or require the person having the management or control of the premises to provide copies of or extracts from, any book, document, record or electronic material which the inspector reasonably believes to be the subject-matter of, or to be connected with, an investigation under subsection (1);

15 (ii) take such photographs or video recordings as he thinks necessary to record the premises or part thereof, including any apparatus, appliance, equipment, instrument, article, book, document, record or thing found on the premises; and

20 (iii) seize and remove from the premises any book, record, document, apparatus, equipment, instrument, material or thing which the inspector reasonably believes to be the subject-matter of, or to be connected with, an investigation under subsection (1).

25 (3) Any information given by any person under subsection (2)(a)(i) or (iii) —

(a) shall be reduced to a statement in writing and read over to him; and

(b) shall, after correction, be signed by him.

30 (4) Any person who, without lawful excuse —

(a) refuses to answer any question put to him by an inspector or gives a false answer to such question;

(b) refuses or fails to comply with any requirement of the inspector under subsection (2); or

(c) wilfully obstructs an inspector in the exercise of his authority under subsection (2),

shall be guilty of an offence and shall be liable on conviction to a fine not exceeding \$10,000 or to imprisonment for a term not exceeding 6 months or to both.”.

New Fifth and Sixth Schedules

7. The principal Act is amended by inserting, immediately after the Fourth Schedule, the following Schedules:

“FIFTH SCHEDULE

10

Section 2

PROTOCOL ADDITIONAL TO THE GENEVA CONVENTIONS OF 12 AUGUST 1949, AND RELATING TO THE ADOPTION OF AN ADDITIONAL DISTINCTIVE EMBLEM

The High Contracting Parties,

15 (PP1) Reaffirming the provisions of the Geneva Conventions of 12 August 1949 (in particular Articles 26, 38, 42 and 44 of the First Geneva Convention) and, where applicable, their Additional Protocols of 8 June 1977 (in particular Articles 18 and 38 of Additional Protocol I and Article 12 of Additional Protocol II), concerning the use of distinctive emblems,

20 (PP2) Desiring to supplement the aforementioned provisions so as to enhance their protective value and universal character,

(PP3) Noting that this Protocol is without prejudice to the recognized right of High Contracting Parties to continue to use the emblems they are using in conformity with their obligations under the Geneva Conventions and, where applicable, the Protocols additional thereto,

25 (PP4) Recalling that the obligation to respect persons and objects protected by the Geneva Conventions and the Protocols additional thereto derives from their protected status under international law and is not dependent on use of the distinctive emblems, signs or signals,

30 (PP5) Stressing that the distinctive emblems are not intended to have any religious, ethnic, racial, regional or political significance,

(PP6) Emphasizing the importance of ensuring full respect for the obligations relating to the distinctive emblems recognized in the Geneva Conventions, and, where applicable, the Protocols additional thereto,

35 (PP7) Recalling that Article 44 of the First Geneva Convention makes the distinction between the protective use and the indicative use of the distinctive emblems,

(PP8) Recalling further that National Societies undertaking activities on the territory of another State must ensure that the emblems they intend to use within the framework of such activities may be used in the country where the activity takes place and in the country or countries of transit,

5 (PP9) Recognizing the difficulties that certain States and National Societies may have with the use of the existing distinctive emblems,

(PP10) Noting the determination of the International Committee of the Red Cross, the International Federation of Red Cross and Red Crescent Societies and the International Red Cross and Red Crescent Movement to retain their current names and
10 emblems,

Have agreed on the following:

Article 1

Respect for and scope of application of this Protocol

1. The High Contracting Parties undertake to respect and to ensure respect for this
15 Protocol in all circumstances.

2. This Protocol reaffirms and supplements the provisions of the four Geneva Conventions of 12 August 1949 (“the Geneva Conventions”) and, where applicable, of their two Additional Protocols of 8 June 1977 (“the 1977 Additional Protocols”) relating to the distinctive emblems, namely the red cross, the red crescent and the red
20 lion and sun, and shall apply in the same situations as those referred to in these provisions.

Article 2

Distinctive emblems

1. This Protocol recognizes an additional distinctive emblem in addition to, and for
25 the same purposes as, the distinctive emblems of the Geneva Conventions. The distinctive emblems shall enjoy equal status.

2. This additional distinctive emblem, composed of a red frame in the shape of a square on edge on a white ground, shall conform to the illustration in the Annex to this Protocol. This distinctive emblem is referred to in this Protocol as the “third Protocol
30 emblem”.

3. The conditions for use of and respect for the third Protocol emblem are identical to those for the distinctive emblems established by the Geneva Conventions and, where applicable, the 1977 Additional Protocols.

4. The medical services and religious personnel of armed forces of High Contracting
35 Parties may, without prejudice to their current emblems, make temporary use of any distinctive emblem referred to in paragraph 1 of this Article where this may enhance protection.

*Article 3**Indicative use of the third Protocol emblem*

1. National Societies of those High Contracting Parties which decide to use the third Protocol emblem may, in using the emblem in conformity with relevant national legislation, choose to incorporate within it, for indicative purposes:

- (a) a distinctive emblem recognized by the Geneva Conventions or a combination of these emblems; or
- (b) another emblem which has been in effective use by a High Contracting Party and was the subject of a communication to the other High Contracting Parties and the International Committee of the Red Cross through the depositary prior to the adoption of this Protocol.

Incorporation shall conform to the illustration in the Annex to this Protocol.

2. A National Society which chooses to incorporate within the third Protocol emblem another emblem in accordance with paragraph 1 above, may, in conformity with national legislation, use the designation of that emblem and display it within its national territory.

3. National Societies may, in accordance with national legislation and in exceptional circumstances and to facilitate their work, make temporary use of the distinctive emblem referred to in Article 2 of this Protocol.

4. This Article does not affect the legal status of the distinctive emblems recognized in the Geneva Conventions and in this Protocol, nor does it affect the legal status of any particular emblem when incorporated for indicative purposes in accordance with paragraph 1 of this Article.

Article 4

*International Committee of the Red Cross and
International Federation of Red Cross and Red Crescent Societies*

The International Committee of the Red Cross and the International Federation of Red Cross and Red Crescent Societies, and their duly authorized personnel, may use, in exceptional circumstances and to facilitate their work, the distinctive emblem referred to in Article 2 of this Protocol.

*Article 5**Missions under United Nations auspices*

The medical services and religious personnel participating in operations under the auspices of the United Nations may, with the agreement of participating States, use one of the distinctive emblems mentioned in Articles 1 and 2.

*Article 6**Prevention and repression of misuse*

1. The provisions of the Geneva Conventions and, where applicable, the 1977 Additional Protocols, governing prevention and repression of misuse of the distinctive emblems shall apply equally to the third Protocol emblem. In particular, the High Contracting Parties shall take measures necessary for the prevention and repression, at all times, of any misuse of the distinctive emblems mentioned in Articles 1 and 2 and their designations, including the perfidious use and the use of any sign or designation constituting an imitation thereof.
2. Notwithstanding paragraph 1 above, High Contracting Parties may permit prior users of the third Protocol emblem, or of any sign constituting an imitation thereof, to continue such use, provided that the said use shall not be such as would appear, in time of armed conflict, to confer the protection of the Geneva Conventions and, where applicable, the 1977 Additional Protocols, and provided that the rights to such use were acquired before the adoption of this Protocol.

*Article 7**Dissemination*

- The High Contracting Parties undertake, in time of peace as in time of armed conflict, to disseminate this Protocol as widely as possible in their respective countries and, in particular, to include the study thereof in their programmes of military instruction and to encourage the study thereof by the civilian population, so that this instrument may become known to the armed forces and to the civilian population.

*Article 8**Signature*

- This Protocol shall be open for signature by the Parties to the Geneva Conventions on the day of its adoption and will remain open for a period of twelve months.

*Article 9**Ratification*

- This Protocol shall be ratified as soon as possible. The instruments of ratification shall be deposited with the Swiss Federal Council, depositary of the Geneva Conventions and the 1977 Additional Protocols.

*Article 10**Accession*

5 This Protocol shall be open for accession by any Party to the Geneva Conventions which has not signed it. The instruments of accession shall be deposited with the depositary.

*Article 11**Entry into force*

1. This Protocol shall enter into force six months after two instruments of ratification or accession have been deposited.
- 10 2. For each Party to the Geneva Conventions thereafter ratifying or acceding to this Protocol, it shall enter into force six months after the deposit by such Party of its instrument of ratification or accession.

*Article 12**Treaty relations upon entry into force of this Protocol*

- 15 1. When the Parties to the Geneva Conventions are also Parties to this Protocol, the Conventions shall apply as supplemented by this Protocol.
- 20 2. When one of the Parties to the conflict is not bound by this Protocol, the Parties to the Protocol shall remain bound by it in their mutual relations. They shall furthermore be bound by this Protocol in relation to each of the Parties which are not bound by it, if the latter accepts and applies the provisions thereof.

*Article 13**Amendment*

- 25 1. Any High Contracting Party may propose amendments to this Protocol. The text of any proposed amendment shall be communicated to the depositary, which shall decide, after consultation with all the High Contracting Parties, the International Committee of the Red Cross and the International Federation of Red Cross and Red Crescent Societies, whether a conference should be convened to consider the proposed amendment.
- 30 2. The depositary shall invite to that conference all the High Contracting Parties as well as the Parties to the Geneva Conventions, whether or not they are signatories of this Protocol.

*Article 14**Denunciation*

1. In case a High Contracting Party should denounce this Protocol, the denunciation shall only take effect one year after receipt of the instrument of denunciation. If, however, on the expiry of that year the denouncing Party is engaged in a situation of armed conflict or occupation, the denunciation shall not take effect before the end of the armed conflict or occupation.

2. The denunciation shall be notified in writing to the depositary, which shall transmit it to all the High Contracting Parties.

3. The denunciation shall have effect only in respect of the denouncing Party.

4. Any denunciation under paragraph 1 shall not affect the obligations already incurred, by reason of the armed conflict or occupation, under this Protocol by such denouncing Party in respect of any act committed before this denunciation becomes effective.

*Article 15**Notifications*

The depositary shall inform the High Contracting Parties as well as the Parties to the Geneva Conventions, whether or not they are signatories of this Protocol, of:

(a) signatures affixed to this Protocol and the deposit of instruments of ratification and accession under Articles 8, 9 and 10;

(b) the date of entry into force of this Protocol under Article 11 within ten days of said entry into force;

(c) communications received under Article 13;

(d) denunciations under Article 14.

*Article 16**Registration*

1. After its entry into force, this Protocol shall be transmitted by the depositary to the Secretariat of the United Nations for registration and publication, in accordance with Article 102 of the Charter of the United Nations.

2. The depositary shall also inform the Secretariat of the United Nations of all ratifications, accessions and denunciations received by it with respect to this Protocol.

Article 17

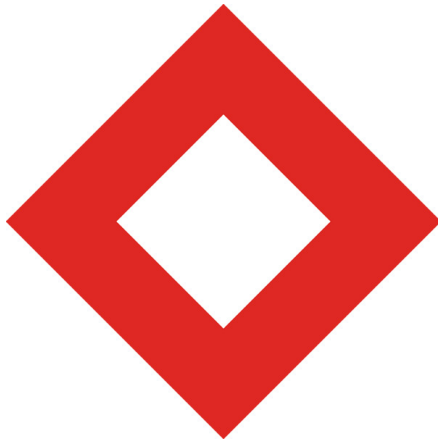
Authentic texts

The original of this Protocol, of which the Arabic, Chinese, English, French, Russian and Spanish texts are equally authentic, shall be deposited with the depositary, which shall transmit certified true copies thereof to all the Parties to the Geneva Conventions.

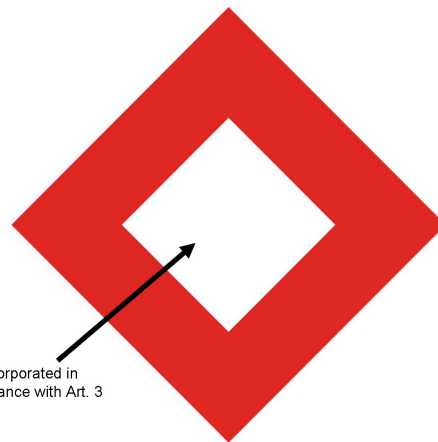
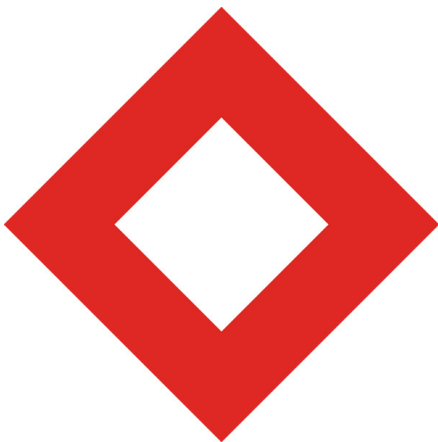
ANNEX

THIRD PROTOCOL EMBLEM
(ARTICLE 2, PARAGRAPH 2 AND ARTICLE 3,
PARAGRAPH 1 OF THE PROTOCOL)

Article 1 - Distinctive emblem



Article 2 - Indicative use of the third Protocol emblem



SIXTH SCHEDULE

Section 2

DISTINCTIVE EMBLEMS OF THE GENEVA CONVENTIONS

PART I

RED CRESCENT EMBLEM



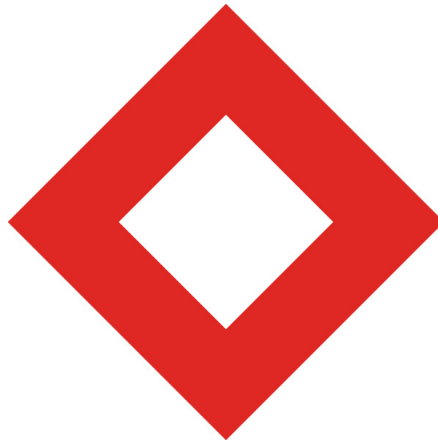
PART II

RED CROSS EMBLEM



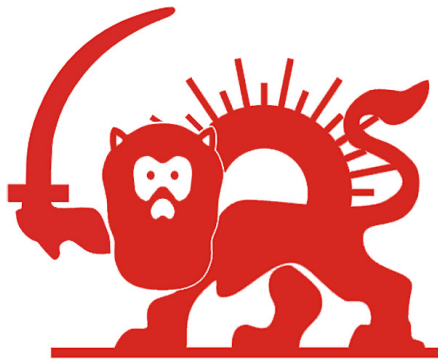
PART III

RED CRYSTAL EMBLEM



PART IV

RED LION AND SUN EMBLEM



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Consequential and miscellaneous amendments to Singapore Red Cross Society (Incorporation) Act

8. The Singapore Red Cross Society (Incorporation) Act (Cap. 304) is amended —

- 5 (a) by deleting the word “(Incorporation)” in section 1; and
 (b) by deleting “\$1,000” in section 10(2) and substituting “\$10,000”.

Transitional provision

10 **9.** Notwithstanding anything contained in this Act, a person who, immediately before the date of commencement of this Act, was using the red crescent emblem, the red crystal emblem or the red lion and sun emblem shall be entitled to carry on using such emblem for a period of one year from that date.

EXPLANATORY STATEMENT

This Bill seeks to amend the Geneva Conventions Act (Cap. 117) principally —

- (a) to give effect to Protocol III of the Geneva Conventions;
- (b) to prohibit the use of the red crescent emblem, the red crystal emblem and the red lion and sun emblem; and
- (c) to empower the Minister to appoint inspectors for the purpose of Part III of the Act.

The Bill also makes consequential and miscellaneous amendments to the Singapore Red Cross Society (Incorporation) Act (Cap. 304).

Clause 1 relates to the short title and commencement.

Clause 2 amends section 2 to insert the definitions of “red crescent emblem”, “red cross emblem”, “red crystal emblem” and “red lion and sun emblem”.

Clause 3 repeals and re-enacts section 8 to prohibit the unauthorised use of the red crescent emblem, the red crystal emblem and the red lion and sun emblem, in addition to the red cross emblem and the words “Red Cross” or “Geneva Cross”.

Clause 4 amends section 9 to prohibit the use of any design which resembles the red crescent emblem, the red cross emblem, the red crystal emblem and the red lion and sun emblem. The clause also prohibits the use of any words resembling the words “Red Cross” or “Geneva Cross” as to be capable of being understood as referring to the red cross emblem.

Clause 5 amends section 10(1) to increase the penalty for offences committed under Part III (Prevention of abuse of red cross and other emblems) from \$1,000 to \$10,000.

Clause 6 inserts a new section 10A to enable the Minister to appoint one or more public officers as inspectors to investigate the commission of an offence under Part III and provides for the powers of such inspectors in carrying out investigations relating to such an offence.

Clause 7 inserts the new Fifth and Sixth Schedules.

The Fifth Schedule is the Protocol additional to the Geneva Conventions of 12 August 1949 and relating to the Adoption of an Additional Distinctive Emblem (Protocol III).

The Sixth Schedule sets out the emblems of the red crescent, the red cross, the red crystal and the red lion and sun.

Clause 8 makes consequential and miscellaneous amendments to the Singapore Red Cross Society (Incorporation) Act (Cap. 304). The clause renames the Singapore Red Cross Society (Incorporation) Act as the Singapore Red Cross Society Act and also increases the penalty for offences committed under section 10, from \$1,000 to \$10,000, so that the penalty is in line with that provided for in the Geneva Conventions Act (Cap. 117) (as amended by clause 5).

Clause 9 provides for a transitional provision to allow any person using the red crescent emblem, the red crystal emblem or the red lion and sun emblem prior to the date of commencement of the Geneva Conventions (Amendment) Act 2007 to continue with such use for a period of one year.

EXPENDITURE OF PUBLIC MONEY

This Bill will not involve the Government in any extra financial expenditure.
