

Prisoners of War and Enemy Aliens Act, 1956



Number 27 of 1956.

PRISONERS OF WAR AND ENEMY ALIENS ACT, 1956.

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Acts Referred to

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PRISONERS OF WAR AND ENEMY ALIENS ACT, 1956.

AN ACT TO PROVIDE FOR THE INTERNMENT OF PRISONERS OF WAR AND ENEMY ALIENS AND TO ENABLE, SO FAR AS IRELAND IS CONCERNED, EFFECT TO BE GIVEN TO AND ADVANTAGE TAKEN OF CERTAIN PROVISIONS CONTAINED IN THE CONVENTIONS RELATIVE TO THE TREATMENT OF PRISONERS OF WAR AND THE PROTECTION OF CIVILIAN PERSONS IN TIME OF WAR WHICH WERE SIGNED ON BEHALF OF IRELAND AT GENEVA ON THE 19TH DAY OF DECEMBER, 1949. [17th July, 1956.]

BE IT ENACTED BY THE OIREACHTAS AS FOLLOWS:—

Interpretation.

1.—(1) In this Act—

“*the Minister*” means the Minister for Defence;

“*the Prisoners of War Convention*” means the Geneva Convention relative to the Treatment of Prisoners of War which was signed on behalf of Ireland at Geneva on the 19th day of December, 1949;

“*the Civilians Convention*” means the Geneva Convention relative to the Protection of Civilian Persons in Time of War which was signed on behalf of Ireland at Geneva on the 19th day of December, 1949.

(2) Any reference in this Act to prisoners of war is, primarily, to—

- (a) persons who, in relation to the State and a war in which the State is a participant, are prisoners of war within the meaning of Paragraph A of Article 4 of the Prisoners of War Convention, and
- (b) persons who, in relation to the State and a war in which the State is not a participant, are, by reference to subparagraph (2) of Paragraph B of Article 4 of the Prisoners of War Convention, to be treated as prisoners of war under that convention,

but any such reference shall also be construed as including a reference to the persons who, in relation to the State and a war in which the State is a participant, having committed a belligerent act, are, pursuant to Article 5 of the Prisoners of War Convention, to enjoy the protection of that Convention until such time as their status has been determined by a competent tribunal.

(3) Any reference in this Act to enemy aliens is to persons who, in relation to the State and a war in which the State is a participant, are protected persons within the meaning of Article 4 of the Civilians Convention, including persons who, in relation to the State and a war in which the State is a participant, are—

- (a) the persons voluntarily demanding internment referred to in Article 42 of the Civilians Convention, and
- (b) the children left at liberty without parental care referred to in Article 82 of the Civilians Convention.

Internment.

2.—(1) The following persons shall be interned :

(a) prisoners of war whose internment is directed under subsection (2) of this section, and

(b) enemy aliens whose internment is directed under subsection (3), (4) or (5) of this section.

(2) The Minister or any other Minister of State may direct in writing the internment of all prisoners of war, of prisoners of war of a particular nationality or otherwise of a particular class or of any particular prisoner of war.

(3) Where the Minister or any other Minister of State is satisfied that the internment of all enemy aliens, of enemy aliens of a particular nationality or otherwise of a particular class or of any particular enemy alien is absolutely necessary for the security of the State, he may direct in writing such internment.

(4) Where the Minister or any other Minister of State is satisfied that, having regard to the second paragraph contained in Article 42 of the Civilians Convention, the internment of any particular enemy alien is required, he shall direct in writing such internment.

(5) Where the Minister or any other Minister of State is satisfied that, as respects any child of an interned enemy alien left at liberty without parental care, a request in accordance with Article 82 of the Civilians Convention for internment of such child has been made, he shall direct in writing such internment.

(6) A direction under this section, other than a direction in respect of a particular person, may be subject to such exemptions as the Minister giving the direction thinks fit.

(7) A member of the Garda Síochána or of the Defence Forces may arrest without warrant any person whom he has reasonable grounds for believing to be a person directed to be interned (including an interned person who has escaped).

(8) Internment shall be governed by regulations which are hereby authorised to be made—

(a) in relation to prisoners of war, by the Minister, and

(b) in relation to enemy aliens, by the Minister or the Minister for Justice.

(9) Regulations under this section may contain all such provisions as appear to the Minister or the Minister for Justice (as the case may be) to be necessary or expedient in relation to internment and, in particular, may do all or any of the following :

(a) make provision for the establishment of internment camps and for the administration, control and security thereof,

(b) make provision for the maintenance of discipline among interned persons in internment camps (including provision with respect to breaches of discipline, punishments for such breaches and hearing of alleged such breaches),

(c) make provision with respect to any of the matters referred to in the following portions of the Prisoners of War Convention:

(i) Chapters I, II, III, V, VI, VII and VIII of Section II of Part III (relating to internment),

(ii) Section III of Part III (relating to labour),

(iii) Section IV of Part III (relating to financial resources),

- (iv) Section V of Part III (relating to relations with the exterior),
- (v) Section VI of Part III (relating to relations with the Authorities),
- (vi) Part IV (relating to termination of captivity),

or in any agreement made pursuant to those portions,

- (d) make provision with respect to any of the matters referred to in Section IV of Part III of the Civilians Convention (relating to treatment of interned enemy aliens) or any agreement made pursuant to that Section.

(10) Where a sentence involving confinement is being passed on an interned person in respect of a breach of discipline, the duration of any detention undergone by him while awaiting trial or sentence shall be deducted from the sentence.

General power to give effect to certain portions of the Conventions.

3.—(1) The Minister may from time to time make such regulations as appear to him necessary or expedient for carrying out—

- (a) the portions of the Prisoners of War Convention specified in subsection (2) of this section and any agreement made pursuant to those portions, and
- (b) any special agreement made pursuant to Article 6 of the Prisoners of War Convention,

and for giving effect thereto or to any of the provisions thereof, and every such regulation shall have the force of law in the State.

(2) The portions of the Prisoners of War Convention referred to in subsection (1) of this section are the following :

- (a) so much of Article 5 as provides for determination of status by a competent tribunal,
- (b) Article 15 (relating to provision free of charge of maintenance and medical attention),
- (c) Article 33 (relating to retained medical personnel and chaplains),
- (d) Section I of Part III (relating to beginning of captivity),
- (e) Part V (relating to Information Bureaux and Relief Societies),
- (f) Article 126 (relating to visits).

(3) The Minister or the Minister for Justice may from time to time make such regulations as appear to him necessary or expedient for carrying out—

- (a) the portions of the Civilians Convention specified in subsection (4) of this section and any agreement made pursuant to those portions, and
- (b) any special agreement made pursuant to Article 7 of the Civilians Convention,

and for giving effect thereto or to any of the provisions thereof, and every such regulation shall have the force of law in the State.

(4) The portions of the Civilians Convention referred to in subsection (3) of this section are the following :

(a) so much of Article 39 as relates to ensuring support,

(b) Article 43 (relating to reconsideration of internment or assigned residence),

(c) Articles 136, 137, 138, 139 and 141 (relating to Information Bureaux),

(d) Articles 142 and 143 (relating to visits).

Prisoner of war to be person subject to military law.

4.—A prisoner of war shall be a person subject to military law in the same manner as a member of the Defence Forces of rank corresponding to the rank or status of such prisoner of war is so subject for the time being by virtue of the [Defence Act, 1954](#) (No. 18 of 1954), and the provisions of that Act, and of the orders, regulations and rules thereunder, having application in relation to persons subject to military law shall have effect in relation to such prisoner of war accordingly, but without prejudice—

(a) to any exclusions or modifications which the Minister may think proper to make by regulations under this paragraph so as to enable those provisions to have effect in conformity with the circumstances (including internment) of prisoners of war, and

(b) to any regulations under [section 2](#) or [section 3](#) of this Act.

Provisions with respect to sentences and penalties.

5.—(1) If sentence of death is pronounced on a prisoner of war, the sentence shall not be executed before the expiration of the period of six months referred to in Article 101 of the Prisoners of War Convention.

(2) Any period spent by a prisoner of war in confinement awaiting trial shall be deducted from any sentence of imprisonment passed upon him and taken into account in fixing any penalty.

(3) Where a penalty to be imposed on a prisoner of war is being fixed, the fact that the accused, not being a national of the State, is not bound to it by any duty of allegiance and that he is in its power as the result of circumstances independent of his own will shall be taken into consideration to the widest extent possible. The penalty provided for the offence with which the prisoner of war is accused may be reduced, and it shall not be obligatory to apply any minimum penalty.

(4) Where any sentence is being passed on an interned enemy alien, the fact that the defendant is not a national of the State shall be taken as far as possible into account. The duration of any detention undergone by the internee while awaiting trial or sentence shall be deducted from a sentence involving confinement. Any penalty appropriate to the offence with which the internee is charged may be reduced and it shall not be obligatory, to this end, to apply any minimum penalty.

Power to require enemy aliens to reside or remain in particular places.

6.—(1) As respects the power conferred by subsection (1) of [section 5](#) of the [Aliens Act, 1935](#) (No. 14 of 1935), of requiring aliens to reside or remain in particular districts or places, that power shall not be exercised in relation to any enemy alien unless the Minister for Justice is satisfied that the requirement is absolutely necessary for the security of the State.

(2) Any such requirement relating to an enemy alien shall have effect subject to the regulations made under this Act for giving effect to Article 43 of the Civilians Convention.

Military tribunal in case of charge against interned enemy alien.

7.—(1) Where an interned enemy alien is charged with any offence (whether committed before or after the commencement of internment) which, apart from a direction under this section, would be dealt with by a court under the Courts of Justice Acts, 1924 to 1953, the Minister, if he so thinks fit, may direct in writing that the charge shall be dealt with by a military tribunal, and the charge shall thereupon be dealt with, subject to the regulations under this section, by a military tribunal and not otherwise.

(2) The Minister may make regulations for giving effect to this section and the regulations may, in particular, provide for the type and constitution of the relevant military tribunals and the procedure to be followed by them.

Assisting escape.

8.—(1) A person who is not a prisoner of war or an interned enemy alien shall not—

(a) assist the escape of an interned prisoner of war or enemy alien,

(b) harbour a prisoner of war or enemy alien who has escaped from internment, or

(c) procure or attempt to procure other persons to assist the escape of an interned prisoner of war or enemy alien.

(2) A person who contravenes subsection (1) of this section shall be guilty of an offence and shall be liable on conviction on indictment thereof to penal servitude for any term not exceeding seven years or to imprisonment for any term not exceeding two years.

(3) A member of the Garda Síochána or of the Defence Forces may arrest without warrant any person whom he has reasonable grounds for believing to be a person who has contravened subsection (1) of this section.

Consent of Minister for Finance to certain regulations.

9.—Regulations under this Act involving a direct or indirect charge on or a payment into public funds shall require the consent of the Minister for Finance.

Laying of regulations before Houses of the Oireachtas.

10.—Every regulation under this Act shall be laid before each House of the Oireachtas as soon as may be after it is made, and if a resolution annulling the regulation is passed by either such House within the next subsequent twenty-one days on which that House has sat after the regulation is laid before it, the regulation shall be annulled accordingly, but without prejudice to the validity of anything previously done thereunder.

Expenses.

11.—The expenses incurred by a Minister of State in the administration of this Act or in giving effect to any regulations under this Act shall, to such extent as may be sanctioned by the Minister for Finance, be paid out of moneys provided by the Oireachtas.

Short title.

12.—This Act may be cited as the Prisoners of War and Enemy Aliens Act, 1956.

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