

RED CROSS BILL 2015

GENERAL SCHEME

November 2015

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DRAFT HEADS

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Head 1 **Definitions**

Provides for the following definitions:

“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 19 December 1949;

“International Red Cross and Red Crescent Movement”: means the Movement comprised of:

- a. Red Cross and Red Crescent Societies;
- b. The International Federation of Red Cross and Red Crescent Societies;
- c. The International Committee of the Red Cross;

“Irish Red Cross Society” means the body of that name established under the Irish Red Cross Society Order 1939 (Statutory Rules and Orders 1939 No. 206);

“Maritime Convention” means the Geneva Convention for the Amelioration of the Condition of Wounded, Sick and Shipwrecked Members of Armed Forces at Sea which was signed on behalf of Ireland at Geneva on 19 December 1949;

“Minister” means the Minister for Defence;

“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 19 December 1949;

“Protocol I” means the Protocol, additional to the Geneva Conventions of 12 August 1949, and relating to the Protection of Victims of International Armed Conflicts (Protocol I) adopted at Geneva on 8 June 1977;

“Red Cross Acts” mean the Red Cross Acts 1938 to 1998;

“Wounded and Sick Convention” means the Geneva Convention for the Amelioration of the Condition of the Wounded and Sick in Armed Forces in the Field which was signed on behalf of Ireland at Geneva on 19 December 1949.

Explanatory Note;

This is a standard provision to provide for the definition of key terms in the Bill.

Head 2 Irish Red Cross Society

Provides that:

The Irish Red Cross Society (hereinafter referred to as ‘the Society’) continues in being as a body corporate with perpetual succession and power to sue and be sued and to acquire, hold and dispose of land.

Explanatory Note:

This Head provides that the Irish Red Cross Society shall continue in being following the enactment of this legislation. The Head reflects the approach taken in relation to RTE and TG4 in the Broadcasting Act 2009 which, inter alia, provided for the continuation in being of both bodies.

Head 3 Seal of Society

Provides that:

- (1) The Society shall as soon as may be after the passing of this Act provide itself with a new seal.
- (2) The seal of the Society shall be authenticated by the signature of the Chairperson of the Society, or some other member of it authorised by the Society to act in that behalf, and the signature of an officer of the Society authorised by the Society to act in that behalf.
- (3) Judicial notice shall be taken of the seal of the Society and every document purporting to be an instrument made by the Society and sealed with the seal (purporting to be authenticated in accordance with this section) of the corporation shall be received in evidence and be deemed to be such instrument without further proof unless the contrary is shown.

Explanatory Note:

This provides that the Irish Red Cross Society will provide itself with a new seal following the enactment of this legislation. Provision is made for the authentication of the seal and that judicial notice will be taken of the seal.

Head 4 Principal Objects and Powers of the Society

Provides that:

- (1) The principal objects and powers of the Society are:
 - (a) To prevent and help alleviate the suffering of any person without any adverse discrimination as to nationality, race, ethnicity, religious belief, colour, status, wealth, sex, language or political opinion, or similar criteria;
 - (b) In times of armed conflict, to provide humanitarian aid and relief for members of armed forces and civilians in distress and alleviation of their suffering in time of armed conflict, other situations of violence or peace in accordance with the 1949 Geneva Conventions and their Additional Protocols and other relevant treaties and laws;
 - (c) To cooperate with international Red Cross and Red Crescent organisations in carrying out its activities freely and independently in accordance with the Fundamental Principles of the International Red Cross and Red Crescent Movement;
 - (d) To carry out functions appropriate to a national Red Cross Society in accordance with the Statutes of the International Red Cross and Red Crescent Movement.
- (2) In order to achieve its objects as defined in (1), the Society shall carry out the functions as defined in its constitution, international treaties to which the State is a party, the Constitution of the International Federation of Red Cross and Red Crescent Societies, resolutions of the Council of Delegates and International Conference of the Red Cross and Red Crescent and decisions of the General Assembly of the International Federation of Red Cross and Red Crescent Societies.
- (3) Subject to the provisions of this Act, the Society shall be independent in the performance of its functions and shall have the power to manage its own affairs as it sees fit.
- (4) Notwithstanding the repeal by this Act of the Red Cross Acts 1938 to 1998, any rules (however described) in relation to the internal management of the Society shall continue in being. The Society shall have the power to amend or replace any such rules provided that any such amendment is in accordance with the Statutes of the International Red Cross and Red Crescent Movement.

Explanatory Note:

The principal objects and powers of the Irish Red Cross Society specified in this Head are based on the objects for national Red Cross/Red Crescent Societies as set out in a model law for common law countries prepared by the International Conference of the Red Cross. In

order to allow the Society the flexibility to adapt to changing circumstances, the objects and powers have been expressed in general terms.

Head 4(3) affirms the independence of the Irish Red Cross Society in relation to the performance of its functions subject to the provisions of this Act.

Head 4(4) provides that any existing rules (however described) in relation to the internal management of the Society's affairs shall continue in being. The Society will have the power to amend or replace the existing rules in relation to its internal governance provided that any such amendment is in accordance with the Statutes of the International Red Cross and Red Crescent Movement. This is keeping with the principle that national Red Cross Societies should operate independently from Government.

Head 5 **Recognition of the Society**

Provides that:

The Society is recognised as a voluntary aid society auxiliary to the public authorities in the humanitarian field and as the only National Red Cross, Red Crescent or Red Crystal Society which may carry out activities in this State using any of these titles.

Explanatory Note:

The Red Cross Act 1938 provided for the recognition of only one Irish Red Cross Society. This Head restates this provision but updated to take account of the 'Red Crystal' symbol. The wording reflects the model law of common law countries concerning the recognition of national Red Cross and Red Crescent societies as issued by the International Conference of the Red Cross.

Head 6 Authorisations, etc., by the Government

Provides that:

- (1) The Government may give by order-
 - (a) the authorisations referred to in Article 26 of the Wounded and Sick Convention,
 - (b) the consents referred to in Article 27 of the Wounded and Sick Convention,
 - (c) the commissions referred to in Articles 24 of the Maritime Convention, and
 - (d) the authorisations or assignments referred to in Articles 8 and 61 of Protocol I, or the facilities referred to in Article 81 of Protocol I.
- (2) The Government may by order withdraw any authorisation, consent or commission, assignment or facility given by them in pursuance of subsection (1) of this section.

Explanatory Notes:

This is a restatement of the existing section 7 of the Red Cross Act 1954 (as amended by Section 13 of the Geneva Conventions (Amendment) Act 1998).

Head 7 Restriction on use of certain emblems and words

Provides that:

- (1) Subject to the provisions of this section, it shall not be lawful for any person, with the exception of the Society, to use, for any purpose, any of the following emblems or designations without the consent of the Minister for Defence:
 - a) the emblem of a red cross with vertical and horizontal arms of the same length on, and completely surrounded by, a white ground, or the designations “Red Cross” or “Geneva Cross”;
 - b) the emblem of a red crescent moon on, and completely surrounded by, a white ground, or the designation “Red Crescent”;
 - c) the emblem of a red crystal on, and completely surrounded by, a white ground, or the designation “Red Crystal”;
 - d) any design or wording so nearly resembling any of the emblems or designations specified in 7(1)(a), 7(1)(b) and 7(1)(c) as to be capable of being mistaken for, or as the case may be understood as referring to, one of those emblems or designations.
- (2) The Minister shall not give his or her consent for the purposes of 7(1) save for purposes authorised in the Wounded and Sick Convention, the Maritime Convention, the Prisoners of War Convention or the Civilians Convention.

Explanatory Note:

This Head is a continuation of the protections contained in previous Red Cross legislation regarding the various emblems and symbols of the Red Cross movement. The provisions have been updated to include the ‘Red Crystal’ symbol.

It may be necessary to include a transitional provision to authorise the use of the “Red Crystal’ emblem and designation in cases where an entitlement to use this emblem had been acquired before the introduction/enactment of this legislation.

Head 8 **Restriction on use of arms of Switzerland**

Provides that:

- (1) It shall not be lawful for any person or corporate body, without the authority of the Minister, to use as a trademark or commercial mark or as a component of such marks, or in circumstances capable of causing offence to Switzerland –
 - a) any design consisting of a white or silver cross on a red ground, none of the limbs of which extends to the margin of the ground, being the cross comprised in the Arms of Switzerland;
 - b) any design or wording so nearly resembling the emblem specified in Section 8(1)(a) as to be capable of being mistaken for, or as the case may be understood as referring to, this emblem.

Explanatory Note:

This Head continues the provisions contained in previous Red Cross legislation since 1938 to restrict the use of arms of Switzerland (a white cross on a red background or any imitation thereof). The reason for the restriction is to avoid any confusion that might arise owing to the similarity between the Red Cross emblem and the arms of Switzerland. The wording derives in the main from the Red Cross Act 1954.

Head 9 Penalties for offences

Provides that:

Every person, including a corporate body, guilty of an offence under any Section of this Act shall be liable on summary conviction thereof to a class C fine and the Court may order any goods in relation to which the offence was committed to be forfeited or destroyed.

Explanatory Note:

This Head provides that any person (including corporate bodies) guilty of an offence under this legislation shall be liable on summary conviction to a class C fine under the Fines Act 2010 (a class C fine means a fine not exceeding €2,500). In addition, any goods bearing any prohibited emblems may be forfeited or destroyed as the Court may order.

Head 10 Repeal

Provides for:

- (1) The repeal of the Red Cross Acts 1938 to 1954 along with certain provisions in the Geneva Convention (Amendment) Act 1998 which amended the Red Cross Acts (the legislation to be repealed is listed in schedule 1).
- (2) The revocation of all extant statutory instruments made under the Red Cross Acts 1938 to 1954 (the statutory instruments to be revoked are listed in schedule 2).

Explanatory Note:

The intention is to repeal, or revoke as the case may be, all existing primary and secondary legislation relating to the Red Cross movement.

Head 11 Amendment of the Geneva Conventions (Amendment) Act 1998

Provides that:

Section 10(1) of the Geneva Conventions (Amendment) Act 1998 is amended by substituting '*...section 7 of the Red Cross Act 2015*' for '*...section 4 (as amended by section 8 of the Red Cross Act, 1954) of the Red Cross Act, 1938*'.

Explanatory Note:

This amendment is necessary in view of the proposed repeal of the Red Cross Acts.

Head 12 Short title and commencement

Provides:

- (1) This Act may be cited as the Red Cross Act 2015.

- (2) This Act shall come into operation on such day or days as the Minister may appoint by order or orders either generally or with reference to any particular purpose or provision and different days may be so appointed for different purposes or provisions.

Explanatory Notes:

These are standard provisions.

Head 13: Schedule 1 (Repeal of the Red Cross Acts)

Provides for the repeal of the following legislation:

Number and Year	Short Title	Extent of Repeal
Number 32 of 1938	Red Cross Act 1938	The whole Act
Number 20 of 1944	Red Cross Act 1944	The whole Act
Number 28 of 1954	Red Cross Act 1954	The whole Act
Number 35 of 1998	Geneva Conventions (Amendment) Act 1998	Section 13, Section 18(3)

Head 14: Schedule 2 (Revocation of statutory instruments made under the Red Cross Acts)

Provides for the revocation of the following legislation:

Name of Regulations	Extent of Revocation
Irish Red Cross Society Order, 1939 (S.R. & O. No 206 of 1939)	The whole Regulations
Irish Red Cross Society Order, 1939 (Amendment) Order, 1947 (S.R. & O. No.184 of 1947)	The whole Regulations
Irish Red Cross Society Order, 1939 (Amendment) Order, 1957*	The whole Regulations
Irish Red Cross Society Order, 1939 (Amendment) Order, 1958*	The whole Regulations
Irish Red Cross Society Order, 1939 (Amendment) Order, 1976*	The whole Regulations
Irish Red Cross Society (Amendment) Order 1980*	The whole Regulations
Irish Red Cross Society (Amendment) Order 1991*	The whole Regulations
Irish Red Cross Society (Amendment) Order, 1999 (S.I. No. 44 of 1999)	The whole Regulations
Irish Red Cross (Directions as to Ambulance Service (Revocation) Order, 2006 (S.I. No. 522 of 2006)	The whole Regulations
Irish Red Cross Society (Amendment) Order 2012 (S.I. No. 133 of 2012)	The whole Regulations

*SI numbers were not assigned to these statutory instruments.