



HL Bill 68 of 2023–24

Commonwealth Parliamentary Association and International Committee of the Red Cross (Status) Bill

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The [Commonwealth Parliamentary Association and International Committee of the Red Cross \(Status\) Bill](#) is a private member's bill which was introduced in the House of Commons on 12 December 2023 by Dame Maria Miller (Conservative MP for Basingstoke). It is being sponsored in the House of Lords by Baroness D'Souza (Crossbench). The bill is scheduled to have its second reading in the House of Lords on 17 May 2024. The government supports the bill, with the Foreign, Commonwealth and Development Office providing [explanatory notes](#).

The bill would change the status of the Commonwealth Parliamentary Association (CPA) and the International Committee of the Red Cross (ICRC) to mean that the government could treat them in a similar way to international organisations of which the UK is a member. The CPA is an international community of Commonwealth parliaments and legislatures with a mandate to promote and strengthen parliamentary democracy. It is currently a registered UK charity. The ICRC is an independent organisation that works to provide assistance for victims of conflict and other violence. Its mandate is enshrined in the 1949 Geneva conventions and their additional protocols.





The bill would give the government powers to grant the organisations certain privileges and immunities through an order in council. It would also provide for references to international organisations in general legislation to include the CPA and ICRC. Before an order in council could be made, it would have to be approved by both Houses of Parliament.

The bill had cross-party support in the House of Commons. It received its second reading without debate on 19 January 2024 and completed its stages in the House on 26 April 2024. During its committee stage, the bill was amended to provide for confidentiality of certain information provided to the UK government by the ICRC in civil cases. This was the only change made to the bill.

I. Overview of the bill

The [Commonwealth Parliamentary Association and International Committee of the Red Cross \(Status\) Bill](#) is a private member's presentation bill introduced by Dame Maria Miller (Conservative MP for Basingstoke).¹ The bill would enable the government to treat the Commonwealth Parliamentary Association (CPA) and the International Committee of the Red Cross (ICRC) in a way comparable to that of an international organisation of which the UK or the UK government is a member. Currently the government cannot treat these two organisations as it would an international organisation because neither falls under the scope of existing powers

¹ A presentation bill is a type of private member's bill that is introduced without debate in the House of Commons. Advance notice must be given in writing by the sponsoring MP to the Public Bill Office and this must include the short and long titles (UK Parliament, '[Glossary: Presentation bills](#)', accessed 25 April 2024). Further information about the parliamentary process for presentation bills can be found in the Hansard Society briefing '[What is a presentation bill?](#)', updated 4 May 2022.



under the International Organisations Act 1968.² This means, for instance, the government cannot confer privileges or immunities on them.

The bill contains six clauses and one schedule. In summary, the bill would create the power, by order in council, to:

- Confer the legal capacities of a body corporate on the CPA and the ICRC. The key legal capacities relevant to the operation of an international organisation in the UK are concluding contracts, acquiring and disposing of property and being party to legal proceedings.³
- Grant the organisation, its information and premises, and its staff certain privileges and immunities appropriate for its functional needs.
- Provide that references to international organisations in general legislation include references to the CPA and ICRC.

The government proposes to detail in separate written arrangements with the CPA and ICRC the exact parameters of the status change.⁴ The arrangements would include the privileges and immunities which the government had decided to confer on the organisations, and which would be implemented using the powers in the bill.

² [Explanatory notes](#), p 3.

³ As above, p 7.

⁴ As above, p 3.



2. Policy background

The government's policy objective is to treat the CPA and ICRC as it would international organisations of which the UK is a member.⁵ Such treatment includes the conferring of the legal capacities of a body corporate, as well as specific privileges and immunities and other facilities relating to the organisation, its property and information, and its personnel. The government has stated that the changes are intended to improve the operation and effectiveness of the organisations. The CPA and ICRC cannot currently be considered as international organisations because they are not inter-governmental, but instead have their “own unique constitutional arrangements”.⁶ The government explains it is therefore “necessary to use primary legislation to accord the relevant facilities”.

2.1 What are the CPA and ICRC?

The CPA is an unincorporated association established by parliamentarians and comprises branches within national and sub-national legislatures across the Commonwealth. Its stated mission is:

To promote knowledge of the constitutional, legislative, economic, social and cultural aspects of parliamentary democracy, with particular reference to the countries of the Commonwealth.⁷

The CPA is headquartered in the UK parliamentary estate and has

⁵ [Explanatory notes](#), p 3.

⁶ As above, p 5.

⁷ Commonwealth Parliamentary Association, [‘About us’](#), accessed 25 April 2024.



staff from across the Commonwealth, working closely with over 180 CPA branches divided between nine geographic regions of the Commonwealth.⁸

The Foreign, Commonwealth and Development Office (FCDO) works in close partnership with the CPA, including on projects to support parliaments to adopt the CPA’s “recommended benchmarks for democratic legislatures”, which provide a framework for excellence in Commonwealth parliamentary and legislative practice.⁹ However, because the CPA is a registered UK charity, it is subject to certain restrictions under UK legislation on the charities sector.¹⁰ For instance, it is limited in its ability to sign international conventions and in pursuing “political purposes”.¹¹ The UK government has said that its policy objective is to treat the CPA as an international organisation so that it can operate fully across the Commonwealth and on the international stage.¹² The government notes that, in particular, it would enable the CPA to “participate fully in those areas where it is currently restricted, including signing up to international statements and communiques”.

The ICRC is an independent, neutral organisation whose “exclusively humanitarian mission is to protect the lives and dignity of victims of armed conflict and other situations of violence and to provide them with assistance”.¹³ The organisation operates in conflict situations

⁸ Commonwealth Parliamentary Association, ‘[About us](#)’, accessed 25 April 2024.

⁹ Commonwealth Parliamentary Association, ‘[CPA recommended benchmarks for democratic legislatures](#)’, accessed 25 April 2024.

¹⁰ Charity Commission for England and Wales, ‘[Commonwealth Parliamentary Association](#)’, accessed 29 April 2024.

¹¹ Commonwealth Parliamentary Association, ‘[Application to the UK government for a change of status: Business case](#)’, 2018.

¹² [Explanatory notes](#), pp 3–4.

¹³ International Committee of the Red Cross, ‘[The ICRC's mandate and mission](#)’, accessed 25 April 2024.



across the world, interacting with both state and non-state actors. According to the government it has “unique legitimacy to engage all parties to conflicts and has unparalleled access to vulnerable groups in conflict situations”.¹⁴ The FCDO describes the organisation as an “essential partner” for achieving its global humanitarian objectives.

The ICRC’s mandate and mission have been formally recognised by the Geneva conventions and their additional protocols.¹⁵ Over 110 states, including all other permanent members of the UN Security Council, have accorded the ICRC relevant privileges and immunities to those of an international organisation.¹⁶ The UK government states it is essential it gives the ICRC a similar status to allow the organisation to work in accordance with its international mandate in the UK:

The conferral of relevant privileges and immunities therefore to the ICRC is critical to enable it to operate in the UK in accordance with its international mandate, maintaining its strict adherence to the principles of neutrality, impartiality and independence and its working method of confidentiality.¹⁷

¹⁴ [Explanatory notes](#), p 4.

¹⁵ International Committee of the Red Cross, [‘The ICRC's mandate and mission’](#), accessed 25 April 2024.

¹⁶ [Explanatory notes](#), p 4.

¹⁷ As above.



2.2 What is the legislative framework for conferring privileges and immunities on international organisations?

The government would usually accord privileges, immunities and other facilities in respect of international organisations by order in council using delegated powers under the 1968 act or the International Development Act 2002. However, the powers under these acts are not available in respect of the CPA and ICRC because they are not inter-governmental: their constitutional arrangements reflect their specific international mandate. The explanatory notes to the bill state this means that primary legislation is needed to implement the government's policy:

[... it is] necessary to establish bespoke enabling powers which will allow—once the necessary statutory instruments have been made to implement the arrangements—both the CPA and ICRC to operate in the UK in a manner comparable to an international organisation, with associated privileges and immunities.

The bill will provide the necessary delegated legislation making powers so that the government can provide for the CPA and ICRC to be treated in a manner comparable to an international organisation of which the United Kingdom, or His Majesty's Government in the United Kingdom, is a member.¹⁸

Orders in council are issued by and with the advice of His Majesty's privy council and are approved in person by the monarch.¹⁹ It is a

¹⁸ [Explanatory notes](#), p 5.

¹⁹ As above, p 9.



long-standing practice that privileges and immunities are conferred by order in council. Examples include the 1968 act and the 2002 act.

Dame Maria Miller has twice previously sponsored a presentation bill to introduce the necessary primary legislation to change the status of the CPA, first in March 2023 and then again in April 2023.²⁰ Neither bill had a second reading.

3. Summary of the provisions of the bill

The Commonwealth Parliamentary Association and International Committee of the Red Cross (Status) Bill comprises six clauses and one schedule. The government has stated it considers the provisions of the bill to be compatible with the European Convention on Human Rights (ECHR).²¹

3.1 Clause 1: The CPA

Clause 1 would enable an order in council to provide for the CPA to be treated in a manner comparable to an international organisation. It would:

- Confer on the CPA the legal capacities of a body corporate.
- Confer privileges and immunities in respect of the CPA. The explanatory notes state the suite of privileges and immunities, including relevant exceptions and limitations, would be based on the functional needs of the

²⁰ The [Commonwealth Parliamentary Association \(Status\) Bill](#) and the [Commonwealth Parliamentary Association \(Status\) \(No. 2\) Bill](#).

²¹ [Explanatory notes](#), p 10.



organisation and would be specified in the order in council.²²

- Enable the provision of specific privileges and immunities in respect of the secretary-general of the CPA. These privileges and immunities would be limited to the secretary-general, or the person who leads the international secretariat of the CPA (even if the name of the role were to change).
- Provide for the order in council to specify certain statutory provisions in relation to international organisations which should apply to the CPA with any necessary modifications.

3.2 Clause 2: The ICRC

Clause 2 would provide for the ICRC to be treated in a manner comparable to an international organisation. The clause would:

- Confer on the ICRC the legal capacities of a body corporate.
- Confer specific privileges and immunities in respect of the ICRC. These would be determined on the basis of the functional need of the organisation and specified in the order in council.
- Enable the provision of specific privileges and immunities in respect of specific officers of the ICRC as well as other specified classes of officers and servants, for example ICRC delegates posted to the regional delegation in London.²³

²² [Explanatory notes](#), p 7.

²³ As above, p 8.



- Provide for the application to the ICRC of relevant statutory provisions relating to international organisations.
- Provide for protected ICRC information to be exempt from any disclosure requirement imposed by a court or tribunal order in civil proceedings, or by a statutory provision or rule of law. Exceptions to this exemption include a court order in criminal proceedings, and information published by the ICRC. These provisions would not affect the common law rules about the withholding of information on the grounds of public interest immunity.²⁴

3.3 Clause 3: Evidence

Clause 3 provides for the secretary of state to issue a certificate stating matters of fact in relation to the status of persons who may have privileges or immunities through an order in council made under the provisions of the bill. Explaining the purpose of the clause, Dame Maria Miller has stated:

This provision is equivalent to section 8 of the International Organisations Act 1968, which allows the secretary of state to certify questions of fact relating to the status of, or the privileges and immunities conferred on, the organisations. This clause is necessary, as it is intended to assist the courts in establishing the facts relating to the status of persons who may have privileges or immunities.²⁵

²⁴ [Explanatory notes](#), p 8.

²⁵ House of Commons Public Bill Committee, '[Commonwealth Parliamentary Association and International Committee of the Red Cross \(Status\) Bill](#)', 6 March 2024, session 2023–24, col 4.

3.4 Clause 4: Orders in council

Clause 4 provides that any order in council made under the bill would be subject to the draft affirmative parliamentary procedure. This would mean that any order in council would require the approval of both Houses of Parliament.

The clause also provides for the order in council to:

- specify circumstances where privileges or immunities would not apply
- specify that any fiscal reliefs or exemptions would be subject to arrangements or conditions imposed by the secretary of state or the commissioners of HM Revenue and Customs

3.5 Clause 5: Interpretation

Clause 5 defines the meaning of “statutory provision” for the purposes of the bill. According to the explanatory notes, the definition ensures:

[...] that it is possible for provision to be made treating the CPA and the ICRC as international organisations in respect of all relevant legislation, both primary and secondary, and including devolved legislation in Scotland, Wales and Northern Ireland.²⁶

²⁶ [Explanatory notes](#), p 9.



3.6 Clause 6: Territorial extent

Clause 6 sets out the territorial extent of the bill: the provisions in the bill extend and apply to the whole of the UK. Annex A to the explanatory notes, which sets out the territorial extent and application of each of the clauses of the bill, states that the process of legislative consent motions would not be engaged in any of the three devolved legislatures.²⁷

The government sets out its position in the explanatory notes:

The government's policy objective is a matter of international relations and the United Kingdom's foreign and development policy, which includes the conduct of relations with international organisations. As recognised in the 2013 memorandum of understanding between the United Kingdom government, the Scottish ministers, the Welsh ministers and the Northern Ireland executive committee, and re-affirmed in the review of intergovernmental relations (2022), the FCDO "will continue to be responsible for policy on diplomatic and consular relations with other countries and on all matters concerning international organisations represented in the UK".²⁸

3.7 Schedule 1: Privileges and immunities

The schedule sets out the suite of privileges and immunities which

²⁷ A legislative consent motion is the means by which a devolved legislature indicates that it is content for the UK Parliament to pass a law on a devolved matter (UK Parliament, '[Glossary: Legislative consent motion](#)', accessed 30 April 2024).

²⁸ [Explanatory notes](#), p 4.



may be conferred on qualifying organisations and personnel:

- Part 1 of the schedule sets out the privileges and immunities which may be conferred on the CPA or the ICRC.
- Part 2 of the schedule sets out the privileges and immunities which may be conferred on the personnel of the CPA or the ICRC.

The explanatory notes state that the lists of immunities and privileges have been informed by those that may be conferred on international organisations under the 1968 act.²⁹

4. House of Commons stages of the bill

The bill had cross-party support in the House of Commons. It was introduced on 12 December 2023 and received its second reading without debate on 19 January 2024.³⁰ The bill was considered by a public bill committee in one sitting on 6 March 2024.³¹

During its committee stage, the bill was amended to allow for certain confidential information provided to the UK government by the ICRC to be exempted from legal disclosure requirements in civil cases.

²⁹ [Explanatory notes](#), p 4.

³⁰ [HC Hansard 19 January 2024, col 1208](#).

³¹ House of Commons Public Bill Committee, '[Commonwealth Parliamentary Association and International Committee of the Red Cross \(Status\) Bill](#)', 6 March 2024, session 2023–24, cols 1–12.



Dame Maria Miller explained why the amendments were necessary:

Amendments 1 and 2, which amend clauses 2 and 4 of the bill respectively, provide for the protection of information provided confidentially to the government by the ICRC from being used in UK civil court proceedings. This is an important provision for the ICRC and is necessary because of the need to withhold from public disclosure confidential information. Its provision in the bill would provide assurance that that could take place.³²

However, she explained that the measure did not cover all information, and that an exclusion had been made for criminal cases to ensure the legislation was “in line fully” with the right to a fair trial under the ECHR:

The amendment overriding the disclosure of ICRC information in certain circumstances engages the right to a fair trial under article 6 of the European Convention on Human Rights. The government and the Foreign Office in particular have had to look at a way to balance the need for confidentiality with the need to ensure that we are in line fully with that article. I am pleased to report that the FCDO has incorporated mitigations to the risk in the wording of the amendment by including an exclusion for criminal cases.³³

³² House of Commons Public Bill Committee, ‘[Commonwealth Parliamentary Association and International Committee of the Red Cross \(Status\) Bill](#)’, 6 March 2024, session 2023–24, cols 7–8.

³³ House of Commons Public Bill Committee, ‘[Commonwealth Parliamentary Association and International Committee of the Red Cross \(Status\) Bill](#)’, 6 March 2024, session 2023–24, col 8.



Leo Docherty, then parliamentary under secretary of state at the FCDO, confirmed that the government believed these amendments achieved the required balance between protecting the confidentiality of information provided by the ICRC with ensuring compatibility with the ECHR. He stated:

The amendments do not therefore provide an absolute or blanket exemption from disclosure requirements for all ICRC communications. Important limitations have been incorporated into the amendment, as my right hon friend mentioned. For example, the exemption is limited to information that has been communicated by the ICRC to the UK government as part of its confidential bilateral dialogue related to the ICRC's humanitarian activities.

The amendments also engage the right to a fair trial, as was mentioned, under article 6 of the European Convention on Human Rights. The government consider this provision both necessary and proportionate, and mitigations such as the exclusion for criminal cases mean that I can confirm that the provision may be exercised in compatibility with convention rights.³⁴

The bill completed its remaining stages on 26 April 2024.³⁵ No further amendments were made to the bill.

Speaking during third reading, Dame Maria Miller said that the bill

³⁴ House of Commons Public Bill Committee, '[Commonwealth Parliamentary Association and International Committee of the Red Cross \(Status\) Bill](#)', 6 March 2024, session 2023–24, col 9.

³⁵ [HC Hansard, 26 April 2024, cols 1217–38.](#)



acknowledged the important work of the ICRC and the CPA. She also outlined concerns that, without the legislation, the CPA may relocate, and that the bill marked a commitment to it and the Commonwealth:

I am mindful, however, that the bill will need to pass through the other place to become an act, so may I say once again that, without this legislation, there is a strong possibility that the CPA would relocate its headquarters outside the UK? By enacting the bill, the UK can not only keep the CPA here but demonstrate our commitment to the Commonwealth itself in this, its 75th year.³⁶

The bill is scheduled to have its second reading in the House of Lords on 17 May 2024.

5. Read more

- House of Commons Library, '[The Commonwealth Parliamentary Association and International Committee of the Red Cross \(Status\) Bill](#)', 24 April 2024
- House of Commons Library, '[The role and status of the Commonwealth Parliamentary Association](#)', 30 June 2023

³⁶ [HC Hansard, 26 April 2024, col 1219.](#)

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