

SPECIAL ENVOY FOR FREEDOM OF RELIGION OR BELIEF BILL

EXPLANATORY NOTES

What these notes do

These Explanatory Notes relate to the Special Envoy for Freedom of Religion or Belief Bill as brought from the House of Commons on 20 May 2024 (HL Bill 81).

- These Explanatory Notes have been prepared by the Foreign, Commonwealth and Development Office (“FCDO”), with the consent of the Rt. Rev. the Lord Bishop of Winchester, the Peer in charge of the Bill, in order to assist the reader of the Bill and to help inform debate on it. They do not form part of the Bill and have not been endorsed by Parliament.
- These Explanatory Notes explain what each part of the Bill will mean in practice; provide background information on the development of policy; and provide additional information on how the Bill will affect existing legislation in this area.
- These Explanatory Notes might best be read alongside the Bill. They are not, and are not intended to be, a comprehensive description of the Bill.

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Overview of the Bill

- 1 This is a Presentation Bill, introduced by the Hon Fiona Bruce MP on 11 December 2023, which will establish the existing role of Prime Minister’s Special Envoy for Freedom of Religion or Belief as a statutory appointment. Before this Bill, the role of Prime Minister’s Special Envoy for Freedom of Religion or Belief was non-statutory. The Prime Minister could appoint the role of special envoy at their discretion.
- 2 The Bill contains one substantive clause, addressing the appointment, duties, reporting requirements and resourcing of the Special Envoy for Freedom of Religion or Belief.
- 3 The Bill places a statutory duty on a Minister of the Crown to appoint and provide resources to the Special Envoy for Freedom of Religion or Belief. It also places a duty on the special envoy to report on their work to the Prime Minister.

Policy background

- 4 The special envoy champions the right to freedom of religion or belief (“FoRB”) abroad. The right to FoRB is enshrined in article 18 of the Universal Declaration of Human Rights (“UDHR”) ¹ and is also expressed in Article 18 of the International Covenant on Civil and Political Rights (the right to practise or change faith, or have no faith) and Article 2 which commits states to protecting individuals against discrimination on the basis of religious identity.²
- 5 The current special envoy’s work, Fiona Bruce MP, including in her consecutive terms as Chair of the International Religious Freedom or Belief Alliance, has sought to bolster joint international action on FoRB. This has built on the commitments set out during the UK-hosted 2022 International Ministerial Conference on FoRB, which brought together governments, faith and belief leaders, human rights experts, and civil society from across the world.
- 6 In 2019, then Foreign Secretary Jeremy Hunt MP commissioned the then Bishop of Truro to produce an independent review into the work of the then Foreign and Commonwealth Office (“FCO”) on FoRB. The review presented 22 recommendations, accepted by the Government, for changes in policy and practice to protect FoRB around the world. Review recommendation 6 states: *“Establish suitable instruments / roles to monitor and implement such an approach, taking into consideration other international approaches, and specifically establishing permanently, and in perpetuity, the role of Special Envoy for Freedom of Religion or Belief with appropriate resources and authority to work across FCO departments supported by a Director General-level champion for FoRB.”*³ The 2019 Conservative Manifesto further committed to *“seek to protect those persecuted for their faith and implement the Truro Review recommendations.”*⁴
- 7 The position of Prime Minister’s Special Envoy for Freedom of Religion or Belief was created in 2018 on a non-statutory basis, and there have been three special envoys to date.

¹ https://www.ohchr.org/sites/default/files/UDHR/Documents/UDHR_Translations/eng.pdf

² <https://www.ohchr.org/sites/default/files/ccpr.pdf>

³ <https://christianpersecutionreview.org.uk/storage/2019/07/final-report-and-recommendations.pdf>

⁴ <https://www.conservatives.com/our-plan/conservative-party-manifesto-2019>

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Legal background

- 8 The Bill does not amend or repeal any other existing legislation, and there is no other relevant legislation in this area. This would be the first special envoy role to be appointed under statute.

Territorial extent and application

- 9 The territorial extent of this Bill – that is, the jurisdictions in which the Bill forms part of the law – is set out in clause 2 of the Bill.
- 10 The provisions in the Bill extend and applies to the whole of the United Kingdom.
- 11 See the table in Annex A for a summary of the position regarding territorial extent and application in the United Kingdom. The table also summarises the position regarding Legislative Consent Motions.
- 12 The legislation does not extend to the Channel Islands, the Isle of Man or the British Overseas Territories.

Commentary on provisions of the Bill

Clause 1: The Prime Minister’s Special Envoy for Freedom of Religion or Belief

- 13 The effect of subsection (1) is to provide for the continuation of the role of special envoy. This means the position must continue to be filled. Although there has been a special envoy since 2018, the non-statutory nature of the role means that it is at the discretion of the Prime Minister whether it is filled or not.
- 14 Subsection (2) determines who will appoint and remove the special envoy from office. “A Minister of the Crown” includes (among others) the Prime Minister, Foreign Secretary and other FCDO Ministers. Under current arrangements the Prime Minister makes the appointment and this is expected to continue (as the full title of the role implies) whilst other Ministers engage on concerns such as resources.
- 15 Subsection (3) sets out the core functions of the special envoy. It provides that the special envoy will promote FoRB abroad. The jurisdiction of the special envoy’s activities does not extend to FoRB issues in the UK as there is a dedicated Minister for Faith, based in the Department for Levelling Up, Housing and Communities, who works to promote faith, religious tolerance, and stronger communities within the UK. The cases of discrimination and persecution the special envoy is concerned with are those that take place abroad.
- 16 The core functions in subsection (3) are not exhaustive and the special envoy might take a wide range of actions with these objectives in mind.
- 17 Subsection (4) places a duty on the special envoy to provide a report to the Prime Minister on their work from time to time. Under current arrangements the special envoy is asked to report to the Prime Minister twice yearly on progress.
- 18 Subsection (5) allows for the government to continue to exercise control over the special envoy’s performance of their functions. This is currently provided for through agreed terms of reference and, subject to the provisions of the Bill, subsection (5) allows for that approach to continue.
- 19 Subsection (6) covers the provision of resources to the special envoy to carry out their functions.
- 20 Subsection (7) makes the role a Crown appointment, as is usual for appointments which are subject to close government oversight.

Clause 2: Commencement, extent, and short title

- 21 The provisions of clause 2 are self-explanatory.

Commencement

- 22 The Bill comes into force on the day on which it receives Royal Assent.

Financial implications of the Bill

- 23 The financial implications of the draft Bill are minimal. There will be little or no loss of revenue as a result of the provisions in subsection (6), which cover the special envoys resources. The

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special envoy will continue to be provided with resources in the established manner.

Parliamentary approval for financial costs or for charges imposed

- 24 A money resolution was passed in the House of Commons on 22 April in respect of the Bill. A money resolution is required where a Bill authorises new charges on the public revenue – broadly speaking, new public expenditure. In the case of this Bill a resolution was needed because subsection (6) commits the government to providing the special envoy with resources.

Compatibility with the European Convention on Human Rights

- 25 Because the Bill is a Private Member's Presentation Bill, there is no requirement on the Minister to make a statement under section 19(1) of the Human Rights Act 1998. Nevertheless, the FDCO considers that the provisions of the Bill are compatible with the Convention rights.

Annex A – Territorial extent and application in the United Kingdom

26 Clause 2 sets out the territorial extent of the clauses in the Bill. The extent of a Bill is the legal jurisdiction where it forms part of the law. The extent of a Bill can be different from its application. Application refers to where it has practical effect.

Provision	England	Wales		Scotland		Northern Ireland	
	Extends to E & W and applies to England?	Extends to E & W and applies to Wales?	Legislative Consent Motion process engaged?	Extends and applies to Scotland?	Legislative Consent Motion process engaged?	Extends and applies to Northern Ireland?	Legislative Consent Motion process engaged?
Clause 1	Yes	Yes	No	Yes	No	Yes	No
Clause 2	Yes	Yes	No	Yes	No	Yes	No
Clause 3	Yes	Yes	No	Yes	No	Yes	No
Clause 4	Yes	Yes	No	Yes	No	Yes	No
Clause 5	Yes	Yes	No	Yes	No	Yes	No
Clause 6	Yes	Yes	No	Yes	No	Yes	No

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