

**BILL C-61, AN ACT TO AMEND THE GENEVA  
CONVENTIONS ACT, AN ACT TO INCORPORATE  
THE CANADIAN RED CROSS SOCIETY  
AND THE TRADE-MARKS ACT**

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## LEGISLATIVE HISTORY OF BILL C-61

### HOUSE OF COMMONS

Bill Stage	Date
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First Reading:	8 June 2007
Second Reading:	13 June 2007
Committee Report:	13 June 2007
Report Stage:	13 June 2007
Third Reading:	13 June 2007

### SENATE

Bill Stage	Date
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First Reading:	13 June 2007
Second Reading:	18 June 2007
Committee Report:	21 June 2007
Report Stage:	
Third Reading:	21 June 2007

Royal Assent: 22 June 2007

Statutes of Canada 2007, C. 26

N.B. Any substantive changes in this Legislative Summary that have been made since the preceding issue are indicated in **bold print**.

Legislative history by Michel Bédard

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BILL C-61, AN ACT TO AMEND THE GENEVA  
CONVENTIONS ACT, AN ACT TO INCORPORATE  
THE CANADIAN RED CROSS SOCIETY  
AND THE TRADE-MARKS ACT\*

## INTRODUCTION

Bill C-61, An Act to amend the Geneva Conventions Act, An Act to incorporate the Canadian Red Cross Society and the Trade-marks Act, was introduced in the House of Commons by the Minister of Foreign Affairs, the Hon. Peter MacKay, on 8 June 2007.

By unanimous consent, on 13 June 2007 it was deemed to have been read a second time and referred to a Committee of the Whole, deemed considered in the Committee of the Whole, deemed reported without amendment, deemed concurred in at the report stage and deemed read a third time and passed. It was passed in the Senate on 21 June 2007 and was given Royal Assent on 22 June 2007.

This bill amends the *Geneva Conventions Act*,<sup>(1)</sup> the *Trade-marks Act*<sup>(2)</sup> and *An Act to incorporate the Canadian Red Cross Society*<sup>(3)</sup> in order to implement the Protocol Additional to the Geneva Conventions of 12 August 1949, and Relating to the Adoption of an Additional Distinctive Emblem (Protocol III) [“the Third Protocol”].

The Geneva Conventions are a series of international treaties and protocols that seek to limit the suffering caused by armed conflicts and to alleviate its effects. Among its provisions are the recognition and protection of certain distinct emblems signifying humanitarian

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\* Notice: For clarity of exposition, the legislative proposals set out in the bill described in this Legislative Summary are stated as if they had already been adopted or were in force. It is important to note, however, that bills may be amended during their consideration by the House of Commons and Senate, and have no force or effect unless and until they are passed by both Houses of Parliament, receive Royal Assent, and come into force.

(1) *Geneva Conventions Act* (R.S., 1985, c. G-3) <http://laws.justice.gc.ca/en/ShowTdm/cs/G-3///en>.

(2) *Trade-marks Act* (R.S., 1985, c. T-13) <http://laws.justice.gc.ca/en/showtdm/cs/T-13>.

(3) *An Act to incorporate the Canadian Red Cross Society* (1909, c. 68), <http://laws.justice.gc.ca/en/showtdm/cs/C-22.4>.

and medical aid: the red cross, the red crescent, and the red lion and sun (although the red lion and sun emblem has not been used since 1980).

This Protocol establishes an additional distinct emblem alongside the current red cross and red crescent and sets out criteria for its use. The Protocol also outlines the process for the Protocol's ratification, accession and entry into force.

The distinctive emblem set out in the Third Protocol is a red frame in the shape of "a square on edge" (balanced on one point) on a white background, and is referred to in the Protocol as the "third Protocol emblem." It is commonly known as the "Red Crystal."

The bill further amends *An Act to incorporate the Canadian Red Cross Society* to provide the same protection for the red crescent and red crystal emblems as it provides for the red cross emblem, and to add a short title to that Act.

Lastly, the bill amends the *Trade-marks Act* to ensure that the third Protocol emblem is given the same protection as that of the red cross, red crescent, and red lion and sun under that Act.

## DESCRIPTION AND ANALYSIS

- Clauses 1, 2 and 3 of Bill C-61 amend the *Geneva Conventions Act*:

Clause 1 amends the Act to state that the Third Protocol, which is set out in Schedule VII of the *Geneva Conventions Act*, is approved. This follows text in section 2 of that Act that approves the Geneva Conventions and its earlier Protocols; therefore, it updates the Act to reflect the approval of this latest Protocol.

Clause 2 of the bill includes the third Protocol emblem among the emblems referred to in Article 85, paragraph 3(f) of Schedule VI of the Geneva Conventions. Schedule VI, among other things, protects specified emblems from misuse. This amendment is, therefore, a measure to ensure that the third Protocol emblem is afforded the same protections as the red cross, red crescent, and red lion and sun emblems currently enjoy.

Clause 3 amends the *Geneva Conventions Act* by adding a new Schedule VII to that Act. Schedule VII contains the Protocol Additional to the Geneva Conventions of 12 August 1949, and Relating to the Adoption of an Additional Distinctive Emblem (Protocol III).

- Clauses 4 and 5 amend *An Act to incorporate the Canadian Red Cross Society*:

Clause 4 replaces section 4 of the Act. It updates some of the language used. For example, it replaces the phrases “himself or itself” with “himself or herself” and “his or its” with “his or her.” It also replaces the word “agent” of the Red Cross Society with “representative” of that Society.

It further adds a provision prohibiting the unlawful use of the Red Crescent and Red Crystal (the third Protocol emblem) names, together with their emblems and badges and other word, device or thing likely to be mistaken for the red cross, red crescent or red crystal. In the Act as it is currently written, only the red cross emblem is specifically safeguarded from unlawful use. This amendment is to ensure that the red crescent and third Protocol emblems are given the same protection against unlawful use as the red cross emblem.

The penalty provision for the unlawful use of these emblems is amended to include all emblems as noted above. An exception to this penalty section is included, stating that it does not make unlawful the use of any of the emblems, badges, words or things likely to be mistaken for them that was carried out lawfully before the coming into force of this subsection.

Clause 5 adds a new section to the Act. New section 10 adds a short title, the *Canadian Red Cross Society Act*, to the Act.

- Clause 6 amends the *Trade-marks Act*:

Clause 6 amends section 9(1) of the *Trade-marks Act* by adding the third Protocol emblem to those marks whose unauthorized use is prohibited. This gives the third Protocol emblem the same protection as that afforded to the red cross, red crescent, and red lion and sun under the Act.

- Coming into force information:

The provisions of this bill come into force on a day or days to be fixed by order of the Governor in Council, as set out in clause 7.

## COMMENTARY

The Protocol Additional to the Geneva Conventions of 12 August 1949, and Relating to the Adoption of an Additional Distinctive Emblem (Protocol III) was adopted by the High Contracting Parties on 8 December 2005. It establishes the red crystal as an additional distinctive emblem for the International Red Cross and Red Crescent Movement (“the Movement”).

“The Movement is the world’s largest humanitarian network, with a presence and activities in almost every country. It incorporates the Geneva-based International Committee of the Red Cross (ICRC) and the International Federation of Red Cross and Red Crescent Societies (the International Federation), as well as National Societies in 178 countries.”<sup>(4)</sup>

The aim of the Third Protocol is to allow the Movement to be more universal and effective in its response to crises worldwide. The Protocol seeks to enhance the protection for humanitarian workers who provide assistance to people affected by conflicts and natural disasters. The Protocol entered into force on 14 January 2007.

The red crystal emblem and the Third Protocol establishing it are the result of almost 50 years of negotiations. The red crystal is intended as an additional emblem for the International Red Cross and Red Crescent Movement, free of national, cultural, religious, political or ethnic connotation.<sup>(5)</sup> It also intended to provide a basis for the Magen David Adom (the Israeli national aid society) and the Palestinian Red Crescent Society to join the International Red Cross and Red Crescent Movement as full members.

Canada signed the Third Protocol on 19 June 2006 and is currently pursuing efforts to ratify it. In order to do this, Canada was obliged to amend certain legislation to provide the same level of protection for the red crystal emblem as has the red cross emblem in Canada, as well as the red crescent emblem.

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(4) International Red Cross and Red Crescent Movement (IFRC) website, <http://www.redcross.int/EN/history/> (accessed 15 June 2007).

(5) For a brief review of the emblem’s history and the debate on its creation, see IFRC website.