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PUBLIC ORDER (NORTHERN IRELAND) ORDER BILL

A. BACKGROUND TO BILL

This Bill would replace the Public Order (Northern Ireland) Order, which is parallel to the 1986 Public Order Act in Great Britain, and would broadly implement the recommendations of the North Report.

Following serious public disorder surrounding contested parades at Drumcree and elsewhere last year, the Government established an independent review of parades and marches. Its report (the North Report) recommended substantial changes to existing legislation. The Secretary of State and Prime Minister committed themselves to implementing this Report and to their policy objective of upholding the rule of law, both in opposition and since the Election. This legislation will be included in the first Queen's Speech of this Government, though the first marching season is already under way and it will not therefore be possible to implement it in advance of that, as the Government would have wished. Introduction in the Autumn would enable changes to be put in place before the start of next year's marching season.

B. DESCRIPTION OF PROPOSALS

The North Report makes in total 43 recommendations. The most significant, however, are the establishment of an independent Parades Commission as a body corporate. This Commission would have a duty to facilitate education and mediation on the parades issue. It would also take over from the RUC the power to impose restrictions on contested parades, and would implement the Report's recommendation that a new criterion be created under which conditions can be imposed, enabling the Commission to take into account the "wider impact of the parade on the relationships within the community".

Finally, the Bill would re-enact, with some consequential amendments, much of the existing Order. The Bill would also empower the Secretary of State, on appeal by the Chief Constable, to review a determination made by the Parades Commission and to revoke, amend or confirm that determination.

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C O N F I D E N T I A L

C. POLITICAL IMPACT

The Bill is likely to be controversial. Opposition can be expected from Unionists, and possibly also from the Opposition.

D. PRESENTATIONAL CONSIDERATIONS

The Bill will be medium to long in length. It is yet to be decided whether the guidelines which are to define how the new criterion is to be interpreted in practice should be set out in regulations, or left to the Commission's discretion. The Delegated Powers Committee of the House may have views.

E. PUBLIC EXPENDITURE/MANPOWER IMPLICATIONS

Apart from the cost of the Commission - around £1m per annum, there are no implications for public expenditure or manpower.

F. VALUE FOR MONEY IMPLICATIONS

Nil.

G. RISK OF LEGAL CHALLENGE

The Bill is likely to be challenged under ECHR. Our advice is that the European Court in Strasbourg would be reluctant to challenge a central plank of Government policy which is intended to serve the general good by resolving tension in this contentious area. It is not clear however how Northern Ireland and English courts would react were ECHR to be incorporated into domestic legislation, as planned.