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LEGIS D TYPED 30/11/2002

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Public Processions etc. (Northern Ireland)

Clause 8 enables the Commission to issue determinations imposing conditions on public processions. The conditions may include re-routing the procession. In coming to a determination the Commission must have regard to the guidelines which will in particular deal with certain factors set out in *subsection (6)*. Failure to comply with a condition imposed by the Commission is an offence. *Clause 9* provides that the Secretary of State may, on the Chief Constable's application, review the Commission's determination and revoke, amend or confirm the determination having regard to the same guidelines as the Commission. *Clause 10* provides that nothing in *clause 8* or *9* affects the common law powers of the police to take action to deal with or prevent a breach of the peace.

Clause 11 confers power on the Secretary of State, having regard to a list of factors, to make orders prohibiting public processions. An order may prohibit a particular procession, a class or description of procession or all processions and may be effective for a period up to 28 days. It is an offence to contravene such an order.

Clause 12 confers power on the Secretary of State to provide by order for the registration of bands. It is an offence to take part in a public procession as a member of a band which is unregistered or does not comply with the conditions of registration. *Clause 13* empowers the police to require the surrender of alcohol by persons at, or in the vicinity of, or travelling to, a public procession. Failure to comply with any such requirement is an offence. *Clause 14* makes it an offence to hinder or obstruct a lawful public procession. *Clause 15* confers on the police power to arrest without warrant anyone suspected of committing an offence under the Bill.

Clause 16 makes provision about orders and regulations under the Bill. *Clause 17* deals with interpretation. *Clause 18* and *Schedules 3 and 4* provide for amendments and repeals. *Clause 19* deals with the Bill's short title, commencement and extent.

Financial effects of the Bill

The total annual running cost of the Commission is estimated at £1.2 million.

Effects of the Bill on public service manpower

There will be a small rise in public service manpower. The Commission will have a secretariat, unlikely to exceed seven, to assist it in its duties.

Business compliance cost assessment

There are no cost implications for business. However the Bill will have cost implications for some voluntary or charitable organisations. A full compliance cost assessment of the Bill is available to the public from the Northern Ireland Office at 11 Millbank, London SW1A 4QE or Stormont House, Stormont, Belfast BT4 3ST.

Public Processions etc. (Northern Ireland) Bill [H.L.]

ARRANGEMENT OF CLAUSES

The Commission

Clause

1. The Commission. [j1]
2. Functions of the Commission in relation to public processions. [j2]
3. Functions of the Commission in relation to other expressions of cultural identity. [j2A]
4. Code of Conduct. [j3]
5. Procedural rules. [j4]
6. Guidelines. [j5]

Advance notice of public processions

7. Advance notice of public processions. [j6]

The Commission's powers to impose conditions on public processions

8. The Commission's powers to impose conditions on public processions. [j9]
9. Review by Secretary of State of determination of Commission under section 8. [j10]
10. Saving for powers of a constable. [j11]

Secretary of State's powers to prohibit public processions

11. Secretary of State's powers to prohibit public processions. [j12]

General regulation of public processions

12. Registration of bands taking part in public processions. [j13]
13. Control of alcohol at public processions. [j14]
14. Breaking up public procession. [j15]

Supplementary

15. Powers of arrest. [j16]
16. Regulations and orders. [j17]
17. Interpretation. [j18]
18. Amendments and repeals. [j19]
19. Short title, commencement, transitional provision and extent. [j20]

SCHEDULES:

HL Bill Schedule 1 —The Commission [j501].

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Public Processions etc. (Northern Ireland)

Schedule 2 —Provisions relating to code of conduct, procedural rules and guidelines [j502].

Schedule 3 —Amendments [j503].

Schedule 4 —Repeals [j504].

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A
B I L L

INTITLED

An Act to amend the law relating to public processions in Northern Ireland; to provide for the establishment and functions of a Parades Commission concerned with public processions and other expressions of cultural identity in Northern Ireland; and for connected purposes. A.D. 1997.

BE IT ENACTED by the Queen's most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows:—

The Commission

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1.—(1) There shall be established a Parades Commission concerned with public processions and other expressions of cultural identity in Northern Ireland (in this Act referred to as "the Commission").

The Commission.
[1]

(2) Schedule 1 has effect in relation to the Commission.

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2.—(1) It shall be the duty of the Commission—

Functions of the
Commission in
relation to public
processions. [2]

(a) to promote greater understanding by the general public of issues concerning public processions;

(b) to promote and facilitate mediation as a means of resolving disputes concerning public processions;

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(c) to keep itself generally informed as to the conduct of public processions;

(d) to keep under review, and make such recommendations as it thinks fit to the Secretary of State concerning, the operation of this Act.

(2) The Commission may in accordance with the following provisions of this Act—

(a) mediate, or facilitate mediation, between parties to particular disputes concerning proposed public processions and take such other steps as appear to the Commission to be appropriate for resolving such disputes;

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(b) issue determinations in respect of particular proposed public processions.

(3) For the purposes of its functions under this section, the Commission may, with the approval of the Secretary of State—

- (a) provide financial or other assistance to any person or body on such terms and conditions as the Commission may determine; 5
- (b) commission research.

Functions of the
Commission in
relation to other
expressions of
cultural identity.
[j2A]

3.—(1) It shall be the duty of the Commission to keep under review, and make such recommendations to the Secretary of State as it thinks fit concerning, the law and practice relating to expressions of cultural identity to which this section applies. 10

(2) Subject to subsection (3), this section applies to expressions by members of a section of the community of their cultural identity which—

- (a) take place in a public place wholly or partly open to the air; and
- (b) appear to the Commission to have, or to be likely to have, an adverse impact on relationships within the community. 15

(3) This section does not apply to public processions.

(4) For the purposes of its functions under this section, the Commission may, with the approval of the Secretary of State, commission research.

(5) This section shall not come into force until such day as the Secretary of State, after consultation with the Commission, may by order appoint. 20

Code of Conduct.
[j3]

4.—(1) The Commission shall issue a code (in this Act referred to as "the Code of Conduct")—

- (a) providing guidance to persons organising a public procession; and
- (b) regulating the conduct of persons organising or taking part in a public procession. 25

(2) The Commission—

- (a) shall keep the Code of Conduct under review; and
- (b) may from time to time revise the whole or any part of the Code of Conduct and issue the revised Code of Conduct. 30

(3) Schedule 2 has effect in relation to the Code of Conduct.

Procedural rules.
[j4]

5.—(1) The Commission shall issue a set of rules (in this Act referred to as "the procedural rules") for the purpose of regulating and prescribing the practice and procedure to be followed—

- (a) by the Commission in exercising the functions mentioned in section 2(2)(a) or (b); and 35
- (b) by other persons or bodies in their dealings with the Commission in connection with the exercise of those functions.

(2) In particular (but without prejudice to the generality of subsection (1)) the procedural rules may— 40

- (a) provide for the determination by the Commission of the particular cases in relation to which the functions mentioned in section 2(2)(a) or (b) are to be exercised;

Public Processions etc. (Northern Ireland)

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- (b) prescribe the manner in which, and the time within which, specified actions may or must be taken (whether by the Commission or by other persons or bodies) for the purposes of the exercise by the Commission of those functions;
- 5 (c) require notice of specified determinations of the Commission made in the exercise of those functions to be published in such form and manner as may be specified.
- (3) In subsection (2) "specified" means specified in the procedural rules.
- (4) The Commission—
- 10 (a) shall keep the procedural rules under review; and
- (b) may from time to time revise the whole or any part of the procedural rules and issue the revised procedural rules.
- (5) Schedule 2 has effect in relation to the procedural rules.
- 6.—(1) The Commission shall issue a set of guidelines (in this Act referred to as "the guidelines") as to the exercise by the Commission of its functions under section 8. Guidelines. [j5]
- (2) The Commission—
- (a) shall keep the guidelines under review; and
- (b) may from time to time revise the whole or any part of the guidelines and issue the revised guidelines.
- 20 (3) Schedule 2 has effect in relation to the guidelines.

Advance notice of public processions

- 7.—(1) A person proposing to organise a public procession shall give notice of that proposal in accordance with subsections (2) to (4) to a member of the Royal Ulster Constabulary not below the rank of sergeant by leaving the notice with him at the police station nearest to the proposed starting place of that procession. Advance notice of public processions. [j6]
- (2) Notice under this section shall be given—
- (a) not less than 28 days before the date on which the procession is to be held; or
- 30 (b) if that is not reasonably practicable, as soon as it is reasonably practicable to give such notice.
- (3) Notice under this section shall—
- (a) be given in writing in such form as may be prescribed by regulations made by the Secretary of State; and
- 35 (b) be signed by the person giving the notice.
- (4) The form prescribed under subsection (3)(a) shall require a person giving notice under this section to specify—
- (a) the date and time when the procession is to be held;
- 40 (b) its route;
- (c) the number of persons likely to take part in it;
- (d) the names of any bands which are to take part in it;

- (e) the arrangements for its control being made by the person proposing to organise it;
 - (f) the name and address of that person;
 - (g) where the notice is given as mentioned in paragraph (b) of subsection (2), the reason why it was not reasonably practicable to give notice in accordance with paragraph (a) of that subsection; and 5
 - (h) such other matters as appear to the Secretary of State to be necessary for, or appropriate for facilitating, the exercise by the Commission, the Secretary of State or members of the Royal Ulster Constabulary of any function in relation to the procession. 10
- (5) This section does not apply where the procession is—
- (a) a funeral procession; or
 - (b) a procession of a class or description specified in an order made by the Secretary of State.
- (6) The Chief Constable shall ensure that a copy of a notice given under this section is immediately sent to the Commission. 15
- (7) A person who organises or takes part in a public procession—
- (a) in respect of which the requirements of this section as to notice have not been satisfied; or
 - (b) which is held on a date, at a time or along a route which differs from the date, time or route specified in relation to it in the notice given under this section, 20
- shall be guilty of an offence.
- (8) In proceedings for an offence under subsection (7) it is a defence for the accused to prove that he did not know of, and neither suspected nor had reason to suspect, the failure to satisfy the requirements of this section or (as the case may be) the difference of date, time or route. 25
- (9) To the extent that an alleged offence under subsection (7) turns on a difference of date, time or route it is a defence for the accused to prove that the difference arose from— 30
- (a) circumstances beyond his control;
 - (b) something done in compliance with conditions imposed under section 8; or
 - (c) something done with the agreement of a member of the Royal Ulster Constabulary not below the rank of inspector or by his direction. 35
- (10) A person guilty of an offence under subsection (7) shall be liable on summary conviction to imprisonment for a term not exceeding 6 months or to a fine not exceeding level 5 on the standard scale, or to both.

The Commission's powers to impose conditions on public processions

The Commission's powers to impose conditions on public processions. [j9]

8.—(1) The Commission may issue a determination in respect of a proposed public procession imposing on the persons organising or taking part in it such conditions as the Commission considers necessary. 40

(2) Without prejudice to the generality of subsection (1), the conditions imposed under that subsection may include conditions as to the route of the procession or prohibiting it from entering any place. 45

Public Processions etc. (Northern Ireland)

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(3) Conditions imposed under subsection (1) may incorporate or be framed by reference to—

- (a) the Code of Conduct; or
- (b) any other document—

- 5 (i) prepared by the person or body organising the procession in question; and
- (ii) approved by the Commission for the purposes of this section.

(4) The Commission may, in accordance with the procedural rules, amend or revoke any determination issued under this section.

10 (5) In considering in any particular case

- (a) whether to issue a determination under this section;
- (b) whether to amend or revoke a determination issued under this section; or
- (c) what conditions should be imposed by a determination (or amended determination) issued under this section,

15 the Commission shall have regard to the guidelines.

(6) The guidelines shall in particular (but without prejudice to the generality of section 6(1)) provide for the Commission to have regard to—

- 20 (a) any public disorder or damage to property which may result from the procession;
- (b) any disruption to the life of the community which the procession may cause;
- (c) any impact which the procession may have on relationships within the community;
- 25 (d) any failure of a person of a description specified in the guidelines to comply with the Code of Conduct (whether in relation to the proposed procession in question or any previous procession); and
- (e) the desirability of allowing a procession customarily held along a particular route to be held along that route.

30 (7) A person who knowingly fails to comply with a condition imposed under this section shall be guilty of an offence, but it is a defence for him to prove that the failure arose—

- (a) from circumstances beyond his control; or
- (b) from something done by direction of a member of the Royal Ulster Constabulary not below the rank of inspector.

35 (8) A person who incites another to commit an offence under subsection (7) shall be guilty of an offence.

(9) A person guilty of an offence under subsection (7) or (8) shall be liable—

- 40 (a) on summary conviction, to imprisonment for a term not exceeding 6 months or to a fine not exceeding the statutory maximum, or to both; or
- (b) on conviction on indictment, to imprisonment for a term not exceeding 2 years or to a fine, or to both.

Review by
Secretary of State
of determination of
Commission under
section 8. [j10]

9.—(1) The Secretary of State may, on an application made by the Chief Constable, review a determination issued by the Commission under section 8.

(2) On a review of a determination under this section the Secretary of State may—

- (a) revoke the determination;
- (b) amend the determination by amending or revoking any condition imposed by the determination or by adding any new condition; or
- (c) confirm the determination.

(3) In considering in any particular case—

- (a) whether to revoke, amend or confirm a determination; or
- (b) what amendments should be made to a determination,

the Secretary of State shall have regard to the guidelines.

(4) Wherever practicable the Secretary of State shall before revoking, amending or confirming a determination under this section consult the Commission; but nothing in this subsection shall affect the validity of any revocation, amendment or confirmation under this section.

(5) A determination of the Commission which is amended by the Secretary of State under this section shall be treated for the purposes of this Act (except section 8(4)) as if it had been issued by the Commission as so amended.

(6) Where a determination of the Commission in relation to a public procession has been revoked by the Secretary of State under this section, the Commission shall not issue any further determination under section 8 in relation to that procession.

(7) The Secretary of State shall immediately notify the Commission where any determination of the Commission is revoked, amended or confirmed under this section.

Saving for powers
of a constable.
[j11]

10. Nothing in section 8 or 9 or in any determination of the Commission affects the common law powers of a constable to take action to deal with or prevent a breach of the peace.

Secretary of State's powers to prohibit public processions

Secretary of
State's powers to
prohibit public
processions. [j12]

11.—(1) If, in the case of any proposed public procession, the Secretary of State is of the opinion that, having regard to—

- (a) any public disorder or damage to property which may result from the procession;
- (b) any disruption to the life of the community which the procession may cause;
- (c) any impact which the procession may have on relationships within the community; and
- (d) any demands which the procession may cause to be made on the police or military forces,

it is necessary in the public interest to do so, he may by order prohibit the holding of that procession.

Public Processions etc. (Northern Ireland)

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(2) If, in relation to any area and any period of time not exceeding 28 days, the Secretary of State is of the opinion that, having regard to—

- (a) any public disorder or damage to property which may result from public processions of a particular class or description in that area in that period;
- (b) any disruption to the life of the community which such processions may cause;
- (c) any impact which such processions may have on relationships within the community;
- (d) any demands which such processions may cause to be made on the police or military forces; and
- (e) the extent of the powers exercisable under subsection (1),

it is necessary in the public interest to do so, he may by order prohibit the holding of all public processions of that class or description in that area in that period.

(3) If, in relation to any area and any period of time not exceeding 28 days, the Secretary of State is of the opinion that, having regard to—

- (a) any public disorder or damage to property which may result from public processions in that area in that period;
- (b) any disruption to the life of the community which such processions may cause;
- (c) any impact which such processions may have on relationships within the community;
- (d) any demands which such processions may cause to be made on the police or military forces; and
- (e) the extent of the powers exercisable under subsections (1) and (2),

it is necessary in the public interest to do so, he may by order prohibit the holding of all public processions in that area in that period.

(4) An order under subsection (2) or (3) may exempt any procession, or any procession of any class or description, specified in the order.

(5) Wherever practicable the Secretary of State shall before making an order under this section consult—

- (a) the Commission;
- (b) the Chief Constable; and
- (c) the committee of the Police Authority for Northern Ireland constituted under paragraph 15(2) of Schedule 1 to the Police Act (Northern Ireland) 1970,

1970 c. 9 (N.I.).

but nothing in this subsection shall affect the validity of any such order.

(6) The power to make an order under this section includes power to revoke or amend any such order.

(7) An order made under subsection (1) in relation to a public procession has effect to revoke any previous determination made by the Commission under section 8 in relation to that procession, and an order made under subsection (2) or (3) has effect to revoke any previous determination made by the Commission under that section in relation to any public procession the holding of which is prohibited by the order.

(8) A person who organises or takes part in a public procession the holding of which he knows is prohibited by an order under this section shall be guilty of an offence.

(9) A person guilty of an offence under subsection (8) shall be liable—

- (a) on summary conviction, to imprisonment for a term not exceeding 6 months or to a fine not exceeding the statutory maximum, or to both; or
- (b) on conviction on indictment, to imprisonment for a term not exceeding 2 years or to a fine, or to both.

General regulation of public processions

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Registration of
bands taking part
in public
processions. [13]

12.—(1) The Secretary of State may by order provide for the registration of bands.

(2) Without prejudice to the generality of subsection (1), an order under that subsection may provide for—

- (a) applications for registration or the renewal of registration to be made to such court as may be specified in the order; 15
- (b) the procedure for the making and hearing of such applications (including the making and hearing of objections);
- (c) the grounds on which such applications may be refused;
- (d) the issue and duration of certificates of registration; 20
- (e) appeals against decisions made in relation to such applications;
- (f) the cancellation of registration and the procedure in relation thereto;
- (g) registration to be subject to such conditions as may be specified in or determined under the order;
- (h) the order not to apply to such bands or bands of such descriptions as may be specified in or determined under the order; 25
- (i) such other matters as appear to the Secretary of State to be necessary or expedient for the proper functioning of the system of registration provided for by the order.

(3) Any power to make rules of court regulating the practice or procedure of a court specified as mentioned in subsection (2)(a) includes power to make such provision as may be necessary or expedient for carrying into effect the provisions of an order under subsection (1). 30

(4) A person who knowingly takes part in a public procession as a member of a band which— 35

- (a) is one to which an order under subsection (1) applies, but is not registered under that order; or
- (b) does not comply with any condition subject to which it is registered under such an order,

shall be guilty of an offence. 40

(5) A person guilty of an offence under subsection (4) shall be liable on summary conviction to imprisonment for a term not exceeding 6 months or to a fine not exceeding level 5 on the standard scale, or to both.

Public Processions etc (Northern Ireland)

9

13.—(1) Where a constable in uniform reasonably suspects that a person to whom this subsection applies is consuming intoxicating liquor, the constable may require that person—

Control of alcohol
at public
processions. [j14]

- 5 (a) to surrender anything in his possession which is, or which the constable reasonably believes to be, intoxicating liquor; and
(b) to state his name and address.

(2) Subsection (1) applies to a person—

- 10 (a) who is taking part in a public procession; or
(b) who is among those who have assembled with a view to taking part in a public procession; or
(c) who—
(i) is otherwise present at, or is in the vicinity of, a place on the route or proposed route of a public procession; and
(ii) is in a public place, other than licensed premises.

15 (3) Where a constable in uniform reasonably suspects that a person to whom this subsection applies is in possession of intoxicating liquor, the constable may require that person—

- (a) to surrender anything in his possession which is, or which the constable reasonably believes to be, intoxicating liquor; and
20 (b) to state his name and address.

(4) Subsection (3) applies to a person who is in a passenger vehicle which is being used for the principal purpose of carrying passengers for the whole or any part of a journey to a place in the vicinity of the route or proposed route of a public procession.

25 (5) A constable may dispose of anything surrendered to him under this section in such manner as he considers appropriate.

(6) A person who fails without reasonable cause to comply with a requirement imposed on him under subsection (1) or (3) shall be guilty of an offence and liable on summary conviction to a fine not exceeding level 2 on
30 the standard scale.

(7) A constable who imposes a requirement on a person under subsection (1) or (3) shall inform that person of his suspicion and that failing without reasonable cause to comply with a requirement imposed under that subsection is an offence.

35 (8) A constable in uniform may—

- (a) stop a passenger vehicle; and
(b) search the vehicle and any person in the vehicle,
if he has reasonable grounds to suspect that intoxicating liquor is being carried on the vehicle and that the vehicle is being used for the principal
40 purpose mentioned in subsection (4).

(9) The powers of a constable under this section may only be exercised in relation to a particular public procession in the period—

- (a) beginning 6 hours before the proposed starting time of that procession; and
45 (b) ending at midnight on the day on which the persons taking part in the procession disperse.

(10) Where a proposed public procession does not take place but persons have assembled with a view to taking part in the procession, subsection (9) shall have effect as if for the reference in paragraph (b) to persons taking part in the procession there were substituted reference to the persons assembled with a view to taking part in the procession.

Breaking up public
procession. [j15]

14.—(1) A person who for the purpose of preventing or hindering any lawful public procession or of annoying persons taking part in or endeavouring to take part in any such procession—

- (a) hinders, molests or obstructs those persons or any of them;
- (b) acts in a disorderly way towards those persons or any of them; or
- (c) behaves offensively and abusively towards those persons or any of them,

shall be guilty of an offence.

(2) A person guilty of an offence under subsection (1) shall be liable on summary conviction to imprisonment for a term not exceeding 6 months or to a fine not exceeding level 5 on the standard scale, or to both.

Supplementary

Powers of arrest.
[j16]

15. A constable in uniform may arrest without warrant anyone he reasonably suspects is committing an offence under this Act.

Regulations and
orders. [j17]

16.—(1) Any power of the Secretary of State to make orders or regulations under this Act, except an order under section 11, shall be exercised by statutory instrument.

(2) A statutory instrument containing any order or regulations under this Act, except an order under section 3(5) or 19(2) or paragraph 4 of Schedule 2, shall be subject to annulment in pursuance of a resolution of either House of Parliament.

(3) An order or regulations under this Act—

- (a) may make different provision for different cases, circumstances or areas; and
- (b) may contain such incidental, supplemental or transitional provisions and savings as the Secretary of State considers appropriate.

Interpretation.
[j18]

17.—(1) In this Act—

“area” means the whole or any part of Northern Ireland;

“band” means a group of two or more persons who carry for the purpose of playing or sounding, or engage in the playing or sounding of, musical or other instruments;

“the Code of Conduct” has the meaning assigned by section 4(1);

“the Commission” means the Commission established by section 1;

“constable” means a member of the Royal Ulster Constabulary or the Royal Ulster Constabulary Reserve;

“the guidelines” has the meaning assigned by section 6(1);

Public Processions etc. (Northern Ireland)

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"intoxicating liquor" and "licensed premises" have the same meanings as in the Licensing (Northern Ireland) Order 1996;

1996 NI 22.

"passenger vehicle" means a motor vehicle (within the meaning of the Road Traffic (Northern Ireland) Order 1995) which is adapted to carry more than 8 passengers;

1995 NI 18.

"the procedural rules" has the meaning assigned by section 5(1);

"public place" means—

(a) any road within the meaning of the Roads (Northern Ireland) Order 1993; and

1993 NI 15.

(b) any place to which at the material time the public or any section of the public has access, on payment or otherwise, as of right or by virtue of express or implied permission;

"public procession" means a procession in a public place.

(2) References in this Act to the Chief Constable are to the Chief Constable of the Royal Ulster Constabulary; but the Chief Constable may delegate, to such extent and subject to such conditions as he may specify, any of his functions under this Act to a member of the Royal Ulster Constabulary not below the rank of Assistant Chief Constable.

18.—(1) The enactments set out in Schedule 3 shall have effect subject to the amendments specified in that Schedule.

Amendments and repeals. [19]

(2) The enactments set out in Schedule 4 are hereby repealed to the extent specified in column 3 of that Schedule.

19.—(1) This Act may be cited as the Public Processions etc. (Northern Ireland) Act 1997.

Short title, commencement, transitional provision and extent. [20]

(2) Subject to subsection (3) and to section 3(5), this Act comes into force on such day as the Secretary of State may by order appoint.

(3) The following provisions come into force on the passing of this Act, namely—

(a) section 1 and Schedule 1;

(b) sections 4 to 6 and Schedule 2;

(c) section 8(6);

(d) sections 16 and 17;

(e) paragraphs 2 and 3 of Schedule 3 and section 18(1) so far as relating thereto; and

(f) this section.

(4) Nothing in this Act shall apply in relation to any public procession held, or proposed to be held, in the period of one month beginning with the day appointed under subsection (2).

(5) Except for—

(a) paragraphs 2 and 3 of Schedule 3 and section 18(1) so far as relating thereto; and

(b) this section,

this Act extends to Northern Ireland only.

10/10/97 12:24

LEGIS D'IRN 7 36171210002

SCHEDULES

Section 1.

SCHEDULE 1

THE COMMISSION (J501)

Status

1.—(1) The Commission shall be a body corporate.

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(2) The Commission shall not be regarded as the servant or agent of the Crown or as enjoying any status, immunity or privilege of the Crown: and the Commission's property shall not be regarded as property of, or property held on behalf of, the Crown.

Membership

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2.—(1) The Commission shall consist of—

(a) a chairman; and

(b) not more than 6 other members,

appointed by the Secretary of State.

(2) The Secretary of State may by order vary the number for the time being specified in sub-paragraph (1)(b).

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Term of office

3.—(1) Subject to the following provisions of this paragraph, a person shall hold and vacate office as a member or as chairman of the Commission in accordance with the terms of his appointment.

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(2) The chairman and other members of the Commission shall be appointed for a term not exceeding 3 years, and a person appointed to fill a casual vacancy in the membership of the Commission shall hold office for the remainder of the term of the member in whose place he is appointed.

(3) A person may at any time resign as a member or as chairman of the Commission by notice in writing to the Secretary of State.

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(4) The Secretary of State may remove a person from office as a member or as chairman of the Commission if satisfied that—

(a) he has been convicted of a criminal offence;

(b) he has become bankrupt or made a composition or arrangement with his creditors;

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(c) he has failed to comply with the terms of his appointment; or

(d) he is otherwise unable or unfit to discharge his functions.

(5) A member of the Commission whose term of office expires or who has resigned shall be eligible for re-appointment.

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Remuneration

4. The Secretary of State may pay to the chairman and other members of the Commission such remuneration and allowances as the Secretary of State may determine.

Procedure

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5.—(1) The quorum for a meeting of the Commission shall be three.

(2) Every question at a meeting of the Commission shall be determined by a majority of the votes of the members present and voting on the question, and in the case

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of an equal division of the votes, the chairman of the meeting shall have a second or casting vote.

(3) If the chairman of the Commission is absent from a meeting of the Commission, the members present shall elect one of their number to act as chairman of the meeting.

(4) Subject to sub-paragraphs (1) to (3) and to the procedural rules, the Commission may regulate its own procedure.

Staff

6.—(1) The Commission may, with the approval of the Secretary of State as to numbers and terms and conditions of service, employ persons to assist the Commission or otherwise to enable the Commission to discharge its functions.

(2) The Commission may make arrangements for administrative, secretarial or other assistance to be provided for the Commission by persons employed in the civil service of Northern Ireland or of the United Kingdom.

(3) The Commission shall, with the approval of the Secretary of State, designate a person to whom sub-paragraph (1) or (2) applies as the secretary to the Commission.

Validity of proceedings

7. The validity of any proceedings of the Commission shall not be affected by
(a) any defect in the appointment of the chairman or any other member; or
(b) any vacancy in the office of chairman or among the other members.

Seal

8. The application of the seal of the Commission shall be authenticated by the signatures of—
(a) two members of the Commission; and
(b) the secretary to the Commission or some other person generally or specially authorised by the Commission to act for that purpose.

Contracts, etc.

9.—(1) Any contract or instrument which, if entered into or executed by an individual, would not require to be under seal may be entered into or executed on behalf of the Commission by any person generally or specially authorised by the Commission to act for that purpose.

(2) Before entering into contracts for the supply of goods or the execution of works, the Commission shall comply with such requirements as the Secretary of State may direct.

Evidence

10. A document purporting to be—
(a) duly executed under the seal of the Commission; or
(b) signed on behalf of the Commission,
shall be received in evidence and, unless the contrary is proved, shall be deemed to be so executed or signed.

Finance

11. The Secretary of State may make payments to the Commission of such amounts and on such terms and conditions as he may determine.

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Accounts and audit

12.—(1) The Commission shall—

- (a) keep proper accounts and proper records in relation to the accounts; and
- (b) prepare a statement of accounts in respect of each financial year of the Commission.

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(2) The statement of accounts shall contain such information and shall be in such form as the Secretary of State may direct.

(3) The Commission shall send a copy of the statement of accounts to the Secretary of State and the Comptroller and Auditor General within such period after the end of the financial year to which the statement relates as the Secretary of State may direct.

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(4) The Comptroller and Auditor General shall—

- (a) examine, certify and report on the statement of accounts; and
- (b) lay a copy of the statement of accounts and of his report before each House of Parliament.

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(5) The financial year of the Commission shall be the period of 12 months ending on 31st December; but the first financial year shall be the period beginning with the establishment of the Commission and ending with the next 31st December.

(6) The Secretary of State may by order amend sub-paragraph (5).

Annual report

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13.—(1) The Commission shall, within such period after the end of each financial year of the Commission as the Secretary of State may direct, issue a report on the discharge of its functions in that year.

(2) The Commission shall—

- (a) arrange for every report issued under sub-paragraph (1) to be published in such manner as appears to it to be appropriate; and
- (b) send a copy of the report to the Secretary of State.

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(3) The Secretary of State shall lay before each House of Parliament a copy of each report received by him under this paragraph.

Sections 4, 5 and
6.

SCHEDULE 2

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PROVISIONS RELATING TO CODE OF CONDUCT, PROCEDURAL RULES AND GUIDELINES
[1502]

Interpretation

1. In this Schedule "relevant instrument" means—

- (a) the Code of Conduct;
- (b) the procedural rules;
- (c) the guidelines.

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The first issue of relevant instruments

2. As soon as practicable after it is established, the Commission shall—

- (a) prepare a draft of each relevant instrument;
- (b) submit the draft to the Secretary of State; and
- (c) make such modifications to the draft as the Secretary of State, after consultation with the Commission, may require.

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3. The Commission shall then send the draft of each relevant instrument to the Secretary of State who shall lay the draft before each House of Parliament.

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4. A relevant instrument laid before Parliament in draft under paragraph 3 shall not come into operation except in accordance with an order made by the Secretary of State.

5. A statutory instrument which contains an order under paragraph 4 shall not be made unless a draft has been laid before, and approved by resolution of, each House of Parliament.

Revision of a relevant instrument

6. Where the Commission proposes to revise a relevant instrument, it shall prepare and publish a draft of the revised instrument, shall consider any representations made to it about the draft and may modify the draft accordingly.

7. After complying with paragraph 6, the Commission shall submit the draft of the revised relevant instrument to the Secretary of State and make such modifications to it as the Secretary of State, after consultation with the Commission, may require.

8. The Commission shall then send the draft of the revised relevant instrument to the Secretary of State who shall lay the draft before each House of Parliament.

9. A revised relevant instrument laid before Parliament in draft under paragraph 8 shall not come into operation except in accordance with an order made by the Secretary of State.

Admissibility of relevant instruments

10. A relevant instrument shall be admissible in evidence in civil and criminal proceedings; and if any provision of the instrument appears to the court or tribunal conducting the proceedings to be relevant to any question arising in the proceedings it shall be taken into account in determining that question.

SCHEDULE 3

Section 18(1)

AMENDMENTS [J503]

The Police Act (Northern Ireland) 1970 (c. 9 (N.I.))

1. In paragraph 15 of Schedule 1 to the Police Act (Northern Ireland) 1970 at the end of sub-paragraph (2) there shall be added "and section 11(5) of the Public Order (Northern Ireland) Act 1997".

The House of Commons Disqualification Act 1975 (c. 24)

2. In Part II of Schedule 1 to the House of Commons Disqualification Act 1975 there shall be inserted at the appropriate place—

"The Commission established by section 1 of the Public Processions etc. (Northern Ireland) Act 1997."

The Northern Ireland Assembly (Disqualification) Act 1975 (c. 25)

3. In Part II of Schedule 1 to the Northern Ireland Assembly Disqualification Act 1975 there shall be inserted at the appropriate place—

"The Commission established by section 1 of the Public Processions etc. (Northern Ireland) Act 1997."

The Public Order (Northern Ireland) Order 1987 (NI 7)

4.—(1) The Public Order (Northern Ireland) Order 1987 shall be amended as follows.

(2) In Article 4(3) for "paragraphs (1) and (2)" there shall be substituted "paragraph (2)" and for "a procession or" (wherever occurring) there shall be substituted "an".

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(3) In Article 5(1)(a) for "paragraphs (1) and (2)" there shall be substituted "paragraph (2)".

(4) In Article 5(1) for sub-paragraphs (A) and (B) there shall be substituted—

"(A) prohibiting the holding in that area or place of an open-air public meeting specified in the order;

(B) prohibiting, for such period not exceeding 28 days as may be specified in the order, the holding in that area or place of any open-air public meeting of such class or description as may be so specified; or

(C) prohibiting, for such period not exceeding 28 days as may be specified in the order, the holding in that area or place of all open-air public meetings".

(5) In Article 5 after paragraph (1) there shall be inserted—

"(1A) An order under paragraph (1)(B) or (C) may exempt any open-air public meeting, or any class or description of open-air public meeting, specified in the order."

(6) In Article 5(5) for "a public procession or" (wherever occurring) there shall be substituted "an".

(7) In Article 24(3) for "Article 7(1) or (2)" there shall be substituted "Article 7(2)".

Section 18(2).

SCHEDULE 4

REPEALS [J504]

Number	Short title	Extent of repeal
1987 NI 7.	The Public Order (Northern Ireland) Order 1987.	In Article 2(2) the definition of "band". Article 3. Article 4(1). In Article 5(1)(b) the words "any public procession or". Articles 6 and 6A. Article 7(1). In Article 7(3) the words "(1) or". Article 28(4).
1989 NI 12.	The Police and Criminal Evidence (Northern Ireland) Order 1989.	In Schedule 2, in the entry relating to the Public Order (Northern Ireland) Order 1987, the words "(1) and".
1997 NI 10.	The Public Order (Amendment) (Northern Ireland) Order 1997.	The whole Order.