Draft Order in Council laid before Parliament under paragraph 2(1)(a) of the Schedule to the Northern Ireland Act 2000, for approval by resolution of each House of Parliament

DRAFT STATUTORY INSTRUMENTS

2005 No. (N.I.)

NORTHERN IRELAND

The Public Processions (Amendment) (Northern Ireland) Order 2005

Made - - - -	*2005*
Coming into operation	*2005*

At the Court at Buckingham Palace, the ** day of ** 2005

Present,

The Queen's Most Excellent Majesty in Council

Whereas a draft of this Order in Council has been approved by resolution of each House of Parliament:

Now, therefore, Her Majesty, in exercise of the powers conferred by paragraph 1(1) of the Schedule to the Northern Ireland Act 2000 (c. 1) and of all other powers enabling Her in that behalf, is pleased, by and with the advice of Her Privy Council, to order, and it is hereby ordered, as follows:–

Introductory

Title and commencement

1.—(1) This Order may be cited as the Public Processions (Amendment) (Northern Ireland) Order 2005.

(2) This Order comes into operation on the day after that on which it is made; but nothing in this Order applies in relation to any public procession or protest meeting held, or proposed to be held, before 14th May 2005.

Interpretation

2.—(1) The Interpretation Act (Northern Ireland) 1954 (c. 33) applies to this Order as it applies to an Act of the Assembly.

(2) In this Order "the principal Act" means the Public Processions (Northern Ireland) Act 1998 (c. 2).

(3) This Order shall be construed as one with the principal Act.

Public processions

Powers to impose conditions on supporters of public procession

3.—(1) In section 8(1) of the principal Act (power of Commission to impose conditions on persons organising or taking part in a public procession) after "taking part in it" insert "or on any persons supporting it".

(2) In section 3(1) of that Act (code of conduct to regulate conduct of persons organising or taking part in a public procession or protest meeting) for paragraph (b) substitute—

"(b) regulating the conduct of persons—

(i) organising, taking part in or supporting a public procession; or

(ii) organising or taking part in a protest meeting.".

(3) In section 6(4)(c) of that Act (which requires notice of a public procession to specify the number of persons likely to take part in it) after "take part in" insert "or support".

(4) In section 17 of that Act (interpretation) after subsection (2) insert—

"(2A) For the purposes of this Act a person supports a public procession if (and only if) at any time when the procession is being held—

(a) he is in a public place and (subject to subsection (2B)) in close proximity to persons taking part in the procession; and

(b) in all the circumstances (including his conduct) his presence in that place may reasonably be taken as expressing support for the holding of the procession.

(2B) For the purposes of subsection (2A) a person shall not be regarded as ceasing to be in close proximity to persons taking part in a public procession where he temporarily moves out of such proximity in compliance with —

(a) conditions imposed by a determination under section 8; or

(b) a direction given by a member of the Police Service of Northern Ireland not below the rank of inspector.".

Protest meetings

Powers to impose conditions on protest meetings

4.—(1) After section 9 of the principal Act insert—

"The Commission's powers to impose conditions on protest meetings

The Commission's powers to impose conditions on public protests

9A.—(1) The Commission may issue a determination in respect of a proposed protest meeting imposing on the persons organising or taking part in it such conditions as the Commission considers necessary.

(2) Without prejudice to the generality of subsection (1), the conditions imposed under that subsection may include conditions as to the place at which the meeting may be held, its maximum duration, or the maximum number of persons who may constitute it.

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

(a) the Code of Conduct; or

(b) any other document—

(i) prepared by the person or body organising the protest meeting 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.

(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,

the Commission shall have regard to the guidelines.

(6) The guidelines shall in particular (but without prejudice to the generality of section 5(1)) provide for the Commission to have regard to—

(a) any public disorder or damage to property which may result from the protest meeting;

(b) any disruption to the life of the community which the meeting may cause;

(c) any impact which the meeting may have on relationships within the community; and

(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 meeting in question or the procession to which it relates or in relation to any previous protest meeting or procession).

(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 Police Service of Northern Ireland not below the rank of inspector.

(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 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.

Review by Secretary of State of determination of Commission under section 9A

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

(2) Subsections (2) to (4) and (7) of section 9 apply in relation to a review under this section as they apply in relation to a review under section 9.

(3) 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 9A(4)) as if it had been issued by the Commission as so amended.