# Police Service of Northern Ireland

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The Police Service of Northern Ireland (PSNI) has statutory powers and duties in relation to the policing of public processions, related protests and open-air public meetings, including those set out in the following.

- **Public Processions (Northern Ireland) Act 1998**
- **Public Order (Northern Ireland) Order 1987**
- **Police and Criminal Evidence (Northern Ireland) Order 1989**
- Parts of the **Criminal Justice and Public Order Act 1994**, which extend to Northern Ireland
- **Criminal Law Act (Northern Ireland) 1967**

The police also have common law powers and duties, including powers to prevent breaches of the peace.

Under the **Public Processions (Northern Ireland) Act 1998**, organisers of public processions and related protest meetings are required to provide notice to the PSNI of specified information. Failure to provide such notice results in the organisers and participants being in breach of the Act but does not render the public procession or protest unlawful.

**Article 4** of the Public Order (Northern Ireland) Order 1987 gives the police the power to impose directions on persons organising or taking part in an open-air public meeting. It is a precondition for the exercise of this power that a senior police officer reasonably believes that the meeting may result in serious public disorder, serious damage to property or serious disruption to the life of the community. The purpose of the persons organising the meeting must also be the intimidation of others with a view to compelling them not to do an act they have a right to do, or to do an act they have a right not to do.

A breach of the notification requirement in **section 6** or **section 7** of the Public Processions (Northern Ireland) Act 1998 does not render a public procession or related protest meeting unlawful or mean that an otherwise peaceful public procession or related protest meeting falls outside the protection of ECHR Article 11.

## Organisers' intentions

The organisation and participation in a public procession or associated protest that has been prohibited, or action in violation of any conditions imposed on such an event, would constitute a criminal offence. The event itself is not rendered unlawful.

## Restricting the right to peaceful protest

**Section 8**, **section 9**, **section 9A** and **section 9B** of the Public Processions (Northern Ireland) Act 1998 allow for the imposition of conditions on a public procession or associated protest if the Parades Commission – or, on application to review the Parades Commission decision, the secretary of state – considers that the relevant legal conditions are fulfilled.

## Principle of proportionality

If all the relevant legal conditions are fulfilled, the conditions imposed on a public procession or associated protest under the Public Processions (Northern Ireland) Act 1998 will be proportionate.

Under **section 8 of the Public Processions (Northern Ireland) Act 1998**, conditions that may be imposed on a public procession include, but are not limited to, conditions on the route of the procession or a prohibition on entering any place.

Under **section 9A of the Act**, conditions that may be imposed on a protest meeting include, but are not limited to, conditions on the place where the meeting may be held, its maximum duration or the maximum number of persons who may take part in it.

## Banning a public procession

**Section 9** and **section 11** of the Public Processions (Northern Ireland) Act 1998 provide for the secretary of state to review the Parades Commission's determinations and prohibit public processions in certain defined circumstances.

**Article 5 of the Public Order (Northern Ireland) Order 1987** provides for the secretary of state to prohibit public assemblies in certain defined circumstances.

Chief constables must request the secretary of state to review a determination issued in respect of a public procession by the Parades Commission under **section 9 of the Public Processions (Northern Ireland) Act 1998**. **Section 11 of the Act** enables the secretary of state, in specified circumstances, to prohibit the holding of a public procession. Section 11(5)(b) states that, before making any such decision, the secretary of state shall consult the chief constable where practicable.

# Offences of intentional harassment, alarm or distress (sections 4A and 5 of the Public Order Act)

Applicable offences are those of:

- provocative conduct (**Article 19(1) of the Public Order (Northern Ireland) Order 1987**)
- threatening, abusive or insulting behaviour (**Article 9(1) of the Public Order (Northern Ireland) Order 1987**)
- hindering participants in a public procession (**section 14 of the Public Processions (Northern Ireland) Act 1998**)

The European Convention on Human Rights (ECHR) Article 10(1) protects in substance and form a right to freedom of expression that others may find insulting or offensive. See **APP on Operations – Human Rights Act 1998**.

Individuals taking part in a peaceful protest come within the terms of the above offences where their conduct moves into the realms of provocative, threatening or other behaviour, as set out in respect of each offence.

# Incitement to hatred

A person who uses threatening, abusive or insulting words or behaviour, or displays any written material that is threatening, abusive or insulting, is guilty of an offence in either of the following instances.

- That person intends to stir up hatred or arouse fear.
- Having regard to all the circumstances, hatred is likely to be stirred up, or fear is likely to be stirred up or aroused.

See **Article 8** and **Article 9(1) of the Public Order (Northern Ireland) Order 1987**.

## Tags

Public order