

**PUBLIC ASSEMBLIES, PARADES AND
PROTESTS IN NORTHERN IRELAND**

**A CONSULTATION PAPER
PUBLISHED BY
THE OFFICE OF THE FIRST MINISTER AND
DEPUTY FIRST MINISTER**

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Introduction

As part of the agreement reached at Hillsborough Castle on 5 February 2010 it was announced that;

“The First Minister and deputy First Minister have agreed to set up a co-chaired working group comprising six members, appointed by them, with experience of dealing with parading issues which will bring forward agreed outcomes which they believe are capable of achieving cross community support for the new and improved framework. This work will begin immediately and will be completed within three weeks.”

This Paper publishes the Code of Conduct section from the Report of the Working Group and the draft legislation – “The Public Assemblies, Parades and Protests Bill (Northern Ireland)” – which allows, subject to the approval of the Northern Ireland Assembly, for the implementation of the new arrangements recommended by the Group. Recognising that by its nature legislation can be complex and difficult to follow, an Explanatory Guide to the draft legislation has also been provided.

The First Minister and deputy First Minister are seeking the views of the public on the proposals contained in this Consultation Document.

This consultation also seeks views on a number of related matters.

- The consultation seeks views on an option to allow the Adjudication panel (PAPPB) the power to take legal cases to get clarification on points of importance or significance that may arise. This can be done in several ways and the consultation seeks the views of the public on the following options;

- a. giving PAPPB the legal status to take cases itself
- b. giving PAPPB sufficient resources to allow it to take cases to the court
- c. giving PAPPB sufficient resources to allow it to support any of the other parties to take a legal case where it is a point of particular importance or significance, and is agreed by PAPPB.

We would invite your views and comments on these options.

- The consultation seeks comments and views on the administrative processes to be used by OPAPPB, and PAPPB, including the possible option of a pro forma for multiple applications.

- The consultation invites views and opinions on whether PAPPB should have discretion, and in which circumstances, in matters relating to any requirement that flags of historical significance which may be perceived as sensitive by one or other section of the community are furlled in a way in which they cannot be identified when carried within sight of a sensitive location

It is the intention of the First Minister and deputy First Minister to further publish the statutory Code of Conduct that will underpin the legislation by early May 2010. When the Code is published a separate 12 week consultation period will begin.

Details of how to respond to this consultation can be found on page 67.

Terms of Reference of the Working Group on Parades

The First Minister and deputy First Minister gave the Working Group the following Terms of Reference:

1. The agreed outcomes will reflect the key principles outlined in paragraph 3, section 2 of the Agreement at Hillsborough Castle. Namely:
 - Local people providing local solutions;
 - Respect for the rights of those who parade, and respect for the rights of those who live in areas through which they seek to parade. This includes the right for everyone to be free from sectarian harassment;
 - Recognising that at times there are competing rights;
 - Transparency, openness and fairness;
 - Independent decision making.

2. The agreed outcomes will take forward work in the following areas, building upon the interim report of the Strategic Review of Parading:
 - Procedures relating to the receipt and notification of parades and assemblies; objections relating to them; necessary actions arising from the lodging of objections and the facilitation of dialogue and mediation.
 - In the event of the failure of mediation, to detail recourse to independent adjudications and procedures.
 - Adjudication arrangements comprising an appropriate mix of lay and legal expertise with sufficient resources to operate effectively and efficiently.
 - A code of conduct which is legally enforceable. (a copy of the Working Group Report's section on the Code of Conduct is attached at page 59).
 - The right of citizens to freedom from all forms of harassment.

3. The Working Group, by agreement, may add to the points contained in paragraph 4 of Section 2 of the Agreement at Hillsborough Castle.

4. In producing agreed outcomes, the Working Group shall recognise that any improved regulatory framework must be capable of maximising cross community support.

Process

5. The agreed outcomes will be forwarded to the First Minister and deputy First Minister by 23 February 2010.
6. The First Minister and deputy First Minister will promote and support the agreed outcomes of the Working Group.
7. Following the completion of the consultation process, a Bill will be finalised. The Working Group will assist during the drafting process to confirm that the Bill faithfully reflects and delivers the agreed outcomes.

Draft Legislation (The Draft Bill)

Public Assemblies, Parades and Protests Bill (Northern Ireland)

Introduction

Overview

1. This Act establishes arrangements for procedures to be followed in connection with certain public assemblies (as defined in section 5).

Statutory code of conduct

2.—(1) The First Minister and deputy First Minister acting jointly must issue a statutory code of conduct in respect of public assemblies (as defined in section 5) which gives guidance to, and regulates the conduct of, organisers, participants (including third party participants) and non-participants (as defined in section 9).

(2) The code is enforceable through the imposition of requirements in respect of a public assembly under section 26 (see, in particular, section 26(5)).

(3) The code must, in particular—

- (a) be designed to ensure that organisers take account of the local context and, in particular, of any sensitive locations near proposed public assemblies, including locations associated with past conflict or previous public disorder,
- (b) be designed to ensure that organisers consider all aspects of public assemblies in advance with a view to identifying and seeking to address issues that may give rise to a dispute,
- (c) be designed to ensure that objectors or those raising concerns about public assemblies outline the issues as fully as possible,
- (d) be designed to ensure that organisers consider any issues raised in notices of concern or objections,
- (e) be designed to ensure that disputes are resolved by the parties as quickly as possible and where possible through local dialogue and agreement, and
- (f) be designed to ensure that mediation and adjudication are options of last resort,
- (g) be designed to ensure that all parties take measures to prevent the sectarian harassment (meaning harassment on the grounds of religious belief or political opinion), or other harassment, of any person in the vicinity of a public assembly (whether or not the person is participating in the assembly),
- (h) give information about the role of the Office of Public Assemblies, Parades and Protests (see section 3),
- (i) give information about the role of the Public Assemblies, Parades and Protests Body (see section 4),

- (j) give information about the appointment of members of each of those bodies and how it operates,
- (k) give information about the way in which the code is legally enforceable (as mentioned in subsection (2)),
- (l) give information about the offences under this Act, including the offence under section 38(1) (failure to comply with a requirement), and
- (m) give information about the role of mediators and monitors under this Act.

(4) The First Minister and deputy First Minister acting jointly may revise the code from time to time.

(5) The Office of the First Minister and deputy First Minister must lay the code, and any revision, before the Northern Ireland Assembly.

Key Concepts and Definitions

Office of Public Assemblies, Parades and Protests

3.—(1) The First Minister and deputy First Minister acting jointly must designate officials of the Office of the First Minister and deputy First Minister to serve as the Administrative Body.

(2) The Administrative Body may be referred to as the Office of Public Assemblies, Parades and Protests (“OPAPP”).

(3) The Office of the First Minister and deputy First Minister—

- (a) may give guidance to OPAPP about the exercise of its functions, and
- (b) must publish the guidance.

(4) OPAPP must have regard to the guidance.

(5) The Office of the First Minister and deputy First Minister must provide OPAPP with the use of premises and other facilities.

Public Assemblies, Parades and Protests Body and Appointments Panel

4.—(1) The First Minister and deputy First Minister acting jointly must appoint a Public Assemblies, Parades and Protests Body Appointments Panel (the “Appointments Panel”).

(2) The Appointments Panel must appoint an Adjudication Body (and in making appointments the Panel must, in particular, have regard to guidance given by the First Minister and deputy First Minister under section 46).

(3) The Adjudication Body may be referred to as the Public Assemblies, Parades and Protests Body (“PAPPB”).

(4) Sections 20 to 22 make further provision about the Appointments Panel and PAPPB.

Public assembly

5.—(1) In this Act “public assembly” means—

- (a) a public procession (including parades) (see section 6),
- (b) a public meeting (see section 7), and
- (c) a protest meeting (see section 8).

(2) But the following are excluded—

- (a) funeral processions, and
- (b) processions or meetings of a kind specified by order of the First Minister and deputy First Minister acting jointly.

(3) Orders under subsection (2)(b) are subject to negative resolution.

Public procession

6.—(1) “Public procession” means a procession in a public place (whether or not including vehicles).

(2) In this section “public place” means a road or footway within the meaning of the Roads (Northern Ireland) Order 1993.

Public meeting

7.—(1) “Public meeting” means a meeting of 50 or more persons—

- (a) held in a public place, and
- (b) which the public, or a section of the public, are invited to attend.

(2) In this section “public place” means—

- (a) a road or footway within the meaning of the Roads (Northern Ireland) Order 1993, or
- (b) any other place, apart from a building, to which the public or a section of the public has access (whether or not on payment and whether by right or by virtue of express or implied permission).

(3) “Section of the public” includes a class consisting of all or some of the members of a club or organisation.

(4) This section is subject to section 8(3).

(5) The First Minister and deputy First Minister acting jointly may by order amend subsection (1) so as to substitute a different number for the number specified there.

(6) Orders under subsection (5) are subject to negative resolution.

Opposition to a public assembly: protest meeting

8.—(1) “Protest meeting” means a meeting which—

- (a) is an open-air public meeting within the meaning of the Public Order (Northern Ireland) Order 1987,
- (b) is held at or near the route or place of a public assembly of which notice has been given under section 13 or 15,
- (c) is held at or around the time of the public assembly, and
- (d) has a purpose of demonstrating opposition to the public assembly (whether or not it also has other purposes).

(2) In relation to a public assembly that has not taken place, a reference to a route or place includes a proposed route or place.

(3) A protest meeting is not a public meeting within the meaning of section 7.

Organisers, participants and non-participants

9.—(1) A person who gives a notice under section 13 or 15 in respect of a public assembly is its “organiser” for the purposes of this Act.

(2) Where the person who gives the notice is an organisation, each of the office-bearers designated in the notice is also an organiser.

(3) “Participants” are members of a category identified in a notice under section 13(3)(c) or 15(4)(c).

(4) “Third-party participants” are groups (such as bands, trade unions or campaign groups) which are independent of the organiser but which are identified in the notice as taking part.

(5) A “non-participant”, in relation to a public assembly, means anyone (other than a participant)—

- (a) who is in a public place, and
- (b) who is in close proximity to participants in the assembly, and
- (c) whose presence may in all the circumstances (including conduct) reasonably be taken as being for the purpose of the assembly.

(6) A person does not cease to be a non-participant (as defined in subsection (5)) by moving temporarily out of proximity with the participants in the assembly.

(7) In this section “public place” has the meaning given by section 7(2).

Mediation

- 10.—(1) “Mediation” means a process—
- (a) involving the intervention of a listed mediator, and
 - (b) designed to help parties to a dispute to reach agreement.
- (2) “Listed mediator” means an individual who is included in a list of mediators kept by OPAPP (see section 18).
- (3) Mediators must provide reports to OPAPP about administrative aspects of the exercise of their functions.

Monitoring

11. “Monitoring” is a process under which—
- (a) one or more monitors observe a public assembly,
 - (b) the monitors report about the assembly to OPAPP during the period of 7 days beginning with the day after the assembly,
 - (c) OPAPP publishes the report as soon as is reasonably practicable, and
 - (d) OPAPP sends the report to PAPPB on request.

Adjudication

12. “Adjudication” means the decision of PAPPB under section 26 in respect of a proposed public assembly.

Notification

Notice of public processions and meetings

- 13.—(1) A person who proposes to organise a public procession or a public meeting must give notice to OPAPP—
- (a) on a working day,
 - (b) before 17:00, and
 - (c) before the period of 37 days ending with the proposed date of the procession or meeting.
- (2) The notice must be in the form prescribed by OPAPP.
- (3) A notice must—
- (a) specify the date of the proposed public procession or meeting,
 - (b) specify the times at which the procession or meeting will start and end,
 - (c) identify categories of person (including participating groups) expected to attend the procession or meeting, and

- (d) include any other information required by OPAPP in accordance with guidance given by the Office of the First Minister and deputy First Minister under section 3(3).

(4) OPAPP must publish a notice received on the date of receipt.

(5) As soon as possible after receipt of a notice OPAPP must send copies to the interested persons (as defined in section 16).

Notice of concerns or objections

14.—(1) A person may give OPAPP a notice of concerns or objections to a public assembly of which notice is given under section 13 or 15.

(2) A notice must be given—

- (a) on a working day,
- (b) before 17:00, and
- (c) before the expiry of the period of 7 days beginning with the date of publication of the notice under section 13 or 15.

(3) A notice must be in the form prescribed by OPAPP in accordance with guidance given by the Office of the First Minister and deputy First Minister under section 3(3).

(4) A notice must state why the person giving it has concerns or objections about the proposed public assembly which relate to—

- (a) human rights, or
- (b) compliance with the code of conduct (see section 2).

(5) OPAPP may publish guidance about the content of notices under this section.

(6) Where more than one notice is given, references to “the objector” are references to each person who gave a notice.

(7) OPAPP must publish a notice received on the date of receipt.

(8) As soon as possible after receipt of a notice OPAPP must send copies to—

- (a) the organiser of the public assembly, and
- (b) the interested persons (as defined in section 16).

Notice of protest meetings

15.—(1) A person (“the protester”) who proposes to organise a protest meeting in respect of a public assembly must give notice to OPAPP—

- (a) on a working day,
- (b) before 17:00, and
- (c) before the period of 22 days ending with the proposed date of the protest meeting.

(2) A notice may be given only if the protester has given a notice of concerns or objections in respect of the public assembly under section 14.

(3) The notice must be in the form prescribed by OPAPP.

(4) A notice must—

- (a) specify the date of the proposed protest meeting,
- (b) specify the times at which the meeting will start and end,
- (c) identify categories of person (including participating groups) expected to attend the protest meeting, and
- (d) include any other information required by OPAPP in accordance with guidance given by the Office of the First Minister and deputy First Minister under section 3(3).

(5) OPAPP must publish a notice received on the date of receipt.

(6) As soon as possible after receipt of a notice OPAPP must send copies to—

- (a) the organiser of the public assembly in respect of which the protest meeting is proposed, and
- (b) the interested persons (as defined in section 16).

“Interested persons”

16.—(1) “Interested persons” means—

- (a) PAPPB,
- (b) the Police Service of Northern Ireland,
- (c) the fire and rescue and ambulance services,
- (d) the local Member of Parliament,
- (e) the local Members of the Northern Ireland Assembly,
- (f) the local district council, and
- (g) each member of the list kept under subsection (3).

(2) For the purposes of subsection (1)—

- (a) the local district council in relation to a proposed public assembly is the council (or each council) in whose district the assembly is to take place,
- (b) the local Member of Parliament in relation to a proposed public assembly is the Member (or each Member) in whose constituency the assembly is to take place, and
- (c) the local Members of the Northern Ireland Assembly in relation to a proposed public assembly are the Members for the constituency (or each constituency) in which the assembly is to take place.

(3) OPAPP must keep and publish a list of the names of persons who notify OPAPP that they want to receive copies of notices under sections 13, 14 and 15.

(4) But the published list must exclude the name of any individual whose notice includes a request for exclusion.

Dialogue

Meetings to resolve issues

17.—(1) This section applies where—

- (a) a person (“the organiser”) has given a notice under section 13 or 15, and
- (b) another person (“the objector”) has given a notice of concerns or objections under section 14.

(2) OPAPP must take any reasonable steps requested by the organiser and objector to aid discussion between them of the issues in dispute.

(3) OPAPP must pay the reasonable cost of providing the venue for any meeting arranged under subsection (2).

(4) PAPPB may take into account a person’s participation or non-participation in any meeting convened under this section; but participation is not to be a main or key determining factor, in the sense that no decision of PAPPB may be made on the grounds of non-participation alone.

(5) If a meeting agrees that the public assembly is to be monitored—

- (a) the organiser must inform OPAPP,
- (b) OPAPP must inform PAPPB, and
- (c) PAPPB must appoint monitors.

(6) If a meeting resolves any issues in dispute—

- (a) the organiser and objector must inform OPAPP,
 - (b) OPAPP must publish a report of the outcome of the meeting,
- and
- (c) OPAPP must send copies of the report to the interested persons.

Mediation

Listed mediators

18. OPAPP must establish and maintain a list of mediators for the purposes of this Act.

Referral to mediation

19.—(1) This section applies where—

- (a) a person (“the organiser”) has given a notice under section 13 or 15,

- (b) another person (“the objector”) has given a notice of concerns or objections under section 14, and
- (c) the period of 7 days beginning with the date of publication of the notice of concerns and objections has expired without the organiser and objector having notified OPAPP that all issues in dispute have been resolved through dialogue.

(2) OPAPP must make arrangements for mediation, using a listed mediator agreed by the organiser and objector, unless PAPPB decides (after the expiry of the period mentioned in subsection (1)(c)) that the notice of concerns or objections is to be dismissed as not raising any issue relating to—

- (a) human rights, or
- (b) compliance with the code of conduct.

(3) If mediation resolves any issues in dispute—

- (a) the mediator must report to OPAPP,
 - (b) OPAPP must publish a report of the results of the mediation,
- and
- (c) OPAPP must send copies of the report to the interested persons.

(4) Where a dispute in respect of a public assembly is referred to mediation—

- (a) the assembly must be monitored, and
- (b) PAPPB must appoint monitors.

Adjudication

Appointments Panel

20.—(1) This section makes provision about the Appointments Panel (see section 4).

(2) There are to be 4 members.

(3) In appointing members the First Minister and deputy First Minister must aim to ensure that the Panel is representative of the community in Northern Ireland, and therefore maximises community confidence.

(4) Each member—

- (a) is to be appointed for an initial term of not more than 5 years,
- and
- (b) may be reappointed once for another term of not more than 5 years (whether or not the terms are consecutive).

(5) A member may resign by notice in writing to the First Minister and deputy First Minister.

(6) The First Minister and deputy First Minister acting jointly may remove a person from office as a member if satisfied that the person—

- (a) has been convicted of a criminal offence since appointment,
- (b) has failed to comply with the person’s terms of appointment, or

(c) is otherwise unable or unfit to discharge the functions of the office.

(7) The Office of the First Minister and deputy First Minister may—

- (a) pay remuneration and allowances to members, and
- (b) provide staff and other facilities for the Panel.

(8) Decisions of the Appointments Panel about appointments and removals must be unanimous.

Public Assemblies, Parades and Protests Body: membership

21.—(1) This section makes provision about PAPPB (see section 4).

(2) There are to be 11 members.

(3) All members are of equal standing and, in particular, PAPPB is to have no Chair.

(4) In appointing members the Appointments Panel must—

- (a) include 3 members with relevant legal expertise in the Appointments Panel's opinion, and
- (b) so far as practicable aim to ensure that PAPPB is representative of the community in Northern Ireland and therefore maximises community confidence.

(5) Each member—

- (a) is to be appointed for an initial term of 3 years, and
- (b) may be re-appointed once for another term of 3 years (whether or not the terms are consecutive).

(6) A member may resign by notice in writing to the Appointments Panel.

(7) The Appointments Panel may remove a person from office as a member if satisfied that the person—

- (a) has been convicted of a criminal offence since appointment,
- (b) has failed to comply with the person's terms of appointment, or
- (c) is otherwise unable or unfit to discharge the functions of the office.

(8) A person serving as a member of the Appointments Panel may not be appointed to PAPPB.

Public Assemblies, Parades and Protests Body: proceedings

22.—(1) The Office of the First Minister and deputy First Minister may make rules about the proceedings of PAPPB.

(2) The rules must be designed to ensure that, in particular—

PAPPB,

- (a) decisions are taken by a panel of 5 members (subject to paragraphs (b), (g) and (h)),
- (b) there are to be 2 panels, constituted by decision of (the full)
- (c) each member is to be assigned to one panel (except for one member who is to be available to stand in for a member of either panel if necessary),
- (d) a member of one panel may agree with a member of the other panel to stand in for that member if necessary,
- (e) each panel is so far as practicable representative of the community in Northern Ireland,
- (f) the panels are to be re-established at intervals of 3 months,
- (g) reviews of adjudications are to be carried out by the full body unless the circumstances are exceptional, and all reviews must be carried out by at least 7 members,
- (h) decisions in respect of notices to which the emergency procedure under section 36 applies are to be made by the full body so far as practicable,
- (i) PAPPB operates in an accessible and transparent manner,
- (j) evidence can be heard from any person with an interest,
- (k) parties to disputes can discover each others' case in advance and have an opportunity to respond,
- (l) evidence relied on is disclosed except where the High Court determines that it is against the public interest to do so,
- (m) factual reports by mediators, reports by monitors and evaluation reports are taken into account,
- (n) persons who sit on a panel in relation to a dispute play no other role in relation to it (apart from participating in a review of the adjudication),
- (o) decisions of a panel are taken unanimously or, failing unanimity, by 4 members, and
- (p) decisions of the full body are taken unanimously or, failing unanimity, by a majority.

(3) The Office of the First Minister and deputy First Minister may—

- (a) make payments to PAPPB on such terms and conditions as the Office may determine,
- (b) pay remuneration and allowances to members of PAPPB, and
- (c) provide staff and other facilities for PAPPB.

(4) For the avoidance of doubt, a decision of PAPPB may be questioned by way of proceedings for judicial review.

Referral by mediator

23.—(1) This section applies where—

- (a) a person (“the organiser”) has given a notice under section 13 or 15,

- (b) another person (“the objector”) has given a notice of concerns or objections under section 14,
- (c) the issues between the organiser and objector have been referred to a mediator under section 19, and
- (d) the relevant period begins without the organiser and objector having notified OPAPP that all issues in dispute have been resolved.

(2) In subsection (1)(d) “relevant period” means the period of 15 days ending with the proposed date of the public assembly.

(3) The mediator must—

- (a) refer the matter to PAPPB, and
- (b) provide a factual report on the mediation to PAPPB.

(4) The mediator must send a copy of the report to—

- (a) the organiser, and
- (b) the objector.

(5) While the matter is being considered by PAPPB the mediation may continue; and if the organiser and objector notify OPAPP that all issues in dispute have been resolved, the proceedings before PAPPB lapse.

Referral by OPAPP

24.—(1) OPAPP must refer a dispute to PAPPB if—

- (a) a person (“the organiser”) has given a notice under section 13 or 15,
- (b) another person (“the objector”) has given a notice of concerns or objections under section 14,
- (c) OPAPP is required to make arrangements for mediation under section 19(2), and
- (d) the relevant period begins without the organiser and objector agreeing a mediator.

(2) A referral under subsection (1) does not prevent the organiser and objector from agreeing a mediator during the relevant period (in which case sections 19(2) to (4) and 23(5) apply).

(3) In subsections (1) and (2) “relevant period” means the period of 15 days ending with the proposed date of the public assembly.

Referral by the parties

25.—(1) This section applies where—

- (a) a person (“the organiser”) has given a notice under section 13 or 15, and

- (b) another person (“the objector”) has given a notice of concerns or objections under section 14.

(2) The organiser or objector may refer the dispute to PAPPB.

(3) Where a dispute is referred under this section—

- (a) sections 17 and 19 do not apply;
- (b) any proceedings under those sections are to cease.

(4) PAPPB must take into account a person’s decision to refer a dispute under this section; but that is not to be a main or key determining factor, in the sense that no decision of PAPPB may be made on the grounds of a person’s decision to refer alone.

(5) But PAPPB must not take into account a person’s decision to refer a dispute under this section if it is satisfied that the person’s decision is fully justified on the grounds of exceptional circumstances.

Decisions on referrals

26.—(1) PAPPB must make and publish its decision on a referral under section 23, 24 or 25 at least 7 working days before the proposed date of the public assembly.

(2) PAPPB must publish its reasons together with its decision.

(3) A decision may impose requirements on—

- (a) organisers;
- (b) participants (including third party participants);
- (c) non-participants.

(4) Requirements may relate to—

- (a) management and stewarding,
- (b) behaviour of participants,
- (c) behaviour of non-participants,
- (d) commencement times,
- (e) dispersal times,
- (f) position, location or route,
- (g) size,
- (h) duration,
- (i) participation or attendance of persons who have breached the code of conduct, and
- (j) any other matter PAPPB thinks appropriate.

(5) A requirement may refer to, and require compliance with, a provision of the code of conduct.

(6) A requirement must not conflict with the code of conduct.

(7) In making a decision PAPPB must have regard to—

- (a) human rights, and

(b) any relevant previous failure to comply with the code of conduct.

(8) PAPPB must take account of—

- (a) any information given in a notice under this Act, and
- (b) any information given to PAPPB by the Police Service of Northern Ireland in connection with the proposed public assembly.

(9) A decision must not impose a requirement on organisers or participants that relates to the control or behaviour of non-participants or requires them to be given information; and in imposing a requirement on organisers or participants PAPPB must disregard any previous failure of non-participants to comply with the code of conduct.

(10) Where PAPPB makes a decision in respect of a public assembly under this section—

- (a) the assembly must be monitored, and
- (b) PAPPB must appoint the monitors.

(11) PAPPB must comply with a request from an organiser of a proposed public assembly to review its first decision, on the basis of a significant change of facts; but no decision of PAPPB may be reviewed during the period of 4 working days ending with the date of the proposed public assembly.

Prohibition of public assemblies

Prohibition orders

27.—(1) A prohibition order is an order of the Department of Justice prohibiting the holding of—

- (a) a specified public assembly, or
- (b) any public assembly, or any public assembly of a specified class or description, in a specified area during a specified period not exceeding 28 days.

(2) A prohibition order—

- (a) may provide exceptions;
- (b) may be amended or revoked by a further prohibition order.

(3) A prohibition order has the effect of revoking any decision of PAPPB under section 26 in respect of a public assembly prohibited by the order.

Power to prohibit public assemblies

28.—(1) The Department of Justice may make a prohibition order only if—

- (a) the Department is satisfied that it is necessary in the public interest,
- and
- (b) the First Minister and deputy First Minister acting jointly consent.

(2) In considering whether to make a prohibition order the Department must have regard to—

- (a) the likelihood of serious public disorder,
- (b) the likelihood of serious damage to property,
- (c) the likelihood of serious disruption to community life,
- (d) the advice of the Police Service of Northern Ireland, and
- (e) the principle that prohibition orders are to be measures of last resort.

Consultation

29. Wherever practicable the Department must consult the following before making a prohibition order—

- (a) PAPPB, and
- (b) the Chief Constable.

Evaluation

Mandatory evaluation

30.—(1) This section applies where PAPPB makes a decision in respect of a proposed public assembly under section 26.

(2) OPAPP must arrange for a meeting after the assembly to evaluate it.

(3) The meeting must take place within the period of 60 days beginning with the day after the assembly.

(4) OPAPP must invite to the meeting—

- (a) any person who gave notice of the public assembly under section 13 or 15,
- (b) any person who gave notice of concerns or objections under section 14, and
- (c) a representative of the Police Service of Northern Ireland.

Voluntary evaluation

31.—(1) If a person listed in subsection (2) asks OPAPP to hold a meeting to evaluate a public assembly, OPAPP must comply with the request during the period of 60 days beginning with the day after the assembly.

(2) The persons mentioned in subsection (1) are—

- (a) any person who gave notice of the public assembly under section 13 or 15,
- (b) any person who gave notice of concerns or objections under section 14, and

(c) the Police Service of Northern Ireland.

(3) OPAPP must invite to the meeting—

(a) any person who gave notice of the public assembly under section 13 or 15,

(b) any person who gave notice of concerns or objections under section 14, and

(c) a representative of the Police Service of Northern Ireland.

(4) A request may be made before, or within the period of 7 days beginning with, the date of the public assembly.

Procedure

32.—(1) An evaluation meeting must be chaired by a listed mediator who was not involved in discussions about the public assembly.

(2) The evaluation meeting must consider—

(a) any monitor's report under section 11, and

(b) the views of those attending the meeting.

(3) The mediator who chairs the meeting must report to PAPPB (in the case of a mandatory evaluation) or OPAPP (in the case of a voluntary evaluation).

Late notification etc.

Late notification: procedure

33.—(1) This section applies if a person gives notice in respect of a public assembly under section 13, 14 or 15 outside the period specified for giving notice under that section (whether or not the emergency procedure under section 36 applies).

(2) OPAPP must refer the notice to PAPPB.

(3) A late notice of concerns or objections in respect of a public assembly under section 14 is to have effect as if given on time where—

(a) the period under section 14(2)(c) includes no more than 3 working days, and

(b) the notice is given within the period of 5 working days beginning with the day on which the notice of the public assembly under section 13 or 15 is published.

(4) In any case not covered by subsection (3), if PAPPB is satisfied that the delay in giving the notice under section 13, 14 or 15 was unavoidable (for example, in the case of a protest meeting against another protest meeting) or reasonable in the light of unforeseen circumstances, it may allow the notice to have effect as if given on time.

Insufficient time: procedure

34.—(1) This section applies if—

- (a) a person has given a notice under section 13 or 15,
- (b) another person has given a notice of concerns or objections under section 14, and
- (c) in the opinion of OPAPP, there is insufficient time for the procedure under sections 17 and 19 to apply.

(2) OPAPP must refer the notice to PAPPB.

PAPPB: directions

35.—(1) This section applies where—

- (a) a notice has effect as if given on time by virtue of section 33;
- (b) a notice is referred to PAPPB under section 34.

(2) PAPPB may give directions providing for—

- (a) any provisions of section 17, 19, 23 or 24 not to have effect;
- (b) any of those provisions to have effect with or without modification;
- (c) section 26(1) and (11) not to have effect (in which case subsection (4) applies).

(3) PAPPB may make a decision in respect of the public assembly under section 26 without a referral under section 23, 24 or 25.

(4) Where PAPPB gives a direction under subsection (2)(c)—

- (a) it must make and publish a decision under section 26 as soon as is practicable, and
- (b) it must comply with a request from an organiser of a proposed public assembly to review the decision, on the basis of a significant change of facts; and any review must be carried out as soon as is practicable.

Emergency procedure

36.—(1) This section applies if a person gives notice in respect of a public assembly under section 13 or 15 within the period of 3 days ending with the proposed date of the assembly.

(2) The person must leave a copy of the notice with a member of the Police Service of Northern Ireland not below the rank of sergeant at the police station nearest to—

- (a) the location of the proposed public meeting or protest meeting,
- or
- (b) the starting place of the proposed public procession.

(3) The Chief Constable must ensure that the notice is immediately referred to PAPPB.

(4) The requirements of sections 13(5) and 15(6) do not apply.

Offences

Organisation and participation

37.—(1) It is an offence to organise or take part in a public assembly if—

- (a) notice of the assembly has not been given in accordance with this Act, or
- (b) the assembly differs in any respect (whether as to time, location, route or otherwise) from the details specified in the notice.

(2) But a person does not commit an offence under subsection (1)(b) by organising or taking part in an assembly which differs from a detail specified in the notice if the difference—

- (a) was agreed as a result of dialogue or mediation in accordance with this Act (and recorded in a report under section 17(6)(b) or 19(3)(b)), or
- (b) was the result of a requirement under section 26.

(3) It is a defence for a person (P) charged with an offence under subsection (1) to show that P did not know and could not reasonably have been expected to know that—

- (a) notice had not been given in accordance with this Act, or
- (b) the assembly differed in any respect from the details specified in the notice.

(4) It is a defence for a person (P) charged with an offence under subsection (1)(b) to show that the difference—

- (a) arose from circumstances beyond P's control,
- (b) arose from something done by direction of, or with the agreement of, a member of the Police Service of Northern Ireland of the rank of inspector or above or, where no person of that rank is available, of the next junior rank, or
- (c) was immaterial, having regard to all the circumstances.

(5) A person (P) who organises or takes part in a public assembly that P knows is prohibited by prohibition order is guilty of an offence.

(6) A person guilty of an offence under this section is liable on summary conviction to—

- (a) imprisonment for a term not exceeding 6 months,
- (b) a fine not exceeding level 5 on the standard scale, or
- (c) both.

Failure to comply with a requirement

38.—(1) A person who knowingly fails to comply with a requirement imposed under section 26 is guilty of an offence.

(2) It is a defence for a person (P) charged with an offence under subsection (1) to show that the failure arose from—

- (a) circumstances beyond P's control, or
- (b) something done by direction of a member of the Police Service of Northern Ireland not below the rank of inspector.

(3) A person who incites another to commit an offence under subsection (1) is guilty of an offence.

(4) A person guilty of an offence under this section is liable on summary conviction to—

- (a) imprisonment for a term not exceeding 6 months,
- (b) a fine not exceeding level 5 on the standard scale, or
- (c) both.

(5) In sentencing for an offence under subsection (1) a court may treat anything done in or in respect of a sensitive location as an aggravating factor.

Disruption

39.—(1) It is an offence—

- (a) to prevent or disrupt a lawful public assembly;
- (b) to harass persons who are taking part in, or endeavouring to take part in, a lawful public assembly.

(2) Any of the following may amount to action prohibited under subsection (1)—

- (a) hindering, molesting, annoying or obstructing persons who are taking part in, or endeavouring to take part in, a lawful public assembly,
- (b) acting in a disorderly way towards any of those persons, and
- (c) behaving offensively or abusively towards any of those persons.

(3) A person guilty of an offence under this section is liable on summary conviction to—

- (a) imprisonment for a term not exceeding 6 months,
- (b) a fine not exceeding level 5 on the standard scale, or
- (c) both.

(4) For the purposes of this section a public assembly is “lawful” if—

- (a) the requirements in respect of the assembly imposed by virtue of this Act have been complied with, and
- (b) the assembly has not been prohibited by prohibition order.

Alcohol: consumption

- 40.—(1) This section applies to persons who—
- (a) are taking part in a public assembly,
 - (b) have assembled with a view to taking part in a public assembly,
- or
- (c) are in a public place, other than licensed premises, at or near the place of a public assembly.
- (2) If a constable in uniform reasonably suspects that a person (P) is consuming intoxicating liquor, the constable may require P—
- (a) to surrender anything which is, or which the constable reasonably believes to be, intoxicating liquor, and
 - (b) to state P's name and address.
- (3) A person who fails without reasonable excuse to comply with a requirement under subsection (2)—
- (a) is guilty of an offence, and
 - (b) is liable on summary conviction to a fine not exceeding level 2 on the standard scale.
- (4) In this section “public place” has the meaning given by section 7(2).
- (5) In this section and section 41 “intoxicating liquor” and “licensed premises” have the same meaning as in the Licensing (Northern Ireland) Order 1996.

Alcohol: possession

- 41.—(1) This section applies to persons who are in a passenger vehicle being used to carry passengers to a place at or near a public assembly.
- (2) If a constable in uniform reasonably suspects that a person (P) is in possession of intoxicating liquor, the constable may require P—
- (a) to surrender anything which is, or which the constable reasonably believes to be, intoxicating liquor, and
 - (b) to state P's name and address.
- (3) A person who fails without reasonable excuse to comply with a requirement under subsection (2)—
- (a) is guilty of an offence, and
 - (b) is liable on summary conviction to a fine not exceeding level 2 on the standard scale.
- (4) If a constable in uniform has reasonable grounds to suspect that intoxicating liquor is being carried on a passenger vehicle being used to carry passengers to a place at or near a public assembly—
- (a) the constable may stop the vehicle, and
 - (b) search the vehicle or a person in it.

(5) In this section “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.

Alcohol: supplemental

42.—(1) A constable who imposes a requirement on a person under section 40(2) or 41(2) must inform the person—

- (a) of the constable’s suspicion in reliance on which the requirement is imposed, and
- (b) that failure without reasonable excuse to comply with the requirement is an offence.

(2) The powers of a constable under sections 40 and 41 may only be exercised in relation to a public assembly during the period—

- (a) beginning 6 hours before the proposed start of the assembly,
- and
- (b) ending at midnight on the day on which the persons taking part in the assembly disperse.

(3) In subsection (2)(b) the reference to persons taking part in the assembly includes a reference to persons who assembled with a view to taking part in an assembly which did not take place.

(4) A constable may dispose of anything surrendered under this section.

Powers of arrest

43. A constable in uniform may arrest without warrant a person whom the constable reasonably suspects has committed an offence under this Act.

Operation of Act

Review

44.—(1) The Office of the First Minister and deputy First Minister must review the operation of this Act as soon as reasonably practicable after the period of 5 years beginning with commencement of this Act.

(2) The Office of the First Minister and deputy First Minister may conduct other reviews (during or after that period).

(3) The Office of the First Minister and deputy First Minister must make a report on each review to the Northern Ireland Assembly.

Annual reports

45. —(1) PAPPB must send a report about the exercise of their functions in each financial year to the Office of the First Minister and deputy First Minister.

(2) OPAPP must provide any information requested by PAPPB for the purpose of the report.

(3) A report must be sent within the period of 3 months beginning with the end of the year to which it relates.

(4) The Office of First Minister and deputy First Minister must lay a copy of any report received before the Northern Ireland Assembly.

Guidance

46. —(1) The First Minister and deputy First Minister acting jointly—

- (a) may give guidance about the exercise of functions under this Act by the Appointments Panel, PAPPB, mediators and monitors, and
- (b) must publish the guidance.

(2) The Appointments Panel, PAPPB, mediators and monitors must have regard to the guidance.

Technical provision

“Working day”

47. In this Act “working day” means any day other than—

- (a) Saturday,
- (b) Sunday, and
- (c) [public and privilege holidays].

Notices

48.—(1) Notices under this Act must be in writing.

(2) The code of conduct must make provision about how notices are given (which must include provision about delivery by hand, by post or electronically).

Repeals

49. The following are repealed—

- (a) [...].

Explanatory Guide to the Draft Public Assemblies, Parades and Protests Bill (Northern Ireland)

The purpose of the draft Bill, as outlined in the overview at Clause 1, is to establish a legal framework that will allow for the introduction of new procedures governing public assemblies in Northern Ireland. The term “Public Assembly” is defined at Clause 5 of the draft Bill. The Bill seeks to enshrine in law a number of key principles established as part of the Hillsborough agreement. They are:

- Local people providing local solutions;
- Respect for the rights of those who parade, and respect for the rights of those who live in areas through which they seek to parade. This includes the right for everyone to be free from sectarian harassment;
- Recognition that at times there are competing rights;
- Transparency, openness and fairness;
- Independent decision making.

For ease of reference this guide seeks to explain the Bill Clause by Clause.

Statutory Code of Conduct:

Clause 2: Central to the proposals of the Working Group is the publication of a statutory Code of Conduct. This document, which will be issued by the First Minister and deputy First Minister and laid in and approved by the NI Assembly, will give statutory guidance to, and regulate the conduct of, organisers, participants (including third party participants) and non-participants involved in public assemblies in Northern Ireland. Each of these terms is defined later in the draft Bill. The Code will specifically deal with the issues raised in the Working Group Report under the heading “Code of Conduct”, a copy of which is attached at page 59. Clause 2(2) ensures that decisions made in line with the Code of Conduct by the Public

Assemblies, Parades and Protests Bill are legally enforceable while Clause 2(4) allows the First Minister and deputy First Minister to revise the Code if considered necessary. The Clause also outlines in some detail the areas to be covered in the Code including ensuring that:

- organisers take account of the local context and, in particular, of any sensitive locations near proposed public assemblies, consider all aspects of public assemblies in advance, endeavour to address issues that may lead to a dispute, and consider any issues raised in notices of concern or objections.
- disputes are resolved by the parties as quickly as possible and where possible through local dialogue and agreement with the intention that mediation and adjudication are options of last resort,
- all parties take measures to prevent the sectarian harassment (meaning harassment on the grounds of religious belief or political opinion), or other harassment, of any person in the vicinity of a public assembly (whether or not the person is participating in the assembly),

The Code will also explain:

- the role of the Office of Public Assemblies, Parades and Protests (OPAPP), the Public Assemblies, Parades and Protests Body (PAPPB), how these bodies are appointed and how they operate.
- how the code is legally enforceable (as mentioned in subsection (2)).
- the offences under this Act, including the offence under section 38(1) (failure to comply with a requirement), and
- the role of mediators and monitors under this Act.

It is the intention of the First Minister and deputy First Minister to publish for consultation a draft Code of Conduct during the early part of May 2010. This will allow consultees to see both the draft Bill and the Code of Conduct before the end of the draft Bill consultation period.

Office of Public Assemblies, Parades and Protests:

Clause 3: This Clause allows the First Minister and deputy First Minister to appoint officials from within their Office to serve as “The Office of Public Assemblies Parades and Protests” which is described as the “Administrative Body” in the Code of Conduct section of the Working Group Report. Throughout the draft Bill this Office is referred to as “OPAPP”. The role of OPAPP, which is an administrative/secretariat function, is defined later in the draft Bill. It is important to note that this Office will have no responsibility for adjudicating on public assemblies. Clause 3 also allows the First Minister and deputy First Minister to issue guidance to OPAPP about the exercise of its functions and to provide OPAPP with premises and other facilities. OPAPP must have regard to the guidance issued, which must be published by OFMDFM.

Public Assemblies, Parades and Protests Body and Appointments Panel:

Clause 4: This Clause introduces the adjudication body, which will be known as the “Public Assemblies Parades and Protests Body - PAPPB”. This is the body that will adjudicate on all public assemblies that are the subject of notified concerns or objections that have not been resolved through local dialogue or mediation. (Clauses 21 and 22 provide further information about PAPPB.) Clause 4 also allows for appointments to PAPPB to be made by an independent Appointments Panel and enables the First Minister and deputy First Minister to appoint the Appointments Panel. (Further information about the Appointments Panel is provided at Clause 20.)

Public Assembly:

Clause 5: This Clause defines a “public assembly”, as a public procession (including a parade), a public meeting, and a protest meeting. Where the phrase “public assembly” is used in the legislation or in this explanatory guide, it covers all three types of assembly. Each of these terms is further defined in the draft Bill. The Clause also allows for funeral processions to be excluded from the definition and enables the First Minister and deputy First Minister to exclude, by Order in the Assembly, other processions or meetings from within the definitions. The Order will be subject to negative resolution.

Public Processions:

Clause 6: This Clause defines what is meant by the term “public processions.” By way of explanation it is a procession that takes place in a public place. Public place is defined as a road or footway within the meaning of the Roads (Northern Ireland) Order 1993. A procession as defined by this Clause may or may not include vehicles.

Public Meeting:

Clause 7: This Clause defines what is meant by a public meeting. By way of explanation, it is a meeting of 50 or more persons held in a public place to which the public or a section of the public are invited to attend. The term “section of the public” is defined as including a class consisting of all or some of the members of a club or organisation. The Clause also defines the term “public place” and makes clear that a meeting is not held in a public place if it is held in a building. Part 7(4) of the Clause makes it clear that any meeting which falls within the definition of a protest meeting in Clause 8 cannot also be defined as a public assembly. The Clause makes provision

for an order (subject to negative resolution) to be made by OFMDFM to change the number of people in the definition of a public meeting.

Opposition to a Public Assembly: Protest Meeting:

Clause 8: This Clause defines what is meant by a protest meeting. In this Clause the term ‘protest meeting’ relates to a meeting to protest against a public assembly. This is clarified by the title of the clause; “opposition to a public assembly: protest meeting”. Thus, by way of an example, if a group wanted to protest against the closure of a local sports facility, this would not be defined as a protest meeting under this legislation because it is not being held in protest to a public assembly or protest meeting.. The group’s activity would fall under the definition of a public meeting at clause 7 and would therefore be subject to the notification procedures for a public assembly outlined in clause 13.

The Clause explains that a protest meeting is an open-air public meeting within the meaning of the Public Order (Northern Ireland) Order 1987 which is held at or near the route or place of a public assembly for which notice has been given under the draft legislation. (The term “notice” is explained at Clauses 13, 15 and 48 below.) Thus, any enclosed meeting i.e. which takes place in a building, is not covered by this legislation. The protest must also be held at or around the time of the public assembly and have the purpose of demonstrating opposition to it. The Clause also makes clear that when referring to an assembly that has not taken place, a reference to a route or place includes a proposed route or place.

It is possible under this definition for someone to notify that they wish to protest against a public meeting under Clause 7 or that they wish to protest against a protest meeting under Clause 8. By way of example, this would look something like; “public meeting→protest meeting→counter protest meeting.” Both of these types of protest meetings are catered for in this definition of a protest meeting.

Organisers, Participants and Non Participants:

Clause 9: This Clause defines what is meant by the terms organiser, participant, third party participant and non-participant.

Organiser: That is the person who gives notice of the procession, public meeting or protest meeting. If an organisation gives notice, the designated office-bearers identified in the notice are considered to be organisers.

Participant: Those taking part in the procession, public meeting or protest. The organiser is required to identify the classes of people who will participate.

Third Party Participants: Any group independent of the organiser but notified by them as taking part (such as bands, trade unions or campaign groups.)

Non-participant: Those who are in the vicinity of the public assembly for the purpose of the assembly but who are not participants. They have to be in a public place and be in close proximity to the participants. A person does not cease to be a non-participant by moving temporarily out of proximity with the participants.

Mediation:

Clause 10: This Clause introduces the term “Mediation”. The Clause indicates that mediation under the draft Bill is a process involving the intervention of a listed mediator which is designed to help parties to a dispute reach agreement. The term “Listed Mediator” means an individual who is included on a list of mediators kept by OPAPP. The Clause also requires mediators to provide reports to OPAPP about the

administrative aspects of the exercise of their functions, this is a general report in terms of how they do their work as opposed to formal reporting in terms of mediation. Clause 18 requires OPAPP to establish and maintain a list of mediators.

Monitoring:

Clause 11: This Clause introduces the term “Monitoring”. The Clause indicates that monitoring is a process under which one or more individuals (monitors) observe a public assembly. The Clause requires the monitors to report to OPAPP within 7 days of the assembly, to publish the report as soon as is reasonably practical thereafter and to send a copy of the report to PAPPB on request.

Adjudication:

Clause 12: Clause 12 defines the term “Adjudication” which means the decision taken by PAPPB in relation to a dispute about a proposed public assembly.

Notice of Public Processions and Meetings:

Clause 13: This Clause outlines the process for notifying OPAPP of a public procession or a public meeting. The notice must be submitted on a form which has been prescribed by OPAPP in accordance with guidance from OFMDFM and must include details of the action required at Clause 2 (3).

The clause also indicates that the notice must be submitted before 5 pm on a working day, the term ‘working day’ (Monday to Friday with the exception of public and privilege holidays) is defined at clause 47 of the draft Bill (reference to working days should be read on this basis throughout). **In the Bill minor modifications have been made to timeframe which is outlined in the Code of Conduct section of the Working Group Report. The changes have been made to allow reasonable time for the notification and decision making processes to take place, to avoid unnecessary costs to the public purse but sympathetically to the objectives of the Working Group Report.**

Importantly notification of a public procession or meeting must be submitted before the period of 37 days ending with the proposed date of the Assembly. For example:

Example - If an assembly is to take place on Monday, 1 November 2010, the notice would be required on Saturday, 25 September 2010. As a Saturday is not under the terms of the draft Bill considered to be a working day, the notice would have to be submitted to OPAPP on Friday, 24 September 2010.

OPAPP must publish a copy of the notice on its website on the day of receipt. It must also send copies of the notice to a designated list of interested persons (see Clause 16) plus those who have specifically registered an interest in being informed as soon as possible thereafter. For example, the local Council is automatically informed, but a local Church, Residents Group, School would have to register an interest.

Notice of Concern or Objections:

Clause 14: This Clause enables a person to submit a notice of a concern or objection to OPAPP in response to the publication of a notice of intention to hold a public assembly. The concern or objection must be submitted on a form which has been prescribed by OPAPP in accordance with guidance from OFMDFM and must state why the person submitting the notice is expressing concern or objecting. Concerns and objections must relate to human rights or compliance with the Code of Conduct issues and must be submitted on a working day within 7 days of the publication of the original notice of the public assembly (see example below). It is important to note that the objection or concern does not have to be framed in legalistic language. The clause also allows OPAPP to issue guidance in relation to the procedure for notifying concerns or objections. OPAPP must also send a copy of the notice to interested parties and to the organiser of the Assembly.

Example:

- Person A submits a notice on Friday, 24 September 2010 indicating their intention to hold a procession on Monday, 1 November 2010.

- OPAPP publish the notice on Friday 24 September 2010.
- Under Clause 14 individuals and organisations (in this example Person B) may submit a concern or objection no later than 5 pm on the last working day which falls within 7 day period beginning with the day when the details of the procession were published,
- i.e. Person B must submit a notice on a working day within 7 days of Friday, 24 September 2010. Person B has until Thursday, 30 September 2010 to submit a concerns or objection notification.

See Annex A for a diagram explaining the whole timeline.

The clause also indicates that where more than one notice of concern or objection is received, those submitting the notices will be collectively referred to as “the objector”.

Notice of Protest Meeting:

Clause 15: This Clause outlines the process for notifying OPAPP of a protest meeting, a protest meeting as defined by the draft Bill is a meeting to protest against a public assembly as defined at Clause 5. The notice must be submitted on a form prescribed by OPAPP in accordance with guidance from OFMDFM.

It is important to note that you can only give notice of a protest meeting if you have previously submitted a concern about or objection to the notice submitted seeking approval for the procession or public meeting – see Clause 14. *The notice must be submitted on a working day before the period of 22 days ending with the proposed date of the protest meeting.*

Example:

- Person A submits a notice on Friday, 24 September 2010 indicating their intention to hold a procession on Monday, 1 November 2010.
- OPAPP publish the notice on Friday 24 September 2010.
- Under Clause 14 individuals and organisations (in this example Person B) may submit a concern or objection no later than 5 pm on the last working day which falls within 7 day period beginning when details of the procession were published, i.e. Person B has until Thursday, 30 October 2010 to do this. Informal dialogue can then take place; this is explained at Clause 17.
- If person B wishes to protest against the procession, Clause 14 requires them to submit a notice to OPAPP indicating their intention to hold a protest meeting no later than 5 pm on the last working day before the period of 22 days which ends with the date of the proposed protest.
- i.e. 22 days are counted back starting with the day of the proposed protest (Monday 1 November 2010) and notification must be on a working day before this period. . Therefore person B must notify OPAPP of an intention to hold a protest meeting by Friday 8, October 2010 at the latest.

See Annex A for a diagram explaining the timeline of the complete process.

OPAPP must publish a copy of the notice on its website on the day of receipt. It must also send copies of the notice to a designated list of interested persons (see Clause 16) plus those who have specifically registered an interest in being informed as soon as possible thereafter. For example, the local Council is automatically informed, but a local Church, Residents Group, School would have to register an interest.

Interested Persons:

Clause 16: This Clause defines what is meant by the term “interested persons,” for example the emergency services, elected representatives and members of the public.

It also allows those persons/organisations, i.e. those who are not classified as emergency services/elected representatives, who want to receive copies of notices in relation to processions, public meetings and protests to notify OPAPP and have their name(s) added to a list which OPAPP must keep and publish. In general individuals who want to receive copies of notices will only receive them for the area in which they reside unless they specify otherwise. Individuals can opt to have their name excluded from the published list. For example if Mr Smyth wanted his name excluded he would be recorded as Mr X – Resident – North Belfast - see Clause 16 (3) and (4). This exclusion is provided to reflect Data Protection requirements. However, in the interest of transparency as much information as possible will be provided.

Meetings to resolve issues:

Clause 17: This Clause deals with the issue of informal dialogue. It applies where a notice of a public assembly has been submitted by the organiser and a notice of concern or objection has been submitted by the objector. OPAPP must seek to aid discussion between the organiser and the objector and if either requests a meeting to discuss the dispute and seek a resolution, OPAPP must convene that meeting and defray the reasonable cost of providing a venue for it. If the meeting resolves the dispute the participants must inform OPAPP and OPAPP in turn must publish the outcome and send copies to those listed on the automatic list of recipients recorded at Clause 16(1) and other interested parties. If the meeting agrees that the public assembly is to be monitored OPAPP must ask PAPPB to appoint monitors.

This Clause also makes clear that while PAPPB may have regard to a person's participation or non-participation in a meeting convened, participation is not to be a main or determining factor should adjudication follow. In other words, a decision at the adjudication stage cannot be made on the grounds of non-participation alone.

Listed Mediation:

Clause 18: This Clause allows OPAPP to establish and maintain a list of mediators for the purpose of mediation as required by the draft Bill.

Referral to Mediation:

Clause 19: This Clause provides for referral to mediation. If, following a period of 7 days beginning with the date of publication of a notice of concern or objection, the assembly organiser and the objector have not notified OPAPP that the dispute has been resolved through dialogue, OPAPP must make arrangements for mediation using a listed mediator approved by the organiser and the objector. The following example may be helpful.

Example:

- Person A submits a notice on Friday, 24 September 2010 indicating their intention to hold a procession on Monday, 1 November 2010.
- Person B submits a notice on Thursday, 30 September 2010 expressing concern or objecting to the procession.
- Under Clause 19 if a 7 day period beginning with the day when the details of the concern or objection was published elapses without the parties to the dispute (Person A and Person B) notifying OPAPP that all the issues have been resolved OPAPP makes arrangements for mediation.
- i.e. Where objections are raised on Thursday, 30 September 2010 and OPAPP have not been informed by Person A and Person B that there are no unresolved issues in dispute before Thursday 7 October 2010 mediation will be arranged.

See Annex A for a diagram explaining the whole timeline.

The Clause also requires the mediator to report the outcome of successful mediation to OPAPP, who must in turn publish the results of the mediation and send copies to the individuals and organisations listed at Clause 13(5) which cross references with

Clause 16. PAPPB must appoint monitors for all public assemblies that have been the subject of a dispute, even if that dispute is resolved through mediation.

It is important to note that OPAPP will not make arrangements for mediation if, at the time when it would usually be arranged, PAPPB decides that the notice of concerns or objections is to be dismissed because it does not raise any issue relating to human rights, or compliance with the code of conduct.

Appointments Panel:

Clause 20: This Clause sets out the way in which the Appointments Panel will operate and how it is to be constituted. In summary, the First Minister and deputy First Minister will appoint four members to the Appointments Panel. In doing so they will ensure that as far as practicable the Panel is representative of the community in Northern Ireland. The Panel must be representative in order to maximise public confidence. The Appointments Panel are responsible for selecting the members of PAPPB and must do so unanimously. The clause also makes provisions for the term of office for the members of the Appointments Panel, how they may resign or be removed from the Panel, and allows for OFMDFM to pay them and to provide staff and facilities to aid them in carrying out their duties.

Public Assemblies, Parades and Protests Body: Membership:

Clause 21: In this Clause the arrangements for membership of PAPPB are set out. The clause states that the overall Body should, so far as practicable, be representative of the community in Northern Ireland in order to maximise public confidence, that it should include 3 members with relevant legal expertise and should comprise 11 co-equal members in total. The body will not have a chairperson. It also makes provision for the term of office for the members of PAPPB, how they may resign or be removed from the Body, and states that no member of the Appointments Panel may also serve in PAPPB.

Public Assemblies, Parades and Protests Body: Proceedings:

Clause 22: This Clause describes the proceedings by which PAPPB operates in carrying out adjudications. It says that OFMDFM may make rules about how proceedings are conducted. These rules will describe how PAPPB operates in practice.

The Clause describes the method by which adjudications are carried out, with the 11 members being split into two panels, each of which will have 5 members. The 11th person will be available as a stand-in in case of necessity (such as illness). It is also possible for members of one panel to also serve on another panel if it becomes necessary. In addition, a member of one panel can agree with a member of the other panel to stand in for him/her. The member will serve for the duration of the adjudication. These provisions are made to ensure that there is flexibility. As there is to be no chair, the panels will in practice be convened by the Head of the PAPPB Secretariat and approved by PAPPB as a whole i.e. the 11 members. Each panel should, so far as practicable, be representative of the community. Panels should be re-established every 3 months.

When a review of a panel's decision is required (see clause 22 (g) for further information on when reviews take place), the full Body ie the 11 members, must meet to carry out the review. At least 7 of the 11 members of PAPPB must attend the review in order for it to be lawful. This allows for circumstances where some members are unable to attend a review for reasons beyond their control, but makes it clear that a majority of the Body must be there for the review to take place.

In carrying out their duties, the members of PAPPB must always operate in an accessible and transparent manner. Parties to a dispute, i.e. organisers, objectors and protestors, will be told in advance of the panel's hearing what each party's case is and will be given an opportunity to respond to it. PAPPB can hear evidence from any person with an interest in the public assembly in question. The panel will disclose

whatever evidence it relied upon in making the decision unless the High Court determines that it is not in the public interest to do so. It is the responsibility of those seeking to withhold evidence for public interest reasons to seek a determination from the High Court. The panel must also take into account the factual report provided by the mediator. Reports submitted by monitor and evaluation reports are taken into account. When a member of PAPPB sits on a panel and adjudicates on a dispute, they will have no other role in relation to that dispute other than sitting as part of the full Body if a review of the decision is required. Decisions taken by the panel should be unanimous, but where this is not possible, can be made by a majority.

The clause allows for remuneration, allowances, staff and facilities for PAPPB to be provided by OFMDFM.

Any decision made by PAPPB (including a review decision) may be taken to judicial review.

Referral by Mediator:

Clause 23: This Clause sets out the process for referring an unsuccessful mediation to PAPPB for adjudication. It applies when an organiser and objector(s) to a public assembly have undertaken mediation but a period of 15 days ending with the day of the proposed public assembly begins without the parties reaching a resolution.

Example:

- Person A submits a notice indicating their intention to hold a procession on Monday, 1, November 2010. Person B submits a notice on Thursday, 30 September 2010 expressing concern or objecting to the procession.
- There is no resolution by informal dialogue and issues between the parties to the dispute (Person A and Person B) are referred to a mediator by OPAPP on 7 October 2010.

- Under Clause 19 if the parties to a dispute (Person A and Person B) do not notify OPAPP that all the issues have been resolved before a period of 15 days ending with the date of the public assembly begins then the mediator must refer the matter for an adjudication decision by PAPPB.
- i.e. if 15 days are counted back starting with the day of the proposed protest (Monday 1, November 2010), then at the start of this period the mediator must refer an unresolved matter for an adjudication decision by PAPPB. The mediator in this example would refer the matter on Monday, 18 October 2010.

See Annex A for a diagram explaining the whole timeline.

In these circumstances the mediator will notify PAPPB that the mediation has thus far been unsuccessful and will provide a factual report on the issues discussed during mediation to PAPPB. Factual reports can of course be challenged by the organiser or the objector. As a result of this notification, one of the PAPPB panels will be assigned the dispute in compliance with the arrangements detailed in clause 22. However, while the dispute is being considered by the panel, mediation may continue. If the parties to mediation reach agreement and notify the outcome to OPAPP at this stage i.e. while the panel is still deliberating and before they make a decision, the mediated outcome will be accepted and the panel will stop considering the issue.

Referral by OPAPP:

Clause 24: This clause makes provision for OPAPP to refer a public assembly to PAPPB for a decision on whether conditions should be attached to the public assembly before it can take place (see clause 26 for further detail on conditions). Such a referral would only take place if the parties to a dispute were unable to agree on a mediator to perform mediation. This clause would then allow OPAPP to refer the public assembly directly to PAPPB for resolution. A referral to PAPPB does not prevent the organiser and the objector agreeing to mediation after the referral has been made.

Referral by the Parties:

Clause 25: This Clause sets out what happens when a referral has been made to PAPPB by the organiser or the objector. The Clause allows PAPPB to bypass dialogue, mediation and any other proceedings under the dialogue and mediation Clauses and move the process directly to adjudication. PAPPB will take into account any decision to self-refer by the parties but it will not be a main or key determining factor in their determinations. Where PAPPB is satisfied that the decision to self-refer by one of the parties was fully justified on the grounds of exceptional circumstances, it need not take the decision into account at all.

Decisions on Referrals:

Clause 26: This Clause sets out what happens when a referral has been made to PAPPB by a mediator, by OPAPP, or by the organisers or objector under clauses 23, 24 or 25. It is important to note that PAPPB must publish its decision 7 working days before the public assembly; a review of the decision cannot take place in the 4 working days before the assembly. *It is not the responsibility of assembly organisers to inform non-participants of decisions made by PAPPB.*

Example:

- Person A submits a notice indicating their intention to hold a procession on Monday, 1 November 2010. Person B submits a notice on Thursday, 30 September 2010 expressing concern or objecting to the procession. There is no resolution by informal dialogue or mediation and the mediator refers the matter to PAPPB for an adjudication decision on Monday, 18 October 2010.
- Under Clause 26 the PAPPB must make and publish a decision on a matter referred to them at least 7 working days before the proposed date of the public assembly.
- i.e. Where Person A submits a notice indicating their intention to hold a procession on Monday, 1 November 2010 and the mediator has referred it as

an unresolved matter PAPPB must make a decision at least 7 full working days before 1 November. PAPPB in this example would make and publish a decision in this matter by Wednesday, 20 October 2010.

- Clause 26 also makes provision for a published decision to be reviewed on the basis of a significant change in facts but not in the 4 full working days before the event.
- i.e. Where in this example Person A submits a notice indicating their intention to hold a procession on Monday, 1 November 2010 a review must be completed by Monday, 25 October 2010.

See Annex A for a diagram explaining the whole timeline.

When PAPPB makes its decision it must publish both the decision itself and the reasons behind the decision it reached, in line with the procedures detailed and explained in clause 22.

Clause 26(3) allows PAPPB to impose requirements on the organisers, participants and non-participants. These are binding on organisers, participants (including third party participants) and non- participants. PAPPB can, either in a panel decision or in a review, impose requirements in relation to the management and stewarding of a public assembly, the behaviour of participants at the public assembly, the control of non-participants, the commencement and dispersal times of the public assembly and the position, location, route, size and duration of the public assembly. It can also make a decision regarding the participation or attendance in the public assembly by those who have previously breached the code of conduct and on any other matter which they think is appropriate. Clause 26 (4) refers.

Those who fail to comply with these conditions may be subject to criminal charges (see Clause 38 for further details).

Clause 26(5) allows PAPPB to impose requirements on the public assembly based on the code of conduct (see explanation of clause 2 for more detail on the code of conduct). Where this is done it has the effect of making conditions based on the code

of conduct legally enforceable so that an organiser, participant or non-participant who fails to comply with the condition may be subject to criminal charges.

26(10) makes it clear that all public assemblies will be monitored, in compliance with the monitoring arrangements detailed in clause 11.

The clause also covers the factors which PAPPB must have regard to when making decisions. These are issues relating to human rights concerns and compliance with the Code of Conduct.

When making a decision, PAPPB may take into account any information which has been provided in a notice to OPAPP made under clauses 13, 14 or 15 (notice of a procession or a meeting, notice of a protest or a notice of concerns or objections). PAPPB must also take into account any information provided to it by the PSNI.

The final part of the clause states that PAPPB must comply with a request from an organiser of a proposed public assembly to review a panel's decision on the basis of a significant change of facts. A significant change of facts would be something like a large change in the numbers of participants or a change to a proposed route or location of a public assembly. (These are only given as examples.) The arrangements in Clause 22 govern how the review is to be conducted.

Prohibition Orders:

Clause 27: Clauses 27, 28 and 29 should be read together. Clause 27 sets out the situations when a prohibition order may be made and what it may cover.

A prohibition order can;

- apply to a specified public assembly;
- be made in relation to *any* public assembly which is held in an area detailed in the order, during a period which must not exceed 28 days. The length of time during which this prohibition applies must be given in the order;

- be made in relation to a *specified class or description* of public assembly which is held in an area detailed in the order, during a period which must not exceed 28 days. The length of time during which this prohibition applies must be given in the order

As mitigation to this, the prohibition order may provide for exceptions to the application of the order. The order may also be amended or revoked by a further prohibition order. Such an order would only be made in extreme circumstances.

The clause also provides that, once a prohibition order is made, it has the effect of revoking any decision that PAPPB has made in relation to a public assembly dealt with in the prohibition order.

Power to Prohibit Public Assemblies:

Clause 28: This Clause has the effect of giving the Minister of Justice the power to make, with the approval of the First Minister and deputy First Minister acting jointly, a prohibition order *if* it is necessary in the public interest.

When the Minister is considering whether the order is necessary, he or she must pay regard to the likelihood of serious public disorder or serious damage to property, the likelihood of serious disruption to community life and the advice of the Police Service of Northern Ireland. This Clause makes it clear that prohibition orders are to be measures of last resort.

Any order made by the Minister under Clauses 27 and 28 is reviewable by the Courts.

Consultation:

Clause 29: Under this Clause, the Minister should, where practicable, consult with PAPPB and with the Chief Constable of the PSNI before making an order. Where practicable means that if a situation takes place which requires an immediate response

and the Minister is unable to contact either PAPPB or the Chief Constable, he or she is still able to make the order. However, in any challenge to the exercise of the power, the Minister must be able to prove that it wasn't practicable in the circumstances to get hold of PAPPB and/or the Chief Constable.

Mandatory Evaluation:

Clause 30: If a public assembly is referred to PAPPB for adjudication, this clause requires OPAPP to arrange a meeting to evaluate that assembly within a period of 60 days beginning with the day after it took place. OPAPP must invite the organiser, the objector and any person expressing a concern or objection and the PSNI to the meeting. The meeting is known as a mandatory evaluation.

Voluntary Evaluation:

Clause 31: This Clause allows the organiser, objector or any person expressing a concern or objection or the PSNI to ask OPAPP, within a period of 7 days beginning with the date of the assembly, to hold an evaluation meeting. If a request is received OPAPP must comply with the request and arrange a meeting within a period of 60 days beginning with the day after the assembly took place. OPAPP must invite to the meeting the organiser, objector or any person expressing a concern or objection and the PSNI. The meeting is known as a voluntary evaluation.

Procedure:

Clause 32: The Clause indicates that an evaluation meeting (mandatory or voluntary) must be chaired by a listed mediator (see Clause 18) who was not involved in discussions about the public assembly. The meeting must consider any report submitted by a monitor and the views of those attending. The mediator must in turn report to PAPPB in the case of a mandatory evaluation and OPAPP in the case of a voluntary evaluation. A copy of the report will be sent to the organiser and objector.

Late Notification Procedure:

Clause 33: This Clause makes provision for late notification, i.e. of a public assembly, a protest meeting or the submission of concerns or objections. A late notification must be submitted to OPAPP who in turn will refer it to PAPPB. If PAPPB is satisfied that the delay was unavoidable, or reasonable in the light of unforeseen circumstances, it can accept the notice, as if it were submitted on time, and instigate a process of dialogue under Clause 17 or refer directly to mediation under Clause 19 or go straight to adjudication under Clause 25. The period of 3 working days allows for circumstances where there could be a number of public or privilege holidays. For example Easter Monday and Easter Tuesday, i.e. days on which OPAPP would be closed.

Insufficient Time Procedure:

Clause 34: This Clause allows OPAPP to refer a dispute to PAPPB if there is insufficient time for dialogue or mediation.

PAPPB Directions:

Clause 35: This Clause gives PAPPB the power to make directions in a range of circumstances. For example it can set aside its own decisions or decisions taken during other stages of the process. This might happen, for example, if an agreed outcome was reached between the organiser and the objector at a late stage in the process. PAPPB must publish any decision it takes.

Emergency Procedure:

Clause 36 This Clause makes provision for the notification of a public assembly within 3 days of the date of the assembly. This procedure is only intended to be used in extreme emergency situations. For example if the community decided to hold a public assembly to mark some unforeseen event. Because of the urgency, notification should be submitted directly to the PSNI. It will be the responsibility of the Chief Constable to inform PAPPB immediately.

Organisation and Participation:

Clause 37: This Clause deals with the offence of organising or participating in a public assembly if notice of the assembly has not been given in accordance with the legislation (as per Clauses 13 and 15) or if the assembly differs in any material respect (whether as to time, location, route or otherwise) from the details specified in the notice. This should not prevent prosecuting authorities using discretion if for some unforeseen reason a reasonable adjustment is made. A person will not commit an offence if an assembly which differs from a detail specified in the notice if the difference was agreed as a result of dialogue or mediation or was the result of a requirement imposed by PAPPB (as per Clause 26). Upon summary conviction the maximum penalties for these offences are six months imprisonment and/or a fine of up to Level 5 on the standard scale which is currently £5000.

Failure to comply with a requirement:

Clause 38: This Clause deals with the offence of failing to comply with a requirement imposed by PAPPB in accordance with the Code of Conduct on a public assembly (as per Clause 26). Requirements can apply to organisers, participants (including third party participants) and non-participants. Upon summary conviction the maximum penalties for these offences are six months imprisonment and/or a fine of up to Level 5 on the standard scale which is currently £5000. This Clause also allows a court, in sentencing for an offence under subsection (1) of this Clause, to treat anything done in or in respect of a sensitive location as an aggravating factor.

Disruption:

Clause 39: This Clause deals with the offence of taking action with the purpose of preventing or hindering a lawful public assembly or harassing those taking part in such a public assembly. For the purposes of this clause a lawful public procession, public meeting or protest meeting is one which has met the requirements of the rest of the legislation and has not been prohibited. Upon summary conviction the maximum penalties for these offences are six months imprisonment and/or a fine of up to Level 5 on the standard scale which is currently £5000.

Alcohol: Consumption:

Clause 40: This Clause gives the police power to confiscate alcohol being consumed by people who are taking part in, or are in the vicinity of, a public assembly. Failure to comply with a request by a constable to surrender alcohol and provide a name and address can result, upon summary conviction, in a fine of up to Level 5 on the standard scale which is currently £5000.

Alcohol Possession:

Clause 41 This Clause gives the police power to stop and search a passenger vehicle (capable of carrying 8 or more persons) which they reasonably believe may be carrying passengers with alcohol to a public assembly and to confiscate any alcohol they find. Failure to comply with a request by a constable to surrender alcohol and provide a name and address can result, upon summary conviction, in a fine of up to Level 5 on the standard scale which is currently £5000.

Alcohol: Supplemental:

Clause 42: This Clause means that a constable who imposes a requirement on a person under Clauses 40 or 41 must inform the person of their suspicions on which

the requirement is imposed and that failure without reasonable excuse to comply with the requirement is an offence. This Clause limits to use of the powers in Clauses 40 and 42 to between 6 hours before the proposed start of the assembly and midnight on the day on which the persons taking part in the assembly disperse. The police may dispose of anything surrendered.

Powers of Arrest:

Clause 43: This Clause allows the PSNI to arrest without a warrant any person suspected of committing an offence under this Act.

Review:

Clause 44: This Clause requires OFMDFM to review the operation of the Act as soon as reasonably practical after a period of 5 years and allows OFMDFM to conduct other reviews during or after the 5 year period. OFMDFM must make a report on each review to the Assembly.

Annual Reports:

Clause 45: This Clause requires PAPPB to make an annual report to OFMDFM and places an obligation on OPAPP to provide PAPPB with any information that body requires for the purpose of completing the report. The report must be submitted within three months of the end of the Financial Year and must be laid before the Assembly.

Guidance:

Clause 46: This Clause allows the First Minister and deputy First Minister to give guidance about the exercise of functions under the Act by the Appointments Panel,

PAPPB, mediators and monitors which these bodies and individuals must have regard to. The guidance must be published.

Working Day:

Clause 47: This Clause defines what is meant by a working day.

Notices:

Clause 48: This Clause indicates that notices submitted under the Act must be made in writing and allows for guidance about how the notices are given to be provided in the Code of Conduct.

Repeals:

Clause 49: This Clause allows for the repeal of previous legislation, i.e. legislation that is being replaced by this draft Bill. The list provided is not yet complete.

TIMELINE

Action required by individual/organisation	Timescale (calendar days)	Action required by OPAPP	Timescale (working days)	Action required by PAPPB	Days to event		
Notification of public procession or public meeting	7 days				39	Fri	
Notification has to be on the last working day before the period of 37 days ending with day of the proposed public procession or public meeting.					38	Sat	
						37	Sun
						36	Mon
						35	Tues
						34	Wed
						33	Thur
Notification of concern or objection	7 days				32	Fri	
Notification has to be submitted on a working day within 7 days of the publication of the original notice of the public assembly.					31	Sat	
						30	Sun
						29	Mon
						28	Tues
						27	Wed
						26	Thur
					25	Fri	
					24	Sat	
					23	Sun	
					22	Mon	
					21	Tues	
					20	Wed	
					19	Thur	
					18	Fri	
					17	Sat	
					16	Sun	
					15	Mon	
					14	Tues	
					13	Wed	
					12	Thur	
					11	Fri	
					10	Sat	
					9	Sun	
					8	Mon	
					7	Tues	
					6	Wed	
					5	Thur	
					4	Fri	
					3	Sat	
					2	Sun	
Date of public procession/public meeting/associated protest					1	Mon	

Action required by individual/organisation	Timescale (calendar days)	Action required by OPAPP	Timescale (working days)	Action required by PAPPB	Days to event		
Notification of protest meetings	22 days				12	Thur	
Notification has to be submitted on a working day before the period of 22 days ending with the day of the proposed protest meeting					11	Fri	
						10	Sat
						9	Sun
						8	Mon
						7	Tues
						6	Wed
					5	Thur	
					4	Fri	
					3	Sat	
					2	Sun	
					1	Mon	

Action required by individual/organisation	Timescale (calendar days)	Action required by OPAPP	Timescale (working days)	Action required by PAPPB	Days to event	
					15	Mon
					14	Tues
					13	Wed
					12	Thur
					11	Fri
					10	Sat
					9	Sun
					8	Mon
					7	Tues
					6	Wed
					5	Thur
					4	Fri
					3	Sat
					2	Sun
					1	Mon

Code of Conduct

This Code of Conduct applies to participants in all public assemblies, including parades and protests, in Northern Ireland. Failure to fully adhere to the Code during a public assembly should be taken into account by an adjudication panel when considering the next assembly involving participants who have so failed.

It should be borne in mind by all those participating in any form of assembly that with rights come responsibilities.

At all times, individuals assembled together bear responsibility for their own actions and may be held to account before criminal and civil courts if their behaviour breaks the law.

REQUIREMENTS FOR ORGANISERS OF PUBLIC ASSEMBLIES, INCLUDING PARADES AND PROTESTS

Organisers of public assemblies in Northern Ireland must;

1. Make best efforts to minimise any adverse impact a notified assembly might have particularly where the assembly route or location includes:
 - a. A residential area;
 - b. A city town or village centre at a time when there would normally be a high level of commercial activity;
 - c. A church or other place of worship particularly if any service or event is likely to be occurring at the time of the proposed assembly.
2. Submit the appropriate notification form to the **Administrative Body** within the required timescales:
 - a. At least 35 days in advance of the proposed assembly; or
 - b. At least 21 days in advance of a protest related to a notified assembly.

Notification may be made by post, in electronic form or in person. Where the notification has been submitted electronically arrangements must be made for

the original document, with the appropriate signature(s) to be delivered to the **Administrative Body** within 5 days of the electronic submission or the notification becomes invalid.

3. Provide notice at the earliest possible time where it is not possible to give at least 35 days notice, or 21 days in the case of a related protest, because the assembly is a response to circumstances which could not have reasonably been foreseen. The organiser should provide an explanation of the unforeseen circumstances that made timely notification impractical. Failure to complete a notification form may render the assembly unlawful.
4. Maintain a list of all proposed third party organisations taking part in the assembly, including name and contact details of the responsible person(s) for each organisation, and make that list available to the PSNI upon request.
5. State in the notification form:
 - a. Any proposed variations from the code of conduct;
 - b. Whether any known sensitive locations are in the immediate vicinity of the proposed route or location of the assembly;
 - c. How any sensitivity will be addressed.
6. Promptly inform **the Administrative Body** in the event of the assembly being cancelled, and confirm cancellation in writing to **the Administrative Body** within 48 hours.
7. Make best efforts to ensure that all participants have been informed:
 - a. of the relevant provisions of this code of conduct;
 - b. of any variations from the code of conduct which have been agreed or imposed by adjudication; and
 - c. That non-compliance with this code of conduct may lead to exclusion of any offending participants from future assemblies.
8. Make best efforts to minimise disruption to the life of the community beyond that inevitably entailed by the passage or holding of the assembly.

9. Provide an appropriate number of stewards, at least one for every 50 participants or such number as may be agreed or specified in an adjudication.
10. Make best efforts to ensure that all stewards:
 - a. have been appropriately briefed and trained to a suitable standard;
 - b. are given guidance/instruction on their role prior to an assembly;
 - c. carry proof of status or wear clearly identifiable clothing; and
 - d. co-operate with the PSNI as required.
11. Encourage participants to comply with directions regarding public safety.
12. Make best efforts to ensure that no-one under the influence of alcohol or illegal drugs is allowed to participate.
13. Attend any post event evaluation should such an evaluation be convened by the **Administrative Body**.

REQUIREMENTS FOR PARTICIPANTS IN PUBLIC ASSEMBLIES, INCLUDING PARADES AND PROTESTS

Participants in public assemblies in Northern Ireland should:

1. co-operate with the PSNI at all times;
2. follow any lawful instruction of stewards during the assembly;
3. make best efforts to facilitate the free passage of traffic and pedestrians, with due regard to the safety of all;
4. behave with due regard for the rights and traditions of others
5. not use words and behaviour which could be reasonably perceived to be threatening, abusive, sectarian, obscene or racist;
6. adhere to the notified route or locations of the assembly or, where the notified route or location is amended by local agreement or adjudication, the amended route or location;

7. disperse promptly as soon as the assembly concludes;
8. not play music between the hours of 23:00 and 07:00 unless previously agreed;
9. fully adhere to all relevant legal requirements

ADDITIONAL REQUIREMENTS IN SENSITIVE LOCATIONS

Sensitive locations require that full consideration must be given to the particular local context when determining whether any sensitive locations exist in the immediate vicinity of the proposed assembly. Such sensitive locations could include places identified in any notified concerns or objections that;

- raise valid Human Rights issues;
 - are places of cultural or religious significance;
 - are areas where there is a recent history of public disorder relating to assemblies, or;
 - are connected to the past conflict.
1. Where there is a sensitive location in the immediate vicinity of the route or locations of the proposed assembly, the organiser must:
 - Prior to notification, seek to address reasonable local concerns about the proposed assembly with those who live, or own businesses, or have some other clear and demonstrable interest, in the immediate vicinity of the assembly route or location.
 2. Where there is a sensitive location in the immediate vicinity of the route or location of the proposed assembly, participants must show respect and tolerance. They should behave with due regard for the rights and traditions of others. At sensitive locations, participants must therefore;
 - Refrain from the playing of unduly loud music; with no music to be played between the hours of 22:00 and 07:00

- Not use words or behaviour which are threatening, abusive, sectarian, obscene or racist;
- Not wear clothing or uniforms, or display any article, referring to paramilitary activity during the recent conflict, at or about the same time as a public assembly is being held, in a way which can be identified within sight of a sensitive location;
- furl in a way in which they cannot be identified, when carried within sight of a sensitive location, flags of historic significance which may be perceived as sensitive by one or other section of the community.

LEGAL LIABILITY

There are presently a number of offences (See Appendix A) which relate to conduct occurring at public assemblies, including parades and protests.

- 1 We also recommend that where an offence is committed at a sensitive location during an assembly, including parades and protests, that it is considered to be an aggravating factor.
- 2 We also recommend that a legally enforceable code of conduct will require an individual during a public assembly, including a parade or protest, not to;
 - commit an unreasonable breach of the terms of an adjudication made by an adjudication panel through his/her conduct;
 - use words or behaviours which are threatening, abusive, or insulting:
 - at a place which is in the vicinity of the route or locations, or proposed route or location of a public assembly; and
 - at or about the same time as the assembly is being held or is to be held if the individual was aware that an assembly is being held or about to be held.

- consume publicly, intoxicating liquor immediately prior to or during an assembly, except where a licence has been granted;
 - at a place which is in the vicinity of the route or locations, or proposed route or location of a public assembly; and
 - at or about the same time as the assembly is being held or is to be held if the individual was aware that an assembly is being held or about to be held.

- In relation to those assemblies which are subject to an adjudication;
 - fail to disperse at the conclusion of the assembly where the end point is within the vicinity of a sensitive location;
 - play music between the hours of 23:00 and 07:00 unless previously agreed, and in sensitive locations to play music between the hours of 22:00 and 07:00.

- deviate, without reasonable cause, from the notified route or location of the assembly or, where the notified route is modified by local agreement, mediation or adjudication, the amended route or location;

- Fail to make available to the PSNI (if requested) the list of all third party organisations in a public assembly, parade or protest including the name and contact details of the person(s) responsible for each organisation;

- engage in conduct which amounts to or is capable of amounting to sectarian, racist, homophobic or disability harassment;

- organise or participate in an unlawful public assembly, parade or protest;

- wear clothing or uniforms, or display any article, referring to paramilitary activity during the recent conflict, at or about the same time as a public assembly is being held, in a way which can be identified within sight of a sensitive location;

but to;

- furl in a way in which they cannot be identified, when carried within sight of a sensitive location, flags of historic significance which may be perceived as sensitive by one or other section of the community.

Public Assemblies – The Legal Framework

Implementation of this report will require primary legislation. However a wide range of offences relating to the potentially criminal actions of organisers, participants, supporters and protesters presently exists. The main offences are set out in the Public Order (NI) Order 1987 and Public Processions (NI) Act 1998 (both as amended). There are however other statutes which are potentially relevant such as the Protection from Harassment (NI) Order 1997.

Offences might be:

Public Order Offences;

Offences relating to Harassment;

Offences relating to Proscribed Organisations;

Offences specifically in relation to parades;

Offences specifically in relation to parade related protests;

Breach of the Peace (Common Law);

Aggravated offences.

Or breaches of:

Anti-Social Behaviour Orders;

Police Powers;

Powers to stop and search for intoxicating liquor;

Power to stop and search in anticipation of violence;

Powers to close roads;

Powers to require removal of disguises.

Consultation Process

The consultation will run for 12 weeks from 20 April to 14 July 2010 with responses to be received **no later than 1 pm on 14 July 2010.**

All comments or submissions in response to this consultation should be e-mailed to **publicassemblies.consultation@ofmdfmi.gov.uk** or posted to;

**The Secretariat
Working Group on Parades
OFMDFM
Room GD 51
Stormont Castle
Belfast
BT4 3SR**

All other requests or correspondence in relation to this consultation can be sent to either of the addresses above.

Data Protection

It should be noted that the detail in the responses to the consultation may be published in accordance with Data Protection requirements.

If you do not wish your response to be used in this way, or if you would prefer it to be used anonymously, please indicate this when replying.