

An Chartlann Náisiúnta
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Flying of flags - Background Note

1. The question of the flying of the union flag over Government departments in the North has been something of a running sore since the establishment of the institutions last December. The decision of Sinn Féin ministers not to fly flags on "flag days" over Christmas led to a DUP censure motion against Bairbre deBrún in the Assembly in January which was carried with UUP support. The matter remained unresolved both prior to and during the period of suspension.

2. Following its restoration, the question was remitted by the Executive to a sub-Committee, comprising Ministers Martin McGuinness, Michael McGimpsey and Bríd Rodgers and senior officials from the office of the First and Deputy First Ministers. Predictably, it failed to reach a consensus view.

3. During suspension however, under unionist pressure, the British Government passed the Flags (Northern Ireland) Order 2000, conferring on the Secretary of State the power to make regulations. Introducing the Order in the Commons on 16 May, the Secretary of State expressed the view that, while the issue was best resolved by the Executive reaching an accommodation, the principle of consent "must receive more than lip-service" and that "as far as Her Majesty's Government in the United Kingdom are concerned...that means that the Union flag continues to fly over our buildings in Northern Ireland on the basis applied elsewhere in the United Kingdom".

4. On 8 September, the Secretary of State asked the Assembly to consider a draft set of regulations, the import of which is that the union flag "shall" be flown over seven named buildings housing government departments on 17 named days (unlike previous lists of "flag days", these do not include 12 July).

5. On 11 September the Assembly decided that the regulations should be considered by 20 member ad-hoc committee (comprising 4 UUP MLAs, 4 SDLP, 3 Sinn

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Féin, 3 DUP and one each from the Alliance, Women's Coalition, PUP and NIUP) which is to report back to the Assembly by 16 October. Given the unwieldy size of the Committee and the nature of the subject, it, too, is most unlikely to reach agreement.

6. It is therefore almost certain that the Secretary of State will press ahead with the imposition of the proposals contained in his draft regulations. He has asked the Assembly to report back to him by 20 October. He is then obliged to "consider" the report and to "have regard to the Belfast Agreement" in bringing forward final regulations. These will require the approval of both Houses at Westminster.

Nationalist view

7. Sinn Féin has consistently argued in favour of either a "two flags" or "no flags" policy.

8. While SDLP Ministers initially agreed that, pending an agreed resolution of the issue, they would respect the status quo and fly the union flag at their Departments, on 12 July they decided not to do so. There is also some difference of view within the party, with Minister for Agriculture, Bríd Rodgers, more strongly opposed than some of her colleagues. In a submission to the Secretary of State the SDLP has said that it would be prepared to consider four options: no flags; two flags; a new consensual flag; or either the tricolour or the union flag depending on the location/occasion.

9. The Irish Government set out its views in the attached paper handed to the British on 8 September.

Anglo-Irish Divison
13 September 2000

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Draft Flags Regulations (Northern Ireland) 2000

Views of the Irish Government

1. The manner in which these draft regulations have been produced, without prior consultation of any kind, is a serious departure from the long-established practice which has existed under successive Governments and which has been vital to our successes in the peace process to date. Under the Good Friday Agreement the British Government is obliged, within the framework of the BIIGC, to make determined efforts to reach agreement on matters of concern to us.

2. We accept that the question of flags and emblems is deeply divisive. The failure of the Executive to reach a consensus demonstrates this clearly. However the proposed regulations, rather than recognising the sensitivities of both communities, and trying to find a bridge between them, will be seen as clearly taking sides. We believe that this is contrary not only to the letter but to the spirit of the Agreement.

3. It should be recalled that in the Agreement both Governments affirmed that, irrespective of the constitutional position, the sovereign government shall exercise its powers "with rigorous impartiality on behalf of all the people in the diversity of their identities and traditions." Moreover, they stated that this power "shall be founded on the principles of full respect for, and equality of, civil, political, social and cultural rights, of freedom from discrimination for all citizens, and of parity of esteem and of just and equal treatment for the identity, ethos and aspirations of both communities". The proposed regulations do not meet that commitment.

4. Furthermore, the parties to the Agreement, acknowledging the sensitivity of the question, stressed "the need in particular in creating the new institutions to ensure that ... symbols and emblems are used in a manner which promotes mutual respect rather than division". The draft regulations, on the other hand, would create

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division, formalise and reinforce pre-Agreement practice without cross-community consent, and therefore run entirely contrary to the Agreement.

5. Imposing these regulations would poison community relations and, in particular, would damage relationships between Ministers within the Executive. Nationalist Ministers would find it politically impossible to operate these regulations.

6. By contrast, the flying of the flags along the lines proposed would be illegal in the private sector under fair employment legislation.

7. The draft regulations are being issued at a time when there are already serious difficulties and concerns relating to the Policing Bill. The circulation of these proposals now, in a manner which will ensure that they become public, will heighten tensions in relation to the symbolic aspects of that Bill and will make agreement more difficult.

8. All in all, we are strongly of the view that to proceed now in this manner would polarise opinion and would seriously damage nationalist confidence in the implementation and operation of the Agreement, which could have very serious implications for progress in other areas.

9. If the British Government proceeds with the imposition of these draft regulations we will be obliged to state publicly that we were not consulted about them, that we did not and do not agree with them for the reasons set out above.

10. We will also make clear our serious concern about the broader impact of the present proposals and will state that we have formally asked the British Government not to proceed.

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