

# Legislative variations for Northern Ireland

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The following content presents legislative variations for Northern Ireland.

## Legal framework

The police have statutory powers and duties in relation to the policing of public processions, related protests and open-air public meetings, including those set out in the:

- [Public Processions \(Northern Ireland\) Act 1998](#)
- [Public Order \(Northern Ireland\) Order 1987](#)
- [Police and Criminal Evidence \(Northern Ireland\) Order 1989](#)
- parts of the [Criminal Justice and Public Order Act 1994](#) which extend to Northern Ireland
- [Criminal Law Act \(Northern Ireland\) 1967](#)

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

## Starting point for policing public protest — the presumption in favour of peaceful assembly

Under the [Public Processions \(Northern Ireland\) Act 1998](#), organisers of public processions and related protest meetings are required to provide notice to the Police Service of Northern Ireland (PSNI) of specified information. Failure to provide such notice results in the organisers and participants being in breach of the Act, but does not render the public procession/protest unlawful. Detailed guidance on this matter is contained in [PSNI Service Procedure 14/2008 \(amended 9/6/11\)](#).

[Article 4 of the Public Order \(Northern Ireland\) Order 1987](#) gives the police the power to impose directions on persons organising or taking part in an open-air public meeting such conditions as to

the place at which the meeting may be (or continue to be) held, its maximum duration, or the maximum number of persons who may constitute it, as appear to him necessary to prevent disorder, damage, disruption or intimidation. It is a precondition for the exercise of this power that a senior police officer reasonably believes (a) that the meeting may result in serious public disorder, serious damage to property or serious disruption to the life of the community, or (b) the purpose of the persons organising it is the intimidation of others with a view to compelling them not to do an act they have a right to do, or to do an act they have a right not to do.

A breach of the notification requirement in the Public Processions (Northern Ireland) Act 1998 [s 6](#) or [s 7](#) does not render a public procession or related protest meeting unlawful or mean that an otherwise peaceful public procession or related protest meeting falls outside the protection of ECHR Article 11. See the authorised professional practice (APP) on the [Human Rights Act 1998](#). The sections only apply to public processions and related protest meetings, not to other assemblies.

## Organisers' intentions

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

## Restricting the right to peaceful protest

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

## Principle of proportionality

If the answer to all four questions is yes, then the conditions imposed on a public procession or associated protest under the Public Processions (Northern Ireland) Act 1998 will be proportionate.

Under the [Public Processions \(Northern Ireland\) Act 1998 s 8](#), conditions which may be imposed on a public procession include, but are not limited to, conditions on the route of the

procession or a prohibition on entering any place.

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

## Banning a public procession

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

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

Note: PSNI does not have powers to prohibit events. The considerations in that paragraph are for the secretary of state.

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

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

Applicable offences are those of:

- provocative conduct (the [Public Order \(Northern Ireland\) Order 1987 Article 19\(1\)](#))
- threatening, abusive or insulting behaviour (the [Public Order \(Northern Ireland\) Order 1987 Article 9\(1\)](#))
- hindering participants in a public procession (the [Public Processions Northern Ireland Act 1998 s 14](#))

ECHR Article 10(1) protects in substance and forms a right to freedom of expression which others may find insulting or offensive. See the [APP on the Human Rights Act 1998](#).

Individuals taking part in a peaceful protest will only come within the terms of the above offences where their conduct moves into the realms of provocative, threatening or other behaviour as set out in respect of each offence. Further details of the elements of each offence are set out in PSNI (2013) Public Order Aide-memoire.

## Incitement to hatred

A person who uses threatening abusive insulting words/behaviour or displays any written material which is threatening, abusive or insulting is guilty of an offence if:

*(a) he intends to stir up hatred/arouse fear or, (b) having regard to all the circumstances, hatred is likely to be stirred up or fear is likely to be stirred up/aroused.*

See [Article 8](#) and [Article 9\(1\)](#) of the Public Order (Northern Ireland) Order 1987.

## Tags

Public order