



FROM: MRS DOREEN BROWN  
CENTRAL SECRETARIAT  
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*News* cc as below

PS/Secretary of State (B&L)

*AM*

SYMBOLS, FLYING OF FLAGS AND THE AGREEMENT

*(of/1)*

Issue: How to approach this issue in the light of the Agreement.

Timing: For early decision.

Recommendation: Decide to deschedule five flag-flying days but consult the First and Deputy First Minister for any agreed better ideas. Alert Executive Committee, once created, to the need to develop its own practice on flags and gun-salutes. Officials to pursue change in Army practice with HQNI.

**Background**

1. Arrangements for flying of flags and for other symbols were set out in David Watkins' submission of 26 March, which recommended the option of the Secretary of State descheduling four of the current 20 days specified for flying flags from Government buildings, announcing this after the Assembly elections and the 12 July parades. The Secretary of State did not reach a conclusion but indicated that she would wish to revisit the issue after this year's marching season.

2. The Good Friday Agreement (p 20, para 5) states:

"All participants acknowledge the sensitivity of the use of symbols and emblems for public purposes, and the need in particular in creating the new institutions to ensure that such symbols and emblems are used in a manner which promotes mutual respect rather than division. Arrangements will be made to monitor this issue and consider what action might be required."

3. On one reading, this is an enjoinder on parties in the Assembly. But HMG is included in "All participants"; has a role in "creating the new institutions", as the SDLP and Sinn Fein emphasise; and after devolution will still be responsible for some "flag buildings". NIO Ministers therefore need to decide, first, their general approach if they wish to influence new institutions and, second, what practice to adopt in relation to their own buildings.

#### **Powers**

4. Flag flying is not based on statute. We take our cue from days specified by the Department of Culture, Media and Sport on command of the Queen. To these are added five locally specified days - New Year's, St Patrick's, Easter, 12 July and Christmas Days - as practised following decisions by Stormont in the 1920s and 1930s.
5. Until devolution the Secretary of State remains responsible for Government buildings. After devolution the Secretary of State will be responsible for buildings in which NIO civil servants are the majority occupants. It will then be for the Executive Committee and the Assembly to make arrangements for flag flying on buildings where NI departmental civil servants are majority occupants.

6. Other public bodies, eg district councils, education and health boards, are entirely responsible for their own arrangements, though some may be influenced by Government practice.
7. The RUC operates under Force Orders from the Chief Constable, and the issue of symbols is explicitly within the terms of reference of the Independent Commission on Policing. Significantly, the Chief Constable announced at the end of July that the RUC would no longer fly the Union flag on public holidays, ie, the five extra flag-flying days in Northern Ireland. He intended that the RUC should come into line with police forces in the rest of the UK.

### Political Dimension

8. The flying of the Union Flag is a deeply divisive issue in Northern Ireland. For that reason, quite apart from considerations of our influence and practice on NIO buildings, it would not appear wise to leave the matter entirely to the good sense of the devolved institutions. On the other hand it is hard to see action by us achieving cross-party support - overt at least: the most we can hope for is probably 'equality of objection'.

### Options

9. The available options seem to be as follows:
  - (1) **radical**: not fly any flag; or develop a new flag (unlike Scotland and Wales, there is no widely supported Northern Ireland flag); or fly both British and Irish flags. Any of these possibilities is fraught with political problems, as they would be taken to represent a wholly new constitutional status, though the development of a

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new flag might conceivably become the preference of devolved institutions. This option is **not** recommended;

- (2) **do nothing**: this would be, at least on the face of it, the most comfortable course. However, if it is accepted that the government has a responsibility to show a lead, this option should be discounted. If we took it, we could expect growing (though probably still limited) criticism from nationalists for failing the Agreement;
  - (3) **deschedule** five days (Christmas, New Year's, St Patrick's, Easter Days and 12 July) **now without consulting** the First and Deputy First Minister;
  - (4) **consult** First and Deputy First Ministers on proposal to deschedule five days (and be open to any better ideas they may have).
10. The view of officials is that the choice lies between options (3) and (4), and option (4) is preferred, but with a clear intention to deschedule unless **both** First and Deputy First Ministers recommend an agreed alternative.
11. Clearly the question of 12 July is particularly delicate. Its removal will provoke some controversy. On the other hand there is little value in removing only the other four holidays. Also, the Chief Constable has already moved down the path of stopping flying the flag at RUC stations on public holidays, including 12 July, and without provoking a fierce reaction from Unionists. Officials therefore recommend that 12 July should be included in the consultation with the First and Deputy First Ministers with a view to removing it, along with the four other public holidays, from the list of flag-flying days.

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12. The result of this decision would be that the Union flag, pre-devolution, would fly on all government buildings on 8, 14 and 20 November but, unlike previous years, not on 25 December or 1 February. Post-devolution, the flag would fly on NIO buildings only on the days set out by DCMS. We would hope that the Executive Committee, on transfer of power, would choose to continue to follow this line as a way of avoiding a deeply divisive debate, although they would be entitled to devise an alternative arrangement if they could agree on one. It could well be, however, that divisions will come to the fore in November in relation to the three flag-flying days planned for that month, as we already know that the parties in the Assembly take fundamentally different views on the flying of the Union flag on Parliament Buildings.
13. It is recommended that the Secretary of State should now consult First and Deputy First Ministers on the lines set out above.
14. If Ministers accept the option recommended above, officials could also explore with the Army some reduction in their practices currently specified in Queen's Regulations.

### Other Issues for the new Administration

15. Linked to dates for flag-flying is **gun salutes at Stormont**. In 1999 these dates are:
  - Saturday 6 February - Accession;
  - Wednesday 21 April - Queen's Birthday;
  - Wednesday 2 June - Coronation;

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- Saturday 12 June - Queen's Official Birthday;
- Wednesday 4 August - Queen Mother's Birthday.

16. It would be prudent to draw these to the attention of the First and Deputy First Ministers at the same time as the flags issue. Officials are examining the scope for these gun salutes to take place at a venue other than Stormont.

### Other Symbols

17. David Watkins' submission of 26 March also mentioned oaths, royal portraits and Stormont symbolism. The issue of oaths has been resolved; portraits generally come within fair employment law (and the Independent Commission will doubtless advise on RUC practice); and Stormont symbolism should be left to the Assembly.

(Signed DAB)

**D A BROWN**  
**Ext 28151**

cc PS/Mr Murphy (DFP,B&L)  
PS/Mr Ingram (DED, B&L)  
PS/Mr McFall (DENI,DHSS&L)  
PS/Lord Dubs (DOE,DANI&L)  
PS/Mr Pilling (B&L)  
PS/Mr Semple  
Mr Jeffrey  
Mr Watkins  
Mr Bell  
Mr McCusker  
Mr Shannon  
Mr Stephens  
Mr Kelly (B&L)  
Mr T Smyth  
Mr Hill  
Mr Lindsay  
Mr Maccabe  
Mr Warner