

## **Legislative Council Panel on Security**

### **Legislation for regulation of public processions and public meetings in eleven overseas cities/states/countries**

#### Purpose

This paper presents further information on the legislations for regulation of public meetings and processions in overseas jurisdictions. It covers the following cities/states/countries :

- (a) New York of USA
- (b) San Francisco of USA
- (c) New South Wales of Australia
- (d) Queensland of Australia
- (e) Singapore
- (f) Kuala Lumpur of Malaysia
- (g) Vancouver of Canada
- (h) Toronto of Canada
- (i) London of UK
- (j) Berlin of Germany
- (k) Paris of France

These cities/states/countries are selected because they are metropolitan cities like Hong Kong, for example, New York and London, they are in South East Asia, like Singapore or they have been suggested as providing a model for consideration, for example, Queensland.

#### Background

2. We issued a paper in November 2000 which presented for Members' reference some information on a number of overseas cities/states/countries in relation to regulation of public processions. Some members of the public and parties concerned have expressed an interest in obtaining further information on the relevant legislations. We have therefore obtained through an international law firm copies of the relevant legislations and a brief on the relevant legislations in Berlin of Germany and Paris of France, covering both public meetings/assemblies and public processions/parades/marches. Copies of the original legislations (only those in English and therefore the relevant legislations of Germany and France are not available)

are kept in the Secretariat of the Legislative Council for reference by Members and others.

3. The following key areas are highlighted in the table at Annex :
- (1) Time required for prior notification to be given or for application for a permit before holding a public procession or meeting.
  - (2) Exemptions under the law from the requirement to give prior notice or obtain a permit, including the threshold on the number of persons for the requirement to apply for a permit or give notification.
  - (3) Sanctions for failure to follow the law.
  - (4) Who will be penalised? Is it the case that only the organisers of unnotified/unauthorised public processions or public meetings will be penalised or both organisers and participants will be penalised?
  - (5) Law enforcement powers. For example, are unnotified/unauthorised public processions or public meetings liable to police dispersal?
  - (6) Who has the authority to process a notification or an application for permission to hold a public procession or public meeting? the Police? the mayor? a local council? some government agency?
  - (7) Who has the power to prohibit a public procession or public meeting? the Police? the mayor? a local council? some government agency?
  - (8) What are the grounds on which the authority may object to or prohibit a public procession or public meeting?
  - (9) Appeal mechanism.

4. It transpires from the information we have obtained that most countries have some form of regulation of public processions and meetings. The regulatory measures are varied because of their different historical backgrounds and social needs. Their measures may not be wholly applicable for the Hong Kong Special Administrative Region. The information we have collected is for reference only.

5. It should be noted that the various legislations have provided different meanings of “public meeting/assembly” and “public procession/parade/march”, and a few do not contain definitions of those terms at all. Furthermore, we understand from various sources that different cities/states/countries have enforced their legislations with varying degrees of strictness or flexibility in accordance with their policies or practices. For example, in New York of USA, the Police Department would expect that an application for a permit in respect of a large parade or demonstration is lodged preferably 90 days before the event day to allow sufficient time for necessary consultation with the Mayor’s Office and other agencies concerned before approval is granted. On the other hand, the police authorities in Vancouver and Toronto of Canada may enforce the relevant legislations flexibly for certain parades or demonstrations as a matter of policy. As it would be difficult to ascertain accurately the enforcement policies adopted by the various cities/states/countries in enforcing their laws, which may also change with time and circumstances, no further information on this aspect is provided.

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(panel-overseas-r)

## Legislation for regulation of public processions and public meetings in 11 overseas cities/states/countries

Area of Interest (1) : Time required for prior notification or application for a permit.

New York of USA	San Francisco of USA	New South Wales of Australia	Queensland of Australia	Singapore	Malaysia
<ul style="list-style-type: none"> <li>● under New York State laws, notification has to be made at least 6 hours prior to the forming or marching of any procession</li> <li>● New York City requires that notification be made at least 36 hours in advance</li> <li>● application for a “special events” permit in a public park must be made at least 21 days prior to the date of the event</li> <li>● application for a “demonstrations” permit must be made at least 5 days prior to the date of demonstration</li> </ul>	<ul style="list-style-type: none"> <li>● at least 60 days in advance, but all permit applications shall be processed as long as they are received at least 15 working days in advance</li> <li>● under the following circumstances, application should be made at least 30 days in advance –               <ul style="list-style-type: none"> <li>– the route will pass through a business district</li> <li>– the public procession or meeting will extend over an area which involves more than five intersections</li> <li>– more than 250 participants may</li> </ul> </li> </ul>	<ul style="list-style-type: none"> <li>● notice of intention to hold a public assembly should be submitted at least 7 days before the proposed assembly, if the holding of such is not prohibited by a Court</li> <li>● the notice could be submitted less than 7 days before the proposed assembly, if the holding of such is authorized by a Court</li> <li>● no specific time limit applies, if the Police Commissioner has notified the organizer of the public assembly that the Commissioner does not oppose the holding of the assembly</li> </ul>	<ul style="list-style-type: none"> <li>● notice of intention to hold a public assembly should be submitted not less than 5 business days before the proposed assembly, if the holding of such is not prohibited by a Magistrates Court</li> <li>● the notice could be submitted less than 5 business days before the proposed assembly, if the holding of such is authorised by a Magistrates Court</li> <li>● no specific time limit applies, if the Police Commissioner has notified the organizer of the public assembly that the Commissioner does not oppose to the</li> </ul>	<ul style="list-style-type: none"> <li>● application for a permit to hold an assembly or procession (except funeral procession) should be made not less than 4 clear days before the event</li> </ul>	<ul style="list-style-type: none"> <li>● no specific provision on the time within which an application for a licence to hold a public meeting or procession must be made</li> <li>● in practice, taking into account the processing time required, an application should be made around a month in advance of the proposed meeting, but sometimes, two weeks or even less may be sufficient</li> </ul>

<b>New York of USA</b>	<b>San Francisco of USA</b>	<b>New South Wales of Australia</b>	<b>Queensland of Australia</b>	<b>Singapore</b>	<b>Malaysia</b>
	<ul style="list-style-type: none"><li>join</li><li>- the event requires the Municipal Railway to substantially alter passenger routes or schedules</li><li>• the time limitation may be waived if the applicant can show that the event did not reasonably allow time for an application to be filed</li></ul>		holding of the assembly		

Vancouver of Canada	Toronto of Canada	London of UK	Berlin of Germany	Paris of France
<ul style="list-style-type: none"> <li>● no parade shall take place on any street unless an application has been made to the Chief Constable at least 90 days in advance/ or within such shorter period of time as may be allowed by the Chief Constable.</li> <li>● a parade is defined as any procession or body of pedestrians (except members of the Armed Forces) numbering more than 30, standing, marching or walking on any street, or any group of vehicles numbering 10 or more (except funeral processions) standing or moving on any street</li> </ul>	<ul style="list-style-type: none"> <li>● a written application for permission for a parade (which includes procession) must be made a minimum of 21 days before the event</li> </ul>	<ul style="list-style-type: none"> <li>● not less than 6 clear days' written notice, unless it is not reasonably practicable to give any advance notice</li> </ul>	<ul style="list-style-type: none"> <li>● notice should be given 48 hours prior to the announcement of such an outdoor assembly or procession</li> <li>● it is allowed that no notice be given of “spontaneous assemblies” for reasons of time and as no official organiser exists</li> <li>● for “urgent assemblies” (the decision to hold the assembly or procession is taken less than 48 hours prior to its start), the organiser must notify immediately after the decision to hold the assembly has been taken</li> </ul>	<ul style="list-style-type: none"> <li>● public meetings : not applicable (there is no prior notification to be given for a public meeting to be held under French law).</li> <li>● public processions :               <ul style="list-style-type: none"> <li>- notification must be given at least 15 days before the public procession</li> <li>- the authority receiving the notification must immediately send an acknowledgement of receipt. This authority has 3 days to assess the dangerousness of the public procession and to decide whether or not the procession should be prohibited</li> </ul> </li> </ul>

Area of Interest (2) : Exemptions under the law from the requirement to give prior notice or obtain a permit, including the threshold on the number of persons for the requirement to apply for a permit or give notification.

New York of USA	San Francisco of USA	New South Wales of Australia	Queensland of Australia	Singapore	Malaysia
<ul style="list-style-type: none"> <li>● under New York state law, processions of the National Guard, the police and fire departments, and associations of veteran soldiers do not require a permit</li> <li>● in New York City, permit requirements do not apply to –               <ul style="list-style-type: none"> <li>– ordinary movements of the armed forces, the police and fire departments</li> <li>– portions of any street designated as a “speedway”</li> <li>– processions which have marched annually for more than 10 years, previous to July 7, 1914</li> </ul> </li> <li>● no statutory threshold on the number of</li> </ul>	<ul style="list-style-type: none"> <li>● the following events are exempted –               <ul style="list-style-type: none"> <li>– an “athletic event”</li> <li>– processions composed wholly of the military or naval forces of the United States or the State of California</li> <li>– processions incidental to a wedding or funeral</li> <li>– processions composed of one or more governmental officials or candidates accompanied by security personnel to which such officials or candidates are entitled by virtue</li> </ul> </li> </ul>	<ul style="list-style-type: none"> <li>● notification is non-compulsory, but if notice is given to the police in accordance with the Summary Offences Act 1988, the public assembly will be an authorised public assembly and a person who participates in such an assembly does not, merely because of the participation, incur any civil or criminal liability</li> <li>● no threshold requirement as to the number of persons involved in a public assembly</li> </ul>	<ul style="list-style-type: none"> <li>● notification is non-compulsory, but if notice is given to the police or the relevant local authority in accordance with the Peaceful Assembly Act 1992, the public assembly will be an authorised public assembly and a person who participates in the assembly does not, merely because of the participation, incur any civil or criminal liability</li> <li>● no threshold requirement as to the number of persons involved in a public assembly</li> </ul>	<ul style="list-style-type: none"> <li>● an assembly or procession of 5 or more persons in a public place for the following purposes requires a permit –               <ul style="list-style-type: none"> <li>– to demonstrate support for or opposition to the views or actions of any person;</li> <li>– to publicize a cause or campaign; or</li> <li>– to mark or commemorate any event</li> <li>– exception : where a permit is already granted by another government body for that particular event (eg weddings, funerals, sporting events at sporting</li> </ul> </li> </ul>	<ul style="list-style-type: none"> <li>● the law does not provide for exemptions from the requirement to obtain a licence</li> <li>● a licence is required for any gathering of more than 3 persons in a public place</li> </ul>

<b>New York of USA</b>	<b>San Francisco of USA</b>	<b>New South Wales of Australia</b>	<b>Queensland of Australia</b>	<b>Singapore</b>	<b>Malaysia</b>
persons to invoke the requirement of obtaining a permit	<p>of their office or candidacy</p> <ul style="list-style-type: none"><li>- any event taking place entirely on property under the jurisdiction of the Recreation and Park Commission</li><li>• no statutory threshold but the number may impact on the length of the notice required</li></ul>			venues and any assembly with any public entertainment that is licensed)	



<b>Vancouver of Canada</b>	<b>Toronto of Canada</b>	<b>London of UK</b>	<b>Berlin of Germany</b>	<b>Paris of France</b>
<ul style="list-style-type: none"><li>• none, but a parade is defined as a procession of 30 or more persons or 10 or more vehicles</li></ul>	<ul style="list-style-type: none"><li>• none</li></ul>	<ul style="list-style-type: none"><li>• processions commonly or customarily held in the relevant police area or funeral processions are exempted</li><li>• no threshold requirement</li></ul>	<ul style="list-style-type: none"><li>• the term “assembly” under German law refers generally to a meeting of two or more people</li></ul>	<ul style="list-style-type: none"><li>• public meetings : not applicable</li><li>• public processions : no threshold</li></ul>

Area of Interest (3) : Sanctions for failure to follow the law.

New York of USA	San Francisco of USA	New South Wales of Australia	Queensland of Australia	Singapore	Malaysia
<ul style="list-style-type: none"> <li>• a person who wilfully violates New York State laws regarding procession is guilty of a misdemeanour (fine of US\$20 or less, imprisonment of 10 days or less, or both)</li> <li>• in New York City, a person who participates in a procession without a permit may be punished by a fine of US\$25 or less, by imprisonment of 10 days or less, or both</li> <li>• a violation of New York City rules regarding the proper use of public parks constitutes a misdemeanour, punishable by 90 days' imprisonment, a fine of US\$1,000, or both</li> </ul>	<ul style="list-style-type: none"> <li>• guilty of an infraction and upon conviction shall be punished by a fine not exceeding US\$500</li> </ul>	<ul style="list-style-type: none"> <li>• failure to comply with a reasonable direction given by a police officer amounts to an offence (maximum penalty of A\$220 penalty units)</li> <li>• it is an offence to knowingly join or continue in an unlawful assembly, under s.545C of the Crimes Act 1900 (maximum penalty is imprisonment for 6 months or a fine of A\$550, or both)</li> </ul>	<ul style="list-style-type: none"> <li>• a person who participates in an unlawful assembly is guilty of a misdemeanour under s.62 of the Criminal Code of Queensland (liable to imprisonment for 1 year)</li> <li>• participation in an unlawful procession (penalty ranges from 1 to 6 months of imprisonment under s.77 of the Criminal Code of Queensland)</li> </ul>	<ul style="list-style-type: none"> <li>• the maximum penalty is :               <ul style="list-style-type: none"> <li>- organizing any assembly or procession in contravention of the Minister's order or the Deputy Commissioner of Police's prohibition / restriction (fine not exceeding S\$10,000 or imprisonment for not more than 6 months, or both)</li> <li>- participating in any assembly or procession in contravention of the Minister's order or the Deputy Commissioner of Police's prohibition / restriction</li> </ul> </li> </ul>	<ul style="list-style-type: none"> <li>• a fine ranges from RM2,000 to RM10,000, and imprisonment for not exceeding 1 year</li> </ul>

<b>New York of USA</b>	<b>San Francisco of USA</b>	<b>New South Wales of Australia</b>	<b>Queensland of Australia</b>	<b>Singapore</b>	<b>Malaysia</b>
				<p>(fine not exceeding S\$1,000)</p> <ul style="list-style-type: none"><li>- holding any assembly or procession without a permit (fine not exceeding S\$5,000 or imprisonment for not more than 3 months, or both)</li><li>- contravening the conditions stated in the permit (fine not exceeding S\$2,000 or imprisonment for not more than 1 month, or both)</li><li>- participating in an assembly held without a permit (fine not exceeding S\$1,000)</li><li>- being a member of an unlawful assembly (imprisonment for a term which may</li></ul>	

<b>New York of USA</b>	<b>San Francisco of USA</b>	<b>New South Wales of Australia</b>	<b>Queensland of Australia</b>	<b>Singapore</b>	<b>Malaysia</b>
				extend to 6 months, or fine, or both) - giving lectures, talks, addresses, or conducting debates and discussion in a public place (fine not exceeding S\$5,000)	

Vancouver of Canada	Toronto of Canada	London of UK	Berlin of Germany	Paris of France
<ul style="list-style-type: none"> <li>● failure to comply with the Street and Traffic By-law No. 2849 : fine up to \$2,000</li> <li>● unlawful assembly under Canadian Criminal Code : fine up to \$2,000 or imprisonment up to 6 months or both</li> </ul>	<ul style="list-style-type: none"> <li>● failure to comply with the By-law No.71 : fine up to \$2,000</li> <li>● unlawful assembly under Canadian Criminal Code : fine up to \$2,000 or imprisonment up to 6 months or both</li> </ul>	<ul style="list-style-type: none"> <li>● penalty for : (i) failure to satisfy the notification requirements; or (ii) organising a procession on a date, at a time, or in a route different from the notified ones – on summary conviction to a fine not exceeding level 3 (£1,000)</li> <li>● penalty for failure to comply with the conditions imposed by the Police : fine not exceeding level 4 (£2,500) or imprisonment not exceeding 3 months or both (for an organizer); fine not exceeding level 3</li> <li>● penalty for organising a prohibited public procession : fine not exceeding level 4 or imprisonment not exceeding 3 months or both</li> <li>● penalty for participating in a prohibited public procession : fine not exceeding level 3</li> </ul>	<ul style="list-style-type: none"> <li>● up to 1 year imprisonment or fines for holding a public outdoor assembly or procession without prior notification</li> <li>● up to 1 year imprisonment or fines for participating in a public outdoor assembly within “banned areas” without having been granted the necessary exemptions</li> <li>● fines up to DEM1,000 for participating in a public assembly prohibited by enforceable administrative order</li> </ul>	<ul style="list-style-type: none"> <li>● public meetings : participation in a public meeting without any weapon, which is likely to endanger public order (i.e. an illegal gathering) despite summons to disperse, is punished by 1 year’s imprisonment and a fine of up to FRF100,000</li> <li>● public processions : <ul style="list-style-type: none"> <li>- criminal offence : 6 months’ imprisonment and a fine up to FRF50,000 for organising a procession on the public road which has not been subject to a prior notification in accordance with the conditions set out by Law</li> <li>- participation in a non-notified or prohibited public procession is an “illegal gathering” which may be sanctioned. If the unarmed participant in an illegal gathering</li> </ul> </li> </ul>

<b>Vancouver of Canada</b>	<b>Toronto of Canada</b>	<b>London of UK</b>	<b>Berlin of Germany</b>	<b>Paris of France</b>
				continues to participate after summons, he can be sentenced to 1 year's imprisonment and to a fine of up to FRF100,000

Area of Interest (4) : Who will be penalised?

<b>New York of USA</b>	<b>San Francisco of USA</b>	<b>New South Wales of Australia</b>	<b>Queensland of Australia</b>	<b>Singapore</b>	<b>Malaysia</b>
<ul style="list-style-type: none"><li>both organisers and participants may be penalized</li></ul>	<ul style="list-style-type: none"><li>sponsor and participants of a parade (who know that the required permit has not been issued or has been revoked), on which no permit has been issued, may be penalized</li></ul>	<ul style="list-style-type: none"><li>both organisers and participants may be liable for offences relating to participation in an unlawful assembly, or the obstruction of any person, vehicle or vessel in a public place</li></ul>	<ul style="list-style-type: none"><li>both organisers and participants may be penalized</li></ul>	<ul style="list-style-type: none"><li>both organisers and participants may be penalized</li></ul>	<ul style="list-style-type: none"><li>both organisers and participants may be penalized</li></ul>

Vancouver of Canada	Toronto of Canada	London of UK	Berlin of Germany	Paris of France
<ul style="list-style-type: none"> <li>both organisers and participants</li> </ul>	<ul style="list-style-type: none"> <li>both organisers and participants</li> </ul>	<p><u>Public procession</u></p> <ul style="list-style-type: none"> <li>an organiser who fails to satisfy the notification requirements or who organises a public procession on a date, at a time or in a route which differs from the one specified in the notice will commit an offence</li> <li>both organisers and participants who knowingly fail to comply with the conditions imposed by the Police under s.12 of the Public Order Act 1986</li> <li>both organisers and participants if they know that the holding of the procession is prohibited</li> </ul> <p><u>Public assembly</u></p> <ul style="list-style-type: none"> <li>both organiser and participants who knowingly fail to comply with the conditions imposed by the Police under s.14 of the Public Order Act 1986</li> </ul>	<ul style="list-style-type: none"> <li>an organiser holding a public outdoor assembly or procession without prior notification can be penalised</li> <li>participation in an assembly or procession which has explicitly been prohibited by enforceable administrative order may result in financial fines</li> </ul>	<ul style="list-style-type: none"> <li>both the organiser and the participants may be penalised (see Area of Interest (3) above)</li> </ul>



Area of Interest (5) : Law enforcement powers.

New York of USA	San Francisco of USA	New South Wales of Australia	Queensland of Australia	Singapore	Malaysia
<ul style="list-style-type: none"> <li>• unlawful processions liable to dispersal by the Police</li> </ul>	<ul style="list-style-type: none"> <li>• if the procession deviates from the approved route or if participants violate any permit conditions, the Police may revoke the permit after warning the participants and providing them with opportunity to return to the approved route or to follow the permit conditions</li> </ul>	<ul style="list-style-type: none"> <li>• a police officer may give directions if, upon discharging certain requirements, he has reasonable grounds to believe that the persons' behaviour or presence in the place –               <ul style="list-style-type: none"> <li>- is obstructing another person or traffic; or</li> <li>- constitutes harassment or intimidation of another person; or</li> <li>- is causing or likely to cause fear to another person</li> </ul> </li> </ul>	<ul style="list-style-type: none"> <li>• the police may take actions when there is a suspected or actual breach of provisions under the Criminal Code of Queensland or other provisions relating to breach of the peace</li> </ul>	<ul style="list-style-type: none"> <li>• unlawful processions or assemblies liable to dispersal by the Police</li> </ul>	<ul style="list-style-type: none"> <li>• unlawful processions or assemblies liable to dispersal by the Police</li> </ul>

Vancouver of Canada	Toronto of Canada	London of UK	Berlin of Germany	Paris of France
<ul style="list-style-type: none"> <li>same as Toronto</li> </ul>	<ul style="list-style-type: none"> <li>a parade is liable to dispersal by the Police if it disturbs the peace, interferes with traffic or other activities, trespasses on private property or blocks access to emergency routes or services (eg. hospitals)</li> </ul>	<ul style="list-style-type: none"> <li>police general enforcement powers under the Police and Criminal Evidence Act 1984</li> </ul>	<ul style="list-style-type: none"> <li>police authorities can dissolve an unnotified public <u>outdoor</u> assembly or procession at their discretion</li> <li>if an assembly happens spontaneously, and therefore the notification requirement cannot be kept, the <u>spontaneous</u> assembly cannot be dissolved for this reason. However, a spontaneous assembly is subject to administrative orders or dissolution for other reasons under the law.</li> <li>the law limits the police authority to dissolve a public <u>indoor</u> assembly to a list of reasons, such as violent or an immediate danger to life and health of participants, the assembly leading to serious criminal offences.</li> <li>dissolution is only the ultimate action, if no other police measures are sufficient.</li> </ul>	<ul style="list-style-type: none"> <li>public meetings which endanger public order and public processions which are not notified could constitute an “illegal gathering” subject to police dispersal.</li> <li>The Prefect, the mayor, the deputy mayor or a police officer with the assistance of police forces have the power to request a dispersal after two loud speakers have summoned those who have participated in the gathering and such summons has proved to be ineffective. However, the police can directly use force if acts of violence and assault are being committed against them, or if they have no other means to defend the area the gatherers occupy.</li> </ul>

Area of Interest (6) : Who has the authority to process a notification or an application for permission to hold a public procession or public meeting?

New York of USA	San Francisco of USA	New South Wales of Australia	Queensland of Australia	Singapore	Malaysia
<ul style="list-style-type: none"> <li>• under New York State laws, “police authorities” are charged with processing requests for permits</li> <li>• in New York City, the Police Commissioner has the authority to grant permits</li> <li>• the Mayor of New York City may authorize special permits for occasions of “extraordinary public interest”</li> <li>• the Commissioner of the Department of Parks and Recreation is given the authority to grant permits for meetings held in New York City public parks</li> </ul>	<ul style="list-style-type: none"> <li>• the Chief of Police</li> </ul>	<ul style="list-style-type: none"> <li>• the Police Commissioner or the District or Supreme Court</li> <li>• generally, activities involving the setting up, operation or use of a loud speaker or delivery of a public address require Local Council approval</li> </ul>	<ul style="list-style-type: none"> <li>• the Commissioner of Police</li> <li>• if the assembly will be held in or pass through a place which a Local Authority has jurisdiction over, the notice of intention to hold the public assembly should be given to the Office of the Clerk of the Local Authority</li> <li>• if an assembly notice is given to the Commissioner of Police or Local Authority less than 5 business days before the event, the organizer may apply to a Magistrates Court for an order authorizing the holding of the assembly</li> </ul>	<ul style="list-style-type: none"> <li>• the Deputy Commissioner of Police, or the Commander or Head (Manpower, Administration and Logistics) of the Police Division in which the assembly or procession is intended to be held</li> <li>• if any person wishes to address the public on any issue, a licence would have to be obtained from a Licensing Officer or Assistant Licensing Officers appointed by the Minister</li> </ul>	<ul style="list-style-type: none"> <li>• Officer in Charge of a Police District has the authority to grant permission in order to hold a public meeting, assembly or procession</li> </ul>

Vancouver of Canada	Toronto of Canada	London of UK	Berlin of Germany	Paris of France
<ul style="list-style-type: none"> <li>● parade/procession : Chief Constable</li> <li>● all “special events”, which include marches, parades, demonstrations and protests are submitted to the City of Vancouver, Film and Special Event Coordination Office. A Festival Expediting Staff Team Committee gives approval to most events, although longer events may require the approval of an appropriate committee of the City Council.</li> </ul>	<ul style="list-style-type: none"> <li>● parade/procession : Chief of Police/Police Services Board</li> <li>● certain venues require special permission from other bodies</li> </ul>	<ul style="list-style-type: none"> <li>● the Police (of the police area in which it is proposed the procession will start).</li> </ul>	<ul style="list-style-type: none"> <li>● the police superintendent</li> </ul>	<ul style="list-style-type: none"> <li>● public meeting – not applicable</li> <li>● public processions – other than those whose purpose are the celebration of local customs, are subject to a prior notification to the Prefect (in large cities), or to the mayor (in smaller cities or towns). In Paris and its nearby suburbs, the notification is made to the Paris <i>Préfecture de police</i> (Police Headquarters).</li> </ul>

Area of Interest (7) : Who has the power to prohibit a public procession or public meeting?

New York of USA	San Francisco of USA	New South Wales of Australia	Queensland of Australia	Singapore	Malaysia
<ul style="list-style-type: none"> <li>• the authority to deny a permit is vested in the police authorities state-wide</li> <li>• in New York City, the authority is vested in the Police Commissioner and the Mayor, and the Commissioner of the Parks and Recreation Department in the case of New York City public parks</li> </ul>	<ul style="list-style-type: none"> <li>• the Chief of Police may refuse to approve a permit application on any of the grounds specified</li> </ul>	<ul style="list-style-type: none"> <li>• after considering the application from the Police Commissioner, the District or Supreme Court of New South Wales may give an order prohibiting the holding of a public assembly</li> <li>• the Police Commissioner may make the application to the Court only if he has given the organizer an opportunity to confer with him</li> </ul>	<ul style="list-style-type: none"> <li>• the Magistrates Court, after considering the application of the Commissioner of Police or the Local Authority, may give an order refusing to authorize the holding of the assembly</li> <li>• before making the application, the Commissioner or the Local Authority must, upon formation of a certain prescribed reasonable opinion, have consulted or attempted to consult with any person or body who has a significant interest in the assembly and attempted to mediate the matter with the organizer</li> </ul>	<ul style="list-style-type: none"> <li>• the Minister of Home Affairs may by order prohibit or restrict any assembly or procession in public. There does not seem to be any restriction on the exercise of this power</li> <li>• the Deputy Commissioner of Police may, with the concurrence of the Minister of Home Affairs, prohibit a public procession or meeting, if he is “satisfied that the holding of such assembly or procession may result in public disorder, damage to property or disruption to the life of the community</li> </ul>	<ul style="list-style-type: none"> <li>• the Officer in Charge of a Police District or the Commissioner or Chief Police Officer may refuse the grant of a licence</li> </ul>

Vancouver of Canada	Toronto of Canada	London of UK	Berlin of Germany	Paris of France
<ul style="list-style-type: none"> <li>parade/procession : the Chief Constable</li> </ul>	<ul style="list-style-type: none"> <li>parade/procession : Chief of Police/Police Services Board</li> </ul>	<ul style="list-style-type: none"> <li>the senior police officer has general power to give directions (including conditions as to the route or prohibiting it from entering any public place) to the organisers</li> <li>if the Commissioner of Police for the City of London or the Commissioner of Police of the Metropolis reasonably believes that, because of particular circumstances existing in his police area or part of it, the above power will not be sufficient to prevent the holding of public processions in that area or part from resulting in serious public disorder, he may with the consent of the Secretary of State make an order prohibiting for such period not exceeding 3 months the holding of all or any class of public processions in that area of part concerned</li> </ul>	<ul style="list-style-type: none"> <li>the competent authority to prohibit a public <u>outdoor</u> assembly or procession is the same authority which processes the notification.</li> <li>a public <u>indoor</u> assembly cannot be prohibited prior to its start. It can only be dissolved for specifically limited reasons</li> <li>however, as usually a quick decision needs to be taken in order to avoid an immediate danger to public safety and order, including third parties' life, health and property, the order to dissolve may also be issued by the police officers present at the assembly</li> </ul>	<ul style="list-style-type: none"> <li>the authority who may prohibit a public procession is the one who received the notification, thus the Prefect or the mayor</li> <li>the relevant authority's exercise of this power of prohibition is limited to public processions that endanger public order.</li> </ul>

Area of Interest (8) : What are the grounds on which the authority may object to or prohibit a public procession or public meeting?

New York of USA	San Francisco of USA	New South Wales of Australia	Queensland of Australia	Singapore	Malaysia
<ul style="list-style-type: none"> <li>• the police may deny a permit to anyone intending to conduct a procession on a Sunday in a city, except where a city ordinance permits such parades after 2:00 p.m. (this does not apply to cities with population of one million or more)</li> <li>• in New York City, the Police Commissioner must deny a permit where –               <ul style="list-style-type: none"> <li>- the Commissioner has good reason to believe that the proposed procession will be disorderly in character, or tend to disturb the public peace</li> </ul> </li> </ul>	<ul style="list-style-type: none"> <li>• examples of grounds on which the Chief of Police may refuse a permit application –               <ul style="list-style-type: none"> <li>- the procession may cause physical injury to persons or substantial damage to property</li> <li>- substantially interrupt the safe and orderly movement of traffic</li> <li>- will require the deployment of a substantial number of police officers to regulate the procession to the extent that normal police protection to the rest of the City will be prevented</li> <li>- substantially</li> </ul> </li> </ul>	<ul style="list-style-type: none"> <li>• the legislation does not specify the grounds for objection</li> <li>• case law suggests that these may include reasonable grounds for believing that the procession would be accompanied by violence to persons and property, acts of illegality, and that women and children would be used to overcome any protection police may offer to persons or property</li> <li>• a test the Court uses is to balance between the democratic right to freedom of speech and the freedom of assembly against the democratic right to be spared</li> </ul>	<ul style="list-style-type: none"> <li>• the public assembly is inconsistent with the objects of the Peaceful Assembly Act</li> <li>• the safety of persons would be likely to be jeopardized</li> <li>• serious public disorder would be likely to happen</li> <li>• the rights or freedoms of persons would be likely to be excessively interfered with</li> </ul>	<ul style="list-style-type: none"> <li>• the Minister of Home Affairs is given absolute discretion to prohibit or restrict any assembly, but the main reasons would appear to be the prevention of “public disorder, damage to property or disruption to the life of the community”</li> </ul>	<ul style="list-style-type: none"> <li>• the legislation does not lay down specific grounds on which the Officer in Charge of a Police District (OCPD) should exercise his discretion</li> <li>• but a licence should be issued once the OCPD is satisfied that the meeting, assembly or procession –               <ul style="list-style-type: none"> <li>- is not likely to be prejudicial to the interest of the security of Malaysia or any part thereof; or</li> <li>- to excite a disturbance of the peace</li> </ul> </li> </ul>

<b>New York of USA</b>	<b>San Francisco of USA</b>	<b>New South Wales of Australia</b>	<b>Queensland of Australia</b>	<b>Singapore</b>	<b>Malaysia</b>
<ul style="list-style-type: none"><li>- the route of the proposed procession is ordinarily subject to great congestion or traffic and is chiefly of a business or mercantile character, except on holidays or Sundays when business along such route are closed, or on other days between the hours of 6:30 p.m. and 9:00 a.m.</li><li>• for events and demonstrations in New York City public parks, the Commissioner of Parks and Recreation may deny a permit if –<ul style="list-style-type: none"><li>- the location sought is not suitable for environmental</li></ul></li></ul>	<p>obstruct any construction or maintenance work</p> <ul style="list-style-type: none"><li>- will significantly interfere with ordinary activities in the city</li></ul>	<p>unnecessary offence or affront.</p>			



<b>New York of USA</b>	<b>San Francisco of USA</b>	<b>New South Wales of Australia</b>	<b>Queensland of Australia</b>	<b>Singapore</b>	<b>Malaysia</b>
<p>reasons, or it is designated for specialized use</p> <ul style="list-style-type: none"><li>- the date and time requested have been previously allotted by permit</li><li>- the applicant has violated a term of a previously granted permit within the past two years</li><li>- the event would unreasonably interfere with the enjoyment of the park by other users</li></ul>					

Vancouver of Canada	Toronto of Canada	London of UK	Berlin of Germany	Paris of France
<ul style="list-style-type: none"> <li>● not specified in the available legislation but expect that similar considerations as those set out in the case of Toronto would be relevant</li> <li>● a parade must satisfy the requirements for a deposit and insurance and rules relating to the display of flags at the head of the parade</li> </ul>	<ul style="list-style-type: none"> <li>● the organiser did not apply for permission and enter into an indemnity agreement</li> <li>● proposed route, place of assembly, destination or date and time of the procession will :               <ul style="list-style-type: none"> <li>- unreasonably delay or interfere with the operation of the public transit system</li> <li>- unreasonably interfere with normal street traffic or unreasonably disrupt normal business and mercantile operations along, or in the vicinity of, the route,</li> <li>- conflict with another parade for which permission has previously been given</li> </ul> </li> <li>● applicant has, within the previous two years, been found guilty of an offence under the by-law relating to processions</li> <li>● in the opinion of the Police Chief, adequate police personnel and</li> </ul>	<ul style="list-style-type: none"> <li>● public processions (see Area of Interest (7) above)</li> <li>● public assemblies – only “trespassory” assemblies will be prohibited</li> </ul>	<ul style="list-style-type: none"> <li>● the authority may, at its discretion, prohibit an <u>outdoor</u> assembly or procession if the performance of the assembly or procession would pose an immediate danger to public safety and order, judging by the conditions observable/ foreseeable at the time of issuing a prohibitive order</li> <li>● “public safety and order” has a very broad meaning, including any violation of written or generally accepted unwritten norms</li> <li>● public <u>indoor</u> assemblies are not subject to prior notification, but may be prohibited if the competent authority becomes aware of some specific concerns, e.g. the organiser does not have the right to assemble because of association with unconstitutional political parties and associations, or is an individual who forfeit his right because of a</li> </ul>	<ul style="list-style-type: none"> <li>● according to case law, 2 main reasons can justify the prohibition of a public meeting: public order is endangered; or insufficient security of the building where the meeting is held</li> <li>● a public procession may be prohibited in certain circumstances if public order is endangered</li> </ul>

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	facilities are not available for the proposed procession to ensure proper crowd control, orderly movement of the procession and traffic with a minimum of conflict between them, the maintenance of civil order, and the prevention of disturbance of the police and property damage		criminal conviction	

Area of Interest (9) : Appeal mechanism.

New York of USA	San Francisco of USA	New South Wales of Australia	Queensland of Australia	Singapore	Malaysia
<p><u>Denial of a permit application by the Police:</u></p> <ul style="list-style-type: none"> <li>• a petitioner must file a Notice of Petition and a Petition in court within 4 months after receiving a notice of denial of a permit</li> <li>• at least 20 days before the time at which the Petition is to be heard in court, a petitioner has to serve the Notice of Petition upon the officer (the Police)</li> <li>• an expedited hearing is available with the permission of the court</li> </ul> <p><u>Denial of application for permit for public assembly on lands operated by Department of Parks and Recreation</u></p> <ul style="list-style-type: none"> <li>• in New York City, if a permit application is denied more than 30 days prior to the proposed event, the</li> </ul>	<ul style="list-style-type: none"> <li>• the applicant may appeal to the Committee on Parades on the denial of an application for a parade permit or the conditions imposed</li> </ul>	<ul style="list-style-type: none"> <li>• the decision by the Court to prohibit a public procession is final and not subject to appeal</li> </ul>	<ul style="list-style-type: none"> <li>• the Peaceful Assembly Act does not provide for an avenue to appeal on the decision of the Magistrates Court</li> <li>• the applicant may resort to judicial review</li> </ul>	<ul style="list-style-type: none"> <li>• no specific provisions about appeal on prohibition of public meetings or assemblies, but an aggrieved party may resort to judicial review</li> <li>• regarding the giving of lectures, talks, addresses, and the conduct of debates and discussion in a public place, if a licence has been denied, the applicant may appeal in writing to the Minister of Home Affairs whose decision shall be final</li> <li>• there is no appeal procedure against a decision of the officer in charge to disperse an assembly, procession or meeting. Again, an aggrieved party</li> </ul>	<ul style="list-style-type: none"> <li>• the applicant may appeal within 48 hours from the communication of the rejection of a licence to the Chief Police Officer or the Commissioner of Police</li> <li>• the legislation states that the decision of the Commissioner of Police or the Chief Police officer shall be final. However, in practice, it is open to the applicant to appeal such decision to the Inspector General of Police, the highest ranking police officer in the country</li> </ul>

<b>New York of USA</b>	<b>San Francisco of USA</b>	<b>New South Wales of Australia</b>	<b>Queensland of Australia</b>	<b>Singapore</b>	<b>Malaysia</b>
<p>applicant shall have 10 days from the date that such denial is mailed or delivered to appeal such denial, and the Department of Parks and Recreation should make a decision on such appeal within 10 days of receipt of it</p> <ul style="list-style-type: none"><li>• if a permit application is denied more than 10 days but 30 days or less prior to the proposed event, the applicant shall have 5 days to appeal such denial, and the Department of Parks and Recreation should make a decision within 5 days after receiving the appeal</li><li>• if a permit application is denied 10 days or less before the proposed event, the applicant should appeal within 1 day after receiving</li></ul>				<p>may resort to judicial review</p>	

<b>New York of USA</b>	<b>San Francisco of USA</b>	<b>New South Wales of Australia</b>	<b>Queensland of Australia</b>	<b>Singapore</b>	<b>Malaysia</b>
the denial, and the Department of Parks and Recreation should make a decision as soon as practicable					

<b>Vancouver of Canada</b>	<b>Toronto of Canada</b>	<b>London of UK</b>	<b>Berlin of Germany</b>	<b>Paris of France</b>
<ul style="list-style-type: none"> <li>• The Street and Traffic By-Law No. 2849 provides no formal appeal mechanism</li> </ul>	<ul style="list-style-type: none"> <li>• the Chief of Police’s decision on permission for a public procession may be referred to the Toronto Police Service Board, which may grant either permission without a hearing or hold a hearing in accordance with the Statutory Powers Procedures Act</li> <li>• decision regarding temporary street closings require permission from the Commissioner of Works and Emergency Services, or in the case of major arterial highways, of the City Council</li> <li>• as a matter of practice, an effort is made to resolve objections to temporary street closings(including those by other residents in the area) informally through adjustments to the applicant’s proposal (route, timing etc.)</li> </ul>	<ul style="list-style-type: none"> <li>• nil but the organiser may seek judicial review</li> </ul>	<ul style="list-style-type: none"> <li>• the organiser’s formal objection to a prohibition order shall be filed with the authority having issued the order. The objection must be forwarded to the next higher authority for decision-making</li> <li>• in general, this formal objection procedure is prerequisite for court appeal</li> <li>• direct court appeal is an alternative</li> </ul>	<ul style="list-style-type: none"> <li>• decision to prohibit a public procession may be challenged by means of judicial review before the administrative courts. However, should the prohibition be considered to be possibly seriously illegal, the judicial courts will then have jurisdiction.</li> </ul>