

Examiner of Statutory Rules

**Report of the
Examiner of Statutory Rules
to
the Assembly
and
the Appropriate Committees**

**13 February 2015
NIA 231/11-16**

Committee for Agriculture and Rural Development	S.R. 2015 Nos. 16, 17
Committee for Education	Draft S.R: The Teachers' Pensions (Consequential Provisions) Regulations (Northern Ireland) 2015
Committee for the Environment	Draft S.R: The Local Government (Standing Orders) Regulations (Northern Ireland) 2015 S.R. 2015 Nos. 4, 5, 6, 21, 23, 24
Committee for Finance and Personnel	S.R. 2015 Nos. 32, 46, 47, 48
Committee for Health, Social Services and Public Safety	Draft S.R: The Firefighters' Pension Scheme (Consequential Provisions) Regulations (Northern Ireland) 2015 Draft S.R: The Health Service Workers Pension Scheme (Consequential Provisions) Regulations (Northern Ireland) 2015 S.R. 2015 Nos. 26, 27

Committee for Justice	<p style="text-align: center;">Draft S.R: The Civil Legal Services (Appeal) Regulations (Northern Ireland) 2015</p> <p style="text-align: center;">Draft S.R: The Civil Legal Services (Cost Protection) Regulations (Northern Ireland) 2015</p> <p style="text-align: center;">Draft S.R: The Civil Legal Services (Disclosure of Information) Regulations (Northern Ireland) 2015</p> <p style="text-align: center;">Draft S.R: The Criminal Legal Aid (Disclosure of Information) Rules (Northern Ireland) 2015</p>
Committee for the Office of the First Minister and deputy First Minister	S.R. 2015 Nos. 18, 36
Committee for Regional Development	S.R. 2015 No. 30
Committee for Social Development	S.R. 2015 Nos. 19, 34

1. In accordance with the delegations in respect of the technical scrutiny of statutory rules under Standing Order 43(4)(b) given to the Examiner of Statutory Rules by the appropriate Committees on 25, 26 and 31 May and 1 June 2011 for this mandate of the Assembly, I submit my report on the statutory rules listed in the Appendix.
2. My terms of reference are essentially set out in Standing Order 43(6) (taken with the delegations under Standing Order 43(4)(b)). They are as follows:
 - “(6) In scrutinising an instrument the appropriate Committee shall inter alia consider the instrument with a view to determining and reporting on whether it requires to be drawn to the special attention of the Assembly on any of the following grounds, namely, that –
 - (a) it imposes a charge on the public revenues or prescribes the amount of any such charge;
 - (b) it contains provisions requiring any payment to be made to any Northern Ireland department or public body in respect of any approval, authorisation, licence or consent or of any service provided or to be provided by that department or body or prescribes the amount of any such payment;
 - (c) the parent legislation excludes it from challenge in the courts;
 - (d) it purports to have retrospective effect where the parent legislation confers no express authority so to provide;
 - (e) there appears to have been unjustifiable delay in the publication of it or in the laying of it before the Assembly;
 - (f) there appears to be a doubt whether it is intra vires or it appears to make some unusual or unexpected use of the powers conferred by the parent legislation;
 - (g) it calls for elucidation;
 - (h) it appears to have defects in its drafting;

or on any other ground which does not impinge on its merits or the policy behind it.”.

Statutory rules to which attention is drawn in this report

The Less Favoured Areas (Compensatory Allowances) Regulations (Northern Ireland) 2015 (S.R. 2015/16)

The Transitional Payment to Disadvantaged Area Scheme (Northern Ireland) 2015 (S.R. 2015/17)

3. **I draw the attention of the Committee for Agriculture and Rural Development and the Assembly to the Less Favoured Areas (Compensatory Allowances) Regulations (Northern Ireland) 2015 (S.R. 2015/16) and the Transitional Payment to Disadvantaged Area Scheme (Northern Ireland) 2015 (S.R. 2015/17) on the ground that they were laid in breach of the 21-day rule, explained by the Department of Agriculture and Rural Development.** They were both made on 27 January 2015, were laid on 30 January 2015 and came into operation on 1 February 2015. It seems that this was necessary to accommodate the working of the Transitional Payments to Disadvantaged Area Scheme. The timeline for this is tight because payments must be during the present financial year on the basis of applications received by 13 March 2015, and the Department intends to send application forms to potential applicants based on eligibility in accordance with application for, and entitlement to, a less favoured areas compensatory allowance payment in respect of disadvantaged land. It seems that both the Regulations and the Scheme must be in place before seeking applications for payment under the Scheme. The Scheme has been put in place to give an element of transitional support for one year under de *minimis* state aid rules

to certain farmers who will no longer be eligible for disadvantaged area support under the new common agricultural policy framework. The Department points out the Regulations and the Scheme do not create any new burdens or obligations but provide a benefit to eligible farmers in the disadvantaged area (disadvantaged land). The Scheme has been the subject of consultation with organisations representative of the agricultural industry and had been broadly welcomed.

W G Nabney

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Appendix

(The attention of the appropriate Committees and the Assembly is drawn to those statutory rules marked in bold)

Draft statutory rules requiring the approval of the Assembly

Draft S.R: The Civil Legal Services (Appeal) Regulations (Northern Ireland) 2015

Draft S.R: The Civil Legal Services (Cost Protection) Regulations (Northern Ireland) 2015

Draft S.R: The Civil Legal Services (Disclosure of Information) Regulations (Northern Ireland) 2015

Draft S.R: The Criminal Legal Aid (Disclosure of Information) Rules (Northern Ireland) 2015

Draft S.R: The Firefighters' Pension Scheme (Consequential Provisions) Regulations (Northern Ireland) 2015

Draft S.R: The Health Service Workers Pension Scheme (Consequential Provisions) Regulations (Northern Ireland) 2015

Draft S.R: The Teachers' Pension Scheme (Consequential Provisions) Regulations (Northern Ireland) 2015

Draft S.R: The Local Government (Standing Orders) Regulations (Northern Ireland) 2015

Statutory rule subject to affirmative resolution

The Motor Vehicles (Wearing of Seatbelts) (Amendment) Regulations (Northern Ireland) 2015 (S.R. 2015/24)

The Rates (Owner Allowances) Order (Northern Ireland) 2015 (S.R. 2015/46)

The Rates (Exemption for Automatic Telling Machines in Rural Areas) Order (Northern Ireland) 2015 (S.R. 2015/47)

The Rates (Temporary Rebate) (Amendment) Order (Northern Ireland) 2015 (S.R. 2015/48)

Statutory rules subject to negative resolution

The Motor Vehicles (Driving Instruction) (Trainee Licences) (Amendment) Regulations (Northern Ireland) 2015 (S.R. 2015/4)

The Motor Vehicles (Driving Instruction) (Amendment) Regulations (Northern Ireland) 2015 (S.R. 2015/5)

The Motor Vehicles (Driving Licences) (Amendment) Regulations (Northern Ireland) 2015 (S.R. 2015/6)

The Less Favoured Areas (Compensatory Allowances) Regulations (Northern Ireland) 2015 (S.R. 2015/16)

The Transitional Payment to Disadvantaged Area Scheme (Northern Ireland) 2015 (S.R. 2015/17)

The Salaries (Assembly Ombudsman and Commissioner for Complaints) Order (Northern Ireland) 2015 (S.R. 2015/18)

The Housing Benefit (Income from Earnings) (Amendment) Regulations (Northern Ireland) 2015 (S.R 2015/19)

The Waste (Fees and Charges) (Amendment) Regulations (Northern Ireland) 2015 (S.R 2015/21)

The Motor Vehicles (Wearing of Seatbelts by Children in Front Seats) (Amendment) Regulations (Northern Ireland) 2015 (S.R. 2015/23)

The Health and Personal Social Services (General Medical Services Contracts) (Amendment) Regulations (Northern Ireland) 2015 (S.R. 2015/26)

The Provision of Health Services to Persons not Ordinarily Resident Regulations (Northern Ireland) 2015 (S.R. 2015/27)

The Rathdown Walk, Lisburn (Abandonment) Order (Northern Ireland) 2015 (S.R 2015/30)

The Valuation for Rating (Decapitalisation) Regulations (Northern Ireland) 2015 (S.R 2015/32)

The Social Security (Miscellaneous Amendments) Regulations (Northern Ireland) 2015 (S.R 2015/34)

The Fair Employment (Specification of Public Authorities)(Amendment) Order (Northern Ireland) 2015 (S.R 2015/36)



Published by Authority of the Northern Ireland Assembly,
Belfast: The Stationery Office

and available from:

Online

www.tsoshop.co.uk

Mail, Telephone, Fax & E-mail

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PO Box 29, Norwich, NR3 1GN

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E-mail: customer.services@tso.co.uk

Textphone 0870 240 3701

TSO@Blackwell and other Accredited Agents

£3.00

Printed in Northern Ireland by The Stationery Office Limited
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ISBN 978-0-339-40449-6

