



Northern Ireland
Assembly

Examiner of Statutory Rules

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

Session 2015/2016 Sixth Report

20 November 2015

NIA 279/11-16

Committee for Enterprise, Trade and Investment	S.R. 2015 No. 339
Committee for the Environment	S.R. 2015 No. 366, 367, 369
Committee for Health, Social Services and Public Safety	S.R. 2015 No. 365
Committee for Justice	S.R. 2015 No. 362
Committee for Regional Development	S.R. 2015 No. 363
Committee for Social Development	S.R. 2015 No. 364

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 Private Water Supplies (Amendment) Regulations (Northern Ireland) 2015 (S.R. 2015/366)

3. **I draw the attention of the Committee for the Environment and the Assembly to the Private Water Supplies (Amendment) Regulations (Northern Ireland) 2015 (S.R. 2015/366) on the ground that they are defectively drafted in several fairly minor respects.** These are in the nature of drafting infelicities, and the Department intends to deal with them, in so far as they need to be dealt with, when the opportunity presents itself in further regulations next year: in the meantime the Regulations are workable. Regulation 5 inserts a new regulation 7A in the Private Water Supplies Regulations (Northern Ireland) 2009. It is about carrying out “representative surveys” in relation to the radon concentration or

value and should be so headed, while the numbering should be adjusted to reflect that it is a regulation comprising two paragraphs (7A(1) and (2) rather than (7A), as the first paragraph is numbered). New regulation 7A(2) (as it should have been numbered) sets out requirements for representative surveys and the reference to that in new paragraph 7A(1) should refer specifically to paragraph (2). Regulation 6 replaces the existing regulation 8 of the 2009 Regulations (monitoring) with a new regulation 6: the new regulation 6 should bear the heading “monitoring”: as a general rule, a new provision replacing a provision bearing a heading should also be given a heading (either the same heading or an altered heading if the new content so requires). Regulation 8 contains the heading “amendment of Schedule 2”: a better heading in this case would have been revocation of Schedule 2 since it provides for Schedule 2 to cease to have effect (which is the same thing, expressed differently).

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)

Statutory rules subject to negative resolution

The Genetically Modified Organisms (Contained Use) Regulations (Northern Ireland) 2015 (S.R. 2015/339)

The Attorney General's Human Rights Guidance (Youth Justice Agency – Restorative Justice) Order (Northern Ireland) 2015 (S.R. 2015/362)

The Water Supply (Water Quality) (Amendment) Regulations (Northern Ireland) 2015 (S.R. 2015/363)

The Charities Act 2008 (Examination of Accounts) Order (Northern Ireland) 2015 (S.R. 2015/364)

The Natural Mineral Water, Spring Water and Bottled Drinking Water Regulations (Northern Ireland) 2015 (S.R. 2015/365)

The Private Water Supplies (Amendment) Regulations (Northern Ireland) 2015 (S.R. 2015/366)

The Smoke Control Areas (Authorised Fuels) (Amendment) Regulations (Northern Ireland) 2015 (S.R. 2015/367)

The Nitrates Action Programme (Amendment) Regulations (Northern Ireland) 2015 (S.R. 2015/369)



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For more information please contact:

Northern Ireland
Assembly
Parliament
Buildings
Ballymiscaw
Stormont
Belfast BT4 3XX

Telephone: 028 90 521137
Textphone: 028 90 521209

E-mail: info@niassembly.gov.uk

ISBN: 978-1-78619-053-6