

Examiner of Statutory Rules

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

**20 September 2013
NIA 128/11-15R**

Committee for Agriculture and Rural Development	S.R. 2013 No. 215
Committee for the Environment	S.R. 2013 Nos. 217, 218
Committee for Health, Social Services and Public Safety	S.R. 2013 No. 219
Committee for Justice	S.R. 2013 No. 214
Committee for Social Development	S.R. 2013 Nos. 213, 221

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 Access to Justice (Membership of the Northern Ireland Legal Services Commission) Order (Northern Ireland) 2013 (S.R. 2013/214)

3. **I draw the attention of the Committee for Justice and the Assembly to the Access to Justice (Membership of the Northern Ireland Legal Services Commission) Order (Northern Ireland) 2013 (S.R. 2013/214) on the ground that the Order was laid in breach of the 21-day rule (that is to say, the well-established rule of practice whereby a department or other rule-making authority should, in the case of a statutory rule that is subject to negative resolution, allow at least 21 days between the laying of the rule and its come into operation).** The Department has admitted to having overlooked the laying of this statutory rule in accordance with the established practices and there is perhaps little else that can usefully be said, except that there is perhaps a lesson to be learnt: it was made on 8 August 2013, it came into operation on 1 September 2013 and was laid on 3 September 2013 (after it had come into operation). I understand that the Committee was well aware of the Department's timetable in this case.

W G Nabney

Examiner of Statutory Rules

20 September 2013

Appendix

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

Statutory rule requiring the approval of the Assembly (confirmatory procedure)

The Sea Fish Industry (Harbour and Landing Dues) Scheme (Northern Ireland) 2013 (S.R. 2013/215)

The Occupational and Personal Pension Schemes (Automatic Enrolment) (Amendment) Regulations (Northern Ireland) 2013 (S.R. 2011/221)

Statutory rules subject to negative resolution

The Pension Protection Fund and Occupational Pension Schemes (Miscellaneous Amendments) Regulations (Northern Ireland) 2013 (S.R. 201/213)

The Access to Justice (Membership of the Northern Ireland Legal Services Commission) Order (Northern Ireland) 2013 (S.R. 2013/214)

The Motor Vehicles (Testing) (Amendment) Regulations (Northern Ireland) 2013 (S.R. 2011/217)

The Goods Vehicles (Testing) (Amendment) Regulations (Northern Ireland) 2013 (S.R. 2011/218)

The Fish Labelling Regulations (Northern Ireland) 2013 (S.R. 2011/219)



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

TSO

PO Box 29, Norwich, NR3 1GN

Telephone orders/General enquiries: 0870 600 5522

Fax orders: 0870 600 5533

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

Textphone 0870 240 3701

TSO@Blackwell and other Accredited Agents

£2.00

Printed in Northern Ireland by The Stationery Office Limited
© Copyright Northern Ireland Assembly Commission 2013

ISBN 978-0-339-40418-2

