

Examiner of Statutory Rules

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

**4 May 2012
NIA 49/11-15**

Committee for the Environment	Draft S.R: Local Government (Boundaries) Order (Northern Ireland) 2012 S.R. 2012 Nos. 169, 170
Committee for Finance and Personnel	S.R. 2012 No. 173
Committee for Health, Social Services and Public Safety	S.R. 2012 Nos. 167, 168, 180
Committee for Justice	S.R. 2012 No. 178
Committee for the Office of the First Minister and deputy First Minister	Draft S.R: The Race Relations Order 1997 (Amendment) Order (Northern Ireland) 2012
Committee for Regional Development	S.R. 2012 No. 172
Committee for Social Development	S.R. 2012 No. 181

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 Misuse of Drugs (Amendment) Regulations (Northern Ireland) 2012 (S.R. 2012/168)

3. **I draw the attention of the Committee for Health, Social Services and Public Safety and the Assembly to the Misuse of Drugs (Amendment) Regulations (Northern Ireland) 2012 (S.R. 2012/168) on the ground that the Regulations were laid in breach of the 21-day rule (the well-established rule of practice whereby a rule-making authority should, in the case of a statutory rule that is subject to negative resolution, allow at least 21 days between its laying and its coming into operation), explained by the Department of Health, Social Services and Public Safety.** The Regulations were made on 18 April 2012 with a commencement date of 10 May 2012 (as soon as practicable after the commencement of the corresponding regulations for Great Britain, contained in SI 2012/973). They were laid on 26 April 2012: it had been intended to lay them on 19 April 2012, but unfortunately an incorrect version was then laid in the Business Office and had to be withdrawn. The Department has apologised for this and for the breach of the 21-day rule, indicating that it has taken steps to ensure that this does not happen again. In the circumstances the Department’s explanation seems to be reasonable.

**The Jobseeker's Allowance (Amendment) Regulations (Northern Ireland) 2012
(S.R. 2012/181)**

4. **I draw the attention of the Committee for Social Development and the Assembly to the Jobseeker's Allowance (Amendment) Regulations (Northern Ireland) 2012 (S.R. 2012/181) on the ground that the Regulations were laid in breach (marginally) of the 21-day rule, explained by the Department for Social Development.** The corresponding regulations for Great Britain (in SI 2012/1135) were only finalised and made on 23 April 2012 and were laid on 25 April 2012 with a commencement date of 16 May 2012. These Regulations, for Northern Ireland, were made on 26 April 2012 and were laid 27 April 2012 with a matching commencement date (16 May 2012). So the timetable was very tight. In addition, there was discussion between the Department and the Committee on the Regulations between 19 and 26 April 2012. Accordingly, the explanation for the (marginal) breach of the 21-day rule seems to be reasonable.

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 Race Relations Order 1997 (Amendment) Order (Northern Ireland) 2012

Draft S.R: Local Government (Boundaries) Order (Northern Ireland) 2012

Statutory rules subject to negative resolution

The Health Care (Reimbursement of the Cost of EEA Services etc,) Regulations (Northern Ireland) 2012 (S.R. 2012/167)

The Misuse of Drugs (Amendment) Regulations (Northern Ireland) 2012 (S.R. 2012/168)

The Road Transport (Working Time) (Amendment) Regulations (Northern Ireland) 2012 (S.R. 2012/169)

The Motor Vehicles (Driving Licences) (Amendment) Regulations (Northern Ireland) 2012 (S.R. 2012/170)

The Trunk Road T9 (Coleman's Corner to Ballyrickard Road) Order (Northern Ireland) 2012 (S.R. 2012/172)

The Whole of Government Accounts (Designation of Bodies) Order (Northern Ireland) 2012 (S.R. 2012/173)

The Police Service of Northern Ireland (Amendment) Regulations (Northern Ireland) 2012 (S.R. 2012/178)

The Food Additives (Amendment) and the Extraction of Solvents in Food (Amendment) Regulations (Northern Ireland) 2012 (S.R. 2012/180)

The Jobseeker's Allowance (Amendment) Regulations (Northern Ireland) 2012 (S.R. 2012/181)



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