



Northern Ireland
Assembly

Examiner of Statutory Rules

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

Session 2015/2016 Eleventh Report

26 February 2016

NIA 321/11-16

Committee for Agriculture and Rural Development	S.R. 2016 No. 22
Committee for Employment and Learning	S.R. 2016 No. 37
Committee for the Environment	Draft S.R.: The Driver and Vehicle Agency Trading Fund Order (Northern Ireland) 2016
Committee Finance and Personnel	Draft S.R.: The Public Service Pensions Revaluation (Prices) Order (Northern Ireland) 2016 S.R. 2016 Nos. 50, 69

Committee for Justice	<p>Draft S.R: The Civil Legal Services (Scope) Regulations (Northern Ireland) 2016</p> <p>Draft S.R: The Violent Offences Prevention Order (Notification Requirements) Regulations (Northern Ireland) 2016</p> <p>S.R. 2016 Nos. 48, 57</p>
Committee for the Office of the First Minister and deputy First Minister	S.R, 2016 No. 35
Committee for Regional Development	S.R, 2016 Nos. 36, 38, 40
Committee for Social Development	S.R. 2016 No.44

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 Bovine Viral Diarrhoea Eradication Scheme Order (Northern Ireland) 2016 (S.R. 2016/22)

3. **I draw the attention of the Committee for Agriculture and Rural Development and the Assembly to the Bovine Viral Diarrhoea Eradication Scheme Order (Northern Ireland) 2016 (S.R. 2016/22) on the ground that they are defectively drafted in one minor respect, acknowledged by the Department of Agriculture and Rural Development.** Appropriately, the Department will rectify this at the next opportunity, when there is a further Order on Bovine Viral Diarrhoea. The point is simply that there is a missing “have” at the beginning of paragraph 14(6)(b) in the Schedule to the Regulations in the drafting structure adopted by the Department. I have made a minor drafting

suggestion for the streamlining of this provision and a minor drafting suggestion on another provision, and the Department is happy to consider my points in the context of the further Order.

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 (Scope) Regulations (Northern Ireland) 2016

Draft S.R.: The Violent Offences Prevention Order (Notification Requirements) Regulations (Northern Ireland) 2016

Draft S.R.: The Public Service Pensions Revaluation (Prices) Order (Northern Ireland) 2016

Draft S.R.: The Driver and Vehicle Agency Trading Fund Order (Northern Ireland) 2016

Statutory rules subject to negative resolution

The Bovine Viral Diarrhoea Eradication Scheme Order (Northern Ireland) 2016 (S.R. 2016/22)

The Salaries (Assembly Ombudsman and Commissioner for Complaints) Order (Northern Ireland) 2016 (S.R. 2016/35)

The College Street, Belfast (Stopping-Up) Order (Northern Ireland) 2016 (S.R. 2016/36)

The Green Road (Conlig) (Abandonment) Order (Northern Ireland) 2016 (S.R. 2016/38)

The Former Route C646 Killyliss Road, Dungannon (Abandonment) Order (Northern Ireland) 2016 (S.R. 2016/40)

The Social Security (Housing Costs) (Amendment) Regulations (Northern Ireland) 2016 (S.R. 2016/44)

The Modern Slavery Act 2015 (Duty to co-operate with Commissioner) (Northern Irish public authority) Regulations (Northern Ireland) 2016 (S.R. 2016/48)

The Public Service Pensions Revaluation (Earnings) Order (Northern Ireland) 2016 (S.R. 2016/50)

The Mental Health Review Tribunal (Amendment) Rules (Northern Ireland) 2016 (S.R. 2016/57)

The Rates (Automatic Telling Machines) (Designation of Rural Areas) Order (Northern Ireland) 2016 (S.R. 2016/69)

Statutory rule subject to a laying requirement but not subject to Assembly proceedings

The Employment Rights (Increase of Limits) Order (Northern Ireland) 2016 (S.R. 2016/37)



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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

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