

Examiner of Statutory Rules

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

**31 May 2013
NIA 117/11-15R**

Committee for Agriculture and Rural Development	S.R. 2013 Nos. 118, 122, 139
Committee for Employment and Learning	S.R. 2013 No. 128
Committee for Finance and Personnel	S.R. 2012 Nos. 142, 143
Committee for Health, Social Services and Public Safety	S.R. 2013 No. 141
Committee for Justice	S.R. 2013 No. 131, 132, 140
Committee for Regional Development	S.R. 2016 No. 127

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 Health and Personal Social Services (Superannuation) (Injury Benefits) (Amendment) Regulations (Northern Ireland) 2013 (S.R. 2013/141)

3. **I draw the attention of the Committee for Health, Social Services and Public Safety and the Assembly to the Health and Personal Social Services (Superannuation) (Injury Benefits) (Amendment) Regulations (Northern Ireland) 2013 (S.R. 2013/141) on the ground that they were laid in breach of the 21-day (that is to say, the well-established rule of practice whereby a Department of 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 statutory rule and its coming into operation). The Department in this case gave me an advance indication of the likely breach of the 21-day (as far back as November 2012) together with an indication of the likely timetable for several sets of related regulations.** As it turned out, the Regulations were made and laid on 23 May 2013 and come into operation today, 31 May 2013. They correspond to changes introduced in England and Wales and in Scotland on

1 April 2013. In this case it is evident that the Department needed to have the regulations in place as soon as was practicable following the consultation that ended in March 2013.

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 affirmative resolution

The Statistics and Registration Service Act 2007 (Disclosure of Pupil Information) Regulations (Northern Ireland 2013 (S.R. 2013/142))

The Statistics and Registration Service Act 2007 (Disclosure of Higher Education Student Information) Regulations (Northern Ireland 2013 (S.R. 2013/143))

Statutory rules subject to negative resolution

The Scrapie (Fees) (Amendment) Regulations (Northern Ireland) 2013 (S.R. 2013/118)

The Animals and Animal Products (Examination for Residues and Maximum Residue Limits) (Amendment) Regulations (Northern Ireland) 2013 (S.R. 2013/122)

The Disposal of Vehicles (Prescribed Period) Regulations (Northern Ireland) 2013 (S.R. 2013/127)

The Education (Student Support) (No.2) Regulations (Northern Ireland) 2009 (Amendment) Regulations (Northern Ireland) 2013 (S.R. 2013/128)

The Forestry (Felling of Trees) Regulations (Northern Ireland) 2013 (S.R. 2013/139)

The Health and Personal Social Services (Superannuation (Injury Benefits) (Amendment) Regulations (Northern Ireland) 2013 (S.R. 2013/141)

Statutory rules not subject to Assembly proceedings and not required to be laid

The County Court Divisions (Amendment) Order (Northern Ireland) 2013 (S.R. 2013/131)

The County Court Divisions Order (Northern Ireland) 2013 (S.R. 2013/132)

The County Court (Amendment No. 2) Rules (Northern Ireland) 2013 (S.R. 2013/140)



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