

**Examiner of Statutory Rules**

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

**14 June 2013  
NIA 121/11-15R**

Committee for Agriculture and Rural Development	S.R. 2013 No. 144
Committee for Enterprise, Trade and Investment	Draft S.R.: Renewables Obligation (Amendment No. 2) Order (Northern Ireland) 2013
Committee for the Environment	S.R. 2013 No. 151
Committee for Health, Social Services and Public Safety	S.R. 2013 No. 147
Committee for Regional Development	S.R. 2013 Nos. 153, 156, 157, 158
Committee for Social Development	S.R. 2013 No. 146



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 Agriculture (Hardship Payment) Scheme (Northern Ireland) 2013 (S.R. 2013/144)**

3. **I draw the attention of the Committee for Agriculture and Rural Development and the Assembly to the Agriculture (Hardship Payment) Scheme (Northern Ireland) 2013 (S.R. 2013/144) on the ground that it was laid in breach of the 21-day rule (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).** This of course is the well-publicised hardship scheme in relation to the extreme snowfall in March, and the Department indicated in advance that it was likely to breach the 21-day rule because of the urgency. The Scheme was made on 22 May 2013 and came into operation on 24 May 2013; and it was laid on 29 May 2013. In the circumstances it seems doubtful that anyone would criticise the Department over the timing of the laying in this particular case, although the Department could perhaps have laid the Scheme a few days earlier (perhaps even before it came into operation).

**The Council of the Pharmaceutical Society of Northern Ireland (Continuing Professional Development) (Amendment) Regulations (Northern Ireland) 2013 (S.R. 2013/147)**

4. **I draw the attention of the Committee for Health, Social Services and Public Safety and the Assembly to the Council of the Pharmaceutical Society of Northern Ireland (Continuing Professional Development) (Amendment) Regulations (Northern Ireland) 2013 (S.R. 2013/147) on the ground that they were laid in breach of the 21-day rule.** The Regulations were made and laid on 30 May 2013 and came into operation on 31 May 2013. It seems that the Regulations need to come into operation on 31 May 2013. The Department indicated on 1 May 2013 that there was likely to be a breach of the 21-day rule, although it hoped then that Regulations might perhaps be laid by 8 May 2013. There were a number of late changes to the regulations that were then being finalised (and indeed I had had an informal look at the Regulations and made a few drafting suggestions at that stage). As it turned out there was some consideration of the matter by the Committee in consultation with the Council of the Pharmaceutical Society until 29 May 2013. In the circumstances the timing of the making and the laying seems to have been reasonable, especially since these Regulations are largely concerned with professional regulation and it appears that they were preceded by an earlier consultation of those with an interest in their content.

**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 rule requiring the approval of the Assembly

Draft S.R.: The Renewables Obligation (Amendment No. 2) Order (Northern Ireland) 2013

## Statutory rules subject to negative resolution

### **The Agriculture (Hardship Payment) Scheme (Northern Ireland) 2013 (S.R. 2013/144)**

The Charities Act 2008 (Consequential Provision and Savings) Order (Northern Ireland) 2013 (S.R. 2013/146)

### **The Council of the Pharmaceutical Society of Northern Ireland (Continuing Professional Development) (Amendment) Regulations (Northern Ireland) 2013 (S.R. 2013/147)**

The Quality of Bathing Waters (Amendment) Regulations (Northern Ireland) 2013 (S.R. 2013/151)

The Nugent's Entry, Enniskillen (Abandonment) Order (Northern Ireland) 2013 (S.R. 2013/153)

The Brucevale Park, Belfast (Stopping-Up) Order (Northern Ireland) 2013 (S.R. 2013/156)

The Knocksallagh Green, Greenisland (Abandonment) Order (Northern Ireland) 2013 (S.R. 2013/157)

The Glenvarna Walk, Newtownabbey (Footpath) (Abandonment) Order (Northern Ireland) 2013 (S.R. 2013/158)







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