Northern Ireland Assembly

Report of the Examiner of Statutory Rules

to the Assembly and the Appropriate Committees

Seventy-seventh Report

16 November 2026

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1. Statutory Rules before Committees

1.1 Committee for Agriculture, Environment and Rural Affairs

Subject to the draft affirmative resolution procedure

Draft S.R.: The Climate Change (Carbon Budget 2038-2042) Regulations (Northern Ireland) 2026

1.2 Committee for Communities

Subject to the negative resolution procedure

S.R. 2026/177: The Social Security (Miscellaneous Amendments) Regulations (Northern Ireland) 2026

S.R. 2026/181: The Social Security (Income and Capital Disregards) (Amendment) Regulations (Northern Ireland) 2026

S.R. 2026/182: The Social Fund (Child Funeral Fund) (No. 2) (Amendment) Regulations (Northern Ireland) 2026

2. Remit of the Examiner of Statutory Rules

Assembly Standing Order 43 provides that every statutory rule or draft statutory rule which is laid before the Assembly and is subject to Assembly proceedings shall stand referred to the appropriate Committee of the Assembly for scrutiny. The appropriate Committee may also scrutinise any statutory rule which deals with a transferred matter, within the meaning of the Northern Ireland Act 1998, which is not subject to Assembly proceedings. The Standing Orders of the Assembly are published on the Assembly website.

To assist Committees of the Assembly in this scrutiny under Standing Order 43, the Examiner of Statutory Rules (the Examiner) shall carry out those technical scrutiny functions delegated to the Examiner by the relevant Committee. The terms of reference of the Examiner, under delegation, are set out in Standing Order 43(6) as follows:

"In scrutinising an instrument the appropriate committee shall among other things 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."

Standing Order 43(7) provides that the Examiner shall, where practicable, report on a statutory rule or draft statutory rule before any resolution or motion relating to that statutory rule or draft statutory rule is moved in the Assembly.

3. Assembly procedures in relation to Statutory Rules

The procedure to which any statutory rule is subject will be set out in its parent legislation. These may include the following Assembly procedures.

The Negative Resolution Procedure

A statutory rule that is subject to the negative resolution procedure is made by the rule making body, often a Department, and laid before the Assembly. It has effect when its 'comes into force' date is reached.

It can be annulled by resolution of the Assembly within the 'statutory period'[1]. It is then void from the date of that annulment. The statutory period is set out in the Interpretation Act (Northern Ireland) 1954. It is 30 calendar days or ten days on which the Assembly has sat after the date on which the statutory rule was laid before the Assembly, whichever is the longer.[2]

The Confirmatory Resolution Procedure

A statutory rule which is subject to confirmatory procedure is made by the rule making body, often a Department, and laid before the Assembly. It ceases to have effect within a specified period provided for in the parent legislation unless approved by a resolution of the Assembly within that time.

The Affirmative Resolution Procedure

A statutory rule which is subject to the affirmative resolution procedure is made by the rule making body, often a Department, and laid before the Assembly. It shall not come into operation unless and until affirmed by a resolution of the Assembly.

The Draft Affirmative Resolution Procedure

A statutory rule which is subject to the draft affirmative procedure is laid in draft before the Assembly by the rule making body, often a Department. It may not be made unless and until affirmed by a resolution of the Assembly.

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[1] Section 41(6) Interpretation Act (Northern Ireland) 1954

[2] Section 41(2) Interpretation Act (Northern Ireland) 1954

4. Statutory Rules drawn to the special attention of the Assembly

The statutory rules included in this Report are not required to be drawn to the special attention of the Assembly.

Angela Kelly

Examiner of Statutory Rules

16 November 2026

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