



Northern Ireland
Assembly

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

First Report of Session 2016-2017

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10 June 2016

Committee for Agriculture, Environment and Rural Affairs	S.R. 2016/190: The Seed Potatoes Regulations (Northern Ireland) 2016
Committee for Communities	S.R. 2016/125: The Licensing (Register of Licences) (Amendment) Regulations (Northern Ireland) 2016 S.R. 2016/127: The Licensing of Pavement Cafés (Register of Licences) Regulations (Northern Ireland) 2016 S.R. 2016/132: The Licensing of Pavement Cafés (Form of Licence) Regulations (Northern Ireland) 2016 S.R. 2016/149: The Social Security (Great Britain Reciprocal Arrangements) Regulations (Northern Ireland) 2016

	<p>S.R. 2016/192: The Occupational Pension Schemes (Scheme Administration) (Amendment) Regulations (Northern Ireland) 2016</p> <p>S.R. 2016/193: The Child Support (Deduction Orders and Fees) (Amendment and Modification) Regulations (Northern Ireland) 2016</p> <p>S.R. 2016/196: The Automatic Enrolment (Earnings Trigger and Qualifying Earnings Band) Order (Northern Ireland) 2016</p> <p>S.R. 2016/233: The Jobseeker's Allowance (Extended Period of Sickness) (Amendment) Regulations (Northern Ireland) 2016</p>
Committee for the Economy	S.R. 2016/187: The Weights and Measures (Food) (Amendment) Regulations (Northern Ireland) 2016
Committee for the Executive Office	S.R. 2016/191: The Sex Discrimination Order 1976 (Amendment) (Regulations) (Northern Ireland) 2016
Committee for Infrastructure	<p>S.R. 2016/135: The Motor Vehicles (Driving Licences) (Amendment) Regulations (Northern Ireland) 2016</p> <p>S.R. 2016/140: The Taxi Licensing (Amendment) Regulations (Northern Ireland) 2016</p> <p>S.R. 2016/148: The Taxi (Taximeters, Devices and Maximum Fares) (Amendment) Regulations (Northern Ireland) 2016</p> <p>S.R. 2016/160: The Motor Vehicles (Construction and Use) (Amendment) Regulations (Northern Ireland) 2016</p> <p>S.R. 2016/181: The Road Traffic (Fixed Penalty) (Offences) (Amendment) Order (Northern Ireland) 2016</p> <p>S.R. 2016/182: The Road Traffic (Fixed Penalty) (Amendment) Order (Northern Ireland) 2016</p> <p>S.R. 2016/185: The Thorburn Road, Belfast (Abandonment) Order (Northern Ireland) 2016</p> <p>S.R. 2016/194: The Penalty Fares (Increase) (Order) (Northern Ireland) 2016</p>
Committee for Justice	<p>S.R. 2016/197: The Criminal Defence Services (General) Order (Northern Ireland) 2016</p> <p>S.R. 2016/198: The Criminal Defence Services (Remuneration) Order (Northern Ireland) 2016</p>

S.R. 2016/200: The Legal Aid for Crown Court Proceedings (Costs) (Amendment) Rules (Northern Ireland) 2016

S.R. 2016/201: The Legal Aid for Crown Court Proceedings (Costs) (Amendment No. 2) Rules (Northern Ireland) 2016

1. Remit of the Examiner of Statutory Rules

1.1 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 Standing Orders of the Assembly are published on the Northern Ireland Assembly [website](#).

1.2 To assist Committees of the Assembly in the scrutiny of such rules under Standing Order 43, the Examiner of Statutory Rules (the Examiner) shall carry out those functions delegated to the Examiner in relation to technical scrutiny.

1.3 The terms of reference of the Examiner, under delegation from the appropriate Committee, are as 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 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.”

2. In accordance with Standing Orders, in this report I draw the attention of the appropriate Committees and the Assembly to the following Rules.

3. **S.R. 2016/196 – Reported for breach of the 21 day rule**

The Automatic Enrolment (Earnings Trigger and Qualifying Earnings Band) Order (Northern Ireland) 2016

- 3.1 I draw the attention of the Committee for Communities and the Assembly to the Automatic Enrolment (Earnings Trigger and Qualifying Earnings Band) Order (Northern Ireland) 2016 (S.R. 2016/196) on the ground that it was laid in breach of the 21 day rule. The 21 day rule is the established rule of practice whereby a Department or other rule-making body 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. The Rule was made on 24 March 2016, laid on 24 March 2016, and came into operation on 6 April 2016.
- 3.2 This breach of the 21 day rule has been addressed by the Department.
- 3.3 The Department advises: “*The corresponding Great Britain Instrument is the Automatic Enrolment (Earnings Trigger and Qualifying Earnings Band) Order 2016 (S.I. 2016/435) which was made on 23 March 2016 and registered on 24 March 2016. The Rule was made as soon as possible the next day, 24 March 2016. Owing to parity considerations it is vital that the Rule comes into operation on the same date as the Great Britain Instrument, in this instance 6 April 2016.*”

4. **S.R. 2016/233 – Reported for breach of the 21 day rule**

The Jobseeker’s Allowance (Extended Period of Sickness) (Amendment) Regulations (Northern Ireland) 2016

- 4.1 I draw the attention of the Committee for Communities and the Assembly to the Jobseeker’s Allowance (Extended Period of Sickness) (Amendment) Regulations (Northern Ireland) 2016 (S.R. 2016/233) on the ground that they were laid in breach of the 21 day rule. The 21 day rule is the established rule of practice whereby a Department or other rule-making body 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. The Rule was made on 17 May 2016, laid on 17 May 2016, and came into operation on 23 May 2016.
- 4.2 This breach of the 21 day rule has been addressed by the Department which apologises and expresses regret at the breach.
- 4.3 The Department advises: “*The Department regrets the breach of the 21 day rule and apologises to the Examiner of Statutory Rules and the Committee for this unavoidable delay. The Great Britain instrument was not made until 12th April 2016 therefore as the Assembly was dissolved on 30 March 2016 and the laying of Statutory Rules could not take place until after the first sitting of the New Assembly, to maintain parity in this social security provision, we had to match Great Britain’s operative date of 23rd May.*”

4.4 The corresponding Great Britain instrument is the Jobseeker's Allowance (Extended Period of Sickness) (Amendment) Regulations 2016 (S.I. 2016/502).

Angela Kelly

Examiner of Statutory Rules

10 June 2016

Appendix:

The attention of the appropriate Committees and the Assembly is drawn to those statutory rules which are set out in bold.

STATUTORY RULES SUBJECT TO NEGATIVE RESOLUTION

S.R. 2016/125: The Licensing (Register of Licences) (Amendment) Regulations (Northern Ireland) 2016

S.R. 2016/127: The Licensing of Pavement Cafes (Register of Licences) Regulations (Northern Ireland) 2016

S.R. 2016/132: The Licensing of Pavement Cafes (Form of Licence) Regulations (Northern Ireland) 2016

S.R. 2016/135: The Motor Vehicles (Driving Licences) (Amendment) Regulations (Northern Ireland) 2016

S.R. 2016/140: The Taxi Licensing (Amendment) Regulations (Northern Ireland) 2016

S.R. 2016/148: The Taxi (Taximeters, Devices and Maximum Fares) (Amendment) Regulations (Northern Ireland) 2016

S.R. 2016/149: The Social Security (Great Britain Reciprocal Arrangements) Regulations (Northern Ireland)

S.R. 2016/160: The Motor Vehicles (Construction and Use) (Amendment) Regulations (Northern Ireland) 2016

S.R. 2016/181: The Road Traffic (Fixed Penalty) (Offences) (Amendment) Order (Northern Ireland) 2016

S.R. 2016/182: The Road Traffic (Fixed Penalty) (Amendment) Order (Northern Ireland) 2016

S.R. 2016/185: The Thorburn Road, Belfast (Abandonment) Order (Northern Ireland) 2016

S.R. 2016/187: The Weights and Measures (Food) (Amendment) Regulations (Northern Ireland) 2016

S.R. 2016/190: The Seed Potatoes Regulations (Northern Ireland) 2016

S.R. 2016/191: The Sex Discrimination Order 1976 (Amendment) (Regulations) (Northern Ireland) 2016

S.R. 2016/194: The Penalty Fares (Increase) (Order) (Northern Ireland) 2016

S.R. 2016/196: The Automatic Enrolment (Earnings Trigger and Qualifying Earnings Band) Order (Northern Ireland) 2016

S.R. 2016/197: The Criminal Defence Services (General) Order (Northern Ireland) 2016

S.R. 2016/198: The Criminal Defence Services (Remuneration) Order (Northern Ireland) 2016

S.R. 2016/200: The Legal Aid for Crown Court Proceedings (Costs) (Amendment) Rules (Northern Ireland) 2016

S.R. 2016/201: The Legal Aid for Crown Court Proceedings (Costs) (Amendment No. 2) Rules (Northern Ireland) 2016

S.R. 2016/233: The Jobseeker's Allowance (Extended Period of Sickness) (Amendment) Regulations (Northern Ireland) 2016

**STATUTORY RULES REQUIRING THE APPROVAL OF THE ASSEMBLY
(CONFIRMATORY PROCEDURE)**

S.R. 2016/192: The Occupational Pension Schemes (Scheme Administration) (Amendment) Regulations (Northern Ireland) 2016

S.R. 2016/193: The Child Support (Deduction Orders and Fees) (Amendment and Modification) Regulations (Northern Ireland) 2016



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