



Northern Ireland
Assembly

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

Eighth Report of Session 2016-2017

NIA 16/16-21

25 November 2016

Committee for the Environment	S.R. 2016/401: The Waste (Fees and Charges) (Amendment) Regulations (Northern Ireland) 2016
Committee for Finance	S.R. 2016/395: The Energy Performance of Buildings (Certificates and Inspections) (Amendment) Regulations (Northern Ireland) 2016
Committee for Health	S.R. 2016/384: The Health and Personal Social Services (Superannuation) Health and Social Care (Pension Schemes) (Amendment) Regulations (Northern Ireland) 2016
Committee for Justice	Draft S.R.: The Civil Legal Services (Scope) (No. 2) Regulations (Northern Ireland) 2016

	<p>S.R. 2016/396: The Civil Legal Services (Remuneration) (Amendment) (No. 2) Order (Northern Ireland) 2016</p> <p>S.R. 2016/397: The Legal Aid for Crown Court Proceedings (Costs) (Amendment No. 3) Rules (Northern Ireland) 2016</p> <p>S.R. 2016/398: The Magistrates' Courts and County Court Appeals (Criminal Legal Aid) (Costs) (Amendment) Rules (Northern Ireland) 2016</p> <p>S.R. 2016/400: The Juries Regulations (Amendment) Order (Northern Ireland) 2016</p>
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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 Rule.

3. S.R. 2016/384: The Health and Personal Social Services (Superannuation) Health and Social Care (Pension Schemes) (Amendment) Regulations (Northern Ireland) 2016

- 3.1 I draw the attention of the Committee for Health and the Assembly to S.R. 2016/384: The Health and Personal Social Services (Superannuation) Health and Social Care (Pension Schemes) (Amendment) Regulations (Northern Ireland) 2016 ('the Regulations') in relation to a defect in its drafting.
- 3.2 The Regulations make provision for access to the HSC Pension Scheme for persons employed by GP Federations. Regulation 8 of the Regulations amends regulation 22 of the Health and Social Care (Pension Scheme) Regulations (Northern Ireland) 2008 ('the 2008 Regulations') inserting a new paragraph (11).
- 3.3 A number of words are missing from the amendment to regulation 22 of the 2008 Regulations which is made by regulation 8. Having been alerted to this defect, the Department of Health (the Department) has confirmed that it accepts that there is a defect in the drafting and has made proposals to correct the error.
- 3.4 The Department advises:

"At the beginning of new paragraph (11) the words "A person is not eligible to be an active member of this Section of the Scheme if" should be inserted.

The Department proposes to include the necessary amendment in a further statutory rule it is introducing which is currently with DSO for final clearance. It is expected that this statutory rule, along with the amendment to regulation 22, will come into operation in January 2017.

S.R. 2016 No.384 is a non-controversial set of regulations and applies to a very narrow cohort of possible scheme members. Regulation 8 as currently drafted will have no effect on the operation of those regulations. Furthermore the Department will notify immediately those directly affected by S.R. 2016 No.384 (i.e. the GP Federations) of the drafting error and the proposal for its amendment."

- 3.5 I am content with these proposals.

Angela Kelly

Examiner of Statutory Rules

25 November 2016

Appendix:

STATUTORY RULES SUBJECT TO NEGATIVE RESOLUTION

S.R. 2016/384: The Health and Personal Social Services (Superannuation) Health and Social Care (Pension Schemes) (Amendment) Regulations (Northern Ireland) 2016

S.R. 2016/395: The Energy Performance of Buildings (Certificates and Inspections) (Amendment) Regulations (Northern Ireland) 2016

S.R. 2016/396: The Civil Legal Services (Remuneration) (Amendment) (No. 2) Order (Northern Ireland) 2016

S.R. 2016/397: The Legal Aid for Crown Court Proceedings (Costs) (Amendment No. 3) Rules (Northern Ireland) 2016

S.R. 2016/398: The Magistrates' Courts and County Court Appeals (Criminal Legal Aid) (Costs) (Amendment) Rules (Northern Ireland) 2016

S.R. 2016/400: The Juries Regulations (Amendment) Order (Northern Ireland) 2016

S.R. 2016/401: The Waste (Fees and Charges) (Amendment) Regulations (Northern Ireland) 2016

STATUTORY RULES SUBJECT TO DRAFT AFFIRMATIVE RESOLUTION

Draft S.R.: The Civil Legal Services (Scope) (No. 2) Regulations (Northern Ireland) 2016



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