

Examiner of Statutory Rules

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

**5 September 2014
NIA 192/11-16**

Committee for Agriculture and Rural Development	S.R. 2014 Nos. 184, 196
Committee for Education	S.R. 2014 No. 218
Committee for Enterprise, Trade and Investment	S.R. 2014 No. 198
Committee for the Environment	S.R. 2014 Nos. 180, 188, 189, 190, 202, 206, 208, 216
Committee for Health, Social Services, and Public Safety	S.R. 2014 No. 215
Committee for Justice	S.R. 2014 Nos. 181, 219, 220, 221, 222
Committee for Regional Development	S.R. 2014 Nos. 186, 199, 201
Committee for Social Development	S.R. 2014 Nos. 182, 191, 192, 193, 195, 204, 213

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 rule to which attention is drawn in this report

The Child Support (Modification, Consequential and Miscellaneous Amendments) Regulations (Northern Ireland) 2014 (S.R. 2014/193)

3. **I draw the attention of the Committee for Social Development and the Assembly to the Child Support (Modification, Consequential and Miscellaneous Amendments) Regulations (Northern Ireland) 2014 (S.R. 2014/193) on the ground that they were laid in breach of the 21-day rule (that is to say, the long-established rule of practice whereby a 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).** In this case, the Department for Social Development informed me of the likely breach of the 21-day rule in advance (on 13 June 2014). The Regulations were made and laid on 27 June and came into operation (for the most part) on 30 June 2014. The policy proposal for these Regulations was considered at the meeting of the Committee on 5 June 2014, but the Regulations could not be finalised until the week commencing 23 June 2014 (when two other related sets of regulations – S.R. 2014/182 and S.R. 2014/191, both subject to confirmatory procedure – were made). All of these Regulations were subject to an “operational readiness review” on 19 June 2014. In the circumstances, the Department’s explanation seems to be reasonable.

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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 rules requiring the approval of the Assembly (confirmatory procedure)

The Child Support Fees Regulations (Northern Ireland) 2014 (S.R. 2014/182)

The Child Support (Ending Liability in Existing Cases and Transition to New Calculation Rules) Regulations (Northern Ireland) 2014 (S.R. 2014/191)

The Jobseeker's Allowance (Homeless Claimants) (Amendment) Regulations (Northern Ireland) 2014 (S.R. 2014/192)

The Pensions (2012 Act) (Consequential and Supplementary Provisions) Regulations (Northern Ireland) 2014 (S.R. 2014/213)

Statutory rules subject to negative resolution

The Bus and Coach Passengers Rights and Obligations (Designation and Enforcement) Regulations (Northern Ireland) 2014 (S.R. 2014/180)

The Police and Criminal Evidence (1989 Order) (Codes of Practice) (Temporary Modification to Code A) Order (Northern Ireland) 2014 (S.R. 2014/181)

The Animal By-Products (Enforcement) (Amendment) Regulations (Northern Ireland) 2014 (S.R. 2014/184)

The Bus and Coach Passengers Rights and Obligations (Designation of Terminals, Tour Operators and Enforcement) Regulations (Northern Ireland) 2014 (S.R. 2014/186)

Local Government Pension Scheme Regulations (Northern Ireland) 2014 (S.R. 2014/188)

Local Government Pension Scheme (Amendment and Transitional Provisions) Regulations (Northern Ireland) 2014 (S.R. 2014/189)

The Planning (Hazardous Substances) (Amendment) Regulations (Northern Ireland) 2014 (S.R. 2014/190)

The Child Support (Modification, Consequential and Miscellaneous Amendments) Regulations (Northern Ireland) 2014 (S.R. 2014/193)

The Pension Protection Fund (Entry Rules) (Amendment) Regulations (Northern Ireland) 2014 (S.R. 2014/195)

The Trade in Animals and Related Products (Amendment) Regulations (Northern Ireland) 2014 (S.R. 2014/196)

The Energy Efficiency Regulations (Northern Ireland) 2014 (S.R. 2014/198)

The U6007 Meadowlands, Downpatrick (Abandonment) Order (Northern Ireland) 2014 (S.R. 2014/199)

The Lower Galliagh Road, Londonderry (Abandonment) Order (Northern Ireland) 2014 (S.R. 2014/201)

The Waste Electrical and Electronic Equipment (Charges) Regulations (Northern Ireland) 2014 (S.R. 2014/202)

The Pensions (2012 Act) (Transitional, Consequential and Supplementary Provisions) Regulations (Northern Ireland) 2014 (S.R. 20114/204)

The Road Passenger Transport (Qualifications of Operators) Regulations (Northern Ireland) 2014 (S.R. 2014/206)

The Groundwater (Amendment) Regulations (Northern Ireland) 2014 (S.R. 2014/208)

The Health and Personal Social Services (General Medical Services Contracts) (Prescription of Drugs Etc) (Amendment) Regulations (Northern Ireland) 2014 (S.R. 20114/215)

The Motor Vehicles (Construction and Use) (Amendment) Regulations (Northern Ireland) 2014 (S.R. 20114/216)

The General Teaching Council for Northern Ireland (Constitution) (Amendment) Regulations (Northern Ireland) 2014 (S.R. 20114/218)

The Crown Court (Amendment) Rules (Northern Ireland) 2014 (S.R. 2014/219)

The Rules of the Court of Judicature (Northern Ireland) (Amendment) 2014 (S.R. 2014/220)

The Magistrates' Courts (Amendment No. 2) Rules (Northern Ireland) 2014 (S.R. 2014/221)

The Criminal Appeals (Amendment) (Northern Ireland) Rules 2014 (S.R. 2014/222)



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