



**Northern Ireland
Assembly**

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

20 May 2009

Committee for Agriculture and Rural Development	S.R. 2009 Nos. 177,179
Committee for the Environment	S.R. 2009 Nos. 178, 184
Committee for Health, Social Services and Public Safety	S.R. 2009 Nos. 166, 186
Committee for Regional Development	S.R. 2009 No. 180, 190

1. In accordance with the delegations in respect of the technical scrutiny of statutory rules under Standing Order 41(4)(b) (now renumbered as Standing Order 43(4)(b)) given to the Examiner of Statutory Rules by the appropriate Committees on 11, 16, 17 and 18 May 2007, 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 PHARMACEUTICAL SOCIETY OF NORTHERN IRELAND (GENERAL) (AMENDMENT) REGULATIONS (NORTHERN IRELAND) 2009 (S.R. 2009/166)

3. **I draw the attention of the Committee for Health, Social Services and Public Safety and the Assembly to the Pharmaceutical Society of Northern Ireland (General) (Amendment) Regulations (Northern Ireland) 2009 (S.R. 2009/166) on the ground that they were laid in breach of the 21-day rule.** The Regulations were made on 15 April 2009 (to come into operation on 1 June 2009) but were not laid until 18 May 2009. **The Department for Health, Social Services and Public Safety apologises for the oversight in delaying the laying of the Regulations.** (I have mentioned a minor drafting point for the next revision of the Regulations.)

THE FLUORINATED GREENHOUSE GASES REGULATIONS (NORTHERN IRELAND) 2009 (S.R. 2009/184)

4. **I draw the attention of the Committee for the Environment and the Assembly to the Fluorinated Greenhouses Gases Regulations (Northern**

Ireland) 2009 (S.R. 2009/184) on the ground that they were laid in breach of the 21-day rule. The Regulations were made on 6 May 2009 and were laid the next day; they came into operation (mostly) on 12 May 2009. The Department of the Environment has explained the breach. The relevant EC regulations require companies to gain by 4 July 2009 interim certification for their personnel so as to permit them to continue working with F-Gases. Putting the Regulations in place as early as possible maximises the time available for businesses to obtain interim certification in advance of the 4 July deadline. The Northern Ireland Regulations could not have been drafted earlier: they were drafted in tandem with the Regulations for Great Britain (contained in S.I. 2009/261), which Regulations came into operation on 4 March 2009, for consistency as far as possible; but a number of issues arose in respect of the Northern Ireland Regulations, including issues between the division of enforcement responsibilities between district councils and the Northern Ireland Environment Agency. **In the circumstances the Department's explanation seems to be reasonable.**

THE CHARGES FOR DRUGS AND APPLIANCES AND THE PROVISION
OF HEALTH SERVICES TO PERSONS NOT ORDINARILY RESIDENT
(AMENDMENT) REGULATIONS (NORTHERN IRELAND) 2009
(S.R. 2009/186)

5. **I draw the attention of the Committee for Health, Social Services and Public Safety and the Assembly to the Charges for Drugs and Appliances and Provision of Health Services to Persons not Ordinarily Resident (Amendment) Regulations (Northern Ireland) 2009 (S.R. 2009/186) on the ground that they were laid in breach of the 21-day rule.** The Regulations were made and laid on 8 May 2009 and came into operation on 9 June 2009. The Department of Health, Social Services and Public Safety has explained that in light of the threat of pandemic disease, and to coincide with similar legislative changes in other parts of the United Kingdom, it was considered important to have the Regulations in place as soon as possible. **The Department's explanation seems to be reasonable.**

W G Nabney
Examiner of Statutory Rules
20 May 2009

APPENDIX

(The attention of the appropriate Committees and the Assembly is drawn to those statutory rules marked in bold)

Statutory rule requiring approval by resolution of the Assembly (confirmatory procedure)

The Sea fishing Industry (Harbour, Landing) Scheme (Northern Ireland) 2009 (S.R. 2009/177)

Statutory rules subject to negative resolution

The Pharmaceutical Society of Northern Ireland (General) (Amendment) Regulations (Northern Ireland) 2009 (S.R. 2009/166)

The Waste Management Strategy Regulations (Northern Ireland) 2009 (S.R. 2009/178)

The Plant Health (Amendment) Order (Northern Ireland) 2009 (S.R. 2009/179)

The Henry Street, Belfast (Stopping-Up) Order (Northern Ireland) 2009 (S.R. 2009/180)

The Fluorinated Greenhouse Gases Regulations (Northern Ireland) 2009 (S.R. 2009/184)

The Charges for Drugs and Appliances and Provision of Health Services to Persons not Ordinarily Resident in Regulations (Northern Ireland) 2009 (S.R. 2009/186)

The Ridgeway Street, Belfast (Abandonment) Order (Northern Ireland) 2009 (S.R. 2009/190)

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ISBN 978-0-339-40313-0



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