

Examiner of Statutory Rules

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

**7 May 2010
Report: NIA 55/09/10R**

Committee for Agriculture and Rural Development	S.R. 2010 Nos. 153, 154, 155, 161, 162
Committee for Enterprise, Trade and Investment	S.R. 2010 Nos. 160, 163
Committee for the Environment	S.R. 2010 Nos. 151, 157, 164
Committee for Finance and Personnel	Draft SR: the Census Order (Northern Ireland) 2010; S.R. 2010 No. 159
Committee for Health, Social Services and Public Safety	S.R. 2010 No. 117
Committee for the Office of the First Minister and deputy First Minister	Draft SR: the Census Order (Northern Ireland) 2010
Committee for Regional Development	S.R. 2009 No. 157

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 Recovery of Health Services Charges (Amounts) (Amendment) Regulations (Northern Ireland) 2010 (S.R. 2010/117)

3. **I draw the attention of the Committee for Health, Social Services and Public Safety and the Assembly to the Recovery of Health Services Charges (Amounts) (Amendment) Regulations (Northern Ireland) 2010 (S.R. 2010/117) on the ground that Regulations were laid in breach of the 21-day rule and were laid after they came into operation, explained by the Department of Health, Social Services and Public Safety.** The Regulations were made on 18 March 2010 and came into operation on 1 April 2010; they were laid before the Assembly on 27 April 2010. The Regulations needed to be in place for the new financial year, and there were pressures before their making (including a recent changeover in senior officials in the Department and a subsequent review of the policy, which in the result remained unchanged, on the increasing of charges in line with those applied in England and Wales and in Scotland). That resulted in the breach of the 21-day rule. Subsequent to making there was an oversight in relation to the practice and procedures relating to laying, for which the Department has apologised.

The Water Supply (Domestic Distribution Systems) Regulations (Northern Ireland) 2010 (S.R. 2010/157)

4. **I draw the attention of the Committee for the Environment and the Committee for Regional Development and the Assembly to the Water Supply (Domestic Distribution Systems) Regulations (Northern Ireland) 2010 (S.R. 2010/157) on the ground that Regulations were laid in breach of the 21-day rule and were laid after they came into operation, explained by the Department for Regional Development.** The Regulations were made and laid on 16 April 2010 and came into operation on 30 April 2010. They are part of a package of regulations required to fully transpose Articles 6(2) and 8 of Council Directive 98/83/EC on the quality of drinking water for human consumption. The part of the package dealt with by these Regulations is the responsibility of both the Department of the Environment and the Department for Regional Development and the Regulations place duties on both Departments accordingly. I am satisfied that the breach of the 21-day rule seems reasonable in this case.

W G Nabney

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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

The Census Order (Northern Ireland) 2010

Statutory rules subject to negative resolution

The Recovery of Health Services Charges (Amounts) (Amendment) Regulations (Northern Ireland) 2010(S.R. 2010/117)

The Greenhouse Gas Emissions Trading Scheme Charging Scheme Regulations (Northern Ireland) 2010 (S.R. 2010/151)

The Foyle Area (Control of Oyster Fishing) (Amendment) Regulations 2010 (S.R. 2010/153)

The Foyle Area and Carlingford Area (Angling) (Amendment) Regulations 2010 (S.R. 2010/154)

The Beef and Veal Labelling Regulations (Northern Ireland) 2010 (S.R. 2010/155)

The Water Supply (Domestic Distribution Systems) Regulations (Northern Ireland) 2010 (S.R. 2010/157)

The Whole of Government Accounts (Designation of Bodies) Order (Northern Ireland) 2010 (S.R. 2010/159)

The Carriage of Dangerous Goods and Use of Transportable Pressure Equipment Regulations (Northern Ireland) 2010 (S.R. 2010/160)

The Common Agricultural Policy Single Payment and Support Schemes Regulations (Northern Ireland) 2010 (S.R. 2010/161)

The Gangmasters Licensing (Exclusions) Regulations (Northern Ireland) 2010 (S.R. 2010/162)

The Biocidal Products (Amendment) Regulations (Northern Ireland) 2010 (S.R. 2010/163)

The Local Government Pension Scheme (Amendment) Regulations (Northern Ireland) 2010 (S.R. 2010/164)



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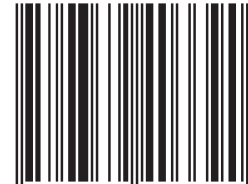
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