



**Northern Ireland
Assembly**

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

25 September 2009

Committee for Agriculture and Rural Development	S.R. 2009 No. 316
Committee for Employment and Learning	S.R. 2009 No. 317
Committee for Enterprise, Trade and Investment	S.R. 2009 No. 315
Committee for the Environment	S.R. 2009 No. 302
Committee for Health, Social Services and Public Safety	S.R. 2009 Nos. 258, 320
Committee for Social Development	S.R. 2009 No. 318

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 rule to which attention is drawn in this report

THE FOOD IRRADIATION REGULATIONS (NORTHERN IRELAND) 2009 (S.R. 2009/258)

3. **I draw the attention of the Committee for Health, Social Services and Public Safety and the Assembly to the Food Irradiation Regulations (Northern Ireland) 2009 (S.R. 2009/258) on the ground that they contain similar drafting defects to those identified in the corresponding regulations for Scotland (contained in S.S.I. 2009/262) by the Subordinate Legislation Committee of the Scottish Parliament in its 39th Report, 2009 (Session 3), 11 September 2009.** The points essentially relate to the absence of references to batch numbers in the requirements set out in regulations 5(2)(b) and (3)(a), 6(1)(b)(i) and (ii) and Schedule 2 in respect of irradiated food as envisaged by articles 8 and 9 of Directive 1999/2/EC. The Scottish Government has acknowledged the points and intends to bring forward correcting amendments as soon as possible.
4. Similar points apply to the Regulations for Northern Ireland (and probably also to those for England and for Wales, it seems). In light of the position in Scotland, the

Food Standards Agency in Northern Ireland has confirmed to me that it intends to bring forward similar amendments for Northern Ireland.

W G Nabney
Examiner of Statutory Rules
25 September 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 Work and Families (Increase of Maximum Amount) Order (Northern Ireland) 2009 (S.R. 2009/317)

Statutory rules subject to negative resolution

The Food Irradiation Regulations (Northern Ireland) 2009 (S.R. 2009/258)

The Motor Vehicles (Exchangeable Licences) Order (Northern Ireland) 2009 (S.R. 2009/302)

The European Economic Interest Grouping (Fees) (Revocation) Regulations (Northern Ireland) 2009 (S.R. 2009/315)

The Common Agricultural Policy Single Payment and Support Schemes (Cross-Compliance) (Amendment) Regulations (Northern Ireland) 2009 (S.R. 2009/316)

The Social Security (Miscellaneous Amendments No. 3) Regulations (Northern Ireland) 2009 (S.R. 2009/318)

Pharmaceutical Services (Amendment) Regulations (Northern Ireland) 2009 (S.R. 2009/320)

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