



**Northern Ireland
Assembly**

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

9 October 2009

Committee for Agriculture and Rural Development	S.R. 2009 Nos. 321, 323, 326
Committee for the Environment	S.R. 2009 No. 336
Committee for Health, Social Services and Public Safety	S.R. 2009 No. 329
Committee for Regional Development	S.R. 2009 No. 330
Committee for Social Development	S.R. 2009 Nos. 245, 325, 327, 328

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

REGISTERED RENTS (INCREASE) ORDER (NORTHERN IRELAND) 2009
(S.R. 2009/325)

3. **I draw the attention of the Committee for Social Development and the Assembly to the Registered Rents (Increase) Order (Northern Ireland) 2009 (S.R. 2009/325) on the ground that it was (erroneously) laid as being subject to negative resolution, whereas it seems that it is not subject to any Assembly proceedings:** the Order is made under Article 55(5) of the Private Tenancies (Northern Ireland) Order 2006, made during the suspension of the Assembly when primary legislation for Northern Ireland did not come under close scrutiny by a legislature; that provision of the 2006 Order essentially re-enacts what was in Article 33(2) of the Rent (Northern Ireland) 1978 (which, in turn, possibly re-enacted an even earlier provision, although I have not traced the provision further back). I understand that the Department for Social Development is considering an amendment of the primary legislation (and I mention there may be a suitable legislative vehicle readily to hand, namely, the Housing (Amendment) Bill, currently before the Assembly) to ensure that future such orders for the increase of certain rents in respect of statutory and protected tenancies are subject to negative resolution.

THE MOTOR VEHICLES (CONSTRUCTION AND USE) REGULATIONS
(NORTHERN IRELAND) 2009 (S.R. 2009/336)

4. **I draw the attention of the Committee for the Environment and the Assembly to the Motor Vehicles (Construction and Use) Regulations (Northern Ireland) 2009 (S.R. 2009/336) on ground that they are defectively drafted in one fairly minor respect, acknowledged by the Department of the Environment – a wrongly numbered cross-reference.** The Regulations closely follow the drafting of similar provisions for Great Britain contained in S.I. 2009/142, and the (internal) cross-references of most of the provisions inserted in the principal Regulations by regulations 2(4) to (5) are the same for both Great Britain and Northern Ireland. But in regulation 2(5)/new regulation 38(9) of the principal Regulations (provision expressly disapplying certain general exemptions in the principal Regulations), the Department has overlooked the fact that the numbering of the general exemption provision (regulation 3(2)) in the principal Regulations is different from the that of the corresponding provision for Great Britain – regulation 4(2). The Department has indicated to me that it intends to correct the cross-reference before the end of this year, when there will be a suitable opportunity to do so, and that seems satisfactory.

W G Nabney
Examiner of Statutory Rules
9 October 2009

APPENDIX

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

Statutory rules subject to negative resolution

The Pension Protection Fund (Entry Rules) (Amendment) Regulations (Northern Ireland) 2009 (S.R. 2009/245)

Agriculture (Student Fees) (Amendment) Regulations (Northern Ireland) 2009 (S.R. 2009/321)

The Products of Animal Origin (Third Country Imports) (Amendment No 2) Regulations (Northern Ireland) 2009 (S.R. 2009/323)

The Zoonoses and Animal By-Products (Fees) (Amendment) Regulations (Northern Ireland) 2009 (S.R. 2009/326)

The Social Security (Incapacity Benefit Work-focused Interviews) (Amendment) Regulations (Northern Ireland) 2009 (S.R. 2009/327)

The Housing Benefit (Executive Determinations) (Amendment) Regulations (Northern Ireland) 2009 (S.R. 2009/328)

The Travelling Expenses and Remission of Charges (Amendment No 3) Regulations (Northern Ireland) 2009 (S.R. 2009/329)

The Rathgael Road, Bangor (Abandonment) Order (Northern Ireland) 2009 (S.R. 2009/330)

The Motor Vehicles (Construction and Use) (Amendment) Regulations (Northern Ireland) 2009 (S.R. 2009/336)

Statutory rule not required be laid and not subject to any Assembly proceedings

Registered Rents (Increase) Order (Northern Ireland) 2009 (S.R. 2009/325)

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