



**Northern Ireland
Assembly**

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

29 January 2010

Committee for Agriculture and Rural Development	S.R. 2010 No. 7
Committee for the Environment	S.R. 2010 No. 5
Committee for Finance and Personnel	S.R. 2010 Nos. 1, 3, 4
Committee for Health, Social Services and Public Safety	S.R. 2009 Nos. 415, 416, 417, 427
Committee for Social Development	S.R. 2010 Nos. 6, 8

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 SEED POTATOES (AMENDMENT) REGULATIONS (NORTHERN IRELAND) 2010 (S.R. 2010/7)

3. **I draw the attention of the Committee for Agriculture and Rural Development and the Assembly to the Seed Potatoes (Amendment) Regulations (Northern Ireland) 2010 (S.R. 2010/7) on the ground that they were laid in breach of the 21-day rule, explained in advance by the Department of Agriculture and Rural Development to the Committee and to me. The Regulations were made, and came into operation, on 20 January 2010; they were laid on 21 January 2010.** The Department had originally intended to consolidate the Seed Potatoes Regulations, including this amendment required to implement Commission Directive 2008/62/EC, by 30 June 2010. But there was an immediate threat of infraction proceedings and a requirement to implement the Directive by 31 January 2010. In those circumstances the explanation for the breach seems reasonable, although **it would have been better**

to have made the Regulations with a commencement date of, say, 28 January 2010 so as to ensure that they were laid before they came into operation.

W G Nabney
Examiner of Statutory Rules
29 January 2010

APPENDIX

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

Statutory rule subject to affirmative resolution

Rates (Regional Rates) Order (Northern Ireland) 2009 (S.R. 2010/3)

Statutory rules subject to negative resolution

The Food Enzymes Regulations (Northern Ireland) 2009 (S.R. 2009/415)

The Food Additives Regulations (Northern Ireland) 2009 (S.R. 2009/416)

The Food (Jelly Mini-Cups) (Emergency Control) Regulations (Northern Ireland) 2009 (S.R. 2009/417)

The Official Feed and Food Controls Regulations (Northern Ireland) 2009 (S.R. 2009/427)

The Building (Amendment) Regulations (Northern Ireland) 2010 (S.R. 2009/1)

Rates (Small Business Hereditament Relief) Regulations (Northern Ireland) 2010 (S.R. 2010/4)

The Dangerous Wild Animals (Northern Ireland) Order 2004 (Modification) Order (Northern Ireland) 2009 (S.R. 2010/5)

The Social Security (Miscellaneous Amendments) Regulations (Northern Ireland) 2010 (S.R. 2009/6)

The Seed Potatoes (Amendment) Regulations (Northern Ireland) 2010 (S.R. 2010/7)

The Housing Benefit (War Pension Disregards Amendment) Regulations (Northern Ireland) 2010 (S.R. 2009/8)

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