

**Examiner of Statutory Rules**

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

**25 February 2011  
NIA 51/10/11R**

Committee for Agriculture and Rural Development	S.R. 2011 Nos. 25, 27
Committee for Employment and Learning	S.R. 2011 No. 30
Committee for Enterprise, Trade and Investment	S.R. 2011 No. 31, 40
Committee for the Environment	S.R. 2011 Nos. 23, 24
Committee for Finance and Personnel	S.R. 2011 No. 36, 42 and 43
Committee for Health, Social Services and Public Safety	S.R. 2011 Nos. 28, 29
Committee for the Office of the First Minister and deputy First Minister	S.R. 2011 No. 44
Committee for Regional Development	S.R. 2011 Nos. 32, 33, 34, 37
Committee for Social Development	S.R. 2011 No. 26



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 and 22 April 2010, 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

Electricity (Guarantees of Origin of Electricity Produced from Renewable Energy Sources) (Amendment) Regulations (Northern Ireland) 2011 (S.R. 2011/31)

3. **I draw the attention of the Committee for Enterprise, Trade and Investment and the Assembly to the Electricity (Guarantees of Origin of Electricity Produced from Renewable Energy Sources) (Amendment) Regulations (Northern Ireland) 2011 (S.R. 2011/31) on the ground that they were laid in breach of the 21-day rule (and that they came into operation before they were laid):** they were made on 26 January 2011; they came into operation on the same day; and they were laid on 15 February. They merely correct an error in earlier amending Regulations (S.R. 2010/374) (spotted by the Department immediately after their making) and it was of course appropriate that they were in place as soon as possible. All I will say is that it might well have been better if the Department of Enterprise, Trade and Investment had laid them somewhat sooner after their making: no doubt the Department waited for the printed copies to become available before laying the Regulations; but the Department could of course have laid the Regulations in typescript almost immediately after their making.

**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)*

### **Statutory rule subject to affirmative resolution**

Categories of Tourist Establishment Order (Northern Ireland) 2011 (S.R. 2011/40)

The Departments (Transfer of Functions) Order (Northern Ireland) 2011 (S.R. 2011/44)

### **Statutory rule requiring the approval of the Assembly (confirmatory procedure)**

The Fishing Boats (Electronic Transmission of Fishing Activities Data) Scheme (Northern Ireland) 2011 (S.R. 2011/25)

### **Statutory rules subject to negative resolution**

The Motor Vehicles (Electronic Communication of Certificates of Insurance) Order (Northern Ireland) 2011 (S.R. 2011/23)

The Motor Vehicles (Third-Party Risks) (Amendment) Regulations (Northern Ireland) 2011 (S.R. 2011/24)

The Social Security (Work-focused Interviews etc.) (Equalisation of State Pension Age) (Amendment) Regulations (Northern Ireland) 2011 (S.R. 2011/26)

The Animals and Animal Products (Import and Export) (Amendment) Regulations (Northern Ireland) 2011 (S.R. 2011/27)

The Plastic Materials and Articles in Contact with Food (Amendment) Regulations (Northern Ireland) 2011 (S.R. 2011/28)

The Food (Jelly Mini-Cups) (Emergency Control) (Revocation) Regulations (Northern Ireland) 2011 (S.R. 2011/29)

### **Electricity (Guarantees of Origin of Electricity Produced from Renewable Energy Sources) (Amendment) Regulations (Northern Ireland) 2011 (S.R. 2011/31)**

The Tullyrain Road (Route A26), Banbridge (Abandonment) Order (Northern Ireland) 2011 (S.R. 2011/32)

The Back Street at Carrickhill and Library Street, Belfast (Abandonment) Order (Northern Ireland) 2011 (S.R. 2011/33)

The Candahar Street, Belfast (Abandonment) Order (Northern Ireland) 2011 (S.R. 2011/34)

Rates (Unoccupied Hereditaments) Regulations (Northern Ireland) 2011 (S.R. 2011/36)

The Bramblewood Grove, Banbridge (Footway) (Abandonment) Order (Northern Ireland) 2011 (S.R. 2011/37)

Rates (Completion Notices) (Financial Adjustments) Regulations (Northern Ireland) 2011 (S.R. 2011/42)

Rate Relief (Amendment) Regulations (Northern Ireland) 2011 (S.R. 2011/43)

### **Statutory Rule subject to laying but not subject to Assembly proceedings**

Employment Rights (Increase of Limits) Order (Northern Ireland) 2011 (S.R. 2011/30)





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