

Examiner of Statutory Rules

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

**11 March 2011
NIA 58/10/11R**

Committee for Agriculture and Rural Development	S.R. 2011 Nos. 35, 38, 46, 48, 63, 71
Committee for Employment and Learning	S.R. 2011 No. 70
Committee for Enterprise, Trade and Investment	Draft S.R.: The Renewables Obligation (Amendment) Order (Northern Ireland) 2011
Committee for the Environment	Draft S.R.s: The Marine Licensing (Civil Sanctions) Order (Northern Ireland) 2011, the Marine Licensing (Appeals) Regulations (Northern Ireland) 2011 S.R. 2011 No. 49
Committee for Finance and Personnel	S.R. 2011 Nos. 57, 72, 73
Committee for Health, Social Services and Public Safety	S.R. 2011 Nos. 39, 41, 45, 47, 48, 53, 55
Committee for Justice	S.R. 2011 Nos. 50, 58, 59, 60, 61, 62, 64, 65
Committee for the Office of the First Minister and deputy First Minister	S.R. 2011 No. 56
Committee for Regional Development	S.R. 2011 No. 69
Committee for Social Development	S.R. 2011 Nos. 51, 52, 54, 66, 67, 68

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

The City of Derry Airport (Control Over Land) Order (Northern Ireland) 2011
(S.R. 2011/69)

3. **I draw the attention of the Committee for Regional Development and the Assembly to the City of Derry Airport (Control Over Land) Order (Northern Ireland) 2011 (S.R. 2011/69) on the ground that it is defectively drafted in one respect, acknowledged by the Department for Regional Development.** The point is simply that Article 2 contains a definition of “the map” (showing the area of land subject to control under the Order) as being attached to the Order. This definition is extraneous, and indeed it contradicts what is in Article 3(4) to the effect that the map is deposited at the Department’s headquarters office in Belfast. Given the nature of the error (which in no way affects the working or workability of the Order), and given its nature, it seems appropriate to leave the Order as it is without any further corrective amendment. The Department intends to address this point in respect of any future Order of this nature.

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 rule requiring the approval of the Assembly

Draft S.R.: The Renewables Obligation (Amendment) Order (Northern Ireland) 2011

Draft S.R.: The Marine Licensing (Civil Sanctions) Order (Northern Ireland) 2011

Draft S.R.: The Marine Licensing (Appeals) Regulations (Northern Ireland) 2011

Statutory rule subject to affirmative resolution

The Departments (Transfer of Functions) (No. 2) Order (Northern Ireland) 2011 (S.R. 2011/56)

The Rates (Housing Executive) Order (Northern Ireland) 2011 (S.R. 2011/57)

The Pneumoconiosis, etc., (Workers' Compensation) (Payment of Claims) (Amendment) Regulations (Northern Ireland) (S.R. 2011/67)

The Rates (Regional Rates) Order (Northern Ireland) 2011 (S.R. 2011/72)

The Rates (Industrial Hereditaments) (Specified Percentage) Order (Northern Ireland) 2011 (S.R. 2011/73)

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

The Mesothelioma Lump Sum Payments (Conditions and Amounts) (Amendment) Regulations (Northern Ireland) (S.R. 2011/68)

Statutory rules subject to negative resolution

The Strangford Lough (Sea Fishing Exclusion Zones) Regulations (Northern Ireland) 2011 (S.R. 2011/35)

The Vegetable Seeds (Amendment) Regulations (Northern Ireland) 2011 (S.R. 2011/38)

The Food Additives (Amendment) Regulations (Northern Ireland) 2011 (S.R. 2011/39)

The Healthy Start Scheme and Day Care Food Scheme (Amendment) Regulations (Northern Ireland) 2011 (S.R. 2011/41)

The Food Labelling (Declaration of Allergens) Regulations (Northern Ireland) 2011 (S.R. 2011/45)

The Reporting of Milk Prices (Amendment) Regulations (Northern Ireland) 2011 (S.R. 2011/46)

The Fruit Juices and Nectars (Amendment) Regulations (Northern Ireland) 2011 (S.R. 2011/47)

The Official Feed and Food Controls (Amendment) Regulations (Northern Ireland) 2011 (S.R. 2011/48)

The Road Vehicles Lighting Regulations Controls (Amendment) Regulations (Northern Ireland) 2011 (S.R. 2011/49)

Police Service of Northern Ireland and Police Service of Northern Ireland Reserve (Full-Time) (Amendment) Regulations (Northern Ireland) 2011 (S.R. 2011/50)

The Housing Benefit (Amendment) Regulations (Northern Ireland) 2011 (S.R. 2011/51)

The Social Security Pensions (Low Earnings Threshold) Order (Northern Ireland) 2011 (S.R. 2011/52)

The Natural Mineral Water, Spring Water and Bottled Drinking Water (Amendment) Regulations (Northern Ireland) 2011 (S.R. 2011/53)

The Introductory Tenancies (Disposal of Houses) Order (Northern Ireland) 2011 (S.R. 2011/54)

The Misuse of Drugs (Licence Fees) Regulations (Northern Ireland) 2011 (S.R. 2011/55)

The Rules of the Court of Judicature (Northern Ireland) (Amendment) 2011 (S.R. 2011/62)

The Seed Potatoes (Crop Fees) Regulations (Northern Ireland) 2011 (S.R. 2011/63)

The Family Proceedings (Amendment) Rules (S.R. 2011/64)

The County Courts (Financial Limits) Order (Northern Ireland) 2011 (S.R. 2011/65)

The Social Security Revaluation of Earnings Factors Order (Northern Ireland) 2011 (S.R. 2011/66)

The City of Derry Airport (Control Over Land) Order (Northern Ireland) 2011 (S.R. 2011/69)

The Student Fees (Qualifying Courses and Persons) (Amendment) Regulations (Northern Ireland) 2011 (S.R. 2011/70)

The Zoonoses (Fees) Regulations (Northern Ireland) 2011 (S.R. 2011/71)

Statutory rules not subject to laying and not subject to Assembly proceedings

The County Court (Amendment) Rules (Northern Ireland) 2011 (S.R. 2011/58)

The Magistrates' Courts (Amendment) Rules (Northern Ireland) 2011 (S.R. 2011/59)

The Magistrates' Courts (Criminal Justice (Children)) (Amendment) Rules (Northern Ireland) 2011 (S.R. 2011/60)

The Magistrates' Courts (Children (Northern Ireland) Order 1995) (Amendment) Rules (Northern Ireland) 2011 (S.R. 2011/61)



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