



Northern Ireland
Assembly

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

Fifth Report of Session 2016-2017

NIA 9/16 - 21

7 October 2016

Committee for Communities	S.R. 2016/329: The Local Government Pension Scheme (Nursery Assistants) (Amendment) Regulations (Northern Ireland) 2016 S.R. 2016/333: The Domestic Energy Efficiency Grants (Amendment) Regulations (Northern Ireland) 2016 S.R. 2016/353: The Pensions (2015 Act) (Consequential Amendments) Order (Northern Ireland) 2016
Committee for Finance	S.R. 2016/339: The Superannuation (Northern Ireland Public Services Ombudsman) Order (Northern Ireland) 2016 S.R. 2016/340: The Public Service Pensions (Northern Ireland Public Services Ombudsman) Regulations (Northern Ireland) 2016

	S.R. 2016/359: The Rates (Increased Reduction for Recreational Hereditaments) Regulations (Northern Ireland) 2016
Committee for Health	<p>S.R. 2016/334: The General Dental Services (Amendment) Regulations (Northern Ireland) 2016</p> <p>S.R. 2016/335: The Optical Charges and Payments (Amendment) Regulations (Northern Ireland) 2016</p> <p>S.R. 2016/345: The Food Hygiene (Amendment) Regulations (Northern Ireland) 2016</p>
Committee for Infrastructure	<p>S.R. 2016/343: The Passenger and Goods Vehicles (Tachographs) (Amendment) Regulations (Northern Ireland) 2016</p> <p>S.R. 2016/344: The Public Service Vehicles (Amendment) Regulations (Northern Ireland) 2016</p>
Committee for Justice	<p>S.R. 2016/336: The Civil Legal Services (Remuneration) (Amendment) Order (Northern Ireland) 2016</p> <p>S.R. 2016/337: The Civil Legal Services (General) (Amendment) Regulations (Northern Ireland) 2016</p> <p>S.R. 2016/338: The Civil Legal Services (Financial) (Amendment) Regulations (Northern Ireland) 2016</p>

1. Remit of the Examiner of Statutory Rules

1.1 Standing Order 43 provides that every statutory rule or draft statutory rule which is laid before the Assembly and is subject to Assembly proceedings shall stand referred to the appropriate Committee of the Assembly for scrutiny. The Standing Orders of the Assembly are published on the Northern Ireland Assembly [website](#).

1.2 To assist Committees of the Assembly in the scrutiny of such rules under Standing Order 43, the Examiner of Statutory Rules (the Examiner) shall carry out those functions delegated to the Examiner in relation to technical scrutiny.

1.3 The terms of reference of the Examiner, under delegation from the appropriate Committee, are as set out in Standing Order 43(6) as follows:

“In scrutinising an instrument the appropriate committee shall among other things 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 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.”

2. In accordance with Standing Orders, in this report I draw the attention of the appropriate Committees and the Assembly to the following Rules.

3. **S.R. 2016/333 – Reported for breach of the 21 day rule**

**The Domestic Energy Efficiency Grants (Amendment) Regulations
(Northern Ireland) 2016**

- 3.1 I draw the attention of the Committee for Communities and the Assembly to the S.R. 2016/333, The Domestic Energy Efficiency Grants (Amendment) Regulations (Northern Ireland) 2016 (the Regulations), on the ground that they were laid in breach of the 21 day rule. The 21 day rule is the established rule of practice whereby a Department or other rule-making body should, in the case of a statutory rule that is subject to negative resolution, allow at least 21 days between its laying and its coming into operation. The Regulations, which are subject to negative resolution, were made on 16 September 2016, laid on 19 September 2016, and come into operation on 7 October 2016.
- 3.2 The Department has apologised and expressed regret at the breach due to its error in laying the Regulations on Monday 19 September 2016 instead of Friday 16 September 2016 which, the Department has confirmed, has been noted for the future.
- 3.4 I am content that the Department has provided a satisfactory explanation for the breach in this instance.

Angela Kelly

Examiner of Statutory Rules

7 October 2016

Appendix:

The attention of the appropriate Committees and the Assembly is drawn to those statutory rules which are set out in bold.

STATUTORY RULES SUBJECT TO NEGATIVE RESOLUTION

S.R. 2016/329: The Local Government Pension Scheme (Nursery Assistants) (Amendment) Regulations (Northern Ireland) 2016

S.R. 2016/333: The Domestic Energy Efficiency Grants (Amendment) Regulations (Northern Ireland) 2016

S.R. 2016/334: The General Dental Services (Amendment) Regulations (Northern Ireland) 2016

S.R. 2016/335: The Optical Charges and Payments (Amendment) Regulations (Northern Ireland) 2016

S.R. 2016/336: The Civil Legal Services (Remuneration) (Amendment) Order (Northern Ireland) 2016

S.R. 2016/337: The Civil Legal Services (General) (Amendment) Regulations (Northern Ireland) 2016

S.R. 2016/338: The Civil Legal Services (Financial) (Amendment) Regulations (Northern Ireland) 2016

S.R. 2016/339: The Superannuation (Northern Ireland Public Services Ombudsman) Order (Northern Ireland) 2016

S.R. 2016/340: The Public Service Pensions (Northern Ireland Public Services Ombudsman) Regulations (Northern Ireland) 2016

S.R. 2016/343: The Passenger and Goods Vehicles (Tachographs) (Amendment) Regulations (Northern Ireland) 2016

S.R. 2016/344: The Public Service Vehicles (Amendment) Regulations (Northern Ireland) 2016

S.R. 2016/345: The Food Hygiene (Amendment) Regulations (Northern Ireland) 2016

STATUTORY RULES SUBJECT TO AFFIRMATIVE RESOLUTION

S.R. 2016/359: The Rates (Increased Reduction for Recreational Hereditaments) Regulations (Northern Ireland) 2016

**STATUTORY RULES REQUIRING THE APPROVAL OF THE ASSEMBLY
(CONFIRMATORY PROCEDURE)**

S.R. 2016/353: The Pensions (2015 Act) (Consequential Amendments) Order (Northern Ireland) 2016



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