

EXECUTIVE NOTE

THE CENSUS (SCOTLAND) ORDER 2010 SSI 2010/187

Powers under which the Order would be made

1. The above instrument would be made under section 1(1) of the Census Act 1920, read with the Statutory Instruments Act 1946 and the Scotland Act 1998 (Transitory and Transitional Provisions) (Statutory Instruments) Order 1999. These powers allow Her Majesty by Order in Council to direct that a census shall be taken.

Parliamentary procedure to which the Order is subject

2. Most of the draft Order is subject to negative resolution procedure. However, it is subject to affirmative resolution procedure to the extent that it permits the census to collect information on matters which fall within paragraph 6 of the Schedule to the 1920 Act (“any other matters with respect to which it is desirable to obtain statistical information with a view to ascertaining the social or civil condition of the population”). The particulars printed in italics in Schedules 2 and 3 to the draft Order are those which are subject to affirmative resolution. Section 1(2) of the 1920 Act also contains provision allowing for those parts of the draft Order subject to affirmative resolution to be modified with the agreement of the Parliament.

3. A technical note on the powers and parliamentary procedure for the Order is set out in the Annex.

Policy Objectives

Purpose of the Order

4. The Order is to direct that a census of the population shall be taken in Scotland and to specify:-

- the date on which the census is to be taken;
- the persons by whom, and with respect to whom, the returns are to be made;
- and
- the particulars to be stated in the returns.

5. The census is the decennial survey of all people and households. Since 1801, a census has been held throughout the United Kingdom every 10 years, except in 1941. It provides essential information from national to neighbourhood level for government, business and the community. It is the most complete source of information about the population. As the only survey which provides a detailed picture of the entire population, it is unique because it covers everyone at the same time and asks the same core questions of everyone. This makes it possible to compare different parts of the country and identify small areas, and small groups of the population, with distinct characteristics. The information provided by the census allows central and local government, the health service and many other organisations to target their resources more effectively and plan housing, education, health and transport services for years to come.

6. It is essential that every effort is made to include everyone in the census. So participation in the census is a legal obligation. Those who are obliged to complete census forms have a right to expect that the information they provide will be held securely and used carefully. As in previous censuses, personal information will be kept confidential for 100 years and used only to produce anonymised statistics.

7. The Registrar General for Scotland is responsible for taking the census. Careful attention is paid to ensuring that relevant information is comparable with the censuses in England & Wales and in Northern Ireland, which are carried out by the Office for National Statistics and the Northern Ireland Statistics and Research Agency respectively.

8. The plans for the 2011 census were set out in a Government Statement laid before the Scottish Parliament in December 2008, which is available at:-

<http://www.gro-scotland.gov.uk/files2/the-census/e0043545-scotlands-census-2011/e0043545-scotlands-census-2011.pdf>

Date on which Census is to be taken

9. The Order specifies that Census Day will be 27 March 2011. This is the earliest date since the first national census in 1801. The date is chosen to avoid the collection of questionnaires (which continues for several weeks after Census Day) during the Easter holidays or during the period before the Scottish Parliament election. A date later in the year would not be feasible, because many households would be on holiday.

10. The same date is proposed for the censuses in the rest of the UK.

Persons by whom, and with respect to whom, returns are to be made

11. Traditionally, censuses counted the people actually present at each address on census night. In 2001, the count was of people who are “usually resident”, which is regarded as a more useful measure. The Order specifies that the census should cover everyone who is usually resident in Scotland (plus, as in 2001, full-time students who study furth of Scotland but have a home address in Scotland). As in censuses before 2001, the Order also authorises the collection of basic information (name, sex, date of birth and usual address) about visitors present on census night. This is designed to tackle a problem noted in the 2001 Census, which missed some people away from home on census night but not counted as “usual residents” at their home address.

12. Most people live in households, and the Order specifies that the householder is responsible for completing the census questionnaire – with appropriate arrangements for cases where there is no householder. The Order also nominates a responsible person to make a census return covering people who do not live in households. That covers, for example, hotels, nursing homes, university residences, prisons, barracks and vessels at Scottish ports. Provision is also made for people who are away from home for more than 6 months, people who are incapable of making a return and people who wish confidentially to complete an individual return.

Particulars to be stated in returns

13. Schedule 2 to the Order specifies the information which the census may collect. It includes traditional demographic information such as name, sex, date of birth and marital status (and civil partnership status to reflect the Civil Partnership Act 2004). It also includes questions about migration, travel to work and study, health and care, ethnicity, language, religion, qualifications and employment. New questions are proposed compared to 2001: month and year of arrival in the UK (to provide more information about migration), long-term health conditions (to provide more information about service needs), national identity (to improve responses to the question about ethnicity) and language (3 questions, instead of one in 2001, to gather more information about fluency in English and the use of Scots and British Sign Language). Other questions have been adjusted since 2001 to reflect changing circumstances, including the question about ethnicity. Questions asked in 2001 have however been omitted: religion of upbringing and size of organisation in which people work. Up to 35 questions about each person are included in Schedule 2 to the Order, which is three more than in 2001.

14. Questions are also asked about the characteristics of each household, and its accommodation – and, for the first time, estimated household income (to help to identify areas of deprivation and support decisions about services to the poorest members of society, which is not available from any other source and which is sought by many users of census statistics). Again, questions asked in 2001 have been omitted: availability of bath/shower and toilet, lowest floor level and whether or not rented accommodation is furnished.

Impact Assessment

15. The requirements in the Order are fully compliant with the European Convention on Human Rights, the Human Rights Act 1998 and the Scotland Act 1998 with respect to the individual's right to privacy. Censuses are universal across the civilised world (except in countries which derive the same information from a compulsory national register). Since the last census, a European Parliament and Council Regulation¹ has been passed requiring Member States to collect census-type statistical information relating to 2011.

16. Care has been taken to ensure that the census questions are, so far as possible, worded in a way which makes it easy for people to understand and complete. The questionnaire itself (which will be the subject of separate approval by the Scottish Parliament later in 2010) has been designed to meet the needs of people who have difficulty seeing and a range of help will be available, such as enumerator assistance on the doorstep, a telephone helpline, large print questionnaires – and, for the first time in a Scottish census, internet completion of the questionnaire. Language support leaflets will be available in Gaelic and the main minority ethnic languages and a Gaelic version of the questionnaire will be available on the internet.

16. The census questions are likely to take about 10 minutes per person to answer, plus a further 10 minutes per household. The managers of communal dwellings such as hotels, nursing homes, university residences, prisons and barracks will be required to provide the details listed in Schedule 3 to the draft Order and the time taken will depend on the size of the

¹ European Union (2008). *Regulation of the European Parliament and Council on Population and Housing Censuses*. Regulation (EC) No. 763/2008 of 9 July 2008.

establishment and the way that its records are kept. Bearing in mind the importance of the census information, and the fact that the census takes place decennially, that is judged a proportionate burden.

Consultation

17. Consultation has played an important part in the design and content of the census, identifying the demands and requirements of users of census statistics, drawing on the advice of international census agencies and establishing the views of community groups and members of the public.

18. Formal consultation documents on the entire census process were published in Autumn 2004 and in Spring 2007. On the narrower subject of questionnaire content, there was a web-based consultation in 2005, followed by a series of informal consultation meetings with particular interest groups. Special attention was given to the topic of ethnicity, involving extensive consultation, formal and informal, over several years with minority ethnic groups and community leaders as well as with the public and data users. Consultation has included groups which can ensure that the census is accessible to the whole community – such as the Royal National Institute for the Blind, minority ethnic groups and representatives of gypsy travellers. Further consultation, on the way in which the census results will be made publicly available, is about to start.

Financial Effects

19. The Government Statement (see paragraph 7 above) estimated the total direct cost (including staff costs) of the 2011 Census in Scotland to be £65 million. The breakdown provided was:

2005-06	£1,267k
2006-07	£1,688k
2007-08	£2,120k
2008-09	£7,927k
2009-10	£6,553k
2010-11	£20,062k
2011-13	£25,533k
TOTAL	£65,170k

20. A budget of £39.6 million has been allocated to fund the census up to census day. Provision for later years will be subject to future spending reviews.

21. Preparations for the 2011 census were informed by a business case which demonstrated the unique value of the census and the fact that the benefits of having the information greatly outweigh the costs of its collection and processing. Government, local authorities, the health service, the education and academic community, commercial businesses, professional organisations and the public at large all need reliable information on the number and characteristics of people in households if they are to conduct many of their activities effectively. Taking the cost of a census into consideration, this need is currently best met by conducting a census every 10 years, covering the whole of the population, and by updating the population estimates each year with a preceding census as the benchmark. Census information is especially important where it is a unique source (and where the ability

to cross-reference different characteristics of the same person or household is crucial), or where it is the only source of information about individual small areas and sub-groups of the population.

22. The government, in particular, needs this kind of information to inform policy, to plan services for specific groups of people and to distribute resources effectively to the local authorities and NHS Boards in a way which matches needs. The information must be authoritative, accurate and comparable for all parts of Scotland. Currently, only a census can provide the such information on a uniform basis.

23. Basic information on the population size, age, sex and location is fundamental to the work of government, especially concerning:-

- Ageing and pensions;
- Migration, both into and out of the country, and internally;
- Economic growth (and thus government revenues); and
- Labour supply

24. Information on housing, households size and family make-up is fundamental to government policies on:-

- Local housing demand and planning; and
- Inadequate accommodation and overcrowding

while other information collected by the census enables government to:-

- Understand pressures on transport systems and the planning of roads and public transport, using information collected on travel to and from work or study and on car ownership;
- Identify areas of deprivation so that effort can be targeted on improving their circumstances;
- Link information on ethnicity, qualifications and labour market status – for instance to identify the cause of deprivation and appropriate ways of tackling it; and
- Show how many people work in different occupations and industries throughout the country, helping government and businesses to plan jobs and training policies and to make informed investment decisions.

25. The census is used (for instance as a denominator) for many social and economic indicators such as:-

- Estimates of the population;
- Employment and unemployment rates;
- Birth, death, mortality and fertility rates;
- Equalities monitoring – in particular by providing information on age, sex, ethnicity, religion and disability in order to identify the extent and nature of disadvantage and to measure the success of equal opportunities policies; and
- Grossing-up sample survey data (including socio-economic surveys carried out by government and the private sector), without which the surveys would be less reliable or would need to be larger and more costly.

26. Census benchmarks underpin democratic engagement. For example, the Boundary Commission for Scotland takes account of population change to reshape the boundaries of Holyrood and Westminster constituencies.

27. The Scottish Government needs an effective means of allocating and targeting resources, particularly to local authorities and NHS Boards. If no census had been carried out in 2001, and population estimates had been extrapolated from the 1991 figures, it is estimated that mis-allocations between NHS Boards over the 10 year period to 2011 would have been between £21 million and £31 million a year – with some Boards receiving more, and others less, than their appropriate share. Although the misallocated money would not have been wasted, it would have been spent sub-optimally and the cumulative effect of this would have been very significant. It is reasonable to assume that the position for local authorities would be similar.

28. The census drives targeting of local services such as:-

- Health services, for which census questions on illness are good predictors of demand;
- Education, for which the census is useful in the siting of new schools;
- Transport planning and traffic modelling;
- Development plans to ensure that development happens at the right locations; and
- Community support services, including home help and home care.

29. It is estimated that the value of census data to UK businesses, counted over the 10 year cycle, is in the region of £250 million.

**DRAFT CENSUS (SCOTLAND) ORDER 2010
POWERS AND PARLIAMENTARY PROCEDURE**

1. The enabling power for the Census (Scotland) Order 2010 is contained in section 1(2) of the Census Act 1920 (“the 1920 Act”). That provision must be read with section 6 of the Statutory Instruments Act 1946 (“the 1946 Act”) and the Scotland Act 1998 (Transitory and Transitional Provisions) (Statutory Instruments) Order 1999 (S.I. 1999/1096) (“the 1999 Order”).

2. Section 1(2) of the 1920 Act provides-

“(2) Before any Order in Council is made under this section, a draft thereof shall be laid before each House of Parliament for a period of no less than twenty days on which that House has sat, and, if either House before the expiration of that period presents an address to His Majesty against the draft or any part thereof, no further proceedings shall be taken thereon, but without prejudice to the making of a new draft Order: Provided that, if by part of any such Order it is proposed to prescribe any particulars with respect to any of the matters mentioned in paragraph six of the Schedule to this Act, that part of the Order shall not have effect unless both Houses by resolution approve that part of the draft, or, if any modifications in that part are agreed by both Houses, except as so modified.”.

3. Section 6 of the 1946 Act provides-

“(1) Where by this Act or any Act passed after the commencement of this Act it is provided that a draft of any statutory instrument shall be laid before Parliament, but that Act does not prohibit the making of the instrument without the approval of Parliament, then, in the case of an Order in Council the draft shall not be submitted to His Majesty in Council, and in any other case the statutory instrument shall not be made on which a copy of the draft is laid before each House of Parliament, or, if such copies are laid on different days, with the later of the two days, and if within that period either House resolves that the draft be not submitted to His Majesty or that the statutory instrument be not made, as the case may be, no further proceedings shall be taken thereon, but without prejudice to the laying before Parliament of a new draft.

(2) Where any Act passed before the date of the commencement of this Act contains provisions requiring that a draft of any Order in Council or other document to be made in exercise of any power conferred by that or any other Act shall be laid before Parliament before being submitted to His Majesty, or before being made, as the case may be, and that it shall not be so submitted or made if within a specified period either House presents an address to His Majesty or passes a resolution to that effect, then, subject to the provisions of any Order in Council made under this Act, a draft of any statutory instrument made in exercise of the said power shall by virtue of this Act be laid before Parliament and the provisions of the last foregoing subsection shall apply thereto accordingly in substitution for any such provision as aforesaid contained in the Act passed before the said date.”.

4. The 1999 Order makes transitory and transitional provision in relation to Scottish statutory instruments until such time as an Act of the Scottish Parliament is passed.

Article 3 of the 1999 Order supersedes much of the 1946 Act. Article 3 of the 1999 Order provides *inter alia*:-

“(1)

(2) In relation to a Scottish statutory instrument, the following articles of this Order shall apply (in spite of anything in the 1946 Act) in place of sections 2 to 8 of that Act.

(3) In relation to such an instrument-

- (a) paragraph (2) does not disapply sections 4(3), 5(2) and 6(2) of the 1946 Act, but
- (b) the reference in each of those subsections to the foregoing provisions of the section in question shall be read as a reference to article 10, 11 or 12 (respectively).

(4)

5. Article 3(2) substitutes for section 2 to 8 of the 1946 Act, articles 4 to 15 of the 1999 Order. Article 3(3) provides that section 6(2) of the 1946 Act is not disappplied but is modified to the extent that where there is reference to section 6(1) in section 6(2), that reference is to be read as a reference to article 12 of the 1999 Order. The cumulative effect of those provisions is that section 6(2) of the 1946 Act provides the laying power along with section 1(2) of the Census Act 1920. The procedure for laying is to be found at article 12 of the 1999 Order and not in section 6(1) of the 1946 Act. Article 12 of the 1999 Order provides:-

“(1) Paragraphs (2) to (4) apply where any enactment-

- (a) provides, or has the effect of providing, that a draft of any Scottish statutory instrument is to be laid before the Scottish Parliament, but
- (b) does not prohibit the making of an instrument without the approval of the Scottish Parliament.

(2) The instrument shall not be made (or, in the case of a draft Order in Council, shall not be submitted to Her Majesty in Council) until after the end of the period of 40 days beginning with the day on which the draft is laid before the Scottish Parliament.

(3) No further proceedings shall be taken on the instrument if the Scottish Parliament resolves, within the period of 40 days, that the instrument be not made (or, as the case may be, be not submitted).

(4) Paragraph (3) is without prejudice to the laying of a new draft before the Scottish Parliament.”.

6. The references in section 1(2) of the 1920 Act to Parliament or either House of Parliament are amended to become references to the Scottish Parliament by virtue of paragraph 11 of Schedule 2 to the Scotland Act 1998 (Consequential Modifications) (No. 2) Order 1999 (S.I. 1999/1820) which amends section 9 of the 1920 Act.

General Register Office for Scotland

15 February 2010