

## **EXECUTIVE NOTE**

### **The Census (Scotland) Regulations 2010 SSI 2010/211**

1. The above instrument is made under section 3(1) of the Census Act 1920 ("the 1920 Act") and is subject to negative resolution procedure. The technical note in the Appendix sets out the parliamentary procedure in light of the Statutory Instruments Act 1946 and the Scotland Act 1998 (Transitory and Transitional Provisions) (Statutory Instruments) Order 1999.

#### **Policy Objectives**

2. The Regulations specify the administrative and operational arrangements and procedures under which the Census (Scotland) Order 2010 (SSI 2010/187) is carried into effect. The Census Order was approved by the Scottish Parliament in April 2010 and was made by Her Majesty in Council on 11 May 2010. The Regulations also prescribe (in Schedule 2) the questionnaires that will be used.

3. The census in Scotland is part of a UK wide census-taking exercise on 27 March 2011. Regulation (EC) No. 763/2008 of the European Parliament and Council imposes obligations on the United Kingdom with respect to the provision of statistical outputs based on the Census (or comparable data sources) in the year 2011. The 2011 Census in Scotland will assist the United Kingdom to meet its obligations under the Regulation. The plans for the 2011 Census were set out in a Government Statement laid before the Scottish Parliament in December 2008, available at:

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

#### **Consultation**

4. 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 census agencies in other countries and establishing the views of community groups and members of the public.

5. The operational arrangements and procedures are the result of lessons learned from the 2001 Census and from further work carried out by the General Register Office for Scotland in 2006 and 2009. Evaluation reports for the 2006 Test and 2009 Rehearsal are available on the General Register Office for Scotland website ([www.gro-scotland.gov.uk](http://www.gro-scotland.gov.uk)).

6. Nationwide and local publicity will be arranged to explain the purpose and value of the Census, to encourage householders to return completed questionnaires and to ensure that they know when and how to do so, and to give assurances about confidentiality and data security.

7. In addition to the consultation leading to the arrangements for the Census set out in the Order and Regulations, users are being consulted to identify the information (census output data) they want, and to help the General Register Office for Scotland to prioritise

identified user needs. Results from this consultation will be assessed in the near future. Throughout the planning and specification phases for census output data, the General Register Office for Scotland will continue to actively engage the user community to ensure that we meet as far as possible user requirements for data and that the data is made easily accessible in a range of formats.

8. As with previous censuses, there will be a full evaluation and review of the 2011 Census programme as a whole. This will report on how it was planned, carried out and whether it was successful and will be published on the General Register Office for Scotland website.

### **Impact Assessment**

9. 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 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.

10. 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 details about the dwelling and its occupants and the time taken will depend on the size of the 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.

11. The General Register Office has conducted an Equality Impact Assessment and Privacy Impact Assessment in preparation for the 2011 Census. These assessments will be made available on the GROS website.

12. The requirements in the Regulations 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.

13. The questionnaires will be printed on paper from a sustainable source, though not on recycled paper as it does not provide the quality needed for the scanning and processing of completed questionnaires. All returned questionnaires will eventually be pulped and recycled. The envelopes used to deliver and return questionnaires are made from recycled paper and will also be pulped and recycled after the census.

### **Financial Effects**

14. The Government Statement (see paragraph 3 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
<b>TOTAL</b>	<b>£65,170k</b>

15. 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. Resources of a significantly smaller order will be required for 2012-13 and 2013-14 and will be taken into account in the next Spending Review.

General Register Office for Scotland  
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## **THE CENSUS (SCOTLAND) REGULATIONS 2010 POWERS AND PARLIAMENTARY PROCEDURE**

1. The enabling power for the Census (Scotland) Regulations 2010 is contained in section 3(1) of the Census Act 1920 ("the 1920 Act"). Section 3(2) of the 1920 Act sets out the Parliamentary procedure to which the Regulations are subject. That provision must be read with section 5(2) of the Statutory Instruments Act 1946 ("the 1946 Act") and the Scotland Act 1998 (Transitory and Transitional Provisions) (Statutory Instruments) Order 1999 (SI 1999/1096) ("the 1999 Order").

2. Section 3(2) of the 1920 Act provides-

"(2) Every Regulation made under this section shall be laid before both Houses of Parliament as soon as may be after it is made, and, if an address is presented to His Majesty by either House within the next subsequent twenty days on which that House has sat next after any such regulation is laid before it praying that the regulation may be annulled, His Majesty in Council may annul the Regulation, and it shall thenceforth be void, but without prejudice to the validity of anything done thereunder."

3. Section 5(2) of the 1946 Act provides-

"(2) Where any Act passed before the date of the commencement of this Act contains provisions requiring that any Order in Council or other document made in exercise of any power conferred by that or any other Act shall be laid before Parliament after being made and shall cease to be in force or may be annulled, as the case may be, 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, any statutory instrument made in exercise of the said power shall by virtue of this Act be subject to annulment in pursuance of a resolution of either House of Parliament and the provisions of the last foregoing subsection shall apply thereto accordingly in substitution for any such provisions 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 superseded much of the 1946 Act: Article 3 of the 1999 Order provides *inter alia*:

"(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 articles 10, 11 or 12 (respectively)."

5. Article 3(2) substitutes for sections 2 to 8 of the 1946 Act, Articles 4 to 15 of the 1999 Order respectively. Article 3(3) provides that section 5(2) of the 1946 Act is not disapplied but is modified to the extent that where there is reference to section 5(1) in section 5(2), that reference is to be read as a reference to article 11 of the 1999 Order. The cumulative effect of those provisions is that section 5(2) of the 1946 Act provides the laying power along with section 3(2) of the 1920 Act. The procedure for laying is to be found at article 11 of the 1999 Order and is not in section 5(1) of the 1946 Act.

6. Article 11 of the 1999 Order provides-

"(1) Paragraphs (2) to (5) apply where any enactment provides, or has the effect of providing, that any Scottish statutory instrument is to be subject to annulment in pursuance of a resolution of the Scottish Parliament.

(2) The instrument shall be laid before the Scottish Parliament in accordance with article 10(2) and (3).

(3) If, within the period of 40 days beginning with the date on which a copy of the instrument is laid before it, the Scottish Parliament so resolves, nothing further is to be done under the instrument after the date of the resolution.

(4) Where such a resolution is made with respect to –

(a) an instrument which is an Order in Council or an order made by the Privy Council, Her Majesty may by Order in Council revoke that instrument; and

(b) any other instrument, the Scottish Ministers shall by order made by statutory instrument revoke that instrument.

(5) Any such resolution or revocation is without prejudice to the validity of anything previously done under the instrument or to the making of a new Scottish statutory instrument."

7. The references in section 3(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 ~1 of Schedule 2 to the Scotland Act 1998 (Consequential Modifications) (No.2) Order 1999 (SI 1999/1820) which amends section 9 of the 1920 Act.