

EXECUTIVE NOTE

THE CENSUS (SCOTLAND) AMENDMENT REGULATIONS 2010

SSI 2010 215

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 amend the forms and arrangements prescribed in the Census (Scotland) Regulations 2010 (S.S.I. 2010/211) for the 2011 census in Scotland. The background to the census in Scotland is set out in the Executive Note to those Regulations.

3. These amending Regulations correct an omission in one of the forms to be used (the individual household form) and take the opportunity to make drafting changes to clarify the prescription of forms for the purposes of the Census Regulations taking account of comments made by the Subordinate Legislation Committee. They also make a minor change to regulation 10 to reflect a change in administrative arrangements in issuing reply envelopes.

Consultation

4. The consultation and impact assessment undertaken in the design and content of the census is set out in detail in the Executive Note to the Census (Scotland) Regulations 2010.

Financial Effects

5. The financial effects of the census is set out in the Executive Note to the Census (Scotland) Regulations 2010.

General Register Office for Scotland
2 June 2010

CENSUS (SCOTLAND) AMENDMENT REGULATIONS 2010 POWERS AND PARLIAMENTARY PROCEDURE

1. The enabling power for the Census (Scotland) Amendment 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.