

EXPLANATORY MEMORANDUM

THE CENSUS (ENGLAND AND WALES) ORDER 2009

2009 No. 3210

1. This explanatory memorandum has been prepared by the United Kingdom Statistics Authority (in its capacity as the Statistics Board), and is laid before Parliament by Command of Her Majesty.

This memorandum contains information for the Joint Committee on Statutory Instruments.

2. Purpose of the instrument

- 2.1 The purpose of the Census (England and Wales) Order 2009 is to direct that a Census of the population shall be taken and to state:
 - the date of the Census;
 - the area to be covered by the Census;
 - the persons required to complete the census returns;
 - the persons required to be included in the returns; and
 - the content of the questions to be answered.

3. Matters of special interest to the Joint Committee on Statutory Instruments

- 3.1 The Census (England and Wales) Order 2009 requires the approval of both Houses of Parliament.

- 3.2 The Census Act 1920 sets out some of the topics on which questions can be asked in the Census. As respects these and the remaining contents, the Census (England and Wales) Order 2009 is subject to the negative resolution procedure. The Census Act 1920 lists these as:

- “1 *Names, sex, age.*
- 2 *Occupation, profession, trade or employment.*
- 3 *Nationality, birthplace, race, language.*
- 4 *Place of abode and character of dwelling.*
- 5 *Condition as to marriage, or civil partnership, relation to head of family, issue born in marriage.*
- 5A *Religion.*”

- 3.3 The Census Act 1920 also allows questions on any other subject to be included in the Census, as long as they will provide statistical information relating to the “*social or civil condition of the population.*” In respect of the particulars for these questions, the Census (England and Wales) Order 2009 is subject to the

affirmative resolution procedure and the particulars may be modified by agreement of both Houses of Parliament. For the draft Census (England and Wales) Order 2009 these include questions on:

- second residences;
- student status and term-time address;
- general health and long-term illness/disability;
- usual address one year before the Census if different from that at Census Day;
- intended length of stay in the UK;
- provision of unpaid care;
- educational and vocational qualifications;
- economic activity in the week before the Census;
- means of travel to work;
- number of cars/vans available to the household;
- tenure of accommodation and type of landlord if rented;
- visitor status;
- status of person within a communal establishment; and
- type of communal establishment.

4. Legislative context

- 4.1 Section 1 of the Census Act 1920, enables an Order to direct the taking of a Census for Great Britain or any part of it. In England and Wales, the duty to carry out the Census in section 2 of the 1920 Act (formerly conferred on the Registrar General) was transferred to the Statistics Board by the Statistics and Registration Service Act 2007 (c. 18, Schedule 1, paragraphs 1 and 2). The United Kingdom Statistics Authority holds the statutory powers of the Statistics Board and acts through the Office of National Statistics as its executive office (established under section 32 of the 2007 Act) in carrying out the work of preparing for and undertaking a census.
- 4.2 Section 3 of the Census Act 1920 contains a power for Regulations to be made for the procedure and practical arrangements for the Census, enabling a Census Order to be carried into effect. The power to make the Regulations for England was transferred to the Minister for the Cabinet Office by the Statistics and Registration Service Act 2007, Schedule 1, paragraph 3. It is intended that Regulations for the 2011 Census in England, which are subject to the negative resolution procedure, will be made and laid before both Houses of Parliament, in Spring 2010, after the Census (England and Wales) Order 2009 has been made. Responsibility for the Regulations in Wales now rests with the Welsh Ministers and arrangements are being made for Regulations to be submitted to the Welsh Assembly.
- 4.3 Under article 4 of the National Assembly for Wales (Transfer of Functions) (No.2) Order 2006 (S.I. 2006/ 3334), the Welsh Assembly must be consulted on the making of any Census Order proposed in respect of the whole or any part of Wales before a Minister of the Crown recommends to Her Majesty in Council that the Order be made.

- 4.4 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. These are provided to Eurostat, the Statistical Office of the European Community tasked with providing the European Union with statistics at European level that enable comparisons between countries and regions. The 2011 Census will thus assist the United Kingdom in carrying out its obligations under this Regulation.

5. Territorial extent and application

- 5.1 This instrument applies to England and Wales. It is expected that separate secondary legislation providing for individual censuses to be taken in Scotland and in Northern Ireland on the same date, will be submitted for approval by the Scottish Parliament and Northern Ireland Assembly respectively.

6. European Convention on Human Rights

- 6.1 The Minister for the Cabinet Office has made the following statement regarding Human Rights:

'In my view the provisions of the Census (England and Wales) Order 2009 are compatible with the Convention Rights.'

7. Policy background

- 7.1 The Census is a decennial survey of all people and households in the United Kingdom. It provides essential information from national to neighbourhood level for government, business, and the community.
- 7.2 Since 1801, every ten years the nation has set aside one day for the Census, except for 1941. It is the most complete source of information about the population that we have.
- 7.3 It is essential that every effort is made to include everyone, and that participation in the Census is a legal obligation (which will be enforceable under the provisions of the Regulations to be made in reliance on section 3 of the 1920 Act and under section 8 of that Act). It is the only survey which provides a detailed picture of the entire population, and is unique because it covers everyone at the same time and asks the same core questions everywhere. This makes it possible to compare different parts of the United Kingdom.
- 7.4 The information the Census provides allows central and local government, health authorities and many other organisations to target their resources more effectively and to plan housing, education, health and transport services for years to come.
- 7.5 The United Kingdom Statistics Authority and the Office for National Statistics (acting on their behalf), recognise that the public need to be confident, that their personal census records will be held securely. As in previous censuses, assurances

will be given to the public that all the information provided will be treated in strictest confidence by the Office for National Statistics.

- 7.6 The information collected in the 2011 Census will be used solely for the production of statistics and research. Usage will comply fully with the Census Act 1920, the Statistics and Registration Service Act 2007, the requirements of the Data Protection Act 1998 and the Freedom of Information Act 2000. There are legal penalties for breaches of confidentiality or for the unlawful disclosure of personal information, which has been collected in the Census.
- 7.7 In England and Wales, the Census is planned and carried out by the Office for National Statistics. Elsewhere in the United Kingdom, responsibility lies with the General Register Office for Scotland and the Northern Ireland Statistics and Research Agency.
- 7.8 *The White Paper on the 2011 Census 'Helping to shape tomorrow'*, was published in December 2008. This contains information about when, why and how the 2011 Census is to be taken, what benefits it provides, the topics and questions proposed, how much it will cost and who is to be involved.
- 7.9 The draft Census (England and Wales) Order 2009 provides for the Census to cover all individuals present in England or Wales on census night and, in addition, people who are absent if they are usual residents. It provides for the responsibility to fill in the census questionnaires to be placed on householders and on individuals and people in charge in communal establishments, with exceptions to deal with particular circumstances. These provisions are broadly similar to those for previous censuses, with changes to take account of the evaluation of the 2001 Census and subsequent consultation. The main changes to the 2011 Census are the provision for new questions on: civil partnership status, national identity, language, citizenship, date of entry into the UK and intended length of stay, second residence, type of central heating and number of bedrooms, together with revisions to questions used in previous censuses on ethnic group, general health, and qualifications.
- 7.10 The Census Order 2000 (S.I. 2000/744 amended by S.I. 2000/3249) provided for the 2001 Census. It is now spent and no revocation or consolidation is necessary.

8. Consultation outcome

- 8.1 The content of the 2011 Census has been driven principally by the demands and requirements of users of census statistics, as well as the evaluation of the 2001 Census and the advice and guidance of organisations with experience of similar operations. Its design has been determined by extensive consultation through a structure of formal advisory committees, topic-related working groups and public meetings, and via media such as consultation and information papers, and the Census website.

- 8.2 Consultations began in 2005 and so far have mainly addressed the content of the questionnaire (with an additional consultation on the topics of ethnic group, national identity, religion and language) and the geography to be used in the resultant statistical data. The Office for National Statistics received approximately 2,000 responses to the consultation.
- 8.3 Consultation on the content of previous censuses resulted in a much larger demand for census topics than was possible to accommodate. Therefore, a consultation document was published in May 2005: *'The 2011 Census: Initial View on Content for England and Wales'*. This set out the information that the Office for National Statistics believed possible to be collected by the 2011 Census. Additionally it gave users a clear view of the constraints and trade-offs involved in choosing one topic over another. The criteria against which cases for topics were to be assessed were also set out to allow for a transparent process for determining the content. This document formed the starting point of consultation on the actual content of the 2011 Census questionnaire. Responses were used to prioritise further research leading up to the 2007 Census Test; they were reported to the Census Advisory Groups and were published on the Office for National Statistics' website.
- 8.4 A later information paper published in 2006: *'The 2011 Census: Assessment of Initial User Requirements on Content for England and Wales'*, provided details of the responses and how these were being used to devise the topics for the proposed 2011 Census questionnaire.
- 8.5 Census Advisory Groups represent the interests of the main user communities. Meetings are usually held twice a year, often to coincide with particular developments or key events in census planning. These covered:
- central government departments;
 - local authorities;
 - the health service;
 - the business sector and professional interests;
 - the academic community;
 - organisations with interests in special needs and minority populations; and
 - users in Wales.
- 8.6 The Office for National Statistics has also been consulting Parliament on various aspects of the Census proposals since the White Paper was published in 2008. Some 173 letters have been written to Parliamentarians, who have expressed an interest in the Census proposals, or have written to the Office for National Statistics regarding any aspect of the Census. These letters explained that the White Paper is available, along with offers to provide further information or briefings as necessary.
- 8.7 The Office for National Statistics has also contacted a number of All-Party Parliamentary Groups, and meetings have so far taken place with:
- Gypsy and Traveller law reform All-Party Parliamentary Group;

- All-Party Parliamentary Group for Carers;
 - All-Party Parliamentary Group for Sikhs;
 - Chinese in Britain All-Party Parliamentary Group;
 - All-Party Parliamentary Group on Deafness;
 - All-Party Parliamentary Friends of Islam Group; and
 - All-Party Parliamentary Humanist Group.
- 8.8 The Office for National Statistics has also appeared before United Kingdom Parliament Select Committees, (Treasury Select Committee and the Public Administration Select Committee) and has corresponded with a large number of Members of both Houses of Parliament. The Office for National Statistics has also engaged with Committees of the National Assembly for Wales and Welsh Assembly Ministers. A number of specific topic-related concerns were expressed, mainly to do with the restricted availability of tick-boxes for various ethnic groups, due to space constraints on the questionnaire.
- 8.9 Officials from the Office for National Statistics have been working closely with colleagues in the Welsh Assembly Government on the drafting of the Census (England and Wales) Order 2009. All the concerns raised by the National Assembly for Wales, following the 2001 Census have been addressed, and officials from the Office for National Statistics have worked with the Welsh Assembly Government throughout the planning of the 2011 Census to ensure that the requirements of Wales are accommodated. The Welsh Assembly Ministers were formally invited to comment on the Draft Census (England and Wales) Order 2009 in August. Accordingly the Minister for Finance and Public Service Delivery replied, stating that he welcomed the recommendations of the Draft Census (England and Wales) Order 2009.
- 8.10 All feedback received since the White Paper was published, results of trials and question testing as well as all responses to consultation have been taken into account when preparing the final proposals for the 2011 Census.

9. Guidance

- 9.1 The Office for National Statistics will, in close co-operation with the Census Offices in Scotland and Northern Ireland, and supported by a dedicated telephone helpline, arrange nationwide and local publicity 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.
- 9.2 Special assistance will be available to anyone who has difficulty in completing the Census questionnaire, particularly through language or disability. Field staff speaking English and other languages, and/or signers will be employed, where possible, they will be supported by translations of a general information leaflet in a large number of prevalent foreign languages; this will also be available via a

dedicated on-line help centre. Publicity for, and the enumeration of, the Census in Wales will be conducted bilingually.

10. Impact

- 10.1 The impact on business, charities or voluntary bodies of this legislation is considered to be minimal. This is because the purpose of the Census is not to collect business data, and the only impact on business will be asking persons in charge of commercial communal establishments, to make a return in respect of the establishment and of any residents or inmates residing within their premises, who are unable to make a return for themselves.
- 10.2 However, it is important to note that the statistical data gained via the Census will be beneficial to many different bodies. Commercial business, professional organisations and the public at large, all need reliable information on the number and characteristics of people and households if they are to conduct many of their activities effectively.
- 10.3 The impact on the public sector of this legislation is again minimal, although Government, local authorities, the health service, the education and academic community and other public bodies, all rely upon Census data to aid planning of budgets, services and resources nationwide.
- 10.4 An Impact Assessment has not been prepared for this instrument.

11. Regulating small business

- 11.1 The legislation does not apply to small business.

12. Monitoring and review

- 12.1 This legislation aims only to allow for, and governs, the undertaking of the proposed 2011 Census. Therefore, it will have achieved its aims and will have been proved to be successful, if the Census is taken on the appointed day in 2011, with people completing their questionnaires as requested.
- 12.2 Consultation is currently taking place to find out what statistical data or ‘outputs’ users of the 2011 Census want from the information gathered during the Census, and to help the Office for National Statistics to prioritise identified output needs. This started in early 2008 with an on-line survey, followed by roadshow events around England and Wales in autumn 2009. The survey was supported by a website featuring a blog and a forum, which allowed expert-users to collaborate and generate a rich source of information. The website is still being used to carry this consultation on.
- 12.3 As with previous censuses, there will be a review of the 2011 Census Programme as a whole, after it has been undertaken. This will evaluate how it was planned and carried out. This will subsequently be laid before Parliament for scrutiny.

13. Contact

- 13.1 Mr Ian White, Head of Census Legislation at the Office for National Statistics (Tel: 01329 44 4526 or email: ian.white@ons.gsi.gov.uk) can answer any queries regarding the instrument.