

# STATISTICS AND REGISTRATION SERVICE ACT 2007

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## EXPLANATORY NOTES

### COMMENTARY ON SECTIONS AND SCHEDULES

#### **Part 1: the Statistics Board**

##### *Section 1 Establishment*

35. This section establishes a body corporate known in English as the Statistics Board, in Gaelic as *Am Bòrd an Staitistig* and in Welsh as *Y Bwrdd Ystadegau*, referred to in the Act and in these explanatory notes, as “the Board”.

##### *Section 2 Status*

36. This section sets out that the Board exercises its functions on behalf of the Crown and that the property, rights and liabilities of the Board are therefore the property, rights and liabilities of the Crown.

##### *Section 3 Members*

37. *Subsections (1) and (2)* stipulate that the Board has a mix of non-executive and executive members, with a non-executive Chairman appointed by Her Majesty, and at least five other non-executives.
38. *Subsection (4)* provides for one non-executive member to be appointed to the Board by the Minister for the Cabinet Office after consultation with Scottish Ministers, one after consultation with Welsh Ministers, and another after consultation with the Department of Finance and Personnel for Northern Ireland.
39. *Subsection (5)* provides for the Minister for the Cabinet Office, in consultation with the Chairman, to appoint one of the non-executives as a deputy Chairman.
40. *Subsection (6)* provides for three executive members of the Board: the National Statistician (ex-officio) and two others, who will be appointed by the non-executive members of the Board.

##### *Section 4 Non-executive members*

41. This section sets out the rules for the appointment of, resignation or dismissal of, and reappointment of, non-executive members of the Board.
42. *Subsection (1)* stipulates that the term for which a non-executive member of the Board may be appointed is to be at least one year, and no more than five years. *Subsection (6)* provides for non-executive members to be reappointed on any number of occasions when their term of office has expired.
43. All non-executive members of the Board will be appointed in accordance with guidance from the Office of the Commissioner of Public Appointments.

### **Section 5 Executive members and other staff**

44. This section sets out that the Board is to employ a National Statistician, on terms set by Her Majesty, which may include terms relating to dismissal. The section also establishes that there is to be a Head of Assessment, appointed by the non-executive members of the Board. The holders of these posts will be civil servants and employees of the Board. The Board may also employ other staff, as required, subject to the approval of the Minister for the Civil Service as to numbers and terms and conditions. These employees will be civil servants, and will include the staff in the executive office of the National Statistician, who will be involved in the production of statistics, as well as the Board secretariat and those working on assessment of National Statistics.

### **Section 6 Official statistics**

45. *Subsection (1)(a)* defines official statistics as statistics produced by the Board, government departments (which includes executive agencies), the Devolved Administrations in Scotland, Wales and Northern Ireland, or any other person acting on behalf of the Crown.
46. *Subsections (1)(b)* and *(2)* allow for a Minister of the Crown, the Scottish Ministers, the Welsh Ministers, or a Northern Ireland department, by order (using the draft affirmative Parliamentary procedure), to add to the coverage of official statistics – beyond that covered in *subsection (1)(a)* – all the statistics of a given body, or a more limited number of that body's statistics, or a specific statistical series. The kind of bodies whose statistics might be added under this section are local authorities, health authorities and non-departmental public bodies (NDPBs) that are not Crown bodies. Once added by order, statistics will be treated as official statistics for the purposes of the Act and could, for instance, be subject to monitoring by the Board (under sections 8 and 9), or be eligible for assessment as National Statistics.
47. *Subsection (3)* requires the relevant authority to consult the Board before making an order under *subsection (1)(b)*.

### **Section 7 Objective**

48. This section provides the Board with an objective for its functions relating to official statistics (*sections 8 to 19*) to guide the Board's work in these areas. The section requires the Board to promote and safeguard the production and publication of official statistics that serve the public good, including by informing the public about social and economic matters, and assisting in the development and evaluation of public policy.
49. *Subsection (3)* requires the Board to safeguard and promote the quality and comprehensiveness of official statistics, as well as good practice in relation to official statistics.
50. *Subsection (4)* defines 'quality' as including impartiality, accuracy, relevance and coherence with other official statistics. In addition, accessibility (making statistics easily and widely available in a fair and open way) is defined as an element of good practice. The Board is not limited to considering only these aspects of quality and good practice, and might also be expected to look at those other dimensions, including aspects of quality highlighted by *Eurostat*<sup>1</sup>, such as timeliness and comparability.

### **Section 8 Monitoring and reporting of official statistics**

51. This section requires the Board to monitor the production and publication of official statistics. This role draws on the duties established by the *Framework for National Statistics* for the Statistics Commission (which advised Ministers of areas of widespread concern about the quality of official statistics) and of the National Statistician (who

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<sup>1</sup> Eurostat is the European Commission's body responsible for providing the EU's statistical information service. (<http://epp.eurostat.ec.europa.eu>)

produced a high-level work programme for National Statistics, that the Statistics Commission had to comment on).

52. In this section, ‘production’ encompasses all aspects involved in producing official statistics, including the design of the inquiry, the collection of data, the compilation and analysis of those data and the dissemination of results.
53. *Subsection (2)* provides that the Board may report its findings about official statistics to the person responsible for those statistics, usually the relevant departmental Minister or the relevant Devolved Administration. This enables the Board either to comment reactively if concern about any official statistics, or gap in the coverage of official statistics, is brought to its attention; or proactively, developing its own programme of work to fulfil this duty.
54. *Subsection (3)* enables the Board to publish the results of its work under this section.

### ***Section 9 Definitions etc for official statistics***

55. This section requires the Board to develop and maintain definitions, methodologies, classifications and standards for official statistics, and to promote their use in relation to official statistics. In addition, the Board may provide guidance and advice on these matters to statistical producers.
56. The Board would be expected to develop definitions, methodologies, classifications and standards in line with European Union (EU) and international guidance as appropriate. There are a number of standard definitions and classifications already in existence of the type the Board is expected to use and promote among producers of official statistics.<sup>2</sup> Examples include the *Standard Industrial Classification (SIC)*<sup>3</sup>, the *Standard Occupational Classification (SOC)*<sup>4</sup>, the *European System of Accounts (ESA)*<sup>5</sup> and the *National Statistics Socio-Economic Classification (NS-SEC)*<sup>6</sup>. Guidance has also been published by ONS on preferred definitions and survey question designs (for example to define areas as ‘rural’ or ‘urban’, and on ethnicity information) for use in survey and census data collection.<sup>7</sup>

### ***Section 10 Code of Practice for Statistics***

57. This section requires the Board to prepare (in consultation with others as appropriate), adopt and publish a Code of Practice for Statistics. This Code will contain the standards against which National Statistics will be assessed. It is expected that the Board, in drawing up the Code, will have due regard to the current *National Statistics Code of Practice*<sup>8</sup>.
58. *Subsection (2)* allows the Board, at any time, to revise its Code of Practice and to publish the revised version once it has done so.
59. *Subsection (3)* requires that, in preparing or revising the Code, the Board must consult the Scottish Ministers, the Welsh Ministers, the Department of Finance and Personnel for Northern Ireland and any others it sees fit. Among those the Board might be expected to consult are key users of data in government (including Ministers) and outside (for example academics, researchers and business) as well as producers and providers of data.

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<sup>2</sup> The above classifications may be found at: <http://www.statistics.gov.uk/about/data/classifications/current/default.asp>

<sup>3</sup> *UK Standard Industrial Classification 2003* available at: <http://www.statistics.gov.uk/statbase/Product.asp?vlnk=14012>

<sup>4</sup> *Standard Occupational Classification 2000* available at: [http://www.statistics.gov.uk/methods\\_quality/ns\\_sec/soc2000.asp](http://www.statistics.gov.uk/methods_quality/ns_sec/soc2000.asp)

<sup>5</sup> *European System of Accounts (ESA) (1995)* available at: <http://forum.europa.eu.int/irc/dsis/nfaccount/info/data/esa95/esa95-new.htm>

<sup>6</sup> *National Statistics Socio-Economic Classification (2001)* available at: [http://www.statistics.gov.uk/methods\\_quality/ns\\_sec/default.asp](http://www.statistics.gov.uk/methods_quality/ns_sec/default.asp)

<sup>7</sup> <http://www.statistics.gov.uk/about/data/classifications/other/default.asp>

<sup>8</sup> *National Statistics Code of Practice (2002)* available at: [http://www.statistics.gov.uk/about\\_ns/cop/default.asp](http://www.statistics.gov.uk/about_ns/cop/default.asp)

### **Section 11 Pre-release access**

60. This section provides for the Minister for the Cabinet Office and (in the case of official devolved statistics) the Devolved Administrations to determine, by order, the principles and rules for access to official statistics in their final form prior to publication (so called ‘pre-release access’). Under *section 11(7)*, the Minister for the Cabinet Office must consult the Board, among others, before making the order. Under *section 65*, such orders will be subject to the affirmative resolution procedure. Once approved, these rules and principles will be regarded as being included in, and are to be assessed as part of, the Code of Practice for Statistics.
61. *Subsections (1) and (2)* provide that the Code under *section 10* may not deal with pre-release access to official statistics, but that rules and principles relating to pre-release access are to be determined by order.
62. *Subsection (3)* provides that once the order has been passed, the Board shall consider the content of that order part of the Code of Practice established under *section 10*.
63. *Subsection (4)* sets out examples of the types of situation to which the rules and principles referred to in *subsection (2)* may apply. These could include: the circumstances in which, or descriptions of statistics in relation to which, pre-release access may or may not be granted; the type of person or persons to whom such access might be granted; the period within which such access may be granted; and the conditions under which any such access may be available.
64. *Subsection (5)* provides that the principles and rules referred to in *subsection (2)* may vary between different types of statistics or statistical releases. They might, for example, set out different rules for market-sensitive and non-market sensitive statistics. *Subsection (5)* also provides that the order may grant discretion to the person responsible for producing official statistics. This could include, for example, provision to allow longer pre-release access in exceptional circumstances, such as for those preparing economic forecasts for a Budget or Pre-Budget Report.
65. *Subsection (6)* establishes that the appropriate authority for making out an order under *subsection (2)* is the Minister for the Cabinet Office; or in the case of wholly devolved statistics, the Department of Finance and Personnel for Northern Ireland, Scottish Ministers, or Welsh Ministers as appropriate.
66. *Subsection (7)* establishes that an appropriate authority making the order under *subsection (2)* must consult the Board and the other authorities listed in *subsection (6)* before making an order.

### **Section 12 Assessment**

67. This section provides a mechanism for the independent assessment by the Board of official statistics, where the Board is asked to do so by the relevant Minister or other appropriate authority, against the published set of standards set out in the Code of Practice. The results of the assessment will be made public.
68. Under *subsection (2)* if the Board judges that the statistics meet the standards in the Code, then the Board must designate them as ‘National Statistics’. If they do not, then they will not be so designated.
69. *Subsection (3)* requires that once the appropriate authority has requested an assessment of an official statistic under *subsection (1)*, they may not withdraw that request, and the Board must undertake an assessment of the statistics in question.
70. *Subsection (4)* requires the person responsible for the statistics being assessed to provide the Board with any information it might reasonably require. *Subsection (6)* allows the Board, when carrying out assessments, to take into account information or advice from any source.

71. Under *subsection (5)* the Board must publish the results of any assessment.
72. *Subsection (8)* allows for the fact that, at the point of commencement, there will already be a set of National Statistics. These statistics will be designated as National Statistics, under the terms of this section and subject to the re-assessment outlined in [section 14](#).

### ***Section 13 Duty to continue to comply with the Code***

73. This section requires that persons responsible for producing statistics designated as National Statistics under [section 12](#) must ensure that the Code continues to be complied with. The only sanction for non-compliance will be removal of ‘National Statistic’ status, no other sanction will result from a failure to comply with the Code.

### ***Section 14 Re-assessment***

74. This section provides for the re-assessment of statistics already designated as National Statistics under [section 12](#). This includes assessment of those statistics which are already designated as National Statistics at the point of commencement (under [section 12\(8\)](#)), as well as those statistics which are assessed by the Board as compliant with the Code of Practice for Statistics (under [section 12\(2\)](#)).
75. *Subsection (1)* requires the Board to assess statistics designated as National Statistics under [section 12](#) to determine whether they continue to comply with the Code and if, under *subsection (2)*, the Board determines that they continue to comply with the Code, confirm their designation. If they do not continue to comply, then their designation as National Statistics must be cancelled.
76. *Subsection (3)* requires the person responsible for the statistics being assessed to provide the Board with any information it might reasonably require. *Subsection (4)* permits the Board, in carrying out its re-assessments, to take into account information or advice received from any source.
77. Under *subsection (6)* cancellation of National Statistics designation can only occur if the Board has assessed the statistics and determined that they do not comply with the Code.

### ***Section 15 Programme of assessment***

78. This section requires the Board to prepare and publish a programme for both the assessment (under [section 12](#)) of statistics proposed by the appropriate authority, and the re-assessment (under [section 14](#)) of statistics already designated as National Statistics.
79. *Subsection (2)* allows the Board to revise the programme and if it does, it must republish it.

### ***Section 16 Requests for assessment: supplementary***

80. This section requires the Board to notify the appropriate authority (as defined in [section 12](#)) if it considers that a statistic which has not already been assessed against the Code under [section 12](#) should undergo such an assessment.
81. Under *subsection (2)*, where the appropriate authority is a Minister of the Crown, the Board is required to lay a copy of the notification before Parliament. Under *subsection (3)*, where a Minister of the Crown receives such a request, he is required to lay before Parliament a statement as to whether (and, under *subsection (4)*, when) he will comply with the Board’s request.
82. *Subsection (5)* provides that, where the Minister of the Crown decides not to comply with the Board’s request, his statement must include reasons for the decision.
83. *Subsection (6)* provides that where the National Statistician decides not to request that an official statistic produced under the authority of the Board be assessed for

compliance with the Code of Practice for Statistics, he must make a statement to that effect, lay a copy of the statement before Parliament, and give reasons for his decision.

### ***Section 17 Principles and procedures***

84. This section requires the Board to prepare and publish a statement of the principles and procedures it will adopt to carry out its assessments and re-assessments of National Statistics. It allows the Board to revise this statement at any time, and requires the Board to consult the Scottish Ministers, the Welsh Ministers, the Department of Finance and Personnel for Northern Ireland, and other such persons as it sees fit. These principles will be for the Board to determine, but it is expected that they might indicate the way that risk-based approaches and transparency might underpin the assessment of National Statistics, including:
- the criteria that might be applied in drawing up and amending the work programme;
  - the way that assessments themselves will be conducted;
  - the way recommendations will be formulated;
  - the timing and manner of publication of recommendations; and
  - the professional standards expected of those conducting the assessment.

### ***Section 18 List of National Statistics***

85. This section requires the Board to publish annually a list of statistics that are designated as National Statistics under *sections 12 and 14*.

### ***Section 19 Code: transitional***

86. This section provides for the transitional arrangements from the point the Board is established, and before it has prepared and published a new Code, as required by *section 10*.
87. The section further provides that, until a new Code is adopted by the Board, the Board will maintain the current *Code of Practice for National Statistics (subsection (2))*.
88. *Subsection (3)* permits the Board to revise the existing Code before it publishes a new Code; and stipulates that if it does so, it must publish the Code as revised.
89. *Subsection (4)* provides that, in making revisions to the existing Code, the Board may not make any changes relating to pre-release access as defined in *section 11*.
90. *Subsection (5)* establishes that during the interim period, the Board can use the existing Code to assess statistics proposed by the appropriate authority for assessment under *section 13*, as well as to re-assess statistics already designated as National Statistics under *section 14*.

### ***Section 20 Production of statistics***

91. This section provides the Board with the power to produce and publish statistics. Under this power, the Board will take on one of the main roles of the ONS, in conducting surveys, and collecting information from other sources, to produce a wide range of data on the economy and society. This includes, for example, production of the National Accounts, labour market data and information on population sizes.
92. *Subsection (1)* allows for the Board to prepare and publish statistical outputs, while *subsection (2)* provides for the Board to make available information or advice in relation to those outputs. For example, when publishing statistics on a particular topic, the Board may need to provide other contextual information for users about the appropriate use of

those data, background information on the methodology, and terminology (for example, explaining the concept of seasonal adjustment) or advice on other relevant points.

93. *Subsections (3) to (5)* provide that the Board must seek the consent of the relevant Devolved Administration before producing or publishing devolved statistics.

### ***Section 21 Retail Prices Index***

94. This section sets out the governance arrangements for the Retail Prices Index (RPI). The RPI is an average measure of change in the price of goods and services, which is compiled and published monthly.
95. *Subsection (1)* provides that the Board must compile and maintain the RPI, and that it must be published every month.
96. *Subsection (2)* requires that the Board, before making any changes to the coverage or basic calculation of the RPI, must consult the Bank of England on whether the proposed change constitutes a fundamental change in the index that would be materially detrimental to the interests of the holders of relevant index-linked gilt-edged securities (ILGs).
97. This is because, among other things, the RPI is used to calculate returns on ILGs, which are government securities issued by HM Treasury under its borrowing powers in *section 12* of the *National Loans Act 1968*. The prospectuses of ILGs first issued before July 2002 provided as follows:
- “If any change should be made to the coverage or the basic calculation of the [Retail Prices] Index which, in the opinion of the Bank of England, constitutes a fundamental change in the Index which would be materially detrimental to the interests of the stock-holders, Her Majesty’s Treasury will publish a notice in the London Gazette immediately following the announcement to the relevant Government Department of the change, informing stockholders and offering them the right to require Her Majesty’s Treasury to redeem their Stock in advance of the revised index becoming effective ...
98. The prospectuses of eight gilts with maturities ranging from 2009 to 2030 currently contain this redemption clause and the aggregate outstanding amount of these gilts is substantial. The rationale of the redemption clause was to protect holders against arbitrary changes in the nature of the RPI. However, depending on the nature of the change to the RPI and on market circumstances at the time, the triggering of the section could have a significant impact on financial markets and potentially on the public finances.
99. *Subsection (3)* provides that if, under *subsection (2)* the Bank of England considers the proposed change to constitute a fundamental change that would be materially detrimental to holders of ILGs, then the Board may not make the change without the consent of the Chancellor of the Exchequer.
100. *Subsection (4)* defines the various terms used in the section.

### ***Section 22 Statistical services***

101. This section allows the Board to supply statistical services to any person and details the kind of services that may be provided. This power is intended to allow the Board to provide the range of services that the ONS previously provided. For example, the Board will be able to provide information, advice and technical assistance to outside bodies, as ONS has done, including to statistical agencies in other countries.
102. The Board may also undertake quality assessment of statistics produced by organisations outside the scope of the Act, in a manner akin to those it carries out in relation to National Statistics. Those bodies’ statistics could not be designated as National Statistics, but the Board could if it wished make public its views on the quality

of those statistics. The Board may also undertake statistical surveys and analyses on behalf of others, as ONS did with its ‘Omnibus’ Survey.

### **Section 23 Statistical research**

103. This section allows the Board to promote statistical research, including facilitating research through making available to researchers data held by it, as ONS did. For example, ONS provided anonymised data under licence through the UK Data Archive at Essex University. It also provided access to certain data to researchers and academics in a secure environment, and it is intended that this will continue as described in relation to [section 39](#).

### **Section 24 Delegated functions**

104. This section allows a Minister of the Crown, a Welsh ministerial authority or a Northern Ireland department, by order, to delegate to the Board any of their functions relating to the production of statistics. The Chancellor of the Exchequer has previously delegated Ministerial functions under the *Statistics of Trade Act 1947* – to the Director of the ONS – this provision allows the possibility of such delegation in the system established by this Act.

### **Section 25 Census etc and Schedule 1**

105. This section transfers the statistical functions of the Registrar General for England and Wales to the Board. These functions include responsibility for conducting the census and the production of an annual volume which, among other things, contains figures on the number of births, deaths, marriages and civil partnerships that have taken place in England and Wales during the previous year. The functions also include the role of assessor to the Parliamentary Boundary Commissions for England and for Wales. This involves giving advice to the Commissions on issues such as population estimates.
106. The Schedule contains the amendments consequential on, and supplementary to, [section 25](#).

### **The Census Act 1920**

107. The amendments to the *Census Act 1920* give the Board the same responsibilities that applied to the Registrar General, apart from the following two specific provisions. [Paragraph 3](#) amends [section 3](#) of the *Census Act* to require the Minister for the Cabinet Office and the Welsh Ministers to consult the Board prior to making any regulations under this provision. The references to the Welsh Ministers in the amended [section 3](#) reflect the transfer of the regulation-making power in [section 3](#) to Welsh Ministers under the *National Assembly for Wales (Transfer of Functions)(No. 2) Order 2006* which came into force on 15 December 2006.
108. [Paragraph 5](#) amends [section 3](#) of the *Census Act* so as to enable the Board to acquire information from any government department or local authority, having first consulted with the Registrar General, in relation to registration information. [Paragraph 6](#) amends [section 6](#) of the *Census Act 1920* to clarify to whom a local authority should submit an application for a local census in England and Wales or in Scotland respectively.

### **The Population (Statistics) Act 1938**

109. [Paragraph 8](#) amends [section 4](#) of the *Population (Statistics) Act 1938* to permit the Board to disclose information collected under this Act, providing it is necessary in connection with the performance of its functions under [section 5](#) of the *Census Act 1920*.



### **The Registration Service Act 1953**

110. *Paragraph 9* amends *section 19* of the *Registration Service Act 1953* to place on the Board the responsibility for sending an annual abstract to the Minister for the Cabinet Office.

### **The Parliamentary Constituencies Act 1986**

111. *Paragraph 10* amends *paragraph 5(a)* and *(c)* of Schedule 1 of the *Parliamentary Constituencies Act 1986* to place the role of assessor to the Boundary Commissions for England and for Wales on the Board.

### **The Political Parties, Elections and Referendums Act 2000**

112. *Paragraph 11* amends *section 14(6)(a)* of the *Political Parties, Elections and Referendums Act 2000* to place the role of assessor to the Boundary Committees for England and for Wales on the Board.

### **Section 26 Ancillary powers**

113. This section enables the Board to do anything necessary in connection with the exercise of its functions or incidental business. The purpose of a section of this nature is to give the Board the powers it needs to carry out its day-to-day business. It does not widen the scope of the Board's activities, nor provide any powers of compulsion.
114. Examples of the use of the powers are:
- the gathering of information in relation to the exercise of its functions;
  - the establishment of advisory bodies;
  - the entering into of agreements; the acquiring and disposing of property; and
  - promoting, or assisting in the promotion of, publicity about the work of the Board.
115. These powers will also entitle the Board to charge for certain services on a discretionary basis, as ONS did, for example for paper copies of its publications, for any statistical services it provides, and for services promoting statistical research. Any charges will be made in line with Government charging policies, which apply to all public bodies.

### **Section 27 Reports**

116. This section requires certain reports to be laid before Parliament, the Scottish Parliament, the National Assembly for Wales, or the Northern Ireland Assembly, and it also allows the Board to lay further reports as necessary.
117. This section would enable the Board, if it thought it appropriate, to lay reports which are wholly on devolved matters only before the relevant devolved legislature.
118. *Subsection (1)* imposes a duty on the Board to produce a report after the end of each financial year. This will include details of what it has done during the year and what it has found as a result of those activities. The Board must also provide information about what it intends to do during the following financial year.
119. *Subsection (2)* states that a report under *subsection (1)* must be laid before Parliament, the Scottish Parliament, the National Assembly for Wales and the Northern Ireland Assembly.
120. *Subsection (3)* allows the Board at any time to produce a report about any other matter relating to the exercise of its functions. *Subsection (4)* notes that any report produced under *subsection (3)* must be laid before at least one or more of Parliament, the Scottish Parliament, the National Assembly for Wales and the Northern Ireland Assembly.

121. Under *subsection (5)*, the Board must publish any report that it makes under this section.

### **Section 28 Efficiency etc**

122. *Subsection (1)* obliges the Board to have regard to efficiency and cost-effectiveness when making decisions relating to the exercise of its functions.
123. *Subsection (2)* requires that the Board seek to limit the costs that individuals, businesses and other organisations bear as a result of its activities (for example, when requiring them to fill in a survey, or when their statistics are being assessed). As a result, the Board must consider the burdens it places on others as a part of decisions such as, whether to acquire data from existing administrative sources or whether to commission new data instead.

### **Section 29 Directions**

124. This section allows the Minister for the Cabinet Office to give the Board such directions as he considers appropriate in the event of a serious failure by the Board to perform any of its functions, or to comply with EU obligations. Given that the new Board will be established as a NMD, the power in *subsection (1)* is intended as a power of last resort. The Minister for the Cabinet Office will have no role in the day-to-day decision-making of the Board.
125. In a similar manner, *subsections (2), (3) and (4)* permit the Scottish Ministers, the Welsh Ministers or the Department for Finance and Personnel for Northern Ireland, with the consent of the Minister for the Cabinet Office, to give the Board such directions as they consider appropriate to remedy a serious failure by the Board to comply with its objective, or to perform any of its functions in relation to Scotland, Wales or Northern Ireland respectively.
126. *Subsection (8)* provides that where the Minister for the Cabinet Office gives directions to the Statistics Board under this section, a copy of the directions must be laid before Parliament, and the Minister for the Cabinet Office must notify the Scottish Ministers, the Welsh Ministers and the Department for Finance and Personnel for Northern Ireland. A copy of the directions must also be laid before each of the devolved legislatures. Under *subsections (9) to (11)*, where any of the Scottish Ministers, Welsh Ministers or the Department for Finance and Personnel for Northern Ireland gives directions to the Statistics Board under this section, a copy of those directions must be laid before the relevant devolved legislature and before Parliament.
127. Under *subsection (12)*, if the Board fails to act on a direction, the authority that gave the direction may carry out that direction itself, and in so doing, may exercise the Board's powers. Where the authority is not the Minister for the Cabinet Office, this power is exercised subject to the consent of the Minister for the Cabinet Office.

### **Section 30 National Statistician: advisory functions**

128. This section establishes the National Statistician as the Board's chief professional adviser on the quality and comprehensiveness of, and good practice in relation to, official statistics. *Subsection (2)* requires that the Board take account of the National Statistician's advice in relation to all those matters.
129. *Subsection (3)* requires the Board to publish a statement if it overrules the National Statistician on what are purely professional statistical matters. That is, the development and maintenance of definitions, methodologies, classifications and standards for any official statistics, or the application of definitions, methodologies, classifications and standards to statistics produced by the Board itself.
130. *Subsection (4)* requires any statements published under *subsection (3)* to be laid promptly before Parliament.

### **Section 31 National Statistician: executive functions**

131. This section establishes that, as well as being the Board's chief professional adviser, the National Statistician is also to be the Chief Executive of the Board, with direct authority to conduct the Board's business, subject to the exceptions in *subsection (3)*.
132. *Subsection (2)* enables the National Statistician to exercise any functions of the Board, except, under *subsection (3)*, the functions of deciding whether or not to adopt or revise the Code of Practice for National Statistics, or determining whether official statistics comply with the Code.
133. *Subsection (4)* allows the Board to direct the National Statistician on whether he may exercise a particular function and if so, how. This may include reserving the exercise of particular functions to the Board collectively.
134. If there is a vacancy in the post of National Statistician, *subsection (5)* enables the Board to appoint one of the other two executive members of the Board to carry out the National Statistician's functions as Chief Executive.

### **Section 32 Executive office**

135. *Section 32* requires the National Statistician to establish an executive office of the Board.
136. *Subsection (1)* sets out that the executive office is to assist the National Statistician in the discharge of certain functions including the production of statistics including the retail prices index (under *sections 20* and *21*) and statistical services (under *section 22*).
137. *Subsection (2)* requires the executive office to be headed by the National Statistician and to include the other executive members of the Board, subject to the conditions in *section 33(3)*, that the Head of Assessment may not be part of the executive office. The National Statistician may appoint to the office any other employees of the Board as required.
138. *Subsection (3)* permits the National Statistician to delegate any of the functions of the Board set out in *subsection (1)* to another member of the executive office. In effect, this will be much of the day-to-day work of the office, including the range of activities related to statistical production. However, *subsection (4)* makes clear that the delegation of any function under *subsection (3)* does not preclude the National Statistician from himself exercising that function.

### **Section 33 Head of Assessment**

139. This section requires the Board to employ a Head of Assessment as its principal adviser in relation to assessments and re-assessments of National Statistics and their compliance with the Code. The Board must have regard to the advice of the Head of Assessment on those matters.
140. *Subsection (3)* establishes that, if the Head of Assessment is one of the executive members of the Board, he may not exercise the executive functions of the National Statistician under *section 31*. In particular, in the event of a vacancy in the post of National Statistician (*section 31(5)*), the Head of Assessment cannot be appointed to carry out that role. In addition, he may not be a member of the National Statistician's executive office (responsible for statistical production), and may not in any other way take part in the production of statistics by the Board.

### **Section 34 Separation of functions**

141. This section provides for the separation of the statistical production and assessment functions of the Board.

142. *Subsection (1)* prohibits the National Statistician from taking part in deliberations or decisions about the assessment or reassessment of statistics that the Board itself has produced. That does not prevent the National Statistician from making representations to the Board about those statistics but, as with other statistical producers, he may not take part in decisions by the Board, or their representatives, on the assessment or reassessment of those statistics.
143. *Subsection (2)* prohibits executive members of the Board who are neither the National Statistician nor the Head of Assessment, or any other staff assigned to the executive office from taking part in any deliberations or decisions in relation to assessment or reassessment of any National Statistics, and their compliance with the Code. This applies whether the statistics in question are produced by the Board itself, or produced in other departments.
144. Under *subsection (3)* the Board must establish processes to ensure that employees of the Board involved in statistical production should not be engaged in advising the Board on the assessment or reassessment of those statistics (under *section 12(1) and 14(1)*).

### **Section 35 Committees**

145. *Subsection (1)* gives the Board powers to establish committees to exercise its functions and to give it advice. The Board may establish committees, for example, to direct certain corporate policies and practice, such as on human resources, security or information systems.
146. Under *subsection (2)*, advisory committees (but not executive ones) may consist of individuals who are neither members of the Board nor employed by it. The Board might, for example, establish an advisory committee to help it address user needs, and include on it some key user representatives from academia, business, and the research community. It may also establish committees to advise it on the exercise of its functions relating to official statistics, which might include staff from other government departments.

### **Section 36 Delegation**

147. This section sets out that the Board may delegate certain of its functions and describes the conditions under which it may delegate. The Board may delegate to a member or employee of the Board, or to a committee of the Board who may, under *subsection (3)* further delegate down to sub-committees.
148. Under *subsection (2)* the Board may not delegate its duty of adopting or revising the Code, nor decisions on whether statistics have complied with the Code and can therefore be designated as National Statistics.
149. *Subsection (4)* provides for the fact that the delegation of a function under *subsections (1) and (3)* does not preclude the Board or a committee from exercising that function itself.

### **Section 37 Proceedings: supplementary**

150. This section provides that the Board may regulate its own proceedings and those of any other committee of the Board.
151. *Subsection (3)* establishes that the validity of the proceedings of the Board, or any of its committees or sub-committees is not affected by a vacancy or a defective appointment.

### **Section 38 Use of information by the Board**

152. This section allows the Board to use any information it holds, including census information previously held by the Registrar General, to carry out any of its functions. This section will permit the Board to produce statistics for one purpose using

information collected for another purpose, for example allowing an analysis of deprivation to be carried out using information collected as part of the census. This may also reduce the burden on information providers, for example individuals or businesses filling in surveys, by removing the need to collect duplicate information.

153. *Subsection (1)* states that any information obtained by the Board in connection with any function exercised by the Board may be used by it in connection with any of its other functions.
154. *Subsection (2)* restricts the Board's use of information in that, while the Board will have access to information about National Statistics for assessment purposes, it will not be able to use this information for other functions, such as the production of statistics.
155. *Subsection (3)* specifies that information received by the Board as a part of its function of providing statistical services (under [section 22](#)) may only be used for the purpose of providing those services, unless the Board has the consent of the person who provided the information to the Board to use it in another way.
156. *Subsection (4)* states that the Board may not use information where other legislation places limits on how that information can be used or disclosed. For example, [section 58 \(2\)](#) of the *Finance Act 1969*, restricts the Board's use of 'pay as you earn' (PAYE) information for the purposes of statistical survey; this section would not override that restriction on use.

### ***Section 39 Confidentiality of personal information***

157. This section specifies that personal information (as described in *subsections (2) and (3)*), whether held by the Board or disclosed by the Board to others, is confidential.
158. *Subsection (1)* states that personal information held by the Board should not be disclosed by anyone, whether a member of the Board (or one of its committees), an employee of the Board or anyone who has received it from the Board (directly or indirectly). *Subsection (9)* makes such disclosure a criminal offence, punishable by a fine or imprisonment. This is a similar penalty to that provided for unlawful disclosure of HM Revenue and Customs (HMRC) information in the *Commissioners for Revenue and Customs Act 2005*.
159. *Subsection (2)* explains that 'personal information' is information that relates to and identifies a particular person. This would include information that could identify a business, even where that business had since changed form due to a merger. The meaning of personal information does not include administrative information held by the Board, such as records relating to the Board's employees (which may, however, be protected under the *Data Protection Act 1998*).
160. *Subsection (3)* provides that information falls within the definition of 'personal information' at *subsection (2)* if the information in question either specifies the identity of the person, or could allow it to be deduced.
161. *Subsection (4)* lists the categories of disclosure that are not restricted by the confidentiality obligation in *subsection (1)*:
  - *paragraph (a)*, where other legislation explicitly requires or permits disclosure of personal information. For example [section 58\(4\)](#) of the *Finance Act 1969* permits the Board to disclose certain information it has received from HMRC to another department for the purpose of a statistical survey;
  - *paragraph (b)*, where a European Community obligation requires disclosure, for example *Council Regulation EC 184/2005* concerning balance of payments, international trade in services and foreign direct investment, requires submission and transmission of information, including confidential information, to the Community authority (Eurostat);

- *paragraph (c)*, where it is necessary for the purpose of enabling or assisting the Board to exercise any of its functions, for example the Board's function in [section 5](#) of the *Census Act 1920* of preparing statistics in respect of periods between one census and another;
  - *paragraph (d)*, where information has already been lawfully made public;
  - *paragraph (e)*, where information is disclosed following a court order;
  - *paragraph (f)*, where information is disclosed as part of a criminal investigation or proceedings;
  - *paragraph (g)*, where information is disclosed to the Intelligence Services – as defined in [section 67](#) – in the interests of national security; and
  - *paragraph (h)*, where the person to whom the personal information relates has consented to disclosure. For example, where the Board conducts a voluntary survey, which contains a confidentiality pledge that makes clear to the respondent how the information they provide will be used, and setting out any onward disclosures that might be made, for example to other government departments for statistical purposes. In such cases, by returning the survey, the respondent consents to the terms of the confidentiality pledge and to the disclosure of information for statistical purposes in the way described.
162. *Subsection (4)(i)* states that the confidentiality obligation does not apply where the Board discloses information to an 'approved researcher'. *Subsection (5)* sets out that the term 'approved researcher' means an individual to whom the Board has granted access – for the purposes of statistical research – to personal information it holds. The Board may extend access to researchers from various organisations, including academic institutions, public bodies (including both local and regional bodies) and non-governmental organisations.
163. *Subsection (6)* states that the Board must publish the criteria by which it will decide whether to grant access to approved researchers. As set out in *subsection (7)*, these criteria must require the Board to consider whether the researcher is a fit and proper person and the purpose of the research. Any researcher must also sign a declaration that they understand the confidentiality obligation placed on them (*subsection (8)*).
164. The combination of this section and [section 23](#) (on statistical research) is intended to replicate the access ONS provided to researchers and academics (seconded into ONS), usually through a secure environment physically located in ONS. Researchers were not generally allowed to take information away from ONS and were required to sign strict confidentiality agreements.
165. *Subsection (9)* provides that anyone who contravenes *subsection (1)* shall be guilty of a criminal offence. *Subsection (10)* sets out that the offence in *subsection (9)* does not apply where the individual making the disclosure reasonably believes that the identity of the person to whom the information relates is not specified in the information, could not be deduced from it (taken on its own or with any other published information (*subsection (10)*)).

#### **Section 40 Freedom of Information**

166. [Section 44\(1\)\(a\)](#) of the *Freedom of Information Act 2000* provides that information is 'exempt information' for the purposes of that Act if its disclosure by a public authority is prohibited by or under any enactment. If information is 'exempt information' it need not be disclosed under that Act. By virtue of [section 39](#) (the offence relating to disclosure of information), [section 44\(1\)\(a\)](#) applies in relation to information held by the Board. So information held by the Board is 'exempt information' for the purposes of the 2000 Act.

167. *Subsections (1) and (2) of section 40 provide a limited qualification to section 44 of the Freedom of Information Act 2000 in the case of personal information which is passed by the Board to other public authorities. The effect is that the confidentiality obligation in section 39 will not trigger section 44 in such cases and the information will not automatically be exempt information for the purposes of the 2000 Act. That means that in respect of personal information received from the Board, a public authority, in response to a request for information made under the Freedom of Information Act 2000, may not refuse to disclose information by citing the absolute exemption in section 44 of the Freedom of Information Act 2000. However, the public authority may still cite other available absolute or qualified exemptions insofar as they are considered to apply to the information requested.*
168. *Section 26 of the Freedom of Information (Scotland) Act 2002 – like section 44 of the Freedom of Information Act 2000 – exempts information from release if its disclosure by a Scottish public authority would be prohibited by or under an enactment. Subsections (3) and (4) therefore provide that section 26 would not apply to personal information which is passed by the Board to a Scottish public authority. Consequently, information passed to Scottish public authorities by the Board will also not automatically be exempt information for the purposes of the Freedom of Information (Scotland) Act 2002.*
169. This section will ensure, for example, that census records can continue to be disclosed by the National Archive in accordance with government policy, the *Public Records Act 1958* and the *Freedom of Information Act 2000*.

#### ***Section 41 Disclosure of information to service providers***

170. This section will allow the Board to pass any information to third parties who are operating under the control of the Board, so that they may provide services to them. For example, it would allow the Board to pass information to an external IT provider who had been contracted to undertake data processing on behalf of the Board, as ONS did during the 2001 census. It is intended that those receiving the information under this section would not be able to use it for any purpose other than the provision of the service they would be providing to the Board.

#### ***Section 42 Information relating to births and deaths etc***

171. Prior to this Act, the National Statistician was also the Registrar General, and the GRO was part of the ONS. This section therefore ensures that pre-existing arrangements for sharing of data between the Registrar General and ONS will continue between the Registrar General and the Board.
172. This section ensures that information collected at the registration of key life events, such as births and deaths, used to produce statistical outputs (including estimates of populations), can be disclosed to the Board.
173. *Subsection (2)(b)* includes both information collected at the time of the registration of a birth or death for statistical purposes, and information such as post mortem information that does not become available from a coroner until after the registration of a death.
174. *Subsection (4)* permits the Board to disclose to the Secretary of State or the Welsh Ministers the information received under this provision from the Registrar General for the purpose of assisting them in the performance of their functions in relation to the health service.
175. The intention is that the sharing of data under this section will be subject to a Memorandum of Understanding or Service Level Agreement between the Registrar General and the Board, which will cover issues such as the means and frequency of data sharing, and the onward transmission of the data.

### **Section 43 Information relating to NHS registration**

176. Prior to this Act, the ONS produced population statistics; these included small area population estimates, migration estimates, statistics on birth and mortality rates in the population, and national and sub-national population estimates and projections. In the production of such statistics, the ONS used data held in the National Health Service Central Register (NHSCR). ONS was responsible for the operation of the NHSCR, whose main function is the compilation and maintenance of a record of all persons who are resident in England and registered with an NHS General Practitioner. This work was carried out on behalf of 'NHS Connecting for Health', which is an Agency of the Department of Health.
177. This section creates an information gateway to ensure that the Board may still receive patient registration information as the ONS did previously.
178. *Subsections (3)(a) to (d)* stipulate the categories of patient registration information that may be shared with the Statistics Board, including their address, their date of birth, their gender, their patient identification number, and their history of registration. However, this list is not exhaustive and while the list of examples of 'patient registration information' provided in the subsection is sufficient for present purposes, it may not be sufficient in the future. This flexibility to share other patient registration information is expressly limited by *subsection (4)*, in that the Secretary of State (or other public authority) may not provide information about an individual's health or condition or about the care or treatment provided to any person.

### **Section 44 Information relating to NHS registration: Wales**

179. This provision replicates the effect of *section 43* in respect of the information relating to those resident in Wales and registered with an NHS General Practitioner. ONS maintained the NHSCR for Wales (on behalf of the NHS in Wales). As for the NHSCR in England, the NHSCR in Wales will not be the responsibility of the new Board, so it is necessary to create an information gateway to ensure that the Board may still receive this information and use it in connection with the production of population statistics.

### **Section 45 Information held by HMRC**

180. *Section 18* of the *Commissioners for Revenue and Customs Act 2005* controls HMRC's ability to share information. It does this by laying down the general rule that HMRC may not disclose any information held by it or received by it in the course of its functions, although HMRC is permitted to disclose information in certain specified circumstances, one of which is where another provision authorises disclosure.
181. This section permits the Commissioners for Revenue and Customs, or an officer of Revenue and Customs, to disclose to the Board any information held by the Revenue and Customs, for use by the Board in connection with one of more of the Board's statistical functions (with the exception of its function under *section 22* of this Act of providing statistical services to any other person). This section does not permit the disclosure of personal information (as defined in *section 39*), with the exception of information relating to the import or export of goods to or from the UK.
182. It is intended that two categories of information will be disclosed under this provision:
- a wide range of summary information – which is not personal information. This includes information on income tax and National Insurance contributions, which was previously provided by Revenue and Customs to ONS and used by the ONS to produce statistics, including estimates of the UK national income, as a part of their production of the UK National Accounts. Other flows of summary information that previously occurred between HMRC and ONS which we might expect to continue between HMRC and the Board under this section include information on self-employment income of sole traders; average total income and average income tax



payable by gender; the number of children registered for child benefit in England and Wales; and information relating to tobacco and alcohol products released for home consumption; and

- information relating to the import or export of goods to and from the UK, which has been passed from Revenue and Customs to ONS. This information will be used by the Board to identify businesses to survey about import and export prices, and in the analysis of the results of such surveys. Results from such surveys feed into indices of the prices charged to producers (part of the measurement of the value added by UK manufacturers), and into analyses of the UK balance of payments in the National Accounts.
183. *Subsection (1)* allows information held by Revenue and Customs, in connection with any of its functions (such as the collection and management of taxes, duties and National Insurance contributions) to be disclosed to the Board by the Commissioners for Revenue and Customs or an officer of Revenue and Customs. *Subsection (5)* limits the information disclosed in this way to information that is not personal information, except in relation to the import and export of goods from the UK, which may be disclosed.
184. *Subsection (2)* states that, before making a disclosure, the Commissioners for Revenue and Customs must be satisfied that the Board requires the information to enable it to carry out one or more of its functions (excluding its function of providing statistical services).
185. *Subsection (3)* limits the Board's use of information. The Board may only use the information provided for any one or more of its functions (excluding its function of providing statistical services).
186. *Subsection (4)* sets out that the Board may not disclose information received under this section without the consent of the Commissioners. *Section 39* also operates to restrict the Board's disclosure of personal information received under this provision.

### ***Section 46 Information sharing: supplementary amendments and Schedule 2***

187. *Section 46* makes supplementary amendments to existing legislation to allow information flows to continue to the Board, as the legal successor body to ONS.
188. *Paragraph 1 of Schedule 2* removes the offence of unlawful disclosure of personal census information in *section 8* of the *Census Act 1920*, for England and Wales. The confidentiality obligation in *section 39* of this Act will apply to census information held by the Board.
189. *Paragraph 2* amends the *Population (Statistics) Act 1938* (restriction on disclosure) to ensure that it is clear that *section 42* overrides the restrictions on disclosure by the Registrar General of information collected under this legislation.
190. *Paragraph 3* updates *section 58* of the *Finance Act 1969* by replacing references to the 'ONS' and 'Office' in that provision with references to the 'Statistics Board' and 'Board' where required. This amendment will allow HMRC to continue to disclose to the Board (as it did to ONS prior to this Act) PAYE information, specifically business name, address, economic activity code, legal form and size (in terms of numbers of employees). ONS used PAYE information to update and maintain a register of businesses – the *inter-departmental business register* (IDBR). The purpose of this register is to provide government with an adequate sampling frame for surveys, on which almost all surveys of economic activity are based.
191. *Paragraph 4* inserts a reference to the Board and an 'approved researcher' in *section 3* of the *Agricultural Statistics Act 1979*. The ONS received information collected by Department for Environment, Food and Rural Affairs (DEFRA) under *section 1* of this Act; this amendment is necessary to ensure that DEFRA may continue to disclose information to the Statistics Board. The amendment also permits the Board to disclose

the information to an approved researcher (see note to [section 39](#) above). Information collected under this Act is also used to maintain the IDBR.

192. [Paragraph 5](#) updates [section 122AA](#) of the *Social Security Administration Act 1992* by replacing a reference to ‘ONS’ with a reference to the ‘Statistics Board’. Formerly, HMRC could disclose to the ONS contributions information, which includes statutory sick pay, maternity pay and paternity pay. This paragraph ensures that HMRC can continue to disclose this information to the Board.
193. [Paragraph 6](#) similarly updates [section 91](#) of the *Value Added Tax Act 1994*, by replacing references to the ‘ONS’ and ‘Office’ in that provision with references to the ‘Statistics Board’ and ‘Board’ where required. This ensures that HMRC may continue to disclose VAT information to the Board, which is necessary because VAT information is used to update and maintain the IDBR.
194. [Paragraph 7](#) updates [Schedule 7](#) of the *Bank of England Act 1998*. The Schedule previously contained a reference to the ONS, which this paragraph replaces with a reference to the Chancellor of the Exchequer (or any person to whom any functions of the Chancellor of the Exchequer under the *Statistics of Trade Act 1947* are delegated). This permits the Bank of England to disclose information to the Statistics Board where it exercises the functions of the Chancellor under the *Statistics of Trade Act 1947*.

### ***Section 47 Power to authorise disclosure to the Board***

195. This section sets out a mechanism for providing the Board with wider access to information held by public authorities. The section creates a power for the Minister for the Cabinet Office to make regulations authorising the disclosure of information from a public authority to the Board to enable it to carry out its functions (except its function of providing statistical services).
196. This is a similar provision to [section 51](#), which provides a similar mechanism for the Board to disclose information to other public authorities. The note to [section 51](#) gives an example of how this mechanism could work in practice.
197. The power under [section 47](#) could be used, for example, to provide the Board with wider access to information, to improve the range or quality of the statistics being produced, potentially improving policy-making or resource allocation. It could also be used to reduce the burden on information providers, for example on individuals or businesses of filling in surveys, by removing the need to collect information already held by Government.
198. Any gateways created by regulations made under this mechanism would be permissive rather than mandatory; that is, the public authority would be permitted to share the information, but not compelled to do so.
199. [Subsection \(1\)](#) provides that the Minister for the Cabinet Office may make regulations permitting a public authority (as defined in [section 67](#)) to share information with the Board, where this would not be lawful prior to the making of the regulations, either because of a legal barrier to information sharing or because the public authority would not otherwise have the power to share information with the Board.
200. Regulations may only remove a barrier contained in the rule of law or an Act which received Royal Assent before this Act (although, as set out in [section 54](#), they may not amend either the *Data Protection Act 1998* or the *Human Rights Act 1998*).
201. [Subsection \(2\)](#) states that the regulations may only authorise the Board to use the information received in pursuit of its functions, except in connection with its function of providing statistical services, and [subsection \(3\)](#) sets out that the Board may only use the information received for the purpose stated in the regulations. Unlike the similar [section 51](#), there is no explicit requirement that the information be used only for statistical purposes; this is because all of the Board’s functions are statistical.

202. The Board will not be permitted to disclose information received, other than in the circumstances set out in [section 39\(4\)](#), with the exception of *paragraphs (c) and (i)*, unless further disclosure is specified for in the regulations. Any unauthorised disclosure of information would breach the confidentiality obligation under [section 39](#) and incur the criminal penalties provided in that section.
203. *Subsection (8)* states that the regulations may only be made with the consent of another Minister of the Crown (or the Welsh Ministers in the circumstances set out in *subsection (8)(a)* or the Treasury in the circumstances set out in *subsection (8)(b)*). The Minister consenting will usually be the Minister responsible for the public authority disclosing the information. For example in the case of information produced by DEFRA or the Environment Agency, the Secretary of State for Environment, Food and Rural Affairs would need to consent.
204. *Subsection (9)* requires that the Minister for the Cabinet Office and the other Minister of the Crown or persons consenting to the regulations, be content that the information is needed for the purpose stated in the regulation and that the disclosure or use of the information is in the public interest.
205. Where the information is being disclosed to the Board by a public authority for which the Minister for the Cabinet Office is the relevant Minister, *subsection (10)* states that no other Minister need give consent to the making of the regulation. The public authorities for which the Minister for the Cabinet Office is to be regarded as the relevant Minister for will be set out by order – these are expected to be those public authorities that have the Cabinet Office as their sponsoring department.
206. *Subsection (12)* requires that the Treasury must consult the Commissioners for Her Majesty’s Revenue and Customs before giving its consent to the making of regulations (*under subsection (8)(b)*).

#### ***Section 48 Power to authorise disclosure to the Board: Scotland***

207. This section provides Scottish Ministers with the power to make regulations to authorise Scottish public authorities to disclose information to the Board, in the same way, and essentially via the same mechanism, as the Minister for the Cabinet Office can make regulations to authorise disclosure to the Board in [section 47](#). Under [section 48](#) regulations must be made by the Scottish Ministers with the consent of the Minister for the Cabinet Office. The definition of a Scottish public authority (as set out in [section 67](#)) is that given in the *Scotland Act 1998* and means any public body (except the Parliamentary corporation), public office or holder of such an office whose functions are exercisable only in or as regards Scotland.

#### ***Section 49 Power to authorise disclosure to the Board: Northern Ireland***

208. This section provides a Northern Ireland department with the power to make regulations to authorise Northern Ireland public authorities to disclose information to the Board, in the same way, and essentially via the same mechanism, as the Minister for the Cabinet Office can make regulations to authorise disclosure to the Board in [section 47](#). Under [section 47](#), regulations must be made by the Northern Ireland department with the consent of the Minister for the Cabinet Office. The definition of a Northern Ireland public authority ([section 67](#)) is a public authority whose functions are exercisable only or mainly in or as regards Northern Ireland and relate only or mainly to transferred matters within the meaning of the *Northern Ireland Act 1998*.

#### ***Section 50 Power to authorise use of information by the Board***

209. This section provides the Minister for the Cabinet Office with a power to make regulations permitting the Board to use information, received from a public authority through an existing gateway, to carry out its functions (except that of providing statistical services) where there is an existing legal barrier to the Board’s use of the

information. As with [section 47](#), the power could be used, for example, to provide the Board with wider access to information to improve the range or quality of the statistics being produced, or to reduce burdens on information providers, by removing the need for the Board to collect duplicate information.

210. This section uses the same mechanism as that in [section 47](#) (described in detail in the note to that section). As in that section, regulations must be made with the consent of another Minister of the Crown (or the Treasury in the circumstances set out in [subsection \(4\)\(a\)](#)). The Minister for the Cabinet Office and the other person consenting must be satisfied both that the disclosure is required for the Board to carry out the functions for which the disclosure is authorised and that the disclosure is in the public interest.

### ***Section 51 Power to authorise disclosure by the Board***

211. This section sets out a mechanism for providing the Board with the power to disclose information held by the Board to other public authorities. The Minister for the Cabinet Office, with the consent of the Minister of the Crown responsible for the public authority concerned, may make regulations to authorise disclosures of information by the Board for the statistical purposes of the body receiving the information. This is a similar provision to [section 47](#), which provides a mechanism for public authorities to share information with the Board.
212. Disclosures under this section could be used to improve the range or quality of the statistics being produced, improving policy-making or resource allocation. Alternatively, it could be used to reduce the burden on information providers; for example individuals or businesses filling in surveys that would otherwise have to provide duplicate information to many different public authorities. Any disclosures provided for using this mechanism would be permissive rather than mandatory; the regulation would authorise the Board to share information, without compelling it to do so.
213. [Subsection \(1\)](#) provides that the Minister for the Cabinet Office may make regulations to allow the Board to share information with another public authority (as defined in [section 67](#)), where such sharing would not normally be permitted because of a pre-existing legal barrier to sharing.
214. The regulations may only remove a barrier contained in the rule of law or an Act which received Royal Assent before this Act, to provide the Board with the lawful authority to share information with a public authority. The regulations may not remove a barrier from either the *Data Protection Act 1998* or the *Human Rights Act 1998* using this mechanism ([section 54](#)).
215. [Subsection \(2\)](#) states that the regulations may only permit sharing for the statistical functions of the receiving public authority. Information could not be disclosed under the regulations for other (non-statistical) purposes of the receiving public authority.
216. [Subsection \(3\)](#) further sets out that the public authority may only use the information received for the functions stated in the regulations. This function could be wide, covering all the statistical activities of the public authority concerned, or narrow, for example relating solely to a particular statistical analysis.
217. The public authority will not be permitted to disclose information received, other than in the circumstances set out in [section 39\(4\)](#), with the exception of *paragraphs (c) and (i)*, unless further disclosure is specified for in the regulations. Any such unauthorised disclosure would breach the confidentiality obligation under [section 39](#) and could incur the criminal penalties provided in that section.
218. [Subsection \(8\)](#) states that the regulations to allow information sharing must be made with the consent of another Minister of the Crown (or the Treasury in a case where the regulations authorise disclosure to the Commissioners for Her Majesty's Revenue and

Customs or an officer of Revenue and Customs). The Minister consenting is expected to be the Minister responsible for the public authority receiving the information. For example, if information were to be disclosed to DEFRA, the Secretary of State for that department would need to give his consent.

219. *Subsection (9)* requires that the Minister for the Cabinet Office and the person consenting to the regulations must be satisfied that the information is needed for the statistical purpose stated in the regulations, and that the disclosure of such information is in the public interest.
220. Where the information is being received by a public authority for which the Minister for the Cabinet Office is the relevant Minister of the Crown, *subsection (10)* states that no other minister need give consent to the making of the regulation. *Subsection (11)* sets out that the bodies for which the Minister for the Cabinet Office has responsibility are those prescribed by order – these are expected to be the public authorities sponsored by the Cabinet Office. *Subsection (12)* requires the Treasury to consult with the Commissioners for Revenue and Customs before consenting (under *subsection (8)(a)*) to any regulations allowing the Board to disclose information to HMRC.
221. By way of example, this section could be used to enable the Board to disclose to Regional Development Agencies (RDAs) information collected under the *Statistics of Trade Act 1947*. ONS was able to disclose information collected under the *Statistics of Trade Act 1947* (consisting of the name and address of any trade establishment, the numbers of persons of different description employed there and the nature of the activities carried on there) to an officer of a local planning authority, a planning authority or a development corporation. However, the ONS could not lawfully disclose the same information to an RDA. This created a difference in the information available to local and regional bodies. Given the statutory purposes of an RDA, especially that of furthering the economic development and regeneration of an area and of the promotion of business efficiency, investment and competitiveness, access to this information might be considered to be necessary in the public interest.
222. Regulations made under this provision may provide the Board with a power to disclose information collected under the *Statistics of Trade Act 1947* to the RDAs, to give them similar access to that available to local planning authorities. The process for this would be as follows:
- before making the regulations the Minister for the Cabinet Office and another Minister of the Crown (the Secretary of State for Business, Enterprise and Regulatory Reform has residual responsibility for the RDAs) would need to consider the proposed use to which the RDAs would put the information, and would need to be satisfied both that the disclosure is required for the statistical purposes of the RDAs and that such a disclosure would be in the public interest;
  - the Secretary of State for Business, Enterprise and Regulatory Reform would need to give consent;
  - the Minister for the Cabinet Office would then lay the draft regulations before the House of Commons and the House of Lords;
  - Parliament would consider the draft regulations, and decide whether to approve them; and
  - if the draft regulations were approved by each House of Parliament, the Minister for the Cabinet Office would make the regulations. The Board would then be able to disclose information collected under the *Statistics of Trade Act* to the RDAs for their statistical purposes, as set out in the regulations.

***Section 52 Power to authorise disclosure by the Board: Scotland***

223. This section provides Scottish Ministers with the power to make regulations to authorise the Board to disclose information to Scottish public authorities, in the same way, and essentially via the same mechanism, as the Minister for the Cabinet Office can make regulations to authorise the Board to disclose information in [section 51](#). Regulations must be made by the Scottish Ministers with the consent of the Minister for the Cabinet Office. The definition of a Scottish public authority (as set out in [section 67](#)) is that given in the *Scotland Act 1998* and means any public body (except the Parliamentary corporation), public office or holder of such an office whose functions are exercisable only in or as regards Scotland.

***Section 53 Power to authorise disclosure by the Board: Northern Ireland***

224. This section provides Northern Ireland departments with the power to make regulations to authorise the Board to disclose information to Northern Ireland public authorities, in the same way, and essentially via the same mechanism, as the Minister for the Cabinet Office can make regulations to authorise the Board to disclose information in [section 51](#). Regulations must be made by the Northern Ireland departments with the consent of the Minister for the Cabinet Office. The definition of a Northern Ireland public authority (as set out in [section 67](#)) is a public authority whose functions are exercisable only or mainly in or as regards Northern Ireland and relate only or mainly to transferred matters within the meaning of *the Northern Ireland Act 1998*.

***Section 54 Data Protection Act 1998 and Human Rights Act 1998***

225. This section sets out that regulations made under [sections 44](#) to [50](#) may not amend the *Data Protection Act 1998* or the *Human Rights Act 1998*.

***Section 55 Cessation of Office for National Statistics etc***

This section establishes that the ONS and the Statistics Commission will no longer exist. The Board will, with the exception of civil registration, assume most of the functions that were undertaken by the ONS. The Board will also take on many of the responsibilities of the Statistics Commission.

***Sections 56 to 58 Transfers etc***

226. [Sections 56](#) to [58](#) ensure a continuity of property, rights and liabilities from ONS, the National Statistician and the Registrar General to the Board.
227. [Section 56](#) provides for the transfer of property, rights and liabilities from the ONS and the current National Statistician to the Board, with the exception of any property etc. that will be identified in a transfer scheme made by the Minister for the Cabinet Office and transferred to the Registrar General or a Minister of the Crown who will hold it on behalf of the Registrar General.
228. [Section 57](#) provides for the transfer to the Board of the property, rights and liabilities of the Registrar General in relation to the census and other functions transferring to the Board.
229. ONS's real property and other significant property rights were held by Ministers on behalf of the ONS. Most of the ONS's freehold and leasehold property (accommodation etc.) is held by the Secretary of State for Communities and Local Government. [Section 58](#) enables the Minister for the Cabinet Office to make a scheme transferring property (and any rights and liabilities associated with that property) from a Minister of the Crown to the Board or to provide for shared ownership, use or access.

### ***Section 59 Provision of services and facilities by the Board***

230. The GRO, the NHSCR and the secretariat to the Boundary Commission for England (BCE) have been administratively part of the ONS, and receive services and facilities (accommodation, IT, utilities, etc.) from it. This section allows the Board to continue to provide these services to the GRO, the NHSCR and the BCE, and ensure that the efficiency of their functions is not impaired.

### ***Section 60 Consequential amendments and Schedule 3***

231. This section and Schedule 3 make consequential amendments, in particular to amend existing references to the ONS by replacing them with references to the Board. The various Acts so amended are listed in Schedule 3.

### ***Section 61 Money***

232. *Subsection (1)* provides that the expenses incurred in the exercise of the functions of the Board should be paid from funds provided by Parliament.
233. *Subsection (2)* provides that any money received by the Board other than under *subsection (1)* will be paid into the Consolidated Fund.
234. *Subsection (3)* provides for the salaries, pension, allowances or expenses of members of the Board, employees or committee members to be paid with the approval of the Minister for the Cabinet Office.

### ***Section 62 Evidence***

235. This section establishes that a document purporting to have been issued by the Board (with the official seal of the Board and the signature of an authorised person to authenticate it) should be treated as having been so sealed and signed until the contrary is proved. Such documents are admissible in any legal proceedings.

### ***Section 63 Investigation by the Parliamentary Commissioner***

236. This section sets out that actions taken by the Board, in the exercise of its administrative functions, may be investigated by the Parliamentary Commissioner, or by the Scottish Public Services Ombudsman for functions exercised in relation to Scottish devolved statistics.

### ***Section 65 Orders and regulations***

237. This section sets out the Parliamentary procedure to be followed when secondary legislation is made under different provisions of the Act.

### ***Section 66 Devolved statistics***

238. This section sets out the definitions of Scottish, Welsh and Northern Ireland devolved statistics, reflecting the devolution settlements in the *Scotland Act 1998*, the *Government of Wales Act 2006* and the *Northern Ireland Act 1998*.
239. *Subsection (1)* defines ‘Scottish devolved statistics’ as statistics which relate to matters in Scotland which are not reserved matters (for example, statistics on Scottish education or health), except where they are produced for reserved purposes (for example, information on vacant hospital beds in Scotland produced by the UK Government for emergency planning, which is a reserved matter). As set out in *section 66(1)(b)*, Scottish devolved statistics also include statistics on reserved matters which are produced for devolved purposes (for example, where a Scottish public authority produces statistics which relate to coverage of financial service providers, a reserved matter, in the exercise of the devolved function of giving financial assistance to Scottish credit unions acting in areas of financial exclusion). *Section 66(1)(c)* includes in the definition of Scottish

devolved statistics any statistics produced in pursuit of functions transferred to Scottish Ministers under an Order made under [section 63\(1\)\(a\)](#) of the *Scotland Act 1998*.

240. *Subsection (2)* provides that statistics are not Scottish devolved statistics where they are produced by cross-border public authorities in the meaning of the *Scotland Act 1998* and bodies treated as cross-border public authorities for the purposes of some provisions of that Act, except where the statistics in question relate wholly to Scotland. Cross-border public authorities include the Forestry Commission, and the bodies treated as cross-border public authorities comprise the Food Standards Agency, the Council for the Regulation of Health Care Professionals, the Nuclear Decommissioning Authority, the Health Protection Agency and the Security Industry Authority.
241. *Subsection (3)* defines ‘Welsh devolved statistics’ as statistics which relate wholly or mainly to the exercise of functions by a Welsh ministerial authority or a public authority whose functions are exercisable only in or as regards Wales (for example, Welsh education statistics, which relate to Welsh Ministerial functions on education and training). Statistics which relate to functions which are devolved to Wales, but which are produced in the exercise of reserved functions are not, however, included in the definition of ‘Welsh devolved statistics’ (the same example on vacant hospital bed statistics being required for reserved emergency planning purposes applies as for Scotland).
242. *Subsection (4)* defines ‘Northern Ireland devolved statistics’ as statistics which relate to Northern Ireland transferred matters, unless (as for Scotland and Wales) they are produced for reserved purposes. The definition also includes statistics which do not relate to transferred matters in Northern Ireland but which are required for transferred purposes.

### ***Section 67 General interpretation***

243. This section defines certain terms used in the Act.
244. *Subsection (1)* sets out the meaning of a number of terms used in Part 1 of the Act: ‘Minister of the Crown’ is to have the same meaning as in the [Ministers of the Crown Act 1975 c.26](#) and means the holder of an office in Her Majesty's Government in the United Kingdom, including the Treasury and the Board of Trade.

## **Part 2: Registration Service**

### ***Section 68 Establishment of Registrar General as corporation sole***

245. Before the commencement of this Act, the rights and liabilities of the Registrar General for England and Wales were the responsibility of the office-holder. This section establishes the Registrar General for England and Wales as a corporation sole. The effect of this is to separate the rights and liabilities of the post of Registrar General from the office-holder.
246. It also provides for perpetual succession of those rights and liabilities between office holders, as a change of office holders would have no legal significance in contractual terms. The section also confirms that the Registrar General discharges his functions on behalf of the Crown and that the Registrar General is not a civil servant (although this would not prevent a civil servant being appointed as Registrar General).

### ***Section 69 Employment status of officials***

247. Prior to the commencement of this Act, as statutory officers the 1,700 registrars and superintendent registrars in England and Wales had no legal employer and no recourse to employment tribunals.
248. This section provides for superintendent registrars, registrars and their respective deputies appointed under the *Registration Service Act 1953* to become employees of the



local authority that appointed them. It also provides for existing terms and conditions and pension rights to remain unaffected by the change of status and gives continuity of service for unfair dismissal and redundancy purposes. Existing responsibilities under the Registration Acts are unaffected.

249. *Subsections (3) and (4)* respectively provide for the retention of existing terms and conditions and the transfer of liabilities when these office holders transfer to local authority employment.
250. *Subsection (5)* provides that a person who was an office holder or a local authority employee for a period before the date of transfer should be regarded as having been in continuous employment.
251. *Subsection (6)* provides that where an office holder was a member of a specified pension scheme he continues to belong to that scheme when he becomes a local authority employee.

### ***Sections 70 to 72 Minor amendments to the Registration Service Act 1953***

252. These sections make certain minor amendments to the *Registration Service Act 1953*. These are largely consequential to the change of registrars' employment status. They also remove certain powers currently vested in the Registrar General, including the power to remove registrars from office.
253. *Section 70* contains amendments to the *Registration Service Act 1953* consequential to the transfer of registrars and superintendent registrars into local government employment. The amendments remove the right of the Registrar General to dismiss registrars and superintendents. They also remove the need for registrars to account to the Registrar General for the registration fees they collect, as after they become local authority employees, they will be accountable to the local authority.
254. *Section 71* removes the current provision whereby superintendent registrars and registrars can appoint their own deputies and places the responsibility for the appointment of all deputies on the local authority.
255. *Section 72* removes the power under which the Registrar General or superintendent registrars may appoint new registrars of marriage.

## **Part 3: General**

### ***Section 73 Repeals***

256. This section sets out that the enactments specified in Schedule 4 are repealed to the extent set out in Schedule 4.

### ***Section 74 Commencement***

257. Upon Royal Assent, the provisions of this Act came into force in accordance with provision made by order made by statutory instrument by the Minister for the Cabinet Office.

### ***Section 75 Extent***

258. This section sets out that the Act will extend to England, Scotland, Wales and Northern Ireland, with the exceptions of *section 62* (on evidence in legal matters, which will extend only to England and Wales) and Part 2 (on the Registration Service, which will extend only to England and Wales). Further, any amendment or repeal effected by this Act will have the same extent as the enactment to which it relates.

*These notes refer to the Statistics and Registration Service  
Act 2007 (c.18) which received Royal Assent on 26 July 2007*

***Schedule 1 Transfer of functions from Registrar General: Amendments***

259. See *section 25*.

***Schedule 2 Information sharing: supplementary amendments***

260. See *section 46*.

***Schedule 3 Replacement of ONS by the Board: consequential amendments***

261. See *section 60*.

***Schedule 4 Repeals***

262. See *section 73*.