

EXPLANATORY MEMORANDUM TO
THE CIVIL REGISTRATION FEES (DATA-SHARING) REGULATIONS 2018
2018 No. 709

1. Introduction

- 1.1 This explanatory memorandum has been prepared by the Home Office and is laid before Parliament by Command of Her Majesty.

2. Purpose of the instrument

- 2.1 The Government wants to implement new gateways for the sharing of births, deaths, marriages and civil partnerships data with public authorities. The powers to do so were created by the Digital Economy Act 2017 (The ‘Act’). This instrument sets the fees that civil registration officials can charge to recover their costs of providing data.

3. Matters of special interest to Parliament

Matters of special interest to the Joint Committee on Statutory Instruments

- 3.1 None.

Other matters of interest to the House of Commons

- 3.2 As this instrument is subject to negative resolution procedure and has not been prayed against, consideration as to whether there are other matters of interest to the House of Commons does not arise at this stage.

4. Legislative Context

- 4.1 The Act amongst other things supports the digital transformation of government, enabling the delivery of better public services, world leading research and better statistics by allowing the transfer of specified data across Government.
- 4.2 Section 46 of the Act inserted sections 19AA, 19AB and 19AC into the Registration Service Act 1953 (“the 1953 Act”). These provisions create a discretionary power for civil registration officials within England and Wales to disclose information, such as birth, deaths, marriages and civil partnership data, to specified public authorities and other civil registration officials where it is required to fulfil one or more of the recipient’s functions. The definition of ‘civil registration officials’ includes the Registrar General (RG); a superintendent registrar of births, deaths and marriages; a registrar of births and deaths; or a registrar of marriages. Additionally, it includes certain local authorities in their capacity as registration authorities when carrying out certain functions in relation to civil partnerships.
- 4.3 The Civil Registration Data Sharing Code of Practice which was laid before Parliament on 21 May 2018, sets out how information should be shared using powers created by the Act.
- 4.4 The Act also amends S19B of the ‘1953 Act’ to enable the Minister to, by regulations, provide for fees to be payable to a civil registration official in respect of the disclosure of information under S19AA of the 1953 Act, or to set out how the fee is to be determined.

5. Extent and Territorial Application

- 5.1 The extent of this instrument is England and Wales.
- 5.2 The territorial application of this instrument is England and Wales

6. European Convention on Human Rights

- 6.1 As the instrument is subject to negative resolution procedure and does not amend primary legislation, no statement is required.

7. Policy background

What is being done and why

- 7.1 The Act provides a legal gateway for the sharing of civil registration data across Government and official bodies to assist them in fulfilling their functions, and for the Registrar General and other civil registration officials to charge a fee for providing that data, set at levels to recover full costs.
- 7.2 Until the introduction of the Act, the RG and the local registration service (LRS) had a limited number of specific data sharing powers and duties under other primary legislation. Where no specific power exists, civil registration records could generally only be accessed by the purchase of a certificate. This is a cumbersome and expensive means for public bodies to obtain data.
- 7.3 Every year in England and Wales approximately 700,000 births, 500,000 deaths 246,000 marriages and 800 civil partnerships are registered. The LRS retains original entries relating to registrations within its own local authority. There is a legal obligation for a copy of all birth, death, marriage and civil partnership registrations within England and Wales to be sent to the RG to maintain a central record of registration events.
- 7.4 The fees set out in this instrument are based on a weighted hourly average that is calculated taking into account the proportion of time that certain grades of civil registration officials spend on the disclosure process. The approach is taken due to the variety of tailored data sharing arrangements that could be in place, for instance differences on the volume of data requested, the complexity of filtering or retrieving the data and the frequency it is to be provided (i.e. weekly, monthly, annually). The hourly rates will allow tailored charges to accurately recover the costs of providing the service. They have received Ministerial and Her Majesty's Treasury approval.
- 7.5 There is a discretionary power within these regulations to waive, reduce or refund any fee on the grounds of public interest or that, in the opinion of the civil registration official, it is just and equitable to do so.

8. Consultation outcome

- 8.1 No separate consultation has been conducted in relation to this instrument; however, a consultation which concerned all codes of practice associated with the Act, including The Civil Registration Data Sharing Code of Practice, ran for 6 weeks from 21 September to 2 November 2017. Most responses were supportive of the Codes of Practice, and broadly in favour of the outcome of the consultation. The Government response can be found at: <https://www.gov.uk/government/consultations/digital-economy-act-part-5-data-sharing-codes-and-regulations>. With regards to civil registration fees, a small number of respondents wanted assurance that the fee was

proportionate and that the cost recovery model is implemented in a fair, accountable and transparent way.

9. Guidance

9.1 Guidance will be made available on the Registrar General's website.

10. Impact

10.1 There is no impact on business, charities or voluntary bodies.

10.2 The impact on the public sector cannot be quantified at this time due to the variable nature of the requests for data that are anticipated. Details of how the fee will be determined are set out in 7.4 and will not exceed cost recovery levels. Civil registration officials or public authorities will consider the benefits of receiving the data, including how it will be used prior to any application for data transfer.

10.3 An Impact Assessment has not been prepared for this instrument.

11. Regulating small business

11.1 The legislation does not apply to activities that are undertaken by small businesses.

12. Monitoring & review

12.1 The fees will be subject to review during the next financial year.

13. Contact

13.1 Debra Owen at the General Register Office, part of Her Majesty's Passport Office, Smedley Hydro, Trafalgar Road, Southport. PR8 2HH; Tel: 0151 471 4447; debra.owen@hmpo.gsi.gov.uk can answer any queries regarding the instrument.