

LEGISLATIVE CONSENT MEMORANDUM

CENSUS (RETURN PARTICULARS AND REMOVAL OF PENALTIES) BILL

1. This Legislative Consent Memorandum is laid under Standing Order (“SO”) 29.2. SO29 prescribes that a Legislative Consent Memorandum must be laid, and a Legislative Consent Motion may be tabled, before the National Assembly for Wales if a UK Parliamentary Bill makes provision in relation to Wales for any purpose within, or which modifies the legislative competence of the National Assembly.
2. The Census (Return Particulars and Removal of Penalties) Bill (the “Bill”) was introduced in the House of Lords on 1 May 2019. The Bill can be found at:
[Census \(Return Particulars and Removal of Penalties\) Bill 2017-19](#)

Policy Objective

3. The UK Government’s stated policy objective is to take forward the recommended voluntary new questions on sexual orientation and gender identity to meet the need for better quality information for equality monitoring and public service provision.
4. The 2021 Census White Paper, *Help Shape Our Future: The 2021 Census of Population and Housing in England and Wales*, was laid before the National Assembly for Wales (on 14 December 2018) and included the UK Statistics Authority’s recommendation of including questions on sexual orientation and gender identity in the 2021 Census.

Summary of the Bill

5. The Bill is sponsored by the Cabinet Office.
6. The Bill makes provision for amending the Census Act 1920 to include sexual orientation and gender identity as matters in respect of which particulars may be required in the census, but that no person shall be liable to a penalty for refusing or neglecting to state particulars in respect of sexual orientation and gender identity.

Provisions in the Bill for which consent is required

7. Section 1

Section 1 of the Bill amends the Census Act 1920 and incorporates sexual orientation and gender identity, as matters which particulars may be requested in the census. The information is requested on a voluntary basis.

8. Section 3

Section 3 of the Bill relates to the extent, commencement and short title of the Bill and is incidental to Section 1.

9. Consent is required for these provisions because they relate to devolved matters and therefore come within the legislative competence of the National Assembly for Wales. The preamble to the Bill provides that its purpose is to amend the Census Act 1920 (and the Census Act (Northern Ireland) 1969) in relation to the provision of particulars about sexual orientation and gender identity. The information the census provides on the population, including their characteristics, education, religion, ethnicity, working life, housing and health, gives decision-makers in national and local government, community groups, charities and businesses the opportunity to better serve communities and individuals in the United Kingdom. Information derived from the census helps to inform policy, plan services, and distributes resources effectively to local and health authorities and enables these resources to be directed to where they are needed.

Reasons for making these provisions for Wales in the Census (Return Particulars and Removal of Penalties) Bill

10. It is the view of the Welsh Government that it is appropriate to deal with these provisions in this UK Bill for reasons of timing, coherence and consistency with the rest of the UK.
11. The Statistics and Registration Service Act 2007 made the UK Statistics Authority and its executive office, the Office for National Statistics, responsible for carrying out the census in England and Wales.
12. The Registrar General for Scotland has the authority for taking the census in Scotland and similarly, the Registrar General for Northern Ireland is responsible for making arrangements for taking the census in Northern Ireland. A statement of agreement has been drawn up between the National Statistician and the Registrars General for Scotland and Northern Ireland governing arrangements for the 2021 censuses in the UK. This statement ensures that the independent censuses carried out in each constituent country of the UK provide consistent and coherent statistics that are capable of meeting users' requirements.
13. The provisions of the Bill align well with the well-being goals of the Well-being of Future Generations (Wales) Act, namely the goals of "a more equal Wales" and "a Wales of cohesive communities".
14. The National Assembly for Wales (Transfer of Functions) (No. 2) Order 2006 made provision for the power to make Census Regulations for Wales to be transferred to the Assembly and for the Assembly to be consulted about the content of the Census Order. These functions are now

exercisable by Welsh Ministers, pursuant to Section 30 of Schedule 11 to GOWA 2006.

15. The 2021 Census White Paper, *Help Shape Our Future: The 2021 Census of Population and Housing in England and Wales*, was laid before the National Assembly for Wales on 14 December 2018. The White Paper highlights that the Office for National Statistics is working co-operatively with Welsh Government officials and the Welsh Government on plans for the 2021 Census. Although the UK Statistics Authority retains responsibility for the Census in England and Wales, following the 2001 Census the UK Government made a commitment to give Welsh Ministers a formal role in determining the conduct and content of the census in Wales.
16. The Bill amends the law in England, Wales and Northern Ireland. The role of the Office for National Statistics is to deliver the Census across England and Wales. Other than one additional question being included in the proposed Census content for Wales and specific provisions regarding the Welsh language, the administrative arrangements for the Census are identical across England and Wales.
17. Taking these factors into account and due to the Bill's wide-ranging application we consider it is expedient that the UK Parliament should make provision for Wales. This would also be the most timely and efficient approach to ensure that the primary legislation is amended to ensure that work on the Census Order and regulations can proceed.

Financial implications

18. There are no direct additional financial implications for the Welsh Government resulting from this Bill.

Conclusion

19. It is the view of the Welsh Government that it is appropriate to deal with these provisions in this UK Bill as it represents the most practical and proportionate legislative vehicle to enable the provisions to apply in Wales.

Rebecca Evans AM
Minister for Finance and Trefnydd
May 2019