

Explanatory Memorandum to the Census (Wales) Regulations 2010

This Explanatory Memorandum has been prepared by the Department for the First Minister and Cabinet and is laid before the National Assembly for Wales in conjunction with the above subordinate legislation and in accordance with Standing Order 24.1

Minister's Declaration

In my view, this Explanatory Memorandum gives a fair and reasonable view of the expected impact of the Census (Wales) Regulations 2010. I am satisfied that the benefits outweigh any costs.

Jane Hutt AM

Minister for Business and Budget

24 April 2010

Description

1. These Regulations make provision for the operational arrangements and procedures necessary for the conduct of the 2011 census and prescribe the questionnaires that will be used – specimens of which are annexed to the Regulations.

Matters of special interest to the Constitutional Affairs Committee

2. There are no matters of special interest to the Constitutional Affairs Committee.

Legislative background

3. Section 1 of the Census Act 1920 enables an Order to be made by Her Majesty in Council directing that a census be taken for Great Britain or any part of it. In England and Wales, the duties under section 2 of the 1920 Act relating to preparing for and undertaking a census (formerly conferred on the Registrar General) were transferred to the Statistics Board by the Statistics and Registration Service Act 2007 (c.18), Schedule 1, paragraphs 1 and 2. In practice, these functions are exercised by the Office for National Statistics (ONS) which is an executive office of the Statistics Board (established under section 32 of the 2007 Act).
4. Section 3 of the Census Act 1920 makes provision for census regulations to be made for the procedural and practical arrangements needed to conduct a census pursuant to a census order.
5. The power to make census regulations for Wales was transferred to the former National Assembly for Wales by the National Assembly for Wales (Transfer of Functions)(No. 2) Order 2006 (S.I. 2006/3334). These functions are now vested in the Welsh Ministers by virtue of paragraph 30 of Schedule 11 to the Government of Wales Act 2006 (c.32).
6. Regulation (EC) No 763/2008 of the European Parliament and Council imposes obligations on the UK with respect to the provision of statistical outputs based on the census (or comparable data sources) in 2011. These statistical outputs are provided to Eurostat (the Statistical Office of the European Community) which is responsible for providing the European Union with statistics at a European level that enable comparisons between countries and regions. The 2011 census will thus assist the UK in carrying out its obligations under the Regulation.
7. These Regulations follow the negative resolution procedure.

Purpose & intended effect of the legislation

Policy background

8. The census is a ten-yearly data collection, covering all people and households in the UK. It provides essential information from national to neighbourhood level for government, business and the community. In England and Wales, the census is planned and carried out by ONS.
9. Participation in the census is compulsory (enforceable under these Regulations). It is essential that every effort is made to include everyone in the census as it is the only data collection which provides a detailed picture of the entire population and is unique because it covers everyone at the same time and asks the same questions everywhere. This makes it possible to obtain data for small population groups and small geographical areas, and to compare different parts of the UK.
10. Six main uses of census data have been identified. These are:
 - Resource allocation – For UK Government and Assembly Government resource allocation purposes it is crucial that population counts (both total counts and by key characteristics) are accurate, consistent and comparable over the area that the resources are to be allocated.
 - Targeting investment – For many government funding uses, data must be consistent nationally. This allows investment to be made in the areas where it is most needed.
 - Planning – Basic population counts and counts by key characteristics (such as age, sex, ethnic group, household type etc.) are important for planning. If the different characteristics of an area's population can be identified, plans can then be made for the sort of services necessary. In particular, data for small areas are crucial in local planning.
 - Policy making and monitoring – There is a clear drive across government for policy initiatives to be evidence based. Since many initiatives are implemented and assessed at a local level, census data can form a crucial part of this process.
 - Academic and market research – The ability to produce multivariate statistics for small areas is vital for many research uses. Basic population counts and counts by characteristic are also required.
 - Statistical benchmark – More generally, census data are used to improve the quality of many other statistics, which may be used for the above categories. Many of the government statistics are benchmarked or grossed up using census data, e.g. survey data. The methodology for calculating annual population estimates, which are used widely in resource allocation and other fields, relies heavily on census population data as a starting point.
11. The White Paper on the 2011 census '*Helping to shape tomorrow*', was published by ONS in December 2008. This contains information about when, why and how the 2011 census is to be taken, what benefits it

provides, the topics and questions proposed, how much it will cost and who is to be involved. The Welsh Ministers were consulted on the content of the White Paper and it was laid before the National Assembly for Wales.

12. The Census (England and Wales) Order (S.I. 2009/3210) provides for the census to cover all individuals present in England or Wales on census night and, in addition, people who are absent if they are usual residents. It places the responsibility to fill in the census questionnaires on householders and on individuals and people in charge in communal establishments, with exceptions to deal with particular circumstances. The provisions of the Census Order are broadly similar to those for previous censuses, with changes to take account of the evaluation of the 2001 census and subsequent consultation.

Objectives of these Regulations

13. The purpose of these Regulations is to make provision for the operational arrangements and procedures necessary to conduct the 2011 census in Wales. This will enable the Census Order to be carried into effect. In particular, the Regulations make provision:
- for the division of Wales into districts and for the appointment of persons to act in those districts for the purposes of carrying out the census;
 - requiring such persons to perform such duties in connection with the taking of the census as may be prescribed;
 - requiring persons in charge of communal establishments to make returns with respect to the establishment and any residents therein;
 - requiring information to be given to those persons who are liable to make returns by those persons with respect to whom the returns are to be made;
 - setting out the prescribed forms of return;
 - making provisions for the safe custody of such forms and other documentation containing personal information;
 - requiring persons employed for the purpose of the census to give an undertaking with respect to the performance of their duties;
 - with respect to any other matters for which it is necessary to make provision for the purpose of carrying into effect the provisions of the Census Order.

Consultation

14. Details of the consultation undertaken are included in the Regulatory Impact Assessment below.

REGULATORY IMPACT ASSESSMENT

Options

15. Do nothing – These Regulations are part of a package of legislation needed to deliver the 2011 census. The Census (England and Wales) Order 2009 (S.I. 2009/3210) directs that a census will be taken on 27 March 2011. By doing nothing, the procedural arrangements would not be put in place to allow the 2011 census to be conducted in Wales. Consequently, the benefits of conducting the census could not be realised. Wales would not be able to make use of any census data from 2011, unlike other UK countries where the census would still go ahead. Users of census data would be forced to continue using data from the 2001 census or other sources, or commission costly data collections. Doing nothing could lead to a number of potential outcomes, including the misallocation of resources, poor planning and poorly targeted interventions.
16. Make these Regulations – By making these Regulations, the 2011 census can be conducted in Wales, as directed by the Census Order 2009. The benefits of the census, as set out below, could be realised. There are associated costs for ONS (also set out below).

Costs & Benefits

17. ONS has produced a full business case for the 2011 census, which has been scrutinised by HM Treasury and the Office of Government Commerce. This demonstrated the value of the 2011 census for England and Wales, with the benefits outweighing the costs. The business case will be published in spring 2010.

Costs

18. The cost to ONS for the census programme for England and Wales is £482m. This is spread over 12 years. When looking at the costs on a per capita per year basis, the England and Wales census compares favourably with other countries who undertake similar censuses.
19. These Regulations do not impose any additional costs on ONS or the Welsh Assembly Government. ONS has already secured funding for the census up to and including 2011-12. Funding for ONS beyond 2011-12, for the analysis and production of census outputs, is subject to the outcome of the next spending review. Approximately 70% of the census budget has already been committed through contracts needed to deliver various parts of the census process (for example, management of the field force, postal delivery of census questionnaires).
20. In July 2006, the then Minister for Finance and the Financial Secretary to the Treasury agreed to the principles of a funding agreement for the census for England and Wales. This agreement stated that ONS will pay for “business as usual” relating to the census, whilst the Welsh Assembly

Government will pay for any changes it imposes. The Welsh Assembly Government has not imposed any changes for the 2011 census; therefore there are no financial implications for the Welsh Assembly Government.

Benefits

21. Census data is used in the allocation of resources for local government and the health service. In Wales, census derived indicators are used in the direct allocation of around £1.8bn of the £4.1bn available to councils in the Revenue Support Grant.
22. Health resource allocation in Wales is partly based on census-derived figures. Due to the role of historical figures in determining health allocations, it is not possible to calculate an exact figure to illustrate the benefits of census data. However, an estimate suggests that if census data had not been available, and the next best data source (GP registrations) had to be used, there could be an error of approximately 2% in calculating target allocation shares. This would equate to over £80m in the distribution of target shares.
23. ONS has undertaken some analysis to establish the total quantified benefits of the England and Wales census for local government, health and the private sector. This produced a total of £720m in quantified benefits. Given that this figure does not cover all the different uses of census data, this is likely to be a large underestimate of the benefits. For example, the use of the Neighbourhood Statistics site (just one way of accessing census data), which has over 100,000 hits a month, is not covered by this figure.

Statutory Duties and Statutory Bodies

24. The census is one of the key sources of data on the Welsh language and equality strands in Wales. If these Regulations were not made, data on these subjects would not be available for small geographical areas and small population groups. This could have an impact on policy development, monitoring and targeting intervention. Users of this data would have to rely on other sources (for example, survey data) which would be less detailed and less reliable and in some cases simply not available.
25. Two equality impact assessments have already been completed by ONS during the question testing and design stage. ONS is also completing two more equality impact assessments covering recruitment and appointments, and community liaison for the 2011 census. These are due to be completed in spring 2010. Furthermore three additional equality impact assessments, covering non-compliance, marketing and census outputs are being developed. These are expected to follow later in 2010.
26. ONS has committed to ensuring that the requirements of the Welsh Language Act 1993 are met. They have published an annex to their Welsh Language Scheme which sets out how they will ensure English and Welsh

are treated equally when providing services to the public as part of the census. This includes:

- Census questionnaires and help material being available in English and Welsh;
- Recruitment campaigns being conducted in English and Welsh;
- Publicity material available in both languages; and
- Using bilingual field staff, especially in areas with high proportions of Welsh speakers.

27. The cost impact on businesses, local government and voluntary bodies of this legislation is considered to be minimal. This is because the purpose of the census is not to collect business data. The only impact on businesses will be the requirement for persons in charge of commercial communal establishments to make a return in respect of the establishment and of any residents or inmates residing within their premises, who are unable to make a return for themselves.

28. Local authorities will incur some expense as a result of their co-operation with ONS in the planning and delivery of the census. Each local authority in Wales has appointed a Census Liaison Manager and an Assistant Census Liaison Manager. However, these are not considered to be full time posts and it is expected that existing officers would take on these duties alongside their normal role. Local authorities have also been asked to assist with work on the census address registers, developing community liaison contacts, supporting local field staff and promoting the census in their area. The cost of these activities varies depending on the size of the authority; therefore it is not possible to calculate an average cost. However, it is considered that the benefits associated with obtaining census data outweigh the costs incurred.

29. All the statutory bodies will receive benefits from this legislation being made through their own use of census data.

Consultation

30. Consultation has not been carried out on these Regulations; however a series of consultation activities across the whole census programme has informed the development of these Regulations. This consultation programme is summarised below. The Welsh Assembly Government has worked with ONS throughout the development of the 2011 census to ensure that the requirements of Wales are taken into account.

Consultation with users

31. The content of the 2011 census has been driven principally by the demands and requirements of users of census statistics, as well as the evaluation of the 2001 census and the advice and guidance of organisations with experience of similar operations. Its design has been determined by extensive consultation through a structure of formal advisory committees,

topic-related working groups and public meetings, and via media such as consultation and information papers, and the census website.

32. ONS carried out the consultation on the 2011 census topics and questions for England and Wales, with support from the Welsh Assembly Government. In May 2005, ONS published a consultation document '*The 2011 Census: Initial view on content for England and Wales*', which aimed to establish the user requirements for a large number of prospective census topics. This consultation was supported by a series of open meetings, including one in Wales.
33. Around 2,000 topic responses were submitted from nearly 500 users in England and Wales. Over 330 topic responses were submitted from 28 users in Wales. Respondents included central and local government, health organisations, academia, businesses, special interest groups and the public.
34. An information paper published by ONS in 2006, '*The 2011 Census: Assessment of Initial User Requirements on Content for England and Wales*', provided details of the responses and how these were being used to devise the topics for the proposed 2011 census questionnaire. The Welsh Assembly Government also published a summary of the responses from Wales or about Welsh issues.
35. A further, more detailed consultation was held in 2006 on the topics of ethnicity, identity, language and religion. This consultation aimed to better understand the requirements in this area and identify relative priorities, given the space constraints on the census questionnaire. Over 600 responses were received, with 37 questionnaire responses coming from Wales.
36. Users have been consulted on the development of the census through a number of ways other than formal, written consultations. ONS organised a series of open meetings on census content in 2007 (including one meeting in Wales). Also in 2007, the Welsh Assembly Government arranged two workshops to discuss current thinking on census content with users in Wales. Special interest groups have been consulted throughout the development of the census, either through their involvement in formal consultations or through ad-hoc meetings. The Welsh Assembly Government discussed census preparations with the Faith Forum as part of this process. The views of statistical Heads of Profession from across government have also been sought throughout the development of the census.

Census Advisory Groups

37. Census Advisory Groups represent the interests of the main user communities. Meetings are usually held twice a year, often to coincide with particular developments or key events in census planning. These groups covered:
 - users in Wales;

- central government departments;
- local authorities;
- the health service;
- the business sector and professional interests;
- the academic community; and
- organisations with interests in special needs and minority populations.

38. The Census Advisory Group for Wales includes representatives from the Welsh Assembly Government, the Assembly Commission, the Welsh Language Board, local authorities, One Voice Wales, the Equality and Human Rights Commission and other organisations in Wales. The group meets every six months.

Consulting with the National Assembly for Wales and UK Parliament

39. ONS and the Welsh Assembly Government have also been consulting the National Assembly for Wales and the UK Parliament on various aspects of the census proposals. Nearly all National Assembly subject committees and the Equality of Opportunity Committee discussed preparations for the 2011 census during 2006 and 2007. ONS has appeared before UK Parliament select committees and attended meetings of a number of All Party Parliamentary Groups. ONS has also sought the views of MPs and AMs through events at Portcullis House and the Senedd in 2009 and 2010.

40. In December 2008 ONS published the 2011 Census White Paper 'Helping to shape tomorrow'. The White Paper set out in some detail the proposed questions, as well as those considered that were not proposed to be included, along with an overview description of the entire census process. This was laid before the National Assembly for Wales and the UK Parliament. The then Minister for Finance and Public Service Delivery wrote to all Assembly Members, committee chairs and party business managers informing them of the publication of the White Paper.

Competition Assessment

41. These Regulations have no effect on competition.

Summary

42. Making these Regulations will put in the place the procedural arrangements needed to conduct the census. The associated costs are borne by ONS. The benefits, both to ONS and more widely, outweigh this cost; therefore the option to make legislation has been chosen.

Post Implementation Review

43. This legislation allows for, and governs, the undertaking of the proposed 2011 census. It will have achieved its aims and will have been proved to be successful, if the census is taken on the appointed day in 2011 and the associated activities and processes necessary to undertake the census are a success with people completing their questionnaires as requested, and these questionnaires being collected, processed and analysed to produce statistical outputs.
44. Consultation will take place throughout 2010 to determine what statistical data the users of the 2011 census need. This will help ONS and the Welsh Assembly Government to prioritise output needs and produce outputs that are relevant to users.
45. As with previous censuses, there will be a thorough review of the 2011 census programme after it has been undertaken. This will evaluate the whole census programme, including planning, preparation and operational aspects.