

Explanatory Memorandum to the Census (Wales) Regulations 2020

This Explanatory Memorandum has been prepared by Knowledge and Analytical Services and is laid before the Senedd Cymru in conjunction with the above subordinate legislation and in accordance with Standing Order 27.1.

Minister/Deputy Minister's Declaration

In my view, this Explanatory Memorandum gives a fair and reasonable view of the expected impact of the Census (Wales) Regulations 2020. I am satisfied that the benefits justify the likely costs.

Rebecca Evans MS
Minister for Finance and Trefnydd
1 June 2020

PART 1

1. Description

These Regulations make provision of the operational arrangements and procedures necessary for the conduct of the 2021 census and prescribe the questionnaires that will be used. Specimens of the paper questionnaire and descriptions of the questions and response options for the online questionnaire are annexed to the Regulations.

2. Matters of special interest to the Constitutional and Legislative Affairs Committee

The Regulations are made under S3 of the Census Act 1920. S3(2) of the Census 1920 Act provide that the Regulations must be laid for a period of 20 sitting days, during which they may be annulled. This unusual 20 day sitting period has been superseded by S5(2) of the Statutory instruments Act 1946 which provides that the annulment period lasts for 40 days.

3. Legislative background

The Census (Wales) Regulations 2020 enable the Census (England and Wales) Order 2020, to be carried into effect. The Census (England and Wales) Order 2020 was approved by Parliament on 14 May 2020 and made by Her Majesty in Council on 20 May 2020.

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).

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.

The power to make census regulations for Wales was transferred to the National Assembly pursuant to 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.

Pursuant to section 3(2) of the Census Act 1920 these Regulations follow the negative resolution procedure.

4. Purpose and intended effect of the legislation

The census is a decennial survey of all people and households in the United Kingdom. It provides essential information from national to neighbourhood level for government, business, and the community.

Participation in the census is compulsory (enforceable under these Regulations). However, questions on religion, sexual orientation and gender identity are voluntary under the Census Act 1920, as amended in the Census (Amendment) Act 2000 and Census (Return Particulars and Removal of Penalties) Act 2019, and will be clearly marked as voluntary questions.

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.

For the first time, the census in 2021 will be conducted primarily online. This follows a review by ONS on the future provision of population statistics in England and Wales, and a recommendation that needs be met through the conduct of a predominantly online census in 2021. The Welsh Government confirmed its support for the proposed census approach in a statement published 27 March 2014 by the Minister for Finance and Trefnydd.

The Census (England and Wales) Order 2020 (S.I. 2020/532) 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. The Census, due to take place on the 21 March 2021, places the responsibility to complete online or paper 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.

The purpose of these Regulations is to make provision for the operational arrangements and procedures necessary to conduct the 2021 census in Wales. This will enable the Census Order to be carried into effect. In particular, the Regulations make provision for:

- how the country will be divided for the administrative purposes of the census and the persons to be appointed within those administrative districts;
- the responsibilities of the persons employed for the purposes of the census;
- the introduction of online bilingual questionnaires to be access via a unique access code, along with the provision of bilingual paper questionnaires;
- the duties on a person required to complete questionnaires and return them;

- the provision of questionnaire tracking systems, fieldwork management tools and census electronic devices for use by those employed in taking the census for managing the census and tracking census returns;
- the preparation and provision of census packs for completion by those required to provide a return;
- the process of replacement packs and access codes in order for a return to be made;
- the process for providing a census return;
- where necessary, information should be provided to the persons required to make a census return;
- the description of the system used to track census returns;
- the procedure that will be followed if a necessary return has not been made or is incomplete;
- the process to ensure the safe custody of questionnaires, records and documents received or generated in the course of the census, along with the ensuring the safe custody of census electronic devices;
- the person employed for using the data electronic system must make a statutory declaration regarding the confidentiality of the census data; and
- specimen copies of the paper and online questionnaires and a description of the functionality of the online questionnaires.

5. Consultation

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

PART 2 – REGULATORY IMPACT ASSESSMENT

6. Options

Option 1: Do nothing – These Regulations are part of a package of legislation needed to deliver the 2021 census. The Census (England and Wales) Order 2020 (S.I. 2020/532) directs that a census will be taken on 21 March 2021. By doing nothing, the procedural arrangements would not be put in place to allow the 2021 census to be conducted in Wales.

Option 2: Make these Regulations – By making these Regulations, the 2021 census can be conducted in Wales, as directed by the Census Order 2020.

7. Costs and benefits

Option 1: Do Nothing

There are no additional costs associated with this option. However, the benefits of conducting the census could not be realised. Wales would not be able to make use of any census data from 2021, unlike other UK countries where the census would still go ahead. Users of census data would be forced to continue using data from the 2011 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.

Option 2: Make these Regulations

ONS has produced a full business case for the Census and Data Collection Transformation Programme. The programme is subject to annual business case refreshes which are approved by HM Treasury and the Cabinet Office.

Costs

ONS made provision of around £900 million for the Census and Data Collection Transformation Programme and Digital Transformation Programme for the period 2015-2026. The money is transforming ONS' data collection activities, and delivering efficiencies, through greater use of administrative data and survey data collected online. The census in Wales is part of that transformation programme.

These Regulations do not impose any additional costs on ONS.

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 Government will pay for any changes it imposes. The Welsh Government has not imposed any changes for the 2021 census which would incur additional costs. Therefore, there are no financial implications for the Welsh Government.

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.

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.

Benefits

The benefits of the census for users has been quantified at around £5 of benefit in the wider economy for every £1 spent. There will also be significant additional benefits, to government in particular, which it has not been possible to quantify (for example for developing pensions policy and equality monitoring). Moreover, the census supports wider governmental priorities, such as the Well-being of Future Generations; the Welsh and UK government's digital and data agendas (through the move to online data collection) and the development of a national open address register.

Census data is used in the allocation of resources for local government and the health service. In Wales, census data is used in the direct allocation of around £500m of local government funding, it also informs a further £2.0bn of the local government settlement through being the baseline for population data and sparsity indicators used.

Health resource allocation in Wales uses the census as part of an assessment of additional need. 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 (National Survey for Wales) had to be used, there may be differences in allocations of up to 6% for some health boards. This would equate to around £70m allocated differently if applied to target shares on the whole of the hospital and community health services element.

In addition to public sector usage, data collected through the Census is used by a large number of commercial organisations, academics and members of the public interested in tracing family history.

Statutory Duties and Statutory Bodies

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.

Under the Well-being of Future Generations (Wales) Act 2015, in their local well-being assessments, public service boards are required as part of assessing the well-being in their area, to include an analysis of the state of well-being in each community area and in the area as a whole. Census data are used widely to provide relevant data within these local well-being assessments and without the updated data from the 2021 Census, public service boards would need to rely on less detailed or outdated data or invest significantly in alternative data sources.

The ONS has published an equality impact assessment¹ (updated in March 2020) which considers whether the information they will collect from the census, and the operation of the census, is in accordance with the Equality Act 2010.

ONS has committed to ensuring the requirements of the Welsh Language Act 1993, Welsh Language (Wales) Measure 2011 and related Regulations are met by making appropriate arrangements for enumeration, publicity and public engagement activities in Wales. This includes:

- Welsh and English language versions of both the online and paper questionnaires and all other key communication;
- Dedicated Welsh language telephone helpline and online facilities; and
- Using bilingual field staff, especially in areas with high proportions of Welsh speakers.

8. Consultation

Although public consultation has not been carried out on these Regulations, we have consulted with the Information Commissioner's Office and the Statistics Board in relation to these Regulations.

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 Government has worked with ONS throughout the development of the 2021 census to ensure that the requirements of Wales are taken into account.

Consultation with users

The content of the 2021 Census has been driven principally by the demands and requirements of users of census statistics, as well as the evaluation of the 2011 Census and the advice and guidance of organisations with experience of similar operations. ONS has been engaging widely on the census questions. ONS undertook an extensive programme of consultation, research, evidence gathering and evaluation.

In June 2015, ONS launched a 12-week public consultation asking census users for their views and evidence on the requirements for the questionnaire in England and Wales for the 2021 Census. Anyone could take part and the resulting feedback informed further research which contributed to the development, testing and evaluation of the proposed census questions. There were 1,095 responses to the consultation across England and Wales: 279 from organisations and 816 from individuals.

¹Equality Impact Assessment for the 2021 Census,
<https://www.ons.gov.uk/census/censustransformationprogramme/legislationandpolicy>

ONS's full response to the consultation was published in May 2016², setting out the topic evaluation criteria used and ONS's views on those to be included in the 2021 Census. ONS also published individual topic reports, each setting out the evaluation of that topic against the set criteria, the updated view for that topic, equality implications and the next steps to be taken.

In June 2015 and July 2016 ONS held regional roadshows to share the latest news on the proposed content for the 2021 Census questionnaire.

The public consultation was followed by a continuous programme of research and engagement by ONS with stakeholder groups, and with the wider public, to test different question design options. ONS also worked with a number of interested parties to understand detailed needs for specific questions and definitions including:

- government departments who were consulted through the Heads of Profession within the Government Statistical Service (GSS) and inter-departmental committees, and through liaison with GSS topic experts;
- Census Advisory Groups (including a Census Advisory Group for Wales) with representatives from central government departments, local authorities, the health service; the academic community, business and professional associations, and users and other interested parties in Wales, and third-sector bodies representing the interests of local communities, minority population groups, people with disabilities and faith organisations;
- regular attendance at meetings with stakeholders in Wales led by the Welsh Government, for example the [Welsh Statistical Liaison Committee](#) and [Third Sector Statistics User Panel](#);
- round-table events in Wales including a public policy forum and an event with stakeholders interested in the Welsh language;
- topic experts and methodologists within GSS, who were regularly consulted for their in-depth, specialist knowledge.

This engagement ensured a fuller understanding of the importance of, and support for, the aims and objectives of the 2021 Census.

Liaison with community groups, charities and other third-sector bodies helped ONS to ensure that, as well as meeting the statistical needs of users, the census is supported, and completed, by all segments of the community.

Consulting with the Senedd and UK Parliament

ONS have also consulted the Senedd and the UK Parliament on various aspects of the census proposals.

² 2021 Census Assessment of Initial User Requirements on Content for England and Wales: Response to Consultation

<https://www.ons.gov.uk/file?uri=/census/censustransformationprogramme/consultations/the2021censusinitialviewoncontentforenglandandwales/assessmentofinitialuserrequirementsoncontentforenglandandwales/responsetoconsultation.pdf>

This has entailed responding to Parliamentary and Senedd Questions, official correspondence from Parliamentarians and Select Committees, working with a number of All-Party Parliamentary Groups, as well as appearances at hosted events in Parliament.

The ONS gave evidence on preparations for the 2021 Census to the Culture, Welsh Language and Communications Committee on 18 April 2018; and on 25 September 2019 held an engagement event for Senedd members in the Senedd.

Welsh Ministers were consulted on the draft Census (England and Wales) Order 2020 via correspondence between the Minister for Finance and Trefnydd and Ministers for Constitution.

9. Competition Assessment

These Regulations have no effect on competition.

10. Post implementation review

This legislation allows for, and governs, the undertaking of the proposed 2021 census. It will have achieved its aims and will have been proved to be successful, if the census is taken 21 March 2021 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.

Consultation will take place throughout 2020 to determine what statistical data the users of the 2021 census need. This will help ONS and the Welsh Government to prioritise output needs and produce outputs that are relevant to users.

The ONS will produce a post-census report, reviewing the entire operation, which will be published alongside census outputs. ONS are also planning to bring forward proposals for how future census type data will be collected in the years following the 2021 Census and will make a recommendation to Government on the future of the census.