

EXPLANATORY MEMORANDUM TO
THE STATISTICS AND REGISTRATION SERVICE ACT 2007
(DISCLOSURE OF PUPIL INFORMATION BY WELSH MINISTERS)
REGULATIONS 2011

2011 No.

1. This explanatory memorandum has been prepared by the Cabinet Office and is laid before Parliament by Command of Her Majesty.

2. Purpose of the instrument

2.1 These Regulations permit the disclosure of pupil information by Welsh Ministers to the Statistics Board.

3. Matters of special interest to the Joint Committee on Statutory Instruments

3.1 None

4. Legislative Context

4.1 The Regulations are made under section 47 of the Statistics and Registration Service Act 2007 (“the Act”), which received Royal Assent in July 2007. It created a new non-ministerial department, the Statistics Board (which has chosen to operate under the name ‘UK Statistics Authority’ and hereinafter referred to as ‘the Authority’). The functions of the Authority include the production of population statistics under section 20 of the Act, and the assessment of census returns under the Census Act 1920. Under section 47 of the Act, regulations may be made to authorise a public authority to disclose information to the Authority, which would not otherwise be possible, to enable the Authority to carry out its statutory functions.

4.2 These regulations are the third use of this regulation-making power, and authorise the disclosure of pupil information by Welsh Ministers to the Statistics Board to improve population statistics. The previous uses of this power were in February 2009, when the Statistics and Registration Service Act

2007 (Disclosure of Pupil Information) (England) Regulations 2009 (the “England Regulations”) was made; and November 2009, when the Statistics and Registration Service Act 2007 (Disclosure of Higher Education Student Information) Regulations 2009 (the “Higher Education Regulations”) was made. The England Regulations authorise the Secretary of State to disclose to the Authority pupil information in England only. These Regulations provide for equivalent authorisation by Welsh Ministers. The Higher Education Regulations authorise the Higher Education Funding Council for England and the Higher Education Funding Council for Wales to disclose certain student information to the Authority.

5. Territorial Extent and Application

5.1 This instrument applies to all of the United Kingdom.

6. European Convention on Human Rights

Francis Maude, the Minister for the Cabinet Office, has made the following statement regarding Human Rights:

In my view the provisions of the Statistics and Registration Service Act 2007 (Disclosure of Pupil Information by Welsh Ministers) Regulations 2011 are compatible with the Convention rights.

7. Policy background

- *What is being done and why*

7.1 Policy makers and other officials in both central and local government need accurate information on migrant numbers and overall changes to the size and structure of the population, produced by the Authority, for resource allocation from central government to local authorities and the National Health Service as well as for the planning and delivery of local services.

7.2 The sharing of data from administrative sources is vital for improving methods used for producing population and migration statistics and taking forward the Beyond 2011 Programme, which is looking to establish and test alternative models, that could be used to underpin population and socio-

demographic statistics after the 2011 Census. Access to, and use of, data from the Welsh School Census is a central source for this work.

7.3 The Welsh School Census collects information on pupils attending maintained nursery, primary, middle, secondary and special schools in Wales. It consists of a number of modules which provide information about the characteristics of approximately 470,000 individual pupils as well as details relating to each educational establishment. The Welsh Government relies on schools collecting data from parents or pupils as well as using their own management information systems to complete the required returns.

7.4 The Welsh School Census is equivalent to the School Census in England. The Authority has access to certain data from the School Census in England through the England Regulations, which came into force on 11 February 2009. Having carefully evaluated the scope and content of the Welsh School Census the Authority has been able to identify a sub-set of variables such as the name, date of birth, gender, ethnicity, home postcode and school name of individual pupils. These variables will be essential for work on improving population statistics, which will include statistics on migration. Access to these specific data items, which is provided for in the Regulations, will enable the Authority's executive office, the Office for National Statistics, to apply data linkage and matching methods to evaluate current estimation procedures and, if necessary, to develop new approaches for the derivation of migration statistics, population estimates and national projections for Wales. This will provide a sound and reliable basis for:-

- i) producing better information on local populations and identifying areas with high rates of turnover;
- ii) differentiating migrants in order to improve our understanding of moves within and between local authorities in Wales;
- iii) understanding the characteristics of migrants;
- iv) developing and integrating administrative and survey sources to provide a more accurate and cost effective means of monitoring population change.

7.5 The Census in 2011 will provide an invaluable source for the derivation of a wide variety of economic and social statistics as well as an essential benchmark and basis for calibrating the regular series of population and household estimates. Access to selected variables from the School Census

will be essential for assessing coverage and making adjustments to improve the 2011 census of population.

7.6 The Act allows the Minister for the Cabinet Office to make regulations removing legal barriers and otherwise authorising disclosure of information by public authorities to the Authority with the consent of the relevant Minister who owns the data, to enable the Authority to carry out its statutory functions. These Regulations are being made to allow the disclosure of information collected by the Welsh Government in the School Census to the Authority, which would otherwise not be possible; the disclosure is authorised only for the purposes mentioned above.

7.7 Although access to personal information is necessary for improving population statistics, the Authority will not publish any personal information which could identify an individual pupil. Section 39 of the Act makes it an offence for a member or an employee of the Board to disclose personal information held by the Authority, subject to the exceptions provided for in subsection (4).

- *Consolidation*

7.8 This instrument does not amend any other instrument, so no issue of consolidation arises.

8. Consultation outcome

8.1 These Regulations are made with the consent of Welsh Ministers. The Cabinet Office consulted closely with the Authority and the Welsh Government in drawing up these Regulations.

9. Guidance

9.1 The Cabinet Office, Welsh Government, and the Authority will take forward the implementation of the Regulations. The Authority will be publishing the business case for the data share and the Privacy Impact Assessment around the start of September

10. Impact

10.1 This instrument has no impact on business, charities or voluntary bodies.

10.2 The impact on the public sector is broadly comparable to that under existing practice.

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

11. Regulating small business

11.1 The legislation does not apply to small business.

12. Monitoring and review

12.1 The effect of sharing pupil information on the Authority's production of population statistics and census related activities will be subject to internal review after 12 months and the legislation may be amended accordingly.

13. Contact

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