EXPLANATORY MEMORANDUM TO

THE STATISTICS AND REGISTRATION SERVICE ACT 2007 (DISCLOSURE OF HIGHER EDUCATION STUDENT INFORMATION) REGULATIONS 2009

2009 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 The Regulations permit the Higher Education Funding Council for England and the Higher Education Funding Council for Wales (together, the "Funding Councils") to share with the Statistics Board (known as the UK Statistics Authority) information about higher education students.

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") and are the second use of this regulation-making power. The Regulations enable the sharing of information about higher education students at higher education institutions in England and Wales between the Funding Councils and the Statistics Board, to improve estimates of migration, migrant populations and the population estimates in the UK, both nationally and at a local level, as well as the quality of future censuses in England and Wales.

4.2 The Regulations enable the Statistics Board to share certain information with the General Register Office for Scotland ("GROS") and the Northern Ireland Statistics and Research Agency ("NISRA"), to assist the Statistics Board to produce population statistics in respect of the UK as a whole. This is the first time that regulations made under section 47 of the Act enable the Statistics Board to disclose information received by it under the regulations to other persons.

5. Territorial Extent and Application

5.1 This instrument applies to all of the United Kingdom.

5.2 The Funding Councils will share information with the Statistics Board relating to higher education students at higher education institutions situated in England and Wales only. The Statistics Board may share the information with GROS and NISRA to the extent set out in paragraph 7.7 below.

6. European Convention on Human Rights

Tessa Jowell, 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 Higher Education Student Information) Regulations 2009 are compatible with the Convention rights.

7. Policy background

- ***What is being done and why***

7.1 Policy makers and others in both central and local government need accurate information on migrant numbers and overall changes to the size and structure of the population to support resource allocation and the planning and delivery of local services. In particular, population estimates and projections are used to support the allocation of central government funding to local authorities and primary care trusts as well as from the Welsh Assembly Government to Welsh unitary authorities.

7.2 The Report of the Inter-departmental Task Force on Migration Statistics[1] and the recent inquiry undertaken by the House of Commons Treasury Committee[2] highlighted the need to make better use of data from administrative sources as well as the importance of developing new techniques including data linking and matching, to improve both population and migration statistics produced by the Statistics Board.

7.3 As students are one of the most mobile sub-groups of the population, sharing information with the Statistics Board about higher education students at higher education institutions in England and Wales has been given high priority. The Funding Councils, which work in partnership with the higher education sector, collect information from the Student Record maintained by each higher education institution in England and Wales, relating to approximately 2.5 million students. This information is collated by the Higher Education Statistics Agency on behalf of the Funding Councils. The data are collected shortly after the end of each academic year and cover all those enrolled at an institution at any point during the preceding year including students who fail to complete their studies and leave during the year.

7.4 Having evaluated the scope and content of the Student Record the Statistics Board has identified a sub-set of information which will be essential for it to meet demands for new and improved population and migration statistics. This includes personal information such as name, date of birth, gender and ethnicity, details on the location of individual students including their home and term time postcodes as well as information to facilitate understanding of when moves take place.

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[1] Report of the Inter-departmental Task Force on Migration Statistics, Office for National Statistics, December 2006.

[2] House of Commons Treasury Committee, Counting the Population, Eleventh Report of Session 2007-08, May 2008, The Stationery Office Ltd.

7.5 Information collected by the Funding Councils since 1 August 2000 will be shared with the Statistics Board to facilitate comparative analysis with results from the 2001 Census and provide a sound basis for undertaking longitudinal analysis and developing a better understanding of the factors affecting population change.

7.6 Access to the data items specified in the Regulations will enable the Statistics Board to carry out vital statistical research to improve a range of population and migration statistics and to assess the feasibility of developing and integrating administrative databases to provide a more accurate and cost effective means of monitoring population change. This research will include:-

- linking and matching to other statistical and administrative sources (e.g. surveys, GP registers and the School Census);
- tracking the movement of students when they change address, start or complete a course at a higher education institution;
- evaluating the plausibility of existing demographic assumptions including specific migration adjustments (e.g. for first year students, part-time students, postgraduates and ex-students);
- understanding the characteristics of migrants;
- refining and improving the methods used to produce population estimates and projections; and
- undertaking longitudinal analysis and assessing change over time.

7.7 Provision has been made to allow the Statistics Board to disclose the data items specified in the Regulations to GROS and NISRA to the extent that they relate to students who study higher education courses at higher education institutions in England or Wales whose place of residence prior to commencing that course was Scotland or Northern Ireland respectively and only for the purpose of enabling the Statistics Board to produce population statistics. To that extent the Regulations enable the Statistics Board to work co-operatively with statisticians and methodologists in GROS and NISRA to carry out the statistical research set out in paragraph 7.6 above.

7.8 Census statistics are used widely by central and local government to support resource allocation, policy development, monitoring and review, service planning and delivery. The 2011 Census will provide an invaluable source of comparable statistics as well as an essential benchmark and basis for calibrating the regular series of population and household estimates. Access to the data items specified in the Regulations will be essential to enable the Statistics Board to:-

- assess coverage and make adjustments to improve the 2011 Census; and
- carry out essential validation and quality assurance.

7.9 In addition, the specified data items will contribute to other research by the Statistics Board designed to assess the feasibility of developing an integrated population statistics system. Among the issues likely to be considered as part of these investigations is whether or not it will be possible to bring together data from both survey and administrative sources to provide a better basis for measuring and monitoring an increasingly mobile and changing population.

7.10 Although access to personal information will be essential to support this work, the Statistics Board will not publish any identifiable personal information. The Act makes it an offence for a member or an employee of the Statistics Board to disclose personal information except in limited circumstances, as specified in the Regulations.

- ***Consolidation***

7.11 The Regulations do not amend any other instrument and therefore no consolidation issues arise.

8. Consultation outcome

8.1 These Regulations are made with the consent of the Minister for the Cabinet Office, the Minister for Higher Education and Intellectual Property and the Welsh Ministers. The Cabinet Office consulted closely with the Statistics Board, the Department for Business, Innovation and Skills, the Welsh Ministers, the Funding Councils, the Higher Education Statistics Agency, GROS and NISRA.

8.2 Officials from each of the bodies listed in 8.1 have informed relevant stakeholders of the plans to make these Regulations.

8.3 The Statistics Board provides regular updates on the Improving Migration Statistics Programme as a routine part of its consultation with users. For example, data sharing plans are reviewed regularly with various stakeholders including the Local Government Association, the Central and Local Information Partnership and the Local Authorities Research and Intelligence Association.

8.4 The Statistics Board has also consulted with the Information Commissioner's Office (ICO) on its plans for making these Regulations and informed them that the Regulations provide for onward disclosure. The ICO is content that this is an appropriate use of the data sharing powers of the Act.

9. Guidance

9.1 The Cabinet Office, Department for Business, Innovation and Skills, the Welsh Ministers, and the Statistics Board will take forward the implementation of the Regulations. They, together with the bodies listed in paragraph 8.1 above, have developed a co-ordinated response to any issues that are raised by stakeholders following the announcement of the Regulations.

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 & review

12.1 The effect of sharing information on higher education students at higher education institutions in England and Wales will be subject to internal review after 12 months and the legislation may be amended accordingly.

13. Contact

Shaun Flanagan at the Cabinet Office Tel: 020 7276 0437 or email: shaun.flanagan@cabinet-office.x.gsi.gov.uk can answer any queries regarding the instrument.