EXPLANATORY MEMORANDUM TO

THE STATISTICS AND REGISTRATION SERVICE ACT 2007 (DISCLOSURE OF PUPIL INFORMATION) (ENGLAND) 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. Description

2.1 The Regulations permit the sharing of pupil information between the Department for Children, Schools and Families and 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") and are the first use of this regulation-making power. The Regulations enable the sharing of pupil information between the Department for Children, Schools and Families and the Statistics Board to improve population statistics and the quality of future censuses.

5. Territorial Extent and Application

5.1 This instrument applies to England.

6. European Convention on Human Rights

Liam Byrne, 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) (England) Regulations 2009 are compatible with the Convention rights.

7. Policy background

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 for resource allocation as well as for the planning and delivery of local services. Both long term public expenditure planning and the calculation and distribution of funding by central government to local authorities and the National Health Service are dependent on population statistics.

7.2 The recent inquiry undertaken by the House of Commons Treasury Committee[1] highlighted the need to improve data sources and methods used for producing population and migration statistics, to ensure that information from the next Census (due in 2011) can provide a sound and reliable basis for future population and household estimates, and to take forward work on developing a more integrated system by considering the use of registers and information from a range of administrative sources. The sharing of data from administrative sources will be vital for achieving these objectives. As access to, and use of, data from the School Census was one of the key recommendations in the 'Report of the Inter-departmental Task Force on Migration Statistics' published in December 2006[2] this work has been given the highest priority.

7.3 The School Census managed by the Department for Children, Schools and Families collects information from all maintained nursery, primary, middle, secondary and special schools, city technology colleges and academies, as well as direct grant nurseries, non-maintained special schools and hospital special schools in England. The School Census consists of a number of modules which provide information about the characteristics of approximately 7 million individual pupils as well as details relating to each educational establishment. The Department for Children, Schools and

[1] House of Commons Treasury Committee, Counting the Population, Eleventh Report of Session 2007-08, May 2008, The Stationery Office Ltd (HC1032)

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

Families 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 Having carefully evaluated the scope and content of the School Census the Statistics Board (known as the UK Statistics Authority and here after referred to as "the Authority") has been able to identify a sub-set of variables such as the name, date of birth, gender, ethnicity, address and school address 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 carry out vital research and methodological work which will include the evaluation of current assumptions, the review of existing estimation procedures and the development of data linkage and matching, to support ongoing work to improve a range of population and migration statistics. 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 England;
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 variable from the School Census will be essential for:-

i) developing, planning and implementing effective enumeration strategies to improve response rates;
ii) assessing coverage and making adjustments to improve the 2011 census of population.

7.6 The Act allows Ministers to make regulations removing legal barriers to data sharing between the Authority and other public authorities to enable the Authority to carry out one or more of its functions. These Regulations are being made to allow the disclosure of information collected by the Department for Children, Schools and Families in the School Census to the Authority in order to facilitate the Authority's work on improving population statistics, to prepare for future censuses and assess the census returns. Under the Act, the Authority has a legal duty to use the information it receives only for the purposes for which disclosure is authorised.

7.7 Although access to personal information will be essential to support research work and methodological developments associated with improving population statistics and future Censuses, the Authority will not publish any identifiable personal information. The Act made it an offence for a member or an employee of the Board to disclose personal information except in limited circumstances. These Regulations further limit those circumstances by providing that disclosure by the Authority will be restricted to circumstances where the Authority is obliged to disclose by law or where it decides it is necessary and appropriate to disclose to a person providing services to the Authority in connection with the purposes listed at 7.6 above. These restrictions are supported by the Authority's adherence to the present National Statistics Code of Practice and related protocols (e.g. Data Access and Confidentiality) to ensure that no information on any person, household or family is disclosed.

8. Consultation

8.1 These Regulations are made with the consent of the Secretary of State for Children, Schools and Families. The Cabinet Office consulted closely with the Authority and the Department for Children, Schools and Families in drawing up these Regulations.

9. Guidance

9.1 The Cabinet Office, the Department for Children, Schools and Families and the Authority will take forward the implementation of the

Regulations. They 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 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

Ian Kemsley at the Cabinet Office Tel: 020 7276 0437 or email: ian.kemsley@cabinet-office.x.gsi.gov.uk can answer any queries regarding the instrument.

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