EXPLANATORY MEMORANDUM TO

THE STATISTICS AND REGISTRATION SERVICE ACT 2007 (DISCLOSURE OF SOCIAL SECURITY AND REVENUE INFORMATION) REGULATIONS 2012

2012 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 Secretary of State for Work and Pensions to disclose information about individuals in connection with certain social security payments and the provision of assistance to find employment and Her Majesty's Revenue and Customs (HMRC) to disclose information about individuals in connection with certain revenue payments to the Statistics Board (known as the UK Statistics Authority).

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 is hereinafter referred to as 'the Authority'). The functions of the Authority include the production of population statistics under section 20 of the Act. 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 allow the disclosure of information by the Secretary of State for DWP about individuals in connection with certain social security

payments and in relation to assistance to find employment and the disclosure of information by HMRC about individuals in connection with certain revenue payments to enable the Authority to establish and test alternative models for census type statistics in the United Kingdom and for the assessment of census returns. The regulations allow information to be disclosed in relation to the following benefit and revenue payments:

- Job Seekers Allowance;
- State Pension Credit;
- Employment and Support Allowance;
- Any income-related benefit;
- Incapacity Benefit, comprising of short-term incapacity benefit, and long-term incapacity benefit;
- Maternity allowance;
- Widow's benefit, comprising of widowed mother's allowance and widow's pension;
- Bereavement benefits, comprising of bereavement payment; widowed parent's allowance and bereavement allowance;
- State pensions (payable to a person by virtue of his own contributions and payable to a person by virtue of the contributions of a spouse or civil partner);
- Shared additional pensions;
- For existing beneficiaries only, child's special allowance;
- Attendance allowance;
- Carer's allowance;
- Disability Living Allowance;
- Guardian's allowance;
- Disablement benefit payable in accordance with sections 103 to 105 (disablement pension; increase where constant attendance needed; increase for exceptionally severe disablement); paragraphs 2 and 3 of Schedule 7 (deals with unemployability supplement) and Parts II and III of that Schedule (disablement gratuity and increase of disablement pension during hospital treatment);
- reduced earnings allowance payable in accordance with Part IV
  retirement allowance payable in accordance with Part V;
  industrial death benefit, payable in accordance with Part VI.
  as respects any period before 6th April 1975 benefit under the National Insurance act 1965 (graduated retirement benefit);
- National Insurance and Pay As You Earn Service;
- Child Benefit;
- Child Tax Credit; and,
- Working Tax Credit.

4.3 The regulations also enable the Authority to share certain information with the National Records of Scotland and the Northern Ireland Statistics and

Research Agency to assist the Authority to produce population statistics in respect of the UK as a whole. The Statistics and Registration Service Act 2007 (Disclosure of Value Added Tax Information) Regulations 2011 also enabled the Authority to disclose information received by it under those regulations to those other bodies.

4.4 The regulation making power will be exercised for the fifth time in order to make these regulations. The previous uses of this power were;

The Statistics and Registration Service Act 2007 (Disclosure of Pupil Information) (England) Regulations 2009, made in February 2009;

The Statistics and Registration Service Act 2007 (Disclosure of Higher Education Student Information) Regulations 2009, made in November 2009;

The Statistics and Registration Service Act 2007 (Disclosure of Value Added Tax Information) Regulations 2011, made in November 2011; and

The Statistics and Registration Service Act 2007 (Disclosure of Pupil Information by Welsh Ministers) Regulations 2011, made in December 2011.

5. Territorial Extent and Application

5.1 This instrument applies to all of the United Kingdom.

6. European Convention on Human Rights

6.1 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 Social Security and Revenue Information) Regulations 2012 are compatible with the Convention rights.

7. Policy background

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

7.1 The Authority has set up the Beyond 2011 Programme to establish and test alternative models for census type statistics. The Beyond 2011 programme

will test the feasibility of producing social and demographic statistics, similar to those from a traditional Census, in a new analytical environment. This work follows a House of Commons Treasury Committee recommendation to use administrative data sources to provide a more accurate and cost-effective means of monitoring the population, and the Authority will report the outcome of this feasibility work to Parliament in 2014.

7.2 Access to, and use of, information about individuals in connection with specific social security and revenue payments of the type held within the Customer Information System ("CIS") and feed systems is central to this work. CIS is managed by DWP, and covers all individuals who have been a client or customer of DWP in Great Britain, as well as all individuals who have been a client or customer of HMRC in the United Kingdom.

7.3 More specifically, information obtained from CIS will be used as part of the Beyond 2011 Programme to investigate the feasibility of producing census-type statistics in a variety of ways, including through administrative data. It will be combined with data from other sources to improve coverage of specific sub-groups of the population and to test and evaluate the plausibility of alternative models of population estimation. It will also be used to validate and quality-assure the 2011 Census, to ensure that the census counts are as accurate as possible.

7.4 These regulations allow the Authority to receive information about individuals in connection with certain social security and revenue payments currently held in the CIS. This includes demographic data from DWP pertaining to persons who receive benefits or engage with DWP in relation to its employment and training functions, and from HMRC in relation to those persons who make or receive child benefit, child tax credit, national insurance contributions or working tax credit payments.

7.5 Although access to this information is necessary for the purposes outlined above, the Authority will not publish any information which could identify a person. Section 39 of the Act makes it an offence for a member or an employee of the Authority to disclose personal information held by the Authority, subject to the exceptions provided for in subsection (4). These regulations allow the Authority to disclose personal information received under the regulations to the National Records of Scotland and the Northern

Ireland Statistics and Research Agency but only for the purpose of assisting the Authority in fulfilling its function of producing population statistics.

- ***Consolidation***

7.6 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 the Treasury following consultation with the Commissioners for HMRC and with the consent of the Secretary of State for Work and Pensions. The Cabinet Office consulted closely with the Authority, the Treasury and HMRC in drafting these regulations.

9. Guidance

9.1 The Cabinet Office, DWP, HMRC, and the Authority will take forward the implementation of the Regulations. The Authority published the business case for the data sharing and the Privacy Impact Assessment when these Regulations were laid.

10. Impact

10.1 An Impact Assessment has not been prepared for this instrument as no impact on the private or voluntary sectors is foreseen.

10.2 The impact on the public sector is negligible.

11. Regulating small business

11.1 The legislation does not apply to small business.

12. Monitoring and review

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

13. Contact

13.1 Matt Edwards at the Cabinet Office Tel: 020 7276 0053 or email: matthew.edwards@cabinet-office.x.gsi.gov.uk can answer any queries regarding the instrument.

February 2012