EXPLANATORY MEMORANDUM TO

THE OFFICIAL STATISTICS ORDER 2023

2023 No. 878

1. Introduction

1.1 This explanatory memorandum has been prepared by Cabinet Office and is laid before Parliament by Command of His Majesty.

2. Purpose of the instrument

2.1 This Order specifies the statistics produced, or to be produced, by certain persons as "official statistics" under the Statistics and Registration Service Act 2007 ("the Act"). The effect of this designation is set out in paragraph 6.6 below.

3. Matters of special interest to Parliament

Matters of special interest to the Joint Committee on Statutory Instruments

3.1 None.

4. Extent and Territorial Application

4.1 The extent of this instrument is the United Kingdom.

4.2 The territorial application of this instrument is the United Kingdom.

5. European Convention on Human Rights

5.1 The Minister of State has made the following statement regarding Human Rights:

"In my view the provisions of the Official Statistics Order 2023 are compatible with the Convention rights."

6. Legislative Context

6.1 Section 1 of the Act established the Statistics Board, whose objective it is to promote and safeguard the production and publication of official statistics that serve the public good. Serving the public good includes informing the public about social and economic matters and assisting in the development and evaluation of public policy, according to section 7(2) of the Act.

6.2 All statistics produced by the bodies listed at section 6(1)(a) of the Act are official statistics; the bodies listed are the Statistics Board, government departments, the Scottish Administration, a Welsh ministerial authority, a Northern Ireland department and other Crown bodies.

6.3 This Order is made under section 6(1)(b) and (2) of the Act, which allows orders to be made to specify statistics produced or to be produced by other persons, or descriptions of persons, as official statistics. The last such use of the power was in July 2018 when the Official Statistics Order 2018 ("the 2018 Order") was made. This Order updates the list of producers of important, national-level statistics which the Minister for the Cabinet Office considered should be specified as official statistics.

6.4 Other orders have been made under section 6(1)(b) and (2) by the devolved administrations. This Order does not apply to wholly Scottish devolved statistics or wholly Northern Ireland devolved statistics. This Order does, on the other hand, apply to all other statistics produced by the persons listed in the Order's Schedule (subject to the limitation in article 3(1) of the Order). This includes any wholly Welsh devolved statistics they produce or will produce. Section 66 of the Act defines what are "Scottish devolved statistics", "Welsh devolved statistics" and "Northern Ireland devolved statistics".

6.5 The Orders made by the devolved administrations are as follows:

- The Official Statistics Order (Northern Ireland) 2012 (S.R 2012 No. 2, as amended by S.R. 2021 No. 127).
- The Official Statistics (Scotland) Order 2008 (S.S.I. 2008/131, as amended by S.S.I 2010/448, S.S.I 2012/196 and S.S.I 2019/416).
- The Official Statistics (Wales) Order 2017 (S.I. 2017/1142 (W.284)) as amended by S.I. 2021/397 (W.127).

6.6 The effects of being specified as official statistics are as follows:

- The production and publication of official statistics are subject to monitoring and reporting by the Statistics Board (section 8 of the Act);
- At the request of the "appropriate authority" (defined by section 12(7) of the Act) the Statistics Board must assess and determine whether the Code of Practice for Statistics (published by the Board under section 10 of the Act) has been complied with in relation to any official statistics and, if so, designate those statistics as "National Statistics" (section 12 of the Act);
- If official statistics have been designated as National Statistics, the producers of those statistics must continue to comply with the Code of Practice for Statistics in order to maintain those statistics' designation (sections 13 and 14 of the Act). For other official statistics, compliance with the Code is not a formal requirement but is best practice; and
- The producers of official statistics must comply with the relevant rules and principles relating to the granting of pre-release access to official statistics to the extent applicable to them (see S.S.I. 2008/399, S.I. 2008/2998, S.R. 2009 No. 71 and S.I. 2009/2818 (W. 244)). If official statistics have been designated as National Statistics, the producers of those statistics must do so as if these rules and principles were part of the Code of Practice (section 11 of the Act).

7. Policy background

What is being done and why?

7.1 From December 2007, the Act established the Statistics Board (a non-ministerial department which has chosen to operate under the name "UK Statistics Authority") to promote and safeguard the production and publication of official statistics that serve the public good. The definition of official statistics in the Act allows flexibility to add or remove non-Crown bodies from the Statistics Board's remit by Order. This Order provides an updated list of bodies whose statistical activities will be monitored, scrutinised and reported on by the Board.

7.2 The Statistics Board:

- promotes good practice for the production and publication of official statistics, including through the development and dissemination of a Code of Practice for Statistics;
- monitors and reports on the production and publication of official statistics; and
- assesses the treatment by producers of official statistics against the Code of Practice for Statistics and publishes the results of these assessments. If statistics comply with the Code, the Board will designate them as "National Statistics".

7.3 This Order specifies the statistics produced, or to be produced, by the persons listed in the Schedule as official statistics. It revokes the 2018 Order and revises the list of persons set out in the Schedule to that Order. Bodies included in the list are those which produce, or will produce, national-level statistics which (a) inform the public about the social or economic position of the country, (b) are likely to be used to judge government performance or targets or (c) the government considers it is otherwise important that the public has particular trust in.

7.4 The Schedule adds the name of five bodies to the list contained in the 2018 Order. These are:

- The Commission for Equality and Human Rights.
- JISC.
- The Regulator of Social Housing.
- Skills for Care Limited.
- The Trade Remedies Authority.

7.5 This Schedule removes the name of five bodies from the list contained in the 2018 Order. These are:

- The Health and Social Care Information Centre.
- The Higher Education Statistics Agency Limited.
- Monitor.
- The National Health Service Trust Development Authority.
- The Natural Environment Research Council.

7.6 Without this Order, there would be a number of public bodies producing what the Government considers to be important, national-level statistics but over which the Statistics Board would have no control or power to make assessments against its Code and whose statistics would not enjoy the status of official statistics. Further, there would be one body whose entry did not reflect its new legal name; the National Health Service Commissioning Board is now called NHS England. This Order is needed to update the list of specified persons in order to assist the Board in fulfilling its duty to build and maintain trust in official statistics.

7.7 The Order contains the legal names of public sector bodies, some of which are also known by other names. For clarity, these current other names, together with the detail of three companies included in the instrument, are set out below:

- The British Tourist Authority is known as VisitBritain.
- The English Sports Council is known as Sport England.
- The Historic Buildings and Monuments Commission for England is known as Historic England.

- The Homes and Communities Agency is known as Homes England.
- JISC is a company incorporated under the Companies Acts with the number 05747339 and is known as the Joint Information Systems Committee
- The National Health Service Litigation Authority operates as NHS Resolution.
- Skills for Care Limited is a company incorporated under the Companies Acts with the number 03866683.
- The Student Loans Company Limited is a company incorporated under the Companies Acts with the number 02401034.
- The Passengers' Council is known as Transport Focus.

7.8 Two public bodies are listed under a different name. The name of the National Health Service Commissioning Board was amended by section 1 of the Health and Care Act 2022, it is now NHS England. His Majesty's Inspectorate of Constabulary and Fire and Rescue Services, is listed using the name by which it is currently known. This body was listed under the name Her Majesty's Inspectors of Constabulary as a public body that produced official statistics in The Official Statistics Order 2018. Since the Policing and Crime Act 2017 introduced inspections for fire and rescue services, inspectors are now appointed simultaneously as Inspectors of the Constabulary under section 54 Police Act 1996, and as Inspectors of Fire and Rescue Services under section 28 Fire and Rescue Services Act 2004. The body has updated the name by which it is known to reflect this change.

7.9 An order under section 6(1)(b) and (2) of the Act may be made by any Minister of the Crown at any time. In practice, a Cabinet Office Minister makes such an order on a regular basis, producing a consolidated list of bodies including those sponsored by other government departments; this approach makes the legislation clearer and more accessible and is the most efficient use of Parliamentary time.

8. European Union Withdrawal and Future Relationship

8.1 This instrument does not relate to withdrawal from the European Union / trigger the statement requirements under the European Union (Withdrawal) Act.

9. Consolidation

9.1 Not applicable.

10. Consultation outcome

10.1 As required by section 6(3) of the Act, the Statistics Board has been consulted on this Order. The formal consultation took place in May 2023.

10.2 Bodies that have been newly included in the Order have been consulted. That consultation has been carried out by the statistical Head of Profession (or the statistical team) in each relevant Government department contacting those bodies which are sponsored by that department. The bodies listed in the Order which were also listed in the 2018 Order were consulted at the time they were first added to the list and so have not necessarily been consulted again for the purposes of this Order.

11. Guidance

11.1 The Statistics Board published its Code of Practice for Official Statistics in January 2009, and updated it in May 2022, with the Code of Practice for Statistics. Producers

of official statistics, including those bodies specified in this Order, are expected to follow the Code as a matter of good practice. Producers of National Statistics (that is those official statistics which the Statistics Board designates as "National Statistics" under section 12(2) of the Act) are required to follow the Code in full in relation to those statistics. It is the responsibility of the Board to maintain, update and enforce this Code.

11.2 The National Statistician, who is the Chief Executive of the Statistics Board, has published guidance for producers of official statistics on various aspects of the Code.

12. Impact

12.1 This Order does not impose any additional impact on business, charities or voluntary bodies.

12.2 The impact on the public sector is expected to be negligible because the organisations newly named in the Order will have to make only very small changes to their operations, if any, in order to comply with greater scrutiny from the Board. The costs associated with these changes will also be negligible.

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

13. Regulating small business

13.1 The legislation does not apply to activities that are undertaken by small businesses.

14. Monitoring & review

14.1 This instrument is intended to allow the Statistics Board to fulfil its duties, in particular with regard to improving public trust in official statistics. The Government expects to update the list of (non-Crown body) producers of official statistics by order as required. In doing so the Government will take advice from the Board and will also consider comments on the scope of the Board's remit made by other bodies (for example comments made by Parliament as part of its scrutiny of the Board's activities).

15. Contact

15.1 Matthew Ford at UK Statistics Authority: 01329 447915 or email: matthew.ford@statistics.gov.uk can be contacted with any queries regarding the instrument.

15.2 Richard Bumpstead, Deputy Director for the Central Policy Secretariat, at the UK Statistics Authority can confirm that this Explanatory Memorandum meets the required standard.

15.3 Baroness Neville-Rolfe at the Cabinet Office can confirm that this Explanatory Memorandum meets the required standard.