EXPLANATORY MEMORANDUM TO

THE SUPPLY OF INFORMATION (REGISTER OF DEATH) REGULATIONS 2007

2007 No. 3460

1. This explanatory memorandum has been prepared by the General Register Office for England and Wales and is laid before Parliament by Command of Her Majesty.

This memorandum contains information for the Joint Committee on Statutory Instruments.

2. Description

2.1 These Regulations prescribe who the Registrar General for England and Wales can disclose death information to for the purposes of prevention, detection, investigation or prosecution of offences.

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

3.1 None.

4. Legislative Background

4.1 The power for the Registrar General for England and Wales to disclose information was introduced in the Police and Justice Act 2006 which came into force on 29th June 2007. Section 13 (1)(d) of the Act provides that the Registrar General may supply information to a person or body specified, or of a description specified, by order. This is the first order to be laid before Parliament using this power

5. Territorial Extent and Application

5.1 This instrument applies to England and Wales.

6. European Convention on Human Rights

6.1 As the instrument is subject to the negative resolution procedure and does not amend primary legislation, no statement is required.

7. Policy background

7.1 In 2002, the Cabinet Office conducted a UK wide study which estimated that identity fraud, of which Impersonation of the Deceased (IOD) fraud is a part, costs the UK £1.3bn per annum. Further work was published in 2006 by the Home Office led Identity Fraud Steering Committee which indicated that the cost had increased to £1.7bn per annum. CIFAS who count most major financial organisations amongst their members, estimates that there were 70 000 instances

of IOD fraud in 2004 and forecast that this would grow to 100 000 instances per year by 2007.

7.2 The Registrar General for England and Wales has information in her possession that can assist organisations in identifying attempts to utilise the personal details of those who have recently died to perpetrate fraud. The disclosure of the information will help to combat IOD fraud and reduce the impact on the recently bereaved who have to deal with the consequences of their relative's identity being stolen.

7.3 The All Party Parliamentary Group Report into Identity Fraud published on the 6th October 2007 confirmed the need for the Registrar General to disclose information to the private sector as soon as possible to address this issue. In order to fully address the problem the information should be disclosed to organisations in the law enforcement, public and private sectors to ensure that records are marked as deceased to foil any attempt to conduct a fraud by impersonating the deceased.

7.4 The Registrar General for England and Wales has been working with her counterparts for Northern Ireland and Scotland to introduce a UK wide disclosure scheme. The Registrars General published a consultation report on 6th December 2006 on their plans to introduce a disclosure scheme. The consultation period ended on 6th March 2007 and the analysis report of the consultation responses was published on 4th July 2007. There were 72 responses to the consultation, 70 of which were neutral on, or supported the proposals. Further detail can be obtained on the General Register Office website:
http://www.gro.gov.uk/gro/content/aboutus/lookingahead/identity--fraud.asp

7.5 The Order sets out those who the Registrar General may supply death registration information to. The Order does not set out those who will definitely be supplied with the information. Any applicant wishing to obtain the information must satisfy the Registrar General that the information is going to be used to assist in the prevention, detection, investigation or prosecution of offences.

7.6 In addition anyone receiving the information will have to comply with conditions laid down by the Registrar General regarding the use of the information. Both parties will sign a licence agreement which will contain rigorous conditions regarding the monitoring of use of the information.

8. Impact

8.1 A full Regulatory Impact Assessment was prepared when the clause was introduced into the Police and Justice Act 2006. The relevant sections are included within Annex A. Option 2 was selected; to introduce provisions in the Police and Justice Act for the RG for England and Wales and the RG for Northern Ireland to provide death registration information to the Police, Special Police Forces, Serious Organised Crime Agency and others specified by Order for the prevention, detection, investigation or prosecution of offences.

8.2 The costs in Annex A reflect combined costs for England and Wales and Northern Ireland. The costs for England and Wales up to and including 2011/12 are £2.5m.

9. Contact

9.1 Eric Powell at General Register Office for England and Wales (tel. 0151 471 4656 or e-mail: Eric.Powell@ons.gsi.gov.uk) can answer any queries regarding the instrument.

Annex A

Extracts from Regulatory Impact Assessment

Police and Justice Act 2006: Disclosure of Death Registration Data

5. COSTS AND BENEFITS

5.1 Sectors and Groups Affected

5.2 The Home Office Study on Identity Fraud, published in 2005 indicated that the figure lost annually to this type of Fraud is £1.7bn. A full copy of the findings can be found > http://www.identity-theft.org.uk/ . The organisations and people affected are numerous, and were best illustrated in a Cabinet Office Study in 2002 > http://www.identitycards.gov.uk/news-publications-fraud.asp **.** The sectors they include are:

- Individuals who have had the identities of their deceased relatives hijacked.
- The Police and other law enforcement agencies.
- Government Departments and Local Government.
- Financial Sector organisations, such as banks, lenders, credit card companies.
- Retailers and other bodies who provide services to individuals committing IOD Fraud.

5.3 It is difficult to gauge who ultimately suffers the financial losses associated with this offence, ultimately it may not be the relative of the deceased, nor the individual retailer, however the overall cost to the economy will be reflected in the funding of Public Services and the price of products and services.

5.4 Analysis of Costs and Benefits

5.5 The measures associated with the Home Office assessment on the losses to Identity Fraud cannot be used to assess a detailed financial impact for either Option 2, 3 or 4. Certain assumptions have to be made that the release and use of death registration data shortly after death will have a significant impact on these losses as the opportunity for an individual to commit this type of offence will be greatly reduced.

	Cost	**Benefit**	**Net effect**
Option 1	No capital or admin costs.	None.	Increase in levels lost to Identity Fraud.
Option 2	£2.4m for capital, infrastructure, policy development and administration costs for the first three years of operation. The costs will be recovered from the recipients of the data.	Reduction in the £1.7bn cost of Identity Fraud, commencing from 2007/8.	Costs of data provision recovered from data users. Positive reduction in the cost of Identity Fraud.
Option 3	£2.4m for capital, infrastructure, policy development and	Reduction in the £1.7bn cost of Identity Fraud,	Costs of data provision recovered from data users. Positive reduction in the cost of Identity Fraud.

	administration costs for first three years of operation. The costs will be recovered from the recipients of the data.	commencing from 2007/8.	
Option 4	£1.75m for capital, infrastructure, policy development and administration costs for first three years of operation. The costs will be recovered from the recipients of the data	Reduction in the £1.7bn cost of Identity Fraud, commencing from 2007/8.	Costs of data provision recovered from data users. Positive reduction in the cost of Identity Fraud, though reduced on Options 2 and 3 by providing opportunity to fraudsters. Possible increase in death data being used to actively market services to the bereaved.

5.6 Environmental and social impacts

There will be no overall environmental or rural impact of the proposed amendment to the Bill.

5.7 Race equality impact assessment

The proposed amendment will not impact on race equality.

6. SMALL FIRMS IMPACT TEST

6.1 As indicated in section 5 it is difficult to gauge the exact impact this type of offence has on small firms, though it is reasonable to assume that the general impact is a negative one. Therefore, the release of death registration data to reduce the level of offences committed should have a positive impact overall.

6.2 There are a number of companies that already pool death data which is currently available, from sources such as funeral homes, Royal Mail postal returns and published probate returns. They generally then sell the data commercially to organisations to use for varying purposes, amongst which will be to assist organisations in reducing the instances of IOD Fraud. However, the data they provide is limited by its timeliness and completeness.

6.3 It is possible there could be a negative effect on these companies, as some of their customers may wish to obtain death data from the RGs. However the impact should be mitigated by the data from the RGs only being provided for the purposes of prevention, detection, investigation or prosecution of offences and that no company will be precluded from obtaining the data provided that it is to be used directly for these purposes.

7. COMPETITION ASSESSMENT

7.1 This proposal will impact on those sectors that are adversely affected by IOD fraud, or are current users of death data for the purposes of prevention, detection, investigation or prosecution of offences. This proposal is not introducing any new regulation on the market, the intention is to make the same death registration information available to all Public and Private sectors who can justifiably receive the data directly for the purposes of prevention, detection, investigation or prosecution of offences. As such, this should not

introduce additional burdens which affect competition on existing or new businesses who wish to use the data for the stated purpose.