

EXPLANATORY MEMORANDUM TO
THE OFFICIAL STATISTICS ORDER 2010

2010 No. [XXXX]

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 This order specifies statistics produced by certain persons as being “official statistics” under the Statistics and Registration Service Act 2007 (“the Act”). The effect of designation as official statistics is set out in paragraphs 7.3 and 7.4 below.

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

3.1 None.

4. Legislative Context

4.1 The Act 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’), to promote and safeguard the production and publication of official statistics that serve the public good. Under section 6(1)(a) of the Act, all statistics produced by government departments, the Scottish Administration, a Welsh ministerial authority, a Northern Ireland department and other Crown bodies are designated as official statistics. This order is made under section 6(1)(b) and (2) of the Act, which allows orders to be made to specify other persons as producers of official statistics.

4.2 This is the fourth use of this order-making power. The last use of this power was in March 2009, when the Official Statistics Order 2009 (“2009 order”) was made. The 2009 order is to be revoked by the present order. This order updates the list of producers of important, national-level statistics which the Government considers should be designated as official statistics.

4.3 This order does not apply to wholly Scottish devolved statistics. Scottish devolved statistics are defined under section 66(1) and (2) of the Act. The term wholly Scottish devolved statistics is used in section 11.

5. Territorial Extent and Application

5.1 This instrument applies to all of the United Kingdom.

5.2 With the agreement of officials in the devolved administrations in Wales and Northern Ireland, the order in 2009 covered devolved statistics produced by the bodies listed in that first order. These bodies have been included in this order as well, with the agreement of these officials.

6. European Convention on Human Rights

The Minister for the Cabinet Office has made the following statement regarding Human Rights:

In my view the provisions of the Official Statistics Order 2010 are compatible with the Convention rights.

7. Policy background

- *What is being done and why*

7.1 This Order designates the statistics produced, or to be produced, by the persons listed in the Schedule as official statistics and replaces the list set out in the 2009 order.

7.2 Six new bodies have been added to the schedule. These are the Marine Management Organisation, the British Educational Communications and Technology Agency (known as “Becta”), the Qualifications and Curriculum Development Agency, the Children and Family Court Advisory and Support Service, The National College for Leadership of Schools and Children's Services Limited and the NHS Business Services Authority.

7.3 Two bodies listed in the 2009 order, the Learning and Skills Council for England and the Gas and Electricity Consumer Council, have been abolished and so are not listed in the schedule to this order. The statistical functions of the Gas and Electricity Consumer Council have been taken on by the National Consumer Council (which operates under the name “Consumer Focus”). The statistical functions of the Learning and Skills Council for England will be the responsibility of the Chief Executive of Skills Funding, whose functions are performed on behalf of the Crown and is therefore not included in this order. A further person, the Certification Officer, which was listed in the schedule to the 2009 order, has not been listed in the schedule to this order because the Cabinet Office has since established that the Certification Officer acts on behalf of the Crown. Accordingly, statistics produced by the Certification Officer are already official statistics by virtue of section 6(1)(a)(vi) of the Act.

7.4 The Statistics Board is required to monitor the production and publication of official statistics and to report relevant concerns to the person responsible for those statistics (section 8 of the Act). The Statistics Board may publish its findings or report under that section. At the request of the appropriate authority (defined in section 12(7) of the Act) the Statistics Board must assess and determine whether the Code of Practice for Statistics has been complied with in relation to any official statistics and, if so, to designate those statistics as “National Statistics” (section 12 of the Act).

7.5 The impact of designation as official statistics on the producers of such statistics is that:

- the production and publication of official statistics is subject to monitoring and reporting by the Statistics Board (section 8 of the Act);

- the persons producing official statistics which have not been designated as “National Statistics” are expected to comply with the standards set out in the Statistics Board’s Code of Practice for Statistics, which sets out the procedures to be followed in producing and publishing National Statistics. Official statistics designated as National Statistics requires the producers of those statistics to fully comply with the Code, in order to maintain that designation. For other official statistics compliance with the Code is not a formal requirement but is best practice to be observed;
- the persons producing 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 them¹ and, in relation to official statistics designated as National Statistics, must do so as if these rules and principles are part of the Code of Practice; and
- the person responsible for any official statistics in respect of which an assessment is being made under section 12 of the Act must provide the Statistics Board with such information about the statistics as the Statistics Board may reasonably require.

- ***Consolidation***

7.6 This order revokes the 2009 order and replaces it with an updated list of bodies falling within the Statistics Board’s remit.

7.7 Any Minister may make such an order, but the Government thinks the most efficient use is made of Parliamentary time, given that such orders are subject to the affirmative procedure, if the Cabinet Office Ministers make these orders around once a year on behalf of other Ministers.

8. Consultation outcome

8.1 As required by the Act, the Statistics Board has been consulted on this order. The formal consultation took place in July 2010, although the Cabinet Office has been updating the Statistics Board on progress. The Statistics Board has said, after the formal consultation, that it is content for the Government to proceed with its proposals.

8.2 Bodies that have been newly included in the order have been consulted (although those bodies that were in the 2009 order were consulted previously and have not necessarily been consulted again). This has generally been done by the statistical Head of Profession in each Government department contacting those bodies which are sponsored by that department.

9. Guidance

9.1 The Statistics Board published its Code of Practice in January 2009. It is the responsibility of the Statistics Board to maintain this Code.

¹ Pre-release Access to Official Statistics Order 2008 (SI 2008/2998); Pre-release Access to Official Statistics (Wales) Order 2009 (SI 2009/2818); The Pre-release Access to Official Statistics Order (Northern Ireland) 2009 (SR 2009/71)

9.2 The National Statistician, who is the Chief Executive of the Statistics Board, has published guidance for official statistics producers on various aspects of the Code (for example on the use of administrative data in producing official statistics).

9.3 The Cabinet Office has produced guidance on the Pre-release Access to Official Statistics Order 2008 which has been distributed to statistical Heads of Profession for their use and for onward distribution to other producers of official statistics.

10. Impact

10.1 The schedule contains a number of registered charities but no impact on the private or voluntary sector is foreseen because designation as official statistics (as opposed to designation as “National Statistics” under the Act) places no compliance burden on those persons. The impact on the public sector is expected to be negligible. Therefore no Impact Assessment has been prepared.

11. Regulating small business

11.1 The legislation does not apply to small business.

12. Monitoring & review

12.1 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 this order every year, to ensure that the Statistics Board is able to comment on official statistics as comprehensively as possible. In doing so the Government will take heed of advice from the Statistics Board and it will also take an interest in comments made by other bodies on the scope of the Statistics Board’s remit (for example comments made by Parliament as part of its scrutiny of the Statistics Board’s activities).

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.