

*These notes refer to the Statistics and Registration Service Bill as introduced
in the House of Commons on 21st November 2006 [Bill 8]*

STATISTICS AND REGISTRATION SERVICE BILL

EXPLANATORY NOTES

INTRODUCTION

1. These explanatory notes relate to the Statistics and Registration Service Bill as introduced in the House of Commons on 21st November 2006. They have been prepared by the Treasury in order to assist the reader of the Bill and to help inform debate on it. They do not form part of the Bill and have not been endorsed by Parliament.

2. The notes need to be read in conjunction with the Bill. They are not, and are not meant to be, a comprehensive description of the Bill. So where a clause or part of a clause does not seem to require any explanation or comment, none is given.

BACKGROUND TO PART 1

3. The UK's statistical system has historically been decentralised. The Office for National Statistics (ONS) is the central producer of statistics in the United Kingdom but a large proportion of statistics are also produced by government departments and agencies other than the ONS. Official statistical work covers a wide range of tasks (including the collection, analysis and publication of statistics, statistical support for departmental and agency functions, and policy-related work for Ministers) and all areas of national life.

4. The ONS is currently an Executive Agency accountable to the Chancellor of the Exchequer, as described in the ONS *Framework Document*¹. It comprises around 4,800 staff based in London, Newport, Titchfield and Southport and is headed by the National Statistician who is also the Registrar General for England and Wales. Consequently, the General Register Office (GRO), which administers the system for the registration of births, deaths, marriages and civil partnerships in England and Wales, is part of the ONS. The ONS is also currently responsible for the creation and maintenance of the National Health Service Central Register (NHSCR).

¹ http://www.statistics.gov.uk/about_ns/downloads/ons_framework.pdf

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5. The non-statutory *Framework for National Statistics*² introduced the key structures currently in existence. These include:

- the post of ‘National Statistician’, who acts as the Government’s chief statistical adviser, has operational independence from Ministers and is both the professional Head of National Statistics and the Director of the ONS. The National Statistician has responsibility for the professional statistical quality of all outputs comprising National Statistics and for ensuring that all outputs are produced in accordance with the standards set out in the *National Statistics Code of Practice*³ (the Code);
- the concept of ‘National Statistics’, which aims to provide an accurate, up-to-date, comprehensive and meaningful description of the economy and society of the UK, underpinned by professional standards as set out in a ‘Code of Practice’. The Code – which draws on the *United Nations Fundamental Principles for Official Statistics*⁴ – applies not only to outputs from the ONS, but also to all those National Statistics produced elsewhere in government; and
- the independent ‘Statistics Commission’, which advises on the quality and comprehensiveness of official statistics, including commenting on areas of widespread concern and priority-setting for National Statistics.

6. The Chancellor of the Exchequer announced to Parliament in November 2005 the Government’s intention to legislate for independence in statistics. A written consultation, *Independence for Statistics*⁵, was launched by the Treasury in March 2006, inviting views on the proposed way forward.

7. Following the consultation, the Bill provides for the creation of a new body, the Statistics Board, with a statutory responsibility for ensuring the quality and comprehensiveness of official statistics. The Board will be a Non-Ministerial Department (NMD), acting at arms’ length from Ministers and will be composed of a majority of non-executive members. The Board’s responsibilities will cover the whole UK statistical system, including England, Scotland, Wales and Northern Ireland.

8. The Board will be the legal successor body to the ONS. The ONS’s current responsibilities will, with the exception of civil registration functions, become the responsibility of the new Board. The Statistics Commission will cease to exist. The Board will also have powers to produce statistics, provide statistical services and promote statistical research. It will undertake the statistical functions of the Registrar General, including the preparation and publication of the Census.

² Office for National Statistics (2000) *Framework for National Statistics*
www.statistics.gov.uk/about/national_statistics/documentation.asp

³ *National Statistics Code of Practice* (2002) available at: http://www.statistics.gov.uk/about_ns/cop/default.asp

⁴ United Nations Economic and Social Council (1994) “*UN Fundamental Principles of Official Statistics*”: *Report of the Special Session of the Statistical Commission* (New York, 11-15 April), E / 1994 / 29

⁵ http://www.hm-treasury.gov.uk/budget/budget_06/other_documents/bud_bud06_odstatistics.cfm

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9. The Bill leaves unchanged many other aspects of the current system, including:

- the Government Statistical Service (GSS), a professional grouping of around 7,000 civil servants who collect, analyse and disseminate statistics, working in the ONS, in government departments and agencies and in the Devolved Administrations in Scotland and Wales; and
- the existence of departmental Heads of Profession for Statistics (HoPs) in government departments or agencies that produce National Statistics.

BACKGROUND TO PART 2

10. Civil registration in England and Wales was first introduced in 1837. Since then, the process and the administration of the service have remained broadly unchanged with responsibility shared between the Registrar General, local authorities and registration officers.

11. Both the Registrar General and the registration officers are statutory office holders, with their duties set out in statute. The rights and liabilities of the Registrar General are currently the responsibility of the office holder. Registration officers are paid and appointed by local authorities but can only be dismissed by the Registrar General. They have no legal employer and as such have no access to employment tribunals.

12. The Government proposes to establish the Registrar General as a corporation sole, in order to separate the rights and liabilities of the office-holder from the office. The Government also proposes to change the employment status of registration officers by moving them into local government employment.

SUMMARY

13. The Bill provides for the creation of a new Statistics Board (referred to in the Bill and in these explanatory notes as ‘the Board’) operating at arms’ length from Ministers, with a statutory responsibility for promoting and safeguarding the quality and comprehensiveness of official statistics.

The Statistics Board, its membership and staff (clauses 1 to 5)

14. The new Board will be a Non-Ministerial Department (NMD), with a non-executive Chairman who, along with the National Statistician, will be appointed by Her Majesty. The Board itself will be composed of at least six non-executive members, including the Chairman, and three executive members, one of whom will be the National Statistician.

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15. The Board may have other employees as needed. These will include the staff in the executive office of the National Statistician, who will be involved in the production of statistics, as well as the Board secretariat and those working on assessment of National Statistics.

Functions relating to official statistics and National Statistics (clauses 7 to 19)

16. The Board will have an overall objective of promoting and safeguarding the quality of official statistics, good practice in relation to official statistics and the comprehensiveness of official statistics (clause 7).

17. The Board has a number of functions, which will enable it to fulfil this objective, including powers to monitor the quality of official statistics, and to develop, maintain and promote the use of definitions, methodologies, classifications and standards for official statistics. Clauses 10 to 15 require the Board to draw up a Code of Practice for National Statistics (clause 10) and to assess National Statistics against the Code (clause 12).

18. Pre-release arrangements will be set out in secondary legislation, and the Board will have a statutory duty to assess compliance with the arrangements as part of its duty to assess National Statistics under clauses 12 and 13.

Further and supplementary functions (clauses 20 to 27)

19. The Board also has a number of statistical functions which are not confined to official statistics and National Statistics. These include the power to provide statistical services to any person (clause 20) and a power to promote statistical research (clause 21).

20. The Board is also required to lay an annual report before Parliament (clause 25) and to exercise its functions efficiently and cost-effectively (clause 26).

21. These clauses also provide for the transfer of statistical functions, including the Census, from the Registrar General for England and Wales to the Board (clause 23 with Schedule 1) and enable a Minister of the Crown (or Devolved Administrations) to delegate to the Board functions relating to the production of statistics (clause 22).

Organisation and administration (clauses 28 to 34)

22. The National Statistician and the Head of Assessment will act as the principal advisers to the Board on, respectively, professional statistical matters and the assessment of National Statistics. The National Statistician will also be the Board's Chief Executive, and will be accountable to the Board for the operation of the executive office of the Board. Clause 31 establishes the separation of the Board's statistical production and assessment functions.

Use and disclosure of information by the Board (clauses 35 to 38)

23. In principle, much of the information obtained by the Board in connection with one function may be used by it for another (clause 35). However, clause 36

places a general obligation on the Board, and anyone to whom the Board has passed personal information, not to disclose it unless one of the exemptions at clause 36(4) applies. Failure to comply with this duty of confidentiality is a criminal offence.

Information sharing (clauses 39 to 43 and Schedule 2)

24. Clauses 39 to 43 (with Schedule 2) allow existing information flows to continue between the Board, as the legal successor body to ONS, and: the General Register Office (clause 39); the relevant Secretary of State, and Welsh Ministers, for patient registration data (clauses 40 and 41); HM Revenue and Customs (clause 42); and the Department for Work and Pensions, the Bank of England and the Department for Environment, Food and Rural Affairs (clause 43 and Schedule 2).

Information sharing: supplementary powers (clauses 44 to 51)

25. Clause 44 allows the Treasury, with the consent of the Minister of the Crown responsible for the public authority from which the information will be obtained, to make regulations to allow information to be shared with the Board where this would normally not be allowed (either because of a barrier to sharing in existing law, or because such a public authority would not otherwise have the power to share data with the Board). Information shared under the regulations can only be used for statistical purposes, and cannot be disclosed by the Board other than in the limited circumstances set out in clause 36 and where the regulations provide for further disclosure. Clause 47 allows the Treasury, with the consent of the Minister of the Crown responsible for the public authority from which the information has been obtained, to make regulations to allow the Board to use information it has received where such use would otherwise be prohibited.

26. Under clause 48, the Treasury may, with the consent of the Minister of the Crown responsible for the relevant public authority, make regulations to allow information to be shared by the Board with another public authority where this would normally not be allowed. Information shared under this provision can only be used for statistical purposes, and onward disclosure of the information is restricted, under clause 36.

27. Clauses 45 and 49, and 46 and 50, duplicate clauses 44 and 48 for Scotland and Northern Ireland respectively. In these clauses, the power to make regulations operates with the consent of the Treasury.

Consequential and miscellaneous provisions (clauses 52 to 61)

28. The ONS will cease to operate. However its existing property, rights and liabilities will pass to the new Board under provisions in these clauses, other than property, rights and liabilities that will transfer to the Registrar General or a Minister of the Crown on behalf of the Registrar General.

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Registration service (clauses 65 to 69)

29. Part 2 makes provision about offices established under the *Registration Service Act 1953* and the status of the persons holding those offices.

30. Clause 65 establishes the Registrar General for England and Wales as a corporation sole with legal personality separate from the office holder. Clauses 66 to 69 transfer registration officers into local authority employment, provide for the retention of their existing terms and conditions and make various minor and consequential amendments to the *Registration Service Act 1953*.

TERRITORIAL EXTENT

31. Part 1 of the Bill, apart from clause 59, extends to England and Wales, Scotland and Northern Ireland as described below. Part 2 extends only to England and Wales.

TERRITORIAL APPLICATION: WALES

32. The Bill applies generally to Wales. The Board in Welsh is to be known as “Y Bwrdd Ystadegau”. The powers of the new Board will extend to Wales, so that, for instance, the Board will monitor the production and publication of Welsh devolved statistics and assess Welsh devolved statistics nominated by Welsh Ministers for designation as National Statistics. Welsh Ministers will have certain functions in relation to the Board, for example in relation to appointments (clause 3) or the issuing of directions (clause 27). The definition of Welsh devolved statistics is in *subsection 63(3)*.

ANNEXES

33. Annex A lists the standard abbreviations of enactments and technical terms used in these notes.

34. Annex B lists the clauses in the Bill that affect the powers of Welsh Ministers, the First Minister, the Counsel General to the Welsh Assembly Government or the National Assembly for Wales.

COMMENTARY ON CLAUSES AND SCHEDULES

PART 1: THE STATISTICS BOARD

Clause 1 Establishment

35. This clause establishes a body corporate known in English as the Statistics Board, in Gaelic as *Am Bòrd an Staitistig* and in Welsh as *Y Bwrdd Ystadegau*, referred to in the Bill and in these explanatory notes, as “the Board”.

Clause 2 Status

36. This clause sets out that the Board will exercise its functions on behalf of the Crown and that the property, rights and liabilities of the Board are therefore the property, rights and liabilities of the Crown.

Clause 3 Members

37. *Subsections (1) and (2)* stipulate that the Board will have a mix of non-executive and executive members, with a non-executive Chairman, appointed by Her Majesty, and at least five other non-executives.

38. *Subsection (4)* provides for one non-executive member to be appointed to the Board by the Treasury after consultation with Scottish Ministers, one after consultation with Welsh Ministers and another after consultation with the Department of Finance and Personnel for Northern Ireland.

39. *Subsection (5)* provides for the Treasury, in consultation with the Chairman, to appoint one of the non-executives as a deputy Chairman.

40. *Subsection (6)* provides for three executive members of the Board: the National Statistician (*ex-officio*) and two others, who will be appointed by the non-executive members of the Board.

Clause 4 Non-executive members

41. This clause sets out the rules for the appointment of, resignation or dismissal of, and reappointment of, non-executive members of the Board. All non-executive members of the Board will be appointed in accordance with guidance from the Office of the Commissioner of Public Appointments.

Clause 5 Executive members and other staff

42. This clause sets out that the Board is to employ a National Statistician, on terms set by Her Majesty in his appointment, which may include terms relating to dismissal. The clause also establishes that there is to be a Head of Assessment, appointed by the non-executive members of the Board. The holders of these posts will be civil servants and employees of the Board. The Board may also employ other staff,

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as required, subject to the approval of the Minister for the Civil Service as to numbers and terms and conditions. These employees will be civil servants, and will include the staff in the executive office of the National Statistician, who will be involved in the production of statistics, as well as the Board secretariat and those working on assessment of National Statistics.

Clause 6 Official statistics

43. *Subsection (1)(a)* defines official statistics as statistics produced by the Board, government departments (which will include executive agencies), the Devolved Administrations in Scotland, Wales and Northern Ireland, or any other person acting on behalf of the Crown.

44. *Subsections (1)(b) and (2)* allow for a Minister of the Crown, the Scottish Ministers, the Welsh Ministers, or a Northern Ireland department, by order (draft affirmative), to add to the coverage of official statistics - beyond that covered in *subsection 1(a)* - all the statistics of a given body, or a more limited number of that body's statistics, or a specific statistical series. The kind of bodies whose statistics might be added under this section are local authorities, health authorities and non-departmental public bodies (NDPBs) that are not Crown bodies. Once added by order, statistics will be treated as official statistics for the purposes of the Act and could, for instance, be subject to monitoring by the Board (under clauses 8 and 9), or be eligible for assessment as National Statistics.

45. *Subsection (3)* requires the relevant authority to consult the Board before making an order under *subsection (1)(b)*.

Clause 7 Objective

46. This clause provides the Board with an objective for its functions relating to official statistics (clauses 8 to 19), and requires it to safeguard and promote their quality and comprehensiveness, as well as good practice in relation to official statistics.

47. *Subsection (2)* defines 'quality' to include impartiality, accuracy, relevance and coherence with other official statistics. In addition, accessibility (making statistics easily and widely available in a fair and open way) is defined as an element of good practice. The Board is not limited to considering only these aspects of quality and good practice, and might also be expected to look at those other dimensions, including aspects of quality highlighted by *Eurostat*⁶, such as timeliness and comparability.

Clause 8 Monitoring and reporting of official statistics

48. This clause requires the Board to monitor the production and publication of official statistics. This role draws on the duties under the current *Framework for National Statistics* of the Statistics Commission (which advises Ministers of areas of

⁶ Eurostat is the European Commission's body responsible for providing the EU's statistical information service. (<http://epp.eurostat.ec.europa.eu>.)

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widespread concern about the quality of official statistics) and of the National Statistician (who produces a high-level work programme for National Statistics, that the Statistics Commission must comment on).

49. In this clause, production encompasses all aspects involved in producing official statistics, including the design of the inquiry, the collection of data, the compilation of those data and the dissemination of results.

50. *Subsection (2)* provides that the Board may report its findings about official statistics to the person responsible for those statistics, usually the relevant departmental Minister or the relevant Devolved Administration. This enables the Board either to comment reactively if a concern about any official statistics, or gap in the coverage of official statistics, is brought to its attention; or proactively, developing its own programme of work to fulfil this duty.

51. *Subsection (3)* enables the Board to publish the results of its work under this clause.

Clause 9 Definitions etc for official statistics

52. This clause requires the Board to develop and maintain definitions, methodologies, classifications and standards for official statistics, and to promote their use in relation to official statistics. In addition, the Board may provide guidance and advice on these matters to statistical producers.

53. The Board would be expected to develop definitions, methodologies, classifications and standards in line with European Union (EU) and international guidance as appropriate. There are a number of standard definitions and classifications already in existence of the type the Board would be expected to use and promote among producers of official statistics.⁷ Examples include the *Standard Industrial Classification (SIC)*⁸, the *Standard Occupational Classification (SOC)*⁹, the *European System of Accounts (ESA)*¹⁰ and the *National Statistics Socio-Economic Classification (NS-SEC)*¹¹. Guidance is also published by ONS on preferred definitions and survey question designs (for example to define areas as ‘rural’ or ‘urban’, and on ethnicity information) for use in survey and census data collection.¹²

⁷ The above classifications may be found at:

<http://www.statistics.gov.uk/about/data/classifications/current/default.asp>

⁸ *UK Standard Industrial Classification 2003* available at:

<http://www.statistics.gov.uk/statbase/Product.asp?vlnk=14012>

⁹ *Standard Occupational Classification 2000* available at:

http://www.statistics.gov.uk/methods_quality/ns_sec/soc2000.asp

¹⁰ *European System of Accounts (ESA) (1995)* available at:

<http://forum.europa.eu.int/irc/dsis/nfaccount/info/data/esa95/esa95-new.htm>

¹¹ *National Statistics Socio-Economic Classification (2001)* available at:

http://www.statistics.gov.uk/methods_quality/ns_sec/default.asp

¹² <http://www.statistics.gov.uk/about/data/classifications/other/default.asp>

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Clause 10 Code of practice for National Statistics

54. This clause requires the Board to prepare (in consultation with others as appropriate), adopt and publish a Code of Practice for National Statistics. This Code will contain the standards against which National Statistics will be assessed. It is expected that the Board, in drawing up the Code, will have due regard to the current *National Statistics Code of Practice*¹³.

55. *Subsection (2)* allows the Board, at any time, to revise its Code of Practice and to publish the revised version once it has done so.

56. *Subsection (3)* requires that, in preparing or revising the Code, the Board must consult the Scottish Ministers, the Welsh Ministers, the Department of Finance and Personnel, for Northern Ireland and any others it sees fit. Among those the Board might be expected to consult are key users of data in Government (including Ministers) and outside (for example academics, researchers and business) as well as producers and providers of data.

Clause 11 Pre-release access

57. This clause provides for the Treasury and (in the case of official devolved statistics) the Devolved Administrations to determine, by way of order, the principles and rules for access to official statistics in their final form in which they will be published. Under clause 62, such orders will be subject to the affirmative resolution procedure. Once approved, these rules and principles will be regarded as being included in, and are to be assessed as part of, the Code of Practice for National Statistics.

58. *Subsections (1) and (2)* provide that the Code under clause 10 may not deal with pre-release access to official statistics.

59. *Subsection (3)* provides that the Code shall apply to official statistics as if it included any rules and procedures set out in an order made under *subsection (2)*.

60. *Subsection (4)* sets out examples of the types of situation to which the rules and principles referred to in *subsection (2)* may apply. These could include: the circumstances in which, or descriptions of statistics in relation to which, pre-release access may or may not be granted; the type of person or persons to whom pre-release access might be granted; the period within which such access may be granted; and the conditions under which any such access may be available.

61. *Subsection (5)* provides that the principles and rules referred to in *subsection (2)* may vary between different types of statistics or statistical releases. They might, for example, set out different rules for market-sensitive and non-market sensitive statistics. *Subsection (5)* also provides that the order may grant discretion to the

¹³ *National Statistics Code of Practice* (2002) available at: http://www.statistics.gov.uk/about_ns/cop/default.asp

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person responsible for producing official statistics. This could include, for example, the exercise of judgment on that person to provide longer pre-release access in exceptional circumstances, such as for those preparing economic forecasts for a Budget or Pre-Budget Report.

62. *Subsection (6)* establishes that the appropriate authority for setting out an order in *subsection (2)* is the Treasury; or in the case of wholly devolved statistics, the Department of Finance and Personnel for Northern Ireland, Scottish Ministers, or Welsh Ministers as appropriate.

63. *Subsection (7)* establishes that an appropriate authority making the order in *subsection (2)* must consult the other authorities listed in *subsection (6)* before making an order.

Clause 12 Assessment

64. This clause provides a mechanism for the independent assessment by the Board of official statistics, where the Board is asked to do so by the relevant Minister or other appropriate authority, against the published set of standards set out in the Code of Practice. The results of the assessment will be made public.

65. Under *subsection (2)* if the Board judges that the statistics meet the standards in the Code, then the Board must designate them as ‘National Statistics’. If they do not, then they will not be so designated.

66. *Subsection (3)* requires that once the appropriate authority has requested an assessment of an official statistic under *subsection (1)*, they may not withdraw that request, and the Board must undertake an assessment of the statistics in question.

67. *Subsection (4)* requires the person responsible for the statistics being assessed to provide the Board with any information it might reasonably require. *Subsection (6)* allows the Board, when carrying out assessments, to take into account information or advice from any source.

68. Under *subsection (5)* the Board must publish the results of any assessment.

69. *Subsection (8)* allows for the fact that, at the point of commencement, there will already be a set of National Statistics. These statistics will be designated as National Statistics, under the terms of this clause and subject to the re-assessment outlined in clause 13.

Clause 13 Re-assessment

70. This clause provides for the re-assessment of statistics already designated as National Statistics under clause 12. This includes assessment of those statistics which

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are already designated as National Statistics at the point of commencement (under clause 12(8)), as well as those statistics which are assessed by the Board as compliant with the Code of Practice for National Statistics (under clause 12(2)).

71. *Subsection (1)* requires the Board to assess statistics designated as National Statistics under clause 12, to determine whether they continue to comply with the Code and if under *subsection (2)* the Board determines that they continue to comply with the code, confirm their designation. If they do not continue to comply, then their designation as National Statistics must be cancelled.

72. *Subsection (3)* requires the person responsible for the statistics being assessed to provide the Board with any information it might reasonably require and *subsection (4)* permits the Board, in carrying out its re-assessments to take into account information or advice received from any source.

73. Under *subsection (6)* cancellation of National Statistics designation can only occur if the Board has assessed the statistics and determined that they do not comply with the Code.

Clause 14 Programme of assessment

74. This clause requires the Board to prepare and publish a programme for both the assessment and (under clause 12) of statistics proposed by the appropriate authority, and the re-assessment (under clause 13) of statistics already designated as National Statistics.

75. *Subsection (2)* allows the Board to revise the programme and if it does, it must republish it.

Clause 15 Principles and procedures

76. This clause requires the Board to prepare and publish a statement of the principles and procedures it will adopt to carry out its assessments and re-assessments of National Statistics; allows it to revise this statement at any time; and requires the Board to consult the Scottish Ministers, the Welsh Ministers, the Department of Finance and Personnel for Northern Ireland, and other such persons as it sees fit. These principles will be for the Board to determine, but it is expected that they might indicate the way that risk-based approaches and transparency might underpin the assessment of National Statistics, including:

- the criteria that might be applied in drawing up and amending the work programme;
- the way that assessments themselves would be conducted;
- the way recommendations would be formulated;

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- the timing and manner of publication of recommendations; and
- the professional standards expected of those conducting the assessment.

Clause 16 List of National Statistics

77. This clause provides for the Board to publish once a year a list of statistics that are designated as National Statistics under clauses 12 and 13.

Clause 17 Code: transitional

78. This clause provides for the transitional arrangements from the point the Board is established and before it has prepared and published a new Code, as required by clause 10.

79. This clause provides that, until a new Code is adopted by the Board, the Board will maintain the current *Code of Practice for National Statistics (subsection (2))*. *Subsection (3)* permits the Board to revise the existing Code before it publishes a new Code; and stipulates that if it does so, it must publish the Code as revised.

80. *Subsection (4)* provides that, in making revisions to the Code, the Board may not make any changes relating to pre-release access as defined in clause 11.

81. *Subsection (5)* establishes that during the interim period the Board can use the existing Code to assess statistics proposed by the appropriate authority for assessment under clause 12, as well as to re-assess statistics already designated as National Statistics under clause 13.

Clause 18 Production of statistics

82. This clause provides the Board with the power to produce and publish statistics. Under this power, the Board will take on one of the main roles of the current ONS, in conducting surveys, and collecting information from other sources, to produce a wide range of data on the economy and society. This includes, for example, production of the National Accounts, labour market data, information on the population, and other aspects of demography.

83. *Subsection (1)* allows for the Board to prepare and publish statistical outputs, while *subsection (2)* provides for the Board to make available information or advice in relation to those outputs. For example, when publishing statistics on a particular topic, the Board may need to provide other contextual information for users about the appropriate use of those data, background information on the methodology, and terminology (for example, explaining the concept of seasonal adjustment) or advice on other relevant points.

84. *Subsections (3) to (5)* provide that the Board must seek the consent of the relevant Devolved Administration before producing or publishing devolved statistics.

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Clause 19 Retail prices index

85. This clause sets out the governance arrangements for the Retail Prices Index (RPI). The RPI is an average measure of change in the price of goods and services, which is compiled and published monthly.

86. *Subsection (1)* provides that the Board must compile and maintain the RPI, and that it must be published every month.

87. *Subsection (2)* requires that the Board, before making any changes to the coverage or basic calculation of the RPI, must consult the Bank of England on whether the proposed change constitutes a fundamental change in the index that would be materially detrimental to the interests of the holders of relevant index-linked gilt-edged securities (ILGs).

88. This is because, among other things, the RPI is used to calculate returns on ILGs, which are government securities issued by the Treasury under its borrowing powers in section 12 of the National Loans Act 1968. The prospectuses of ILGs first issued before July 2002 provided as follows:

“If any change should be made to the coverage or the basic calculation of the [Retail Prices] Index which, in the opinion of the Bank of England, constitutes a fundamental change in the Index which would be materially detrimental to the interests of the stockholders, Her Majesty’s Treasury will publish a notice in the London Gazette immediately following the announcement to the relevant Government Department of the change, informing stockholders and offering them the right to require Her Majesty’s Treasury to redeem their Stock in advance of the revised index becoming effective ...”.

89. The prospectuses of eight gilts with maturities ranging from 2009 to 2030 currently contain this redemption clause and the aggregate outstanding amount of these gilts is very substantial. The rationale of the redemption clause was to protect holders against arbitrary changes in the nature of the RPI. However, depending on the nature of the change to the RPI and on market circumstances at the time, the triggering of the clause could have a significant impact on financial markets and potentially on the public finances.

90. *Subsection (3)* provides that if, under *subsection (2)* the Bank of England considers the proposed change to constitute a fundamental change that would be materially detrimental to holders of ILGs, then the Board may not make the change without the consent of the Chancellor of the Exchequer.

91. *Subsection (4)* defines the various terms used in the clause.

Clause 20 Statistical services

92. This clause allows the Board to supply statistical services to any person and details the kind of services which may be provided. This power is intended to allow the Board to provide the range of services which the ONS provides currently. For example, the Board will be able to provide information, advice and technical

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assistance to outside bodies, as ONS does currently, including to statistical agencies in developing countries.

93. The Board may also undertake quality assessment of statistics produced by organisations outside the scope of the Bill, in a manner akin to those it carries out in relation to National Statistics. Those bodies' statistics could not be designated as National Statistics, but the Board could if it wished make public its views on the quality of those statistics. The Board may also undertake statistical surveys and analyses on behalf of others, as ONS does currently with its 'Omnibus' Survey.

Clause 21 Statistical research

94. This clause allows the Board to promote statistical research, including facilitating research through making available to researchers data held by it, as ONS does currently. For example, ONS provides anonymised data under licence through the UK Data Archive at Essex University. It also provides access to certain data to researchers and academics in a secure environment, and this will continue as described in relation to clause 36.

Clause 22 Delegated functions

95. This clause allows a Minister of the Crown, Welsh ministerial authorities and Northern Ireland departments, by order, to delegate to the Board any of their functions relating to the production of statistics. The Chancellor of the Exchequer currently delegates Ministerial functions under the *Statistics of Trade Act 1947* - to the Director of the ONS - and this provision will retain the possibility of delegation in the future.

Clause 23 Census etc and Schedule 1

96. This clause transfers the current statistical functions of the Registrar General for England and Wales to the Board. These functions include responsibility for conducting the census and the production of an annual volume which, among other things, contains figures on the number of births, deaths, marriages and civil partnerships that have taken place in England and Wales during the previous year. The functions also include the role of assessor to the Parliamentary Boundary Commissions for England and for Wales. This involves giving advice to the Commissions on issues such as population estimates.

97. The Schedule contains the amendments consequential on, and supplementary to, clause 23.

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The Census Act 1920

98. The amendments to the *Census Act 1920* give the Board the same responsibilities that currently apply to the Registrar General apart from two specific provisions. *Paragraph 3* amends *section 3* to require the Chancellor of the Exchequer and the Welsh Ministers to consult the Board prior to making any regulations under this provision. The references to the Welsh Ministers in the amended *section 3* anticipate the transfer of the regulation-making power in *section 3* to Welsh Ministers under the *National Assembly for Wales (Transfer of Functions)(No. 2) Order 2006*.

99. *Paragraph 5* provides for the Board to acquire information from any government department or local authority, having first consulted with the Registrar General, in relation to registration information. *Paragraph 6* amends *section 6* in order to clarify to whom a local authority should submit an application for a local census in England and Wales or in Scotland respectively.

The Population (Statistics) Act 1938

100. *Paragraph 8* amends *section 4* to permit the Board to disclose information collected under this Act, providing it is necessary in connection with the performance of its functions under *section 5* of the *Census Act 1920*.

The Registration Service Act 1953

101. *Paragraph 9* amends *section 19* to place on the Board the responsibility for sending an annual abstract to Ministers.

The Parliamentary Constituencies Act 1986

102. *Paragraph 10* amends paragraph 5(a) and (c) of Schedule 1 to place the role of assessor to the Boundary Commissions for England and for Wales on the Board.

The Political Parties, Elections and Referendums Act 2000

103. *Paragraph 11* amends *section 14(6)(a)* to place the role of assessor to the Boundary Commissions for England and for Wales on the Board.

Clause 24 Ancillary powers

104. This clause enables the Board to do anything necessary in connection with the exercise of its functions or incidental business. The purpose of a clause of this nature is to give the Board the powers it needs to transact its day-to-day business. It does not widen the scope of the Board's activities, nor provide any powers of compulsion.

105. Examples of the use of the powers are:

- the gathering of information in relation to the exercise of its functions;
- the establishment of advisory bodies;

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- the entering into of agreements; the acquiring and disposing of property; and
- promoting, or assisting in the promotion of, publicity about the work of the Board.

106. These powers will also entitle the Board to charge for certain services on a discretionary basis, as ONS does currently, for example for paper copies of its publications, for any statistical services it provides and for services promoting statistical research. Any charges would be made in line with Government charging policies, which apply to all public bodies.

Clause 25 Reports

107. This clause requires certain reports to be laid before Parliament, the Scottish Parliament, the National Assembly for Wales, or the Northern Ireland Assembly, and it also allows the Board to lay further reports as necessary.

108. This clause would enable the Board, if it thought it appropriate, to lay reports which are wholly on devolved matters only before the relevant devolved legislature.

109. *Subsection (1)* imposes a duty on the Board to lay a report before Parliament after the end of each financial year. This will include details of what it has done during the year and what it has found as a result of those activities. The Board must also provide information about what it intends to do during the following financial year.

110. *Subsection (2)* states that a report under *subsection (1)* must be laid before the Scottish Parliament, the National Assembly for Wales and the Northern Ireland Assembly.

111. *Subsection (3)* in addition allows the Board at any time to produce a report about any other matter relating to the exercise of its functions. *Subsection (4)* notes that any report produced under *subsection (3)* may be laid before any of the Scottish Parliament, the National Assembly for Wales and the Northern Ireland Assembly.

112. Under *subsection (5)* the Board must publish any report that it makes under this clause.

Clause 26 Efficiency etc

113. *Subsection (1)* obliges the Board to have regard to efficiency and cost-effectiveness when making decisions relating to the exercise of its functions.

114. *Subsection (2)* requires that the Board seek to limit the costs that individuals, businesses and other organisations bear as a result of its activities (for example, when requiring them to fill in a survey, or when their statistics are being assessed). As a result, the Board must consider the burdens it places on others as a part of decisions such as, whether to acquire data from existing administrative sources or whether to commission new data instead.

Clause 27 Directions

115. This clause allows the Chancellor of the Exchequer to give the Board such directions as he considers appropriate, in the event of a serious failure by the Board to perform any of its functions, or to comply with EU obligations. Given that, the new Board will be established as a Non-Ministerial Department (NMD), the power in *subsection (1)* is intended as a power of last resort. The Chancellor of the Exchequer will have no role in the day-to-day decision-making of the Board.

116. In a similar manner, *subsections (2), (3) and (4)* permit the Scottish Ministers, the Welsh Ministers or the Department for Finance and Personnel for Northern Ireland, with the consent of the Chancellor of the Exchequer, to give the Board such directions as they consider appropriate to remedy a serious failure by the Board to comply with its objective, or to perform any of its functions in relation to Scotland, Wales or Northern Ireland respectively.

117. By *subsection (8)*, if the Board fails to act on a direction, the authority that gave the direction may carry out that direction itself, and in so doing, may exercise the Board's powers. Where the authority is not the Chancellor of the Exchequer, this power is exercised subject to the consent of the Chancellor of the Exchequer.

Clause 28 National Statistician: advisory functions

118. This clause provides that the National Statistician is the Board's chief professional adviser on the quality and comprehensiveness of, and good practice in relation to, official statistics. *Subsection (2)* provides that the Board must take account of the National Statistician's advice in relation to all those matters.

119. *Subsection (3)* requires the Board to publish a statement if it overrules the National Statistician on what are purely professional statistical matters, that is, the development and maintenance of definitions, methodologies, classifications and standards for any official statistics, or the application of definitions, methodologies, classifications and standards to statistics produced by the Board itself.

120. *Subsection (4)* requires any statements published under *subsection (3)* to be laid promptly before Parliament.

Clause 29 National Statistician: executive functions

121. This clause establishes that, as well as being the Board's chief professional adviser, the National Statistician is also to be the Chief Executive of the Board, with direct authority to conduct the Board's business, subject to the exceptions in

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subsection (3). This clause also requires the National Statistician to establish an executive office of the Board. It is expected that the executive members and employees of the Board will undertake the day-to-day business of the Board, under its direction.

122. *Subsection (2)* enables the National Statistician to exercise any functions of the Board, except, under *subsection (3)*, the functions of deciding whether or not to adopt or revise the Code of Practice for National Statistics, or determining whether official statistics comply with the Code.

123. *Subsection (4)* allows the Board to direct the National Statistician on whether he may exercise a particular function and if so, how. This may include reserving the exercise of particular functions to the Board collectively.

124. *Subsection (6)* requires the executive office established under *subsection (5)*, to be headed by the National Statistician and to include the other two executive members of the Board, subject to the conditions in *subsection (10)*, that the Head of Assessment may not be part of the executive office. The National Statistician may appoint to the office any other employees of the Board as required.

125. *Subsection (7)* enables the National Statistician to delegate to any employees of his office any functions that he exercises on behalf of the Board under *subsection (2)*. In effect, this will be much of the day-to-day work of the office, including the range of activities related to statistical production. However, *subsection (8)* makes clear that the fact that a function has been delegated to employees of the office under *subsection (7)* does not itself preclude the National Statistician from exercising it himself.

126. If there is a vacancy in the post of National Statistician, *subsection (9)* enables the Board to appoint one of the other two executive members of the Board to carry out the National Statistician's functions as Chief Executive.

127. *Subsection (10)* establishes that, if the Head of Assessment is one of the executive members of the Board, he may not be a member of the National Statistician's executive office (responsible for statistical production). This is consistent with clause 31, which establishes that the Board must separate its assessment activities from its production activities. In the event of a vacancy in the post of National Statistician (*subsection (9)*), the Head of Assessment cannot be appointed to carry out that role.

Clause 30 Head of Assessment

128. This clause requires the Board to employ a Head of Assessment as its principal adviser in relation to assessments and re-assessments of National Statistics and their compliance with the Code. The Board must have regard to the advice of the Head of Assessment on those matters.

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Clause 31 Separation of functions

129. This clause provides for the separation of the statistical production and assessment functions of the Board.

130. *Subsection (1)* prohibits the National Statistician from taking part in deliberations or decisions about the assessment of statistics that the Board itself has produced. That does not prevent the National Statistician from making representations to the Board about those statistics but, as with other statistical producers, he may not take part in decisions by the Board, or their representatives, on the assessment of those statistics.

131. *Subsection (2)* prohibits executive members of the Board who are neither the National Statistician nor the Head of Assessment, from taking part in any deliberations or decisions in relation to assessment or re-assessment of any National Statistics, and their compliance with the Code. This applies whether the statistics in question are produced by the Board itself, or produced in other departments.

132. Under *subsection (3)* the Board must establish processes to ensure that employees of the Board involved in statistical production should not be engaged in advising the Board on the assessment or reassessment of those statistics (under clause 12(1) and 13(1)).

Clause 32 Committees

133. *Subsection (1)* gives the Board powers to establish committees to exercise its functions and to give it advice. The Board may establish committees, for example, to direct certain corporate policies and practice, such as on human resources, security or information systems.

134. Under *subsection (2)*, advisory committees (but not executive ones) may consist of individuals who are neither members of the Board nor employed by it. The Board might, for example, establish an advisory committee to help it address user needs, and include on it some key user representatives from academia, business, and the research community. It may also establish committees to advise it on the exercise of its functions relating to official statistics, which might include staff from other government departments.

Clause 33 Delegation

135. This clause sets out that the Board may delegate certain of its functions and describes the conditions under which it may delegate. The Board may delegate to a member or employee of the Board, or to a committee of the Board who may, under *subsection (3)* further delegate down to sub-committees.

136. Under *subsection (2)* the Board may not delegate its duty of adopting or revising the Code, nor decisions on whether statistics have complied with the Code and can therefore be designated as National Statistics.

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137. *Subsection (4)* provides for the fact that the delegation of a function under *subsections (1) and (3)* does not preclude the Board or a committee from exercising that function itself.

Clause 34 Proceedings: supplementary

138. This clause provides that the Board may regulate its own proceedings and those of any other committee of the Board.

139. *Subsection (3)* establishes that the validity of the proceedings of the Board, or any of its committees or sub-committees is not affected by a vacancy or a defective appointment.

Clause 35 Use of information by the Board

140. This clause allows the Board to use any information it holds, including census information previously held by the Registrar General, to carry out any of its functions. This clause will permit the Board to produce statistics for one purpose using information collected for another purpose, for example allowing an analysis of deprivation to be carried out using data collected as part of the census. This may also reduce the burden on data providers, for example individuals or businesses filling in surveys, by removing the need to collect duplicate information.

141. *Subsection (1)* states that any information obtained by the Board in connection with any function exercised by the Board may be used by it in connection with any other of its functions.

142. *Subsection (2)* restricts the Board's use of information in that, while the Board will have access to information about National Statistics for assessment purposes, they will not be able to use this information for other functions, such as the production of statistics. In the case of information received by the Board in connection with its functions, clause 20(3) limits the Board's use of information in the way permitted by *subsection (1)*, unless the Board seeks the consent of the person who provided the information to the Board.

143. *Subsection (4)* states that the Board may not use information where other legislation places limits on how that data can be used or disclosed. For example, *section 58 (2)* of the *Finance Act 1969*, restricts the Board's use of 'pay as you earn' (PAYE) information for the purposes of statistical survey; this clause would not override that restriction on use.

Clause 36 Confidentiality of personal information

144. This clause specifies that personal information (as described in *subsections (2) and (3)*), whether held by the Board or disclosed by the Board to others, is confidential.

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145. *Subsection (1)* states that personal information held by the Board should not be disclosed by anyone, whether a member of the Board (or one of its committees), an employee of the Board or anyone who has received it from the Board (directly or indirectly). *Subsection (9)* makes such disclosure a criminal offence, punishable by a fine or imprisonment. This is a similar penalty to that provided for unlawful disclosure of HM Revenue and Customs (HMRC) data in the *Commissioners for Revenue and Customs Act 2005*.

146. *Subsection (2)* explains that “personal information” is information that relates to and identifies a particular person. This would include information that could identify a business, even where that business had since changed form due to a merger. The meaning of personal information does not include administrative information held by the Board, such as records relating to the Board’s employees (which may, however, be protected under the *Data Protection Act 1998*).

147. *Subsection (3)* provides that information falls within the definition of ‘personal information’ at *subsection (2)* if the information in question either specifies the identity of the person, or could allow it to be deduced. As set out in *Subsection (10)*, the criminal offence does not apply where the individual making the disclosure reasonably believes that the identity of the person to whom the data relates could not be deduced from the information released.

148. *Subsection (4)* lists the circumstances where the restriction on disclosure in *subsection (1)* do not apply:

- *paragraph (a)*, where other legislation explicitly requires or permits disclosure of personal information. For example *section 58(4)* of the *Finance Act 1969* permits the ONS to disclose certain information it has received from HMRC to another department for the purpose of a statistical survey;
- *paragraph (b)*, where a European Community obligation requires disclosure, for example *Council Regulation EC 184/2005* concerning balance of payments, international trade in services and foreign direct investment, requires submission and transmission of data, including confidential data to the Community authority (*Eurostat*);
- *paragraph (c)*, where it is necessary for the purpose of enabling or assisting the Board to exercise any of its functions, for example the Boards’ function in *section 5* of the *Census Act 1920* of preparing statistics in respect of periods between one census and another;
- *paragraph (d)*, where data has already been lawfully made public;
- *paragraph (e)*, where data is disclosed following a court order;

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- *paragraph (f)*, where data is disclosed as part of a criminal investigation or proceedings; and
- *paragraph (g)*, where the person to whom the personal information relates has consented to disclosure. For example, the ONS conducts voluntary surveys, which contain a confidentiality pledge that makes clear to the respondent how the information they provide will be used, and setting out any onward disclosures that might be made, for example to other government departments for statistical purposes. In such cases, by returning the survey, the respondent consents to the terms of the confidentiality pledge and to the disclosure of information for statistical purposes in the way described.

149. *Subsection (4)(h)* states that the confidentiality obligation does not apply where the Board discloses information to an “approved researcher”, and *subsection (5)* sets out what the term “approved researcher” means. *Subsection (6)* states that the Board must publish the criteria by which it will decide whether to grant such access. As set out in *subsection (7)*, these criteria must require the Board to consider whether the researcher is a fit and proper person and the purpose of the research. Any researcher must also sign a declaration that they understand the confidentiality obligation placed on them (*subsection 8*).

150. The combination of this clause and clause 21 (on statistical research) is intended to replicate the access ONS currently provides to researchers and academics (seconded into ONS), usually through a secure environment physically located in ONS. At present, researchers are generally not allowed to take data away from ONS and must sign strict confidentiality agreements.

Clause 37 Freedom of Information

151. *Section 44(1)(a)* of the *Freedom of Information Act 2000* (“the 2000 Act”) provides that information is “exempt information” for the purposes of that Act if its disclosure by a public authority is prohibited by or under any enactment. If information is “exempt information” it need not be disclosed under that Act. By virtue of clause 36 (the offence relating to disclosure of information) *section 44(1)(a)* applies in relation to information held by the Board. So information held by the Board is “exempt information” for the purposes of the 2000 Act.

152. The same applies to information which is disclosed to a public authority by the Board (since the offence in clause 36 applies to anyone receiving information directly or indirectly from the Board).

153. Clause 37 provides a limited qualification to *section 44* in the case of personal information which is passed by the Board to other public authorities. The effect of the clause is that clause 36 will not operate to trigger *section 44* in such cases. So the information will not be exempt information for the purposes of the 2000 Act. That means that in respect of personal information received from the Board, a public authority, in response to a request for information made under the 2000 Act, may not

refuse to disclose information by citing the absolute exemption in *section 44* of the 2000 Act. The public authority may cite other available absolute or qualified exemptions in so far as they are considered to apply to the information requested.

Clause 38 Disclosure of information to service providers

154. This clause will allow the Board to pass any information to third parties who are operating under the control of the Board, so that they may provide services to them. For example, it would allow the Board to pass data to an external IT provider who had been contracted to undertake data processing on behalf of the Board, as ONS did during the 2001 Census. It is intended that those receiving the data under this clause would not be able to use it for any purpose other than the provision of the service they would be providing to the Board.

Clause 39 Information relating to births and deaths etc

155. The present arrangement whereby the National Statistician is also the Registrar General, and the GRO is part of the ONS, will cease when the Board comes into existence. This clause is necessary to ensure that current data-sharing arrangements that exist between the Registrar General and ONS can continue.

156. The Registrar General currently has both civil registration and statistical functions set out in statute, the latter of which will transfer to the Board. This clause ensures that the Board continues to have the same access to registration data collected by the Registrar General as ONS does currently. It includes provisions for the sharing of information by the Registrar General with the Board. In particular, it enables information collected at the registration of key life events, such as births and deaths, which is currently used by ONS to produce statistical outputs (including estimates of populations), to be disclosed to the Board.

157. *Subsection (2)(b)* includes both information collected at the time of a registration of a birth or death for statistical purposes, and information such as *post mortem* information that does not become available from a coroner until after the registration of a death.

158. *Subsection (5)* permits the Board to disclose to the Secretary of State or the Welsh Ministers the information received under this provision from the Registrar General for the purpose of assisting them in the performance of their functions in relation to the health service.

159. The intention is that the sharing of data under this clause will be subject to a Memorandum of Understanding or Service Level Agreement between the Registrar General and the Board, which will cover issues such as the means and frequency of data sharing, and the onward transmission of the data.

Clause 40 Information relating to NHS registration

160. The ONS currently produces population statistics, including estimates of movement of people between health authorities. In the production of such statistics, the ONS uses data held in the National Health Service Central Register (NHSCR). ONS is presently responsible for the operation of NHSCR whose main function is the compilation and maintenance of a record of all persons registered with an NHS General Practitioner in England. This work is carried out on behalf of 'NHS Connecting for Health', which is an Agency of the Department of Health. The present arrangement whereby the NHSCR is part of ONS will cease when the Board comes into existence. It is therefore necessary to create an information gateway to ensure that the Board may still receive this information.

161. *Subsection (3)(a) to (d)* stipulate the categories of patient registration information that may be shared with the Statistics Board, including their address, their date of birth and sex, their patient identification number, and their history of registration. However, this list is not exhaustive, and other patient registration information may also be shared with the Board, provided it is not information about the health or condition of a patient, or information about the care or treatment of a patient (*subsection (4)*).

Clause 41 Information relating to NHS registration: Wales

162. This provision replicates the effect of clause 40 in respect of the information relating to those registered with a NHS General Practitioner in Wales. ONS maintains the NHSCR for Wales (on behalf of the NHS in Wales). As for the NHSCR in England, the intention is that NHSCR in Wales will not be the responsibility of the new Board, it is necessary to create an information gateway to ensure that the Board may still receive this information and use it in connection with the production of population statistics.

Clause 42 Information held by HMRC

163. *Section 18* of the *Commissioners for Revenue and Customs Act 2005* controls HMRC's ability to share information. It does this by laying down the general rule that HMRC may not disclose any information held by it or received by it in the course of its functions. Pursuant to *section 18*, HMRC is permitted to disclose data in certain specified circumstances, one of which is where another provision authorises disclosure.

164. The clause permits the Commissioners for Revenue and Customs, or an officer of Revenue and Customs, to disclose to the Board any information held by the Revenue and Customs, for use by the Board in connection with one of more of the Board's statistical functions (with the exception of its function under clause 18 of this Bill of providing statistical services to any other person). This clause does not permit the disclosure of personal information (as defined in clause 36), with the exception of information relating to the import or export of goods to or from the UK.

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165. It is intended that two categories of data will be disclosed under this provision:

- summary data, including information on income tax and National Insurance contributions, which is currently provided by Revenue and Customs to ONS, to allow ONS to produce statistics, including estimates of the UK national income, as a part of their production of the UK National Accounts; and
- information relating to the import or export of goods to and from the UK, which is currently passed from Revenue and Customs to ONS to allow ONS to produce statistics. ONS use the data to identify businesses to survey about import and export prices, and in the analysis of the results of such surveys. Results from ONS's surveys feed into indices of the prices charged to producers (part of the measurement of the value added by UK manufacturers), and into analyses of the UK balance of payments in the National Accounts.

166. *Subsection (1)* allows data held by Revenue and Customs, in connection with any of its functions (such as the collection and management of taxes, duties and National Insurance contributions) to be disclosed to the Board by the Commissioners for Revenue and Customs or an officer of Revenue and Customs. *Subsection (5)* limits the data disclosed in this way to information that is not personal information, except in relation to the import and export of goods from the UK, which may be disclosed.

167. *Subsection (2)* states that, before making a disclosure, the Commissioners for Revenue and Customs must be satisfied that the Board requires the information to enable it to carry out one or more of its functions (excluding its function of providing statistical services).

168. *Subsection (3)* limits the Board's use of information. The Board may only use the information provided for any one or more of its functions (excluding its function of providing statistical services).

169. *Subsection (4)* sets out that the Board may not disclose information received under this clause without the consent of the Commissioners. Clause 36 will also operate to restrict the Board's disclosure of personal information received under this provision.

Clause 43 Information sharing: supplementary amendments and Schedule 2

170. Clause 43 makes supplementary amendments to existing legislation to allow information flows to continue to the Board, as the legal successor body to ONS.

171. *Paragraph 1* removes the offence of unlawful disclosure of personal census data in *section 8* of the *Census Act*, for England and Wales. The confidentiality obligation in clause 36 will apply to census information held by the Board.

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172. *Paragraph 2* amends the *Population (Statistics) Act 1938* (restriction on disclosure) to ensure that it is clear that clause 39 overrides the restrictions on disclosure by the Registrar General of information collected under this legislation.

173. *Paragraph 3* updates *section 58* of the *Finance Act 1969 c.32* by replacing references to the “ONS” and “Office” in that provision with references to the “Statistics Board” and “Board” where required. This amendment will allow HMRC to continue to disclose to the Board (as it does to ONS at present) PAYE information, specifically business name, address, economic activity code, legal form and size (in terms of numbers of employees). PAYE data are used to update and maintain the ONS’s register of businesses – the *inter-departmental business register* (IDBR). The purpose of this register is to provide government with an adequate sampling frame for surveys, on which almost all of ONS’s surveys of economic activity are based.

174. *Paragraph 4* inserts a reference to the Board and an “approved researcher” in *section 3* of the *Agricultural Statistics Act 1979 c.13*. The ONS currently receives information collected by Department for Environment, Food and Rural Affairs (DEFRA) under *section 1* of this Act; this amendment is necessary to ensure that DEFRA may continue to disclose information to the Statistics Board. The amendment also permits the Board to disclose the information to an approved researcher (see note to clause 36 above). Data collected under this Act is also used to maintain the IDBR.

175. *Paragraph 5* updates *section 122AA* of the *Social Security Administration Act 1992* by replacing a reference to “ONS” with a reference to the “Statistics Board”. Currently HMRC may disclose to the ONS contributions information, which includes statutory sick pay, maternity pay and paternity pay. This paragraph ensures that HMRC may continue to disclose this information to the Board.

176. *Paragraph 6* similarly updates *section 91* of the *Value Added Tax Act 1994 c.23*, by replacing references to the “ONS” and “Office” in that provision with references to the “Statistics Board” and “Board” where required. This ensures that HMRC may continue to disclose VAT information to the Board, which is necessary because VAT data are used to update and maintain the IDBR.

177. *Paragraph 7* updates *Schedule 7* of the *Bank of England Act 1998*. The Schedule currently contains a reference to the ONS, which this paragraph replaces with a reference to the Chancellor of the Exchequer (or any person to whom any functions of the Chancellor of the Exchequer under the *Statistics of Trade Act 1947* are delegated). This permits the Bank of England to disclose data to the Statistics Board where it exercises the functions of the Chancellor under the *Statistics of Trade Act 1947*.

Clause 44 Power to authorise disclosure to the Board

178. This clause sets out a mechanism for providing the Board with wider access to information held by public authorities. The clause creates a power for the Treasury to

make regulations authorising the disclosure of information from a public authority to the Board to enable it to carry out its functions (except its function of providing statistical services).

179. This is a similar provision to clause 48, which provides a similar mechanism for the Board to disclose information to other public authorities. The note to clause 48 gives an example of how this mechanism would work in practice.

180. The power under clause 44 could be used, for example, to provide the Board with wider access to information, to improve the range or quality of the statistics being produced, potentially improving policy-making or resource allocation. It could also be used to reduce the burden on data providers, for example on individuals or businesses of filling in surveys, by removing the need to collect information already held by Government.

181. Any gateways created by regulations made under this mechanism would be permissive rather than mandatory; that is, the public authority would be permitted to share the data, but not compelled to do so.

182. *Subsection (1)* provides that the Treasury may make regulations permitting a public authority (as defined in clause 64) to share data with the Board, where this would not be lawful prior to the making of the regulations, either because of a legal barrier to data sharing or because the public authority would not otherwise have the power to share data with the Board.

183. Regulations may only remove a barrier contained in the rule of law or an Act which received Royal Assent before this Bill (although, as set out in clause 51, they may not amend either the *Data Protection Act 1998* or the *Human Rights Act 1998*).

184. *Subsection (2)* states that the regulations may only authorise the Board to use the information received in pursuit of its functions, except in connection with its function of providing statistical services, and *subsection (3)* sets out that the Board may only use the data received for the purpose stated in the regulations. Unlike the similar clause 48, there is no explicit requirement that the information be used only for statistical purposes; this is because all of the Board's functions are statistical.

185. The Board will not be permitted to disclose information received, other than in the circumstances set out in clause 36(3), with the exception of *paragraphs (c) and (h)*, unless further disclosure is specified for in the regulations. Any unauthorised disclosure of information would breach the confidentiality obligation under clause 36 and incur the criminal penalties provided therein.

186. *Subsection (8)* states that the regulations may only be made with the consent of another Minister of the Crown (or the Welsh Ministers where the regulations authorise a disclosure by a Welsh public authority exercising functions mainly in relation to Wales). The Minister consenting will usually be the Minister responsible

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for the public authority disclosing the information. For example in the case of data produced by DEFRA or the Environment Agency, the Secretary of State for Environment, Food and Rural Affairs would need to consent.

187. *Subsection (9)* requires that the Treasury and the other Minister of the Crown consenting to the regulations be content that the data is needed for the purpose stated in the regulation and that the disclosure or use of the data is in the public interest.

188. Where the data are being disclosed to the Board by a public authority for which the Treasury is the relevant Minister, *subsection (10)* states that no other minister need give consent to the making of the regulation. *Subsection (11)* sets out the Treasury family of bodies to which this applies; they include, for example, HMRC, the Bank of England, the Financial Services Authority (FSA) and the Royal Mint. However, under *subsection (12)*, the Treasury must consult with the Commissioners for Revenue and Customs before making regulations involving a disclosure by the Commissioners or an Officer of the Revenue and Customs.

Clause 45 Power to authorise disclosure to the Board: Scotland

189. This clause provides Scottish Ministers with the power to make regulations to authorise Scottish public authorities to disclose information to the Board, in the same way, and essentially via the same mechanism, as the Treasury can make regulations to authorise disclosure to the Board in clause 44. Under clause 45 regulations must be made by the Scottish Ministers with the consent of the Treasury. The definition of a Scottish public authority (as set out in clause 64) is that given in the *Scotland Act 1998* and means any public body (except the Parliamentary corporation), public office or holder of such an office whose functions are exercisable only in or as regards Scotland.

Clause 46 Power to authorise disclosure to the Board: Northern Ireland

190. This clause provides a Northern Ireland department with the power to make regulations to authorise Northern Ireland public authorities to disclose information to the Board, in the same way, and essentially via the same mechanism, as the Treasury can make regulations to authorise disclosure to the Board in clause 44. Under clause 44, regulations must be made by the Northern Ireland department with the consent of the Treasury. The definition of a Northern Ireland public authority (clause 64) is a public authority whose functions are exercisable only or mainly in or as regards Northern Ireland and relate only or mainly to transferred matters within the meaning of the *Northern Ireland Act 1998 c.47*.

Clause 47 Power to authorise use of information by the Board

191. This clause provides the Treasury with a power to make regulations permitting the Board to use information, received from a public authority through an existing gateway, to carry out its functions (except that of providing statistical services) where there is an existing legal barrier to the Board's use of the information. As with clause 44, the power could be used, for example, to provide the Board with wider access to information to improve the range or quality of the statistics being produced, or to

reduce burdens on data providers, by removing the need for the Board to collect duplicate information.

192. This clause uses the same mechanism as that in clause 44 (described in detail in the note to that clause). As in that clause, regulations must be made with the consent of another Minister of the Crown; the Treasury and the other Minister of the Crown must be satisfied both that the disclosure is required for the Board to carry out the functions for which the disclosure is authorised and that the disclosure is in the public interest.

Clause 48 Power to authorise disclosure by the Board

193. This clause sets out a mechanism for providing the Board with the power to disclose information held by the Board to other public authorities. The Treasury, with the consent of the Minister of the Crown responsible for the public authority concerned, may make regulations to authorise disclosures of data by the Board for the statistical purposes of the body receiving the data. This is a similar provision to clause 44, which provides a similar mechanism for public authorities to share information with the Board.

194. Disclosures under this clause could be used to improve the range or quality of the statistics being produced, improving policy-making or resource allocation. Alternatively, it could be used to reduce the burden on data providers; for example individuals or businesses filling in surveys who would otherwise have to provide duplicate information to many different public authorities. Any disclosures provided for using this mechanism would be permissive rather than mandatory; the regulation would authorise the Board to share information, without compelling it to do so.

195. *Subsection (1)* provides that the Treasury may make regulations to allow the Board to share information with another public authority (as defined in clause 64), where such sharing would not normally be permitted because of a pre-existing legal barrier to sharing.

196. The regulations may only remove a barrier contained in the rule of law or an Act which received Royal Assent before this Bill to provide the Board with the lawful authority to share information with a public authority, the regulations may not remove a barrier from either the *Data Protection Act 1998* or the *Human Rights Act 1998* using this mechanism (clause 51).

197. *Subsection (2)* states that the regulations may only permit sharing for the statistical functions of the receiving public authority. Information could not be disclosed under the regulations for other (non-statistical) purposes of the receiving public authority.

198. *Subsection (3)* further sets out that the public authority may only use the data received for the functions stated in the regulations. This function could be wide, covering all the statistical activities of the public authority concerned, or narrow, for example relating solely to a particular statistical analysis.

199. The public authority will not be permitted to disclose information received, other than in the circumstances set out in clause 36(3), with the exception of *paragraphs (c) and (h)*, unless further disclosure is specified for in the regulations. Any such unauthorised usage would breach the confidentiality obligation under clause 36 and could incur the criminal penalties provided therein.

200. *Subsection (9)* states that the regulations to allow data sharing must be made with the consent of another Minister of the Crown. The Minister consenting is expected to be the Minister responsible for the public authority receiving the data. For example, if data were to be disclosed to DEFRA, the Secretary of State for that department would need to give his consent. The Treasury and the other Minister of the Crown making the regulations must be satisfied that the data is needed for the statistical purpose stated in the regulation and that the disclosure of such data is in the public interest.

201. Where the data are being received by a public authority for which the Treasury is the relevant Minister of the Crown, *subsection (10)* states that no other minister need give consent to the making of the regulation. *Subsection (11)* sets out that the bodies for which the Treasury has responsibility are those listed in clause 44(11). These bodies include, for example, HMRC, the Bank of England, the FSA and the Royal Mint. *Subsection (12)* requires the Treasury to consult with the Commissioners for Revenue and Customs before making regulations to allow the Board to disclose data to HMRC.

202. By way of example, this clause could be used to enable the Board to disclose to Regional Development Agencies (RDAs) information collected under the *Statistics of Trade Act 1947*. Currently the ONS can disclose information collected under the *Statistics of Trade Act 1947* (consisting of the name and address of any trade establishment, the numbers of persons of different description employed there and the nature of the activities carried on there) to an officer of a local planning authority, a planning authority or a development corporation. However, the ONS cannot lawfully disclose the same information to an RDA. This creates a difference in the data available to local and regional bodies. Given the statutory purposes of an RDA, especially that of furthering the economic development and regeneration of an area and of the promotion of business efficiency, investment and competitiveness, access to this data might be considered to be necessary in the public interest.

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203. Regulations made under this provision may provide the Board with a power to disclose information collected under the *Statistics of Trade Act 1947* to the RDAs, to give them similar access to that available to local planning authorities. The process for this would be as follows:

- before making the regulations the Treasury and another Minister of the Crown (the Secretary of State for Trade and Industry has residual responsibility for the RDAs) would need to consider the proposed use to which the RDAs would put the data, and would need to be satisfied both that the disclosure is required for the statistical purposes of the RDAs and that such a disclosure would be in the public interest;
- the Secretary of State for Trade and Industry would need to give consent;
- the Treasury would then lay the draft regulations before the House of Commons and the House of Lords;
- Parliament would consider the draft regulations, and decide whether to approve them; and
- if the draft regulations were approved by each House of Parliament, the Treasury would make the regulations. The Board would then be able to disclose information collected under *the Statistics of Trade Act* to the RDAs for their statistical purposes, as set out in the regulations.

Clause 49 Power to authorise disclosure by the Board: Scotland

204. This clause provides Scottish Ministers with the power to make regulations to authorise the Board to disclose information to Scottish public authorities, in the same way, and essentially via the same mechanism, as the Treasury can make regulations to authorise the Board to disclose data in clause 48. Regulations must be made by the Scottish Ministers with the consent of the Treasury. The definition of a Scottish public authority (as set out in clause 64) is that given in *the Scotland Act 1998* and means any public body (except the Parliamentary corporation), public office or holder of such an office whose functions are exercisable only in or as regards Scotland.

Clause 50 Power to authorise disclosure by the Board: Northern Ireland

205. This clause provides Northern Ireland departments with the power to make regulations to authorise the Board to disclose information to Northern Ireland public authorities, in the same way, and essentially via the same mechanism, as the Treasury can make regulations to authorise the Board to disclose data in clause 48. Regulations must be made by the Northern Ireland departments with the consent of the Treasury. The definition of a Northern Ireland public authority (as set out in clause 64) is a public authority whose functions are exercisable only or mainly in or as regards Northern Ireland and relate only or mainly to transferred matters within the meaning of *the Northern Ireland Act 1998 c.47*.

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Clause 51 Data Protection Act 1998 and Human Rights Act 1998

206. This clause sets out that regulations made under clauses 44 to 50 may not amend the *Data Protection Act 1998* or the *Human Rights Act 1998*.

Clause 52 Cessation of Office for National Statistics etc

207. This clause establishes that the ONS and the Statistics Commission will no longer exist. The Board will, with the exception of civil registration, assume most of the functions that the ONS currently undertakes. The Board will also take on many of the responsibilities of the Statistics Commission.

Clauses 53 to 55 Transfers etc

208. Clauses 53 to 55 ensure a continuity of property, rights and liabilities from ONS and the General Register Office to the Board, the Registrar General, the GRO and the National Statistician.

209. Clause 53 provides for the transfer of property, rights and liabilities from the ONS and the current National Statistician to the Board, with the exception of any property etc that will be identified in a transfer scheme made by the Treasury and transferred to the Registrar General or a Minister of the Crown who will hold it on behalf of the Registrar General.

210. Clause 54 provides for the transfer to the Board of the property, rights and liabilities of the Registrar General in relation to the census and other functions transferring to the Board.

211. Currently the ONS's real property and other significant property rights are held by Ministers on behalf of the Office. Most of the ONS's freehold and leasehold property (accommodation etc.) is held by the Secretary of State for Communities and Local Government. Clause 55 gives Ministers of the Crown powers to transfer such property (and any rights and liabilities associated with that property) to the Board or to provide for shared ownership, use or access.

Clause 56 Provision of services and facilities by the Board

212. As it stands, the GRO, the NHSCR and the secretariat to the Boundary Commission for England (BCE) are administratively part of the ONS, and receive services and facilities (accommodation, IT, utilities, etc.) from it. This clause allows the Board to continue to provide these services to the GRO, the NHSCR and the BCE, and ensure that the efficiency of their functions is not impaired.

Clause 57 Consequential amendments and Schedule 3

213. This clause and schedule amend existing references to the ONS by replacing them with references to the Board. The various Acts so amended are listed in Schedule 3.

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Clause 58 Money

214. *Subsection (1)* provides that the expenses incurred in the exercise of the functions of the Board should be paid from funds provided by Parliament.

215. *Subsection (2)* provides that any money received by the Board other than under *subsection (1)* will be paid into the Consolidated Fund.

216. *Subsection (3)* provides for the salaries, pension, allowances or expenses of members of the Board, employees or committee members to be paid with the approval of the Treasury.

Clause 59 Evidence

217. This clause establishes that a document purporting to have been issued by the Board (with the official seal of the Board and the signature of an authorised person to authenticate it) should be treated as having been so sealed and signed until the contrary is proved. Such documents are admissible in any legal proceedings.

Clause 62 Orders and regulations

218. This clause sets out the Parliamentary procedure to be followed when secondary legislation is made under different provisions of the Bill.

Clause 63 Devolved statistics

219. This clause sets out the definitions of Scottish, Welsh and Northern Ireland devolved statistics, reflecting the devolution settlements in the *Scotland Act 1998*, the *Government of Wales Act 2006* and the *Northern Ireland Act 1998*.

220. *Subsection (1)* defines “Scottish devolved statistics” as statistics which relate to matters in Scotland which are not reserved matters (for example, statistics on Scottish education or health), except where they are produced for reserved purposes (for example, information on vacant hospital beds in Scotland produced by the UK Government for emergency planning, which is a reserved matter). As set out in clause 63(1)(b) of this Bill, Scottish devolved statistics also include statistics on reserved matters which are produced for devolved purposes (for example, where a Scottish public authority produces statistics which relate to coverage of financial service providers, a reserved matter, in the exercise of the devolved function of giving financial assistance to Scottish credit unions acting in areas of financial exclusion). Clause 63(1)(c) of this Bill notes that also included in the definition of Scottish devolved statistics are any statistics produced in pursuit of functions transferred to Scottish Ministers under an Order made under *section 63(1)(a)* of the *Scotland Act 1998 (c. 46)*.

221. *Subsection (2)* provides that statistics are not Scottish devolved statistics where they are produced by cross-border public authorities in the meaning of the *Scotland Act 1998* and bodies treated as cross-border public authorities for the purposes of some provisions of that Act, except where the statistics in question relate wholly to Scotland. Cross-border public authorities include the Forestry Commission,

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and the bodies treated as cross- border public authorities comprise the Food Standards Agency, the Council for the Regulation of Health Care Professionals, the Nuclear Decommissioning Authority, the Health Protection Agency and the Security Industry Authority.

222. *Subsection (3)* defines “Welsh devolved statistics” as statistics which relate wholly or mainly to the exercise of functions by a Welsh ministerial authority or a public authority whose functions are exercisable only in or as regards Wales (for example, Welsh education statistics, which relate to Welsh Ministerial functions on education and training). Statistics which relate to functions which are devolved to Wales but which are produced in the exercise of reserved functions are not, however, included in the definition of “Welsh devolved statistics” (the same example on vacant hospital bed statistics being required for reserved emergency planning purposes applies as for Scotland).

223. *Subsection (4)* defines “Northern Ireland devolved statistics” as statistics which relate to Northern Ireland transferred matters, unless (as for Scotland and Wales) they are produced for reserved purposes. The definition also includes statistics which do not relate to transferred matters in Northern Ireland but which are required for transferred purposes.

Clause 64 General interpretation

224. This clause defines certain terms used in the Bill.

225. *Subsection (1)* sets out the meaning of a number of terms used in Part 1 of the Bill: "Minister of the Crown" is to have the same meaning as in the *Ministers of the Crown Act 1975 c.26* and means the holder of an office in Her Majesty's Government in the United Kingdom, including the Treasury and the Board of Trade.

PART 2: REGISTRATION SERVICE

Clause 65 Establishment of Registrar General as corporation sole

226. Currently, the rights and liabilities of the Registrar General for England and Wales are the responsibility of the office-holder. This clause establishes the Registrar General for England and Wales as a corporation sole. The effect of this is to separate the rights and liabilities of the post of Registrar General from the office-holder.

227. It also provides for perpetual succession of those rights and liabilities between office holders, as a change of office holders would have no legal significance in contractual terms. The clause also confirms that the Registrar General discharges his functions on behalf of the Crown and that the Registrar General is not a civil servant (although this would not prevent a civil servant being appointed as Registrar General).

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Clause 66 Employment status of officials

228. Currently, as statutory officers, the 1,700 registrars and superintendent registrars in England and Wales have no legal employer and no recourse to employment tribunals.

229. This clause provides for superintendent registrars, registrars and their respective deputies appointed under the *Registration Service Act 1953* to become employees of the local authority that appointed them. It also provides for existing terms and conditions and pension rights to remain unaffected by the change of status and gives continuity of service for unfair dismissal and redundancy purposes. Existing responsibilities under the Registration Acts will be unaffected.

230. *Subsections (3) and (4)* respectively provide for the retention of existing terms and conditions and the transfer of liabilities when these office holders transfer to local authority employment.

231. *Subsection (5)* provides that a person who was an office holder or a local authority employee for a period before the date of transfer should be regarded as having been in continuous employment.

232. *Subsection (6)* provides that where an office holder was a member of a specified pension scheme he continues to belong to that scheme when he becomes a local authority employee.

Clauses 67 to 69 Minor amendments to the Registration Service Act 1953

233. These clauses make certain minor amendments to the *Registration Service Act 1953*. These are largely consequential to the change of registrars' employment status. They also remove certain powers currently vested in the Registrar General, including the power to remove registrars from office.

Clause 67 Superintendant registrars and registrars

234. This clause contains amendments to the *Registration Service Act 1953* consequential to the transfer of registrars and superintendent registrars into local government employment. The amendments remove the right of the Registrar General to dismiss registrars and superintendents. They also remove the need for registrars to account to the Registrar General for the registration fees they collect, as after they become local authority employees, they will be accountable to the local authority.

Clause 68 Deputy superintendant registrars and registrars

235. This clause removes the current provision whereby superintendent registrars and registrars can appoint their own deputies and places the responsibility for the appointment of all deputies on the local authority.

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Clause 69 Additional registrars of marriage

236. This clause removes the power under which the Registrar General or superintendent registrars may appoint new registrars of marriage.

PART 3: GENERAL

Clause 71 Commencement

237. Upon Royal Assent, the provisions of this Bill shall come into force in accordance with provision made by order made by statutory instrument by the Treasury.

Clause 72 Extent

238. This clause sets out that the legislation will extend to England, Scotland, Wales and Northern Ireland, with the exceptions of clause 59 (on evidence in legal matters, which will be governed by the law in England and Wales) and Part 2 (on the Registration Service, which will extend only to England and Wales). Further, any amendment or repeal effected by this Bill will have the same extent as the enactment to which it relates.

Schedule 1 Transfer of functions from Registrar General: Amendments

239. See clause 23.

Schedule 2 Information sharing: supplementary amendments

240. See clause 43.

Schedule 3 Replacement of ONS by the Board: consequential amendments

241. See clause 57.

Schedule 4 Repeals

242. See clause 70.

FINANCIAL EFFECTS OF THE BILL

243. The effect of Part 1 of the Bill, in expenditure terms, will be small. There will be certain transition costs involved in establishing the new arrangements, including those relating to the creation of the new independent Board and the transfer of GRO and NHSCR away from ONS. In addition, the Government expects that the running of the Board itself, and the new assessment function, will result in some additional, ongoing, costs. However, these are not expected to be large, and should at least partly be offset by the winding up of the Statistics Commission, whose responsibilities will be subsumed within the Board, and by the fact that the assessment process would be

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building on, and in some cases replacing, existing quality assurance processes that already exist in most departments.

244. The provisions of Part 2 of the Bill have no financial implications. Local authorities already pay the salaries etc., and administer the recruitment and appointment, of registration officers.

EFFECTS OF THE BILL ON PUBLIC SERVICE MANPOWER

245. The Bill is not expected to have large resourcing implications, including in manpower terms. Although the final details are subject to confirmation through the negotiations on the overall settlement for the Board.

SUMMARY OF THE REGULATORY IMPACT ASSESSMENT

246. While the establishment of the Board is itself expected to have a neutral regulatory impact, as part of this package the Government also proposes a statutory obligation on the new Board to minimise the burdens it imposes on other persons. This might result in a reduction in the regulatory burden.

247. In addition, the Bill will include provisions to allow for sharing of administrative data to and from the Board, for statistical purposes. This has the potential, in regulatory terms, to benefit businesses which currently supply statistical data to Government, through a reduction of the burden imposed by the requests for completion of surveys on information already held by Government. ONS has estimated that, up to 2015, use of administrative data for statistical purposes, in place of survey returns, could yield savings against the administrative burdens of ONS surveys of around £2m in 2014 and around £4m in 2015, mostly for small business.

248. However, this is a very early estimate, and further work needs to be undertaken before more definite estimates can be provided, to which firm commitments can be made, with much depending on agreements on data sharing between departments. Further work will be undertaken with a view to updating the figures.

249. The RIA has been published alongside this Bill and copies placed in the Committee rooms and libraries of both Houses of Parliament. It will be updated at key stages in the legislative process as appropriate.

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EUROPEAN CONVENTION ON HUMAN RIGHTS

250. The department has assessed the compatibility of the provisions in the Bill with *the European Convention on Human rights (ECHR)*.

251. *Section 19 of the Human Rights Act 1998* requires the Minister in charge of a Bill in either House of Parliament to make a statement about the compatibility of the provisions of the Bill with the Convention rights (as defined by *section 1* of that Act). The Chancellor of the Exchequer has made the following statement:

"In my view the provisions of the Statistics and Registration Service Bill are compatible with the Convention rights."

The transfer of the conduct of population censuses (the Bill transfers this function from the Registrar General to the Statistics Board)

252. Clause 23 transfers the current census functions of the Registrar General in relation to the preparation of population censuses to the Statistics Board. This clause transfers to the Board the functions of the Registrar General without substantive amendment. The functions being transferred are compatible with the *European Convention on Human Rights*¹⁴.

The Board's power to use and disclose information

253. The Board will obtain the benefit of gateways authorising the disclosure of personal information to the current ONS, which will cease to exist when the Board is set up. In addition the Bill will establish certain new gateways that will provide for information to flow to and from the Board, both directly on the face of the Bill and by providing for the Treasury to make regulations permitting the introduction of new gateways.

254. The provisions on use and disclosure of information by the Board raise privacy issues under *Article 8 ECHR* (right to privacy) but each gateway established in this Bill or transferred from ONS to the Board is formulated with sufficient precision to enable the individual to foresee the way in which information held by the Statistics Board may or may not be used and is justified as in accordance with one or more of the legitimate aims specified in *Article 8(2)*.

The information sharing supplementary powers

255. The clauses setting out supplementary information sharing powers (clauses 42 to 48) do not themselves raise *Article 8* issues. However any power to make regulations creating new gateways will itself need to be exercised in a manner

¹⁴ In *X v United Kingdom* (1982) the Commission was asked to make a decision on the admissibility of an application that the obligation for a householder to complete a census form is an interference with the *Article 8* right. The Commission concluded that where the information gathered by the census is treated with care and confidentiality the interference thereby occasioned with the applicant's right to respect for his private and family life is necessary in a democratic society, in the interests of the economic well-being of the country.

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consistent with *the Human Rights Act 1998*. Any regulations made under the Bill when it is enacted, therefore, will need to be formulated with sufficient precision to enable the individual to foresee the way in which information held by the Statistics Board may or may not be used and is justified as in accordance with one or more of the legitimate aims specified in *Article 8(2)*. Regulations made under these powers will only authorise disclosure of information for statistical purposes and require affirmative resolution clearance.

Safeguards to enhance Article 8 rights

256. The Bill also provides express safeguards to ensure that the use of information by the Board will be in compliance with *Article 8*.

257. The Bill introduces a new statutory duty in clause 36 which restricts the Board (and those to whom the Board discloses information directly or indirectly) from disclosing personal information other than in the circumstances set out in *subsection (4)*. This new duty, that did not apply to ONS, enhances the protections accorded to *Article 8* rights. The Bill further provides (clause 36) that it will be a criminal offence to disclose that information which is subject to the statutory duty where individuals may be identified from that disclosure, unless the disclosure was made for a lawful purpose.

258. The Bill expressly provides that other enactments dealing with fair processing of information will apply to the Board, in particular the *Data Protection Act 1998* and the *Human Rights Act 1998*. It also expressly provides that the power to make regulations to allow information to be shared with or by the Board requires (as appropriate) the Treasury, the Scottish Ministers, the Welsh Minister and the Northern Ireland department to be content that the disclosure of the information is in the public interest. Any regulations made under clauses 44 to 51 are subject to affirmative resolution procedures.

Offence in Clause 34

259. The creation of the criminal offence of unlawful disclosure in clause 34 also engages *Article 5* (right to liberty) and *Article 6* (right to fair trial). The offence in *subsection (8)* is considered to be compatible with *Article 6* as the individual will be tried before an appropriate court with all the relevant protections to ensure a fair trial. The possibility of a custodial penalty for commission of the offence also engages *Article 5*; the saving in *Article 5 (a)* will apply in that imprisonment will follow only after conviction by a court.

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ANNEX A: LIST OF ABBREVIATIONS

BCE	Boundary Commission for England
DEFRA	Department for Environment, Food and Rural Affairs
DPA	Data Protection Act
ESA	European System of Accounts
EU	European Union
FSA	Financial Services Authority
GP	General Practitioner
GRO	General Register Office
GSS	Government Statistical Service
HMRC	HM Revenue and Customs
IDBR	inter-departmental business register
ILGs	index-linked gilt-edged securities
IT	Information Technology
PAYE	pay as you earn
MoU	Memorandum of Understanding
MPC	Monetary Policy Committee
NHS	National Health Service
NHSCR	National Health Service Central Register
NMD	Non-Ministerial Department
NS-SEC	National Statistics Socio-Economic Classification
ONS	Office for National Statistics
RDAs	Regional Development Agencies
RIA	regulatory impact assessment
RPI	Retail Prices Index
SIC	Standard Industrial Classification
SLA	Service Level Agreement
SOC	Standard Occupational Classification
TSC	Treasury Select Committee
VAT	value added tax
VML	Virtual Microdata Laboratory

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ANNEX B: APPLICATION TO WALES

Clause	Application to Wales
3	One member of the Board is to be appointed after consultation with Welsh Ministers.
6	Defines official statistics, which include those produced by a Welsh ministerial authority (defined as the Welsh Ministers, the First Minister for Wales and the Counsel General to the Welsh Assembly Government). Allows Welsh Ministers to specify by order other statistics to be included as within the definition of official statistics.
10	The Board must consult the Welsh Ministers in preparing or revising the Code of Practice for National Statistics.
11	Empowers Welsh Ministers to make an order providing for rules and principles relating to the granting of pre-release access to wholly Welsh devolved statistics.
12	At the request of the appropriate authority, the Board must assess and determine whether the Code of Practice for National Statistics has been complied with in relation to any official statistics. The Welsh Ministers are the appropriate authority in relation to official statistics not produced by the Board which are Welsh devolved statistics.
15	The Board must consult the Welsh Ministers in preparing or revising a statement of principles and procedures in relation to assessment of National Statistics.
18	The Board may not without the consent of a Welsh ministerial authority produce and publish Welsh devolved statistics.
22	A Welsh ministerial authority may by order delegate to the Board any of the authority's functions relating to the production of statistics.
25	The Board must produce a report annually on what it has done and found during the year and what it intends to do in the following financial year. The Board must lay an annual report before the National Assembly for Wales. The Board may lay other reports produced under this clause before the National Assembly for Wales.
27	If there has been a serious failure by the Board to comply with its objective, or to perform any of its functions relating to Welsh devolved statistics, Welsh Ministers may, with the consent of the Chancellor of the Exchequer, give the Board such directions as they consider appropriate to remedy the failure. In addition, if the Board fails to comply, Welsh Ministers may, with the consent of the Chancellor, exercise any function of the Board in order to give effect to the directions.

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39	The Board may, for the purpose of assisting Welsh Ministers in the performance of their functions in relation to the health service, disclose to them any information relating to births and deaths etc. received by the Board from the Registrar General under section 39(1) and 39(2).
41	The Welsh Ministers may, subject to this section, disclose patient registration information to the Board.
44	Permits the Treasury to make regulations to authorise a public authority to disclose information to the Board where the disclosure would otherwise be prohibited by a rule of law or an Act passed before this legislation, or where the authority would not otherwise have power to make the disclosure. Where the regulations authorise disclosure by a public authority exercising functions only or mainly in or as regards Wales, the Treasury may only make the regulations with the consent of Welsh Ministers. Before making the regulations the Treasury and the Welsh Ministers must be satisfied both that the disclosure is required by the Board to enable it to carry out the function or functions in relation to which the disclosure is authorised and the disclosure authorised is in the public interest.
62	Orders or regulations made by Welsh Ministers under this Bill are to be made by statutory instrument, and may not be made unless a draft of the instrument containing the order has been laid before, and approved by resolution of, the National Assembly for Wales.
Schedule 1(3)	Amends the Census Act 1920 such that the Chancellor of the Exchequer and Welsh Ministers must consult the Statistics Board before making regulations for the commencement of a census.

STATISTICS AND REGISTRATION SERVICE BILL

EXPLANATORY NOTES

*These notes refer to the Statistics and Registration Service Bill
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