

# Legislation **Evaluation Report**

**September 2002**

## **Introduction**

This paper describes the background to legislation necessary to conduct the Census and reports how the legislation was enacted. In so far as these activities are within the control of the Census Office, the report also offers some lessons to be learned.

The report covers:

- The White Paper;
- The date of the Census;
- Census Legislation;
- Security and Confidentiality issues; and
- Lessons learned.

The Legislation Project also covers the administration of the Non-compliance policy. A separate Evaluation Report will be produced later this year on Non-Compliance work.

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## **NI 2001 CENSUS EVALUATION REPORT – LEGISLATION**

### **The White Paper**

The Government White Paper (The 2001 Census Of Population, Cm 4253), announcing the proposed date of the 2001 Census and setting out the plans for the Census was presented to Parliament in March 1999. It was published two years before the Census because the Government believed that there should be time for public discussion of proposals that would affect every person in the country.

The White Paper drew on the extensive consultation process for data needs and set out the Government's proposals for the questions to be covered, together with a background to the need for information. New questions on religion in Great Britain (GB), general health and carers were included. A revised question on ethnic group - a new question in Northern Ireland (NI) - was included in their proposals. The Religion question in Northern Ireland was also revised to include community background. The plans outlined in the White Paper were subsequently incorporated in the Census Rehearsal conducted in April 1999. The aims of the Rehearsal were to ensure that the procedures for the delivery and return of the census forms would be effective, and to test the processing systems.

### **Date of the Census**

The date of the census directly affects the quality of the data collected. The Census date has to be set so as to maximise the number of households present, ensure minimum interruptions and distractions to the delivery and collection rounds, and ensure sufficient availability of field staff. It also affects the location of people such as students, rough sleepers and those on holiday.

As the prime aim of the Census was to ensure maximum coverage, the main holiday periods had to be avoided. Although the Census does

not have to take place on a specific day of the week, a Sunday has traditionally been chosen as the most likely time that people will be at home.

Data for mid-year population estimates was planned to be provided by late summer 2002. The later that Census day fell, the shorter the processing period would be to ensure meeting this target.

Consultation with users had indicated a strong preference for a term-time census to ensure better coverage of students and more information on their term-time accommodation. The Sundays between 12 March and 22 April 2001 were ruled out if Census day were to fall in term-time for most schools, colleges and universities.

Daylight hours need to be long enough for evening enumeration to be carried out in reasonable light. The Census could therefore not be held during British Standard Time, from end-October until the last weekend in March. A further consideration was that Census Day should avoid the Sunday either side of the local elections. In 2001, county council elections in England were planned for Thursday 3 May, and local council elections in Northern Ireland on Wednesday 16 May. No elections were planned in Wales or Scotland.

The two possible months that would be suitable for holding the 2001 Census were April and May. Within this period, 29 April and 13 May stood above the others as being the most suitable. In January 1996, the Census Offices proposed that 29 April was the date that would have the least overall disruptive effect on the coverage of the 2001 Census. Consultations were held on deferring the county council elections in England, but it was decided at that time to make no change. In May 2001 the Government announced that local elections in England and the General Election would be held on 7 June following the outbreak of Foot and Mouth disease. As a result the potential overlap of census and

election campaign activities was largely avoided.

## **CENSUS LEGISLATION**

### **The Census Act (Northern Ireland) 1969**

The statutory authority for taking a census of population in Northern Ireland is the Census Act (Northern Ireland) 1969. This legislation authorises that from time to time a census of population shall be taken in Northern Ireland – but not more frequently than every five years.

Prior to the 1991 Census, the Act was amended by the Census (Confidentiality) (Northern Ireland) Order 1991 to extend to provisions to protect confidentiality with respect to the unlawful disclosure of personal census information.

Separate legislation – the Census Act 1920 - covers the census in England and Wales and in Scotland.

The matters in respect of which particulars may be required to be provided are set out in the Schedule to the Act, as follows:

- (1) Name, sex, age;
- (2) Occupation, profession, trade or employment;
- (3) Nationality, birthplace, race, language;
- (4) Place of abode and character of dwelling;
- (5) Condition as to marriage, relation to head of family, issue;
- (6) Education, professional and technical qualifications;
- (7) Religion; and
- (8) Any other matters with respect to which it is desirable to obtain statistical information with a view to ascertaining the social condition of the population.

### **The Census Order (Northern Ireland) 2000**

The Census Act (Northern Ireland) 1969 gives powers for taking a census in any year which is at least five years from the year of the previous census. The Act empowers the

making of an Order directing that a Census be taken.

For the 1981 and 1991 Censuses the powers were vested in the respective Secretaries of State for Northern Ireland and the relevant Orders were laid before Parliament (Westminster) under paragraph 3(3) of Schedule 1 to the Northern Ireland Act 1974.

With the establishment of the Northern Ireland Assembly, as part of the Belfast (Good Friday) Agreement 1998, power was devolved to the NI Assembly and its Executive Committee of Ministers on 2 December 1999. As a result the powers for making a Census Order were transferred jointly to the First Minister and Deputy First Minister of the NI Assembly Executive and plans were progressed whereby a draft Census Order (Northern Ireland) 2000 was to be laid before the Northern Ireland Assembly. This process would have involved submission of the draft Census Order to the appropriate Departmental Assembly Committee for consideration. However, on 11 February 2000 the Secretary of State for Northern Ireland suspended the Northern Ireland Assembly and powers for making a Census Order reverted to the Secretary of State for Northern Ireland. Thereafter, the Order was prepared and progressed in keeping with the negative resolution procedure through the Westminster Parliament. On restoration of devolved powers to the Assembly, the DFP Departmental Committee were kept informed of progress on the various stages of the Census.

The Order prescribes:

- The date on which the Census is to be taken;
- The persons with respect to whom, and by whom, the returns are to be made; and
- The particulars to be stated in the returns. (The matters in respect of which particulars may be required are set out in the Schedule to the Act).

The Census Order (Northern Ireland) 2000 (SR 2000 No. 168) was made by the Secretary of State for Northern Ireland on 15 May 2000 and came into operation on 23 June 2000.

### **The Census Regulations (Northern Ireland) 2000**

To enable the Census Order (Northern Ireland) 2000 to take effect, the Department of Finance and Personnel is empowered by the Act to make Regulations governing the detailed arrangements for the conduct of the Census. The Census Regulations (Northern Ireland) 2000 (SR 2000 No. 198) containing reduced facsimile copies of the Census forms, were signed on 25 May 2000 by a Senior Officer of the Department of Finance and Personnel on behalf of that Department. The Regulations came into force on 26 June 2000.

Corresponding Regulations came into force in Scotland on 15 May 2000 and in England and Wales on 27 June 2000.

The Regulations provided for:

- The appointment of the temporary local field staff necessary for conducting the census;
- The supply of forms and other documents for census enumerators;
- The arrangements for the delivery of forms and the collection of completed returns, including individual returns;
- Certain information to be provided by census enumerators and persons in charge of communal establishments;
- Follow-up action by field staff in the case of non-response;
- Further duties of field staff;
- Information to be given to census field staff as necessary; and
- The safe custody of forms and documentation.

### **Changes from the 1991 Census legislation**

Apart from the inclusion of the new questions on location of rooms on more than one floor,

and regarding ethnic group, general health, provision of unpaid personal care, time since last employment, and size of employer's organisation, and revisions to the questions on religion, qualifications and relationship to others within the household, the main differences between the Census Order (Northern Ireland) 2000 and that for the previous census were that:

- It made provision only for people who were resident, or who were in full-time education, in Northern Ireland to be required to be included in the returns; unlike the 1991 and earlier censuses, there was no requirement for foreign visitors to be included; visitors at an address in Northern Ireland but who were usually resident at an address elsewhere in the United Kingdom were required to be included in the return made at their usual address;
- Resident households who were entirely absent from their usual address on Census night were required to complete a form on their return to that address if this was within 6 months of Census day;
- A return in respect of anyone sleeping rough could be made by another person authorised to do so on his or her behalf;
- All-visitor households present in holiday accommodation or at a second residence on Census night were required to provide those particulars with respect to the accommodation itself; and
- Only some basic details were to be included in the return for an address for any student or schoolchild who might have been regarded as usually resident at that address but who had a different term-time address.

The Census Regulations (Northern Ireland) 2000 differed from those for 1991 in:

- The provision for the appointment of an additional level of field officer – the census team leader; The additional provision for the delivery of forms by post in those circumstances where no

appropriate or responsible person was available to receive them and when it was not otherwise possible to leave them at the premises;

- The provision for the return of completed census forms via the post in reply paid envelopes;
- The provision that the duty to make a form of return would not be discharged until such a form had been received by the Census District Manager or other officer; this was to overcome the possibility of false claims that forms had been posted back; and
- Specific provision for the completion of duplicate census forms in those circumstances where the original returns had not been received.

### **Statutory Protection**

The security and confidentiality of the personal information that a person supplies is protected by law. The provisions of Section 7 of the Census Act (Northern Ireland) 1969, as amended by the Census (Confidentiality) (Northern Ireland) Order 1991 make it an offence for any person employed in taking a census to disclose, without lawful authority, personal census information. The penalty described by the Act is, on conviction on indictment, imprisonment for a term not exceeding two years or to a fine or to both.

Other legislation governs the preservation of public records and access to them and the protection of personal information. Currently, under the terms of the Census Act (Northern Ireland) 1969, census records in Northern Ireland remain permanently closed. However, consideration will be given to availing of a suitable legislative opportunity to introduce similar provisions as those in Great Britain.

The Data Protection Act 1998 has put into effect new provisions for the regulation of the processing of information relating to individuals, including the holding, use and disclosure of such information. It updated the previous 1984 Act primarily by extending the provisions to include manual records.

The freedom of Information Act 2000 has made provisions for the disclosure of information held by public authorities. The Act gives protection to the confidentiality of personal census information by the provisions of Part II of the Act under which such information is considered to be exempt information by virtue of section 41 (being information provided in confidence) and section 44 covering the disclosure of such information that is specifically prohibited by other legislation.

The legal requirement to complete a census form was confirmed as being fully compatible with the provisions of the European Convention on Human Rights as set out in the Human Rights Act 1998. Article 8(2) of the Convention makes provision for a public authority to interfere with a person's rights to privacy and respect for family life if such an interference is authorised by law and is for one of the permitted aims of the Article.

### **Public Reaction**

Generally, the content of, and the arrangements for, the 2001 Census in Northern Ireland worked well. The form of wording for the ethnic group question in Northern Ireland was decided after consultation with users.

### **Security And Confidentiality**

The Government's White Paper on the 2001 Census announced that the UK Census Offices would undertake a review, or reviews, of the confidentiality and security arrangements for the 2001 Census, similar to those undertaken prior to the 1981 and 1991 Censuses, and would publish the outcome of such reviews before the Census. The Registrars General for England and Wales, Scotland and Northern Ireland jointly commissioned reviews from independent experts to assess the arrangements to safeguard:

the physical and IT security of the data collection and processing operations (the Security Review); and

the statistical confidentiality of the published output (the Statistical Confidentiality Review.)

### **Lessons Learned**

The announcement of the Government's proposals for the Census must be made soon enough to allow discussion on those matters that affect the entire population. The proposals normally follow a sustained period of public consultation on topics and the testing of questions, and consideration of business cases made by users, on the content of the census. Release of the 1991 White Paper almost three years before the 1991 Census meant that proposals for any new questions were conditional on the success of that question in the 1989 Census Test. The 2001 Census White Paper was published seven months closer to the census date but some of its proposals were subject to the outcome of the 1999 Census Rehearsal, so that the questions on both income and ethnic group were included conditionally but the income question proposals were subsequently withdrawn.

### **Census Act Northern (Ireland) 1969**

The Evaluation Report on Non-Compliance will, in due course, comment on the efficacy of the provisions of Section 7(2) of the Act to provide a suitable and workable legal framework to deal with instances of both public non-compliance and infringement of census confidentiality.

## **SECONDARY LEGISLATION**

### **The Census (Northern Ireland) Order 2000**

The deadline for Parliamentary (or NI Assembly) approval of the Census Regulations is the date by which the Registrar General must start appointing the necessary local field staff – starting with the Census Area Managers – at least 10 months prior to Census day. This in turn requires the Census Order to have been made in good time before such Regulations can themselves be laid. For the NI 2001 Census, the deadline for the laying of the Census Order was met but with little

time to spare. Delays to the planned timetable were due, in part, to the necessity to prepare two drafts of the Order and the Regulations – one for laying in Westminster and the other for laying before the Northern Ireland Assembly. There was a degree of uncertainty surrounding the position of the NI Assembly at the time the legislation was nearing completion. Other delays mirrored what was happening in GB where late changes in policy and question content required revisions to the provisions of the NI Order.

### **The Census Regulations (Northern Ireland) 2000**

The timing for the legislative approval of the regulations that put into effect the arrangements for conducting the Census is dependent to a large extent on the completion of the Census Order. Any delays to the Census Order necessarily impact on the Census Regulations timetable.