

EXPLANATORY MEMORANDUM TO
THE DIGITAL SWITCHOVER (DISCLOSURE OF INFORMATION) ACT
2007 (PRESCRIPTION OF INFORMATION) ORDER 2007

2007 No. 1768

1.1 This explanatory memorandum has been prepared by the Department for Culture, Media and Sport and is laid before Parliament by Command of Her Majesty.

2. Description

2.1 The Order specifies the kinds of information the Secretary of State, the Department for Social Development in Northern Ireland (“DSDNI”) and certain local authorities may supply in accordance with the provisions of the Digital Switchover (Disclosure of Information) Act 2007 (“the Act”). The information is to be supplied for the purposes of the Digital Switchover Help Scheme (“DSHS”) established on 30 April under the BBC Charter and Agreement. The Scheme will help specified categories of individuals to convert to digital television during digital switchover (the process by which the broadcasting of television services in the UK in analogue form will be replaced by their broadcasting in digital form)¹.

2.2 The information specified in the Order is information necessary to identify and make appropriate contact with the individuals eligible for help.

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

3.1 None

4. Legislative Background

4.1 The Order represents the first use of powers contained in section 2 of the Act. The Act permits the Secretary of State and the DSDNI to supply social security information, the Secretary of State to supply war pensions information and local authorities to supply visual impairment information, to a relevant person² for use in connection with switchover help functions.³

¹ The Digital Switchover Help Scheme: A Scheme Agreement between Her Majesty’s Secretary of State for Culture, Media and Sport and the British Broadcasting Corporation - 4 May 2007, Cm 7118. This is available from: http://www.digitaltelevision.gov.uk/publications/pub_dighelpscheme_cm7118.html

² A “relevant person” is defined in section 1(4) of the Act as the BBC or a company controlled by the BBC or the Secretary of State (or both taken together) or a nominee of either, or a person engaged for purposes connected with switchover help functions.

³ “Switchover help functions” are defined in section 1(5) of the Act as identifying and making contact with persons who may be eligible for help under a switchover help scheme and establishing their entitlement to help. A “switchover help scheme” is defined in the Act as a scheme for the provision of help to individuals in connection with digital switchover (section 5(1)).

4.2 The types of information that can be supplied under the the Act are defined in section 2:

- “**social security information**” is information of a description specified by order held by the Secretary of State or Northern Ireland department and obtained as a result of or for the exercise of functions in relation to social security;
- “**war pensions information**” is information of a description specified by order held by the Secretary of State and obtained as a result of or for the purposes of the exercise of functions in relation to war pensions;
- “**visual impairment information**” is information of a description specified by order about persons who are blind or partially sighted and are so registered in a relevant register held by a local authority or, in Northern Ireland, by a Health and Social Services Board.

4.3 The Order is therefore needed to specify the descriptions of information which may be supplied pursuant to the Act. The provisions only cover information necessary to support the efficient operation of the help scheme.

4.4 A draft of the Order setting out the kinds of information that the Department for Work and Pensions (“DWP”) and other public providers of information can disclose under the Act was shown to Parliament during the passage of the Bill.

5. Extent

5.1 This instrument applies to all of the United Kingdom.

6. European Convention on Human Rights

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

7. Policy Background

7.1 “Digital switchover” is the process by which analogue television broadcasting signals will be phased out in favour of digital signals. The process will allow many more television channels to be carried using less radio spectrum than is currently used, expanding choice for consumers. Digital switchover will commence in late 2007 in Whitehaven, followed by the rest of the Borders region in 2008 and proceed ITV region by ITV region until 2012, by which time all analogue transmissions will have ceased.

7.2 A key part of the Government’s switchover policy is to ensure that advice and assistance is available to those who need it to convert to digital television. In September 2005, the Government confirmed that a help scheme would be established by the BBC and funded by the television licence fee. The details of the help scheme are contained in the Scheme Agreement concluded with the BBC on 30 April 2007 and published on 4

May 2007.⁴ Broadly, help is available to persons aged 75 or over; persons with a severe disability (defined as being in receipt of certain disability benefits); and persons who are registered as blind or partially sighted.

7.3 The Act and the Order will support the operation of the Help Scheme principally by enabling the scheme administrator appointed by the BBC to target and contact those who appear to be eligible to receive assistance. Information held by DWP, DSDNI, the Service Personnel and Veterans Agency of the Ministry of Defence (for war pensions), and local authorities (for blind and partially sighted information), will help identify people in the eligible categories. This will enable the scheme administrator to write to those people, inviting them to apply for help. This should maximise scheme take-up and (hence) help to vulnerable people, whilst minimising form-filling for recipients, helping to reduce the overall costs of administering the scheme.

7.4 Before introducing the Bill, DCMS consulted the Digital Switchover Consumer Experts Group about the need for the provisions set out in the Act. The Consumer Experts Group includes representatives from the Royal National Institute of the Blind (RNIB), Help the Aged, the National Consumer Council, Action with Communities in Rural England (ACRE), Hearing Concern, Royal National Institute for the Deaf, Age Concern, Sense, Citizens Advice Bureau, Wireless for the Bedridden, the Rural Community Council Network and the Voice of the Listener and Viewer. In its report of April 2006⁵ on the Help Scheme, the Consumer Experts Group recommended that:

“There should be a clear duty on the Government to get in touch with people who are eligible for the targeted assistance scheme for vulnerable groups. The Government has to give the targeted assistance scheme for vulnerable groups the possibility of using central databases that help identify people who would be eligible for targeted help. Data protection issues should not stand in the way of doing this”.

7.5 The types of information included in the Order fall into four main categories:

- information which enables an individual eligible for help to be identified and contacted (principally, name, any alias, national insurance number, address, details of any person appointed to act on his behalf and date of birth);
- information which will assist the scheme administrator to ensure that any contact can be tailored to an individual’s household circumstances. This includes, for example, whether a qualifying person has a partner who also qualifies for help. This information will enable the administrator to know whether a couple can be addressed in correspondence as such and is important to ensure scheme effectiveness (without this information a letter would have to be sent to each qualifying member of the couple individually and could cause confusion, since help can only be provided

⁴ The Digital Switchover Help Scheme: A Scheme Agreement between Her Majesty’s Secretary of State for Culture, Media and Sport and the British Broadcasting Corporation - 4 May 2007, Cm 7118. This is available from: http://www.digitaltelevision.gov.uk/publications/pub_dighelpscheme_cm7118.html

⁵ Consumer Expert Group – Supporting Vulnerable People – Published by DCMS April 2006 and available from www.digitaltelevision.gov.uk

once per qualifying household). This information will only be supplied in relation to persons entitled to free assistance by virtue of receiving pension credit, income support and income-based jobseeker's allowance as DWP only has up to date information about the status of a couple where the couple is receiving one of these benefits.

- information relating to a relevant change of circumstances for example to avoid distress caused by sending a communication to a person who has died and whose details have already been notified to DWP;
- whether the individual is entitled to assistance free of charge – to ensure that, when making contact, the scheme administrator makes clear whether or not a charge is likely to be payable should the person be eligible for help.

7.6 The order describes, in Article 3 (2) and (3), the classes of individual in relation to which the Secretary of State and the Northern Ireland department may supply the information prescribed. The classes are described by way of the defined term “qualifying individual” (Article 3(4)). A qualifying individual is a person entitled to certain benefits listed in Clause 8(1) of the DSHS or aged 73 years or over, or both.

7.7 The group of individuals eligible for help are those aged 75 years or over. The difference between the age at which people become eligible for help under the DSHS scheme and the age specified in the Order in relation to those whose data may be supplied under the legislation is explained by the way in which the Scheme provides for individuals' eligibility for help. An individual is eligible for help where he is entitled to the relevant benefits or is aged 75 years or over during a *qualifying period* which can vary in length depending on the region concerned.

7.8 Digital Switchover is to take place across the UK region by region; a region for this purpose is the geographical area served by each regional ITV service. The qualifying period for each region depends upon the number of television broadcasting transmitters it contains, since the qualifying period begins 8 months before the first transmitter switches off, and ends one month after the last transmitter switches off, in each region (clause 8(4) of the DSHS). In certain regions the entire qualifying period could be more than a year, with 16 months being the longest qualifying period. In order to ensure that all individuals who may be eligible for help are identified it is thus necessary for the public bodies concerned to have the power to supply information about persons aged 73 years or over, although the age group in relation to which the information will be supplied will vary from region to region depending on the length of the qualifying period.

8. Impact

8.1 This Order is covered by the Regulatory Impact Assessment prepared for the Digital Switchover (Disclosure of Information) Bill introduced in the House of

Commons on 16 November 2006 and updated on 30 January 2007. The Order has no impact on business, charities and voluntary bodies⁶.

9. Contact

9.1 For further information about this Order please contact:

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DEPARTMENT FOR CULTURE, MEDIA AND SPORT
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⁶ A copy of the Regulatory Impact Assessment A prepared for the Digital Switchover (Disclosure of Information) Bill is at http://www.culture.gov.uk/NR/rdonlyres/7550D9F3-3928-4D13-87BD-139AB7D8EA34/0/RIA_digitalswitchoverbill_jan07.pdf