

EXPLANATORY MEMORANDUM TO
THE WELSH AUTHORITY (DIGITAL SWITCHOVER) ORDER 2009
2009 No. 1968

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. Purpose of the instrument

2.1 The Order amends s204 of the Communications Act 2003 to remove the Welsh Authority's obligation to broadcast S4C in analogue form when the switchover to digital services starts in Wales on 12 August 2009. From that date, the Welsh Authority will have an obligation to provide a service in digital form, but will retain the ability to provide a service in analogue form.

2.2 As a consequence of the changes to the Communications Act 2003, the Order amends s29 of the Broadcasting Act 1996 and s58 of the Broadcasting Act 1990 in relation to the provision of S4C Digital services.

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

3.1 None

4. Legislative Context

4.1 The Welsh Authority provides a television service, known as Sianel Pedwar Cymru (S4C) for the fourth channel in Wales and a digital service known as S4C Digital. It is both a broadcaster and regulator. The function and duties of the Welsh Authority are set out in s203 – 207 of, and Schedule 12 to the Communications Act 2003. Section 204(3) provides that the Welsh Authority's function of providing television programmes (as described in subsection (2)) must include the continuing provision of the television broadcasting service known as S4C and may include the continuing provision of the service provided in digital form and known as S4C Digital.

4.2 Section 204(8) and (9) anticipate digital switchover and provide for an Order to make any necessary amendments so as to require the Welsh Authority to broadcast S4C in digital form.

5. Territorial Extent and Application

5.1 This instrument extends to all of the United Kingdom.

6. European Convention on Human Rights

As the instrument amends primary legislation, Ben Bradshaw, the Secretary of State for Culture, Media and Sport, has made the following statement regarding Human Rights:

In my view the provisions of the Welsh Authority (Digital Switchover) Order 2009 are compatible with the Convention rights.

7. Policy background

- *What is being done and why*

7.1 “Digital switchover” is the process by which analogue television broadcasting signals will be phased out in favour of digital signals. Switching to digital broadcasting allows many more television channels to be carried using less radio spectrum than is currently used for analogue services, expanding choice for consumers.

7.2 The timetable for switchover was announced by the Government in September 2005. The main digital switchover programme commenced in late 2008 in the Border region and is proceeding ITV region by ITV region until 2012, by which time all analogue transmissions will have ceased in the UK, Isle of Man and the Channel Islands.

7.3 Switchover in Wales will begin on 12 August 2009 and completes on 31 March 2010. When switchover is complete, the analogue signal will be switched off and it will not be possible for the Welsh Authority to continue to fulfil its obligation to provide the S4C analogue service. To ensure that viewers in Wales continue to receive the public broadcast service provided the Welsh Authority after switchover, an Order is needed to transfer that obligation to the provision of the S4C digital service. To give flexibility, S4C will retain the ability to provide a service in analogue form should the need arise.

7.4 As a consequence of changing the Welsh Authority’s discretion to provide the S4C Digital service under the Communications Act 2003, amendments to s58 of the Broadcasting Act 1990 and s29 of the Broadcasting Act 1996 are included in the Order.

- *Consolidation*

7.2 None.

8. Consultation outcome

8.1 No consultation has taken place.

9. Guidance

9.1 No guidance is being issued.

10. Impact

10.1 There is no impact on business, charities or voluntary bodies.

10.2 There is no impact on the public sector.

10.3 An Impact Assessment has not been prepared for this instrument.

11. Regulating small business

11.1 The legislation does not apply to small business.

12. Monitoring & review

12.1 On-going monitoring and review are not appropriate in the context of this Order.

13. Contact

Stuart Brand at the Department for Culture, Media and Sport Tel: 020 7211 6416 or email: Stuart.Brand@culture.gsi.gov.uk can answer any queries regarding the instrument.