

# STATES OF JERSEY



## **DRAFT SOCIAL SECURITY (TELEVISION LICENCE BENEFIT) (JERSEY) REGULATIONS 200-**

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**Lodged au Greffe on 5th May 2009  
by the Minister for Social Security**

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**STATES GREFFE**





Jersey

# **DRAFT SOCIAL SECURITY (TELEVISION LICENCE BENEFIT) (JERSEY) REGULATIONS 200-**

## **REPORT**

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### **Introduction**

The Social Security (Television Licence Benefit) (Jersey) Regulations 2006 provide the current legal framework for the operation of a Scheme which pays an annual benefit (to the value of the cost of a television licence, currently £142.50) to residents of Jersey aged 75 years or over who are on comparatively low incomes. The Regulations came into force in June 2006 and will expire in June 2009. As an enabling Law now exists, the triennial Regulations can be replaced by Regulations which do not require a time limit.

### **Framework of Scheme**

The primary criteria to benefit under the Scheme are that a person must –

- be aged 75 or over;
- reside in a domestic dwelling;
- be ordinarily resident in Jersey;
- have an annual income of less than £12,770 for a single person and £20,720 for a couple. For the purposes of the Regulations a couple means a married or co-habiting couple.

In addition to the above criteria, the Scheme provides that the fee for a licence cannot be passed to another person at a different address. However, in some cases where a qualifying person permanently resides in a domestic dwelling of another person below the age of 75 years, that person will be able to benefit under the Scheme.

### **Cost of the Scheme**

During 2006, £187,204 was spent on the Scheme (£176,156 in benefit and £11,048 in administration), and during 2007 the amount was £207,901 (£195,239 in benefit and £12,662 in administration). In 2008, £204,053 was spent by way of benefit and £12,722 on administration. The expected spend for 2009 and 2010 is –

Year	Benefit	Administration	Total
2009	£233,030	£15,170	£248,200
2010	£245,000	£15,200	£260,200

### Income bar

The Television Licence Scheme is aimed to provide assistance to those elderly people in the community who are on a low income. Regulation 7 of the Social Security (Television Licence Benefit) (Jersey) Regulations 2006 sets out that the income bar for a single person as £12,770, and £20,720 for a couple. These figures were set by the States in 2006 and have remained unchanged since then,

Income tax thresholds in 2006 were –

- £12,300 for a single person;
- £20,250 for a couple.

The income limit for the eligibility to the Scheme was based on the income at which a pensioner would pay £127 tax (the cost of a TV licence at the time). This equates to £470 above the threshold, giving the current limit of £12,770 (single) and £20,720 (couple).

Current income tax thresholds (2009) are –

- £14,110 for a single person;
- £23,220 for a couple.

Bringing the income limit up to date on the same basis gives –

The cost of a TV licence in 2009 is £142.50, which is equivalent to a taxable income of £528 above the tax threshold, giving income limits of £14,638 (single) and £23,724 (couple).

There is provision in the new Regulations for the limits to be amended by Order.

### Social Security (Television Licence Benefit) (Jersey) Regulations 2009

The attached Draft Regulations are intended to replace the 2006 Regulations after they expire. The replacement Regulations provide for the same structure of the Television Licence Benefit Scheme which has been present between 2006 and now. However, some minor drafting amendments have been made which have been detailed below.

- (1) The period in which a person may ask for a review if they have been disallowed the benefit and are dissatisfied has been reduced to 14 days. This is to align with other review and appeal systems.
- (2) A provision to allow for a fine to be imposed has been included. This relates to people making fraudulent claims.
- (3) The procedure for the review and appeal have been aligned with procedures under the Social Security Determination of Claims and Questions (Jersey) Order 1974 which changed following the introduction of the Income Support system.

- (4) The transitional arrangements have been updated to cater for the dovetailing of the 2006 and 2009 Television Licence Regulations.

**Financial and Manpower Implications**

There are no manpower implications. Some additional cost will be incurred as a result of a small increase in the number of claimants following the uplift in the income limits but this will be met from the existing budget allocation of £248,200 for 2009.

## Explanatory Note

These Regulations are made under the Social Security (Television Licence Benefit) (Jersey) Law 2006. The Regulations set out the rules of eligibility for the television licence benefit, and associated procedures. The benefit has been paid since 2006 under the Social Security (Television Licence Benefit) (Jersey) Regulations 2006, which are triennial regulations. These Regulations are intended to replace the 2006 Regulations after their expiry, and apart from some minor drafting improvements they reproduce the provisions of the 2006 Regulations, except that –

- (a) the period in which a person may ask for a review of a decision to refuse to grant a television licence benefit has been limited to 14 days after the refusal;
- (b) a provision is added to allow a fine to be imposed for the offence of using false information or documents;
- (c) the transitional regulations have been updated to cater for the 2006 Regulations; and
- (d) the procedures for review and appeal have been aligned with the procedures under the Social Security (Determination of Claims and Questions) (Jersey) Order 1974, after changes following the introduction of income support.

*Regulations 1 and 2* set out the meaning of various words and phrases used, including “senior” which means a person aged over 75 who is ordinarily resident in Jersey.

*Regulation 3* provides for applications for the benefit, and now provides for initial decisions to be made by a person who is a determining officer for social security purposes.

*Regulation 4* provides for the documents and information that must accompany an application for the benefit.

*Regulation 5* sets out the relevant period in which an application must be made.

*Regulation 6* sets out the circumstances in which a person may be granted the benefit.

*Regulation 7* sets out the maximum personal income for eligibility for the benefit. The figures are increased to £14,110 for a single senior and £23,220 for a senior who has a spouse. These figures may be altered by the Minister by Order. As in the previous Regulations “spouse” includes persons living in a marriage-like relationship (whether or not of different sexes).

*Regulation 8* sets out how much the benefit is to be, and how it may be paid.

*Regulation 9* enables a senior to appoint an agent to act under these Regulations on the senior’s behalf.

*Regulation 10* makes it an offence to use false information or documents for the purpose of obtaining the benefit. The penalty is up to 2 years imprisonment, and now allows for a fine (with no upper limit) in addition or instead.

*Regulation 11* enables benefits incorrectly paid in respect of a person to be required to be repaid by the person or the senior in relation to whom they are paid.

*Regulation 12* allows applicants to ask for a review of a refusal of benefit. The provisions now require the person to ask for a review within 14 days.

*Regulation 13* allows for appeals to be made to the Social Security Tribunal under a modified version of the Social Security (Determination of Claims and Questions) (Jersey) Order 1974, updated to reflect changes to it following the introduction of income support (including a reduction of the time for appeal from 28 to 14 days).

*Regulation 14* sets out transitional provisions dealing with extant claims made before these Regulations come into force. Extant Tribunal appeals, criminal proceedings and cases of recovery of incorrectly paid benefit will continue to be dealt with under the previous 2006 Regulations (in accordance with Article 17 of the Interpretation (Jersey) Law 1954).

*Regulation 15* sets out the name by which the Regulations may be cited and specifies that they come into force the day after they are made.







Jersey

## **DRAFT SOCIAL SECURITY (TELEVISION LICENCE BENEFIT) (JERSEY) REGULATIONS 200-**

### **Arrangement**

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#### **Regulation**

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Jersey

## **SOCIAL SECURITY (TELEVISION LICENCE BENEFIT) (JERSEY) REGULATIONS 200-**

*Made* [date to be inserted]

*Coming into force* [date to be inserted]

**THE STATES**, in pursuance of Article 1 of the Social Security (Television Licence Benefit) (Jersey) Law 2006<sup>1</sup>, have made the following Regulations –

### **PART 1**

#### **INTERPRATIVE PROVISIONS**

##### **1 Interpretation**

In these Regulations, unless the context otherwise requires –

“applicable 12 month period”, in relation to an application, means the 12 month period ending on the last day of the month before the month in which the application is made;

“application” means (other than in Regulation 14) an application under Regulation 3;

“determining officer” means an officer appointed by the Minister in pursuance of Article 33 of the Social Security (Jersey) Law 1974<sup>2</sup>;

“domestic premises” means a dwelling, used for residential accommodation, that is not part of a nursing home, a mental nursing home, or a residential care home, in each case within the meaning of the Nursing and Residential Homes (Jersey) Law 1994<sup>3</sup>;

“initial television licence” means a television licence that is not a renewed television licence;

“Minister” means the Minister for Social Security;

“renewal notice”, in relation to an application in respect of domestic premises, means a notice that –

- (a) is issued in respect of a television licence that was issued in respect of the premises;

- (b) is issued to the senior specified in the application or to a person who resides with the senior or resided with the senior at the premises in the 12 month period before the application was made; and
- (c) specifies the date by which the television licence is required to be renewed;

“renewed television licence” means a television licence that is issued –

- (a) in respect of domestic premises after a renewal notice is issued in respect of the domestic premises; and
- (b) on or before the date specified in the renewal notice as the date by which the television licence to which it relates is required to be renewed;

“senior” has the meaning given by Regulation 2;

“television licence” means a licence of the kind referred to in Article 1(1) of the Social Security (Television Licence Benefit) (Jersey) Law 2006.

## **2 Meaning of “senior”**

- (1) In these Regulations, a person is a senior in relation to an application if, at the relevant time in relation to the application, he or she –
  - (a) is ordinarily resident in Jersey; and
  - (b) is 75 years of age or older.
- (2) The relevant time in relation to an application in respect of domestic premises is –
  - (a) if a renewal notice was issued in respect of the domestic premises in the 12 month period before the application was made, the date specified in the renewal notice as the date by which the television licence to which it relates is required to be renewed; or
  - (b) if a renewal notice was not issued in respect of the domestic premises in the 12 month period before the application was made, the date on which was issued the initial television licence in relation to which the application is specified under Regulation 3(3)(a) to be made.

## **PART 2**

### **GRANT OF TELEVISION LICENCE BENEFIT**

## **3 Application for benefit**

- (1) A person may apply to the Minister for a television licence benefit.
- (2) An application must be made on a form, approved by the Minister, that is completed in accordance with the instructions contained on the form.
- (3) In addition to any other instruction contained on a form approved under paragraph (2), the form must instruct the applicant to specify whether the application is made in relation to –

- (a) an initial television licence;
- (b) a renewed television licence; or
- (c) a renewal notice.

#### **4 Additional documents and information to accompany application**

- (1) An application that is specified under Regulation 3(3) to be made in relation to a television licence must be accompanied by a copy of the licence.
- (2) An application that is specified under Regulation 3(3) to be made in relation to a renewal notice must be accompanied by a copy of the renewal notice.
- (3) An application that is specified under Regulation 3(3) to be made in relation to a television licence must also be accompanied by the renewal notice, if any, in relation to the domestic premises to which the application relates, if the senior to whom the application relates has not attained the age of 76 years by the date on which the application is made, unless the Minister waives the application of this paragraph.
- (4) An application must be accompanied by any other information, documents, or evidence, that the determining officer considering the application reasonably requires to determine whether the applicant is eligible to be granted the television licence benefit.

#### **5 Relevant period within which application must be made**

- (1) The relevant period within which an application in relation to domestic premises must be made under Regulation 3 is –
  - (a) if the application specifies under Regulation 3(3) that it is made in relation to a television licence, the 6 month period beginning with the day the licence is issued; or
  - (b) if the application specifies under Regulation 3(3) that it is made in relation to a renewal notice, the 2 month period preceding the date on which the television licence to which the notice relates is required to be renewed.
- (2) However, the Minister may, in his or her discretion, determine that an application that specifies under Regulation 3(3) that it is made in relation to a television licence and that is not made within the relevant period specified in paragraph (1)(a) is to be taken to be made within the relevant period if –
  - (a) the application is made within the 2 year period beginning on the day on which the licence is issued;
  - (b) he or she is satisfied that there was good reason why the application was not lodged within the relevant period; and
  - (c) the senior to whom the application relates was a senior before the end of the period in which the application was, under paragraph (1)(a), required to be made.

**6 Grant of benefit**

- (1) An application received by the Minister must be considered by a determining officer, who must grant a television licence benefit if the person applying is eligible for the grant of the benefit.
- (2) A person who has made an application is eligible for the grant of a television licence benefit if the determining officer is satisfied that –
  - (a) the person is a senior who resides in domestic premises to which a renewal notice or a television licence relates or is a person who resides with a senior in domestic premises to which a renewal notice or a television licence relates;
  - (b) the application is accompanied by the information, documents and evidence required under Regulation 4 to accompany it;
  - (c) the senior does not, for the applicable 12 month period in relation to the application, have more than the relevant total income as determined under Regulation 7;
  - (d) where the application specifies under Regulation 3(3) that it is made in relation to a television licence, the licence has been issued to the person;
  - (e) the application is made within the relevant period as determined in accordance with Regulation 5; and
  - (f) no television licence benefit has already been paid in relation to the television licence or renewal notice to which the application relates.
- (3) If a person from whom the Minister has received an application is not eligible for the grant of a television licence benefit, the determining officer must –
  - (a) refuse to grant the benefit; and
  - (b) notify the person in writing of the refusal and of the right to request a review under Regulation 12.

**7 Determination of relevant total income**

- (1) For the purposes of Regulation 6(2)(c), a senior does not, for the applicable 12 month period in relation to an application, have more than the relevant total income, if –
  - (a) where, at the date on which the application is made, he or she does not have a spouse, his or her total income, as determined for the applicable 12 month period, was not more than the prescribed amount for a single person; or
  - (b) where, at the date on which the application is made, he or she has a spouse, the combined amount of his or her total income, and the total income of his or her spouse, as determined for the applicable 12 month period, was not more than the prescribed amount for a couple.
- (2) The total income of a person for the purposes of paragraph (1) is to be determined in accordance with the provisions of the Income Tax (Jersey) Law 1961<sup>4</sup>.

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- (3) A person has a spouse for the purposes of this Regulation if the person resides in domestic premises with a person –
    - (a) to whom that person is married; or
    - (b) with whom that person has a marriage-like relationship (whether or not both persons are of different sexes).
  - (4) The prescribed amount for a single person is –
    - (a) the amount prescribed under paragraph (6)(a); or
    - (b) £14,110, if no amount is so prescribed.
  - (5) The prescribed amount for a couple is –
    - (a) the amount prescribed under paragraph (6)(b); or
    - (b) £23,220, if no amount is so prescribed.
  - (6) The Minister may, by Order, prescribe –
    - (a) an amount for a single person; and
    - (b) an amount for a couple.

## **8 Payment of benefit**

- (1) The amount of a television licence benefit to be granted to a person is –
  - (a) if the person's application specifies under Regulation 3(3) that it is made in relation to a television licence, an amount of money equivalent to the amount paid for the television licence; or
  - (b) if the person's application specifies under Regulation 3(3) that it is made in relation to a renewal notice, an amount of money equivalent to the amount specified in the renewal notice as required to be paid for the renewal of the television licence to which the renewal notice relates.
- (2) If the determining officer determines that a television licence benefit is to be granted to a person, the Minister must pay the benefit –
  - (a) by payment (in full or by instalments) on behalf of the person, to the authority responsible for the issuing of television licences, or to an agent of that authority; or
  - (b) by an electronic transfer into an individual bank account of the person.
- (3) If the Minister is satisfied that it is impracticable to comply with paragraph (2) in relation to a person, the Minister may pay the benefit to the person by cheque.

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**PART 3****MISCELLANEOUS PROVISIONS****9 Agents**

- (1) A senior may apply to the Minister to appoint as the agent of the senior in respect of an application for, and the grant of, a television licence benefit, a person nominated in the application.
- (2) The Minister may appoint as the agent of a senior a person nominated by the senior in an application under paragraph (1).
- (3) The Minister must not appoint a person under paragraph (2) in relation to a senior –
  - (a) unless the person to be appointed has attained the age of 18 years; or
  - (b) if there is a curator or guardian appointed in relation to the senior.
- (4) The Minister may, of his or her own motion or at the request of an agent or a senior in relation to whom an agent has been appointed, revoke, by notice to a senior and his or her agent, the appointment of the agent under paragraph (2).
- (5) The Minister must, by notice to a senior and his or her agent, revoke the appointment of the agent under paragraph (2), if the Minister is satisfied that a curator or guardian has been appointed in relation to the senior.
- (6) A person appointed as an agent under paragraph (2) in relation to a senior may, by giving one month's notice to the Minister, cease to be an agent in relation to the senior.

**10 Offences**

- (1) A person must not, for the purpose of obtaining a grant of a television licence benefit in respect of himself or herself or another person –
  - (a) knowingly make a false statement or false representation;
  - (b) provide to the Minister any document or information, cause to be provided to the Minister any document or information, or knowingly allow to be provided to the Minister any document or information, if the person knows, or is reckless as to whether, the document or information is false in any material particular; or
  - (c) manufacture, cause to be manufactured, or knowingly allow to be manufactured, any document or information, knowing, or having reasonable grounds to suspect, it is intended to be provided to the Minister, if the person knows, or is reckless as to whether, the document or information is false in any material particular.
- (2) A person who contravenes paragraph (1) is guilty of an offence and liable to imprisonment for a term of 2 years and to a fine.
- (3) Any person who aids, abets, counsels or procures the commission of an offence against paragraph (1) is also guilty of the offence and liable in the



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same manner as a principal offender to the penalty provided for that offence under paragraph (2).

## **11 Recovery of incorrectly paid benefit**

- (1) If it is found, at any time, that a television licence benefit has been granted under Regulation 6 to a person who was not eligible under that Regulation for the grant, the Minister may require the person, or the senior specified in the application of the person in relation to which the benefit was granted, to repay to the Minister the amount paid to the person under Regulation 8.
- (2) If it is found, at any time, that an amount of money that has been paid under Regulation 8 in respect of a person who was granted a television licence benefit under Regulation 6 was greater than the amount that is permitted to be paid under Regulation 8 in respect of the person, the Minister may require the person, or the senior specified in the application of the person in relation to which the benefit was granted, to repay to the Minister the amount of the overpayment.
- (3) The Minister may require a person to whom a television licence benefit has been granted and to whom an amount of money has been paid in accordance with Regulation 8(2)(b) or (3) to repay the amount to the Minister, if –
  - (a) the application in relation to which the benefit was granted specified under Regulation 3(3) that it was made in relation to a renewal notice; and
  - (b) within the period of 6 months after the application was made, the amount required to be paid for renewal of the television licence to which the renewal notice relates has not been paid to the licensing authority or an agent of an authority, in respect of the domestic premises to which the application related.
- (4) The Minister must not require an amount of money to be repaid to him or her by a person who is shown to the Minister's satisfaction to have acted in good faith in respect of the application for, and the grant of, the amount in question.

## **12 Review of decisions**

- (1) A person who receives a notice of refusal under Regulation 6(3) may request a review of the decision –
  - (a) by notice in writing to the Minister;
  - (b) within 14 days after receipt of the notice of refusal.
- (2) A notice given under paragraph (1) must set out the grounds on which the person seeks the review.
- (3) If a notice is given to the Minister under paragraph (1), a second determining officer must review the application and the decision to which the request for review relates.
- (4) The second determining officer must dispose of the review by –

- (a) confirming the decision reviewed; or
  - (b) revoking the decision reviewed and making a decision in relation to the application as if he or she were a determining officer considering the application for the first time for the purposes of these Regulations (other than Regulation 6(3)(b) and this Regulation).
- (5) The second determining officer may –
- (a) require the person requesting the review to provide to him or her further information in relation to the matter to which the review relates; and
  - (b) refuse to complete the review until that information is provided to him or her.
- (6) The second determining officer must, as far as practicable, dispose of the review within 14 days after the Minister receives the request for review.

### 13 Appeal

- (1) The following provisions of the Social Security (Determination of Claims and Questions) (Jersey) Order 1974<sup>5</sup> apply, with the modifications set out in paragraph (2), in relation to a decision of a second determining officer under Regulation 12(4) –
- (a) Part 2, other than –
    - (i) the provisos to Article 3, and
    - (ii) Article 13(9);
  - (b) Part 3, other than Article 15(1)(c) and Article 17; and
  - (c) Part 5.
- (2) The modifications are as follows –
- (a) in Article 3, for the words “under Article 1A” there are substituted the words “under Regulation 12 of the Regulations”;
  - (b) in Article 4, for the word “Law” there is substituted the word “Regulations”;
  - (c) in Article 20, for paragraph (1) there is substituted the following paragraph –
    - “(1) In this Order, unless the context otherwise requires –
      - ‘applicant’ and ‘claimant’ mean a person who has requested a review under Regulation 12 of the Regulations;
      - ‘determining officer’ and ‘second determining officer’ mean a person who is reviewing, or has reviewed, an application as a second determining officer under Regulation 12 of the Regulations;
      - ‘question’ includes an application for a television licence benefit under Regulation 3 of the Regulations;
      - ‘Registrar’ means the Registrar of Appeals or a deputy Registrar of Appeals appointed in accordance with this Order;

‘Regulations’ means the Social Security (Television Licence Benefit) (Jersey) Regulations 200-;

‘Royal Court’ means the Inferior Number of the Royal Court;

‘Tribunal’ means the Social Security Tribunal constituted under this Order.”;

- (d) any modification made under an Order made under paragraph (3).
- (3) The Minister may, by Order, make further modifications to the Social Security (Determination of Claims and Questions) (Jersey) Order 1974 as it applies in relation to an appeal under that Order in accordance with this Regulation, including modifications to provisions modified under paragraph (2).

#### **14 Transitional provisions**

- (1) In this Regulation –
- “commencement date” means the date on which these Regulations come into force;
- “extant application” means an application to which this Regulation applies.
- (2) This Regulation applies to an application –
- (a) that was made before the commencement date to the Minister for a payment by way of benefit in respect of a fee relating to a television licence;
- (b) that was not granted (whether initially or on review or appeal) before the commencement date;
- (c) in respect of which no appeal was made to the Social Security Tribunal before the commencement date; and
- (d) in respect of which no notice of a refusal on a review was received more than 28 days before the commencement date.
- (3) These Regulations apply from the commencement date to an extant application as if they had applied to that application from the date when that application was made.
- (4) Paragraph (3) does not apply to an extant application in relation to offences or to the recovery of incorrectly paid benefit.
- (5) Where these Regulations apply under paragraph (3) to an extant application –
- (a) if a notice of refusal (other than on a review or appeal) of the application was received before the commencement date, Regulation 12(1)(b) is to be read as if that notice was received on the commencement date; and
- (b) if a notice of refusal on a review of the application was received during the 28 days preceding the commencement date, Regulation 13(2) is to be read as if it included the additional modification set out in paragraph (6).

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- (6) The additional modification is that –
- (a) in Article 9(1) of the Social Security (Determination of Claims and Questions) (Jersey) Order 1974<sup>6</sup> for the words “14 days” there are substituted the words “28 days”; and
  - (b) Article 9(2) of that Order is omitted.

## **15 Citation and commencement**

These Regulations may be cited as the Social Security (Television Licence Benefit) (Jersey) Regulations 200- and come into force the day after they are made.

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- <sup>1</sup> *chapter 26.950*  
<sup>2</sup> *chapter 26.900*  
<sup>3</sup> *chapter 20.725*  
<sup>4</sup> *chapter 24.750*  
<sup>5</sup> *chapter 26.900.28*  
<sup>6</sup> *chapter 26.900.28*