

STATES OF JERSEY



DRAFT SOCIAL SECURITY (TELEVISION LICENCE BENEFIT) (JERSEY) REGULATIONS 200

**Lodged au Greffe on 4th April 2006
by the Minister for Social Security**

STATES GREFFE



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REPORT

Introduction

The Social Security (Television Licence Benefit) (Jersey) Regulations 200- provides the legislative framework to bring in a scheme which gives a benefit to residents of Jersey aged 75 or over, on comparatively low income, to pay for their television licence. The Regulations follow an in principle decision of the States to develop such a scheme when an amendment (P.266/2005) was put forward by Senator M. Vibert during the 2006 budget debate. The Social Security Minister presented a report to the States on 8th February 2006 (R.12/2006), giving more details of the scheme which had been developed. This provided the basis for the Law drafting brief.

Framework of the scheme

Taking the States decision and other factors on board, with effect from 1st January 2006 the primary criteria for the award of benefit under the scheme is 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 these regulations a couple means a married or cohabiting 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 domestic dwelling of another person below the age of 75, that other person will be able to benefit under the scheme.

Administration

In support of any application for benefit under the scheme it will be necessary for the applicant to complete an application form and provide documentation to support their claim. In most cases supporting documentation will consist of a Notice for Renewal or the actual licence (if a retrospective claim is being made) both of which are issued by the BBC.

Experience in the Social Security Department shows that some people in the target agegroup might have difficulty in managing their own affairs. For this reason, provision is present in the Regulations enabling customers to appoint an agent to act on their behalf. Furthermore, qualifying customers can claim up to 6 months retrospectively if they have paid their licence already or 2 months in advance of the official television licence renewal date. The Regulations also provide that where “good cause” is shown for a very late application the benefit can be paid up to 2 years retrospectively.

It is envisaged that in most cases where entitlement exists, the Social Security Department will liaise directly with the BBC Licensing Authority in order that a valid licence is despatched directly to the customer in a timely manner. Talks continue with the BBC to develop this administrative system with the aim of keeping interventions required by any customer to the minimum.

On occasions, disputes regarding benefit entitlement can occur. As such, provision has been made in the Regulations and a dispute resolution model incorporated. Any person aggrieved with a decision of the Department to disallow their application can, by notice in writing, request a review by the Minister. If the Minister confirms the original decision then the customer has the right to ask that their case be considered by the Social Security

Tribunal established under existing legislation.

Transitional arrangements

The Social Security Minister was mindful of the time needed to enter into discussions with the BBC Licensing Authority, to develop the system, draft Regulations and put the administration in place to deliver the scheme and obtained the support of the Minister for Treasury and Resources, to allow retrospective claims to be paid as if the scheme had been in force from 1st January 2006. The Regulations include provision for these arrangements.

Financial and manpower Implications

It is impossible to provide an accurate figure of costs but, from available data, it would seem that between 2,000 and 2,300 households in the Island may be able to benefit from this Scheme. Costs for the Television Licence Scheme alone will be in the order of £290,000 per annum. In addition, initial set-up costs will be incurred, to provide the necessary administration and accounting systems. However, the number of households qualifying under the Scheme is likely to increase in line with numbers of people aged 75 and over projected in coming decades. Therefore, it is likely that expenditure will grow. Future expenditure is also dependant on any increase in the cost of the Television Licence or any alteration to the system being introduced.

Work has already begun to register people who believe they may be entitled. Initially, a part-time temporary post will be required to get the Scheme up and running. It is envisaged that, after the first year, processing can be absorbed into current operational functions and resources, particularly if the BBC Licensing Authority agrees to undertake some of the administration.

Explanatory Note

These Regulations sets out the rules of eligibility for the television licence benefit, and associated procedures.

Regulation 1 sets out the meaning of various words and phrases used in the Regulations.

Regulation 2 defines “senior” to be a person over the age of 75 who is ordinarily resident in Jersey.

Regulation 3 provides for applications for the benefit. An application may be made by a senior, or a person who resides with a senior.

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

Regulation 5 sets out the relevant period in which an application shall be made. The period shall generally be, where the application relates to a licence that a person has obtained, up to 6 months after the date they obtained it. However, the Minister may accept the application at any time up until 2 years after the relevant period if he or she is satisfied there were good reasons why the application for the benefit was not lodged within the relevant period. An application that relates to a renewal notice may be made at any time before the date specified on the notice as the date by which the television licence to which it relates is to be renewed.

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

Regulation 7 sets out the maximum personal income that a senior may hold in order for himself or herself, or another person residing with the senior, to be eligible for the benefit. The amount is currently specified in the Regulations to be £12,770 for a single senior and £20,720 for a senior who has a spouse, but may be altered by the Minister by Order. A person has a spouse for the purposes of these Regulations if they reside in domestic premises with a person to whom they are married, or if they reside in domestic premises with a person to whom they are not married but with whom they have a “marriage-like” relationship (whether or not they are of the same sex). The term “marriage-like relationship” is, of course, imprecise (as are the relationships to which it might refer) but nonetheless ought to be capable of a reasonable interpretation that will not catch siblings, relatives, friends, or other persons, who are merely sharing accommodation.

Regulation 8 sets out how much the benefit shall 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 attempt to cheat the benefit system established under these Regulations.

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 sets out a method for resolving disputes as to decisions in relation to entitlements, where the decision is made by a delegate of the Minister.

Regulation 13 allows for appeals to be made under the existing Social Security (Determination of Claims and Questions) (Jersey) Order 1974.

Regulation 14 sets out transitional provisions relevant only to 2006.

Regulation 15 sets out the name by which the Regulations may be cited and specifies that the Regulations shall come into force 30 days after they are made.



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Jersey

DRAFT 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 the Order in Council dated 28th March 1771^[1], 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 an application under Regulation 3;

“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^[2];

“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 under the television licensing Act 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 issued in respect of the premises 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 assigned by Regulation 2;

“television licence”, in relation to domestic premises, means a television licence issued in respect of the premises under the television licensing Act;

“television licensing Act” means the Communications Act 2003 of the United Kingdom or any Act or provisions of an Act, of the United Kingdom enacted in substitution for the provisions of that Act in relation to the licensing of the possession or use of televisions in premises.

2 Meaning of “senior”

- (1) For the purposes of 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) In paragraph (1), 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 shall 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 shall 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 shall 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 shall 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 shall also be accompanied by the renewal notice, if any, in relation to the domestic premises to which the application relates, if –
 - (a) the licence is issued in 2006; or
 - (b) 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 shall be accompanied by any other information, documents, or evidence, that the Minister reasonably requires to determine whether the applicant is eligible to be granted the television licence benefit.

5 Relevant period within which application shall be made

- (1) The relevant period within which an application in relation to domestic premises shall 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) shall 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) The Minister shall, after receiving an application from a person, grant a television licence benefit in respect of the person, if the person is eligible for the grant of the benefit.
- (2) A person who has made an application to the Minister under Regulation 3 shall be eligible for the grant of a television licence benefit if the Minister 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 Minister shall notify the person in writing accordingly.

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 i

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) shall be determined in accordance with the provisions of the Income Tax (Jersey) Law 1961^[3].
- (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) In paragraph (1)(a), the prescribed amount for a single person shall be £12,770 but, if an amount is prescribed under paragraph (6)(a), the prescribed amount for a single person shall be the amount prescribed under that paragraph.
- (5) In paragraph (1)(b), the prescribed amount for a couple shall be £20,720 but, if an amount is prescribed under paragraph (6)(b), the prescribed amount for a couple shall be the amount prescribed under that paragraph.
- (6) The Minister may, by Order, prescribe –
- (a) an amount for a single person for the purposes of paragraph (1)(a); and
 - (b) an amount for a couple for the purposes of paragraph (1)(b).

8 Payment of benefit

- (1) The amount of a television licence benefit granted to a person shall be –
 - (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 Minister determines that a television licence benefit shall be granted to a person, the amount of the television licence benefit, as determined in accordance with paragraph (1), shall be paid by the Minister –
 - (a) by a payment, on behalf of the person, of the amount in full, or by instalments, to the authority responsible under the television licensing Act for the issuing of television licences, or an agent of the authority; or
 - (b) by an electronic transfer into an individual bank account of the person.
- (3) Despite paragraph (2), if the Minister is satisfied that it is impracticable to comply with that paragraph in relation to a person, the Minister may pay to the person, by cheque, the amount of the television licence benefit determined in accordance with paragraph (1).

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 shall 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 shall, 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 shall 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 shall be liable to imprisonment for a term of not more than 2 years.
- (3) Any person who aids, abets, counsels or procures the commission of an offence against paragraph (1) shall also be guilty of the offence and liable in the 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 shall 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 Dispute resolution

- (1) If a person to whom the functions of the Minister under these Regulations are delegated under the States of Jersey Law 2005^[4] refuses to grant a television licence benefit to a person, the person may, by notice in writing to the Minister, request a review of the decision.
- (2) The notice under paragraph (1) shall set out the grounds on which the person seeks a review of the decision.
- (3) If a notice is given to the Minister under paragraph (1), the Minister shall appoint a States' employee within the meaning of the Employment of States of Jersey Employees (Jersey) Law 2005^[5] to be the determining officer in relation to the request for review.
- (4) The determining officer appointed under paragraph (3) shall review the application and the decision to which the request for review relates and dispose of the review by –
 - (a) confirming the decision of the delegate of the Minister; or
 - (b) revoking the decision of the delegate of the Minister and making a decision in relation to the application under these Regulations as if he or she were a delegate of the Minister for the purposes of these Regulations other than paragraph (1).
- (5) The determining officer may 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 refuse to complete the review until the information is provided to him or her.
- (6) The determining officer shall, 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^[6] shall apply, with the modifications set out in paragraph (2), in relation to a decision under these Regulations of a determining officer appointed under Regulation 12(3)–
 - (a) Part 2;
 - (b) Articles 15 and 16;
 - (c) Part 5;
 - (d) the Schedule.
- (2) The modifications are as follows –
 - (a) in Article 4, after the words “the Law” there shall be added the words “and the Regulations”;

- (b) in Article 5(1) for the words “an award” there shall be substituted the word “a decision”;
- (c) in Article 5(2) for the words “the award” there shall be substituted the words “the decision”;
- (d) in Article 20, for paragraph (1) there shall be substituted the following paragraph–

“(1) In this Order, unless the context otherwise requires –

‘applicant’ means a person who has applied under Regulation 12 of the Regulations for a review of a decision;

‘claim’ means an application for the grant of a television licence benefit under Regulation 3 of the Regulations;

‘claimant’ means a person who has applied for the grant of a television licence benefit under Regulation 3 of the Regulations;

‘determining officer’ means an officer appointed under Regulation 12(3) of the Regulations;

‘Law’ means the Social Security (Jersey) Law 1974^[7];

‘question’ includes a claim;

‘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^[8];

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

‘Tribunal’ means the Social Security Tribunal constituted under Schedule 4 to the Law.”;

- (e) in the Schedule for the words “Social Security (Jersey) Law 1974’ there shall be substituted the words “Social Security (Television Licence Benefit) (Jersey) Regulations 200”;
- (f) 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 any modification to provisions modified under paragraph (2).

14 Transitional requirements for grant of benefit in 2006

- (1) The Minister shall not grant a television licence benefit to a person in relation to a television licence that was issued to the person before 1 January 2006.
- (2) The Minister shall not grant a television licence benefit in respect of a television licence that was issued to a person in relation to domestic premises after 1 January 2006 if there was a renewal notice issued in relation to the premises that specified that the licence was required to be renewed before 1 January 2006.

15 Citation, commencement and duration

- (1) These Regulations may be cited as the Social Security (Television Licence Benefit) (Jersey) Regulations 200.
- (2) These Regulations shall come into force 30 days after they are made.
- (3) Unless earlier revoked, these Regulations shall remain in force for 3 years from the date on which they come into force.

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- [1] *chapter 15.120*
- [2] *chapter 20.725*
- [3] *chapter 24.750*
- [4] *chapter 16.800*
- [5] *chapter 16.325*
- [6] *chapter 26.900.28*
- [7] *chapter 26.900*
- [8] *P.37/2006*