

AGE-RELATED TV LICENCE FEE CONCESSION:

BAILIWICK OF JERSEY

**DETERMINATION MADE BY THE BBC ON 15 OCTOBER 2020
UNDER SECTION 365A OF THE COMMUNICATIONS ACT 2003
AS EXTENDED TO THE BAILIWICK OF JERSEY BY
THE COMMUNICATIONS (JERSEY) ORDER 2020 (S.I. 2020/530)**

Determination

Interpretation

1. In this determination—

“the 2003 Act” means the Communications Act 2003;¹

“the 2004 Regulations” means the Communications (Television Licensing) Regulations 2004,² and “the 2011 (Jersey) Regulations” means the Social Security (Television Licence Benefit) (Jersey) Regulations 2011; and any reference to a provision (or grouping of provisions) of the 2004 or 2011 (Jersey) Regulations—

(a) is a reference to that provision (or grouping) as it has effect from time to time,

(b) includes a reference to any provision (or grouping) of corresponding effect in any statutory instrument replacing any such Regulations;

“black and white TV licence” means a TV licence of a type referred to in the first entry in column 1 of the table in Schedule 1 to the 2004 Regulations,³

“black and white TV licence fee” means the amount specified in column 3 of that table as the issue fee in respect of a black and white TV licence;

“colour TV licence” means a TV licence of a type referred to in the second entry in column 1 of the table in Schedule 1 to the 2004 Regulations;⁴

“colour TV licence fee” means the amount specified in column 3 of that table as the issue fee in respect of a colour TV licence;

“Condition A” means the condition set out in paragraph 4;

“Condition B” means the condition set out in paragraph 5;

¹ 2003 c.21.

² SI 2004/692.

³ TV licence for black and white TVs, broadly in relation to a single specified location (e.g. a person’s home) and associated uses (rather than for multiple locations).

⁴ TV licence for colour TVs, broadly in relation to a single specified location and associated uses (rather than for multiple locations).

“due date”, in relation to any TV licence, means the date on which the licence holder is required to obtain the licence in accordance with the 2003 Act, whether in consequence of the expiry of a previous licence or otherwise;

“the issue date”, in relation to any TV licence, means the date on which the licence is issued;

“the specified place”, in relation to a TV licence, means the place, vehicle, vessel or caravan specified (or to be specified) in the licence;

“television licence benefit” means the benefit of that name established by the 2011 (Jersey) Regulations; and

“TV licence” means a licence for the purposes of section 363 of the 2003 Act authorising the installation and use of a television receiver;

and any reference—

- (a) to the issue of a TV licence includes a reference to its renewal,
- (b) to a person’s residence includes a reference to any place provided for that person’s private occupation.

Extent

2. This determination extends to the Bailiwick of Jersey only;⁵ and any reference to a provision (or grouping of provisions) of the 2003 Act or the 2004 Regulations is a reference to that provision (or grouping) as extended to the Bailiwick of Jersey.

Over 75s concession

Concession

3. As from 1 January 2021, no fee is payable for a black and white TV licence or a colour TV licence where—
 - (a) the licence is issued to a person who is aged 75 years or more or who will attain that age in the calendar month in which the licence is issued;
 - (b) in that licence, the specified place is situated in the Bailiwick of Jersey and is the sole or main residence of that person; and
 - (c) the BBC is satisfied that on the issue date either Condition A or Condition B applies.

⁵ The BBC’s power to determine concessions was extended to the Bailiwick of Jersey by the Communications (Jersey) Order 2020 (S.I. 2020/530).

4. Condition A applies where the licence is issued to a person who (disregarding the existence of a concession under this determination) would have been eligible for a television licence benefit in respect of that licence, as a person who (as mentioned in Regulation 6(2)(c) of the 2011 (Jersey) Regulations) for the applicable 12 month period in relation to the application, does not have more than the relevant total income as determined under Regulation 7 of those Regulations.
5. For the purposes of paragraph 4 it shall be assumed that—
 - (a) an application was duly made for a television licence benefit on the day before the issue date in relation to the licence, and
 - (b) a determining officer was satisfied as to such of the matters mentioned in Regulation 6(2)(a), (b) and (d) to (f) of the 2011 (Jersey) Regulations as apply to that application;and words or expressions used in paragraph 4 or this paragraph and in the 2011 (Jersey) Regulations shall have the same meanings as they have in those Regulations.
6. Condition B applies where Condition A does not apply but the person to whom the licence is issued is entitled to a free licence according to a legal obligation or policy under which the Government will pay to the BBC a sum equal to the black and white TV licence fee or the colour TV licence fee, as the case may require.

Establishing that Condition A applies or does not apply

7. In deciding whether Condition A applies in relation to a person, the BBC shall treat as conclusive a statement from the Jersey Government⁶ as to whether that person does or does not have more than the relevant total income as determined under Regulation 7 of the 2011 (Jersey) Regulations for the applicable 12 month period in relation to their application.

Interim TV Licences

Interim TV licences

8. As from 1 January 2021—
 - (a) where a black and white TV licence is issued in the circumstances described in the first entry in column 2 of the table below, the fee for that licence (which may be referred to as an “Interim TV licence (black and white only)”) is the fee specified in the first entry in column 3, and
 - (b) where a colour TV licence is issued in the circumstances described in the second entry in column 2 of the table below, the fee payable for that

⁶ In practice, a determining officer appointed by Jersey’s Minister for Social Security.

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licence (which may be referred to as an “Interim TV licence (including colour)”) is the fee specified in the second entry in column 3, but an Interim TV licence (of either type) may be issued only in circumstances where the fee payable in accordance with sub-paragraph (a) or (b) above is less than the black and white TV licence fee or the colour TV licence fee, respectively.

<i>Column 1</i>	<i>Column 2</i>	<i>Column 3</i>
<i>Type of licence</i>	<i>Description of licence</i>	<i>Fees</i>
<i>Interim TV licence (black and white only)</i>	A black and white TV licence which is issued to a person who has attained the age of 74 years (but not the age of 75 years) before the due date and in respect of whom the BBC is satisfied that either— (a) on the issue date, Condition A applies, or (b) on their 75th birthday Condition B will apply; and which expires on the last day of the calendar month immediately before that in which that person attains the age of 75 years.	An amount equal to one twelfth of the black and white TV licence fee for each calendar month, or part of a calendar month, falling within the relevant period (rounded down to the nearest penny).
<i>Interim TV licence (including colour).</i>	A colour TV licence which is issued to a person who has attained the age of 74 years (but not the age of 75 years) before the due date and in respect of whom the BBC is satisfied that either— (a) on the issue date, Condition A applies, or (b) on their 75th birthday Condition B will apply; and which expires on the last day of the calendar month immediately before that in which that person attains the age of 75 years.	An amount equal to one twelfth of the colour TV licence fee for each calendar month, or part of a calendar month, falling within the relevant period (rounded down to the nearest penny).

9. In the table above and the paragraphs that follow, “the relevant period”, in the case of any TV licence, means the period which—
- (a) begins on the due date in relation to that licence, and
 - (b) ends on the last day of the calendar month immediately before the calendar month in which the licence holder attains the age of 75 years.

Interim instalment licences

10. As from 1 January 2021, where a person (“the eligible person”) is eligible for an Interim TV licence (including colour) according to paragraph (a) in the second entry in column 2 in the table in paragraph 8, and where they are also eligible for (according to Part 1, 2 or 3 of Schedule 2 to the 2004 Regulations (“Schedule 2”)), and issued with, one of the following instalment TV licences, the fee shall be payable in accordance with paragraphs 12 to 15—

- (a) a Premium instalment licence (including colour), as specified in Part 1 of Schedule 2,
- (b) a Budget instalment television licence (including colour), as specified in Part 2 of Schedule 2, or
- (c) an Easy entry television licence (not black and white only), as specified in Part 3 of Schedule 2.

11. Paragraph 10 applies only if, as applicable, the total fee calculated according to paragraph 12 is less than the total of the issue fee referred to in paragraph 2(1) of Schedule 2 added to the three further instalments specified there, or that calculated according to paragraph 13 or 14, is less than the colour TV licence fee.

12. The fee payable for a Premium instalment licence issued in the circumstances identified in paragraph 10 (which may be referred to as an “Interim Premium instalment licence”) is the fee specified in the second entry in column 3 of the table above; and that fee is payable in quarterly instalments as provided by Part 1 of Schedule 2, applied according to, and subject to, paragraph 15 below.

13. The fee payable for a Budget instalment television licence issued in the circumstances identified in paragraph 10 (which may be referred to as an “Interim Budget instalment television licence”) is the fee specified in the second entry in column 3 of the table above; and that fee is payable in monthly instalments as provided by Part 2 of Schedule 2, applied according to, and subject to, paragraph 15 below.

14. The fee payable for an Easy entry television licence issued in the circumstances identified in paragraph 10 (which may be referred to as an “Interim Easy entry television licence”) is the fee specified in the second entry in column 3 of the table above; and that fee is payable in fortnightly or weekly instalments as provided by Part 3 of Schedule 2, applied according to, and subject to, paragraph 15 below.

15. In applying any Part of Schedule 2 to a licence issued in any of the circumstances identified in paragraph 10—

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- (a) there is to be deducted from the instalments which would otherwise be payable in accordance with that Part—
- (i) in relation to an Interim Premium instalment licence, a sum equal to the difference between PI and the fee referred to in paragraph 12, where PI is the total of the issue fee referred to in paragraph 2(1) of Schedule 2 added to the three further instalments specified there; and
 - (ii) in relation to an Interim Budget instalment television licence or an Interim Easy entry television licence, the difference between the colour TV licence fee and the fee referred to in paragraph 13 or 14 respectively;
- (b) that deduction is to be made first from the final instalment, then (where necessary) from the preceding instalments working backwards; and
- (c) where the amount to be deducted is greater than the amount of one or more of the instalments, the immediately preceding instalment is to be reduced by the whole of the additional amount.

A handwritten signature in black ink, consisting of the name 'David' followed by 'Clementi'. The signature is written in a cursive, flowing style.

Signed on behalf of the BBC Board by Sir David Clementi, Chair

26 November 2020

Explanatory Note

Purpose and effect

This determination gives effect to the BBC Board's decision to introduce, with effect from 1 January 2021, a TV licence concession so that, in the Bailiwick of Jersey, any person aged 75 or over will be entitled to a free TV licence for their sole or main residence if (but for this determination making licences free) they would have been entitled to a television licence benefit because their total income in the 12 months up to the issue of the licence is less than a specified amount (paragraphs 3 and 4). This means that the same people in Jersey who previously received a free TV licence paid for by the Jersey Government will now receive a free TV licence paid for by the BBC.

This determination does not affect the powers of the States of Jersey or the Minister for Social Security to make provision for social security benefits related to TV licences. A person aged 75 or over who does not qualify for a free TV licence under this determination could still be issued with one by the BBC if the Jersey Government decided to pay for it, which is a matter for them (paragraph 6).

The determination makes other provision relevant to the decision and its implementation, including—

- as to the means by which entitlement to the concession will be established (paragraph 7)
- for “interim TV licences”, so that people approaching their 75th birthday who will then qualify for a free licence do not have to buy a full year's licence, similar to Schedule 3 to the 2004 Regulations⁷ (paragraphs 8 to 15).

Background

Part 4 of the Communications Act 2003 was amended by section 89 of the Digital Economy Act 2017. Section 89 came into force in the UK on 1 June 2020⁸ and was extended to Jersey from the same date by the Communications (Jersey) Order 2020.

By virtue of sections 365(1A) and 365A of the 2003 Act (as amended), any liability to pay the TV licence fee under the 2004 Regulations is subject to any age-related concession applying in accordance with a determination by the BBC. Any such concession must include a requirement that the person to whom the TV licence is issued, or another person,

⁷ Communications (Television Licensing) Regulations 2004, SI 2004/692.

⁸ Section 118(3).

is of or above a specified age, which must be 65 years or higher, at or before the end of the month in which the licence is issued.⁹

Section 365A contains a prohibition such that regulations made by the Secretary of State may no longer provide for a concession that requires a person, or another person, to be of or above a specified age at or above 65. That prohibition does not apply in the case of licences issued in respect of accommodation for residential care (ARC). Pursuant to section 365(5B) and section 365A(3)(b), the ARC concession provided for by regulation 3(d) of and Schedule 4 to the 2004 Regulations continues in effect. That continuity includes regulation 6(3) – (5) (making provision as to units of accommodation not to be taken into account in calculating the ARC licence fee). The present determination does not deal with or affect ARC licences governed by those provisions.

Before the BBC Board took this decision they conducted a consultation exercise between July and September 2020 asking members of the public and stakeholders in Jersey for their views on what the BBC should do for the future. On 15 October 2020 the BBC Board decided to exercise its power under section 365A to reform the concession. The Board has now made this determination to give effect to that decision.

⁹ Section 365A(2).