

EXPLANATORY MEMORANDUM TO
THE COMMUNICATIONS (TELEVISION LICENSING) (AMENDMENT) (NO. 2)
REGULATIONS 2020

2020 No. 160

1. Introduction

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

2. Purpose of the instrument

2.1 These Regulations amend the Communications (Television Licensing) Regulations 2004 (“the 2004 Regulations”) (S.I. 2004/692).

2.2 They amend the 2004 Regulations to make ongoing provisions for an instalment scheme for the television licence fee, known as the Simple Payment Plan (SPP). The SPP licence costs the same as the colour television licence, which will be £157.50 from 1 April 2020. It can be paid in monthly or fortnightly instalments in a pay-as-you-go model without the need for customers to pay for their first licence within six months (known as ‘frontloading’). The SPP licence will be available to specific customers who meet the eligibility criteria set out in these Regulations.

2.3 The SPP licence was available on a trial basis to certain customers between April 2018 and September 2019. The trial was enacted by the Communications (Television Licensing) (Amendment) (No. 2) Regulations 2018 (“the 2018 Regulations”).

3. Matters of special interest to Parliament

Matters of special interest to the Joint Committee on Statutory Instruments

3.1 None.

Matters relevant to Standing Orders Nos. 83P and 83T of the Standing Orders of the House of Commons relating to Public Business (English Votes for English Laws)

3.2 As the instrument is subject to negative resolution procedure there are no matters relevant to Standing Orders Nos. 83P and 83T of the Standing Orders of the House of Commons relating to Public Business at this stage.

4. Extent and Territorial Application

4.1 The territorial extent of this instrument is the United Kingdom.

4.2 The territorial application of this instrument is the United Kingdom.

5. European Convention on Human Rights

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

6. Legislative Context

- 6.1 The Secretary of State for Digital, Culture, Media and Sport has, under s. 365 of the Communications Act 2003 (“the Act”), the power to set the fee for the television licence and the power to issue Regulations with provision for the payment of sums by means of an instalment scheme.
- 6.2 The eighteen month trial of the Simple Payment plan is currently regulated for in the Communications (Television Licensing)(Amendment)(No. 2) Regulations 2018.
- 6.3 The Regulations now being laid make provision for the Simple Payment Plan to be available on an ongoing basis in the United Kingdom.

7. Policy background

What is being done and why?

- 7.1 The independent TV licence fee enforcement review undertaken by David Perry QC in 2015 made a recommendation that the Department for Digital, Culture, Media and Sport should, in conjunction with the BBC, explore ways of amending the 2004 Regulations to allow simple and flexible payment plans for those with difficulties in paying the television licence fee.
- 7.2 The Government committed in its BBC White Paper *A BBC for the Future: a Broadcaster of Distinction* in May 2016 to bring forward regulations to allow the BBC to trial a more flexible payment plan for those facing difficulty in paying the television licence fee.
- 7.3 Therefore, the Government introduced the 2018 Regulations to put in place a Simple Payment Plan trial with a six month period during which the BBC (under the TV Licensing trademark) was able to enrol customers to the scheme. Three types of customers were eligible: people who have been questioned under caution for TV licence evasion and may therefore face prosecution; people who have sought advice from a debt advice charity about their financial obligations; and people who have recently become unlicensed and missed payments on their previous licence. The 2018 Regulations made provision for a SPP licence to be renewed at expiry.
- 7.4 The BBC evaluated the outcome of the trial and the BBC Board has recommended that the Government bring the Simple Payment Plan into ongoing operation. The Government agrees that the SPP has shown a positive impact, decreasing the number of people eligible to be taken forward for prosecution for TV licence fee evasion, and intends to support the BBC's conclusion. Therefore, the Government intends to use these Regulations to make ongoing provision for the Simple Payment Plan.
- 7.5 To do so, these Regulations make four substantive changes to the 2018 Regulations. First, they remove the current restrictions on the dates of issue and renewal for Simple Payment Plan licences. This ensures that Simple Payment Plan licences may be issued indefinitely, and subsequently renewed. Secondly, they amend the wording regarding eligible customers who have been ‘questioned under caution’ about a TV licensing offence, to instead allow anyone who has been ‘visited for enforcement purposes’ to access the scheme. This is to allow for different enforcement practices regarding TV licences across the different nations within the United Kingdom, and to enable the SPP to operate across the whole of the geographical UK. Thirdly, these Regulations amend the definition of eligible debt charities who act as referral agencies for the scheme, from a closed list of 7 charities to a generic definition of debt charity. This is

in response to criticisms that the BBC received during the trial, but also enables the scheme to become available to the maximum number of vulnerable customers and future-proofs the Regulations should charities change or cease to exist. Lastly, the new Regulations also enable the BBC to issue ‘shortdated’ simple payment licences: full-cost licences with an expiry date less than 12 months in the future. This practice enables the BBC to recuperate any revenue lost from unlicensed periods in which customers have allowed previous licences to lapse. It is also common practice across all TV licence payment schemes: therefore, regulating for it will bring the SPP in line with all other permanent licence fee payment schemes.

8. European Union (Withdrawal) Act/Withdrawal of the United Kingdom from the European Union

8.1 This instrument does not relate to withdrawal from the European Union or trigger the statement requirements under the European Union (Withdrawal) Act.

9. Consolidation

9.1 There are no plans for consolidation.

10. Consultation outcome

10.1 The Perry Review of TV Licensing Enforcement considered these issues in a consultation in 2014 and recommended that the BBC and Government explore alternative payment methods. The Government also considered the licence fee funding model and other BBC funding issues during BBC Charter Review in 2015-16. This was concluded in December 2016 with the granting of the new Royal Charter.

11. Guidance

11.1 BBC TV Licensing is independent of Government. It will ensure that eligible customers are made aware of the SPP licence and given the opportunity to pay their licence through the scheme.

12. Impact

12.1 There is no significant impact on business, charities, or voluntary bodies. Some additional charities may become eligible to refer their customers to TV Licensing for the Simple Payment Plan but the impact is not considered significant.

12.2 There is no impact on the public sector.

12.3 An Impact Assessment has not been prepared for this instrument because it is expected that there will be no significant impact on charities, and no impact on businesses, voluntary bodies or the public sector.

13. Regulating small business

13.1 The legislation does not apply to activities that are undertaken by small businesses.

14. Monitoring & review

14.1 The approach to monitoring of this legislation is to not review or monitor the instrument. The BBC and its agents under the ‘TV Licensing’ trademark owned by

the BBC are responsible for the collection and enforcement of the television licensing regime including the Simple Payment Plan.

15. Contact

- 15.1 Emily Adams at the Department for Digital, Culture, Media and Sport, Telephone: 0207 211 6006 or email: emily.adams@culture.gov.uk can be contacted with any queries regarding the instrument.
- 15.2 Claire Bradshaw, Deputy Director for Media Policy, at the Department for Digital, Culture, Media and Sport can confirm that this Explanatory Memorandum meets the required standard.
- 15.3 The Secretary of State for Digital, Culture, Media and Sport can confirm that this Explanatory Memorandum meets the required standard.