

STATES OF JERSEY



THE COMMUNICATIONS (JERSEY) ORDER 2020: EXTENSION TO JERSEY BY ORDER IN COUNCIL

Lodged au Greffe on 19th February 2020
by the Chief Minister

STATES GREFFE

PROPOSITION

THE STATES are asked to decide whether they are of opinion –

to signify, pursuant to Article 31 of the States of Jersey Law 2005, that they agree –

that a request be made to Her Majesty in Council for the making of an Order in Council that would extend to Jersey, with appropriate modifications, the amendments of the Communications Act 2003 made by section 89 of the Digital Economy Act 2017, as summarised in the Minister's Report attached to this Proposition.

CHIEF MINISTER

REPORT

1. Background

Under section 363 of the Communications Act 2003 (the “**2003 Act**”), everyone in the UK who watches or records television programmes as they are broadcast, as well as anyone watching or downloading BBC content on iPlayer, must be covered by a valid TV licence. This provision was extended to Jersey under the [Broadcasting and Communications \(Jersey\) Order 2004](#), and therefore applies to the citizens of Jersey accordingly. Section 363 of the 2003 Act is underpinned by the [Communications \(Television Licensing\) Regulations 2004](#) (as amended) (the “**2004 Regulations**”), which were made under section 365 of the 2003 Act, and were registered with the Royal Court so as to have force in Jersey.

The 2004 Regulations set out the various types of television licence, the criteria for obtaining them, and the fees payable. With regards to the fee payable, Jersey has offered means-tested free TV licences to persons who are: over 75; on a comparatively low income; and live in domestic dwellings¹ (the “**Local Scheme**”). The Local Scheme is governed by the [Social Security \(Television Licence Benefit\) \(Jersey\) Law 2006](#) and the [Social Security \(Television Licence Benefit\) \(Jersey\) Regulations 2009](#), and is managed by the Pensions and Care Team at Customer and Local Services (“**CLS**”).

Currently, members of the public who have turned 75 apply online², and can either request CLS to purchase their TV licence for them; or in cases where the applicant has already renewed their licence but have reached eligible age, the applicant can request CLS to refund them the money they have paid.

2. New arrangement

In July 2015, a funding deal was agreed between the UK Government and the BBC³. A key element of the deal was that the BBC would take over responsibility for the funding of free licences for the over-75s, and in time for setting the policy for the concession. Following the BBC’s announcement, the former Assistant Chief Minister, Senator P.F.C. Ozouf, wrote to the BBC Director of the Crown Dependencies to request that officers work together on progressing the future of the relationship between the BBC and Jersey, so that Jersey citizens could be included within any new concession arrangement.

This approach was agreed in 2016 (the “**2016 Agreement**”), and as such, Jersey policy officers have been working to legally codify the 2016 Agreement, and so that the statutory provisions are in place in Jersey for when the BBC’s new policy position takes effect on 1st June 2020. As part of that process, Jersey must provide for the extension of section 89 of the Digital Economy Act 2017, to which this Article 31 proposition relates. By extending section 89, the BBC will have the power to offer concessions with respect to persons living in Jersey. Without the extension of section 89, the BBC will have no legal basis for doing so. Despite extending section 89, Jersey will retain the

¹ This was as a result of the 2006 Budget Debate, where the States approved Senator M.E. Vibert’s amendment ([P.266/2005Amd.\(2\)](#)). Currently, in order to be eligible a household must fall below certain earnings limits – £16,070 for a single person or £26,170 for a couple.

² <https://www.gov.je/benefits/pensionsretirement/pages/tvlicencesover75.aspx> (link copied 30th January 2020)

³ <https://researchbriefings.files.parliament.uk/documents/SN03416/SN03416.pdf>

power to introduce any further benefit schemes around TV licences if it so wished (at the cost of local Government). Extension of section 89 therefore does not remove any powers from Jersey, but merely gives the jurisdiction the opportunity to benefit from concessions offered by the BBC.

The Isle of Man and Guernsey have also agreed with the BBC to make the required legislative arrangements, whose relevant extensions will take effect on the required 1st June 2020 date. The BBC intend on conducting a consultation with all Crown Dependencies with regards to the future of the over 75s concession which, we have been notified, is dependent on having the relevant legislative requirements in place. Although we cannot predict the outcome of this consultation, it has been indicated that the likely outcome will be for the BBC to recognise Jersey's current means-tested scheme as comparable to its own policy position and will therefore agree to extend a licence concession to eligible over 75s on Jersey's existing basis.

It is worth noting that, notwithstanding the 2016 Agreement, the States Assembly approved the [Government Plan 2020/2023](#) at the end of 2019. The Government Plan committed to maintain Jersey's means-tested scheme for Islanders over 75. Therefore, by extending section 89, Government could potentially benefit from a saving of circa. £300,000 per annum.

3. Conclusions

Ensuring that section 89 is extended to Jersey by 1st June 2020 is therefore imperative, as it will –

- ensure a smooth transition into the new arrangement with the BBC, and maintain the good relationship we have developed to date;
- ensure we are aligned with the legal framework with the other Crown Dependencies, thus ensuring that we can take part in the BBC's intended consultation with all Crown Dependencies;
- maintain the existing scheme for over 75s whilst potentially reducing the administrative burden on CLS in providing the current scheme, thereby achieving cost savings in the process;
- ensure Jersey can benefit from the cost saving of circa. £300,000 as soon as possible.

4. Financial and manpower implications

There are no financial or manpower implications for the States arising from the adoption of this proposition, other than the predicted savings noted above.