EXPLANATORY MEMORANDUM TO

THE COMMUNICATIONS (TELEVISION LICENSING) (AMENDMENT) (NO. 2) REGULATIONS 2024

2024 No. 1330

1. Introduction

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

2. Declaration

2.1 Stephanie Peacock, Minister for Sport, Media, Civil Society and Youth at the Department for Culture, Media and Sport, confirms that this Explanatory Memorandum meets the required standard.

2.2 Helen Martin and Jo Warner, Deputy Directors for BBC Policy, at the Department for Culture, Media and Sport, confirm that this Explanatory Memorandum meets the required standard.

3. Contact

3.1 The BBC team at the Department for Culture, Media and Sport (email: bbcteam@dcms.gov.uk), and Katy Holland (email: katy.holland@dcms.gov.uk), can be contacted with any queries regarding the instrument.

Part One: Explanation, and context, of the Instrument

4. Overview of the Instrument

What does the legislation do?

4.1 These Regulations amend the Communications (Television Licensing) Regulations 2004 ("the 2004 Regulations") (S.I. 2004/692) to expand the eligibility criteria for an existing instalment scheme for the television licence fee, known as the Simple Payment Plan.

4.2 The legislation will allow the Simple Payment Plan to become available to unlicensed households who are experiencing financial hardship, meaning they are experiencing significant difficulties in meeting essential household expenses.

4.3 The legislation will also allow those who have received advice from any debt advice organisation, without being charged for that advice, to be eligible for the Simple Payment Plan.

Where does the legislation extend to, and apply?

4.4 The extent of this instrument (that is, the jurisdiction(s) in which the instrument forms part of the law) is the whole of the United Kingdom and the Isle of Man.

4.5 The territorial application of this instrument (that is, where the instrument produces a practical effect) is the whole of the United Kingdom and the Isle of Man.

5. Policy Context

What is being done and why?

5.1 The instrument is making two changes—

5.1.1 adding new circumstances under which the scheme can be accessed, so people in financial hardship can be eligible; and

5.1.2 widening the types of debt advice organisation that can give a person access to the scheme.

5.2 Around 75% of people convicted for TV Licence evasion are women. The BBC found through the 'Gender Disparity Review', published in May 2023, that this is not because of discrimination by TV Licensing. Rather this is caused by a range of societal factors. This includes the fact that female-only households are more likely to experience financial hardship and therefore struggle to pay for the TV licence.

5.3 As part of a wider action plan published in the Gender Disparity Review, the BBC has requested that the Government introduce secondary legislation to expand a pre-existing payment scheme called the Simple Payment Plan to any unlicensed individual facing significant financial hardship. This will benefit those individuals by helping them to become correctly licensed on more manageable payment terms, which in turn could reduce the risk of prosecution action for TV licence evasion.

5.4 The BBC has also requested that the Regulations be changed to extend eligibility to those who have received advice from any debt advice organisation, without being charged for that advice, not just debt organisations that are a charity (as in the previous Regulations), so that more individuals are able to access the scheme.

5.5 The Government has agreed to the BBC's request to alter the existing version of the Simple Payment Plan, as the proposed changes will support vulnerable individuals to become licensed, and improve the fairness of the system. Secondary legislation is needed to amend the existing version of the Simple Payment Plan.

What was the previous policy, how is this different?

5.6 The Simple Payment Plan was first introduced on a trial basis in 2018 and permanently implemented by regulations in 2020. Its main feature is that it allows a person to buy a TV licence on the basis of monthly or fortnightly instalments spread evenly over the 12 month duration of the licence: other schemes require higher initial payments.

5.7 The scheme was available in the United Kingdom and the Isle of Man to individuals who met the eligibility criteria set out in the Regulations. Specifically, the scheme was open to unlicensed individuals who have: had an enforcement visit by TV Licensing (circumstance **A**); or sought advice from a debt advice charity (circumstance **B**); or had a TV Licence cancelled for non-payment (circumstance **C**); or have held a Simple Payment Plan licence within the previous 12 months (circumstance **D**).

5.8 The new version of the scheme will expand the eligibility criteria so that, in addition to those captured by circumstances A-D, the Simple Payment Plan will also be available to anyone who has received advice from any debt advice organisation, without being charged for that advice, not just debt organisations that are a charity (as in the previous Regulations); this amends circumstance **B**. The Simple Payment Plan will also be available to those who are experiencing financial hardship, that is to say, experiencing significant difficulty in meeting essential household expenses (circumstance **E**).

5.9 Secondary legislation is needed to expand the eligibility criteria.

6. Legislative and Legal Context

How has the law changed?

6.1 The Secretary of State for 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 legislation amends Part 4 of Schedule 2 to the Communications (Television Licensing) Regulations 2004 to expand the eligibility criteria for the Simple Payment Plan.

Why was this approach taken to change the law?

6.3 Legislation is needed to make these changes.

7. Consultation

Summary of consultation outcome and methodology

7.1 We have not consulted on this SI. This is because under section 365 of the Communications Act 2003, the Secretary of State for Digital, Culture, Media and Sport has the power, by way of a negative resolution statutory instrument, to make regulations for the payment of the TV licence fee "*by means of an instalment scheme",* such as the Simple Payment Plan. Therefore, there is no statutory requirement to consult either the public or the BBC before extending the Simple Payment Plan.

7.2 However, HM Treasury, the Ministry of Justice and the Department for Work and Pensions have all been consulted and agreed to the proposal.

8. Applicable Guidance

8.1 The BBC operates TV Licensing independently of the Government. It will make eligible customers aware of the Simple Payment Plan licence (and the extended eligibility criteria) and give them the opportunity to pay their licence through the scheme.

Part Two: Impact and the Better Regulation Framework

9. Impact Assessment

9.1 Neither an Impact Assessment nor a de minimis assessment is required for this instrument because it does not fall under the definition of a 'Regulatory Provision' under the Better Regulation Framework, given the instrument does not cover 'business activity', as the BBC is a public authority.

Impact on businesses, charities and voluntary bodies

9.2 There is no significant impact on business, charities, or voluntary bodies. The Simple Payment Plan will now be available to anyone who has received advice from any debt advice organisation, without being charged for that advice, but formal referrals are not required, so the impact on these organisations will be minimal.

9.3 The legislation does not impact small or micro businesses.

9.4 There is no significant impact on the public sector. It is estimated that the expansion of the Simple Payment Plan will cost the BBC around £2 million a year to implement.

9.5 There is a small risk that introducing these changes could lead to unbudgeted pressure for the Government if it results in a reduction of income from fines for TV licence evasion. The number of prosecutions brought by TV Licensing for TV licence evasion is driven by a wide range of factors. Prosecution action is currently only brought against approximately 1-2% of households that are evading the TV licence and the number of prosecutions for TV licence evasion has fallen significantly over the past decade, with the BBC stating that prosecution is a last resort. We therefore consider the risk that expanding Simple Payment Plan eligibility could directly contribute to financial pressure on the Government to be very low.

10. Monitoring and review

What is the approach to monitoring and reviewing this legislation?

10.1 There are no plans to monitor or review the instrument. The BBC, under the TV Licensing trademark, is responsible for the collection and enforcement of the television licensing regime including the Simple Payment Plan.

10.2 The instrument does not include a statutory review clause [and, in line with the requirements of the Small Business, Enterprise and Employment Act 2015] the Minister for Sport, Media, Civil Society and Youth, Stephanie Peacock MP, has made the following statement: “In my view it is not appropriate to include a review provision in the Communications (Television Licensing) (Amendment) (No. 2) Regulations 2024 because the instrument does not fall under the definition of a ‘Regulatory Provision’ under the Better Regulation Framework, given the instrument does not cover ‘business activity’.”.

Part Three: Statements and Matters of Particular Interest to Parliament

11. Matters of special interest to Parliament

11.1 None.

12. European Convention on Human Rights

12.1 Stephanie Peacock MP, Minister for Sport, Media, Civil Society and Youth has made the following statement regarding Human Rights:

"In my view the provisions of the Communications (Television Licensing) (Amendment) (No. 2) Regulations 2024 are compatible with the Convention rights."

13. The Relevant European Union Acts

13.1 This instrument is not made under the European Union (Withdrawal) Act 2018, the European Union (Future Relationship) Act 2020 or the Retained EU Law (Revocation and Reform) Act 2023 ("relevant European Union Acts").