



Television Licence Checks

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Home Affairs

This note outlines the law relating to the possession of a television licence and provides an overview of the role of the BBC and its contractors TV Licensing.

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A. When a TV licence is needed

The relevant legislation is the *Communications Act 2003*, section 363 of which provides:

(1) A television receiver must not be installed or used unless the installation and use of the receiver is authorised by a licence under this Part.

(2) A person who installs or uses a television receiver in contravention of subsection (1) is guilty of an offence.

(3) A person with a television receiver in his possession or under his control who-

(a) intends to install or use it in contravention of subsection (1), or

(b) knows, or has reasonable grounds for believing, that another person intends to install or use it in contravention of that subsection, is guilty of an offence...

What constitutes “use” of a television is defined in section 368(3): “References in this Part to using a television receiver are references to using it for receiving television programmes.” The Act is supported by the *Communications (Television Licensing) Regulations SI 2004/692* (as amended) which set the level of the licence fee and which define “television receiver”.

The TV Licensing website¹ states: “If you use a TV or any other device to receive or record TV programmes (for example, a VCR, set-top box, DVD recorder or PC with a broadcast card) - you need a TV Licence. You are required by law to have one.” This implies that, if the TV is used only for playing videos, then a licence is not required. However, the relevant legislation also refers to the installation as well as the use of TV receivers. It would be possible to detune a TV set to add plausibility to any claim that the equipment is neither installed nor used to receive broadcasts. Constituents with concerns about this can contact TV Licensing for further advice. Contact details are as follows:

e-mail: tvlcsc@capita.co.uk.

Fax: 0870 240 1187

Address: TV Licensing, Bristol, BS98 1TL

Telephone: 0870 241 6468

The BBC TV Licensing Management Team has provided the following response for the BBC News website (16 June 2006):

Does someone need a TV Licence if they own a TV or other device capable of receiving a TV signal - either via a TV tuner or via live broadband stream - if they can prove they never actually use it to receive a TV signal?

¹ www.tvlicensing.co.uk

For example - if I have a TV and video recorder and only ever use it to watch videos - and can prove that, if asked - do I need a licence?

A TV Licensing spokesperson said:

“The licensing requirement is not for ownership of a device, but for the installation and use of the TV receiving equipment.

“If you only ever use television receiving equipment to watch pre-recorded DVDs or videos, or your TV receiving equipment cannot receive programmes as they are being broadcast in the UK, then you do not need a licence.

“Those who wish to make it clear that they do not need a licence can take the following actions to detune their television set, but this is not compulsory:-

- remove the television from the aerial;
- cover the aerial socket so that it can't be used;
- ensure that when channels on the television are selected no television signal is received.”

There has been a number of parliamentary questions related to the sustainability of the television licence mechanism in a multi-media age, including the following:

Mr. Gauke: To ask the Secretary of State for Culture, Media and Sport (1) what representations the Government have received from the BBC requesting that the application of the BBC television licence fee be extended to premises which do not have a television but which have access to the internet; [27597]

(2) what consideration the Government have given to extending the application of the BBC television licence fee to premises which do not have a television but which have access to the internet. [27598]

James Purnell: The Government have received no such representations from the BBC. However, the BBC, as television licensing authority, considers that the current definition of a television receiver in the licence fee regulations already extends to a PC that is used to watch television programme services over the internet, if they are received at the same time or virtually the same time as they are received elsewhere by conventional means.

The Government have no plans for any changes to the current arrangements but, as indicated in the BBC Charter Review Green Paper published in March 2005, believes that changes to the existing funding model might have to be considered if in future large numbers of people are downloading audio-visual content from the internet and watching it on their computers or mobile phones, rather than using traditional TV services.²

Elaboration on the licensing position with regard to mobile phones came in two written answers in the House of Lords:

Viscount Astor asked Her Majesty's Government:

² HC Deb 22 November 2005 cc 1817-8W

Whether a mobile telephone that receives (a) analogue; (b) digital; or (c) satellite television requires a United Kingdom television licence. [HL4139]

Lord Davies of Oldham: The BBC, as licensing authority, has responsibility for interpreting the television licensing legislation and determining licensing requirements in individual cases. However, a television licence is required to install or use any apparatus for the purpose of receiving any television programme service, whether by means of wireless telegraphy or otherwise and whether or not it is installed or used for any other purpose. The definition of a television programme service encompasses analogue, digital and satellite television services.

Viscount Astor asked Her Majesty's Government:

Whether a mobile telephone that receives United Kingdom television signals is covered by the owner's domestic television licence or whether a separate licence is required. [HL4140]

Lord Davies of Oldham: The BBC, as licensing authority, has responsibility for interpreting the television licensing legislation and determining licensing requirements in individual cases. However, a television licence permits the licensee or a person normally living with the licensee at the licensed address to use a television receiver powered solely by its own internal batteries anywhere in the United Kingdom, the Channel Islands or the Isle of Man.³

Another issue has been in relation to digital set top boxes; a written answer on 14 March 2007 alluded to changes being introduced by the *Communications (Television Licensing) (Amendment) Regulations* SI 2007/718:

Mr. Moore: To ask the Secretary of State for Culture, Media and Sport whether a person who owns a black and white television set and a digital set-top box needs to purchase a colour television licence. [101365]

Mr. Woodward [*holding answer 14 December 2006*]: Interpretation of television licence fee regulations is a matter for the BBC as television licensing authority. The Corporation has confirmed its view that, under the current regulations, a colour TV licence is required to install or use a digital set top box to receive television programme services, even if it is used only with a black and white television set. The Government accept the Corporation's legal interpretation on this point.

The Government believe that the option of a black and white television licence should remain available through digital switchover. The licence fee regulations laid before Parliament on 8 March 2007 and due to come into effect on 1 April, will include provisions to ensure that a digital set top box used in conjunction with a television set or monitor that can display images in black and white only can be covered by a black and white TV licence.⁴

³ HL Deb 28 February 2006 cc48-9W

⁴ HC Deb 14 March 2007 cc324-5W

B. Collecting the licence

In his September 2001 criminal courts review, one of the many subjects covered by Lord Justice Auld was TV licence evasion. In this context the role of the BBC was summarised:

The Government decides what proportion of the licence fee income should go to the BBC, and currently the BBC receives it all. The BBC collects the fees on behalf of the Government and decides on enforcement and prosecution policies. These policies are based on the Code for Crown Prosecutors issued by the Director of Public Prosecutions and, therefore, take into account public interest considerations such as whether alleged offenders are in genuine financial hardship or otherwise vulnerable. The BBC devolves responsibility for prosecution to a contractor...⁵

Lord Justice Auld went on to recommend that, while the use of a television without a licence should remain a criminal offence, it should be dealt with in the first instance by fixed penalty notice "discounted for prompt purchase of a licence and payment of penalty, and subject to the defendant's right to dispute guilt in court."

Information on the BBC's contractors appears on the website of TV Licensing:

As a result of The Broadcast Act 1990, the BBC were made responsible for licence administration. TV Licensing is a trading name used by entities contracted by the Licensing Authority (the BBC) to administer the collection of television licence fees and enforcement of the television licensing system. The majority of the administration of TV Licensing is contracted to Capita Business Services Ltd, with the administration of cash easy payment schemes contracted to Revenue Management Services Ltd, and marketing and public relations activities contracted to the AMV Consortium.

Over 1200 staff are employed at TV Licensing's main Contact Centres based in Bristol and Darwen in Lancashire.⁶

An online document, *About TV Licensing*, provides more detailed information. A chapter on service standards begins:

1. As part of our commitments to you, our customers, we will:

- Be courteous at all times
- Answer all communications quickly and politely, aiming to "get it right first time"
- Uphold the principles of the Data Protection Act 1998
- Act fairly, equitably and consistently towards all customers within the terms of the Communications Act 2003 and the Communications (Television Licensing) Regulations 2004

⁵ <http://www.criminal-courts-review.org.uk/ccr-09.htm>

⁶ <http://www.tvlicensing.co.uk/aboutus/index.jsp>

- Process complaints quickly and fairly and undertake thorough and fair investigations
- Where practicable to communicate in the language and format of a customer's choice
- Inform customers of their most appropriate method of payment
- Constantly seek to improve and maintain the quality of our activities

2. If one of our Visiting Officers calls at your home they will:

- Always prove their identity by showing an identity card and, on request, provide a telephone number so that this can be confirmed
- Always state why they are visiting
- Be polite and courteous at all times
- Conduct enquiries firmly and fairly, and in the least intrusive way possible
- Never threaten or intimidate
- Stop the enquiry if asked to leave
- Only enter a property when given permission
- When necessary, take a statement, in accordance with the law, and ask the interviewee to sign it as an accurate account of the interview; and
- Make sure the interviewee knows the consequences of a statement being taken

We also may visit to confirm that:

- People who have claimed not to have a television receiver do not have one; and
- Black and white licence holders do not have a colour set.

Unfortunately, our experience has shown that around 50% of people who claimed not to have a television were found to be using one, and required a licence, when we checked the premises and that over 30% of people who hold a black and white licence have been found to be inappropriately licensed when we've checked the premises.

For consistency TV Licensing does not act selectively in which addresses are to be visited and therefore aims to visit all addresses where a no set claim has been made and all black and white television licence holders. By adopting a consistent approach, we are able to ensure that everyone is correctly licensed and to remove non-television users from standard mailing cycles for a minimum of three years. The alternative would be for us to do nothing, which would not be in the best interests of the licence-paying public nor would this meet our legal obligations to collect the

licence fee...

...If you admit you are using a television receiver to receive television programme services without the appropriate licence or if we suspect you are, our staff may interview you under caution in line with the applicable criminal law requirements within each jurisdiction.

In any prosecution process we will adhere to the Code for Crown Prosecutors.

Note that if we are refused access, we may use our detector vans or apply to court to obtain a search warrant.

The powers of entry alluded to in the last sentence above derive from section 366 of the *Communications Act 2003*. Further information on the process has been given in a written answer:

Mr. Laurence Robertson: To ask the Secretary of State for Culture, Media and Sport what right of access the Television Licensing Authority has to enter private premises to search for equipment which may require a licence; and if she will make a statement. [129479]

Mr. Woodward: TV Licensing officials may enter premises to check for unlicensed use of a television receiver only with the consent of the occupier or with a warrant issued under section 366 of the Communications Act 2003 by a justice of the peace in England and Wales, a sheriff in Scotland or a lay magistrate in Northern Ireland. Such a warrant may be issued only if the relevant official is satisfied by information provided on oath that there are reasonable grounds for believing an offence of unlicensed use has been or is being committed; evidence of the commission of the offence is likely to be on the premises specified and a number of additional conditions are satisfied. A warrant permits the authorised person or persons to enter the premises at any time and to search, examine and test any television receiver there. It must be executed within one month following its grant.⁷

Households without televisions may receive periodic requests from TV Licensing to provide an explanation for their not having a licence. A reply might be expected to provide at least some of the necessary reassurance, even if it is not legally required:

Mr. Holloway: To ask the Secretary of State for Culture, Media and Sport whether those who do not have a television set are required to inform Television Licensing that they do not require a TV licence. [69812]

Mr. Woodward: A television licence is required to install or use a television receiver, as defined in regulations made by the Secretary of State, rather than a television set. Members of the public who do not require a television licence are under no obligation to inform TV Licensing of the fact.⁸

The above point has more recently been made in answer to the following parliamentary question:

⁷ HC Deb 23 March 2007 cc1169-70W

⁸ HC Deb 15 May 2006 cc 667-8W

Asked by Lord Vinson

To ask Her Majesty's Government what right the Television Licensing Authority has to demand that those people without a television should telephone to tell them so. [HL4008]

The Minister for Communications, Technology and Broadcasting (Lord Carter of Barnes): Under the terms of the BBC's charter and agreement, it is the responsibility of the BBC Trust to ensure that arrangements for the collection of the licence fee are efficient, appropriate and proportionate. The BBC has informed me that it does not have any legal right to demand that people without a television receiver contact them.

The BBC has informed me that TV Licensing nonetheless asks such people to do so in order that they will not receive regular mailings intended for unlicensed viewers. Furthermore, this helps to ensure greater accuracy with the TV licensing database.⁹

Some people have written to newspapers complaining of harassment, and taking exception to what they see as an unjustified presumption that they ought to use a television. The previous Select Committee on Culture, Media and Sport considered this issue in its report, *A public BBC*.¹⁰ A relevant passage is reproduced here:

152. We are well aware of concerns that the BBC's agent, TV Licensing, has sometimes deployed inappropriate tactics in attempts to maximise collection of the licence fee. These have included a crude and damaging assumption that every household must be in possession of a TV set, or equivalent apparatus. **While payment of the licence fee by households which actually have a TV is a legal obligation, we remind the BBC that the finances it receives from the licence are a privilege. The Corporation should use a less menacing style of advertising campaign.**

The Committee also called for the decriminalisation of licence-fee non-payment, arguing it should become a civil matter. The BBC and the Government responded thus:

We will review the existing licence fee collection policy. Collection currently costs around £150 million each year and the Independent Panel noted the 'clumsiness' of the current arrangements. We will consider whether new technology allows collection to be conducted in a more cost-effective way, and whether, for example, increased use could be made of direct debit and internet payment schemes. As the Green Paper makes clear, we will also be looking further at how the licence fee is enforced.¹¹

Subsequently, the Government published its white paper on the BBC.¹² On the matter of funding, the white paper states:

On collection and enforcement of the licence fee, we will make the [BBC] Trust more directly accountable for the activities of TV Licensing. We will encourage the take-up of easy payment schemes. And we will consider further proposals to divert offenders from the Criminal Justice system.

⁹ HL Deb 11 June 2009 c164-5W

¹⁰ First Report, HC 82 2004-05, 16 December 2004

¹¹ Cm 6474, March 2005

¹² *A public service for all: the BBC in the digital age*, Cm 6763, March 2006

More recently, in a debate on the BBC Charter, the Government Spokesperson for Culture, Media and Sport, Lord Davies of Oldham said:

My noble friend Lady Gibson, in an interesting speech, asked specifically whether we intend to decriminalise television licence evasion. I am sorry to disappoint her but we have no intention of doing so. As she will know, a review of the matter was carried out by Lord Justice Auld in 2001 and it was his view that such action should not take place and would be detrimental to the wider society. However, my noble friend has raised the issue again and I have no doubt that she will take other opportunities to press the case. I understand the sentiments behind her concern for those who fail to make their licence payments.¹³

C. Further reading

Westminster Hall debate: Television Licence Agents, HC Deb 11 July 2006 cc 416-22WH

¹³ HL Deb 16 June 2006 c 493