

Department of Health & Social Security

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T.V. Licence (Refunds) Scheme 1990

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The T.V. Licence (Refunds) Scheme 1990 made by the Department of Health and Social Security on 22nd March 1990, approved by resolution of Tynwald on 10th April 1990 and coming into operation on 1st May 1990.

## The T.V. Licence (Refunds) Scheme 1990

PART IConditions of EntitlementGeneral Conditions of Entitlement

1. Subject to the provisions of this Scheme a person who has made a claim under Part II and who, at the date of claim, -
  - (a) is or has a partner who is of pensionable age, and
  - (b) is, or is treated under paragraph (2) as being, in receipt of supplementary benefit or, has a partner who is, or is so treated as being, in receipt of such benefit, and
  - (c) either
    - (i) is, on a day within the period of 28 days after that date, liable or is the partner of someone liable to pay a fee for a licence for a period beginning with that day, or
    - (ii) has or is the partner of someone who has, within the period commencing 56 days before and ending with that date, paid a fee for a licence for which he was liable for a period beginning within those 56 days

shall be entitled to a lump-sum payment equal to the amount of the fee payable or so paid.

Circumstances in which a person is to be treated as in receipt of supplementary benefit

2. (1) For the purpose of paragraph 1(b) a person shall be treated as in receipt of supplementary benefit if such benefit would be payable but for the fact that
  - (a) his income or, the income of his partner was exceptionally of an amount which resulted in his having ceased to be entitled to that benefit; or
  - (b) subject to sub-paragraph (2), by virtue of the provisions of paragraph 2 (patients) of Schedule 2 to the Requirements Regulations his normal requirements have been modified.
- (2) Sub-paragraph (1)(b) shall not apply in the case of a person who has been a patient for a continuous period of more than one year or whose stay in the hospital or similar institution has become other than temporary.

Prevention of duplication of payments and claims

3. (1) Subject to sub-paragraph (2) no person shall be entitled to a lump-sum payment in respect of the liability to pay, or the payment of, a fee for a licence where the period of that licence includes any part of a period covered by another licence fee for which that person or his partner has previously received a lump-sum payment.
- (2) Where a person or his partner has received a lump-sum payment in respect of a fee for a licence for a type referred to in paragraph 1 (monochrome only) of Schedule 3 to the 1984 Regulations and in the period to which that licence relates, he or his partner becomes liable for and pays a further fee

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for a licence of a type referred to in paragraph 2 (including colour) of that Schedule, sub-paragraph (1) shall not apply but entitlement to a lump-sum payment in respect of that further fee shall be subject to a separate determination in accordance with and subject to the provisions of this Scheme.

- (3) Where two or more persons claim to be liable to pay or to have paid the fee for the same licence the Department shall nominate as it thinks fit one of those persons to be the claimant.
- (4) Notwithstanding any provision of this Scheme no lump-sum payment shall be made in respect of any fee for a licence due before 1st April 1990.

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PART IICLAIMSMaking a claim for a lump-sum payment

4. (1) Every claim shall be made in writing to the Department on the form approved by the Department.
- (2) Forms of claim shall be supplied without charge by such persons as the Department may appoint or authorise for that purpose.
- (3) Every claim shall be delivered or sent to an office of the Department.
- (4) If a claim is defective at the date when it is received or has been made in writing but not on the form approved for the time being, the Department may refer the claim to the person making it or, as the case may be, supply him with the approved form, and if the form is received properly completed within one month, or such longer period as the Department may consider reasonable, from the date on which it is so referred or supplied, the claim shall be treated as if it had been duly made in the first instance.
- (5) A claim which is made on the form approved for the time being is, for the purposes of this Part, properly completed if completed in accordance with the instructions on the form and defective if not so completed.

5. Amendment and withdrawal of claim

- (1) A person who has made a claim may amend it at any time by notice in writing received in an office of the Department before a determination has been made on the claim, and any claim so amended may be treated as if it had been so amended in the first instance.
- (2) A person who has made a claim may withdraw it at any time before a determination has been made on it, by notice to an office of the Department, and any such notice of withdrawal shall have effect when it is received.

6. Date of claim

- (1) The date on which a claim, which is properly completed, is made shall be the date on which it is received in an office of the Department.
- (2) In the case of a claim to which paragraph 4(4) applies and which is treated under that paragraph as having been duly made, the date on which the claim is made shall be the date on which the claim was received in an office of the Department in the first instance.

7. Evidence and Information

Every person who makes a claim shall furnish such certificates, documents, information and evidence in connection with the claim, or any question arising out of it, as may be required by the Department and shall do so within one month of being required to do so or such longer period as the Department may consider reasonable.

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PART IIIPaymentsTime and manner of payment

8. (1) Subject to the following provisions of this Part a lump-sum payment shall be paid by the Department in accordance with an award as soon as is reasonably practicable after an award has been made, by means of an instrument of payment or by such other means as appears to the Department to be appropriate in the circumstances of any particular case.
- (2) The Department shall take steps to notify persons to whom a lump-sum payment is payable of the arrangements it has made for payment.

Payment on death

9. (1) Subject to sub-paragraph (2), on the death of a claimant prior to a payment being made the claim shall be treated as having been withdrawn under paragraph 5(2).
- (2) On the death of a claimant prior to a payment being made and the deceased was at the date of death a partner, the surviving partner may be treated for all purposes as the claimant if it appears to be appropriate in the circumstances of the particular case.

Suspension and extinguishment

10. (1) Where it appears to the Department that a question has arisen in relation to a person's entitlement to a lump-sum payment or to a payment thereof, the Department may direct that payment shall be suspended pending the determination of that question on review or appeal.
- (2) The right to payment of a lump-sum payment shall be extinguished where payment of that sum is not obtained within the period of 6 months from the date on which the right is to be treated as having arisen; and for this purpose the right shall be treated as having arisen -
- (a) in relation to any such sum contained in an instrument of payment which has been given or sent to the person to whom it is payable, or to a place approved by the Department for collection by him (whether or not received or collected as the case may be) -
- (i) on the date of the said instrument of payment, or
- (ii) if a further instrument of payment has been given or sent as a replacement, on the date of the last such instrument of payment;
- (b) in relation to any such sum to which (a) does not apply, where notice is given (whether orally or in writing) or is sent that the sum contained in the notice is available for collection on the date of the notice or, if more than one such notice is given or sent, the date of the first such notice;
- (c) in relation to any such sum to which neither (a) nor (b) applies, on such date as the Department determines.

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- (3) The giving or sending of an instrument of payment under sub-paragraph (2)(a), or of a notice under sub-paragraph (2)(b), shall be effective for the purposes of that sub-paragraph, even where the sum contained in that instrument, or notice, is more or less than the sum which the person concerned has the right to receive.
- (4) For the purposes of sub-paragraph (2) the date of an instrument of payment is the date of issue of that instrument or, if the instrument specifies a date which is the earliest date on which payment can be obtained on the instrument and which is later than the date of issue, that date.
- (5) The provisions of this paragraph shall apply to a person authorised or appointed to act on behalf of a beneficiary as it applies to a beneficiary.

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PART IVThird PartiesPersons unable to act

11. (1) Where -

- (a) a person is, or is alleged to be, entitled to a lump-sum payment, whether or not a claim for it has been made by him or on his behalf; and
- (b) that person is unable for the time being to act; and
- (c) no receiver has been appointed by the High Court with power to claim, or as the case may be, receive such a payment on his behalf,

the Department may upon written application to it by a person who, if a natural person, is over the age of 18, appoint that person to exercise, on behalf of the person who is unable to act, any right to which that person may be entitled and to receive and deal on his behalf with any sums payable to him.

(2) Where the Department has made an appointment under sub-paragraph (1) -

- (a) it may at any time revoke the appointment;
- (b) the person appointed may resign his office after giving one month's written notice to the Department of his intention to do so;
- (c) any such appointment shall terminate when the Department is notified that a receiver has been appointed.

(3) Anything required by this scheme to be done by or to any person who is for the time being unable to act may be done by the receiver, if any, or by the person appointed under sub-paragraph (1) and the receipt of any person so appointed shall be a good discharge to the Department for any sum paid.

Payment to another person on the beneficiary's behalf

12. The Department may direct that a lump-sum payment shall be paid, wholly or in part, to another person on the beneficiary's behalf if such a direction as to payment appears to the Department to be necessary for protecting the interests of the beneficiary.

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PART VAdjudicationClaims and questions to be submitted to an adjudication officer

13. (1) Subject to the provisions of this Part there shall be submitted forthwith to an adjudication officer any claim and any question arising in connection with a claim or award.
- (2) Sub-paragraph (1) does not apply to any question which falls to be determined otherwise than by an adjudication officer.
- (3) An adjudication officer to whom a claim or question is submitted under sub-paragraph (1) shall take it into consideration, and so far as practicable, determine the claim or question within 14 days of its submission to him.
- (4) The decision of an adjudication officer on any claim or question shall be notified in writing to the claimant. If that decision is adverse the notification shall also contain the reasons for the decision and the claimant shall at the same time be advised of his right of appeal under paragraph 14(1).

Appeals

14. (1) Where an adjudication officer has decided a claim or question adversely to a claimant, the claimant may appeal to the Chief Adjudication Officer within 28 days of the date of the notification referred to in paragraph 13(4).
- (2) An appeal shall be in writing and shall be made by sending or delivering it to an office of the Department within the time specified in sub-paragraph (1) which time may be extended for special reasons on application in writing to the Chief Adjudication Officer.
- (3) The procedure for considering and determining an appeal shall be such as the Chief Adjudication Officer may determine having regard to the circumstances in any particular case.
- (4) Where a question first arises in the course of an appeal, the Chief Adjudication Officer may proceed to determine the question notwithstanding that it has not been considered by an adjudication officer.
- (5) Sub-paragraph (4) does not apply to any question which falls to be determined otherwise than by an adjudication officer.

Reviews

15. (1) Any decision under this scheme of an adjudicating authority may be reviewed at any time by an adjudicating authority if -
- (a) the authority is satisfied that the decision was given in ignorance of, or was based on a mistake as to, some material fact; or
- (b) there has been a relevant change of circumstances since the decision was given; or
- (c) the decision was based on a decision of a question which under this Scheme falls to be determined otherwise than by an adjudication officer, and the decision of that question is revised; or

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- (d) the adjudicating authority is satisfied that the decision was based on an incorrect interpretation of this Scheme.
- (2) Where on a review a decision is revised so as to make a lump-sum payment payable, or to increase the amount of the payment, the decision given on the review shall have effect from such date as may be specified in the decision being a date not earlier than the date 12 months before the beginning of the week in which the application for review is made.
- (3) Nothing in sub-paragraph (2) shall operate so as to limit the amount of a lump-sum payment that may be awarded on a review of a decision if the adjudicating authority making the review is satisfied either -
- (a) that the decision under review was erroneous by reason only of a mistake made, or of something done or omitted to be done by an officer of the Department or by an adjudicating authority, and that the claimant and anyone acting for him neither caused nor materially contributed to that mistake, act or omission; or
- (b) that where the grounds for review are that the decision was given in ignorance of or was based on a mistake as to a material fact, these grounds are established by evidence which was not before the adjudicating authority which gave the decision; that the claimant and anyone acting for him could not reasonably have produced that evidence to that authority at or before the time the decision was given, and that it has been produced as soon as reasonably practicable.

Finality of Decisions

16. Subject to the provisions of this Part, the decision of any claim or question in accordance with this Part shall be final.

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PART VIGeneral ProvisionsLump-sum payment to be inalienable

17. Every assignment of or charge on, and every agreement to assign or charge a lump-sum payment shall be void.

Financial Provisions

18. There shall be paid out of moneys provided by Tynwald -
- (a) any sums payable by way of lump-sum payments; and
  - (b) any expenses of the Department attributable to this Scheme.

Interpretation

19. (1) In this Scheme -

"adjudicating authority" means an adjudication officer or the Chief Adjudication Officer

"adjudication officer" means a person appointed under section 97(1) and (1A) of the Act;

"beneficiary" means a person entitled to a lump-sum payment;

"Chief Adjudication Officer" means a person appointed under section 97(1B) of the Act;

"claimant" means a person claiming a lump-sum payment;

"Department" means the Department of Health and Social Security;

"fee" means an issue fee for a licence under regulation 5(1) of, and paragraphs 1,2 or 7 of Schedule 3 to, the 1984 Regulations;

"licence" means a television receiving licence;

"lump-sum payment" has the meaning assigned to it in paragraph 1;

"married couple" and "unmarried couple" have the same meanings as in the 1976 Act;

"partner" means one of a married or unmarried couple;

"patient" has the same meaning as in the Requirements Regulations;

"pensionable age" has the same meaning as in the Act;

"supplementary benefit" means a supplementary pension or allowance under section 1 of the 1976 Act;

"television receiving licence" has the same meaning as in the 1984 Regulations;

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"the Act" means the Social Security Act 1975 (of Parliament) (a) as that Act has effect in the Island (b);

"the 1976 Act" means the Supplementary Benefits Act 1976 (of Parliament) (c) as that Act has effect in the Island (d);

"the 1984 Regulations" means the Wireless Telegraphy (Broadcast Licence Charges and Exemption) Regulations 1984 (e);

"the Requirements Regulations" means the Supplementary Benefit (Requirements) Regulations 1980 (f) as those regulations have effect in the Island (g).

(2) The Interpretation Act 1976 applies to this Scheme as it applies to an Act of Tynwald.

Citation and commencement

20. This Scheme may be cited as the T.V. Licence Fees (Refunds) Scheme 1990 and shall come into operation on the 1st May 1990.

MADE THIS 22ND DAY OF MARCH 1990

J.C. GAIN, M.H.K.

MINISTER FOR HEALTH  
AND SOCIAL SECURITY

Approved by Tynwald on 10th April 1990

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Explanatory Note

(This Note is not part of the Scheme)

1. This Scheme makes provision for lump-sum payments to be made by the Department of Health and Social Security to certain pensioners by way of refund of their T.V. Licence Fees.
2. Part I sets out the conditions of entitlement. Paragraph 1 contains the general provisions viz
  - a claim must be made
  - the claimant or his partner must be of pensionable age and in receipt (or treated as being in receipt) of supplementary benefit
  - the claim must be made within the period of 28 days before it was due or 56 days after it was due and paid.

Paragraph 2 sets out the circumstances in which a person is to be treated as being in receipt of supplementary benefit and paragraph 3 contains provisions designed to prevent duplication of payments and claims in respect of the same licence.

3. Part II makes provisions in relation to claims for a lump-sum payment and Part III provisions for making of payments. Part IV makes provisions for persons unable to act and Part V provisions for adjudication of claims and questions. Part VI contains general provisions including interpretation, citation and commencement.
5. The cost of lump-sum payments under the Scheme, which is to be met from General Revenue, is estimated at £130,000 at rates of T.V. Licence fees applicable from 1st April 1990. Administration costs are estimated at £6,000.