

*These notes refer to the Television Licences (Disclosure of Information)
Act 2000 (c.15) which received Royal Assent on 20th July 2000*

TELEVISION LICENCES (DISCLOSURE OF INFORMATION) ACT 2000

EXPLANATORY NOTES

INTRODUCTION

1. These explanatory notes relate to the Television Licences (Disclosure of Information) Act 2000, which received Royal Assent on 20th July 2000. They have been prepared by the Department for Culture, Media and Sport in order to assist the reader in understanding the Act. They do not form part of the Act and have not been endorsed by Parliament.
2. The notes need to be read in conjunction with the Act. They are not, and are not meant to be, a comprehensive description of the Act. So where a section or part of a section does not seem to require any explanation or comment, none is given.

SUMMARY

3. In November 1999 the Chancellor of the Exchequer announced that persons aged 75 or over would become entitled to receive a free television licence. Those proposals are due to be implemented as from 1st November 2000. Under the Wireless Telegraphy Act 1949, the BBC administers the television licence system. The purpose of the new Act is to enable the Secretary of State-in practice, the Secretary of State for Social Security-and, in Northern Ireland, the Department for Social Development (referred to here and in the Act as “the Northern Ireland department”), to supply to the BBC limited descriptions of personal information to help the BBC verify the eligibility of persons for certain kinds of television licence-principally free television licences. The new Act also makes provision to protect such information by making it an offence for a person (e.g. an employee of the BBC) to disclose it without lawful authority.

BACKGROUND

4. The Department of Social Security (“DSS”) and the Northern Ireland department hold a range of computerised records about individuals, which has been gathered for the purposes of their functions in relation to social security and other benefits. With upwards of three million people potentially eligible for free licences under the Chancellor’s proposals, it has become clear that the most effective way for the BBC to verify an applicant’s eligibility is for it to set up a data base for the purpose, by receiving an electronic copy of information held on the DSS’s and the Northern Ireland department’s data bases. The BBC can then check that the information (e.g. age, address and national insurance number) supplied by an applicant matches that on the data base, and in general need make further enquiries only where there is a discrepancy between the two sets of data. Such checks are needed in the interests of detecting mistaken or fraudulent applications for licences. The chosen system would relieve most applicants of the need to submit documentary proof of entitlement, making the application process less burdensome for them and removing a significant administrative burden from the BBC. However, neither the DSS nor the Northern Ireland department would have legal

authority to disclose the necessary information without the new powers contained in this Act.

COMMENTARY ON SECTIONS

Section 1: disclosure of information

5. *Subsection (1)* provides that the Secretary of State and the Northern Ireland department may, at the request of the BBC, supply the BBC with “social security information” (as defined in *subsections (3) and (4)*). Since, in practice, much of the administration of the television licensing system is carried out on behalf of the BBC by contractors, *subsection (2)* provides that, in *subsection (1)*, the reference to the BBC includes persons providing services to the BBC in connection with television licences. A “person” includes a company.
6. *Subsections (3) and (4)* define “social security information”. *Subsection (3)* relates to Great Britain, and *subsection (4)* to Northern Ireland. “Social security information” means information of a prescribed description held by the DSS or the Northern Ireland department (or on their behalf, such as by a contractor providing computer services) and obtained as a result, or for the purpose, of the exercise of functions in relation to social security or, in the case of the DSS only, “war pensions”. The Northern Ireland department has no functions in relation to war pensions.
7. Thus the Secretary of State has power to make an order under these provisions describing the information that may be supplied to the BBC. Such an order was made on 21st July 2000 (the Television Licences (Disclosure of Information) Act 2000 (Prescription of Information) Order 2000 (S.I. 2000 No. 1955)), coming into force on 1st August 2000. It prescribes as “social security information” the following-
 - the name, date of birth, address and national insurance number of an individual aged 74 years or over; and
 - in a case where such an individual has died, that fact and the date on which he died.
8. The system will be set up by supplying the BBC with a one-off extract of relevant records, followed by regular updates to take account of individuals approaching 75. Passing information on persons aged 74-rather than 75-or more will ensure that the information is already available to the BBC at the time when a person attains the age of eligibility. The information will also assist the BBC in determining whether a person can be issued with a short-term television licence. This is a new form of licence to be issued in connection with free licences, available only to persons who are about to become eligible for a free licence (for example, they are coming up to their 75th birthday). The short-term licence was created so that, rather than pay for the normal full year, an eligible person can pay a fee based on the number of months between the date their previous licence expired and the date of their becoming eligible for a free licence. The BBC would need to check that the applicant would become so eligible on the date claimed.
9. “*Social security*” is not defined but is intended to encompass a range of benefits including retirement pensions, income support, severe disablement allowance and attendance allowance. Child support is not included.
10. “*War pension*” means-
 - any pension or other benefit (not payable under statute) for or in respect of a person who has died or been disabled in consequence of service as a member of the armed forces;
 - any pension or benefit awarded under the Personal Injuries (Emergency Provisions) Act 1939, the Pensions (Navy, Army, Air Force and Mercantile Marine) Act 1939 or the Polish Resettlement Act 1947;

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- certain pensions or other payments to seamen and fishermen killed or injured in the 1914 - 18 War; and
 - any other pension or benefit specified for the purpose by the Secretary of State.
11. It does not, however, include pensions or benefits administered by the Defence Council, the Ministry of Defence or the Commissioners of the Royal Hospital for Pensioners at Chelsea. This is the definition given in section 25 of the Social Security Act 1989 and applies in the Act by virtue of [section 5](#).

Section 2

12. The effect of [section 2](#) is that information provided under section 1 may be used only for the purposes specified in [subsection \(1\)](#). The primary purpose in question for the time being is the issue of free television licences. However, to cover the possibility that other concessionary television licence schemes may be introduced in the future for which the powers provided in the Act would be similarly necessary, subsection (1) provides that information supplied under the Act may also be used in connection with “reduced-fee licences”. These are defined in [section 2\(2\)](#) to be television licences for which a reduced fee is payable and which fall into a category of such licences prescribed for the purposes of the Act by the Secretary of State. Thus, the creation of a new concessionary scheme would not in itself allow the BBC to use information passed to it under the Act for the purposes of administering that new scheme: that will depend on whether or not the Secretary of State chooses to make an order designating the scheme.

Section 3

13. In order to protect information supplied to the BBC under the Act against further disclosure, [section 3](#) makes it an offence for certain persons to disclose such information without “lawful authority”, an expression defined in [subsection \(5\)](#). The offence may be committed by either-
- under [subsection \(1\)](#), a person (“a recipient”) who has received the information in question: this could, for example, be a contractor providing services to the BBC (since, as explained in paragraph 5 above, a “person” can include a company); or
 - under [subsection \(2\)](#), a person who is or has been employed by a recipient, or engaged (e.g. as a consultant, rather than an “employee” in the strict legal sense) to provide services to a recipient.
14. It is not an offence to disclose information in a summary form, such as a statistical analysis, such that no information relating to a particular person can be ascertained from it ([subsection \(3\)\(a\)](#)), or to disclose it ([subsection \(3\)\(b\)](#)) in circumstances where the information in question had already been made public with lawful authority. Also, the person charged has a defence if he can show that, even though *in fact* the disclosure was made without lawful authority or was of information that had not previously been made public with such authority, he *believed* that one or other of those conditions was met, and had no reason to believe that they were not met: [subsection \(4\)](#).
15. [Subsection \(6\)](#) provides that any person found guilty of an offence under this provision is liable-
- on conviction in a magistrates’ court, to imprisonment for a term not exceeding six months or a fine not exceeding the “statutory maximum” (currently £5000); or
 - on conviction in the Crown Court, to imprisonment for a term not exceeding two years or an unlimited fine or both.

Section 4

16. The offences of unlawful disclosure created by section 3 can in principle be committed by a “body corporate” (e.g. a company, or the BBC, which is a corporation by virtue of its Royal Charter). For example, company literature might reveal such information. By virtue of *section 4(1)*, where such a body commits an offence under section 3, an officer of that body can personally be convicted of a criminal offence alongside the company, if it is shown that the body committed the offence with the consent or connivance of the officer, or that the commission of the offence was attributable to any neglect on his part. Thus, if an officer, for example, neglects to make sure that staff are aware of the need to maintain the confidentiality of social security information, or neglects to take steps to control movements of information, with the result that there is a release of such information, he may face prosecution. An individual convicted under this provision is liable to the same punishments as are set out in section 3(6).
17. The aim of *subsections (2) and (3)* is to ensure that this provision is apt to apply to many forms of corporate organisation. In particular, subsection (3) gives a broad definition of an “officer”, which means a director, member of the committee of management, chief executive, manager, secretary or other similar officer of the body. It also encompasses a person *purporting* to act in any such capacity, so a person who (for example) *in fact* gives orders in a company and is part of its management team might not escape liability by simply saying that technically (e.g. because of the terms of his job description) he does not fall into one of the categories of person mentioned.

COMMENCEMENT

18. The Act came into force on 20 July 2000, the day it received Royal Assent.

HANSARD REFERENCES

19. The following table sets out the dates and Hansard references for each stage of this Acts passage through Parliament.

Stage	Date	Hansard reference
House of Commons		
Introduction	30 March 2000	Vol 347 Col 512
Second Reading	10 April 2000	Vol 348 Cols 117 to 157
Committee	18 April 2000 and 2 May 2000	Hansard Standing Committee E
Report and Third Reading	22 May 2000	Vol 350 Cols 823 to 834
House of Lords		
Introduction	23 May 2000	Vol 613 Col 641
Second Reading	15 June 2000	Vol 613 Cols 1829 to 1848
Committee	3 July 2000	Vol 614 Cols 1341 to 1366
Report	13 July 2000	Vol 615 Col 380
Third Reading	19 July 2000	Vol 615 Col 1017

Royal Assent - 20 July 2000	House of Lords Hansard Vol 615 Col 1262
	House of Commons Hansard Vol 354 Col 608