



# Review of the BBC's Royal Charter

## *Revised Draft Royal Charter*

# **Revised Draft Royal Charter for the Continuation of the British Broadcasting Corporation**

This document has been published for debate in the House of Lords.

It is an amended version of the Charter published on 14 March and embodies further work by the Government and the outcome of a public consultation process. The Charter and Agreement are now in near-final form. However, a small number of detailed points remain to be finalised, some of which are indicated by square brackets in the text.

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ELIZABETH THE SECOND by the Grace of God of the United Kingdom of Great Britain and Northern Ireland and of Our other Realms and Territories Queen, Head of the Commonwealth, Defender of the Faith:

TO ALL TO WHOM THESE PRESENTS SHALL COME, GREETING!

WHEREAS on the 20th December 1926 by Letters made Patent under the Great Seal, Our Royal Predecessor His Majesty King George the Fifth granted to the British Broadcasting Corporation ("the BBC") a Charter of Incorporation:

AND WHEREAS on various dates by Letters made Patent under the Great Seal, further Charters of Incorporation and Supplemental Charters have been granted to the BBC, the last such Charter having been granted to the BBC on the 1st May 1996 ("the 1996 Charter"):

AND WHEREAS the period of incorporation of the BBC under the 1996 Charter will expire on the 31st December 2006 and it has been represented to Us by Our right trusty and well beloved Counsellor Tessa Jowell, Our Principal Secretary of State for Culture, Media and Sport, that it is expedient that the BBC should be continued for the period ending on the 31st December 2016 and that the objects, constitution and organisation of the BBC should be reformed so as to enable the BBC still better to serve the interests of Our People:

AND WHEREAS in view of the widespread interest which is taken by Our People in services which provide audio and visual material by means of broadcasting or the use of newer technologies, and of the great value of such services as means of disseminating information, education and entertainment, We believe it to be in the interests of Our People that there should continue be an independent corporation and that it should provide such services, and be permitted to engage in other compatible activities, within a suitable legal framework:

NOW KNOW YE that We by Our Prerogative Royal and of Our especial grace, certain knowledge and mere motion do by this Our Charter for Us, Our Heirs and Successors will, ordain and declare as follows:

## ***INCORPORATION AND PURPOSES***

### **1. Incorporation of the BBC**

- (1) The BBC shall continue to be a body corporate by the name of the British Broadcasting Corporation.
- (2) The Members of the BBC Trust and the Executive Board shall be the members of the Corporation, but membership of the Corporation shall not enable any individual to act otherwise than through the Trust or the Board to which he belongs (see article 8).
- (3) Additional and technical provisions about the BBC's corporate nature and powers are contained in article 47.

### **2. Term of Charter**

- (1) This Charter will for most practical purposes take effect as from the beginning of *1st January 2007*, but that general statement must be read subject to paragraph (2).
- (2) In technical terms, this Charter shall come into force on the day after the day on which it is granted, but in order to facilitate the transition from the constitutional and other arrangements in force under the 1996 Charter to those under this Charter, the Schedule modifies this Charter's effect (in relation to times both during and after the Transitional Period, within the meaning given in the Schedule).
- (3) Subject to article 53, this Charter shall continue in force until the end of 31st December 2016.
- (4) The 1996 Charter is to continue to have effect until the end of *31st December 2006*, [but is also subject to the provisions of the Schedule to this Charter].
- (5) In this article, "the 1996 Charter" means the Royal Charter for the continuance of the BBC which came into force on 1st May 1996.

### **3. The BBC's public nature and its objects**

- (1) The BBC exists to serve the public interest.
- (2) The BBC's main object is the promotion of its Public Purposes.
- (3) In addition, the BBC may maintain, establish or acquire subsidiaries through which commercial activities may be undertaken to any extent permitted by a Framework Agreement. (The BBC's general powers enable it to maintain, establish or acquire subsidiaries for purposes sufficiently connected with its Public Purposes – see article 47(3) and (4)).

### **4. The Public Purposes**

The Public Purposes of the BBC are as follows—

- (a) sustaining citizenship and civil society;
- (b) promoting education and learning;
- (c) stimulating creativity and cultural excellence;

- (d) representing the UK, its nations, regions and communities;
- (e) bringing the UK to the world and the world to the UK;
- (f) in promoting its other purposes, helping to deliver to the public the benefit of emerging communications technologies and services and, in addition, taking a leading role in the switchover to digital television.

## **5. How the BBC promotes its Public Purposes: the BBC's mission to inform, educate and entertain**

- (1) The BBC's main activities should be the promotion of its Public Purposes through the provision of output which consists of information, education and entertainment, supplied by means of—
  - (a) television, radio and online services;
  - (b) similar or related services which make output generally available and which may be in forms or by means of technologies which either have not previously been used by the BBC or which have yet to be developed.
- (2) The BBC may also carry out other activities which directly or indirectly promote the Public Purposes, but such activities should be peripheral, subordinate or ancillary to its main activities. Overall, such peripheral, subordinate or ancillary activities of the BBC should bear a proper sense of proportion to the BBC's main activities, and each of them should be appropriate to be carried on by the BBC alongside its main activities.
- (3) The means by which the BBC is, or is not, to promote its Public Purposes within the scope described in this Charter may be elaborated in a Framework Agreement (see article 49).

## **6. The independence of the BBC**

- (1) The BBC shall be independent in all matters concerning the content of its output, the times and manner in which this is supplied, and in the management of its affairs.
- (2) Paragraph (1) is subject to any provision made by or under this Charter or any Framework Agreement or otherwise by law.

# ***CONSTITUTION***

## **7. Introduction**

Within the BBC, there shall be a BBC Trust and an Executive Board of the BBC. These two bodies shall each play important, but different, roles within the BBC. In summary, the main roles of the Trust are in setting the overall strategic direction of the BBC, including its priorities, and in exercising a general oversight of the work of the Executive Board. The Trust will perform these roles in the public interest, particularly the interest of licence fee payers. The Executive Board has responsibility for delivering the BBC's services in accordance with the priorities set by the Trust and for all aspects of operational management, except that of the Trust's resources. Further details of the respective functions of the Trust and Executive Board are set out below and may also be addressed in a Framework Agreement.

## **8. Trust and Executive Board to act separately**

As described in article 1(2), the Corporation that is the BBC shall comprise all the members of the BBC Trust and the Executive Board. This reflects the importance of both the Trust and the Board, and the status and standing which their respective members are to enjoy. However, all the functions of the Corporation shall be exercised through either the Trust or the Board in accordance with the provisions set out in this Charter and any Framework Agreement. The members of the Trust and the members of the Board shall never act together as a single corporate body.

## **9. Relationship between the Trust and the Executive Board**

- (1) The Trust must maintain its independence of the Executive Board.
- (2) The Trust shall be the sovereign body within the BBC, in the sense that wherever it has a function under this Charter or any Framework Agreement, it may always fully discharge that function as it sees fit and require the Executive Board to act in ways which respect and are compatible with how the Trust has seen fit to exercise that function. In particular, where the Executive Board has operational responsibility for activities which are subject to approval, supervision, review or enforcement by the Trust, the decision of the Trust in respect of such matters shall be final within the BBC. (Of course, in certain areas, the activity in question may also be subject to regulation by external bodies, such as Ofcom.)
- (3) However, the Trust must not exercise or seek to exercise the functions of the Executive Board.

## **10. The Chairman of the BBC**

The Chairman of the Trust may also be known as the Chairman of the BBC. In view of article 8, this is an honorary title, as the members of the BBC will never act as a single corporate body, but only as members of the Trust or Board to which they belong.

## **11. Guidance and best practice**

The Trust and the Executive Board, in performing their respective functions, must have regard—

- (a) to such general guidance concerning the management of the affairs of public bodies as they consider relevant and appropriate; and
- (b) to generally accepted principles of good corporate governance, but only—
  - (i) where to do so would not be incompatible with sub-paragraph (a), and
  - (ii) to the extent that such principles may reasonably be regarded as applicable in relation to their respective functions and within the particular constitution of the BBC as a chartered corporation.

## ***THE BBC TRUST***

### **12. Legal nature of the Trust**

The word "trust" is used in the name of the BBC Trust in a colloquial sense, to suggest a body which discharges a public trust as guardian of the public interest. The word is not used in its technical legal sense, and it is not intended to imply that the members of the Trust are to be treated as trustees of property or to be subject to the law relating to trusts or trustees.

### ***Constitution of the Trust***

### **13. Composition of the Trust**

- (1) The Trust shall consist of a Chairman, a Vice-Chairman, and a number of ordinary members.
- (2) The number of ordinary members shall be 10 (including those designated under article 14), unless a different number is fixed by Order in Council. It shall not be necessary to fix a lower number by Order in Council merely to reflect the existence of a vacancy which is intended to be filled by a further appointment in due course.
- (3) The Chairman, Vice-Chairman and ordinary members of the Trust shall be appointed by Order in Council. The selection of persons for appointment as ordinary members of the Trust shall take account of the need for designations to be made under article 14.
- (4) Whenever the office of Chairman is vacant, the Vice-Chairman shall be "Acting Chairman" with all the powers of the Chairman until a new Chairman is appointed.

### **14. Trust members for the nations**

- (1) Four ordinary members of the Trust shall respectively be designated—
  - (a) the Trust member for England;
  - (b) the Trust member for Scotland;
  - (c) the Trust member for Wales; and
  - (d) the Trust member for Northern Ireland.
- (2) Such designations shall be made by Order in Council. They may be made either at the same time that the person concerned is appointed to be an ordinary member of the Trust or at any time while he remains an ordinary member. A designation has effect until superseded by a fresh designation or until the designated person ceases to be a member of the Trust.
- (3) Each person to be designated under this article shall be suitably qualified by virtue of—
  - (a) his knowledge of the culture, characteristics and affairs of the people in the nation for which he is to be designated, and
  - (b) his close touch with opinion in that nation.
- (4) For the purposes of this article, "England" includes the Channel Islands and the Isle of Man and references to "nation" shall be interpreted accordingly.

## 15. Length of terms

- (1) The Order in Council which appoints a Chairman, Vice-Chairman or ordinary member of the Trust shall specify the period for which he is being appointed. No period longer than 5 years may be specified.
- (2) A serving Chairman, Vice-Chairman or ordinary member may at any time be re-appointed by Order in Council for any further period specified in the Order. Such a further period may not be longer than 5 years. This power may be exercised with effect from a date other than that on which the previous term would have expired.

## 16. Termination of office

A member of the Trust (whether Chairman, Vice-Chairman or ordinary member) shall cease to hold his office—

- (a) on the expiration of the period for which he had most recently been appointed (see article 15);
- (b) if he resigns by written notice to the Secretary of State;
- (c) if his appointment is terminated by Order in Council;
- (d) if he becomes bankrupt or makes any arrangement or composition with his creditors generally;
- (e) if he is, or may be, suffering from mental disorder and either—
  - (i) he is admitted to hospital in pursuance of an application for admission for treatment under the Mental Health Act 1983 [or, in Scotland, an application for admission under the Mental Health (Scotland) Act 1984,] or
  - (ii) an order is made by a court having jurisdiction (whether in Our United Kingdom or elsewhere) in matters concerning mental disorder for his detention or for the appointment of a receiver, curator bonis, or other person to exercise powers with respect to his property or affairs; or
- (f) if—
  - (i) he fails to attend meetings of the Trust continuously for three months or longer without the consent of the Trust, and
  - (ii) the Trust resolves that his office be vacated.

## 17. Remuneration of members

Members of the Trust shall be remunerated by the BBC at a rate determined by the Secretary of State.

## 18. Members' pensions, allowances and gratuities

The BBC shall pay, or make provision for paying, to or in respect of any member of the Trust, such amounts (if any) by way of pension, allowances or gratuities as the Secretary of State may determine.

## *How the Trust Operates*

### **19. Meetings of the Trust**

- (1) The Trust shall meet for the transaction of its business and affairs.
- (2) The Trust must make standing orders dealing with the summoning, notice, time, place, quorum, management and adjournment of its meetings, including provision for the exercise of a casting vote.
- (3) The standing orders may make provision for meetings of the Trust to be held in circumstances in which members participate without being physically present in the same place as other participating members (for example, by means of telephone or video conferencing).

### **20. Committees of the Trust**

- (1) The Trust may set up committees of the Trust.
- (2) The number, remit and composition of such committees are a matter for the Trust, but no such committee shall include anyone who is not a member of the Trust.
- (3) The Trust may delegate particular functions, including decision-taking, to such a committee on such terms and conditions as it thinks fit.

### **21. Regulations**

- (1) The Trust may make regulations about the transaction and management of—
  - (a) its business and affairs,
  - (b) the business and affairs of the BBC more generally.
- (2) Regulations may provide for the transaction of urgent business of the Trust between meetings of the Trust, including provision for such business to be transacted by a single member of the Trust.
- (3) Regulations may make provision for or about the filling of vacancies on the Executive Board in circumstances in which it is impossible for article 30 or 31 to be complied with. (An example of such a situation would be if all the members of the Executive Board resigned with immediate effect.)
- (4) Regulations may be made only at a meeting of the Trust.
- (5) The standing orders mentioned in article 19(2) and the Protocols mentioned in article 25 shall be made as regulations in accordance with this article.

## *Role of the Trust*

### **22. Guardians of the licence fee and the public interest**

The Trust is the guardian of the licence fee revenue and the public interest in the BBC. The Trust has the ultimate responsibility, subject to the provisions of this Charter, for—

- (a) the BBC's stewardship of the licence fee revenue and its other resources;
- (b) upholding the public interest within the BBC, particularly the interests of licence fee payers; and
- (c) securing the effective promotion of the Public Purposes.

## 23. General duties

In exercising all its functions, the Trust must act in the public interest and, in particular, it must—

- (a) represent the interests of licence fee payers;
- (b) secure that the independence of the BBC is maintained;
- (c) carefully and appropriately assess the views of licence fee payers;
- (d) exercise rigorous stewardship of public money;
- (e) have regard to the competitive impact of the BBC's activities on the wider market;
- (f) ensure that the BBC observes high standards of openness and transparency.

## 24. Functions of the Trust

(1) The Trust has the general function of—

- (a) setting the overall strategic direction for the BBC within the framework set by this Charter and any Framework Agreement;
- (b) approving high-level strategy and budgets in respect of the BBC's services and activities in the UK and overseas;
- (c) assessing the performance of the Executive Board in delivering the BBC's services and activities and holding the Executive Board to account for its performance.

(2) In particular, the Trust has the following specific functions—

- (a) setting multi-year purpose remits, and approving strategies which include high-level budgetary allocations;
- (b) defining suitable performance criteria and measures against which the effective promotion of the Public Purposes will be judged;
- (c) issuing service licences for BBC services and monitoring compliance with them;
- (d) approving guidelines designed to secure appropriate standards in the content of the BBC's services;
- (e) approving individual strategic or financial proposals where they stand to have significant implications for the fulfilment of the purpose remits and strategies referred to in sub-paragraph (a) or for the overall financial position of the BBC;
- (f) discharging the regulatory functions accorded to the Trust and holding the Executive Board to account for the BBC's compliance with programme standards, quotas and the law;
- (g) setting the framework within which the BBC should handle complaints (and the framework must provide for the Trust to play a role as final arbiter in appropriate cases);
- (h) where appropriate, conducting investigations into any activity of the BBC which it has grounds to suspect does not comply with requirements supervised by the Trust;
- (i) commissioning value for money investigations into specific areas of BBC activity;
- (j) ensuring the Executive Board addresses key operating risks for the BBC;
- (k) adopting a statement of policy on fair trading and holding the Executive Board to account for compliance with it;

- (l) setting an approvals framework within which the Trust will assess proposals from the Executive Board for new services, significant changes to existing services, commercial services and other activities; and
  - (m) ensuring that arrangements for the collection of the licence fee are efficient, appropriate and proportionate.
- (3) The Trust shall play an executive role in relation to the Trust Unit (see articles 42 and 43).
- (4) In addition, the Trust has all the specific functions expressly conferred upon it elsewhere by or under this Charter or any Framework Agreement.

## **25. Protocols – their general role**

The Trust must adopt and publish Protocols which—

- (a) set out a detailed framework within which the Trust will (consistently with all specific requirements of this Charter or any Framework Agreement) discharge its functions, which may address the practical application of its functions and impose upon the Trust more specific obligations within the scope of its functions;
- (b) address in greater detail the relationship between the Trust and the Executive Board, and what the division between their respective functions will mean in practice (which may include allocating as between the Trust and the Executive Board responsibility for anything which is not allocated by the Charter or any Framework Agreement).

## **26. Protocols on engaging with licence fee payers**

- (1) Protocols must (as an aspect of how the Trust will discharge its general duty under article 23(c) carefully and appropriately to assess the views of licence fee payers) make provision in appropriate detail—
- (a) requiring the Trust actively to seek the views of, and engage with, licence fee payers, and
  - (b) setting out how the Trust will do so.
- (2) The Trust must consult publicly before adopting any Protocol pursuant to this article.

## **27. Protocols on openness and transparency**

- (1) Protocols must, (as an aspect of how the Trust will discharge its general duty under article 23(f) to ensure that the BBC observes high standards of openness and transparency) make provision in appropriate detail requiring the Trust to ensure, and setting out how it will ensure, as far as is reasonable, that the principal points of its proceedings and the reasons and key considerations behind important decisions (including decisions on proposals submitted by the Executive Board for the Trust's approval) are made public.
- (2) This article imposes obligations which are separate from, and are not intended to detract from, any other requirements which apply to the Trust or the BBC, whether imposed by more specific provisions in this Charter, any Framework Agreement or otherwise. Nor do they imply that Protocols need not address other aspects of the Trust's general duty under article 23(f).

## ***THE EXECUTIVE BOARD***

### ***Constitution of the Executive Board***

#### **28. Composition of the Executive Board**

- (1) The Executive Board shall consist of executive and non-executive members.
- (2) Subject to the overarching requirements of paragraph (3), the total number of Board members, and the respective numbers of executive and non-executive members, shall, so far as practicable, be as determined by the Executive Board with the approval of the Trust.
- (3) So far as practicable—
  - (a) there must always be at least 4 non-executive members, and
  - (b) the total number of non-executive members must never fall below one third nor be equal to or exceed one half of the total membership of the Board.
- (4) In paragraphs (2) and (3), We say "so far as practicable" to recognise the fact that sometimes a member might cease to hold office suddenly or at short notice (such as through death or resignation) and that it may take some time before a replacement can be appointed. As long as he is replaced as soon as is practicable, it does not matter that the composition of the Board deviates from the norm in the meanwhile.

#### **29. How the Chairman of the Executive Board is appointed**

- (1) The Chairman of the Executive Board shall be appointed by the Trust.
- (2) When appointing the Chairman, the Trust must appoint him to serve in either an executive or a non-executive capacity.
- (3) A non-executive Chairman may, but need not, be appointed from among the existing non-executive members of the Executive Board. If he is not already a member of the Board, he becomes a non-executive member by virtue of his appointment to serve as the Chairman in a non-executive capacity.
- (4) Only the Director General can be appointed to serve as the Chairman in an executive capacity.

#### **30. How executive members of the Executive Board are appointed**

- (1) The Director General shall always be an executive member of the Executive Board.
- (2) Executive members of the Executive Board (except a chairman who is to serve in an executive capacity) are appointed by the Executive Board. However, the Board may only make an appointment which has been proposed by a nomination committee (see article 35). Additionally, where the appointment is of a Director General who is not also to serve as Chairman of the Executive Board, the appointment is subject to the approval of the Trust.
- (3) Where the Chairman of the Executive Board serves in an executive capacity, a nomination committee may make such a proposal only if it is constituted as described in paragraph (4), and paragraph (5) shall also apply.

- (4) The committee must consist of 4 members, as follows—
  - (a) the Chairman of the Executive Board;
  - (b) one other executive member of the Board, nominated to serve on the committee by the Chairman of the Board;
  - (c) two non-executive members of the Board.
- (5) The Chairman of the Executive Board shall be the chairman of such a committee and shall have a casting vote. Whenever he exercises a casting vote in favour of making a proposal, the fact that he has done so must be reported promptly to the Chairman of the Trust.
- (6) Where the Chairman of the Executive Board serves in a non-executive capacity, the composition of a nomination committee to act for the purposes of this article may be determined by the Executive Board, subject only to a requirement that non-executive members of the Board must form a majority of the committee's members.
- (7) For the purposes of this article, the roles of proposing and approving the making of an appointment relate not only to the identity of the person to be appointed but also (subject to the requirements of article 33) the terms of his appointment.

### **31. How non-executive members of the Executive Board are appointed**

- (1) Non-executive members of the Executive Board (except a chairman who is to serve in a non-executive capacity) are formally appointed by the Executive Board. However, the Board may only make an appointment which has been proposed by a nomination committee (see article 35) and approved by the Trust.
- (2) A nomination committee may make such a proposal only if it is constituted as described in paragraph (3).
- (3) The committee must have a majority of non-executive members and must be chaired by one of them. Where the Chairman of the Executive Board serves in an executive capacity, he must be a member of the committee. The inclusion of other executive members is a matter to be determined by the Executive Board.
- (4) Whenever a nomination committee makes a proposal, the committee shall send it directly to the Trust, and the full Executive Board shall play no part in determining the merits of the proposal. If a proposal is approved by the Trust, the Executive Board shall proceed to make the appointment.
- (5) For the purposes of this article, the roles of proposing and approving the making of an appointment relate not only to the identity of the person to be appointed but also the terms of his appointment.

### **32. The terms on which the Chairman of the Executive Board serves**

- (1) The Chairman of the Executive Board shall hold and vacate his office in accordance with the terms of his appointment as the Chairman. Those terms must provide for the possibility of his being dismissed by the Trust.
- (2) In paragraph (1) "his office" includes not only the office of Chairman but also—

- (a) in the case of a Chairman who serves in a non-executive capacity, his membership of the Executive Board (regardless of whether he was already serving as a non-executive member at the time of his appointment as the Chairman), and
- (b) in the case of a Chairman who serves in an executive capacity, the office of Director General.

### **33. The terms on which other members of the Executive Board serve**

- (1) Each member of the Executive Board other than the Chairman shall hold and vacate his office in accordance with the terms of his appointment. In this article, references to “executive member” and “non-executive member” do not include the Chairman, and references to the Director General apply only to a Director General who does not also serve as the Chairman.
- (2) Those terms must provide for the appointment to be terminated in accordance with the following requirements of this article, and may not provide for it to be terminated prematurely without the consent of the member in any other way.
- (3) A proposal for the premature termination of an appointment must always be made by the Chairman of the Executive Board.
- (4) If such a proposal is approved by the Executive Board, and the proposal relates to an executive member other than the Director General, the Executive Board shall terminate the appointment.
- (5) If the proposal relates to a non-executive member or the Director General, and is approved by the Executive Board and the Trust, the Executive Board shall terminate the appointment.
- (6) If the Executive Board declines to approve under paragraph (4) or (5) a proposal, the Chairman may apply to the Trust for permission to terminate the appointment. If such permission is granted, the Chairman may then, on behalf of the BBC, terminate the appointment.
- (7) The Remuneration Committee (see article 35) shall determine the remuneration of executive members in accordance with a strategy approved by the Trust. The terms on which such members are appointed must be compatible with this requirement.
- (8) For the purposes of this article, an appointment is terminated prematurely if it is terminated in the exercise of a discretionary power to terminate the appointment before the occurrence of any date on which the terms of the appointment provide for the appointment to be terminated (whether by reference to the expiry of a fixed term, the attainment of a specified retirement age or in any other way).

### ***How the Executive Board Operates***

#### **34. Meetings of the Executive Board**

- (1) The Executive Board shall meet for the transaction of its business and affairs.
- (2) The Executive Board must make standing orders dealing with the summoning, notice, time, place, quorum, management and adjournment of its meetings, including provision for the exercise of a casting vote.

- (3) The standing orders may make provision for meetings of the Executive Board to be held in circumstances in which members participate without being physically present in the same place as other participating members (for example, by means of telephone or video conferencing.)

### **35. Committees of the Executive Board**

- (1) The Executive Board may set up committees of the Executive Board.
- (2) The number, remit and composition of such committees are a matter for the Executive Board, subject to the following paragraphs of this article.
- (3) There shall always be an Audit Committee, which shall have functions commensurate with the highest standards of corporate governance. Only non-executive members of the Executive Board may be members of the Committee.
- (4) Nomination committees shall at least perform the functions described in articles 30 and 31, in accordance with requirements laid down by those articles as to their composition and operation.
- (5) There shall always be a Remuneration Committee, which shall at least perform the functions described in article 33. Only non-executive members of the Executive Board may be members of the Committee.
- (6) No committee of the Executive Board shall include anyone who is not a member of the Executive Board.

### **36. Delegation by the Executive Board**

The Executive Board may delegate functions, including decision-taking—

- (a) to a committee set up under article 35,
- (b) to an individual member of the Executive Board, or
- (c) to other members of staff,

on such terms and conditions as it thinks fit.

### **37. Regulations**

- (1) The Executive Board may make regulations about the transaction and management of its business and affairs.
- (2) Regulations may be made only at a meeting of the Executive Board.
- (3) The standing orders mentioned in article 34(2) shall be made as regulations in accordance with this article.
- (4) Regulations made under this article shall be subject to any regulations made by the Trust under article 21.

## *Role of the Executive Board*

### **38. Functions of the Executive Board**

- (1) The Executive Board is the executive body of the BBC and is responsible for—
  - (a) the delivery of the BBC's services in accordance with the priorities set by purpose remits and the framework set by service licences and any other strategies;
  - (b) the direction of the BBC's editorial and creative output;
  - (c) the operational management of the BBC (except the BBC Trust Unit);
  - (d) ensuring compliance with all legal and regulatory requirements placed upon the BBC (including the initial handling of complaints about the BBC) except to the extent that they relate to the affairs of the Trust or the BBC Trust Unit;
  - (e) ensuring compliance with requirements placed upon the Executive Board by the Trust (for example, through Protocols or the BBC's fair trading policy);
  - (f) making proposals to the Trust for anything which is for the Trust to approve under article 24(2)(a), (d) or (e);
  - (g) appointing, and holding to account, the management of the BBC and its subsidiaries;
  - (h) the conduct of the BBC's operational financial affairs (except those relating directly to the affairs of the Trust and the BBC Trust Unit) in a manner best designed to ensure value for money; and
  - (i) accounting to the Trust for its own performance and the performance of the BBC and its subsidiaries.
- (2) In addition, the Executive Board has all the specific functions expressly conferred upon it elsewhere by or under this Charter or any Framework Agreement.
- (3) In the exercise of its functions, the Executive Board shall be subject to the Trust as set out in article 9.

## **AUDIENCE COUNCILS**

### **39. Audience Councils**

- (1) There shall be Audience Councils the purpose of which is to bring the diverse perspectives of licence fee payers to bear on the work of the Trust, through the Councils' links with diverse communities, including geographically-based communities and other communities of interest, within the UK.
- (2) The Councils must use their engagement with and understanding of communities to advise the Trust on how well the BBC is delivering its Public Purposes from the perspective of licence fee payers, and serving licence fee payers, in different parts of the UK.
- (3) There shall be 4 Councils, corresponding in geographical remit to the 4 nations for which Trust members are designated under article 14. Each Council shall be chaired by the designated Trust member for the nation concerned.

- (4) In addition, there must be mechanisms for bringing together members from different Councils to consider how well the BBC is serving audiences in delivering the Public Purposes.
- (5) The network of members across the 4 Councils must be recruited to ensure that they reflect the diversity of the UK, have connections with communities, and are able to take a view on how the Public Purposes should be pursued.
- (6) The Councils have the following remit—
  - (a) to engage with licence fee payers including geographically-based communities and other communities of interest;
  - (b) to be consulted on all relevant proposals that are required to be subject to a Public Value Test by virtue of any Framework Agreement;
  - (c) to be consulted, as part of any review of service licences which the Trust undertakes in accordance with the requirements of any Framework Agreement, on the content of the service licences and the performance of the services to which the review relates;
  - (d) to be consulted on the BBC's performance in promoting the Public Purposes;
  - (e) to submit a report to the Trust each year on the BBC's performance in each nation and advise on issues arising;
  - (f) to publish an Annual Review Report each year in the nation concerned, assessing how well the BBC is meeting the needs of licence fee payers in that nation.
- (7) The detail of how the Councils are to be set up, run and recruited must be set out in a Protocol.
- (8) The Trust shall make whatever arrangements it considers appropriate for supporting the work of Audience Councils, within a framework established by a Protocol.

## **ORGANISATION**

### **40. The Director General**

- (1) There shall be a Director General of the BBC.
- (2) The Director General shall be the chief executive officer of the BBC. He shall be an executive member of the Executive Board and may be its chairman (see article 29).
- (3) The Director General shall also be the editor-in-chief of the BBC. As such, he shall be accountable for the BBC's editorial and creative output.
- (4) Where a vacancy is to be filled in the office of Director General and the Trust has determined that the person to be appointed shall also serve as the Chairman of the Executive Board in an executive capacity, the Director General shall be appointed, hold and vacate office in accordance with articles 29 and 32.
- (5) In other circumstances, the Director General is appointed in accordance with article 30 and holds and vacates office in accordance with article 33.

**41. BBC staff**

- (1) The BBC shall appoint staff for the efficient performance of its functions and transaction of its business.
- (2) Except where article 42 applies, the appointment of such staff and their terms and conditions, shall be a matter for the Executive Board.
- (3) This article does not apply to the Director General or to other executive members of the Executive Board (for whom see articles 29, 30, 32, 33 and 40).

**42. Trust staff**

- (1) The Trust shall appoint a chief officer of the Trust Unit and such other staff to support and assist the Trust (or any member of the Trust) as it may determine.
- (2) Such staff shall be appointed by the Trust. The terms and conditions of staff appointed under this paragraph shall be a matter for the Trust.
- (3) The Trust may delegate to the chief officer and/or other members of the Trust Unit the exercise of functions which the Trust has under paragraph (2) or article 43.

**43. BBC Trust Unit**

- (1) The BBC staff appointed under article 42 shall belong to a BBC Trust Unit which shall be administratively separate from the rest of the BBC's organisation.
- (2) The Trust Unit shall be under the executive control of the Trust. The material and other needs of the Trust Unit shall be determined by the Trust and, generally, the Trust shall fulfil, in relation to that Unit, the role which the Executive Board fulfils in relation to the rest of the BBC's organisation.
- (3) BBC staff who belong to the Trust Unit shall not be subject to, nor shall they act on behalf of, the Executive Board.
- (4) BBC staff may transfer between the Trust Unit and the rest of the BBC's organisation only under arrangements agreed by the Trust and the Executive Board.

**44. Communication with staff of the BBC**

- (1) The Trust and the Executive Board must each ensure that at all times they have in place suitable arrangements under which they (or their representatives) will, where appropriate—
  - (a) consult BBC staff on all matters affecting the interests of those staff; and
  - (b) seek to consult with any appropriate organisation with a view to maintaining or (as the case may be) establishing and maintaining adequate arrangements of the kind mentioned in paragraph (2).
- (2) The arrangements are for—
  - (a) the settlement by negotiation of the terms and conditions of BBC staff; and
  - (b) the discussion of matters of mutual interest to the BBC and its staff, including—
    - (i) the health, safety and welfare of such staff;

- (ii) equal opportunities and training (without cutting back on any specific obligations as to those matters set out in any Framework Agreement); and
  - (iii) efficiency in the operation of the BBC's services.
- (3) The arrangements must in particular be in keeping with the respective functions of the Trust and the Executive Board under this Charter and any Framework Agreement and with the general nature of the relationship between the Trust and the Executive Board described in this Charter.

## **REPORTS AND ACCOUNTS**

### **45. Annual reports and statements of accounts**

- (1) An annual report and statement of accounts in relation to the BBC (referred to in this article as "the report and accounts") must be prepared and dealt with annually in accordance with the following requirements of this article.
- (2) The report and accounts must consist of two parts. Part 1 must be prepared by the Trust and Part 2 must be prepared by the Executive Board.
- (3) Part 2 must include at least an operating and financial review, statements of compliance with applicable codes and regulations, and the whole of the statement of accounts in relation to the BBC (which must be audited). Subject to that, and to paragraphs (4) and (5), the content of Part 2 is a matter for the Executive Board.
- (4) In preparing Part 2 the Executive Board must comply with any applicable protocols and also with any directions which may, after consultation with the Executive Board, be given by the Trust with regard to the content of Part 2.
- (5) In preparing Part 2 the Executive Board must comply with any directions which may, after consultation with the BBC, be given by the Secretary of State or by the Foreign Secretary with regard to—
  - (a) information which must be given in the report about the finance, administration and work generally of the BBC;
  - (b) information to be given in the statement of accounts.
- (6) When Part 2 has been prepared and (so far as relevant) audited, the Executive Board must submit it to the Trust.
- (7) The Trust must then consider Part 2 and prepare, in such detail as it sees fit, a commentary on it for inclusion within Part 1.
- (8) Part 1 must include at least that commentary, a commentary on the activities and affairs of the Trust and the Trust Unit and (without affecting what must be included in the statement of accounts included in Part 2) an audited summary of the expenditure of the Trust and the Trust Unit. Subject to that, and to paragraph (9), the content of Part 1 is a matter for the Trust.

- (9) In preparing Part 1 the Trust must comply with any directions which may, after consultation with the Trust, be given by the Secretary of State or by the Foreign Secretary with regard to information which must be given in the report about the finance, administration and work generally of the Trust.
- (10) The Trust must then transmit the report and accounts, no later than 7 months after the end of the period to which they relate, to the Secretary of State, who must then lay the report and accounts before Our United Kingdom Parliament. When this has been done, the BBC must publish the report and accounts.

- (11) In this article—

“audited” means audited and certified by an eligible auditor appointed with the approval of the Trust and the Secretary of State;

“eligible auditor” means a member of a qualifying body of accountants established in Our United Kingdom and recognised under section 32(4) of the Companies Act 1989;

“Part 1” means Part 1 of the report and accounts;

“Part 2” means Part 2 of the report and accounts;

“statement of accounts” means a statement of accounts which is prepared in accordance with UK Generally Accepted Accounting Principles and which includes all the following: an account or accounts of the income and expenditure of the BBC, a balance sheet or sheets, a cash flow statement or statements, and accompanying notes.

#### **46. Inspection of accounts**

- (1) The BBC must at all reasonable times upon demand—
- (a) allow any of the persons mentioned in paragraph (2) to examine any of the accounts of the BBC;
  - (b) furnish any of those persons with all forecasts, estimates, reconciliations, information and documents which she may require, in such format as she may require, with regard to the financial transactions and engagements of the BBC.
- (2) The persons are the Secretary of State, the Foreign Secretary, and any person nominated for the purposes of this article by either of them.

## **GENERAL**

#### **47. The BBC's corporate nature and powers**

- (1) The BBC shall have perpetual succession. That is to say, it shall continue to exist as a legal person, regardless of changes in its composition which occur when particular individuals cease to be members of the Corporation and are succeeded by other individuals.
- (2) The BBC shall have a Common Seal. The BBC may alter its Common Seal or replace it with a new one.

- (3) The BBC shall have the capacity to sue and be sued and do anything appertaining to a body corporate. In addition, the BBC shall have all the capacity of a natural person.
- (4) However, the BBC may use these general powers only for the purposes set out in articles 3 to 5. The use of any of these powers for other purposes would amount to a breach of this Charter, with all the consequences that could follow from that (see in particular article 52). Subject to any overriding rules of law, such a use of powers shall, nevertheless, be valid: for example, contracts entered into by the BBC would be valid and enforceable against the BBC for so long as the BBC continues to exist, to any extent permitted by law.
- (5) Depending on the circumstances, the powers of the BBC may be exercised by, or under the authority of, the Trust or the Executive Board. Subject to any specific provision made by or under this Charter, or any other legal requirement, the Trust and the Executive Board (including, where applicable, those acting under their respective authorities) may independently exercise the powers of the BBC for the purposes of their respective functions, including purposes incidental or conducive to those functions.

#### **48. Supplemental charters and Bills**

The BBC may apply for and accept a further charter for the continuance of the BBC, or a supplemental charter, or promote a Bill in Parliament, if it appears to the Trust appropriate to do so.

#### **49. Framework Agreements**

- (1) A "Framework Agreement" is an agreement between the BBC and the Secretary of State which contains a statement to the effect that it is a Framework Agreement made for BBC Charter purposes.
- (2) In anticipation of the grant of this Charter, the BBC has entered into a Framework Agreement with the Secretary of State for Culture, Media and Sport dated [xxxx]. Further Framework Agreements may be made during the life of this Charter (and may amend or revoke the existing Framework Agreement).
- (3) Framework Agreements may in principle impose obligations on the BBC in relation to particular topics which are addressed in this Charter, as well as in relation to topics which are not. A Framework Agreement may, for example, impose more detailed requirements. For example, article 24(2)(i) imposes a general requirement which is elaborated in clause 79 of the Agreement made on [xxxx]. However, a Framework Agreement must be consistent with this Charter and, in the event of any contradiction, the terms of this Charter shall prevail. It is hereby declared that the content of the Framework Agreement as made on [xxxx] (mentioned in paragraph (2)) is fully compatible with the intentions of this Charter.
- (4) The BBC must comply with any Framework Agreement, for so long as it is in force (see article 52).
- (5) Whether the BBC should make any particular Framework Agreement with the Secretary of State is a matter to be decided by the Trust.

#### **50. Overseas concessions**

The BBC must obtain the consent of the Foreign Secretary before it—

- (a) acquires any licence, concession, right or privilege from, or
- (b) enters into any arrangement with, the Government of any country or place overseas.

### **51. Validity of acts and proceedings**

- (1) The existence of a vacancy in any of the bodies mentioned in paragraph (2) does not as such affect the validity of anything done by that body (though any specific requirements for a quorum must still be observed).
- (2) The bodies are the Trust, the Executive Board and any committee or sub-committee of the Trust or the Executive Board. However, a nomination committee of the Executive Board may exercise a function described in article 30 or 31 only if fully constituted in accordance with applicable requirements laid down in those articles.

### **52. Compliance with Charter and Framework Agreements**

- (1) The BBC shall strictly and faithfully comply with this Charter and any Framework Agreement in force. This includes complying with requirements set out in other documents which have effect by virtue of provisions of this Charter or a Framework Agreement.
- (2) Where the BBC fails to comply with paragraph (1) of this article in any respect, anyone who is aggrieved and/or adversely affected may be entitled to seek an appropriate remedy.
- (3) Complaints to the BBC have an important role to play. The BBC's complaints handling framework (including appeals to the Trust) is intended to provide appropriate, proportionate and cost effective methods of securing that the BBC complies with its obligations and that remedies are provided which are proportionate and related to any alleged non-compliance.
- (4) Complaints can sometimes also be made to other bodies with regulatory and law enforcement powers such as Ofcom and the Office of Fair Trading.
- (5) The courts may have an appropriate role to play in exercising judicial review according to normal principles of public law.
- (6) This article does not seek to exclude any other remedy which may be available but, so far as relevant, it is the intention of this Charter that remedies should be appropriate and proportionate to the issues at stake.

### **53. Dissolution and winding-up**

- (1) The BBC may, if it appears to the Trust appropriate to do so,—
  - (a) surrender this Charter with the permission of Us, Our Heirs or Successors in Council and upon such terms as We or They may consider fit, and
  - (b) wind up or otherwise deal with the affairs of the BBC in such manner as may be approved by the Secretary of State.
- (2) Where the BBC is to be dissolved [voluntarily or compulsorily], the property and assets of the BBC shall, before the dissolution occurs—
  - (a) be applied in satisfaction of the debts and liabilities of the BBC and,

- (b) subject to sub-paragraph (a), be disposed of in accordance with the directions of the Secretary of State.
- (3) When this Charter expires at the end of 31st December 2016, the undertaking of the BBC shall cease, so far as it may depend upon this Charter unless We, Our Heirs or Successors, shall by writing under Our or Their Sign Manual declare to the contrary and authorise the continuance of the undertaking under some or all of the provisions of this Charter and under such provisions and conditions as We, Our Heirs or Successors may think fit.
- (4) This article is subject to any applicable statutory provision or other legal requirement.

#### **54. Approvals and directions**

- (1) Where, under this Charter, any act or thing is required to be done with the approval of any Government Minister—
  - (a) the approval must be given in writing;
  - (b) the approval may be given absolutely or subject to such terms and conditions as the Minister thinks fit (having consulted the BBC); and
  - (c) may be revoked or varied (in which case paragraphs (a) and (b) apply as they applied to the giving of the original approval).
- (2) Where, under this Charter, any Government Minister has power to give a direction to the BBC—
  - (a) the direction must be given in writing;
  - (b) the power includes a power to revoke or vary the direction (subject to any conditions or limitations that are applicable to the power concerned).

## ***INTERPRETATION***

#### **55. Introduction**

To enable this Charter to be drafted in language which is not too cumbersome or complex, We have relied on various principles or rules of interpretation which are explained in this chapter. These need to be borne in mind when reading the Charter. However, they need to be used with common sense: they do not apply where the context requires otherwise. For example, the principle in article 59(2) does not mean that article 13(1) can be read as enabling two Chairmen to be appointed to serve simultaneously.

#### **56. Some simple definitions in alphabetical order**

In this Charter—

“BBC” means the British Broadcasting Corporation;

“the Director General” means the Director General of the BBC appointed under article 40;

“the Executive Board” means the Executive Board of the BBC established by article 7;

“the Foreign Secretary” means Our Principal Secretary of State for Foreign and Commonwealth Affairs;

"Framework Agreement" is defined by article 49(1);

"functions" includes both powers and duties;

"licence fee" means sums which a person is liable to pay by virtue of any regulations under section 365(1) of the Communications Act 2003 (sums payable for licences to use etc. television receivers);

"licence fee payer" is defined by article 57;

"the licence fee revenue" means any sums which may be paid to the BBC by the Secretary of State from time to time, pursuant to any Framework Agreement, to fund the services provided by the BBC for the promotion of its Public Purposes;

"Ofcom" means the Office of Communications;

"Protocol" means a regulation made by the Trust under article 21;

"Public Purposes" means the purposes set out in article 4;

"the Secretary of State" means Our Principal Secretary of State for Culture, Media and Sport;

"staff" includes officers, employees and persons working under a contract for services;

"the Trust" means the BBC Trust established by article 7;

"the BBC Trust Unit" means the Trust Unit described in article 43;

"the UK" is to be taken to mean, for these purposes only, Our United Kingdom of Great Britain and Northern Ireland, together with the Channel Islands and the Isle of Man.

#### **57. The meaning of "licence fee payer"**

In this Charter, a reference to a "licence fee payer" is not to be taken literally but includes, not only a person to whom a TV licence is issued under section 364 of the Communications Act 2003, but also (so far as is sensible in the context) any other person in the UK who watches, listens to or uses any BBC service, or may do so or wish to do so in the future.

#### **58. References to Orders in Council**

Any reference to the doing of any thing by Order in Council is a reference to the doing of that thing by Us, Our Heirs or Successors in Council.

#### **59. Gender and number**

- (1) Words importing the masculine gender include the feminine, and vice versa.
- (2) Words in the singular include the plural. For example, article 51(1) which refers to "a vacancy", also applies where there are several vacancies on the body concerned.

#### **60. Continuity of powers and duties**

Where this Charter confers a power or imposes a duty it is implied, unless the contrary intention appears, that the power may be exercised, or the duty is to be performed, from time to time as occasion requires. For example, the power to change the number of ordinary members of the Trust which is conferred by article 13(2) is to be interpreted not just as a "once and for all" power to change the number from 6 to another number: it could be used to increase the number from 6 to 8, then to 10, then to reduce it to 5, then return it to 6, then increase it to 9, and so on.

**61. Power to make different provision for different cases**

Any power conferred by this Charter can in principle be used to make different provision for different cases. For example, the power to determine the pay of members of the Trust conferred by article 17 could be used to determine a rate for the chairman that is higher than the rate determined for other members.

**62. References relate to whatever time is relevant**

- (1) Any reference to the holder of any office is to be read as referring to the holder of that office for the time being i.e. at the relevant time rather than the date on which this Charter is granted. For example, the power of determination conferred on the Secretary of State by article 17 can be exercised by whoever holds that office at the time such a person wishes to exercise the power.
- (2) Similarly, references to anything else are to be read as relating to whatever falls within the reference at whatever time is relevant. For example, the reference in article 11(b) to generally accepted principles of good corporate governance should, in the year 2010, be read as referring to principles of good corporate governance which are generally accepted in 2010, rather than what was generally accepted when this Charter was granted.

**63. References to legislation**

References to particular legislation should be read as referring to that legislation as amended or re-enacted from time to time.

**64. Headings**

Headings are for convenience only and are not necessarily a reliable guide to the precise interpretation of the substantive text to which the heading relates. For example, to be useful, headings often have to oversimplify, or to be selective in what aspects of the actual content they flag up.

**65. General declaration**

This Charter shall be interpreted objectively. The presumption that a grant by the Crown is to be interpreted most beneficially for the Crown and against the subject shall not apply.

## ***SCHEDULE: TRANSITIONAL PROVISIONS***

### ***Introduction***

1. (1) In this Schedule—
  - "the Transitional Period" means the period that begins at the beginning of the day after the day on which this Charter is granted and ends at the end of 31st December 2006;
  - "the 1996 Agreement" means the agreement made on 25th January 1996 between the Secretary of State and the BBC (as subsequently amended), containing provision relating to the BBC and its services;

“the 1996 Charter” means the Royal Charter for the continuance of the BBC which came into force on 1st May 1996.

- (2) Where any provision of this Schedule requires any thing to be done as soon as reasonably practicable, that thing must in any event be done before the end of the Transitional Period.

### ***General provision about the effect of this Charter during the Transitional Period***

2. (1) None of the provisions of this Charter mentioned in sub-paragraph (2) has effect until the beginning of 1st January 2007 unless this Schedule specifically gives it effect (to any extent or for any purpose) during the Transitional Period.
- (2) The provisions are articles 1, 3 to 5, 7 (to the extent that it provides for the Executive Board to have responsibility for providing the BBC’s services), 24 to 27, 29(1) to (3), 30(2) to (7), 31 to 33, 35(4) and (5), 38(1) and (2), 39, 40(4) and (5), 41 and 44 to 48.
- (3) The other provisions of this Charter do have effect during the Transitional Period, but subject (where applicable) to the following provisions of this Schedule.

### ***General provision about governance arrangements during the Transitional Period***

3. (1) During the Transitional Period—
- (a) the Trust and the Executive Board shall have only the functions contained in, or provided for in, this Schedule;
- (b) the Governors shall continue to have all the functions contained in the 1996 Charter, subject to any provision to the contrary contained in this Schedule; and
- (c) the Governors, not the members of the Trust or the Executive Board, shall be the members of the Corporation.
- (2) Nevertheless, any thing duly done by the Trust or the Executive Board during the Transitional Period under or by virtue of this Schedule shall be taken to be done for and on behalf of the Corporation.

### ***General power to make preparations during the Transitional Period***

4. (1) During the Transitional Period, the Trust and the Executive Board may each do any thing that appears to it necessary or expedient to do in order to be prepared to exercise any of its functions under or by virtue of this Charter or any Framework Agreement when that Period ends.
- (2) Sub-paragraph (1) does not apply where any provision of this Charter or any Framework Agreement shows (expressly or impliedly) that the contrary is intended.
- (3) Nothing in this paragraph is to be taken to authorise the Trust or the Executive Board to exercise any function substantively or in any other manner that is more than merely preparatory (including conducting any public consultation), but a provision of this Schedule that expressly confers any specific function on the Trust or Executive Board in the Transitional Period is not to be taken to cut back on the effect of this paragraph.

### ***Appointments to the Executive Board***

5. (1) As soon as reasonably practicable after the day on which this Charter is granted, the Trust must appoint—
- (a) a person to serve as the Director General of the BBC;
  - (b) a person to serve as deputy to the Director General (to be known as “the Deputy Director General”) and to be an executive member of the Executive Board; and
  - (c) such number of persons to serve as non-executive members of the Executive Board as they determine to be the appropriate initial number of such members of that Board (but that number must be four or five).
- (2) In exercising its function under sub-paragraph (1), the Trust must either appoint the Director General to serve as Chairman of that Board in an executive capacity, or appoint one of the non-executive members to serve as Chairman of that Board in a non-executive capacity.
- (3) Article 32 applies to the terms on which the Chairman holds and vacates his office by virtue of his appointment by the Trust under this paragraph as it applies to an appointment under article 29; and article 33 applies to the terms on which members of the Executive Board (including a Director General who is not Chairman of that Board) hold and vacate office by virtue of their appointment under this paragraph as it applies to appointments under article 30 or 31.

### ***Initial Appointments Committee***

6. (1) As soon as reasonably practicable after the appointment of the persons mentioned in paragraph 5, a committee must be established, to be known as the “Initial Appointments Committee” (or “IAC”).
- (2) The following (and only the following) shall be the members of the IAC—
- (a) the Director General;
  - (b) the Deputy Director General; and
  - (c) two non-executive members of the Executive Board selected by the Trust.
- (3) The IAC may perform its functions only if it is constituted in accordance with sub-paragraph (2).
- (4) The Director General shall be the chairman of the IAC and shall have a casting vote. Whenever he exercises a casting vote in favour of making an appointment or other decision, the fact that he has done so must be reported promptly to the Chairman of the Trust.

### ***Composition of the Executive Board***

7. (1) As soon as reasonably practicable after it is established, the IAC must—
- (a) determine, with the approval of the Trust, the appropriate initial number of executive members of the Executive Board, in accordance with sub-paragraph (2); and
  - (b) establish the Executive Board by appointing that number of persons to serve as executive members of that Board.
- (2) The initial number of executive members of the Executive Board determined under sub-paragraph (1)(a) must be such that, when that number is taken with the initial number of non-executive members determined by the Trust under paragraph 5(1)(c), the initial composition of the Executive Board (that is to say, the total number of Board members and the respective numbers of executive and non-executive members) corresponds to the requirements of article 28(3).

- (3) The initial composition of that Board (as so determined) shall have effect for the purposes of article 28(2) as if it was a determination made by the Executive Board with the approval of the Trust.
- (4) Article 33 applies to the terms on which executive members of the Executive Board hold and vacate office by virtue of their appointment under this paragraph as it applies to appointments under article 30.

### ***Purpose remits***

- 8. Article 24(2)(a) does not require the Trust to set a purpose remit for any of the Public Purposes before *1st July 2007*.

### ***Service licences***

- 9. (1) The Trust must, as soon as reasonably practicable, issue (under article 24(2)(c), but subject as follows) a service licence for every service which appears to the Trust to be a service which—
  - (a) the BBC will be, or is likely to be, providing on and after 1st January 2007, and
  - (b) should be covered by a service licence (having regard to any provisions of any Framework Agreement that are relevant to that question).
- (2) A service licence issued pursuant to this paragraph must accord with the provisions of any Framework Agreement, but subject to sub-paragraphs (3) and (4).
- (3) A service licence issued pursuant to this paragraph must define the scope, key characteristics and any other important features of the service to which it relates by reference only to the characteristics and other features of that service as it is being provided by the BBC as at the date the licence is issued, and in particular—
  - (a) it must incorporate the effect of any conditions that apply to the provision of that service by virtue of any approval for its provision given by the Secretary of State under the 1996 Charter or the 1996 Agreement, and
  - (b) it must not incorporate any significant change to that service.
- (4) A service licence issued pursuant to this paragraph is to be issued without public consultation conducted by the Trust.

### ***Fair trading policy***

- 10. [Article 24(2)(k) does not require the Trust to set a fair trading policy before *1st July 2007*.]

### ***Approvals framework for commercial services***

- 11. [Article 24(2)(l) does not require the Trust to set an approvals framework for [commercial services] [any purpose] before 1st July 2007.]

### ***Initial exercise of any function of setting or approving any code or guidelines, etc.***

- 12. (1) A Framework Agreement may provide for any rules or arrangements having effect for any purpose under or by virtue of the 1996 Charter or the 1996 Agreement to have effect (with or without modifications) for any similar purpose under this Charter.

- (2) A Framework Agreement may also make provision enabling the Trust or the Executive Board initially to perform any function relating to the making of rules or arrangements that are to have effect for any purpose under this Charter or a Framework Agreement (for example, setting any strategy, drawing up any code or guidelines, or imposing any requirement, or approving any such thing) by adopting any rules or arrangements which appear to it—
- (a) to have, or to have had, effect, during the Transitional Period, for a similar purpose under or by virtue of the 1996 Charter or the 1996 Agreement; or
  - (b) to have been agreed to by the Governors of the BBC with a view to their having effect after the end of that Period.
- (3) Provision made under sub-paragraph (2)—
- (a) may include power for the Trust or (as the case may be) the Executive Board to modify the rules or arrangements in question if it appears to it necessary or expedient to do so in order to give them full effect under this Charter or any Framework Agreement;
  - (b) in the case of a function which could not normally be exercised without prior public consultation, may allow that function to be exercised initially (and exceptionally) without such consultation; and
  - (c) may give a power that can be exercised during or after the Transitional Period.
- (4) For the avoidance of doubt, rules or arrangements having effect by virtue of provision made under this paragraph may have effect after the end of the Transitional Period for such length of time as the Trust or (as the case may be) Executive Board considers appropriate, having regard to the fact that they were initially adopted under the exceptional procedure provided for by this paragraph and, in particular, without such consultation (if any) as would normally be required.

### ***The Trust Unit***

13. The Trust may perform its functions in relation to the Trust Unit and its staff under articles 24(3) and 42 to 44 during the Transitional Period.

### ***Audience Councils***

14. (1) The initial membership of the Audience Councils shall be determined in accordance with this paragraph, except that the chairmanship of each Council shall be as described in article 39(3).
- (2) On *1st January 2007*—
- (a) every existing chairman of a Regional Advisory Council shall become a member of the Audience Council for England;
  - (b) the existing members of the Broadcasting Council for Northern Ireland shall become members of the Audience Council for Northern Ireland;
  - (c) the existing members of the Broadcasting Council for Scotland shall become members of the Audience Council for Scotland; and
  - (d) the existing members of the Broadcasting Council for Wales shall become members of the Audience Council for Wales.
- (3) In this paragraph—
- (a) "existing chairman", in relation to any Regional Advisory Council, means the person who is the chairman of that Council immediately before 1st January 2007; and

- (b) "existing member", in relation to any National Broadcasting Council, means a person who is a member, other than the Chairman, of that Council immediately before 1st January 2007; but those expressions do not include any person whose term as chairman or member is due to end on 31st December 2006.
- (4) Any person who becomes a member of an Audience Council by virtue of this paragraph shall serve as such for the remainder of the term for which he was appointed to serve as a member of a National Broadcasting Council or, in the case of a Regional Advisory Council, chairman of that Council, and on the same terms as those on which he served as such member or chairman; but this is not to be taken to prevent provision to the contrary being made after the end of the Transitional Period in a Protocol pursuant to article 39(7) or (8).

### ***Reports and accounts under the 1996 Charter***

15. (1) Each National Broadcasting Council is to remain under an obligation to prepare an annual report to the BBC in accordance with article 12(8) of the 1996 Charter, notwithstanding the expiry of that Charter, for any period ending on or before the end of 31st December 2006 for which no such report has been prepared.
- (2) For that purpose, paragraphs (6), (7) and (9) to (11) of article 12 of the 1996 Charter shall continue to have effect after *31st December 2006* as if, after that date, references to the functions of a National Broadcasting Council were references to its functions under article 12(8) only.
16. (1) The BBC is to remain under an obligation to prepare an Annual Report, Account or Accounts and Balance Sheet, in accordance with article 18 of the 1996 Charter, notwithstanding the expiry of that Charter, for any period ending on or before the end of 31st December 2006 for which no such report has been prepared; and (subject to sub-paragraph (2)) the BBC and the Secretary of State are for that purpose in all other respects to comply with [paragraphs (1) to (3) of] that article.
- (2) For that purpose, in relation to times after *31st December 2006*, the reference to the Chairman in article 18(3) of the 1996 Charter shall be taken to be a reference to the Chairman of the Trust.

### ***Complaints***

17. (1) This paragraph applies to—
- any complaint made to the BBC on or before the day on which this Charter is granted which has not been finally determined by the BBC before the end of the Transitional Period; and
  - any complaint made to the BBC on or after 1st January 2007 but concerning a matter occurring or arising before that date.
- (2) After the Transitional Period has ended, a complaint to which this paragraph applies—
- shall be handled according to any complaints procedure adopted by the Trust or the Executive Board that appears to it suitable for the purposes of handling a complaint of that nature; but
  - shall be determined by reference to the substantive rules that applied at the time the matter complained of occurred or arose.

- (3) In the case of a complaint falling within sub-paragraph (1)(a), the Trust or (as the case may be) the Executive Board may treat any thing done in relation to the complaint at any time by the BBC (including any Governor, officer or employee of the BBC) for the purposes of handling or determining the complaint under procedures applying at that time as if it had been done for the purposes of any such complaints procedure as is mentioned in sub-paragraph (2)(a), so far as to do so—
- (a) is fair, practicable and expedient, and
  - (b) causes no substantial prejudice to the complainant.
- (4) Nothing in this paragraph shall be taken to require the BBC to entertain any complaint which, in the opinion of the Trust or (as the case may require) the Executive Board is a renewal of a complaint that was adequately and finally determined by the BBC at the time that complaint was originally made; and for this purpose, a complaint is a renewal of a complaint if, and to the extent that, the issues it raises in relation to a matter are substantially the same as those raised in relation to that matter by an earlier complaint made by the same person.



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