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TO

Make provision for election of the trustees of the BBC by licence fee payers; and in relation to civil enforcement of non-payment of TV licence fees.

BE IT ENACTED by the Queen’s most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows:—

PART 1

TRUSTEES OF THE BBC: ELECTIONS

1 Election of trustees of the BBC

- (1) Notwithstanding anything in any enactment or charter, the British Broadcasting Corporation (referred to in this Act as the “BBC”) must put in place arrangements for individual licence-fee payers to vote in an election for appointment to the role of Trustee of the BBC. 5
- (2) The Secretary of State may by regulations made by statutory instrument, subject to annulment in pursuance of a resolution of either House of Parliament, set out how such an election is to be conducted. 10
- (3) The Secretary of State must recommend the people elected in an election held under subsection (1) for appointment to the role of Trustee of the BBC.
- (4) The Trustees shall nominate one of their number to be recommended for appointment as Chairman of the BBC Trust.

PART 2

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TV LICENCE FEES

2 Civil penalties for non-payment of TV licence fee

- (1) The Communications Act 2003 is amended as follows.

- (2) Subsections (2) to (4) of section 363 (licence required for use of TV receiver) are omitted.
- (3) In section 366 (powers to enforce TV licensing) –
- (a) omit subsections (1) to (12);
 - (b) at end insert – 5
 - “(13) The Secretary of State shall make provision by regulations for or in connection with –
 - (a) the imposition of penalty charges in respect of –
 - (i) installation or use of a television receiver in contravention of section 363(1), 10
 - (ii) possession or control of a television receiver with intent to install or use it in contravention of section 363(1), and
 - (iii) possession or control of a television receiver with knowledge, or reasonable grounds to believe, that another person intends to install or use it in contravention of section 363(1); 15
 - (b) the payment of such penalty charges.
- (14) The regulations shall include provision specifying the person or persons by whom a penalty charge in respect of a contravention is to be paid (who may be the owner of the television receiver involved in the contravention, its operator at the time of the contravention, the owner or tenant of the property in which it is installed, or any other appropriate person). 20
- (15) The regulations shall include provision in respect of any description of conduct for which a penalty charge may be imposed – 25
- (a) prohibiting criminal proceedings or the issuing of a fixed penalty notice in respect of conduct of that description, or 30
 - (b) securing that a penalty charge is not required to be paid, or is refunded, where the conduct is the subject of criminal proceedings or of a fixed penalty notice.
- (16) The regulations may include provision prohibiting the imposition of a penalty charge except on the basis of – 35
- (a) a record produced by an approved device, or
 - (b) information given by a civil enforcement officer as to conduct observed by him.
- (17) The regulations may – 40
- (a) specify exemptions from penalty charges, and
 - (b) make provision for discounts or surcharges, or both.
- (18) The regulations shall specify the BBC as the enforcement authority for contraventions set out in subsection (13).”

(4) After section 366, insert –

“366A Civil enforcement officers

- (1) The BBC may provide for the enforcement of contraventions for which it is the enforcement authority by individuals to be known as civil enforcement officers. 5
- (2) A civil enforcement officer must be –
 - (a) an individual employed by the BBC, or
 - (b) where the BBC have made arrangements with any person for the purposes of this section, an individual employed by that person to act as a civil enforcement officer. 10
- (3) Civil enforcement officers –
 - (a) when exercising specified functions must wear such uniform as may be determined by the BBC in accordance with guidelines issued by the Secretary of State, and
 - (b) must not exercise any of those functions when not in uniform. 15
- (4) In subsection (3)(a) “specified” means specified by regulations made by the Secretary of State.

366B Setting the level of penalty charges

- (1) The BBC shall set the level of charges applicable in the case of contraventions for which they are the enforcement authority. 20
- (2) Different levels of charges may be set for different parts of the United Kingdom and for different cases or classes of case.
- (3) The levels of charges set under this section must (subject to subsection (5)) accord with guidelines appended to an order made by the Secretary of State. 25
- (4) Different guidelines may be given by the Secretary of State for different cases or classes of case.
- (5) The BBC may, with the permission of the Secretary of State, depart from any such guidelines.
- (6) The BBC shall publish, in such manner as the Secretary of State may determine, the levels of charges set under this section. 30

366C Notification of penalty charge and confiscation of television receiver

- (1) The Lord Chancellor may make regulations for and in connection with the notification of penalty charges.
- (2) The regulations may provide for notification of a penalty charge to be given in respect of a television receiver –
 - (a) by a notice affixed to the property in which the receiver is kept,
 - (b) by a notice given to a person appearing to be in charge of the receiver, or
 - (c) in such other manner as may be specified by the regulations. 40
- (3) The regulations may provide that, if it appears to the BBC that both the operator of a television receiver and the owner or tenant of the property in which the television receiver is kept are liable to a penalty charge,

they may give notice to the operator requiring him to provide them with the name and address of the owner or tenant of the property at the time of the alleged contravention.

- (4) The regulations may include provision creating criminal offences to be triable summarily and punishable with a fine not exceeding level 5 on the standard scale or such lower amount as may be specified. 5
- (5) The Secretary of State may make provision by regulations for or in connection with a power of removal of a television receiver which is being possessed or used, or has been installed, in contravention of section 363(1) by a person whom the BBC have reasonable grounds to believe has previously been issued with a penalty charge under section 366(13). 10
- (6) Regulations made under subsection (5) may provide—
- (a) that on any occasion when a television receiver is removed in accordance with the regulations, the person removing the receiver shall fix in its place a notice— 15
- (i) indicating that the television has been removed;
- (ii) specifying the steps to be taken in order to secure its release; and
- (iii) giving such other information as may be specified by the regulations; and 20
- (b) that a notice fixed in place in accordance with the regulations shall not be removed or interfered with except by or under the authority of— 25
- (i) the owner or operator of the television receiver, or
- (ii) the BBC,
- and that a person contravening that prohibition commits an offence and is liable on summary conviction to a fine not exceeding level 2 on the standard scale.

366D Representations and appeals 30

- (1) The Lord Chancellor may make provision by regulations entitling a person—
- (a) who is or may be liable to pay a penalty charge, or
- (b) who secures the return of a television receiver from the BBC on payment of an amount in accordance with regulations under section 336C, 35
- to make representations to the BBC and to appeal to an adjudicator if his representations are not accepted.
- (2) The regulations may make such provision in connection with the rights conferred as appears to the Lord Chancellor to be appropriate, and may in particular make provision— 40
- (a) requiring the BBC to give a person notice of the rights conferred by the regulations,
- (b) as to the grounds on which, and time within which, representations may be made, 45
- (c) requiring supporting evidence in such circumstances as may be specified,
- (d) as to the duties of the BBC when representations are received,

- (e) as to the circumstances in which there is a right of appeal to an adjudicator,
 - (f) generally as to the making, determination and effect of, and procedure in connection with, appeals, and
 - (g) enabling an adjudicator to review any decision made on, or in the course of, an appeal. 5
- (3) The regulations may provide that, as respects a ground on which representations may be made, the adjudicator's function on an appeal is to decide whether to direct the BBC to consider or re-consider (as the case may be) any representations relating to that ground. 10
- (4) The regulations may include provision –
 - (a) authorising an adjudicator to require a person –
 - (i) to attend to give evidence at the hearing of an appeal, and
 - (ii) to produce any documents in his custody or under his control relating to any matter relevant for the purposes of the appeal, and 15
 - (b) making it a criminal offence triable summarily and punishable with a fine not exceeding level 2 on the standard scale to fail to comply with such a requirement. 20
- (5) The regulations may provide that a person who makes a representation that is false in a material particular, and does so recklessly or knowing it to be false, commits an offence triable summarily and punishable with a fine not exceeding level 5 on the standard scale.
- (6) The regulations may include provision authorising an adjudicator to make an order for the payment of costs and expenses by a party to an appeal in such circumstances as may be specified. 25

366E Adjudicators

- (1) The Lord Chancellor may make provision by regulations for and in connection with the appointment of adjudicators for the purposes of this Part. 30
- (2) The following provisions apply in relation to the office of adjudicator –
 - (a) to be qualified for appointment as an adjudicator, a person must satisfy the judicial appointment eligibility condition on a 5-year basis; 35
 - (b) an adjudicator is appointed for a term, not exceeding five years, specified in his instrument of appointment;
 - (c) on the expiry of a term of appointment an adjudicator is eligible for re-appointment;
 - (d) an adjudicator may be removed from office only for misconduct or on the ground that he is unable or unfit to discharge his functions, but otherwise holds and vacates office in accordance with the terms of his appointment. 40
- (3) The regulations shall provide –
 - (a) for adjudicators to be appointed by the BBC on such terms as the BBC may decide; 45
 - (b) for the consent of the Lord Chancellor to be required for any decision by the BBC to appoint a person as an adjudicator; and

- (c) for the consent of the Lord Chancellor and the Lord Chief Justice to be required for any decision by the BBC –
- (i) not to re-appoint a person as an adjudicator, or
 - (ii) to remove a person from his office as an adjudicator.
- (4) The regulations may provide for the Lord Chief Justice to nominate a judicial office holder (as defined in section 109(4) of the Constitutional Reform Act 2005) to exercise any of his functions under the regulations. 5
- (5) The BBC shall –
- (a) provide, or make arrangements for the provision of, accommodation and administrative staff and facilities for adjudicators, and 10
 - (b) determine the places where adjudicators are to sit, and shall defray all the expenses of the adjudication process and, in particular, expenses in relation to the remuneration of adjudicators.
- (6) The regulations shall provide – 15
- (a) for each adjudicator to make an annual report to the BBC in accordance with such requirements as may be imposed by the BBC, and
 - (b) for the BBC to make and publish an annual report to the Secretary of State on the discharge by the adjudicators of their functions. 20
- (7) The expenses of the BBC under this section shall be defrayed by them in such proportions –
- (a) as they may decide, or
 - (b) in default of a decision by them, as may be determined in accordance with regulations made by the Secretary of State. 25
- (8) Regulations under subsection (7)(b) may, in particular, provide –
- (a) for the matter to be determined by an arbitrator appointed by a body specified in the regulations, and
 - (b) for the giving of directions by the Secretary of State in order to secure that the matter is referred to arbitration. 30

366F Enforcement of penalty charges

- (1) The Lord Chancellor may make regulations for or in connection with the enforcement of penalty charges issued under section 366(13).
- (2) These regulations may include provision – 35
- (a) creating criminal offences to be triable summarily and punishable with a fine not exceeding level 5 on the standard scale or such lower amount as may be specified;
 - (b) for amounts payable under or by virtue of any provision of this Part to be recoverable, if any county court so orders, as if they were payable under a country court order, 40
- an amount to which paragraph (b) applies that is so recoverable is referred to below as a “TV licence contravention debt”.
- (3) The Lord Chancellor may by order make provision –
- (a) for warrants of execution in respect of TV licence contravention debts, or such class or classes of TV licence contravention debts 45

- as may be specified in the order, to be executed by certificated bailiffs;
- (b) as to the requirements that must be satisfied before a person takes any other step of a kind specified in the order, with a view to enforcing the payment of – 5
- (i) a TV licence contravention debt, or
- (ii) such class or classes of TV licence contravention debts as may be so specified.
- (4) Any such order may make such incidental and supplementary provision (including modifications of any enactment other than this Act) as the Lord Chancellor considers appropriate in consequence of the provision made by the order. 10
- (5) For the purposes of subsection (3) a person is a certificated bailiff if he is authorised to act as such by a certificate signed – 15
- (a) by a judge assigned to a county court district, or
- (b) in such circumstances as may be specified in regulations made by the Lord Chancellor, by a district judge.
- (6) The Lord Chancellor may by regulations make provision in connection with the certification of bailiffs under this section and the execution of warrants of execution by such bailiffs. 20
- (7) The regulations may, in particular, make provision –
- (a) as to the security (if any) to be required from certificated bailiffs,
- (b) as to the fees and expenses payable with respect to execution by certificated bailiffs, and
- (c) for the suspension of cancellation of certificates issued under this section and with respect to the effect of any such suspension or cancellation. 25
- (8) A person who is not a certificated bailiff but who purports to levy a distress as such a bailiff, and any person authorising him to levy it, shall be deemed to have committed a trespass. 30

3 Short title, commencement and extent

- (1) This Act may be cited as the BBC (Trustee Election and Licence Fee) Act 2013.
- (2) This Act shall come into force on 1 January 2017.
- (3) This Act extends to England and Wales, Scotland and Northern Ireland.

BBC (Trustee Election and Licence Fee) Bill [HL]

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Lord Pearson of Rannoch

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