



FALKLAND ISLANDS

Media Trust Ordinance 1989

(ORDINANCE No. 11 of 1989)

ARRANGEMENT OF SECTIONS

Section

1. Short title
 2. Interpretation
 3. Establishment of a Media Trust
 4. Appointment of trustees
 - 4A. Removal and suspension of trustees
 - 4B. Resignations
 5. Duties of Trust
 - 5A. Transfer of broadcasting service to the Trust
 6. Duties of trustees
 7. Powers of Trust
 8. Books of account to be kept
 9. Annual accounts
 10. Limitation of expenditure
 11. Subsidy by the Government
 12. Meetings of Trust
- Schedule 1
- Schedule 2



FALKLAND ISLANDS

Media Trust Ordinance 1989

AN ORDINANCE To establish a trust to be responsible for the editorial policy, control and publishing of a newspaper and editorial policy of the Falkland Islands Broadcasting Station and for connected purposes.

*[DATE OF COMMENCEMENT: 2ND AUGUST 1989]
(Unless otherwise indicated)*

1 Short title

This Ordinance may be cited as the Media Trust Ordinance 1989.

[Revision w.e.f. 31/07/2017]

2 Interpretation

In this Ordinance, unless the context otherwise requires-

"broadcasting service" has the meaning provided for in section 5(1)(aa) of this Ordinance;

[S. 2/Ord. 13/05/w.e.f. 15/8/05.]

"for general reception" means capable of being received free of charge and without payment;

[S. 2/Ord. 13/05/w.e.f. 15/8/05.]

"the broadcasting station" means the Falkland Islands Broadcasting Station;

"the company" has the meaning ascribed by section 3(1);

"the newspaper" means the newspaper referred to in section 5;

"the Trust" means the trust established by section 3;

"wireless telegraphy" has the same meaning as under the Wireless Telegraphy Ordinance 1994.

[S. 2/Ord. 13/05/w.e.f. 15/8/05.]

3 Establishment of a Media Trust

(1) There shall be a trust known as the Falkland Islands Media Trust ("the Trust") which shall be a body corporate with perpetual succession and a common seal.

(2) All the property which immediately prior to the commencement of this Ordinance belonged to Penguin News Limited ("the company") is hereby vested in the Trust.

(3) All debts and liabilities whatsoever of the company immediately prior to the commencement of this Ordinance are hereby transferred to and become the debt and liabilities of the Government which shall pay and discharge or perform the same (if any) as soon as conveniently may be or, with the consent of persons entitled to the benefit of the said Trust, transfer them to the Trust for the Trust to pay, discharge or perform the same.

(4) Penguin News Limited is hereby dissolved.

4 Appointment of trustees

(1) The Governor acting in his discretion shall appoint not less than five and not more than nine persons to be members of the Trust ("trustees").

[S. 2/Ord. 21/04/w.e.f. 17/12/04.]

(2) To be appointed as a trustee under subsection (1), a person must —

- (a) have been ordinarily resident in the Falkland Islands for a period of 12 months immediately preceding the date of appointment;
- (b) not be a member of the Legislative Assembly;
- (c) subject to Part 29 (Rehabilitation of offenders) of the Criminal Procedure and Evidence Ordinance 2014, not have been —
 - (i) sentenced to a custodial sentence for a period of three months or more; or
 - (ii) convicted of an offence involving dishonesty;
- (d) not have been removed as a trustee for reasons of misconduct; and
- (e) not have been adjudged bankrupt.

[Revision w.e.f. 31/07/2017]

[S. 4/Ord. 10/21/w.e.f. 30/09/21.]

(3) A trustee shall, subject to subsection (4), hold office as such for four years but, subject to this Ordinance, is eligible for re-appointment.

(4) ...

[Revision w.e.f. 31/07/2017]

[S. 4/Ord. 10/21/w.e.f. 30/09/21.]

4A Removal and suspension of trustees

- (1) The Governor may, on notifying a trustee in writing, remove a trustee if the trustee —
 - (a) engages in conduct that in the opinion of the Governor, brings the Trust into disrepute; or
 - (b) would no longer be eligible for appointment under section 4.
- (2) The Governor may only remove a trustee under subsection (1) after —
 - (a) providing the trustee with the opportunity to make representations; and
 - (b) taking those representations into account.
- (3) The Governor may suspend a trustee from the Trust while the process referred to in subsection (2) is underway.

[S. 5/Ord. 10/21/w.e.f. 30/09/21.]

4B Resignations

A trustee may resign from office by giving 30 days' notice in writing to the Governor.

[S. 5/Ord. 10/21/w.e.f. 30/09/21.]

5 Duties of Trust

- (1) Subject to subsection (2) it shall be the object of the Trust, so far as funds belonging to or made available to the Trust and all other relevant circumstances allow-
 - (a) to publish regularly a newspaper to circulate in the Falkland Islands and to be available for persons outside the Falkland Islands to purchase on subscription;
 - (aa) with effect from 15th August 2005, to provide as a public service a broadcasting service by wireless telegraphy by transmission of a minimum of one sound programme service consisting of programmes for information, education and entertainment for general reception in the Falkland Islands.

[S. 3(a)/Ord. 13/05/w.e.f. 15/8/05.]

- (b) to ensure that the newspaper and the broadcasting service are in their respective editorial policies independent from control by the Government, any political party, trade union, religious body, or any other body, sect or interest group other than the Trust;

[S. 3(b)/Ord. 13/05/w.e.f. 15/8/05.]

- (c) to ensure that the newspaper and the broadcasting service are informative of news and current affairs within the Falkland Islands, likely to be of interest generally to persons in the Falkland Islands and so far as is ancillary thereto and, in the opinion of the Trust likely to be of interest to such persons, informative of matters outside the Falkland Islands;

[S. 3(b)/Ord. 13/05/w.e.f. 15/8/05.]

- (d) subject to subsection (3), to ensure as far as possible that the programmes broadcast by the Trust in its provision of the broadcasting service comply with the following requirements:

- (i) that nothing is included in the programmes which offends against good taste or decency or is likely to incite to crime or lead to disorder or to be offensive to public feeling;
- (ii) that a sufficient amount of time in the programmes is given to news and news features and that all news given in the programmes (in whatever form) is presented with due accuracy and impartiality;
- (iii) that proper proportions of the recorded and other matter included in the programmes are of Falkland Islands' origin;
- (iv) that due impartiality is preserved on the part of the persons providing the programmes in relation to any matter which, for any reason, is likely to be controversial;
- (v) that a sufficient amount of broadcasting time is made available, at suitable times of day, for official, governmental or other announcements;
- (vi) that a sufficient amount of broadcasting time be afforded free of charge, impartially between candidates, at times of Legislative Assembly and other elections, to public bodies in the Falkland Islands.

[S. 3(d)/Ord. 13/05/w.e.f. 15/8/05 and Revision w.e.f. 31/07/2017.]

(2) The duties under subsection (1) are qualified so as to permit and take into account any restraint on the freedom of speech contemplated under the provisions of the Constitution or, subject to the Constitution, required by law.

(3) The duties under subsection (1)(d) do not extend so as to in any way require the broadcasting time at the commencement of this Ordinance¹ allotted to the British Forces Broadcasting Service to be varied, or to cast upon the Trust any responsibility for the content of programmes broadcast by that service or by the British Broadcasting Corporation and relayed by the broadcasting station.

(4) The Trust may delegate to an editor of the newspaper the day to day performance of its duties under subsection (1) so far as they affect a newspaper, but the trustees shall nonetheless continue to be responsible for the performance of the same.

(5) The Trust may delegate to a manager of a broadcasting service the day to day performance of its duties under subsection (1) above so far as they affect a broadcasting service, but the Trustees shall nonetheless continue to be responsible for the performance of the same.

[S. 3(e)/Ord. 13/05/w.e.f. 15/8/05.]

5A Transfer of broadcasting service to the Trust

On a transfer from the Government to the Trust of the provision of a broadcasting service with effect from 15th August 2005-

- (a) all real and personal property at that date known as and forming part of the broadcasting station, to include but not limited to the building, transmitters, studio equipment and copyright materials, shall remain property of the Government unless the said property is

acquired in accordance with the provisions of paragraph 4 or 5 of Schedule 1 to the Ordinance with the agreement of the Government;

- (b) the contracts of employment of persons employed by the Government at the broadcasting station shall not be deemed to be transferred to the Trust, although the Trust may agree to employ under new contracts of employment any of those Government employees and may agree to benefit any such employee from any accrued entitlement existing under a contract of employment with the Government at the date of the transfer of the provision of the service.

[S. 3(f)/Ord. 13/05/w.e.f. 15/8/05.]

6 Duties of trustees

(1) Every trustee shall, subject to this Ordinance, have the like duties towards the Trust and to persons dealing with the Trust as if-

- (a) the Trust were a company registered with limited liability under the provisions of the Companies Act 1948 in its application to the Falkland Islands; and
- (b) he were a director of that company.

(2) A trustee shall not be personally liable in respect of anything done by him in his capacity as a trustee unless the Trust were a company of the kind mentioned in subsection (1) and were he a director of that company he would be personally liable as such director under the provisions of the said Act.

7 Powers of Trust

The Trust shall have such powers as are set out in Schedule 1 but subject to such conditions as are there set out.

8 Books of account to be kept

(1) The Trust shall in relation to the newspaper and broadcasting service keep or cause to be kept such books of account as are necessary faithfully to record all financial transactions of the Trust and of the newspaper and all such books of account shall be produced at all reasonable times to the Financial Secretary, the Principal Auditor or any other public officer authorized by either of them.

[S. 4/Ord. 13/05/w.e.f. 15/8/05.]

(2) The provisions of the Finance and Audit Ordinance 1988 as to the audit of accounts shall apply to the books of account required to be kept by subsection (1) and as to the trustees and employees of the Trust as if they were public officers and the books of account were kept in relation to expenditure and income of a department of government.

[Revision w.e.f. 31/07/2017]

(3) Nothing in subsection (2) shall render the funds of the Trust public funds or require its accounts to be treated as part of the public accounts of the Falkland Islands.

9 Annual accounts

(1) The Trust shall, in the month of July in every year, cause a profit and loss account as to its activities in the period to the preceding 30th June, and a balance sheet as at that date ("the annual accounts") to be drawn up and, as soon as conveniently possible thereafter, audited.

(2) The annual accounts and the auditor's report thereon shall, as soon as reasonably possible, be transmitted to the Governor who shall cause the same to be laid on the table of the Legislative Assembly at the first convenient meeting of that Assembly after he receives them from the Trust.

[Revision w.e.f. 31/07/2017]

(3) As soon as reasonably possible after the Legislative Assembly meeting referred to in subsection (2) the profit and loss account and balance sheet and auditor's report thereon shall be published in the Gazette.

[Revision w.e.f. 31/07/2017]

10 Limitation of expenditure

(1) It shall not be lawful for the Trust to expend, or to commit itself to expenditure of, any sum which is reasonably likely to cause to be exceeded the aggregate of-

- (a) the income likely to be received from sale of newspapers and newspaper advertising space and the broadcast of announcements and advertisements and any other business carried on by the Trust with the consent of the Governor;

[S. 5/Ord. 13/05/w.e.f. 15/8/05.]

- (b) any subvention or subsidy paid or payable to the Trust by the Government or by any other authority;
- (c) any gift of money paid or payable to the Trust;
- (d) any sum borrowed by the Trust with the consent of the Governor.

(2) A trustee who knowingly permits the Trust to incur expenditure contrary to subsection (1) is personally liable to reimburse that expenditure unless the Governor relieves him of that liability by instrument under his hand.

11 Subsidy by the Government

There may be paid out of the Consolidated Fund to the Trust such sums as are appropriated by Ordinance for the purpose.

12 Meetings of Trust

Schedule 2 of this Ordinance shall apply in relation to meetings of the Trust and procedure thereat.

SCHEDULE 1

1. To continue to publish and circulate the newspaper known as the "Penguin News" and to make arrangements, subject to the approval of the Governor advised by the Executive Council as to its printing.

1A. To provide a broadcasting service and subject to such restrictions and conditions as may be notified by the Governor, to carry on the business of a broadcasting corporation and any matters incidental thereto.

[S. 6/Ord. 13/05/w.e.f. 15/8/05.]

2. Subject to such restrictions and conditions as may be notified by the Governor to carry on the business of newspaper proprietors and general publishers and advertising agents.

3. Subject to this Ordinance, to employ such staff as may be appropriate for the foregoing purposes.

4. To acquire, use and operate such property of any kind as may be necessary for any of the foregoing purposes, on such terms as the Trust thinks fit, subject to this Ordinance, and to dispose of any property belonging to it on such terms as the Trust thinks fit.

5. To purchase or take on lease such buildings and land as may be necessary for any of the foregoing purposes.

6. (1) With the consent of the Governor, to open and operate bank accounts for any of the above purposes: provided that all cheques and other bills of exchange shall be signed.

- (a) by two trustees;
- (b) subject to subparagraph (2), in the case of a cheque or other bill of exchange in an amount of £1000 or less-
 - (i) if the cheque or bill of exchange is on an account maintained by the Trust and relating to the newspaper known as the Penguin News, by one trustee and an employee of the Trust in relation to the newspaper; or
 - (ii) if the cheque or bill of exchange is on an account maintained by the trust in relation to the broadcasting service, by one trustee and an employee of the Trust in relation to the broadcasting service; and
- (c) subject to subparagraph (2), in the case of a cheque or bill of exchange in an amount of £400 or less, by one trustee or
 - (i) in the case of an account to which item (b)(i) of this subparagraph relates, by an employee of the Trust in relation to the newspaper; or
 - (ii) in the case of an account to which item (b)(ii) of this subparagraph relates, by an employee of the Trust in relation to the broadcasting service.

(2) Not more than one cheque or bill of exchange in respect of the same debt or obligation may be signed under the power conferred by subparagraph 9(1)(b) or (c).

[S. 3/Ord. 11/90/w.e.f. 15/6/90, s. 3/Ord. 23/94/w.e.f. 21/12/94 and s. 2/Ord. 15/05/w.e.f. 29/9/05.]

7. With the prior consent of the Governor, and subject to such conditions as he may specify, to borrow money for the purposes of the Trust.

SCHEDULE 2

1. The Trust shall meet at least four times in every year and meetings shall be on such dates and at such times as shall be decided by the Chairman, subject to paragraph 5.

2. The trustee appointed by the Governor to be Chairman of the Trust shall chair meetings of the Trust when he is present; in his absence the trustees present at the meeting shall elect one of their number to chair the meeting.

3. The quorum for every meeting of the Trust shall be three trustees personally or virtually present and no business shall be transacted at any time when a quorum is not present except to adjourn that meeting.

[S. 6/Ord. 10/21/w.e.f. 30/09/21.]

3A. For the purposes of paragraph 3, a trustee is considered to be virtually present if both those trustees personally present and those not personally present, agree that the means of communication are sufficient, in particular so that —

(a) the trustees participating in the meeting are able to hear and be heard; and

(b) the trustees have access to all of the documents to be considered at the meeting.

[S. 6/Ord. 10/21/w.e.f. 30/09/21.]

4. All matters coming before the Trust for decision at a meeting shall be decided in accordance with the views of the majority of the trustees present at the meeting, if necessary upon a vote of the trustees. In the event of an equality of votes, the chairman of the meeting shall have and shall exercise a second or casting vote.

5. Any two trustees may requisition a meeting of the Trust at any time by writing signed by them delivered to the Chairman and the Chairman on receipt of such a requisition shall convene a meeting to be held within fourteen days.

6. At least seven days' notice shall be given of every meeting unless such notice is abridged by consent of at least four trustees.

7. Any person may attend a meeting by invitation of the trustees and, if so invited, may speak thereat, but he shall not vote.

8. The trustees shall appoint one of their number or some other person to keep minutes of each of their meetings and shall deliver a copy of such minutes so soon as available (without waiting for confirmation thereof) to the Governor, the Chief Executive and the Financial Secretary.

8A. At the discretion of the Chairman and after notifying all trustees, the Trust may transact business and take decisions outside of a meeting convened under paragraph 1 by means of email or other electronic means accessible to all trustees. Any such business or decisions must involve the active participation of at least three trustees. Any such business or decisions must be confirmed and recorded in the minutes of the next meeting of the Trust.

[S. 6/Ord. 10/21/w.e.f. 30/09/21.]

9. Subject to the foregoing, and to the Ordinance, the Trust may regulate its own procedure.

ⁱ 2nd August 1989