



Broadcasting Act 1990

1990 CHAPTER 42

^{F1}PART I

INDEPENDENT TELEVISION SERVICES

CHAPTER II

TELEVISION BROADCASTING ON CHANNELS 3, 4 AND 5

Enforcement of licences

- 40 Power to direct licensee to broadcast correction or [^{F1}a statement of findings] or not to repeat programme.**
- (1) If [^{F2}OFCOM] are satisfied—
- (a) that the holder of a Channel 3 or Channel 5 licence has failed to comply with any condition of the licence, and
 - (b) that that failure can be appropriately remedied by the inclusion in the licensed service of a correction or [^{F1}a statement of findings] (or both) under this subsection,
- they may (subject to subsection (2)) direct the licence holder to include in the licensed service a correction or [^{F1}a statement of findings] (or both) in such form, and at such time or times, as they may determine.
- (2) [^{F2}OFCOM] shall not give any person a direction under subsection (1) unless they have given him a reasonable opportunity of making representations to them about the matters complained of.
- (3) Where the holder of a licence includes a correction or [^{F1}a statement of findings] in the licensed service in pursuance of a direction under subsection (1), he may announce that he is doing so in pursuance of such a direction.

Changes to legislation: There are currently no known outstanding effects for the Broadcasting Act 1990, Section 40. (See end of Document for details)

- (4) If [^{F2}OFCOM] are satisfied that the inclusion by the holder of a Channel 3 or Channel 5 licence of any programme in the licensed service involved a failure by him to comply with any condition of the licence, they may direct him not to include that programme in that service on any future occasion.
- (5) This section shall apply in relation to Channel 4 as if any reference to a Channel 3 licence were a reference to the licence to provide Channel 4.
- [^{F3}(6) For the purposes of this section a statement of findings, in relation to a case in which OFCOM are satisfied that the holder of a licence has contravened the conditions of his licence, is a statement of OFCOM's findings in relation to that contravention.]

Textual Amendments

- F1** Words in s. 40 substituted (29.12.2003) by [Communications Act 2003 \(c. 21\), ss. 344\(2\), 411\(2\)](#) (with [Sch. 18](#)); [S.I. 2003/3142, art. 3\(1\), Sch. 1](#) (with art. 11)
- F2** Words in ss. 40-42 substituted (29.12.2003) by [Communications Act 2003 \(c. 21\), s. 411\(2\), Sch. 15 para. 18\(1\)](#) (with [Sch. 18](#)); [S.I. 2003/3142, art. 3\(1\), Sch. 1](#) (with art. 11)
- F3** S. 40(6) inserted (29.12.2003) by [Communications Act 2003 \(c. 21\), ss. 344\(3\), 411\(2\)](#) (with [Sch. 18](#)); [S.I. 2003/3142, art. 3\(1\), Sch. 1](#) (with art. 11)

Modifications etc. (not altering text)

- C1** Pt. I: transfer of functions (29.12.2003) by [Communications Act 2003 \(c. 21\), s. 411\(2\), Sch. 1 para. 3\(a\)](#) (with [Sch. 18](#)); [S.I. 2003/3142, art. 3\(1\), Sch. 1](#) (with art. 11)
- C2** S. 40 applied (with modifications) (29.12.2003) by [Communications Act 2003 \(c. 21\), s. 411\(2\), Sch. 10 para. 8\(1\)](#) (with [Sch. 18](#)); [S.I. 2003/3142, art. 3\(1\), Sch. 1](#) (with art. 11)
- C3** S. 40(1)-(4) applied (1.10.1996) by [1996 c. 55, s. 23\(8\)](#) (with s. 43(1)(6)); [S.I. 1996/2120, art. 4, Sch. 1](#)
- C4** S. 40(1)-(4) applied (1.10.1996) by [1996 c. 55, s. 27\(8\)](#) (with s. 43(1)(6)); [S.I. 1996/2120, art. 4, Sch. 1](#)
- C4** [S. 40\(1\)](#) modified (20.7.2004) by [The Contracting Out \(Functions relating to Broadcast Advertising\) and Specification of Relevant Functions Order 2004 \(S.I. 2004/1975\), art. 1, Sch. para. 2\(a\)](#) (with art. 5)

Changes to legislation:

There are currently no known outstanding effects for the Broadcasting Act 1990, Section 40.