



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

41 Power to impose financial penalty or shorten licence period.

- (1) If [^{F1}OFCOM] are satisfied that the holder of a Channel 3 or Channel 5 licence has failed to comply with any condition of the licence or with any direction given by [^{F1}OFCOM] under or by virtue of any provision of this Part [^{F2}, Part 5 of the Broadcasting Act 1996 or Part 3 of the Communications Act 2003], they may (subject to the following provisions of this section) serve on him—
- (a) a notice requiring him to pay, within a specified period, a specified financial penalty to [^{F1}OFCOM]; or
 - (b) a notice reducing the period for which the licence is to be in force by a specified period not exceeding two years.

[^{F3}(1A) The amount of a financial penalty imposed on a person in pursuance of subsection (1) (a) shall not exceed 5 per cent. of the qualifying revenue for the licence holder's last complete accounting period falling within the period for which his licence has been in force ("the relevant period").

(1B) In relation to a person whose first complete accounting period falling within the relevant period has not ended when the penalty is imposed, subsection (1A) is to be construed as referring to 5 per cent. of the amount which OFCOM estimate to be the qualifying revenue for that accounting period.

Changes to legislation: There are currently no known outstanding effects for the Broadcasting Act 1990, Section 41. (See end of Document for details)

- (1C) Section 19(2) to (6) applies for determining or estimating qualifying revenue for the purposes of subsection (1A) or (1B) above.]
- (3) [F1OFCOM] shall not serve on any person such a notice as is mentioned in subsection (1)(a) or (b) unless they have given him a reasonable opportunity of making representations to them about the matters complained of.
- (4) Where a licence is due to expire on a particular date by virtue of a notice served on any person under subsection (1)(b), [F1OFCOM] may, on the application of that person, revoke that notice by a further notice served on him at any time before that date, if they are satisfied that, since the date of the earlier notice, his conduct in relation to the operation of the licensed service has been such as to justify the revocation of that notice.
- (5) It is hereby declared that any exercise by [F1OFCOM] of their powers under subsection (1) of this section in respect of any failure to comply with any condition of a licence shall not preclude any exercise by them of their powers under section 40 in respect of that failure.
- (6) This section shall apply in relation to Channel 4 as if—
- (a) any reference to a Channel 3 licence were a reference to the licence to provide Channel 4; and
 - (b) subsection (1)(b) were omitted.

Textual Amendments

- F1** 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)
- F2** Words in s. 41(1) inserted (29.12.2003) by [Communications Act 2003 \(c. 21\)](#), s. 411(2), [Sch. 15 para. 18\(2\)](#) (with [Sch. 18](#)); [S.I. 2003/3142](#), art. 3(1), [Sch. 1](#) (with art. 11)
- F3** S. 41(1A)-(1C) substituted for s. 41(2) (29.12.2003) by [Communications Act 2003 \(c. 21\)](#), s. 411(2), [Sch. 13 para. 3\(1\)\(2\)](#) (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. 41(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. 3\(a\)](#) (with art. 5)

Changes to legislation:

There are currently no known outstanding effects for the Broadcasting Act 1990, Section 41.