



Broadcasting Act 1990

1990 CHAPTER 42

PART III

INDEPENDENT RADIO SERVICES

CHAPTER II

SOUND BROADCASTING SERVICES

National services

101 Failure to begin providing licensed service and financial penalties on revocation of licence.

(1) If at any time after a national licence has been granted to any person but before the licence has come into force—

- (a) that person indicates to [F¹OFCOM] that he does not intend to provide [F²the licensed national service or that he does not intend to provide a corresponding simulcast radio service that he is required to provide by a condition imposed under section 100A], or
- (b) [F¹OFCOM] for any other reason have reasonable grounds for believing that that person will not provide [F³the licensed national service or any such simulcast radio service] once the licence has come into force,

then, subject to subsection (2)—

- (i) [F¹OFCOM] shall serve on him a notice revoking the licence as from the time the notice is served on him, and
 - (ii) section 100 shall (subject to section 100(11)) have effect as if he had not made an application for the licence.

(2) Subsection (1) shall not apply in the case of any person by virtue of paragraph (b) of that subsection unless [F¹OFCOM] have served on him a notice stating their grounds for believing that he will not provide [F⁴the licensed national service or the simulcast

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radio service] once his licence has come into force; and they shall not serve such a notice on him unless they have given him a reasonable opportunity of making representations to them about the matters complained of.

- (3) Where [^{F1}OFCOM] revoke a national licence under this section or under any other provision of this Part, they shall serve on the licence holder a notice requiring him to pay to them, within a specified period, [^{F5}a specified financial penalty].
- [^{F6}(3A) The maximum amount which a person may be required to pay by way of a penalty under subsection (3) is the maximum penalty given by subsections (3B) and (3C).
- (3B) In a case where the licence is revoked under this section or the penalty is imposed before the end of the first complete accounting period of the licence holder to fall within the period for which the licence is in force, the maximum penalty is whichever is the greater of—
- (a) £250,000; and
 - (b) 7 per cent. of the amount which OFCOM estimate would have been the qualifying revenue for the first complete accounting period of the licence holder falling within the period for which the licence would have been in force.
- (3C) In any other case, the maximum penalty is whichever is the greater of—
- (a) £250,000; and
 - (b) 7 per cent. of the qualifying revenue for the last complete accounting period of the licence holder falling within the period for which the licence is in force.
- (3D) Section 102(2) to (6) applies for estimating or determining qualifying revenue for the purposes of subsection (3B) or (3C) above.]
- (5) Any financial penalty payable by any body by virtue of subsection (3) shall, in addition to being recoverable from that body as provided by section 122(4), be recoverable by [^{F1}OFCOM] as a debt due to them from any person who controls that body.

Textual Amendments

- F1** Words in s. 101 substituted (29.12.2003) by [Communications Act 2003 \(c. 21\)](#), s. 411(2), **Sch. 15 para. 41(2)** (with [Sch. 18](#)); S.I. 2003/3142, art. 3(1), Sch. 1 (with art. 11)
- F2** Words in s. 101(1)(a) substituted (29.12.2003) by [Communications Act 2003 \(c. 21\)](#), s. 411(2), **Sch. 15 para. 41(3)(a)** (with [Sch. 18](#)); S.I. 2003/3142, art. 3(1), Sch. 1 (with art. 11)
- F3** Words in s. 101(1)(b) substituted (29.12.2003) by [Communications Act 2003 \(c. 21\)](#), s. 411(2), **Sch. 15 para. 41(3)(b)** (with [Sch. 18](#)); S.I. 2003/3142, art. 3(1), Sch. 1 (with art. 11)
- F4** Words in s. 101(2) substituted (29.12.2003) by [Communications Act 2003 \(c. 21\)](#), s. 411(2), **Sch. 15 para. 41(4)** (with [Sch. 18](#)); S.I. 2003/3142, art. 3(1), Sch. 1 (with art. 11)
- F5** Words in s. 101(3) substituted (29.12.2003) by [Communications Act 2003 \(c. 21\)](#), s. 411(2), **Sch. 13 para. 6(1)** (with [Sch. 18](#)); S.I. 2003/3142, art. 3(1), Sch. 1 (with art. 11)
- F6** S. 101(3A)-(3D) substituted for s. 101(4) (29.12.2003) by [Communications Act 2003 \(c. 21\)](#), s. 411(2), **Sch. 13 para. 6(2)(3)** (with [Sch. 18](#)); S.I. 2003/3142, art. 3(1), Sch. 1 (with art. 11)

Modifications etc. (not altering text)

- C1** Pt. III: transfer of functions (29.12.2003) by [Communications Act 2003 \(c. 21\)](#), s. 411(2), **Sch. 1 para. 5** (with [Sch. 18](#)); S.I. 2003/3142, art. 3(1), Sch. 1 (with art. 11)
- C2** S. 101(3) modified (1.11.1996) by 1996 c. 55, s. 145(6)(b) (with s. 43(1)(6)); S.I. 1996/2120, art. 5, **Sch. 2**
- C3** S. 101(3B)(a): power to amend conferred (29.12.2003) by [Communications Act 2003 \(c. 21\)](#), s. 411(2), **Sch. 13 para. 9** (with [Sch. 18](#)); S.I. 2003/3142, art. 3(1), Sch. 1 (with art. 11)

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C4 S. 101(3C)(a): power to amend conferred (29.12.2003) by [Communications Act 2003 \(c. 21\)](#), s. 411(2), [Sch. 13 para. 9](#) (with [Sch. 18](#)); S.I. 2003/3142, art. 3(1), [Sch. 1](#) (with art. 11)

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