



# Broadcasting Act 1990

## 1990 CHAPTER 42

### <sup>F1</sup>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 [<sup>F1</sup>a statement of findings] or not to repeat programme.**
- (1) If [<sup>F2</sup>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 [<sup>F1</sup>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 [<sup>F1</sup>a statement of findings] (or both) in such form, and at such time or times, as they may determine.
- (2) [<sup>F2</sup>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 [<sup>F1</sup>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.

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

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- (4) If [<sup>F2</sup>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.
- [<sup>F3</sup>(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.