



# 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*

#### **42 Power to revoke Channel 3 or 5 licence.**

(1) If [<sup>F1</sup>OFCOM] are satisfied—

- (a) that the holder of a Channel 3 or Channel 5 licence is failing to comply with any condition of the licence or with any direction given by them under or by virtue of any provision of this Part [<sup>F2</sup>, Part 5 of the Broadcasting Act 1996 or Part 3 of the Communications Act 2003], and
- (b) that that failure is such that, if not remedied, it would justify the revocation of the licence,

they shall (subject to subsection (8)) serve on the holder of the licence a notice under subsection (2).

(2) A notice under this subsection is a notice—

- (a) stating that [<sup>F1</sup>OFCOM] are satisfied as mentioned in subsection (1);
- (b) specifying the respects in which, in their opinion, the licence holder is failing to comply with any such condition or direction as is there mentioned; and
- (c) stating that, unless the licence holder takes, within such period as is specified in the notice, such steps to remedy the failure as are so specified, [<sup>F1</sup>OFCOM] will revoke his licence under subsection (3).

*Changes to legislation: There are currently no known outstanding effects for the Broadcasting Act 1990, Section 42. (See end of Document for details)*

- (3) If at the end of the period specified in a notice under subsection (2) [<sup>F1</sup>OFCOM] are satisfied—
- (a) that the person on whom the notice was served has failed to take the steps specified in it, and
  - (b) that it is necessary in the public interest to revoke his licence,
- they shall (subject to subsection (8)) serve on that person a notice revoking his licence.
- (4) If [<sup>F1</sup>OFCOM] are satisfied in the case of any Channel 3 or Channel 5 licence—
- (a) that the holder of the licence has ceased to provide the licensed service before the end of the period for which the licence is to continue in force, and
  - (b) that it is appropriate for them to do so,
- they shall (subject to subsection (8)) serve on him a notice revoking his licence.
- (5) If [<sup>F1</sup>OFCOM] are satisfied—
- (a) that the holder of a Channel 3 or Channel 5 licence provided them, in connection with his application for the licence, with information which was false in a material particular, or
  - (b) that, in connection with his application for the licence, the holder of such a licence withheld any material information with the intention of causing them to be misled,
- they may (subject to subsection (8)) serve on him a notice revoking his licence.
- (6) Subject to subsection (7), any notice served under subsection (3), (4) or (5) shall take effect as from the time when it is served on the licence holder.
- (7) If it appears to [<sup>F1</sup>OFCOM] to be appropriate to do so for the purpose of preserving continuity in the provision of the service in question, they may provide in any such notice for it to take effect as from a date specified in it.
- (8) [<sup>F1</sup>OFCOM] shall not serve any notice on a person under this section unless they have given him a reasonable opportunity of making representations to them about the matters complained of.

#### 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. 42(1)(a) 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)

#### 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. 42 modified (1.10.1996) by [1996 c. 55, s. 4\(5\)\(6\)](#) (with s. 43(1)(6)); S.I. 1996/2120, art. 4, [Sch. 1](#)
- C3** S. 42 extended (with modifications) (1.10.1996) by [1996 c. 55, s. 17\(6\)](#) (with s. 43(1)(6)); S.I. 1996/2120, art. 4, [Sch. 1](#)
- C4** S. 42 applied (with modifications) (1.10.1996) by [1996 c. 55, s. 23\(8\)\(9\)](#) (with s. 43(1)(6)); S.I. 1996/2120, art. 4, [Sch. 1](#)
- S. 42 applied (with modifications) (1.10.1996) by [1996 c. 55, s. 27\(8\)\(9\)](#) (with s. 43(1)(6)); S.I. 1996/2120, art. 4, [Sch. 1](#)
- S. 42 applied (1.10.1996) by [1996 c. 55, s. 27\(8\)](#) (with s. 43(1)(6)); S.I. 1996/2120, art. 4, [Sch. 1](#)

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**Changes to legislation:** There are currently no known outstanding effects  
for the Broadcasting Act 1990, Section 42. (See end of Document for details)

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| <b>C5</b> | S. 42 applied (29.12.2003) by <a href="#">Communications Act 2003 (c. 21)</a> , s. 411(2), <b>Sch. 10 para. 11</b> (with <a href="#">Sch. 18</a> ); <a href="#">S.I. 2003/3142</a> , art. 3(1), <a href="#">Sch. 1</a> (with art. 11)                 |
| <b>C6</b> | <a href="#">S. 42(1)</a> modified (20.7.2004) by <a href="#">The Contracting Out (Functions relating to Broadcast Advertising) and Specification of Relevant Functions Order 2004 (S.I. 2004/1975)</a> , art. 1, <b>Sch. para. 3(b)</b> (with art. 5) |

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