



# Consumer Credit Act 1974

## 1974 CHAPTER 39

### PART VIII

#### SECURITY

##### *General*

#### **113 Act not to be evaded by use of security.**

- (1) Where a security is provided in relation to an actual or prospective regulated agreement, the security shall not be enforced so as to benefit the creditor or owner, directly or indirectly, to an extent greater (whether as respects the amount of any payment or the time or manner of its being made) than would be the case if the security were not provided and any obligations of the debtor or hirer, or his relative, under or in relation to the agreement were carried out to the extent (if any) to which they would be enforced under this Act.
- (2) In accordance with subsection (1), where a regulated agreement is enforceable on an order of the court or the [F1FCA] only, any security provided in relation to the agreement is enforceable (so far as provided in relation to the agreement) where such an order has been made in relation to the agreement, but not otherwise.
- (3) Where—
  - (a) a regulated agreement is cancelled under section 69(1) or becomes subject to section 69(2), or
  - (b) a regulated agreement is terminated under section 91, or
  - (c) in relation to any agreement an application for an order under section [F265(1) or 124(1)] or a notice under section 28A of the Financial Services and Markets Act 2000] is dismissed (except on technical grounds only), or
  - (d) a declaration is made by the court under section 142(1) (refusal of enforcement order) as respects any regulated agreement,section 106 shall apply to any security provided in relation to the agreement.

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**Changes to legislation:** Consumer Credit Act 1974, Section 113 is up to date with all changes known to be in force on or before 28 April 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details) View outstanding changes

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- (4) Where subsection (3)(d) applies and the declaration relates to a part only of the regulated agreement, section 106 shall apply to the security only so far as it concerns that part.
- (5) In the case of a cancelled agreement, the duty imposed on the debtor or hirer by section 71 or 72 shall not be enforceable before the creditor or owner has discharged any duty imposed on him by section 106 (as applied by subsection (3)(a)).
- (6) If the security is provided in relation to a prospective agreement or transaction, the security shall be enforceable in relation to the agreement or transaction only after the time (if any) when the agreement is made; and until that time the person providing the security shall be entitled, by notice to the creditor or owner, to require that section 106 shall thereupon apply to the security.
- (7) Where an indemnity [<sup>F3</sup>or guarantee] is given in a case where the debtor or hirer is a minor, or [<sup>F4</sup>an indemnity is given in a case where he] is otherwise not of full capacity, the reference in subsection (1) to the extent to which his obligations would be enforced shall be read in relation to the indemnity [<sup>F3</sup>or guarantee] as a reference to the extent to which [<sup>F5</sup>they][<sup>F5</sup>those obligations] would be enforced if he were of full capacity.
- (8) Subsections (1) to (3) also apply where a security is provided in relation to an actual or prospective linked transaction, and in that case—
- (a) references to the agreement shall be read as references to the linked transaction, and
  - (b) references to the creditor or owner shall be read as references to any person (other than the debtor or hirer, or his relative) who is a party, or prospective party, to the linked transaction.

#### Textual Amendments

- F1** Word in s. 113(2) substituted (26.7.2013 for specified purposes, 1.4.2014 in so far as not already in force) by [The Financial Services Act 2012 \(Consumer Credit\) Order 2013 \(S.I. 2013/1882\)](#), arts. 1(1), [7\(9\)](#)
- F2** Words in s. 113(3)(c) substituted (26.7.2013 for specified purposes, 1.4.2014 in so far as not already in force) by [The Financial Services and Markets Act 2000 \(Regulated Activities\) \(Amendment\) \(No.2\) Order 2013 \(S.I. 2013/1881\)](#), arts. 1(2)(6), [20\(35\)](#)
- F3** Words inserted (E.W.N.I.) by virtue of (E.W.) [Minors' Contracts Act 1987 \(c. 13, SIF 30\)](#), s. [4\(1\)\(a\)](#) and (N.I.) [S.I. 1988/930 \(N.I. 9\)](#), art. [6\(1\)\(a\)](#)
- F4** Words inserted (E.W.N.I.) by virtue of (E.W.) [Minors' Contracts Act 1987 \(c. 13, SIF 30\)](#), s. [4\(1\)\(b\)](#) and (N.I.) [S.I. 1988/930 \(N.I. 9\)](#), art. [6\(1\)\(b\)](#)
- F5** Words “those obligations ” substituted (E.W.N.I.) for “they ” by virtue of (E.W.) [Minors' Contracts Act 1987 \(c. 13, SIF 30\)](#), s. [4\(1\)\(c\)](#) and (N.I.) [S.I. 1988/930 \(N.I. 9\)](#), art. [6\(1\)\(c\)](#)

**Changes to legislation:**

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**Changes and effects yet to be applied to the whole Act associated Parts and Chapters:**

Whole provisions yet to be inserted into this Act (including any effects on those provisions):

- s. 25(2A)(b)(ia) inserted by [2010 c. 28 Sch. 2 para. 36](#)