



# Consumer Credit Act 1974

## 1974 CHAPTER 39

### PART IX

#### JUDICIAL CONTROL

##### *Enforcement of certain regulated agreements and securities*

#### **127 Enforcement orders in cases of infringement**

- (1) In the case of an application for an enforcement order under—
  - (a) section 65(1) (improperly executed agreements), or
  - (b) section 105(7)(a) or (b) (improperly executed security instruments), or
  - (c) section 111(2) (failure to serve copy of notice on surety), or
  - (d) section 124(1) or (2) (taking of negotiable instrument in contravention of section 123),the court shall dismiss the application if, but (subject to subsections (3) and (4)) only if, it considers it just to do so having regard to—
  - (i) prejudice caused to any person by the contravention in question, and the degree of culpability for it; and
  - (ii) the powers conferred on the court by subsection (2) and sections 135 and 136.
- (2) If it appears to the court just to do so, it may in an enforcement order reduce or discharge any sum payable by the debtor or hirer, or any surety, so as to compensate him for prejudice suffered as a result of the contravention in question.
- (3) The court shall not make an enforcement order under section 65(1) if section 61(1) (a) (signing of agreements) was not complied with unless a document (whether or not in the prescribed form and complying with regulations under section 60(1)) itself containing all the prescribed terms of the agreement was signed by the debtor or hirer (whether or not in the prescribed manner).
- (4) The court shall not make an enforcement order under section 65(1) in the case of a cancellable agreement if—

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*Status: This is the original version (as it was originally enacted).*

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- (a) a provision of section 62 or 63 was not complied with, and the creditor or owner did not give a copy of the executed agreement, and of any other document referred to in it, to the debtor or hirer before the commencement of the proceedings in which the order is sought, or
  - (b) section 64(1) was not complied with.
- (5) Where an enforcement order is made in a case to which subsection (3) applies, the order may direct that the regulated agreement is to have effect as if it did not include a term omitted from the document signed by the debtor or hirer.

## **128 Enforcement orders on death of debtor or hirer**

The court shall make an order under section 86(2) if, but only if, the creditor or owner proves that he has been unable to satisfy himself that the present and future obligations of the debtor or hirer under the agreement are likely to be discharged.