

*Status: This version of this provision is prospective.*

*Changes to legislation: Courts and Legal Services Act 1990, Section 105 is up to date with all changes known to be in force on or before 15 September 2023. 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*



# Courts and Legal Services Act 1990

## 1990 CHAPTER 41

### PART VI

#### MISCELLANEOUS AND SUPPLEMENTAL

#### *Tying-in*

PROSPECTIVE

#### **105 Tying-in arrangements: supplemental provisions.**

- (1) In section 104, this section and section 106 “controlled services” means any services of a description prescribed by order made by the Secretary of State.
- (2) The order may, in particular, prescribe any description of—
  - (a) banking, insurance, investment, trusteeship, executorship or other financial services;
  - (b) services relating to the acquisition, valuation, surveying or disposal of property;
  - (c) conveyancing services; or
  - (d) removal services.
- (3) For the purposes of section 104(1), the Secretary of State may by order specify—
  - (a) the circumstances in which land is to be treated as being for a person’s residential use; and
  - (b) who are to be treated as a person’s dependants.
- (4) Section 104(2) shall not apply in relation to the provision of a controlled service if the lender proves—
  - (a) that the provision of that service was not connected with the transaction in respect of which the borrower required the residential property loan in question; or

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- (b) where it was so connected, that the lender did not know, and had no reasonable cause to know, that it was.
- (5) For the purposes of section 104, this section and section 106—
- (a) where the lender is a member of a group of companies, the lender and all the other members of the group shall be treated as one; and
- (b) where the lender derives any financial benefit from the provision of a controlled service by any other person, the lender shall be treated as providing that service.
- (6) In subsection (5), “a group of companies” means a holding company and its subsidiaries within the meaning of [F1section 1159 of the Companies Act 2006].
- (7) The Secretary of State may by order provide that, in such cases or for such purposes as may be prescribed by the order, paragraph (a) or (b) of subsection (5) shall not have effect.
- (8) For the purposes of section 104—
- “notice” means a notice in writing given in the form prescribed by regulations made by the Secretary of State;
- “price” shall have the meaning given by order made by the Secretary of State;
- “relevant step”, in relation to any controlled service or residential property loan, means such step as may be prescribed by order made by the Secretary of State in relation to that service or loan (taken by such person as may be so prescribed); and
- “statement” means a statement in writing given in the form prescribed by regulations made by the Secretary of State.
- (9) In relation to land in Scotland—
- (a) “conveyancing services” has the same meaning as in the M1Law Reform (Miscellaneous Provisions) (Scotland) Act 1990; and
- (b) the reference in section 104(1) to a loan being secured on land shall be read as a reference to its being secured over land by a standard security.
- (10) Before making any order or regulations under section 104 or this section the Secretary of State shall consult the [F2FCA] and such other persons as he considers appropriate.

#### Textual Amendments

- F1** Words in s. 105(6) substituted (1.10.2009) by [The Companies Act 2006 \(Consequential Amendments, Transitional Provisions and Savings\) Order 2009 \(S.I. 2009/1941\)](#), arts. 1(2), 2(1), **Sch. 1 para. 118** (with art. 10)
- F2** Word in s. 105(10) 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 \(S.I. 2013/1881\)](#), art. 1(2)(6), **Sch. para. 2(2)**

#### Marginal Citations

- M1** 1990 c. 40.

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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. 58A(2)(fe) inserted by [2021 c. 17 s. 53](#)