



Financial Services (Banking Reform) Act 2013

2013 CHAPTER 33

PART 6

SPECIAL ADMINISTRATION FOR OPERATORS OF CERTAIN INFRASTRUCTURE SYSTEMS

FMI administration orders

119 Continuity of supply

- (1) This section applies where, before the commencement of FMI administration, the infrastructure company had entered into arrangements with a supplier for the provision of a supply to the infrastructure company.
- (2) After the commencement of FMI administration, the supplier—
 - (a) must not terminate a supply unless—
 - (i) any charges in respect of the supply which relate to a supply given after the commencement of FMI administration remain unpaid for more than 28 days,
 - (ii) the FMI administrator consents to the termination, or
 - (iii) the supplier has the permission of the court, which may be given if the supplier can show that the continued provision of the supply would cause the supplier to suffer hardship,
 - (b) must not make it a condition of a supply that any charges in respect of the supply which relate to a supply given before the commencement of FMI administration are paid, and
 - (c) must not do anything which has the effect of making it a condition of the giving of a supply that any charges within paragraph (b) are paid.
- (3) Where, before the commencement of FMI administration, a contractual right to terminate a supply has arisen but has not been exercised, then, for the purposes of this

Status: This is the original version (as it was originally enacted).

section, the commencement of FMI administration causes that right to lapse and the supply is only to be terminated if a ground in subsection (2)(a) applies.

- (4) Any provision in a contract between the infrastructure company and the supplier that purports to terminate the agreement if any action is taken to put the infrastructure company in FMI administration is void.
- (5) Any expenses incurred by the infrastructure company on the provision of a supply after the commencement of FMI administration are to be treated as necessary disbursements in the course of the FMI administration.
- (6) In this section—

“commencement of FMI administration” means the making of the FMI administration order;

“supplier” means the person controlling the provision of a supply to the infrastructure company, and includes a company that is a group undertaking (as defined by section 1161(5) of the Companies Act 2006) in respect of the infrastructure company;

“supply” means a supply of any of the following—

- (a) computer hardware or software used by the infrastructure company in connection with the operation of the relevant system;
- (b) financial data;
- (c) infrastructure permitting electronic communication services;
- (d) data processing;
- (e) access to secure data networks used by the infrastructure company in connection with the operation of the relevant system;
- (f) staff.