



Housing Grants, Construction and Regeneration Act 1996

1996 CHAPTER 53

PART II

CONSTRUCTION CONTRACTS

Payment

113 Prohibition of conditional payment provisions.

- (1) A provision making payment under a construction contract conditional on the payer receiving payment from a third person is ineffective, unless that third person, or any other person payment by whom is under the contract (directly or indirectly) a condition of payment by that third person, is insolvent.
- (2) For the purposes of this section a company becomes insolvent—
 - [^{F1}(a) when it enters administration within the meaning of Schedule B1 to the Insolvency Act 1986,]
 - (b) on the appointment of an administrative receiver or a receiver or manager of its property under Chapter I of Part III of that Act, or the appointment of a receiver under Chapter II of that Part,
 - (c) on the passing of a resolution for voluntary winding-up without a declaration of solvency under section 89 of that Act, or
 - (d) on the making of a winding-up order under Part IV or V of that Act.
- (3) For the purposes of this section a partnership becomes insolvent—
 - (a) on the making of a winding-up order against it under any provision of the Insolvency Act 1986 as applied by an order under section 420 of that Act, or
 - (b) when sequestration is awarded on the estate of the partnership under section [^{F2}22 of the Bankruptcy (Scotland) Act 2016] or the partnership grants a trust deed for its creditors.

Changes to legislation: There are currently no known outstanding effects for the Housing Grants, Construction and Regeneration Act 1996, Section 113. (See end of Document for details)

- (4) For the purposes of this section an individual becomes insolvent—
- (a) on the making of a bankruptcy order against him under Part IX of the ^{M1}Insolvency Act 1986, or
 - (b) on the sequestration of his estate under the Bankruptcy (Scotland) Act [^{F3}2016] or when he grants a trust deed for his creditors.
- (5) A company, partnership or individual shall also be treated as insolvent on the occurrence of any event corresponding to those specified in subsection (2), (3) or (4) under the law of Northern Ireland or of a country outside the United Kingdom.
- (6) Where a provision is rendered ineffective by subsection (1), the parties are free to agree other terms for payment.

In the absence of such agreement, the relevant provisions of the Scheme for Construction Contracts apply.

Textual Amendments

- F1** S. 113(2)(a) substituted (15.9.2003) by [The Enterprise Act 2002 \(Insolvency\) Order 2003 \(S.I. 2003/2096\)](#), art. 1(1), **Sch. para. 30** (with art. 6)
- F2** Words in s. 113(3)(b) substituted (30.11.2016) by [The Bankruptcy \(Scotland\) Act 2016 \(Consequential Provisions and Modifications\) Order 2016 \(S.I. 2016/1034\)](#), art. 1, **Sch. 1 para. 17(a)**
- F3** Word in s. 113(4)(b) substituted (30.11.2016) by [The Bankruptcy \(Scotland\) Act 2016 \(Consequential Provisions and Modifications\) Order 2016 \(S.I. 2016/1034\)](#), art. 1, **Sch. 1 para. 17(b)**
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Modifications etc. (not altering text)

- C1** Pt. 2 excluded (E.W.) (5.5.2023) by [The Construction Contracts \(Exclusion\) \(Wales\) Order 2023 \(S.I. 2023/475\)](#), arts. 1(3), **3**
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Commencement Information

- I1** S. 113 wholly in force; s. 113 not in force at Royal Assent see s. 150; s. 113 in force at 1.5.1998 by (E.W.) [S.I. 1998/650](#), **art. 2** and (S.) [S.I. 1998/894](#), **art. 2**
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Marginal Citations

- M1** [1986 c. 45](#).

Changes to legislation:

There are currently no known outstanding effects for the Housing Grants, Construction and Regeneration Act 1996, Section 113.