



Housing (Scotland) Act 2010

2010 asp 17

PART 7

REGISTERED SOCIAL LANDLORDS: INSOLVENCY ETC.

Making proposals

80 Proposals: formulation

- (1) The Regulator may, during a moratorium, make proposals about the future ownership and management of the registered social landlord's land with a view to ensuring that land is managed properly in the future by a registered social landlord.
- (2) Before making proposals, the Regulator must consult—
 - (a) the registered social landlord,
 - (b) all of the registered social landlord's secured creditors whom the Regulator can locate after making reasonable enquiries,
 - (c) the registered social landlord's tenants (so far as practicable),
 - (d) where the registered social landlord is a registered society, the [^{F1}Financial Conduct Authority], and
 - (e) where the registered social landlord is a charity, the Office of the Scottish Charity Regulator.
- (3) The Regulator must, when formulating proposals—
 - (a) have regard to the interests of the registered social landlord's creditors as a whole (both secured and unsecured), and
 - (b) so far as practicable, aim to avoid worsening the position of the registered social landlord's unsecured creditors.
- (4) Proposals may provide for the appointment of a manager to implement the proposals (and proposals which do so must provide for the payment of the manager's remuneration and expenses).
- (5) Proposals must not include anything which would result in—
 - (a) non-preferential debts being paid before preferential debts,
 - [^{F2}(aa) secondary preferential debts being paid before ordinary preferential debts,]

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- (b) preferential creditors being paid different proportions of [^{F3}ordinary] preferential debts (except where affected preferential creditors agree to be paid a smaller proportion)^{F4}...
- [^{F5}(c) preferential creditors being paid different proportions of secondary preferential debts (except where affected preferential creditors agree to be paid a smaller proportion),]^{F6} or
- (d) where the debtor is a relevant financial institution—
 - (i) secondary non-preferential debts being paid before ordinary non-preferential debts,
 - (ii) tertiary non-preferential debts being paid before secondary non-preferential debts, or
 - (iii) creditors being paid different proportions of secondary non-preferential debts (except where affected creditors agree to be paid a smaller proportion).]

“preferential debt^{F7}, ordinary preferential debt, secondary preferential debt]” and “preferential creditor” have the same meaning as in the Insolvency Act 1986 (c.45).

[^{F8}(6) In this section—

“ordinary non-preferential debts” has the meaning given by section 129(1)(g) of the Bankruptcy (Scotland) Act 2016;

“secondary non-preferential debts” and “tertiary non-preferential debts” have the meanings given by section 129A of the Bankruptcy (Scotland) Act 2016.]

Textual Amendments

- F1** Words in s. 80(2)(d) substituted (1.4.2013) by [The Financial Services Act 2012 \(Mutual Societies\) Order 2013 \(S.I. 2013/496\)](#), art. 1(1), Sch. 11 para. 10(3)(4)(b) (with Sch. 12)
- F2** S. 80(5)(aa) inserted (1.1.2015) by [The Banks and Building Societies \(Depositor Preference and Priorities\) Order 2014 \(S.I. 2014/3486\)](#), arts. 1(2), **31(2)(a)** (with art. 3)
- F3** Word in s. 80(5)(b) inserted (1.1.2015) by [The Banks and Building Societies \(Depositor Preference and Priorities\) Order 2014 \(S.I. 2014/3486\)](#), arts. 1(2), **31(2)(b)** (with art. 3)
- F4** Word in s. 80(5) omitted (19.12.2018) by virtue of [The Banks and Building Societies \(Priorities on Insolvency\) Order 2018 \(S.I. 2018/1244\)](#), arts. 1(2), **41(a)(i)** (with art. 3)
- F5** S. 80(5)(c) and word inserted (1.1.2015) by [The Banks and Building Societies \(Depositor Preference and Priorities\) Order 2014 \(S.I. 2014/3486\)](#), arts. 1(2), 31(2)(c) (with art. 3)
- F6** S. 80(5)(d) and preceding word inserted (19.12.2018) by [The Banks and Building Societies \(Priorities on Insolvency\) Order 2018 \(S.I. 2018/1244\)](#), arts. 1(2), **41(a)(ii)** (with art. 3)
- F7** Words in s. 80(5) inserted (1.1.2015) by [The Banks and Building Societies \(Depositor Preference and Priorities\) Order 2014 \(S.I. 2014/3486\)](#), arts. 1(2), **31(2)(d)** (with art. 3)
- F8** S. 80(6) inserted (19.12.2018) by [The Banks and Building Societies \(Priorities on Insolvency\) Order 2018 \(S.I. 2018/1244\)](#), arts. 1(2), **41(b)** (with art. 3)

Modifications etc. (not altering text)

- C1** [S. 80](#) modified (28.12.2020 until IP completion day when the amending provision ceases to have effect in accordance with reg. 1(4) of the amending S.I.) by [The Bank Recovery and Resolution \(Amendment\) \(EU Exit\) Regulations 2020 \(S.I. 2020/1350\)](#), regs. 1(4), **125** (with reg. 108)

Commencement Information

- I1** [S. 80](#) in force at 1.4.2012 by [S.I. 2012/39](#), art. 2, **Sch. 1** (with Sch. 2)

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81 Proposals: submission

- (1) The Regulator must submit its proposals to all of the registered social landlord's secured creditors whom the Regulator can locate after making reasonable enquiries.
- (2) The Regulator must give notice of submitted proposals to—
 - (a) the registered social landlord and its officers, and
 - (b) any liquidator, administrative receiver, receiver or administrator appointed in respect of the registered social landlord or its land.
- (3) The Regulator must also make arrangements for bringing submitted proposals to the attention of the registered social landlord's members, tenants and unsecured creditors.

Commencement Information

I2 S. 81 in force at 1.4.2012 by [S.S.I. 2012/39](#), art. 2, [Sch. 1](#) (with [Sch. 2](#))

82 Proposals: agreement

- (1) Secured creditors to whom proposals are submitted under section 81 may—
 - (a) agree to the proposals (with or without modification), or
 - (b) reject the proposals.
- (2) Proposals agreed with modifications have effect only if the Regulator agrees to the modifications.
- (3) The Regulator must give notice of agreed proposals to—
 - (a) the registered social landlord and its officers,
 - (b) all of the registered social landlord's secured creditors whom the Regulator can locate after making reasonable enquiries,
 - (c) any liquidator, administrative receiver, receiver or administrator appointed in respect of the registered social landlord or its land,
 - (d) where the registered social landlord is a registered society, the [^{F9}Financial Conduct Authority], and
 - (e) where the registered social landlord is a charity, the Office of the Scottish Charity Regulator.
- (4) The Regulator must also make arrangements for bringing agreed proposals to the attention of the registered social landlord's members, tenants and unsecured creditors.

Textual Amendments

F9 Words in s. 82(3)(d) substituted (1.4.2013) by [The Financial Services Act 2012 \(Mutual Societies\) Order 2013 \(S.I. 2013/496\)](#), art. 1(1), [Sch. 11 para. 10\(3\)\(4\)\(c\)](#) (with [Sch. 12](#))

Commencement Information

I3 S. 82 in force at 1.4.2012 by [S.S.I. 2012/39](#), art. 2, [Sch. 1](#) (with [Sch. 2](#))

83 Modifying proposals

- (1) Agreed proposals may be modified from time to time with the agreement of—

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- (a) the Regulator, and
 - (b) all of the registered social landlord's secured creditors to whom the original proposals were submitted.
- (2) Sections 80 and 82(3) apply to modified proposals as to the original proposals (and references in sections 84 to 90 to agreed proposals include references to modified proposals).

Commencement Information

I4 S. 83 in force at 1.4.2012 by [S.S.I. 2012/39](#), art. 2, [Sch. 1](#) (with [Sch. 2](#))

Changes to legislation:

There are currently no known outstanding effects for the Housing (Scotland) Act 2010, Cross
Heading: Making proposals.