



# 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 Financial Services 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,

- (b) preferential creditors being paid different proportions of preferential debts (except where affected preferential creditors agree to be paid a smaller proportion).

“preferential debt” and “preferential creditor” have the same meaning as in the Insolvency Act 1986 (c.45).

### **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.

### **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 Financial Services 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.

### **83 Modifying proposals**

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