



Housing (Amendment) (Scotland) Act 2018

2018 asp 13

Organisational changes affecting registered social landlords

6 Restructuring, winding up and dissolution of registered social landlord

- (1) The Housing (Scotland) Act 2010 is further amended as follows.
- (2) In section 96 (restructuring, winding up and dissolution of registered societies), subsections (2) and (3) are repealed.
- (3) After that section insert—

“96A Proposed restructuring of society

- (1) This section applies where the society proposes to pass a special resolution for the purposes of a restructuring provision where the restructuring—
 - (a) will result in a tenant under a Scottish secure tenancy ceasing to be a tenant of the society proposing the restructuring, and
 - (b) is a restructuring other than the conversion of the society into a company in accordance with section 112 of the Co-operative and Community Benefit Societies Act 2014.
- (2) The society must comply with sections 115 to 120 (as applied by subsection (3)) in relation to the proposed restructuring.
- (3) Sections 115 to 120 apply in relation to a proposed restructuring to which this section applies as they apply in relation to a proposed disposal to which section 107(4) applies, subject to the modification that section 115A(2) has effect as if, for paragraph (b), there were substituted—
 - “(b) before notice of a meeting at which the special resolution is intended to be proposed is given under section 111 or, as the case may be, 113 of the Co-operative and Community Benefit Societies Act 2014,”.

- (4) In this section and section 97, “restructuring provision” means any of the following provisions of the Co-operative and Community Benefit Societies Act 2014—
- (a) section 109 (amalgamation),
 - (b) section 110 (transfer of engagements),
 - (c) section 112 (conversion into or amalgamation with registered company).”.

- (4) For section 97 (restructuring of registered society) substitute—

“97 Restructuring of society

- (1) This section applies in relation to a special resolution passed by the society for the purposes of a restructuring provision.
- (2) Where the restructuring to which the special resolution relates is one to which section 96A applies, the Financial Conduct Authority may register the special resolution only if—
 - (a) the society confirms the matters mentioned in subsection (3), and
 - (b) a copy of the confirmation accompanies the copy special resolution sent to the Financial Conduct Authority for the purposes of the Co-operative and Community Benefit Societies Act 2014.
- (3) Those matters are that, before the special resolution was passed—
 - (a) the society complied with sections 115 and 115A(1) (as applied by section 96A(3)), and
 - (b) a majority of tenants—
 - (i) voting in a ballot conducted under section 115A(1)(a) wish the restructuring to proceed, or, as the case may be,
 - (ii) whose written agreement to the restructuring was sought under section 115A(1)(b) have given that agreement.
- (4) The society must, as soon as reasonably practicable after sending the copy special resolution to the Financial Conduct Authority (and, in a case to which subsection (2) applies, no later than 28 days after doing so), give notice of the restructuring to the Regulator.
- (5) Any new body created, or to whom engagements are transferred, in pursuance of such a special resolution is to be included in the register (and is to be treated as so included pending such inclusion).”.

- (5) For section 98 (voluntary winding up of registered society) substitute—

“98 Voluntary winding up of society

- (1) This section applies in relation to the voluntary winding up of the society under the Insolvency Act 1986.
- (2) The society must consult its tenants in relation to the proposed voluntary winding up before passing a resolution for the winding up of the society.
- (3) Such a resolution is valid only if—

- (a) the society confirms that it consulted its tenants as mentioned in subsection (2), and
 - (b) a copy of the confirmation accompanies the copy resolution sent to the Financial Conduct Authority for the purposes of section 30 of the Companies Act 2006 (as applied by virtue of section 123 of the Co-operative and Community Benefit Societies Act 2014 and section 84(3) of the Insolvency Act 1986).
 - (4) The society must, as soon as reasonably practicable after sending the copy resolution to the Financial Conduct Authority, give notice of the voluntary winding up to the Regulator.
 - (5) The Regulator must issue guidance in relation to consultation for the purpose of subsection (2).
 - (6) A society must, in consulting tenants for that purpose, have regard to guidance issued under subsection (5).”
- (6) For section 99 (dissolution of registered society) substitute—

“99 Dissolution of society

- (1) This section applies where the society proposes an instrument of dissolution of the society (within the meaning of section 119 of the Co-operative and Community Benefit Societies Act 2014).
 - (2) The society must consult its tenants in relation to the proposed dissolution before seeking the approval of the instrument for the purposes of section 119 of that Act.
 - (3) The Financial Conduct Authority may register an instrument of dissolution of the society under section 121 of the Co-operative and Community Benefit Societies Act 2014, or cause notice of the dissolution to be advertised under section 122 of that Act, only if—
 - (a) the society confirms that it consulted its tenants as mentioned in subsection (2), and
 - (b) a copy of the confirmation accompanies the instrument sent to the Financial Conduct Authority for the purposes of section 121 of that Act.
 - (4) The society must, as soon as reasonably practicable after sending the instrument to the Financial Conduct Authority, give notice of the dissolution to the Regulator.
 - (5) The Regulator must issue guidance in relation to consultation for the purpose of subsection (2).
 - (6) A society must, in consulting tenants for that purpose, have regard to guidance issued under subsection (5).”
- (7) In section 100 (restructuring and winding up of registered social landlords which are companies), subsections (2) and (3) are repealed.
- (8) After that section insert—

“100A Restructuring by company: proposed restructuring

- (1) This section applies where—
- (a) a court order is made in respect of the company under section 896 of the Companies Act 2006,
 - (b) the meeting summoned by the court order is to agree a restructuring of a type mentioned in section 900(1) of that Act, and
 - (c) the restructuring—
 - (i) will result in a tenant under a Scottish secure tenancy ceasing to be a tenant of the company in respect of which the order is made, and
 - (ii) that company is not being wound up and is not in administration.
- (2) The company must comply with sections 115 to 120 (as applied by subsection (3)) in relation to the proposed restructuring.
- (3) Sections 115 to 120 apply in relation to a proposed restructuring to which this section applies as they apply in relation to a proposed disposal to which section 107(4) applies, subject to the modification that section 115A(2) has effect as if, for paragraph (b), there were substituted—
- “(b) before the meeting summoned by the court order under section 896 of the Companies Act 2006 takes place,”.
- (9) For section 101 (restructuring of company) substitute—

“101 Restructuring of company

- (1) This section applies where—
- (a) a court order is made in respect of a company under section 899 or 900 of the Companies Act 2006, and
 - (b) the restructuring to which the order relates is of a type mentioned in section 900(1) of that Act.
- (2) Where section 100A applies in relation to a restructuring, a court order mentioned in subsection (1) in relation to the same restructuring has effect only if—
- (a) the company confirms the matters mentioned in subsection (3), and
 - (b) a copy of the confirmation accompanies the copy of the order delivered to the registrar of companies in accordance with section 900(6) of the Companies Act 2006.
- (3) The matters are that, before the order was made—
- (a) the company complied with sections 115 and 115A(1) (as applied by section 100A(3)), and
 - (b) a majority of tenants—
 - (i) voting in a ballot conducted under section 115A(1)(a) wish the restructuring to proceed, or, as the case may be,
 - (ii) whose written agreement to the restructuring was sought under section 115A(1)(b) have given that agreement.

- (4) The company must, as soon as reasonably practicable after the order is made (and, in a case to which subsection (2) applies, no later than 28 days after that event), give notice of the restructuring to the Regulator.
- (5) Where the whole or any part of the undertaking and property and liabilities of the company are transferred to another company in pursuance of an order under section 900 of the Companies Act 2006, that other company is to be included in the register (and is to be treated as so included pending such inclusion).”.

(10) For section 102 (conversion of company into registered society) substitute—

“102 Conversion of company into a registered society

- (1) This section applies in relation to the conversion of the company into a registered society under section 115 of the Co-operative and Community Benefit Societies Act 2014.
- (2) The company must consult its tenants on the proposed conversion before passing a special resolution for the conversion of the company into a registered society under section 115 of that Act.
- (3) Such a special resolution has effect only if—
 - (a) the company confirms that it consulted its tenants as mentioned in subsection (2), and
 - (b) a copy of the confirmation accompanies the resolution sent to the registrar of companies in accordance with section 115(5) of the Co-operative and Community Benefit Societies Act 2014.
- (4) The company must, as soon as reasonably practicable after sending the resolution to the registrar of companies, give notice of the conversion to the Regulator.
- (5) The new registered society created in pursuance of the resolution is to be included in the register (and is to be treated as so included pending such inclusion).
- (6) The Regulator must issue guidance in relation to consultation for the purpose of subsection (2).
- (7) A company must, in consulting tenants for that purpose, have regard to guidance issued under subsection (6).”.

(11) For section 103 (company voluntary arrangement) substitute—

“103 Company voluntary arrangement

- (1) This section applies in relation to a voluntary arrangement under Part 1 of the Insolvency Act 1986 in relation to the company.
- (2) The company must consult its tenants about the voluntary arrangement before the arrangement is approved under section 4 of that Act.

- (3) Such a voluntary arrangement does not take effect under section 5 of the Insolvency Act 1986 unless the company has consulted its tenants as mentioned in subsection (2).
- (4) The company must, as soon as reasonably practicable after the voluntary arrangement takes effect, give notice of the arrangement to the Regulator.
- (5) The Regulator must issue guidance in relation to consultation for the purpose of subsection (2).
- (6) A company must, in consulting tenants for that purpose, have regard to guidance issued under subsection (5).”.

(12) For section 104 (voluntary winding up of company) substitute—

“104 Voluntary winding up of company

- (1) This section applies in relation to the voluntary winding up of the company under the Insolvency Act 1986.
- (2) The company must consult its tenants on the proposed winding up before passing a special resolution for the winding up of the company under that Act.
- (3) Such a special resolution is valid only if—
 - (a) the company confirms that it consulted its tenants as mentioned in subsection (2), and
 - (b) a copy of the confirmation accompanies the copy resolution sent to the registrar of companies in accordance with section 30 of the Companies Act 2006.
- (4) The company must, as soon as reasonably practicable after sending the copy resolution to the registrar of companies, give notice of the voluntary winding up to the Regulator.
- (5) The Regulator must issue guidance in relation to consultation for the purpose of subsection (2).
- (6) A company must, in consulting tenants for that purpose, have regard to guidance issued under subsection (5).”.

(13) Section 105 is repealed.

(14) In section 106 (asset transfer on dissolution or winding up)—

- (a) in subsection (1)(a), for “section 55(a) or (b) of the [Co-operative and Community Benefit Societies and Credit Unions Act 1965 \(c.12\)](#)” substitute “section 119 or 123 of the Co-operative and Community Benefit Societies Act 2014”,
- (b) in subsection (7), for paragraph (a) substitute—
 - “(a) the Co-operative and Community Benefit Societies Act 2014.”.

(15) Sections 123 and 124 are repealed.

- (16) In section 165 (interpretation), in the definition of “registered society”, for “[Co-operative and Community Benefit Societies and Credit Unions Act 1965 \(c.12\)](#)” substitute “Co-operative and Community Benefit Societies Act 2014”.