

HOUSING AND REGENERATION ACT 2008

EXPLANATORY NOTES

STRUCTURE OF THE ACT

Part 2 – Regulation of Social Housing

Chapter 4 – Registered providers

Insolvency etc.

Section 153 - Proposals: procedure

415. *Subsection (1)* requires the regulator to consult the following before making proposals:
- the registered provider (broadly replicates the effect of section 44(2)(a) of the 1996 Act),
 - its tenants as far as it is reasonably practicable (broadly replicates the effect of section 44(2)(a) of the 1996 Act),
 - the Financial Services Authority, if the registered provider is an industrial and provident society (broadly replicates the effect of section 44(3)(a) of the 1996 Act),
 - the Charity Commission, if the registered provider is a registered charity (broadly replicates the effect of section 44(3)(b) of the 1996 Act).
416. *Subsection (2)* requires the regulator to send a copy of its proposals to-
- the registered provider and its officers,
 - such of its secured creditors as the regulator is able to locate after making reasonable enquires, and
 - any liquidator, administrator, administrative receiver or receiver appointed in respect of the registered provider or its land.
417. *Subsection (3)* requires the regulator to make arrangements for the proposals to be brought to the attention of –
- the members and officers of the registered provider,
 - its tenants, and
 - its unsecured creditors.
418. *Subsections (2) and (3)* broadly replicate the effect of the provisions of section 44(7) of the 1996 Act.
419. *Subsection (4)* specifies that the regulator’s proposals have effect if all of the registered provider’s secured creditors to whom proposals were sent agree to those proposals by giving written notice to that effect to the regulator.

*These notes refer to the Housing and Regeneration Act
2008 (c.17) which received Royal Assent on 22 July 2008*

420. *Subsection (5)* provides that further modifications to the proposals may be made and that these shall also have effect if all of the registered provider's secured creditors to whom the proposals were sent agree to those modifications by giving written notice to that effect to the regulator, and the regulator consents.
421. *Subsections (4) and (5)* broadly replicate the effect of section 45(1) of the 1996 Act.
422. *Subsection (6)* requires the regulator to send a copy of the proposals agreed under *subsections (4) or (5)* to the following:
- the registered provider and its officers,
 - its secured creditors to whom the original proposals were sent,
 - any liquidator, administrator, administrative receiver or receiver appointed in respect of the registered provider or its land,
 - the Financial Services Authority, if the registered provider is an industrial and provident society,
 - the Charity Commission, if the registered provider is a registered charity.
423. *Subsection (7)* requires the regulator to make arrangements for bringing the agreed proposals to the attention of the following:
- the members of the registered provider,
 - its tenants, and
 - its unsecured creditors.
424. *Subsections (6) and (7)* replace the provisions of section 45(4) of the 1996 Act.
425. *Subsection (8)* allows for the proposals to be amended by agreement between the regulator and the secured creditors to whom the original proposals were sent. Where such amendments are made and agreed, the provisions of sections 151 and 152 apply to the amended proposals as they did to the original proposals. This broadly replicates the effect of section 45(5) of the 1996 Act.