



# 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 [<sup>F1</sup>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,
  - [<sup>F2</sup>(aa) secondary preferential debts being paid before ordinary preferential debts,]

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- (b) preferential creditors being paid different proportions of [<sup>F3</sup>ordinary] preferential debts (except where affected preferential creditors agree to be paid a smaller proportion)<sup>F4</sup>...
- [<sup>F5</sup>(c) preferential creditors being paid different proportions of secondary preferential debts (except where affected preferential creditors agree to be paid a smaller proportion),]<sup>F6</sup> 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<sup>F7</sup>, ordinary preferential debt, secondary preferential debt]” and “preferential creditor” have the same meaning as in the Insolvency Act 1986 (c.45).

[<sup>F8</sup>(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.

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### 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 [<sup>F9</sup>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.

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### 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](#))

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### 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).

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**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:**

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