



Housing (Scotland) Act 2010

2010 asp 17

PART 7

REGISTERED SOCIAL LANDLORDS: INSOLVENCY ETC.

Implementing proposals

84 Implementation of agreed proposals

- (1) Agreed proposals are binding on and accordingly must be implemented by—
 - (a) the Regulator,
 - (b) the registered social landlord,
 - (c) the registered social landlord's creditors (both secured and unsecured), and
 - (d) any liquidator, administrative receiver, receiver or administrator appointed in respect of the registered social landlord or its land.

- (2) The registered social landlord's officers must co-operate in the implementation of agreed proposals.

But this subsection does not require or allow officers to do anything in breach of a fiduciary or other duty owed by them.

85 Appointment of manager to implement proposals

- (1) The Regulator must appoint a manager to implement agreed proposals (where the proposals so provide).
- (2) A manager must comply with any direction by the Regulator about the performance of the manager's functions (and may be removed on failure to so comply).
- (3) A manager may apply to the Court of Session for directions about the performance of the manager's functions (and a direction by the court supersedes any contrary direction by the Regulator).
- (4) The Regulator may appoint another manager in place of a person who for any reason ceases to be manager.

86 Manager: powers

- (1) A manager appointed to implement agreed proposals may do anything necessary to secure that implementation.
- (2) A manager may, in particular—
 - (a) take possession of land (and raise legal proceedings for that purpose),
 - (b) sell or otherwise dispose of land by public auction or private contract,
 - (c) raise or borrow money,
 - (d) grant security over land,
 - (e) grant or enter into, or accept a renunciation of, a lease or tenancy,
 - (f) carry on the registered social landlord's business (in so far as relating to management and transfer of land),
 - (g) carry out works, or do anything else, in connection with the management or transfer of land,
 - (h) execute deeds or other documents on behalf of the registered social landlord,
 - (i) use the registered social landlord's seal (if it has one),
 - (j) make any arrangement or compromise on behalf of the registered social landlord,
 - (k) appoint (and dismiss) agents and staff,
 - (l) appoint a solicitor, accountant or other professional to assist the manager,
 - (m) make payments,
 - (n) take out insurance,
 - (o) raise or defend legal proceedings,
 - (p) refer a dispute to arbitration,
 - (q) do anything incidental to the exercise of the above powers.
- (3) A manager acts as the registered social landlord's agent and is accordingly not personally liable on an agreement entered into as manager.
- (4) Anyone dealing with a manager in good faith and for value need not inquire whether the manager is acting within the powers conferred by virtue of this section.
- (5) A manager must, so far as practicable—
 - (a) consult the registered social landlord's tenants before doing anything likely to affect them, and
 - (b) inform them of the effect of any such action.

87 Manager of registered society: extra powers

- (1) This section applies where a manager is appointed to implement proposals relating to a registered social landlord which is a registered society.
- (2) The manager may make and execute, on behalf of the society—
 - (a) an instrument providing for the amalgamation of the society with another registered society ("amalgamation instrument"), or
 - (b) an instrument transferring the society's engagements.
- (3) An amalgamation instrument executed by a manager has the same effect as a resolution by the society under section 50 of the Co-operative and Community Benefit Societies and Credit Unions Act 1965 (c.12) (amalgamation of societies by special resolution).

- (4) An instrument transferring the engagements has the same effect as a transfer of engagements under section 51 or 52 of the Co-operative and Community Benefit Societies and Credit Unions Act 1965 (c.12) (and, in particular, has effect subject to section 54 of that Act).
- (5) The manager must send a copy of the instrument (signed by the manager) to the Financial Services Authority.
- (6) The copy instrument must be registered by that Authority and the instrument does not take effect until the copy is so registered.
- (7) A copy instrument must be sent for registration within 14 days of execution (but a copy registered after that period is valid).

88 Regulator assistance

- (1) The Regulator may give financial or other assistance to a registered social landlord in order to—
 - (a) preserve its position pending the making or agreement of proposals, or
 - (b) facilitate implementation of agreed proposals.
- (2) In order to facilitate implementation of agreed proposals, the Regulator may give financial or other assistance to—
 - (a) a manager appointed to implement agreed proposals,
 - (b) an officer of the registered social landlord.
- (3) The Regulator may, in particular—
 - (a) lend staff,
 - (b) arrange payment of a manager's remuneration and expenses.
- (4) But the Regulator may not—
 - (a) pay grants,
 - (b) make loans,
 - (c) indemnify a manager or officer, or
 - (d) make payments, or give guarantees, connected with loans (whether secured or otherwise),without the consent of Ministers.

89 Failure by manager to implement agreed proposals

- (1) This section applies where a registered social landlord, or any of its creditors, applies to the Court of Session on the ground that a manager has acted otherwise than in accordance with agreed proposals.
- (2) The Court may—
 - (a) confirm, modify or reduce any decision or other act of the manager,
 - (b) give the manager directions, or
 - (c) make such other order as the court thinks fit.

90 Other failure to implement agreed proposals

- (1) This section applies where any person bound by agreed proposals applies to the Court of Session on the ground that another person so bound has acted, or proposes to act, otherwise than in accordance with the proposals.
- (2) The Court may—
 - (a) confirm or modify the act,
 - (b) declare the act to be of no effect, or
 - (c) make such other order (by way of interdict, award of damages or otherwise) as the court thinks fit.

91 Meaning of “land”

References in this Part to a registered social landlord’s land include references to any existing or future interest of the landlord in rent or other receipts arising from land.