Technical and Further Education Act 2017

2017 CHAPTER 19

PART 2

FURTHER EDUCATION BODIES: INSOLVENCY ETC

CHAPTER 4

FURTHER EDUCATION BODIES: SPECIAL ADMINISTRATION

Supplementary

32 Education administration rules

(1) The power to make rules under section 411 of the Insolvency Act 1986 is to apply for the purpose of giving effect to this Chapter as it applies for the purpose of giving effect to Parts 1 to 7 of that Act (and, accordingly, as if references in that section to those Parts included references to this Chapter).

(2) Section 413(2) of the Insolvency Act 1986 (duty to consult Insolvency Rules Committee about rules) does not to apply to rules made under section 411 of the Insolvency Act 1986 as a result of this section.

33 Application of other insolvency law

(1) The Secretary of State may make regulations, in consequence of this Chapter or subordinate legislation made under it—

(a) providing for any legislation about insolvency to apply in relation to a further education body (with or without modifications);

(b) amending, or modifying, any legislation about insolvency as it applies in relation to a further education body.

(2) In subsection (1) "legislation about insolvency" includes any legislation that makes provision by reference to anything that is or may be done under any provision of the

Insolvency Act 1986, or under any provision of subordinate legislation made under that Act, as applied by this Chapter.

(3) Regulations under this section that apply, amend or modify a provision of an Act are subject to the affirmative resolution procedure.

(4) Any other regulations under this section are subject to the negative resolution procedure.

(5) In this section "legislation" means any provision made by or under an Act passed before or in the same session as this Act.

34 Modification of this Chapter under the Enterprise Act 2002

A power to modify or apply enactments conferred on the Secretary of State by section 248 or 277 of the Enterprise Act 2002 includes power to make such consequential modifications of this Chapter as the Secretary of State considers appropriate in connection with any other provision made under that section.

35 Interpretation of Chapter

(1) In this Chapter—

"business", "property" and "security" have the same meaning as in the Insolvency Act 1986;

"the court", in relation to a further education body, means the court having jurisdiction to wind up the body;

"education administration application" has the meaning given by section 18;

"education administration order" has the meaning given by section 17;

"education administration rules" means rules made under section 411 of the Insolvency Act 1986 as a result of section 32 above;

"education administrator" means a person appointed by an education administration order and is to be read in accordance with subsection (2) below;

"existing student", in relation to a further education body that is in education administration, means a person who—

(a) is a student at the relevant institution when the administration order is made, or

(b) has accepted a place on a course at the relevant institution when the administration order is made;

"financial year" means a period of 12 months ending with 31 March;

"member", in relation to a further education body that is a company, has the same meaning as in the Insolvency Act 1986;

"objective of the education administration" is to be read in accordance with section 16;

"the relevant institution"—

(a) in relation to a further education corporation, means the institution which the corporation is established to conduct;

(b) in relation to a sixth form college corporation, means the relevant sixth form college as defined by section 90(1) of the Further and Higher Education Act 1992;

(c) in relation to a company conducting a designated further education institution, means that designated further education institution;

"Scottish firm" means a firm constituted under the law of Scotland.

(2) In this Chapter references to the education administrator of a further education body—

(a) include a person appointed under paragraph 91 or 103 of Schedule B1 to the Insolvency Act 1986, as applied by Schedule 3 or 4 to this Act, to be the education administrator of the further education body, and

(b) if two or more persons are appointed as the education administrator of the further education body, are to be read in accordance with the provision made under section 21.

(3) References in this Chapter to a person qualified to act as an insolvency practitioner in relation to a further education body are to be read in accordance with Part 13 of the Insolvency Act 1986.

(4) In relation to a further education body that is a statutory corporation, references in this Chapter to a provision of the Insolvency Act 1986 (except the references in sections 27, 32 and 33 and Schedule 3 and in subsection (2) above) are to that provision as it applies to further education bodies by virtue of section 6.