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## STATUTORY INSTRUMENTS

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# 2018 No. 1135

## The Education Administration Rules 2018

### PART 7

#### TIME, RULES ABOUT DOCUMENTS AND INTERPRETATION

##### CHAPTER 10

##### Delivery of documents and opting out

##### **Delivery to the creditors and opting out**

**7.48.**—(1) Where the Act or a rule requires an education administrator to deliver a document to the creditors, or the creditors in a class, the requirement is satisfied by the delivery of the document to all such creditors of whose address the education administrator is aware other than opted-out creditors (where the opt out applies).

(2) Where a creditor has opted out from receiving documents, the opt out does not apply to—

- (a) a notice which the Act requires to be delivered to all creditors without expressly excluding opted-out creditors;
- (b) a notice of a change in the education administrator or the contact details for the education administrator;
- (c) a notice as provided for by section 246C(2) of the Act; or
- (d) a document which these Rules require to accompany a notice within sub-paragraphs (a) to (c).

(3) The education administrator must begin to treat a creditor as an opted-out creditor as soon as reasonably practicable after delivery of the creditor's election to opt out.

##### **Creditor's election to opt out**

**7.49.**—(1) A creditor may at any time elect to be an opted-out creditor.

(2) The creditor's election to opt out must be by a notice in writing authenticated and dated by the creditor.

(3) The creditor must deliver the notice to the education administrator.

(4) A creditor becomes an opted-out creditor when the notice is delivered to the education administrator.

(5) An opted-out creditor—

- (a) will remain an opted-out creditor for the duration of the proceedings unless the opt out is revoked; and
- (b) is deemed to be an opted-out creditor in respect of any subsequent insolvency proceedings of a different kind relating to that further education body.

(6) The creditor may at any time revoke the election to opt out by a further notice in writing, authenticated and dated by the creditor and delivered to the education administrator.

(7) The creditor ceases to be an opted-out creditor from the date the notice is received by the education administrator.

#### **Education administrator to provide information to creditors on opting-out**

**7.50.**—(1) The education administrator must, in the first communication with a creditor, inform the creditor in writing that the creditor may elect to opt out of receiving further documents relating to the proceedings.

(2) The communication must contain—

- (a) identification and contact details for the education administrator;
- (b) a statement that the creditor has the right to elect to opt out of receiving further documents about the proceedings unless—
  - (i) the Act requires a document to be delivered to all creditors without expressly excluding opted-out creditors,
  - (ii) it is a notice relating to a change in the education administrator or the education administrator's contact details, or
  - (iii) it is a notice of a dividend or proposed dividend or a notice which the court orders to be sent to all creditors or all creditors of a particular category to which the creditor belongs;
- (c) a statement that opting-out will not affect the creditor's entitlement to receive dividends should any be paid to creditors;
- (d) a statement that unless these Rules provide to the contrary opting-out will not affect any right the creditor may have to vote in a decision procedure or a participate in a deemed consent procedure in the proceedings although the creditor will not receive notice of it;
- (e) a statement that a creditor who opts out will be treated as having opted out in respect of any consecutive insolvency proceedings of a different kind in respect of the same further education body; and
- (f) information about how the creditor may elect to be or cease to be an opted-out creditor.