
STATUTORY INSTRUMENTS

2018 No. 1135

The Education Administration Rules 2018

PART 1

Introductory provisions

Citation and commencement

1.1. These Rules may be cited as the Education Administration Rules 2018 and come into force on 31st January 2019.

Application

1.2. These Rules apply in relation to further education bodies in respect of which the court may make an education administration order under Chapter 4 of Part 2 of the Technical and Further Education Act 2017.

Interpretation

1.3.—(1) In these Rules, unless otherwise stated, a reference to a Part, a Chapter or a Schedule is to a Part or Chapter of, or Schedule to, these Rules.

(2) In these Rules the following definitions apply—

“the Act” means the Insolvency Act 1986, and—

- (a) a reference to a numbered section without mention of another Act is to that section of the Act; and
- (b) a reference to Schedule B1(1) is to that Schedule to the Act;

“the Companies Act” means the Companies Act 2006(2);

“the Technical and Further Education Act” means the Technical and Further Education Act 2017;

“application for an education administration order” and “application for education administration” mean an application made to the court for an education administration order;

“attendance” and “attend”: a person attends, or is in attendance at, a meeting where that person is present or attends remotely in accordance with section 246A(3) of the Act or Chapter 5 or 6 of Part 3, and includes a person who participates in a virtual meeting, whether that person attends the meeting or virtual meeting in person, by proxy, or by corporate representative (in accordance with section 434B(4) of the Act);

“authenticate” means to authenticate in accordance with rule 7.3;

(1) Schedule B1 was inserted by section 248 of the Enterprise Act 2002 (c. 40).

(2) 2006 c. 46.

(3) Section 246A was inserted by article 3 of S.I. 2010/18.

(4) Section 434B was inserted by paragraph 105 of Schedule 1 to S.I. 2008/948 and was amended by paragraph 57 of Schedule 9 to the Small Business, Enterprise and Employment Act 2015 (c. 26).

“business day” means any day other than a Saturday, a Sunday, Christmas Day, Good Friday or a day which is a bank holiday in England and Wales;

“consumer” means an individual acting for purposes that are wholly or mainly outside that individual’s trade, business, craft or profession;

“contributory” has the same meaning as in section 79 of the Act;

“the court” means the High Court;

“CPR” means the Civil Procedure Rules 1998⁽⁵⁾;

“debt” and “small debt” have the meanings given in rule 5.1;

“deliver” and “delivery” are to be interpreted in accordance with Chapter 5 of Part 7;

“deliver to the creditors” and similar expressions in these Rules and in the Act are to be interpreted in accordance with rule 7.48;

“document” includes a written notice or statement or anything else in writing capable of being delivered to a recipient;

“education administration proceedings” means the court proceedings and administration following the application for an education administration order;

“enforcement agent” means a person authorised by section 63(2) of the Tribunals, Courts and Enforcement Act 2007⁽⁶⁾ to act as an enforcement agent;

“enforcement officer” means an individual who is authorised to act as an enforcement officer under the Courts Act 2003⁽⁷⁾;

“estate” and “insolvent estate” mean the assets of the further education body;

“file with the court” means deliver to the court for filing and such references are to be read as including “submit” and “submission” to the court;

“the Gazette” means the London Gazette;

“Gazette notice” means a notice which is, has been or is to be gazetted;

“to gazette” means to advertise once in the Gazette;

“identification details” and similar references to information identifying persons and proceedings are to be interpreted in accordance with rule 7.4;

“insolvency proceedings” means proceedings in respect of Parts 1 to 11 of the Act;

“IP number” means the number assigned to an education administrator or liquidator as an insolvency practitioner by the Secretary of State;

“judge” means a judge exercising the court’s jurisdiction in relation to education administration;

“meeting”, in relation to a further education body or a further education body’s creditors, means either a physical meeting or a virtual meeting;

“petitioner” includes a person who has been substituted as such or has been given carriage of the petition;

“physical meeting” means a meeting at which persons are invited to be present together at the same place (whether or not it is possible to attend the meeting without being present at that place);

“Practice Direction” means a direction as to the practice and procedure of a court within the scope of the CPR;

(5) S.I. 1998/3132.

(6) 2007 c.15.

(7) 2003 c. 39.

“pre-administration costs” means fees charged, and expenses incurred by the education administrator, or another person qualified to act as an insolvency practitioner in relation to the further education body, before the further education body entered education administration but with a view to it doing so, and “unpaid pre-administration costs” means pre-administration costs which had not been paid when the further education body entered education administration;

“prescribed part” has the same meaning as in section 176A(2)(a) of the Act⁽⁸⁾ and the Insolvency Act 1986 (Prescribed Part) Order 2003⁽⁹⁾;

“progress report” means a report which complies with rule 3.13;

“provable debt” has the meaning set out in rule 5.2;

“prove” and “proof” have the following meaning—

- (a) a creditor who claims for a debt in writing is referred to as proving that debt;
- (b) the document by which the creditor makes the claim is referred to as that creditor’s proof; and
- (c) for the purpose of voting, or objecting to a deemed consent, the requirements for a proof are satisfied by the education administrator having been notified by the creditor in writing of a debt;

“qualified to act as an insolvency practitioner” in relation to a further education body has the meaning given by Part 13 of the Act;

“registered” means—

- (a) in relation to a further education body which is a company, registered with the registrar of companies; and
- (b) in relation to a further education body which is a statutory corporation—
 - (i) registered with the registrar of companies, if a record exists for that body with the registrar of companies; or
 - (ii) registered in the UK Register of Learning Providers;

“relevant officer” means a director of the further education body;

“serve” and “service” are to be interpreted in respect of a particular document by reference to the requirements of Schedule 2;

“solicitor” means a solicitor of the Senior Courts and includes any other person who, for the purpose of the Legal Services Act 2007⁽¹⁰⁾ is an authorised person in relation to an activity which constitutes the conduct of litigation (within the meaning of that Act) or is exempt from such authorisation by virtue of section 19 of, and Schedule 3 to, that Act;

“standard fee for copies” means 15 pence per A4 or A5 page or 30 pence per A3 page;

“statement of proposals” means a statement made by an education administrator under paragraph 49 of Schedule B1⁽¹¹⁾ setting out proposals for achieving the purpose of an education administration;

“statutory corporation” means a further education body as defined in sections 4(2)(a) and (b) and (3)(a) of the Technical and Further Education Act;

“venue” in relation to any proceedings, attendance before the court, decision procedure or meeting means the time, date and place or platform for the proceedings, attendance, decision procedure or meeting;

⁽⁸⁾ Section 176A was inserted by section 252 of the Enterprise Act 2002.

⁽⁹⁾ S.I. 2003/2097.

⁽¹⁰⁾ 2007 c. 29.

⁽¹¹⁾ Paragraph 49 was amended by paragraph 10 of Schedule 9 to the Small Business, Enterprise and Employment Act 2015 (c. 26).

“virtual meeting” means a meeting where persons who are not invited to be physically present together may participate in the meeting including communicating directly with all the other participants in the meeting and voting (either directly or via a proxy-holder);

“witness statement” means a witness statement made in accordance with Part 32 of the CPR.

- (3) So far as these Rules apply to a further education body which is a statutory corporation—
- (a) “director” means—
 - (i) a member of the statutory corporation,
 - (ii) the principal of the statutory corporation, or
 - (iii) if the context requires, both of the above;
 - (b) “member” means a member of a statutory corporation as set out in that statutory corporation’s instrument of government and articles of government as required by section 20 or 33I of the Further and Higher Education Act 1992⁽¹²⁾;
 - (c) “officer” means—
 - (i) a member of the statutory corporation,
 - (ii) the clerk to the statutory corporation,
 - (iii) the chief executive of the statutory corporation,
 - (iv) any senior post holder or principal of the statutory corporation, or
 - (v) if the context requires, all of the above;
 - (d) “registered office” means the address given for the statutory corporation in the UK Register of Learning Providers.

Punishment of Offences

1.4. Schedule 1 sets out the punishments for certain contraventions of these Rules.

Review

1.5.—(1) Before the end of the review period, the Secretary of State must—

- (a) carry out a review of these Rules;
- (b) set out the conclusions of the review in a report; and
- (c) publish the report.

(2) The report must in particular—

- (a) set out the objectives intended to be achieved by the regulatory system established by these Rules;
- (b) assess the extent to which those objectives are achieved; and
- (c) assess whether those objectives remain appropriate, and, if so, the extent to which they could be achieved with a system that imposes less regulation.

(3) “Review period” means the period of five years beginning with the day on which these Rules come into force.

⁽¹²⁾ 1992 c. 13. Section 20 was amended by paragraph 5 of Schedule 12 to the Education Act 2011 (c. 21) and section 2 of the Further Education and Higher Education (Governance and Information) (Wales) Act 2014 (2014 anaw 1). Section 33I was inserted by paragraph 3 of Schedule 8 to the Apprenticeship, Skills, Children and Learning Act 2009 (c. 22).