

Changes to legislation: There are currently no known outstanding effects for the Technical and Further Education Act 2017, SCHEDULE 2. (See end of Document for details)

SCHEDULES

SCHEDULE 2

Section 25

EDUCATION ADMINISTRATION: TRANSFER SCHEMES

Power to make a transfer scheme

- 1 The education administrator of a further education body may make a scheme for the transfer of property, rights and liabilities (a “transfer scheme”) from the further education body (“the transferor”) to one or more persons or bodies prescribed for the purposes of section 27B(1) or 33P(1) of the Further and Higher Education Act 1992 (“the transferee”).

Commencement Information

I1 Sch. 2 para. 1 in force at 31.1.2019 by S.I. 2018/1161, reg. 3(b)

- 2 A transfer scheme takes effect at the time specified in the scheme.

Commencement Information

I2 Sch. 2 para. 2 in force at 31.1.2019 by S.I. 2018/1161, reg. 3(b)

Procedural requirements: consent and approval

- 3 The education administrator may make a transfer scheme only if—
(a) the transferee consents, and
(b) the appropriate national authority has approved the scheme.

Commencement Information

I3 Sch. 2 para. 3 in force at 31.1.2019 by S.I. 2018/1161, reg. 3(b)

- 4 The appropriate national authority may modify a transfer scheme before approving it but only with the consent of the education administrator and the transferee.

Commencement Information

I4 Sch. 2 para. 4 in force at 31.1.2019 by S.I. 2018/1161, reg. 3(b)

Modifying a scheme after it takes effect

- 5 (1) The appropriate national authority may modify a transfer scheme after it takes effect by giving notice to the transferor and the transferee.

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- (2) The appropriate national authority may modify a scheme under sub-paragraph (1) only with the consent of the transferor and the transferee.
- (3) A scheme modified under sub-paragraph (1) is to be treated for all purposes as having come into force at the time specified under paragraph 2.

Commencement Information

I5 Sch. 2 para. 5 in force at 31.1.2019 by S.I. 2018/1161, reg. 3(b)

Property, rights and liabilities that may be transferred

- 6 A transfer scheme may transfer—
- (a) property, rights and liabilities that could not otherwise be transferred;
 - (b) property acquired, and rights and liabilities arising, after the making of the scheme.

Commencement Information

I6 Sch. 2 para. 6 in force at 31.1.2019 by S.I. 2018/1161, reg. 3(b)

- [^{F1}6A (1) A transfer scheme may not transfer property which is subject to a security (other than a floating charge) free of that security except—
- (a) in accordance with an order of the court under paragraph 71 of Schedule B1 to the Insolvency Act 1986 as applied by Schedule 3 or 4, or
 - (b) where—
 - (i) an amount is attributed to the transfer of the property in the transfer scheme,
 - (ii) the secured creditor agrees with that amount, and
 - (iii) the secured creditor is paid that amount.
- (2) In sub-paragraph (1), “floating charge” means a charge which is a floating charge on its creation.]

Textual Amendments

F1 Sch. 2 para. 6A inserted (28.6.2022) by Skills and Post-16 Education Act 2022 (c. 21), ss. 25(2), 36(2)

- 7 (1) A transfer scheme may make consequential, supplementary, incidental or transitional provision and may in particular—
- (a) create rights, or impose liabilities, in relation to property or rights transferred;
 - (b) make provision about the continuing effect of things done by the transferor in respect of anything transferred;
 - (c) make provision about the continuation of things (including legal proceedings) in the process of being done by, on behalf of or in relation to the transferor in respect of anything transferred;

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- (d) make provision for references to the transferor in an instrument or other document in respect of anything transferred to be treated as references to the transferee;
 - (e) make provision for the shared ownership or use of property;
 - (f) if the TUPE regulations do not apply in relation to the transfer, make provision which is the same or similar.
- (2) In sub-paragraph (1)(f) “TUPE regulations” means the Transfer of Undertakings (Protection of Employment) Regulations 2006 (SI 2006/246).
- (3) A transfer scheme may modify the interests, rights or liabilities of third parties in relation to anything to which the scheme relates.
- (4) The reference here to third parties is to persons other than the transferor and transferee.

Commencement Information

17 Sch. 2 para. 7 in force at 31.1.2019 by S.I. 2018/1161, reg. 3(b)

Proof of title by certificate

- 8 A certificate by the appropriate national authority that anything specified in the certificate has vested in a person by virtue of a transfer scheme is conclusive evidence for all purposes of that fact.

Commencement Information

18 Sch. 2 para. 8 in force at 31.1.2019 by S.I. 2018/1161, reg. 3(b)

Interpretation

- 9 In this Schedule—
- (a) references to rights and liabilities include rights and liabilities relating to a contract of employment;
 - (b) references to the transfer of property include the grant of a lease.

Commencement Information

19 Sch. 2 para. 9 in force at 31.1.2019 by S.I. 2018/1161, reg. 3(b)

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