

Changes to legislation: There are currently no known outstanding effects for the Technical and Further Education Act 2017, Cross Heading: Specific modifications to Schedule B1 to the Insolvency Act 1986. (See end of Document for details)

SCHEDULES

SCHEDULE 4

CONDUCT OF EDUCATION ADMINISTRATION: COMPANIES

Specific modifications to Schedule B1 to the Insolvency Act 1986

- 3 Paragraphs 4 to 35 set out modifications to the applicable provisions of Schedule B1 to the Insolvency Act 1986 as applied by paragraph 1 above.

Commencement Information

I1 Sch. 4 para. 3 in force at 31.1.2019 by [S.I. 2018/1161](#), [reg. 3\(d\)](#)

- 4 Paragraph 1 (administration) is to have effect as if—
- (a) for sub-paragraph (1) there were substituted—
- “(1) In this Schedule “education administrator”, in relation to a company, means a person appointed by the court for the purposes of an education administration order to manage its affairs, business and property.”, and
- (b) in sub-paragraph (2), for “Act” there were substituted “ Schedule ”.

Commencement Information

I2 Sch. 4 para. 4 in force at 31.1.2019 by [S.I. 2018/1161](#), [reg. 3\(d\)](#)

- 5 Paragraph 40 (dismissal of pending winding-up petition) is to have effect as if sub-paragraphs (1)(b), (2) and (3) were omitted.

Commencement Information

I3 Sch. 4 para. 5 in force at 31.1.2019 by [S.I. 2018/1161](#), [reg. 3\(d\)](#)

- 6 Paragraph 42 (moratorium on insolvency proceedings) is to have effect as if sub-paragraphs (4) and (5) were omitted.

Commencement Information

I4 Sch. 4 para. 6 in force at 31.1.2019 by [S.I. 2018/1161](#), [reg. 3\(d\)](#)

- 7 Paragraph 43 (moratorium on other legal process) is to have effect as if sub-paragraphs (5) and (6A) were omitted.

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Commencement Information

I5 Sch. 4 para. 7 in force at 31.1.2019 by [S.I. 2018/1161](#), [reg. 3\(d\)](#)

- 8 Paragraph 44 (interim moratorium) is to have effect as if sub-paragraphs (2) to (4), (6) and (7)(a) to (c) were omitted.

Commencement Information

I6 Sch. 4 para. 8 in force at 31.1.2019 by [S.I. 2018/1161](#), [reg. 3\(d\)](#)

- 9 Paragraph 45(2) (publicity) is to have effect as if after paragraph (b) there were inserted—
 “(ba) a member of the governing body of the relevant institution,
 (bb) any senior post holder or principal of the relevant institution,”.

Commencement Information

I7 Sch. 4 para. 9 in force at 31.1.2019 by [S.I. 2018/1161](#), [reg. 3\(d\)](#)

- 10 Paragraph 46(6) (date for notifying administrator's appointment) is to have effect as if for paragraphs (a) to (c) there were substituted “ the date on which the education administration order comes into force ”.

Commencement Information

I8 Sch. 4 para. 10 in force at 31.1.2019 by [S.I. 2018/1161](#), [reg. 3\(d\)](#)

- 11 Paragraph 47 (statement of affairs) is to have effect as if—
 (a) in sub-paragraph (3), after paragraph (a) there were inserted—
 “(aa) a member of the governing body of the relevant institution,
 (ab) any senior post holder or principal of the relevant institution, and”, and
 (b) sub-paragraph (5) were omitted.

Commencement Information

I9 Sch. 4 para. 11 in force at 31.1.2019 by [S.I. 2018/1161](#), [reg. 3\(d\)](#)

- 12 Paragraph 49 (administrator's proposals) is to have effect as if—
 (a) sub-paragraphs (2)(b) and, (3) were omitted,
 (b) in sub-paragraph (4), after paragraph (a) there were inserted—
 “(aa) to the appropriate national authority,
 (ab) to the director of children's services at the local authority [F1, combined authority or combined county authority] in whose area the relevant institution is based, and to any other director of children's services that the education administrator thinks appropriate,”, and
 (c) sub-paragraph (5)(b) and (6) were omitted.

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Textual Amendments

F1 Words in [Sch. 4 para. 12\(b\)](#) substituted (26.12.2023) by [Levelling-up and Regeneration Act 2023 \(c. 55\)](#), [s. 255\(2\)\(c\)](#), [Sch. 4 para. 211\(a\)](#) (with [s. 247](#))

Commencement Information

I10 Sch. 4 para. 12 in force at 31.1.2019 by [S.I. 2018/1161](#), [reg. 3\(d\)](#)

13 Paragraph 54 is to have effect as if the following were substituted for it—

- “54 (1) The education administrator of a company may on one or more occasions revise the proposals included in the statement made under paragraph 49 in relation to the company.
- (2) If the education administrator thinks that a revision is substantial, the education administrator must send a copy of the revised proposals—
- (a) to the registrar of companies,
 - (b) to the appropriate national authority,
 - (c) to any director of children's services to whom the statement of proposals was sent under paragraph 49,
 - (d) to every creditor of the company, other than an opted-out creditor, of whose claim and address the education administrator is aware, and
 - (e) to every member of the company of whose address the education administrator is aware.
- (3) A copy sent in accordance with sub-paragraph (2) must be sent within the prescribed period.
- (4) The education administrator is to be taken to have complied with sub-paragraph (2)(d) if the education administrator publishes, in the prescribed manner, a notice undertaking to provide a copy of the revised proposals free of charge to any member of the company who applies in writing to a specified address.
- (5) An education administrator who fails without reasonable excuse to comply with this paragraph commits an offence.”

Commencement Information

I11 Sch. 4 para. 13 in force at 31.1.2019 by [S.I. 2018/1161](#), [reg. 3\(d\)](#)

14 Paragraph 60 (powers of an administrator) is to have effect as if the following were substituted for it—

- “60 (1) The education administrator of a company has the powers specified in Schedule 1 to this Act.
- (2) The education administrator of a company has the power to act on behalf of the company for the purposes of provision contained in any legislation which confers a power on the company or imposes a duty on it.
- (3) In sub-paragraph (2) “legislation” means provision made by or under any Act.”

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Commencement Information

I12 Sch. 4 para. 14 in force at 31.1.2019 by [S.I. 2018/1161](#), [reg. 3\(d\)](#)

15 Paragraph 61 is to have effect as if the following were substituted for it—

- “61 The education administrator—
- (a) may appoint or remove a director of the company,
 - (b) may appoint or remove a member of the governing body of the relevant institution,
 - (c) may appoint or remove the chief executive of the relevant institution, and
 - (d) may appoint or remove the principal of the relevant institution.”

Commencement Information

I13 Sch. 4 para. 15 in force at 31.1.2019 by [S.I. 2018/1161](#), [reg. 3\(d\)](#)

16 Paragraph 64 (management powers may not be exercised without consent of the administrator) is to have effect as if in sub-subparagraph (1) after “an officer of a company in administration” there were inserted “ or the chief executive of the relevant institution ”.

Commencement Information

I14 Sch. 4 para. 16 in force at 31.1.2019 by [S.I. 2018/1161](#), [reg. 3\(d\)](#)

17 Paragraph 68 (management duties of an administrator) is to have effect as if—

- (a) in sub-paragraph (1), for paragraphs (a) to (c) there were substituted “the proposals as—
 - “(a) set out in the statement made under paragraph 49 in relation to the company, and
 - (b) from time to time revised under paragraph 54,

for achieving the objective of the education administration. ”, and
- (b) in sub-paragraph (3), for paragraphs (a) to (d) there were substituted “ the directions are consistent with the achievement of the objective of the education administration ”.

Commencement Information

I15 Sch. 4 para. 17 in force at 31.1.2019 by [S.I. 2018/1161](#), [reg. 3\(d\)](#)

[^{F2}17A Paragraph 71 is to have effect as if in sub-paragraph (1), after “dispose” there were inserted “(whether by way of a transfer scheme under Schedule 2 to the Technical and Further Education Act 2017 or otherwise)”.]

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Textual Amendments

F2 Sch. 4 para. 17A inserted (28.6.2022) by Skills and Post-16 Education Act 2022 (c. 21), ss. 25(4), 36(2)

- 18 Paragraph 73 (protection for secured or preferential creditor) is to have effect as if in sub-paragraph (3) for “or modified” there were substituted “ under paragraph 54 ”.

Commencement Information

I16 Sch. 4 para. 18 in force at 31.1.2019 by S.I. 2018/1161, reg. 3(d)

- 19 Paragraph 74 (challenge to administrator's conduct) is to have effect as if—
- (a) for sub-paragraph (2) there were substituted—
- “(2) Where a company is in education administration, the appropriate national authority, a creditor or member may apply to the court claiming that the education administrator is not carrying out his or her functions in accordance with section 24(2) or (5) of the Technical and Further Education Act 2017 (general functions of education administrator).”
- (b) sub-paragraph (6)—
- (i) at the end of paragraph (b) there were inserted “or”, and
- (ii) paragraph (c) (and the “or” before it) were omitted, and
- (c) after that sub-paragraph there were inserted—
- “(7) In the case of a claim made by a creditor or member, the court may grant a remedy or relief or make an order under this paragraph only if it has given the appropriate national authority a reasonable opportunity of making representations about the claim and the proposed remedy, relief or order.
- (8) Before the making of an order of the kind mentioned in sub-paragraph (4)(d)—
- (a) the court must notify the education administrator of the proposed order and of a period during which the education administrator is to have the opportunity of taking steps falling within sub-paragraph (9), and
- (b) the period notified must have expired without the taking of such of those steps as the court thinks should have been taken,
- and that period must be a reasonable period.
- (9) The steps referred to in sub-paragraph (8) are—
- (a) remedying the failure to carry out functions in accordance with section 24(2) or (5) of the Technical and Further Education Act 2017, and
- (b) ensuring that the failure is not repeated.”

Commencement Information

I17 Sch. 4 para. 19 in force at 31.1.2019 by S.I. 2018/1161, reg. 3(d)

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- 20 Paragraph 75(2) (misfeasance) is to have effect as if after paragraph (b) there were inserted—
- “(ba) a person appointed as an administrator of the company under the provisions of this Act as they have effect in relation to administrators other than education administrators.”.

Commencement Information

I18 Sch. 4 para. 20 in force at 31.1.2019 by [S.I. 2018/1161](#), [reg. 3\(d\)](#)

- 21 Paragraph 79 (end of administration) is to have effect as if—
- (a) for sub-paragraphs (1) and (2) there were substituted—
- “(1) On an application made by a person mentioned in sub-paragraph (2), the court may provide for the appointment of an education administrator of a company to cease to have effect from a specified time.
- (2) An application may be made to the court under this paragraph—
- (a) by the appropriate national authority, or
- (b) with the consent of the appropriate national authority, by the education administrator.”, and
- (b) sub-paragraph (3) were omitted.

Commencement Information

I19 Sch. 4 para. 21 in force at 31.1.2019 by [S.I. 2018/1161](#), [reg. 3\(d\)](#)

- 22 Paragraph 83 (notice to registrar when moving to voluntary liquidation) is to have effect as if—
- (a) sub-paragraph (2) were omitted, and
- (b) in sub-paragraph (3) after “may” there were inserted “, with the consent of the appropriate national authority, ”.

Commencement Information

I20 Sch. 4 para. 22 in force at 31.1.2019 by [S.I. 2018/1161](#), [reg. 3\(d\)](#)

- 23 Paragraph 84 (notice to registrar when moving to dissolution) is to have effect as if—
- (a) in sub-paragraph (1), for “to the registrar of companies” there were substituted—
- “(a) to the appropriate national authority, and
- (b) if directed to do so by the appropriate national authority, to the registrar of companies”,
- (b) sub-paragraph (2) were omitted, and
- (c) in sub-paragraphs (3) to (6), for “(1)”, in each place, there were substituted “(1)(b)”.

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Commencement Information

I21 Sch. 4 para. 23 in force at 31.1.2019 by [S.I. 2018/1161](#), [reg. 3\(d\)](#)

- 24 Paragraph 87(2) (resignation of administrator) is to have effect as if for paragraphs (a) to (d) there were substituted “ by notice in writing to the court ”.

Commencement Information

I22 Sch. 4 para. 24 in force at 31.1.2019 by [S.I. 2018/1161](#), [reg. 3\(d\)](#)

- 25 Paragraph 89(2) (administrator ceasing to be qualified) is to have effect as if for paragraphs (a) to (d) there were substituted “ to the court ”.

Commencement Information

I23 Sch. 4 para. 25 in force at 31.1.2019 by [S.I. 2018/1161](#), [reg. 3\(d\)](#)

- 26 Paragraph 90 (filling vacancy in office of administrator) is to have effect as if for “Paragraphs 91 to 95 apply” there were substituted “ Paragraph 91 applies ”.

Commencement Information

I24 Sch. 4 para. 26 in force at 31.1.2019 by [S.I. 2018/1161](#), [reg. 3\(d\)](#)

- 27 Paragraph 91 (vacancies in court appointments) is to have effect as if—
- (a) for sub-paragraph (1) there were substituted—
 - “(1) The court may replace the education administrator on an application made—
 - (a) by the appropriate national authority, or
 - (b) where more than one person was appointed to act jointly as the education administrator, by any of those persons who remains in office.”, and
 - (b) sub-paragraph (2) were omitted.

Commencement Information

I25 Sch. 4 para. 27 in force at 31.1.2019 by [S.I. 2018/1161](#), [reg. 3\(d\)](#)

- 28 Paragraph 98 (discharge from liability on vacation of office) is to have effect as if sub-paragraphs (2)(b) and (ba), (3) and (3A) were omitted.

Commencement Information

I26 Sch. 4 para. 28 in force at 31.1.2019 by [S.I. 2018/1161](#), [reg. 3\(d\)](#)

- 29 Paragraph 99 (charges and liabilities upon vacation of office by administrator) is to have effect as if after sub-paragraph (6) there were inserted—

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- “(7) Where a loan is made under section 27 of the Technical and Further Education Act 2017 before cessation, sub-paragraph (4) does not apply in relation to the loan or interest on it and—
- (a) if the terms of the loan provide for this paragraph to apply, any sum that must be paid by the company in respect of the loan or interest shall be—
 - (i) charged on and payable out of property of which the education administrator had custody or control immediately before cessation, and
 - (ii) payable in priority to any charge arising under sub-paragraph (3);
 - (b) if the terms of the loan provide for this paragraph to apply, any sum that must be paid by the company in respect of the loan or interest shall be treated as an unsecured debt that is not a preferential debt,
 - (c) if the terms of the loan provide for this paragraph to apply, any sum that must be paid by the company in respect of the loan or interest shall be payable after all other creditors have been paid in full.”

Commencement Information

I27 Sch. 4 para. 29 in force at 31.1.2019 by [S.I. 2018/1161](#), [reg. 3\(d\)](#)

- 30 Paragraph 100 (joint and concurrent administrators) is to have effect as if sub-paragraph (2) were omitted.

Commencement Information

I28 Sch. 4 para. 30 in force at 31.1.2019 by [S.I. 2018/1161](#), [reg. 3\(d\)](#)

- 31 Paragraph 101(3) (joint administrators) is to have effect as if after “87 to” there were inserted “91, 98 and”.

Commencement Information

I29 Sch. 4 para. 31 in force at 31.1.2019 by [S.I. 2018/1161](#), [reg. 3\(d\)](#)

- 32 Paragraph 103 (appointment of additional administrators) is to have effect as if—
- (a) in sub-paragraph (2) the words from the beginning to “order” were omitted,
 - (b) for paragraph (a) there were substituted—
 - “(a) the appropriate national authority, or”, and
 - (c) sub-paragraphs (3) to (5) were omitted.

Commencement Information

I30 Sch. 4 para. 32 in force at 31.1.2019 by [S.I. 2018/1161](#), [reg. 3\(d\)](#)

- 34 Paragraph 109 (references to extended periods) is to have effect as if “or 108” were omitted.

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Commencement Information

I31 Sch. 4 para. 34 in force at 31.1.2019 by [S.I. 2018/1161](#), [reg. 3\(d\)](#)

35 Paragraph 111 (interpretation) is to have effect as if the following were substituted for it—

“111(1) In this Schedule—

“administrative receiver” has the meaning given by section 251,

““appropriate national authority”—

(a) in relation to a company conducting a designated further education institution in England, means the Secretary of State;

(b) in relation to a company conducting a designated further education institution in Wales, means the Welsh Ministers;

“designated further education institution” has the meaning given by section 5;

“education administrator” includes a reference to a former education administrator, where the context requires;

“enters education administration” has the meaning given by paragraph 1;

“floating charge” means a charge which is a floating charge on its creation;

“governing body”, in relation to a designated further education institution, means any board of governors of the institution or any persons responsible for the management of the institution, whether or not formally constituted as a governing body or board of governors;

“hire-purchase agreement” includes a conditional sale agreement, a chattel leasing agreement and a retention of title agreement;

“in education administration” has the meaning given by paragraph 1;

“market value” means the amount which would be realised on a sale of property in the open market by a willing vendor;

“the relevant institution” in relation to company, means the institution which the company is established to conduct;

“senior post holder”, in relation to a relevant institution, means a person appointed as a senior post holder at the institution.

(2) For the purposes of this Schedule a reference to an education administration order includes a reference to an appointment under paragraph 91 or 103.

(3) In this Schedule a reference to action includes a reference to inaction.”

Commencement Information

I32 Sch. 4 para. 35 in force at 31.1.2019 by [S.I. 2018/1161](#), [reg. 3\(d\)](#)

Changes to legislation:

There are currently no known outstanding effects for the *Technical and Further Education Act 2017*, Cross Heading: Specific modifications to Schedule B1 to the *Insolvency Act 1986*.