
STATUTORY INSTRUMENTS

2019 No. 138

The Further Education Bodies (Insolvency) Regulations 2019

PART 3

Specific modifications to relevant insolvency legislation

Section 143 (General functions in winding up by the court)

18. Section 143 of the Act is to be read as if—

(a) for subsection (1) there were substituted—

“(1) The functions of the liquidator of a statutory corporation which is being wound up by the court are to secure that the property of the statutory corporation is got in, realised and distributed to the statutory corporation’s creditors, and, if there is a surplus, to transfer the property encompassing that surplus in accordance with the direction of the appropriate national authority.”;

(b) after subsection (2) there were inserted—

“(3) The appropriate national authority may direct, subject to subsection (6), that the statutory corporation’s property is to be transferred to one or more of the persons listed in subsection (5).

(4) In determining which one or more persons are to be the recipient of the transfer, the appropriate national authority must seek to—

- (a) avoid or minimise the disruption to the studies of any of the statutory corporation’s students; and
- (b) ensure the continued use of the statutory corporation’s property for the provision of educational facilities and services.

(5) The persons to whom the appropriate national authority may direct a transfer are—

- (a) a further education corporation;
- (b) a sixth form college corporation, as defined in section 90 of the Further and Higher Education Act 1992;
- (c) the governing body of an institution designated under section 28 of the Further and Higher Education Act 1992;
- (d) the governing body of a school maintained by a local authority (within the meaning of section 20 of the School Standards and Framework Act 1998);
- (e) a local authority;
- (f) a person concerned with the running of an Academy (within the meaning of section 1 of the Academies Act 2010);
- (g) a university receiving funding under section 65 of the Further and Higher Education Act 1992);

- (h) a higher education corporation (within the meaning of section 90 of the Further and Higher Education Act 1992);
 - (i) a body corporate established for purposes which include the provision of educational facilities or educational services;
 - (j) a person who is in receipt of a grant or eligible to receive a grant under regulations made under section 485 of the Education Act 1996, for the purposes of, or in connection with, the provision, or proposed provision, of educational services; and
 - (k) a person who is in receipt of financial assistance under section 14 of the Education Act 2002 for, or in connection with, the provision, or proposed provision, of education or of educational services.
- (6) The appropriate national authority may not direct a transfer under this section unless the recipient of the transfer consents to that transfer.
- (7) Where the recipient of a transfer is not a charity established for charitable purposes which are exclusively educational purposes, any property transferred must be transferred on trust to be used for charitable purposes which are exclusively educational purposes.
- (8) In subsection (7) “charity” and “charitable purposes” have the same meanings as in the Charities Act 2011.”.