

2019 No. 138

EDUCATION, ENGLAND AND WALES
INSOLVENCY, ENGLAND AND WALES

The Further Education Bodies (Insolvency) Regulations 2019

Made - - - - *30th January 2019*

Coming into force in accordance with regulation 1(1)

The Secretary of State makes the following Regulations, in exercise of the powers conferred by sections 6(2)(a), 7(1), 8(1) to (3) and 33(1) of the Technical and Further Education Act 2017(a).

In accordance with section 45(2) of the Technical and Further Education Act 2017, a draft of these Regulations was laid before, and approved by a resolution of, each House of Parliament.

PART 1

Introductory

Citation, commencement and application

1.—(1) These Regulations may be cited as the Further Education Bodies (Insolvency) Regulations 2019 and come into force on the day after the day on which they are made.

(2) These Regulations apply to statutory corporations only, except for Part 4 (but not regulation 34) and regulation 40, which apply in addition to companies conducting designated further education institutions in England and Wales(b).

Interpretation

2. In these Regulations—

“the Act” means the Insolvency Act 1986(c);

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

“Schedule A1” means Schedule A1 to the Act(e);

“Schedule B1” means Schedule B1 to the Act(f);

(a) 2017 c. 19.

(b) Companies conducting further education institutions are further education bodies, as defined in section 4 of the Technical and Further Education Act 2017.

(c) 1986 c. 45.

(d) 2006 c. 46.

(e) Schedule A1 was inserted by paragraph 4 of Schedule 1 to the Insolvency Act 2000 (c. 39).

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

“the Rules” means the Insolvency (England and Wales) Rules 2016(a);

“education administration” means administration entered into pursuant to the making of an education administration order;

“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(b);

“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 2017; and

“student member” means a member of a statutory corporation who is or was a student at the statutory corporation at the time during which that person is or was a member.

Application of normal insolvency procedures to statutory corporations: modifications and omissions

3. These Regulations have effect as follows—

- (a) the relevant insolvency legislation(c) which is applied to statutory corporations by section 6(2) of the Technical and Further Education Act 2017 is modified—
 - (i) generally in Part 2, and
 - (ii) specifically in Part 3;
- (b) the provisions set out in Part 4 apply to statutory corporations and (except for the provision referred to in regulation 34) to companies conducting designated further education institutions in England and Wales with the modifications set out in that Part;
- (c) the provisions of the 2006 Act set out in regulation 39, and section 1117 of the 2006 Act, apply to statutory corporations, with the modifications set out in regulations 39 to 42.

PART 2

General modifications to relevant insolvency legislation

General modifications of relevant insolvency legislation

4.—(1) Relevant insolvency legislation is to be read, in relation to statutory corporations, as if, for the terms appearing in the first column of the table there were substituted the corresponding terms in the second column—

<i>Provision</i>	<i>Modification</i>
company, including company registered under the Companies Act 2006 in England and Wales subject to (2), director	statutory corporation (i) member of the statutory corporation, (ii) principal of the statutory corporation, or (iii) if the context requires, both of the above
subject to (2), officer (in relation to a company)	(i) member of the statutory corporation, (ii) clerk to the statutory corporation, (iii) chief executive of the statutory corporation, (iv) senior post holder or principal of the statutory corporation, or

(a) S.I. 2016/1024. The Rules were amended by S.I. 2017/366 and 2017/1115.

(b) 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).

(c) “Relevant insolvency legislation” is defined in section 6(3) of the Technical and Further Education Act 2017.

registered office	(v) if the context requires, all of the above address of the statutory corporation given in the UK Register of Learning Providers
Memorandum and Articles of Association, including where separately referred to as memorandum or articles	instrument of government and articles of government of the statutory corporation
Member, except in Part 17 of the Rules	member of a statutory corporation as set out in that statutory corporation's instrument of government and articles of government
Secretary	clerk to the statutory corporation
a reference to a company being wound up by a court in England and Wales	a reference to the statutory corporation being wound up by the court
a reference to a winding up	a reference to the winding up of a statutory corporation.

(2) But, in sections 85, 99, 131, 188, 210 of the Act and paragraphs 6, 9, 16, 20 and 42 of Schedule A1 and paragraphs 22, 45, 47 and 48 of Schedule B1, “officer” or “director” do not include a student member.

(3) The relevant insolvency legislation is also to be read as if—

- (a) any reference to contributories or to the liability of contributories is omitted;
- (b) any reference to shares or shareholdings is omitted;
- (c) any reference to a special resolution is to be read in accordance with the statutory corporation's instrument of government and articles of government, or, if the instrument and articles do not contain such provision, in accordance with regulation 5(14).

Meetings

5.—(1) Subject to paragraph (15), in sections 3(a), 84 and 100 of the Act, paragraph 62 of Schedule B1 and rules 2.33, 2.35, 2.36, 6.20 and 15.41 of the Rules, references to—

- (a) company meetings, or the company in general meeting;
- (b) meetings of members;
- (c) the summoning of such meetings; and
- (d) the voting procedures at such meetings

are to be read as references to the provisions for meetings set out in the statutory corporation's instrument of government and articles of government and any references to resolutions are to be read as references to the equivalent provisions set out in the instrument of government and articles of government.

(2) In the event that the statutory corporation has no provisions for meetings set out in its instrument of government and articles of government, the references set out at paragraph (1)(a) to (d) above in sections 3, 84 and 100 of the Act, paragraph 62 of Schedule B1 and rules 2.33, 2.35, 2.36, 6.20 and 15.41 of the Rules are to be read as references to meetings complying with paragraphs (3) to (13), and references to resolutions are to be read as references to a decision made under paragraph (9).

(3) A meeting must—

- (a) be called by the clerk to the statutory corporation; and
- (b) be quorate, within the meaning of paragraph (7).

(4) Paragraph (3)(a) does not apply where a meeting is called under section 3 of the Act, paragraph 62 of Schedule B1 or rule 15.41 of the Rules.

(a) Section 3 was amended by paragraph 3 of Schedule 9 to the Small Business, Enterprise and Employment Act 2015 (c. 26).

(5) A special meeting may be called at any time by the clerk to the statutory corporation at the written request of any five members.

(6) No longer than five clear business days' notice^(a) is to be given by the clerk of a special meeting.

(7) A meeting is quorate if at least 40% of the total number of members is present at the meeting.

(8) The members present at the meeting must elect one of their number to be the chair for the purposes of that meeting.

(9) Questions to be decided at a meeting must be decided by a majority of the votes cast by members present and entitled to vote on the question.

(10) Whether a member is entitled to vote on any question must be determined by the members present at the meeting in advance of any vote, excluding the member whose entitlement is to be determined.

(11) Where there is an equal division of votes on a question to be decided, the chair of the meeting is to have a second or casting vote.

(12) A member must not vote by proxy or in any way in their absence.

(13) A student member who is under the age of 18 is not entitled to vote at a meeting of a statutory corporation on any question concerning any proposal—

(a) for the expenditure of money by the statutory corporation; or

(b) under which the statutory corporation, or any of its members, would enter into any contract, or would incur any debt or liability, whether immediate, contingent or otherwise.

(14) References in the relevant insolvency legislation to a company passing a resolution at a meeting are to be read as including references to a vote validly passed at a meeting of a statutory corporation.

(15) Where a meeting is called under section 3 of the Act, paragraph 62 of Schedule B1 or rule 15.41 of the Rules, that meeting must be called by the person responsible for calling that meeting under the respective provision.

Moratorium

6.—(1) Where notice has been given under section 9(3), 10(4), 11(2), 12(3) or 13 of the Technical and Further Education Act 2017 the following provisions also apply until a period of at least 14 days has elapsed since notice was given under any of those sections, unless the appropriate national authority confirms in writing to the person who served the notice that it does not intend to apply for an education administration order.

(2) No step may be taken to repossess goods in the statutory corporation's possession under a hire-purchase agreement except—

(a) with the consent of the appropriate national authority; or

(b) with the permission of the court.

(3) A landlord may not exercise a right of forfeiture by peaceable re-entry in relation to premises let to a statutory corporation except—

(a) with the consent of the appropriate national authority; or

(b) with the permission of the court.

(4) No legal process (including legal proceedings or execution) may be instituted or continued against the statutory corporation or property of the statutory corporation except—

(a) with the consent of the appropriate national authority; or

(a) "Business day" is defined in section 251 of the Insolvency Act 1986.

(b) with the permission of the court.

(5) Where the court gives the permission referred to in any of paragraphs (2) to (4), it may impose a condition on or requirement in connection with the matter in respect of which permission is given.

(6) In this regulation—

“hire-purchase agreement” has the same meaning as the Consumer Credit Act 1974(a); and

“landlord” includes a person to whom rent is payable.

PART 3

Specific modifications to relevant insolvency legislation

Section 1 (Those who may propose an arrangement)

7. Section 1 of the Act(b) is to be read as if subsections (4) to (6) were omitted.

Section 41 (Enforcement of duty to make returns)

8. Section 41(2) of the Act is to be read as if “member or” were omitted.

Chapter 1 of Part 4 (Contributories)

9. The Act is to be read as if sections 74 to 83 were omitted.

Section 85 (Notice of resolution to wind up)

10. Section 85 of the Act is to be read as if, after subsection (1), there were inserted—

“(1A) At the same time as the statutory corporation gives the notice required under subsection (1), it must send a copy of the resolution to the registrar of companies.”.

Section 88 (Avoidance of share transfers, etc. after winding up resolution)

11. The Act is to be read as if section 88 were omitted.

Section 99 (Directors to lay statement of affairs before creditors)

12. Section 99 of the Act(c) is to be read as if there were inserted at the end of subsection (1)(b)—

“(c) and to the appropriate national authority.”

Section 104A (Progress report to company and creditors... (England and Wales))

13. Section 104A of the Act(d) is to be read as if, in subsection (1)(b)—

(a) at the end of sub-paragraph (i) “and” were omitted;

(b) after sub-paragraph (i) there were inserted—

(a) 1974 c. 39. See section 189(1). Section 189 has been amended but those amendments are not relevant to this instrument.
(b) Section 1 was amended by paragraph 2 of Schedule 2 to the Insolvency Act 2000, paragraph 10 of Schedule 17 to the Enterprise Act 2002, paragraph 20 of Schedule 6 to the Deregulation Act 2015 (c. 20) and S.I. 2002/1240, 2009/1941, and 2017/1941.
(c) Section 99 was amended by paragraph 23 of Schedule 9 to the Small Business, Enterprise and Employment Act 2015 and S.I. 2010/18. Other amendments have been made which refer to Scotland only and are not relevant to this instrument.
(d) Section 104A was inserted by S.I. 2010/18 and has been amended by section 136 of and paragraph 27 of Schedule 9 to the Small Business, Enterprise and Employment Act 2015 and SSI 2016/141.

“(ia) the appropriate national authority; and”.

Section 106 (Final account prior to dissolution)

14. Section 106 of the Act(a) is to be read as if, after subsection (2)(a) there were inserted—
“(ab) send a copy of the account to the appropriate national authority;”.

Section 107 (Distribution of company’s property)

15. The Act is to be read as if, for section 107, there were substituted—

“Distribution of statutory corporation’s property

107.—(1) Subject to the provisions of this Act as to preferential payments, the statutory corporation’s property in a voluntary winding up shall on the winding up be applied in satisfaction of the statutory corporation’s liabilities *pari passu*, and, where a surplus remains in the statutory corporation’s estate, in accordance with subsections (2) to (8).

(2) The statutory corporation’s property, where a surplus remains after the application of the statutory corporation’s property in accordance with subsection (1), is to be transferred in accordance with the appropriate national authority’s direction.

(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(b);
- (c) the governing body of an institution designated under section 28 of the Further and Higher Education Act 1992(c);
- (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(d));
- (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(e));
- (g) a university receiving funding under section 65 of the Further and Higher Education Act 1992(f);

(a) Section 106 was amended by paragraph 29 of Schedule 9 to the Small Business, Enterprise and Employment Act 2015 and S.I. 2017/702.

(b) Section 90 has been amended, but those amendments are not relevant to the definition of sixth form college corporation.

(c) Section 28 has been amended, but those amendments are not relevant to this instrument.

(d) 1998 c. 31. Section 20 was amended by paragraph 95 of Schedule 21 to the Education Act 2002 (c. 32), paragraph 13 of Schedule 3 to the Education and Inspections Act 2006 (c. 40), paragraph 19 of Schedule 5 to the School Standards and Organisation (Wales) Act 2013 (2013 anaw 1) and S.I. 2010/1158.

(e) 2010 c. 32. Section 1 was amended by section 53 of the Education Act 2011 (c. 21) and paragraph 95 of Schedule 3 to the Children and Families Act 2014 (c. 6).

(f) Section 65 has been amended, but those amendments are not relevant to this instrument.

- (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(a), 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(b) 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(c).”.

Section 124A (Petition for winding up on grounds of public interest)

16. The Act is to be read as if section 124A(d) were omitted.

Section 130 (Consequences of winding-up order)

17. Section 130 of the Act(e) is to be read as if after subsection (1) there were inserted—

“(1A) At the same time as a copy of the order is to be forwarded to the registrar of companies under (1), a copy must also be forwarded to the appropriate national authority.”.

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

(a) 1996 c. 65. Section 485 was amended by S.I. 2010/1158.
 (b) Section 14 was amended by section 59 of the Children Act 2004 (c. 31), paragraph 23 of Schedule 14 to the Education Act 2005 (c. 18), section 15(2) of the Education Act 2011, and S.I. 2010/1158.
 (c) 2011 c. 25. The definitions of “charity” and “charitable purposes” are set out in sections 1 and 2 respectively of that Act.
 (d) Section 124A was inserted by section 60(3) of the Companies Act 2006 (c. 46). Amendments have been made, but those are not relevant to this instrument.
 (e) Section 130 was amended by paragraph 29 of Schedule 8 to the Finance (No. 2) Act 2015 (c. 33) and S.I. 2009/1941.

- (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.”.

Section 146 (Final account)

19. Section 146(4) of the Act(a) is to be read as if, after “the court”, there were inserted “, the appropriate national authority”.

Section 187 (Power to make over assets to employees)

20. The Act is to be read as if section 187(b) were omitted.

Section 218 (Prosecution of delinquent officers and members of the company)

21. Section 218 of the Act(c) is to be read as if subsection (5) were omitted.

(a) Section 146 was substituted by paragraph 38 of Schedule 9 to the Small Business, Enterprise and Employment Act 2015 and subsections (6) and (7) were inserted by S.I. 2017/702 in relation to England and Wales.
 (b) Section 187 has been amended, but no amendments are relevant to this instrument.
 (c) Section 218 was amended by section 10 of the Insolvency Act 2000.

Section 250 (“Member” of a company)

22. The Act is to be read as if section 250 were omitted.

Section 251 (Expressions used generally)

23. The Act is to be read as if, in section 251, the definition of “officer” was omitted.

Section 432 (Offences by bodies corporate)

24. Section 432 of the Act(a) is to be read as if in subsection (2) for “, manager, secretary or other similar officer” there were substituted “or officer”.

Paragraphs 4A to 4K of Schedule A1

25. Schedule A1 is to be read as if paragraphs 4A to 4K(b) were omitted.

Paragraph 46 of Schedule B1

26. Paragraph 46(4) of Schedule B1 is to be read as if after “registrar of companies” there were inserted “and the appropriate national authority”.

Paragraph 49 of Schedule B1

27. Paragraph 49(4) of Schedule B1(c) is to be read as if—

- (a) at the end of paragraph (b) “and” were omitted;
- (b) at the end of paragraph (c) “, and” were inserted; and
- (c) after paragraph (c), there were inserted—
 “(d) the appropriate national authority.”.

Paragraph 53 of Schedule B1

28. Paragraph 53(2) of Schedule B1(d) is to be read as if—

- (a) at the end of paragraph (b) “and” were omitted; and
- (b) after paragraph (b) there were inserted—
 “(ba) the appropriate national authority, and”.

Paragraph 54 of Schedule B1

29. Paragraph 54(6) of Schedule B1(e) is to be read as if—

- (a) at the end of paragraph (b) “and” were omitted; and
- (b) after paragraph (b) there were inserted—
 “(ba) the appropriate national authority, and”.

(a) Section 432 was amended by paragraph 11 of Schedule 1 to the Insolvency Act 2000.
(b) Paragraphs 4A to 4K were inserted by S.I. 2002/1990. Other amendments have been made to these paragraphs, but none are relevant to this instrument.
(c) Paragraph 49(4) of Schedule B1 was amended by paragraph 10(2) of Schedule 9 to the Small Business, Enterprise and Employment Act 2015 and S.I. 2008/948.
(d) Paragraph 53 of Schedule B1 was amended by paragraph 10(9) and (10) of Schedule 9 to the Small Business, Enterprise and Employment Act 2015.
(e) Paragraph 54 of Schedule B1 was amended by paragraph 10(11) to (16) of Schedule 9 to the Small Business, Enterprise and Employment Act 2015.

Paragraph 78 of Schedule B1

30. Paragraph 78(5) of Schedule B1(a) is to be read as if—

- (a) at the end of paragraph (a) “and” were omitted; and
- (b) after paragraph (b) there were inserted—
 - “, and
- (c) notify the appropriate national authority”.

Paragraph 83 of Schedule B1

31. Paragraph 83(5) of Schedule B1(b) is to be read as if, at the end of paragraph (b), there were inserted “, and the appropriate national authority”.

Paragraph 84 of Schedule B1

32. Paragraph 84(5) of Schedule B1(c) is to be read as if, at the end of paragraph (b), there were inserted “, and the appropriate national authority”.

Modification of the Insolvency (England and Wales) Rules 2016

33.—(1) Paragraph (2) of rule 1.6 of the Rules is to be read as if the general modification of company in regulation 4 had not been made and as if, after “company other than one which is the subject of proceedings”, there were inserted—

- (a) in the first column, “Statutory corporation”; and
- (b) in the second column—

“In the case of a statutory corporation—

- (la) the full name of the statutory corporation;
- (lb) the address given for the statutory corporation in the UK Register of Learning Providers; and
- (lc) where the registrar has allocated to the statutory corporation a number pursuant to section 1066 of the Companies Act 2006, that number.”.

(2) Rule 1.20(d) of the Rules is to be read as if, in paragraph (1), after sub-paragraph (o), there were inserted—

- “(p) a resolution made under section 85 of the Act;
- (q) a notice by a liquidator of his appointment, delivered under section 109 of the Act”

(3) Rule 1.21 of the Rules is to be read as if, in paragraph (1)(b), before paragraph (i) there were inserted—

- “(ai) the address of the statutory corporation,
- (aii) where the registrar has allocated to the statutory corporation a number pursuant to section 1066 of the Companies Act 2006, that number,”.

(4) The Rules are to be read as if, for rule 2.35, there were substituted—

“2.35. A member is entitled to vote in accordance with either the rights set out in the statutory corporation’s instrument and articles of government or, if no rights are given in

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- (a) Paragraph 78 of Schedule B1 was amended by paragraph 10(25) to (28) of Schedule 9 to the Small Business, Enterprise and Employment Act 2015.
 - (b) Paragraph 83 of Schedule B1 was amended by section 128(3) of and paragraph 10(31) and (32) of Schedule 9 to the Small Business, Enterprise and Employment Act 2015.
 - (c) Paragraph 84 of Schedule B1 was amended by paragraph 10(33) of Schedule 9 to the Small Business, Enterprise and Employment Act 2015 and S.I. 2017/702.
 - (d) Rule 1.20 was amended by S.I. 2017/366 and 2017/702.

the instrument of government and articles of government, in accordance with the provisions on meetings set out in regulation 5 of the Further Education Bodies (Statutory Corporations) (Insolvency) Regulations 2018.”.

(5) Rule 2.36(1) of the Rules is to be read as if “(in value)” were omitted.

(6) Rule 3.10 of the Rules is to be read as if paragraphs (b) and (c) were omitted.

(7) Where provision is made in rules 3.55(2) and rule 18.6(4) of the Rules for a person to send to any other person a report, or any other document, those documents must also be sent to the appropriate national authority.

PART 4

Modification of legislation about insolvency

Land Compensation Act 1973

34. Section 33F(2) and (3) of the Land Compensation Act 1973(a) is to be read as if “company” included “statutory corporation”.

Value Added Tax Act 1994

35. Section 26AA(8)(b) of the Value Added Tax Act 1994(c) is to be read as if, after paragraph (s), there were inserted—

“(t) an education administration order under Chapter 4 of Part 2 of the Technical and Further Education Act 2017 has been made in respect of that person and had not been set aside.”.

Third Parties (Rights against Insurers) Act 2010

36. Schedule A1 to The Third Parties (Rights against Insurers) Act 2010(d) is to be read as if, after “Chapter 1 of Part 1 of the Transport Act 2000” there were inserted—

“Education

Chapter 4 of Part 2 of the Technical and Further Education Act 2017.”.

Land Registration Rules 2003

37. Rule 184 of the Land Registration Rules 2003(e) is to be read as if—

- (a) references to a company included references to a statutory corporation; and
- (b) references to administration included references to education administration.

Non-Domestic Rating (Unoccupied Property) (England) Regulations 2008

38. Regulation 4 of the Non-Domestic Rating (Unoccupied Property) (England) Regulations 2008(f) is to be read as if—

- (a) in paragraphs (k) and (l) the reference to “company” included a reference to a statutory corporation; and

(a) 1973 c. 26. Section 33F was inserted by section 109 of the Planning and Compulsory Purchase Act 2004 (c. 5).

(b) Section 26AA was inserted by S.I. 2017/495.

(c) 1994 c. 23.

(d) 2010 c. 10. Schedule A1 was inserted by S.I. 2016/570.

(e) S.I. 2003/1417. Rule 184 was amended by S.I. 2003/2096.

(f) S.I. 2008/386. Regulation 4 was amended by S.I. 2015/1641 and 2017/102.

- (b) for paragraph (l), there were substituted—
- “(l) whose owner is a company—
 - (i) in administration within the meaning of paragraph 1 of Schedule B1 to the Insolvency Act 1986,
 - (ii) subject to an education administration order within the meaning of section 17 of the Technical and Higher Education Act 2017, or
 - (iii) subject to an administration order made under the former administration provisions within the meaning of article 3 of the Enterprise Act 2002 (Commencement No 4 and Transitional Provisions and Savings) Order 2003;”

PART 5

Modifications of the Companies Act 2006

General modifications of the Companies Act 2006

39. The modifications made to relevant insolvency legislation by regulation 4(1) apply to the following provisions of the 2006 Act in relation to the documents and records mentioned in section 8(1) of the Technical and Further Education Act 2017—

- (a) section 29;
- (b) section 30;
- (c) section 859K(a);
- (d) section 1066;
- (e) section 1081(b);
- (f) section 1084;
- (g) section 1085;
- (h) section 1086;
- (i) section 1087(1)(g), (i) and (k), (2) and (3);
- (j) sections 1089 to 1091;
- (k) section 1096(c);
- (l) section 1097;
- (m) section 1104;
- (n) section 1112.

Section 1117 of the Companies Act 2006 (Registrar’s rules)

40. In the application of section 1117 of the 2006 Act the registrar may make rules, in accordance with that section, requiring a further education body to provide supplementary information in relation to the insolvency of that further education body which, for the purposes of those rules, includes education administration.

(a) Section 859K was inserted by regulation 2 of, and Schedule 1 to, S.I. 2013/600.
(b) Section 1081 was amended by section 94 of, and paragraphs 11, 31(1) to (3) of Part 2 of Schedule 5 to, the Small Business, Enterprise and Employment Act 2015 (c. 26) and regulation 5 of, and paragraph 3(1) and (4) of Schedule 2 to, S.I. 2013/600.
(c) Section 1096 was amended by regulation 5 of, and paragraph 3(1) and (6) of Schedule 2 to, S.I. 2013/600.

Modification of section 29 of the Companies Act 2006 (resolutions and agreements affecting a company's constitution)

41. In section 29(1) of the 2006 Act a reference to a special resolution is to be read in accordance with the statutory corporation's instrument of government and articles of government, or, if the instrument and articles do not contain provisions relating to special resolutions, in accordance with regulation 5(14).

Modification of Section 1066 of the Companies Act 2006 (company's registered numbers)

42. Section 1066 of the 2006 Act is to be read as if for subsection (1) there were substituted—

“(1) Where the registrar first receives the name and address of a statutory corporation—

- (a) pursuant to a procedure brought under the relevant insolvency legislation in relation to the statutory corporation; or
- (b) on the granting of an application for an education administration order,

the registrar shall allocate to that statutory corporation a number, which shall be known as the statutory corporation's registered number.”.

Anne Milton

Minister of State

Department for Education

30th January 2019

EXPLANATORY NOTE

(This note is not part of the Regulations)

The Technical and Further Education Act 2017 applies insolvency proceedings to statutory corporations (further education corporations in England and Wales, and sixth form college corporations in England). These Regulations make necessary modifications to a range of insolvency legislation, and apply and modify provisions relating to insolvency in other legislation, to allow those provisions to properly apply to statutory corporations.

Part 2 makes general modifications of relevant insolvency legislation (defined by the Technical and Further Education Act as certain provisions of the Insolvency Act 1986 and legislation made under those provisions).

Part 3 makes specific modifications of certain provisions of the Insolvency Act 1986, including Schedules A1 and B1 to that Act, and the Insolvency (England and Wales) Rules 2016.

Part 4 makes specific modifications of other legislation, applied to statutory corporations by regulation 3, which contains provisions in relation to insolvency.

Part 5 makes general and specific modifications of provisions of the Companies Act 2006, applied to statutory corporations by regulation 3.

A full impact assessment has not been produced for this instrument as no, or no significant, impact on the private, voluntary or public sector is foreseen.

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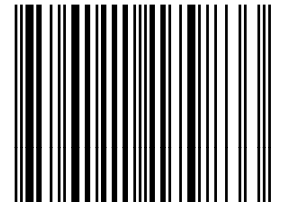
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