



Technical and Further Education Act 2017

2017 CHAPTER 19

PART 2

FURTHER EDUCATION BODIES: INSOLVENCY ETC

CHAPTER 3

RESTRICTIONS ON USE OF NORMAL INSOLVENCY PROCEDURES

9 Making of ordinary administration orders

- (1) This section applies if a person other than the appropriate national authority makes an ordinary administration application in relation to a further education body.
- (2) The court must dismiss the application if—
 - (a) an education administration order is in force in relation to the further education body, or
 - (b) an education administration order has been made in relation to the further education body but is not yet in force.
- (3) If subsection (2) does not apply, the court, on hearing the application, must not exercise its powers under paragraph 13 of Schedule B1 to the Insolvency Act 1986 (other than its power of adjournment) unless—
 - (a) notice of the application has been given to the appropriate national authority,
 - (b) a period of at least 14 days has elapsed since that notice was given, and
 - (c) there is no outstanding education administration application.
- (4) Paragraph 44 of Schedule B1 to the Insolvency Act 1986 (interim moratorium) does not prevent, or require the permission of the court for, the making of an education administration application.
- (5) In this section “ordinary administration application” means an application in accordance with paragraph 12 of Schedule B1 to the Insolvency Act 1986.

Status: This is the original version (as it was originally enacted).

10 Administrator appointments by creditors etc

- (1) Subsections (2) to (4) make provision about the appointment of an administrator under—
 - (a) paragraph 14 of Schedule B1 to the Insolvency Act 1986, in relation to a further education body that is a company, or
 - (b) paragraph 22 of Schedule B1 to the Insolvency Act 1986, in relation to any further education body.
- (2) If in any case—
 - (a) an education administration order is in force in relation to the further education body,
 - (b) an education administration order has been made in relation to the further education body but is not yet in force, or
 - (c) an education administration application in relation to the further education body is outstanding,a person may not take any step to make an appointment.
- (3) In any other case, an appointment takes effect only if each of the following conditions are met.
- (4) The conditions are—
 - (a) that notice of the appointment has been given to the appropriate national authority, accompanied by a copy of every document in relation to the appointment that is filed or lodged with the court in accordance with paragraph 18 or 29 of Schedule B1 to the Insolvency Act 1986,
 - (b) that a period of at least 14 days has elapsed since that notice was given,
 - (c) that there is no outstanding education administration application in relation to the further education body, and
 - (d) that the making of an education administration application in relation to the further education body has not resulted in the making of an education administration order which is in force or is still to come into force.
- (5) Paragraph 44 of Schedule B1 to the Insolvency Act 1986 (interim moratorium) does not prevent, or require the permission of the court for, the making of an education administration application at any time before the appointment takes effect.

11 Winding-up order

- (1) This section applies if a person other than the appropriate national authority petitions for the winding up of a further education body.
- (2) The court is not to exercise its powers on a winding-up petition unless—
 - (a) notice of the petition has been given to the appropriate national authority, and
 - (b) a period of at least 14 days has elapsed since that notice was given.
- (3) If an education administration application is made in relation to the further education body before a winding-up order is made on the petition, the court may exercise its powers under sections 19 and 20 (instead of exercising its powers on the petition).
- (4) References in this section to the court's powers on a winding-up petition are to—
 - (a) its powers under section 125 of the Insolvency Act 1986 (other than its power of adjournment), and

- (b) its powers under section 135 of the Insolvency Act 1986.

12 Voluntary winding up

- (1) A further education body has no power to pass a resolution for voluntary winding up without the permission of the court.
- (2) Permission may be granted by the court only on an application made by the further education body.
- (3) The court may not grant permission unless—
 - (a) notice of the application has been given to the appropriate national authority, and
 - (b) a period of at least 14 days has elapsed since that notice was given.
- (4) If an education administration application is made in relation to the further education body after an application for permission under this section has been made but before it is granted, the court may exercise its powers under sections 19 and 20 (instead of granting permission).
- (5) In this section “a resolution for voluntary winding up” has the same meaning as in the Insolvency Act 1986.

13 Enforcement of security

A person may not take any step to enforce a security over property of a further education body unless—

- (a) notice of the intention to do so has been given to the appropriate national authority, and
- (b) a period of at least 14 days has elapsed since the notice was given.

14 Interpretation of Chapter

- (1) In this Chapter—
 - “the court”, in relation to a further education body, means the court having jurisdiction to wind up the body;
 - “education administration application” has the meaning given by section 18;
 - “education administration order” has the meaning given by section 17.
- (2) For the purposes of this Chapter an application made to the court is outstanding if it—
 - (a) has not yet been granted or dismissed, and
 - (b) has not been withdrawn.
- (3) An application is not to be taken as having been dismissed if an appeal against the dismissal of the application, or a subsequent appeal, is pending.
- (4) An appeal is to be treated as pending for this purpose if—
 - (a) an appeal has been brought and has not been determined or withdrawn,
 - (b) an application for permission to appeal has been made but has not been determined or withdrawn, or
 - (c) no appeal has been brought and the period for bringing one is still running.

Status: This is the original version (as it was originally enacted).

- (5) In relation to a further education body that is a statutory corporation, a reference in this Chapter to a provision of the Insolvency Act 1986 is to that provision as it applies to the body by virtue of section 6.