

Status: Point in time view as at 31/01/2019.

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

SCHEDULES

SCHEDULE 1

Section 1

THE INSTITUTE FOR APPRENTICESHIPS AND TECHNICAL EDUCATION

- 1 The Apprenticeships, Skills, Children and Learning Act 2009 is amended as follows.

Commencement Information

- I1** Sch. 1 para. 1 in force at 16.8.2017 for specified purposes by S.I. 2017/844, reg. 2(b)(i)
I2 Sch. 1 para. 1 in force at 8.11.2017 for specified purposes by S.I. 2017/1055, reg. 2(b)(i)
I3 Sch. 1 para. 1 in force at 2.1.2018 for specified purposes by S.I. 2017/1055, reg. 3(b)(i)
I4 Sch. 1 para. 1 in force at 9.2.2018 for specified purposes by S.I. 2018/140, reg. 2(b)(i)
I5 Sch. 1 para. 1 in force at 31.1.2019 in so far as not already in force by S.I. 2019/61, reg. 2(b)

- 2 (1) Section ZA2 (general duties) is amended as follows.
- (2) Omit subsections (3) and (4).
- (3) In subsection (6), for the words after “or may be” substitute “provided—
- (a) in the course of an approved English apprenticeship,
 - (b) for the purposes of an approved technical education qualification, or
 - (c) for the purposes of approved steps towards occupational competence.”

Commencement Information

- I6** Sch. 1 para. 2(1) in force at 8.11.2017 for specified purposes by S.I. 2017/1055, reg. 2(b)(ii)
I7 Sch. 1 para. 2(1) in force at 31.1.2019 in so far as not already in force by S.I. 2019/61, reg. 2(b)
I8 Sch. 1 para. 2(2) in force at 8.11.2017 by S.I. 2017/1055, reg. 2(b)(iii)
I9 Sch. 1 para. 2(3) in force at 31.1.2019 by S.I. 2019/61, reg. 2(b)

- 3 (1) Section ZA3 (provision of advice and assistance to the Secretary of State) is amended as follows.
- (2) In subsection (1) for “relating to apprenticeships in relation to England.” substitute “in relation to England relating to—
- (a) apprenticeships, or
 - (b) other education or training.”
- (3) In subsection (2) for “100(1A) or otherwise relating to the funding of apprenticeships relating to England” substitute “100(1A) or (1B) or otherwise relating to the funding, in relation to England, of the things mentioned in paragraphs (a) and (b) of that subsection”.

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Commencement Information

- I10** Sch. 1 para. 3(1) in force at 9.2.2018 for specified purposes by S.I. 2018/140, **reg. 2(b)(ii)**
I11 Sch. 1 para. 3(1) in force at 31.1.2019 in so far as not already in force by S.I. 2019/61, **reg. 2(b)**
I12 Sch. 1 para. 3(2) in force at 9.2.2018 by S.I. 2018/140, **reg. 2(b)(iii)**
I13 Sch. 1 para. 3(3) in force at 31.1.2019 by S.I. 2019/61, **reg. 2(b)**

- 4 (1) Section ZA4 (delegation of functions of Secretary of State) is amended as follows.
- (2) In subsection (1) for “relating to apprenticeships in relation to England.” substitute “in relation to England relating to—
- (a) apprenticeships,
 - (b) technical education qualifications, or
 - (c) steps that people may take towards becoming competent to work in occupations.”
- (3) In subsection (3) for “100(1A) or otherwise relating to the funding of apprenticeships relating to England” substitute “100(1A) or (1B) or otherwise relating to the funding, in relation to England, of the things mentioned in paragraphs (a) to (c) of that subsection”.

Commencement Information

- I14** Sch. 1 para. 4 in force at 31.1.2019 by S.I. 2019/61, **reg. 2(b)**

- 5 In section ZA5(1) (conferral of new functions by regulations) for the words after “functions” substitute “in relation to England as the Secretary of State considers appropriate, relating to—
- (a) apprenticeships,
 - (b) technical education qualifications, or
 - (c) steps that may be taken by persons towards becoming competent to work in occupations.”

Commencement Information

- I15** Sch. 1 para. 5 in force at 31.1.2019 by S.I. 2019/61, **reg. 2(b)**

- 6 In the heading for Chapter A1, after “Apprenticeships” insert “ and technical education”.

Commencement Information

- I16** Sch. 1 para. 6 in force at 31.1.2019 by S.I. 2019/61, **reg. 2(b)**

- 7 In Chapter A1, before section A1 (and the italic heading before it) substitute—

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“Occupational categories and groups

Occupational categories (sometimes referred to as “routes”)

- ZA9(1) The Secretary of State may determine categories into which occupations may be placed for the purposes of this Chapter.
- (2) The Secretary of State must notify the Institute of any categories that are determined.

Mapping of occupational groups

- ZA1(1) The Institute must—
- (a) determine occupations in relation to which it may be appropriate for people to undertake apprenticeships or obtain qualifications, and
 - (b) determine which of those occupations require similar knowledge, skills and behaviour.
- (2) Two or more occupations that require similar knowledge, skills and behaviour are referred to in this section as a “group”.
- (3) Where categories have been determined under section ZA9, the Institute must allocate each occupation or group to a category.
- (4) If the Institute considers that no category is appropriate it must nevertheless allocate the occupation or group to a category (and is not required to adjust its determinations under subsection (1)).
- (5) The Institute must publish information showing—
- (a) the occupations,
 - (b) the groups, and
 - (c) any categories to which the occupations and groups have been allocated.

Standards

Standards

- ZA1(1) The Institute must publish standards in relation to England for such occupations as the Institute considers appropriate.
- (2) Each standard must—
- (a) describe the occupation to which it relates;
 - (b) set out the outcomes that persons seeking to achieve the standard are expected to attain in order to do so.
- (3) Each standard must have been prepared by a group of persons and approved by the Institute.
- (4) The group of persons that prepared a standard must have been approved by the Institute.

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- (5) The Institute may provide advice or assistance to a group of persons in connection with the preparation of a standard.
- (6) The Institute may convene a group of persons to prepare a standard for an occupation only if the Institute considers—
 - (a) that there is a need for a standard for that occupation, and
 - (b) that the need will not be met unless a group is convened to prepare the standard.
- (7) The Institute must publish—
 - (a) information about matters that it takes into account when deciding whether or not to approve standards for the purposes of subsection (3);
 - (b) information about matters that it takes into account when deciding whether or not to approve groups of persons for the purposes of subsection (4).
- (8) When making a decision of the kind mentioned in subsection (7)(a) or (b) in a particular case, the Institute may also take into account such other matters as it considers appropriate in the case in question.
- (9) Information published under subsection (7) may be revised or replaced, and the Institute must publish under that subsection any revised or replacement information.
- (10) Where a standard is published, the Institute must publish, with the information published under section ZA10(5) in relation to the occupation, information indicating that there is a standard for the occupation.”

Commencement Information

I17 Sch. 1 para. 7 in force at 8.11.2017 by S.I. 2017/1055, reg. 2(b)(iii) (with reg. 4)

- 8 For the italic heading before section A1 substitute “ Meaning of “approved English apprenticeship” etc ”.

Commencement Information

I18 Sch. 1 para. 8 in force at 8.11.2017 by S.I. 2017/1055, reg. 2(b)(iii)

- 9 In section A1 (meaning of “approved English apprenticeship”)—
- (a) in subsection (3)(a)—
 - (i) for “a sector for which an approved apprenticeship” substitute “ an occupation for which a ”;
 - (ii) for “A2” substitute “ ZA11 ”;
 - (b) in the following places omit “apprenticeship”—
 - (i) subsection (3)(b);
 - (ii) subsection (6), in the second place it occurs;
 - (iii) subsection (7), in the first place it occurs;
 - (c) in subsection (7), for “A2” substitute “ ZA11 ”.

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Commencement Information

I19 Sch. 1 para. 9 in force at 8.11.2017 by S.I. 2017/1055, reg. 2(b)(iii)

- 10 For the italic heading before section A2 substitute “ Apprenticeship assessment plans ”.

Commencement Information

I20 Sch. 1 para. 10 in force at 8.11.2017 by S.I. 2017/1055, reg. 2(b)(iii)

- 11 (1) Section A2 (apprenticeship standards and assessment plans) is amended as follows.
- (2) For the heading, substitute “ Apprenticeship assessment plans ”.
- (3) For subsection (1) substitute—
- “(1) The Institute must publish apprenticeship assessment plans in respect of such standards published under section ZA11 as it considers appropriate.”
- (4) Omit subsections (2) and (3).
- (5) In subsection (4)—
- (a) after “An” insert “ apprenticeship ”;
- (b) for the words from “a person's attainment” to the end substitute “ it is to be assessed whether a person seeking to complete an approved English apprenticeship has attained the outcomes set out in the standard ”.
- (6) In subsection (5) after “Each” insert “ apprenticeship ”.
- (7) For subsection (6) substitute—
- “(6) Each apprenticeship assessment plan must have been prepared by a group of persons and approved by the Institute.
- (7) The group of persons that prepared an apprenticeship assessment plan must have been approved by the Institute.
- (8) The Institute may provide advice or assistance to a group of persons in connection with the preparation of an apprenticeship assessment plan.
- (9) The Institute may convene a group of persons to prepare an apprenticeship assessment plan in respect of a standard only if the Institute considers—
- (a) that there is a need for an apprenticeship assessment plan in respect of that standard, and
- (b) that the need will not be met unless a group is convened to prepare the plan.
- (10) The Institute must publish—
- (a) information about matters that it takes into account when deciding whether or not to approve apprenticeship assessment plans for the purposes of subsection (6);
- (b) information about matters that it takes into account when deciding whether or not to approve groups of persons for the purposes of subsection (7).

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- (11) When making a decision of the kind mentioned in subsection (10)(a) or (b) in a particular case, the Institute may also take into account such other matters as it considers appropriate in the case in question.
- (12) Information published under subsection (10) may be revised or replaced, and the Institute must publish under that subsection any revised or replacement information.
- (13) Where an apprenticeship assessment plan is published, the Institute must publish, with the information published under section ZA10(5) in relation to the occupation, information indicating that there is an apprenticeship assessment plan in respect of the standard for the occupation.”

Commencement Information

I21 Sch. 1 para. 11 in force at 8.11.2017 by S.I. 2017/1055, reg. 2(b)(iii) (with reg. 4)

- 12 Omit section A2A (preparation of apprenticeship standards and plans).

Commencement Information

I22 Sch. 1 para. 12 in force at 8.11.2017 by S.I. 2017/1055, reg. 2(b)(iii)

- 13 In the italic heading before section A2B, at the end insert “ of apprenticeship assessments etc ”.

Commencement Information

I23 Sch. 1 para. 13 in force at 16.8.2017 by S.I. 2017/844, reg. 2(b)(ii)

- 14 (1) Section A2B (evaluation of quality of apprenticeship assessments) is amended as follows.
- (2) In subsection (2), after “to which the” insert “ apprenticeship ”.
- (3) In subsection (3), after “may” insert “ carry out evaluations or ”.
- (4) After subsection (3) insert—
- “(4) The Secretary of State may by regulations authorise the Institute (subject to any restrictions prescribed by the regulations) to charge fees for things done in connection with the carrying out by it of evaluations under subsection (1).”

Commencement Information

I24 Sch. 1 para. 14 in force at 16.8.2017 by S.I. 2017/844, reg. 2(b)(ii) (with reg. 3)

- 15 After section A2D insert—

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“Technical education qualifications

A2DA Approved technical education qualifications

- (1) The Institute may, if it considers it appropriate, approve a technical education qualification in respect of one or more occupations for which standards are published under section ZA11.
- (2) The Institute may make any arrangements that it considers appropriate—
 - (a) to secure that suitable technical education qualifications are available for approval under this section, or
 - (b) in connection with the approval or continued approval of a technical education qualification.
- (3) The Institute may approve a technical education qualification under this section only if satisfied that by obtaining the qualification a person demonstrates that he or she has attained as many of the outcomes set out in the standards as may reasonably be expected to be attained by undertaking a course of education.
- (4) The Institute may approve a technical education qualification under this section only where the Institute—
 - (a) has determined the documents relating to the qualification to which it considers section A2IA should apply (if any), and
 - (b) is satisfied that each person (other than the Institute) who it thinks is entitled to a right or interest in any copyright in those documents agrees to the right or interest being transferred to the Institute (see section A2IA).
- (5) If the Institute fails to comply with subsection (4)(b) then, unless it does so in the knowledge that a person does not agree as mentioned in that provision—
 - (a) the failure does not invalidate the approval of the qualification, but
 - (b) the Institute must pay such compensation (if any) as may be appropriate to any person whose right or interest is transferred to the Institute without the person's agreement.
- (6) In making a determination under subsection (4)(a), the Institute may take into account the likelihood of any person agreeing as mentioned in subsection (4)(b).
- (7) The Institute may revise its determination under subsection (4)(a) before approving the qualification.
- (8) The Institute may withdraw approval given under this section.
- (9) The Institute is not required to withdraw approval given under this section merely because a qualification is modified.
- (10) Where a technical education qualification is approved under this section, the Institute must publish, with the information published under section ZA10(5) in relation to the occupations, information indicating that a technical education qualification has been approved in respect of them.

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- (11) Where approval of a technical education qualification is withdrawn under this section, the Institute must publish, with the information published under section ZA10(5) in relation to the occupations, information indicating that the approval of the qualification has been withdrawn.
- (12) In this Chapter “technical education qualification” means a qualification that relates to one or more occupations.
- (13) In this Chapter a technical education qualification that the Institute approves under this section is referred to as “an approved technical education qualification”.

A2DB Additional steps towards occupational competence

- (1) Where there is an approved technical education qualification in respect of one or more occupations, the Institute may from time to time determine other steps that it considers it would be appropriate for a person to take in order to progress towards being a person who is competent to work in those occupations.
- (2) Steps determined under this section may include the obtaining of other qualifications.
- (3) The Institute may make a further determination under this section.
- (4) The Institute must publish a statement of any steps it determines under this section.
- (5) In this Chapter steps that the Institute determines under this section are referred to as “approved steps towards occupational competence”.

A2DC Directions

The Secretary of State may give the Institute a direction in connection with the exercise by the Institute of any function under or for the purposes of section A2DA or A2DB.”

Commencement Information

I25 Sch. 1 para. 15 in force at 31.1.2019 by S.I. 2019/61, reg. 2(b)

- 16 For the italic heading before section A2E substitute “ Other provision relating to approved English apprenticeships and technical education ”.

Commencement Information

I26 Sch. 1 para. 16 in force at 31.1.2019 by S.I. 2019/61, reg. 2(b)

- 17 In section A2E (regular reviews of published standards and assessment plans), in subsections (1) and (2) after “standard or” insert “ apprenticeship ”.

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Commencement Information

I27 Sch. 1 para. 17 in force at 8.11.2017 by S.I. 2017/1055, reg. 2(b)(iii)

- 18 (1) Section A2F (revision or withdrawal of published standards and assessment plans) is amended as follows.
- (2) In subsection (1), in paragraphs (a) and (b), after “standard or” insert “apprenticeship”.
- (3) For subsection (2) substitute—
- “(2) Subsections (3) to (9) of section ZA11 apply in relation to a revised version of a standard published under this section as they do in relation to a standard published under that section.
- (3) Subsections (6) to (12) of section A2 apply in relation to a revised version of an apprenticeship assessment plan published under this section as they do in relation to an apprenticeship assessment plan published under that section.”

Commencement Information

I28 Sch. 1 para. 18 in force at 8.11.2017 by S.I. 2017/1055, reg. 2(b)(iii)

- 19 Omit the italic heading before section A2G.

Commencement Information

I29 Sch. 1 para. 19 in force at 8.11.2017 by S.I. 2017/1055, reg. 2(b)(iii)

- 20 In section A2G—
- (a) after “standard or”, in each place it occurs, insert “apprenticeship”;
- (b) in subsection (1) (examinations by independent third parties), for “A2A(1)” substitute “ZA11(3) or section A2(6)”.

Commencement Information

I30 Sch. 1 para. 20 in force at 8.11.2017 by S.I. 2017/1055, reg. 2(b)(iii)

- 21 After section A2H insert—

“A2HA List of technical education qualifications

- (1) The Institute must maintain a list of approved technical education qualifications.
- (2) The list must include information for the purpose of enabling people to refer, in relation to each qualification, to—
- (a) the standards published under section ZA11 for the occupations in respect of which the qualification is approved, and
- (b) any statement of steps published under section A2DB in relation to those occupations.

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(3) The Institute must ensure that the list is available free of charge.”

Commencement Information

I31 Sch. 1 para. 21 in force at 31.1.2019 by S.I. 2019/61, reg. 2(b)

22 (1) Section A2I (transfer of copyright in standards and assessment plans) is amended as follows.

(2) In subsection (1), for paragraph (a) substitute—

“(a) a standard is approved by the Institute under section ZA11 or an apprenticeship assessment plan is approved by the Institute under section A2, and”.

(3) In subsection (3), after “standard or” insert “ apprenticeship ”.

Commencement Information

I32 Sch. 1 para. 22 in force at 8.11.2017 by S.I. 2017/1055, reg. 2(b)(iii) (with reg. 4)

23 After section A2I insert—

“A2IA Transfer of copyright relating to technical education qualifications

(1) This section applies where a technical education qualification is approved under section A2DA.

(2) The right or interest in any copyright in a relevant course document is, by virtue of this section, transferred from the person to the Institute at the time the approval is given.

(3) The Institute may assign to another person, or grant a licence to another person in respect of, any right or interest transferred to the Institute by virtue of this section.

(4) In this section “relevant course document” means a document in relation to which the Institute has made a determination under section A2DA(4)(a).”

Commencement Information

I33 Sch. 1 para. 23 in force at 31.1.2019 by S.I. 2019/61, reg. 2(b)

24 After section A3 insert—

“A3A Power to issue technical education certificate

(1) The Secretary of State may issue a certificate (a “technical education certificate”) to a person if it appears to the Secretary of State that the person has—

- (a) obtained an approved technical education qualification, and
- (b) taken any other steps determined under section A2DB in relation to the occupations in respect of which the qualification is approved.

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- (2) The Secretary of State may by regulations make provision—
- (a) requiring an application to be made in a prescribed manner before a certificate is issued;
 - (b) about the supply by the Secretary of State of copies of technical education certificates to persons to whom they were issued;
 - (c) authorising the Secretary of State (subject to any restrictions prescribed by the regulations) to charge a fee for issuing a technical education certificate or supplying a copy.”

Commencement Information

I34 Sch. 1 para. 24 in force at 31.1.2019 by S.I. 2019/61, reg. 2(b)

- 25 Part 1A (apprenticeships: information sharing) is amended as follows.

Commencement Information

I35 Sch. 1 para. 25 in force at 2.1.2018 by S.I. 2017/1055, reg. 3(b)(ii)

- 26 In the Part heading, after “Apprenticeships” insert “ and other education and training ”.

Commencement Information

I36 Sch. 1 para. 26 in force at 2.1.2018 by S.I. 2017/1055, reg. 3(b)(ii)

- 27 After section 40A insert—

“40AA Sharing of information by or with the Institute

- (1) The Institute for Apprenticeships and Technical Education may disclose information to a relevant person for the purpose of a relevant function of that person.
- (2) For disclosure of information by the Institute for the purposes of its own functions, see paragraph 10 of Schedule A1.
- (3) A relevant person may disclose information to the Institute for the purpose of—
 - (a) a function of the Institute, or
 - (b) a relevant function of that person.
- (4) In this section “relevant person” means—
 - (a) Ofqual,
 - (b) the OfS,
 - (c) Ofsted, or
 - (d) a prescribed person.
- (5) In this section “relevant function” means—
 - (a) in relation to Ofqual, the OfS or Ofsted, a function of that body, so far as the function relates to England;

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(b) in relation to a prescribed person, a prescribed function of that person, so far as the function relates to England.

(6) In this section—

“Ofqual” means the Office of Qualifications and Examinations Regulation;

“OfS” means the Office for Students;

“Ofsted” means—

(a) the Office for Standards in Education, Children's Services and Skills, and

(b) Her Majesty's Chief Inspector of Education, Children's Services and Skills.

(7) Regulations under this section prescribing functions of a person may prescribe all of the person's functions.”

Commencement Information

I37 Sch. 1 para. 27 in force at 2.1.2018 by S.I. 2017/1055, reg. 3(b)(ii) (with reg. 4)

28 In section 40D(3) (interpretation of Part 1A)—

(a) the words from “affects” to the end become paragraph (a);

(b) after that paragraph insert—

“(b) authorises the disclosure of any information in contravention of any provision made by or under any Act which prevents disclosure of the information.”

Commencement Information

I38 Sch. 1 para. 28 in force at 2.1.2018 by S.I. 2017/1055, reg. 3(b)(ii)

29 (1) Section 100 (funding) is amended as follows.

(2) After subsection (1A) insert—

“(1B) The Secretary of State may secure the provision of financial resources to any person under this subsection (whether or not the resources could be secured under subsection (1)) in connection with approved technical education qualifications or approved steps towards occupational competence.”

^{F1}(3)

(4) In subsection (5), for “this section” substitute “this section—

“approved steps towards occupational competence” has the meaning given by section A2DB;

“approved technical education qualification” has the meaning given by section A2DA;”.

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Textual Amendments

F1 Sch. 1 para. 29(3) repealed (6.11.2018) by [The Greater Manchester Combined Authority \(Adult Education Functions\) Order 2018 \(S.I. 2018/1141\)](#), arts. 1(1), **7(6)**

Commencement Information

I39 Sch. 1 para. 29 in force at 31.1.2019 by [S.I. 2019/61](#), **reg. 2(b)**

- 30 In section 121(1) (interpretation of Part 1), at the appropriate places insert—
- ““technical education qualification” has the meaning given by section A2DA;”;
- ““approved steps towards occupational competence” has the meaning given by section A2DB;”;
- ““approved technical education qualification” has the meaning given by section A2DA;”.

Commencement Information

I40 Sch. 1 para. 30 in force at 31.1.2019 by [S.I. 2019/61](#), **reg. 2(b)**

- 31 In section 262(6) (orders and regulations subject to affirmative procedure), after paragraph (aa) insert—
- “(aza) regulations under section 40AA;”.

Commencement Information

I41 Sch. 1 para. 31 in force at 2.1.2018 by [S.I. 2017/1055](#), **reg. 3(b)(ii)**

- 32 (1) Schedule A1 (the Institute) is amended as follows.
- (2) In paragraph 9(2) (delegation) for “A2A and A2E to A2I” substitute “ ZA10, ZA11, A2DA, A2DB and A2E to A2IA ”.
- (3) In paragraph 10 (supplementary powers of the Institute)—
- (a) after sub-paragraph (c) insert—
- “(ca) use, in the exercise of any of its functions, information obtained by it in the exercise of any of its other functions;”
- (b) in sub-paragraph (2) for “power in sub-paragraph (1)(d) is” substitute “ powers in sub-paragraph (1) are ”.

Commencement Information

I42 Sch. 1 para. 32 in force at 8.11.2017 for specified purposes by [S.I. 2017/1055](#), **reg. 2(b)(iv)** (with [reg. 4](#))

I43 Sch. 1 para. 32 in force at 31.1.2019 in so far as not already in force by [S.I. 2019/61](#), **reg. 2(b)**

- 33 (1) This paragraph applies to a standard published by the Institute under section A2 of the Apprenticeships, Skills, Children and Learning Act 2009 before the day on which paragraph 11 of this Schedule comes into force.

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- (2) A standard referred to in sub-paragraph (1) is to be treated on and after that day as having been approved and published by the Institute under section ZA11 of that Act (as inserted by paragraph 7 of this Schedule).

Commencement Information

I44 Sch. 1 para. 33 in force at 8.11.2017 by S.I. 2017/1055, reg. 2(b)(iii)

- 34 (1) This paragraph applies to an assessment plan published by the Institute under section A2 of the Apprenticeships, Skills, Children and Learning Act 2009 before the day on which paragraph 11 of this Schedule comes into force.
- (2) An assessment plan referred to in sub-paragraph (1) is to be treated on and after that day as an apprenticeship assessment plan that was approved and published by the Institute under that section as amended by that paragraph.

Commencement Information

I45 Sch. 1 para. 34 in force at 8.11.2017 by S.I. 2017/1055, reg. 2(b)(iii)

- 35 (1) The Secretary of State may by regulations provide for anything done by the Secretary of State before the commencement day to be treated, on and after that day, as done by the Institute under a provision of the Apprenticeships, Skills, Children and Learning Act 2009 as amended by this Act.
- (2) Regulations under this paragraph are subject to the negative resolution procedure.
- (3) The regulations may provide for that Act (as so amended) to have effect with specified modifications in relation to the thing treated as done by the Institute (for example, if the regulations provide for a group of persons convened by the Secretary of State to be treated as convened by the Institute under section ZA11(6), the regulations may disapply the conditions in section ZA11(6)(a) and (b) in relation to the convening of that group).
- (4) In this paragraph “the commencement day” means the day on which section 1 and Schedule 1 come fully into force.

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”).

Status: Point in time view as at 31/01/2019.

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

Commencement Information

I46 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

I47 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

I48 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

I49 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.
(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

I50 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.

Status: Point in time view as at 31/01/2019.

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

Commencement Information

I51 Sch. 2 para. 6 in force at 31.1.2019 by S.I. 2018/1161, reg. 3(b)

- 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;
 - (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

I52 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

I53 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.

Status: Point in time view as at 31/01/2019.

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

Commencement Information

I54 Sch. 2 para. 9 in force at 31.1.2019 by S.I. 2018/1161, reg. 3(b)

SCHEDULE 3

Section 26

CONDUCT OF EDUCATION ADMINISTRATION: STATUTORY CORPORATIONS

Introductory

- 1 (1) The provisions of the Insolvency Act 1986 mentioned in sub-paragraph (2) apply in relation to the education administration of a further education body that is a statutory corporation as they apply in relation to a company administration, but with the modifications set out in this Schedule.
- (2) The provisions are—
- (a) sections 233 to 237 (management by administrators, liquidators etc);
 - (b) sections 238 to 241 (transactions at an undervalue and preferences);
 - (c) section 244 (extortionate credit bargains);
 - (d) section 246 (unenforceability of liens on books, etc);
 - (e) section 246ZA to 246ZC (fraudulent and wrongful trading);
 - (f) section 246ZD (power to assign certain causes of action);
 - (g) section 246B (use of websites);
 - (h) section 246C (creditors' ability to opt out of receiving certain notices);
 - (i) sections 247, 248(b), 249 and 251 (interpretation);
 - (j) the applicable provisions of Schedule B1 (conduct of administration).
- (3) The applicable provisions of Schedule B1 are—
- (a) paragraphs 1, 40 to 49, 54, 59, 60, 61 to 68, 71 to 75, 79, 83 to 91, 98 to 104, 106 and 107 and 109 to 111, and
 - (b) paragraph 50 (until the repeal of that paragraph by Schedule 10 to the Small Business, Enterprise and Employment Act 2015 comes into force).

Commencement Information

I55 Sch. 3 para. 1 in force at 31.1.2019 by S.I. 2018/1161, reg. 3(c)

General modifications

- 2 The provisions of the Insolvency Act 1986 applied by paragraph 1 are to have effect as if for any term specified in column 1 of the table there were substituted the term specified in column 2.

<i>Term</i>	<i>Modification</i>
company	further education body
administration application	education administration application

Status: Point in time view as at 31/01/2019.

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

administration order	education administration order
administrator	education administrator
director	(a) member of the further education body, (b) principal of the relevant institution, or (c) if the context requires, both of the above.
enters administration	enters education administration
in administration	in education administration
officer (in relation to a company)	(a) a member of the further education body, (b) the clerk to the further education body, (c) the chief executive of the relevant institution, (d) any senior post holder or principal of the relevant institution, or (e) if the context requires, all of the above.
purpose of administration	objective of the education administration
the rules	the education administration rules

Commencement Information

I56 Sch. 3 para. 2 in force at 31.1.2019 by S.I. 2018/1161, reg. 3(c)

Specific modifications to Schedule B1 to the Insolvency Act 1986

- 3 Paragraphs 4 to 37 set out modifications to the applicable provisions of Schedule B1 to the Insolvency Act 1986 as applied by paragraph 1 above.

Commencement Information

I57 Sch. 3 para. 3 in force at 31.1.2019 by S.I. 2018/1161, reg. 3(c)

- 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 further education body, 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

I58 Sch. 3 para. 4 in force at 31.1.2019 by S.I. 2018/1161, reg. 3(c)

Status: Point in time view as at 31/01/2019.

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

- 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

I59 Sch. 3 para. 5 in force at 31.1.2019 by S.I. 2018/1161, reg. 3(c)

- 6 Paragraph 41 (dismissal of administrative or other receiver) is to have effect as if—
- (a) sub-paragraph (1) were omitted;
 - (b) in sub-paragraph (3), “administrative receiver or” and “(1) or” were omitted;
 - (c) in sub-paragraph (4)(a) and (b), “administrative receiver or” were omitted.

Commencement Information

I60 Sch. 3 para. 6 in force at 31.1.2019 by S.I. 2018/1161, reg. 3(c)

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

Commencement Information

I61 Sch. 3 para. 7 in force at 31.1.2019 by S.I. 2018/1161, reg. 3(c)

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

Commencement Information

I62 Sch. 3 para. 8 in force at 31.1.2019 by S.I. 2018/1161, reg. 3(c)

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

Commencement Information

I63 Sch. 3 para. 9 in force at 31.1.2019 by S.I. 2018/1161, reg. 3(c)

- 10 Paragraph 45(2) (publicity) is to have effect as if for paragraph (b) there were substituted—
- “(b) a member of the further education body,
 - (ba) the clerk to the further education body,
 - (bb) the chief executive of the relevant institution,
 - (bc) any senior post holder or principal of the relevant institution, and”.

Commencement Information

I64 Sch. 3 para. 10 in force at 31.1.2019 by S.I. 2018/1161, reg. 3(c)

Status: Point in time view as at 31/01/2019.

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

- 11 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

I65 Sch. 3 para. 11 in force at 31.1.2019 by S.I. 2018/1161, reg. 3(c)

- 12 Paragraph 47 (statement of affairs) is to have effect as if—
- (a) for sub-paragraph (3)(a) there were substituted—
 - “(a) a person who is or has been a member of the further education body,
 - (aa) a person who is or has been the clerk to the further education body,
 - (ab) a person who is or has been chief executive of the relevant institution,
 - (ac) a person who is or has been a senior post holder or principal of the relevant institution, and”,
 - (b) in sub-paragraph (3), paragraph (d) were omitted, and
 - (c) sub-paragraph (5) were omitted.

Commencement Information

I66 Sch. 3 para. 12 in force at 31.1.2019 by S.I. 2018/1161, reg. 3(c)

- 13 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 or combined 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-paragraphs (5)(b) and (6) were omitted.

Commencement Information

I67 Sch. 3 para. 13 in force at 31.1.2019 by S.I. 2018/1161, reg. 3(c)

- 14 Paragraph 54 is to have effect as if the following were substituted for it—
- “54 (1) The education administrator of a further education body may on one or more occasions revise the proposals included in the statement made under paragraph 49 in relation to the body.
- (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,

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- (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 further education body, other than an opted-out creditor, of whose claim and address the education administrator is aware, and
 - (e) to every member of the further education body 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) An education administrator who fails without reasonable excuse to comply with this paragraph commits an offence.”

Commencement Information

I68 Sch. 3 para. 14 in force at 31.1.2019 by S.I. 2018/1161, reg. 3(c)

- 15 Paragraph 60 is to have effect as if the following were substituted for it—
- “60 (1) The education administrator of a further education body has the powers specified in Schedule 1 to this Act (reading references in that Schedule to the company as references to the further education body).
- (2) The education administrator of a further education body has the power to act on behalf of the further education body for the purposes of provision contained in any legislation which confers a power on the further education body or imposes a duty on it.
- (3) In sub-paragraph (2) “legislation” means provision made by or under any Act.”

Commencement Information

I69 Sch. 3 para. 15 in force at 31.1.2019 by S.I. 2018/1161, reg. 3(c)

- 16 Paragraph 61 is to have effect as if the following were substituted for it—
- “61 The education administrator—
- (a) may appoint or remove the clerk to the further education body,
 - (b) may appoint or remove the chief executive of the relevant institution, and
 - (c) may appoint or remove the principal of the relevant institution.”

Commencement Information

I70 Sch. 3 para. 16 in force at 31.1.2019 by S.I. 2018/1161, reg. 3(c)

- 17 Paragraph 64 (management powers may not be exercised without consent of the administrator) is to have effect as if in sub-paragraph (1) for “an officer of a company in administration” there were substituted “ the clerk to the further education body or chief executive of the relevant institution ”.

Status: Point in time view as at 31/01/2019.

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

Commencement Information

I71 Sch. 3 para. 17 in force at 31.1.2019 by S.I. 2018/1161, reg. 3(c)

- 18 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 further education body, 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

I72 Sch. 3 para. 18 in force at 31.1.2019 by S.I. 2018/1161, reg. 3(c)

- 19 Paragraph 71 (charged property: non-floating charge), is to have effect as if, in sub-paragraph (1), the words “(other than a floating charge)” were omitted.

Commencement Information

I73 Sch. 3 para. 19 in force at 31.1.2019 by S.I. 2018/1161, reg. 3(c)

- 20 Paragraph 73 (protection for secured or preferential creditor) is to have effect as if—
- (a) in sub-paragraph (2), paragraphs (c) and (d) were omitted, and
 - (b) in sub-paragraph (3), for “or modified” there were substituted “ under paragraph 54 ”.

Commencement Information

I74 Sch. 3 para. 20 in force at 31.1.2019 by S.I. 2018/1161, reg. 3(c)

- 21 Paragraph 74 (challenge to administrator's conduct) is to have effect as if—
- (a) sub-paragraph (1) were omitted,
 - (b) for sub-paragraph (2) there were substituted—
 - “(2) Where a further education body is in education administration the appropriate national authority or a creditor 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 (4) of the Technical and Further Education Act 2017 (general functions of education administrator).”
 - (c) in sub-paragraph (6), paragraphs (b) to (c) were omitted, and
 - (d) after that sub-paragraph there were inserted—

Status: Point in time view as at 31/01/2019.

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

- “(7) In the case of a claim made by a creditor, 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 steps for—
- (a) remedying the failure to carry out functions in accordance with section 24(2) or (4) of the Technical and Further Education Act 2017, and
 - (b) ensuring that the failure is not repeated.”

Commencement Information

I75 Sch. 3 para. 21 in force at 31.1.2019 by S.I. 2018/1161, reg. 3(c)

- 22 Paragraph 75(2) (misfeasance) is to have effect as if—
- (a) after paragraph (b) there were inserted—
 - “(ba) a person appointed as an administrator of the further education body under the provisions of this Act as they have effect in relation to administrators other than education administrators,”
 - (b) at the end of paragraph (c) there were inserted “or”, and
 - (c) paragraph (e) (and the “or” before it) were omitted.

Commencement Information

I76 Sch. 3 para. 22 in force at 31.1.2019 by S.I. 2018/1161, reg. 3(c)

- 23 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 further education body 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

Status: Point in time view as at 31/01/2019.

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

- (b) with the consent of the appropriate national authority, by the education administrator.”, and
- (b) sub-paragraph (3) were omitted.

Commencement Information

I77 Sch. 3 para. 23 in force at 31.1.2019 by S.I. 2018/1161, reg. 3(c)

- 24 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

I78 Sch. 3 para. 24 in force at 31.1.2019 by S.I. 2018/1161, reg. 3(c)

- 25 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)”.

Commencement Information

I79 Sch. 3 para. 25 in force at 31.1.2019 by S.I. 2018/1161, reg. 3(c)

- 26 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

I80 Sch. 3 para. 26 in force at 31.1.2019 by S.I. 2018/1161, reg. 3(c)

- 27 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

I81 Sch. 3 para. 27 in force at 31.1.2019 by S.I. 2018/1161, reg. 3(c)

- 28 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 ”.

Status: Point in time view as at 31/01/2019.

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

Commencement Information

182 Sch. 3 para. 28 in force at 31.1.2019 by S.I. 2018/1161, reg. 3(c)

- 29 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

183 Sch. 3 para. 29 in force at 31.1.2019 by S.I. 2018/1161, reg. 3(c)

- 30 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

184 Sch. 3 para. 30 in force at 31.1.2019 by S.I. 2018/1161, reg. 3(c)

- 31 Paragraph 99 (charges and liabilities upon vacation of office by administrator) is to have effect as if—
- (a) in sub-paragraph (3), paragraph (b) were omitted, and
 - (b) after sub-paragraph (6) there were inserted—
 - “(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 further education body 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 further education body 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 further education body in respect of the loan or interest shall be payable after all other creditors have been paid in full.”

Status: Point in time view as at 31/01/2019.

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

Commencement Information

I85 Sch. 3 para. 31 in force at 31.1.2019 by S.I. 2018/1161, reg. 3(c)

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

Commencement Information

I86 Sch. 3 para. 32 in force at 31.1.2019 by S.I. 2018/1161, reg. 3(c)

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

Commencement Information

I87 Sch. 3 para. 33 in force at 31.1.2019 by S.I. 2018/1161, reg. 3(c)

- 34 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) in sub-paragraph (2), for paragraph (a) there were substituted—
 “(a) the appropriate national authority, or”, and
 - (c) sub-paragraphs (3) to (5) were omitted.

Commencement Information

I88 Sch. 3 para. 34 in force at 31.1.2019 by S.I. 2018/1161, reg. 3(c)

- 35 Paragraph 106(2) (penalties) is to have effect as if paragraphs (a), (b), (f), (g), (i) and (l) to (n) were omitted.

Commencement Information

I89 Sch. 3 para. 35 in force at 31.1.2019 by S.I. 2018/1161, reg. 3(c)

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

Commencement Information

I90 Sch. 3 para. 36 in force at 31.1.2019 by S.I. 2018/1161, reg. 3(c)

- 37 Paragraph 111 (interpretation) is to have effect as if the following were substituted for it—
- “111(1) In this Schedule—
- “education administrator” includes a reference to a former education administrator, where the context requires;
 - “enters education administration” has the meaning given by paragraph 1;

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“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.

- (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 a provision of this Act other than this Schedule is to the provision as it applies to a further education body by virtue of section 6 of the Technical and Further Education Act 2017.
- (4) In this Schedule a reference to action includes a reference to inaction.”

Commencement Information

191 Sch. 3 para. 37 in force at 31.1.2019 by S.I. 2018/1161, reg. 3(c)

Specific modifications to section 251 of the Insolvency Act 1986

38 Section 251 of the Insolvency Act 1986 (definitions) as applied by paragraph 1 above is to have effect as if—

- (a) for the definition of “prescribed” there were substituted—

““prescribed” means prescribed by rules made under section 411 of the Insolvency Act 1986 as a result of section 32 of the Technical and Further Education Act 2017;”,

- (b) the definitions of “officer” and “the rules” were omitted, and

- (c) at the appropriate places, there were inserted—

““appropriate national authority”—

- (a) in relation to a further education body in England, means the Secretary of State;
- (b) in relation to a further education body in Wales, means the Welsh Ministers;”,

““combined authority” means an authority established under section 103(1) of the Local Democracy, Economic Development and Construction Act 2009;”,

““director of children's services” means—

- (a) in respect of a local authority, a person appointed under section 18 of the Children Act 2004;
- (b) in respect of a combined authority, a person appointed to discharge functions corresponding to those of a person appointed under section 18 of the Children Act 2004;”,

““education administration application” has the meaning given by section 18 of the Technical and Further Education Act 2017;”,

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““education administration order” has the meaning given by section 17 of the Technical and Further Education Act 2017;”,

““education administration rules” has the meaning given by section 35 of the Technical and Further Education Act 2017;”,

““education administrator” has the meaning given by section 35 of the Technical and Further Education Act 2017;”,

““further education body” has the meaning given by section 4 of the Technical and Further Education Act 2017;”,

““further education body in England” has the meaning given by section 4 of the Technical and Further Education Act 2017;”,

““further education body in Wales” has the meaning given by section 4 of the Technical and Further Education Act 2017;”,

““local authority” has the meaning given in section 65 of the Children Act 2004;”,

““the principal”, in relation to a relevant institution, means a principal appointed under the further education body's instrument of government;”,

““objective”, in relation to an education administration, is to be read in accordance with section 16 of the Technical and Further Education Act 2017;”,

““the relevant institution”—

- (a) in relation to a further education corporation, means the institution which the corporation is established to conduct, and
- (b) in relation to a sixth form college corporation, means the relevant sixth form college as defined by section 90(1) of the Further and Higher Education Act 1992;”,

““senior post holder”, in relation to a relevant institution, means a person appointed as a senior post holder by the further education body;”.”.

Commencement Information

192 Sch. 3 para. 38 in force at 31.1.2019 by S.I. 2018/1161, reg. 3(c)

Power to add modifications

- 39 (1) The Secretary of State may by regulations—
- (a) amend paragraph 1(3)(a) so as to add further provisions to the list of applicable provisions in Schedule B1 to the Insolvency Act 1986;
 - (b) amend this Schedule so as to add further modifications to that Schedule.
- (2) Regulations under this paragraph are subject to the affirmative resolution procedure.

Status: Point in time view as at 31/01/2019.

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

Commencement Information

193 Sch. 3 para. 39 in force at 31.1.2019 by S.I. 2018/1161, reg. 3(c)

SCHEDULE 4

Section 26

CONDUCT OF EDUCATION ADMINISTRATION: COMPANIES

Introductory

- 1 (1) The provisions of the Insolvency Act 1986 mentioned in sub-paragraph (2) apply in relation to an education administration of a further education body that is a company as they apply in relation to administration under that Act, but with the modifications set out in this Schedule.
- (2) The provisions are—
- (a) sections 233 to 237 (management by administrators, liquidators etc);
 - (b) sections 238 to 241 (transactions at an undervalue and preferences);
 - (c) section 244 (extortionate credit bargains);
 - (d) section 246 (unenforceability of liens on books, etc);
 - (e) section 246ZA to 246ZC (fraudulent and wrongful trading);
 - (f) section 246ZD (power to assign certain causes of action);
 - (g) section 246B (use of websites);
 - (h) section 246C (creditors' ability to opt out of receiving certain notices);
 - (i) sections 247, 248(b), 249 and 251 (interpretation);
 - (j) the applicable provisions of Schedule B1 (conduct of administration).
- (3) The applicable provisions of Schedule B1 are—
- (a) paragraphs 1, 40 to 49, 54, 59, 60, 61 to 68, 70 to 75, 79, 83 to 91, 98 to 104, 106 and 107 and 109 to 111, and
 - (b) paragraph 50 (until the repeal of that paragraph by Schedule 10 to the Small Business, Enterprise and Employment Act 2015 comes into force).

Commencement Information

194 Sch. 4 para. 1 in force at 31.1.2019 by S.I. 2018/1161, reg. 3(d)

General modifications

- 2 The provisions of the Insolvency Act 1986 applied by paragraph 1 are to have effect as if for any term specified in column 1 of the table there were substituted the term specified in column 2.

<i>Term</i>	<i>Modification</i>
administration application	education administration application
administration order	education administration order

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administrator	education administrator
enters administration	enters education administration
in administration	in education administration
purpose of administration	objective of the education administration
the rules	the education administration rules

Commencement Information

I95 Sch. 4 para. 2 in force at 31.1.2019 by [S.I. 2018/1161](#), [reg. 3\(d\)](#)

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

I96 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

I97 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

I98 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

I99 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.

Status: Point in time view as at 31/01/2019.

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

Commencement Information

I100 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

I101 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

I102 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

I103 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

I104 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 or combined 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.

Status: Point in time view as at 31/01/2019.

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

Commencement Information

I105 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

I106 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.”

Commencement Information

I107 Sch. 4 para. 14 in force at 31.1.2019 by [S.I. 2018/1161](#), [reg. 3\(d\)](#)

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

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

I108 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

I109 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

I110 Sch. 4 para. 17 in force at 31.1.2019 by [S.I. 2018/1161](#), [reg. 3\(d\)](#)

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

I111 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

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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

I112 Sch. 4 para. 19 in force at 31.1.2019 by [S.I. 2018/1161](#), [reg. 3\(d\)](#)

- 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

I113 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

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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

I114 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

I115 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) ”.

Commencement Information

I116 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

I117 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 ”.

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Commencement Information

I118 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

I119 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

I120 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

I121 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—
- “(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,

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- (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

I122 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

I123 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

I124 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

I125 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.

Commencement Information

I126 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;

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

“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

1127 Sch. 4 para. 35 in force at 31.1.2019 by [S.I. 2018/1161](#), [reg. 3\(d\)](#)

Specific modifications to section 251 of the Insolvency Act 1986

36 Section 251 of the Insolvency Act 1986 (definitions) as applied by paragraph 1 above is to have effect as if—

(a) for the definition of “prescribed” there were substituted—

““prescribed” means prescribed by rules made under section 411 of the Insolvency Act 1986 as a result of section 32 of the Technical and Further Education Act 2017;”,

(b) the definition of “the rules” were omitted, and

(c) at the appropriate places, there were inserted—

““combined authority” means an authority established under section 103(1) of the Local Democracy, Economic Development and Construction Act 2009;”,

““director of children's services” means—

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- (a) in respect of a local authority, a person appointed under section 18 of the Children Act 2004;
- (b) in respect of a combined authority, a person appointed to discharge functions corresponding to those of a person appointed under section 18 of the Children Act 2004;”,

““education administration application” has the meaning given by section 18 of the Technical and Further Education Act 2017;”,

““education administration order” has the meaning given by section 17 of the Technical and Further Education Act 2017;”,

““education administration rules” has the meaning given by section 35 of the Technical and Further Education Act 2017;”,

““education administrator” has the meaning given by section 35 of the Technical and Further Education Act 2017;”,

““local authority” has the meaning given in section 65 of the Children Act 2004;”,

““objective”, in relation to an education administration, is to be read in accordance with section 16 of the Technical and Further Education Act 2017;”.

Commencement Information

I128 Sch. 4 para. 36 in force at 31.1.2019 by [S.I. 2018/1161](#), **reg. 3(d)**

Power to add modifications

- 37 (1) The Secretary of State may by regulations—
- (a) amend paragraph 1(3)(a) so as to add further provisions to the list of applicable provisions in Schedule B1 to the Insolvency Act 1986;
 - (b) amend this Schedule so as to add further modifications to that Schedule.
- (2) Regulations under this paragraph are subject to the affirmative resolution procedure.

Commencement Information

I129 Sch. 4 para. 37 in force at 31.1.2019 by [S.I. 2018/1161](#), **reg. 3(d)**

Status:

Point in time view as at 31/01/2019.

Changes to legislation:

There are currently no known outstanding effects for the **Technical and Further Education Act 2017**.