
STATUTORY INSTRUMENTS

2018 No. 1135

The Education Administration Rules 2018

PART 3

PROCESS OF EDUCATION ADMINISTRATION

CHAPTER 6

Creditors' decisions

Application of this Chapter 6

3.26. This Chapter applies where the education administrator seeks a decision from the creditors of the further education body in accordance with paragraph 62 of Schedule B1.

Creditors' decisions

3.27. The education administrator may, and in the circumstances set out in rule 3.28 must, seek a decision from the further education body's creditors under paragraph 62 of Schedule B1.

Creditors' decisions for the nomination of alternative liquidator

3.28.—(1) Where, under rule 3.8(4)(c) or rule 3.11(1)(f)(iii) the education administrator has proposed that the education administration will end by the further education body entering creditors' voluntary liquidation, the education administrator must, in the circumstances detailed in paragraph (2), seek a decision from the further education body's creditors for the purpose of nominating a person other than the person named as the proposed liquidator in the education administrator's proposals or revised proposals.

(2) The education administrator must seek a decision from the further education body's creditors where such decision is requested by creditors of the further education body whose debts amount to at least 10 per cent of the total debts of the further education body.

(3) The request for a decision from the further education body's creditors for the purpose set out in paragraph (1) must be made within 8 days of the date on which the education administrator's statement of proposals is delivered, or, where revised proposals have been sent out relating to the ending of the education administration by a creditors' voluntary liquidation, within 8 days from the date on which the revised proposals are delivered.

(4) A request under this rule must include—

- (a) a list of the creditors concurring with the request, showing the amounts of their respective debts in the education administration; and
- (b) from each creditor concurring, written confirmation of that creditor's concurrence,

but sub-paragraph (a) does not apply if the requesting creditor's debt is alone sufficient without the concurrence of other creditors.

(5) Where a decision has been requested under this rule, the provisions of rule 15.19, as modified by rule 3.29, of the Insolvency (England and Wales) Rules 2016(1) apply in relation to the expenses of the decision.

(6) A decision requested under this rule must be reached within 21 days of the education administrator's receipt of the notice requesting the decision procedure.

Decision making

3.29.—(1) Where the education administrator seeks a decision from the creditors on any issue and subject to paragraph (3), Chapters 2, 3, 6, 7, 8, 9 and 11 of Part 15 and Part 16 of the Insolvency (England and Wales) Rules 2016 apply to that decision, as they apply to administration, but with the modifications set out in paragraph (2).

(2) The provisions applied by paragraph (1) are subject to the following modifications—

- (a) for “administration”, in each place, substitute “education administration”;
- (b) for “administrator”, in each place, substitute “education administrator”;
- (c) for “company”, in each place, substitute “further education body”;
- (d) for “convener”, in each place, substitute “education administrator”;
- (e) the following is substituted for rule 15.21—

“**15.21.** The chair of the meeting must be either the education administrator or a person nominated by the education administrator to act as chair.”;

- (f) in rule 15.8, the reference to rule 14.31(1) is a reference to rule 5.28(1) of these Rules;
- (g) in rule 15.31, the reference to rule 14.24 is a reference to rule 5.24 of these Rules; and
- (h) in rule 16.6 the reference to rule 1.58 is a reference to rule 7.37 of these Rules.

(3) In the application of Part 15 of the Insolvency (England and Wales) Rules 2016 to a decision sought by the education administrator in an education administration, rules 15.16, 15.24, 15.28(6), 15.29 and 15.30 do not apply.