

Technical and Further Education Bill

EXPLANATORY NOTES

Explanatory notes to the Bill, prepared by the Department for Education, are published separately as Bill 82 – EN.

EUROPEAN CONVENTION ON HUMAN RIGHTS

Secretary Justine Greening has made the following statement under section 19(1)(a) of the Human Rights Act 1998:

In my view the provisions of the Technical and Further Education Bill are compatible with the Convention rights.

Technical and Further Education Bill

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TO

Make provision about technical and further education.

BE IT ENACTED by the Queen’s most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows:—

PART 1

TECHNICAL EDUCATION

1 The Institute for Apprenticeships and Technical Education

- (1) The Institute for Apprenticeships is renamed the Institute for Apprenticeships and Technical Education (referred to in this Act as “the Institute”). 5
- (2) Accordingly, in Part 1 of the Apprenticeships, Skills, Children and Learning Act 2009—
- (a) after “Institute for Apprenticeships”, in each place it occurs, insert “and Technical Education”;
 - (b) in section ZA1(2) for ““the IfA”” substitute ““the Institute””; 10
 - (c) for “IfA’s” in each place it occurs, substitute “Institute’s”;
 - (d) for “IfA”, in each other place it occurs, substitute “Institute”.
- (3) In section 122(3)(g) of that Act for “IfA” substitute “Institute for Apprenticeships and Technical Education”.
- (4) In the following provisions after “Institute for Apprenticeships” insert “and Technical Education” — 15
- (a) Schedule 1 to the Superannuation Act 1972;
 - (b) Part 6 of Schedule 1 to the Freedom of Information Act 2000.
- (5) Schedule 1—
- (a) confers functions on the Institute in relation to technical education qualifications, 20
 - (b) makes provision about the sharing of information,

- (c) makes provision about the charging of fees by the Institute in connection with evaluations of the quality of apprenticeship assessments, and
- (d) makes transitional provision.

PART 2

5

FURTHER EDUCATION BODIES: INSOLVENCY ETC

CHAPTER 1

INTRODUCTION

2 Overview

This Part is mainly about the insolvency of further education bodies – 10

- (a) Chapter 2 ensures that normal insolvency procedures apply to further education bodies that are statutory corporations;
- (b) Chapter 3 restricts the use of normal insolvency procedures;
- (c) Chapter 4 creates a special administration regime;
- (d) Chapter 5 is about the treatment of trust property held by certain bodies; 15
- (e) Chapter 6 imposes restrictions on existing procedures for dissolution;
- (f) Chapter 7 confers power to make provision about the disqualification of members of further education bodies.

3 “Further education body”

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- (1) In this Part “further education body” means –
 - (a) a further education body in England, or
 - (b) a further education body in Wales.
- (2) In this Part “further education body in England” means –
 - (a) a further education corporation in England, 25
 - (b) a sixth form college corporation, or
 - (c) a company conducting a designated further education institution in England.
- (3) In this Part “further education body in Wales” means –
 - (a) a further education corporation in Wales, or 30
 - (b) a company conducting a designated further education institution in Wales.

4 Other key definitions

In this Part –

“appropriate national authority” –

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- (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;

- “company” means a company within the meaning of the Companies Act 2006;
- “designated further education institution” means an institution that –
- (a) is designated under section 28 of the Further and Higher Education Act 1992, and 5
 - (b) is principally concerned with the provision of further education;
- “further education corporation” means a body corporate that –
- (a) is established under section 15 or 16 of the Further and Higher Education Act 1992, or 10
 - (b) has become a further education corporation by virtue of section 33D or 47 of that Act;
- “further education corporation in England” means a further education corporation established to conduct an institution in England;
- “further education corporation in Wales” means a further education corporation established to conduct an institution in Wales; 15
- “sixth form college corporation” means a body corporate –
- (a) designated as a sixth form college corporation under section 33A or 33B of the Further and Higher Education Act 1992, or
 - (b) established under section 33C of that Act. 20

CHAPTER 2

APPLICATION OF NORMAL INSOLVENCY TO STATUTORY CORPORATIONS

5 Application of normal insolvency procedures

- (1) The purpose of this section is to make the following insolvency procedures available in relation to further education bodies that are statutory corporations – 25
- (a) voluntary arrangements,
 - (b) administration,
 - (c) creditors’ voluntary winding up, and
 - (d) winding up by the court, 30
- and to make provision about receivers and managers of property.
- (2) For that purpose, the relevant insolvency legislation applies in relation to further education bodies that are statutory corporations as it applies in relation to companies, subject to –
- (a) any modifications or omissions specified in regulations made by the Secretary of State, and 35
 - (b) sections 7 to 10 (restrictions on normal insolvency procedures to facilitate special administration).
- (3) The “relevant insolvency legislation” means any provision made by or under the following provisions of the Insolvency Act 1986 – 40
- (a) Part 1 (company voluntary arrangements);
 - (b) Part 2 (administration);
 - (c) Part 3 (receivership);
 - (d) Part 4 (winding up);
 - (e) Parts 6, 7 and 12 to 18 (supplementary provision). 45

(4)	The modifications or omissions that may be made under subsection (2)(a) include modifications or omissions in connection with the interaction between the insolvency procedures made available in relation to further education bodies by this section and education administration under Chapter 4 of this Part.	5
(5)	Regulations under this section that modify or omit a provision of an Act as it applies by virtue of this section are subject to the affirmative resolution procedure.	
(6)	Any other regulations under this section are subject to the negative resolution procedure.	10
6	Application of other insolvency law	
(1)	The Secretary of State may make regulations, in consequence of section 5 or regulations made under it—	
	(a) providing for any legislation about insolvency to apply in relation to a further education body that is a statutory corporation (with or without modifications);	15
	(b) amending, or modifying, any legislation about insolvency as it applies in relation to a further education body that is a statutory corporation.	
(2)	In subsection (1) “legislation about insolvency” includes any legislation that makes provision by reference to anything that is or may be done under any provision of the Insolvency Act 1986, or under any provision of subordinate legislation made under that Act, as applied by section 5.	20
(3)	Regulations under this section that apply, amend or modify a provision of an Act are subject to the affirmative resolution procedure.	
(4)	Any other regulations under this section are subject to the negative resolution procedure.	25
(5)	In this section “legislation” means provision made by Schedule 3 to this Act or provision made by or under any other Act passed before or in the same session as this Act.	
	CHAPTER 3	30
	RESTRICTIONS ON USE OF NORMAL INSOLVENCY PROCEDURES	
7	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.	35
(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.	40

- (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, 5
 - (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. 10
- (5) In this section “ordinary administration application” means an application in accordance with paragraph 12 of Schedule B1 to the Insolvency Act 1986.

8 Administrator appointments by creditors etc

- (1) Subsections (2) to (4) make provision about the appointment of an administrator under – 15
 - (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 – 20
 - (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, 25a 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 – 30
 - (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, 35
 - (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. 40
- (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. 45

9 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 17 and 18 (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.

10 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 17 and 18 (instead of granting permission).
- (5) In this section “a resolution for voluntary winding up” has the same meaning as in the Insolvency Act 1986.

11 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.

12 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 16;
- “education administration order” has the meaning given by section 15.
- (2) For the purposes of this Chapter an application made to the court is outstanding if it— 5
- (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— 10
- (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. 15
- (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 5.

CHAPTER 4 20

FURTHER EDUCATION BODIES: SPECIAL ADMINISTRATION

Introduction to education administration

13 Overview of Chapter

- (1) This Chapter creates a procedure to be known as education administration.
- (2) The main features of an education administration are that— 25
- (a) it can be used where a further education body is unable to pay its debts or is likely to become unable to pay its debts,
 - (b) the court appoints an education administrator on the application of the appropriate national authority, and
 - (c) the education administrator manages the body’s affairs, business and property with a view to avoiding or minimising disruption to the studies of existing students. 30

14 Objective of education administration

- (1) The objective of an education administration is to— 35
- (a) avoid or minimise disruption to the studies of the existing students of the further education body as a whole, and
 - (b) ensure that it becomes unnecessary for the body to remain in education administration for that purpose.
- (2) The means by which the education administrator may achieve that objective include— 40
- (a) rescuing the further education body as a going concern,

- (b) transferring some or all of its undertaking to another body,
- (c) keeping it going until existing students have completed their studies, or
- (d) making arrangements for existing students to complete their studies at another institution.

Process 5

15 Education administration order

- (1) An education administration order is an order of the court appointing a person as the education administrator of a further education body.
- (2) A person is eligible for appointment as an education administrator only if the person would be qualified to act as an insolvency practitioner in relation to the further education body. 10
- (3) While an education administration order is in force the further education body may be described as being “in education administration”.

16 Application for education administration order

- (1) An education administration order may be made only on an application by the appropriate national authority. 15
- (2) The appropriate national authority must give notice of an application –
 - (a) to the further education body to which the application relates, and
 - (b) to any person specified in education administration rules (for those rules, see section 30). 20
- (3) An application for an education administration order is referred to in this Chapter as an “education administration application”.

17 Grounds for making an education administration order

- (1) The court may make an education administration order on an application only if satisfied that the further education body –
 - (a) is unable to pay its debts, or
 - (b) is likely to become unable to pay its debts. 25
- (2) The court has no power to make an education administration order in relation to a further education body which –
 - (a) is in administration under Schedule B1 to the Insolvency Act 1986, or
 - (b) has gone into liquidation (within the meaning of section 247(2) of the Insolvency Act 1986). 30
- (3) For the purposes of this section a further education body is unable to pay its debts if it is deemed to be unable to pay its debts under section 123 of the Insolvency Act 1986. 35

18 Powers of the court on hearing an application

- (1) On hearing an education administration application the court may –
 - (a) grant the application,
 - (b) adjourn the application conditionally or unconditionally,

- (c) dismiss the application,
 - (d) make an interim order,
 - (e) treat that application as a winding-up petition and make any order the court could make under section 125 of the Insolvency Act 1986 (power of court on hearing winding-up petition), or 5
 - (f) make any other order that it thinks appropriate.
 - (2) An interim order under subsection (1)(d) may, in particular –
 - (a) restrict the exercise of a power of the further education body,
 - (b) in the case of a further education body that is a statutory corporation, restrict the exercise of a power of its members, 10
 - (c) in the case of a further education body that is a company, restrict the exercise of a power of its directors, and
 - (d) make provision conferring a discretion on a person who would be qualified to act as an insolvency practitioner in relation to the further education body. 15
 - (3) An education administration order comes into force –
 - (a) at the time appointed by the court, or
 - (b) if no time is appointed by the court, when the order is made.
- 19 Appointment of two or more education administrators**
- If an education administration order appoints two or more persons as the education administrator of a further education body, the order must set out – 20
- (a) which (if any) of the functions of the education administrator are to be carried out only by the appointees acting jointly,
 - (b) the circumstances (if any) in which the functions of an education administrator are to be carried out by one of the appointees, or by particular appointees, acting alone, and 25
 - (c) the circumstances (if any) in which things done in relation to one of the appointees, or in relation to particular appointees, are to be treated as done in relation to all of them.
- 20 Duty to dismiss ordinary administration application** 30
- (1) On the making of an education administration order in relation to a further education body, the court must dismiss any ordinary administration application made in relation to the body which is outstanding.
 - (2) In this section “ordinary administration application” means an application in accordance with paragraph 12 of Schedule B1 to the Insolvency Act 1986. 35
 - (3) Subsections (2) to (4) of section 12 (meaning of “outstanding”) apply for the purposes of this section.
- 21 Status of education administrator**
- (1) An education administrator is an officer of the court.
 - (2) In carrying out functions in relation to a further education body an education administrator acts as its agent. 40

Functions of administrator and conduct of administration

22 General functions of education administrator

- (1) Where an education administration order is in force in relation to a further education body, the body's affairs, business and property are to be managed by the education administrator. 5
- (2) The education administrator must carry out his or her functions for the purpose of achieving the objective of the education administration (if possible).
- (3) In pursuing the objective of the education administration set out in section 14(1)(a) the education administrator must, in particular, take into account the needs of existing students who have special educational needs. 10
- (4) The education administrator of a further education body that is a statutory corporation must, so far as is consistent with the objective of the education administration, carry out his or her functions in a way that achieves the best result for the further education body's creditors as a whole.
- (5) The education administrator of a further education body that is a company must, so far as is consistent with the objective of the education administration, carry out his or her functions in a way that achieves the best result for – 15
 - (a) the company's creditors as a whole, and
 - (b) subject to that, the company's members as a whole.
- (6) For the purposes of this section an existing student has "special educational needs" if he or she has a learning difficulty which calls for special educational provision to be made for him or her. 20
- (7) In subsection (6) – 25
 - "special educational provision", in relation to an existing student, means provision for education or training that is additional to, or different from, that made generally for other students of the same age;
 - "learning difficulty" is to be read in accordance with section 19(6) and (7) of the Further and Higher Education Act 1992.

23 Transfer schemes

Schedule 2 gives an education administrator the power to make transfer schemes. 30

24 Conduct of administration

- (1) Schedule 3 applies provisions of the Insolvency Act 1986, with modifications, in relation to the education administration of a further education body that is a statutory corporation. 35
- (2) Schedule 4 makes similar provision in relation to the education administration of a further education body that is a company.

Financial support for bodies in education administration

- 25 Grants and loans where education administration order is made**
- (1) *If an education administration order has been made in relation to a further education body, the appropriate national authority may make grants or loans to the body for the purpose of achieving the objective of the education administration.* 5
- (2) A grant or loan under this section may be made on whatever terms the appropriate national authority considers appropriate (including terms relating to repayment of the grant or loan, with or without interest).
- (3) In the case of a loan, the terms must provide for paragraph 99(7)(a), (b) or (c) of Schedule B1 to the Insolvency Act 1986 (vacation of office: charges and liabilities) to apply in relation to any sum that must be paid by the further education body in respect of the loan or interest on it. 10
- (4) In subsection (3) the reference to paragraph 99 of Schedule B1 to the Insolvency Act 1986 is to that Schedule as applied by Schedule 3 or 4 to this Act.
- 26 Indemnities where education administration order is made** 15
- (1) *If an education administration order has been made in relation to a further education body, the appropriate national authority may agree to indemnify persons in respect of one or both of the following –*
- (a) *liabilities incurred in connection with the carrying out of functions by the education administrator, and* 20
- (b) *loss or damage sustained in that connection.*
- (2) The agreement may be made in whatever manner, and on whatever terms, the appropriate national authority considers appropriate.
- (3) As soon as possible after agreeing to indemnify persons under this section, the appropriate national authority must lay a statement of the agreement before Parliament or the National Assembly for Wales (as appropriate). 25
- (4) For repayment of sums paid by the appropriate national authority in consequence of an indemnity agreed to under this section, see section 27.
- (5) The power of the appropriate national authority to agree to indemnify persons – 30
- (a) is confined to a power to agree to indemnify persons in respect of liabilities, loss and damage incurred or sustained by them as relevant persons, but
- (b) includes power to agree to indemnify persons (whether or not they are identified or identifiable at the time of the agreement) who subsequently become relevant persons. 35
- (6) The following are relevant persons for the purposes of this section – 40
- (a) the education administrator;
- (b) an employee of the education administrator;
- (c) a partner or employee of a firm of which the education administrator is a partner or employee;
- (d) a partner of a firm of which the education administrator was an employee or partner at a time when the order was in force;
- (e) a body corporate which is the employer of the education administrator;

- (f) an officer, employee or member of such a body corporate;
 - (g) a Scottish firm which is the employer of the education administrator or of which the education administrator is a partner.
- (7) For the purposes of subsection (6) –
- (a) references to the education administrator are to be read, where two or more persons are appointed as the education administrator, as references to any one or more of them, and 5
 - (b) references to a firm of which a person was a partner or employee at a particular time include a firm which holds itself out to be the successor of a firm of which the person was a partner or employee at that time. 10
- 27 Indemnities: repayment by further education bodies etc**
- (1) This section applies where a sum is paid out by the appropriate national authority in consequence of an indemnity agreed to under section 26 in relation to the education administration of a further education body.
 - (2) The further education body must pay the appropriate national authority – 15
 - (a) any amounts in or towards the repayment of that sum that the appropriate national authority directs, and
 - (b) interest on amounts outstanding under this subsection at whatever rates the appropriate national authority directs.
 - (3) The payments must be made by the further education body at times, and in a manner, determined by the appropriate national authority 20
 - (4) Subsection (2) does not apply in the case of a sum paid by the appropriate national authority for indemnifying a person in respect of a liability to the further education body.
 - (5) The appropriate national authority must lay before Parliament or the National Assembly for Wales (as appropriate) a statement relating to the sum paid out in consequence of the indemnity – 25
 - (a) as soon as possible after the end of the financial year in which the sum is paid out, and
 - (b) if subsection (2) applies to the sum, as soon as possible after the end of each subsequent financial year in relation to which the repayment condition has not been met. 30
 - (6) The repayment condition is met in relation to a financial year if –
 - (a) the whole of the sum has been repaid to the appropriate national authority before the beginning of the year, and 35
 - (b) the further education body was not at any time during the year liable to pay interest on amounts that became due in respect of the sum.
- 28 Guarantees where education administration order is made**
- (1) *If an education administration order has been made in relation to a further education body the appropriate national authority may guarantee – 40*
 - (a) *the repayment of any sum borrowed by the body while that order is in force,*
 - (b) *the payment of interest on any sum borrowed by the body while that order is in force, and*
 - (c) *the discharge of any other financial obligation of the body in connection with the borrowing of any sum while that order is in force.* 45

- (2) The appropriate national authority may give the guarantees in whatever manner, and on whatever terms, the appropriate national authority considers appropriate.
- (3) As soon as possible after giving a guarantee under this section, the appropriate national authority must lay a statement of the guarantee before Parliament or the National Assembly for Wales (as appropriate). 5
- (4) For repayment of sums paid by the appropriate national authority under a guarantee given under this section, see section 29.

29 Guarantees: repayment by further education body etc

- (1) This section applies where a sum is paid out by the appropriate national authority under a guarantee given by the appropriate national authority under section 28 in relation to a further education body. 10
- (2) The further education body must pay the appropriate national authority –
 - (a) any amounts in or towards the repayment of that sum that the appropriate national authority directs, and 15
 - (b) interest on amounts outstanding under this subsection at whatever rates the appropriate national authority directs.
- (3) The payments must be made by the further education body at times, and in a manner, determined by the appropriate national authority.
- (4) The appropriate national authority must lay before Parliament or the National Assembly for Wales (as appropriate) a statement relating to the sum paid out under the guarantee – 20
 - (a) as soon as possible after the end of the financial year in which the sum is paid out, and
 - (b) as soon as possible after the end of each subsequent financial year in relation to which the repayment condition has not been met. 25
- (5) The repayment condition is met in relation to a financial year if –
 - (a) the whole of the sum has been repaid to the appropriate national authority before the beginning of the year, and
 - (b) the further education body was not at any time during the year liable to pay interest on amounts that became due in respect of the sum. 30

Supplementary

30 Education administration rules

- (1) The power to make rules under section 411 of the Insolvency Act 1986 is to apply for the purpose of giving effect to this Chapter as it applies for the purpose of giving effect to Parts 1 to 7 of that Act (and, accordingly, as if references in that section to those Parts included references to this Chapter). 35
- (2) Section 413(2) of the Insolvency Act 1986 (duty to consult Insolvency Rules Committee about rules) does not apply to rules made under section 411 of the Insolvency Act 1986 as a result of this section. 40

31 Application of other insolvency law

- (1) The Secretary of State may make regulations, in consequence of this Chapter or subordinate legislation made under it –
- (a) providing for any legislation about insolvency to apply in relation to a further education body (with or without modifications); 5
 - (b) amending, or modifying, any legislation about insolvency as it applies in relation to a further education body.
- (2) In subsection (1) “legislation about insolvency” includes any legislation that makes provision by reference to anything that is or may be done under any provision of the Insolvency Act 1986, or under any provision of subordinate legislation made under that Act, as applied by this Chapter. 10
- (3) Regulations under this section that apply, amend or modify a provision of an Act are subject to the affirmative resolution procedure.
- (4) Any other regulations under this section are subject to the negative resolution procedure. 15
- (5) In this section “legislation” means any provision made by or under an Act passed before or in the same session as this Act.

32 Modification of this Chapter under the Enterprise Act 2002

A power to modify or apply enactments conferred on the Secretary of State by section 248 or 277 of the Enterprise Act 2002 includes power to make such consequential modifications of this Chapter as the Secretary of State considers appropriate in connection with any other provision made under that section. 20

33 Interpretation of Chapter

- (1) In this Chapter –
- “business”, “property” and “security” have the same meaning as in the Insolvency Act 1986; 25
 - “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 16; 30
 - “education administration order” has the meaning given by section 15;
 - “education administration rules” means rules made under section 411 of the Insolvency Act 1986 as a result of section 30 above;
 - “education administrator” means a person appointed by an education administration order and is to be read in accordance with subsection (2) below; 35
 - “existing student”, in relation to a further education body that is in education administration, means a person who –
 - (a) is a student at the relevant institution when the administration order is made, or 40
 - (b) has accepted a place on a course at the relevant institution when the administration order is made;
 - “financial year” means a period of 12 months ending with 31 March;
 - “member”, in relation to a further education body that is a company, has the same meaning as in the Insolvency Act 1986; 45

“objective of the education administration” is to be read in accordance with section 14;

“the relevant institution” –

- (a) in relation to a further education corporation, means the institution which the corporation is established to conduct; 5
- (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;
- (c) in relation to a company conducting a designated further education institution, means that designated further education institution; 10

“Scottish firm” means a firm constituted under the law of Scotland.

- (2) In this Chapter references to the education administrator of a further education body –
 - (a) include a person appointed under paragraph 91 or 103 of Schedule B1 to the Insolvency Act 1986, as applied by Schedule 3 or 4 to this Act, to be the education administrator of the further education body, and 15
 - (b) if two or more persons are appointed as the education administrator of the further education body, are to be read in accordance with the provision made under section 19. 20
- (3) References in this Chapter to a person qualified to act as an insolvency practitioner in relation to a further education body are to be read in accordance with Part 13 of the Insolvency Act 1986.
- (4) In relation to a further education body that is a statutory corporation, references in this Chapter to a provision of the Insolvency Act 1986 (except the references in sections 25, 30 and 31 and Schedule 3 and in subsection (2) above) are to that provision as it applies to further education bodies by virtue of section 5. 25

CHAPTER 5

TRUST PROPERTY HELD BY SIXTH FORM COLLEGE CORPORATIONS 30

34 Trust property held by sixth form college corporations

If a sixth form college corporation to which section 33J of the Further and Higher Education Act 1992 applies is being wound up under the Insolvency Act 1986, any property held by the corporation on trust for the purposes of the relevant sixth form college must be transferred to the trustees of the relevant sixth form college (as defined by section 90(1) of that Act). 35

CHAPTER 6

RESTRICTIONS ON OTHER DISSOLUTION PROCEDURES

35 Restrictions on dissolution of further education corporation

- (1) The Further and Higher Education Act 1992 is amended as follows. 40
- (2) In section 27A (dissolution of further education corporation), after subsection

(5) insert –

“(6) See also section 27C (restrictions on dissolution in insolvency situations).”

(3) After section 27B insert –

“27C Restrictions on dissolution in insolvency situations” 5

(1) A further education corporation have no power under section 27A to resolve that the corporation should be dissolved if –

- (a) the corporation is in education administration under Chapter 4 of Part 2 of the Technical and Further Education Act 2016,
- (b) a voluntary arrangement in relation to the corporation has been proposed under Part 1 of the Insolvency Act 1986 and the matter has not been finally concluded, 10
- (c) the corporation is in administration under Part 2 of the Insolvency Act 1986,
- (d) paragraph 44 of Schedule B1 to the Insolvency Act 1986 applies (interim moratorium on proceedings where application to the court for an administration order has been made), or 15
- (e) the corporation is being wound up, whether voluntarily or by the court, under Part 4 of the Insolvency Act 1986 or a petition under that Part for winding up of the corporation by the court has been presented and not finally dealt with or withdrawn. 20

(2) For the purposes of subsection (1)(b), the matter is finally concluded if –

- (a) no meetings are to be summoned under section 3 of the Insolvency Act 1986, 25
- (b) meetings summoned under that section fail to approve the arrangement with no, or the same, modifications,
- (c) an arrangement approved by meetings summoned under that section, or in consequence of a direction under section 6(4)(b) of that Act, has been fully implemented, or 30
- (d) the court makes an order under section 6(5) of that Act revoking approval given at previous meetings and, if the court gives any directions under section 6(6) of that Act, the corporation has done whatever it is required to do under those directions.

(3) In this section – 35

- (a) a reference to paragraph 44 of Schedule B1 to the Insolvency Act 1986 is to that paragraph as it applies to a further education corporation by virtue of –
 - (i) section 5 of the Technical and Further Education Act 2016 (application of normal insolvency procedures), or 40
 - (ii) Schedule 3 to the Technical and Further Education Act 2016 (special education administration);
- (b) any other reference to a provision of the Insolvency Act 1986 is to that provision as it applies to a further education corporation by virtue of section 5 of the Technical and Further Education Act 2016.” 45

36 Restrictions on dissolution of sixth form college corporation

- (1) The Further and Higher Education Act 1992 is amended as follows.
- (2) In section 33O (dissolution of sixth form college corporation), after subsection (4) insert –
 - “(5) See also section 33Q (restrictions on dissolution in insolvency situations).”
- (3) After section 33P insert –

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“33Q Restrictions on dissolution in insolvency situations

- (1) A sixth form college corporation have no power under section 33O to resolve that the corporation should be dissolved if –
 - (a) the corporation is in education administration under Chapter 4 of Part 2 of the Technical and Further Education Act 2016,
 - (b) a voluntary arrangement in relation to the corporation has been proposed under Part 1 of the Insolvency Act 1986 and the matter has not been finally concluded,
 - (c) the corporation is in administration under Part 2 of the Insolvency Act 1986,
 - (d) paragraph 44 of Schedule B1 to the Insolvency Act 1986 applies (interim moratorium on proceedings where application to the court for an administration order has been made), or
 - (e) the corporation is being wound up, whether voluntarily or by the court, under Part 4 of the Insolvency Act 1986 or a petition under that Part for winding up of the corporation by the court has been presented and not finally dealt with or withdrawn.
- (2) For the purposes of subsection (1)(b), the matter is finally concluded if –
 - (a) no meetings are to be summoned under section 3 of the Insolvency Act 1986,
 - (b) meetings summoned under that section fail to approve the arrangement with no, or the same, modifications,
 - (c) an arrangement approved by meetings summoned under that section, or in consequence of a direction under section 6(4)(b) of that Act, has been fully implemented, or
 - (d) the court makes an order under section 6(5) of that Act revoking approval given at previous meetings and, if the court gives any directions under section 6(6) of that Act, the corporation has done whatever it is required to do under those directions.
- (3) In this section –
 - (a) a reference to paragraph 44 of Schedule B1 to the Insolvency Act 1986 is to that paragraph as it applies to a sixth form college corporation by virtue of –
 - (i) section 5 of the Technical and Further Education Act 2016 (application of normal insolvency procedures), or
 - (ii) Schedule 3 to the Technical and Further Education Act 2016 (special education administration);
 - (b) any other reference to a provision of the Insolvency Act 1986 is to that provision as it applies to a sixth form college corporation

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by virtue of section 5 of the Technical and Further Education Act 2016.”

CHAPTER 7

DISQUALIFICATION OF OFFICERS

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| 37 | Disqualification of officers | 5 |
| (1) | The Secretary of State may by regulations – | |
| | (a) make provision in relation to further education bodies that are statutory corporations that is the same as, or similar to, the provision made by the Company Directors Disqualification Act 1986 in relation to companies; | 10 |
| | (b) make provision for the purpose of ensuring that a disqualification under that Act that has effect in relation to directorship of a company has the same or a similar effect in relation to membership of a further education body that is a statutory corporation. | |
| (2) | Regulations under this section are subject to the negative resolution procedure. | 15 |

PART 3

FURTHER EDUCATION: INFORMATION

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|-----------|--|----|
| 38 | Information for Secretary of State about further education | |
| (1) | Section 54 of the Further and Higher Education Act 1992 (duty to provide information) is amended as follows. | 20 |
| (2) | For subsection (1) substitute – | |
| | “(1) Each of the following must give the Secretary of State such information as the Secretary of State may require for purposes connected with further education – | |
| | (a) a local authority in England, | 25 |
| | (b) the governing body of any institution maintained by a local authority in England, | |
| | (c) the governing body of a city technology college in England, a city college for the technology of the arts in England or an Academy, | 30 |
| | (d) the governing body of any institution in England within the further education sector or the higher education sector, and | |
| | (e) any person or body who – | |
| | (i) provides further education, and | |
| | (ii) is receiving or has received funding to do so from the Secretary of State, a local authority in England or a combined authority. | 35 |
| (2) | In subsection (1) “further education” does not include education for people aged under 25 for whom an EHC plan is maintained. | |

- (3) Each of the following must give the Welsh Ministers such information as the Welsh Ministers may require for the purposes of the exercise of any of the Welsh Ministers’ functions under any enactment –
- (a) a local authority,
 - (b) the governing body of any institution maintained by a local authority, and
 - (c) the governing body of any institution within the further education sector or the higher education sector.”
- (3) Renumber the existing subsection (2) as subsection (4).

PART 4

10

GENERAL

39 Power to make transitional provision

The Secretary of State may by regulations make transitional or saving provision in connection with the coming into force of any provision of this Act.

40 Power to make consequential provision

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- (1) The Secretary of State may by regulations make provision that is consequential on any provision made by this Act.
- (2) Regulations under this section may amend, repeal or revoke any provision made by or under an Act passed before this Act or in the same Session.
- (3) Regulations under this section that repeal or amend a provision of an Act are subject to the affirmative resolution procedure.
- (4) Any other regulations under this section are subject to the negative resolution procedure.

41 Regulations: general

- (1) Regulations under this Act are to be made by statutory instrument.
- (2) Regulations under this Act may make –
- (a) consequential, supplementary, incidental, transitional or saving provision;
 - (b) different provision for different purposes.

42 Affirmative and negative resolution procedures

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- (1) Where regulations under this Act are subject to “the negative resolution procedure” the statutory instrument containing the regulations is subject to annulment in pursuance of a resolution of either House of Parliament.
- (2) Where regulations under this Act are subject to “the affirmative resolution procedure” the regulations may not be made unless a draft of the statutory instrument containing them has been laid before Parliament and approved by a resolution of each House of Parliament.

- (3) Any provision that may be included in an instrument under this Act subject to the negative resolution procedure may be made by regulations subject to the affirmative resolution procedure.

43 Extent

- (1) Any amendment or repeal made by this Act has the same extent as the enactment amended or repealed. 5
- (2) This Part extends to—
- (a) England and Wales,
 - (b) Scotland, and
 - (c) Northern Ireland. 10
- (3) Except as mentioned above, this Act extends to England and Wales only.

44 Commencement

- (1) This Part and paragraph 33 of Schedule 1 come into force on the day on which this Act is passed.
- (2) The other provisions of this Act come into force on such day as the Secretary of State may by regulations appoint. 15
- (3) Different days may be appointed for different purposes.

45 Short title

This Act may be cited as the Technical and Further Education Act 2016.

- 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.” 5
- 6 In the heading for Chapter A1, after “Apprenticeships” insert “and technical education”.
- 7 In Chapter A1, before section A1 (and the italic heading before it) substitute – 10

“Occupational categories and groups

ZA9 Occupational categories (sometimes referred to as “routes”)

- (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. 15

ZA10 Mapping of occupational groups

- (1) The Institute must –
 - (a) determine occupations in relation to which it may be appropriate for people to undertake apprenticeships or obtain qualifications, and 20
 - (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”. 25
- (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)). 30
- (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. 35

Standards

ZA11 Standards

- (1) The Institute must publish standards in relation to England for such occupations as the Institute considers appropriate.
- (2) Each standard must – 40
 - (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. 5
 - (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 – 10
 - (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 – 15
 - (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). 20
 - (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. 25
 - (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.” 30
- 8 For the italic heading before section A1 substitute “Meaning of “approved English apprenticeship” etc”.
- 9 In section A1 (meaning of “approved English apprenticeship”) –
(a) in subsection (3)(a) – 35
 - (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; 40
(iii) subsection (7), in the first place it occurs;
- (c) in subsection (7), for “A2” substitute “ZA11”.
- 10 For the italic heading before section A2 substitute “Apprenticeship assessment plans”.

- 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.” 5
- (4) Omit subsections (2) and (3).
- (5) In subsection (4) –
- (a) after “An” insert “apprenticeship”; 10
- (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”. 15
- (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. 20
- (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 – 25
- (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. 30
- (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). 35
- (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. 40
- (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.” 5
- 12 Omit section A2A (preparation of apprenticeship standards and plans).
- 13 In the italic heading before section A2B, at the end insert “of apprenticeship assessments etc”.
- 14 (1) Section A2B (evaluation of quality of apprenticeship assessments) is amended as follows. 10
- (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).” 15
- 15 After section A2D insert –

“Technical education qualifications

- A2DA Approved technical education qualifications** 20
- (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 – 25
- (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. 30
- (4) The Institute may approve a technical education qualification under this section only where the Institute – 35
- (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). 40

- (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 5
 - (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). 10
- (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. 15
- (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. 20
- (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. 25
- (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”. 30

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. 35
- (2) Steps determined under this section may include the obtaining of other qualifications.
- (3) The Institute may make a further determination under this section. 40
- (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”. 45

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.”

- 16 For the italic heading before section A2E substitute “Other provision relating to approved English apprenticeships and technical education”. 5
- 17 In section A2E (regular reviews of published standards and assessment plans), in subsections (1) and (2) after “standard or” insert “apprenticeship”.
- 18 (1) Section A2F (revision or withdrawal of published standards and assessment plans) is amended as follows. 10
- (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. 15
- (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.” 20
- 19 Omit the italic heading before section A2G.
- 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)”. 25
- 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 – 30
- (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. 35
- (3) The Institute must ensure that the list is available free of charge.”
- 22 (1) Section A2I (transfer of copyright in standards and assessment plans) is amended as follows.
- (2) In subsection (1), for paragraph (a) substitute – 40
- “(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”.
- 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. 5
- (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. 10
- (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).”
- 24 After section A3 insert – 15
- “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 20
- (b) taken any other steps determined under section A2DB in relation to the occupations in respect of which the qualification is approved.
- (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; 25
- (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.” 30
- 25 Part 1A (apprenticeships: information sharing) is amended as follows.
- 26 In the Part heading, after “Apprenticeships” insert “and other education and training”. 35
- 27 After section 40A insert –
- “40AA Sharing of information by the Institute, Ofqual, Ofsted and OfS**
- (1) The Institute for Apprenticeships and Technical Education may disclose information held by it to Ofqual, Ofsted or the OfS for a purpose connected with – 40
- (a) apprenticeships in relation to England, or
- (b) other education or training in relation to England.

- (2) Ofqual, Ofsted or the OfS may disclose information held by it to the Institute for a purpose connected with—
(a) apprenticeships in relation to England, or
(b) other education or training in relation to England.
- (3) 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.” 5
- 28 (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.” 15
- (3) In subsections (3) and (4) for “or (1A)” substitute “(1A) or (1B)”.
- (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;” 20
- 29 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;” 25
- 30 (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”. 30
- (3) In paragraph 10 of (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;” 40
(b) in sub-paragraph (2) for “power in sub-paragraph (1)(d) is” substitute “powers in sub-paragraph (1) are”.

- | | | | |
|----|-----|--|----|
| 31 | (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. | |
| | (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). | 5 |
| 32 | (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. | 10 |
| 33 | (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. | 15 |
| | (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). | 20 |
| | (4) | In this paragraph “the commencement day” means the day on which section 1 and Schedule 1 come fully into force. | 25 |

SCHEDULE 2

Section 23

EDUCATION ADMINISTRATION: TRANSFER SCHEMES

Power to make a transfer scheme

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|---|--|---|----|
| 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”). | 30 |
| 2 | | A transfer scheme takes effect at the time specified in the scheme. | 35 |

Procedural requirements: consent and approval

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| 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. | |

- 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.

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. 5
- (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. 10

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. 15
- 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; 20
 - (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; 25
 - (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. 30
- (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. 35
- (4) The reference here to third parties is to persons other than the transferor and transferee.

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. 40

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. 5

SCHEDULE 3

Section 24

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. 10
- (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); 15
 - (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); 20
 - (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 25
 - (b) paragraph 50 (until the repeal of that paragraph by Schedule 10 to the Small Business, Enterprise and Employment Act 2015 comes into force).

General modifications 30

- 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	35
administration application	education administration application	
administration order	education administration order	

<i>Term</i>	<i>Modification</i>	
administrator	education administrator	
director	(a) member of the further education body, and (b) principal of the relevant institution	5
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, and (d) any senior post holder or principal of the relevant institution.	10 15
purpose of administration	objective of the education administration	
the rules	the education administration rules	20

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.
- 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”.
- 5 Paragraph 40 (dismissal of pending winding-up petition) is to have effect as if sub-paragraphs (1)(b), (2) and (3) were omitted.
- 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.
- 7 Paragraph 42 (moratorium on insolvency proceedings) is to have effect as if sub-paragraphs (4) and (5) were omitted.

8	Paragraph 43 (moratorium on other legal process) is to have effect as if sub-paragraphs (5) and (6A) were omitted.	
9	Paragraph 44 (interim moratorium) is to have effect as if sub-paragraphs (2) to (4), (6) and (7) were omitted.	
10	Paragraph 45(2) (publicity) is to have effect as if for paragraph (b) there were substituted –	5
	“(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”.	10
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”.	
12	Paragraph 47 (statement of affairs) is to have effect as if –	15
	(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”.	20
	(b) in sub-paragraph (3), paragraph (d) were omitted, and	25
	(c) sub-paragraph (5) were omitted.	
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;”, and	30
	(c) sub-paragraphs (5)(b) and (6) were omitted.	
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.	35
	(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,	40
	(c) 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	
	(d) to every member of the further education body of whose address the education administrator is aware.	45

- (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.”
- 15 Paragraph 60 is to have effect as if the following were substituted for it— 5
- “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. 10
- (3) In sub-paragraph (2) “legislation” means provision made by or under any Act.” 15
- 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 20
- (c) may appoint or remove the principal of the relevant institution.”
- 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”. 25
- 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— 30
- “(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 35
- (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”.
- 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. 40
- 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 45

- (b) in sub-paragraph (3), for “or modified” there were substituted “under paragraph 54”.
- 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 – 5
- “(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 22(2) or (3) of the Technical and Further Education Act 2016 (general functions of education administrator).” 10
- (c) in sub-paragraph (6), paragraphs (b) to (c) were omitted, and
- (d) after that sub-paragraph there were inserted –
- “(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. 15
- (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 25
- (b) the period notified must have expired without the taking of such of those steps as the court thinks should have been taken, 30
- 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 22(2) or (3) of the Technical and Further Education Act 2016, and 35
- (b) ensuring that the failure is not repeated.”
- 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,” 40
- (b) at the end of paragraph (c) there were inserted “or”, and
- (c) paragraph (e) (and the “or” before it) were omitted.
- 23 Paragraph 79 (end of administration) is to have effect as if – 45

- (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. 5
- (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 10
- (b) sub-paragraph (3) were omitted.
- 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,”. 15
- 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 – 20
- “(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)”. 25
- 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”.
- 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”. 30
- 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”.
- 29 Paragraph 91 (vacancies in court appointments) is to have effect as if – 35
- (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 40
- (b) sub-paragraph (2) were omitted.
- 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. 45

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- 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 25 of the Technical and Further Education Act 2016 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.”
- 32 Paragraph 100 (joint and concurrent administrators) is to have effect as if sub-paragraph (2) were omitted.
- 33 Paragraph 101(3) (joint administrators) is to have effect as if after “87 to” there were inserted “91, 98 and”.
- 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.
- 35 Paragraph 106(2) (penalties) is to have effect as if paragraphs (a), (b), (f), (g), (i) and (l) to (n) were omitted.
- 36 Paragraph 109 (references to extended periods) is to have effect as if “or 108” were omitted.
- 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;	
	“hire-purchase agreement” includes a conditional sale agreement, a chattel leasing agreement and a retention of title agreement;	5
	“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.	10
(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 5 of the Technical and Further Education Act 2016.	15
(4)	In this Schedule a reference to action includes a reference to inaction.”	
	<i>Specific modifications to section 251 of the Insolvency Act 1986</i>	20
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 30 of the Technical and Further Education Act 2016;”,	25
	(b) the definitions of “officer” and “the rules” were omitted, and	
	(c) at the appropriate places, there were inserted –	
	““appropriate national authority” –	30
	(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;	
	““education administration application” has the meaning given by section 16 of the Technical and Further Education Act 2016;”,	35
	““education administration order” has the meaning given by section 15 of the Technical and Further Education Act 2016;”,	40
	““education administration rules” has the meaning given by section 33 of the Technical and Further Education Act 2016;”,	
	“education administrator” has the meaning given by section 33 of the Technical and Further Education Act 2016;”,	45
	““further education body” has the meaning given by section 3 of the Technical and Further Education Act 2016;”,	

- ““further education body in England” has the meaning given by section 3 of the Technical and Further Education Act 2016;”,
- ““further education body in Wales” has the meaning given by section 3 of the Technical and Further Education Act 2016;”, 5
- ““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 14 of the Technical and Further Education Act 2016;”, 10
- ““the relevant institution” –
- (a) in relation to a further education corporation, means the institution which the corporation is established to conduct, and 15
- (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;”, 20
- ““senior post holder”, in relation to a relevant institution, means a person appointed as a senior post holder by the further education body;”.

Power to add modifications

- 39 (1) The Secretary of State may by regulations – 25
- (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. 30

SCHEDULE 4

Section 24

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. 35
- (2) The provisions are –
- (a) sections 233 to 237 (management by administrators, liquidators etc); 40
- (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); 5
 - (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). 10

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. 15

<i>Term</i>	<i>Modification</i>	
administration application	education administration application	
administration order	education administration order	
administrator	education administrator	20
enters administration	enters education administration	
in administration	in education administration	
purpose of administration	objective of the education administration	
the rules	the education administration rules	25

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.
- 4 Paragraph 1 (administration) is to have effect as if –
- (a) for sub-paragraph (1) there were substituted – 30
 - “(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”. 35
- 5 Paragraph 40 (dismissal of pending winding-up petition) is to have effect as if sub-paragraphs (1)(b), (2) and (3) were omitted.

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| 6 | Paragraph 42 (moratorium on insolvency proceedings) is to have effect as if sub-paragraphs (4) and (5) were omitted. | |
| 7 | Paragraph 43 (moratorium on other legal process) is to have effect as if sub-paragraphs (5) and (6A) were omitted. | |
| 8 | Paragraph 44 (interim moratorium) is to have effect as if sub-paragraphs (2) to (4), (6) and (7)(a) to (c) were omitted. | 5 |
| 9 | <p>Paragraph 45(2) (publicity) is to have effect as if after paragraph (b) there were inserted –</p> <p style="margin-left: 2em;">“(ba) a member of the governing body of the relevant institution,</p> <p style="margin-left: 2em;">(bb) any senior post holder or principal of the relevant institution.”</p> | 10 |
| 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”. | |
| 11 | <p>Paragraph 47 (statement of affairs) is to have effect as if –</p> <p style="margin-left: 2em;">(a) in sub-paragraph (3), after paragraph (a) there were inserted –</p> <p style="margin-left: 4em;">“(aa) a member of the governing body of the relevant institution,</p> <p style="margin-left: 4em;">(ab) any senior post holder or principal of the relevant institution, and”, and</p> <p style="margin-left: 2em;">(b) sub-paragraph (5) were omitted.</p> | 15

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| 12 | <p>Paragraph 49 (administrator’s proposals) is to have effect as if –</p> <p style="margin-left: 2em;">(a) sub-paragraphs (2)(b) and, (3) were omitted,</p> <p style="margin-left: 2em;">(b) in sub-paragraph (4), after paragraph (a) there were inserted –</p> <p style="margin-left: 4em;">“(aa) to the appropriate national authority,” and</p> <p style="margin-left: 2em;">(c) sub-paragraph (5)(b) and (6) were omitted.</p> | 25 |
| 13 | <p>Paragraph 54 is to have effect as if the following were substituted for it –</p> <p>“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.</p> <p style="margin-left: 2em;">(2) If the education administrator thinks that a revision is substantial, the education administrator must send a copy of the revised proposals –</p> <p style="margin-left: 4em;">(a) to the registrar of companies,</p> <p style="margin-left: 4em;">(b) to the appropriate national authority,</p> <p style="margin-left: 4em;">(c) to every creditor of the company, other than an opted-out creditor, of whose claim and address the education administrator is aware, and</p> <p style="margin-left: 4em;">(d) to every member of the company of whose address the education administrator is aware.</p> <p style="margin-left: 2em;">(3) A copy sent in accordance with sub-paragraph (2) must be sent within the prescribed period.</p> <p style="margin-left: 2em;">(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</p> | 30

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- 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.”
- 14 Paragraph 60 (powers of an administrator) is to have effect as if the following were substituted for it – 5
- “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. 10
- (3) In sub-paragraph (2) “legislation” means provision made by or under any Act.”
- 15 Paragraph 61 is to have effect as if the following were substituted for it – 15
- “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 20
- (d) may appoint or remove the principal of the relevant institution.”
- 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”. 25
- 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 – 30
- “(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 35
- (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”.
- 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”. 40
- 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 claiming that the education administrator is not carrying out his or her functions in accordance with section 22(2) or (4) of the Technical and Further Education Act 2016 (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 22(2) or (3) of the Technical and Further Education Act 2016, and
- (b) ensuring that the failure is not repeated.”
- 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,”.
- 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 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.
- 22 Paragraph 83 (notice to registrar when moving to voluntary liquidation) is to have effect as if – 5
(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,”.
- 23 Paragraph 84 (notice to registrar when moving to dissolution) is to have effect as if – 10
(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”, 15
(b) sub-paragraph (2) were omitted, and
(c) in sub-paragraphs (3) to (6), for “(1)”, in each place, there were substituted “(1)(b)”.
- 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”. 20
- 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”.
- 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”. 25
- 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 – 30
 (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. 35
- 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.
- 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 – 40
 “(7) Where a loan is made under section 25 of the Technical and Further Education Act 2016 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 – 45

	(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);	5
	(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,	
	(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.”	10
30	Paragraph 100 (joint and concurrent administrators) is to have effect as if sub-paragraph (2) were omitted.	15
31	Paragraph 101(3) (joint administrators) is to have effect as if after “87 to” there were inserted “91, 98 and”.	
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,	20
	(b) for paragraph (a) there were substituted –	
	“(a) the appropriate national authority, or”, and	
	(c) sub-paragraphs (3) to (5) were omitted.	
33	Paragraph 106(2) (penalties) is to have effect as if paragraphs (a), (b), (f), (g), (i) and (l) to (n) were omitted.	25
34	Paragraph 109 (references to extended periods) is to have effect as if “or 108” were omitted.	
35	Paragraph 111 (interpretation) is to have effect as if the following were substituted for it –	30
	“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;	35
	(b) in relation to a company conducting a designated further education institution in Wales, means the Welsh Ministers;	40
	“designated further education institution” has the meaning given by section 4;	
	“education administrator” includes a reference to a former education administrator, where the context requires;	
	“enters education administration” has the meaning given by paragraph 1;	45
	“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; 5
- “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; 10
- “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; 15
- “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. 20
- (3) In this Schedule a reference to action includes a reference to inaction.”

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— 25
- (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 30 of the Technical and Further Education Act 2016;”, 30
- (b) the definition of “the rules” were omitted, and
- (c) at the appropriate places, there were inserted—
- ““education administration application” has the meaning given by section 16 of the Technical and Further Education Act 2016;”, 35
- ““education administration order” has the meaning given by section 15 of the Technical and Further Education Act 2016;”,
- ““education administration rules” has the meaning given by section 33 of the Technical and Further Education Act 2016;”, 40
- “education administrator” has the meaning given by section 33 of the Technical and Further Education Act 2016;”, 45
- ““objective”, in relation to an education administration, is to be read in accordance with section 14 of the Technical and Further Education Act 2016;”.

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. 5
- (2) Regulations under this paragraph are subject to the affirmative resolution procedure.

Technical and Further Education Bill

A

B I L L

To make provision about technical and further education.

*Presented by Secretary Justine Greening
supported by
Secretary Greg Clark,
Secretary Damian Green,
Ben Gummer,
Damian Hinds,
Robert Halfon,
Nick Gibb,
Edward Timpson,
Caroline Dinenage and Joseph Johnson*

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