**“KEELING” SCHEDULE**

**of modifications to Schedule B1 to the Insolvency Act 1986**

**made by Schedule 3 to the Technical and Further Education Bill 2016**

**SCHEDULE B1**

**Administration**

**Arrangement of Schedule**

|  |  |  |  |
| --- | --- | --- | --- |
|  |  |  |  |
|  |  |  |  |
|  | Nature of education administration | Paragraph 1 |  |
|  |  |  |  |
|  |  |  |  |
|  |  |  |  |
|  |  |  |  |
|  | Effect of education administration | Paragraphs 40 to 45 |  |
|  | Process of education administration | Paragraphs 46 to 49 and 54 |  |
|  | Functions of education administrator | Paragraphs 59[, 60 and 61] to 68 and 71 to 75 |  |
|  | Ending education administration | Paragraphs 79 and 83 to 86 |  |
|  | Replacing education administrator | Paragraphs 87 to 91, 98 and 99 |  |
|  | General | Paragraphs 100 to 104, 106, 107, 109 to 111 |  |
|  |  |  |  |
|  |  |  |  |

**Nature of Education Administration**

***Education Administration***

**1**

(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.

(2) For the purposes of this Schedule--

(a) a further education body is "in education administration" while the appointment of an education administrator of the further education body has effect,

(b) a further education body "enters education administration" when the appointment of an education administrator takes effect,

(c) a further education body ceases to be in education administration when the appointment of an education administrator of the further education body ceases to have effect in accordance with this Schedule, and

(d) a further education body does not cease to be in education administration merely because an education administrator vacates office (by reason of resignation, death or otherwise) or is removed from office.

**Effect of Education Administration**

***Dismissal of pending winding-up petition***

**40**

(1) A petition for the winding up of a further education body shall be dismissed on the making of an education administration order in respect of the further education body.

***Dismissal of receiver***

**41**

(1) ….

(2) Where a further education body is in education administration, any receiver of part of the further education body's property shall vacate office if the education administrator requires him to.

(3) Where a receiver vacates office under sub-paragraph (2)--

(a) his remuneration shall be charged on and paid out of any property of the further education body which was in his custody or under his control immediately before he vacated office, and

(b) he need not take any further steps under section 40 or 59.

(4) In the application of sub-paragraph (3)(a)--

(a) "remuneration" includes expenses properly incurred and any indemnity to which the receiver is entitled out of the assets of the further education body,

(b) the charge imposed takes priority over security held by the person by whom or on whose behalf the receiver was appointed, and

(c) the provision for payment is subject to paragraph 43.

***Moratorium on insolvency proceedings***

**42**

(1) This paragraph applies to a further education body in education administration.

(2) No resolution may be passed for the winding up of the further education body.

(3) No order may be made for the winding up of the further education body.

***Moratorium on other legal process***

**43**

(1) This paragraph applies to a further education body in education administration.

(2) No step may be taken to enforce security over the further education body's property except--

(a) with the consent of the education administrator, or

(b) with the permission of the court.

(3) No step may be taken to repossess goods in the further education body's possession under a hire-purchase agreement except--

(a) with the consent of the education administrator, or

(b) with the permission of the court.

(4) A landlord may not exercise a right of forfeiture by peaceable re-entry in relation to premises let to the further education body except--

(a) with the consent of the education administrator, or

(6) No legal process (including legal proceedings, execution, distress and diligence) may be instituted or continued against the further education body or property of the further education body except--

(a) with the consent of the education administrator, or

(7) Where the court gives permission for a transaction under this paragraph it may impose a condition on or a requirement in connection with the transaction.

(8) In this paragraph "landlord" includes a person to whom rent is payable.

***Interim moratorium***

**44**

(1) This paragraph applies where an education administration application in respect of a further education body has been made and--

(a) the application has not yet been granted or dismissed, or

(b) the application has been granted but the education administration order has not yet taken effect.

(5) The provisions of paragraphs 42 and 43 shall apply (ignoring any reference to the consent of the education administrator).

***Publicity***

**45**

(1) While a further education body is in education administration, every business document issued by or on behalf of the further education body or the education administrator, and all the further education body's websites, must state--

(a) the name of the education administrator, and

(b) that the affairs, business and property of the further education body are being managed by the education administrator.

(2) Any of the following persons commits an offence if without reasonable excuse the person authorises or permits a contravention of sub-paragraph (1)--

(a) the education administrator,

(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

(c) the further education body.

(3) In sub-paragraph (1) "business document" means--

(a) an invoice,

(b) an order for goods or services,

(c) a business letter, and

(d) an order form,

whether in hard copy, electronic or any other form.

**Process of Education Administration**

***Announcement of education administrator's appointment***

**46**

(1) This paragraph applies where a person becomes the education administrator of a further education body.

(2) As soon as is reasonably practicable the education administrator shall--

(a) send a notice of his appointment to the further education body, and

(b) publish a notice of his appointment in the prescribed manner.

(3) As soon as is reasonably practicable the education administrator shall--

(a) obtain a list of the further education body's creditors, and

(b) send a notice of his appointment to each creditor of whose claim and address he is aware.

(4) The education administrator shall send a notice of his appointment to the registrar of companies before the end of the period of 7 days beginning with the date specified in sub-paragraph (6).

(5) The education administrator shall send a notice of his appointment to such persons as may be prescribed before the end of the prescribed period beginning with the date specified in sub-paragraph (6).

(6) The date for the purpose of sub-paragraphs (4) and (5) is the date on which the education administration order comes into force.

(7) The court may direct that sub-paragraph (3)(b) or (5)--

(a) shall not apply, or

(b) shall apply with the substitution of a different period.

(8) A notice under this paragraph must--

(a) contain the prescribed information, and

(b) be in the prescribed form.

(9) An education administrator commits an offence if he fails without reasonable excuse to comply with a requirement of this paragraph.

***Statement of further education body's affairs***

**47**

(1) As soon as is reasonably practicable after appointment the education administrator of a further education body shall by notice in the prescribed form require one or more relevant persons to provide the education administrator with a statement of the affairs of the further education body.

(2) The statement must--

(a) be verified by a statement of truth in accordance with Civil Procedure Rules,

(b) be in the prescribed form,

(c) give particulars of the further education body's property, debts and liabilities,

(d) give the names and addresses of the further education body's creditors,

(e) specify the security held by each creditor,

(f) give the date on which each security was granted, and

(g) contain such other information as may be prescribed.

(3) In sub-paragraph (1) "relevant person" means--

(a) a person who is or has been a member of the further education body,

(aa) a person who is or has been the clerk to the further education body,

(ab) a person who is or has been chief executive of the relevant institution,

(ac) a person who is or has been a senior post holder or principal of the relevant institution, and

(b) a person who took part in the formation of the further education body during the period of one year ending with the date on which the further education body enters education administration,

(c) a person employed by the further education body during that period, and

(4) For the purpose of sub-paragraph (3) a reference to employment is a reference to employment through a contract of employment or a contract for services.

**48**

(1) A person required to submit a statement of affairs must do so before the end of the period of 11 days beginning with the day on which he receives notice of the requirement.

(2) The education administrator may--

(a) revoke a requirement under paragraph 47(1), or

(b) extend the period specified in sub-paragraph (1) (whether before or after expiry).

(3) If the education administrator refuses a request to act under sub-paragraph (2)--

(a) the person whose request is refused may apply to the court, and

(b) the court may take action of a kind specified in sub-paragraph (2).

(4) A person commits an offence if he fails without reasonable excuse to comply with a requirement under paragraph 47(1).

***Education administrator's proposals***

**49**

(1) The education administrator of a further education body shall make a statement setting out proposals for achieving the objective of the education administration.

(2) A statement under sub-paragraph (1) must, in particular--

(a) deal with such matters as may be prescribed, and

(4) The education administrator shall send a copy of the statement of his proposals--

(a) to the registrar of companies,

(aa) to the appropriate national authority,

(b) to every creditor of the further education body[, other than an opted-out creditor,] of whose claim and address he is aware, and

(c) to every member of the further education body of whose address he is aware.

(5) The education administrator shall comply with sub-paragraph (4)--

(a) as soon as is reasonably practicable after the further education body enters education administration, and

(7) An education administrator commits an offence if he fails without reasonable excuse to comply with sub-paragraph (5).

(8) A period specified in this paragraph may be varied in accordance with paragraph 107.

**Creditors' meeting**

50

(1) In this Schedule “creditors' meeting” means a meeting of creditors of a further education body summoned by the education administrator—

(a) in the prescribed manner, and

(b) giving the prescribed period of notice to every creditor of the further education body *of whose claim and address he is aware.*

(2) A period prescribed under sub-paragraph (1)(b) may be varied in accordance with paragraph 107.

(3) A creditors' meeting shall be conducted in accordance with the education administration rules. [**Note: this para applies until its repeal by Schedule 10 to the Small Business, Enterprise and Employment Act 2015 comes into force.**]

***Revision of education***

(1) The education administrator of a further education body may on one or more occasions revise the proposals included in the statement made under paragraph 49 in relation to the body.

(2) If the education administrator thinks that a revision is substantial, the education administrator must send a copy of the revised proposals –

(a) to the registrar of companies,

(b) to the appropriate national authority,

(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.

(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.

**Functions of Education Administrator**

***General powers***

**59**

(1) The education administrator of a further education body may do anything necessary or expedient for the management of the affairs, business and property of the further education body.

(2) A provision of this Schedule which expressly permits the education administrator to do a specified thing is without prejudice to the generality of sub-paragraph (1).

(3) A person who deals with the education administrator of a further education body in good faith and for value need not inquire whether the education administrator is acting within his powers.

**60**

(1) The education administrator of a further education body has the powers specified in Schedule 1 to this Act (reading references in that Schedule to the company as references to the further education body).

(2) The education administrator of a further education body has the power to act on behalf of the further education body for the purposes of provision contained in any legislation which confers a power on the further education body or imposes a duty on it.

(3) In sub-paragraph (2) “legislation” means provision made by or under any Act.

**61**

The education administrator --

(a) may appoint or remove the clerk to the further education body,

(b) may appoint or remove the chief executive of the relevant institution, and

(c) may appoint or remove the principal of the relevant institution.

**62**

The education administrator of a further education body *may call a meeting of members or creditors of the further education body* [may--

(a) call a meeting of members of the further education body;

(b) seek a decision on any matter from the further education body's creditors].

**63**

The education administrator of a further education body may apply to the court for directions in connection with his functions.

**64**

(1) A further education body in education administration or the clerk to the further education body or chief executive of the relevant institution may not exercise a management power without the consent of the education administrator.

(2) For the purpose of sub-paragraph (1)--

(a) "management power" means a power which could be exercised so as to interfere with the exercise of the education administrator's powers,

(b) it is immaterial whether the power is conferred by an enactment or an instrument, and

(c) consent may be general or specific.

***Distribution***

**65**

(1) The education administrator of a further education body may make a distribution to a creditor of the further education body.

(2) Section 175 shall apply in relation to a distribution under this paragraph as it applies in relation to a winding up.

(3) A payment may not be made by way of distribution under this paragraph to a creditor of the further education body who is neither secured nor preferential [unless--

(a) the distribution is made by virtue of section 176A(2)(a), or

(b)] the court gives permission.

**66**

The education administrator of a further education body may make a payment otherwise than in accordance with paragraph 65 or paragraph 13 of Schedule 1 if he thinks it likely to assist achievement of the objective of the education administration.

***General duties***

**67**

The education administrator of a further education body shall on his appointment take custody or control of all the property to which he thinks the further education body is entitled.

**68**

(1) Subject to sub-paragraph (2), the education administrator of a further education body shall manage its affairs, business and property in accordance with the proposals as --

(a) set out in the statement made under paragraph 49 in relation to the further education body, and

(b) from time to time revised under paragraph 54,

for achieving the objective of the education administration.

(2) If the court gives directions to the education administrator of a further education body in connection with any aspect of his management of the further education body's affairs, business or property, the education administrator shall comply with the directions.

(3) The court may give directions under sub-paragraph (2) only if the directions are consistent with the achievement of the objective of the education administration.

***Charged property***

**71**

(1) The court may by order enable the education administrator of a further education body to dispose of property which is subject to a security as if it were not subject to the security.

(2) An order under sub-paragraph (1) may be made only--

(a) on the application of the education administrator, and

(b) where the court thinks that disposal of the property would be likely to promote the objective of the education administration in respect of the further education body.

(3) An order under this paragraph is subject to the condition that there be applied towards discharging the sums secured by the security--

(a) the net proceeds of disposal of the property, and

(b) any additional money required to be added to the net proceeds so as to produce the amount determined by the court as the net amount which would be realised on a sale of the property at market value.

(4) If an order under this paragraph relates to more than one security, application of money under sub-paragraph (3) shall be in the order of the priorities of the securities.

(5) An education administrator who makes a successful application for an order under this paragraph shall send a copy of the order to the registrar of companies before the end of the period of 14 days starting with the date of the order.

(6) An education administrator commits an offence if he fails to comply with sub-paragraph (5) without reasonable excuse.

***Hire-purchase property***

**72**

(1) The court may by order enable the education administrator of a further education body to dispose of goods which are in the possession of the further education body under a hire-purchase agreement as if all the rights of the owner under the agreement were vested in the further education body.

(2) An order under sub-paragraph (1) may be made only--

(a) on the application of the education administrator, and

(b) where the court thinks that disposal of the goods would be likely to promote the objective of the education administration in respect of the further education body.

(3) An order under this paragraph is subject to the condition that there be applied towards discharging the sums payable under the hire-purchase agreement--

(a) the net proceeds of disposal of the goods, and

(b) any additional money required to be added to the net proceeds so as to produce the amount determined by the court as the net amount which would be realised on a sale of the goods at the market value.

(4) An education administrator who makes a successful application for an order under this paragraph shall send a copy of the order to the registrar of companies before the end of the period of 14 days starting with the date of the order.

(5) An education administrator commits an offence if he fails without reasonable excuse to comply with sub-paragraph (4).

***Protection for secured or preferential creditor***

**73**

(1) An education administrator's statement of proposals under paragraph 49 may not include any action which--

(a) affects the right of a secured creditor of the further education body to enforce his security,

(b) would result in a preferential debt of the further education body being paid otherwise than in priority to its non-preferential debts, . . .

[(bb) would result in an ordinary preferential debt of the further education body being paid otherwise than in priority to any secondary preferential debts that it may have,]

(c) would result in one preferential creditor of the further education body being paid a smaller proportion of [an ordinary preferential debt] than another[, or

(d) would result in one preferential creditor of the further education body being paid a smaller proportion of a secondary preferential debt than another].

(2) Sub-paragraph (1) does not apply to--

(a) action to which the relevant creditor consents,

(b) a proposal for a voluntary arrangement under Part I of this Act (although this sub-paragraph is without prejudice to section 4(3)).

(3) The reference to a statement of proposals in sub-paragraph (1) includes a reference to a statement as revised under paragraph 54.

***Challenge to education administrator's conduct of further education body***

**74**

(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 (4) of the Technical and Further Education Act 2016 (general functions of education administrator).

(3) The court may--

(a) grant relief;

(b) dismiss the application;

(c) adjourn the hearing conditionally or unconditionally;

(d) make an interim order;

(e) make any other order it thinks appropriate.

(4) In particular, an order under this paragraph may--

(a) regulate the education administrator's exercise of his functions;

(b) require the education administrator to do or not do a specified thing;

*(c)* *require a creditors' meeting to be held for a specified purpose;*

[(c) require a decision of the further education body's creditors to be sought on a matter;]

(d) provide for the appointment of an education administrator to cease to have effect;

(e) make consequential provision.

(5) An order may be made on a claim under sub-paragraph (1) whether or not the action complained of--

(a) is within the education administrator's powers under this Schedule;

(b) was taken in reliance on an order under paragraph 71 or 72.

(6) An order may not be made under this paragraph if it would impede or prevent the implementation of a voluntary arrangement approved under Part I.

(7) In the case of a claim made by a creditor, the court may grant a remedy or relief or make an order under this paragraph only if it has given the appropriate national authority a reasonable opportunity of making representations about the claim and the proposed remedy, relief or order.

(8) Before the making of an order of the kind mentioned in sub-paragraph 4(d) –

(a) the court must notify the education administrator of the proposed order and of a period during which the education administrator is to have the opportunity of taking steps falling within sub-paragraphs (9), and

(b) the period notified must have expired without the taking of such steps as the court thinks should have been taken,

and that period must be a reasonable period.

(9) The steps referred to in sub-paragraph (8) are steps for-

(a) remedying the failure to carry out functions in accordance with section 22(2) or (4) of the Technical and Further Education Act 2016, and,

(b) ensuring that the failure is not repeated.

***Misfeasance***

**75**

(1) The court may examine the conduct of a person who--

(a) is or purports to be the education administrator of a further education body, or

(b) has been or has purported to be the education administrator of a further education body.

(2) An examination under this paragraph may be held only on the application of--

(a) the official receiver,

(b) the education administrator of the further education body,

(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,

(c) the liquidator of the further education body, or

(d) a creditor of the further education body.

(3) An application under sub-paragraph (2) must allege that the education administrator--

(a) has misapplied or retained money or other property of the further education body,

(b) has become accountable for money or other property of the further education body,

(c) has breached a fiduciary or other duty in relation to the further education body, or

(d) has been guilty of misfeasance.

(4) On an examination under this paragraph into a person's conduct the court may order him--

(a) to repay, restore or account for money or property;

(b) to pay interest;

(c) to contribute a sum to the further education body's property by way of compensation for breach of duty or misfeasance.

(5) In sub-paragraph (3) "education administrator" includes a person who purports or has purported to be a further education body's education administrator.

(6) An application under sub-paragraph (2) may be made in respect of an education administrator who has been discharged under paragraph 98 only with the permission of the court.

**Ending Education Administration**

***Court ending education administration*** on application of ***education*** administrator

**79**

(1) On an application made by a person mentioned in sub-paragraph (2), the court may provide for the appointment of an education administrator of a further education body to cease to have effect from a specified time.

(2) An application may be made to the court under this paragraph --

(a) by the appropriate national authority, or

(b) with the consent of the appropriate national authority, by the education administrator.

(4) On an application under this paragraph the court may--

(a) adjourn the hearing conditionally or unconditionally;

(b) dismiss the application;

(c) make an interim order;

(d) make any order it thinks appropriate (whether in addition to, in consequence of or instead of the order applied for).

***Moving from education administration to creditors' voluntary liquidation***

**83**

(1) This paragraph applies in England and Wales where the education administrator of a further education body thinks--

(a) that the total amount which each secured creditor of the further education body is likely to receive has been paid to him or set aside for him, and

(b) that a distribution will be made to unsecured creditors of the further education body (if there are any) [which is not a distribution by virtue of section 176A(2)(a)].

(3) The education administrator may, with the consent of the appropriate national authority, send to the registrar of companies a notice that this paragraph applies.

(4) On receipt of a notice under sub-paragraph (3) the registrar shall register it.

(5) If an education administrator sends a notice under sub-paragraph (3) he shall as soon as is reasonably practicable--

(a) file a copy of the notice with the court, and

(b) send a copy of the notice to each creditor[, other than an opted-out creditor,] of whose claim and address he is aware.

(6) On the registration of a notice under sub-paragraph (3)--

(a) the appointment of an education administrator in respect of the further education body shall cease to have effect, and

(b) the further education body shall be wound up as if a resolution for voluntary winding up under section 84 were passed on the day on which the notice is registered.

(7) The liquidator for the purposes of the winding up shall be--

(a) a person nominated by the creditors of the further education body in the prescribed manner and within the prescribed period, or

(b) if no person is nominated under paragraph (a), the education administrator.

(8) In the application of Part IV to a winding up by virtue of this paragraph--

(a) section 85 shall not apply,

(b) section 86 shall apply as if the reference to the time of the passing of the resolution for voluntary winding up were a reference to the beginning of the date of registration of the notice under sub-paragraph (3),

(c) section 89 does not apply,

(d) sections *98,* 99 and 100 shall not apply,

(e) section 129 shall apply as if the reference to the time of the passing of the resolution for voluntary winding up were a reference to the beginning of the date of registration of the notice under sub-paragraph (3), and

(f) any creditors' committee which is in existence immediately before the further education body ceases to be in education administration shall continue in existence after that time as if appointed as a liquidation committee under section 101.

***Moving from education administration to dissolution***

**84**

(1) If the education administrator of a further education body thinks that the further education body has no property which might permit a distribution to its creditors, he shall send a notice to that effect -

(a) to the appropriate national authority, and

(b) if directed to do so by the appropriate national authority, to the registrar of companies.

(3) On receipt of a notice under sub-paragraph (1)(b) the registrar shall register it.

(4) On the registration of a notice in respect of a further education body under sub-paragraph (1)(b) the appointment of an education administrator of the further education body shall cease to have effect.

(5) If an education administrator sends a notice under sub-paragraph (1)(b) he shall as soon as is reasonably practicable--

(a) file a copy of the notice with the court, and

(b) send a copy of the notice to each creditor[, other than an opted-out creditor,] of whose claim and address he is aware.

(6) At the end of the period of three months beginning with the date of registration of a notice in respect of a further education body under sub-paragraph (1)(b) the further education body is deemed to be dissolved.

(7) On an application in respect of a further education body by the education administrator or another interested person the court may--

(a) extend the period specified in sub-paragraph (6),

(b) suspend that period, or

(c) disapply sub-paragraph (6).

(8) Where an order is made under sub-paragraph (7) in respect of a further education body the education administrator shall as soon as is reasonably practicable notify the registrar of companies.

(9) An education administrator commits an offence if he fails without reasonable excuse to comply with sub-paragraph (5).

***Discharge of education administration order where education administration ends***

**85**

(1) This paragraph applies where--

(a) the court makes an order under this Schedule providing for the appointment of an education administrator of a further education body to cease to have effect, and

(b) the education administrator was appointed by education administration order.

(2) The court shall discharge the education administration order.

***Notice to Companies Registrar where education administration ends***

**86**

(1) This paragraph applies where the court makes an order under this Schedule providing for the appointment of an education administrator to cease to have effect.

(2) The education administrator shall send a copy of the order to the registrar of companies within the period of 14 days beginning with the date of the order.

(3) An education administrator who fails without reasonable excuse to comply with sub-paragraph (2) commits an offence.

**Replacing Education administrator**

***Resignation of education administrator***

**87**

(1) An education administrator may resign only in prescribed circumstances.

(2) Where an education administrator may resign he may do so only by notice in writing to the court.

***Removal of education administrator from office***

**88**

The court may by order remove an education administrator from office.

***Education administrator ceasing to be qualified***

**89**

(1) The education administrator of a further education body shall vacate office if he ceases to be qualified to act as an insolvency practitioner in relation to the further education body.

(2) Where an education administrator vacates office by virtue of sub-paragraph (1) he shall give notice in writing to the court.

(3) An education administrator who fails without reasonable excuse to comply with sub-paragraph (2) commits an offence.

***Supplying vacancy in office of education administrator***

**90**

Paragraph 91 applies where an education administrator--

(a) dies,

(b) resigns,

(c) is removed from office under paragraph 88, or

(d) vacates office under paragraph 89.

**91**

(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.

***Vacation of office: discharge from liability***

**98**

(1) Where a person ceases to be the education administrator of a further education body (whether because he vacates office by reason of resignation, death or otherwise, because he is removed from office or because his appointment ceases to have effect) he is discharged from liability in respect of any action of his as education administrator.

(2) The discharge provided by sub-paragraph (1) takes effect--

(a) in the case of an education administrator who dies, on the filing with the court of notice of his death,

(c) in any case, at a time specified by the court.

(4) Discharge--

(a) applies to liability accrued before the discharge takes effect, and

(b) does not prevent the exercise of the court's powers under paragraph 75.

***Vacation of office: charges and liabilities***

**99**

(1) This paragraph applies where a person ceases to be the education administrator of a further education body (whether because he vacates office by reason of resignation, death or otherwise, because he is removed from office or because his appointment ceases to have effect).

(2) In this paragraph--

"the former education administrator" means the person referred to in sub-paragraph (1), and

"cessation" means the time when he ceases to be the further education body's education administrator.

(3) The former education administrator's remuneration and expenses shall be--

(a) charged on and payable out of property of which he had custody or control immediately before cessation[, and

(4) A sum payable in respect of a debt or liability arising out of a contract entered into by the former administrator or a predecessor before cessation shall be--

(a) charged on and payable out of property of which the former administrator had custody or control immediately before cessation, and

(b) payable in priority to any charge arising under sub-paragraph (3).

(5) Sub-paragraph (4) shall apply to a liability arising under a contract of employment which was adopted by the former administrator or a predecessor before cessation; and for that purpose--

(a) action taken within the period of 14 days after an administrator's appointment shall not be taken to amount or contribute to the adoption of a contract,

(b) no account shall be taken of a liability which arises, or in so far as it arises, by reference to anything which is done or which occurs before the adoption of the contract of employment, and

(c) no account shall be taken of a liability to make a payment other than wages or salary.

(6) In sub-paragraph (5)(c) "wages or salary" includes--

(a) a sum payable in respect of a period of holiday (for which purpose the sum shall be treated as relating to the period by reference to which the entitlement to holiday accrued),

(b) a sum payable in respect of a period of absence through illness or other good cause,

(c) a sum payable in lieu of holiday,

(d) . . . and

(e) a contribution to an occupational pension scheme.

(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 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 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.”

**General**

***Joint and concurrent education administrators***

**100**

(1) In this Schedule--

(a) a reference to the appointment of an education administrator of a further education body includes a reference to the appointment of a number of persons to act jointly or concurrently as the education administrator of a further education body, and

(b) a reference to the appointment of a person as education administrator of a further education body includes a reference to the appointment of a person as one of a number of persons to act jointly or concurrently as the education administrator of a further education body.

**101**

(1) This paragraph applies where two or more persons are appointed to act jointly as the education administrator of a further education body.

(2) A reference to the education administrator of the further education body is a reference to those persons acting jointly.

(3) But a reference to the education administrator of a further education body in paragraphs 87 to 91, 98 and 99 of this Schedule is a reference to any or all of the persons appointed to act jointly.

(4) Where an offence of omission is committed by the education administrator, each of the persons appointed to act jointly--

(a) commits the offence, and

(b) may be proceeded against and punished individually.

(5) The reference in paragraph 45(1)(a) to the name of the education administrator is a reference to the name of each of the persons appointed to act jointly.

(6) Where persons are appointed to act jointly in respect of only some of the functions of the education administrator of a further education body, this paragraph applies only in relation to those functions.

**102**

(1) This paragraph applies where two or more persons are appointed to act concurrently as the education administrator of a further education body.

(2) A reference to the education administrator of a further education body in this Schedule is a reference to any of the persons appointed (or any combination of them).

**103**

(1) Where a further education body is in education administration, a person may be appointed to act as education administrator jointly or concurrently with the person or persons acting as the education administrator of the further education body.

(2) An appointment under sub-paragraph (1) must be made by the court on the application of--

(a) the appropriate national authority, or

(b) the person or persons acting as the education administrator of the further education body.

(6) An appointment under sub-paragraph (1) may be made only with the consent of the person or persons acting as the education administrator of the further education body.

***Presumption of validity***

**104**

An act of the education administrator of a further education body is valid in spite of a defect in his appointment or qualification.

***Penalties***

**106**

(1) A person who is guilty of an offence under this Schedule is liable to a fine (in accordance with section 430 and Schedule 10).

(2) A person who is guilty of an offence under any of the following paragraphs of this Schedule is liable to a daily default fine (in accordance with section 430 and Schedule 10)--

(c) paragraph 46,

(d) paragraph 48,

(e) paragraph 49,

(h) paragraph 54,

(j) paragraph 71,

(k) paragraph 72,

(o) paragraph 84,

(p) paragraph 86, and

(q) paragraph 89.

***Extension of time limit***

**107**

(1) Where a provision of this Schedule provides that a period may be varied in accordance with this paragraph, the period may be varied in respect of a further education body--

(a) by the court, and

(b) on the application of the education administrator.

(2) A time period may be extended in respect of a further education body under this paragraph--

(a) more than once, and

(b) after expiry.

**109**

Where a period is extended under paragraph 107, a reference to the period shall be taken as a reference to the period as extended.

***Amendment of provision about time***

**110**

(1) The Secretary of State may by order amend a provision of this Schedule which--

(a) requires anything to be done within a specified period of time,

(b) prevents anything from being done after a specified time, or

(c) requires a specified minimum period of notice to be given.

(2) An order under this paragraph--

(a) must be made by statutory instrument, and

(b) shall be subject to annulment in pursuance of a resolution of either House of Parliament.

***Interpretation***

**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,

“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.

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.

(4) In this Schedule a reference to action includes a reference to inaction.