
WELSH STATUTORY INSTRUMENTS

2018 No. 814

The Education (Student Finance) (Miscellaneous Amendments) (Wales) Regulations 2018

PART 3

AMENDMENTS TO THE EDUCATION (STUDENT SUPPORT) (WALES) REGULATIONS 2017

Amendments to the Education (Student Support) (Wales) Regulations 2017

21. The Education (Student Support) (Wales) Regulations 2017(1) are amended in accordance with regulations 22 to 38.

22. In regulation 2 (interpretation), in paragraph (1)—

(a) in the appropriate places insert—

““close relative” (*“perthynas agos”*) (in relation to a person (“P”)) means—

- (a) P’s spouse or civil partner;
- (b) a person ordinarily living with P as if the person were P’s spouse or civil partner;
- (c) P’s parent, where P is under the age of 25;
- (d) P’s child, where P is dependent on that child;”;

““immigration rules” (*“rheolau mewnfudo”*) means the rules laid before Parliament by the Secretary of State under section 3(2) of the Immigration Act 1971;”;

““member of the armed forces” (*“aelod o’r lluoedd arfog”*) means a member of the regular naval, military or air forces of the Crown;”;

““person granted stateless leave” (*“person y rhoddwyd caniatâd iddo aros fel person diwladwriaeth”*) means a person who—

- (a) has extant leave to remain as a stateless person under the immigration rules; and
- (b) has been ordinarily resident in the United Kingdom and Islands throughout the period since the person was granted such leave;”;

(b) for paragraphs (a) and (b) of the definition of “person with leave to enter or remain”, substitute—

“(a) who has—

- (i) applied for refugee status but has, as a result of that application, been informed in writing by a person acting under the authority of the Secretary of State for the Home Department that, although A is considered not to qualify for recognition as a refugee, it is thought right to allow A to enter or

remain in the United Kingdom on the grounds of humanitarian protection or discretionary leave, and who has been granted leave to enter or remain accordingly;

- (ii) not applied for refugee status but has been informed in writing by a person acting under the authority of the Secretary of State for the Home Department that it is thought right to allow A to enter or remain in the United Kingdom on the grounds of discretionary leave, and who has been granted leave to enter or remain accordingly;
- (iii) been granted leave to remain on the grounds of private life under the immigration rules; or
- (iv) been informed in writing by a person acting under the authority of the Secretary of State for the Home Department that, although A is not considered to qualify for leave to remain on the grounds of private life under the immigration rules, A has been granted leave to remain outside the rules⁽²⁾ on the grounds of Article 8 of the European Convention on Human Rights;”.

23. In regulation 4 (eligible students)—

- (a) after paragraph (9) insert—

“(9A) Where—

- (a) the Welsh Ministers have determined that, by virtue of being a person granted stateless leave or the spouse, civil partner, child or step-child of such a person, a person (“A” in this paragraph) was—
 - (i) an eligible student in connection with an application for support for an earlier year of the present course, an application for support for a course in relation to which the present course is an end-on course or an application for support in connection with a designated part-time course, designated distance learning course, or other designated course from which A’s status as an eligible part-time student, eligible distance learning student or eligible student has been transferred to the present course; or
 - (ii) a qualifying student in connection with an application for support for an earlier year of the qualifying course or other qualifying course from which A’s status as a qualifying student has been transferred to the qualifying course in respect of which the student is applying for support; and
- (b) as at the day before the academic year in respect of which A is applying for support starts, the period for which a person granted stateless leave is allowed to stay in the United Kingdom has expired and no further leave to remain has been granted and no application for administrative review in accordance with the immigration rules⁽³⁾ is pending,

A’s status as an eligible or qualifying student terminates immediately before the first day of the academic year in respect of which A is applying for support.”;

- (b) in paragraph (11), for “Paragraphs (9) and (10)” substitute “Paragraphs (9), (9A) and (10)”.

24. In regulation 6 (period of eligibility)—

- (a) in paragraphs (8) and (11), for “or a grant for living costs” substitute “, grant for travel, maintenance grant or a special support grant”;
- (b) in paragraph (10)—

⁽²⁾ Paragraph 276BE(2) of the immigration rules refers.

⁽³⁾ See Appendix AR: administrative review.

- (i) in sub-paragraph (b)(i), for “or 3” substitute “, 3 or 4”; and
- (ii) for sub-paragraph (c)(i) substitute—

“(i) has completed a full-time foundation degree course or ordinary degree course;”.

25. In regulation 13 (fee support generally)—

- (a) in paragraph (5), at the beginning, insert “Subject to paragraph (5A),”;
- (b) after paragraph (5) insert—

“(5A) Paragraph (5) does not apply where—

- (a) the student (“S”) or a close relative of S is a member of the armed forces,
- (b) S is not undertaking the course in Wales on the first day of the first academic year, and
- (c) S is not undertaking the course in Wales on that day because S or the close relative is serving as a member of the armed forces outside Wales.”; and

- (c) after paragraph (6) insert—

“(7) But paragraph (6) does not apply where the student is undertaking the course outside the United Kingdom because the student or a close relative of the student is serving as a member of the armed forces.”

26. In regulation 15 (events), paragraph (b), after “is recognised as a refugee or” insert “becomes a person granted stateless leave or”.

27. In regulation 23 (general qualifying conditions for grants for living costs), paragraph (12)(b), after “is recognised as a refugee or” insert “becomes a person granted stateless leave or”.

28. In regulation 24 (grants for disabled students’ living costs)—

- (a) in paragraph (4), at the beginning, insert “Subject to paragraph (4A),”;
- (b) after paragraph (4) insert—

“(4A) Paragraph (4) does not apply where—

- (a) the student (“S”) or a close relative of S is a member of the armed forces,
- (b) S is not undertaking the course in Wales on the first day of the first academic year, and
- (c) S is not undertaking the course in Wales on that day because S or the close relative is serving as a member of the armed forces outside Wales.”; and

- (c) after paragraph (5) insert—

“(5A) But paragraph (5) does not apply where the student is undertaking the course outside the United Kingdom because the student or a close relative of the student is serving as a member of the armed forces.”

29. In regulation 41 (qualifying conditions for loans for living costs), omit paragraph (4).

30. In regulation 49 (students becoming eligible during the course of an academic year), paragraph (2)(b), after “is recognised as a refugee or” insert “becomes a person granted stateless leave or”.

31. In regulation 64 (eligible distance learning students)—

- (a) after paragraph (10) insert—

“(10A) Where—

- (a) the Welsh Ministers determined that, by virtue of being a person granted stateless leave or the spouse, civil partner, child or step-child of such a person, a person (“A” in this paragraph) was an eligible distance learning student in connection with an application for support for an earlier year of the present distance learning course or an application for support in connection with a designated course, designated part-time course or other designated distance learning course from which A’s status as an eligible student, eligible part-time student or eligible distance learning student has been transferred to the present distance learning course; and
- (b) as at the day before the academic year in respect of which A is applying for support begins, the period for which a person granted stateless leave is allowed to stay in the United Kingdom has expired and no further leave to remain has been granted and no application for administrative review in accordance with the immigration rules⁽⁴⁾ is pending,

A’s status as an eligible distance learning student terminates immediately before the first day of the academic year in respect of which A is applying for support.”;

- (b) in paragraph (12), for “paragraphs (10) and (11)” substitute “paragraphs (10), (10A) and (11)”.

32. In regulation 65 (students becoming eligible during the course of the academic year), in paragraph (4)(b) after “is recognised as a refugee or” insert “becomes a person granted stateless leave or”.

33. In regulation 81 (eligible part-time students)—

- (a) after paragraph (9) insert—

“(9A) Where—

- (a) the Welsh Ministers determined that, by virtue of being a person granted stateless leave or the spouse, civil partner, child or step-child of such a person, a person (“A” in this paragraph) was an eligible part-time student in connection with an application for support for an earlier year of the present part-time course or an application for support in connection with a designated course, designated distance learning course or other designated part-time course from which A’s status as an eligible part-time student, eligible student or eligible distance learning student has been transferred to the present part-time course; and
- (b) as at the day before the academic year in respect of which A is applying for support begins, the period for which a person granted stateless leave is allowed to stay in the United Kingdom has expired and no further leave to remain has been granted and no application for administrative review in accordance with the immigration rules⁽⁵⁾ is pending,

A’s status as an eligible part-time student terminates immediately before the first day of the academic year in respect of which A is applying for support.”;

- (b) in paragraph (11), for “Paragraphs (9) and (10)” substitute “Paragraphs (9), (9A) and (10)”;
- (c) after paragraph (14) insert—

“(14A) But paragraph (14) does not apply to support under regulations 85 to 88 where—

- (a) the student (“S”) or a close relative of S is a member of the armed forces,

(4) See Appendix AR: administrative review.

(5) See Appendix AR: administrative review.

- (b) S is not undertaking the course in Wales on the first day of the first academic year, and
 - (c) S is not undertaking the course in Wales on that day because S or the close relative is serving as a member of the armed forces outside Wales.”; and
 - (d) after paragraph (15) insert—
 - “(15A) But paragraph (15) does not apply to support under regulations 85 to 88 where the student is undertaking the course outside the United Kingdom because the student or a close relative of the student is serving as a member of the armed forces.”
- 34.** In regulation 82 (students becoming eligible during the course of the academic year), in paragraph (4)(b), after “is recognised as a refugee or” insert “becomes a person granted stateless leave or”.
- 35.** In regulation 110 (eligible postgraduate students)—
- (a) after paragraph (11) insert—
 - “(11A) Where—
 - (a) the Welsh Ministers determined that, by virtue of being a person granted stateless leave or the spouse, civil partner, child or step-child of such a person, a person (“A” in this paragraph) was an eligible postgraduate student in connection with an application for support for an earlier year of the present postgraduate course or an application in connection with another designated postgraduate course from which A’s status as an eligible postgraduate student has been transferred to the present postgraduate course; and
 - (b) as at the day before the academic year in respect of which A is applying for support starts, the period for which the person with leave to enter or remain is allowed to stay in the United Kingdom has expired and no further leave to remain has been granted and no application for administrative review in accordance with the immigration rules⁽⁶⁾ is pending,

A’s status as an eligible postgraduate student terminates immediately before the first day of the academic year in respect of which A is applying for support.”;

 - (b) in paragraph (12)(a), for “refugee” substitute “person with leave to enter or remain” in both places where it occurs.
- 36.** In regulation 111 (students becoming eligible during the course of the academic year), in paragraph (2)(b), after “is recognised as a refugee or” insert “becomes a person granted stateless leave or”.
- 37.** In Schedule 1—
- (a) after paragraph 4 (refugees and their family members) insert—
 - “Persons granted stateless leave and their family members**
 - 4A.—**(1) A person granted stateless leave who—
 - (a) is ordinarily resident in Wales on the first day of the first academic year of the course, and
 - (b) has been ordinarily resident in the United Kingdom and Islands throughout the three year period preceding the first day of the first academic year of the course.
 - (2) A person—

(6) See Appendix AR: administrative review.

- (a) who—
 - (i) is the spouse or civil partner of a person granted stateless leave; and
 - (ii) on the leave application date, was the spouse or civil partner of a person granted stateless leave;
- (b) who is ordinarily resident in Wales on the first day of the first academic year of the course; and
- (c) who has been ordinarily resident in the United Kingdom and Islands throughout the three year period preceding the first day of the first academic year of the course.

(3) A person—

- (a) who—
 - (i) is the child of a person granted stateless leave or the child of the spouse or civil partner of a person granted stateless leave; and
 - (ii) on the leave application date, was the child of a person granted stateless leave or the child of a person who, on the leave application date, was the spouse or civil partner of a person granted stateless leave;
- (b) who was under 18 on the leave application date;
- (c) who is ordinarily resident in Wales on the first day of the first academic year of the course; and
- (d) who has been ordinarily resident in the United Kingdom and Islands throughout the three year period preceding the first day of the first academic year of the course.

(4) In this paragraph, “leave application date” means the date on which a person granted stateless leave made an application to remain in the United Kingdom as a stateless person under the immigration rules.”;

(b) in paragraph 5 (persons with leave to enter or remain and their family members)—

(i) for sub-paragraph (2)(b) substitute—

“(b) who was the spouse or civil partner of the person with leave to enter or remain on the leave application date;”;

(ii) for sub-paragraph (3)(b) substitute—

“(b) who, on the leave application date, was the child of the person with leave to enter or remain or the child of a person who was the spouse or civil partner of the person with leave to enter or remain on that date;”;

(iii) for sub-paragraph (3)(c) substitute—

“(c) who was under 18 on the leave application date;” and

(iv) after sub-paragraph (3) insert—

“(4) In this paragraph, “leave application date” means the date on which the person with leave to enter or remain made the application that led to that person being granted leave to enter or remain in the United Kingdom.”

38. In Schedule 4, in paragraph 6(a), after “is recognised as a refugee or” insert “becomes a person granted stateless leave or”.