

2021 No. 85

EXITING THE EUROPEAN UNION

EDUCATION, NORTHERN IRELAND

**The Education (Student Fees and Support) (Amendment) (No.2)
Regulations (Northern Ireland) 2021**

Made - - - - - *29th March 2021*

Coming into operation- - - - - *20th April 2021*

The Department for the Economy (a) in exercise of the powers conferred by Articles 3 and 8(4) of the Education (Student Support) (Northern Ireland) Order 1998(b), Articles 4(8) and 14(4) of the Higher Education (Northern Ireland) Order 2005(c), paragraph 1(1) and (3) of Schedule 2 to the European Union (Withdrawal) Act 2018(d) and section 14(1), (2) and (3) of the European Union (Withdrawal Agreement) Act 2020(e) makes the following Regulations.

Citation, commencement and application

1.—(1) These Regulations may be cited as the Education (Student Fees and Support) (Amendment) (No.2) Regulations (Northern Ireland) 2021 and come into operation on 20th April 2021.

(2) These Regulations apply in relation to the provision of support to a student, and to fees applicable, in relation to an academic year which begins on or after 1st August 2021, whether or not anything done under these Regulations is done before, on, or after that date.

(3) In paragraph (2), an “academic year” is the period of twelve months beginning with 1st January, 1st April, 1st July or 1st September of the calendar year in which the academic year of the course in question begins, according to whether the academic year of the course in question begins—

- (a) on or after 1st January and before 1st April;
- (b) on or after 1st April and before 1st July;
- (c) on or after 1st July and before 1st August; or
- (d) on or after 1st August and on or before 31st December.

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- (a) Formerly the Department for Employment and Learning; see Article 6(1)(c) of the Departments (Transfer of Functions) Order (Northern Ireland) 2016 (S.R. 2016 No. 76)
 - (b) S.I. 1998/1760 (N.I. 14). Article 3 was amended by the Learning and Skills Act 2000 (c.21), section 147(3)(a) and (b), the Student Loans (Amendment) Act (Northern Ireland) 2001, (c.2 (N.I.)), s.1(1), the Income Tax (Earnings and Pensions) Act 2003 (c.1), Schedule 6, the Finance Act 2003, (c.14), s. 147(4), the Higher Education (Northern Ireland) Order 2005, (S.I. 2005/1116 (N.I. 5)), Articles 11 and 12 and the Schedule, and by the Financial Services and Markets Act 2000 (Regulated Activities) (Amendment) (No.2) Order 2013, (S.I. 2013/1881), Schedule 1
 - (c) S.I. 2005/1116 see Article (2) for definitions of “the Department”, “prescribed” and “regulations”
 - (d) 2018 c.16
 - (e) 2020 c.1

Amendment of the Education (Student Support) (No.2) Regulations (Northern Ireland) 2009

2. The Education (Student Support) (No.2) Regulations (Northern Ireland) 2009(a) are amended as follows.

Amendment of regulation 2

3. — Regulation 2 (interpretation) is amended as follows—

(a) in paragraph (1)—

(i) after the definition of “the 2009 Regulations”, insert—

“the 2020 Citizens’ Rights Regulations” means the Citizens’ Rights (Application Deadline and Temporary Protection) (EU Exit) Regulations 2020(b);”;

(ii) in the definition of “EC national” for “EC” substitute “EU”;

(iii) in the definition of “Erasmus year”(c) —

(aa) in the opening words, for “and”, the first time it occurs, substitute “or in the scheme established by the Secretary of State for Education known as the Turing scheme.”;

(bb) omit paragraph (a);

(cc) in paragraph (b), omit “began on or after 1st September 2012 and”;

(dd) in paragraph (c), omit “began on or after 1st September 2012 and”;

(iv) after the definition of “gap year student”, insert—

““grace period” has the meaning given by regulation 3 of the 2020 Citizens’ Rights Regulations;”

(v) after the definition of “person granted stateless leave”(d), insert—

““person with protected rights” means—

(a) a person within the personal scope of the citizens’ rights provisions who—

(i) has leave to enter or remain in the United Kingdom granted by virtue of residence scheme immigration rules;

(ii) is an Irish citizen who pursuant to section 3ZA of the Immigration Act 1971(e), does not require leave to enter or remain in the United Kingdom;

(iii) is a relevant person for the purposes of regulation 3 of the 2020 Citizens’ Rights Regulations where the grace period has not ended; or

(iv) is an applicant for the purposes of regulation 4 of the 2020 Citizens’ Rights Regulations where the relevant period has not expired; or

(b) a family member of a relevant person of Northern Ireland for the purposes of residence scheme immigration rules, where that family member has leave to enter or remain in the United Kingdom granted by virtue of residence scheme immigration rules;”;

(vi) after the definition of “relevant institution of higher education in the Republic of Ireland”, insert—

“relevant period”, unless otherwise indicated, has the meaning given by regulation 4 of the 2020 Citizens’ Rights Regulations;

(a) S.R. 2009 No. 373, amended by S.R. 2010 No. 383, S.R. 2012 Nos. 62 and 398, S.R. 2013 Nos. 128 and 223, S.R. 2014 Nos. 97 and 309, S.R. 2016 No. 21, S.R. 2017 No. 7, S.R. 2017 No.43, S.R. 2018 No. 35, S.R. 2019 Nos.35 and 102 and S.R. 2020 No. 79

(b) S.I. 2020/1209, amended by S.I. 2020/139

(c) The definition of “Erasmus year” was substituted by S.R. 2013 No. 223

(d) The definition of “person granted stateless leave” was inserted S.R. 2021 No.50

(e) 1971 c. 77. Section 3ZA was inserted by section 2 of the Immigration and Social Security Co-ordination (EU Withdrawal) Act 2020 (c.20)

“relevant person of Northern Ireland” has the meaning given by residence scheme immigration rules;”

(vii) after the definition of “Research Council”, insert—

““residence scheme immigration rules” has the meaning given by section 17(1) of the European Union (Withdrawal Agreement) Act 2020(a);”;

(viii) after the definition of “support”, insert—

““Swiss citizens’ rights agreement” has the meaning given by section 39(1) of the European Union (Withdrawal Agreement) Act 2020;”;

(b) after paragraph (1), insert—

“(1A) For the purposes of these Regulations, a person is within the personal scope of the citizens’ rights provisions if that person falls within—

- (a) Article 10 (personal scope) of the EU withdrawal agreement;
- (b) Article 9 (personal scope) of the EEA EFTA separation agreement (as defined in section 39(1) of the European Union (Withdrawal Agreement) Act 2020; or
- (c) Article 10 (personal scope) of the Swiss citizens’ rights agreement.”.

Amendment of regulation 5

4. In regulation 5(b) (eligible students)—

(a) for paragraph (2) substitute—

“(2) Subject to the following provisions of this regulation, a person is an eligible student in connection with a designated course if in assessing that person’s application for support the Department determines that the person falls within one of the categories set out—

- (a) in paragraphs 2, 2A, 3, 4, 4A, 4B, 4C, 4D, 4E, 4F, 5, 6A, 6B, 7A, 8A, 9A, 9B, 9C, 9D, 10A, 11A, 12A and 13 in Part 2 of Schedule 2; or
- (b) in paragraphs 6, 7, 8, 9, 10, 11 and 12 in Part 2 of Schedule 2 where paragraph (2A) applies.

(2A) This paragraph applies where—

- (a) in connection with a designated course beginning before 1st August 2021, the Department—
 - (i) in assessing an application for support by a person (“A”), determined that A fell within one of the categories set out in paragraphs 6, 7, 8, 9, 10, 11 and 12 in Part 2 of Schedule 2 in relation to an academic year of the course beginning before 1st August 2021; or
 - (ii) would have so determined had A made an application for support in accordance with this Part in relation to an academic year of the course beginning before that date; and
- (b) A applies for support in connection with that course or a designated course to which A’s status as an eligible student is transferred from that course in accordance with this Part.

(2B) In connection with a designated course beginning on or after 1st January 2028, paragraph (2)(a) has effect as if paragraphs 8A, 9B and 9D were omitted.”;

(b) after paragraph (12), insert—

“(12A) Where—

- (a) the Department determined that, by virtue of being a person with protected rights with limited leave to enter or remain in the United Kingdom granted by virtue of

(a) 2020 c. 1

(b) Regulation 5 was amended by S.S.I 2007/503, S.R.’s 2010 No. 383, 2013 No. 128, 2017 No. 7 and 2019 No. 35

residence scheme immigration rules, a person (“A”) was an eligible student in connection with—

- (i) an application for support for an earlier year of the current course; or
 - (ii) an application for support in connection with a designated part-time course or other designated course from which A’s status as an eligible part-time student or eligible student has been transferred to the current course; and
- (b) as at the day before the academic year in respect of which A is applying for support begins, A no longer has extant limited leave to enter or remain granted by virtue of residence scheme immigration rules and no further leave to enter or remain has been granted under those rules,

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

(12B) Where—

- (a) the Department determined that, by virtue of—
 - (i) falling within paragraph (a)(iii) of the definition of “person with protected rights”; or
 - (ii) meeting the conditions in paragraph 3(1)(a)(iii) in Part 2 of Schedule 2, a person (“A”) is an eligible student in connection with an application for support for an academic year of a designated course; and
- (b) as at the day before the academic year begins, A is not a person with protected rights,

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

(12C) Where—

- (a) the Department determined that, by virtue of—
 - (i) falling within paragraph (a)(iv) of the definition of “person with protected rights”; or
 - (ii) meeting the conditions in paragraph 3(1)(a)(iv) in Part 2 of Schedule 2, a person (“A”) is an eligible student in connection with an application for support for an academic year of a designated course; and
- (b) as at the day before the academic year begins, A is not a person with protected rights,

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

Amendment of regulation 18

5. In regulation 18(a) (events)—

- (a) omit paragraph (c);
- (b) for paragraph (d) substitute—

“(d) the student becomes a family member described in paragraph 9A(1)(a), 9C(1)(a) or 9D(1)(a) of Schedule 2;”;
- (c) for paragraph (f) substitute—

“(f) where regulation 5(2A)(a) applies, the person becomes a person described in paragraph 12(a) of Schedule 2;”;
- (d) in paragraph (g), after “described in”, insert “paragraph 6A(1)(a) or 6B(1)(a) of Schedule 2 or, where regulation 5(2A)(a) applies, in”;

(a) Regulations 18 was amended by Order 2011/1043 and S.R. 2019 No. 35

- (e) for paragraph (h) substitute—
 - “(h) the student becomes a person described in paragraph 11A(a) of Schedule 2 or, where regulation 5(2A)(a) applies, in paragraph 11 (a) of Schedule 2;”;
- (f) omit the “or” at the end of paragraph (k);
- (g) at the end of paragraph (l), insert “;or”;
- (h) after paragraph (l), insert—
 - “(m)the student becomes a person described in paragraph 9B(1)(a)(ii) of Schedule 2.”.

Amendment of Part 5

6. — Part 5 (grants for living and other costs) is amended as follows—

- (a) in regulation 39(a) (general qualifying conditions for grants for living and other costs)—
 - (i) in paragraph (2)(a), for the words from “in Part 2” to “paragraph 9” substitute “or paragraphs in Part 2 of Schedule 2 into which the student falls is one or more of paragraphs 2A, 9, 9A, 9C or 9D”;
 - (ii) in paragraph (7)—
 - (aa) omit “Subject to paragraph (8)”;
 - (bb) omit “(c)”;
 - (cc) for “or (l)” substitute “, (l) or (m)”;
 - (iii) omit paragraph (8);
- (b) in regulation 42(b) (amount of the disabled students’ allowance) —
 - (i) in paragraph (6)—
 - (aa) omit “Subject to paragraph (7),”;
 - (bb) omit “(c)”;
 - (cc) for “or (l)” substitute “, (l) or (m)”;
 - (ii) omit paragraph (7);
- (c) in regulation 46(c) (childcare grant)—
 - (i) in paragraph (11)—
 - (aa) omit “Subject to paragraph (12),”;
 - (bb) omit “(c)”;
 - (cc) for “or (l)” substitute “, (l) or (m)”;
 - (ii) omit paragraph (12);
- (d) in regulation 50A(d)—
 - (i) in paragraph (2)—
 - (aa) omit “Subject to paragraph (3),”;
 - (bb) omit “(c)”;
 - (cc) for “or (l)” substitute “, (l) or (m)”;
 - (ii) omit paragraph (3);
- (e) in regulation 57(e) (qualifying conditions for the maintenance grant)—

(a) Regulation 39 was amended by 2009 c.1 (N.I.), S.I. 1991/194 (N.I. 1); (Article 10 was amended by the Health and Personal Social Services (Northern Ireland) Order 1994 (S.I. 1994/429 (N.I. 2)) Article 3(8); Health and Social Services trusts were renamed under section 32 and Schedule 6 paragraph 1(1)(c) of the Health and Social Care (Reform) Act (Northern Ireland) 2009), S.I. 1990 No. 247 (N.I. 3), 2006 c.41, 1978 c. 29 and S.R. 2012 No. 398

(b) Regulation 42 was amended by S.R. 2012 No. 398

(c) Relevant amendments are S.Rs 2012 No. 398, 2016 No. 21 and S.I. 1996/274

(d) Regulation 50A was inserted by S.R. 2012 No. 398

(e) Regulation 57 was amended by S.R. 2012 No. 398 and S.R. 2013 No. 128

- (i) in paragraph (5) —
 - (aa) omit “Subject to paragraph (6),”;
 - (bb) omit “(c)”;
 - (cc) for “or (l)”, substitute “, (l) or (m)”;
- (ii) omit paragraph (6);
- (f) in regulation 59(a) (qualifying conditions for the special support grant)—
 - (i) in paragraph (5) —
 - (aa) omit “Subject to paragraph (6),”;
 - (bb) omit “(c)”;
 - (cc) for “or (l)” substitute “, (l) or (m)”;
 - (ii) omit paragraph (6).

Amendment of Part 6

7. Part 6 (loans for living costs) is amended as follows—

- (a) in regulation 63(3)(b) (qualifying conditions for the loan for living costs – current system students), for sub-paragraph (b) substitute—
 - “(b) the only paragraph or paragraphs in Part 2 of Schedule 2 into which the student falls is one or more of paragraphs 2A, 9, 9A, 9C or 9D”;
- (b) in regulation 64(4)(c) (qualifying conditions for the loan for living costs – old system students), for sub-paragraph (b) substitute—
 - “(b) the only paragraph or paragraphs in Part 2 of Schedule 2 into which the student falls is one or more of paragraphs 2A, 9, 9A, 9C or 9D”;
- (c) in regulation 74(2)(d) (students becoming eligible in the course of an academic year)—
 - (i) omit sub-paragraph (c);
 - (ii) for sub-paragraph (e) substitute—
 - “(e) where regulation 5(2A)(a) applies, the person becomes a person described in paragraph 12(a) of Schedule 2;”;
 - (iii) in sub-paragraph (f), after “described in”, insert “paragraph 6A(1)(a) or 6B(1)(a) of Schedule 2 or, where regulation 5(2A)(a) applies, in”;
 - (iv) for sub-paragraph (g) substitute—
 - “(g) the student becomes a person described in paragraph 11A(a) of Schedule 2 or, where regulation 5(2A)(a) applies, in paragraph 11(a) of Schedule 2;”;
 - (v) omit the “or” at the end of sub-paragraph (j);
 - (vi) at the end of sub-paragraph (k), insert “; or”;
 - (vii) after sub-paragraph (k), insert—
 - “(l) the student becomes a person described in paragraph 9B(1)(a)(ii) of Schedule 2.”.

Amendment of Part 7

8. Part 7 (college fee loans) is amended as follows—

- (a) in Regulation 81(b)(i) for “3, 6, 7, 10 or 11” substitute “3, 6, 6A, 6B, 7, 7A, 10, 10A, 11, or 11A”;

(a) Relevant amendments are S.R. 2012 No. 398 and S.R. 2013 No. 128
 (b) Regulations 63 was amended by S.R 2010 No. 383 and S.R. 2013 No. 223
 (c) Regulations 63 was amended by S.R 2010 No. 383 and S.R. 2013 No. 223
 (d) Regulation 74 was amended by Order 2011/1043 and S.R. 2019 No. 35

- (b) in regulation 83(2)(a) (students becoming eligible during the course of a year) —
 - (i) omit sub-paragraph (b);
 - (ii) for sub-paragraph (c) substitute—
 - “(c) the student becomes a family member described in paragraph 9A(1)(a), 9C(1)(a) or 9D(1)(a) of Schedule 2;”;
 - (iii) for sub-paragraph (e) substitute—
 - “(e) where regulation 5(2A)(a) applies, the person becomes a person described in paragraph 12(a) of Schedule 2;”;
 - (iv) in sub-paragraph (f), after “described in”, insert “paragraph 6A(1)(a) or 6B(1)(a) of Schedule 2 or, where regulation 5(2A)(a) applies, in”;
 - (v) for sub-paragraph (g), substitute—
 - “(g) the student becomes a person described in paragraph 11A(a) of Schedule 2 or, where regulation 5(2A)(a) applies, in paragraph 11(a) of Schedule 2;”;
 - (vi) omit the “or” at the end of sub-paragraph (j)
 - (vii) at the end of sub-paragraph (k) insert “; or”;
 - (viii) after sub-paragraph (k), insert—
 - “(l) the student becomes a person described in paragraph 9B(1)(a)(ii) of Schedule 2.”.

Amendment of Part 10

9. Part 10 (support for full-time distance learning courses) is amended as follows—

- (a) in regulation 105(b) (eligible distance learning students)—
 - (i) for paragraph (2) substitute—
 - “(2) Subject to the following provisions of this regulation, a person is an eligible distance learning student in connection with a designated distance learning course if in assessing that person’s application for support the Department determines that the person falls within one of the categories set out—
 - (a) in paragraphs 2, 2A, 3, 4, 4A, 4B, 4C, 4D, 4E, 4F, 5, 6A, 6B, 7A, 8A, 9A, 9B, 9C, 9D, 10A, 11A, 12A and 13 in Part 2 of Schedule 2; or
 - (b) in paragraphs 6, 7, 8, 9, 10, 11 and 12 in Part 2 of Schedule 2 where paragraph (2A) applies.
 - (2A) This paragraph applies where—
 - (a) in connection with a designated distance learning course beginning before 1st August 2021, the Department—
 - (i) in assessing an application for support by a person (“A”) determined that A fell within one of the categories set out in paragraphs 6, 7, 8, 9, 10, 11 and 12 in Part 2 of Schedule 2 in relation to an academic year of the course beginning before 1st August 2021; or
 - (ii) would have so determined had A made an application for support in accordance with this Part in relation to an academic year of the course beginning before that date; and
 - (b) A applies for support in connection with that course or a designated distance learning course to which A’s status as an eligible distance learning student is transferred from that course in accordance with this Part.
 - (2B) In connection with a designated distance learning course beginning on or after 1st January 2028, paragraph (2) has effect as if paragraphs 8A, 9B and 9D were omitted.”;

(a) Regulation 83 (2) was amended by Order 2011/1043 and S.R. 2019 No. 35

(b) Regulation 105 was amended by S.S.I 2007/503, 2008/206 and 2009/188 and S.Rs 2010 No. 383 and 2017 No.7

(ii) after paragraph (12), insert—

“(12A) Where—

- (a) the Department determined that, by virtue of being a person with protected rights with limited leave to enter or remain in the United Kingdom granted by virtue of residence scheme immigration rules, a person (“A”) was an eligible distance learning student in connection with—
 - (i) an application for support for an earlier year of the current distance learning course; or
 - (ii) an application for support in connection with a designated distance learning course or other designated course from which A’s status as an eligible distance learning student or eligible student has been transferred to the current distance learning course; and
- (b) as at the day before the academic year in respect of which A is applying for support begins, A no longer has extant limited leave to enter or remain granted by virtue of residence scheme immigration rules and no further leave to enter or remain has been granted under those rules,

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.

(12B) Where—

- (a) the Department determined, that by virtue of—
 - (i) falling within paragraph (a)(iii) of the definition of “person with protected rights”; or
 - (ii) meeting the conditions in paragraph 3(1)(a)(iii) in Part 2 of Schedule 2, a person (“A”) is an eligible distance learning student in connection with an application for support for an academic year of a designated distance learning course; and
- (b) as at the day before the academic year begins, A is not a person with protected rights,

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.

(12C) Where—

- (a) the Department determined that, by virtue of—
 - (i) falling within paragraph (a)(iv) of the definition of “person with protected rights”; or
 - (ii) meeting the conditions in paragraph 3(1)(a)(iv) in Part 2 of Schedule 2, a person (“A”) is an eligible distance learning student in connection with an application for support for an academic year of a designated distance learning course, and
- (b) as at the day before the academic year begins, the relevant period has expired and A is not a person with protected rights,

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 regulation 106(a) (students becoming eligible during the course of a year) —

- (i) in paragraph (1A) —
 - (aa) omit “(c)”;
 - (bb) for “or (m)”, substitute “, (m) or (n)”;
- (ii) in paragraph (2) —

(a) Regulation 106 was amended by Order 2011/1043 and S.Rs 2017 No. 7 and 2019 No. 35

- (aa) omit “(e)”;
- (bb) for “or (m)”, substitute “, (m) or (n)”;
- (iii) in paragraph (3) —
 - (aa) omit “(e)”;
 - (bb) for “or (m)”, substitute “, (m) or (n)”;
- (iv) in paragraph (4)—
 - (aa) omit sub-paragraph (c);
 - (bb) for sub-paragraph (d) substitute—
 - “(d) a family member described in paragraph 9A(1)(a), 9C(1)(a) or 9D(1)(a) of Schedule 2;”;
 - (cc) omit sub-paragraph (e);
 - (dd) in sub-paragraph (g) after “described in” insert “paragraph 6A(1)(a) or 6B(1)(a) of Schedule 2 or, where regulation 105(2A)(a) applies, in”;
 - (ee) for sub-paragraph (h) substitute—
 - “(h) the student becomes a person described in paragraph 11A(a) of Schedule 2, or where regulation 105(2A)(a) applies, in paragraph 11 (a) of Schedule 2;”
 - (ff) for sub-paragraph (i) substitute—
 - “(i) where regulation 105(2A)(a) applies, the person becomes a person described in paragraph 12(a) of Schedule 2;”;
 - (gg) omit the “or” at the end of sub-paragraph (l);
 - (hh) at the end of sub-paragraph (m) insert “; or”;
 - (ii) after sub-paragraph (m), insert—
 - “(n) the student becomes a person described in paragraph 9B(1)(a)(ii) of Schedule 2;”.
- (c) in regulation 109(2) (support for distance learning courses), for the words from “in Part 2” to “paragraph 9” substitute “or paragraphs in Part 2 of Schedule 2 into which the student falls is one or more of paragraphs 2A, 9, 9A, 9C or 9D.”;
- (d) in regulation 112(2) (disabled distance learning students’ allowance), for the words from “in Part 2” to “paragraph 9” substitute “or paragraphs in Part 2 of Schedule 2 into which the student falls is one or more of paragraphs 2A, 9, 9A, 9C or 9D.”.

Amendment of Part 11

10. Part 11 (support for part-time courses) is amended as follows—

- (a) in regulation 122(a) (eligible part-time students)—
 - (i) for paragraph (2), substitute—
 - “(2) Subject to the following provisions of this regulation, a person is an eligible part-time student in connection with a designated part-time course if in assessing that person’s application for support the Department determines that the person falls within one of the categories set out—
 - (a) in paragraphs 2, 2A, 3, 4, 4A, 4B, 4C, 4D, 4E, 4F, 5, 6A, 6B, 7A, 8A, 9A, 9B, 9C, 9D, 10A, 11A, 12A and 13 in Part 2 of Schedule 2; or
 - (b) in paragraphs 6, 7, 8, 9, 10, 11 and 12 in Part 2 of Schedule 2 where paragraph (2A) applies.
- (2A) This paragraph applies where—

(a) Regulation 122 was amended by S.Rs 2010 No. 383, 2017 No. 7 and 2019 No.35

- (a) in connection with a designated part-time course beginning before 1st August 2021, the Department—
 - (i) in assessing an application for support by a person (“A”) determined that A fell within one of the categories set out in paragraphs 6, 7, 8, 9, 10, 11 and 12 in Part 2 of Schedule 2 in relation to an academic year of the course beginning before 1st August 2021; or
 - (ii) would have so determined had A made an application for support in accordance with this Part in relation to an academic year of the course beginning before that date; and
- (b) A applies for support in connection with that course or a designated part-time course to which A’s status as an eligible part-time student is transferred from that course in accordance with this Part.

(2B) In connection with a designated part-time course beginning on or after 1st January 2028, paragraph (2) has effect as if paragraphs 8A, 9B and 9D were omitted.”;

(ii) after paragraph (11), insert—

“(11A) Where—

- (a) the Department determined that, by virtue of being a person with protected rights with limited leave to enter or remain in the United Kingdom granted by virtue of residence scheme immigration rules, a person (“A”) was an eligible part-time student in connection with—
 - (i) an application for support for an earlier year of the current part-time course; or
 - (ii) an application for support in connection with a designated part-time course or other designated course from which A’s status as an eligible part-time student or eligible student has been transferred to the current part-time course; and
- (b) as at the day before the academic year in respect of which A is applying for support begins, A no longer has extant limited leave to enter or remain granted by virtue of residence scheme immigration rules and no further leave to enter or remain has been granted under those rules,

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.

(11B) Where—

- (a) the Department determined, that by virtue of—
 - (i) falling within paragraph (a)(iii) of the definition of “person with protected rights”; or
 - (ii) meeting the conditions in paragraph 3(1)(a)(iii) in Part 2 of Schedule 2, a person (“A”) is an eligible part-time student in connection with an application for support for an academic year of a designated part-time course; and
- (b) as at the day before the academic year begins, A is not a person with protected rights,

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.

(11C) Where—

- (a) the Department determined that, by virtue of—
 - (i) falling within paragraph (a)(iv) of the definition of “person with protected rights”; or
 - (ii) meeting the conditions in paragraph 3(1)(a)(iv) in Part 2 of Schedule 2, a person (“A”) is an eligible part-time student in connection with an application for support for an academic year of a designated part-time course, and
- (b) as at the day before the academic year begins, A is not a person with protected rights,

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 regulation 123(a) (students becoming eligible during the course of the academic year) —
- (i) in paragraph (1A) —
 - (aa) omit “(c)”;
 - (bb) for “or (m)”, substitute “, (m) or (n)”;
 - (ii) in paragraph (2) —
 - (aa) omit “(e)”;
 - (bb) for “or (m)”, substitute “, (m) or (n)”;
 - (iii) in paragraph (3)—
 - (aa) omit sub-paragraph (c);
 - (bb) in sub-paragraph (d) substitute—
 - “(d) a family member described in paragraph 9A(1)(a), 9C(1)(a) or 9D(1)(a) of Schedule 2;”;
 - (cc) omit sub-paragraph (e);
 - (dd) for sub-paragraph (g), substitute—
 - “(g) where regulation 122(2A)(a) applies, the student becomes a person described in paragraph 12(a) of Schedule 1;”;
 - (ee) in sub-paragraph (h), after “described in” insert “paragraph 6A(1)(a) or 6B(1)(a) of Schedule 2, or where regulation 122(2A)(a) applies, in”;
 - (ff) for sub-paragraph (i), substitute—
 - “(i) the student becomes a person described in paragraph 11A(a) of Schedule 2, or where regulation 122(2A)(a) applies, in paragraph 11(1)(a) of Schedule 2;”;
 - (gg) omit the “or” at the end of sub-paragraph (l);
 - (hh) at the end of sub-paragraph (m) insert “or”;
 - (ii) after sub-paragraph (m), insert—
 - “(n) the student becomes a person described in 9B(1)(a)(ii) of Schedule 2.”;
 - (c) in regulation 126(2) (assistance for part-time courses) for “the words from “in Part 2” to “paragraph 9” substitute “or paragraphs in Part 2 of Schedule 2 into which the student falls is one or more of paragraphs 2A, 9, 9A, 9C, or 9D”;
 - (d) in regulation 130(b) (disabled part-time students’ allowance)—
 - (i) in paragraph (2), for “paragraph 9” substitute “paragraph 2A, 9, 9A, 9C or 9D”;
 - (ii) in paragraph (7)—
 - (aa) omit “(e)”;
 - (bb) for “or (m)”, substitute “, (m) or (n)”.

Amendment of Part 12

11. Part 12 (support for postgraduate students with disabilities) is amended as follows—

- (a) in regulation 139(c) (eligible postgraduate students)—
 - (i) in paragraph (2), for “paragraph (4)”, substitute “the following provisions of this regulation”;

(a) Regulation 123 was amended by Order 2011/1043, S.Rs 2017 No. 7 and 2019 No. 35

(b) Regulation 130 was amended by S.Rs 2012 No. 398, 2017 No. 7 and 2017 No. 43

(c) Regulation 139 was amended by 2001 c.3, S.Rs 2010 No. 383, 2017 No. 43 and 2019 No. 35

(ii) for paragraph (3), substitute—

“(3) The conditions are—

(a) the person falls within one of the categories set out—

(i) in paragraphs 2, 3, 4, 4A, 4B, 4C, 4D, 4E, 4F, 5, 6A, 6B, 7A, 8A, 9B, 10A, 11A, 12A and 13 in Part 2 of Schedule 2; or

(ii) in paragraphs 6, 7, 8, 10, 11 and 12 in Part 2 of Schedule 2 where paragraph 3A applies; and

(b) the person has a disability.

(3A) This paragraph applies where—

(a) in connection with a postgraduate course beginning before 1st August 2021, the Department—

(i) in assessing an application for support by a person (“A”) determined that A fell within one of the categories set out in paragraphs 6, 7, 8, 10, 11 and 12 in Part 2 of Schedule 2 in relation to an academic year of the course beginning before 1st August 2021; or

(ii) would have so determined had A made an application for support in accordance with this Part in relation to an academic year of the course beginning before that date; and

(b) A applies for support in connection with that course or a designated postgraduate course to which A’s status as an eligible postgraduate student is transferred from that course in accordance with this Part.

(3B) In connection with a designated postgraduate course beginning on or after 1st January 2028, paragraph (2) has effect as if paragraphs 8A or 9B were omitted.”;

(iii) in paragraph (7) for the words from “in Part 2” to “paragraph 9” substitute “or paragraphs in Part 2 of Schedule 2 into which the student falls is one or more of paragraphs 2A, 9, 9A, 9C or 9D.”;

(iv) after paragraph (13), insert—

“(13A) Where—

(a) the Department determined that, by virtue of being a person with protected rights with limited leave to enter or remain in the United Kingdom granted by virtue of residence scheme immigration rules, a person (“A”) was an eligible postgraduate student in connection with—

(i) an application for support for an earlier year of the current postgraduate course; or

(ii) an application for support in connection with a designated postgraduate course or other designated course from which A’s status as an eligible postgraduate student or eligible student has been transferred to the current postgraduate course; and

(b) as at the day before the academic year in respect of which A is applying for support begins, A no longer has extant limited leave to enter or remain granted by virtue of residence scheme immigration rules and no further leave to enter or remain has been granted under those rules,

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.

(13B) Where—

(a) the Department determined, that by virtue of—

(i) falling within paragraph (a)(iii) of the definition of “person with protected rights”; or

(ii) meeting the conditions in paragraph 3(1)(a)(iii) in Part 2 of Schedule 2, a person (“A”) is an eligible postgraduate student in connection with an

application for support for an academic year of a designated postgraduate course; and

- (b) as at the day before the academic year begins, A is not a person with protected rights,

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.

(13C) Where—

- (a) the Department determined that, by virtue of—
 - (i) falling within paragraph (a)(iv) of the definition of “person with protected rights”; or
 - (ii) meeting the conditions in paragraph 3(1)(a)(iv) in Part 2 of Schedule 2, a person (“A”) is an eligible student in connection with an application for support for an academic year of a designated postgraduate course, and
- (b) as at the day before the academic year begins, the relevant period has expired and A is not a person with protected rights,

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 regulation 140(2)(a) (students becoming eligible in the course of an academic year)—
 - (i) omit sub-paragraph (c);
 - (ii) for sub-paragraph (e) substitute—

“(e) where regulation 139(3A)(a) applies, the person becomes a person described in paragraph 12(a) of Schedule 2;”;
 - (iii) in sub-paragraph (f), after “described in” insert “paragraph 6A(1)(a) or 6B(1)(a) of Schedule 2 or, where regulation 139(3A)(a) applies, in”;
 - (iv) for sub-paragraph (g) substitute—

“(g) the student becomes a person described in paragraph 11A(a) of Schedule 2 or, where regulation 139(3A)(a) applies, in paragraph 11(1)(a) of Schedule 2;”;
 - (v) omit the “or” at the end of sub-paragraph (j);
 - (vi) at the end of sub-paragraph (k) insert “; or”;
 - (vii) after sub-paragraph (k), insert—

“(l) the student becomes a person described in paragraph 9B(1)(a)(ii) of Schedule 2.”.

Amendment of Part 13

12. Part 13 (Master's, etc. fee loan) is amended as follows—

- (a) in regulation 149(b) (eligible Master's, etc. students)—
 - (i) for paragraph (2), substitute—

“(2) Subject to the following provisions of this regulation, a person is an eligible Master's, etc. student in connection with a designated Master's, etc. course if in assessing that person's application for support the Department determines that the person falls within one of the categories set out—

 - (a) in paragraphs 2, 2A, 3, 4, 4A, 4B, 4C, 4D, 4E, 4F, 5, 6A, 6B, 7A, 8A, 9A, 9B, 9C, 9D, 10A, 11A, 12A and 13 in Part 2 of Schedule 2; or
 - (b) in paragraphs 6, 7, 8, 9, 10, 11 and 12 in Part 2 of Schedule 2 where paragraph (2A) applies.

(a) Regulation 140(2) was amended by Order 2011/1043 and S.R. 2019 No. 35

(b) Regulation 149 was amended by S.Rs 2017 Nos. 7 and 43, 2018 No. 35 and 2020 No. 79

(2A) This paragraph applies where—

- (a) in connection with a designated Master’s, etc. course beginning before 1st August 2021, the Department—
 - (i) in assessing an application for support by a person (“A”) determined that A fell within one of the categories set out in paragraphs 6, 7, 8, 9, 10, 11 and 12 in Part 2 of Schedule 2 in relation to an academic year of the course beginning before 1st August 2021; or
 - (ii) would have so determined had A made an application for support in accordance with this Part in relation to an academic year of the course beginning before that date; and
- (b) A applies for support in connection with that course or a designated Master’s, etc. course to which A’s status as an eligible Master’s, etc. student is transferred from that course in accordance with this Part.

(2B) In connection with a designated Master’s, etc. course beginning on or after 1st January 2028, paragraph (2) has effect as if paragraphs 8A, 9B and 9D were omitted.”;

(ii) after paragraph (12), insert—

“(12A) Where—

- (a) the Department determined that, by virtue of being a person with protected rights with limited leave to enter or remain in the United Kingdom granted by virtue of residence scheme immigration rules, a person (“A”) was an eligible Master’s, etc. student in connection with—
 - (i) an application for support for an earlier year of the current Master’s, etc. course; or
 - (ii) an application for support in connection with another designated Master’s, etc. course from which A’s status as an eligible Master’s, etc. student has been transferred to the current Master’s, etc. course; and
- (b) as at the day before the academic year in respect of which A is applying for support begins, A no longer has extant limited leave to enter or remain granted by virtue of residence scheme immigration rules and no further leave to enter or remain has been granted under those rules,

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

(12B) Where—

- (a) the Department determined, that by virtue of—
 - (i) falling within paragraph (a)(iii) of the definition of “person with protected rights”; or
 - (ii) meeting the conditions in paragraph 3(1)(a)(iii) in Part 2 of Schedule 2, a person (“A”) is an eligible student in connection with an application for support for an academic year of a designated Master’s, etc. course; and
- (b) as at the day before the academic year begins A is not a person with protected rights,

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

(12C) Where—

- (a) the Department determined that, by virtue of—
 - (i) falling within paragraph (a)(iv) of the definition of “person with protected rights”; or
 - (ii) meeting the conditions in paragraph 3(1)(a)(iv) in Part 2 of Schedule 2, a person (“A”) is an eligible Master’s, etc. student in connection with an

application for support for an academic year of a designated Master's, etc. course;

- (b) as at the day before the academic year begins, the relevant period has expired and A is not a person with protected rights,

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

- (b) in regulation 151(a) (events)—
 - (i) omit paragraph (c);
 - (ii) for paragraph (d) substitute—

“(d) the student becomes a family member described in paragraph 9A(1)(a), 9C(1)(a) or 9D(1)(a) of Schedule 2;”;
 - (iii) for paragraph (f), substitute—

“(f) where regulation 149(2A)(a) applies, the person becomes a person described in paragraph 12(a) of Schedule 2;”;
 - (iv) in paragraph (g), after “described in”, insert “paragraph 6A(1)(a) or 6B(1)(a) of Schedule 2 or, where regulation 149(2A)(a) applies, in”;
 - (v) for paragraph (h), substitute—

“(h) the student becomes a person described in paragraph 11A(a) of Schedule 2 or, where regulation 149(2A)(a) applies, in paragraph 11(a) of Schedule 2;”;
 - (vi) omit the “or” at the end of paragraph (k);
 - (vii) at the end of paragraph (l) insert “or”;
 - (viii) after paragraph (l), insert—

“(m) the student becomes a person described in paragraph 9B(1)(a)(ii) of Schedule 2.”.

Amendment of Schedule 2 (eligible students)

13.—(1) Schedule 2 (eligible students) is amended as follows—

(2) in paragraph 1 (interpretation)—

- (a) in sub-paragraph (1)—
 - (i) omit the definitions of “EEA EFTA separation agreement”, “residence scheme immigration rules”, “right of permanent residence” and “Swiss citizens’ rights agreement”;
 - (ii) in the definition of “family member”—
 - (aa) in paragraph (a), for “or an EEA self-employed person” substitute “, an EEA self-employed person, or a relevant person of Northern Ireland who is treated as an EEA migrant worker or an EEA self-employed person by virtue of paragraph 6A(3)”;
 - (bb) in paragraph (c), for “EC” substitute “EU” and after “Directive 2004/38”, insert “or, for the purposes of paragraph 9A, in relation to a relevant person of Northern Ireland who would fall within article 7(1)(c) of Directive 2004/38 if that person were an EU national or solely an EU national”;
 - (cc) in paragraph (d), for “EC” substitute “EU” and after “Directive 2004/38”, insert “or, for the purposes of paragraph 9A, in relation to a relevant person of Northern Ireland who would fall within article 7(1)(b) of Directive 2004/38 if that person were an EU national or solely an EU national”;
 - (dd) in paragraph (e), for “paragraph 9” substitute “paragraphs 9, 9B, 9C and 9D”;

(a) Regulation 151 was inserted by S.Rs 2017 No. 7 and 2019 No. 35

- (iii) after the definition of “Swiss self-employed person”, insert—
 - ““United Kingdom national” has the meaning given by Article 2(d) of the EU withdrawal agreement;”;
- (b) after sub-paragraph (1), insert—
 - “(1A) For the purposes of this Schedule, a reference to a “Member State” or “State” in Article 7 of Directive 2004/38 is to be read as including the United Kingdom.”;
- (3) in paragraph 2(1) (persons who are settled in the United Kingdom), for sub-paragraph (a) substitute—
 - “(a) is settled in the United Kingdom, other than a person falling within paragraph 3;”;
- (4) after paragraph 2, insert—
 - “2A. —**
 - (1) A person who—
 - (a) is a United Kingdom national or an Irish citizen on the first day of the first academic year of the course, and does not fall within paragraph 3 of this Schedule;
 - (b) is —
 - (i) attending or undertaking a designated course in Northern Ireland; or
 - (ii) undertaking a compressed degree course, a designated distance learning course, designated part-time course or a designated Master’s, etc. course in Northern Ireland;
 - (c) has been ordinarily resident in the territory comprising the United Kingdom, Gibraltar, EEA and Switzerland (the relevant territory) throughout the three-year period preceding the first day of the first academic year of the course; and
 - (d) subject to sub-paragraph (2), whose ordinary residence in the relevant territory has not during any part of the period referred to in paragraph (c) been wholly or mainly for the purpose of receiving full-time education.
 - (2) Paragraph (d) of sub-paragraph (1) does not apply to a person who is treated as being ordinarily resident in the relevant territory in accordance with paragraph 1(4).”;
- (5) in paragraph 3—
 - (a) number existing text as (1);
 - (b) in the newly numbered sub-paragraph (1), for paragraph (a) substitute—
 - “(a) meets one of the following conditions—
 - (i) the person is within the personal scope of the citizens’ rights provisions and is settled in the United Kingdom by virtue of the grant of indefinite leave to enter or remain under residence scheme immigration rules;
 - (ii) the person—
 - (aa) is within the personal scope of the citizens’ rights provisions;
 - (bb) is an Irish citizen settled in the United Kingdom who, pursuant to section 3ZA of the Immigration Act 1971, does not require leave to enter or remain in the United Kingdom; and
 - (cc) would meet the eligibility requirements for indefinite leave to enter or remain in the United Kingdom granted by virtue of residence scheme immigration rules if that person were to make an application for such leave;
 - (iii) the person—
 - (aa) is within the personal scope of the citizens’ rights provisions;
 - (bb) is a relevant person for the purposes of regulation 3 of the 2020 Citizens’ Rights Regulations; and

- (cc) has, or is treated as having, a right of permanent residence for the purposes of the Immigration (European Economic Area) Regulations 2016, as those Regulations continue to have effect by virtue of the 2020 Citizens’ Rights Regulations in relation to that person during the grace period;
 - (iv) the person—
 - (aa) is within the personal scope of the citizens’ rights provisions;
 - (bb) is an applicant for the purposes of regulation 4 of the 2020 Citizens’ Rights Regulations; and
 - (cc) has, or is treated as having, a right of permanent residence for the purposes of the Immigration (European Economic Area) Regulations 2016, as those Regulations continue to have effect by virtue of the 2020 Citizens’ Rights Regulations in relation to that person during the relevant period; or
 - (v) the person is a family member of a relevant person of Northern Ireland for the purposes of residence scheme immigration rules, where that family member is settled in the United Kingdom by virtue of the grant of indefinite leave to enter or remain under residence scheme immigration rules;”;
- (c) after newly numbered sub-paragraph (1), insert—
- “(2) For the purposes of sub-paragraph (1)(a)(ii)(cc), “eligibility requirements for indefinite leave to enter or remain in the United Kingdom granted by virtue of residence scheme immigration rules” means the eligibility requirements for such leave in accordance with paragraph EU11 of Appendix EU to the immigration rules^(a) (as defined in section 33(1) of the Immigration Act 1971).”;
- (6) after paragraph 6 (workers, employed persons, self-employed persons and their family members), insert—
- “6A. —**
- (1) A person with protected rights, or a frontier worker within the meaning of regulation 3 of the Citizens’ Rights (Frontier Workers) (EU Exit) Regulations 2020^(b), who—
- (a) is—
 - (i) an EEA migrant worker or an EEA self-employed person;
 - (ii) a Swiss employed person or a Swiss self-employed person;
 - (iii) a family member of a person mentioned in sub-paragraph (i) or (ii);
 - (iv) an EEA frontier worker or an EEA frontier self-employed person;
 - (v) a Swiss frontier employed person or a Swiss frontier self-employed person; or
 - (vi) a family member of a person mentioned in sub-paragraph (iv) or (v);
 - (b) subject to sub-paragraph (2), is ordinarily resident in Northern Ireland on the first day of the first academic year of the course; and
 - (c) has been ordinarily resident in the territory comprising the United Kingdom, Gibraltar, the European Economic Area and Switzerland throughout the three-year period preceding the first day of the first academic year of the course.
- (2) Paragraph (b) of sub-paragraph (1) does not apply where the person applying for support falls within paragraph (a)(iv), (v) or (vi) of sub-paragraph (1).

(a) The immigration rules were laid before Parliament on 23rd May 1994 (HC 395). Appendix EU was laid before Parliament on 20th July 2018 as part of a command paper that amended the immigration rules entitled “Statement of Changes in Immigration rules” (Cm 9675). Appendix EU was amended by the statement of changes in immigration rules presented to Parliament on 14th May 2020 (CPC 232) and on 22nd October 2020 (HC 813)

(b) S.I. 2020/1213

(3) In this paragraph, a description of a person in sub-paragraph(1)(a)(i) is to be read as if it includes a relevant person of Northern Ireland who would, if that person were an EEA national or solely an EEA national, be an EEA migrant worker or an EEA self-employed person.

(4) For the purposes of sub-paragraph 1(a)(iii) or (vi), an Irish citizen family member is not required to be living in the United Kingdom on IP completion day.

6B. —

(1) A person who—

(a) is—

(i) an Irish citizen migrant worker or an Irish citizen self-employed person;

(ii) a family member of a person mentioned in sub-paragraph (i);

(iii) an Irish citizen frontier worker or an Irish citizen frontier self-employed person; or

(iv) a family member of a person mentioned in sub-paragraph (iii);

(b) subject to sub-paragraph (2), is ordinarily resident in Northern Ireland on the first day of the first academic year of the course; and

(c) has been ordinarily resident in the territory comprising the United Kingdom, Gibraltar, the European Economic Area and Switzerland throughout the three-year period preceding the first day of the first academic year of the course.

(2) Paragraph (b) of sub-paragraph (1) does not apply where the person applying for support falls within paragraph (a)(iii) or (iv) of sub-paragraph (1).”;

(7) after paragraph 7, insert—

“7A. —

(1) A person with protected rights who—

(a) is ordinarily resident in Northern Ireland on the first day of the first academic year of the course;

(b) has been ordinarily resident in the territory comprising the United Kingdom, Gibraltar, the European Economic Area and Switzerland throughout the three-year period preceding the first day of the first academic year of the course; and

(c) is entitled to support by virtue of Article 10 of Regulation (EU) No. 492/2011 of the European Parliament and of the Council of 5 April 2011 on freedom of movement for workers within the Union^(a) (“the Workers Regulation”), as it had effect immediately before IP completion day, as extended by the EEA Agreement^(b), as it had effect immediately before IP completion day.

(2) For the purposes of sub-paragraph (1)(c), in Article 10 of the Workers Regulation—

(a) the reference to a “national of a Member State” is to be read as including a relevant person of Northern Ireland; and

(b) the reference to “another Member State” is to be read as including the United Kingdom, and the references to “that State” construed accordingly.”;

(8) after paragraph 8 (persons who are settled in the United Kingdom and have exercised a right of residence elsewhere), insert—

“8A. —

(1) A person who—

(a) See also the Immigration and Social Security Co-ordination (EU Withdrawal) Act 2020 (c. 20), section 1 and Schedule 1, Part 2, paragraph 4 for the application of Article 10 after IP completion day

(b) Annex V of the EEA Agreement refers to Regulation (EU) 492/2011, with modifications that are not relevant for these purposes

- (a) is settled in the United Kingdom;
- (b) was ordinarily resident in Northern Ireland and settled in the United Kingdom immediately before leaving the United Kingdom and who has exercised a right of residence before IP completion day;
- (c) was ordinarily resident immediately before IP completion day—
 - (i) in the territory comprising Gibraltar, the European Economic Area and Switzerland; or
 - (ii) in the United Kingdom, where that ordinary residence began after 31st December 2017 immediately following a period of ordinary residence in the territory comprising Gibraltar, the European Economic Area and Switzerland, and has remained ordinarily resident in the territory comprising the United Kingdom, Gibraltar, the European Economic Area and Switzerland (the relevant territory) throughout the period beginning on IP completion day and ending immediately before the first day of the first academic year of the course;
- (d) is ordinarily resident in the United Kingdom on the day on which the first term of the first academic year actually begins;
- (e) has been ordinarily resident in the relevant territory throughout the three-year period preceding the first day of the first academic year of the course; and
- (f) in a case where the person’s ordinary residence referred to in paragraph (e) was wholly or mainly for the purposes of receiving full-time education, was ordinarily resident in the relevant territory immediately before the period of ordinary residence referred to in paragraph (e).

(2) For the purposes of this paragraph, a person has exercised a right of residence if that person is a United Kingdom national, a family member of a United Kingdom national for the purposes of Article 7 of Directive 2004/38 (or corresponding purposes under the EEA Agreement or Swiss Agreement) or a person who had the right of permanent residence who in each case has exercised a right under Article 7 of Directive 2004/38 or any equivalent right under the EEA Agreement or Swiss Agreement in a state other than the United Kingdom or, in the case of a person who is settled in the United Kingdom and had the right of permanent residence, if the person has gone to the state within the territory comprising the European Economic Area and Switzerland of which the person is a national or of which the person in relation to whom the person is a family member is a national.

(3) For the purposes of sub-paragraph (2), a person had the right of permanent residence if they had a right which arose under Directive 2004/38 to reside permanently in the United Kingdom without restriction.”;

(9) in the heading to paragraph 9, for “EC nationals” substitute “EU nationals etc.”;

(10) in paragraph 9, at sub-paragraph (1)(a)(i) for “EC” substitute “EU” and omit sub-paragraph (3);

(11) after paragraph 9, insert—

“9A. —(1) A person with protected rights—

- (a) who is —
 - (i) an EU national on the first day of the first academic year of the course;
 - (ii) a family member of a person mentioned in sub-paragraph (i); or
 - (iii) a family member of a relevant person of Northern Ireland;
- (b) who is—
 - (i) attending or undertaking a designated course in Northern Ireland; or
 - (ii) undertaking an intensive course, a designated distance learning course, designated part-time course or a designated Master’s, etc. course in Northern Ireland;

- (c) who has been ordinarily resident in the territory comprising the United Kingdom, Gibraltar, the European Economic Area and Switzerland (the relevant territory) throughout the three-year period preceding the first day of the first academic year of the course; and
- (d) subject to sub-paragraph (2), whose ordinary residence in the relevant territory has not during any part of the period referred to in paragraph (c) been wholly or mainly for the purpose of receiving full-time education.

(2) Paragraph (d) of sub-paragraph (1) does not apply to a person who is treated as being ordinarily resident in the relevant territory in accordance with paragraph 1(4).

United Kingdom nationals

9B. —

(1) A person—

- (a) who is—
 - (i) a United Kingdom national on the first day of the first academic year of the course; or
 - (ii) a family member of a person mentioned in sub-paragraph (i);
- (b) who was ordinarily resident immediately before IP completion day—
 - (i) in the territory comprising the European Economic Area and Switzerland; or
 - (ii) in the United Kingdom, where that ordinary residence began after 31st December 2017 immediately following a period of ordinary residence in the territory comprising the European Economic Area and Switzerland,

and has remained ordinarily resident in the territory comprising the United Kingdom, Gibraltar, the European Economic Area and Switzerland (the relevant territory) throughout the period beginning on IP completion day and ending immediately before the first day of the first academic year of the course;
- (c) who is —
 - (i) attending or undertaking a designated course in Northern Ireland; or
 - (ii) undertaking an intensive course, a designated distance learning course, designated part-time course or a designated Master’s, etc. course in Northern Ireland;
- (d) has been ordinarily resident in the relevant territory throughout the three-year period preceding the first day of the first academic year of the course; and
- (e) subject to sub-paragraph (2), whose ordinary residence in the relevant territory has not during any part of the period referred to in paragraph (d) been wholly or mainly for the purpose of receiving full-time education.

(2) Paragraph (e) of sub-paragraph (1) does not apply to a person who is treated as being ordinarily resident in the relevant territory in accordance with paragraph 1(4).

(3) Where a person (“P”) falls within sub-paragraph (1)(a)(ii), the person in relation to whom P is a family member must also meet the requirements of sub-paragraphs (1)(b) and (d).

9C. —(1) A person—

- (a) who is a family member of a person who is a United Kingdom national on the first day of the first academic year of the course;
- (b) who is—
 - (i) attending or undertaking a designated course in Northern Ireland; or
 - (ii) undertaking an intensive course, a designated distance learning course, a designated part-time course or a designated Master’s, etc. course in Northern Ireland;

- (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; and
- (d) subject to sub-paragraph (2), whose ordinary residence in the United Kingdom and Islands has not during any part of the period referred to in paragraph (c) been wholly or mainly for the purpose of receiving full-time education.

(2) Paragraph (d) of sub-paragraph (1) does not apply to a person who is treated as being ordinarily resident in the territory comprising the United Kingdom and Islands in accordance with paragraph 1(4).

Persons resident in Gibraltar

9D.—(1) A person—

- (a) who is—
 - (i) United Kingdom national who has resident status in Gibraltar granted by the Government of Gibraltar;
 - (ii) a family member of a United Kingdom national, where that family member has resident status in Gibraltar granted by the Government of Gibraltar;
 - (iii) an EU national who has a right of residence in Gibraltar arising under the EU withdrawal agreement; or
 - (iv) a family member of an EU national, where that family member has a right of residence in Gibraltar arising under the EU withdrawal agreement;
- (b) who is —
 - (i) attending or undertaking a designated course in Northern Ireland; or
 - (ii) undertaking an intensive course, a designated distance learning course, a designated part-time course or a designated Master’s, etc. course in Northern Ireland;
- (c) who has been ordinarily resident in the territory comprising the United Kingdom, Gibraltar, the European Economic Area and Switzerland (the relevant territory) throughout the three-year period preceding the first day of the first academic year of the course; and
- (d) subject to sub-paragraph (2), whose ordinary residence in the relevant territory has not during any part of the period referred to in paragraph (c) been wholly or mainly for the purpose of receiving full-time education.

(2) Paragraph (d) of sub-paragraph (1) does not apply to a person who is treated as being ordinarily resident in the relevant territory in accordance with paragraph 1(4).”;

(12) before paragraph 10, insert the heading “EU nationals ordinarily resident in the United Kingdom and Islands”;

(13) in paragraph 10(1)(a) substitute “EC” with “EU” and omit sub-paragraph (2);

(14) after paragraph 10, insert—

“10A.—(1) A person with protected rights who—

- (a) is an EU national on the first day of the first academic year of the course;
- (b) is ordinarily resident in Northern Ireland on the first day of the first academic year of the course;
- (c) has been ordinarily resident in the United Kingdom and Islands throughout the three-year period immediately preceding the first day of the first academic year of the course; and
- (d) in a case where the person’s ordinary residence referred to in paragraph (c) was wholly or mainly for the purpose of receiving full-time education, was ordinarily resident in the territory comprising the United Kingdom, Gibraltar, the European

Economic Area and Switzerland immediately prior to the period of ordinary residence referred to in paragraph (c);

(2) For the purposes of this paragraph, an Irish citizen is not required to be living in the United Kingdom on IP completion day.”;

(15) after paragraph 11 (children of Swiss nationals), insert—

“**11A.** A person with protected rights who—

- (a) is the child of a Swiss national who is entitled to support in the United Kingdom by virtue of Article 18(2) of the Swiss citizens’ rights agreement;
- (b) is ordinarily resident in Northern Ireland on the first day of the first academic year of the course;
- (c) has been ordinarily resident in the territory comprising the United Kingdom, Gibraltar, the European Economic Area and Switzerland (the relevant territory) throughout the three-year period preceding the first day of the first academic year of the course; and
- (d) in a case where the person’s ordinary residence referred to in paragraph (c) was wholly or mainly for the purpose of receiving full-time education, was ordinarily resident in the relevant territory immediately prior to the period of ordinary residence referred to in paragraph (c).”;

(16) after paragraph 12 (children of Turkish workers), insert—

“**12A.** A person who—

- (a) is the child of a Turkish worker (“T”), where T was ordinarily resident in the United Kingdom immediately before IP completion day;
- (b) immediately before IP completion day—
 - (i) was the child of T; and
 - (ii) was ordinarily resident in the United Kingdom;
- (c) is ordinarily resident in Northern Ireland on the first day of the first academic year of the course; and
- (d) has been ordinarily resident in the territory comprising the United Kingdom, Gibraltar, the European Economic Area, Switzerland and Turkey throughout the three-year period preceding the first day of the first academic year of the course.”.

Amendment of the Student Fees (Qualifying Courses and Persons) Regulations (Northern Ireland) 2007

14. The Student Fees (Qualifying Courses and Persons) Regulations (Northern Ireland) 2007(a) are amended as follows.

Amendment of regulation 5

15. In regulation 5(b) (prescribed description of a qualifying person)—

- (a) in paragraph (1)(c) for “7, 10 or 11” substitute “6A, 6B, 7, 7A, 10, 10A, 11 or 12”;
- (b) after paragraph (1), insert—

“(1A) In this regulation, subject to paragraph (1C), “prescribed category” means any category of person described—

 - (a) in paragraphs 2, 2A, 3, 4, 4A, 4B, 4C, 4D, 4E, 4F, 5, 6A, 6B, 7A, 8A, 9ZA, 9ZB, 9ZC, 9ZD, 9B, 10A, 12 or 13 in Part 2 of the Schedule; or

(a) S.R. 2007 No. 328

(b) Regulation 5 was amended by S.Rs 2011 No. 376 and 2019 No. 35

- (b) in paragraphs 6, 7, 8, 9, 9A, 10 or 11 in Part 2 of the Schedule where paragraph (1B) applies.

(1B) This paragraph applies—

- (a) where in connection with a qualifying course beginning before 1st August 2021, a person (“A”) was a qualifying person by virtue of falling within any category of persons described in paragraphs 6, 7, 8, 9, 9A, 10 or 11 in Part 2 of the Schedule in relation to an academic year beginning before 1st August 2021; and
- (b) A is undertaking an academic year of that qualifying course, or of a qualifying course to which A transfers from that qualifying course.

(1C) In relation to a qualifying course which begins on or after 1st January 2028, paragraph (1A)(a) has effect as if paragraphs 8A and 9B were omitted.”

Amendment of Schedule 1

16.—(1) Schedule 1(a) is amended as follows—

(2) in paragraph 1 (interpretation)—

(a) in sub-paragraph (1)—

(i) before the definition of “academic year”, insert—

““the 2020 Citizens’ Rights Regulations” means the Citizens’ Rights (Application Deadline and Temporary Protection) (EU Exit) Regulations 2020;”;

(ii) in the definition of “EC national” for “EC” substitute “EU”;

(iii) in the definition of “family member”—

(aa) in paragraph (a), for “or an EEA self-employed person” substitute “, an EEA self-employed person, or a relevant person of Northern Ireland who is treated as an EEA migrant worker or an EEA self-employed person by virtue of paragraph 6A(3)”;

(bb) in paragraph (c), for “EC” substitute “EU” and after “Directive 2004/38”, insert “or, for the purposes of paragraph 9ZA, in relation to a relevant person of Northern Ireland who would fall within article 7(1)(c) of Directive 2004/38 if that person were an EU national or solely an EU national”;

(cc) in paragraph (d), for “EC” substitute “EU” and after “Directive 2004/38”, insert “or, for the purposes of paragraph 9ZA, in relation to a relevant person of Northern Ireland who would fall within article 7(1)(b) of Directive 2004/38 if that person were an EU national or solely an EU national”;

(dd) in paragraph (e), for “paragraph 9” substitute “paragraphs 9, 9ZB, 9ZC and 9ZD”;

(iv) after the definition of “person granted stateless leave”, insert—

““person with protected rights” means—

(a) a person within the personal scope of the citizens’ rights provisions who—

(i) has leave to enter or remain in the United Kingdom granted by virtue of residence scheme immigration rules;

(ii) is an Irish citizen who, pursuant to section 3ZA of the Immigration Act 1971, does not require leave to enter or remain in the United Kingdom; or

(iii) is an applicant for the purposes of regulation 4 of the 2020 Citizens’ Rights Regulations where the relevant period has not expired; or

(b) a family member of a relevant person of Northern Ireland for the purposes of residence scheme immigration rules, where that family member has leave to enter

(a) Schedule 1 was amended by Order 2011/1043, S.Rs 2007 No. 375, 2011 No. 70, 2013 No. 37 and 2019 No. 35

or remain in the United Kingdom granted by virtue of residence scheme immigration rules;”

(v) after the definition of “refugee”, insert—

“relevant period” has the meaning given by regulation 4 of the 2020 Citizens’ Rights Regulations;”

“relevant person of Northern Ireland” has the meaning given by residence scheme immigration rules;”;

(vi) omit the definition of “right of permanent residence”;

(vii) after the definition of “Turkish worker”, insert—

““United Kingdom national” has the meaning given by Article 2(d) of the EU withdrawal agreement;”;

(b) after sub-paragraph (1), insert—

“(1A) For the purposes of this Schedule, a reference to a “Member State” or “State” in Article 7 of Directive 2004/38 is to be read as including the United Kingdom.

(1B) For the purposes of this Schedule, a person is within the personal scope of the citizens’ rights provisions if that person falls within—

(a) Article 10 (personal scope) of the EU withdrawal agreement;

(b) Article 9 (personal scope) of the EEA EFTA separation agreement; or

(c) Article 10 (personal scope) of the Swiss citizens’ rights agreement.”;

(3) in paragraph 2(1) (persons who are settled in the United Kingdom), for paragraph (a) substitute—

“(a) is settled in the United Kingdom, and does not fall within paragraph 3;”;

(4) after paragraph 2, insert—

“2A. —

(1) A person—

(a) who is a United Kingdom national or an Irish citizen on the first day of the first academic year of the course, and does not fall within paragraph 3 of the Schedule;

(b) who is undertaking the course in Northern Ireland;

(c) who has been ordinarily resident in the territory comprising the United Kingdom, Gibraltar, EEA and Switzerland (the relevant territory) throughout the three-year period preceding the first day of the first academic year of the course; and

(d) subject to sub-paragraph (2), whose ordinary residence in the relevant territory has not during any part of the period referred to in paragraph (c) been wholly or mainly for the purpose of receiving full-time education.

(2) Paragraph (d) of sub-paragraph (1) does not apply to a person who is treated as being ordinarily resident in the relevant territory in accordance with paragraph 1(4).”;

(5) in paragraph 3—

(a) number the existing text as sub-paragraph (1);

(b) for sub-paragraph (1)(a) as so renumbered substitute—

“(a) meets one of the following conditions on the first day of an academic year of the course—

(i) the person is within the personal scope of the citizens’ rights provisions and is settled in the United Kingdom by virtue of the grant of indefinite leave to enter or remain under residence scheme immigration rules;

(ii) the person—

(aa) is within the personal scope of the citizens’ rights provisions;

- (bb) is an Irish citizen settled in the United Kingdom who pursuant to section 3ZA of the Immigration Act 1971, does not require leave to enter or remain in the United Kingdom; and
 - (cc) would meet the eligibility requirements for indefinite leave to enter or remain in the United Kingdom granted by virtue of residence scheme immigration rules if that person were to make an application for such leave;
- (iii) the person—
- (aa) is within the personal scope of the citizens’ rights provisions;
 - (bb) is an applicant for the purposes of regulation 4 of the 2020 Citizens’ Rights Regulations; and
 - (cc) has, or is treated as having, a right of permanent residence for the purposes of the Immigration (European Economic Area) Regulations 2016, as those Regulations continue to have effect by virtue of the 2020 Citizens’ Rights Regulations in relation to that person during the relevant period; or
- (iv) the person is a family member of a relevant person of Northern Ireland for the purposes of residence scheme immigration rules, where that family member is settled in the United Kingdom by virtue of the grant of indefinite leave to enter or remain under residence scheme immigration rules;”;
- (c) after sub-paragraph (1), insert—
- “(2) For the purposes of sub-paragraph (1)(a)(ii)(cc), “eligibility requirements for indefinite leave to enter or remain in the United Kingdom granted by virtue of residence scheme immigration rules” means the eligibility requirements for such leave in accordance with paragraph EU11 of Appendix EU to the immigration rules (as defined in section 33(1) of the Immigration Act 1971).”;
- (6) after paragraph 6 (workers, employed persons, self-employed persons and their family members), insert—
- “6A.**—(1) A person with protected rights or a frontier worker within the meaning of regulation 3 of the Citizens’ Rights (Frontier Workers) (EU Exit) Regulations 2020, who—
- (a) is—
 - (i) an EEA migrant worker or an EEA self-employed person;
 - (ii) a Swiss employed person or a Swiss self-employed person;
 - (iii) a family member of a person mentioned in sub-paragraph (i) or (ii);
 - (iv) an EEA frontier worker or an EEA frontier self-employed person;
 - (v) a Swiss frontier employed person or a Swiss frontier self-employed person; or
 - (vi) a family member of a person mentioned in sub-paragraph (iv) or (v);
 - (b) subject to sub-paragraph (2), is ordinarily resident in the United Kingdom on the first day of the first academic year of the course; and
 - (c) has been ordinarily resident in the territory comprising the United Kingdom, the European Economic Area, Switzerland and the overseas territories throughout the three-year period preceding the first day of the first academic year of the course.
- (2) Paragraph (b) of sub-paragraph (1) does not apply where the person applying for support falls within paragraph (a)(iv), (v) or (vi) of sub-paragraph (1).
- (3) In this paragraph, a description of a person in sub-paragraph(1)(a)(i) is to be read as if it includes a relevant person of Northern Ireland who would, if that person were an EEA national or solely an EEA national, be an EEA migrant worker or an EEA self-employed person.
- (4) For the purposes of paragraph 1(a)(iii) and (vi), an Irish citizen family member is not required to be living in the United Kingdom on IP completion day.

6B. —

(1) A person who—

- (a) is—
 - (i) an Irish citizen migrant worker or an Irish citizen self-employed person;
 - (ii) a family member of a person mentioned in sub-paragraph (i);
 - (iii) an Irish citizen frontier worker or an Irish citizen frontier self-employed person; or
 - (iv) a family member of a person mentioned in sub-paragraph (iii);
- (b) subject to sub-paragraph (2), is ordinarily resident in Northern Ireland on the first day of the first academic year of the course; and
- (c) has been ordinarily resident in the territory comprising the United Kingdom, Gibraltar, the European Economic Area and Switzerland throughout the three-year period preceding the first day of the first academic year of the course.

(2) Paragraph (b) of sub-paragraph (1) does not apply where the person applying for support falls within paragraph (a)(iii) or (iv) of sub-paragraph (1).”;

(7) after paragraph 7, insert—

“**7A.**—(1) A person with protected rights who—

- (a) is ordinarily resident in the United Kingdom on the first day of the first academic year of the course;
- (b) has been ordinarily resident in the territory comprising the United Kingdom, the European Economic Area, Switzerland and the overseas territories throughout the three-year period preceding the first day of the first academic year of the course; and
- (c) is entitled to support by virtue of Article 10 of Regulation (EU) No. 492/2011 of the European Parliament and of the Council of 5 April 2011 on freedom of movement for workers within the Union (“the Workers Regulation”), as it had effect immediately before IP completion day, as extended by the EEA Agreement, as it had effect immediately before IP completion day.

(2) For the purposes of sub-paragraph (1)(c), in Article 10 of the Workers Regulation—

- (a) the reference to a “national of a Member State” is to be read as including a relevant person of Northern Ireland; and
- (b) the reference to “another Member State” is to be read as including the United Kingdom, and the references to “that State” construed accordingly.”;

(8) after paragraph 8 (persons who are settled in the United Kingdom and have exercised a right of residence elsewhere), insert—

“**8A.**—(1) A person who—

- (a) is settled in the United Kingdom;
- (b) was ordinarily resident in the United Kingdom and settled in the United Kingdom immediately before leaving the United Kingdom and who has exercised a right of residence before IP completion day;
- (c) was ordinarily resident immediately before IP completion day—
 - (i) in the territory comprising the European Economic Area, Switzerland and the overseas territories; or
 - (ii) in the United Kingdom, where that ordinary residence began after 31st December 2017 immediately following a period of ordinary residence in the territory comprising the European Economic Area, Switzerland and the overseas territories,

and has remained ordinarily resident in the territory comprising the United Kingdom, the European Economic Area, Switzerland and the overseas territories (the relevant territory) throughout the period beginning on IP completion day and ending immediately before the first day of the first academic year of the course;

- (d) is ordinarily resident in the United Kingdom on the day on which the first term of the first academic year actually begins;
- (e) has been ordinarily resident in the relevant territory throughout the three-year period preceding the first day of the first academic year of the course; and
- (f) in a case where the person's ordinary residence referred to in paragraph (e) was wholly or mainly for the purposes of receiving full-time education, was ordinarily resident in the territory comprising the United Kingdom, Gibraltar, the European Economic Area and Switzerland immediately before the period of ordinary residence referred to in paragraph (e).

(2) For the purposes of this paragraph, a person has exercised a right of residence if that person is a United Kingdom national, a family member of a United Kingdom national for the purposes of Article 7 of Directive 2004/38 (or corresponding purposes under the EEA Agreement or Swiss Agreement) or a person who had the right of permanent residence who in each case has exercised a right under Article 7 of Directive 2004/38 or any equivalent right under the EEA Agreement or Swiss Agreement in a state other than the United Kingdom or, in the case of a person who is settled in the United Kingdom and had the right of permanent residence, if the person has gone to the state within the territory comprising the European Economic Area and Switzerland of which the person is a national or of which the person in relation to whom the person is a family member is a national.

(3) For the purposes of sub-paragraph (2) a person had the right of permanent residence if they had a right which arose under Directive 2004/38 to reside permanently in the United Kingdom without restriction.”;

(9) in the heading to paragraph 9 substitute “(EC nationals)” with “EU nationals etc.”;

(10) in paragraph 9(1)(a)(i) substitute “EC” with “EU”;

(11) after paragraph 9 (EC nationals)—

“**9ZA.** —(1) A person with protected rights—

- (a) who is —
 - (i) an EU national on the first day of the first academic year of the course;
 - (ii) a family member of a person mentioned in sub-paragraph (i); or
 - (iii) a family member of a relevant person of Northern Ireland;
- (b) who is undertaking the course in Northern Ireland;
- (c) who, subject to sub-paragraph (2), has been ordinarily resident in the territory comprising the United Kingdom, the European Economic Area, Switzerland and the overseas territories (relevant territory) throughout the three-year period preceding the first day of the first academic year of the course; and
- (d) subject to sub-paragraph (3), whose ordinary residence in the relevant territory has not during any part of the period referred to in paragraph (c) been wholly or mainly for the purpose of receiving full-time education.

(2) Paragraph (c) of sub-paragraph (1) does not apply to a family member of a person who—

- (a) is an EU national or a relevant person of Northern Ireland; and
- (b) has been ordinarily resident in the relevant territory throughout the three-year period preceding the first day of the first academic year of the course.

(3) Paragraph (d) of sub-paragraph (1) does not apply to a person who is treated as being ordinarily resident in the relevant territory in accordance with paragraph 1(3).

United Kingdom nationals

9ZB.—(1) A person—

- (a) who is—
 - (i) a United Kingdom national on the first day of an academic year of the course; or
 - (ii) a family member of a person mentioned in sub-paragraph (i);
- (b) who was ordinarily resident immediately before IP completion day—
 - (i) in the territory comprising the European Economic Area, Switzerland and the EU overseas territories; or
 - (ii) in the United Kingdom, where that ordinary residence began after 31st December 2017 immediately following a period of ordinary residence in the territory comprising the European Economic Area, Switzerland and the EU overseas territories,

and has remained ordinarily resident in the territory comprising the United Kingdom, the European Economic Area, Switzerland and the EU overseas territories (the relevant territory) throughout the period beginning on IP completion day and ending immediately before the first day of the first academic year of the course;

- (c) who is undertaking the course in Northern Ireland;
- (d) who, subject to sub-paragraph (2), has been ordinarily resident in the relevant territory throughout the three-year period preceding the first day of the first academic year of the course; and
- (e) subject to sub-paragraph (3), whose ordinary residence in the relevant territory has not during any part of the period referred to in paragraph (d) been wholly or mainly for the purpose of receiving full-time education.

(2) Paragraph (d) of sub-paragraph (1) does not apply to the family member of a United Kingdom national, where that United Kingdom national—

- (a) had, before IP completion day, exercised a right to reside in the territory of a Member State under Article 7(1) of Directive 2004/38; and
- (b) has been ordinarily resident in the relevant territory throughout the three-year period preceding the first day of the first academic year of the course.

(3) Paragraph (e) of sub-paragraph (1) does not apply to a person who is treated as being ordinarily resident in the relevant territory in accordance with paragraph 1(3).

(4) Where a person (“P”) falls within sub-paragraph (1)(a)(ii), the person in relation to whom P is a family member must also meet the requirements of sub-paragraphs (1)(b) and (d).

(5) In this paragraph, “EU overseas territories” means Aruba; Faroe Islands; French Polynesia; French Southern and Antarctic Territories; Mayotte; Greenland; Netherlands Antilles (Bonaire, Curaçao, Saba, Sint Eustatius, Sint Maarten); St Barthélemy; St Pierre et Miquelon; the Territory of New Caledonia and Dependencies and Wallis and Futuna.

9ZC.—(1) A person—

- (a) who is a family member of a person who is a United Kingdom national on the first day of the first academic year of the course;
- (b) who is undertaking the course in Northern Ireland;
- (c) who has been ordinarily resident in the territory comprising the United Kingdom and Islands throughout the three-year period preceding the first day of the first academic year of the course; and

- (d) subject to sub-paragraph (2), whose ordinary residence in the United Kingdom and Islands has not during any part of the period referred to in paragraph (c) been wholly or mainly for the purpose of receiving full-time education.

(2) Paragraph (d) of sub-paragraph (1) does not apply to a person who is treated as being ordinarily resident in the territory comprising the United Kingdom and Islands in accordance with paragraph 1(3).

Persons resident in Gibraltar

9ZD.—(1) A person—

- (a) who is—
 - (i) a United Kingdom national who has resident status in Gibraltar granted by the Government of Gibraltar;
 - (ii) a family member of a United Kingdom national, where that family member has resident status in Gibraltar granted by the Government of Gibraltar;
 - (iii) an EU national who has a right of residence in Gibraltar arising under the EU withdrawal agreement; or
 - (iv) a family member of an EU national, where that family member has a right of residence in Gibraltar arising under the EU withdrawal agreement;
- (b) who is undertaking the course in Northern Ireland;
- (c) who, subject to sub-paragraph (2), has been ordinarily resident in the territory comprising the United Kingdom, the European Economic Area, Switzerland and the overseas territories (the relevant territory) throughout the three-year period preceding the first day of the first academic year of the course; and
- (d) subject to sub-paragraph (3), whose ordinary residence in the relevant territory has not during any part of the period referred to in paragraph (c) been wholly or mainly for the purpose of receiving full-time education.

(2) Paragraph (c) of sub-paragraph (1) does not apply to a family member of a person who—

- (a) is an EU national or a relevant person of Northern Ireland; and
- (b) has been ordinarily resident in the relevant territory throughout the three-year period preceding the first day of the first academic year of the course.

(3) Paragraph (d) of sub-paragraph (1) does not apply to a person who is treated as being ordinarily resident in the relevant territory in accordance with paragraph 1(3).”;

(12) before paragraph 9A, insert the heading “EU nationals ordinarily resident in the United Kingdom and Islands”;

(13) in paragraph 9A(1)(a) substitute “EC” with “EU” and omit sub-paragraph (2);

(14) after paragraph 9A, insert—

“9B.—(1) A person with protected rights who—

- (a) is an EU national on the first day of the first academic year of the course;
- (b) is ordinarily resident in the United Kingdom on the first day of the first academic year of the course;
- (c) has been ordinarily resident in the United Kingdom and Islands throughout the three-year period immediately preceding the first day of the first academic year of the course; and
- (d) in a case where the person’s ordinary residence referred to in paragraph (c) was wholly or mainly for the purpose of receiving full-time education, was ordinarily resident in the territory comprising the United Kingdom, the European Economic Area, Switzerland and the EU overseas territories immediately prior to the period of ordinary residence referred to in paragraph (c);

(2) For the purposes of this paragraph, an Irish citizen is not required to be living in the United Kingdom on IP completion day.”;

(15) after paragraph 10 (children of Swiss nationals), insert—

“**10A.** A person with protected rights who—

- (a) is the child of a Swiss national who is entitled to support in the United Kingdom by virtue of Article 18(2) of the Swiss citizens’ rights agreement;
- (b) is ordinarily resident in the United Kingdom on the first day of the first academic year of the course;
- (c) has been ordinarily resident in the territory comprising the United Kingdom, the European Economic Area, Switzerland and the overseas territories throughout the three-year period preceding the first day of the first academic year of the course; and
- (d) in a case where the person’s ordinary residence referred to in paragraph (c) was wholly or mainly for the purpose of receiving full-time education, was ordinarily resident in the territory comprising the United Kingdom, Gibraltar, the European Economic Area and Switzerland immediately prior to the period of ordinary residence referred to in paragraph (c).”;

(16) after paragraph 11 (children of Turkish workers), insert—

“**12.** A person who—

- (a) is the child of a Turkish worker (“T”), where T was ordinarily resident in the United Kingdom immediately before IP completion day;
- (b) immediately before IP completion day—
 - (i) was the child of T; and
 - (ii) was ordinarily resident in the United Kingdom;
- (c) is ordinarily resident in the United Kingdom on the first day of the first academic year of the course; and
- (d) has been ordinarily resident in the territory comprising the United Kingdom, the European Economic Area, Switzerland, Turkey and the overseas territories throughout the three-year period preceding the first day of the first academic year of the course.”.

(17) renumber the original paragraph “12” (long residence) as “13”.

Sealed with the Official Seal of the Department for the Economy on 29th March 2021



Ms Heather Cousins

A senior officer of the Department for the Economy

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations amend legislation which makes provision about, or in connection with, student finance. Two sets of Student Support Regulations are amended. Those Regulations are the Education (Student Support) (No. 2) Regulations (Northern Ireland) 2009 “the 2009 Regulations”

and the Student Fees (Qualifying Courses and Persons) Regulations (Northern Ireland) 2007 “the 2007 QCP Regulations”.

Regulations 2 to 13 amend the Student Support Regulations. The principal amendments are made in consequence of the United Kingdom’s exit from the European Union, and take effect in relation to an academic year beginning on or after 1st August 2021.

Regulation 4 amends the provisions relating to eligibility for student support to provide that eligibility categories applicable before 1st August 2021 to nationals of the European Union (including for these purposes nationals of the United Kingdom), EEA EFTA States and Switzerland and their family members and children of Turkish workers are restricted to persons undertaking a course beginning before 1st August 2021. The amendments also make provision for new eligibility categories which apply in relation to applications for support by persons undertaking courses in relation to an academic year beginning on or after 1st August 2021.

Regulations 5 to 12 make related amendments to provisions enabling a student to become eligible part way through an academic year and to provisions relating to eligibility for other types of support under the Student Support Regulations.

Regulation 13 amends Schedule 2, principally to insert new eligibility paragraphs and related definitions. The new paragraphs apply in relation to—

— UK nationals and Irish citizens who have been ordinarily resident in the territory comprising the United Kingdom, Gibraltar, the EEA or Switzerland.

— persons falling within the personal scope of the citizens’ rights provisions of the EU withdrawal agreement, the EEA EFTA separation agreement and the Swiss citizens’ rights agreement (“the Agreements”) who have leave to enter or remain in the United Kingdom granted under residence scheme immigration rules (as defined in section 17 of the European Union (Withdrawal Agreement) Act 2020), and those with equivalent rights;

— frontier workers within the meaning of regulation 3 of the Citizens’ Rights (Frontier Workers) (EU Exit) Regulations 2020 (S.I. 2020/1213) who have a right of admission to the United Kingdom under regulation 6 of those Regulations;

— Irish citizen migrant and frontier workers and their family members;

— persons settled in the United Kingdom who exercised a right of residence in the European Economic Area or Switzerland before IP completion day;

— nationals of the United Kingdom and their family members who before IP completion day have been ordinarily resident in the European Economic Area or Switzerland and who come to the United Kingdom to study;

— family members of nationals of the United Kingdom who are resident in the United Kingdom and Islands;

— persons resident in Gibraltar before IP completion day; and

— children of Turkish workers resident in the United Kingdom before IP completion day.

Regulations 14 to 16 make similar amendments to the 2007 QCP Regulations.

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