

2020 No. 1181

EXITING THE EUROPEAN UNION

EDUCATION, ENGLAND

**The Education (Student Fees, Awards and Support)
(Amendment etc.) (EU Exit) Regulations 2020**

Made - - - - 28th October 2020

Laid before Parliament 29th October 2020

Coming into force in accordance with regulation 1

The Secretary of State, in exercise of the powers conferred by sections 1 and 2 of the Education (Fees and Awards) Act 1983(a), sections 22 and 42(6) of the Teaching and Higher Education Act 1998(b) and sections 10(4)(b) and 119(5) of the Higher Education and Research Act 2017(c), makes the following Regulations:

Citation and Commencement

1.—(1) These Regulations may be cited as the Education (Student Fees, Awards and Support) (Amendment etc.) (EU Exit) Regulations 2020.

(2) This regulation and regulation 2 come into force immediately before IP completion day.

(3) The remainder of these Regulations come into force on IP completion day.

(a) 1983 c.40. Section 1 was amended by paragraph 91 of Part 2 of Schedule 12 to the Education Reform Act 1988 (c.40); paragraph 19 of Part 1 of Schedule 8 to the Further and Higher Education Act 1992 (c.13); paragraph 8 of Schedule 9 to the Further and Higher Education (Scotland) Act 1992 (c.37); paragraph 7 of Schedule 2 to the Education Act 1994 (c.30); paragraph 57 of Part 1 of Schedule 37 to the Education Act 1996 (c.56); paragraph 5 of Schedule 3 to the Teaching and Higher Education Act 1998 (c.30); paragraph 11 of Schedule 9 to the Learning and Skills Act 2000 (c.21); paragraph 5 of Schedule 21, and Part 3 of Schedule 22, to the Education Act 2002 (c.32); paragraph 9 of Schedule 14 to the Education Act 2005 (c.18); paragraph 5 of Schedule 5, and paragraph 5 of Schedule 16, to the Education Act 2011 (c.21); paragraph 33 of Part 2 of Schedule 14 to the Deregulation Act 2015 (c.20); S.I. 2005/3238, S.I. 2010/1080 and S.I. 2010/1158. Section 2 was amended by paragraph 1 of Schedule 4 to the Teaching and Higher Education Act 1998.

(b) 1998 c.30. Section 22 was amended by section 146(2) of, and paragraph 1 of Schedule 11 to, the Learning and Skills Act 2000 (c.21); paragraph 236 of Part 2 of Schedule 6 to the Income Tax (Earnings and Pensions) Act 2003 (c.1); section 147(3) of the Finance Act 2003 (c.14); sections 42(1) and 43(2) and (3) of, and Schedule 7 to, the Higher Education Act 2004 (c.8); section 257(2) of the Apprenticeships, Skills, Children and Learning Act 2009 (c.22); section 76(1) and (2)(a) of the Education Act 2011; section 88(2) to (5) of the Higher Education and Research Act 2017 (c.29); and S.I. 2013/1881. Section 22 is also amended by section 86(2) to (7) of the Higher Education and Research Act 2017 but those amendments are not yet in force. Section 42 was amended by paragraph 9 of Schedule 12 to the Education Act 2002; paragraph 9 of Schedule 6 to the Higher Education Act 2004; and paragraph 15 of Schedule 2 to the Education Act 2011. Section 43(1) of the Teaching and Higher Education Act 1998 defines “prescribed” and “regulations”.

(c) 2017 c. 29.

Revocation of the Education (Student Fees, Awards and Support) (Amendment) (EU Exit) Regulations 2019

2. The Education (Student Fees, Awards and Support) (Amendment) (EU Exit) Regulations 2019(a) are revoked.

Amendment of the Education (Student Support) Regulations 2011

3. The Education (Student Support) Regulations 2011(b) are amended as follows.

Amendment of regulation 2

4. In regulation 2(1) (interpretation), omit the definition of “right of permanent residence”.

Amendment of regulation 17

5. In regulation 17(c) (events)—

(a) in paragraph (d), after “EU national”, insert “or of a person who is eligible under paragraph 9 of Part 2 of Schedule 1 by virtue of paragraph 9(4) of Part 2 of that Schedule other than as a family member”;

(b) for paragraph (e), substitute—

“(e) the student becomes a person described in paragraph 3(1)(a) of Schedule 1;”.

Amendment of regulation 42

6. In regulation 42(1)(ge)(d) (interpretation of chapter 4)—

(a) in paragraph (ii), for “another Member State”, substitute “a Member State”;

(b) for paragraph (iii), substitute—

“(iii) where the legislation of—

(aa) the United Kingdom and one or more Member States; or

(bb) more than one Member State

applies to the period, A’s total income from all sources as determined for the purposes of the income tax legislation under which the Secretary of State considers that A’s total income in that period is greatest;”;

(c) for “except than”, substitute “except that”.

Amendment of regulation 85

7. For regulation 85(2)(d)(e) (students becoming eligible in the course of an academic year), substitute—

“(d) the student becomes a person described in paragraph 3(1)(a) of Schedule 1;”.

(a) S.I. 2019/139.

(b) S.I. 2011/1986, amended by S.I. 2012/1653, S.I. 2013/235, S.I. 2013/630, S.I. 2013/1728, S.I. 2013/3106, S.I. 2014/1766, S.I. 2014/2103, S.I. 2014/2765, S.I. 2015/1951, S.I. 2016/211, S.I. 2016/270, S.I. 2016/584, S.I. 2017/52, S.I. 2017/114, S.I. 2017/204, S.I. 2018/136, S.I. 2018/137, S.I. 2018/434, S.I. 2018/443, S.I. 2018/472, S.I. 2018/599, S.I. 2019/142, S.I. 2019/1094 and S.I. 2020/48.

(c) Regulation 17 was amended by S.I. 2018/137, S.I. 2019/142 and S.I. 2020/48.

(d) Regulation 42(1)(ge) was added by S.I. 2012/1653 and subsequently substituted by S.I. 2014/1766.

(e) Regulation 85(2) was amended by S.I. 2018/137, S.I. 2018/472, S.I. 2019/142 and S.I. 2020/48.

Amendment of regulation 138

8. In regulation 138(4)(a) (students becoming eligible for support under Part 11A during the course of the academic year)—

- (a) in sub-paragraph (d) after “EU national”, insert “or of a person who is eligible under paragraph 9 of Part 2 of Schedule 1 by virtue of paragraph 9(4) of Part 2 of that Schedule other than as a family member”;
- (b) for sub-paragraph (f), substitute—
 - “(f) the student becomes a person described in paragraph 3(1)(a) of Schedule 1;”.

Amendment of regulation 138A

9. For regulation 138A(2)(d)(b) (students becoming eligible for support under Part 11B in the course of an academic year), substitute—

“(d) the student becomes a person described in paragraph 3(1)(a) of Schedule 1;”.

Amendment of regulation 160

10. For regulation 160(2)(d)(c) (students becoming eligible in the course of an academic year), substitute—

“(d) the student becomes a person described in paragraph 3(1)(a) of Schedule 1;”.

Amendment of Schedule 1

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

(2) In Part 1 (interpretation), paragraph 1—

- (a) in sub-paragraph (1)—
 - (i) omit “other than the United Kingdom” each time it occurs;
 - (ii) at the appropriate place, insert the following definitions—
 - ““EEA EFTA separation agreement” has the meaning given by section 39(1) of the European Union (Withdrawal Agreement) Act 2020;
 - “residence scheme immigration rules” has the meaning given by section 17(1) of the European Union (Withdrawal Agreement) Act 2020;
 - “right of permanent residence”, unless otherwise indicated, means, in relation to a person (“A”), a right to reside in the United Kingdom permanently without restriction which arises under residence scheme immigration rules, but only where, had the facts pertaining to the determination of A’s right to reside fallen to be considered immediately before IP completion day, A would have acquired such right under Directive 2004/38 as it had effect immediately before IP completion day;
 - “Swiss citizens’ rights agreement” has the meaning given by section 39(1) of the European Union (Withdrawal Agreement) Act 2020;”;
 - (iii) in the definition of “Swiss frontier self-employed person”, omit “, other than the United Kingdom,”;
- (b) in sub-paragraphs (4) and (5), after “the territory comprising”, insert “the United Kingdom, Gibraltar,” each time it occurs;
- (c) in sub-paragraph (6), after “an area”, insert “other than the United Kingdom or Gibraltar”.

(3) In Part 2 (categories)—

(a) Regulation 138(4) was amended by S.I. 2018/137, S.I. 2018/472, S.I. 2019/142 and S.I. 2020/48.
(b) Regulation 138A(2) was amended by S.I. 2018/472, S.I. 2019/142 and S.I. 2020/48.
(c) Regulation 160(2) was amended by S.I. 2018/137, S.I. 2019/142 and S.I. 2020/48.

- (a) in paragraph 3(1) (persons who are settled in the United Kingdom)—
 - (i) for paragraph (a), substitute—
 - “(a) meets one of the following conditions—
 - (i) the person is settled in the United Kingdom by virtue of having acquired the right of permanent residence; or
 - (ii) the person falls within Article 18(2) or (3) of the EU withdrawal agreement, Article 17(2) or (3) of the EEA EFTA separation agreement, or Article 16(2) or (3) of the Swiss citizens’ rights agreement, but only where that person would have acquired the right to reside permanently in the United Kingdom without restriction under Directive 2004/38 as it had effect immediately before IP completion day had the facts pertaining to that person’s right to reside fallen to be considered immediately before IP completion day;”;
 - (ii) in paragraph (d), after “the territory comprising” insert “the United Kingdom, Gibraltar,”;
- (b) in paragraph 6(1)(c) (workers, employed persons, self-employed persons and their family members), after “the territory comprising” insert “the United Kingdom, Gibraltar,”;
- (c) in paragraph 7 (workers, employed persons, self-employed persons and their family members)—
 - (i) sub-paragraphs (a), (b) and (c) are renumbered as sub-paragraph (1)(a), (b) and (c);
 - (ii) in sub-paragraph (1)(b) as so renumbered, after “the territory comprising” insert “the United Kingdom, Gibraltar,”;
 - (iii) after sub-paragraph (1)(c) as so renumbered, insert—
 - “(2) Any description of person who would have been eligible under this paragraph immediately before IP completion day is to be eligible on and after IP completion day.”;
- (d) in paragraph 8 (persons who are settled in the United Kingdom and have exercised a right of residence elsewhere)—
 - (i) in sub-paragraph (1)(b), after “right of residence”, insert “before IP completion day”;
 - (ii) in sub-paragraph (1)(d) and (e), after “the territory comprising”, insert “the United Kingdom, Gibraltar,”;
 - (iii) in sub-paragraph (2)—
 - (aa) for “has a right”, substitute “had the right” each time it occurs;
 - (bb) for “goes”, substitute “has gone”;
 - (iv) after sub-paragraph (2), insert—
 - “(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.”;
- (e) in paragraph 9(a) (EU nationals)—
 - (i) in sub-paragraphs (1)(c) and (d) and (2), after “the territory comprising”, insert “the United Kingdom, Gibraltar,”;
 - (ii) after sub-paragraph (3), insert—
 - “(4) Any description of person who would have been eligible under this paragraph immediately before IP completion day is to be eligible on and after IP completion day.”;
- (f) in paragraph 10 (EU nationals)—
 - (i) in sub-paragraphs (1)(a) and (2)(b), omit “other than a United Kingdom national”;

(a) Paragraph 9(1)(b) was amended by S.I. 2018/137.

(b) Paragraph 10(2) was amended by S.I. 2012/1653.

- (ii) in sub-paragraph (1)(d), after “the territory comprising”, insert “the United Kingdom, Gibraltar,”;
- (g) in paragraph 10A(a) (EU nationals)—
 - (i) in sub-paragraphs (1)(a) and (2), omit “other than a United Kingdom national”;
 - (ii) in sub-paragraph (1)(d), after “the territory comprising”, insert “the United Kingdom, Gibraltar,”;
- (h) in paragraph 11 (children of Swiss nationals)—
 - (i) sub-paragraphs (a), (b), (c) and (d) are renumbered as sub-paragraph (1)(a), (b), (c) and (d);
 - (ii) in sub-paragraph (1)(c) and (d) as so renumbered, after “the territory comprising”, insert “the United Kingdom, Gibraltar,”;
 - (iii) after sub-paragraph (1)(d) as so renumbered, insert—

“(2) Any description of person who would have been eligible under this paragraph immediately before IP completion day is to be eligible on and after IP completion day.”;
- (i) in paragraph 12(c) (children of Turkish workers), after “the territory comprising”, insert “the United Kingdom, Gibraltar,”.

Amendment of Schedule 4

12.—(1) Schedule 4 (financial assessment) is amended as follows.

(2) In paragraph 1(1)(o)(b) (definitions)—

(a) in sub-paragraph (ii), for “another Member State”, substitute “a Member State”;

(b) for sub-paragraph (iii), substitute—

“(iii) where the legislation of—

(aa) the United Kingdom and one or more Member States; or

(bb) more than one Member State

applies to the period, A’s total income from all sources as determined for the purposes of the income tax legislation under which the Secretary of State considers that A’s total income in that period is greatest (except as otherwise provided in paragraph 5),”;

(c) for “except than”, substitute “except that”.

(3) In paragraph 2(1)(g) (independent eligible student), after “residing outside”, insert “the United Kingdom, Gibraltar and”.

(4) In the following paragraphs, for “another Member State”, substitute “a Member State”—

(a) paragraph 4(1)(b)(c) (calculation of eligible student’s residual income);

(b) paragraph 5(d) (calculation of parent’s residual income)—

(i) sub-paragraph (2)(a);

(ii) sub-paragraph (7) each time it occurs;

(iii) sub-paragraph (8);

(c) paragraph 7 (calculation of parent’s partner’s residual income)—

(i) sub-paragraph (1)(a);

(ii) sub-paragraph (7) each time it occurs;

(iii) sub-paragraph (8).

(a) Paragraph 10A was added by S.I. 2016/270.

(b) Paragraph 1(1)(o) was substituted by S.I. 2014/1766 and S.I. 2020/48.

(c) Paragraph 4(1)(b) was amended by S.I. 2014/1766.

(d) Paragraph (5) was amended by S.I. 2013/1728, S.I. 2014/1766, S.I. 2015/1951, S.I. 2017/114 and S.I. 2020/48.

Amendment of Schedule 6

13.—(1) Schedule 6(a) (assessment of eligible part-time student’s household income) is amended as follows.

(2) In paragraph 1(1)(l) (definitions)—

(a) in sub-paragraph (ii), for “another Member State”, substitute “a Member State”;

(b) for sub-paragraph (iii), substitute—

“(iii) where the legislation of—

(aa) the United Kingdom and one or more Member States; or

(bb) more than one Member State

applies to the period, A’s total income from all sources as determined for the purposes of the income tax legislation under which the Secretary of State considers that A’s total income in that period is greatest (except as otherwise provided in paragraph 5),”;

(c) for “except than”, substitute “except that”.

(3) In paragraph 2(1)(g) (independent eligible part-time student), after “residing outside”, insert “the United Kingdom, Gibraltar and”.

(4) In the following paragraphs, for “another Member State”, substitute “a Member State”—

(a) paragraph 4(1)(b) (calculation of eligible part-time student’s residual income);

(b) paragraph 5 (calculation of parent’s residual income)—

(i) sub-paragraph (1)(a);

(ii) sub-paragraph (6) each time it occurs;

(iii) sub-paragraph (7);

(c) paragraph 7 (calculation of parent’s partner’s residual income)—

(i) sub-paragraph (1)(a);

(ii) sub-paragraph (7) each time it occurs;

(iii) sub-paragraph (8).

Amendment of the Education (Fees and Awards) (England) Regulations 2007

14. The Education (Fees and Awards) (England) Regulations 2007(b) are amended as follows.

Amendment of regulation 2

15. In regulation 2 (interpretation)—

(a) in paragraph (1)(c), in the definition of “overseas territories”, after “French Southern and Antarctic Territories;”, insert “Gibraltar;”;

(b) in paragraph (4)(d)—

(i) for “the territory comprising the European Economic Area and Switzerland”, substitute “the territory comprising the United Kingdom, Gibraltar, the European Economic Area and Switzerland”;

(a) Schedule 6 was added by S.I. 2018/472.

(b) S.I. 2007/779, amended by S.I. 2007/2263, S.I. 2010/1172, S.I. 2010/1941, S.I. 2011/87, S.I. 2011/1043, S.I. 2011/1987, S.I. 2012/765, S.I. 2012/956, S.I. 2012/1653, S.I. 2015/971, S.I. 2016/584, S.I. 2017/114, S.I. 2018/137, S.I. 2018/1141, S.I. 2019/142, S.I. 2019/1027 and S.I. 2020/48.

(c) Regulation 2(1) was amended by S.I. 2010/1172, S.I. 2010/1941, S.I. 2011/1043, S.I. 2012/1653 and S.I. 2019/1027.

(d) Regulation 2(4) was amended by S.I. 2007/2263.

- (ii) for “the territory comprising the European Economic Area, Switzerland and the overseas territories”, substitute “the territory comprising the United Kingdom, the European Economic Area, Switzerland and the overseas territories”;
- (iii) for “the territory comprising the European Economic Area, Switzerland, Turkey and the overseas territories”, substitute “the territory comprising the United Kingdom, the European Economic Area, Switzerland, Turkey and the overseas territories”;
- (c) in paragraph (5), after “the territory comprising”, insert “the United Kingdom, Gibraltar,” each time it occurs;
- (d) in paragraph (6)—
 - (i) for “the territory comprising the European Economic Area and Switzerland”, substitute “the territory comprising the United Kingdom, Gibraltar, the European Economic Area and Switzerland”;
 - (ii) for “the territory comprising the European Economic Area, Switzerland and the overseas territories”, substitute “the territory comprising the United Kingdom, the European Economic Area, Switzerland and the overseas territories”;
 - (iii) for “the territory comprising the European Economic Area, Switzerland and Turkey”, substitute “the territory comprising the United Kingdom, Gibraltar, the European Economic Area, Switzerland and Turkey”;
- (e) in paragraph (7)(a), after “an area”, insert “other than the United Kingdom or Gibraltar”.

Amendment of Schedule 1

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

(2) In paragraph 1(b)—

- (a) omit the definition of “European Union national”;
- (b) omit “other than the United Kingdom” each time it occurs;
- (c) after the definition of “Directive 2004/38”, insert—
 - ““EEA EFTA separation agreement” has the meaning given by section 39(1) of the European Union (Withdrawal Agreement) Act 2020;”;
- (d) after the definition of “employed person”, insert—
 - ““EU national” means a national of a Member State of the European Union;”;
- (e) in the definition of “family member”, for “EC national”, substitute “EU national” each time it occurs;
- (f) after the definition of “refugee”, insert—
 - ““residence scheme immigration rules” has the meaning given by section 17(1) of the European Union (Withdrawal Agreement) Act 2020;”;
- (g) for the definition of “right of permanent residence”, substitute—
 - ““right of permanent residence”, unless otherwise indicated, means, in relation to a person (“A”), a right to reside in the United Kingdom permanently without restriction which arises under residence scheme immigration rules, but only where, had the facts pertaining to the determination of A’s right to reside fallen to be considered immediately before IP completion day, A would have acquired such right under Directive 2004/38 as it had effect immediately before IP completion day;”;
- (h) after the definition of “Swiss Agreement”, insert—
 - ““Swiss citizens’ rights agreement” has the meaning given by section 39(1) of the European Union (Withdrawal Agreement) Act 2020;”.

(a) Regulation 2(7) was amended by S.I. 2011/1043.

(b) Paragraph 1 was amended by S.I. 2011/87, S.I. 2011/1043 and S.I. 2018/137.

- (3) In paragraph 3 (persons who are settled in the United Kingdom)—
- (a) for sub-paragraph (a), substitute—
- “(a) meets one of the following conditions—
- (i) the person is settled in the United Kingdom by reason of having acquired the right of permanent residence on the first day of an academic year of the course; or
- (ii) the person falls within Article 18(2) or (3) of the EU withdrawal agreement, Article 17(2) or (3) of the EEA EFTA separation agreement, or Article 16(2) or (3) of the Swiss citizens’ rights agreement, but only where that person would have acquired the right to reside permanently in the United Kingdom without restriction under Directive 2004/38 as it had effect immediately before IP completion day had the facts pertaining to that person’s right to reside fallen to be considered immediately before IP completion day;”;
- (b) in sub-paragraph (d), after “the territory comprising”, insert “the United Kingdom,”.
- (4) In paragraph 6(1)(c)(a) (workers, employed persons, self-employed persons and their family members), after “the territory comprising”, insert “the United Kingdom,”.
- (5) In paragraph 7(b) (workers, employed persons, self-employed persons and their family members)—
- (a) sub-paragraphs (a), (b) and (c) are renumbered as sub-paragraph (1)(a), (b) and (c);
- (b) in sub-paragraph (1)(b) as so renumbered, after “the territory comprising”, insert “the United Kingdom,”;
- (c) after sub-paragraph (1)(c) as so renumbered, insert—
- “(2) Any description of person who would have fallen within this paragraph immediately before IP completion day is to be treated as falling within this paragraph on and after IP completion day.”.
- (6) In paragraph 8 (persons who are settled in the United Kingdom and have exercised a right of residence elsewhere)—
- (a) in sub-paragraph (1)—
- (i) in paragraph (b), after “right of residence”, insert “before IP completion day”;
- (ii) in paragraph (d)(c), after “the territory comprising”, insert “the United Kingdom,”;
- (iii) in paragraph (e), after “the territory comprising”, insert “the United Kingdom, Gibraltar,”;
- (b) in sub-paragraph (2)—
- (i) for “has a right”, substitute “had the right” each time it occurs;
- (ii) for “goes”, substitute “has gone”;
- (c) after sub-paragraph (2), insert—
- “(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.”.
- (7) In paragraph 9(d) (EC nationals)—
- (a) in the heading, for “EC nationals”, substitute “EU nationals”;
- (b) in sub-paragraph (1)—
- (i) in paragraph (a)(i), for “EC national”, substitute “EU national”;

(a) Paragraph 6 was substituted by S.I. 2007/2263.
 (b) Paragraph 7(b) was amended by S.I. 2007/2263.
 (c) Paragraph 8(1)(d) was amended by S.I. 2007/2263.
 (d) Paragraph 9 was amended by S.I. 2007/2263 and S.I. 2011/1987.

- (ii) in paragraph (c), after “the territory comprising”, insert “the United Kingdom,”;
- (c) for sub-paragraph (1A), substitute—
 - “(1A) Paragraph (c) of sub-paragraph (1) does not apply to a family member of a person who—
 - (a) is—
 - (i) a United Kingdom national who has exercised a right to reside in the territory of a Member State under Article 7(1) of Directive 2004/38; or
 - (ii) an EU national; and
 - (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.”;
 - (d) after sub-paragraph (2), insert—
 - “(3) Any description of person who would have fallen within this paragraph immediately before IP completion day is to be treated as falling within this paragraph on and after IP completion day.”.
- (8) In paragraph 10(a) (EC nationals)—
 - (a) in sub-paragraphs (1)(a) and (2), for “a European Union national other than a United Kingdom national”, substitute “an EU national”;
 - (b) in sub-paragraph (1)(d), after “the territory comprising”, insert “the United Kingdom,”.
- (9) In paragraph 11(b) (children of Swiss nationals)—
 - (a) sub-paragraphs (a), (b), (c) and (d) are renumbered as sub-paragraph (1)(a), (b), (c) and (d);
 - (b) in sub-paragraph (1)(c) as so renumbered, after “the territory comprising”, insert “the United Kingdom,”;
 - (c) in sub-paragraph (1)(d) as so renumbered, after “the territory comprising”, insert “the United Kingdom, Gibraltar,”;
 - (d) after sub-paragraph (1)(d) as so renumbered, insert—
 - “(2) Any description of person who would have fallen within this paragraph immediately before IP completion day is to be treated as falling within this paragraph on and after IP completion day.”.
- (10) In paragraph 12(c)(c) (children of Turkish workers), after “the territory comprising”, insert “the United Kingdom,”.

Amendment of the Education (Student Support) (European University Institute) Regulations 2010

17. The Education (Student Support) (European University Institute) Regulations 2010(d) are amended as follows.

Amendment of Schedule 1

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

(2) In Part 1 (interpretation), paragraph 1—

(a) in sub-paragraph (1)(e)—

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- (a) Paragraph 10 was amended by S.I. 2007/2263 and S.I. 2011/1043.
 - (b) Paragraph 11(c) was amended by S.I. 2007/2263.
 - (c) Paragraph 12(c) was amended by S.I. 2007/2263.
 - (d) S.I. 2010/447, amended by S.I. 2011/83, S.I. 2011/2430, 2012/3059, S.I. 2013/630, S.I. 2013/1728, S.I. 2016/211, S.I. 2017/114, S.I. 2017/204, S.I. 2018/137, S.I. 2018/472, S.I. 2019/142 and S.I. 2020/48.
 - (e) Paragraph 1(1) was amended by S.I. 2011/83.

- (i) in the definition of “EEA Agreement”, for “modified from time to time”, substitute “it had effect immediately before IP completion day”;
 - (ii) after the definition of “EEA Agreement”, insert—
““EEA EFTA separation agreement” has the meaning given by section 39(1) of the European Union (Withdrawal Agreement) Act 2020;”;
 - (iii) in the definition of “EEA national”, omit “other than the United Kingdom”;
 - (iv) after the definition of “Member State”, insert—
““residence scheme immigration rules” has the meaning given by section 17(1) of the European Union (Withdrawal Agreement) Act 2020;”;
 - (v) for the definition of “right of permanent residence”, substitute—
““right of permanent residence”, unless otherwise indicated, means, in relation to a person (“A”), a right to reside in the United Kingdom permanently without restriction which arises under residence scheme immigration rules, but only where, had the facts pertaining to the determination of A’s right to reside fallen to be considered immediately before IP completion day, A would have acquired such right under Directive 2004/38 as it had effect immediately before IP completion day;”;
 - (vi) after the definition of “Swiss Agreement”, insert—
““Swiss citizens’ rights agreement” has the meaning given by section 39(1) of the European Union (Withdrawal Agreement) Act 2020;”;
 - (b) in the following sub-paragraphs, omit “other than the United Kingdom”—
 - (i) sub-paragraph (2)(b);
 - (ii) sub-paragraph (3)(b);
 - (iii) sub-paragraph (4)(b);
 - (iv) sub-paragraph (5)(b);
 - (c) in sub-paragraphs (7) and (8) after “the territory comprising”, insert “the United Kingdom, Gibraltar,” each time it occurs.
- (3) In Part 2 (categories)—
- (a) in paragraph 3 (persons who are settled in the United Kingdom)—
 - (i) for sub-paragraph (a), substitute—
““a) meets one of the following conditions—
 - (i) the person is settled in the United Kingdom on the relevant date by reason of having acquired the right of permanent residence; or
 - (ii) the person falls within Article 18(2) or (3) of the EU withdrawal agreement, Article 17(2) or (3) of the EEA EFTA separation agreement, or Article 16(2) or (3) of the Swiss citizens’ rights agreement, but only where that person would have acquired the right to reside permanently in the United Kingdom without restriction under Directive 2004/38 as it had effect immediately before IP completion day had the facts pertaining to that person’s right to reside fallen to be considered immediately before IP completion day;”;
 - (ii) in sub-paragraph (d), after “the territory comprising”, insert “the United Kingdom, Gibraltar,”;
 - (b) in paragraph 6(1)(c) (workers, employed persons, self-employed persons and their family members), after “the territory comprising”, insert “the United Kingdom, Gibraltar,”;
 - (c) in paragraph 7 (workers, employed persons, self-employed persons and their family members)—
 - (i) sub-paragraphs (a), (b) and (c) are renumbered as sub-paragraph (1)(a), (b) and (c);
 - (ii) in sub-paragraph (1)(b) as so renumbered, after “the territory comprising”, insert “the United Kingdom, Gibraltar,”;

- (iii) after sub-paragraph (1)(c) as so renumbered, insert—
 - “(2) Any description of person who would have been eligible under this paragraph immediately before IP completion day is to be eligible on and after IP completion day.”;
- (d) in paragraph 8 (persons who are settled in the United Kingdom and have exercised a right of residence elsewhere)—
 - (i) in sub-paragraph (1)(b), after “right of residence”, insert “before IP completion day”;
 - (ii) in sub-paragraph (1)(d) and (e), after “the territory comprising”, insert “the United Kingdom, Gibraltar,”;
 - (iii) in sub-paragraph (2)—
 - (aa) for “has a right”, substitute “had the right” each time it occurs;
 - (bb) for “goes”, substitute “has gone”;
 - (iv) after sub-paragraph (2), insert—
 - “(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.”;
- (e) in paragraph 9 (EU nationals)—
 - (i) in sub-paragraphs (1)(c) and (d) and (2), after “the territory comprising”, insert “the United Kingdom, Gibraltar,”;
 - (ii) after sub-paragraph (2), insert—
 - “(3) Any description of person who would have been eligible under this paragraph immediately before IP completion day is to be eligible on and after IP completion day.”;
- (f) in paragraph 10(1) (EU nationals)—
 - (i) in paragraph (a), omit “other than a United Kingdom national”;
 - (ii) in paragraph (d), after “the territory comprising”, insert “the United Kingdom, Gibraltar,”;
- (g) in paragraph 10A(a) (EU nationals)—
 - (i) omit “other than a United Kingdom national” each time it appears;
 - (ii) in sub-paragraph (d), after “the territory comprising”, insert “the United Kingdom, Gibraltar,”;
- (h) in paragraph 11 (children of Swiss nationals)—
 - (i) sub-paragraphs (a), (b), (c) and (d) are renumbered as sub-paragraph (1)(a), (b), (c) and (d);
 - (ii) in sub-paragraph (1)(c) and (d) as so renumbered, after “the territory comprising”, insert “the United Kingdom, Gibraltar,”;
 - (iii) after sub-paragraph (1)(d) as so renumbered, insert—
 - “(2) Any description of person who would have been eligible under this paragraph immediately before IP completion day is to be eligible on and after IP completion day.”;
- (i) in paragraph 12(c) (children of Turkish workers), after “the territory comprising”, insert “the United Kingdom, Gibraltar,”.

Amendment of Schedule 2

19.—(1) Schedule 2 (student’s contribution) is amended as follows.

(2) In Part 1 (interpretation), paragraph 1(1), in the definition of “taxable income”—

- (a) in paragraph (b), for “another EEA State”, substitute “an EEA State”;

(a) Paragraph 10A was added by S.I. 2017/114.

- (b) for paragraph (c), substitute—
 - “(c) where the legislation of—
 - (i) the United Kingdom and one or more EEA States;
 - (ii) more than one EEA State;
 - (iii) the United Kingdom and Switzerland;
 - (iv) one or more EEA States and Switzerland; or
 - (v) the United Kingdom, Switzerland and one or more EEA States

applies to the period, the legislation under which the Secretary of State considers the person will pay the largest amount of tax in that period.”.

- (3) In Part 2 (calculation of contribution)—
 - (a) in paragraph 3(1)(b) (calculation of the student’s residual income), for “another Member State”, substitute “a Member State”;
 - (b) in paragraph 4 (calculation of the student’s partner’s residual income), in the following sub-paragraphs, for “another EEA State”, substitute “an EEA State”—
 - (i) sub-paragraph (1)(a);
 - (ii) sub-paragraph (2)(a);
 - (iii) sub-paragraph (5)(a) each time it occurs;
 - (iv) sub-paragraph (6).

Amendment of the Further Education Loans Regulations 2012

20. The Further Education Loans Regulations 2012(b) are amended as follows.

Amendment of regulation 2

21. In Regulation 2 (interpretation), omit the definition of “right of permanent residence”.

Amendment of regulation 7

22. In regulation 7(c) (students becoming eligible other than prior to the beginning of a designated further education course)—

- (a) in paragraph (d), after “EU national”, insert “or of a person who is eligible under paragraph 9 of Part 2 of Schedule 1 by virtue of paragraph 9(4) of Part 2 of that Schedule other than as a family member”;
- (b) for paragraph (e), substitute—
 - “(e) the student becomes a person described in paragraph 3(1)(a) of Schedule 1;”.

Amendment of Schedule 1

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

- (2) In Part 1 (interpretation), paragraph 1—
 - (a) in sub-paragraph (1)—
 - (i) omit “other than the United Kingdom” each time it occurs;
 - (ii) at the appropriate place, insert the following definitions—

(a) Paragraph 4(5)(a) was amended by S.I. 2013/1728.
 (b) S.I. 2012/1818, amended by S.I. 2014/290, S.I. 2014/1766, S.I. 2015/181, S.I. 2016/238, S.I. 2016/584, S.I. 2017/336, S.I. 2018/182, S.I. 2019/142, S.I. 2019/983 and S.I. 2020/48.
 (c) Regulation 7 was amended by S.I. 2016/238, S.I. 2018/182, S.I. 2019/142 and S.I. 2020/48.

““EEA EFTA separation agreement” has the meaning given by section 39(1) of the European Union (Withdrawal Agreement) Act 2020;

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

“right of permanent residence”, unless otherwise indicated, means, in relation to a person (“A”), a right to reside in the United Kingdom permanently without restriction which arises under residence scheme immigration rules, but only where, had the facts pertaining to the determination of A’s right to reside fallen to be considered immediately before IP completion day, A would have acquired such right under Directive 2004/38 as it had effect immediately before IP completion day;

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

(b) in sub-paragraphs (5) and (6), after “the territory comprising”, insert “the United Kingdom, Gibraltar,” each time it occurs;

(c) in sub-paragraph (7), after “an area”, insert “other than the United Kingdom or Gibraltar”.

(3) In Part 2 (categories)—

(a) in paragraph 3(1) (persons who are settled in the United Kingdom)—

(i) for paragraph (a), substitute—

“(a) meets one of the following conditions—

(i) the person is settled in the United Kingdom by reason of having acquired the right of permanent residence; or

(ii) the person falls within Article 18(2) or (3) of the EU withdrawal agreement, Article 17(2) or (3) of the EEA EFTA separation agreement, or Article 16(2) or (3) of the Swiss citizens’ rights agreement, but only where that person would have acquired the right to reside permanently in the United Kingdom without restriction under Directive 2004/38 as it had effect immediately before IP completion day had the facts pertaining to that person’s right to reside fallen to be considered immediately before IP completion day;”;

(ii) in paragraph (d), after “the territory comprising”, insert “the United Kingdom, Gibraltar,”;

(b) in paragraph 6(1)(c) (workers, employed persons, self-employed persons and their family members), after “the territory comprising”, insert “the United Kingdom, Gibraltar,”;

(c) in paragraph 7 (workers, employed persons, self-employed persons and their family members)—

(i) sub-paragraphs (a), (b) and (c) are renumbered as sub-paragraph (1)(a), (b) and (c);

(ii) in sub-paragraph (1)(b) as so renumbered, after “the territory comprising”, insert “the United Kingdom, Gibraltar,”;

(iii) after sub-paragraph (1)(c) as so renumbered, insert—

“(2) Any description of person who would have been eligible under this paragraph immediately before IP completion day is to be eligible on and after IP completion day.”;

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

(i) in sub-paragraph (1)(b), after “right of residence”, insert “before IP completion day”;

(ii) in sub-paragraph (1)(d) and (e), after “the territory comprising”, insert “the United Kingdom, Gibraltar,”;

(iii) in sub-paragraph (2)—

(aa) for “has a right”, substitute “had the right” each time it occurs;

(bb) for “goes”, substitute “has gone”;

(iv) after sub-paragraph (2), insert—

“(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.”;

(e) in paragraph 9 (EU nationals)—

(i) in sub-paragraphs (1)(c) and (d) and (2), after “the territory comprising”, insert “the United Kingdom, Gibraltar.”;

(ii) after sub-paragraph (3), insert—

“(4) Any description of person who would have been eligible under this paragraph immediately before IP completion day is to be eligible on and after IP completion day.”;

(f) in paragraph 10 (EU nationals)—

(i) in sub-paragraphs (1)(a) and (2), omit “other than a United Kingdom national”;

(ii) in sub-paragraph (1)(d), after “the territory comprising”, insert “the United Kingdom, Gibraltar.”;

(g) in paragraph 11 (children of Swiss nationals)—

(i) sub-paragraphs (a), (b), (c) and (d) are renumbered as sub-paragraph (1)(a), (b), (c) and (d);

(ii) in sub-paragraph (1)(c) and (d) as so renumbered, after “the territory comprising”, insert “the United Kingdom, Gibraltar.”;

(iii) after sub-paragraph (1)(d) as so renumbered, insert—

“(2) Any description of person who would have been eligible under this paragraph immediately before IP completion day is to be eligible on and after IP completion day.”;

(h) in paragraph 12(c) (children of Turkish workers), after “the territory comprising”, insert “the United Kingdom, Gibraltar.”.

Amendment of the Education (Postgraduate Master’s Degree Loans) Regulations 2016

24. The Education (Postgraduate Master’s Degree Loans) Regulations 2016(a) are amended as follows.

Amendment of regulation 2

25. In regulation 2(1) (interpretation), omit the definition of “right of permanent residence”.

Amendment of regulation 8

26. In regulation 8(b) (events)—

(a) in paragraph (d), after “EU national”, insert “or of a person who is eligible under paragraph 9 of Part 2 of Schedule 1 by virtue of paragraph 9(4) of Part 2 of that Schedule other than as a family member”;

(b) for paragraph (e), substitute—

“(e) the student becomes a person described in paragraph 3(a) of Schedule 1.”.

Amendment of Schedule 1

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

(2) In Part 1 (interpretation), paragraph 1—

(a) in sub-paragraph (1)—

(a) S.I. 2016/606, amended by S.I. 2016/668, S.I. 2017/594, S.I. 2017/831, S.I. 2018/137, S.I. 2018/599, S.I. 2019/142, S.I. 2019/1094 and S.I. 2020/48.

(b) Regulation 8 was amended by S.I. 2018/137, S.I. 2019/142 and S.I. 2020/48.

- (i) at the appropriate place, insert the following definitions—
 - ““EEA EFTA separation agreement” has the meaning given by section 39(1) of the European Union (Withdrawal Agreement) Act 2020;
 - “residence scheme immigration rules” has the meaning given by section 17(1) of the European Union (Withdrawal Agreement) Act 2020;
 - “right of permanent residence”, unless otherwise indicated, means, in relation to a person (“A”), a right to reside in the United Kingdom permanently without restriction which arises under residence scheme immigration rules, but only where, had the facts pertaining to the determination of A’s right to reside fallen to be considered immediately before IP completion day, A would have acquired such right under Directive 2004/38 as it had effect immediately before IP completion day;
 - “Swiss citizens’ rights agreement” has the meaning given by section 39(1) of the European Union (Withdrawal Agreement) Act 2020;”;
 - (ii) omit “other than the United Kingdom” each time it occurs;
 - (iii) in the definition of “Swiss frontier self-employed person”, omit “, other than the United Kingdom,”;
 - (b) in sub-paragraphs (5) and (6), after “the territory comprising”, insert “the United Kingdom, Gibraltar,” each time it occurs;
 - (c) in sub-paragraph (7), after “an area”, insert “other than the United Kingdom or Gibraltar”.
- (3) In Part 2 (categories)—
- (a) in paragraph 3 (persons who are settled in the United Kingdom)—
 - (i) for sub-paragraph (a), substitute—
 - “(a) meets one of the following conditions—
 - (i) the person is settled in the United Kingdom by virtue of having acquired the right of permanent residence; or
 - (ii) the person falls within Article 18(2) or (3) of the EU withdrawal agreement, Article 17(2) or (3) of the EEA EFTA separation agreement, or Article 16(2) or (3) of the Swiss citizens’ rights agreement, but only where that person would have acquired the right to reside permanently in the United Kingdom without restriction under Directive 2004/38 as it had effect immediately before IP completion day had the facts pertaining to that person’s right to reside fallen to be considered immediately before IP completion day;”;
 - (ii) in sub-paragraph (d), after “the territory comprising”, insert “the United Kingdom, Gibraltar,”;
 - (b) in paragraph 6(1)(c) (workers, employed persons, self-employed persons and their family members), after “the territory comprising”, insert “the United Kingdom, Gibraltar,”;
 - (c) in paragraph 7 (workers, employed persons, self-employed persons and their family members)—
 - (i) sub-paragraphs (a), (b) and (c) are renumbered as sub-paragraph (1)(a), (b) and (c);
 - (ii) in sub-paragraph (1)(b) as so renumbered, after “the territory comprising”, insert “the United Kingdom, Gibraltar,”;
 - (iii) after sub-paragraph (1)(c) as so renumbered, insert—
 - “(2) Any description of person who would have been eligible under this paragraph immediately before IP completion day is to be eligible on and after IP completion day.”;
 - (d) in paragraph 8 (persons who are settled in the United Kingdom and have exercised a right of residence elsewhere)—
 - (i) in sub-paragraph (1)(b), after the “right of residence”, insert “before IP completion day”;

- (ii) in sub-paragraph (1)(d) and (e), after “the territory comprising”, insert “the United Kingdom, Gibraltar.”;
- (iii) in sub-paragraph (2)—
 - (aa) for “has a right”, substitute “had the right” each time it occurs;
 - (bb) for “goes”, substitute “has gone”;
- (iv) after sub-paragraph (2), insert—

“(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.”;
- (e) in paragraph 9 (EU nationals)—
 - (i) in sub-paragraphs (1)(c) and (d) and (2)(a), after “the territory comprising”, insert “the United Kingdom, Gibraltar.”;
 - (ii) after sub-paragraph (3), insert—

“(4) Any description of person who would have been eligible under this paragraph immediately before IP completion day is to be eligible on and after IP completion day.”;
- (f) in paragraph 10 (EU nationals)—
 - (i) in sub-paragraphs (1)(a) and (2), omit “other than a United Kingdom national”;
 - (ii) in sub-paragraph (1)(d), after “the territory comprising”, insert “the United Kingdom, Gibraltar.”;
- (g) in paragraph 11 (children of Swiss nationals)—
 - (i) sub-paragraphs (a), (b), (c) and (d) are renumbered as sub-paragraph (1)(a), (b), (c) and (d);
 - (ii) in sub-paragraph (1)(c) and (d) as so renumbered, after “the territory comprising”, insert “the United Kingdom, Gibraltar.”;
 - (iii) after sub-paragraph (1)(d) as so renumbered, insert—

“(2) Any description of person who would have been eligible under this paragraph immediately before IP completion day is to be eligible on and after IP completion day.”;
- (h) in paragraph 12(c) (children of Turkish workers), after “the territory comprising”, insert “the United Kingdom, Gibraltar.”.

Amendment of the Higher Education (Fee Limit Condition) (England) Regulations 2017

28. The Higher Education (Fee Limit Condition) (England) Regulations 2017(**b**) are amended as follows.

Amendment of regulation 6

- 29.** In regulation 6(2)(c) (qualifying person: effect of event during academic year)—
- (a) in sub-paragraph (d), after “EU national”, insert “or of a person who is a qualifying person under paragraph 10 of Part 2 of the Schedule by virtue of paragraph 10(4) of Part 2 of the Schedule other than as a family member”;
 - (b) for sub-paragraph (e), substitute—

“(e) the student becomes a person described in paragraph 4(a) of Part 2 of the Schedule.”.

(a) Paragraph 9(2) was amended by S.I. 2017/594.

(b) S.I. 2017/1189, amended by S.I. 2018/903, S.I. 2019/142 and S.I. 2020/48.

(c) Regulation 6(2) was amended by S.I. 2018/903, S.I. 2019/142 and S.I. 2020/48.

Amendment of the Schedule

- 30.**—(1) The Schedule is amended as follows.
- (2) In Part 1 (interpretation)—
- (a) in paragraph 1 (interpretation: general)—
- (i) in sub-paragraph (1)(a)—
- (aa) at the appropriate place, insert the following definitions—
- ““EEA EFTA separation agreement” has the meaning given by section 39(1) of the European Union (Withdrawal Agreement) Act 2020;
- “residence scheme immigration rules” has the meaning given by section 17(1) of the European Union (Withdrawal Agreement) Act 2020;
- “Swiss citizens’ rights agreement” has the meaning given by section 39(1) of the European Union (Withdrawal Agreement) Act 2020;”;
- (bb) omit “other than the United Kingdom” each time it occurs;
- (cc) in the definition of “overseas territories”, after “French Southern and Antarctic Territories;”, insert “Gibraltar;”;
- (dd) for the definition of “right of permanent residence”, substitute—
- ““right of permanent residence”, unless otherwise indicated, means, in relation to a person (“A”), a right to reside in the United Kingdom permanently without restriction which arises under residence scheme immigration rules, but only where, had the facts pertaining to the determination of A’s right to reside fallen to be considered immediately before IP completion day, A would have acquired such right under Directive 2004/38 as it had effect immediately before IP completion day;”;
- (ii) in sub-paragraph (2), after “an area”, insert “other than the United Kingdom or Gibraltar”;
- (b) in paragraph 2 (interpretation: ordinarily resident)—
- (i) in sub-paragraph (2)—
- (aa) for “the territory comprising the European Economic Area and Switzerland”, substitute “the territory comprising the United Kingdom, Gibraltar, the European Economic Area and Switzerland”;
- (bb) for “the territory comprising the European Economic Area, Switzerland and the overseas territories”, substitute “the territory comprising the United Kingdom, the European Economic Area, Switzerland and the overseas territories”;
- (cc) for “the territory comprising the European Economic Area, Switzerland, Turkey and the overseas territories”, substitute “the territory comprising the United Kingdom, the European Economic Area, Switzerland, Turkey and the overseas territories”;
- (ii) in sub-paragraph (5)(b), after “the territory comprising”, insert “the United Kingdom, Gibraltar,” each time it occurs.
- (3) In Part 2 (qualifying persons)—
- (a) in paragraph 4 (persons who are settled in the United Kingdom)—
- (i) for sub-paragraph (a), substitute—
- “(a) meets one of the following conditions—

(a) Paragraph 1(1) was amended by S.I. 2018/903.

(b) Paragraph 2(5) was amended by S.I. 2018/903.

- (i) the person is settled in the United Kingdom by reason of having acquired the right of permanent residence on the first day of an academic year of the course; or
- (ii) the person falls within Article 18(2) or (3) of the EU withdrawal agreement, Article 17(2) or (3) of the EEA EFTA separation agreement, or Article 16(2) or (3) of the Swiss citizens' rights agreement, but only where that person would have acquired the right to reside permanently in the United Kingdom without restriction under Directive 2004/38 as it had effect immediately before IP completion day had the facts pertaining to that person's right to reside fallen to be considered immediately before IP completion day;"
- (ii) in sub-paragraph (d), after "the territory comprising", insert "the United Kingdom,";
- (b) in paragraph 7(1)(c) (workers, employed persons, self-employed persons and their family members), after "the territory comprising", insert "the United Kingdom,";
- (c) in paragraph 8 (workers, employed persons, self-employed persons and their family members)—
 - (i) sub-paragraphs (a), (b) and (c) are renumbered as sub-paragraph (1)(a), (b) and (c);
 - (ii) in sub-paragraph (1)(b) as so renumbered, after "the territory comprising", insert "the United Kingdom,";
 - (iii) after sub-paragraph (1)(c) as so renumbered, insert—

"(2) Any description of person who would have fallen within this paragraph immediately before IP completion day is to be treated as falling within this paragraph on and after IP completion day.";
- (d) in paragraph 9 (persons who are settled in the United Kingdom and have exercised a right of residence elsewhere)—
 - (i) in sub-paragraph (1)—
 - (aa) in paragraph (b), after "right of residence", insert "before IP completion day";
 - (bb) in paragraph (d), after "the territory comprising", insert "the United Kingdom,";
 - (cc) in paragraph (e), after "the territory comprising", insert "the United Kingdom, Gibraltar,";
 - (ii) in sub-paragraph (2)—
 - (aa) for "has a right", substitute "had the right" each time it occurs;
 - (bb) for "goes", substitute "has gone";
 - (iii) after sub-paragraph (2), insert—

"(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.";
- (e) in paragraph 10(a) (EU nationals)—
 - (i) in sub-paragraph (1)(c), after "the territory comprising", insert "the United Kingdom,";
 - (ii) for sub-paragraph (2), substitute—

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

 - (a) is—
 - (i) a United Kingdom national who has exercised a right to reside in the territory of a Member State under Article 7(1) of Directive 2004/38; or

(a) Paragraph 10(3) was amended by S.I. 2018/903.

- (ii) an EU national; and
- (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.”;
- (iii) after sub-paragraph (3), insert—
 - “(4) Any description of person who would have fallen within this paragraph immediately before IP completion day is to be treated as falling within this paragraph on and after IP completion day.”;
- (f) in paragraph 11 (EU nationals)—
 - (i) in sub-paragraph (1)(a), omit “other than a United Kingdom national”;
 - (ii) in sub-paragraph (1)(d), after “the territory comprising”, insert “the United Kingdom,”;
- (g) in paragraph 12 (children of Swiss nationals)—
 - (i) sub-paragraphs (a), (b), (c) and (d) are renumbered as sub-paragraph (1)(a), (b), (c) and (d);
 - (ii) in sub-paragraph (1)(c) as so renumbered, after “the territory comprising”, insert “the United Kingdom,”;
 - (iii) in sub-paragraph (1)(d) as so renumbered, after “the territory comprising”, insert “the United Kingdom, Gibraltar,”;
 - (iv) after sub-paragraph (1)(d) as so renumbered, insert—
 - “(2) Any description of person who would have fallen within this paragraph immediately before IP completion day is to be treated as falling within this paragraph on and after IP completion day.”;
- (h) in paragraph 13(1)(c) (children of Turkish workers), after “the territory comprising”, insert “the United Kingdom,”.

Amendment of the Education (Postgraduate Doctoral Degree Loans and the Education (Student Loans) (Repayment) (Amendment) (No.2) etc.) Regulations 2018

31. The Education (Postgraduate Doctoral Degree Loans and the Education (Student Loans) (Repayment) (Amendment) (No. 2) etc.) Regulations 2018(a) are amended as follows.

Amendment of regulation 2

32. In regulation 2(1) (interpretation), omit the definition of “right of permanent residence”.

Amendment of regulation 8

33. In regulation 8 (events)—

- (a) in paragraph (d), after “EU national”, insert “or of a person who is eligible under paragraph 10 of Part 2 of Schedule 1 by virtue of paragraph 10(4) of Part 2 of that Schedule other than as a family member”;
- (b) for paragraph (e), substitute—
 - “(e) the student becomes a person described in paragraph 3(a) of Schedule 1;”.

Amendment of Schedule 1

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

(2) In Part 1, paragraph 1 (interpretation)—

(a) S.I. 2018/599 amended by S.I. 2019/142, S.I. 2019/1094 and S.I. 2020/48.

- (a) in sub-paragraph (1)—
 - (i) at the appropriate place, insert the following definitions—
 - ““EEA EFTA separation agreement” has the meaning given by section 39(1) of the European Union (Withdrawal Agreement) Act 2020;
 - “residence scheme immigration rules” has the meaning given by section 17(1) of the European Union (Withdrawal Agreement) Act 2020;
 - “right of permanent residence”, unless otherwise indicated, means, in relation to a person (“A”), a right to reside in the United Kingdom permanently without restriction which arises under residence scheme immigration rules, but only where, had the facts pertaining to the determination of A’s right to reside fallen to be considered immediately before IP completion day, A would have acquired such right under Directive 2004/38 as it had effect immediately before IP completion day;
 - “Swiss citizens’ rights agreement” has the meaning given by section 39(1) of the European Union (Withdrawal Agreement) Act 2020;”;
 - (ii) omit “other than the United Kingdom” each time it occurs;
 - (iii) in the definition of “Swiss frontier self-employed person”, omit “, other than the United Kingdom,”;
 - (b) in sub-paragraphs (5) and (6), after “the territory comprising”, insert “the United Kingdom, Gibraltar,” each time it occurs;
 - (c) in sub-paragraph (7), after “an area”, insert “other than the United Kingdom or Gibraltar”.
- (3) In Part 2 (categories)—
- (a) in paragraph 3 (persons who are settled in the United Kingdom)—
 - (i) for sub-paragraph (a), substitute—
 - “(a) meets one of the following conditions—
 - (i) the person is settled in the United Kingdom by virtue of having acquired the right of permanent residence; or
 - (ii) the person falls within Article 18(2) or (3) of the EU withdrawal agreement, Article 17(2) or (3) of the EEA EFTA separation agreement, or Article 16(2) or (3) of the Swiss citizens’ rights agreement, but only where that person would have acquired the right to reside permanently in the United Kingdom without restriction under Directive 2004/38 as it had effect immediately before IP completion day had the facts pertaining to that person’s right to reside fallen to be considered immediately before IP completion day;”;
 - (ii) in sub-paragraph (d), after “the territory comprising”, insert “the United Kingdom, Gibraltar,”;
 - (b) in paragraph 7(1)(c) (workers, employed persons, self-employed persons and their family members), after “the territory comprising”, insert “the United Kingdom, Gibraltar,”;
 - (c) in paragraph 8 (workers, employed persons, self-employed persons and their family members)—
 - (i) sub-paragraphs (a), (b) and (c) are renumbered as sub-paragraph (1)(a), (b) and (c);
 - (ii) in sub-paragraph (1)(b) as so renumbered, after “the territory comprising”, insert “the United Kingdom, Gibraltar,”;
 - (iii) after sub-paragraph (1)(c) as so renumbered, insert—
 - “(2) Any description of person who would have been eligible under this paragraph immediately before IP completion day is to be eligible on and after IP completion day.”;
 - (d) in paragraph 9 (persons who are settled in the United Kingdom and have exercised a right of residence elsewhere)—
 - (i) in sub-paragraph (1)(b), after “right of residence”, insert “before IP completion day”;

- (ii) in sub-paragraph (1)(d) and (e), after “the territory comprising”, insert “the United Kingdom, Gibraltar.”;
- (iii) in sub-paragraph (2)—
 - (aa) for “has a right”, substitute “had the right” each time it occurs;
 - (bb) for “goes”, substitute “has gone”;
- (iv) after sub-paragraph (2), insert—

“(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.”;
- (e) in paragraph 10 (EU nationals)—
 - (i) in sub-paragraphs (1)(c) and (d) and (2), after “the territory comprising”, insert “the United Kingdom, Gibraltar.”;
 - (ii) after sub-paragraph (3), insert—

“(4) Any description of person who would have been eligible under this paragraph immediately before IP completion day is to be eligible on and after IP completion day.”;
- (f) in paragraph 11 (EU nationals)—
 - (i) in sub-paragraphs (1)(a) and (2), omit “other than a United Kingdom national”;
 - (ii) in sub-paragraph (1)(d), after “the territory comprising”, insert “the United Kingdom, Gibraltar.”;
- (g) in paragraph 12 (children of Swiss nationals)—
 - (i) sub-paragraphs (a), (b), (c) and (d) are renumbered as sub-paragraph (1)(a), (b), (c) and (d);
 - (ii) in sub-paragraph (1)(c) and (d) as so renumbered, after “the territory comprising”, insert “the United Kingdom, Gibraltar.”;
 - (iii) after sub-paragraph (1)(d) as so renumbered, insert—

“(2) Any description of person who would have been eligible under this paragraph immediately before IP completion day is to be eligible on and after IP completion day.”;
- (h) in paragraph 13(c) (children of Turkish workers), after “the territory comprising”, insert “the United Kingdom, Gibraltar.”.

28th October 2020

Michelle Donelan
Minister of State
Department for Education

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations amend the Education (Student Support) Regulations 2011 (S.I. 2011/1986) (“the Student Support Regulations”), the Education (Fees and Awards) (England) Regulations 2007 (S.I. 2007/779), the Education (Student Support) (European University Institute) Regulations 2010 (S.I. 2010/447), the Further Education Loans Regulations 2012 (S.I. 2012/1818), the Education (Postgraduate Master’s Degree Loans) Regulations 2016 (S.I. 2016/606), the Higher Education (Fee Limit Condition) (England) Regulations 2017 (S.I. 2017/1189) and the Education (Postgraduate Doctoral Degree Loans and the Education (Student Loans) (Repayment) (Amendment) (No. 2) etc.) Regulations 2018 (S.I. 2018/599).

Regulation 2 revokes the Education (Student Fees, Awards and Support) (Amendment) (EU Exit) Regulations 2019 (S.I. 2019/ 139) which were prepared for a “no-deal” EU Exit and do not reflect

amendments required to implement the EU withdrawal agreement, EEA EFTA separation agreement and the Swiss citizens' rights agreement.

The principal amendments which these Regulations make to the Student Support Regulations ensure that references continue to operate effectively following the withdrawal of the United Kingdom from the European Union.

Regulation 4 omits the definition of "right of permanent residence", from regulation 2 of the Student Support Regulations. The term will instead be defined in Schedule 1 (see regulation 11(2)(a)(ii)).

Regulations 6, 12 and 13 amend references to "Member State" in provisions relating to the calculation of students' income, to ensure that these references continue to operate effectively following the withdrawal of the United Kingdom from the European Union.

Regulation 11 amends definitions and references relating to the European Economic Area and the European Union which are used in Schedule 1 to the Student Support Regulations, to ensure that these definitions and references continue to operate effectively following the withdrawal of the United Kingdom from the European Union.

Regulation 11(2)(a)(ii) inserts a new definition of "right of permanent residence" to reflect the fact that on and after IP completion day Directive 2004/38/EC (the "Directive") will no longer have force in the UK and is replaced by rights under the EU withdrawal agreement, EEA EFTA separation agreement or Swiss citizens' rights agreement, as implemented by the residence scheme immigration rules (as defined in section 17(1) of the European Union (Withdrawal Agreement) Act 2020).

Regulation 11(3)(a) amends paragraph 3 of Schedule 1. Students who have acquired the right of permanent residence under Article 15 of the EU withdrawal agreement or Article 14 of the EEA EFTA separation agreement or the Swiss citizens' rights agreement but have not obtained settled status under the residence scheme immigration rules, must be treated as if they have acquired the right of permanent residence if they meet the requirements in Article 18(2) or (3) of the EU withdrawal agreement, Article 17(2) or (3) of the EEA EFTA separation agreement, or Article 16(2) or (3) of the Swiss citizens' rights agreement. This amendment ensures that those students are eligible for student support on the same basis as if they had right of permanent residence.

Regulation 11(3)(c) amends paragraph 7 of Schedule 1, which confers eligibility on the children of EEA workers. This regulation adds a new sub-paragraph (2) to paragraph 7, which provides that any description of person who would have been eligible under that paragraph immediately before IP completion day is to be eligible on and after IP completion day. Regulation 11(3)(e)(ii) makes similar provision in relation to EU nationals and their family members, who, after IP completion day, may no longer fall within paragraph 9 of Part 2 of Schedule 1, and regulation 11(3)(h)(iii) makes similar provision in relation to children of Swiss nationals who, after IP completion day, may no longer fall within paragraph 11 of that Schedule.

Regulation 11(3)(d) amends paragraph 8 of Schedule 1. This paragraph covers students who have previously exercised free movement rights under the Directive, which ceases to have effect on IP completion day.

Regulations 5 and 8 are consequential on regulation 11(3)(b)(ii) and amend regulations 17 and 138 of the Student Support Regulations. Regulations 17 and 138 stipulate that a student who becomes a family member of an EU national during the course of an academic year may qualify for support in respect of that academic year. The amendments made by regulations 5 and 8 extend this position to a student who becomes a family member of a person who is eligible by virtue of the new provision in paragraph 9(4) of Part 2 of Schedule 1. This does not apply if the person in respect of whom the student is a family member is themselves only eligible as a family member. Regulations 5 and 7-10 amend regulations 17, 85, 138, 138A and 160 of the Student Support Regulations, where they currently refer to a person acquiring the right of permanent residence so that they will instead refer to a student becoming a person described in paragraph 3(1)(a) of Schedule 1 to reflect the amendment made in regulation 11(3)(a)(i).

Regulations 14, 15 and 16 make similar amendments to the Education (Fees and Awards) (England) Regulations 2007.

Regulations 17, 18 and 19 make similar amendments to the Education (Student Support) (European University Institute) Regulations 2010.

Regulations 20, 21, 22 and 23 make similar amendments to the Further Education Loans Regulations 2012.

Regulations 24, 25, 26 and 27 make similar amendments to the Education (Postgraduate Master's Degree Loans) Regulations 2016.

Regulations 28, 29, and 30 make similar amendments to the Higher Education (Fee Limit Condition) (England) Regulations 2017.

Regulations 31, 32, 33, and 34 make similar amendments to the Education (Postgraduate Doctoral Degree Loans and the Education (Student Loans) (Repayment) (Amendment) (No. 2) etc.) Regulations 2018.

An impact assessment has not been produced for this instrument as it has no impact, or no significant impact, on the costs of business, charities or the voluntary sector.

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