
STATUTORY INSTRUMENTS

2021 No. 929

The Education (Student Fees, Awards and Support) (Amendment) (No. 2) Regulations 2021

PART 2

Amendment of the Education (Student Support) Regulations 2011

CHAPTER 1

Introductory

Amendment of the Education (Student Support) Regulations 2011

2. The Education (Student Support) Regulations 2011(1) are amended in accordance with regulations 3 to 8.

CHAPTER 2

Citizens' rights and residency criteria

Amendment to regulation 2

- 3.** In regulation 2(1), in the definition of “person with protected rights”(2)—
- (a) the existing text after “means—” is numbered as paragraph (1) of the definition;
 - (b) in that paragraph as so numbered, omit the terminal “or” after sub-paragraph (a)(iii), and after sub-paragraph (a)(iv), insert—
 - “(v) otherwise has rights deemed to apply by virtue of any citizens’ rights deeming provisions; or”;
 - (c) after that paragraph as so numbered, insert—
 - “(2) In paragraph (1)(a)(v), “citizens’ rights deeming provisions” means—
 - (a) Article 18(2) and (3) (issuance of residence documents) of the EU withdrawal agreement;
 - (b) Article 17(2) and (3) (issuance of residence documents) of the EEA EFTA separation agreement (as defined in section 39(1) of the European Union (Withdrawal Agreement) Act 2020(3)); or
 - (c) Article 16(2) and (3) (issuance of residence documents) of the Swiss citizens’ rights agreement.”.

(1) S.I. 2011/1986, amended by S.I. 2012/1653, 2013/235, 630, 1728 and 3106, 2014/1766, 2103 and 2765, 2015/1951, 2016/211, 270 and 584, 2017/52, 114 and 204, 2018/136, 137, 434, 443, 472 and 599, 2019/142, 983 and 1094, 2020/46, 48, 853, 1181 and 1203, and 2021/127 and 268.

(2) Definition inserted by S.I. 2021/127.

(3) 2020 c. 1.

Amendment to regulation 4

4. In regulation 4(13B)(a)(i)(4), for “paragraph (a)(iii) or (iv)” substitute “paragraph (1)(a)(iii), (iv) or (v)”.

Amendment to regulation 137

5. In regulation 137(11B)(a)(i)(5), for “paragraph (a)(iii) or (iv)” substitute “paragraph (1)(a)(iii), (iv) or (v)”.

Amendment to regulation 159

6. In regulation 159(16B)(a)(i)(6), for “paragraph (a)(iii) or (iv)” substitute “paragraph (1)(a)(iii), (iv) or (v)”.

Amendment to Schedule 1

7. In Schedule 1—

(a) in paragraph 2A(7)—

(i) in sub-paragraph (1)(a), for “on the first day of the first academic year of the course” substitute “on the day on which the first term of the first academic year actually begins”,

(ii) in sub-paragraph (1)(c), after “course” insert “and who has been ordinarily resident in the Republic of Ireland for least part of that period”, and move the terminal “and” to after sub-paragraph (1)(d),

(iii) after sub-paragraph (1)(d) insert—

“(e) who did not move to England from the Islands for the purpose of undertaking the current course, or a course which, disregarding any intervening vacation, the person undertook immediately before the current course.”;

(b) in paragraph 3(1)(a)(iv)—

(i) in paragraph (bb)(8), after “Regulations” insert “or otherwise has rights deemed to apply by virtue of any of the citizens’ rights provisions specified in paragraph (3)”,

(ii) in paragraph (cc), after “relevant period” insert “or otherwise has a deemed right of permanent residence by virtue of any of the citizens’ rights provisions specified in paragraph (3)”,

(iii) after sub-paragraph (2) insert—

“(3) For the purposes of sub-paragraph (1)(a)(iv), the citizens’ rights provisions referred to are—

(a) Article 18(3) (issuance of residence documents) of the EU withdrawal agreement;

(b) Article 17(3) (issuance of residence documents) of the EEA EFTA separation agreement (as defined in section 39(1) of the European Union (Withdrawal Agreement) Act 2020); or

(4) Paragraph (13B) was inserted by [S.I. 2021/127](#).

(5) Paragraph (11B) was inserted by [S.I. 2021/127](#).

(6) Paragraph (16B) was inserted by [S.I. 2021/127](#).

(7) Paragraph 2A was inserted by the [S.I. 2021/127](#).

(8) Paragraph 3(1)(a) was substituted by [S.I. 2021/127](#).

- (c) Article 16(3) (issuance of residence documents) of the Swiss citizens' rights agreement.”;
- (c) in paragraph 9C(1)(9), move the terminal “and” after sub-paragraph (c) to after sub-paragraph (d), and after that sub-paragraph insert—
- “(e) who did not move to England from the Islands for the purpose of undertaking the current course or a course which, disregarding any intervening vacation, the person undertook immediately before undertaking the current course.”.

CHAPTER 3

Irish citizens in the EEA and Switzerland

Eligibility of Irish citizens in the EEA and Switzerland

- 8.—(1) In regulation 4(10)—
- (a) in paragraph (2)(a), after “9B,” insert “9BA,”;
- (b) in paragraph (2B), for “, 9B and 9D” substitute “, 9B, 9BA and 9D”.
- (2) In regulation 38(3)(11), after “9A,” insert “9BA,”.
- (3) In regulation 69(3)(a)(12), after “9A,” insert “9BA,”.
- (4) In regulation 137(13),
- (a) in paragraph (2)(a), after “9B,” insert “9BA”;
- (b) in paragraph (2B) for “, 9B and 9D” substitute “, 9B, 9BA and 9D”.
- (5) In regulation 147(2)(a)(14), after “9A,” insert “9BA,”.
- (6) In regulation 157B(2)(a)(15), after “9A,” insert “9BA,”.
- (7) In regulation 159(16)—
- (a) in paragraph (3)(a)(i), after “9B,” insert “9BA,”;
- (b) in paragraph (3B), for “, 9B and 9D” substitute “, 9B, 9BA and 9D”;
- (c) in paragraph (8), after “9A,” insert “9BA,”.
- (8) In Schedule 1—
- (a) after paragraph 9B insert—
- “9BA.—(1) A person—
- (a) who is an Irish citizen on the first day of the first academic year of the course;
- (b) who was ordinarily resident before IP completion day—
- (i) in the territory comprising the European Economic Area and Switzerland;
- or

(9) Paragraph 9C was inserted by [S.I. 2021/127](#).

(10) Paragraph (2) of regulation 4 was substituted, and paragraph (2B) inserted, by [S.I. 2021/127](#).

(11) Paragraph (3) of regulation 38 was amended by [S.I. 2021/127](#).

(12) Paragraph (3) of regulation 69 was amended by [S.I. 2021/127](#).

(13) Paragraph (2) of regulation 137 was substituted, and paragraph (2B) inserted, by [S.I. 2021/127](#).

(14) Regulation 147 was moved to Part 11A by [S.I. 2018/472](#) and paragraph (2)(a) of regulation 147 was substituted by [S.I. 2021/127](#).

(15) Regulation 157B was inserted by [S.I. 2018/472](#) and paragraph (2)(a) was substituted by [S.I. 2021/127](#).

(16) Paragraph (3) of regulation 159 was substituted, paragraph (3B) inserted, and paragraph (8) amended, by [S.I. 2021/127](#).

- (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 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 England; or
 - (ii) undertaking an intensive course, designated part-time course or a designated postgraduate course in England;
 - (d) 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
 - (e) subject to sub-paragraph (2), whose ordinary residence in the territory comprising the United Kingdom, Gibraltar, the European Economic Area and Switzerland 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 territory comprising the United Kingdom, Gibraltar, the European Economic Area and Switzerland in accordance with paragraph 1(4).”.