
WELSH STATUTORY INSTRUMENTS

2018 No. 814

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

Part 4

Amendments relating to the immigration status of students

Amendments to the Education (Fees and Awards) (Wales) Regulations 2007

41. In the Schedule—

(a) in paragraph 1—

(i) in the appropriate places insert—

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

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

(a) has extant leave to remain as a stateless person under the immigration rules; and

(b) has been ordinarily resident in the United Kingdom and Islands throughout the period since the person was granted such leave;”;

(ii) for the definition of “person with leave to enter or remain” substitute—

““person with leave to enter or remain” (*“person sydd â chaniatâd i ddod i mewn neu i aros”*) means a person (“P”)—

(a) who has—

(i) applied for refugee status but has, as a result of that application, been informed in writing by a person acting under the authority of the Secretary of State for the Home Department that, although P is not considered to qualify for recognition as a refugee, it is thought right to allow P to enter or remain in the United Kingdom on the grounds of humanitarian protection or discretionary leave, and who has been granted leave to enter or remain accordingly;

(ii) not applied for refugee status but has been informed in writing by a person acting under the authority of the Secretary of State for the Home Department that it is thought right to allow P to enter or remain in the United Kingdom on the grounds of discretionary leave, and who has been granted leave to enter or remain accordingly;

(iii) been granted leave to remain on the grounds of private life under the immigration rules; or

- (iv) been informed in writing by a person acting under the authority of the Secretary of State for the Home Department that, although P is not considered to qualify for leave to remain on the grounds of private life under the immigration rules, P has been granted leave to remain outside the rules⁽¹⁾ on the grounds of Article 8 of the European Convention on Human Rights;
 - (b) whose period of leave to enter or remain has not expired or has been renewed and the period for which it was renewed has not expired or in respect of whose leave to enter or remain an appeal is pending (within the meaning of section 104 of the Nationality, Immigration and Asylum Act 2002⁽²⁾); and
 - (c) who has been ordinarily resident in the United Kingdom and Islands throughout the period since P was granted leave to enter or remain;”;
- (b) after paragraph 4 (refugees and their family members) insert—

“Persons granted stateless leave and their family members

- 4A.—**(1) A person granted stateless leave who—
- (a) is ordinarily resident in Wales on the first day of the first academic year of the course; and
 - (b) has been ordinarily resident in the United Kingdom and Islands throughout the three year period preceding the first day of the first academic year of the course.
- (2) A person—
- (a) who—
 - (i) is the spouse or civil partner of a person granted stateless leave; and
 - (ii) on the leave application date, was the spouse or civil partner of a person granted stateless leave;
 - (b) who is ordinarily resident in Wales on the first day of the first academic year of the course; and
 - (c) who has been ordinarily resident in the United Kingdom and Islands throughout the three year period preceding the first day of the first academic year of the course.
- (3) A person—
- (a) who—
 - (i) is the child of a person granted stateless leave or the child of the spouse or civil partner of a person granted stateless leave; and
 - (ii) on the leave application date, was the child of a person granted stateless leave or the child of a person who, on the leave application date, was the spouse or civil partner of a person granted stateless leave;
 - (b) who was under 18 on the leave application date;
 - (c) who is ordinarily resident in Wales on the first day of the first academic year of the course; and

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

(2) 2002 c. 41. Section 104 was amended by the Asylum and Immigration (Treatment of Claimants, etc.) Act 2004, Schedules 2 and 4, the Immigration, Asylum and Nationality Act 2006 (c. 13), section 19, S.I. 2010/21 and the Immigration Act 2014 (c. 22), Schedule 9.

(d) who has been ordinarily resident in the United Kingdom and Islands throughout the three year period preceding the first day of the first academic year of the course.

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

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

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

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

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

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

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

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

(iv) after sub-paragraph (3) insert—

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