WELSH STATUTORY INSTRUMENTS

2021 No. 1365

The Education (Student Fees, Awards and Support) (Amendment) (Wales) Regulations 2021

PART 7

AMENDMENTS TO THE EDUCATION (POSTGRADUATE DOCTORAL DEGREE LOANS) (WALES) REGULATIONS 2018

CHAPTER 1

Introduction

43. The Education (Postgraduate Doctoral Degree Loans) (Wales) Regulations 2018(**1**) are amended in accordance with this Part.

CHAPTER 2

Citizens' rights and residency criteria

Amendments to regulations 2 and 3

44. In regulation 2(1), in the definition of "person with protected rights"—

(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" at the end of 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); or

(c) Article 16(2) and (3) (issuance of residence documents) of the Swiss citizens' rights agreement."

45. In regulation 3(11)(a)(i), for "paragraph (a)(iii) or (iv)" substitute "paragraph (1)(a)(iii), (iv) or (v)".

(**1**)   S.I. 2018/656 (W. 124), amended by S.I. 2018/814 (W. 165); S.I. 2019/235 (W. 54); S.I. 2019/1192 (W. 209); S.I. 2019/1094; S.I. 2020/153 (W. 27); S.I. 2020/1302 (W. 287); S.I. 2021/9 (W. 4); S.I. 2021/73 (W. 19) and S.I. 2021/481 (W. 148).

Amendments to Schedule 1

46. In Schedule 1—

(a) in paragraph 2A—

(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 at least part of that period", and move the terminal "and" to the end of sub-paragraph (1)(d);

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

"(e) who did not move to Wales from the Islands for the purpose of undertaking the designated course, or a course which, disregarding any intervening vacation, the person undertook immediately before undertaking the designated course."

(b) in paragraph 3(1)(a)(iv)—

(i) in paragraph (bb), after "Regulations" insert "or otherwise has rights deemed to apply by virtue of any of the citizens' rights provisions specified in sub-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 sub-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

(c) Article 16(3) (issuance of residence documents) of the Swiss citizens' rights agreement.";

(c) in paragraph 10C(1), move the terminal "and" at the end of paragraph (c) to the end of paragraph (d), and after that paragraph insert—

"(e) who did not move to Wales from the Islands for the purpose of undertaking the designated course, or a course which, disregarding any intervening vacation, the person undertook immediately before undertaking the designated course."

CHAPTER 3

Eligibility of Irish citizens in the EEA and Switzerland

Amendments to regulation 3

47. In regulation 3—

(a) in paragraph (2)(a), after "10B," insert "10BA,";

(b) in paragraph (2B), for "9A, 10B or 10D" substitute "9A, 10B, 10BA or 10D".

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Amendments to Schedule 1

48. In Schedule 1, after paragraph 10B, insert—

"**Irish citizens in the EEA and Switzerland**

10BA.—(1) A person—

  (a) who is an Irish citizen on the first day of the first academic year;

  (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 31 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 undertaking a designated course in Wales;

  (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)."