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WELSH STATUTORY INSTRUMENTS

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**2021 No. 481**

**The Education (Student Finance) (Miscellaneous Amendments) (Wales) (EU Exit) Regulations 2021**

**PART 6**

**AMENDMENTS TO THE EDUCATION (STUDENT SUPPORT) (WALES) REGULATIONS 2018**

**Amendments to the Education (Student Support) (Wales) Regulations 2018**

**114.** The Education (Student Support) (Wales) Regulations 2018(1) are amended in accordance with this Part.

**115.** In regulation 9 (eligible students), for paragraph (1) substitute—

“(1) A person is an eligible student in connection with a designated course that the person is undertaking if—

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

(i) in paragraph 1, 2, 2ZA, 2ZB, 3, 4A, 5A, 6A, 6B, 6C, 6D, 7A or 8A of Schedule 2, or

(ii) in paragraph 4, 5, 6, 7 or 8 of Schedule 2 where paragraph (1A) applies, and none of the exceptions in regulation 10 apply to the person, or

(b) the person’s circumstances fall within one of the cases set out in regulation 11.

(1A) This paragraph applies where—

(a) in connection with a designated course beginning before 1 August 2021 the Welsh Ministers—

(i) in assessing an application for support by a person (“A”) determined that A fell within one of the categories set out in paragraph 4, 5, 6, 7 or 8 of Schedule 2 in relation to an academic year of the course beginning before 1 August 2021, or

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

(b) A applies for support in connection with—

(i) that course,

(ii) an end-on course following on from that course, or

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(1) S.I. 2018/191 (W. 42), amended by S.I. 2018/813 (W. 164); S.I. 2018/814 (W. 165); S.I. 2019/235 (W. 54); S.I. 2019/1094; S.I. 2019/1192 (W. 209); S.I. 2020/142 (W. 25); S.I. 2020/153 (W. 27); S.I. 2020/708 (W. 159); S.I. 2020/1302 (W. 287); S.I. 2021/9 (W. 4) and S.I. 2021/73 (W. 19).

- (iii) a designated course to which A’s status as an eligible student is transferred in accordance with these Regulations.”

**116.** In regulation 10(1) (eligible students – exceptions), at the end insert—

*“Exception 8*

The designated course begins on or after 1 January 2028 and the only paragraph or paragraphs in Schedule 2 into which P falls is one or more of paragraphs 5A, 6B, or 6D.”

**117.** In regulation 12(1) (period of eligibility – general rule), for “19, 20, 22 or 23” substitute “19, 20, 22, 22A, 23, 23A, 23B, 23C, 23D or 23E”.

**118.** In regulation 22A(1) (persons who cease to have stateless leave)—

- (a) in sub-paragraph (a), for “a Category 2A eligible student” substitute “an eligible student as a result of being a person granted stateless leave”;
- (b) in sub-paragraph (b)(ii), for “a Category 2A eligible student” substitute “an eligible student”.

**119.** In regulation 23A(1) (persons who cease to have section 67 leave to remain)—

- (a) in sub-paragraph (a), for “a Category 3A eligible student” substitute “an eligible student as a result of being a person with section 67 leave to remain”;
- (b) in sub-paragraph (b)(ii), for “a Category 3A eligible student” substitute “an eligible student”.

**120.** After regulation 23A insert—

**“Persons who cease to have Calais leave**

**23B.—**(1) This regulation applies where—

- (a) a person (“P”) was an eligible student as a result of being a person with Calais leave (see Schedule 2, paragraph 2ZA) in connection with an application for support—
  - (i) for an earlier year of the present course,
  - (ii) for a full-time course in relation to which the present course is a full-time end-on course, or
  - (iii) for a course from which P’s status as an eligible student has been transferred to the present course under regulation 28 or paragraph 7 of Schedule 5, and
- (b) as at the end of the day before the first day of the academic year in respect of which P is applying for support, the period for which P is allowed to stay in the United Kingdom has expired and no further leave to remain has been granted.

(2) Where this regulation applies, P’s status as an eligible student terminates immediately before the first day of the academic year in respect of which P is applying for support.

**Persons who cease to have leave to remain as a protected partner**

**23C.—**(1) This regulation applies where—

- (a) a person (“P”) was an eligible student as a result of being a person granted leave to remain as a protected partner—
  - (i) for an earlier year of the present course,
  - (ii) for a full-time course in relation to which the present course is a full-time end-on course, or

- (iii) for a course from which P's status as an eligible student has been transferred to the present course under regulation 28 or paragraph 7 of Schedule 5, and
- (b) as at the end of the day before the first day of the academic year in respect of which P is applying for support, the period for which—
  - (i) P, or
  - (ii) the person who, as a result of being a person granted leave to remain as a protected partner, caused P to be an eligible student,

is allowed to stay in the United Kingdom has expired and no further leave to remain as been granted and no appeal is pending (within the meaning of section 104 of the Nationality, Immigration and Asylum Act 2002).

(2) Where this regulation applies, P's status as an eligible student terminates immediately before the first day of the academic year in respect of which P is applying for support.

### **Persons who cease to have leave to remain under residence scheme immigration rules**

**23D.**—(1) This regulation applies where—

- (a) 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 ("P") was an eligible student in connection with an application for support for—
  - (i) an earlier year of the current course,
  - (ii) a full-time course in relation to which the present course is a full-time end on course, or
  - (iii) a course from which P's status has been transferred to the present course under regulation 28 or paragraph 7 of Schedule 5, and
- (b) as at the end of the day before the first day of the academic year in respect of which P is applying for support, P 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.

(2) Where this regulation applies, P's status as an eligible student terminates immediately before the first day of the academic year in respect of which P is applying for support.

**23E.** Where—

- (a) the Welsh Ministers have determined that, by virtue of—
  - (i) falling within paragraph (a)(iii) or (iv) of the definition of "person with protected rights", or
  - (ii) meeting the conditions in paragraph 1(2)(a)(iii) or (iv) of Schedule 2,a person ("P") 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 first day of the academic year, P is not a person with protected rights,  
P's status as an eligible student terminates immediately before the first day of the academic year in respect of which P is applying for support."

**121.** In regulation 44(1) (qualifying conditions for base grant and maintenance grant - exceptions), for Exception 2 substitute—

*“Exception 2*

The only paragraph or paragraphs of Schedule 2 into which the eligible student falls is one or more of paragraphs 1(3), 6(1), 6A(1), 6C or 6D.”

**122.** In regulation 54 (qualifying conditions for a maintenance loan - exceptions), for Exception 2 substitute—

*“Exception 2*

The only paragraph or paragraphs of Schedule 2 into which the eligible student falls is one or more of paragraphs 1(3), 6(1), 6A(1), 6C or 6D.”

**123.** In regulation 62(2) (qualifying conditions for disabled student’s grant - exceptions), for Exception 2 substitute—

*“Exception 2*

The only paragraph or paragraphs of Schedule 2 into which the eligible student falls is one or more of paragraphs 1(3), 6(1), 6A(1), 6C or 6D.”

**124.** In regulation 69(2) (qualifying conditions for grants for dependants - exceptions), for Exception 2 substitute—

*“Exception 2*

The only paragraph or paragraphs of Schedule 2 into which the eligible student falls is one or more of paragraphs 1(3), 6(1), 6A(1), 6C or 6D.”

**125.** In regulation 80 (qualifying for a tuition fee loan during the academic year)—

(a) in paragraph (2)(b)—

(i) in paragraph (ia), after “section 67 leave to remain” insert “or a person granted leave to remain as a protected partner”;

(ii) after paragraph (ia) insert—

“(ib) the student becomes a person with Calais leave;”;

(iii) omit paragraph (ii);

(iv) for paragraph (iii) substitute—

“(iii) the student becomes a family member described in paragraph 6A(1)(a), 6C(1)(a) or 6D(a) of Schedule 2;”;

(v) for paragraph (v) substitute—

“(v) where regulation 9(1A)(a) applies, the person becomes a person described in paragraph 8(1)(a) of Schedule 2;”;

(vi) in paragraph (vi), after “described in” insert “paragraph 4A(1)(a) of Schedule 2 or, where regulation 9(1A)(a) applies, in”;

(vii) for paragraph (vii) substitute—

“(vii) the student becomes a person described in paragraph 7A(a) of Schedule 2 or, where regulation 9(1A)(a) applies, in paragraph 7(1)(a) of Schedule 2; or”;

(viii) after paragraph (vii) insert—

“(viii) the student becomes a person described in paragraph 6B(1)(a)(ii) of Schedule 2.”;

(b) in paragraph (3)—

(i) omit ““child” (“*plentyn*)”;

- (ii) in the entry for “family member”, omit “(within the meaning given by paragraph 6(5) of Schedule 2)”;
- (iii) omit ““right of permanent residence” (“*hawl i breswyllo ’n barhaol*”);
- (iv) omit ““Turkish worker” (“*gweithiwr Twrcaidd*”);
- (v) at the appropriate place insert—
  - ““person granted leave to remain as a protected partner” (“*person y rhoddwyd caniatâd iddo aros fel partner a ddiogelir*”);
  - ““person with Calais leave” (“*person sydd â chaniatâd Calais*”);

**126.** In regulation 81(3)(b) (qualifying for grants or maintenance loan during the academic year)

- (a) in paragraph (ia), after “section 67 leave to remain” insert “or a person with leave to remain as a protected partner”;
- (b) after paragraph (ia) insert—
  - “(ib) the student becomes a person with Calais leave;”;
- (c) omit paragraph (ii);
- (d) for paragraph (iv) substitute—
  - “(iv) where regulation 9(1A)(a) applies, the person becomes a person described in paragraph 8(1)(a) of Schedule 2;”;
- (e) in paragraph (v), after “described in” insert “paragraph 4A(1)(a) of Schedule 2 or, where regulation 9(1A)(a) applies, in”;
- (f) for paragraph (vi) substitute—
  - “(vi) the student becomes a person described in paragraph 7A(a) of Schedule 2 or, where regulation 9(1A)(a) applies, in paragraph 7(1)(a) of Schedule 2;”;
- (g) after paragraph (vi) insert—
  - “(vii) the student becomes a person described in paragraph 6B(1)(a)(ii) of Schedule 2.”

**127.** In Schedule 1, in paragraph 4 (meaning of Erasmus year), for sub-paragraph (3) substitute—

- “(3) In sub-paragraph (1), “ERASMUS scheme” means—
  - (a) the European Union’s action scheme for the mobility of university students, or
  - (b) the scheme established by the Secretary of State for Education known as the Turing Scheme.”

**128.** In Schedule 1, in paragraph 6 (interpretation of other key terms)—

- (a) in sub-paragraph (1), at the appropriate place insert—
  - ““the 2020 Citizens’ Rights Regulations” (“*Rheoliadau Hawliau Dinasyddion 2020*”) means the Citizens’ Rights (Application Deadline and Temporary Protection) (EU Exit) Regulations 2020;”;
  - ““grace period” (“*cyfnod gras*”) has the meaning given by regulation 3 of the 2020 Citizens’ Rights Regulations;”;
  - ““person with protected rights” (“*person sydd â hawliau gwarchoddedig*”) 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,
- (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;";

““relevant period” (“*cyfnod perthnasol*”) has the meaning given by regulation 4 of the 2020 Citizens' Rights Regulations;”;

““relevant person of Northern Ireland” (“*person perthnasol o Ogledd Iwerddon*”) has the meaning given by residence scheme immigration rules;”;

““residence scheme immigration rules” (“*rheolau mewnfudo'r cynllun preswyllo*”) has the meaning given by section 17(1) of the European Union (Withdrawal Agreement) Act 2020;”;

““Swiss citizens' rights agreement” (“*cytundeb ar hawliau dinasyddion Swisaidd*”) has the meaning given by section 39(1) of the European Union (Withdrawal Agreement) Act 2020.”;

- (b) after sub-paragraph (2) insert—

“(3) 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.”

**129.** In Schedule 2, in paragraph 1 (category 1 – persons settled in the United Kingdom)—

- (a) for sub-paragraph (1)(a)(i) substitute—

“(i) is settled in the United Kingdom and does not fall within sub-paragraph (2), and”;

- (b) for sub-paragraph (2)(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 sub-paragraph (2) insert—
- “(3) A person—
- (a) who is settled in the United Kingdom on the first day of the first academic year of the course and does not fall within sub-paragraph (2),
  - (b) who is undertaking a designated course in Wales,
  - (c) who has been ordinarily resident in the territory comprising the United Kingdom, Islands and the Republic of Ireland throughout the three-year period preceding the first day of the first academic year of the course, and
  - (d) whose ordinary residence in the territory comprising the United Kingdom, Islands and the Republic of Ireland 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 (unless the person is treated as being ordinarily resident in that territory in accordance with paragraph 9(2)).
- (4) For the purposes of sub-paragraph (2)(a)(ii)(cc), “eligibility requirements for indefinite leave to enter or remain in the United Kingdom granted by virtue of residence scheme immigrations rules” means the eligibility requirements for such leave in accordance with paragraph EU11 of Appendix EU to the immigration rules.”

**130.** In Schedule 2, for paragraph 2ZA substitute—

**“Category 2ZA - Protected persons and their family members**

**2ZA.—**(1) A person—

- (a) granted leave to enter or remain as a protected person,
- (b) who is ordinarily resident in the United Kingdom and Islands and has not ceased to be so resident since being granted such leave, and

- (c) who is ordinarily resident in Wales on the first day of the first academic year of the course.
- (2) A person who—
  - (a) is a protected spouse or civil partner,
  - (b) on the leave application date, was the spouse or civil partner of a person granted leave to enter or remain as a protected person (by virtue of humanitarian protection under paragraph 339C of the immigration rules or as a stateless person under the immigration rules),
  - (c) is ordinarily resident in the United Kingdom and Islands and has not ceased to be so resident since being granted leave to enter or remain in the United Kingdom, and
  - (d) is ordinarily resident in Wales on the first day of the first academic year of the course.
- (3) A person who—
  - (a) is a protected child,
  - (b) on the leave application date was—
    - (i) under 18 years old, and
    - (ii) was the child of a person granted leave to enter or remain as a protected person, or, as the case may be, the child of a person who was the spouse or civil partner of the person granted leave to enter or remain as a protected person on that date (by virtue of humanitarian protection under paragraph 339C of the immigration rules, stateless leave under the immigration rules or section 67 of the Immigration Act 2016 and the immigration rules, as the case may be),
  - (c) is ordinarily resident in the United Kingdom and Islands and has not ceased to be so since being granted leave to enter or remain in the United Kingdom, and
  - (d) is ordinarily resident in Wales on the first day of the first academic year of the course.
- (4) In this paragraph—
  - (a) “leave application date” means the date on which a person (“P”) made an application for leave to enter or remain in the United Kingdom that results in P becoming a person granted leave to enter or remain as a protected person,
  - (b) “leave to enter or remain as a protected person” means—
    - (i) a person granted humanitarian protection,
    - (ii) a person granted stateless leave,
    - (iii) a person with section 67 leave to remain, or
    - (iv) a person with Calais leave,
  - (c) “person granted humanitarian protection” means a person with extant leave to enter or remain on the grounds of humanitarian protection under paragraph 339C of the immigration rules,
  - (d) “person granted stateless leave” means a person with extant leave to remain on the grounds of stateless leave under the immigration rules,
  - (e) “person with Calais leave” means a person with extant leave to remain under paragraphs 352J, 352K, 352L or 352T of the immigration rules (Calais leave and



“leave in line” granted by virtue of being a dependent child of a person granted Calais leave),

- (f) “person with section 67 leave to remain” means a person with extant leave to remain under section 67 of the Immigration Act 2016 and in accordance with the immigration rules,
- (g) “protected child” means—
  - (i) a child of—
    - (aa) a person granted humanitarian protection,
    - (ab) a person granted stateless leave, or
    - (ac) a person with section 67 leave to remain, or
  - (ii) a child of the spouse or civil partner of—
    - (aa) a person granted humanitarian protection, or
    - (ab) a person granted stateless leave,
- (h) “protected spouse or civil partner” means a spouse or civil partner of—
  - (i) a person granted humanitarian protection, or
  - (ii) a person granted stateless leave.”

131. In Schedule 2, after paragraph 2ZA insert—

**“Category 2ZB - Persons granted leave to remain as a protected partner and their children**

- 2ZB.**—(1) A person—
- (a) granted leave to remain as a protected partner,
  - (b) who is ordinarily resident in the United Kingdom and Islands and has not ceased to be so resident since being granted such leave, and
  - (c) who is ordinarily resident in Wales on the first day of the first academic year of the course.
- (2) A person who—
- (a) is the child of a person granted leave to remain as a protected partner,
  - (b) on the leave application date was under 18 years old and was the child of a person granted leave to remain as a protected partner,
  - (c) is ordinarily resident in the United Kingdom and Islands and has not ceased to be so resident since being granted leave to remain in the United Kingdom, and
  - (d) is ordinarily resident in Wales on the first day of the first academic year of the course.
- (3) In this paragraph—
- (a) “leave application date” means the date on which a person (“P”) made an application for leave to enter or remain in the United Kingdom that results in P becoming a person granted leave to remain as a protected partner,
  - (b) “person granted leave to remain as a protected partner” means a person granted leave to remain in the United Kingdom as either a victim of domestic violence or domestic abuse or as a bereaved partner under any of the following provisions of the immigration rules—
    - (i) paragraphs 289B and 289D (victims of domestic violence),

- (ii) paragraphs D-DVILR.1.1. and D-DVILR.1.2. of Appendix FM (victims of domestic abuse),
- (iii) paragraphs 40 and 41 of Appendix Armed Forces (victims of domestic violence who are partners of members of the armed forces),
- (iv) paragraph 288, as a person in relation to whom the requirements in paragraph 287(b) of those rules are met (bereaved spouses or civil partners),
- (v) paragraphs D-BPILR.1.1. and D-BPILR.1.2. of Appendix FM (bereaved partners),
- (vi) paragraphs 36 and 37 of Appendix Armed Forces (bereaved partners), or
- (vii) paragraph 295N, as a person in relation to whom the requirements in paragraph 295M of those rules are met (bereaved unmarried or same sex partners).”

**132.** In Schedule 2, omit paragraphs 2A (category 2A - persons granted stateless leave and their family members) and 3A (persons with section 67 leave to remain).

**133.** In Schedule 2, in paragraph 4 (category 4 – workers, employed persons, self-employed persons and their family members)—

- (a) in the heading, at the end insert “— courses beginning before 1 August 2021”;
- (b) in sub-paragraph (2)—
  - (i) in paragraph (c), for the words from “, as extended” to the end substitute “(“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.”;
  - (ii) after paragraph (c) insert—
    - “(d) for the purposes of paragraph (c), in Article 10 of the Workers Regulation the reference to “another Member State” is to be read as including the United Kingdom and the references to “that State” construed accordingly.”;
- (c) in sub-paragraph (2A), in the English language text, for “implementation period”, in each place it occurs, substitute “IP”;
- (d) in sub-paragraph (3)—
  - (i) in the opening words, after “In sub-paragraph (1)” insert “and sub-paragraph (1) of paragraph 4A”;
  - (ii) in the definition of “family member”, 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 4A(4)”.

**134.** In Schedule 2, after paragraph 4 insert—

**“Category 4A - Workers, employed persons, self-employed persons and their family members with protected rights**

**4A.—(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 one of the following—
  - (i) an EEA migrant worker or an EEA self-employed person, who is ordinarily resident in Wales on the first day of the first academic year of the course,

- (ii) a Swiss employed person or a Swiss self-employed person, who is ordinarily resident in Wales on the first day of the first academic year of the course,
  - (iii) a family member of a person mentioned in sub-paragraph (i) or (ii), who is ordinarily resident in Wales on the first day of the first academic year of the course,
  - (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), and
- (b) has been ordinarily resident in the territory comprising the United Kingdom, Gibraltar, the EEA and Switzerland throughout the three-year period preceding the first day of the first academic year of the course.
- (2) A person with protected rights who—
- (a) is ordinarily resident in Wales 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 EEA 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 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.
- (3) For the purposes of sub-paragraph (2)(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.
- (4) 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.”

**135.** In Schedule 2, in paragraph 5 (category 5 – persons who are settled in the United Kingdom and have exercised a right of residence elsewhere)—

- (a) in the heading, at the end insert “— courses beginning before 1 August 2021”;
- (b) in sub-paragraph (1)(b), in the English language text, for “implementation period” substitute “IP”;
- (c) omit sub-paragraph (5).

**136.** In Schedule 2, after paragraph 5 insert—

**“Category 5A - Persons who are settled in the United Kingdom and have exercised a right of residence elsewhere**

**5A.—(1)** A person who—

- (a) is settled in United Kingdom,

- (b) was ordinarily resident in Wales 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 EEA 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 Gibraltar, the EEA and Switzerland,
 and has remained ordinarily resident in the territory comprising the United Kingdom, Gibraltar, the EEA 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,
- (d) is ordinarily resident in the United Kingdom on the day on which the course begins,
- (e) has been ordinarily resident in the territory comprising the United Kingdom, Gibraltar, the EEA and Switzerland 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 purpose of receiving full-time education, was ordinarily resident in the territory comprising the United Kingdom, Gibraltar, the EEA 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 sub-paragraph (3) or (4) applies to the person.

- (3) This sub-paragraph applies to a person who is—
  - (a) a United Kingdom national,
  - (b) 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
  - (c) a person who had the right of permanent residence, who 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.
- (4) This sub-paragraph applies to a person (“P”) who—
  - (a) is settled in the United Kingdom and had the right of permanent residence, and
  - (b) has gone to the state within the territory comprising the EEA and Switzerland of which P is a national or of which the person in relation to whom P is a family member is a national.

(5) For the purposes of this paragraph, 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.”

**137.** In Schedule 2, in paragraph 6 (category 6 – EU nationals)—

- (a) in the heading, at the end insert “— courses beginning before 1 August 2021”;
- (b) in sub-paragraph (1A), for “implementation period”, in each place it occurs, substitute “IP”;
- (c) omit sub-paragraph (5).

138. In Schedule 2, after paragraph 6 insert—

**“Category 6A - EU nationals etc. with protected rights**

**6A.—(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 a designated course in Wales,
- (c) who has been ordinarily resident in the territory comprising the United Kingdom, Gibraltar, the EEA and Switzerland throughout the three-year period preceding the first day of the first academic year of the course, and
- (d) whose ordinary residence in the territory comprising the United Kingdom, Gibraltar, the EEA and Switzerland 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 (unless the person is treated as being ordinarily resident in that territory in accordance with paragraph 9(2)).

(2) 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 Wales 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 EEA and Switzerland immediately prior to the period of ordinary residence referred to in paragraph (c).

**Category 6B - United Kingdom nationals**

**6B.—(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 EEA 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 EEA and Switzerland,

and has remained ordinarily resident in the territory comprising the United Kingdom, Gibraltar, the EEA 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) who has been ordinarily resident in the territory comprising the United Kingdom, Gibraltar, the EEA and Switzerland throughout the three-year period preceding the first day of the first academic year of the course, and
  - (e) whose ordinary residence in the territory comprising the United Kingdom, Gibraltar, the EEA 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 (unless the person is treated as being ordinarily resident in that territory in accordance with paragraph 9(2)).
- (2) 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-paragraph (1)(b) and (d).

#### **Category 6C – Family members of United Kingdom nationals**

##### **6C.** 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 a designated course in Wales,
- (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) whose ordinary residence in the United Kingdom and Islands has not during any part of the period referred to in sub-paragraph (c) been wholly or mainly for the purpose of receiving full-time education (unless the person is treated as being ordinarily resident in that territory in accordance with paragraph 9(2)).

#### **Category 6D - Persons resident in Gibraltar**

##### **6D.** 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 a designated course in Wales,
- (c) who has been ordinarily resident in the territory comprising the United Kingdom, Gibraltar, the EEA and Switzerland throughout the three-year period preceding the first day of the first academic year of the course, and
- (d) whose ordinary residence in the territory comprising the United Kingdom, Gibraltar, the EEA and Switzerland has not during any part of the period referred to in sub-paragraph (c) been wholly or mainly for the purpose of receiving full-time education (unless the person is treated as being ordinarily resident in that territory in accordance with paragraph 9(2)).”

139. In Schedule 2, in paragraph 7 (category 7 – children of Swiss nationals)—
- (a) in the heading, at the end insert “— courses beginning before 1 August 2021”;
  - (b) in sub-paragraph (2), in the English language text, for “implementation period”, in each place it occurs, substitute “IP”.

140. In Schedule 2, after paragraph 7 insert—

**“Category 7A - Children of Swiss nationals within scope of the Swiss citizens’ rights agreement**

7A. 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 Wales 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 EEA and Switzerland 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 sub-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 EEA and Switzerland immediately prior to the period of ordinary residence referred to in sub-paragraph (c).”

141. In Schedule 2, in paragraph 8 (category 8 – children of Turkish workers), in the heading, at the end insert “— courses beginning before 1 August 2021”.

142. In Schedule 2, after paragraph 8 insert—

**“Category 8A - Children of Turkish workers**

8A.—(1) 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 Wales 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 EEA, Switzerland and Turkey throughout the three-year period preceding the first day of the first academic year of the course.
- (2) In this paragraph, “Turkish worker” means a Turkish national who—
- (a) is ordinarily resident in the United Kingdom and Islands, and
  - (b) is, or has been, lawfully employed in the United Kingdom.”

143. In Schedule 2, in paragraph 9 (ordinary residence – additional provision)—

- (a) in sub-paragraph (2), after “Islands”, in each place it occurs, insert “, the territory comprising the United Kingdom, Islands and the Republic of Ireland”;

- (b) in sub-paragraph (3)—
  - (i) after “Islands” insert “, the territory comprising the United Kingdom, Islands and the Republic of Ireland”;
  - (ii) after paragraph (a) insert—
    - “(aa) in the case of members of the regular armed forces of the Republic of Ireland, any period which they serve outside the territory comprising the United Kingdom, Islands and the Republic of Ireland as members of such forces;”.

**144.** In Schedule 2, in paragraph 11 (interpretation)—

- (a) the existing text becomes sub-paragraph (1);
- (b) in that sub-paragraph—
  - (i) omit the definitions of “EEA EFTA separation agreement”, “residence scheme immigration rules”, “right of permanent residence” and “Swiss citizens’ rights agreement”;
  - (ii) at the appropriate place insert—
    - ““family member” (“*aelod o deulu*”) means (unless otherwise indicated) in relation to a person (“P”)—
    - (a) P’s spouse or civil partner,
    - (b) direct descendants of P or of P’s spouse or civil partner who are—
      - (i) under the age of 21, or
      - (ii) dependants of P or P’s spouse or civil partner, or
    - (c) in a case where P is—
      - (i) an EU national who falls within Article 7(1)(b) of Directive 2004/38, or
      - (ii) for the purposes of paragraph 6A, 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, dependent direct relatives in P’s ascending line or the ascending line of P’s spouse or civil partner;”;
    - ““United Kingdom national” (“*gwladolyn o’r Deyrnas Unedig*”) has the meaning given by Article 2(d) of the EU withdrawal agreement.”;

- (c) after that sub-paragraph insert—

“(2) 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.”

**145.** In Schedule 4, in paragraph 4 (eligible postgraduate students), for sub-paragraph (1) substitute—

- “(1) A person is an eligible postgraduate student in connection with a designated postgraduate course that the person is undertaking if the person has a disability and—
- (a) in connection with a designated postgraduate course the person falls within one of the categories set out—
  - (i) in paragraph 1(1), 1(2), 2, 2ZA, 2ZB, 3, 4A, 5A, 6A(2), 6B, 7A or 8A of Schedule 2, or
  - (ii) in paragraph 4, 5, 6(2), 7 or 8 of Schedule 2 where sub-paragraph (1A) applies,



and none of the exceptions in paragraph 5 of this Schedule apply to the person, or

(b) the person's circumstances fall within one of the cases set out in paragraph 6.

(1A) This sub-paragraph applies where—

(a) in connection with a designated postgraduate course beginning before 1 August 2021, the Welsh Ministers—

(i) in assessing an application for support by a person ("A") determined that A fell within one of the categories set out in paragraph 4, 5, 6(2), 7 or 8 of Schedule 2 in relation to an academic year of the course beginning before 1 August 2021, or

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

(b) A applies for support in connection with—

(i) that course, or

(ii) a designated postgraduate course to which A's status as an eligible postgraduate student is transferred in accordance with this Schedule."

**146.** In Schedule 4, in paragraph 5(1), for Exception 7 substitute—

*“Exception 7*

The designated course begins on or after 1 January 2028 and the only paragraph or paragraphs in Schedule 2 into which P falls is one or more of paragraphs 5A or 6b.”

**147.** In Schedule 4, in paragraph 12A (persons who cease to have stateless leave)—

(a) in sub-paragraph (1)(a), for “a category 2A eligible postgraduate student” substitute “an eligible postgraduate student by reason of being a person with stateless leave”;

(b) in sub-paragraph (1)(b)(ii), for “a category 2A eligible postgraduate student” substitute “an eligible postgraduate student”.

**148.** In Schedule 4, in paragraph 13A (persons who cease to have section 67 leave to remain)—

(a) in sub-paragraph (1)(a), for “a category 3A eligible postgraduate student” substitute “an eligible postgraduate student by reason of being a person with section 67 leave to remain”;

(b) in sub-paragraph (1)(b)(ii), for “a category 3A eligible postgraduate student” substitute “an eligible postgraduate student”.

**149.** In Schedule 4, after paragraph 13A insert—

**“Person who ceases to have Calais leave**

**13B.—**(1) This paragraph applies where—

(a) a person (“P”) was an eligible postgraduate student by reason of them being a person with Calais leave (see Schedule 2, paragraph 2ZA) in connection with an application for a disabled postgraduate student's grant—

(i) for an earlier year of the present postgraduate course, or

(ii) in connection with a course from which P's status as an eligible postgraduate student has been transferred to the present postgraduate course under paragraph 15, and

(b) as at the end of the day before the first day of the academic year in respect of which P is applying for a disabled postgraduate student's grant, the period for

which P is allowed to stay in the United Kingdom has expired and no further leave to remain has been granted.

(2) Where this paragraph applies, P's status as an eligible postgraduate student terminates immediately before the first day of the academic year in respect of which P is applying for a disabled postgraduate student's grant.

### **Persons who cease to have leave to remain as a protected partner**

**13C.**—(1) This paragraph applies where—

- (a) a person ("P") was an eligible postgraduate student by reason of them being a person granted leave to remain as protected partner (*see* Schedule 2, paragraph 2ZB) in connection with an application for a disabled postgraduate student's grant—
  - (i) for an earlier year of the present postgraduate course, or
  - (ii) in connection with a course from which P's status as an eligible postgraduate student has been transferred to the present postgraduate course under paragraph 15, and
- (b) as at the end of the day before the first day of the academic year in respect of which P is applying for a disabled postgraduate student's grant, the period for which—
  - (i) P, or
  - (ii) the person who, as a result of being a person granted leave to remain as a protected partner, caused P to be an eligible student,

is allowed to stay in the United Kingdom has expired and no further leave to remain has been granted and no appeal is pending (within the meaning of section 104 of the Nationality, Immigration and Asylum Act 2002).

(2) Where this paragraph applies, P's status as an eligible postgraduate student terminates immediately before the first day of the academic year in respect of which P is applying for a disabled postgraduate student's grant.

### **Persons who cease to have leave to remain under residence scheme immigration rules**

**13D.**—(1) This paragraph applies where—

- (a) 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 ("P") was an eligible student in connection with an application for a disabled postgraduate student's grant—
  - (i) for an earlier year of the present postgraduate course, or
  - (ii) in connection with a course from which P's status has been transferred to the present postgraduate course under paragraph 15, and
- (b) as at the end of the day before the first day of the academic year in respect of which P is applying for a disabled postgraduate student's grant P no longer has extant limited leave to enter or remain granted by virtue of residence scheme immigration rules, and no further leave to remain has been granted under those rules.

(2) Where this paragraph applies, P's status as an eligible postgraduate student terminates immediately before the first day of the academic year in respect of which P is applying for a disabled postgraduate student's grant.

**13E.** Where—

- (a) the Welsh Ministers have determined that, by virtue of—
  - (i) falling within paragraph (a)(iii) or (iv) of the definition of “person with protected rights”, or
  - (ii) meeting the conditions in paragraph 1(2)(a)(iii) or (iv) of Schedule 2,a person (“P”) is an eligible postgraduate student in connection with an application for a disabled postgraduate student’s grant for an academic year of a designated postgraduate course, and
- (b) as at the day before the first day of the academic year, P is not a person with protected rights,

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

**150.** In Schedule 4, in paragraph 14 (becoming eligible during an academic year)—

- (a) in sub-paragraph (3)(b)—
  - (i) in sub-paragraph (ia), after “section 67 leave to remain” insert “or a person with leave to remain as a protected partner”;
  - (ii) after sub-paragraph (ia) insert—
    - “(ib) the student becomes a person with Calais leave;”;
  - (iii) omit sub-paragraph (ii);
  - (iv) for sub-paragraph (iii) substitute—
    - “(iii) the student becomes a person described in paragraph 1(2)(a) of Schedule 2;”;
  - (v) for sub-paragraph (iv) substitute—
    - “(iv) where paragraph 4(1A)(a) of this Schedule applies, the person becomes a person described in paragraph 8(1)(a) of Schedule 2;”;
  - (vi) in sub-paragraph (v), after “described in” insert “paragraph 4A(1)(a) of Schedule 2 or, where paragraph 4(1A)(a) of this Schedule applies, in”;
  - (vii) for sub-paragraph (vi) substitute—
    - “(vi) the student becomes a person described in paragraph 7A(a) of Schedule 2 or, where paragraph 4(1A)(a) of this Schedule applies, in paragraph 7(1)(a) of Schedule 2;”;
  - (viii) after sub-paragraph (vi) insert—
    - “(vii) the student becomes a person described in paragraph 6B(1)(a)(ii) of Schedule 2.”;
- (b) in sub-paragraph (4)—
  - (i) omit ““child” (*“plentyn”*)”;
  - (ii) omit ““right of permanent residence” (*“hawl i breswyllo ’n barhaol”*)”;
  - (iii) omit ““Turkish worker” (*“gweithiwr Twrcaidd”*)”;
  - (iv) at the appropriate place insert—
    - ““person granted leave to remain as a protected partner” (*“person y rhoddwyd caniatâd iddo aros fel partner a ddiogelir”*)”;
    - ““person with Calais leave” (*“person sydd â chaniatâd Calais”*)”.

**151.** In Schedule 5, in paragraph 4 (students becoming eligible during the course of an academic year)—

- (a) in sub-paragraph (2)—
  - (i) in paragraph (aa), after “section 67 leave to remain” insert “or a person with leave to remain as a protected partner”;
  - (ii) after paragraph (aa) insert—
    - “(ab) the student becomes a person with Calais leave;”;
  - (iii) omit paragraph (b);
  - (iv) for paragraph (c) substitute—
    - “(c) the student becomes a family member described in paragraph 6A(1)(a), 6C(1)(a) or 6D(1)(a) of Schedule 2;”;
  - (v) for paragraph (e) substitute—
    - “(e) where regulation 9(1A)(a) applies, the person becomes a person described in paragraph 8(1)(a) of Schedule 2;”;
  - (vi) in paragraph (f), after “described in” insert “paragraph 4A(1)(a) of Schedule 2 or, where regulation 9(1A)(a) applies, in”;
  - (vii) for paragraph (g) substitute—
    - “(g) the student becomes a person described in paragraph 7A(a) of Schedule 2 or, where regulation 9(1A)(a) applies, in paragraph 7(1)(a) of Schedule 2;”;
  - (viii) after paragraph (g) insert—
    - “(h) the student becomes a person described in paragraph 6B(1)(a)(ii) of Schedule 2.”;
- (b) in sub-paragraph (3)—
  - (i) omit ““child” (*“plentyn”*)”;
  - (ii) in the entry for “family member”, omit “(within the meaning given by paragraph 6(5) of Schedule 2)”;
  - (iii) omit ““right of permanent residence” (*“hawl i breswyllo ’n barhaol”*)”;
  - (iv) omit ““Turkish worker” (*“gweithiwr Twrcaid”*)”;
  - (v) at the appropriate place insert—
    - ““person granted leave to remain as a protected partner” (*“person y rhoddwyd caniatâd iddo aros fel partner a ddiogelir”*)”;
    - ““person with Calais leave” (*“person sydd â chaniatâd Calais”*)”.

**152.** In Schedule 7 (index of defined terms), in Table 16—

- (a) omit the entries for “family member” (for the purposes of determining the category of a person under Schedule 2) and “right of permanent residence”;
- (b) for the entry in the second column corresponding to—
  - (i) “person granted stateless leave” substitute “Schedule 2, paragraph 2ZA”;
  - (ii) “person with section 67 leave to remain” substitute “Schedule 2, paragraph 2ZA”;
- (c) at the appropriate place insert—

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““2020 Citizens’ Rights Regulations”      Schedule 1, paragraph 6

“grace period”	Schedule 1, paragraph 6
“family member”	Schedule 2, paragraph 11
“leave to remain as a protected partner”	Schedule 2, paragraph 2ZB
“person granted leave to enter or remain as a protected person”	Schedule 2, paragraph 2ZA
“person with Calais leave”	Schedule 2, paragraph 2ZA
“person with protected rights”	Schedule 1, paragraph 6
“protected child”	Schedule 2, paragraph 2ZA
“protected spouse or civil partner”	Schedule 2, paragraph 2ZA
“relevant period”	Schedule 1, paragraph 6
“relevant person of Northern Ireland”	Schedule 1, paragraph 6
“residence scheme immigration rules”	Schedule 1, paragraph 6
“Swiss citizens’ rights agreement”	Schedule 1, paragraph 6
“United Kingdom national”	Schedule 2, paragraph 11”