
STATUTORY RULES OF NORTHERN IRELAND

2021 No. 50

**The Education (Student Support, etc.)
(Amendment) Regulations (Northern Ireland) 2021**

Amendments relating to person with leave to enter or remain

18. The 2009 Regulations are amended as follows—

(a) in regulation 2(1) (interpretation), for the definition of “person with leave to enter or remain” substitute—

““person with leave to enter or remain on the grounds of discretionary leave” 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 considered not 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 discretionary leave, or

(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,

(b) who has been granted leave to enter or to remain accordingly,

(c) 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), and

(d) who has been ordinarily resident in the United Kingdom and Islands throughout the period since P was granted leave to enter or remain.”;

(b) in regulation 5(12) (eligible students)—

(i) in sub-paragraph (a) after “remain” insert “on the grounds of discretionary leave”;

(ii) in sub-paragraph (b) after the first “remain” insert “on the grounds of discretionary leave”;

(c) in regulation 18 (events) in sub-paragraph (b) after “remain” insert “on the grounds of discretionary leave”;

(d) in regulation 74(2) (students becoming eligible in the course of an academic year) in sub-paragraph (b) after “remain” insert “on the grounds of discretionary leave”;

(e) in regulation 83(2) (students becoming eligible in the course of an academic year) in sub-paragraph (a) after “remain” insert “on the grounds of discretionary leave”;

(f) in regulation 105(12) (eligible distance learning students)—

- (i) in sub-paragraph (a) after “remain” insert “on the grounds of discretionary leave”;
- (ii) in sub-paragraph (b) after the first “remain” insert “on the grounds of discretionary leave”;
- (g) in regulation 106(4) (students becoming eligible in the course of an academic year) in sub-paragraph (b) after “remain” insert “on the grounds of discretionary leave”;
- (h) in regulation 122(11) (eligible part-time students) —
 - (i) in sub-paragraph (a) after “remain” insert “on the grounds of discretionary leave”;
 - (ii) in sub-paragraph (b) after the first “remain” insert “on the grounds of discretionary leave”;
- (i) in regulation 123(3) (students becoming eligible in the course of an academic year) in sub-paragraph (b) after “remain” insert “on the grounds of discretionary leave”;
- (j) in regulation 139(13) (eligible postgraduate students)—
 - (i) in sub-paragraph (a) after “remain” insert “on the grounds of discretionary leave”;
 - (ii) in sub-paragraph (b) after the first “remain” insert “on the grounds of discretionary leave”;
- (k) in regulation 140(2)(1) (students becoming eligible in the course of an academic year) in sub-paragraph (b) after “remain” insert “on the grounds of discretionary leave”;
- (l) in regulation 149(12)(2) (Eligible Master’s, etc. Students)—
 - (i) in sub-paragraph (a) after “remain” insert “on the grounds of discretionary leave”;
 - (ii) in sub-paragraph (b) after the first “remain” insert “on the grounds of discretionary leave”;
- (m) in regulation 151 (events) in sub-paragraph (b) after “remain” insert “on the grounds of discretionary leave”;
- (n) in Part 2 (categories) of Schedule 2 (eligible students), in paragraph 5 (persons with leave to enter or remain and their family members)—
 - (i) for the paragraph heading “**Persons with leave to enter or remain and their family members**” substitute “**Persons with leave to enter or remain on the grounds of discretionary leave and their family members**”;
 - (ii) for paragraph 5 substitute—
 - “5. —
 - (1) A person granted leave to enter or remain on the grounds of discretionary leave who is ordinarily resident in Northern Ireland on the first day of the first academic year of the course.
 - (2) A person—
 - (a) who is the spouse or civil partner of a person with leave to enter or remain on the grounds of discretionary leave;
 - (b) who was the spouse or civil partner of the person with leave to enter or remain on the grounds of discretionary leave on the leave application date;
 - (c) who is ordinarily resident in the United Kingdom and Islands and has not ceased to be so resident since being given leave to enter or remain in the United Kingdom; and

(1) Regulation 140 was amended by [S.R. 2019 No. 35](#)

(2) Regulation 149 was amended by [S.R.s 2017 No. 43, 2018 No. 35, 2020 No. 79](#)

(d) who is ordinarily resident in Northern Ireland on the first day of the first academic year of the course.

(3) A person –

(a) who is the child of a person with leave to enter or remain on the grounds of discretionary leave or the child of the spouse or civil partner of a person with leave to enter or remain on the grounds of discretionary leave;

(b) who, on the leave application date, was under 18 and was the child of the person with leave to enter or remain on the grounds of discretionary leave or the child of a person who was the spouse or civil partner of the person with leave to enter or remain on the grounds of discretionary leave on that date;

(c) who is ordinarily resident in the United Kingdom and Islands and has not ceased to be so resident since being given leave to enter or remain in the United Kingdom; and

(d) who is ordinarily resident in Northern Ireland on the first day of the first academic year of the course.

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