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STATUTORY INSTRUMENTS

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**2020 No. 1181**

**The Education (Student Fees, Awards and Support)  
(Amendment etc.) (EU Exit) Regulations 2020**

**Amendment of Schedule 1**

**16.**—(1) Schedule 1 is amended as follows.

(2) In paragraph 1(1)—

- (a) omit the definition of “European Union national”;
- (b) omit “other than the United Kingdom” each time it occurs;
- (c) after the definition of “Directive 2004/38”, insert—

““EEA EFTA separation agreement” has the meaning given by section 39(1) of the European Union (Withdrawal Agreement) Act 2020;”;
- (d) after the definition of “employed person”, insert—

““EU national” means a national of a Member State of the European Union;”;
- (e) in the definition of “family member”, for “EC national”, substitute “EU national” each time it occurs;
- (f) after the definition of “refugee”, insert—

““residence scheme immigration rules” has the meaning given by section 17(1) of the European Union (Withdrawal Agreement) Act 2020;”;
- (g) for the definition of “right of permanent residence”, substitute—

““right of permanent residence”, unless otherwise indicated, means, in relation to a person (“A”), a right to reside in the United Kingdom permanently without restriction which arises under residence scheme immigration rules, but only where, had the facts pertaining to the determination of A’s right to reside fallen to be considered immediately before IP completion day, A would have acquired such right under Directive 2004/38 as it had effect immediately before IP completion day;”;
- (h) after the definition of “Swiss Agreement”, insert—

““Swiss citizens’ rights agreement” has the meaning given by section 39(1) of the European Union (Withdrawal Agreement) Act 2020;”.

(3) In paragraph 3 (persons who are settled in the United Kingdom)—

- (a) for sub-paragraph (a), substitute—

“(a) meets one of the following conditions—

  - (i) the person is settled in the United Kingdom by reason of having acquired the right of permanent residence on the first day of an academic year of the course; or
  - (ii) the person falls within Article 18(2) or (3) of the EU withdrawal agreement, Article 17(2) or (3) of the EEA EFTA separation agreement, or Article 16(2)

or (3) of the Swiss citizens' rights agreement, but only where that person would have acquired the right to reside permanently in the United Kingdom without restriction under Directive 2004/38 as it had effect immediately before IP completion day had the facts pertaining to that person's right to reside fallen to be considered immediately before IP completion day;"

(b) in sub-paragraph (d), after "the territory comprising", insert "the United Kingdom,".

(4) In paragraph 6(1)(c)(2) (workers, employed persons, self-employed persons and their family members), after "the territory comprising", insert "the United Kingdom,".

(5) In paragraph 7(3) (workers, employed persons, self-employed persons and their family members)—

(a) sub-paragraphs (a), (b) and (c) are renumbered as sub-paragraph (1)(a), (b) and (c);

(b) in sub-paragraph (1)(b) as so renumbered, after "the territory comprising", insert "the United Kingdom,";

(c) after sub-paragraph (1)(c) as so renumbered, insert—

"(2) Any description of person who would have fallen within this paragraph immediately before IP completion day is to be treated as falling within this paragraph on and after IP completion day."

(6) In paragraph 8 (persons who are settled in the United Kingdom and have exercised a right of residence elsewhere)—

(a) in sub-paragraph (1)—

(i) in paragraph (b), after "right of residence", insert "before IP completion day";

(ii) in paragraph (d)(4), after "the territory comprising", insert "the United Kingdom,";

(iii) in paragraph (e), after "the territory comprising", insert "the United Kingdom, Gibraltar,";

(b) in sub-paragraph (2)—

(i) for "has a right", substitute "had the right" each time it occurs;

(ii) for "goes", substitute "has gone";

(c) after sub-paragraph (2), insert—

"(3) For the purposes of sub-paragraph (2), 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."

(7) In paragraph 9(5) (EC nationals)—

(a) in the heading, for "EC nationals", substitute "EU nationals";

(b) in sub-paragraph (1)—

(i) in paragraph (a)(i), for "EC national", substitute "EU national";

(ii) in paragraph (c), after "the territory comprising", insert "the United Kingdom,";

(c) for sub-paragraph (1A), substitute—

"(1A) Paragraph (c) of sub-paragraph (1) does not apply to a family member of a person who—

(a) is—

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(2) Paragraph 6 was substituted by [S.I. 2007/2263](#).  
(3) Paragraph 7(b) was amended by [S.I. 2007/2263](#).  
(4) Paragraph 8(1)(d) was amended by [S.I. 2007/2263](#).  
(5) Paragraph 9 was amended by [S.I. 2007/2263](#) and [S.I. 2011/1987](#).

- (i) a United Kingdom national who has exercised a right to reside in the territory of a Member State under Article 7(1) of Directive 2004/38; or
- (ii) an EU national; and
- (b) has been ordinarily resident in the territory comprising the United Kingdom, the European Economic Area, Switzerland and the overseas territories throughout the three-year period preceding the first day of the first academic year of the course.”;
- (d) after sub-paragraph (2), insert—
  - “(3) Any description of person who would have fallen within this paragraph immediately before IP completion day is to be treated as falling within this paragraph on and after IP completion day.”.
- (8) In paragraph 10(6) (EC nationals)—
  - (a) in sub-paragraphs (1)(a) and (2), for “a European Union national other than a United Kingdom national”, substitute “an EU national”;
  - (b) in sub-paragraph (1)(d), after “the territory comprising”, insert “the United Kingdom,”.
- (9) In paragraph 11(7) (children of Swiss nationals)—
  - (a) sub-paragraphs (a), (b), (c) and (d) are renumbered as sub-paragraph (1)(a), (b), (c) and (d);
  - (b) in sub-paragraph (1)(c) as so renumbered, after “the territory comprising”, insert “the United Kingdom,”;
  - (c) in sub-paragraph (1)(d) as so renumbered, after “the territory comprising”, insert “the United Kingdom, Gibraltar,”;
  - (d) after sub-paragraph (1)(d) as so renumbered, insert—
    - “(2) Any description of person who would have fallen within this paragraph immediately before IP completion day is to be treated as falling within this paragraph on and after IP completion day.”.
- (10) In paragraph 12(c)(8) (children of Turkish workers), after “the territory comprising”, insert “the United Kingdom,”.

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(6) Paragraph 10 was amended by [S.I. 2007/2263](#) and [S.I. 2011/1043](#).

(7) Paragraph 11(c) was amended by [S.I. 2007/2263](#).

(8) Paragraph 12(c) was amended by [S.I. 2007/2263](#).