

**2021 No. 127**

**EXITING THE EUROPEAN UNION**

**EDUCATION, ENGLAND**

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

<i>Made</i>	- - - -	<i>4th February 2021</i>
<i>Laid before Parliament</i>		<i>8th February 2021</i>
<i>Coming into force</i>	- -	<i>1st March 2021</i>

The Secretary of State makes these Regulations in exercise of the powers conferred by sections 1 and 2 of the Education (Fees and Awards) Act 1983(a), sections 22 and 42(6) of the Teaching and Higher Education Act 1998(b) and sections 10(4)(b) and 119(5) of the Higher Education and Research Act 2017(c).

**PART 1**

**General**

**Citation, commencement and application**

**1.—**(1) These Regulations may be cited as the Education (Student Fees, Awards and Support) (Amendment) Regulations 2021 and come into force on 1st March 2021.

- 
- (a) 1983 c. 40. Section 1 was amended by paragraph 91 of Schedule 12 to the Education Reform Act 1988 (c. 40); paragraph 19 of Schedule 8 to the Further and Higher Education Act 1992 (c. 13); paragraph 8 of Schedule 9 to the Further and Higher Education (Scotland) Act 1992 (c. 37); paragraph 7 of Schedule 2 to the Education Act 1994 (c. 30); paragraph 57 of Schedule 37 to the Education Act 1996 (c. 56); paragraph 5 of Schedule 3 to the Teaching and Higher Education Act 1998 (c. 30); paragraph 11 of Schedule 9 to the Learning and Skills Act 2000 (c. 21); paragraph 5 of Schedule 21, and Part 3 of Schedule 22, to the Education Act 2002 (c. 32); paragraph 9 of Schedule 14 to the Education Act 2005 (c. 18); paragraph 5 of Schedule 5, and paragraph 5 of Schedule 16, to the Education Act 2011 (c. 21); paragraph 33 of Schedule 14 to the Deregulation Act 2015 (c. 20); S.I. 2005/3238, S.I. 2010/1080 and S.I. 2010/1158. Section 2 was amended by paragraph 1 of Schedule 4 to the Teaching and Higher Education Act 1998.
- (b) 1998 c. 30. Section 22 was amended by section 146(2) of, and paragraph 1 of Schedule 11 to, the Learning and Skills Act 2000 (c. 21); paragraph 236 of Schedule 6 to the Income Tax (Earnings and Pensions) Act 2003 (c. 1); section 147(3) of the Finance Act 2003 (c. 14); sections 42(1) and 43(2) and (3) of, and Schedule 7 to, the Higher Education Act 2004 (c. 8); section 257(2) of the Apprenticeships, Skills, Children and Learning Act 2009 (c.22); section 76(1) and (2)(a) of the Education Act 2011 (c. 21); section 88(2) to (5) of the Higher Education and Research Act 2017 (c. 29); and S.I. 2013/1881. Section 22 is also amended by section 86(2) to (7) of the Higher Education and Research Act 2017 but those amendments are not yet in force. Section 42 was amended by paragraph 9 of Schedule 12 to the Education Act 2002 (c. 32); paragraph 9 of Schedule 6 to the Higher Education Act 2004; and paragraph 15 of Schedule 2 to the Education Act 2011. See section 43(1) for the definitions of “prescribed” and “regulations”.
- (c) 2017 c. 29. See section 10(9) for the definition of “prescribed”.

(2) These Regulations apply in relation to the provision of support to a student, and to fees and awards applicable, in relation to an academic year which begins on or after 1st August 2021, whether or not anything done under these Regulations is done before, on, or after that date.

(3) In paragraph (2), an “academic year” is the period of twelve months beginning with 1st January, 1st April, 1st July or 1st September of the calendar year in which the academic year of the course in question begins, according to whether the academic year of the course in question begins—

- (a) on or after 1st January and before 1st April;
- (b) on or after 1st April and before 1st July;
- (c) on or after 1st July and before 1st August; or
- (d) on or after 1st August and on or before 31st December.

## PART 2

### Amendment of the Education (Student Support) Regulations 2011

#### Amendment of the Education (Student Support) Regulations 2011

2. The Education (Student Support) Regulations 2011(a) are amended as follows.

#### Amendment of regulation 2

3.—(1) Regulation 2 (interpretation) is amended as follows.

(2) In paragraph (1)—

- (a) after the definition of “the 2009 Regulations”, insert—

“the 2020 Citizens’ Rights Regulations” means the Citizens’ Rights (Application Deadline and Temporary Protection) (EU Exit) Regulations 2020(b);”;
- (b) in the definition of “Erasmus year”(c)—
  - (i) in the opening words, for “and”, the first time it occurs, substitute “or in the scheme established by the Secretary of State for Education known as the Turing scheme,”;
  - (ii) omit paragraph (a);
  - (iii) in paragraph (b), omit “began on or after 1st September 2012 and”;
  - (iv) in paragraph (c), omit “began on or after 1st September 2012 and”;
- (c) after the definition of “full-time equivalent”, insert—

““grace period” has the meaning given by regulation 3 of the 2020 Citizens’ Rights Regulations;”;
- (d) after the definition of “person granted stateless leave”(d), insert—

““person with protected rights” 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;

---

(a) S.I. 2011/1986, amended by S.I. 2012/1653, 2013/235, 630, 1728, 3106, 2014/1766, 2103, 2765, 2015/1951, 2016/211, 270, 584, S.I. 2017/52, 114, 204, 2018/136, 137, 434, 443, 472, 599, 2019/142, 983, 1094, 2020/48, 1181 and 1203.

(b) S.I. 2020/1209, amended by S.I. 2020/139.

(c) The definition of “Erasmus year” was substituted by S.I. 2013/1728 and amended by S.I. 2017/114, 2018/472.

(d) The definition of “person granted stateless leave” was inserted by S.I. 2018/137.

- (ii) is an Irish citizen who, pursuant to section 3ZA of the Immigration Act 1971(a), 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;"
- (e) after the definition of "regulated institution"(b), insert—
  - "“relevant period”, unless otherwise indicated, has the meaning given by regulation 4 of the 2020 Citizens' Rights Regulations;
  - "relevant person of Northern Ireland" has the meaning given by residence scheme immigration rules;
  - "residence scheme immigration rules" has the meaning given by section 17(1) of the European Union (Withdrawal Agreement) Act 2020(c);"
- (f) after the definition of "support", insert—
  - "“Swiss citizens' rights agreement" has the meaning given by section 39(1) of the European Union (Withdrawal Agreement) Act 2020;"
- (3) After paragraph (1), insert—
  - "(1A) 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."

#### **Amendment of regulation 4**

##### **4. In regulation 4 (eligible students)—**

##### **(a) for paragraph (2) substitute—**

"(2) Subject to the following provisions of this regulation, a person is an eligible student in connection with a designated course if in assessing that person's application for support the Secretary of State determines that the person falls within one of the categories set out—

- (a) in paragraphs 2, 2A, 3, 4, 4A, 4B, 4C, 4D, 4E, 5, 6A, 7A, 8A, 9A, 9B, 9C, 9D, 10ZA, 11A, 12A and 13 in Part 2 of Schedule 1; or
- (b) in paragraphs 6, 7, 8, 9, 10, 10A, 11 and 12 in Part 2 of Schedule 1, where paragraph (2A) applies.

##### **(2A) This paragraph applies where—**

- (a) in connection with a designated course beginning before 1st August 2021, the Secretary of State—
  - (i) in assessing an application for support by a person ("A"), determined that A fell within one of the categories set out in paragraphs 6, 7, 8, 9, 10, 10A, 11

---

(a) 1971 c. 77. Section 3ZA was inserted by section 2 of the Immigration and Social Security Co-ordination (EU Withdrawal) Act 2020 (c.20).  
 (b) The definition of "regulated institution" was inserted by S.I. 2017/114.  
 (c) 2020 c.1.

and 12 in Part 2 of Schedule 1 in relation to an academic year of the course beginning before 1st August 2021; or

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

(b) A applies for support in connection with that course or a designated course to which A's status as an eligible student is transferred from that course in accordance with this Part.

(2B) In connection with a designated course beginning on or after 1st January 2028, paragraph (2) has effect as if it did not mention paragraphs 8A, 9B and 9D.”;

(b) after paragraph (13), insert—

“(13A) Where—

(a) the Secretary of State determined that, 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 (“A”) was an eligible student in connection with—

(i) an application for support for an earlier year of the current course; or

(ii) an application for support in connection with a designated part-time course or other designated course from which A's status as an eligible part-time student or eligible student has been transferred to the current course; and

(b) as at the day before the academic year in respect of which A is applying for support begins, A 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,

A's status as an eligible student terminates immediately before the first day of the academic year in respect of which A is applying for support.

(13B) Where—

(a) the Secretary of State has 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 3(1)(a)(iii) or (iv) in Part 2 of Schedule 1, a person (“A”) 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 academic year begins, A is not a person with protected rights,

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

## **Amendment of regulation 7**

**5.** In regulation 7(a) (transfer of status), after paragraph (1), insert—

“(1A) Paragraph (1) applies to a person who is an eligible student by virtue of regulation 4(2)(b) only where that person's status as an eligible student has not been transferred on or after 1st August 2021 from the designated course referred to in regulation 4(2A)(a) to another designated course.”.

---

(a) There are no relevant amendments to regulation 7.

### **Amendment of regulation 17**

- 6.** In regulation 17(a) (events)—
- (a) omit paragraph (c);
  - (b) for paragraph (d) substitute—  
“(d) the student becomes a family member described in paragraph 9A(1)(a), 9C(1)(a) or 9D(1)(a) of Schedule 1;”;
  - (c) for paragraph (f) substitute—  
“(f) where regulation 4(2A)(a) applies, the person becomes a person described in paragraph 12(a) of Schedule 1;”;
  - (d) in paragraph (g), after “described in”, insert “paragraph 6A(1)(a) of Schedule 1 or, where regulation 4(2A)(a) applies, in”;
  - (e) for paragraph (h) substitute—  
“(h) the student becomes a person described in paragraph 11A(a) of Schedule 1 or, where regulation 4(2A)(a) applies, in paragraph 11(1)(a) of Schedule 1;”;
  - (f) omit the “or” at the end of paragraph (k);
  - (g) at the end of paragraph (l), insert “; or”;
  - (h) after paragraph (l), insert—  
“(m) the student becomes a person described in paragraph 9B(1)(a)(ii) of Schedule 1”.

### **Amendment of regulation 38**

- 7.** In regulation 38(b) (general qualifying conditions for grants for living and other costs)—
- (a) in paragraph (3), for the words from “in Part 2” to the end substitute “or paragraphs in Part 2 of Schedule 1 into which the student falls is one or more of paragraphs 2A, 9, 9A, 9C, 9D, 10 and 10ZA”;
  - (b) in paragraph (8)—
    - (i) omit “Subject to paragraph 9,”;
    - (ii) omit “(c),”;
    - (iii) for “or (l)” substitute “, (l) or (m)”;
  - (c) omit paragraph (9).

### **Amendment of regulation 40**

**8.** In regulation 40(c) (qualifying conditions for the disabled students’ allowance), omit paragraph (4).

### **Amendment of regulation 41**

- 9.** In regulation 41(8)(d) (amount of the disabled students’ allowance)—
- (a) omit “Subject to regulation 40(4),”;
  - (b) omit “(c),”;
  - (c) for “or (l)” substitute “, (l) or (m)”.

---

(a) Regulation 17 was amended by S.I. 2018/137, 2019/142, 2020/48, 1181 and 1203.  
(b) Relevant amending instruments are S.I. 2012/1653, 2016/270, 2020/1203.  
(c) Regulation 40 was inserted by S.I. 2014/2765; there are other amending instruments but none is relevant.  
(d) Relevant amending instruments are S.I. 2012/1653, 2015/1951 and 2020/1203.

### **Amendment of regulation 45**

**10.** In regulation 45(a) (childcare grant)—

- (a) in paragraph (11)—
  - (i) omit “Subject to paragraph (12),”;
  - (ii) omit “(c),”;
  - (iii) for “or (l)” substitute “, (l) or (m)”;
- (b) omit paragraph (12).

### **Amendment of regulation 49A**

**11.** In regulation 49A(b)—

- (a) in paragraph (2)—
  - (i) omit “Subject to paragraph (3),”;
  - (ii) omit “(c),”;
  - (iii) for “or (l)” substitute “, (l) or (m)”;
- (b) omit paragraph (3).

### **Amendment of regulation 56**

**12.** In regulation 56(c) (qualifying conditions for the maintenance grant)—

- (a) in paragraph (6)—
  - (i) omit “Subject to paragraph (7),”;
  - (ii) omit “(c),”;
- (b) omit paragraph (7).

### **Amendment of regulation 61**

**13.** In regulation 61(d) (qualifying conditions for the special support grant)—

- (a) in paragraph (6)—
  - (i) omit “Subject to paragraph (7),”;
  - (ii) omit “(c),”;
- (b) omit paragraph (7).

### **Amendment of regulation 69**

**14.** In regulation 69(3)(e) (qualifying conditions for the loan for living costs – current system students), for sub-paragraph (a) substitute—

“(a) the only paragraph or paragraphs in Part 2 of Schedule 1 into which the student falls is one or more of paragraphs 2A, 9, 9A, 9C, 9D, 10 and 10ZA;”.

### **Amendment of regulation 85**

**15.** In regulation 85(2)(f) (students becoming eligible in the course of an academic year)—

- 
- (a) Relevant amending instruments are S.I. 2012/1653 and 2020/1203.
  - (b) Regulation 49A was inserted by S.I. 2012/1653 and amended by S.I. 2020/1203.
  - (c) Regulation 56 was amended by S.I. 2012/1653; there are other amending instruments but none is relevant.
  - (d) Regulation 61 was amended by S.I. 2012/1653; there are other amending instruments but none is relevant.
  - (e) Relevant amending instruments are S.I. 2013/1728 and 2016/270.
  - (f) Regulation 85 was amended by S.I. 2018/137, 2018/472, 2019/142, 2020/48, 1181 and 1203.

- (a) omit sub-paragraph (c);
- (b) for sub-paragraph (e) substitute—
  - “(e) where regulation 4(2A)(a) applies, the person becomes a person described in paragraph 12(a) of Schedule 1;”;
- (c) in sub-paragraph (f), after “described in”, insert “paragraph 6A(1)(a) of Schedule 1 or, where regulation 4(2A)(a) applies, in”;
- (d) for sub-paragraph (g) substitute—
  - “(g) the student becomes a person described in paragraph 11A(a) of Schedule 1 or, where regulation 4(2A)(a) applies, in paragraph 11(1)(a) of Schedule 1;”;
- (e) omit the “or” at the end of sub-paragraph (j);
- (f) at the end of sub-paragraph (k), insert “; or”;
- (g) after sub-paragraph (k), insert—
  - “(l) the student becomes a person described in paragraph 9B(1)(a)(ii) of Schedule 1”.

### **Amendment of regulation 137**

#### **16. In regulation 137 (eligible part-time students)—**

- (a) for paragraph (2) substitute—
  - “(2) Subject to the following provisions of this regulation, a person is an eligible part-time student in connection with a designated part-time course if in assessing that person’s application for support the Secretary of State determines that the person falls within one of the categories set out—
  - (a) in paragraphs 2, 2A, 3, 4, 4A, 4B, 4C, 4D, 4E, 5, 6A, 7A, 8A, 9A, 9B, 9C, 9D, 10ZA, 11A, 12A and 13 in Part 2 of Schedule 1; or
  - (b) in paragraphs 6, 7, 8, 9, 10, 10A, 11 and 12 in Part 2 of Schedule 1, where paragraph (2A) applies.
- (2A) This paragraph applies where—
  - (a) in connection with a designated part-time course beginning before 1st August 2021, the Secretary of State—
    - (i) in assessing an application for support by a person (“A”) determined that A fell within one of the categories set out in paragraphs 6, 7, 8, 9, 10, 10A, 11 and 12 in Part 2 of Schedule 1 in relation to an academic year of the course beginning before 1st August 2021; or
    - (ii) would have so determined had A made an application for support in accordance with this Part in relation to an academic year of the course beginning before that date; and
  - (b) A applies for support in connection with that course or a designated part-time course to which A’s status as an eligible part-time student is transferred from that course in accordance with this Part.
- (2B) In connection with a designated part-time course beginning on or after 1st January 2028, paragraph (2) has effect as if it did not mention paragraphs 8A, 9B and 9D.”;
- (b) after paragraph 11, insert—
  - “(11A) Where—
  - (a) the Secretary of State determined that, 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 (“A”) was an eligible part-time student in connection with—
    - (i) an application for support for an earlier year of the current part-time course; or

- (ii) an application for support in connection with a designated part-time course or other designated course from which A's status as an eligible part-time student or eligible student has been transferred to the current part-time course; and
- (b) as at the day before the academic year in respect of which A is applying for support begins, A 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,

A's status as an eligible part-time student terminates immediately before the first day of the academic year in respect of which A is applying for support.

(11B) Where—

- (a) the Secretary of State has 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 3(1)(a)(iii) or (iv) in Part 2 of Schedule 1,
 a person (“A”) is an eligible part-time student in connection with an application for support for an academic year of a designated part-time course; and
- (b) as at the day before the academic year begins, A is not a person with protected rights,

A's status as an eligible part-time student terminates immediately before the first day of the academic year in respect of which A is applying for support.”.

#### **Amendment of regulation 138**

**17.** In regulation 138(a) (students becoming eligible for support under Part 11A during the course of the academic year), in paragraph (4)—

- (a) omit sub-paragraph (c);
- (b) for sub-paragraph (d) substitute—
 

“(d) the student becomes a family member described in paragraph 9A(1)(a), 9C(1)(a) or 9D(1)(a) of Schedule 1;”;
- (c) omit sub-paragraph (e);
- (d) for sub-paragraph (g) substitute—
 

“(g) where regulation 137(2A)(a) applies, the student becomes a person described in paragraph 12(a) of Schedule 1;”;
- (e) in sub-paragraph (h), after “described in”, insert “paragraph 6A(1)(a) of Schedule 1 or, where regulation 137(2A)(a) applies, in”;
- (f) for sub-paragraph (i) substitute—
 

“(i) the student becomes a person described in paragraph 11A(a) of Schedule 1 or, where regulation 137(2A)(a) applies, in paragraph 11(1)(a) of Schedule 1;”;
- (g) omit the “or” at the end of sub-paragraph (l);
- (h) at the end of sub-paragraph (m), insert “; or”;
- (i) after sub-paragraph (m), insert—
 

“(n) the student becomes a person described in paragraph 9B(1)(a)(ii) of Schedule 1”.

#### **Amendment of regulation 138A**

---

(a) Regulation 138 was amended by S.I. 2018/472, 2019/142, 2020/48, 1181 and 1203.



**18.** In regulation 138A(2)(a) (students becoming eligible for support under Part 11B in the course of the academic year)—

- (a) omit sub-paragraph (c);
- (b) for sub-paragraph (e) substitute—
  - “(e) where regulation 137(2A)(a) applies, the student becomes a person described in paragraph 12(a) of Schedule 1;”;
- (c) in sub-paragraph (f), after “described in”, insert “paragraph 6A(1)(a) of Schedule 1 or, where regulation 137(2A)(a) applies, in”;
- (d) for sub-paragraph (g) substitute—
  - “(g) the student becomes a person described in paragraph 11A(a) of Schedule 1 or, where regulation 137(2A)(a) applies, in paragraph 11(1)(a) of Schedule 1;”;
- (e) omit the “or” at the end of sub-paragraph (j);
- (f) at the end of sub-paragraph (k), insert “; or”;
- (g) after sub-paragraph (k), insert—
  - “(l) the student becomes a person described in paragraph 9B(1)(a)(ii) of Schedule 1”.

#### **Amendment of regulation 139A**

**19.** In regulation 139A(b) (transfer of status), after paragraph (1), insert—

“(1A) Paragraph (1) applies to a person who is an eligible part-time student by virtue of regulation 137(2)(b) only where that person’s status as an eligible part-time student has not been transferred on or after 1st August 2021 from the designated part-time course referred to in regulation 137(2A)(a) to another designated part-time course.”.

#### **Amendment of regulation 147**

**20.** In regulation 147(c) (disabled part-time students’ allowance)—

- (a) for paragraph (2)(a) substitute—
  - “(a) if the only paragraph or paragraphs in Part 2 of Schedule 1 into which the student falls is one or more of paragraphs 2A, 9, 9A, 9C, 9D, 10 and 10ZA”;
- (b) in paragraph (8)—
  - (i) omit “(e),”;
  - (ii) for “or (m)” substitute “, (m) or (n)”.

#### **Amendment of regulation 157B**

**21.** In regulation 157B(2)(d) (qualifying conditions for the loan for living costs), for sub-paragraph (a) substitute—

“(a) the only paragraph or paragraphs in Part 2 of Schedule 1 into which the student falls is one or more of paragraphs 2A, 9, 9A, 9C, 9D, 10 and 10ZA”.

#### **Amendment of regulation 159**

**22.** In regulation 159(e) (eligible postgraduate students)—

---

(a) Regulation 138A was amended by S.I. 2018/137, 472, 2019/142, 2020/48, 1181 and 1203.  
(b) Regulation 139A was inserted by S.I. 2018/472; there are other amending instruments but none is relevant.  
(c) This version of regulation 147 was inserted by S.I. 2018/472, and amended by S.I. 2020/1203.  
(d) Regulation 157B was inserted by S.I. 2018/472; there are no relevant amendments to regulation 157B.  
(e) Regulation 159 was amended by S.I. 2014/2765; there are other amending instruments but none is relevant.

(a) in paragraph (2), for “paragraph (4)” substitute “the following provisions of this regulation”;

(b) for paragraph (3) substitute—

“(3) The conditions are—

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

(i) in paragraphs 2, 2A, 3, 4, 4A, 4B, 4C, 4D, 4E, 5, 6A, 7A, 8A, 9A, 9B, 9C, 9D, 10ZA, 11A, 12A and 13 in Part 2 of Schedule 1; or

(ii) in paragraphs 6, 7, 8, 9, 10, 10A, 11 and 12 in Part 2 of Schedule 1, where paragraph (3A) applies; and

(b) the person has a disability.

(3A) This paragraph applies where—

(a) in connection with a designated postgraduate course beginning before 1st August 2021, the Secretary of State—

(i) in assessing an application for support by a person (“A”) determined that A fell within one of the categories set out in paragraphs 6, 7, 8, 9, 10, 10A, 11 and 12 in Part 2 of Schedule 1 in relation to an academic year of the course beginning before 1st August 2021; or

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

(b) A applies for support in connection with that course, or a designated postgraduate course to which A’s status as an eligible postgraduate student is transferred from that course in accordance with this Part.

(3B) In connection with a designated postgraduate course beginning on or after 1st January 2028, paragraph (3)(a) has effect as if it did not mention paragraphs 8A, 9B and 9D.”;

(c) in paragraph (8), for the words from “in Part 2” to the end substitute “or paragraphs in Part 2 of Schedule 1 into which the student falls is one or more of paragraphs 2A, 9, 9A, 9C and 9D”;

(d) after paragraph (16), insert—

“(16A) Where—

(a) the Secretary of State determined that, 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 (“A”) was an eligible postgraduate student in connection with—

(i) an application for support for an earlier year of the current postgraduate course; or

(ii) an application for support in connection with another designated postgraduate course from which A’s status as an eligible postgraduate student has been transferred to the current postgraduate course; and

(b) as at the day before the academic year in respect of which A is applying for support begins, A 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,

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

(16B) Where—

(a) the Secretary of State has 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 3(1)(a)(iii) or (iv) in Part 2 of Schedule 1, a person (“A”) is an eligible postgraduate student in connection with an application for support for an academic year of a designated postgraduate course; and
- (c) as at the day before the academic year begins A is not a person with protected rights,

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

#### **Amendment of regulation 160**

**23.** In regulation 160(2)(a) (students becoming eligible in the course of an academic year)—

- (a) omit sub-paragraph (c);
- (b) for sub-paragraph (e) substitute—
  - “(e) where regulation 159(3A)(a) applies, the person becomes a person described in paragraph 12(a) of Schedule 1;”;
- (c) in sub-paragraph (f), after “described in”, insert “paragraph 6A(1)(a) of Schedule 1 or, where regulation 159(3A)(a) applies, in”;
- (d) for sub-paragraph (g) substitute—
  - “(g) the student becomes a person described in paragraph 11A(a) of Schedule 1 or, where regulation 159(3A)(a) applies, in paragraph 11(1)(a) of Schedule 1;”
- (e) omit the “or” at the end of sub-paragraph (j);
- (f) at the end of sub-paragraph (k), insert “; or”;
- (g) after sub-paragraph (k), insert—
  - “(l) the student becomes a person described in paragraph 9B(1)(a)(ii) of Schedule 1”.

#### **Amendment of regulation 163**

**24.** In regulation 163 (transfer of status), after paragraph (1), insert—

“(1A) Paragraph (1) applies to a person who is an eligible postgraduate student by virtue of regulation 159(3)(a)(ii) only where that person’s status as an eligible postgraduate student has not been transferred on or after 1st August 2021 from the designated postgraduate course referred to in regulation 159(3A)(a) to another designated postgraduate course.”.

#### **Amendment of Schedule 1 (eligible students)**

**25.**—(1) Schedule 1 (eligible students) is amended as follows.

(2) In paragraph 1(b) (interpretation)—

- (a) in sub-paragraph (1)—
  - (i) omit the definitions of “EEA EFTA separation agreement”, “residence scheme immigration rules”, “right of permanent residence” and “Swiss citizens’ rights agreement”;
  - (ii) in the definition of “family member”—
    - (aa) 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 6A(3)”;

---

(a) Regulation 160 was amended by S.I. 2018/137, 2019/142, 2020/48, 1181 and 1203.

(b) Paragraph 1 was amended by S.I. 2012/1653, 2020/1181.

- (bb) in paragraph (c), after “Directive 2004/38”, insert “or, for the purposes of paragraph 9A, in relation to a relevant person of Northern Ireland who would fall within article 7(1)(c) of Directive 2004/38 if that person were an EU national or solely an EU national”;
  - (cc) in paragraph (d), after “Directive 2004/38”, insert “or, for the purposes of paragraph 9A, in relation to 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”;
  - (dd) in paragraph (e), for “paragraph 9” substitute “paragraphs 9, 9B, 9C and 9D”;
- (iii) after the definition of “Swiss self-employed person”, insert—
- ““United Kingdom national” has the meaning given by Article 2(d) of the EU withdrawal agreement;”;
- (b) after sub-paragraph (1), insert—
- “(1A) 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.”;
- (c) in sub-paragraph (4), after “Islands”, insert “, the territory comprising the United Kingdom, the Islands and the Republic of Ireland”;
- (d) in sub-paragraph (5)—
- (i) after “Islands”, insert “, the territory comprising the United Kingdom, the Islands and the Republic of Ireland”;
  - (ii) after paragraph (a)—
    - (aa) omit “and”;
    - (bb) 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, the Islands and the Republic of Ireland as members of such forces;”.
- (3) In paragraph 2(1)(a)(a) (persons settled in the United Kingdom), for sub-paragraph (i) substitute—
- “(i) is settled in the United Kingdom and does not fall within paragraph 3;”.
- (4) After paragraph 2, insert—
- “2A.—(1) 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 paragraph 3;
  - (b) who is —
    - (i) attending or undertaking a designated course in England; or
    - (ii) undertaking an intensive course, designated part-time course or a designated postgraduate course in England;
  - (c) who has been ordinarily resident in the territory comprising the United Kingdom, the 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) subject to sub-paragraph (2), whose ordinary residence in the territory comprising the United Kingdom, the 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.

---

(a) Paragraph 2 was substituted by S.I. 2017/114.

(2) Paragraph (d) of sub-paragraph (1) does not apply to a person who is treated as being ordinarily resident in the territory comprising the United Kingdom, the Islands and the Republic of Ireland in accordance with paragraph 1(4).”.

(5) In paragraph 3(a)—

(a) for sub-paragraph (1)(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(b), 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;”;

(b) after sub-paragraph (1), insert—

“(2) For the purposes of sub-paragraph (1)(a)(ii)(cc), “eligibility requirements for indefinite leave to enter or remain in the United Kingdom granted by virtue of residence scheme immigration rules” means the eligibility requirements for such leave in accordance

---

(a) Paragraph 3 was amended by S.I. 2020/1181.

(b) S.I. 2016/1052, amended by S.I. 2017/1, 1242, 2018/801, 2019/468, 2019/1155. S.I. 2016/1052 was revoked on IP completion day by para 2(2) of Schedule 1 to the Immigration and Social Security Co-ordination (EU Withdrawal) Act 2020 (c. 20), subject to the savings in SI 2020/1309.

with paragraph EU11 of Appendix EU to the immigration rules<sup>(a)</sup> (as defined in section 33(1) of the Immigration Act 1971).”.

(6) After paragraph 6 (workers, employed persons, self-employed persons and their family members), insert—

“**6A.**—(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<sup>(b)</sup>, who—

- (a) is—
  - (i) an EEA migrant worker or an EEA self-employed person;
  - (ii) a Swiss employed person or a Swiss self-employed person;
  - (iii) a family member of a person mentioned in sub-paragraph (i) or (ii);
  - (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);
- (b) subject to sub-paragraph (2), is ordinarily resident in England on the first day of the first academic year of the course; and
- (c) 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.

(2) Paragraph (b) of sub-paragraph (1) does not apply where the person applying for support falls within paragraph (a)(iv), (v) or (vi) of sub-paragraph (1).

(3) 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.”.

(7) After paragraph 7, insert—

“**7A.**—(1) A person with protected rights who—

- (a) is ordinarily resident in England 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 European Economic Area 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 of the Council of 5 April 2011 on freedom of movement for workers within the Union<sup>(c)</sup> (“the Workers Regulation”), as it had effect immediately before IP completion day, as extended by the EEA Agreement<sup>(d)</sup>, as it had effect immediately before IP completion day.

(2) For the purposes of sub-paragraph (1)(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

---

(a) The immigration rules were laid before Parliament on 23rd May 1994 (HC 395). Appendix EU was laid before Parliament on 20th July 2018 as part of a command paper that amended the immigration rules entitled “Statement of Changes in Immigration rules” (Cm 9675). Appendix EU was amended by the statement of changes in immigration rules presented to Parliament on 14th May 2020 (CPC 232) and on 22nd October 2020 (HC 813).

(b) S.I. 2020/1213.

(c) OJ L 141, 27.05.2011, p.1, amended by Regulation (EU) 2016/589 of the European Parliament and of the Council of 13 April 2016 (OJ L 107, 22.4.2016, p. 1) and Regulation (EU) 2019/1149 of the European Parliament and of the Council of 20 June 2019 ( OJ L 186, 11.7.2019, p. 21).

(d) Annex V of the EEA Agreement incorporates Regulation (EU) No. 492/2011, with modifications that are not relevant for the purposes of these Regulations.

- (b) the reference to “another Member State” is to be read as including the United Kingdom, and the references to “that State” construed accordingly.”.

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

“**8A.**—(1) A person who—

- (a) is settled in the United Kingdom;
- (b) was ordinarily resident in England 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 European Economic Area and Switzerland; or
  - (ii) in the United Kingdom, where that ordinary residence began after 31st December 2017 immediately following a period of ordinary residence in the territory comprising Gibraltar, 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;
- (d) is ordinarily resident in the United Kingdom on the day on which the first term of the first academic year actually begins;
- (e) 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
- (f) in a case where the person’s ordinary residence referred to in paragraph (e) was wholly or mainly for the purposes of receiving full-time education, was ordinarily resident in the territory comprising the United Kingdom, Gibraltar, the European Economic Area 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 that person is a United Kingdom national, 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 a person who had the right of permanent residence who in each case 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 or, in the case of a person who is settled in the United Kingdom and had the right of permanent residence, if the person has gone to the state within the territory comprising the European Economic Area and Switzerland of which the person is a national or of which the person in relation to whom the person is a family member is a national.

(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.”.

(9) In the heading to paragraph 9 (EU nationals), at the end, insert “etc.”.

(10) After paragraph 9, insert—

“**9A.**—(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—

- (i) attending or undertaking a designated course in England; or
- (ii) undertaking an intensive course, designated part-time course or a designated postgraduate course in England;
- (c) who 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
- (d) 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 (c) been wholly or mainly for the purpose of receiving full-time education.

(2) Paragraph (d) 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).

### **United Kingdom nationals**

**9B.**—(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 European Economic Area and Switzerland; or
  - (ii) in the United Kingdom, where that ordinary residence began after 31st 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 —
  - (i) attending or undertaking a designated course in England; or
  - (ii) undertaking an intensive course, designated part-time course or a designated postgraduate course in England;
- (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).

(3) 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).

**9C.**—(1) 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—
  - (i) attending or undertaking a designated course in England; or
  - (ii) undertaking an intensive course, designated part-time course or a designated postgraduate course in England;
- (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) subject to sub-paragraph (2), whose ordinary residence in the United Kingdom and Islands 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.

(2) Paragraph (d) of sub-paragraph (1) does not apply to a person who is treated as being ordinarily resident in the United Kingdom and Islands in accordance with paragraph 1(4).

### **Persons resident in Gibraltar**

**9D.**—(1) 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 —
  - (i) attending or undertaking a designated course in England; or
  - (ii) undertaking an intensive course, designated part-time course or a designated postgraduate course in England;
- (c) who 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
- (d) 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 (c) been wholly or mainly for the purpose of receiving full-time education.

(2) Paragraph (d) 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).”.

(11) Before paragraph 10, insert the heading “EU nationals ordinarily resident in the United Kingdom and Islands”.

(12) After paragraph 10, insert—

**“10ZA.** 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 England 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 European Economic Area and Switzerland immediately prior to the period of ordinary residence referred to in paragraph (c).".

(13) After paragraph 11 (children of Swiss nationals), insert—

**"11A.** 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 England 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 European Economic Area 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 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 European Economic Area and Switzerland immediately prior to the period of ordinary residence referred to in paragraph (c).".

(14) After paragraph 12 (children of Turkish workers), insert—

**"12A.** 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 England 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 European Economic Area, Switzerland and Turkey throughout the three-year period preceding the first day of the first academic year of the course.".

## PART 3

### Amendment of the Education (Fees and Awards) (England) Regulations 2007

#### **Amendment of the Education (Fees and Awards) (England) Regulations 2007**

**26.** The Education (Fees and Awards) (England) Regulations 2007(a) are amended as follows.

#### **Amendment of regulation 2**

**27.** In regulation 2(b) (interpretation)—

- (a) after the definition of "post-compulsory education award", insert—

""specified British overseas territories" means Anguilla; Bermuda; British Antarctic Territory; British Indian Ocean Territory; British Virgin Islands; Cayman Islands;

---

(a) S.I. 2007/779, amended by S.I. 2007/2263, 2010/1172, 1941, 2011/87, 1043, 1987, 2012/765, 956, 1653, 2015/971, 2016/584, 2017/114, 2018/137, 1141, 2019/142, 1027, 2020/48, 1183, 1203.

(b) Paragraphs (4), (5) and (6) were amended by S.I. 2020/1181. Paragraph (8) was inserted by S.I. 2007/2263.

Falkland Islands; Gibraltar; Montserrat; Pitcairn, Henderson, Ducie and Oeno Islands; South Georgia and the South Sandwich Islands; St Helena and Dependencies (Ascension Island and Tristan da Cunha); and Turks and Caicos Islands;”;

- (b) in paragraph (4)—
  - (i) after “Islands”, insert “, the territory comprising the United Kingdom, the Islands and the Republic of Ireland”;
  - (ii) after “overseas territories”, the first time it appears, insert “, the territory comprising the United Kingdom, the Islands and the specified British overseas territories”;
- (c) in paragraph (5), after sub-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, the Islands and the Republic of Ireland as members of such forces;”;
- (d) in paragraph (6)—
  - (i) after “Islands”, insert “, the territory comprising the United Kingdom, the Islands and the Republic of Ireland”;
  - (ii) after “overseas territories”, insert “, the territory comprising the United Kingdom, the Islands and the specified British overseas territories”;
- (e) omit paragraph (8).

#### **Amendment of regulation 4**

##### **28. In regulation 4(a) (fee charging)—**

- (a) for paragraph (1) substitute—

“(1) Subject to paragraph (1B), it shall be lawful for the institutions mentioned in paragraph (3) to charge higher fees in the case of a person who does not fall within any of —

  - (a) paragraphs 2, 2A, 3, 4, 4A, 4B, 4C, 4D, 4E, 5, 6A, 7A, 8A, 9A, 9B, 9C, 9D, 9E, 10A, 11A, 12A and 13 of Schedule 1; or
  - (b) paragraphs 6, 7, 8, 9, 10, 11 and 12 of Schedule 1, where paragraph (1A) applies, than in the case of a person who does fall within any of those paragraphs.

(1A) This paragraph applies where—

  - (a) in connection with a course beginning before 1st August 2021, a person (“A”) fell within any of paragraphs 6, 7, 8, 9, 10, 11 and 12 of Schedule 1 in relation to an academic year of the course beginning before 1st August 2021; and
  - (b) A is liable for fees in connection with—
    - (i) that course; or
    - (ii) a course provided by an institution mentioned in paragraph (3) to which A transfers from that course.

(1B) In relation to a course beginning on or after 1st January 2028, paragraph (1) has effect as if sub-paragraph (a) did not mention paragraphs 8A and 9B of Schedule 1.”;
- (b) in paragraph (2), after “within”, insert “a paragraph of”.

#### **Amendment of regulation 5**

##### **29. In regulation 5(1)(b) (awards by local authorities)—**

- (a) in paragraph (1)—

---

(a) Regulation 4 was amended by S.I. 2012/765 and 2019/1027.  
(b) Regulation 5 was amended by S.I. 2010/1172.

- (i) at the beginning, insert “Subject to paragraph (2),”;
- (ii) for sub-paragraphs (b) and (c) substitute—
  - “(b) confine eligibility in the case of fees awards to those persons who fall within any of paragraphs 2, 2A, 3, 4, 4A, 4B, 4C, 4D, 4E, 6A, 7A, 8A, 9A, 9B, 9C, 9D, 9E, 10A, 11A, 12A and 13 of Schedule 1; or
  - (c) confine eligibility in the case of maintenance awards to those persons who fall within any of paragraphs 2, 3, 4, 4A, 4B, 4C, 4D, 4E, 6A, 7A, 8A, 9B, 10A, 11A, 12A and 13 of Schedule 1.”;
- (b) after paragraph (1), insert—
  - “(2) In relation to a course beginning on or after 1st January 2028, paragraph (1) has effect as if sub-paragraphs (b) and (c), in each case, did not mention paragraphs 8A and 9B of Schedule 1.”.

## **Amendment of regulation 6**

### **30. In regulation 6(a) (awards by research councils, UKRI and others)—**

- (a) in paragraph (1)—
  - (i) at the beginning, insert “Subject to paragraph (1C),”
  - (ii) for sub-paragraphs (b) and (c) substitute—
    - “(b) confine eligibility in the case of fees awards in connection with courses of education or training or the undertaking of research to those persons who fall within any of —
      - (i) paragraphs 2, 2A, 3, 4, 4A, 4B, 4C, 4D, 4E, 6A, 7A, 8A, 9A, 9B, 9C, 9D, 9E, 10A, 11A, 12A and 13 of Schedule 1; or
      - (ii) paragraphs 6, 7, 8, 9, 10, 11 and 12 of Schedule 1, where paragraph (1A) applies; or
    - (c) confine eligibility in the case of maintenance awards in connection with courses of education or training or the undertaking of research to those persons who fall within any of—
      - (i) paragraphs 2, 3, 4, 4A, 4B, 4C, 4D, 4E, 6A, 7A, 8A, 9B, 10A, 11A, 12A and 13 of Schedule 1; or
      - (ii) paragraphs 6, 7, 8, 10, 11 and 12 of Schedule 1, where paragraph (1B) applies.”;
  - (iii) after paragraph (1), insert—
    - “(1A) This paragraph applies where—
      - (a) in connection with courses of education or training, or the undertaking of research, beginning before 1st August 2021, a person (“A”) was eligible for an award by virtue of falling within any of paragraphs 6, 7, 8, 9, 10, 11 and 12 of Schedule 1 in relation to an academic year of that course or research beginning before 1st August 2021; and
      - (b) A’s eligibility for an award is being assessed in relation to that course or research.
    - (1B) This paragraph applies where—
      - (a) in connection with courses of education or training, or the undertaking of research, beginning before 1st August 2021, a person (“A”) was eligible for an award by virtue of falling within any of paragraphs 6, 7, 8, 10, 11 and 12 of Schedule 1, in relation to an academic year of that course or research beginning before 1st August 2021; and

---

(a) Regulation 6 was amended by S.I. 2019/1027.

- (b) A's eligibility for an award is being assessed in relation to that course or research.
- (1C) In relation to a course of education or training or the undertaking of research beginning on or after 1st January 2028, paragraph (1) has effect as if sub-paragraphs (b) and (c), in each case, did not mention paragraphs 8A and 9B of Schedule 1.”;
- (b) in sub-paragraph (3), for “paragraph 9”, insert “paragraph 2A, paragraph 9, paragraph 9A, paragraph 9B, paragraph 9C, paragraph 9D or paragraph 9E”.

### **Amendment of regulation 7**

**31.** In regulation 7 (headed “payments by the Training and Development Agency for Schools”, but now relating to payments by the Secretary of State)(a)—

- (a) in paragraphs (1) and (2), in each case—
  - (i) at the beginning, insert “Subject to paragraph (3),”;
  - (ii) after the words “who fall within”, insert “any of paragraphs 2, 2A, 3, 4, 4A, 4B, 4C, 4D, 4E, 5, 6A, 7A, 8A, 9A, 9B, 9C, 9D, 9E, 10A, 11A, 12A and 13 of”;
- (b) after paragraph (2), insert—
 

“(3) In relation to an award made on or after 1st January 2028, paragraphs (1) and (2) have effect as if, in each case, they did not mention paragraphs 8A and 9B of Schedule 1.”.

### **Amendment of regulation 8**

**32.** In regulation 8(b) (payments by the OfS)—

- (a) in paragraphs (1) and (2), in each case—
  - (i) at the beginning, insert “Subject to paragraph (4),”;
  - (ii) for “within Schedule 1” substitute—
 

“within any of—

    - (a) paragraphs 2, 2A, 3, 4, 4A, 4B, 4C, 4D, 4E, 5, 6A, 7A, 8A, 9A, 9B, 9C, 9D, 9E, 10A, 11A, 12A and 13 of Schedule 1; or
    - (b) paragraphs 6, 7, 8, 9, 10, 11 and 12 of Schedule 1, where paragraph (3) applies.”;
- (b) after paragraph (2), insert—
 

“(3) This paragraph applies where—

  - (a) in connection with training beginning before 1st August 2021, a person (“A”) was eligible for an award by virtue of falling within any of paragraphs 6, 7, 8, 9, 10, 11 and 12 of Schedule 1 in relation to an academic year beginning before 1st August 2021; and
  - (b) A's eligibility for an award is being assessed in relation to that training.

(4) In relation to training beginning on or after 1st January 2028, paragraphs (1) and (2) have effect as if, in each case, sub-paragraph (a) did not mention paragraphs 8A and 9B of Schedule 1.”.

### **Amendment of regulation 9**

**33.** In regulation 9(c) (payments by the Secretary of State)—

- (a) in paragraphs (1) and (2), in each case—
  - (i) at the beginning, insert “Subject to paragraph (4),”;
  - (ii) for “within Schedule 1” substitute—

---

(a) Regulation 7 was amended by S.I. 2012/765.  
 (b) Regulation 8 was amended by S.I. 2019/1027.  
 (c) Regulation 9 was amended by S.I. 2012/956, 2015/971.

“within any of—

- (a) paragraphs 2, 2A, 3, 4, 4A, 4B, 4C, 4D, 4E, 5, 6A, 7A, 8A, 9A, 9B, 9C, 9D, 9E, 10A, 11A, 12A and 13 of Schedule 1; or
  - (b) paragraphs 6, 7, 8, 9, 10, 11 and 12 of Schedule 1, where paragraph (3) applies.”;
- (b) after paragraph (2), insert—
- “(3) This paragraph applies where—
- (a) a person (“A”) was eligible for an award by virtue of falling within any of paragraphs 6, 7, 8, 9, 10, 11 and 12 of Schedule 1 in relation to an academic year beginning before 1st August 2021; and
  - (b) A’s eligibility for a further award is being assessed in connection with that award.
- (4) In relation to an award made on or after 1st January 2028, paragraphs (1) and (2) have effect as if, in each case, sub-paragraph (a) did not mention paragraphs 8A and 9B of Schedule 1.”.

### **Amendment of regulation 9A**

**34.** In regulation 9A(a) (payments by a combined authority)—

- (a) in paragraphs (1) and (2), in each case—
  - (i) at the beginning, insert “Subject to paragraph (4),”
  - (ii) after the words “who fall within”, insert “any of paragraphs 2, 2A, 3, 4, 4A, 4B, 4C, 4D, 4E, 5, 6A, 7A, 8A, 9A, 9B, 9C, 9D, 9E, 10A, 11A, 12A and 13 of”;
- (b) after paragraph (3), insert—

“(4) In relation to an award made on or after 1st January 2028, paragraphs (1) and (2) have effect as if, in each case, they did not mention paragraphs 8A and 9B of Schedule 1.”.

### **Amendment of Schedule 1**

**35.**—(1) Schedule 1 (eligible students)(b) is amended as follows.

(2) In paragraph 1 (interpretation)(c)—

- (a) number the existing text as sub-paragraph (1);
- (b) in sub-paragraph (1) as so numbered—
  - (i) before the definition of “Directive 2004/38”, insert—

““the 2020 Citizens’ Rights Regulations” means the Citizens’ Rights (Application Deadline and Temporary Protection) (EU Exit) Regulations 2020;”;
  - (ii) in the definition of “family member”—
    - (aa) 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 6A(3)”;
    - (bb) in paragraph (c), after “Directive 2004/38”, insert “or, for the purposes of paragraph 9A, in relation to a relevant person of Northern Ireland who would fall within article 7(1)(c) of Directive 2004/38 if that person were an EU national or solely an EU national”;
    - (cc) in paragraph (d), after “Directive 2004/38”, insert “or, for the purposes of paragraph 9A, in relation to a relevant person of Northern Ireland who

---

(a) Regulation 9A was amended by S.I. 2018/1141.

(b) Schedule 1 was amended by S.I. 2007/2263, 2011/87, 1043, 1987, 2016/584, 2017/114, 2018/137, 2019/142, 2020/48, 1181, 1203.

(c) Paragraph 1 was amended by S.I. 2011/87, 2011/1043, 2018/137.

(dd) in paragraph (e), for “paragraph 9” substitute “, paragraphs 9, 9B, 9C, 9D and 9E”;

“‘grace period’ has the meaning given by regulation 3 of the 2020 Citizens’ Rights Regulations;”;

(a) a person within the personal scope of the citizens' rights provisions who—

(iv) is an applicant for the purposes of regulation 4 of the 2020 Citizens' Rights Regulations where the relevant period has not expired; or

“relevant person of Northern Ireland” has the meaning given by residence scheme immigration rules;”;

“‘United Kingdom national’ has the meaning given by Article 2(d) of the EU withdrawal agreement;”;

(3) For the purposes of this Schedule, a person is within the personal scope of the citizens' rights provisions if that person falls within—

(c) Article 10 (personal scope) of the Swiss citizens' rights agreement.”.

“(i) is settled in the United Kingdom and does not fall within paragraph 3;”.

**“2A.—(1) A person—**

23

- (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 paragraph 3;
- (b) who is ordinarily resident in the United Kingdom on the first day of the first academic year of the course;
- (c) who has been ordinarily resident in the territory comprising the United Kingdom, the 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) subject to sub-paragraph (2), whose ordinary residence in the territory comprising the United Kingdom, the 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.

(2) Paragraph (d) of sub-paragraph (1) does not apply to a person who is treated as being ordinarily resident in the territory comprising the United Kingdom, the Islands and the Republic of Ireland in accordance with regulation 2(4).”.

(5) In paragraph 3(a)—

- (a) number the existing text as sub-paragraph (1);
- (b) for sub-paragraph (1)(a) as so numbered substitute—

“(a) meets one of the following conditions on the first day of an academic year of the course—

- (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

---

(a) Paragraph 3 was amended by S.I. 2007/2263, 2020/1181.



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 (1), insert—

"(2) For the purposes of sub-paragraph (1)(a)(ii)(cc), "eligibility requirements for indefinite leave to enter or remain in the United Kingdom granted by virtue of residence scheme immigration rules" means the eligibility requirements for such leave in accordance with paragraph EU11 of Appendix EU to the immigration rules (as defined in section 33(1) of the Immigration Act 1971)."

(6) After paragraph 6 (workers, employed persons, self-employed persons and their family members), insert—

**"6A.—**(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—

- (i) an EEA migrant worker or an EEA self-employed person;
- (ii) a Swiss employed person or a Swiss self-employed person;
- (iii) a family member of a person mentioned in sub-paragraph (i) or (ii);
- (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);

(b) subject to sub-paragraph (2), is ordinarily resident in the United Kingdom on the first day of the first academic year of the course; and

(c) 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.

(2) Paragraph (b) of sub-paragraph (1) does not apply where the person applying for support falls within paragraph (a)(iv), (v) or (vi) of sub-paragraph (1).

(3) 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."

(7) After paragraph 7, insert—

**"7A.—**(1) A person with protected rights who—

(a) is ordinarily resident in the United Kingdom on the first day of the first academic year of the course;

(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; and

(c) is entitled to support by virtue of Article 10 of Regulation (EU) No. 492/2011 of the European Parliament and of 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.

(2) For the purposes of sub-paragraph (1)(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.”.

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

“**8A.**—(1) A person who—

- (a) is settled in the United Kingdom;
- (b) left the United Kingdom and exercised a right of residence before IP completion day after having been settled in the United Kingdom;
- (c) was ordinarily resident immediately before IP completion day—
  - (i) in the territory comprising the European Economic Area, Switzerland and the overseas territories; or
  - (ii) in the United Kingdom, where that ordinary residence began after 31st December 2017 immediately following a period of ordinary residence in the territory comprising the European Economic Area, Switzerland and the overseas territories,

and has remained ordinarily resident in the territory comprising the United Kingdom, the European Economic Area, Switzerland and the overseas territories 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 first term of the first academic year actually begins;
- (e) 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; and
- (f) in a case where the person’s ordinary residence referred to in paragraph (e) was wholly or mainly for the purposes of receiving full-time education, was ordinarily resident in the territory comprising the United Kingdom, Gibraltar, the European Economic Area 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 that person is a United Kingdom national, 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 a person who had the right of permanent residence who in each case 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 or, in the case of a person who is settled in the United Kingdom and had the right of permanent residence, if the person has gone to the state within the territory comprising the European Economic Area and Switzerland of which the person is a national or of which the person in relation to whom the person is a family member is a national.

(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.”.

(9) In the heading to paragraph 9 (EU nationals), at the end, insert “etc.”.

(10) After paragraph 9, insert—

“**9A.**—(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 the course in the United Kingdom;
  - (c) who, subject to sub-paragraph (2), 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; and
  - (d) subject to sub-paragraph (3), whose ordinary residence in the territory comprising the United Kingdom, the European Economic Area, Switzerland and the overseas territories 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.
- (2) Paragraph (c) of sub-paragraph (1) does not apply to a family member of a person who—
- (a) is an EU national or a relevant person of Northern Ireland; 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.
- (3) Paragraph (d) of sub-paragraph (1) does not apply to a person who is treated as being ordinarily resident in the territory comprising the United Kingdom, the European Economic Area, Switzerland and the overseas territories in accordance with regulation 2(4).

### **United Kingdom nationals**

- 9B.**—(1) A person—
- (a) who is—
    - (i) a United Kingdom national on the first day of an 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 European Economic Area, Switzerland and the EU overseas territories; or
    - (ii) in the United Kingdom, where that ordinary residence began after 31st December 2017 immediately following a period of ordinary residence in the territory comprising the European Economic Area, Switzerland and the EU overseas territories,

and has remained ordinarily resident in the territory comprising the United Kingdom, the European Economic Area, Switzerland and the EU overseas territories 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 the course in the United Kingdom;
  - (d) who, subject to sub-paragraph (2), 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; and
  - (e) subject to sub-paragraph (3), whose ordinary residence in the territory comprising the United Kingdom, the European Economic Area, Switzerland and the overseas territories 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 (d) of sub-paragraph (1) does not apply to the family member of a United Kingdom national, where that United Kingdom national—

- (a) had, before IP completion day, exercised a right to reside in the territory of a Member State under Article 7(1) of Directive 2004/38; 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.

(3) 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, the European Economic Area, Switzerland and the overseas territories in accordance with regulation 2(4).

(4) 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).

(5) In this paragraph, “EU overseas territories” means Aruba; Faroe Islands; French Polynesia; French Southern and Antarctic Territories; Mayotte; Greenland; Netherlands Antilles (Bonaire, Curaçao, Saba, Sint Eustatius, Sint Maarten); St Barthélemy; St Pierre et Miquelon; the Territory of New Caledonia and Dependencies; and Wallis and Futuna.

**9C.—(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 is undertaking the course in the United Kingdom;
- (c) who has been ordinarily resident in the specified British overseas territories for at least part of the three year period preceding the first day of the first academic year of the course;
- (d) who has been ordinarily resident in the territory comprising the United Kingdom, the Islands and the specified British overseas territories 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, the Islands and the specified British overseas territories 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, the Islands and the specified British overseas territories in accordance with regulation 2(4).

**9D.—(1) 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 the course in the United Kingdom;
- (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) subject to sub-paragraph (2), whose ordinary residence in the United Kingdom and Islands 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.

(2) Paragraph (d) of sub-paragraph (1) does not apply to a person who is treated as being ordinarily resident in the United Kingdom and Islands in accordance with regulation 2(4).

**Persons resident in Gibraltar**

**9E.—(1) 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 the course in the United Kingdom;
- (c) who, subject to paragraph (2), 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; and
- (d) subject to sub-paragraph (3), whose ordinary residence in the territory comprising the United Kingdom, the European Economic Area, Switzerland and the overseas territories 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.

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

- (a) is an EU national or a relevant person of Northern Ireland; 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.

(3) Paragraph (d) of sub-paragraph (1) does not apply to a person who is treated as being ordinarily resident in the territory comprising the United Kingdom, the European Economic Area, Switzerland and the overseas territories in accordance with regulation 2(4).”.

(11) Before paragraph 10, insert the heading “EU nationals ordinarily resident in the United Kingdom and Islands”.

(12) After paragraph 10, insert—

**“10A.** 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 the United Kingdom 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, the European Economic Area, Switzerland and the overseas territories immediately prior to the period of ordinary residence referred to in paragraph (c).”.

(13) After paragraph 11 (children of Swiss nationals), insert—

**“11A.** 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 the United Kingdom on the first day of the first academic year of the course;

- (c) 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; 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 European Economic Area and Switzerland immediately prior to the period of ordinary residence referred to in paragraph (c).".

(14) After paragraph 12 (children of Turkish workers), insert—

**"12A.** 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 the United Kingdom 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, the European Economic Area, Switzerland, Turkey and the overseas territories throughout the three-year period preceding the first day of the first academic year of the course.".

## PART 4

### Amendment of the Education (Student Support) (European University Institute) Regulations 2010

#### **Amendment of the Education (Student Support) (European University Institute) Regulations 2010**

**36.** The Education (Student Support) (European University Institute) Regulations 2010(a) are amended as follows.

#### **Amendment of regulation 3**

**37.** In regulation 3(b) (interpretation)—

- (a) number the existing text as paragraph (1);
- (b) in paragraph (1) as so numbered—
  - (i) after the definition of "2006 Regulations", insert—
 

""2020 Citizens' Rights Regulations" means the Citizens' Rights (Application Deadline and Temporary Protection) (EU Exit) Regulations 2020;";
  - (ii) after the definition of "European Union", insert—
 

""grace period" has the meaning given by regulation 3 of the 2020 Citizens' Rights Regulations;";
  - (iii) after the definition of "person granted stateless leave", insert—

---

(a) S.I. 2010/447, amended by S.I. 2011/83, 2012/3059, 2013/630, 1728, 2016/211, 2017/114, 204, 2018/137, 472, 2019/142, 2020/48, 1181, 1203.

(b) Regulation 3 was amended by S.I. 2011/83, 2018/137, 2019/142, 2020/48, 1203.

““person with protected rights” 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;”;
- (iv) after the definition of “relevant date”, insert—
  - ““relevant period” has the meaning given by regulation 4 of the 2020 Citizens’ Rights Regulations;
  - “relevant person of Northern Ireland” has the meaning given by residence scheme immigration rules;
  - “residence scheme immigration rules” has the meaning given by section 17(1) of the European Union (Withdrawal Agreement) Act 2020;”;
- (v) after the definition of “supplementary grant”, insert—
  - ““Swiss citizens’ rights agreement” has the meaning given by section 39(1) of the European Union (Withdrawal Agreement) Act 2020;”;
- (c) after paragraph (1), insert—
  - “(2) 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.”.

### **Amendment of regulation 9**

**38. In regulation 9(a) (eligible students)—**

- (a) in paragraph (2)—
  - (i) after “paragraphs”, insert “(2B),”;
  - (ii) for sub-paragraph (b) substitute—
    - “(b) the Secretary of State determines in connection with an application for support under these Regulations that the person falls within one of the categories set out—
      - (i) in paragraphs 2, 2A, 3, 4, 4A, 4B, 4C, 4D, 4E, 5, 6A, 7A, 8A, 9A, 9B, 9C, 9D, 10ZA, 11A, 12A and 13 in Part 2 of Schedule 1; or
      - (ii) in paragraphs 6, 7, 8, 9, 10, 10A, 11 and 12 in Part 2 of Schedule 1, where paragraph (2A) applies.
- (2A) This paragraph applies where—

---

(a) Regulation 9 was amended by 2011/83, 2012/3059, 2018/137, 2019/142, 2020/48.

- (a) in connection with a designated course beginning before 1st August 2021, the Secretary of State, in assessing an application for support by a person (“A”), determined that A fell within one of the categories set out in paragraphs 6, 7, 8, 9, 10, 10A, 11 and 12 in Part 2 of Schedule 1 in relation to an academic year of the course beginning before 1st August 2021; and
- (b) A applies for support in connection with that course, or a designated course to which A’s status as an eligible student is transferred from that course in accordance with this Part.

(2B) In connection with a designated course beginning on or after 1st January 2028, paragraph (2)(b) has effect as if it did not mention paragraphs 8A, 9B and 9D.”;

(b) in paragraph (9), for “(7), (10) and (11)”, insert “(2B), (7) and (10) to (11B)”;

(c) after paragraph (11), insert—

“(11A) Where—

- (a) the Secretary of State determined that, 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 (“A”) was an eligible student in connection with—
  - (i) an application for support for an earlier year of the current course; or
  - (ii) an application for support in connection with a designated course at the Institute from which A’s status as an eligible student has been transferred to the current course; and
- (b) as at the day before the academic year in respect of which A is applying for support begins, A 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,

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

(11B) Where—

- (a) the Secretary of State has 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 3(1)(a)(iii) or (iv) in Part 2 of Schedule 1, a person (“A”) 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 academic year begins, A is not a person with protected rights,

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

## **Amendment of regulation 12**

**39.** In regulation 12 (transfer of eligibility), after paragraph (1), insert—

“(1A) Paragraph (1) applies to a person who is an eligible student by virtue of regulation 9(2)(b)(ii) only where that person’s status as an eligible student has not been transferred on or after 1st August 2021 from the designated course referred to in regulation 9(2A)(a) to another designated course.”.



### **Amendment of regulation 17**

**40.** In regulation 17(2)(a) (grants for living and other costs), for the words from “paragraph 9” to the end substitute “the only paragraph or paragraphs in Part 2 of Schedule 1 into which the student falls is one or more of paragraphs 2A, 9, 9A, 9C, 9D, 10 and 10ZA”.

### **Amendment of regulation 19**

**41.** In regulation 19(2)(b) (disabled students’ allowance), for the words from “paragraph 9” to the end substitute “the only paragraph or paragraphs in Part 2 of Schedule 1 into which the student falls is one or more of paragraphs 2A, 9, 9A, 9C, 9D, 10 and 10ZA”.

### **Amendment of regulation 22**

**42.** In regulation 22(3)(c) (adult dependants’ grant), for the words from “paragraph 9” to the end substitute “the only paragraph or paragraphs in Part 2 of Schedule 1 into which the student falls is one or more of paragraphs 2A, 9, 9A, 9C, 9D, 10 and 10ZA”.

### **Amendment of regulation 24**

**43.** In regulation 24(2)(d) (parents’ learning allowance), for the words from “paragraph 9” to the end substitute “the only paragraph or paragraphs in Part 2 of Schedule 1 into which the student falls is one or more of paragraphs 2A, 9, 9A, 9C, 9D, 10 and 10ZA”.

### **Amendment of Schedule 1**

**44.—**(1) Schedule 1 (eligible students) is amended as follows.

(2) In paragraph 1(e) (interpretation)—

(a) in sub-paragraph (1)—

(i) omit the definitions of “EEA EFTA separation agreement”, “residence scheme immigration rules”, “right of permanent residence” and “Swiss citizens’ rights agreement”;

(ii) in the definition of “family member”—

(aa) 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 6A(3)”;

(bb) in paragraph (c), after “Directive 2004/38”, insert “or, for the purposes of paragraph 9A, in relation to a relevant person of Northern Ireland who would fall within article 7(1)(c) of Directive 2004/38 if that person were an EU national or solely an EU national”;

(cc) in paragraph (d), after “Directive 2004/38”, insert “or, for the purposes of paragraph 9A, in relation to 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”;

(dd) in paragraph (e), for “paragraph 9” substitute “paragraphs 9, 9B, 9C and 9D”;

(iii) for the definition of “United Kingdom national” substitute—

---

(a) Regulation 17(2) was amended by S.I. 2017/114.

(b) Regulation 19(2) was amended by S.I. 2017/114.

(c) Regulation 22(3) was amended by S.I. 2017/114.

(d) Regulation 24(2) was amended by S.I. 2017/114.

(e) Paragraph 1 was amended by S.I. 2011/83, S.I. 2020/1181.

- ““United Kingdom national” has the meaning given by Article 2(d) of the EU withdrawal agreement;”;
- (b) after sub-paragraph (5), insert—
- “(5A) 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.”;
- (c) in sub-paragraph (7), after “Islands”, in both places it occurs, insert “, the territory comprising the United Kingdom, the Islands and the Republic of Ireland”;
- (d) in sub-paragraph (8)—
- (i) after “United Kingdom” the first time it appears, insert “, the territory comprising the United Kingdom, the Islands and the Republic of Ireland”;
- (ii) after paragraph (a)—
- (aa) omit “and”;
- (bb) 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, the Islands and the Republic of Ireland as members of such forces; and”.
- (3) In paragraph 2(1) (persons settled in the United Kingdom), for paragraph (a) substitute—
- “(a) is settled in the United Kingdom on the relevant date and does not fall within paragraph 3;”.
- (4) After paragraph 2, insert—
- “2A.—(1) A person—**
- (a) who is settled in the United Kingdom on the relevant date and does not fall within paragraph 3;
- (b) who is ordinarily resident in England on the relevant date;
- (c) who has been ordinarily resident in the territory comprising the United Kingdom, the 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) subject to sub-paragraph (2), whose ordinary residence in the territory comprising the United Kingdom, the 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.
- (2) Paragraph (d) of sub-paragraph (1) does not apply to a person who is treated as being ordinarily resident in the territory comprising the United Kingdom, the Islands and the Republic of Ireland in accordance with paragraph 1(7).”.
- (5) In paragraph 3(a)—
- (a) number the existing text as sub-paragraph (1);
- (b) for sub-paragraph (1)(a) as so numbered substitute—
- “(a) meets one of the following conditions on the relevant date—
- (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;

---

(a) Paragraph 3 was amended by S.I. 2020/1181.

- (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 (1), insert—
- “(2) For the purposes of sub-paragraph (1)(a)(ii)(cc), “eligibility requirements for indefinite leave to enter or remain in the United Kingdom granted by virtue of residence scheme immigration rules” means the eligibility requirements for such leave in accordance with paragraph EU11 of Appendix EU to the immigration rules (as defined in section 33(1) of the Immigration Act 1971).”.
- (6) After paragraph 6 (workers, employed persons, self-employed persons and their family members), insert—
- “6A.—**(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) on the relevant date, is—
    - (i) an EEA migrant worker or an EEA self-employed person;
    - (ii) a Swiss employed person or a Swiss self-employed person;
    - (iii) a family member of a person mentioned in sub-paragraph (i) or (ii);
    - (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);
  - (b) subject to sub-paragraph (2), is ordinarily resident in England on the relevant date; and

- (c) 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 relevant date.

(2) Paragraph (b) of sub-paragraph (1) does not apply where the person applying for support falls within paragraph (a)(iv), (v) or (vi) of sub-paragraph (1).

(3) 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.”.

(7) After paragraph 7, insert—

**“7A.—**(1) A person with protected rights who—

- (a) is ordinarily resident in England on the relevant date;
- (b) 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 relevant date; and
- (c) is entitled to support by virtue of Article 10 of Regulation (EU) No. 492/2011 of the European Parliament and of 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.

(2) For the purposes of sub-paragraph (1)(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.”.

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

**“8A.—**(1) A person who—

- (a) is settled in the United Kingdom;
- (b) was ordinarily resident in England 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 European Economic Area and Switzerland; or
  - (ii) in the United Kingdom, where that ordinary residence began after 31st December 2017 immediately following a period of ordinary residence in the territory comprising Gibraltar, 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 relevant date;
- (d) is ordinarily resident in England on the relevant date;
- (e) 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 relevant date; and
- (f) in a case where the person’s ordinary residence referred to in paragraph (e) was wholly or mainly for the purposes of receiving full-time education, was ordinarily resident in the territory comprising the United Kingdom, Gibraltar, the European

Economic Area 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 that person is a United Kingdom national, 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 a person who had the right of permanent residence who in each case 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 or, in the case of a person who is settled in the United Kingdom and had the right of permanent residence, if the person has gone to the state within the territory comprising the European Economic Area and Switzerland of which the person is a national or of which the person in relation to whom the person is a family member is a national.

(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.”.

(9) In the heading to paragraph 9 (EU nationals), at the end, insert “etc.”.

(10) After paragraph 9, insert—

**“9A.—**(1) A person with protected rights—

- (a) who on the relevant date is —
  - (i) an EU national;
  - (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 ordinarily resident in England on the relevant date;
- (c) who 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 relevant date; and
- (d) 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 (c) been wholly or mainly for the purpose of receiving full-time education.

(2) Paragraph (d) 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(7).

### **United Kingdom nationals**

**9B.—**(1) A person—

- (a) who on the relevant date is—
  - (i) a United Kingdom national; 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 European Economic Area and Switzerland; or
  - (ii) in the United Kingdom, where that ordinary residence began after 31st 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 relevant date;
- (c) who is ordinarily resident in England on the relevant date;

- (d) who 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 relevant date; 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(7).

(3) 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).

**9C.—(1) A person—**

- (a) who on the relevant date is a family member of a person who is a United Kingdom national;
- (b) who is ordinarily resident in England on the relevant date;
- (c) who has been ordinarily resident in the United Kingdom and Islands throughout the three year period preceding the relevant date; and
- (d) subject to sub-paragraph (2), whose ordinary residence in the United Kingdom and Islands 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.

(2) Paragraph (d) of sub-paragraph (1) does not apply to a person who is treated as being ordinarily resident in the United Kingdom and Islands in accordance with paragraph 1(7).

**Persons resident in Gibraltar**

**9D.—(1) A person—**

- (a) who on the relevant date 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 ordinarily resident in England on the relevant date;
- (c) who 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 relevant date; and
- (d) 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 (c) been wholly or mainly for the purpose of receiving full-time education.

(2) Paragraph (d) 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(7).”.

(11) Before paragraph 10, insert the heading “EU nationals ordinarily resident in the United Kingdom and Islands”.

(12) After paragraph 10, insert—

“**10ZA.** A person with protected rights who—

- (a) on the relevant date is an EU national;
- (b) is ordinarily resident in England on the relevant date;
- (c) has been ordinarily resident in the United Kingdom and Islands throughout the three-year period immediately preceding the relevant date; 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 European Economic Area and Switzerland immediately prior to the period of ordinary residence referred to in paragraph (c).”.

(13) After paragraph 11 (children of Swiss nationals), insert—

“**11A.** A person with protected rights who—

- (a) on the relevant date 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 England on the relevant date;
- (c) 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 relevant date; 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 European Economic Area and Switzerland immediately prior to the period of ordinary residence referred to in paragraph (c).”.

(14) After paragraph 12 (children of Turkish workers), insert—

“**12A.** 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 England on the relevant date; and
- (d) has been ordinarily resident in the territory comprising the United Kingdom, Gibraltar, the European Economic Area, Switzerland and Turkey throughout the three-year period preceding the first day of the first academic year of the course.”.

## PART 5

### Amendment of the Further Education Loans Regulations 2012

#### Amendment of the Further Education Loans Regulations 2012

**45.** The Further Education Loans Regulations 2012(a) are amended as follows.

---

(a) S.I. 2012/1818, amended by S.I. 2014/290, 1766, 2015/181, 2016/238, 584, 2017/336, 2018/182, 2019/142, 2020/48, 1181, 1203.

## Amendment of regulation 2

### 46. In regulation 2(a) (interpretation)—

- (a) number the existing text as paragraph (1);
- (b) in paragraph (1) as so numbered—
  - (i) after the definition of “the 1998 Act”, insert—

“the 2020 Citizens’ Rights Regulations” means the Citizens’ Rights (Application Deadline and Temporary Protection) (EU Exit) Regulations 2020;”;
  - (ii) after the definition of “further education course”, insert—

““grace period” has the meaning given by regulation 3 of the 2020 Citizens’ Rights Regulations;”;
  - (iii) after the definition of “person granted stateless leave”, insert—

““person with protected rights” 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;”;
  - (iv) after the definition of “refugee”, insert—

““relevant period” has the meaning given by regulation 4 of the 2020 Citizens’ Rights Regulations;

“relevant person of Northern Ireland” has the meaning given by residence scheme immigration rules;

“residence scheme immigration rules” has the meaning given by section 17(1) of the European Union (Withdrawal Agreement) Act 2020;”;
  - (v) after the definition of “student loans legislation”, insert—

““Swiss citizens’ rights agreement” has the meaning given by section 39(1) of the European Union (Withdrawal Agreement) Act 2020;”;
- (c) after paragraph (1), insert—

“(2) 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.”.

---

(a) Regulation 2 was amended by S.I. 2014/1766, 2018/182, 2019/142, 2020/48, 1181, 1203.



### Amendment of regulation 3

#### 47. In regulation 3(a) (eligible students)—

##### (a) for paragraph (2) substitute—

“(2) A person is an eligible student in connection with a designated further education course if—

- (a) in assessing that person’s application for a fee loan the Secretary of State determines that the person falls within one of the categories set out—
  - (i) in paragraphs 2, 2A, 3, 4, 4A, 4B, 4C, 4D, 4E, 5, 6A, 7A, 8A, 9A, 9B, 9C, 9D, 10A, 11A, 12A and 13 in Part 2 of Schedule 1; or
  - (ii) in paragraphs 6, 7, 8, 9, 10, 11 and 12 in Part 2 of Schedule 1, where paragraph (2A) applies; and
- (b) the person satisfies the requirements of the other paragraphs of this regulation.

##### (2A) This paragraph applies where—

- (a) in connection with a designated further education course beginning before 1st August 2021, the Secretary of State—
  - (i) in assessing an application for a fee loan by a person (“A”) determined that A fell within one of the categories set out in paragraphs 6, 7, 8, 9, 10, 11 and 12 in Part 2 of Schedule 1 in relation to an academic year of the course beginning before 1st August 2021; or
  - (ii) would have so determined had A made an application for a fee loan in accordance with this Part in relation to an academic year of the course beginning before that date; and
- (b) A applies for a fee loan in connection with that course or a designated further education course to which A’s status as an eligible student is transferred from that course in accordance with these Regulations.

(2B) In connection with a designated further education course beginning on or after 1st January 2028, paragraph (2) has effect as if it did not mention paragraphs 8A, 9B and 9D.”;

##### (b) after paragraph 8, insert—

“(9) Where—

- (a) the Secretary of State has determined that, 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 (“A”) is an eligible student in connection with an application for support for a fee loan for a designated further education course; and
- (b) as at the day before that course begins, A 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,

A’s status as an eligible student terminates immediately before the first day of the course.

##### (10) Where—

- (a) the Secretary of State has 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 3(1)(a)(iii) or (iv) in Part 2 of Schedule 1,a person (“A”) is an eligible student in connection with an application for a fee loan for a designated further education course; and
- (b) as at the day before that course begins, A is not a person with protected rights,

---

(a) Regulation 3 was amended by S.I. 2014/1766, 2016/238, 2018/182, 2019/142, 2020/48, 1181, 1203.

A's status as an eligible student terminates immediately before the first day of the course.”.

#### **Amendment of regulation 5**

**48.** In regulation 5(1) (period of eligibility), at the end, insert “or regulation 3”.

#### **Amendment of regulation 7**

**49.** In regulation 7(a) (students becoming eligible other than prior to the beginning of a designated further education course)—

- (a) omit paragraph (c);
- (b) for paragraph (d) substitute—
  - “(d) the student becomes a family member described in paragraph 9A(1)(a), 9B(1)(a), 9C(1)(a) or 9D(1)(a) of Schedule 1;”;
- (c) omit paragraph (f);
- (d) in paragraph (g), for “6(1)(a)” substitute “6A(1)(a)”;
- (e) for paragraph (h) substitute—
  - “(h) the student becomes a person described in paragraph 11A(a) of Schedule 1;”.

#### **Amendment of regulation 8**

**50.** In regulation 8 (transfer of status within same institution), after paragraph (1), insert—

“(1A) Paragraph (1) applies to a person who is an eligible student by virtue of regulation 3(2)(a)(ii) only where that person's status as an eligible student has not been transferred on or after 1st August 2021 from the designated further education course referred to in regulation 3(2A)(a) to another designated further education course.”.

#### **Amendment of Schedule 1**

**51.—**(1) Schedule 1 (eligible students) is amended as follows.

(2) In paragraph 1(b) (interpretation)—

- (a) in sub-paragraph (1)—
  - (i) omit the definitions of “EEA EFTA separation agreement”, “residence scheme immigration rules”, “right of permanent residence” and “Swiss citizens' rights agreement”;
  - (ii) in the definition of “family member”—
    - (aa) 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 6A(3)”;
    - (bb) in paragraph (c), after “Directive 2004/38”, insert “or, for the purposes of paragraph 9A, in relation to a relevant person of Northern Ireland who would fall within article 7(1)(c) of Directive 2004/38 if that person were an EU national or solely an EU national”;
    - (cc) in paragraph (d), after “Directive 2004/38”, insert “or, for the purposes of paragraph 9A, in relation to 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”;

---

(a) Regulation 7 was amended by S.I. 2016/238, 2018/182, 2019/142, 2020/48, 1181, 1203.

(b) Paragraph 1 was amended by S.I. 2020/1181.

- (dd) in paragraph (e), for “paragraph 9” substitute “paragraphs 9, 9B, 9C and 9D”;
- (iii) after the definition of “Swiss self-employed person”, insert—
  - ““United Kingdom national” has the meaning given by Article 2(d) of the EU withdrawal agreement;”;
- (b) after sub-paragraph (1), insert—
  - “(1A) 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.”;
- (c) in sub-paragraph (5), after “Islands”, insert “, the territory comprising the United Kingdom, the Islands and the Republic of Ireland”;
- (d) in sub-paragraph (6)—
  - (i) after “Islands”, insert “, the territory comprising the United Kingdom, the Islands and the Republic of Ireland”;
  - (ii) after paragraph (a)—
    - (aa) omit “and”;
    - (bb) 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, the Islands and the Republic of Ireland as members of such forces;”.
- (3) In paragraph 2(1) (persons settled in the United Kingdom), for paragraph (a) substitute—
  - “(a) is settled in the United Kingdom and does not fall within paragraph 3;”.
- (4) After paragraph 2, insert—
  - “**2A.**—(1) A person—
    - (a) who is settled in the United Kingdom on the first day of the designated further education course and does not fall within paragraph 3;
    - (b) who is attending or undertaking a designated further education course in England;
    - (c) who has been ordinarily resident in the territory comprising the United Kingdom, the Islands and the Republic of Ireland throughout the three-year period preceding the first day of the designated further education course; and
    - (d) subject to sub-paragraph (2), whose ordinary residence in the territory comprising the United Kingdom, the 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.
  - (2) Paragraph (d) of sub-paragraph (1) does not apply to a person who is treated as being ordinarily resident in the territory comprising the United Kingdom, the Islands and the Republic of Ireland in accordance with paragraph 1(5).”.
- (5) In paragraph 3—
  - (a) for sub-paragraph (1)(a)(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;

---

(a) Paragraph 3(a) was amended by S.I. 2020/1181.

- (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;”;
- (b) after sub-paragraph (1), insert—
 

“(2) For the purposes of sub-paragraph (1)(a)(ii)(cc), “eligibility requirements for indefinite leave to enter or remain in the United Kingdom granted by virtue of residence scheme immigration rules” means the eligibility requirements for such leave in accordance with paragraph EU11 of Appendix EU to the immigration rules (as defined in section 33(1) of the Immigration Act 1971).”.
- (6) After paragraph 6 (workers, employed persons, self-employed persons and their family members), insert—
 

“**6A.**—(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—
    - (i) an EEA migrant worker or an EEA self-employed person;
    - (ii) a Swiss employed person or a Swiss self-employed person;
    - (iii) a family member of a person mentioned in sub-paragraph (i) or (ii);
    - (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);
  - (b) subject to sub-paragraph (2), is ordinarily resident in England on the first day of the further education course; and

- (c) 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 designated further education course.

(2) Paragraph (b) of sub-paragraph (1) does not apply where the person applying for a fee loan falls within paragraph (a)(iv), (v) or (vi) of sub-paragraph (1).

(3) 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.”.

(7) After paragraph 7, insert—

“**7A.**—(1) A person with protected rights who—

- (a) is ordinarily resident in the United Kingdom on the first day of the designated further education course;
- (b) 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 designated further education course; and
- (c) is entitled to support by virtue of Article 10 of Regulation (EU) No. 492/2011 of the European Parliament and of 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.

(2) For the purposes of sub-paragraph (1)(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.”.

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

“**8A.**—(1) A person who—

- (a) is settled in the United Kingdom;
- (b) was ordinarily resident in England 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 European Economic Area and Switzerland; or
  - (ii) in the United Kingdom, where that ordinary residence began after 31st December 2017 immediately following a period of ordinary residence in the territory comprising Gibraltar, 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 designated further education course;
- (d) is ordinarily resident in the United Kingdom on the day on which the designated further education course begins;
- (e) 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 designated further education course; and
- (f) in a case where the person’s ordinary residence referred to in paragraph (e) was wholly or mainly for the purposes of receiving full-time education, was ordinarily

resident in the territory comprising the United Kingdom, Gibraltar, the European Economic Area 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 that person is a United Kingdom national, 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 a person who had the right of permanent residence who in each case 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 or, in the case of a person who is settled in the United Kingdom and had the right of permanent residence, if the person has gone to the state within the territory comprising the European Economic Area and Switzerland of which the person is a national or of which the person in relation to whom the person is a family member is a national.

(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.”.

(9) In the heading to paragraph 9 (EU nationals), at the end, insert “etc.”.

(10) After paragraph 9, insert—

**“9A.—**(1) A person with protected rights—

- (a) who is —
  - (i) an EU national on the first day of the designated further education 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 attending or undertaking a designated further education course in England;
- (c) who 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 designated further education course; and
- (d) 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 (c) been wholly or mainly for the purpose of receiving full-time education.

(2) Paragraph (d) 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(5).

### **United Kingdom nationals**

**9B.—**(1) A person—

- (a) who is—
  - (i) a United Kingdom national on the first day of the designated further education 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 European Economic Area and Switzerland; or
  - (ii) in the United Kingdom, where that ordinary residence began after 31st 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 designated further education course;

- (c) who is attending or undertaking a designated further education course in England;
- (d) who 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 designated further education 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(5).

(3) 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).

**9C.—(1) A person—**

- (a) who is a family member of a person who is a United Kingdom national on the first day of the designated further education course;
- (b) who is attending or undertaking a designated further education course in England;
- (c) who has been ordinarily resident in the United Kingdom and Islands throughout the three-year period preceding the first day of the designated further education course; and
- (d) subject to sub-paragraph (2), whose ordinary residence in the United Kingdom and Islands 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.

(2) Paragraph (d) of sub-paragraph (1) does not apply to a person who is treated as being ordinarily resident in the United Kingdom and Islands in accordance with paragraph 1(5).

**Persons resident in Gibraltar**

**9D.—(1) 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 attending or undertaking a designated further education course in England;
- (c) who 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 designated further education course; and
- (d) 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 (c) been wholly or mainly for the purpose of receiving full-time education.

(2) Paragraph (d) 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(5).”.

(11) Before paragraph 10, insert the heading “EU nationals ordinarily resident in the United Kingdom and Islands”.

(12) After paragraph 10, insert—

“**10A.** A person with protected rights who—

- (a) is an EU national on the first day of the designated further education course;
- (b) is ordinarily resident in the United Kingdom on the first day of the designated further education course;
- (c) has been ordinarily resident in the United Kingdom and Islands throughout the three-year period immediately preceding the first day of the designated further education 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 European Economic Area and Switzerland immediately prior to the period of ordinary residence referred to in paragraph (c).”.

(13) After paragraph 11 (children of Swiss nationals), insert—

“**11A.** 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 the United Kingdom on the first day of the designated further education course;
- (c) 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 designated further education 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 European Economic Area and Switzerland immediately prior to the period of ordinary residence referred to in paragraph (c).”.

(14) After paragraph 12 (children of Turkish workers), insert—

“**12A.**—(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 the United Kingdom on the first day of the designated further education course; and
- (d) has been ordinarily resident in the territory comprising the United Kingdom, Gibraltar, the European Economic Area, Switzerland and Turkey throughout the three-year period preceding the first day of the first academic year of the course.”.



## PART 6

### Amendment of the Education (Postgraduate Master's Degree Loans) Regulations 2016

#### Amendment of the Education (Postgraduate Master's Degree Loans) Regulations 2016

52. The Education (Postgraduate Master's Degree Loans) Regulations 2016(a) are amended as follows.

#### Amendment of regulation 2

53. In regulation 2(b) (interpretation)—

(a) in paragraph (1)—

(i) after the definition of “the 2017 Act”, insert—

““the 2020 Citizens' Rights Regulations” means the Citizens' Rights (Application Deadline and Temporary Protection) (EU Exit) Regulations 2020;”;

(ii) after the definition of “full-time equivalent”, insert—

““grace period” has the meaning given by regulation 3 of the 2020 Citizens' Rights Regulations;”;

(iii) after the definition of “person granted stateless leave”, insert—

““person with protected rights” 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;”;

(iv) after the definition of “registered provider”, insert—

““relevant period” has the meaning given by regulation 4 of the 2020 Citizens' Rights Regulations;

“relevant person of Northern Ireland” has the meaning given by residence scheme immigration rules;

“residence scheme immigration rules” has the meaning given by section 17(1) of the European Union (Withdrawal Agreement) Act 2020;”;

(v) after the definition of “student support regulations”, insert—

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

(b) after paragraph (2), insert—

---

(a) S.I. 2016/606, amended by S.I. 2016/668, 2017/594, 831, 2018/137, 599, 2019/142, 1094, 2020/48, 1181, 1203.

(b) Paragraph 2 was amended by S.I. 2018/137, 2019/142, 2020/48, 1181, 1203.

“(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.”.

### **Amendment of regulation 3**

#### **54. In regulation 3(a) (eligible students)—**

- (a) for paragraph (2) substitute—

“(2) Subject to the following provisions of this regulation, a person is an eligible student in connection with a designated course if in assessing that person’s application for a postgraduate master’s degree loan the Secretary of State determines that the person falls within one of the categories set out—

- (a) in paragraphs 2, 2A, 3, 4, 4A, 4B, 4C, 4D, 4E, 5, 6A, 7A, 8A, 9A, 9B, 9C, 9D, 10A, 11A, 12A and 13 in Part 2 of Schedule 1; or
- (b) in paragraphs 6, 7, 8, 9, 10, 11 and 12 in Part 2 of Schedule 1, where paragraph (2A) applies.

(2A) This paragraph applies where—

- (a) in connection with a designated course beginning before 1st August 2021, the Secretary of State—
  - (i) in assessing an application for a postgraduate master’s degree loan by a person (“A”) determined that A fell within one of the categories set out in paragraphs 6, 7, 8, 9, 10, 11 and 12 in Part 2 of Schedule 1 in relation to an academic year of the course beginning before 1st August 2021; or
  - (ii) would have so determined had A made an application for a postgraduate master’s degree loan in accordance with this Part in relation to an academic year of the course beginning before that date; and
- (b) A applies for a postgraduate master’s degree loan in connection with that course or a designated course to which A’s status as an eligible student is transferred from that course in accordance with this Part.

(2B) In connection with a designated course beginning on or after 1st January 2028, paragraph (2) has effect as if it did not mention paragraphs 8A, 9B and 9D.”;

- (b) after paragraph (8), insert—

“(9) Where—

- (a) the Secretary of State has 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 3(1)(a)(iii) or (iv) in Part 2 of Schedule 1, a person (“A”) is an eligible student in connection with an application for a postgraduate master’s degree loan for a designated course; and
- (b) as at the day before the first day of the first academic year of that designated course, A is not a person with protected rights,

A’s status as an eligible student terminates immediately before the first day of the first academic year of that designated course.”.

---

(a) There are no relevant amendments to regulation 3.

## **Amendment of regulation 6**

**55.** In regulation 6(a) (transfer of status), after paragraph (1), insert—

“(1A) Paragraph (1) applies to a person who is an eligible student by virtue of regulation 3(2)(b) only where that person’s status as an eligible student has not been transferred on or after 1st August 2021 from the designated course referred to in regulation 3(2A)(a) to another designated course.”.

## **Amendment of regulation 8**

**56.** In regulation 8(b) (events)—

- (a) omit paragraph (c);
- (b) for paragraph (d) substitute—

“(d) the student becomes a family member described in paragraph 9A(1)(a), 9B(1)(a), 9C(1)(a) or 9D(1)(a) of Schedule 1;”;
- (c) omit paragraph (f);
- (d) in paragraph (g), for “6(1)(a)” substitute “6A(1)(a)”;
- (e) for paragraph (h) substitute—

“(h) the student becomes a person described in paragraph 11A(a) of Schedule 1;”.

## **Amendment of Schedule 1**

**57.—**(1) Schedule 1 (eligible students) is amended as follows.

(2) In paragraph 1(c)(interpretation)—

- (a) in sub-paragraph (1)—
  - (i) omit the definitions of “EEA EFTA separation agreement”, “residence scheme immigration rules”, “right of permanent residence” and “Swiss citizens’ rights agreement”;
  - (ii) in the definition of “family member”—
    - (aa) 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 6A(3)”;
    - (bb) in paragraph (c), after “Directive 2004/38”, insert “or, for the purposes of paragraph 9A, in relation to a relevant person of Northern Ireland who would fall within article 7(1)(c) of Directive 2004/38 if that person were an EU national or solely an EU national”;
    - (cc) in paragraph (d), after “Directive 2004/38”, insert “or, for the purposes of paragraph 9A, in relation to 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”;
    - (dd) in paragraph (e), for “paragraph 9” substitute “paragraphs 9, 9B, 9C and 9D”;
  - (iii) after the definition of “Swiss self-employed person”, insert—

““United Kingdom national” has the meaning given by Article 2(d) of the EU withdrawal agreement;”;
- (b) after sub-paragraph (1), insert—

---

(a) Regulation 139A was inserted by S.I. 2018/472; there are other amending instruments but none is relevant.  
(b) Regulation 8 was amended by S.I. 2018/137, 2019/142, 2020/48, 1181, 1203.  
(c) Paragraph 1 was amended by SI 2020/1181.

“(1A) 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.”;

(c) in sub-paragraph (5), after “Islands”, insert “, the territory comprising the United Kingdom, the Islands and the Republic of Ireland”;

(d) in sub-paragraph (6)—

(i) after “Islands”, insert “, the territory comprising the United Kingdom, the Islands and the Republic of Ireland”;

(ii) after paragraph (a)—

(aa) omit “and”;

(bb) 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, the Islands and the Republic of Ireland as members of such forces;”.

(3) In paragraph 2(1)(a)(a) (persons settled in the United Kingdom), for sub-paragraph (i) substitute—

“(i) is settled in the United Kingdom and does not fall within paragraph 3;”.

(4) After paragraph 2, insert—

“**2A.**—(1) 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 paragraph 3;

(b) who is attending or undertaking a designated course in England;

(c) who has been ordinarily resident in the territory comprising the United Kingdom, the 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) subject to sub-paragraph (2), whose ordinary residence in the territory comprising the United Kingdom, the 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.

(2) Paragraph (d) of sub-paragraph (1) does not apply to a person who is treated as being ordinarily resident in the territory comprising the United Kingdom, the Islands and the Republic of Ireland in accordance with paragraph 1(5).”.

(5) In paragraph 3(b)—

(a) number the existing text as sub-paragraph (1);

(b) for sub-paragraph (1)(a) as so numbered 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

---

(a) Paragraph 2 was substituted by S.I. 2017/594.

(b) Paragraph 3 was amended by S.I. 2020/1181.

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 (1), insert—

“(2) For the purposes of sub-paragraph (1)(a)(ii)(cc), “eligibility requirements for indefinite leave to enter or remain in the United Kingdom granted by virtue of residence scheme immigration rules” means the eligibility requirements for such leave in accordance with paragraph EU11 of Appendix EU to the immigration rules (as defined in section 33(1) of the Immigration Act 1971).”.

(6) After paragraph 6 (workers, employed persons, self-employed persons and their family members), insert—

“**6A.**—(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—

- (i) an EEA migrant worker or an EEA self-employed person;
  - (ii) a Swiss employed person or a Swiss self-employed person;
  - (iii) a family member of a person mentioned in sub-paragraph (i) or (ii);
  - (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);
- (b) subject to sub-paragraph (2), is ordinarily resident in England on the first day of the first academic year of the course; and
- (c) 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.

(2) Paragraph (b) of sub-paragraph (1) does not apply where the person applying for support falls within (a)(iv), (v) or (vi) of sub-paragraph (1).

(3) 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.”.

(7) After paragraph 7, insert—

“**7A.**—(1) A person with protected rights who—

- (a) is ordinarily resident in England 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 European Economic Area 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 of 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.

(2) For the purposes of sub-paragraph (1)(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.”.

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

“**8A.**—(1) A person who—

- (a) is settled in the United Kingdom;
- (b) was ordinarily resident in England 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 European Economic Area and Switzerland; or
  - (ii) in the United Kingdom, where that ordinary residence began after 31st December 2017 immediately following a period of ordinary residence in the territory comprising Gibraltar, 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;
- (d) is ordinarily resident in the United Kingdom on the day on which the first term of the first academic year actually begins;
- (e) 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
- (f) in a case where the person’s ordinary residence referred to in paragraph (e) was wholly or mainly for the purposes of receiving full-time education, was ordinarily resident in the territory comprising the United Kingdom, Gibraltar, the European Economic Area 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 that person is a United Kingdom national, 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 a person who had the right of permanent residence who in each case 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 or, in the case of a person who is settled in the United Kingdom and had the right of permanent residence, if the person has gone to the state within the territory comprising the European Economic Area and Switzerland of which the person is a national or of which the person in relation to whom the person is a family member is a national.

(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.”.

(9) In the heading to paragraph 9 (EU nationals), at the end, insert “etc.”.

(10) After paragraph 9, insert—

**“9A.—**(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 attending or undertaking a designated course in England;

(c) who 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

(d) 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 (c) been wholly or mainly for the purpose of receiving full-time education.

(2) Paragraph (d) 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(5).

### **United Kingdom nationals**

**9B.—**(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 European Economic Area and Switzerland; or

(ii) in the United Kingdom, where that ordinary residence began after 31st 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 attending or undertaking a designated course in England;

(d) who 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(5).

(3) 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).

**9C.—(1) 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 attending or undertaking a designated course in England;
- (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) subject to sub-paragraph (2), whose ordinary residence in the United Kingdom and Islands 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.

(2) Paragraph (d) of sub-paragraph (1) does not apply to a person who is treated as being ordinarily resident in the United Kingdom and Islands in accordance with paragraph 1(5).

**Persons resident in Gibraltar**

**9D.—(1) 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 attending or undertaking a designated course in England;
- (c) who 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
- (d) 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 (c) been wholly or mainly for the purpose of receiving full-time education.

(2) Paragraph (d) 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(5).”.

(11) Before paragraph 10, insert the heading “EU nationals ordinarily resident in the United Kingdom and Islands”.

(12) After paragraph 10, insert—

**“10A. 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 England 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 European Economic Area and Switzerland immediately prior to the period of ordinary residence referred to in paragraph (c)."

(13) After paragraph 11 (children of Swiss nationals), insert—

**"11A.** 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 England 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 European Economic Area 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 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 European Economic Area and Switzerland immediately prior to the period of ordinary residence referred to in paragraph (c)."

(14) After paragraph 12 (children of Turkish workers), insert—

**"12A.** 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 England 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 European Economic Area, Switzerland and Turkey throughout the three-year period preceding the first day of the first academic year of the course."

## PART 7

### Amendment of the Higher Education (Fee Limit Condition) (England) Regulations 2017

#### **Amendment of the Higher Education (Fee Limit Condition) (England) Regulations 2017**

**58.** The Higher Education (Fee Limit Condition) (England) Regulations 2017(a) are amended as follows.

---

(a) S.I. 2017/1189, amended by S.I. 2018/903, 2019/142, 2020/48, 1181, 1203.

## **Amendment of regulation 4**

**59.** In regulation 4 (qualifying person)—

- (a) in paragraph (1), for “paragraph (3)” substitute “paragraphs (3) and (6)”;
- (b) for paragraph (4) substitute—

“(4) In this regulation, subject to paragraph (6), “prescribed category” means any category of persons described—

  - (a) in paragraphs 3, 3A, 4, 5, 5A, 5B, 5C, 5D, 5E, 6, 7A, 8A, 9A, 10A, 10B, 10C, 10D, 10E, 11A, 12A, 13A and 14 in Part 2 of the Schedule; or
  - (b) in paragraphs 7, 8, 9, 10, 11, 12 and 13 in Part 2 of the Schedule, where paragraph (5) applies.
- (5) This paragraph applies where—
  - (a) in connection with a qualifying course beginning before 1st August 2021, a person (“A”) was a qualifying person by virtue of falling within any category of persons described in paragraphs 7, 8, 9, 10, 11, 12 and 13 in Part 2 of the Schedule in relation to an academic year beginning before 1st August 2021; and
  - (b) A is undertaking an academic year of that qualifying course, or of a qualifying course to which A transfers from that qualifying course.”;
- (c) after paragraph (5), insert—

“(6) In relation to a qualifying course which begins on or after 1st January 2028, paragraph (4) has effect as if sub-paragraph (a) did not mention paragraphs 9A and 10B in Part 2 of the Schedule.”.

## **Amendment of regulation 6**

**60.** In regulation 6(2)(a) (qualifying person: effect of event during academic year)—

- (a) omit sub-paragraph (c);
- (b) for sub-paragraph (d) substitute—

“(d) the student becomes a family member described in paragraph 10A(1)(a), 10B(1)(a), 10C(1)(a), 10D(1)(a) or 10E(1)(a) in Part 2 of the Schedule;”;
- (c) omit sub-paragraph (f);
- (d) in sub-paragraph (g), for “paragraph 7(1)(a)” substitute “paragraph 7A(1)(a) in Part 2 of the Schedule”;
- (e) for sub-paragraph (h) substitute—

“(h) the student becomes a person described in paragraph 12A(a) in Part 2 of the Schedule;”.

## **Amendment of the Schedule**

**61.**—(1) The Schedule is amended as follows.

(2) In paragraph 1 (interpretation: general)(b)—

- (a) in sub-paragraph (1)—
  - (i) before the definition of “Directive 2004/38”, insert—

““the 2020 Citizens’ Rights Regulations” means the Citizens’ Rights (Application Deadline and Temporary Protection) (EU Exit) Regulations 2020;”;
  - (ii) in the definition of “family member”—

---

(a) Regulation 6(2) was amended by S.I. 2018/903, 2019/142, 2020/48, 2020/1181, 1203.

(b) Paragraph 1 was amended by S.I. 2018/903, 2020/1181.

- (aa) 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 7A(3)”;
  - (bb) in paragraph (c), after “Directive 2004/38”, insert “or, for the purposes of paragraph 10A, in relation to a relevant person of Northern Ireland who would fall within article 7(1)(c) of Directive 2004/38 if that person were an EU national or solely an EU national”;
  - (cc) in paragraph (d), after “Directive 2004/38”, insert “or, for the purposes of paragraph 10A, in relation to 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”;
  - (dd) in paragraph (e), for “paragraph 9” substitute “paragraphs 10, 10B, 10C, 10D and 10E”;
- (iii) after the definition of “person granted stateless leave”, insert—
- ““person with protected rights” 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; or
    - (iii) 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” has the meaning given by regulation 4 of the 2020 Citizens’ Rights Regulations;
- “relevant person of Northern Ireland” has the meaning given by residence scheme immigration rules;”;
- (iv) omit the definition of “right of permanent residence”;
- (v) after the definition of “settled”, insert—
- ““specified British overseas territories” means Anguilla; Bermuda; British Antarctic Territory; British Indian Ocean Territory; British Virgin Islands; Cayman Islands; Falkland Islands; Gibraltar; Montserrat; Pitcairn, Henderson, Ducie and Oeno Islands; South Georgia and the South Sandwich Islands; St Helena and Dependencies (Ascension Island and Tristan da Cunha); and Turks and Caicos Islands;”;
- (vi) after the definition of “Swiss self-employed person”, insert—
- ““United Kingdom national” has the meaning given by Article 2(d) of the EU withdrawal agreement;”;
- (b) after sub-paragraph (1), insert—
- “(1A) 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.
- (1B) For the purposes of this Schedule, 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; or
  - (c) Article 10 (personal scope) of the Swiss citizens’ rights agreement.”.

- (3) In paragraph 2(a) (interpretation: ordinarily resident)—
- (a) in sub-paragraph (2)—
    - (i) after “Islands”, insert “, the territory comprising the United Kingdom, the Islands and the Republic of Ireland”;
    - (ii) after “overseas territories”, the first time it appears, insert “, the territory comprising the United Kingdom, the Islands and the specified British overseas territories”;
  - (b) omit sub-paragraph (3);
  - (c) in sub-paragraph (5)(b), after sub-paragraph (i), insert—
    - “(ia) the Republic of Ireland, any period which they serve outside the territory comprising the United Kingdom, the Islands and the Republic of Ireland as members of such forces;”
- (4) In paragraph 3(1)(b) (persons who are settled in the United Kingdom), for paragraph (a) substitute—
- “(a) is settled in the United Kingdom and does not fall within paragraph 4;”.
- (5) After paragraph 3, insert—
- “3A.—(1) 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 paragraph 4;
  - (b) who is ordinarily resident in the United Kingdom on the first day of the first academic year of the course;
  - (c) who has been ordinarily resident in the territory comprising the United Kingdom, the 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) subject to sub-paragraph (2), whose ordinary residence in the territory comprising the United Kingdom, the 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.
- (2) Paragraph (d) of sub-paragraph (1) does not apply to a person who is treated as being ordinarily resident in the territory comprising the United Kingdom, the Islands and the Republic of Ireland in accordance with paragraph 2(2).”.
- (6) In paragraph 4(c)—
- (a) number the existing text as sub-paragraph (1);
  - (b) for sub-paragraph (1)(a) as so numbered substitute—
    - “(a) meets one of the following conditions on the first day of an academic year of the course—
      - (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

---

(a) Paragraph 2 was amended by S.I. 2020/1181.  
 (b) Paragraph 3(1) was amended by S.I. 2018/903.  
 (c) Paragraph 4(a) was amended by S.I. 2020/1181.

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 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

(iv) 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 (1), insert—

“(2) For the purposes of sub-paragraph (1)(a)(ii)(cc), “eligibility requirements for indefinite leave to enter or remain in the United Kingdom granted by virtue of residence scheme immigration rules” means the eligibility requirements for such leave in accordance with paragraph EU11 of Appendix EU to the immigration rules (as defined in section 33(1) of the Immigration Act 1971).”.

(7) After paragraph 7 (workers, employed persons, self-employed persons and their family members), insert—

“**7A.**—(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—

- (i) an EEA migrant worker or an EEA self-employed person;
- (ii) a Swiss employed person or a Swiss self-employed person;
- (iii) a family member of a person mentioned in sub-paragraph (i) or (ii);
- (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);

(b) subject to sub-paragraph (2), is ordinarily resident in the United Kingdom on the first day of the first academic year of the course; and

(c) 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.

(2) Paragraph (b) of sub-paragraph (1) does not apply where the person applying for support falls within paragraph (a)(iv), (v) or (vi) of sub-paragraph (1).

(3) 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.”.

(8) After paragraph 8, insert—

“**8A.**—(1) A person with protected rights who—

- (a) is ordinarily resident in the United Kingdom on the first day of the first academic year of the course;
- (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;  
and

- (c) is entitled to support by virtue of Article 10 of Regulation (EU) No. 492/2011 of the European Parliament and of 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.

(2) For the purposes of sub-paragraph (1)(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.”.

(9) After paragraph 9 (persons who are settled in the United Kingdom and have exercised a right of residence elsewhere), insert—

“9A.—(1) A person who—

- (a) is settled in the United Kingdom;
- (b) was ordinarily resident in the United Kingdom 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 the European Economic Area, Switzerland and the overseas territories; or
  - (ii) in the United Kingdom, where that ordinary residence began after 31st December 2017 immediately following a period of ordinary residence in the territory comprising the European Economic Area, Switzerland and the overseas territories,

and has remained ordinarily resident in the territory comprising the United Kingdom, the European Economic Area, Switzerland and the overseas territories 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 first term of the first academic year actually begins;
- (e) 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; and
- (f) in a case where the person’s ordinary residence referred to in paragraph (e) was wholly or mainly for the purposes of receiving full-time education, was ordinarily resident in the territory comprising the United Kingdom, Gibraltar, the European Economic Area 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 that person is a United Kingdom national, 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 a person who had the right of permanent residence who in each case 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 or, in the case of a person who is settled in the United Kingdom and had the right of permanent residence, if the person has gone to the state within the territory comprising the European Economic Area and Switzerland of which the person is a national or of which the person in relation to whom the person is a family member is a national.

(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.”.

(10) In the heading to paragraph 10 (EU nationals), at the end, insert “etc.”.

(11) After paragraph 10, insert—

“**10A.**—(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 the course in the United Kingdom;

(c) who, subject to sub-paragraph (2), 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; and

(d) subject to sub-paragraph (3), whose ordinary residence in the territory comprising the United Kingdom, the European Economic Area, Switzerland and the overseas territories 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.

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

(a) is an EU national or a relevant person of Northern Ireland; 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.

(3) Paragraph (d) of sub-paragraph (1) does not apply to a person who is treated as being ordinarily resident in the territory comprising the United Kingdom, the European Economic Area, Switzerland and the overseas territories in accordance with paragraph 2(2).

### **United Kingdom nationals**

**10B.**—(1) A person—

(a) who is—

(i) a United Kingdom national on the first day of an 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 European Economic Area, Switzerland and the EU overseas territories; or

(ii) in the United Kingdom, where that ordinary residence began after 31st December 2017 immediately following a period of ordinary residence in the territory comprising the European Economic Area, Switzerland and the EU overseas territories,

and has remained ordinarily resident in the territory comprising the United Kingdom, the European Economic Area, Switzerland and the EU overseas territories 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 the course in the United Kingdom;

- (d) who, subject to sub-paragraph (2), 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; and
- (e) subject to sub-paragraph (3), whose ordinary residence in the territory comprising the United Kingdom, the European Economic Area, Switzerland and the overseas territories 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 (d) of sub-paragraph (1) does not apply to the family member of a United Kingdom national, where that United Kingdom national—

- (a) had, before IP completion day, exercised a right to reside in the territory of a Member State under Article 7(1) of Directive 2004/38; 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.

(3) 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, the European Economic Area, Switzerland and the overseas territories in accordance with paragraph 2(2).

(4) 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).

(5) In this paragraph, “EU overseas territories” means Aruba; Faroe Islands; French Polynesia; French Southern and Antarctic Territories; Mayotte; Greenland; Netherlands Antilles (Bonaire, Curaçao, Saba, Sint Eustatius, Sint Maarten); St Barthélemy; St Pierre et Miquelon; the Territory of New Caledonia and Dependencies; and Wallis and Futuna.

**10C.—**(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 is undertaking the course in the United Kingdom;
- (c) who has been ordinarily resident in the specified British overseas territories for at least part of the three year period preceding the first day of the first academic year of the course;
- (d) who has been ordinarily resident in the territory comprising the United Kingdom, the Islands and the specified British overseas territories 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, the Islands and the specified British overseas territories 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, the Islands and the specified British overseas territories in accordance with paragraph 2(2).

**10D.—**(1) 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 the course in the United Kingdom;



- (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) subject to sub-paragraph (2), whose ordinary residence in the United Kingdom and Islands 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.

(2) Paragraph (d) of sub-paragraph (1) does not apply to a person who is treated as being ordinarily resident in the United Kingdom and Islands in accordance with paragraph 2(2).

### **Persons resident in Gibraltar**

**10E.**—(1) 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 the course in the United Kingdom;
- (c) who, subject to sub-paragraph (2), 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; and
- (d) subject to sub-paragraph (3), whose ordinary residence in the territory comprising the United Kingdom, the European Economic Area, Switzerland and the overseas territories 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.

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

- (a) is an EU national or a relevant person of Northern Ireland; 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.

(3) Paragraph (d) of sub-paragraph (1) does not apply to a person who is treated as being ordinarily resident in the territory comprising the United Kingdom, the European Economic Area, Switzerland and the overseas territories in accordance with paragraph 2(2)."

(12) Before paragraph 11, insert the heading "EU nationals ordinarily resident in the United Kingdom and Islands".

(13) After paragraph 11, insert—

**"11A.** (1) 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 the United Kingdom 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, the European Economic Area, Switzerland and the overseas territories immediately prior to the period of ordinary residence referred to in paragraph (c).".

(14) After paragraph 12 (children of Swiss nationals), insert—

**"12A.** 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 the United Kingdom on the first day of the first academic year of the course;
- (c) 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; 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 European Economic Area and Switzerland immediately prior to the period of ordinary residence referred to in paragraph (c).".

(15) After paragraph 13 (children of Turkish workers), insert—

**"13A.** 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 the United Kingdom 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, the European Economic Area, Switzerland, Turkey and the overseas territories throughout the three-year period preceding the first day of the first academic year of the course.".

## PART 8

### Amendment of the Education (Postgraduate Doctoral Degree Loans and the Education (Student Loans) (Repayment) (Amendment) (No. 2) etc.) Regulations 2018

#### **Amendment of the Postgraduate Doctoral Degree Loans etc. Regulations 2018**

**62.** The Education (Postgraduate Doctoral Degree Loans and the Education (Student Loans) (Repayment) (Amendment) (No. 2) etc.) Regulations 2018(a) are amended as follows.

#### **Amendment of regulation 2**

**63.** In regulation 2(b) (interpretation)—

---

(a) S.I. 2018/599, amended by S.I. 2019/142, 1094, 2020/48, 1181, 1203.

(b) Paragraph 2 was amended by S.I. 2018/137, 2019/142, 2020/48, 1181, 1203.

- (a) in paragraph (1)—
  - (i) after the definition of “the 2016 Master’s Degree Regulations”, insert—
 

““the 2020 Citizens’ Rights Regulations” means the Citizens’ Rights (Application Deadline and Temporary Protection) (EU Exit) Regulations 2020;”;
  - (ii) after the definition of “fees”, insert—
 

““grace period” has the meaning given by regulation 3 of the 2020 Citizens’ Rights Regulations;”;
  - (iii) after the definition of “person granted stateless leave”, insert—
 

““person with protected rights” 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;”;
  - (iv) after the definition of “registered provider”, insert—
 

““relevant period” has the meaning given by regulation 4 of the 2020 Citizens’ Rights Regulations;

“relevant person of Northern Ireland” has the meaning given by residence scheme immigration rules;

“residence scheme immigration rules” has the meaning given by section 17(1) of the European Union (Withdrawal Agreement) Act 2020;”;
  - (v) after the definition of “student support regulations”, insert—
 

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

### **Amendment of regulation 3**

#### **64. In regulation 3(a) (eligible students)—**

- (a) for paragraph (2) substitute—
 

“(2) Subject to the following provisions of this regulation, a person is an eligible student in connection with a designated course if in assessing that person’s application for a

---

(a) Regulation 3 was amended by S.I. 2019/1094, 2020/48.

postgraduate doctoral degree loan the Secretary of State determines that the person falls within one of the categories set out—

- (a) in paragraphs 2, 2A, 3, 4, 5, 5A, 5B, 5C, 5D, 6, 7A, 8A, 9A, 10A, 10B, 10C, 10D, 11A, 12A, 13A and 14 in Part 2 of Schedule 1; or
- (b) in paragraphs 7, 8, 9, 10, 11, 12 and 13 in Part 2 of Schedule 1, where paragraph (2A) applies.

(2A) This paragraph applies where—

- (a) in connection with a designated course beginning before 1st August 2021, the Secretary of State—
  - (i) in assessing an application for a postgraduate doctoral degree loan by a person (“A”) determined that A fell within one of the categories set out in paragraphs 7, 8, 9, 10, 11, 12 and 13 in Part 2 of Schedule 1 in relation to an academic year of the course beginning before 1st August 2021; or
  - (ii) would have so determined had A made an application for a postgraduate doctoral degree loan in accordance with this Part in relation to an academic year of the course beginning before that date; and
- (b) A applies for a postgraduate doctoral degree loan in connection with that course or a designated course to which A’s status as an eligible student is transferred from that course in accordance with this Part.

(2B) In connection with a designated course beginning on or after 1st January 2028, paragraph (2) has effect as if it did not mention paragraphs 9A, 10B and 10D.”;

(b) after paragraph (11), insert—

“(12) Where—

- (a) the Secretary of State has 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 3(1)(a)(iii) or (iv) in Part 2 of Schedule 1, a person (“A”) is an eligible student in connection with an application for a postgraduate doctoral degree loan for a designated course; and
- (b) as at the day before the first day of the first academic year of that designated course, A is not a person with protected rights,

A’s status as an eligible student terminates immediately before the first day of the first academic year of that designated course.”.

## **Amendment of regulation 6**

**65.** In regulation 6(a) (transfer of status), after paragraph (1), insert—

“(1A) Paragraph (1) applies to a person who is an eligible student by virtue of regulation 3(2)(b) only where that person’s status as an eligible student has not been transferred on or after 1st August 2021 from the designated course referred to in regulation 3(2A)(a) to another designated course.”.

## **Amendment of regulation 8**

**66.** In regulation 8(b) (events)—

- (a) omit paragraph (c);
- (b) for paragraph (d) substitute—

---

(a) Regulation 139A was inserted by S.I. 2018/472; there are other amending instruments but none is relevant.  
(b) Regulation 8 was amended by S.I. 2019/142, 2020/48, 1181, 1203.

- “(d) the student becomes a family member described in paragraph 10A(1)(a), 10B(1)(a), 10C(1)(a) or 10D(1)(a) of Schedule 1;”;
- (c) omit paragraph (f);
- (d) in paragraph (g), for “7(1)(a)” substitute “7A(1)(a)”;
- (e) for paragraph (h) substitute—
  - “(h) the student becomes a person described in paragraph 12A(a) of Schedule 1;”.

## **Amendment of Schedule 1**

**67.**—(1) Schedule 1 (eligible students) is amended as follows.

(2) In paragraph 1(a) (interpretation)—

- (a) in sub-paragraph (1)—
  - (i) omit the definitions of “EEA EFTA separation agreement”, “residence scheme immigration rules”, “right of permanent residence” and “Swiss citizens’ rights agreement”;
  - (ii) in the definition of “family member”—
    - (aa) 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 7A(3)”;
    - (bb) in paragraph (c), after “Directive 2004/38”, insert “or, for the purposes of paragraph 10A, in relation to a relevant person of Northern Ireland who would fall within article 7(1)(c) of Directive 2004/38 if that person were an EU national or solely an EU national”;
    - (cc) in paragraph (d), after “Directive 2004/38”, insert “or, for the purposes of paragraph 10A, in relation to 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”;
    - (dd) in paragraph (e), for “paragraph 10” substitute “paragraphs 10, 10B, 10C and 10D”;
  - (iii) after the definition of “Swiss self-employed person”, insert—
    - ““United Kingdom national” has the meaning given by Article 2(d) of the EU withdrawal agreement;”;
- (b) after sub-paragraph (1), insert—
  - “(1A) 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.”;
- (c) in sub-paragraph (5), after “Islands”, insert “, the territory comprising the United Kingdom, the Islands and the Republic of Ireland”;
- (d) in sub-paragraph (6)—
  - (i) after “Islands”, insert “, the territory comprising the United Kingdom, the Islands and the Republic of Ireland”;
  - (ii) after paragraph (a)—
    - (aa) omit “and”;
    - (bb) 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, the Islands and the Republic of Ireland as members of such forces;”.

---

(a) Paragraph 1 was amended by S.I. 2020/1181.

(3) In paragraph 2(1)(a) (persons settled in the United Kingdom), for sub-paragraph (i) substitute—

“(i) is settled in the United Kingdom and does not fall within paragraph 3;”.

(4) After paragraph 2, insert—

“**2A.**—(1) 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 paragraph 3;
- (b) who is attending or undertaking a designated course in England;
- (c) who has been ordinarily resident in the territory comprising the United Kingdom, the 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) subject to sub-paragraph (2), whose ordinary residence in the territory comprising the United Kingdom, the 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.

(2) Paragraph (d) of sub-paragraph (1) does not apply to a person who is treated as being ordinarily resident in the territory comprising the United Kingdom, the Islands and the Republic of Ireland in accordance with paragraph 1(5).”.

(5) In paragraph 3(a)—

- (a) number the existing text as sub-paragraph (1);
- (b) for sub-paragraph (1)(a) as so numbered 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;

---

(a) Paragraph 3 was amended by S.I. 2020/1181.

- (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 (1), insert—
 

“(2) For the purposes of sub-paragraph (1)(a)(ii)(cc), “eligibility requirements for indefinite leave to enter or remain in the United Kingdom granted by virtue of residence scheme immigration rules” means the eligibility requirements for such leave in accordance with paragraph EU11 of Appendix EU to the immigration rules (as defined in section 33(1) of the Immigration Act 1971).”.
- (6) After paragraph 7 (workers, employed persons, self-employed persons and their family members), insert—
 

“**7A.**—(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—
    - (i) an EEA migrant worker or an EEA self-employed person;
    - (ii) a Swiss employed person or a Swiss self-employed person;
    - (iii) a family member of a person mentioned in sub-paragraph (i) or (ii);
    - (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);
  - (b) subject to sub-paragraph (2), is ordinarily resident in England on the first day of the first academic year of the course; and
  - (c) 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.

(2) Paragraph (b) of sub-paragraph (1) does not apply where the person applying for support falls within paragraph (a)(iv), (v) or (vi) of sub-paragraph (1).

(3) 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.”.
- (7) After paragraph 8, insert—
 

“**8A.**—(1) A person with protected rights who—

  - (a) is ordinarily resident in England 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 European Economic Area 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 of 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.

(2) For the purposes of sub-paragraph (1)(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.”.

(8) After paragraph 9 (persons who are settled in the United Kingdom and have exercised a right of residence elsewhere), insert—

**“9A.—**(1) A person who—

- (a) is settled in the United Kingdom;
- (b) was ordinarily resident in England 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 European Economic Area and Switzerland; or
  - (ii) in the United Kingdom, where that ordinary residence began after 31st December 2017 immediately following a period of ordinary residence in the territory comprising Gibraltar, 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;
- (d) is ordinarily resident in the United Kingdom on the day on which the first term of the first academic year actually begins;
- (e) 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
- (f) in a case where the person’s ordinary residence referred to in paragraph (e) was wholly or mainly for the purposes of receiving full-time education, was ordinarily resident in the territory comprising the United Kingdom, Gibraltar, the European Economic Area 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 that person is a United Kingdom national, 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 a person who had the right of permanent residence who in each case 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 or, in the case of a person who is settled in the United Kingdom and had the right of permanent residence, if the person has gone to the state within the territory comprising the European Economic Area and Switzerland of which the person is a national or of which the person in relation to whom the person is a family member is a national.

(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.”.

(9) In the heading to paragraph 10 (EU nationals), at the end, insert “etc.”.

(10) After paragraph 10, insert—

**“10A.—**(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 attending or undertaking a designated course in England;
- (c) who 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
- (d) 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 (c) been wholly or mainly for the purpose of receiving full-time education.

(2) Paragraph (d) 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(5).

### **United Kingdom nationals**

#### **10B.—(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 European Economic Area and Switzerland; or
  - (ii) in the United Kingdom, where that ordinary residence began after 31st 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 attending or undertaking a designated course in England;
- (d) who 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(5).

(3) 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).

#### **10C.—(1) 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 attending or undertaking a designated course in England;

- (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) subject to sub-paragraph (2), whose ordinary residence in the United Kingdom and Islands 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.

(2) Paragraph (d) of sub-paragraph (1) does not apply to a person who is treated as being ordinarily resident in the United Kingdom and Islands in accordance with paragraph 1(5).

### **Persons resident in Gibraltar**

**10D.**—(1) 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 attending or undertaking a designated course in England;
- (c) who 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
- (d) 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 (c) been wholly or mainly for the purpose of receiving full-time education.

(2) Paragraph (d) 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(5)."

(11) Before paragraph 11, insert the heading "EU nationals ordinarily resident in the United Kingdom and Islands".

(12) After paragraph 11, insert—

**"11A.** 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 England 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 European Economic Area and Switzerland immediately prior to the period of ordinary residence referred to in paragraph (c)."

(13) After paragraph 12 (children of Swiss nationals), insert—

**"12A.** 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 England 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 European Economic Area 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 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 European Economic Area and Switzerland immediately prior to the period of ordinary residence referred to in paragraph (c)."

(14) After paragraph 13 (children of Turkish workers), insert—

**"13A.** 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 England 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 European Economic Area, Switzerland and Turkey throughout the three-year period preceding the first day of the first academic year of the course."

4th February 2021

*Michelle Donelan*  
Minister of State  
Department for Education

## EXPLANATORY NOTE

*(This note is not part of the Regulations)*

These Regulations amend the Education (Student Support) Regulations 2011 (S.I. 2011/1986) ("the Student Support Regulations"), the Education (Fees and Awards) (England) Regulations 2007 (S.I. 2007/779) ("the Fees and Awards Regulations"), the Education (Student Support) (European University Institute) Regulations 2010 (S.I. 2010/447), the Further Education Loans Regulations 2012 (S.I. 2012/1818), the Education (Postgraduate Master's Degree Loans) Regulations 2016 (S.I. 2016/606), the Higher Education (Fee Limit Condition) (England) Regulations 2017 (S.I. 2017/1189) and the Education (Postgraduate Doctoral Degree Loans and the Education (Student Loans) (Repayment) (Amendment) (No. 2) etc.) Regulations 2018 (S.I. 2018/599).

Part 2 amends the Student Support Regulations. The principal amendments are made in consequence of the United Kingdom's exit from the European Union and take effect in relation to an academic year beginning on or after 1st August 2021. The amendments also make minor corrections to the Student Support Regulations.

Regulation 2 amends the definitions and brings the Turing scheme established by the Secretary of State for Education within the scope of the Student Support Regulations.

Regulation 4 amends the provisions relating to eligibility for student support. It makes provision for new eligibility categories which apply in relation to applications for support by students undertaking courses in an academic year beginning on or after 1st August 2021. It restricts certain eligibility categories applicable before 1st August 2021 to students falling within those categories before 1st August 2021 and undertaking a course beginning before 1st August 2021. Those eligibility categories continue to apply in relation to such a course and the first course to which that person's status as an eligible student may be transferred in accordance with the Student Support Regulations.

Regulations 5 to 24 make related amendments to the Student Support Regulations.

Regulation 25 amends Schedule 1 to the Student Support Regulations, principally to insert new eligibility paragraphs and related definitions. The amendments apply in relation to—

- persons settled in the United Kingdom who have been ordinarily resident in the United Kingdom, the Channel Islands and the Isle of Man and the Republic of Ireland;
- persons falling within the personal scope of the citizens' rights provisions of the EU withdrawal agreement, the EEA EFTA separation agreement and the Swiss citizens' rights agreement ("the Agreements") who have leave to enter or remain in the United Kingdom granted under residence scheme immigration rules (as defined in section 17 of the European Union (Withdrawal Agreement) Act 2020);
- persons falling within the personal scope of the citizens' rights provisions of the Agreements who are in the grace period for applications for leave under residence scheme immigration rules, or whose applications for such leave are not yet determined, and Irish citizens who do not require leave to enter or remain in the United Kingdom;
- family members of relevant persons of Northern Ireland who have leave to enter or remain in the United Kingdom under residence scheme immigration rules;
- frontier workers within the meaning of regulation 3 of the Citizens' Rights (Frontier Workers) (EU Exit) Regulations 2020 (S.I. 2020/1213);
- persons settled in the United Kingdom who exercised a right of residence in the European Economic Area or Switzerland before IP completion day;
- nationals of the United Kingdom and their family members who before IP completion day have been ordinarily resident in the European Economic Area or Switzerland, in relation to courses beginning before 1st January 2028;
- family members of nationals of the United Kingdom who are resident in the United Kingdom and Islands;
- nationals of the United Kingdom and their family members resident in Gibraltar and persons with a right to reside in Gibraltar arising under the EU withdrawal agreement; and
- children of Turkish workers resident in the United Kingdom before IP completion day.

Part 3 (other than regulation 27(e)) makes similar amendments to the Fees and Awards Regulations. The Regulations authorise the charging of fees which are higher in the case of students not having a specified connection with the United Kingdom than in the case of students having such a connection, and the adoption of rules of eligibility which confine awards to those with such a connection with the United Kingdom. In addition, regulation 27(e) amends a provision on "ordinary residence" so that students from the Channel Islands and the Isle of Man who move to the United Kingdom for the purposes of study will be treated as ordinarily resident in the United Kingdom for the purposes of the Fees and Awards Regulations.

Part 4 makes similar amendments to those made to the Student Support Regulations to the Education (Student Support) (European University Institute) Regulations 2010.

Part 5 (other than regulation 48) makes similar amendments to those made to the Student Support Regulations to the Further Education Loans Regulations 2012. Regulation 48 corrects an error in the Further Education Loans Regulations 2012.

Part 6 makes similar amendments to those made to the Student Support Regulations to the Education (Postgraduate Master's Degree Loans) Regulations 2016.

Part 7 makes similar amendments to those made to the Fees and Awards Regulations to the Higher Education (Fee Limit Condition) (England) Regulations 2017. Regulation 61(3)(b) amends the description of "ordinary residence" to the same effect as regulation 27(e).

Part 8 makes similar amendments to those made to the Student Support Regulations to the Education (Postgraduate Doctoral Degree Loans and the Education (Student Loans) (Repayment) (Amendment) (No. 2) etc.) Regulations 2018.

A full impact assessment of the effect that this instrument will have on the costs of business, the voluntary sector and the public sector is available alongside these Regulations at [www.legislation.gov.uk](http://www.legislation.gov.uk). Copies are also available from the Department for Education, Student Funding Policy, Sanctuary Buildings, Great Smith Street, London SW1P 3BT.

---

© Crown copyright 2021

Printed and published in the UK by The Stationery Office Limited under the authority and superintendence of Jeff James, Controller of Her Majesty's Stationery Office and Queen's Printer of Acts of Parliament.





UK202102041007 02/2021 19585

<http://www.legislation.gov.uk/id/uksi/2021/127>