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STATUTORY INSTRUMENTS

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**2021 No. 1348**

The Education (Student Fees, Awards and Support) (Amendment) (No. 3) Regulations 2021

PART 3

Corresponding amendments to other Regulations

CHAPTER 4

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

SECTION 6

*Students from British overseas territories*

**Eligibility of students from British overseas territories**

- 45.**—(1) In regulation 3(2)(a) after “9BA,” insert “9BB.”
- (2) In regulation 8(d)(1), for “or 9D(1)(a)” substitute “, 9D(1)(a) or (2)(a)”.
- (3) In Schedule 1—
- (a) in paragraph 1(1)—
- (i) in paragraph (e) of the definition of “family member”(2), for “paragraphs 9, 9B, 9C and 9D” substitute “paragraphs 9, 9B and 9D and for the purposes of paragraph 9C in relation to a person settled in the United Kingdom”;
- (ii) after the definition of “family member” insert—
- ““overseas territories” means Anguilla; Aruba; Bermuda; British Antarctic Territory; British Indian Ocean Territory; British Virgin Islands; Cayman Islands; Falkland Islands; Faroe Islands; French Polynesia; French Southern and Antarctic Territories; Gibraltar; Mayotte; Greenland; Montserrat; Netherlands Antilles (Bonaire, Curaçao, Saba, Sint Eustatius, Sint Maarten); Pitcairn, Henderson, Ducie and Oeno Islands; South Georgia and the South Sandwich Islands; St Barthélemy; St Helena and Dependencies (Ascension Island and Tristan da Cunha); St Pierre et Miquelon; the Territory of New Caledonia and Dependencies; Turks and Caicos Islands; and Wallis and Futuna;”;
- (iii) 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,

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(1) Paragraph (d) was substituted by [S.I. 2021/127](#).

(2) Paragraph (e) of the definition of “family member” was amended by [S.I. 2021/127](#).

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) for paragraph 1(5) substitute—

“(5) For the purposes of this Schedule, a person (“A”) is to be treated as ordinarily resident in an area if A would have been so resident but for the fact that—

- (a) A;
- (b) A’s spouse or civil partner; or
- (c) in the case of a dependent direct relative in the ascending line, A’s child or child’s spouse or civil partner,

is or was temporarily employed outside the area in question.”;

(c) for paragraph 1(6) substitute—

“(6) For the purposes of sub-paragraph (5), temporary employment outside the area in question includes—

- (a) in the case of members of the regular naval, military or air forces of the Crown, any period which they serve outside the United Kingdom as members of such forces;
- (b) in the case of members of the regular armed forces of a specified British overseas territory, any period which they serve outside the territory comprising the United Kingdom and the specified British overseas territories as members of such forces;
- (c) 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 the case of members of the regular armed forces of an EEA State or Switzerland, any period which they serve outside the territory comprising the United Kingdom, Gibraltar, the European Economic Area and Switzerland as members of such forces;
- (e) in the case of members of the regular armed forces of Turkey, any period which they serve outside the territory comprising the United Kingdom, Gibraltar, the European Economic Area, Switzerland and Turkey as members of such forces; and
- (f) in the case of members of the regular armed forces of an EU overseas territory, any period which they serve outside the territory comprising the United Kingdom, the European Economic Area, Switzerland and the overseas territories.”;

(d) in paragraph 3(1)(d)—

- (i) omit “Gibraltar”; and
- (ii) for “and Switzerland” substitute “, Switzerland and the overseas territories”;

(e) in paragraph 6A(1)(c)—

- (i) omit “Gibraltar”; and
- (ii) for “and Switzerland” substitute “, Switzerland and the overseas territories”;

(f) in paragraph 7A(1)(b)—

- (i) omit “Gibraltar”; and
- (ii) for “and Switzerland” substitute “, Switzerland and the overseas territories”;

- (g) in paragraph 9A(1)—
  - (i) in paragraph (c)—
    - (aa) omit “Gibraltar”; and
    - (bb) for “and Switzerland” substitute “, Switzerland and the overseas territories”;
  - (ii) in paragraph (d)—
    - (aa) omit “Gibraltar”; and
    - (bb) for “and Switzerland” substitute “, Switzerland and the overseas territories”;
- (h) in paragraph 9A(2)—
  - (i) omit “Gibraltar”; and
  - (ii) for “and Switzerland” substitute “, Switzerland and the overseas territories”;
- (i) after paragraph 9BA(3) insert—

“**9BB.**—(1) A person—

  - (a) who is settled in the United Kingdom 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 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;
  - (e) who did not move to England from the Islands for the purpose of undertaking the designated course or a course which, disregarding any intervening vacation, the person undertook immediately before undertaking the designated course; and
  - (f) 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 (f) 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 1(5).”;
- (j) for paragraph 9D(4) substitute—

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

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(3) Paragraph 9BA was inserted by [S.I. 2021/929](#).

(4) Paragraph 9D was inserted by [S.I. 2021/127](#).

- (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 (3), 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) A person—
- (a) who is—
    - (i) an EU national who has a right of residence in Gibraltar arising under the EU withdrawal agreement; or
    - (ii) 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, 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.
- (3) Paragraph (d) of sub-paragraphs (1) and (2) does not apply to a person treated as being ordinarily resident in the territory referred to in paragraph (c) of those sub-paragraphs in accordance with paragraph 1(5).”;
- (k) in paragraph 10A(d)—
    - (i) omit “Gibraltar”; and
    - (ii) for “and Switzerland” substitute “, Switzerland and the overseas territories”;
  - (l) in paragraph 11A(c)—
    - (i) omit “Gibraltar”; and
    - (ii) for “and Switzerland” substitute “, Switzerland and the overseas territories”;
  - (m) in paragraph 12A(d)—
    - (i) omit “Gibraltar”; and
    - (ii) for “and Turkey” substitute “, Turkey and the overseas territories”.