STATUTORY INSTRUMENTS

2021 No. 929

The Education (Student Fees, Awards and Support) (Amendment) (No. 2) Regulations 2021

PART 3

Corresponding amendments to other regulations

CHAPTER 1

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

SECTION 1

Introductory

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

9. The Education (Fees and Awards) (England) Regulations 2007(**1**) are amended in accordance with regulations 10 and 11.

SECTION 2

Citizens' rights and residency criteria

Amendment to Schedule 1

10. In Schedule 1—

(a) in paragraph 1(1), in the definition of "person with protected rights"—

(i) the existing text after "means—" is numbered as paragraph (1) of that definition,

(ii) in that paragraph as so numbered, omit the terminal "or" after sub-paragraph (a)(iii), and after sub-paragraph (a)(iv), insert—

"(v) otherwise has rights deemed to apply by virtue of any citizens' rights deeming provisions; or",

(iii) after that paragraph as so numbered, insert—

"(2) In paragraph (1)(a)(v) "citizens' rights deeming provisions" means—

(a) Article 18(2) and (3) (issuance of residence documents) of the EU withdrawal agreement;

(**1**) S.I. 2007/779; amendments corresponding to those made to S.I. 2011/1986 and described in footnotes to the amendments to that instrument were made to this instrument.

(b) Article 17(2) and (3) (issuance of residence documents) of the EEA EFTA separation agreement (as defined in section 39(1) of the European Union (Withdrawal Agreement) Act 2020); or

(c) Article 16(2) and (3) (issuance of residence documents) of the Swiss citizens' rights agreement.";

(b) in paragraph 2A(1)(a) and (b), for "on the first day of the first academic year of the course", in each case substitute "on the day on which the first term of the first academic year actually begins";

(c) in paragraph 3(1)(a)(iv)—

   (i) in paragraph (bb), after "Regulations" insert "or otherwise has rights deemed to apply by virtue of any of the citizens' rights provisions specified in paragraph (3)",

   (ii) in paragraph (cc), after "relevant period" insert "or otherwise has a deemed right of permanent residence by virtue of any of the citizens' rights provisions specified in paragraph (3)",

   (iii) after sub-paragraph (2) insert—

   "(3) For the purposes of sub-paragraph (1)(a)(iv), the citizens' rights provisions referred to are—

      (a) Article 18(3) (issuance of residence documents) of the EU withdrawal agreement;

      (b) Article 17(3) (issuance of residence documents) of the EEA EFTA separation agreement (as defined in section 39(1) of the European Union (Withdrawal Agreement) Act 2020); or

      (c) Article 16(3) (issuance of residence documents) of the Swiss citizens' rights agreement.".

SECTION 3

Irish citizens in the EEA and Switzerland

Eligibility of Irish citizens in the EEA and Switzerland

11.—(1) In regulation 4—

   (a) in paragraph (1)(a), after "9B," insert "9BA,";

   (b) in paragraph (1B), for "8A and 9B" substitute "8A, 9B and 9BA".

(2) In regulation 5—

   (a) in paragraph (1)(b), after "9B," insert "9BA,";

   (b) in paragraph (2) for "8A and 9B" substitute "8A, 9B and 9BA".

(3) In regulation 6—

   (a) in paragraph (1)(b)(i), after "9B," insert "9BA,";

   (b) in paragraph (1C) for "8A and 9B" substitute "8A, 9B and 9BA,";

   (c) in sub-paragraph (3), after "paragraph 9B," insert "paragraph 9BA,".

(4) In regulation 7—

   (a) in paragraphs (1) and (2), after "9B," insert "9BA,";

   (b) in paragraph (3) for "8A and 9B" substitute "8A, 9B and 9BA,".

(5) In regulation 8—

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(a) in paragraphs (1)(a) and (2)(a), after "9B," insert "9BA,";

(b) in paragraph (4) for "8A and 9B" substitute "8A, 9B and 9BA".

(6) In regulation 9—

(a) in paragraphs (1)(a) and (2)(a), after "9B," insert "9BA,";

(b) in paragraph (4) for "8A and 9B" substitute "8A, 9B and 9BA".

(7) In regulation 9A—

(a) in paragraphs (1) and (2), after "9B," insert "9BA,";

(b) in paragraph (4) for "8A and 9B" substitute "8A, 9B and 9BA".

(8) In Schedule 1—

(a) after paragraph 9B insert—

"**9BA.**—(1) A person—

(a) who is an Irish citizen on the first day of an academic year of the course;

(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 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 (2), 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 (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).

(3) 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.".